



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

02/04/2009

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

FROM: Mara Ulloa, Plan Amendment Program Specialist

SUBJECT: Harney County Plan Amendment
DLCD File Number 003-08

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: Tuesday, February 17, 2009

This amendment was submitted to DLCD for review prior to adoption with less than the required 45-day notice. 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 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 THAT IT WAS MAILED TO DLCD. AS A RESULT, YOUR APPEAL DEADLINE MAY BE EARLIER THAN THE ABOVE DATE SPECIFIED.

Cc: Brandon McMullen, Harney County
Doug White, DLCD Community Services Specialist
Jon Jinings, DLCD Regional Representative

<paa> YA

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DLCD

Notice of Adoption

THIS FORM **MUST BE MAILED** TO DLCD
WITHIN 5 WORKING DAYS AFTER THE FINAL DECISION
 PER ORS 197.610, OAR CHAPTER 660 - DIVISION 18

☐ In person ☐ electronic ☐ mailed

DATE
 STAMP

DEPT OF
JAN 29 2009
LAND CONSERVATION AND DEVELOPMENT
 For DLCD Use Only

Jurisdiction: **Harney County**

Local file number: **08-58**

Date of Adoption: **1/21/2009**

Date Mailed: **1/27/2009**

Was a Notice of Proposed Amendment (Form 1) mailed to DLCD? **Yes** Date: 10/5/2008

☐ 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".

The amendment is a "clean up" of the Zoning Ordinance and Subdivision and Partitioning Ordinance. Both documents contained spelling errors, language contradictions, and outdated references to state administrative rules and ORS. The amendments to both ordinances remedied the inaccuracies.

Does the Adoption differ from proposal? No, no explanation is necessary

Plan Map Changed from:

to:

Zone Map Changed from:

to:

Location:

Acres Involved:

Specify Density: Previous:

New:

Applicable statewide planning goals:

1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19
☐ ☐ ☐ ☐ ☐ ☐ ☐ ☐ ☐ ☐ ☐ ☐ ☐ ☐ ☐ ☐ ☐ ☐ ☐

Was an Exception Adopted? ☐ YES ☐ NO

Did DLCD receive a Notice of Proposed Amendment...

45-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 #003-08 (17183)

DLCD file No. _____

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

Local Contact: **Brandon McMullen**

Phone: **(541) 573-6655** Extension:

Address: **450 N. Buena vista RM 11**

Fax Number: **541-573-2762**

City: **Burns**

Zip: **97720-**

E-mail Address: **planning@co.harney.or.us**

ADOPTION SUBMITTAL REQUIREMENTS

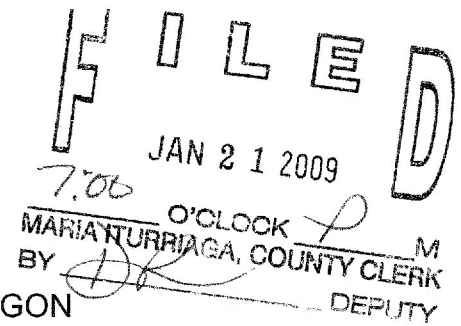
This form **must be mailed** to DLCD **within 5 working days after the final decision**
per ORS 197.610, OAR Chapter 660 - Division 18.

1. Send this Form and **TWO Complete Copies** (documents and maps) of the Adopted Amendment to:

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

2. Electronic Submittals: At least **one** hard copy must be sent by mail or in person, but you may also submit an electronic copy, by either email or FTP. You may connect to this address to FTP proposals and adoptions: webserver.lcd.state.or.us. To obtain our Username and password for FTP, call Mara Ulloa at 503-373-0050 extension 238, or by emailing mara.ulloa@state.or.us.
3. Please Note: Adopted materials must be sent to DLCD not later than **FIVE (5) working days** following the date of the final decision on the amendment.
4. Submittal of this Notice of Adoption must include the text of the amendment plus adopted findings and supplementary information.
5. The deadline to appeal will not be extended if you submit this notice of adoption within five working days of the final decision. Appeals to LUBA may be filed within **TWENTY-ONE (21) days** of the date, the Notice of Adoption is sent to DLCD.
6. In addition to sending the Notice of Adoption to DLCD, you must notify persons who participated in the local hearing and requested notice of the final decision.
7. **Need More Copies?** You can now access these forms online at <http://www.lcd.state.or.us/>. Please print on **8-1/2x11 green paper only**. You may also call the DLCD Office at (503) 373-0050; or Fax your request to: (503) 378-5518; or Email your request to mara.ulloa@state.or.us - ATTENTION: PLAN AMENDMENT SPECIALIST.

20090150



THE COUNTY COURT OF THE STATE OF OREGON
FOR THE COUNTY OF HARNEY

IN THE MATTER OF AMENDING THE)
HARNEY COUNTY ZONING ORDINANCE)
(ORDINANCE NO. 5) AND HARNEY)
COUNTY SUBDIVISION AND) Ordinance No. 2009-65
PARTITIONING ORDINANCE (ORDINANCE)
NO. 6) TO INCORPORATE NUMEROUS)
CLERICAL, GRAMMATICAL, AND)
TECHNICAL IMPROVEMENTS.)

WHEREAS, in 2008 Harney County received Technical Assistance Grant monies to perform streamlining updates to the Harney County land use documents, namely the Harney County Comprehensive Plan, Harney County Zoning Ordinance, and Harney County Subdivision and Partitioning Ordinance. Harney County is integrating the updates through a two-project program spanning September 2008 through June 2009. Amendments enacted through this ordinance are in conjunction with project one.

WHEREAS, project one amends the Harney County Zoning Ordinance and Harney County Subdivision and Partitioning Ordinance to update the various clerical, grammatical, and technical errors in the text. Any out of date references to state statutes or administrative rules have been updated as well.

WHEREAS, It is found that updates to the Harney County Comprehensive Plan need to happen in Chapter 2.6.4(3) "Population Projections" page 58, and Chapter 7.12 "Population and Housing Projections" page 258.

NOW THEREFORE, BE IT ORDAINED BY THE COURT OF THE COUNTY OF HARNEY, STATE OF OREGON:

Section 1: AMENDMENT OF HARNEY COUNTY ZONING ORDINANCE TO INCORPORATE NUMEROUS CLERICAL, GRAMMATICAL, AND TECHNICAL IMPROVEMENTS.

The amendments to the Harney County Zoning Ordinance are presented as described in Exhibit "A" attached hereto and by this reference adopted herein.

Section 2: AMENDMENT OF HARNEY COUNTY SUBDIVISION AND PARTITIONING

ORDINANCE TO INCORPORATE NUMEROUS CLERICAL, GRAMMATICAL AND
TECHNICAL IMPROVEMENTS. 20090130

The amendments to the Harney County Subdivision and Partitioning Ordinance are presented as described in Exhibit "B" attached hereto and by this reference adopted herein.

Section 3: EMERGENCY. This Ordinance being necessary for the immediate preservation of the public health, safety and welfare, an emergency is declared to exist, and this Ordinance takes effect on its passage.

DATED, this the 21 day of January 2009.



Maria Iturriaga
Maria Iturriaga, County Clerk

HARNEY COUNTY COURT

Steven E. Grasty
Steven E. Grasty, County Judge

Dan Nichols
Dan Nichols, Commissioner

Jack Drinkwater
Jack Drinkwater, Commissioner

STATE OF OREGON }
County of Harney } ss

I certify that the instrument identified herein was
recorded on the 21 day of January 2009 at 1:24 o'clock P.M. In the
County Clerk's Records of Harney County, Oregon.
Maria Iturriaga, County Clerk

D. Robinson Deputy

Exhibit "A"

Harney County Recording No.

20090150



Harney County Courthouse
450 N. Buena Vista • Burns OR 97720
Phone 541-573-6655 • Fax 541-573-2762

REVISED: January 2009

20090150

Harney County ZONING ORDINANCE

AN ORDINANCE PROVIDING FOR THE ESTABLISHMENT OF ZONING REGULATIONS FOR PORTIONS OF THE UNINCORPORATED AREA OF HARNEY COUNTY, OREGON.

The County of Harney, Oregon, ordains as follows:

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ARTICLE I. INTRODUCTION

PROVISIONS

Sections:

- 1.010. Title
- 1.020. Purpose
- 1.030. Definitions adopted by reference
- 1.040. Definitions
- 1.050. Compliance with Ordinance

Section 1.010. Title

This ordinance shall be known as the Harney County Zoning Ordinance.

Section 1.020. Purpose

The several purposes of this ordinance are:

- A. To serve with the subdivision ordinance as the primary implementation tools for the Harney County Comprehensive Plan;
- B. To conform to the Oregon Statewide Land Use Goals and Guidelines;
- C. To encourage the most appropriate use and development of land;
- D. To conserve and stabilize the value of property;
- E. To aid in the rendering of fire and police protection;
- F. To provide adequate open space for light and air circulation;
- G. To lessen the congestion of streets;
- H. To encourage an orderly growth of the county;
- I. To prevent undue concentrations of population;

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- J. To facilitate adequate provisions for community utilities and facilities such as water, sewage, electrical distribution system, transportation, schools, parks and other public requirements; and in general,
- K. To promote public health, safety and general welfare.

One of the principal purposes of this ordinance is to provide for an orderly plan of development, in connection with which the following conclusions are deemed of primary importance.

Section 1.030. Definitions adopted by reference

In addition to the definitions in this Article, the following statutes and administrative rule are incorporated by reference. If any definition in this Code, conflicts with a definition included by reference, the definition of state statute shall prevail except where this Code is more restrictive.

- A. Oregon Revised Statutes Chapter 92 - Subdivisions and Partitions
- B. Oregon Revised Statutes Chapter 197 - Comprehensive Plan Coordination; Planning Districts
- C. Oregon Revised Statutes Chapter 215 - County Planning; Zoning; and Housing Codes
- D. Oregon Administrative Rule Division 33- Agricultural Land

Section 1.040. Definitions

As used in this ordinance the following words and phrases shall mean:

1. Abutting. Adjoining with a common lot or parcel line, except for instances in which two or more lots or parcels adjoin only at a corner or corners, these shall not be considered as abutting unless the common lot or parcel line between the two lots or parcels measures eight or more feet in a single direction. See definition of contiguous.
2. Access. The right to cross between public and private property allowing pedestrians and vehicles to enter and leave property.
3. Accepted farming practice. As used in this Code, means a mode of operation that is common to farms of a similar nature, necessary for the operation of such farms to obtain a monetary profit, and customarily utilized in conjunction with farm use.

4. Accessory Use or Accessory Structure. A use or structure incidental; and subordinate to the main use of the property and located on the same lot as the main use.
5. Advertising Structure: Framework, billboard, board or other physical structure, used for purpose of affixing or supporting an advertisement. It includes facade, wall, awning, roof or canopy of a building or columns, pylons or poles of a freestanding advertising device or fence, any associated illumination devices and any other necessary support structures. Signs along state highways shall be regulated by Oregon state statute as ODOT determines.
6. Aggregate Processing. The extraction, screening, and crushing of sand, gravel, and/or quarry material.
7. Aggregate Use. The extraction, screening, stockpiling, and crushing of sand, gravel, and/or quarry material
8. Agriculture, Farming, Farm Use. As defined in ORS Chapter 215.203 (2)(a), including the current employment of land, including that portion of such lands under buildings, supporting accepted farming practices for the primary purpose of obtaining a profit in money through:
 - A. Raising, harvesting, and selling crops;
 - B. The feeding, breeding, management, and sale of livestock, poultry, fur-bearing animals, or honeybees;
 - C. The produce of livestock poultry, fur-bearing animals, or honeybees;
 - D. Dairying and the sale of dairy products
 - E. Any other agricultural or horticultural use, farm use, animal husbandry, or combination thereof; and
 - F. Constituting a woodlot of less than 20 acres contiguous to and owned by the owner of land specially valued at true cash value for farm use even if the land constituting the woodlot is not utilized in conjunction with farm use.

“Farm use” includes the preparation and storage of the agricultural products grown on and/or off-site for primary or secondary marketing. It does not include the use of land subject to the provisions of ORS Chapter 321, or the construction and use of dwellings customarily provided in conjunction with farm use. It does include:

 - A. Land subject to the soil-bank provisions of the Federal Agricultural Act of 1956, as amended (P.L. 84-540 70, Stat. 188);

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B. Land lying fallow for one year as a normal and regular requirement of good agricultural husbandry; and

C. Land planted in orchards or other perennial prior to maturity.

9. Airport Approach. That area of approach and transition surface areas around airports where special land use and height regulations are established.
10. Airport Clear Zone. An area extending from each end of a runway that is kept clear of obstructions which may affect incoming and departing aircraft.
11. Airport Overlay Zone. An area in which special land use regulations are established to ensure the safety of the airport operation.
12. Airport, Commercial. An airport used by the general public and commercial airline operations including associated maintenance, operations, and support facilities.
13. Airport Hazard. Any obstacle or situation, which obstructs or interferes with the safe operation of an airport or landing field. This includes vegetation, structures, towers, glare, lights, and electrical interference.
14. Airport, Personal Use. An airstrip for airplanes and helicopter pads, including associated hangar, maintenance and service facilities, which are restricted except for any and all aircraft emergencies, to use by the owner, and on an infrequent and occasional basis, by invited guests, and by commercial aviation activities in conjunction with agricultural activities only. No aircraft may be based on a personal-use airport other than those owned or controlled by the owner of the airstrip.
15. Airport Zone Boundary. An area adjacent to an airport within the boundaries of which there is significant impact from dust, fuel particles, noise, and related activities arising from the operation of an airport.
16. Alley. A public way providing a secondary means of access to abutting property.
17. Alteration. A change, addition, or modification in either construction or use of a building or structure.
18. Amendment. A change in the text or maps of applicable ordinances, resolutions, or related regulations pertaining to land use, including the Comprehensive Plan, the Goals and Policies, and the Land Development Code.

19. Aquaculture. The cultivation or growing in a water environment of some plant, animals or products, i.e. algae, tropical fish, catfish, prawns or other water organisms.
20. Auto Repair. Facilities for the general repair of automobiles, including rebuilding and reconditioning of engines, transmissions, mechanical parts, and brake and muffler shops. The repair of motorcycles and small engines is allowed in this type of facility.
21. Automobile wrecking yard. A premises used for the storage or sale of used automobile or truck parts or for the storage, dismantling, or abandonment of junk, obsolete automobiles, trailers, trucks, machinery, or parts thereof. SEE DEFINITION – JUNKYARD
22. Auto, Boat, and Recreational Vehicle Sales Lot. Any property where the primary business is the display, sale, or rental of operative new or used motor vehicles, boats, trailers, or recreational vehicles. Repair or service facilities must be accessory to the primary sales function of the business.
23. Automobile Service Station. Any property where the primary business is the supply of motor fuel, oil, lubrication, and accessories to motor vehicles, including tune-up services and vehicle maintenance service.
24. Awning. Any stationary structure used in conjunction with a structure for the purpose of providing shelter and having a roof with supports with not more than one wall or storage cabinet substituting for a wall.
25. Bed and Breakfast Inn. A Bed and Breakfast Inn is an accessory use to a single-family residential dwelling, which is intended to provide temporary accommodation and breakfast to travelers for a daily fee. No meal other than breakfast shall be provided. The owner and/or operator shall live on the site.
26. Berm. A constructed mound or small hill. (See Buffer)
27. Billboard. Same as "Advertising structure."
28. Boarding House. A dwelling, or part thereof, other than a hotel, motel, or multiple-family dwelling, where lodging, with or without meals is provided, for compensation.
29. Boarding of Horses. The boarding of horses for profit shall include the following:
 - A. The stabling, feeding and grooming for a fee or the renting of stalls for and the care of horses not belonging to the owner of the property; and

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B. Renting of related facilities, such as training arenas, corrals and exercise tracks.

C. The boarding of horses for profit does not include the following:

1. The mere pasturage of horses or the boarding of horses not owned by the property owner for the purpose of breeding with the owner's stock;
 2. The incidental stabling of not more than four (4) horses;
 3. The boarding of horses for friends or guests where no charge is made; and
 4. Equestrian activities when the raising, feeding, training or grooming of horses is an agricultural use of the land by a property owner, qualifying for farm assessment under regulations of the State Department of Revenue.
30. Boat Yard. Any place or structure used for the construction, dismantling, sales, storage, service, repair, or maintenance of boats.
31. Bond. Any form of security, including a cash deposit, surety bond, collateral, property, or credit instrument submitted to guarantee performance by a developer, builder, or land owner.
32. Buffer. An area of land used to separate land uses and mitigate impacts from one to the other(s). A buffer may include site developments such as berms, walls, fences or other similar structures or may be composed of vegetation.
33. Buildable Area. The portion of a lot or parcel, excluding setbacks, where a structure may be erected.
34. Building. A structure built for the support, shelter, or enclosure of persons, animals, chattels, or property of any kind.
35. Building, Agricultural. A structure whose use shall be primarily for storage of farm implements, crops, feed or similar farm products or to provide shelter for livestock, poultry or fowl.
36. Building Height. See Height of Building.
37. Building Line. A line on a plat or map indicating the limit beyond which buildings or structures cannot be erected.
38. Building Site. The ground area of a building or buildings, together with all open spaces required by this Code, and which generally has its principal frontage upon a public or private street.
39. Campgrounds. A campground is an area devoted to overnight temporary use for vacation, recreation or emergency purposes, but not for residential purposes and

is established on a site or is contiguous to lands with a park or other outdoor natural amenity that is accessible for recreational use by the occupants of the campground. A campground shall be designed and integrated into the rural agricultural and forest environment in a manner that protects the natural amenities of the site and provides buffers of existing native trees and vegetation or other natural features between campsites. A tent, travel trailer or recreational vehicle may occupy a camping site. Separate sewer, water or electric hook-ups shall not be provided to individual campsites. Campgrounds shall not include intensively developed recreational uses such as swimming pools, tennis courts, retail stores or gas stations. Overnight temporary use in the same campground by a camper or camper's vehicle shall not exceed a total of 30 days during any consecutive 6-month period (OAR 660-33-0130(19)).

40. Camping Vehicle. See Recreational Vehicle
41. Camping on Property. Camping on a parcel without service connections for a period of four (4) months in any twelve (12) month period will not be considered a permanent residence.
42. Caretakers Quarters. A manufactured dwelling or apartment limited to 1,000 square feet for a caretaker who is necessary for the protection of the main use on industrial property.
43. Caretakers Residence. A manufactured dwelling or home for a caretaker who is necessary for the protection of the main use on property zoned for forest use.
44. Carrying Capacity. The ability of land to support proposed development as determined by an evaluation of suitability for sewage disposal, the adequacy of the domestic groundwater supply (quantity and quality), the presence of adequate off-site roads, the suitability of soil and terrain to support on-site roads, the presence or absence of flood, fire or erosion hazards, and the applicability of other special land use concerns (e.g., watershed protection, protection of wildlife and fishery habitat, the presence of scenic easements, airport flight paths, the availability of emergency services, etc.).
45. Church. Building and premises used for the conduct of regular religious services; may include a residence for the pastor, but not including academic schools operated by a church.
46. Clinic, Medical, Dental or Optical. A Facility for examination, consultation, and treatment of patients, including offices, laboratories, and outpatient facilities, but not including hospital beds for overnight care or treatment except for emergency or temporary care.
47. Club or Lodge. Buildings and facilities owned and operated for a fraternal, social, or recreational purpose, to which membership is required for participation, but is

not operated primarily for profit and is recognized by the IRS as a tax exempt organization subject to Section 501 C (3) of the Tax Code.

48. Commercial compensation. Any activity or use involving the exchange of products or services for compensation in the course of a business. "In the course of business" means the use or activity must involve repeated transactions, and does not include the isolated exchange of products or services for compensation. It is not necessary for a commercial use or activity to be conducted for profit in order to be commercial. It may include a trade for goods or services or the receipt of donations.
49. Commercial Activities in Conjunction with Farm use. The processing, packaging, treatment, and wholesale distribution and storage of a product primarily derived from farm activities on the premises. Also, retail sales of agricultural products, supplies, and services directly related to the production and harvesting of agricultural products. Such uses include the following:
 - A. Storage, distribution, and sale of feed, fertilizer, seed, chemicals, and other products used for commercial agricultural uses;
 - B. Farm product receiving plants, including processing, packaging, and reshipment facilities, excluding canneries;
 - C. Livestock feed or sales yards;
 - D. Storage, repair, or sale of fencing, irrigation pipe, pumps, and other commercial farm-related equipment and implements;
 - E. Farm equipment storage and repair facilities;
 - F. Bulk storage and distribution facilities for fuels, pesticides, and fertilizers;
 - G. Veterinarian clinic;
 - H. Horticultural specialties such as nurseries or greenhouses for retail sales of plants and products;
 - I. Slaughtering of animals, including attendant retail and wholesale sales, which may be conducted outside an enclosed building;
 - J. Wineries which may include retail sales;
 - K. Other such uses, which may be construed as similar to the uses, listed above.
 - L.

50. Commercial Feedlot. A lot or portion of property where 10 or more livestock are penned and fed for the purpose of preparing them for resale or slaughter, and in which the land area is incapable of producing sufficient forage to support the number of animals confined. This definition is intended to apply only to activities carried on as commercial enterprises; and, therefore does not apply to the feeding of animals accessory to a dairy use or other permitted use, or to the fattening of animals solely for the domestic use of the property owner, or to the penning and feeding of animals for display or show.
51. Commercial Power Generation Facility. An electrical power generating plant with a nominal electrical generating capacity of more than 25,000 megawatts, including but not limited to a thermal power plant, hydropower plant, combustion turbine power plant, geothermal power plant, or a nuclear installation disposal facility, and any facility handling a quantity of fissionable materials sufficient to form a critical mass. A commercial power generation facility includes related or supporting facilities including any structure adjacent to an energy facility, associated transmission lines, reservoirs, and intake structures built in conjunction with and used as part of the energy facility.
52. Communication Facility. A structure for the purpose of transmitting and receiving telegraph, telephone, microwave, television, radio, and other similar signals.
53. Community Building. A facility owned and operated by a governmental agency or a non-profit community organization, when the primary purpose of the facility is for education, recreation, social welfare, community improvements, or public assembly.
54. Community Sewer System. A sewage disposal system, which has service connections to at least 15 permanent dwelling units, including manufactured homes, within the unincorporated community (OAR 660-22-0100 (2)).
55. Community Water System. A system that distributes potable water through pipes to at least 15 permanent dwelling units, including manufactured homes within the unincorporated community (OAR 660-22-0100 (3)).
56. Comprehensive Plan. The Plan adopted by the Harney County Court for the guidance of growth and development of the County, which is prepared and adopted in conformance with ORS Chapter 92, ORS Chapter 197 and ORS Chapter 215.
57. Contiguous. Adjoining with a common boundary line, except that where two or more lots or parcels adjoin only at a corner or corners, they shall not be considered contiguous unless the common property line between the two parcels measures eight (8) or more feet in a single direction. SEE DEFINITION – ABUTTING

58. Conditional Use. A use, which requires review and either approval, approval with conditions, or disapproval, by a Review or Hearing Body.
59. Convalescent Home, Nursing Home. Any certified and licensed institution which operates and maintains a facility providing convalescent and chronic care and keeping, for a period exceeding 24 hours for two or more ill or infirm patients not related to the administrator or owner by blood or marriage. Convalescent and chronic care includes all procedures commonly accepted in nursing and caring for the sick, but does not include surgical facilities.
60. County Maintained Road or Street. A road or street and appurtenances which has been accepted for County maintenance by order of the County Court under the authority of ORS 368.705, or any other provisions of law.
61. County Road. "County road" means a public road under the jurisdiction of a county that has been designated as a county road under ORS 368.016.
62. Cultured Christmas Trees. As defined in ORS 215.203(3) and as an agricultural use as defined in this ordinance.
63. Current employment of land for Farm Use includes:
 - A. Farmland, the operation or use of which is subject to any farm-related government program;
 - B. Land lying fallow for one year as a normal and regular requirement of good agricultural husbandry;
 - C. Land planted in orchards or other perennials, other than land specified in paragraph (D) below, prior to maturity;
 - D. Land not in an exclusive farm use zone which has not been eligible for assessment at special farm use value in the year prior to planting the current crop and has been planted in orchards, cultured Christmas trees or vineyards for at least three years;
 - E. Wasteland, in an exclusive farm use zone, dry or covered with water, neither economically tillable nor graze-able, lying in or adjacent to and in common ownership with a farm use land and which is not currently being used for any economic farm use;
 - F. Water impoundment(s) lying in or adjacent to and in common ownership with farm use land; and
 - G. Any land constituting a woodlot, not to exceed 20 acres, contiguous to and owned by the owner of land specially valued at true cash value for farm use

even if the land constituting the wood lot is not utilized in conjunction with farm use.

64. Day Care. The care, supervision and guidance on a regular basis of a child unaccompanied by a parent, guardian or custodian, provided to a child during a part of the 24 hours of a day, in a place other than the child's home with or without compensation. Day care does not include care as provided in ORS 418.805 (3) (a-f).
65. Day Care Facility. Any facility that provides day care to children, including a day nursery, nursery school group, home of a family day care provider, or similar unit operating under any name but not included as provided for in ORS 657.250.
66. Dedication. An approved or accepted designation of land by the owner for public or general use.
67. De Novo. (Latin) A new hearing, which can take into account all previous testimony and any new testimony presented by the proponent and/or the opponent to an issue.
68. Density. The number of dwelling units to be contained within a specified land area.
69. Development. Any alteration of improved or unimproved real estate, including but not limited to a land division, buildings or other structures, mining, dredging, filling, grading, paving, excavation, or drilling operations.
70. Destination Resort. A self-contained development that provides for visitor-oriented accommodations and developed recreational facilities in a setting with high natural amenities. (ORS 197.445)
71. Developed Recreational Facilities. Improvements constructed for the purpose of recreation which may include but are not limited to golf courses, tennis courts, swimming pools, marinas, ski runs and bicycle paths. (ORS 197.435 (1))
72. Development Site. A tract of land consisting of one or more contiguous lots of record under common ownership, subject to a Development Permit.
73. Display Surface. The area made available by a sign structure for the purpose of displaying an information or advertising message.
74. Drainage Way. Natural or constructed watercourse, which transmits natural stream or storm runoff.

75. Driveway. A way of access for a vehicle to serve a limited number of users from a road or street, which is usually of narrow width and often in private ownership or subject to restricted public use.
76. Dwelling, multi-family. A building or portion thereof, designed for occupancy by three or more families living independently of one another.
77. Dwelling, single-family. A detached building containing one dwelling unit and designed for occupancy by one family only.
78. Dwelling, two-family. A detached building containing two dwelling units and designed for occupancy by two families.
79. Dwelling Unit. One or more rooms in a building designed for occupancy by one family and having not more than one cooking facility.
80. Easement. A grant of the right to use the property of another for a specific purpose; may either be appurtenant or in gross.
81. Eating/Drinking establishment. Businesses providing facilities for preparation and consumption of food and beverages, including alcoholic beverages.
82. Elderly Person. A person who is 62 years of age or older. (ORS 443.510)
83. Employees. All persons working for another, for wages or salary.
84. Energy facility. Any operation generating electricity for public use by sale.
85. Family. One or more person related by blood, marriage, legal adoption or legal guardianship plus not more than five (5) additional persons, including foster and shelter care persons or, up to five (5) unrelated persons, all living together as a single housekeeping unit.
86. Family Day Care Provider. A day care provider who regularly provides day care in the provider's home in the family living quarters. (ORS 657.250).
87. Final Plat. A map and other writings prepared in conformance with an approved tentative plan for a subdivision, planned unit development, partition, re-plat, or property line adjustment which is recorded with the County Clerk to complete the process for dividing land or adjusting property lines.
88. Fire Break. An area of non-combustible materials or slow burning plants.
89. Findings. As required in ORS 215.416(8), written statements of fact, conclusions, and determinations based upon the evidence at hand, presented

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relative to the criteria and standards for such review and accepted by the Review or Hearing Body in support of a final action.

90. Fire lane. A way cleared of obstacles so as to allow clear passage for vehicles during a fire emergency.
91. Fireworks. Fireworks shall be as defined in ORS 480.110(I), and as interpreted and enforced by Oregon State Law enforcement officials.
92. Flag lot. A unit of land created by a subdivision or partition and which includes narrow projection with a vehicle pathway to a public road.
93. Flood Hazard Area. An area highly prone to flooding for which the following terms have special significance:
 - A. Base Flood. A standard statistical calculation used by engineers to represent the flood magnitude having a one percent chance of being equaled or exceeded in any given year. Also referred to as the "100-year flood." Designation on maps always includes the letters A or V;
 - B. Flood Plain. The area adjacent to a stream that is subject to periodic flooding;
 - C. Floodway. The channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one foot;
 - D. Flood Fringe. The area of the flood plain lying outside the floodway, but subject to periodic flooding;
 - E. Shallow Flooding. A designated AO or AH zone on the Flood Insurance Rate Map (FIRM). The base flood depths range from one to three feet; a clearly defined channel does not exist; the path of flooding is unpredictable and indeterminate; and, velocity flow may be evident. AO is characterized as sheet flow and AH indicates pooling;
 - F. Special Flood Hazard. The land in the flood plain within a community subject to a one percent or greater chance of flooding in any given year. Designation on maps always includes the letters A or V.
94. Flood or Flooding. A general and temporary condition of partial or complete inundation of normally dry land areas from:
 - A. The overflow of waters; and/or

- B. The unusual and rapid accumulation of runoff of surface waters from any source.
95. Flood Insurance Rate Map (FIRM). The official map on which the Federal Insurance Administration has delineated both the areas of special flood hazards and the risk premium zones applicable to the community.
96. Flood Insurance Study. 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.
97. Floor Area. The sum of the gross areas of all floors of a building, measured from the outside walls, excluding attic space having less than seven feet of headroom, or basement space with less than six feet of headroom.
98. Forest Operations. Any commercial activity relating to the growing or harvesting of any forest tree species as defined in ORS 527.620(6) (OAR 660-006-005(6)).
99. Forest Use. The management, production, and harvesting of timber resources in accordance with the Oregon Forest Practices Rules, including:
- A. The production of trees and the processing of forest products;
 - B. Open space to buffer conflicting uses (See Buffer);
 - C. Watershed protection and wildlife and fisheries habitat;
 - D. Soil protection from wind and water;
 - E. Maintenance of clean air and water;
 - F. Outdoor recreational activities and related support services and wilderness values compatible with these uses; and
 - G. Grazing land for livestock.
100. Forestry Building. A building in conjunction with, and necessary to, a forestry operation or forestry management use.
101. Foster Home. A family home or facility which is licensed by the State in which residential care is provided for five or fewer children or adults who are not related to the provider by blood or marriage.
102. Frontage. That portion of a parcel of property, which abuts a street or highway.

103. Fuel Break. An area of non-combustible materials or slow burning plants or the absence of vegetation around a structure.
104. Fuel Depot. Any lot or building used for the storage and/or marketing of fuel products.
105. Garage. A building or a portion of a building permanently constructed for the purpose of enclosing a motor vehicle.
106. Golf Course. An area of land with highly maintained natural turf laid out for the game of golf with a series of nine or more holes, each including a tee, a fairway, a putting green, and often one or more artificial hazards. A "golf course" for purposes of ORS 215.213(2), and OAR 660-033-0120 (20), means a nine or 18 hole regulation golf course or a combination nine and 18 hole regulation golf course consistent with the following:
 - A. A regulation 18 hole golf course is generally characterized by a site of about 120 to 150 acres of land, has a playable distance of 5,000 to 7,200 yards, and a par of 64 to 73 strokes;
 - B. A regulation nine hole golf course is generally characterized by a site of about 65 to 90 acres of land, has a playable distance of 2,500 to 3,600 yards, and a par of 32 to 36 strokes;
 - C. A non-regulation golf course is a golf course or golf course-like development that does not meet this definition, including but not limited to executive golf courses, Par three golf courses, pitch and putt golf courses, miniature golf courses, and driving ranges;
 - D. Accessory uses provided as part of a golf course must be consistent with the following standards:

An accessory use to a golf course is a facility or improvement that is incidental to the operation of the golf course and is either necessary for the operation and maintenance of the golf course or that provides goods or services customarily provided to golfers at a golf course. An accessory use or activity does not serve the needs of the non-golfing public. Accessory uses to a golf course may include parking, maintenance buildings, cart storage and repair, practice or driving range, clubhouse, restrooms, lockers, showers, food and beverage service, pro shop, and a practice or beginners course as part of an 18 hole or larger golf course. Accessory uses to a golf course do not include sporting facilities unrelated to golfing such as tennis courts, swimming pools, weight rooms, wholesale or retail operations oriented to the non-golfing public, and housing;

Accessory uses shall be limited in size and orientation on the site to serve the needs of persons and their guests who patronize the golf course for the purpose of playing golf. An accessory use that provides commercial services (e.g. food and beverage service, pro shop, etc.) shall be located in the clubhouse rather than in separate buildings.

107. Grade (ground level). The average elevation of the finished ground elevation at the centers of all walls of a building, except that if a wall is parallel to and within five feet of a sidewalk, the sidewalk elevation nearest the center of the wall shall constitute the ground elevation.
108. Greenhouse. Building constructed chiefly of glass or translucent material, cloth, or lath, which is devoted to the protection or cultivation of flowers or other plants and which shall be classified as an accessory building except in resource zones.
109. Green housing. The growing of flowers, vegetables, or ornamental plants in a greenhouse not being used in conjunction with an integrate part of a nursery operation.
110. Groundwater. Groundwater is defined by ORS 537.515(5) as: "Any water, except capillary moisture, beneath the land surface or beneath the bed of any stream, lake, reservoir, or other body of surface water within the boundaries of this State, whatever may be the geological formation or structure in which such water stands, flows, percolates, or otherwise moves."
111. Guesthouse. An accessory structure, site constructed and built to the following specifications: no plumbing for a sink except for a bathroom and a wet bar; no 220 wiring or natural gas pipes to an outlet other than a water heater, furnace, or heating system; no kitchen facilities, or laundry facilities; and limited to a maximum of 1,000 square feet. There may be only one guesthouse in addition to the main residence per legal lot. A floor plan shall accompany the application for a Guesthouse.
112. Hardship. For the purpose of obtaining a variance, it is a condition, which arises out of the land, which may make it difficult for a person to construct a building or install improvements, which are in compliance with the provisions of this Code.
113. Height of Building. The vertical distance above finish grade to the highest point of the coping of a flat roof or to the deck line of a mansard roof or to the height of the highest gable of a pitched or hip roof. The measurement shall be taken from the finish grade of the adjoining sidewalk or ground surface. The height of a stepped or terraced building is the maximum height of any segment of the building.
114. High Value Crop Area. An area in which there is a concentration of commercial farms capable of producing crops or products with a minimum gross value of

\$1,000 per acre per year. These crops and products include field crops, small fruits, berries, tree fruits, nuts or vegetables, dairying, livestock feedlots or Christmas Trees as these terms are used in the 1983 County and State Agricultural Estimates prepared by the Oregon State University Extension Service. ORS 197.435 (2)

115. High Value Farmland. For the purpose of locating a limited lot of record dwelling on farmland, High Value Farmland refers to soils that are:
 - A. Irrigated and classified prime, unique, Class I or Class II; or
 - B. Not irrigated and classified prime, unique, Class I or Class II; and
 - C. Tracts growing specified perennials as demonstrated by the most recent aerial photography of the Natural Resources Conservation Service (NRCS) of the U.S. Department of Agriculture taken prior to 1993. "Specified perennials" means perennials grown for market or research purposes including, but not limited to, nursery stock, berries, fruits, nuts, Christmas trees, or vineyards but not including seed crops, hay, pasture, or alfalfa (OAR 660-033-0020(8)(a)).
116. Home Occupation. Any lawful occupation carried on by a resident of a dwelling as an accessory use within the same dwelling, or in an accessory building as allowed by the Zone, and having no more than five full-time employees other than members of the immediate family.
117. Hotel. A building, which is designed, intended, or used for the accommodation of tourists, transients, and permanent guests for compensation and in which no provision is made for cooking in individual rooms or suites of rooms.
118. Industrial Use. The use of land primarily for the manufacture, processing, storage, or wholesale distribution of products, goods, or materials. It does not include commercial uses.
119. Industrial. The on-site production of goods and products. Industrial uses include manufacturing, production, processing, assembling, packaging, warehousing, shipping, and receiving of goods and materials, bulk storage of fuels and related materials, and similar uses.
120. Irrigated. Watered by an artificial or controlled means, such as sprinklers, furrows, ditches, or spreader dikes. An area or tract is "irrigated" if it is currently watered, or has established rights to use water for irrigation, including such tracts that receive water from a water or irrigation district or other provider. For the purposes of OAR 660-33-0020 (9), an area or tract within a water or irrigation district that was once irrigated shall continue to be considered "irrigated" even if

the irrigation water was removed or transferred to another tract (OAR 660-33-0020 (9)).

121. Junk. Old or scrap copper, brass, rope, rags, batteries, paper, trash, rubber, debris, waste or dismantled, wrecked, scrapped or ruined motor vehicles, or motor vehicle parts, iron, steel, or other old or scrap ferrous or non ferrous material, metal or non-metal materials. (ORS 377.605 (5))
122. Junkyard. Any establishment or place of business where there is accumulated on the premises eight or more motor vehicles or an equivalent volume of junk that is maintained, operated or used for the storing, keeping, buying, or selling junk. The term includes automobile graveyards, garbage dumps and scrap metal processing facilities. (ORS 377.605 (6))
123. Kenel. A use providing for the accommodation of four or more dogs, cats, or other household pets.
124. Kitchen. Any space within a building designed to be used for cooking and preparing food, may contain a sink (excluding bar sinks), range, stove, or microwave. The following criteria will be considered by the Planning Director in determining;
 - a. Whether a space is designed as a kitchen
 - b. If the size and location of counter and cabinet will facilitate food storage, preparation, and cooking;
 - c. If the number, size, and location of electrical outlets exceed those normally used for activities not associated with a kitchen;
 - d. If the area is plumbed for a sink;
 - e. If the area separated from the main living space so as to form a room which is not suitable for a bathroom.
125. Livestock. Domestic animals of types customarily raised or kept on farms for profit or other purposes.
126. Loading Area. An off-street space or berth for the temporary parking of commercial vehicles while loading or unloading.
127. Lodge. A facility providing temporary lodging in conjunction with outdoor recreational activities.
128. Lot. A single unit of land that is created by a subdivision of land (ORS 92.010(4)).

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129. Lot area. The total horizontal area within the lot lines of a lot exclusive of streets, and easements of access to other property.
130. Lot, corner. A lot abutting on two or more streets other than an alley, at their intersection.
131. Lot line. The property line bounding a lot.
132. Lot line, front. The lot line separating the lot from a street other than an alley, and in the case of a corner lot, the shortest lot line along a street other than an alley.
133. Lot line, rear. The lot line, which is opposite and most distant from the front lot line. In the case of an irregular, triangular, or other shaped lot, a line 10 feet in length within the lot parallel to and at a maximum distance from the front lot line.
134. Lot line, side. Any line that is not a front or rear lot line.
135. Lot width. The average horizontal distance between the side lot lines, ordinarily measured parallel to the front lot line.
136. Major Life Activity. Self-care, ambulation, communication, transportation, education, socialization, employment and the ability to acquire and maintain adequate, safe and decent shelter.
137. Management Unit. That minimum acreage necessary to operate, lease or otherwise maintain land in agricultural use. A management unit is not necessarily an economic unit.
138. Manufactured Dwelling. A Manufactured Dwelling is the term used to describe all three of the following types of manufactured structures:
 - A. Residential Trailer. A structure constructed for movement on the public highways that has sleeping, cooking, and plumbing facilities, that is intended for human occupancy, that is being used for residential purposes, and that was constructed before January 1, 1962 with a minimum size of at least eight feet by 32 feet;
 - B. Mobile Home. A structure constructed for movement on the public highways that has sleeping, cooking, and plumbing facilities, that is intended for human occupancy, that is being used for residential purposes, and that was constructed between January 1, 1962, and June 15, 1976, and met the construction requirements of Oregon mobile home law in effect at the time of construction;

- C. **Manufactured Home.** A structure constructed for movement on the public highways that has sleeping, cooking, and plumbing facilities, that is intended for human occupancy, that is being used for residential purposes, and that was constructed in accordance with federal manufactured housing construction and safety standards, (HUD standards), and regulations in effect at the time of construction.
- D. "Manufactured dwelling" does not mean any building or structure constructed to conform to the State of Oregon Structural Specialty Code or the One and Two Family Dwelling Code adopted pursuant to ORS 455.100 to 455.450 and 455.610 to 455.630 or any unit identified as a recreational vehicle by the manufacturer (Added 11/1/00, Ord. 2000-42).
139. Manufactured Dwelling Park. Any place where four or more manufactured dwellings are located within 500 feet of one another on a lot, tract, or parcel of land under the same ownership, the primary purpose of which is to rent or lease space or keep space for rent or lease to any person for a charge or fee paid or to be paid for the rental or lease or use of facilities or to offer space free in connection with securing the trade or patronage of such person. It does not include a lot or lots located within a subdivision being rented or leased for occupancy by a maximum of one manufactured dwelling per lot if the subdivision was approved by Harney County under an Ordinance or Code adopted pursuant to ORS 92.010 to 92.190,
140. Manufacturing. The fabrication, production, or making of goods by hand or machine to a useable form.
141. Map. A diagram, drawing, or other writing that depicts the arrangement of lots or parcels.
142. Mobile Home Park. Any place where four or more mobile homes are located within 500 feet of one another on a lot, tract or parcel of land under the same ownership, the primary purpose of which is to rent space or keep space for rent to any person for a charge or fee paid or to be paid for the rental or use of facilities or to offer space free in connection with securing the trade or patronage of such person. "Mobile Home Park" does not include a lot or lots located within a subdivision being rented or leased for occupancy by a maximum of one mobile home per lot if the subdivision was approved by the local government unit having jurisdiction under an ordinance adopted pursuant to ORS 92.010 to 92.190. (Only applies within U.G.B.) (ORS 197.295 (5) and ORS 446.003 (29)).
143. New Construction. Structures for which the "start of construction" commenced on or after the effective date of this Code.

144. Non-conforming lot or structure. A parcel of land or a structure which lawfully existed prior to adoption of this Code, but which does not meet the standards for lot area, dimension, setbacks, or other criteria in this Code.
145. Non-conforming Use. Any use which lawfully existed prior to the adoption of this Code, but which does not conform with the permitted or conditional uses described in the Zone.
146. Non-conforming Use, Alteration Of. As specified in ORS 215.130(9), it shall mean the following:
 - A. A change in the use of no greater adverse impact to the neighborhood; and;
 - B. A change in the structure or physical improvements of no greater adverse impact to the neighborhood.
147. Organizational Camp. Any area designated by the person establishing, operating, managing or maintaining the same for recreational use by groups or organizations which include but are not limited to day camps, nature camps, summer camps, youth camps, scout camps, survival camps, athletic camps, camps which are operated and maintained under the guidance, supervision or auspices of religious, public and private educational systems and community service organizations. ORS 446.310 (7)
148. Overnight Lodging. Permanent, separately rentable accommodations, which are not available for residential use. Overnight lodging includes hotel or motel rooms, cabins, and timeshare units. Individually owned units may be considered overnight lodgings if they are available for overnight rental use by the general public for at least 45 days per calendar year through a central reservation and check in service. Tent sites, recreational vehicle parks, mobile homes, dormitory rooms and similar accommodations do not qualify as overnight lodgings for the purpose of this definition. (ORS 197.435 (5).
149. Owner. An owner of property or the authorized agent of an owner.
150. Parcel. A single unit of land that is created by a partitioning of land (ORS 92.010(6)).
151. Partition. Either an act of partitioning land or an area or tract of land partitioned under the provisions of the Subdivision and Partition Ordinance (ORS 92.010(6)).
152. Partition Land. To divide land into two or three parcels of land within a calendar year, not including:
 - A. A division of land resulting from a lien foreclosure, foreclosure of a recorded contract for the sale of real property, or the creation of cemetery lots;

- B. An adjustment of a property line by the relocation of a common boundary where an additional unit of land is not created and where the existing unit of land reduced in size by the adjustment complies with any applicable zoning regulations;
 - C. The division of land resulting from the recording of a subdivision or condominium plat;
 - D. A sale or grant by a person to a public agency or public body for state highway, county road, city street, or other right-of-way purposes provided that such road or right of way complies with the applicable comprehensive plan and shall not constitute a separate parcel under this rule.
153. Picnic Park. Any recreation park which is for day use only and provides no recreation vehicle or overnight camping spaces.
 154. Preserve. A tract of land or body of water used for the purpose of maintaining and protecting game and fish for private use in hunting or fishing.
 155. Person. Every natural person, firm, partnership, association, social or fraternal organization, corporation, trust, estate, receiver, syndicate, branch of government, or any group or any group or combination acting as a unit.
 156. Property Line Adjustment. An adjustment of a property line by the relocation of a common boundary where an additional unit of land is not created and where the existing unit of land reduced in size by the adjustment complies with any applicable zoning ordinance. (ORS 92.010 (12))
 157. Public Road. A road over which the public has a right of use that is a matter of public record.
 158. Public Water System. A system for the provision to the public of piped water for human consumption. The system must have more than three service connections or supply water to a public or commercial establishment which operates a total of at least 60 days per year, and which is used by 10 or more individuals per day or is a facility licensed by the Environmental Health Division. A public water system may be further defined by the Environmental Health Division.
 159. Ramada. A stationary structure having a roof extending over a manufactured dwelling; the structure may also extend over a patio or parking area for motor vehicles, which is used principally for protection from sun and rain.

160. Recreation Park. Any area designated by the person establishing, operating, managing or maintaining the same for picnicking or overnight camping by the general public or any segment of the public. "Recreation park" includes but is not limited to areas open to use free of charge or through payment of a tax or fee or by virtue of rental, lease, license, membership, association or common ownership and further includes, but is not limited to those areas divided into two or more lots, parcels, units or other interests for purposes of such use.
161. Recreational structure. A campground structure with or without plumbing, heating or cooking facilities intended to be used by any occupant on a limited-time basis for recreational, seasonal, emergency or transitional housing purposes and may include yurts, cabins, fabric structures or similar structures as further defined, by rule, or by the director (modified 11/1/00, Ord. 2000-42).
162. Recreational Vehicle. A vacation trailer or other unit with or without motive power, which is designed for human occupancy and to be used temporarily for recreational, seasonal or emergency purposes. The manufacturer shall identify the unit as a recreational vehicle (ORS 446.003 (33) (modified 11/1/00, Ord. 2000-42).
163. Residential Facility. A facility licensed by or under the authority of the Dept. of Human Resources which provides residential care alone or in conjunction with treatment or training or a combination thereof for six to fifteen individuals. ORS 197.660 (1).
164. Residential Home. A home licensed under the authority of the Dept. of Human Resources under ORS 443.400 to 443.825 which provides residential care alone or in conjunction with treatment or training or a combination thereof for five or fewer individuals who need not be related. ORS 197.660 (2).
165. Right-of-way. The area between boundary lines of a street or road.
166. Riparian Vegetation. Vegetation found on or near the banks of a river, stream, creek or other body of water.
167. Sanitary Land Fill. Sanitary Land Fill: An area of land or an excavation in which wastes are placed for permanent disposal which must be in conformance with OAR Chapter 340, Division 94, and that is not a land application unit, surface impoundment, injection well, or waste pile.
168. Self Contained Development. A development for which community sewer and water facilities are provided onsite and are limited to meet the needs of the development or are provided by existing public sewer or water service as long as all costs related to service extension and any capacity increases are borne by the development. A "self contained development" shall have developed recreational facilities provided on site. (ORS 197.435 (46)).

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169. Scenic Easement. The right to control the use of land, including air space above the land, for the purpose of protecting the natural qualities of a designated area. This control does not affect, without the owner's consent, any regular use exercised prior to the acquisition of the easement.
170. Scenic Waterways. River, or segment of a river, that has been designated as such in accordance with ORS 390.805 to 390.925, or any subsequent Act, and includes related adjacent land. (i.e. all land within one-fourth of one mile on each side of a river or segment of river within the scenic waterway, except land that, according to the judgment of the State Highway Department, does not affect the view from the waters within a scenic waterway).
171. School, Public and Private. An institution of learning which offers instruction as required by the State of Oregon to meet prescribed standards including kindergarten, elementary, secondary, higher education, vocational, and trade schools.
172. Series Partition. A series of partitions of land within the State of Oregon resulting in the creation of four or more parcels over a period of more than one calendar year (ORS 92.305(10)).
173. Setback. A specified distance for the placement of a structure from, including but not limited to, a road, a right-of-way or easement, property line, other structure, septic system, well, river or other waterway, or natural or man-made resource.
174. Sign. An identification, description, illustration, or device which is affixed to or represented, directly or indirectly, upon a building, structure, or land, and which directs attention to a product, place, activity, person, institution, or business. See Advertising Structure.
175. Special Flood Hazard Area (SFHA). Areas subject to inundation from the waters of a 100-year flood. See Flood Hazard Area (A).
176. Start of Construction. FOR FLOOD ADMINISTRATION PURPOSES. Includes substantial improvement, and shall refer to 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 slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; or the placement of a manufactured dwelling on a foundation. Permanent construction does not include the following: land preparation, including clearing, grading, and filling; the installation of streets and/or walkways; excavation for a basement, footings, piers, or foundation or the erection of temporary forms; or

the installation on the property of accessory buildings, including garages or sheds not occupied as dwelling units or not part of the main structure.

177. Street or Road. A public or private way that is created to provide ingress or egress for persons to one or more lots, parcels, areas, or tracts of lands, excluding a private way that is created to provide ingress or egress to such land in conjunction with the use of such land for forestry, mining, or agricultural purposes.
178. Structural alteration. Any change to the supporting members of a structure including foundations, bearing walls, or partitions, columns, beams, girders, or any structural change in the roof or in the exterior walls.
179. Structure. Something constructed or built and having a fixed base, or fixed connection to the ground or another structure.
180. Subdivider. Any person who causes land to be subdivided into a subdivision, or who undertakes to develop a subdivision, but does not include a public agency or officer authorized by law to make subdivisions (ORS 92.305(13)).
181. Subdivided Land. Improved or unimproved land or lands divided, or created into interests or sold under an agreement to be subsequently divided or created into interests, for the purpose of sale or lease, whether immediate or future, into 11 or more undivided interests or four or more other interests. "Subdivided lands" and "subdivision" include but are not limited to a subdivision of land located within this state subject to an ordinance adopted under ORS 92.044 and do not include series partitioned lands. "Subdivided lands" and "subdivision" do not mean property located outside this state which has been committed to the condominium form of ownership in accordance with the laws of the jurisdiction within which the property is located (ORS 92.305(12)).
182. Subdivision. To divide land into four or more lots with a calendar year.
183. Subdivision Plat. A final map and other writings containing all the descriptions, locations, specifications, dedications, provisions, and information concerning a subdivision.
184. Substantial Damage. Damage of any origin sustained by a structure where the cost of restoring the structure to its before-damaged condition would equal or exceed 50 percent of the market value of the structure before the damage occurred.
185. Substantial Development. Actions taken by the permit holder, which encompass more than simple site preparation and grading. The permit holder shall have accomplished significant physical development of the site, which may include the commencement of one or more services (sewer, septic system, water, storm

drainage, parking, roads, etc.) If no physical improvements are required for the conditional use, operation of the project must have begun. The level of development must demonstrate a good faith commitment by the permit holder to beginning the project.

186. Substantial Improvement. Any repair, reconstruction, or improvement of a structure, beginning 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 structure, the cost of which equals or exceeds 50 percent of the market value of the structure as shown on the current Assessor's rolls or as determined by an M.A.I. qualified appraiser either:

- A. Before the improvement or repair is started; or
- B. If the structure has been damaged and is being restored; before the damage occurred.

The term does not, however, include either:

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; or

B. Any alteration of a structure listed on the National Register of Historic Places or a State Inventory of Historic Places.

187. Substantial Interference. Interference which is caused by use of a groundwater source, which diminishes another groundwater source that is fully developed, to the extent that it will not supply its legally established use.
188. Tax Lot. An area of land utilized for tax assessment purposes. A tax lot shall not be construed to imply that the lot has been created in conformance with applicable land use regulations or that it can be independently developed or sold without conformance with all regulations.
189. Tentative Plan. A map and other writings submitted for review and approval for a subdivision, partition, replat, or property line adjustment.
190. Tract. One or more contiguous lots or parcels in the same ownership.
191. Transfer Center. A facility where waste materials are taken from smaller collection vehicles and placed in larger vehicles for transport, including truck trailers, or railroad cars. Recycling and some processing may also take place at a transfer center.

192. Use. The primary or principal activity, structure or facility occurring on a lot or parcel of land. For the purposes of this Code, a change in tenancy is not considered a change in use. Further, a change of the use of a room in a single-family dwelling or duplex is not considered a change in use unless the change is to facilitate the operation of a home occupation or a Bed and Breakfast Inn.
193. Utility Facility. Any major structure owned or operated by a public, private, or cooperative electric, fuel, communication, sewage, or water company for the generation, transmission, distribution, or processing of its products or for the disposal of cooling water, waste or by-products, and including power transmission lines, major trunk pipelines, power substations, dams, water towers, sewage lagoons, sanitary landfills and similar facilities, but excluding local sewer, water, gas, telephone and power distribution lines and similar minor facilities allowed in any zone.
194. Visitor-oriented Accommodations. Overnight lodging, restaurants and meeting facilities, which are designed to provide for the needs of visitors rather than year round residence. (ORS 197.435 (5)).
195. Waste Tire. A tire that is no longer suitable for its original intended purpose because of weakness, damage, or defect. (ORS 459.705 (11)).
196. Waste Tire Store or Storage. The placing of waste tires in a manner that does not constitute disposal of the waste tires. (ORS 459.705 (7)).
197. Yard. An open space on a lot, which is unobstructed from the ground upward except as, otherwise provided in this ordinance.
198. Yard, front. A yard between side lot lines and measured horizontally at right angles to the front lot line from the nearest point of a building. Any yard meeting this definition and abutting on a street other than an alley, shall be considered a front yard.
199. Yard, rear. A yard between side lot lines and measured horizontally at right angles to the rear lot line from the rear lot line to the nearest point of a building.
200. Yard, side. A yard between the front and rear yard measured horizontally at right angles from the side lot line to the nearest point of a building.
201. Yard, street side. A yard adjacent to a street between the front yard and rear lot line measured horizontally and at right angles from the side lot line to the nearest point of a building.

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Section 1.050. Compliance with Ordinance

A lot may be used and a structure or part of a structure may be constructed, reconstructed, altered, occupied, or used only as this ordinance permits.

ARTICLE 2. ESTABLISHMENT OF ZONES

Sections:

- 2.010. Classification of Zones
- 2.020. Location of Zones
- 2.030. Zoning Map
- 2.040. Zone Boundaries

Section 2.010. Classification of Zones

For the purposes of this ordinance, the following zones are hereby established.

Exclusive Farm and Range Use – 1	EFRU-1
Exclusive Farm and Range Use – 2	EFRU-2
Forest Use	FU
Airport Development Zone	AD-1
Airport Vicinity Overlay Zone	AVO
Rural Residential	R-1
Rural Recreational	R-2
Rural Service Center – Andrews	RSC-AN
Rural Commercial Area – Buchanan	RCA-BU
Rural Community – Crane	RC-CR
Rural Service Center – Diamond	RSC-DI
Rural Community – Drewsey	RC-DR
Rural Service Center – Fields	RSC-FI
Rural Service Center – Frenchglen	RSC-FR
Rural Commercial Area – Lawen	RCA-LA
Rural Commercial Area – Princeton	RCA-PR
Rural Commercial Area – Riley	RCA-RI
Rural Commercial Area – Wagontire	RCA-WA
Commercial and Industrial	C-1
Limited Use Combining Zone	LU
Mineral and Aggregate Resource Overlay Zone	MARO

Section 2.020. Location of Zones

The boundaries for the zones listed in this ordinance are indicated on the Harney County Zoning Map and any supporting recorded meets and bounds descriptions, which are hereby adopted by reference. The boundaries shall be modified in accordance with zoning map amendments, which shall be adopted by reference.

Section 2.030. Zoning Map

A zoning map amendment by Section 2.020 of this ordinance or by an amendment thereto shall be prepared by authority of the Planning Commission or be a modification by the County Court of a map or map amendment so prepared. The map or map amendment shall be dated with the effective date of the ordinance that adopts the map or map amendment. A certified print of the adopted map or map amendment shall be maintained in the office of the County Clerk as long as this ordinance remains in effect.

Section 2.040. Zone Boundaries

Unless otherwise specified, zone boundaries are section lines; subdivision lines; lot lines; centerlines of street or railroad rights-of-way; or such lines extended.

ARTICLE 3. ZONING CLASSIFICATIONS

DEFINED

Sections:

- 3.010. Exclusive Farm and Range Use – 1, EFRU-1
- 3.020. Exclusive Farm and Range Use – 2, EFRU-2
- 3.060. Forest Use - FU
- 3.070. Airport Development Zone, AD-1
- 3.080. Airport Vicinity Overlay Zone, AVO
- 3.090. Rural Residential, R-1
- 3.110. Rural Recreational, R-2
 - 3.120.1 Rural Service Center – Andrews, RSC-AN
 - 3.120.2 Rural Commercial Area – Buchanan, RCA-BU
 - 3.120.3 Rural Community – Crane, RC-CR
 - 3.120.4 Rural Service Center – Diamond, RSC-DI
 - 3.120.5 Rural Community – Drewsey, RC-DR
 - 3.120.6 Rural Service Center – Fields, RSC-FI
 - 3.120.7 Rural Service Center – Frenchglen, RSC-FR
 - 3.120.8 Rural Commercial Area – Lawen, RCA-LA
 - 3.120.9 Rural Commercial Area – Princeton, RCA-PR
 - 3.120.10 Rural Commercial Area – Riley, RCA-RI
 - 3.120.11 Rural Commercial Area – Wagontire, RCA-WA
- 3.130. Commercial & Industrial Zone, C-1
- 3.140. Limited Use Combining Zone, LU
- 3.150. Mineral and Aggregate Resource Overlay Zone, MARO

Section 3.010. Exclusive Farm and Range Use – 1, EFRU-1Sub-Sections:

1. Uses Permitted
2. Uses Subject To Administrative Review
3. Conditional Uses Permitted
4. Dwellings Provided in Conjunction with Farm Use
5. Accessory Dwellings Provided in Conjunction with Farm Use
6. Dwellings Not Provided in Conjunction with Farm Use
7. Specific Review Criteria
8. Lot Size/Land Divisions
9. Standards

It is the intent and purpose of the Exclusive Farm and Range Use – (EFRU-1) Zone to be utilized in areas of Harney County that are primarily in agriculture use as indicated within the Harney County Comprehensive Plan. This zone shall serve to implement these Plan elements and Statewide Planning Goal – Agriculture 3.

It is further the intent and purpose to provide a zoning designation that will serve to protect the agricultural resources, by allowing only uses compatible to and supportive of the resource, and also to provide a zoning designation in conformance with ORS 215.

It is further the intent and purpose to allow only lots of a minimum size that will permit operations appropriate for the continuation of the existing commercial agricultural operations in the area.

In an EFRU-1 Zone the following regulations shall apply:

1. USES PERMITTED: In an EFRU-1 zone, the following uses and their accessory uses are permitted. These uses do not require land use approval. While some uses may prompt an inquiry to, and/or action by, the Planning Director, authorization of such uses does not require notice to adjacent property owners or other interested parties and does not constitute a land use decision pursuant to ORS 197.015(10).
 - A. Farm Use. As used in this section, “farm use” means the current employment of land for the primary purpose of obtaining a profit in money by raising, harvesting and selling crops or the feeding, breeding, management and sale of, or the production of, livestock, poultry, fur bearing animals or honeybees or for dairying and the sale of dairy products or any other agricultural or horticultural use or animal husbandry or any combination thereof. “Farm use” includes the preparation, storage and disposal by marketing or otherwise of the products or

by-products raised on such land for human or animal use. "Farm use" also includes the current employment of land for the primary purpose of obtaining a profit in money by stabling or training equines included but not limited to providing riding lessons, training clinics and schooling shows. "Farm use" also includes the propagation, cultivation, maintenance and harvesting of aquatic species and bird and animal species to the extent allowed by the rules adopted by the State Fish and Wildlife Commission. "Farm use" includes the on-site construction and maintenance of equipment and facilities used for the activities described in this subsection. "Farm use" does not include the use of land subject to the provisions of ORS chapter 321, except land used exclusively for growing cultured Christmas trees as defined in ORS 215.203(3) or land described in ORS 321.267(1)(e) or 321.824

- B. Operations for the exploration of geothermal resources as defined by ORS 522.005 (11), including the placement and operation of compressors, separators and other customary production equipment for an individual well adjacent to the wellhead. Any activities or construction relating to such operations shall not be a basis for an exception under ORS 197.732(1)(a) or (b).
- C. The propagation or harvesting of a forest product.
- D. Climbing and passing lanes within the right-of-way existing as of July 1, 1987.
- E. Temporary public roads or detours that will be abandoned and restored to original condition or use at such time as no longer needed.
- F. Operations for the exploration for minerals as defined by ORS 517.750 (7). Any activities or construction relating to such operations shall not be a basis for an exception under ORS 197.732 (1)(a) or (b).
- G. Minor betterment of existing public roads and highway related facilities such as maintenance yards, weight stations and rest areas within the right-of-way existing as of July 1, 1987, and contiguous public-owned property utilized to support the operation and maintenance of public roads and highways.
- H. Creation, restoration or enhancement of wetlands.
- I. Alteration, restoration or replacement of a lawfully established dwelling that:
 - a. Has intact exterior walls and roof structure;
 - b. Has indoor plumbing consisting of a kitchen sink, toilet and bathing facilities connected to a sanitary waste disposal system;
 - c. Has interior wiring for interior lights;

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- d. Has a heating system; and
 - e. In the case that replacement is removed, demolished or converted to an allowable non-residential use within three months of completion of the replacement dwelling. A replacement dwelling may be sited on any part of the same lot or parcel. A dwelling established under this paragraph shall comply with all applicable siting standards. However, the standards shall not be applied in a manner that prohibits the siting of the dwelling. If the dwelling to be replaced is located on a portion of the lot or parcel not zoned for exclusive farm use, the applicant, as a condition of approval, shall execute and record in the deed records for Harney County a deed restriction prohibiting the siting of a dwelling on that portion of the lot or parcel. The restriction imposed shall be irrevocable unless a statement of release is placed in the deed record for the county. The release shall be signed by the county or its designee and state that the provisions of this paragraph regarding replacement dwellings have changed to allow the siting of another dwelling. The Harney County Planning Director or the Director's designee shall maintain a record of the lots and parcels that do not qualify for the siting of a new dwelling under the provisions of this paragraph, including a copy of the deed restrictions and release statements filed under this paragraph.
 - f. Harney County shall require, as a condition of approval, that the landowner for the dwelling sign and record in the deeds records for the county a document binding the land owner and the landowner's successor's in interest, prohibiting them from pursuing a claim for relief or cause of action alleging injury from farming or forest practices for which no action or claim is allowed under ORS 30.936 or 30.937.
 - J. The breeding, kenneling and training of greyhounds for racing.
 - K. Seasonal farm worker housing as discussed in ORS 197.677 though 197.685.
 - L. A winery as described in ORS 215.452.
2. USES SUBJECT TO ADMINISTRATIVE REVIEW. In the EFRU-1 Zone, the following uses and their accessory uses may be permitted if determined by the Planning Director to satisfy the applicable criteria and provisions of law. Authorization of these uses does constitute a land use decision pursuant to ORS 197.015(10). Notice and an opportunity for a hearing must be provided in the manner described in ORS 215.416. These uses may be referred to the Planning Commission for review if deemed appropriate by the Planning Director.
- A. Dwellings provided in conjunction with farm use pursuant to Section 3.010(4).
 - B. Accessory dwellings in conjunction with farm use pursuant to Section 3.010(5)(A).

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- C. Dwellings not provided in conjunction with farm use pursuant to Section 3.010(6)(A).
- D. Schools, as defined in ORS 215.283(1)(a). New facilities may not;
 - a. Be established on high-value farmland; or
 - b. Be established within three miles of an urban growth boundary.
 - c. Existing facilities may be maintained, enhanced or expanded on the same tract subject to the review criteria of Section 3.010(7)(a).
- E. Churches and cemeteries in conjunction with churches. New facilities may not;
 - a. Be established on high-value farmland; or
 - b. Be established within three miles of an urban growth boundary.
 - c. Existing facilities may be maintained, enhanced or expanded on the same tract subject to the review criteria of Section 3.010(7)(a).
- F. Utility facilities necessary for public service, including wetland waste treatment systems but not including commercial facilities for the purpose of generating electrical power for public use by sale or transmission towers over 200 feet in height. A utility facility necessary for public service may be established as provided in ORS 215.275.
- G. A facility for the primary processing of forest products, provided that such a facility does not seriously interfere with accepted farming practices and is compatible with farm uses described in ORS 215.203(2). Such a facility may be approved for a one-year period, which is renewable. These facilities are intended to be only portable or temporary in nature. The primary processing of a forest product, as used in this section, means the use of a portable chipper or stud mill or other similar methods of initial treatment of a forest product in order to enable its shipment to market. Forest products, as used in this section, means timber grown upon a parcel of land or contiguous land where the primary processing facility is located.
- H. Farm stands, if:
 - a. The structures are designed and used for the sale of farm crops and livestock grown on farms in the local agricultural area, including the sale of retail incidental items, if the sales of the incidental items make up no more than 25 percent of the total sales of the farm stand; and

- b. The farm stand does not include structures designed for occupancy as a residence or for activities other than the sale of farm crops and livestock and does not include structures for banquets, public gatherings or public entertainment.
- I. A facility for the processing of farm crops. The processing facility must be located on a farm that provides at least one-quarter of the crops processed at the facility. The building established for the processing facility shall not exceed 10,000 square feet of floor area exclusive of the floor area designed for preparation, storage or other farm use or devote more than 10,000 square feet to the processing activities within another building supporting a farm use. A processing facility shall comply with all applicable siting standards but the standards shall not be applied in a manner that prohibits the siting of the processing facility. Harney County shall not approve any division of a lot or parcel that separates a processing facility from the farm operation on which it is located.
- J. A site for the takeoff and landing of model aircraft, including such buildings or facilities as may reasonably be necessary. Buildings or facilities shall not be more than 500 square feet in floor area or placed on a permanent foundation unless the building or facility pre-existed the use approved under this paragraph. The site shall not include an aggregate surface or hard surface area unless the surface pre-existed the use approved under this paragraph. As used in this paragraph, "model aircraft" means a small scale-version of an airplane, glider, helicopter, dirigible or balloon that is used or intended to be used for flight and is controlled by radio, lines or design by a person on the ground.
- K. Fire service facilities providing rural fire protection services.
- L. Irrigation canals, delivery lines and those structures and accessory operational facilities associated with a district as defined in ORS 540.505 (1).
- M. Utility facility service lines. Utility facility service lines are utility lines and accessory facilities or structures that end at the point where the utility service is received by the customer and that are located on one or more of the following:
 - a. A public right of way;
 - b. Land immediately adjacent to a public right of way, provided the written consent of all adjacent property owners has been obtained; or
 - c. The property to be served by the utility.

3. CONDITIONAL USES PERMITTED. In the EFRU-1 Zone, the following uses and their accessory uses may be permitted if determined by the Planning Commission during a public hearing to satisfy the applicable criteria and provisions of law.

A. A dwelling on real property used for farm use if the dwelling is:

- a. Located on the same lot or parcel as those terms are defined in ORS 92.010, as the dwelling of the farm operator and:
- b. To qualify, persons shall occupy a dwelling whose assistance in the management and farm use of the existing commercial farming operation is required by the farm operator. The farm operator shall continue to play the predominant role in the management and farm use of the farm. A farm operator is a person who operates a farm, doing the work and making the day-to-day decisions about such things as planting, harvesting, feeding and marketing.
- c. The parcel is not subsequently divided.
- d. Harney County shall require as a condition of approval that the landowner for the dwelling sign and record in the deeds records for the county a document binding the land owner and the landowner's successor's in interest, prohibiting them from pursuing a claim for relief or cause of action alleging injury from farming or forest practices for which no action or claim is allowed under ORS 30.936 or 30.937.

B. Commercial activities in conjunction with farm use, but not including the processing of farm crops as described in Section 3.010(2) (I). Approval of this use is subject to the review criteria of Section 3.010(7) (A), and any other applicable criteria or provisions of law.

C. Personal-use airports for airplanes and helicopter pads, including associated hanger, maintenance and service facilities. A personal-use airport as used in this section means an airstrip restricted, except for aircraft emergencies, to use by the owner, and on an infrequent and occasional basis, by invited guests, and by commercial aviation activities in connection with agricultural operations. No aircraft may be based on a personal use airport other than those owned or controlled by the owner of the airstrip. Exceptions to the activities permitted under this definition may be granted through waiver action by the Department of Transportation in specific instances. A personal-use airport lawfully existing as of September 13, 1975, shall continue to be permitted subject to any applicable rules of the Department of Transportation. Approval of this use is subject to the review criteria of Section 3.010(7)(A), and any other applicable criteria or provisions of law

- D. Operations conducted for the mining and processing of geothermal resources as defined in ORS 522.005 or exploration, mining, and processing of aggregate and other mineral resources or other subsurface resources, and oil and gas as defined by ORS 520.005 not otherwise permitted under Section 3.010 (1)(B);
 - a. Mining, crushing or stockpiling of aggregate and other mineral and other subsurface resources subject to ORS 215.298.
 - b. Processing, as defined by ORS 517.750 (11), of aggregate into asphalt or portland cement; and
 - c. Processing of other mineral resources and other subsurface resources.
 - d. Approval of any use pursuant to this subsection is subject to the review criteria of Section 3.010(7)(a), and any other applicable criteria or provision of law. Section 3.150 of this Ordinance may apply if the project meets the definition of a "significant site" (3.150 (2)(x).
- E. A site for the disposal of solid waste approved by the governing body of Harney County for which a permit has been granted under ORS 459.245 by the Department of Environmental Quality together with equipment, facilities or buildings necessary for its operation. Approval of this use is subject to the review criteria of Section 3.010(7)(a), and any other applicable criteria or provisions of law.
- F. Private parks, playgrounds, hunting and fishing preserves and campgrounds. Subject to the approval of the county governing body or its designee, a private campground may provide yurts for overnight camping. No more than one-third or a maximum of 10 campsites, whichever is smaller, may include a yurt. The yurt shall be located on the ground or on a wood floor with no permanent foundation. Upon request of a county governing body, the Land Conservation and Development Commission may provide by rule for an increase in the number of yurts allowed on all or a portion of the campgrounds in a county if the commission determines that the increase will comply with the standards described in ORS 215.296 (1). As used in this paragraph, "yurt" means a round, domed shelter of cloth or canvas on a collapsible frame with no plumbing, sewage disposal hookup or internal cooking appliance.
- G. Private parks and campgrounds. Except on a lot or parcel contiguous to a lake or reservoir, campgrounds shall not be allowed within three miles of an urban growth boundary unless an exception is approved pursuant to ORS 197.732 and OAR Chapter 660, Division 4. A campground is an area devoted to overnight temporary use for vacation, recreational or emergency purposes, but not residential purposes and is established on a site or is contiguous to lands with a park or other outdoor natural amenity that is accessible for recreational use by the occupants of the campground. A campground shall be designed and

integrated into the rural agricultural and forest environment in a manner that protects the natural amenities of the site and provides buffers of existing native trees and vegetation or other natural features between campsites. A tent, travel trailer or recreational vehicle may occupy campsites. Separate sewer, water or electric service hook-ups shall not be provided to individual campsites. Campgrounds authorized by this rule shall not include intensively developed recreational uses such as swimming pools, tennis courts, retail stores or gas stations. Overnight temporary use in the same campground by a camper or camper's vehicle shall not exceed a total of 30 days during any consecutive 6-month period. Approval of a use pursuant to this subsection is subject to the review criteria of Section 3.010(7)(A), and any other applicable criteria or provisions of law.

- H. Parks, playgrounds or community centers owned by a governmental agency or a nonprofit community organization and operated primarily by and for residents of the local rural community. A public park may be established consistent with the provisions of ORS 195.120. Approval of a use pursuant to this subsection is subject to the review criteria of Section 3.010(7)(A), and any other applicable criteria or provisions of law.
- I. Golf Courses, as defined in Section 1.030. Approval of this use is subject to the review criteria of Section 3.010(7)(A), and any other applicable criteria or provisions of law.
- J. Commercial utility facilities for the purpose of generating power for public use by sale. Approval of a use pursuant to this subsection is subject to the review criteria of Section 3.010(7)(A) & (B), and any other applicable criteria or provisions of law.
- K. Home occupations carried on by the resident as an accessory use within dwellings or other buildings referred to in ORS 215.203(2)(b)(F) or (G) as provided in ORS 215.448. Approval of a use pursuant to this subsection is subject to the review criteria of Section 3.010(7)(A) & (B), and any other applicable criteria or provisions of law.
- L. One manufactured dwelling, or the temporary residential use of an existing building, in conjunction with an existing dwelling as a temporary use for the term of a hardship suffered by the existing resident or a relative of the resident. Within three months of the end of the hardship, the manufactured dwelling shall be removed or demolished, or in the case of an existing building, the building shall be removed, demolished or returned to an allowable non-residential use. The governing body or its designee shall provide for periodic review of the hardship claimed under this paragraph. A temporary residence approved under this paragraph is not eligible for replacement under Section 3.010(1)(I). Approval of a use pursuant to this subsection is subject to the review criteria of Section 3.010(7)(A) & (B), and any other applicable criteria or provisions of law.

- a. Harney County shall require as a condition of approval that the landowner for the dwelling sign and record in the deeds records for the county a document binding the land owner and the landowner's successor's in interest, prohibiting them from pursuing a claim for relief or cause of action alleging injury from farming or forest practices for which no action or claim is allowed under ORS 30.936 or 30.937.

- M. A replacement dwelling to be used in conjunction with farm use if the existing dwelling has been listed in a Harney County inventory and the National Inventory of Historic Places as a historic property as defined in ORS 358.480 (2).
 - a. Harney County shall require as a condition of approval that the landowner for the dwelling sign and record in the deeds records for the county a document binding the land owner and the landowner's successor's in interest, prohibiting them from pursuing a claim for relief or cause of action alleging injury from farming or forest practices for which no action or claim is allowed under ORS 30.936 or 30.937.

- N. Transmission towers over 200 feet in height. Approval of a use pursuant to this subsection is subject to the review criteria of Section 3.010(7)(A), and any other applicable criteria or provisions of law.

- O. Dog kennels not described in ORS 215.283(1)(j). Approval of a use pursuant to this subsection is subject to the review criteria of Section 3.010(7)(A), and any other applicable criteria or provisions of law.

- P. Residential homes as defined in ORS 197.660, in existing dwellings. Approval of a use pursuant to this subsection is subject to the review criteria of Section 3.010(7)(A), and any other applicable criteria or provisions of law.
 - a. Harney County shall require as a condition of approval that the landowner for the dwelling sign and record in the deeds records for the county a document binding the land owner and the landowner's successor's in interest, prohibiting them from pursuing a claim for relief or cause of action alleging injury from farming or forest practices for which no action or claim is allowed under ORS 30.936 or 30.937.

- Q. The propagation, cultivation, maintenance and harvesting of aquatic or insect species. Insect species shall not include any species under quarantine by the State Department of Agriculture or the United States Department of Agriculture. The county shall provide notice of all applications under this paragraph to the State Department of Agriculture. Notice shall be provided in accordance with the county's land use regulations but shall be mailed at least 20 calendar days prior to any administrative decision or initial public hearing on the application.

Approval of a use pursuant to this subsection is subject to the review criteria of Section 3.010(7)(A), and any other applicable criteria or provisions of law.

- R. Construction of additional passing lanes and travel lanes requiring the acquisition of right-of-way but not resulting in the creation of new land parcels. Approval of a use pursuant to this subsection is subject to the review criteria of Section 3.010(7)(A), and any other applicable criteria or provisions of law.
- S. Reconstruction or modification of public roads and highways involving the removal or displacement of buildings but not resulting in the creation of new land parcels. Approval of a use pursuant to this subsection is subject to the review criteria of Section 3.010(7)(a), and any other applicable criteria or provisions of law.
- T. Improvement of public roads and highway facilities, such as maintenance yards, weigh stations and rest areas, where additional property or right-of-way is required but not resulting in the creation of new land parcels. Approval of a use pursuant to this subsection is subject to the review criteria of Section 3.010(7)(A), and any other applicable criteria or provisions of law.
- U. Room and board arrangements for a maximum of five unrelated persons in existing residences.
- V. Operations for the extraction and bottling of water.
- W. Expansion of existing county fairgrounds and activities directly relating to county fairgrounds governed by county fair boards established pursuant to ORS 565.210.
- X. A living history museum:
 - a. 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 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.
 - b. As used in this paragraph:
 - 1. "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

2. "Local historical society" means the local historical society recognized by the county governing body and organized under ORS chapter 65.

Y. Wildlife habitat conservation and management plans

Z. Guest Ranch. Notwithstanding ORS 215.283, a guest ranch may be established in conjunction with an existing livestock operation that qualifies as a farm use under ORS 215.203 and 3.010(1)(A). A guest ranch established under this subsection shall meet the following conditions:

- a. Except as provided in paragraph c. of this subsection, the lodge, bunk house or cottages cumulatively shall:
 1. Include not less than four nor more than ten (10) overnight guestrooms exclusive of kitchen areas, rest rooms, storage and other shared indoor facilities.
 2. Not exceed a total of 12,000 square feet in floor area.
- b. The guest ranch shall be located on a lawfully established parcel that is
 1. At least 160 acres;
 2. Not within 10 air miles of an urban growth boundary containing a population greater than 5,000;
 3. The parcel containing the dwelling of the person conducting the livestock operation; and
 4. Not classified as high-value farmland as defined in ORS 215.710.
- c. For each doubling of the initial 160 acres required under paragraph B. of this subsection, up to five additional overnight guestrooms and 3,000 square feet of floor area may be added to the guest ranch for a total of not more than 25 guestrooms and 21,000 square feet of floor area.
- d. A guest ranch may provide recreational activities that can be provided in conjunction with the livestock operation's natural setting, including but not limited to hunting, fishing, hiking, biking, horseback riding, camping or swimming. Intensively developed recreational facilities such as golf courses as identified in ORS 215.283 shall not be allowed. A campground as described in ORS 215.283(2) (c) shall not be allowed in conjunction with a guest ranch, and a guest ranch shall not be allowed in conjunction with an existing golf course or with an existing campground under ORS 215.283(2)(c).

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- e. Food services shall be incidental to the operation of the guest ranch and shall be provided only for the guests of the guest ranch. The cost of the meals provided to the guests shall be included as part of the fee to visit or stay at the guest ranch. The sale of individual meals to persons who are not guests of the guest ranch shall not be allowed.
- f. Approval of a guest ranch shall be subject to the provisions of Section 3.010 7(a), and any other applicable criteria or provisions of law.
- g. As used in this subsection:
 - 1. "Guest ranch" means a facility for overnight lodging incidental and accessory to an existing livestock facility that qualifies for farm use under ORS 215.203 and 3.010 1.a. Guest ranch facilities may include a lodge, bunkhouse or cottage accommodations as well as passive recreational activities and food services as set forth in items B. and D. of this subsection.
 - 2. "Livestock" means cattle, sheep, horses and bison. (1997c.728(1))
- h. Notwithstanding ORS 215.263, the governing body of Harney County or its designee shall not approve a proposed division of land in an exclusive farm use zone for a guest ranch as defined in item Z (g) of this subsection.
- i. The governing body of Harney County or its designee shall not approve a proposed division of a lot or parcel that separates a guest ranch described in item Z (g) of this subsection from the dwelling of the person conducting the livestock operation. (Oregon Laws 1997, Chapter 728)
- AA. Dwellings not provided in conjunction with farm use pursuant to Section 3.010 6(B).
- BB. Expansion or replacement of an existing facility for an animal shelter as defined in ORS 609.500, if the shelter is tax exempt pursuant to section 501(c)(3) of the Internal Revenue Code as amended and in effect on January 1, 1999.
- CC. Roads, highways and other transportation facilities and improvements not allowed under subsections (1) and (2) of this section may be established, subject to the approval of Harney County or its designee, in areas zoned for exclusive farm use subject to:
 - a. Adoption of an exception to the goal related to agricultural lands and to any other applicable goal with which the facility or improvement does not comply; or

- b. ORS 215.296 for those uses identified by rule of the Land Conservation and Development Commission

DD. Utility Facilities

4.DWELLINGS PROVIDED IN CONJUNCTION WITH FARM USE. In the EFRU-1 Zone, a dwelling in conjunction with farm use may be approved if one of the following (item A or B) is satisfied.

- B. Acreage Threshold. A dwelling may be considered customarily provided in conjunction with farm use if:
 - a. The parcel on which the dwelling will be located is at least 160 acres;
 - b. The subject tract is currently employed for farm use, as defined in ORS 215.203.
 - c. The dwelling will be occupied by a person or persons who will be principally engaged in the farm use of the land, such as planting, harvesting, marketing or caring for livestock at a commercial scale;
 - d. There is no other dwelling on the subject tract.
 - e. Harney County shall require as a condition of approval that the landowner for the dwelling sign and record in the deeds records for the county a document binding the land owner and the landowner's successor's in interest, prohibiting them from pursuing a claim for relief or cause of action alleging injury from farming or forest practices for which no action or claim is allowed under ORS 30.936 or 30.937.
- C. Farm Income Threshold. A dwelling may be considered customarily provided in conjunction with farm use if:
 - a. The subject tract is currently employed for farm use, as defined in ORS 215.203 that has produced \$40,000 (1994) dollars in gross annual income from the sale of farm products in each of the last two years or three of the last five years;
 - b. Except as permitted by 3.010(1)(K) there is no other dwelling on the subject tract;
 - c. A person or persons who produced the commodities, which grossed the income, required in item 4(B)(a) would occupy the dwelling above;

- d. On determining the gross income required by item 4(B)(a) above, the cost of purchased livestock shall be deducted from the total gross income attributed to the tract. Only gross income from land owned by the applicant, not leased or rented shall be counted.
- e. Harney County shall require as a condition of approval that the landowner for the dwelling sign and record in the deeds records for the county a document binding the land owner and the landowner's successor's in interest, prohibiting them from pursuing a claim for relief or cause of action alleging injury from farming or forest practices for which no action or claim is allowed under ORS 30.936 or 30.937.

4. ACCESSORY DWELLINGS PROVIDED IN CONJUNCTION WITH FARM USE. In the EFRU-1 Zone, an accessory dwelling may be provided in conjunction with an existing farm dwelling and may be approved subject to the following.

- A. An accessory farm dwelling may be considered customarily provided in conjunction with farm use if it meets all of the following requirements:
 - a. The accessory farm dwelling will be occupied by a person or persons who will be principally engaged in the farm use of the land and whose assistance in the management of the farm use is or will be required by the farm operator; and
 - b. The accessory dwelling will be located:
 - 1. On the same lot or parcel as the dwelling of the principal farm dwelling;
 - 2. On the same tract as the principal farm dwelling when the lot or parcel on which the accessory farm dwelling will be sited is consolidated into a single parcel with all other contiguous lots and parcels in the tract; or
 - 3. On a lot or parcel on which the principal farm dwelling is not located, when the accessory farm dwelling is a manufactured dwelling and a deed restriction is filed with the Harney County Clerk. The deed restriction shall require the manufactured dwelling to be removed when the lot or parcel is conveyed to another party. An accessory farm dwelling approved pursuant to this subsection may not be occupied by a person or persons who will not be principally engaged in the farm use of the land and whose assistance is not or will not be required by the farm operator. The manufactured dwelling may remain if it is re-approved under 3.010(4); and
- B. There is no other dwelling on the lands designated for exclusive farm use owned by the farm operator that is vacant or currently occupied by persons not working

on the subject farm or ranch and that could reasonably be used as an accessory farm dwelling; and

- C. The principal farm dwelling is located on a farm or ranch operation that is currently employed for farm use, as defined in ORS 215.203 and has produced \$40,000 (1994 dollars) in gross annual income from the sale of farm products in each of the last two years or three of the last five years. In determining the gross income, the cost of purchased livestock shall be deducted from the total gross income attributed to the tract.
 - D. Harney County shall require as a condition of approval that the landowner for the dwelling sign and record in the deeds records for the county a document binding the land owner and the landowner's successor's in interest, prohibiting them from pursuing a claim for relief or cause of action alleging injury from farming or forest practices for which no action or claim is allowed under ORS 30.936 or 30.937.
5. DWELLINGS NOT PROVIDED IN CONJUNCTION WITH FARM USE. In the EFRU-1 Zone two types of dwellings not provided in conjunction with farm use may be authorized.
- A. Lot of Record Dwelling. A dwelling not provided in conjunction with farm use may be approved if all of the following are satisfied:
 - a. The lot or parcel on which the dwelling will be established was lawfully created and was acquired and owned continuously by the present owner:
 - 1. Since prior to January 1, 1985; or
 - 2. By devise or intestate succession from a person who acquired and had owned continuously the lot or parcel since prior to January 1, 1985.
 - 3. For the purposes of this subsection, "owner" includes the spouse, child, parent, sibling, brother-in-law, sister-in-law, son-in-law, daughter-in-law, father-in-law, mother-in-law, aunt, uncle, niece, nephew, stepparent, stepchild, grandparent, or grandchild of the owner or a business entity owned by any one or a combination of these family members.
 - b. The tract on which the dwelling will be sited does not include a dwelling.
 - c. If the lot or parcel on which the dwelling will be sited was part of a tract on November 4, 1993, no other dwelling may exist on another lot or parcel that was part of that tract.

- d. The proposed dwelling is not prohibited by, and will comply with the provisions of the Harney County Comprehensive Plan and land use regulations and any other relevant provisions of law.
 - e. When the lot or parcel on which the dwelling will be sited lies within an area designated in the Harney County Comprehensive Plan as big game habitat, the siting of the dwelling shall be consistent with the Comprehensive Plan and land use regulations established to provide protection to the big game habitat resource.
 - f. When the lot or parcel on which the dwelling will be sited is part of a tract, the remaining portions of the tract are consolidated into a single lot or parcel when the dwelling is allowed.
 - g. The Harney County Planning Department shall notify the Harney County Assessor that they intend to approve the application.
 - h. Harney County shall require as a condition of approval that the landowner for the dwelling sign and record in the deed records for the county a document binding the land owner and the landowner's successor's in interest, prohibiting them from pursuing a claim for relief or cause of action alleging injury from farming or forest practices for which no action or claim is allowed under ORS 30.936 or 30.937.
 - i. When Harney County approves an application for a single-family dwelling under Section 3.010(6)(A) the approval may be transferred by the person who qualified under this subsection to any other person after the effective date of the land use decision. Transfers occurring pursuant to this paragraph may occur one time and one time only.
- B. Non-farm Dwelling. A single-family residential dwelling, not provided in conjunction with farm use, may be established upon findings that each of the following review criteria have been satisfied:
- a. The dwelling or activities associated with the dwelling will not force a significant change in or significantly increase the cost of accepted farming or forest practices on nearby lands devoted to farm or forest use;
 - b. The dwelling is situated upon a lot or parcel, or a portion of a lot or parcel that is generally unsuitable land for the production of farm crops and livestock or merchantable tree species, considering the terrain, adverse soil or land conditions, drainage and flooding, vegetation, location and size of the tract; and

1. The lot or parcel shall NOT be considered unsuitable solely because of size or location if it can reasonably be put to farm or forest use in conjunction with other land; and
 2. The lot or parcel is not "generally unsuitable" simply because it is too small to be farmed profitably by itself. If a lot or parcel can be sold, leased, rented or otherwise managed as a part of a commercial farm or ranch, it is not "generally unsuitable." A lot or parcel, or portion of a lot or parcel, is presumed to be suitable for farm use if it is predominantly composed of Class I-VI soils. Just because a lot or parcel is unsuitable for one farm use does not mean it is not suitable for another farm use; or
 3. If the lot or parcel is under forest assessment, the dwelling is situated upon a lot or parcel, or a portion of a lot or parcel, that is generally unsuitable land for the production of merchantable tree species recognized by the Forest Practices Rules, considering the terrain, adverse soil or land conditions, drainage and flooding, vegetation, location and size of the tract. If a lot or parcel is under forest assessment the area is not "generally unsuitable" simply because it is too small to be managed for forest production profitably by itself. If a lot or parcel can be sold, leased, rented or otherwise managed as a part of a forestry operation, it is not "generally unsuitable." A lot or parcel, or portion of a lot or parcel, under forest assessment is presumed suitable for farm use if it is predominantly composed of soils capable of producing 20 cubic feet of wood fiber per acre per year. If a lot or parcel is under forest assessment, to be found compatible and not seriously interfere with forest uses on surrounding land it must not force a significant change in forest practices or significantly increase the cost of those practices on surrounding lands.
- b. The dwelling will not materially alter the stability of the overall land use pattern of the area. In determining whether a proposed non-farm dwelling will alter the stability of the overall land use pattern of the area, Harney County shall consider the cumulative impact of new non-farm dwellings on other lots or parcels similarly situated in the area. To address this standard the county shall:
1. Identify a study area for the cumulative impacts analysis. The study area shall include at least 2000 acres, or a smaller area not less than 1000 acres if the smaller area is a distinct agricultural area based on topography, soil types, land use pattern, or the type of farm or ranch operations or practices that distinguish it from other, adjacent agricultural areas. Findings shall describe the study area, its boundaries, the location of the subject parcel within this area, why the selected area is representative of the land use pattern surrounding the subject parcel and is adequate to conduct the analysis required by this standard. Lands

zoned for rural residential or other urban or non-resource uses shall not be included in the study area.

2. Identify within the study area the broad types of farm uses (irrigated or non-irrigated crops, pasture or grazing lands), the number, location and type of existing dwellings (farm, non-farm, hardship, etc), and the dwelling development trends since 1993. Determine the potential number of non-farm/lot-of-record dwellings that could be approved under this section, including identification of predominant soil classifications, the parcels created prior to January 1, 1993 and the parcels larger than the minimum lot size that may be divided to create new parcels for non-farm dwellings under ORS 215.263(4) and 3.010 (8). The findings shall describe the existing land use pattern of the study area including the distribution and arrangement of existing uses and the land use pattern that could result from approval of the possible non-farm dwellings under this paragraph.
 3. Determine whether approval of the proposed non-farm/lot-of-record dwellings together with existing non-farm dwellings will materially alter the stability of the land use pattern in the area. The stability of the land use pattern will be materially altered if the cumulative effect of existing and potential non-farm dwellings will make it more difficult for the existing types of farms in the area to continue operation due to diminished opportunities to expand, purchase or lease farmland, acquire water rights or diminish the number of tracts or acreage in farm use in a manner that will destabilize the overall character of the study area.
- c. The dwelling will be sited on a lot or parcel created before January 1, 1993;
 - d. The dwelling complies with such other conditions, as Harney County considers necessary.
 - e. Harney County shall require as a condition of approval that the landowner for the dwelling sign and record in the deeds records for the county a document binding the land owner and the landowner's successor's in interest, prohibiting them from pursuing a claim for relief or cause of action alleging injury from farming or forest practices for which no action or claim is allowed under ORS 30.936 or 30.937.
 - f. Harney County shall not grant final approval of a non-farm dwelling under this subsection on a lot or parcel that is, or has been, receiving special assessment without evidence that the lot or parcel upon which the dwelling is proposal has been disqualified for special assessment at a value for farm use or other special assessment under ORS 308A.253, 321.257 to 321.367 and any additional tax imposed as the result of disqualification has been paid.

7. SPECIFIC REVIEW CRITERIA. In the EFRU-1 Zone certain uses are subject to specific criteria, in addition to any other applicable criteria. The specific provisions of this subsection apply only when referenced within the list of uses included in subsections 3.010(2) and (3).

A. The use may be approved only where Harney County finds that the use will not:

- a. Force a significant change in accepted farm or forest practices on surrounding lands devoted to farm or forest use; or
- b. Significantly increase the cost of accepted farm or forest practices on surrounding lands devoted to farm or forest use.

8. LOT SIZE/LAND DIVISIONS. Any proposed division of land included within an exclusive farm use zone resulting in the creation of one or more parcels of land shall be reviewed and approved or disapproved by the governing body or its designee of Harney County. The governing body of the county by ordinance shall require such prior review and approval for such divisions of land within exclusive farm use zones established within the county.

A. Farm Related Land Divisions. The governing body of Harney County may approve a proposed division of land to create parcels for farm use as defined in ORS 215.203 if it finds:

- a. That the proposed division of land is appropriate for the continuation of the existing commercial agricultural enterprise within the area; or
- b. The parcels created by the proposed division are not smaller than the minimum lot size acknowledged under ORS 215.780. The minimum lot size in the EFRU-1 Zone is 160-acres.

B. Non-farm Related Land Divisions. New parcels less than 160-acres may be created subject to the following standards:

- a. The governing body of Harney County may approve a proposed division of land in an exclusive farm use zone for non-farm uses, except dwellings, set out in ORS 215.213 (2) or 215.283 (2) if it finds that the parcel for the non-farm use is not larger than the minimum size necessary for the use. The governing body may establish other criteria, as it considers necessary.
- b. The governing body of Harney County may approve a division of land in an exclusive farm use zone for a dwelling not provided in conjunction with farm use only if the dwelling has been approved under ORS 215.213 (3) or

215.284. The governing body of the county shall not approve a subdivision or series partition for a dwelling not provided in conjunction with farm use. The provisions of this subsection regarding a series partition apply only to applications for a land division submitted after July 1, 1997. For purposes of this subsection, "series partition" shall have the meaning given that term in ORS 92.305 (11).

- c. This section shall not apply to the creation or sale of cemetery lots, if a cemetery is within the boundaries designated for a farm use zone at the time the zone is established.
- d. This section shall not apply to divisions of land resulting from lien foreclosures or divisions of land resulting from foreclosure of recorded contracts for the sale of real property.
- e. The governing body of Harney County may approve a proposed division of land in an exclusive farm use zone to create a parcel with an existing dwelling to be used:
 - 1. As a residential home as described in ORS 197.660 (2) only if the dwelling has been approved under ORS 215.213 (3) or 215.284 (1), (2), (3) or (4); and
 - 2. For historic property that meets the requirements of ORS 215.213 (1)(q) and 215.283 (1)(o).
- f. The governing body of Harney County shall not approve a division of land for non-farm use under subsection (a), (b) or (f) of this section unless any additional tax imposed for the change in use has been paid.
- g. Parcels used or to be used for training or stabling facilities shall not be considered appropriate to maintain the existing commercial agricultural enterprise in an area where other types of agriculture occur.

9. SETBACK STANDARDS

- A. The setback from all property lines shall be a minimum of 20 feet.
- B. All residences, buildings or similar permanent fixtures shall be set back from the high water line along all streams or lakes a minimum of 100 feet measured at right angles to the high water line.

ORDINANCE HISTORY NOTES: The Exclusive Farm and Range Use-1 Zone provisions, Section 3.010 of the Harney County Zoning Ordinance was modified and adopted by the County Court on February 24, 1999 through a Periodic Review Work Task. The review and revision of this section subsequently occurred during May-June, 2000 as part (Work Task 2) of a voluntary Modified Revised Periodic Review Work Task via DLCD Grant No. TA-R-01-012. Section 3.010 was subsequently readopted by Harney County on August 16, 2000 and acknowledged by LCDC on May 10, 2002. Any changes to this Section from this point on will have the effective date listed after each modified paragraph with subsequent historical notes.

Section 3.020. Exclusive Farm and Range Use – 2, EFRU-2**Sub-Sections:**

1. Uses Permitted
2. Uses Subject To Administrative Review
3. Conditional Uses Permitted
4. Dwellings Provided in Conjunction with Farm Use
5. Accessory Dwellings Provided in Conjunction with Farm Use
6. Dwellings Not Provided in Conjunction with Farm Use
7. Specific Review Criteria
8. Lot Size/Land Divisions
9. Standards

It is the intent and purpose of the Exclusive Farm and Range Use – (EFRU-2) Zone to be utilized in areas of Harney County that are primarily in agriculture use as indicated within the Harney County Comprehensive Plan. This zone shall serve to implement these Plan elements and Statewide Planning Goal – Agriculture 3.

It is further the intent and purpose to provide a zoning designation that will serve to protect the agricultural resources, by allowing only uses compatible to and supportive of the resource, and also to provide a zoning designation in conformance with ORS 215.

It is further the intent and purpose to allow only lots of a minimum size that will permit operations appropriate for the continuation of the existing commercial agricultural operations in the area.

In an EFRU-2 Zone the following regulations shall apply:

1. **USES PERMITTED:** In an EFRU-2 zone, the following uses and their accessory uses are permitted. These uses do not require land use approval. While some uses may prompt an inquiry to, and/or action by, the Planning Director, authorization of such uses does not require notice to adjacent property owners or other interested parties and does not constitute a land use decision pursuant to ORS 197.015(10).
 - A. **Farm Use.** As used in this section, “farm use” means the current employment of land for the primary purpose of obtaining a profit in money by raising, harvesting and selling crops or the feeding, breeding, management and sale of, or the produce of, livestock, poultry, fur bearing animals, or honeybees, or for dairying and the sale of dairy products or any other agricultural or horticultural use or animal husbandry or any combination thereof. “Farm use” includes the preparation, storage and disposal by marketing or otherwise of the products or

by-products raised on such land for human or animal use. "Farm use" also includes the current employment of land for the primary purpose of obtaining a profit in money by stabling or training equines including but not limited to providing riding lessons, training clinics and schooling shows. "Farm use" also includes the propagation, cultivation, maintenance and harvesting of aquatic species and bird and animal species to the extent allowed by the rules adopted by the State Fish and Wildlife Commission. "Farm use" includes the on-site construction and maintenance of equipment and facilities used for the activities described in this subsection. "Farm use" does not include the use of land subject to the provisions of ORS chapter 321, except land used exclusively for growing cultured Christmas trees as defined in ORS 215.203(3) or land described in ORS 321.267(1)(e) or 321.415(5). [ORS 215.203(2)(a)]

- B. Operations for the exploration of geothermal resources as defined by ORS 522.005, including the placement and operation of compressors, separators and other customary production equipment for an individual well adjacent to the wellhead. Any activities or construction relating to such operations shall not be a basis for an exception under ORS 197.732(1)(a) or (b).
- C. The propagation or harvesting of a forest product.
- D. Climbing and passing lanes within the right-of-way existing as of July 1, 1987.
- E. Temporary public roads or detours that will be abandoned and restored to original condition or use at such time as no longer needed.
- F. Operations for the exploration for minerals as defined by ORS 517.750. Any activities or construction relating to such operations shall not be a basis for an exception under ORS 197.732 (1)(a) or (b).
- G. Minor betterment of existing public roads and highway related facilities such as maintenance yards, weight stations and rest areas within the right-of-way existing as of July 1, 1987, and contiguous public-owned property utilized to support the operation and maintenance of public roads and highways.
- H. Creation, restoration or enhancement of wetlands.
- I. Alteration, restoration or replacement of a lawfully established dwelling that:
 - a. Has intact exterior walls and roof structure;
 - b. Has indoor plumbing consisting of a kitchen sink, toilet and bathing facilities connected to a sanitary waste disposal system;
 - c. Has interior wiring for interior lights;

- d. Has a heating system; and
- e. In the case of replacement is removed, demolished, or converted to an allowable non-residential use within three months of completion of the replacement dwelling. A replacement dwelling may be sited on any part of the same lot or parcel. A dwelling established under this paragraph shall comply with all applicable siting standards. However, the standards shall not be applied in a manner that prohibits the siting of the dwelling. If the dwelling to be replaced is located on a portion of the lot or parcel not zoned for exclusive farm use, the applicant, as a condition of approval, shall execute and record in the deed records for Harney County a deed restriction prohibiting the siting of a dwelling on that portion of the lot or parcel. The restriction imposed shall be irrevocable unless a statement of release is placed in the deed record for the county. The release shall be signed by the county or its designee and state that the provisions of this paragraph regarding replacement dwellings have changed to allow the siting of another dwelling. The Harney County Planning Director or the Director's designee shall maintain a record of the lots and parcels that do not qualify for the siting of a new dwelling under the provisions of this paragraph, including a copy of the deed restrictions and release statements filed under this paragraph.
- f. Harney County shall require as a condition of approval that the landowner for the dwelling sign and record in the deeds records for the county a document binding the land owner and the landowner's successor's in interest, prohibiting them from pursuing a claim for relief or cause of action alleging injury from farming or forest practices for which no action or claim is allowed under ORS 30.936 or 30.937.

J. The breeding, kenneling and training of greyhounds for racing.

K. Seasonal farm worker housing as defined in ORS 197.675.

L. A winery as described in ORS 215.452.

2 USES SUBJECT TO ADMINISTRATIVE REVIEW. In the EFRU-2 Zone, the following uses and their accessory uses may be permitted if determined by the Planning Director to satisfy the applicable criteria and provisions of law. Authorization of these uses does constitute a land use decision pursuant to ORS 197.015(10). Notice and an opportunity for a hearing must be provided in the manner described in ORS 215.416. These uses may be referred to the Planning Commission for review if deemed appropriate by the Planning Director.

A. Dwellings provided in conjunction with farm use pursuant to Section 3.020(4).

B. Accessory dwellings in conjunction with farm use pursuant to Section 3.020(5)(A).

C. Dwellings not provided in conjunction with farm use pursuant to Section 3.020(6)(A).

D. Schools, as defined in ORS 215.283(1)(a). New facilities may not;

- a. Be established on high-value farmland; or
- b. Be established within three miles of an urban growth boundary.

Existing facilities may be maintained, enhanced or expanded on the same tract subject to the review criteria of Section 3.020(7)(a).

E. Churches and cemeteries in conjunction with churches. New facilities may not;

- a. Be established on high-value farmland; or
- b. Be established within three miles of an urban growth boundary.

Existing facilities may be maintained, enhanced or expanded on the same tract subject to the review criteria of Section 3.020(7)(a).

F. Utility facilities necessary for public service, including wetland waste treatment systems but not including commercial facilities for the purpose of generating electrical power for public use by sale or transmission towers over 200 feet in height. A utility facility necessary for public service may be established as provided in ORS 215.275.

G. A facility for the primary processing of forest products, provided that such a facility is found to not seriously interfere with accepted farming practices and is compatible with farm uses described in ORS 215.203(2). Such a facility may be approved for a one-year period, which is renewable. These facilities are intended to be only portable or temporary in nature. The primary processing of a forest product, as used in this section, means the use of a portable chipper or stud mill or other similar methods of initial treatment of a forest product in order to enable its shipment to market. Forest products, as used in this section, means timber grown upon a parcel of land or contiguous land where the primary processing facility is located.

H. Farm stands, if:

- a. The structures are designed and used for the sale of farm crops and livestock grown on farms in the local agricultural area, including the sale of retail incidental items, if the sales of the incidental items make up no more than 25 percent of the total sales of the farm stand; and

- b. The farm stand does not include structures designed for occupancy as a residence or for activities other than the sale of farm crops and livestock and does not include structures for banquets, public gatherings or public entertainment.
- I. A facility for the processing of farm crops. The processing facility must be located on a farm that provides at least one-quarter of the crops processed at the facility. The building established for the processing facility shall not exceed 10,000 square feet of floor area exclusive of the floor area designed for preparation, storage or other farm use or devote more than 10,000 square feet to the processing activities within another building supporting a farm use. A processing facility shall comply with all applicable siting standards but the standards shall not be applied in a manner that prohibits the siting of the processing facility. Harney County shall not approve any division of a lot or parcel that separates a processing facility from the farm operation on which it is located.
- J. A site for the takeoff and landing of model aircraft, including such buildings or facilities as may reasonably be necessary. Buildings or facilities shall not be more than 500 square feet in floor area or placed on a permanent foundation unless the building or facility pre-existed the use approved under this paragraph. The site shall not include an aggregate surface or hard surface area unless the surface pre-existed the use approved under this paragraph. As used in this paragraph, "model aircraft" means a small scale-version of an airplane, glider, helicopter, dirigible or balloon that is used or intended to be used for flight and is controlled by radio, lines or design by a person on the ground.
- K. Fire service facilities providing rural fire protection services.
- L. Irrigation canals, delivery lines and those structures and accessory operational facilities associated with a district as defined in ORS 540.505.
- M. Utility facility service lines. Utility facility service lines are utility lines and accessory facilities or structures that end at the point where the utility service is received by the customer and that are located on one or more of the following:
 - a. A public right of way;
 - b. Land immediately adjacent to a public right of way, provided the written consent of all adjacent property owners has been obtained; or
 - c. The property to be served by the utility.

3. CONDITIONAL USES PERMITTED. In the EFRU-2 Zone, the following uses and their accessory uses may be permitted if determined by the Planning Commission during a public hearing to satisfy the applicable criteria and provisions of law.

A. A dwelling on real property used for farm use if the dwelling is:

- a. Located on the same lot or parcel as those terms are defined in ORS 92.010, as the dwelling of the farm operator and:
- b. To qualify, persons shall occupy a dwelling whose assistance in the management and farm use of the existing commercial farming operation is required by the farm operator. The farm operator shall continue to play the predominant role in the management and farm use of the farm. A farm operator is a person who operates a farm, doing the work and making the day-to-day decisions about such things as planting, harvesting, feeding and marketing.
- c. The parcel is not subsequently divided.
- d. Harney County shall require as a condition of approval that the landowner for the dwelling sign and record in the deeds records for the county a document binding the land owner and the landowner's successor's in interest, prohibiting them from pursuing a claim for relief or cause of action alleging injury from farming or forest practices for which no action or claim is allowed under ORS 30.936 or 30.937.

B. Commercial activities in conjunction with farm use, but not including the processing of farm crops as described in Section 3.020(2)(I). Approval of this use is subject to the review criteria of Section 3.020(7)(A), and any other applicable criteria or provisions of law.

C. Personal-use airports for airplanes and helicopter pads, including associated hanger, maintenance and service facilities. A personal-use airport as used in this section means an airstrip restricted, except for aircraft emergencies, to use by the owner, and on an infrequent and occasional basis, by invited guests, and by commercial aviation activities in connection with agricultural operations. No aircraft may be based on a personal use airport other than those owned or controlled by the owner of the airstrip. Exceptions to the activities permitted under this definition may be granted through waiver action by the Department of Transportation in specific instances. A personal-use airport lawfully existing as of September 13, 1975, shall continue to be permitted subject to any applicable rules of the Department of Transportation. Approval of this use is subject to the review criteria of Section 3.020(7)(A), and any other applicable criteria or provisions of law

- D. Operations conducted for the mining and processing of geothermal resources as defined in ORS 522.005 or exploration, mining and processing of aggregate and other mineral resources or other subsurface resources and oil and gas as defined by ORS 520.005 not otherwise permitted under Section 3.020 (1)(B);
 - a. Mining, crushing or stockpiling of aggregate and other mineral and other subsurface resources subject to ORS 215.298.
 - b. Processing, as defined by ORS 517.750, of aggregate into asphalt or Portland cement; and
 - c. Processing of other mineral resources and other subsurface resources.
 - d. Approval of any use pursuant to this subsection is subject to the review criteria of Section 3.020(7)(a), and any other applicable criteria or provision of law. Section 3.150 of this Ordinance may apply if the project meets the definition of a "significant site".
- E. A site for the disposal of solid waste approved by the governing body of Harney County for which a permit has been granted under ORS 459.245 by the Department of Environmental Quality together with equipment, facilities or buildings necessary for its operation. Approval of this use is subject to the review criteria of Section 3.020(7)(a), and any other applicable criteria or provisions of law.
- F. Private parks, playgrounds, hunting and fishing preserves and campgrounds. Subject to the approval of the county governing body or its designee, a private campground may provide yurts for overnight camping. No more than one-third or a maximum of 10 campsites, whichever is smaller, may include a yurt. The yurt shall be located on the ground or on a wood floor with no permanent foundation. Upon request of a county governing body, the Land Conservation and Development Commission may provide by rule for an increase in the number of yurts allowed on all or a portion of the campgrounds in a county if the commission determines that the increase will comply with the standards described in ORS 215.296 (1). As used in this paragraph, "yurt" means a round, domed shelter of cloth or canvas on a collapsible frame with no plumbing, sewage disposal hookup or internal cooking appliance.
- G. Private parks and campgrounds. Except on lot or parcel contiguous to a lake or reservoir, campgrounds shall not be allowed within three miles of an urban growth boundary unless an exception is approved pursuant to ORS 197.732 and OAR Chapter 660, Division 4. A campground is an area devoted to overnight temporary use for vacation, recreational or emergency purposes, but not residential purposes and is established on a site or is contiguous to lands with a park or other outdoor natural amenity that is accessible for recreational use by the occupants of the campground. A campground shall be designed and

integrated into the rural agricultural and forest environment in a manner that protects the natural amenities of the site and provides buffers of existing native trees and vegetation or other natural features between campsites. A tent, travel trailer or recreational vehicle may occupy campsites. Separate sewer, water or electric service hook-ups shall not be provided to individual campsites. Campgrounds authorized by this rule shall not include intensively developed recreational uses such as swimming pools, tennis courts, retail stores or gas stations. Overnight temporary use in the same campground by a camper or camper's vehicle shall not exceed a total of 30 days during any consecutive 6-month period. Approval of a use pursuant to this subsection is subject to the review criteria of Section 3.020(7)(A), and any other applicable criteria or provisions of law.

- H. Parks, playgrounds or community centers owned by a governmental agency or a nonprofit community organization and operated primarily by and for residents of the local rural community. A public park may be established consistent with the provisions of ORS 195.120. Approval of a use pursuant to this subsection is subject to the review criteria of Section 3.020(7)(A), and any other applicable criteria or provisions of law.
- I. Golf Courses, as defined in Section 1.030. Approval of this use is subject to the review criteria of Section 3.020(7)(A), and any other applicable criteria or provisions of law.
- J. Commercial utility facilities for the purpose of generating power for public use by sale. Approval of a use pursuant to this subsection is subject to the review criteria of Section 3.020(7)(A) & (B), and any other applicable criteria or provisions of law.
- K. Home occupations carried on by the resident as an accessory use within dwellings or other buildings referred to in ORS 215.203(2)(b)(F) or (G) as provided in ORS 215.448. Approval of a use pursuant to this subsection is subject to the review criteria of Section 3.020(7)(A) & (B), and any other applicable criteria or provisions of law.
- L. One manufactured dwelling, or the temporary residential use of an existing building, in conjunction with an existing dwelling as a temporary use for the term of a hardship suffered by the existing resident or a relative of the resident. Within three months of the end of the hardship, the manufactured dwelling shall be removed or demolished, or in the case of an existing building, the building shall be removed, demolished or returned to an allowable non-residential use. The governing body or its designee shall provide for periodic review of the hardship claimed under this paragraph. A temporary residence approved under this paragraph is not eligible for replacement under Section 3.020(1)(I). Approval of a use pursuant to this subsection is subject to the review criteria of Section 3.020(7)(A) & (B), and any other applicable criteria or provisions of law.

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- a. Harney County shall require as a condition of approval that the landowner for the dwelling sign and record in the deeds records for the county a document binding the land owner and the landowner's successor's in interest, prohibiting them from pursuing a claim for relief or cause of action alleging injury from farming or forest practices for which no action or claim is allowed under ORS 30.936 or 30.937.
- M. A replacement dwelling to be used in conjunction with farm use if the existing dwelling has been listed in a Harney County inventory and the National Inventory of Historic Places as a historic property as defined in ORS 358.480.
 - a. Harney County shall require as a condition of approval that the landowner for the dwelling sign and record in the deeds records for the county a document binding the land owner and the landowner's successor's in interest, prohibiting them from pursuing a claim for relief or cause of action alleging injury from farming or forest practices for which no action or claim is allowed under ORS 30.936 or 30.937.
- N. Transmission towers over 200 feet in height. Approval of a use pursuant to this subsection is subject to the review criteria of Section 3.020(7)(A), and any other applicable criteria or provisions of law.
- O. Dog kennels not described in ORS 215.283(1)(j). Approval of a use pursuant to this subsection is subject to the review criteria of Section 3.020(7)(A), and any other applicable criteria or provisions of law.
- P. Residential homes as defined in ORS 197.660, in existing dwellings. Approval of a use pursuant to this subsection is subject to the review criteria of Section 3.020(7)(A), and any other applicable criteria or provisions of law.
 - a. Harney County shall require as a condition of approval that the landowner for the dwelling sign and record in the deeds records for the county a document binding the land owner and the landowner's successor's in interest, prohibiting them from pursuing a claim for relief or cause of action alleging injury from farming or forest practices for which no action or claim is allowed under ORS 30.936 or 30.937.
- Q. The propagation, cultivation, maintenance and harvesting of aquatic or insect species. Insect species shall not include any species under quarantine by the State Department of Agriculture or the United States Department of Agriculture. The county shall provide notice of all applications under this paragraph to the State Department of Agriculture. Notice shall be provided in accordance with the county's land use regulations but shall be mailed at least 20 calendar days prior to any administrative decision or initial public hearing on the application.

Approval of a use pursuant to this subsection is subject to the review criteria of Section 3.020(7)(A), and any other applicable criteria or provisions of law.

- R. Construction of additional passing lanes and travel lanes requiring the acquisition of right-of-way but not resulting in the creation of new land parcels. Approval of a use pursuant to this subsection is subject to the review criteria of Section 3.020(7)(A), and any other applicable criteria or provisions of law.
- S. Reconstruction or modification of public roads and highways involving the removal or displacement of buildings but not resulting in the creation of new land parcels. Approval of a use pursuant to this subsection is subject to the review criteria of Section 3.020(7)(a), and any other applicable criteria or provisions of law.
- T. Improvement of public roads and highway facilities, such as maintenance yards, weigh stations and rest areas, where additional property or right-of-way is required but not resulting in the creation of new land parcels. Approval of a use pursuant to this subsection is subject to the review criteria of Section 3.020(7)(A), and any other applicable criteria or provisions of law.
- U. Room and board arrangements for a maximum of five unrelated persons in existing residences.
- V. Operations for the extraction and bottling of water.
- W. Expansion of existing county fairgrounds and activities directly relating to county fairgrounds governed by county fair boards established pursuant to ORS 565.210.
- X. A living history museum:
 - a. 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 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.
 - b. As used in this paragraph:
 - 1. "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

2. "Local historical society" means the local historical society recognized by the county governing body and organized under ORS chapter 65.

- Y. Wildlife habitat conservation and management plans pursuant to ORS 215.800 – 215.808.
- Z. Guest Ranch. Notwithstanding ORS 215.283, a guest ranch may be established in conjunction with an existing livestock operation that qualifies as a farm use under ORS 215.203 and 3.020(1)(A). A guest ranch established under this subsection shall meet the following conditions:
- a. Except as provided in paragraph c. of this subsection, the lodge, bunk house or cottages cumulatively shall:
 - b. Include not less than four nor more than ten (10) overnight guestrooms exclusive of kitchen areas, rest rooms, storage and other shared indoor facilities; and
 - c. Not exceed a total of 12,000 square feet in floor area.
 - d. The guest ranch shall be located on a lawfully established parcel that is
 - 1. At least 160 acres;
 - 2. Not within 10 air miles of an urban growth boundary containing a population greater than 5,000;
 - 3. The parcel containing the dwelling of the person conducting the livestock operation; and
 - 4. Not classified as high-value farmland as defined in ORS 215.710.
 - e. For each doubling of the initial 160 acres required under paragraph B. of this subsection, up to five additional overnight guestrooms and 3,000 square feet of floor area may be added to the guest ranch for a total of not more than 25 guestrooms and 21,000 square feet of floor area.
 - f. A guest ranch may provide recreational activities that can be provided in conjunction with the livestock operation's natural setting, including but not limited to hunting, fishing, hiking, biking, horseback riding, camping or swimming. Intensively developed recreational facilities such as golf courses as identified in ORS 215.283 shall not be allowed. A campground as described in ORS 215.283(2) (c) shall not be allowed in conjunction with a guest ranch, and a guest ranch shall not be allowed in conjunction with an

existing golf course under ORS 215.283(2)(e) or with an existing campground under ORS 215.283(2)(c).

- g. Food services shall be incidental to the operation of the guest ranch and shall be provided only for the guests of the guest ranch. The cost of the meals provided to the guests shall be included as part of the fee to visit or stay at the guest ranch. The sale of individual meals to persons who are not guests of the guest ranch shall not be allowed.
- h. Approval of a guest ranch shall be subject to the provisions of Section 3.020 7(a), and any other applicable criteria or provisions of law.
- i. As used in this subsection:
 - 1. "Guest ranch" means a facility for overnight lodging incidental and accessory to an existing livestock facility that qualifies for farm use under ORS 215.203 and 3.020 1.(a). Guest ranch facilities may include a lodge, bunkhouse or cottage accommodations as well as passive recreational activities and food services as set forth in items B. and D. of this subsection.
 - 2. "Livestock" means cattle, sheep, horses and bison. (1997c.728(1))
- j. Notwithstanding ORS 215.263, the governing body of Harney County or its designee shall not approve a proposed division of land in an exclusive farm use zone for a guest ranch as defined in item Z (g) of this subsection.
- k. The governing body of Harney County or its designee shall not approve a proposed division of a lot or parcel that separates a guest ranch described in item T (g) of this subsection from the dwelling of the person conducting the livestock operation. (Oregon Laws 1997, Chapter 728)
- AA. Dwellings not provided in conjunction with farm use pursuant to Section 3.020 6(B).
- BB. Expansion or replacement of an existing facility for an animal shelter as defined in ORS 609.500, if the shelter is tax exempt pursuant to section 501(c)(3) of the Internal Revenue Code as amended and in effect on January 1, 1999.
- CC. Roads, highways and other transportation facilities and improvements not allowed under subsections (1) and (2) of this section may be established, subject to the approval of Harney County or its designee, in areas zoned for exclusive farm use subject to:

- a. Adoption of an exception to the goal related to agricultural lands and to any other applicable goal with which the facility or improvement does not comply; or
- b. ORS 215.296 for those uses identified by rule of the Land Conservation and Development Commission

DD. Utility Facilities

4. DWELLINGS PROVIDED IN CONJUNCTION WITH FARM USE. In the EFRU-2 Zone, a dwelling in conjunction with farm use may be approved if one of the following (item A or B) is satisfied.

A. Acreage Threshold. A dwelling may be considered customarily provided in conjunction with farm use if:

- a. The parcel on which the dwelling will be located is at least 160 acres;
- b. The subject tract is currently employed for farm use, as defined in ORS 215.203.
- c. The dwelling will be occupied by a person or persons who will be principally engaged in the farm use of the land, such as planting, harvesting, marketing or caring for livestock at a commercial scale;
- d. Except as permitted by 3.020(1)(K), there is no other dwelling on the subject tract.
- e. Harney County shall require as a condition of approval that the landowner for the dwelling sign and record in the deeds records for the county a document binding the land owner and the landowner's successor's in interest, prohibiting them from pursuing a claim for relief or cause of action alleging injury from farming or forest practices for which no action or claim is allowed under ORS 30.936 or 30.937.

B. Farm Income Threshold. A dwelling may be considered customarily provided in conjunction with farm use if:

- a. The subject tract is currently employed for farm use, as defined in ORS 215.203 that has produced \$40,000 (1994) dollars in gross annual income from the sale of farm products in each of the last two years or three of the last five years;

- b. Except as permitted by 3.020(1)(K) there is no other dwelling on the subject tract;
 - c. A person or persons who produced the commodities, which grossed the income, required in item 4(B)(a) would occupy the dwelling above;
 - d. On determining the gross income required by item 4(B)(a) above, the cost of purchased livestock shall be deducted from the total gross income attributed to the tract. Only gross income from land owned by the applicant, not leased or rented shall be counted.
 - e. Harney County shall require as a condition of approval that the landowner for the dwelling sign and record in the deeds records for the county a document binding the land owner and the landowner's successor's in interest, prohibiting them from pursuing a claim for relief or cause of action alleging injury from farming or forest practices for which no action or claim is allowed under ORS 30.936 or 30.937.
5. ACCESSORY DWELLINGS PROVIDED IN CONJUNCTION WITH FARM USE. In the EFRU-2 Zone, an accessory dwelling may be provided in conjunction with an existing farm dwelling may be approved subject to the following.
- A. An accessory farm dwelling may be considered customarily provided in conjunction with farm use if it meets all of the following requirements:
 - a. The accessory farm dwelling will be occupied by a person or persons who will be principally engaged in the farm use of the land and whose assistance in the management of the farm use is or will be required by the farm operator; and
 - b. The accessory dwelling will be located:
 - 1. On the same lot or parcel as the dwelling of the principal farm dwelling;
 - 2. On the same tract as the principal farm dwelling when the lot or parcel on which the accessory farm dwelling will be sited is consolidated into a single parcel with all other contiguous lots and parcels in the tract; or
 - 3. On a lot or parcel on which the principal farm dwelling is not located, when the accessory farm dwelling is a manufactured dwelling and a deed restriction is filed with the Harney County Clerk. The deed restriction shall require the manufactured dwelling to be removed when the lot or parcel is conveyed to another party. An accessory farm dwelling approved pursuant to this subsection may not be occupied by a person or person who will not be principally engaged in the farm use of the land and

whose assistance is not or will not be required by the farm operator. The manufactured dwelling may remain if it is re-approved under 3.020(4);

- B. There is no other dwelling on the lands designated for exclusive farm use owned by the farm operator that is vacant or currently occupied by persons not working on the subject farm or ranch and that could reasonably be used as an accessory farm dwelling; and
 - C. The principal farm dwelling is located on a farm or ranch operation that is currently employed for farm use, as defined in ORS 215.203 and has produced \$40,000 (1994 dollars) in gross annual income from the sale of farm products in each of the last two years or three of the last five years. In determining the gross income, the cost of purchased livestock shall be deducted from the total gross income attributed to the tract.
 - D. Harney County shall require as a condition of approval that the landowner for the dwelling sign and record in the deeds records for the county a document binding the land owner and the landowner's successor's in interest, prohibiting them from pursuing a claim for relief or cause of action alleging injury from farming or forest practices for which no action or claim is allowed under ORS 30.936 or 30.937.
6. DWELLINGS NOT PROVIDED IN CONJUNCTION WITH FARM USE. In the EFRU-2 Zone two types of dwellings not provided in conjunction with farm use may be authorized.
- A. Lot of Record Dwelling. A dwelling not provided in conjunction with farm use may be approved if all of the following are satisfied:
 - a. The lot or parcel on which the dwelling will be established was lawfully created and was acquired and owned continuously by the present owner:
 - 1. Since prior to January 1, 1985; or
 - 2. By devise or intestate succession from a person who acquired and had owned continuously the lot or parcel since prior to January 1, 1985.
 - 3. For the purposes of this subsection, "owner" includes the spouse, child, parent, sibling, brother-in-law, sister-in-law, son-in-law, daughter-in-law, father-in-law, mother-in-law, aunt, uncle, niece, nephew, stepparent, stepchild, grandparent, or grandchild of the owner or a business entity owned by any one or a combination of these family members.
 - b. The tract on which the dwelling will be sited does not include a dwelling.

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- c. If the lot or parcel on which the dwelling will be sited was part of a tract on November 4, 1993, no other dwelling may exist on another lot or parcel that was part of that tract.
 - d. The proposed dwelling is not prohibited by, and will comply with the provisions of the Harney County Comprehensive Plan and land use regulations and any other relevant provisions of law.
 - e. When the lot or parcel on which the dwelling will be sited lies within an area designated in the Harney County Comprehensive Plan as big game habitat, the siting of the dwelling shall be consistent with the Comprehensive Plan and land use regulations established to provide protection to the big game habitat resource.
 - f. When the lot or parcel on which the dwelling will be sited is part of a tract, the remaining portions of the tract are consolidated into a single lot or parcel when the dwelling is allowed.
 - g. The Harney County Planning Department shall notify the Harney County Assessor that they intend to approve the application.
 - h. Harney County shall require as a condition of approval that the landowner for the dwelling sign and record in the deed records for the county a document binding the land owner and the landowner's successor's in interest, prohibiting them from pursuing a claim for relief or cause of action alleging injury from farming or forest practices for which no action or claim is allowed under ORS 30.936 or 30.937.
 - i. When Harney County approves an application for a single-family dwelling under Section 3.020(6)(A) the approval may be transferred by the person who qualified under this subsection to any other person after the effective date of the land use decision. Transfers occurring pursuant to this paragraph may occur one time and one time only.
- B. Non-farm Dwelling. A single-family residential dwelling, not provided in conjunction with farm use, may be established upon findings that each of the following review criteria have been satisfied:
- a. The dwelling or activities associated with the dwelling will not force a significant change in or significantly increase the cost of accepted farming or forest practices on nearby lands devoted to farm or forest use;
 - c. The dwelling is situated upon a lot or parcel, or a portion of a lot or parcel that is generally unsuitable land for the production of farm crops and livestock or merchantable tree species, considering the terrain, adverse soil or land

conditions, drainage and flooding, vegetation, location and size of the tract; and

1. The lot or parcel shall NOT be considered unsuitable solely because of size or location if it can reasonably be put to farm or forest use in conjunction with other land; and
 2. The lot or parcel is not "generally unsuitable" simply because it is too small to be farmed profitably by itself. If a lot or parcel can be sold, leased, rented or otherwise managed as a part of a commercial farm or ranch, it is not "generally unsuitable." A lot or parcel, or portion of a lot or parcel, is presumed to be suitable for farm use if it is predominantly composed of Class I-VI soils. Just because a lot or parcel is unsuitable for one farm use does not mean it is not suitable for another farm use; or
 3. If the lot or parcel is under forest assessment, the dwelling is situated upon a lot or parcel, or a portion of a lot or parcel, that is generally unsuitable land for the production of merchantable tree species recognized by the Forest Practices Rules, considering the terrain, adverse soil or land conditions, drainage and flooding, vegetation, location and size of the tract. If a lot or parcel is under forest assessment the area is not "generally unsuitable" simply because it is too small to be managed for forest production profitably by itself. If a lot or parcel can be sold, leased, rented or otherwise managed as a part of a forestry operation, it is not "generally unsuitable." A lot or parcel, or portion of a lot or parcel, under forest assessment is presumed suitable for farm use if it is predominantly composed of soils capable of producing 20 cubic feet of wood fiber per acre per year. If a lot or parcel is under forest assessment, to be found compatible and not seriously interfere with forest uses on surrounding land it must not force a significant change in forest practices or significantly increase the cost of those practices on surrounding lands.
- b. The dwelling will not materially alter the stability of the overall land use pattern of the area. In determining whether a proposed non-farm dwelling will alter the stability of the overall land use pattern of the area, Harney County shall consider the cumulative impact of new non-farm dwellings on other lots or parcels similarly situated in the area. To address this standard the county shall:
4. Identify a study area for the cumulative impacts analysis. The study area shall include at least 2000 acres, or a smaller area not less than 1000 acres if the smaller area is a distinct agricultural area based on topography, soil types, land use pattern, or the type of farm or ranch operations or practices that distinguish it from other, adjacent agricultural areas. Findings shall describe the study area, its boundaries, the location of the subject parcel within this area, why the selected area is

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representative of the land use pattern surrounding the subject parcel and is adequate to conduct the analysis required by this standard. Lands zoned for rural residential or other urban or non-resource uses shall not be included in the study area.

5. Identify within the study area the broad types of farm uses (irrigated or non-irrigated crops, pasture or grazing lands), the number, location and type of existing dwellings (farm, non-farm, hardship, etc), and the dwelling development trends since 1993. Determine the potential number of non-farm/lot-of-record dwellings that could be approved under this section, including identification of predominant soil classifications, the parcels created prior to January 1, 1993 and the parcels larger than the minimum lot size that may be divided to create new parcels for non-farm dwellings under ORS 215.263(4) and 3.010 (8). The findings shall describe the existing land use pattern of the study area including the distribution and arrangement of existing uses and the land use pattern that could result from approval of the possible non-farm dwellings under this paragraph.
 6. Determine whether approval of the proposed non-farm/lot-of-record dwellings together with existing non-farm dwellings will materially alter the stability of the land use pattern in the area. The stability of the land use pattern will be materially altered if the cumulative effect of existing and potential non-farm dwellings will make it more difficult for the existing types of farms in the area to continue operation due to diminished opportunities to expand, purchase or lease farmland, acquire water rights or diminish the number of tracts or acreage in farm use in a manner that will destabilize the overall character of the study area.
- c. The dwelling will be sited on a lot or parcel created before January 1, 1993;
 - d. The dwelling complies with such other conditions, as Harney County considers necessary.
 - e. Harney County shall require as a condition of approval that the landowner for the dwelling sign and record in the deeds records for the county a document binding the land owner and the landowner's successor's in interest, prohibiting them from pursuing a claim for relief or cause of action alleging injury from farming or forest practices for which no action or claim is allowed under ORS 30.936 or 30.937.
 - f. Harney County shall not grant final approval of a non-farm dwelling under this subsection on a lot or parcel that is, or has been, receiving special assessment without evidence that the lot or parcel upon which the dwelling is proposal has been disqualified for special assessment at a value for farm use or other special assessment under ORS 308A.253, 321.257 to 321.367 and any additional tax imposed as the result of disqualification has been paid.

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7. SPECIFIC REVIEW CRITERIA. In the EFRU-2 Zone certain uses are subject to specific criteria, in addition to any other applicable criteria. The specific provisions of this subsection apply only when referenced within the list of uses included in subsections 3.020(2) and (3).
- A. The use may be approved only where Harney County finds that the use will not:
- a. Force a significant change in accepted farm or forest practices on surrounding lands devoted to farm or forest use; or
 - b. Significantly increase the cost of accepted farm or forest practices on surrounding lands devoted to farm or forest use.
8. LOT SIZE/LAND DIVISIONS. Any proposed division of land included within an exclusive farm use zone resulting in the creation of one or more parcels of land shall be reviewed and approved or disapproved by the governing body or its designee of Harney County. The governing body of the county by ordinance shall require such prior review and approval for such divisions of land within exclusive farm use zones established within the county.
- A. Farm Related Land Divisions. The governing body of Harney County may approve a proposed division of land to create parcels for farm use as defined in ORS 215.203 if it finds:
- a. That the proposed division of land is appropriate for the continuation of the existing commercial agricultural enterprise within the area; or
 - b. The parcels created by the proposed division are not smaller than the minimum lot size acknowledged under ORS 197.251 (ORS 215.780). The minimum lot size in the EFRU-2 Zone is 80-acres.
- B. Non-farm Related Land Divisions. New parcels less than 160-acres may be created subject to the following standards:
- a. The governing body of Harney County may approve a proposed division of land in an exclusive farm use zone for non-farm uses, except dwellings, set out in ORS 215.213 (2) or 215.283 (2) if it finds that the parcel for the non-farm use is not larger than the minimum size necessary for the use. The governing body may establish other criteria, as it considers necessary.

- b. The governing body of Harney County may approve a division of land in an exclusive farm use zone for a dwelling not provided in conjunction with farm use only if the dwelling has been approved under ORS 215.213 (3) or 215.284 (3) or (4). The governing body of the county shall not approve a subdivision or series partition for a dwelling not provided in conjunction with farm use. The provisions of this subsection regarding a series partition apply only to applications for a land division submitted after July 1, 1997. For purposes of this subsection, "series partition" shall have the meaning given that term in ORS 92.305.
- c. This section shall not apply to the creation or sale of cemetery lots, if a cemetery is within the boundaries designated for a farm use zone at the time the zone is established.
- d. This section shall not apply to divisions of land resulting from lien foreclosures or divisions of land resulting from foreclosure of recorded contracts for the sale of real property.
- e. The governing body of Harney County shall not approve any proposed division of a lot or parcel described in ORS 215.213 (1)(e) or (k), 215.283 (1)(e) or (2)(k) or 215.284 (1), or a proposed division that separates a processing facility from the farm operation specified in ORS 215.213 (1)(y) or 215.283 (1)(v).
- f. The governing body of Harney County may approve a proposed division of land in an exclusive farm use zone to create a parcel with an existing dwelling to be used:
 - 1. As a residential home as described in ORS 197.660 (2) only if the dwelling has been approved under ORS 215.213 (3) or 215.284 (1), (2), (3) or (4); and
 - 2. For historic property that meets the requirements of ORS 215.213 (1)(q) and 215.283 (1)(o).
- g. The governing body of Harney County shall not approve a division of land for non-farm use under subsection (a), (b) or (f) of this section unless any additional tax imposed for the change in use has been paid.

3. OVERLAY ZONE DISTRICTS The Mineral and Aggregate Resources Overlay Zone comprises two areas, the Extraction Area and the Impact Area. Neither element of the overlay—the Extraction Area or the Impact Area—shall be applied independently by Harney County to land within a city or another county.

4. PROCEDURE FOR APPLYING THE OVERLAY ZONE The following procedure is to be used when applying the Mineral and Aggregate Resources Overlay Zone to any area of Harney County:
 - A. Harney County is not required to amend acknowledged inventories or plans with regard to mineral and aggregate resources except in response to an application for a PAPA (Post-Acknowledgement Plan Amendment). Thus, the County is not required to apply these provisions to sites that are established and are listed on Harney County's Mineral and Aggregate Inventory. The requirements of these provisions modify, supplement, or supersede the requirements of the standard Goal 5 process in OAR 660-023-0030 through 660-023-0050, as follows:
 - a. Harney County may inventory mineral and aggregate resources throughout the jurisdiction, or in a portion of the jurisdiction. When the County conducts an inventory of mineral and aggregate sites in all or a portion of the jurisdiction, it shall follow the requirements of OAR 660-023-0030 as modified by subsection (b) of this section. When the County is following the inventory process for a mineral or aggregate resource site filed under a PAPA, it shall follow only the applicable requirements of OAR 660-023-0030, except as provided in paragraph (B) and (E) of this section;

 - b. Harney County shall apply the criteria in paragraph (B) of this section rather than OAR 660-023-0030(4) in determining whether an aggregate resource site is significant;

 - c. Harney County shall follow the requirements of paragraph (C) of this section in deciding whether to authorize the mining of a significant mineral or aggregate resource site; and

- d. For significant mineral and aggregate sites where mining is allowed, Harney County shall decide on a program to protect the site from new off-site conflicting uses by following the standard ESEE process in OAR 660-023-0040 and 660-023-0050 with regard to such uses.
- B. An aggregate resource site shall be considered significant if adequate information regarding the quantity, quality, and location of the resource demonstrates that the site meets any one of the criteria in (a) through (c) of this section, except as provided in (d) of this section:
- a. A representative set of samples of aggregate material in the deposit on the site meets Oregon Department of Transportation (ODOT) specifications for base rock for air degradation, abrasion, and sodium sulfate soundness, and the estimated amount of material is more than 100,000 tons; or,
 - b. Sand, decomposed granite, lime, pumice, cinders, and other naturally occurring rock products where specific ODOT specifications for construction grade materials are not available or applicable, but exceeding an estimated amount of material of more than 100,000 tons, may be determined to be significant based upon an analysis and findings consistent with OAR 660-023-0030 that the resource represents a marketable and valuable resource.
 - c. The aggregate site is on an inventory of significant aggregate sites in an acknowledged plan on the date this Ordinance is adopted.
 - d. Notwithstanding (a) through (c) of this section, except for an expansion area of an existing site if the operator of the existing site on March 1, 1996 had an enforceable property interest in the expansion area on that date, an aggregate site is not significant if the criteria in either paragraphs (1) or (2) of this subsection apply:

1. More than 35 percent of the proposed mining area consists of soil classified as Class I on Natural Resource and Conservation Service (NRCS) maps on the date of this ordinance; or
 2. More than 35 percent of the proposed mining area consists of soil classified as Class II, or of a combination of Class II and Class I or Unique soil on NRCS maps available on the date of this ordinance:
- C. For significant mineral and aggregate sites, Harney County shall decide whether mining is permitted. For a PAPA application involving a significant aggregate site, the process for this decision is set out in (a) through (g) of this section. For a PAPA involving a significant aggregate site, Harney County must complete the process within 180 days after receipt of a complete application that is consistent with paragraph (E) of this section. The process for reaching decisions about aggregate mining is as follows:
- a. Harney County shall determine an impact area for the purpose of identifying conflicts with proposed mining and processing activities. The impact area shall be large enough to include uses listed in (b) of this section and shall be limited to 1,500 feet from the boundaries of the mining area, except where factual information indicates significant potential conflicts beyond this distance. For a proposed expansion of an existing aggregate site, the impact area shall be measured from the perimeter of the proposed expansion area rather than the boundaries of the existing aggregate site and shall not include the existing aggregate site.
 - b. Harney County shall determine existing or approved land uses within the impact area that will be adversely affected by proposed mining operations and shall specify the predicted conflicts. For purposes of this section, "approved land uses" are dwellings allowed by a residential zone on existing platted lots and other uses for which the County has granted conditional or final approvals. For determination of conflicts from proposed mining of a significant

aggregate site, Harney County shall limit its consideration to the following:

1. Conflicts due to noise, dust, or other discharges with regard to those existing and approved uses and associated activities (e.g., houses and schools) that are sensitive to such discharges;
2. Potential conflicts to local roads used for access and egress to the mining site within one mile of the entrance to the mining site unless a greater distance is necessary in order to include the intersection with the nearest arterial identified in the local transportation plan. Conflicts shall be determined based on clear and objective standards regarding sight distances, road capacity, current and forecasted traffic volumes, cross section elements, horizontal and vertical alignment, and similar items in the transportation plan and implementing ordinances. Such standards for trucks associated with the mining operation shall be equivalent to standards for other trucks of equivalent size, weight, and capacity that haul other materials;
3. Conflicts with other Goal 5 resource sites within the impact area that are shown on an acknowledged list of significant resources and for which the requirements of Goal 5 have been completed at the time the PAPA is initiated;
4. Conflicts with agricultural practices; and

- c. Harney County shall determine reasonable and practicable measures that would minimize the conflicts identified under (b) of this section. To determine whether proposed measures would minimize conflicts to agricultural practices, the requirements of ORS 215.296 shall be followed rather than the requirements of this section. If reasonable and practicable measures are identified to minimize all identified conflicts, mining shall be allowed at the site and (d) of this section is not applicable. If identified conflicts cannot be minimized, (d) of this section applies.

- d. Harney County shall determine any significant conflicts identified under the requirements of paragraph (B) of this section that cannot be minimized. Based on these conflicts only, the County shall determine the ESEE consequences of allowing, limiting, or not allowing mining at the site. The County shall reach this decision by weighing these ESEE consequences, with consideration of the following:
 - 1. The degree of adverse effect on existing land uses within the impact area;
 - 2. Reasonable and practicable measures that could be taken to reduce the identified adverse effects; and
 - 3. The probable duration of the mining operation and the proposed post-mining use of the site.

- e. Where mining is allowed, the plan and implementing ordinances shall be amended to allow such mining. Any required measures to minimize conflicts, including special conditions and procedures regulating mining, shall be clear and objective. Additional land use review (e.g., site plan review), if required by the local government, shall not exceed the minimum review necessary to assure compliance with these requirements and shall not provide opportunities to deny mining for reasons unrelated to these

requirements, or to attach additional approval requirements, except with regard to mining or processing activities:

1. For which the PAPA application does not provide information sufficient to determine clear and objective measures to resolve identified conflicts;
 2. Not requested in the PAPA application; or
 3. For which a significant change to the type, location, or duration of the activity shown on the PAPA application is proposed by the operator.
- f. Where mining is allowed, Harney County shall determine the post-mining use and provide for this use in the comprehensive plan and land use regulations. For significant aggregate sites on Class I, II and Unique farmland, the County shall adopt plan and land use regulations to limit post-mining use to farm uses under ORS 215.203, uses listed under ORS 215.283(1), and fish and wildlife habitat uses, including wetland mitigation banking. The County shall coordinate with DOGAMI regarding the regulation and reclamation of mineral and aggregate sites, except where exempt under ORS 517.780.
- g. Harney County shall allow a currently approved aggregate processing operation at an existing site to process material from a new or expansion site without requiring a reauthorization of the existing processing operation unless limits on such processing were established at the time it was approved by the County.
- D. Harney County shall follow the standard ESEE process in OAR 660-023-0040 and 660-023-0050 to determine whether to allow, limit, or prevent new conflicting uses within the impact area of a significant mineral and aggregate site. The consideration of new conflicting uses shall be limited

to land uses, which if approved, would be allowed outright in the underlying zoning district. (This requirement does not apply if, under paragraph (C) of this ordinance, the County decides that mining will not be authorized at the site.)

E. In order to determine whether information in a PAPA submittal concerning an aggregate site is adequate, Harney County shall follow the requirements of this section rather than OAR 660-023-0030(3). An application for a PAPA concerning a significant aggregate site shall be adequate if it includes:

a. Information on location, quality, and quantity must be reliable information, such as 1) A report from a registered professional engineer or geologist, or 2) Results from test hole drilling, including depth.

b. A conceptual site reclamation plan;

(NOTE: Final approval of reclamation plans resides with DOGAMI rather than County, except as provided in ORS 517.780)

c. A traffic impact assessment within one mile of the entrance to the mining area pursuant to section (C)(b)(2) of this Section, unless vehicular impacts will exceed this distance;

d. Proposals to minimize any conflicts with existing uses preliminarily identified by the applicant within a 1,500 foot impact area; and

e. A site development plan with information as required and described in Section 7 of this ordinance.

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5. EXTRACTION AREA - ALLOWED USES

- A. Uses permitted either outright or conditionally in the underlying zone may be allowed subject to the underlying zone criteria, any requirements adopted as part of the Goal 5 process, and the following criteria:
 - a. Permitted uses shall be reviewed according to the site plan review procedure listed in Sub-Section 9 of this section;
 - b. Noise sensitive uses as defined in Sub-Section 2 or those uses determined through the Goal 5 process to be conflicting uses may be permitted as conditional uses; and
 - c. Applications for conditional uses within the Extraction Area shall be reviewed against the approval criteria of Sub-Section 7.
- B. The following uses shall be permitted subject to the review standards of Sub-Section 7 and any requirements adopted as part of the Goal 5 process:
 - a. Mining;
 - b. Processing, except the grouping or blending of mineral and aggregate materials into asphalt concrete within two miles of a planted commercial vineyard existing on the date the application was received for the asphalt batch plant;
 - c. Stockpiling of mineral and aggregate materials;
 - d. Temporary use of offices, shops or other accessory structures used for the management and maintenance of mining and processing equipment;
 - e. Sale of mining products extracted and processed on-site;
 - f. Storage of transportation equipment or storage of machinery or equipment used in conjunction with on-site mining or processing; and
 - g. Other activities including buildings and structures necessary and accessory to development or reclamation of a mineral or aggregate resource.

6. EXEMPTIONS. Except as provided for in Sub-Section 12, the following mining activities are exempt from the provisions of Sub-Section 7. Operators or landowners claiming any of these exemptions have the burden of establishing the validity of the exemption.
- A. In zones qualified as exclusive farm use, mining less than 1,000 cubic yards of material or excavation preparatory to mining of an area of less than one (1) acre.
 - B. In all other zones, mining less than 5,000 cubic yards of material or disturbing less than one acre of land within a period of 12 consecutive months until such time that mining affects five (5) or more acres.
 - C. Mining and processing of mineral and aggregate resources auxiliary to forest practices.
7. EXTRACTION AREA – DEVELOPMENT STANDARDS. The following standards apply to mining and processing unless other standards are adopted in the Goal 5 process. Prior to the commencement of mining, and no later than site plan review, the applicant shall demonstrate that the following standards or replacement standards adopted in the Goal 5 process are met or can be met by a specified date.
- A. Access
 - a. On-site roads used in mining, and access roads from the extraction site to a public road shall be designed and constructed to accommodate mining vehicles and equipment, and shall meet the following standards:
 - 1. All access roads within 100 feet of a paved County road or state highway shall be paved unless the applicant demonstrates that other specified methods of dust control will effectively eliminate dust rising from access roads;
 - 2. All on-site roads within the Extraction Area shall be constructed and maintained in a manner so that all applicable DEQ standards for vehicular noise control and ambient air quality are met or can be met by a specified date; and
 - 3. All on-site roads within the Extraction Area shall be paved at all points within 250 feet of a noise or dust sensitive use unless the applicant demonstrates that other specified methods of dust control will effectively eliminate dust rising from access roads.

- b. Improvements to substandard public roads outside of the Extraction Area may only be required as necessary to comply with a road improvement program adopted as part of transportation element of the comprehensive plan. Mitigation for public road may be assessed at a proportional rate by the County based on the finding by a traffic analysis approved by the County.

B. Screening

- a. The mining activities listed in subsection (B)(b) of this section shall be obscured from view, unless one of the exceptions in subsection (B)(d) of this section applies. Screening shall be accomplished in a manner consistent with subsection (B)(c) of this section.
- b. Mining Activities to be screened:
 - 1. All excavated areas except those areas where reclamation is being performed, internal on-site roads existing on the effective date of this ordinance, new roads approved as part of the site. Plan review, material excavated to create berms, and material excavated to change the level of the mine site to an elevation, which provides natural screening.
 - 2. All processing equipment;
 - 3. All equipment stored on the site.
- c. Types of Screening.
 - 1. Natural Screening. Existing vegetation or other landscape features which are located within the boundaries of the Extraction Area, and which obscure the view of mining activities from screened uses, shall be preserved and maintained.
 - 2. Supplied Screening. Supplied vegetative screening is screening that does not exist at the time of the site plan review. Plantings used in supplied vegetative screening shall not be required to exceed a density of alternating rows of conifer trees six feet on center and a height of six feet at the commencement of mining. Supplied earthen screening shall consist of berms covered with earth and stabilized with ground cover.
- d. Exceptions. Supplied screening shall not be required when and to the extent that any of the following circumstances exist:

1. The natural topography of the site provides screening to obscure mining activities from screened uses;
 2. Supplied screening cannot obscure mining activities from screened uses due to local topography;
 3. The applicant demonstrates that supplied vegetative screening cannot reliably be established or cannot survive for a ten-year period due to soil, water or climatic conditions;
 4. Temporary mining activities otherwise requiring screening will either be removed or reclaimed within 18 months; or
 5. An alternate program or technique to achieve screening is developed, and embodied in a waiver of remonstrance and a restrictive covenant.
- C. Air Quality. The discharge of contaminants and dust created by mining shall comply with applicable DEQ ambient air quality and emissions standards, or approval shall be conditioned to ensure that such standards will not be violated.
- D. Streams and Drainage. Unless a waiver of remonstrance and a restrictive covenant are obtained from adjoining property owners, mining shall not alter drainage patterns on adjoining property, or drain waste materials or wastewater onto adjoining properties or Class I streams. Where mining abuts a lake or other perennial body of water, all existing vegetation within 250 feet of the mean high water mark shall be retained unless mining is allowed within this area as part of the Goal 5 process.
- E. Flood Plain. Any mining operation conducted in a flood plain shall demonstrate compliance with all applicable standards and criteria of the flood plain ordinance as part of site plan approval.
- F. Noise. Noise created by mining shall not exceed applicable DEQ noise control standards. Compliance with this standard can be demonstrated by the report of an acoustical engineer, and compliance methods may include siting mining to achieve compliance by way of existing topography or other natural features, or by use of supplied berms or other noise abatement methods.
- G. Hours of Operation.
- a. Mining and processing are restricted to the hours of 7 a.m. to 9 p.m. Monday through Friday, and 7 a.m. to 5 p.m. Saturday. Hauling and

other activities may operate without restriction provided that DEQ noise control standards are met.

- b. Mining shall not take place on Sundays or the following legal holidays: New Year's Day, Memorial Day, July 4, Labor Day, Thanksgiving Day, and Christmas Day.

H. Drilling and Blasting.

- a. Drilling and blasting are restricted to the hours of 7 a.m. to 7 p.m., Monday through Friday. No drilling or blasting shall occur on Saturdays, Sundays, or the following legal holidays: New Year's Day, Memorial Day, July 4, Labor Day, Thanksgiving Day, and Christmas Day.
- b. Notice of blasting events shall be provided in a manner calculated to be received by property owners and tenants within 750 feet of the blast site at least 48 hours prior to the blasting event. In the case of ongoing blasting activities, notice shall be provided once each month for the period of blasting events, and specify the days and hours when blasting is expected to occur.

- I. Surface water shall be managed. (a) in a manner that meets all applicable DEQ water quality standards and DOGAMI requirements, or (b) approval shall be conditioned upon meeting such standards by a specified date. The applicant shall demonstrate that all water necessary for the proposed operation has been appropriated to the site and is legally available.

- J. Compliance with Special Conditions. The applicant shall demonstrate that all special conditions or requirements adopted as part of the Goal 5 process have been satisfied or will be satisfied by a specified date.

- K. Security. Fencing of site boundaries shall be required on the boundary between a significant site and any parcel zoned to allow dwellings as an outright permitted use. Fencing shall be a cyclone type fence, shall be earth tone color, and shall be a minimum of six feet high.

L. Performance Agreements.

- a. The mining operator shall keep applicable DOGAMI permits or exemption certificates in effect.
- b. The mining operator shall carry a Comprehensive General Liability policy covering mining, processing and incidental activities during the term of operation and reclamation, with an occurrence limit of at least

\$500,000. A Certificate of Insurance for a term of one year shall be deposited with Harney County prior to the commencement of mining.

8. SITE RECLAMATION The following standards shall apply for site reclamation:

- A. No mining shall commence without the operator providing Harney County a copy of a DOGAMI operating permit and approved reclamation plan or exemption certificate issued in accordance with ORS 517.750 through 517.900 and the rules adopted there under.
- B. The jurisdiction of Harney County with respect to mined land reclamation is limited to determining the subsequent beneficial use of mined areas, ensuring that the subsequent beneficial use is compatible with applicable provisions of the comprehensive plan, and ensuring that mine operations are consistent with adopted programs to protect other Goal 5 resources.
- C. Harney County shall coordinate with DOGAMI to ensure compatibility between DOGAMI and the County in the following manner
 - a. When notified by DOGAMI that an operator has applied for approval of a reclamation plan and issuance of an operating permit, Harney County shall, in turn, notify DOGAMI if local site plan approval is required.
 - 1. If site plan approval is required, Harney County shall request that DOGAMI delay final action on the application for approval of the reclamation plan and issuance of the operating permit until after site plan approval has been granted.
 - 2. If site plan approval is not required, Harney County shall notify DOGAMI that no land use approval is required, and the county will review the proposed reclamation plan during DOGAMI's notice and comment period.
 - b. When reviewing a proposed reclamation plan and operating permit application circulated by DOGAMI, Harney County shall review the plan against the following criteria:
 - 1. The plan will rehabilitate mined land for a use specified in the comprehensive plan, including subsequent beneficial uses identified through the Goal 5 process;

2. The reclamation plan, and surface mining and reclamation techniques employed to carry out the plan complies with the standards of Sub-Section 8 of this section;
3. Measures are included which will ensure that other significant Goal 5 resources determined to conflict with mining will be protected in a manner consistent with the comprehensive plan.

9. SITE PLAN REVIEW The following standards apply when completing a site plan review:

- A. Site plan review is required prior to commencement of mining. Applications shall be in the form required by Harney County, and shall demonstrate compliance with the standards of Sub-Section 7 and any requirements adopted as part of the Goal 5 process.
- B. Applications for site plan approval of surface mining operations and activities authorized by Sub-Section 5 of this section shall be reviewed in accordance with the provisions for making a limited land use decision—ORS 215.425.
- C. Harney County shall approve, conditionally approve, or deny a site plan based on the ability of the site plan to conform to the standards of Sub-Section 7 and any other requirements adopted as part of the Goal 5 process.
- D. If Harney County determines that the site plan is substantially different from the proposal approved in the Goal 5 process, the application shall be denied or conditioned to comply with the decision adopted as part of the Goal 5 process. The applicant may choose to apply for a comprehensive plan amendment whereby the original decision reached through the Goal 5 process will be reexamined based on the revised site plan.

10. IMPACT AREA - USES AND DEVELOPMENT STANDARDS

- A. Uses Permitted Outright. Uses permitted outright in the underlying zone, may be permitted subject to the standards and criteria of the underlying zone(s)
- B. All conditional uses shall be subject to the standards and criteria of the underlying zone and this ordinance, and shall be reviewed as such. Noise or dust sensitive uses and conflicting uses shall be reviewed as conditional uses.

- A. Prohibited Uses. Uses identified through the Goal 5 process as incompatible with mining in all instances shall not be permitted within the Impact Area.
- B. Approval Criteria. To approve uses allowed conditionally in the Impact Area, the applicant must demonstrate compliance with the following criteria:
 - a. The proposed use will not interfere with or cause an adverse impact on lawfully established and lawfully operating mining operations;
 - b. The proposed use will not cause or threaten to cause the mining operation to violate any applicable standards of this chapter;
 - c. The applicable criteria of subsection (E) of this section are met;
 - d. Any setbacks or other requirements imposed through the Goal 5 process have been met, or can be met by a specified date through the imposition of conditions on the conflicting use.
- C. Noise and Dust Reduction and Waiver of Remonstrance
 - a. The applicant for a new noise or dust sensitive use shall demonstrate that the mining operation in the adjacent Extraction Area will maintain compliance with DEQ noise control standards and ambient air quality and emission standards as measured at the new noise or dust sensitive use.
 - b. The applicant for a new noise sensitive use shall submit an analysis prepared by an acoustical engineer, demonstrating that the applicable DEQ noise control standards are met or can be met by a specified date by the adjoining mining operation. If noise mitigation measures are necessary to ensure continued compliance on the part of the mining operation, such measures shall be a condition of approval. If noise mitigation measures are inadequate to ensure compliance with DEQ noise control standards, the noise sensitive use shall not be approved within the Impact Area.
 - c. As a condition of final approval for the establishment of a new noise sensitive use, the applicant shall secure a waiver of remonstrance and restrictive covenant in favor of the mining operator that incorporate the compliance items specified in subsection (E)(b) of this section.

11. TERMINATION OF THE MINERAL AND AGGREGATE RESOURCES OVERLAY ZONE When a significant site has been fully mined and reclamation has been completed, the property shall be rezoned to remove the Mineral and Aggregate Resources Overlay Zone. Rezoning shall not relieve requirements on the part of the owner or operator to reclaim the site in accordance with ORS 517.750 through 517.900 and the rules adopted there under.

12. NONCONFORMING AND PRE-EXISTING USES

- A. Within an Extraction Area, existing mining activities that do not conform to the standards of Sub-Section 7 may continue as nonconforming uses. Expansion of mining beyond the area in which mining is occurring on the date the Mineral and Aggregate Resources Overlay Zone is adopted shall comply with Sub Section 7.
- B. Pre-existing mining or processing activities operating pursuant to Harney County land use approval shall continue to comply with the conditions of the approval, unless the conditions are removed or modified through the Goal 5 process.
- C. The use of any building, structure or facility lawfully established within the Mineral and Aggregate Resources Overlay Zone Impact Area prior to the date the Mineral and Aggregate Overlay Zone is adopted may continue. Expansion greater than twenty (20) percent of the size or use of the structure or activity shall comply with Sub-Section 8 of this section.

13. ADOPT FINAL DECISION AND IMPLEMENTING AMENDMENTS

- A. Amend the Harney County Comprehensive Plan to carry out the decision. The decision maker shall implement the determinations made under this Chapter by amending the Comprehensive Plan as set forth in paragraphs (1) and (2) of this subsection.
 - a. Inventories. The decision maker shall amend the appropriate section of the Harney County Mineral and Aggregate Inventory to include the site on an inventory and to include any supporting analyses pursuant to this paragraph.
 - b. Information is not adequate to make a determination. If the Planning Director determined that the application is not complete solely because the applicant was unable to provide information adequate to make the determination required by Section 4 of this ordinance, the decision

maker shall amend the Harney County Mineral and Aggregate Inventory and add the site to Section 1 "Inventory of Possible Significant Site" (Formerly 1B Site).

- c. Non-significant sites. If the Planning Director, based on location, quality and quantity information determines that an aggregate resource site is not significant; the decision maker shall amend the Harney County Mineral and Aggregate Inventory and add the site to Section 2 entitled "Inventory of Non-Significant Sites" (Formerly 1A Sites).
- d. Significant sites without conflicts. If the Director, based on location, quality and quantity information determines that an aggregate resource site is significant, and the decision maker has determined that the site is without conflicts, the decision maker shall amend the Harney County Mineral and Aggregate Inventory and add the site to Section 3 entitled "Inventory of Significant Sites Without Conflicting Uses" (Formerly 2A Sites)
- e. Significant sites with conflicts that have been minimized. If the decision maker is able to minimize the conflicts under Section 4(D) of this ordinance, the decision maker shall amend the Harney County Mineral and Aggregate Inventory and add the site for which all conflicts have been minimized to Section 4 entitled "Inventory of Significant Sites With All Conflicts Minimized."
- f. Significant sites with conflicts that cannot be minimized. Based on an ESEE analysis significant sites with conflicts that cannot be minimized are to be protected by Goal 5 and approved for mining. If a significant site has conflicts not able to be minimized but pursuant to an ESEE analysis is determined to receive Goal 5 protection for approved for mining, the decision maker shall amend the Harney County Mineral and Aggregate Inventory and:
 - 1. Add the site to Section 5 entitled "Inventory of Significant Sites Protected by Goal 5 and Approved for Mining Pursuant to an ESEE Analysis" (Formerly 3A or 3C Sites); and
 - 2. Add the ESEE analysis to Section 6 entitled "ESEE Analyses Justifying the Protection of a Site by Goal 5 and Granting Mining Approval."
- g. Significant sites with conflicts that cannot be minimized. Based on an ESEE analysis, significant sites with conflicts that cannot be minimized are not to be protected by Goal 5 or approved for mining. If a significant site has conflicts not able to be minimized, but, pursuant to an ESEE analysis, is determined not to receive Goal 5 protection not to

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be approved for mining under Goal 5, the decision maker shall provide full protection to the conflicting use and shall amend the Harney County Mineral and Aggregate Inventory and add the site to Section 7 entitled "Inventory of Significant Sites Not Protected by Goal 5 and Not Approved for Mining Pursuant to an ESEE Analysis" (Formerly 3B Sites).

ORDINANCE HISTORY NOTIES: The Mineral and Aggregate Overlay Zone provisions, Section 3.150 of the Harney County Zoning Ordinance, were developed as part of a voluntary Revised Periodic Review Work Task. Section 3.150 was subsequently adopted by Harney County on February 21, 2001. Any changes to this Section from this point on will have the effective date listed after each modified paragraph with subsequent historical notes.

ARTICLE 4. SUPPLEMENTARY PROVISIONS

Sections:

- 4.010. Maintenance of Minimum Ordinance Requirements
- 4.020. Access Management
- 4.030. General Provisions Regarding Accessory Uses
- 4.040. Archaeological Provisions
- 4.050. Historical Protection
- 4.060. Lot of Record Dwellings
- 4.070. Steep Slope Development Standards
- 4.080. Flood Plain Standards
- 4.090. Solar Access
- 4.100. Property Line Adjustment
- 4.110. Transportation Improvement Standards
- 4.120. Site Plan Review Procedures

Section 4.010. Maintenance of Minimum Ordinance Requirements

No lot area, yard, or other open space existing on or after the effective date of this ordinance shall be reduced below the minimum required for it by this ordinance, and no lot area, yard, or other shall be used as the required lot area, yard, or other open space for another use except as provided in the variance procedure.

Section 4.020. Access Management**Sub-Sections:**

- 1 Definition
- 2 General

1. DEFINITIONS

- A. Access. A way or means of approach to provide pedestrian, bicycle, or motor vehicular entrance or exit to a property.
- B. Access Classification. A ranking system for roadways used to determine the appropriate degree of access management. Factors considered include functional classification, the appropriate local government's adopted plan for the roadway, subdivision of abutting properties, and existing level of access control.
- C. Access Connection. Any driveway, street, turnout or other means of providing for the movement of vehicles to or from the public roadway system.
- D. Access Management. The process of providing and managing access to land development while preserving the regional flow of traffic in terms of safety, capacity, and speed.
- E. Accessway. A walkway that provides pedestrian and bicycle passage either between streets or from a street to a building or other destination such as a school, park, or transit stop. Accessways generally include a walkway and additional land on either side of the walkway, often in the form of an easement or right-of-way, to provide clearance and separation between the walkway and adjacent uses. Accessways through parking lots are generally physically separated from adjacent vehicle parking or parallel vehicle traffic by curbs or similar devices and include landscaping, trees, and lighting. Where accessways cross driveways, they are generally raised, paved or marked in a manner that provides convenient access for pedestrians.
- F. Corner Clearance. The distance from an intersection of a public or private road to the nearest access connection, measured from the closest edge of the pavement of the intersecting road to the closest edge of the pavement of the connection along the traveled way.

- G. Cross Access. A service drive providing vehicular access between two or more contiguous sites so the driver need not enter the public street system.
- H. Easement. A grant of one or more property rights by a property owner to or for use by the public, or another person or entity.
- I. Frontage Road. A public or private drive, which generally parallels a public street between the right-of-way and the front building setback line. The frontage road provides access to private properties while separating them from the arterial street.
- J. Functional Area (Intersection). That area beyond the physical intersection of two roads that comprises decision and maneuver distance, plus any required vehicle storage length.
- K. Functional Classification. A system used to group public roadways into classes according to their purpose in moving vehicles and providing access.
- L. Joint Access (or Shared Access). A driveway connecting two or more contiguous sites to the public street system.
- M. Lot. A parcel, tract, or area of land whose boundaries have been established by some legal instrument, which is recognized as a separate legal entity for purposes of transfer of title, has frontage upon a public or private street, and complies with the dimensional requirements of this code.
- N. Lot, Corner. Any lot having at least two (2) contiguous sides abutting upon one or more streets, provided that the interior angle at the intersection of such two sides is less than one hundred thirty-five (135) degrees.
- O. Lot Depth. The average distance measured from the front lot line to the rear lot line.
- P. Lot, Flag. A lot not meeting minimum frontage requirements and where access to the public road is by a narrow, private right-of-way line.
- Q. Lot, Through. (Also called a double frontage lot). A lot that fronts upon two parallel streets or that fronts upon two streets that do not intersect at the boundaries of the lots.
- R. Lot Frontage. That portion of a lot extending along a street right-of-way line.

- S. Non-conforming Access Features. Features of the property access that existed prior to the date of ordinance adoption, and do not conform with the requirements of this ordinance.
- T. Parcel. A division of land comprised of one or more lots in contiguous ownership.
- U. Plat. An exact and detailed map of the subdivision of land.
- V. Private Road. Any roadway for vehicular travel, which is privately owned and maintained, and which provides the principal means of access to abutting properties.
- W. Public Road. A road under the jurisdiction of a public body that provides the principal means of access to an abutting property.
- X. Reasonable Access. The minimum number of access connections, direct or indirect, necessary to provide safe access to and from the roadway, as consistent with the purpose and intent of this ordinance and any applicable plans and policies of the (city/county).
- Y. Right-of-Way. Land reserved, used or to be used for a highway, street, alley, walkway, drainage facility, or other public purpose.
- Z. Significant Change in Trip Generation. A change in the use of the property, including land, structures or facilities, or an expansion of the size of the structures or facilities causing an increase in the trip generation of the property exceeding: (1) Local – 10 percent more trip generation (either peak or daily) and 100 vehicles per day more than the existing use for all roads under local jurisdiction; or (2) State – exceeding 25 percent more trip generation (either peak or daily) and 100 vehicles per day more than the existing use for all roads under state jurisdiction.
- AA. Stub-out (stub-street). A portion of a street or cross access drive used as an extension to an abutting property that may be developed in the future.
- BB. Substantial Enlargements or Improvements. A 10 percent increase in existing square footage or 50 percent increase in assessed valuation of a structure.

2. GENERAL. The intent of this ordinance is to manage access to land development to preserve the transportation system in terms of safety, capacity and function. This ordinance shall apply to all arterials and collectors within Harney County and to all properties that abut these roadways. This ordinance is adopted to implement the access management policies of Harney County as set forth in the Transportation System Plan.

A. Corner Clearance

1. Corner clearance for connections shall meet or exceed the minimum connection spacing requirements for that roadway.
2. New connections shall not be permitted within the functional area of an intersection or interchange as defined by the connection spacing standards of this ordinance, unless no other reasonable access to the property is available.
3. Where no other alternatives exist, the county may allow construction of an access connection along the property line farthest from the intersection. In such cases, directional connections (i.e. right in/out, right in only, or right out only) may be required.

B. Joint and Cross Access

1. Adjacent commercial or office properties classified as major traffic generators (i.e. shopping plazas, office parks) shall provide a cross access drive and pedestrian access to allow circulation between sites.
2. A system of joint use driveways and cross access easements shall be established wherever feasible and shall incorporate the following:
 - a. A continuous service drive or cross access corridor extending the entire length of each block served to provide for driveway separation consistent with the access management classification system and standards;
 - b. A design speed of 10 mph and a maximum width of 20 feet to accommodate two-way travel aisles designated to accommodate automobiles, service vehicles and loading vehicles;
 - c. Stub-outs and other design features to make it visually obvious that the abutting properties may be tied in to provide cross-access via a service drive;
 - d. A unified access and circulation system plan for coordinated or shared parking areas is encouraged.

3. Shared parking areas shall be permitted and a reduction in required parking spaces allowed if peak demands do not occur at the same time periods.
4. Pursuant to this section, property owners shall:
 - a. Record an easement with the deed allowing cross access to and from other properties served by the joint use driveways and cross access or service drive;
 - b. Record an agreement with the deed that remaining access rights along the roadway will be dedicated to the county and pre-existing driveways will be closed and eliminated after construction of the joint-use driveway;
 - c. Record a joint maintenance agreement with the deed defining maintenance responsibilities of property owners.
5. The county may reduce required separation distance of access points where they prove impractical, provided all of the following requirements are met:
 - a. Joint access driveways and cross access easements are provided in accordance with this section.
 - b. The site plan incorporates a unified access and circulation system in accordance with this section.
 - c. The property owner enters into a written agreement with the county, recorded with the deed, that pre-existing connections on the site will be closed and eliminated after construction of each side of the joint use driveway.
6. The county may modify or waive the requirements of this section where the characteristics or layout of abutting properties would make a development of a unified or shared access and circulation system impractical.

C. Access Connection and Driveway Design

1. Driveways shall meet the following standards:
 - a. If the driveway is a one way in or one way out drive, then the driveway shall be a minimum width of 10 feet and a maximum width

of 12 feet and shall have appropriate signage designating the driveway as a one way connection.

- b. For two-way access, each lane shall have a minimum width of 10 feet and a maximum width of 12 feet.
2. Driveway approaches must be designed and located to provide an exiting vehicle with an unobstructed view. Construction of driveways along acceleration or deceleration lanes and tapers shall be avoided due to the potential for vehicular weaving conflicts.
3. The length of driveways shall be designed in accordance with the anticipated storage length for entering and existing vehicles to prevent vehicles from backing into the flow of traffic on the public road or causing unsafe conflicts with on-site circulation.

D. Requirements for Phased Development Plans

1. In the interest of promoting unified access and circulation systems, development sites under the same ownership or consolidated for the purposes of development and comprised of more than one building site shall be reviewed as single properties in relation to the access standards of this ordinance. The number of access points permitted shall be the minimum number necessary to provide reasonable access to these properties, not the maximum available for that frontage. All necessary easements, agreements, and stipulations shall be met. This shall also apply to phased development plans. The owner and all lessees within the affected area are responsible for compliance with the requirements of this ordinance and both shall be cited for any violation.
2. All access must be internalized using the shared circulation system of the principal development or retail center. Driveways shall be designed to avoid queuing across surrounding parking and driving aisles.

E. Nonconforming Access Features

1. Legal access connections in place as of April 18, 2001, that do not conform with the standards herein are considered nonconforming features and shall be brought into compliance with applicable standards under the following conditions:
 - a. When new access connection permits are requested;

- b. Change in use or enlargements or improvements that will increase trip generation.

F. Reverse Frontage

1. Lots that front on more than one road shall be required to locate motor vehicle accesses on the road with the lower functional classification.
2. When a residential subdivision is proposed that would abut an arterial, it shall be designed to provide through lots along the arterial with access from a frontage road or interior local road. Access rights of these lots to the arterial shall be dedicated to Harney County and recorded with the deed. A berm or buffer yard may be required at the rear of through lots to buffer residences from traffic on the arterial. The berm or buffer yard shall not be located within the public right-of-way.

G. Flag Lot Standards

1. Flag lots shall not be permitted when the result would be to increase the number of properties requiring direct and individual access connections to the state highway system or other arterials.
2. Flag lots may be permitted for residential development when necessary to achieve planning objectives, such as reducing direct access to roadways, providing internal platted lots with access to a residential road, or preserving natural or historic resources, under the following conditions:
 - a. Flag lot driveways shall be separated by at least twice the minimum frontage requirement of that zoning district.
 - b. The flag driveway shall have a minimum width of 10 feet and maximum width of 20 feet.
 - c. In no instance shall flag lots constitute more than 10 percent of the total number of building sites in a recorded or unrecorded plat, or three lots or more, whichever is greater.
 - d. The lot area occupied by the flag driveway shall not be counted as part of the required minimum lot area of that zoning district.
 - e. No more than one flag lot shall be permitted per private right-of-way or access easement.

H. Lot Width-to-Depth Ratios

1. To provide for proper site design and prevent the creation of irregularly shaped parcels, the depth of any lot or parcel shall not exceed 3 times its width or (4 times its width in rural areas) unless there is a topographical or environmental constraint or an existing man-made feature.

I. Shared Access

1. Subdivisions with frontage on the state highway system shall be designed into shared access points to and from the highway. Normally a maximum of two accesses shall be allowed regardless of the number of lots or businesses served. If access off of a secondary road is possible, then access should not be allowed onto the state highway. If access off of a secondary road becomes available, then conversion to that access is encouraged, along with closing the state highway access.
2. New direct access to individual one and two family dwellings shall be prohibited on all but District Level State Highways.

J. Connectivity

1. The road system of proposed subdivisions shall be designed to connect with existing, proposed, and planned roads outside of the subdivision as provided in this Section.
2. Wherever a proposed development abuts land that is not platted or a future development phase of the same development, road stubs shall be provided to provide access to abutting properties or to logically extend the road system into the surrounding area. All road stubs shall be provided with a temporary turn-around unless specifically exempted by the Public Works Director, and the restoration and extension of the road shall be the responsibility of any future developer of the abutting land.

K. Variances to Access Management Standards

1. The granting of a variance shall meet the purpose and intent of these regulations and shall not be considered until every feasible option for meeting access standards is explored.
2. Applicants for a variance from these standards must provide proof of unique or special conditions that make strict application of the provisions impractical. Applicants shall include proof that:

- a. Indirect or restricted access cannot be obtained;
- b. No engineering or construction solutions can be applied to mitigate the condition; and
- c. No alternative access is available from a road with a lower functional classification than the primary roadway.

ORDINANCE HISTORY NOTIES: The Access Management provisions, Section 4.020 of the Harney County Zoning Ordinance, were modified by the Harney County Planning Department as part of the Harney County TSP Implementation program and adopted by Harney County on April 18, 2001. Any changes from this point forward will have the effective date listed after each modified paragraph with subsequent historical notes.

Section 4.030. General Provisions Regarding Accessory Uses.

An accessory use shall comply with all requirements for a principal use, except as this ordinance specifically allows to the contrary, and shall comply with the following limitations:

1. Fences may be located within yards.
2. Occupations, which may be operated from the home, are generally permitted.

Section 4.040 Archaeological Provisions.

Upon discovery of archaeological artifacts on any property in Harney County, the following sequences of events shall occur:

1. All disturbance of the site shall immediately cease.
2. The developer shall notify the Planning Director of the discovery and the Planning Director shall notify the appropriate agencies, including the State Archaeologist.
3. The State Archaeologist, or other appropriate agency charged with the preservation of antiquities shall have ten (10) days to conduct a preliminary review of the site to include determination of the significance of the site.
4. If, during this ten (10) day period, the site is determined not to be archaeologically significant, resumption of development may occur.
5. If the site is determined to be archaeologically significant, further disturbance of the site shall cease for an additional 30 days to allow acquisition by the appropriate agency or negotiations for development of the site. If such activities are not initiated by the appropriate agency within this time period, resumption of development may occur.

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Section 4.050. Historic Protection.

The Planning Department shall ensure preservation of the county's historic resources by providing:

1. A permit to allow a change of the use of an historic site or structure as defined in the Comprehensive Plan. The owner of an historic site or structure shall be required to obtain a demolition, major alteration or moving permit under the authorization of the Planning Department.
2. Applications for permit to alter, move or demolish a designated historic site or structure in Harney County.

Officially designated historic sites or structures listed in the Harney County Plan shall not be demolished, altered or moved prior to the issuance of a permit for said purpose from the Planning Department. Upon receipt of an application to demolish, alter or move an officially designated historic site or structure, the Planning Department shall institute a hold on the application for up to 90 days. During that time the State Historic Preservation Office will be notified and given the opportunity to consult with the applicant. The possibilities of purchasing the historic site or structure shall be explored by interested persons, organizations or governmental agencies. In order to grant a permit to demolish, alter or move an officially designated historic site or structure the Planning Department must determine that:

- A. The historic site or structure constitutes a hazard to the safety of the public or occupants;
- B. The improvement project is of substantial benefit to the county and cannot be reasonably located elsewhere, and overrides the public's interest in the preservation of the historic landmark; or
- C. The retention of the historic landmark would cause financial hardship to the owner which is not offset by public interest in the landmarks preservation
- D. Major exterior alterations shall be consistent with the historic character of the site or structure.

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Section 4.060. Lot of Record Dwelling

This section was deleted by Harney County Ordinance 2000-43 on November 1, 2000 as it was found to be duplicative from the material found in Section 3.010(6)(a) and Section 3.020(6)(a) which deals with Lot of Record Dwellings within the EFRU-1 and 2 Zones and Section 3.060(6)(B) which deals with Lot of Record Dwellings within the FU-80 Zone.

Section 4.070. Steep Slope Development Standards

Development standards on steep slopes are necessary to protect life and property from natural hazards. At the time of application, the Planning Director shall examine topographical maps to determine the presence of steep slopes on the site. If the Director determines that steep slopes are present, the following standards shall apply:

1. All applications for minor partitions, subdivisions and any residential, commercial and industrial structures on slopes greater than 12 percent shall meet the standards of item 2 below.
2. All development applications shall include information on the proposed development, the site, and surrounding properties adequate to show that on-site hazardous conditions are adequately mitigated. Mitigation includes avoiding development in alteration of natural drainage channels, and minimizing cut and fill and vegetation removal activities.

Development on slopes of 2 horizontal and 1 vertical and greater require a signed affidavit from a licensed professional engineering geologist attesting to the safety of the proposed development. Recommendations made by the geologist shall be the basis for specific conditions of approval set forth by the Planning Commission.

Section 4.080. Flood Plain Standards**Sub-Sections:**

1. Statutory Authorization And Statement Of Purpose
2. Definitions
3. General Provisions
4. Administration
5. Provisions For Flood Hazard Protection

1. STATUTORY AUTHORIZATION AND STATEMENT OF PURPOSE**A. Statutory Authorization**

The Legislature of the State of Oregon has, in ORS Chapter 203, delegated the responsibility to local governmental units to adopt regulations designed to promote the public health, safety, and general welfare of its citizenry. Therefore, the County Court of Harney County, Oregon, does ordain as follows:

B. Findings Of Fact

1. The flood hazard areas of Harney County are subject to periodic inundation which results in loss of life and property, health, and safety hazards, disruption of commerce and governmental services, extraordinary public expenditures for flood protection and relief, and impairment of the tax base, all of which adversely affect the public health, safety, and general welfare.
2. These flood losses are caused by the cumulative effect of obstructions in areas of special flood hazards which increase flood heights and velocities, and when inadequately anchored, damage uses in other areas. Uses that are inadequately flood proofed, elevated, or otherwise protected from flood damage also contribute to the flood loss.

C. Statement Of Purpose

It is the purpose of this ordinance to promote the public health, safety and general welfare and to minimize public and private losses due to flood conditions in specific areas by methods and provisions designed:

1. To protect human life and health;
2. To minimize expenditure of public money and costly flood control projects;

3. To minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;
4. To minimize prolonged business interruptions;
5. To minimize damage to public facilities and utilities such as water and gas mains, electric, telephone and sewer lines, streets and bridges located in areas of special flood hazard;
6. To help maintain a stable tax base by providing for the safe use and development of areas of special flood hazard so as to minimize future flood blight areas;
7. To ensure that potential buyers are notified that property is in an area of special flood hazard; and
8. To ensure that those who occupy the area of special flood hazard assume responsibility for their actions.

D. Methods Of Reducing Flood Losses

In order to accomplish its purposes, this ordinance includes methods and provisions for:

1. Restricting or prohibiting uses which are dangerous to health, safety and property due to water or erosion hazards, or which result in damaging increases in erosion or in flood heights or velocities;
2. Requiring that uses vulnerable to floods, including facilities which serve such uses, be protected against flood damage at the time of initial construction;
3. Controlling the alteration of natural flood plains, stream channels, and natural protective barriers, which help accommodate or channel flood waters;
4. Controlling filling, grading, dredging, and other development which may increase flood damage; and
5. Preventing or regulating the construction of flood barriers which will unnaturally divert flood waters or which may increase flood hazards in other areas.

2. DEFINITIONS. Unless specifically defined below, words and phrases used in this ordinance shall be interpreted so as to give them the meaning they have in common usage and to give this ordinance it most reasonable application.
 - A. Appeal. A request for a review of the Planning Director's interpretation of any provision of this ordinance.
 - B. Area of Special Flood Hazard. The land in the flood plain within an area subject to a one percent or greater chance of flooding in any given year. Designation on maps always includes letters A or V.
 - C. Base Flood. The flood having a one percent chance of being equaled or exceeded in any given year. Also referred to as the "100-year flood." Designation on maps always includes the letters A or V.
 - D. Basement. Any area of a building having its floor sub-grade (below ground level) on all sides.
 - E. Breakaway Wall. A wall that is not part of the structural support of the building and is intended through its design and construction to collapse under specific lateral loading forces, without causing damage to the elevated portion of the building or supporting foundation system.
 - F. Critical Facility. A facility for which even a slight chance of flooding might be too great. Critical facilities include, but are not limited to schools, nursing homes, hospitals, police, fire and emergency response installations, and installations which produce, use or store hazardous materials or hazardous waste.
 - G. Development. Any manmade change to improved real estate, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations located within the area of special flood hazard.
 - H. Elevated Building. For insurance purposes, a non-basement building which has its lowest elevated floor raised above ground level by foundation walls, shear walls, post, piers, pilings, or columns.
 - I. Existing Manufactured Home Park Or Subdivision. A manufactured home park subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including, at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed before the effective date of the adopted floodplain management regulations.

- J. Expansion To An Existing Manufactured Home Park Or Subdivision. The preparation of additional sites by the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads).
- K. Flood" or "Flooding. A general condition of partial or complete inundation of normally dry land areas from;
 - 1. The overflow of inland or tidal waters; and/or
 - 2. The unusual accumulation of runoff of surface waters from any source.
- L. Flood Insurance Rate Map (FIRM). The official map on which the Federal Insurance Administration has delineated both the areas of special flood hazards and the risk premium zones applicable to the county.
- M. Flood Insurance Study. 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.
- N. Floodway. The channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one foot.
- O. Lowest Floor. The lowest floor of the lowest enclosed 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 ordinance found in subsection 5(B).
- P. Manufactured Home. 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 attached to the required utilities. The term "manufactured home" does not include a "recreational vehicle."
- Q. Manufactured Home Park or Subdivision. A parcel (or contiguous parcels) of land under a single ownership divided into four or more manufactured home lots for rent or sale.
- R. New Construction. Structures for which the start of construction commenced on or after the effective date of this ordinance.

- S. New Manufactured Home Park or Subdivision. A manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed on or after the effective date of adopted floodplain management regulations.
- T. Recreational Vehicle. A vehicle which is:
1. Built on a single chassis;
 2. 400 square feet or less when measured at the largest horizontal projection;
 3. Designed to be self-propelled or permanently towable by a light duty truck; and
 4. Designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use.
- U. Start of Construction. Includes substantial improvement, and refers to 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 slab 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 foundation or the erection of temporary form; 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. For a substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of the building, whether or not that alteration affects the external dimensions of the building.
- V. Structure. A walled and roofed building including a gas or liquid storage tank that is principally above ground.
- W. Substantial Damage. Damage of any origin sustained by a structure whereby the cost of restoring the structure to it's before damaged condition would equal or exceed 50 percent of the market value of the structure before the damage occurred.

X. Substantial Improvement. Any repair, reconstruction, or improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure either;

1. Before the improvement or repair is started; or
2. If the structure has been damaged and is being restored, the condition existing before the damage occurred. For the purpose 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 structure.

The term does not, however, include either:

1. 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; or
2. Any alteration of a structure listed on the National Register of Historic Places or a State Inventory of Historic Places.

Y. Variance. A grant of relief from the requirements of this ordinance, which permits construction in a manner that would otherwise be prohibited by this ordinance.

Z. Water Dependent. A structure for commerce or industry which cannot exist in any other location and is dependent on water by reason of the intrinsic nature of its operations.

3. GENERAL PROVISIONS

A. Lands to Which This Ordinance Applies:

This ordinance shall apply to all areas of special hazards within the jurisdiction of Harney County.

B. Basis For Establishing The Areas Of Special Hazard

The areas of special flood hazard identified by the Federal Insurance Administration in a specific and engineering report entitled the "The Flood Insurance Study for Harney County, Oregon" dated March 28, 1984 and revised December 22, 1998 with accompanying Flood Insurance Maps, as

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amended, is hereby adopted by reference and declared a part of this ordinance. The Flood Insurance Study is on file at the Harney County Courthouse.

C. Penalties For Noncompliance

No structure or land shall hereafter be constructed, located, extended, converted, or altered without full compliance with the terms of this ordinance and other applicable regulations. Violations of the provisions of this ordinance by failure to comply with any of its requirements (including violations of conditions and safeguards established in connection with conditions), shall constitute a violation. Any person who violates this ordinance or fails to comply with any of its requirements shall upon conviction thereof be fined not more than \$500.00 for each violation, and in addition shall pay all costs and expenses involved in the case. Nothing herein contained shall prevent Harney County from taking such other lawful action as is necessary to prevent or remedy any violation.

D. Abrogation And Greater Restrictions

This ordinance is not intended to repeal, abrogate, or impair any existing easements, covenants, or deed restrictions. However, where this ordinance and another ordinance, easement, covenant, or deed restriction conflict or overlap, whichever imposes the more stringent restrictions shall prevail.

E. Interpretation

In the interpretation and application of this ordinance, all provisions shall be:

1. Considered as minimum requirements.
2. Liberally construed in favor of the governing body; and
3. Deemed neither to limit nor repeal any other powers granted under State Statutes.

F. Warning And Disclaimer Of Liability

The degree of flood protection required by this ordinance is considered reasonable for regulatory purposes and is based on scientific and engineering considerations. Larger floods can and will occur on rare occasions. Flood heights may be increased by man-made or natural causes. This ordinance does not imply that land outside the areas of special flood hazards or uses permitted within such areas will be free from flooding or flood damages. This ordinance shall not create liability on the part of Harney County, any officer or employee

thereof, or the Federal Insurance Administration, for any flood damages that result from reliance on this ordinance or any administrative decision lawfully made hereunder.

4. ADMINISTRATION

A. Establishment of Development Permit

1. Development Permit Required

A development permit shall be obtained before construction or development begins within any area of special flood hazard established in subsection 2(B) of this section. The permit shall be for all structures including manufactured homes, as set forth in the "DEFINITIONS", and for all other development including fill and other activities, also as set forth in the "DEFINITIONS".

2. Application for Development Permit

Application for a development permit shall be made on forms furnished by the Planning Director and may include but not be limited to plans in duplicates drawn to scale showing the nature, location, dimensions, and elevations of the area in question; existing or proposed structures, fill, storage of materials, drainage facilities, and the location of the foregoing. Specifically, the following information is required:

- a. Elevation in relation to mean sea level, of the lowest floor (including basement) of all structures;
- b. Elevation in relation to mean sea level to which any structure has been flood proofed;
- c. Certification by a registered professional engineer or architect that the flood-proofing methods for any nonresidential structure meet the flood-proofing criteria in subsection 5(2) of this section; and
- d. Description of the extent to which a watercourse will be altered or relocated as a result of proposed development.

B. Designation Of The Planning Director

The Planning Director is hereby appointed to administer and implement this ordinance by granting or denying development permit applications in accordance with its provisions.

C. Duties Of The Planning Director

Duties of the Planning Director shall include, but are not limited to:

1. Permit Review

- a. Review all development permits to determine that the permit requirements of this ordinance have been satisfied.
- b. Review all development permits to determine that all necessary permits have been obtained from those federal, state or local governmental agencies from which prior approval is required.
- c. Review all development permits to determine if the proposed development is located in the floodway. If located in the floodway, assure that the encroachment provisions of subsection 5 (C)(1) of this section are met.

2. Use of Other Base Flood Data

When base flood elevation data has not been provided in accordance with subsection 3(B) of this section, BASIS FOR ESTABLISHING THE AREAS OF SPECIAL FLOOD HAZARD, the Planning Director shall obtain, review, and reasonably utilize any base flood elevation and floodway data available from a federal, State or other source, in order to administer 5(B) SPECIFIC STANDARDS, and 5(C) FLOODWAYS.

3. Information to be Obtained and Maintained

- a. Where base flood elevation data is provided through the Flood Insurance Study or required as in Section 4.3-2, obtain and record the actual elevation (in relation to mean sea level) of the lowest floor (including basement) of all new or substantially improved structures, and whether or not the structure contains a basement.
- b. For all new or substantially improved flood-proof structures:
 1. Verify and record the actual elevation (in relation to mean sea level, and
 2. Maintain the flood-proofing certifications required in subsection 4 (A)(3).
Maintain for public inspection all records pertaining to the provisions of this ordinance.

4. Alteration of Watercourses

- a. Notify adjacent communities and the Water Resources Department prior to any alteration or relocation of a watercourse and submit evidence of such notification to the Federal Insurance Administration.
- b. Require that maintenance is provided within the altered or relocated portion of said watercourse so the flood carrying capacity is not diminished.

5. Interpretation of FIRM Boundaries

Make interpretations where needed, as to exact location of the boundaries of the areas of special flood hazards (for example, where there appears to be a conflict between a mapped boundary and actual field conditions). The person contesting the location of the boundary shall be given a reasonable opportunity to appeal the interpretation as provided in subsection (4)(D).

D. Appeals

1. Appeal Board

- a. The Harney County Court shall hear and decide appeals and requests for variances from the requirements of this ordinance.
- b. The County Court shall hear and decide appeals when it is alleged there is an error in any requirement, decision, or determination made by the enforcement or administration of this ordinance.
- c. Those aggrieved by the decision of the Harney County Court, or any taxpayer, may appeal such a decision to the Harney County Circuit Court, as provided in ORS 34.010 - 34.100.
- d. In passing on such applications, the Harney County Court shall consider all technical elevations, all relevant factors, standards specified in other sections of this ordinance, and:
 1. The danger that materials may be swept onto other lands to the injury of others;
 2. The danger to life and property due to flooding or erosion damage;

3. The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner;
4. The importance of the services provided by the proposed facility to the community;
5. The necessity to the facility of a waterfront location, where applicable;
6. The availability of alternative locations for the proposed use which are not subject to flooding or erosion damage;
7. The compatibility of the proposed use with existing and anticipated development;
8. The relationship of the proposed use to the comprehensive plan and flood plain management program for that area;
9. The safety of access to the property in times of flood for ordinary and emergency vehicles;
10. The expected heights, velocity, duration, rate of rise, and sediment transport of the flood waters and the effects of wave action, if applicable, expected at the site; and.
11. The costs of providing the government services during and after flood conditions, including maintenance and repair of public utilities and facilities such as sewer, gas, electrical, and water systems, and streets and bridges.
 - a. Upon consideration of the factors of subsection 4(D)(1)(d) of this section and the purpose of this ordinance, the Harney County Court, in granting variances, may attach conditions as it deems necessary to further the purposes of this ordinance.
 - b. The Planning Director shall maintain the records of all appeal actions and report any variances to the Federal Insurance Administration upon request.

2. Conditions for Variances

- a. Generally, the only condition under which a variance from the elevation standard may be issued is for new construction and substantial improvements to be erected on a lot of one-half acre or

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less in size, contiguous to and surrounded by lots with existing structures constructed below the base flood level, providing items (a-k) in subsection 4(D) (1)-(11) have been fully considered. As the lot size increases the technical justification required for issuing the variance increases.

- b. Variances may be issued for the reconstruction, rehabilitation, or restoration of structures listed on the National Register of Historic Places or the State Inventory of Historic Places, without regard to the procedures set forth in this section.
- c. Variances shall not be issued within a designated floodway if any increase in flood levels during the base flood discharge would result.
- d. Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.
- e. Variances shall only be issued upon:
 - 1. A showing of good and sufficient cause;
 - 2. A determination that failure to grant the variance would result in exceptional hardship to the applicant; and
 - 3. A determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud on or victimization of the public as identified in subsection 4(D)(1), or conflict with existing local laws or ordinances.
- a. Variances as interpreted in the National Flood Insurance Program are based on the general zoning law principle that they pertain to a physical piece of property; they are not personal in nature and do not pertain to the structure, its inhabitants, economic or financial circumstances. They primarily address small lots in densely populated residential neighborhoods. As such, variances from the flood elevations should be quite rare.
- b. Variances may be issued for nonresidential buildings in very limited circumstances to allow a lesser degree of flood-proofing than watertight or dry-flood-proofing, where it can be determined that such an action will have low damage potential, complies with all other variance criteria except

4(D)(2)(a), and otherwise complies with subsections 5(A)(1) and 5(A)(2) of the GENERAL STANDARDS.

- c. Any applicant to whom a variance is granted shall be given written notice that the structure will be permitted to be built with a lowest floor elevation below the base flood elevation and that the costs of flood insurance will be commensurate with the increased risk resulting from the reduced lowest floor elevation.

5. PROVISIONS FOR FLOOD HAZARD PROTECTION

A. General Standards

In all areas of special flood hazards the following standards are required:

1. Anchoring

- a. All new construction and substantial improvements shall be anchored to prevent flotation, collapse, or lateral movement of the structure.
- b. All manufactured homes must likewise be anchored to prevent flotation, collapse or lateral movement and shall be installed using methods and practices that minimize flood damage. Anchoring methods may include, but are not limited to, use of over-the-top or frame ties to ground anchors (Reference FEMA's "Manufactured Home Installation in Flood Hazard Areas" guidebook for additional techniques).

2. Construction Materials and Methods

- a. All new construction and substantial improvements shall be constructed with materials and utility equipment resistant to flood damage.
- b. All new construction and substantial improvements shall be constructed using methods and practices that minimize flood damage.
- c. Electrical, heating, ventilation, plumbing, and air-conditioning equipment and other service facilities shall be designed and/or otherwise elevated or located so as to prevent water from entering or accumulating within the components during conditions of flooding.

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3. Utilities

All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the system and discharge from the systems into flood waters.

- a. New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of flood waters into the system and discharge from the systems into flood waters; and,
- b. On-site waste disposal systems shall be located to avoid impairment to them or contamination from them during flooding.

4. Subdivision Proposals

- a. All subdivision proposals shall be consistent with the need to minimize flood damage;
- b. All subdivision proposals shall have public utilities and facilities such as sewer, gas, electrical, and water systems located and constructed to minimize flood damage;
- c. All subdivision proposals shall have adequate drainage provided to reduce exposure to flood damage; and,
- d. Where base flood elevation has not been provided or is not available from another authoritative source, it shall be generated for subdivision proposals and other proposed developments, which contain at least 50 lots or 5 acres (whichever is less).

5. Review of Building Permits

Where elevation data is not available either through the Flood Insurance Study or from another authoritative source (subsection 4(C)(2)), applications for building permits shall be reviewed to assure that proposed construction will be reasonably safe from flooding. The test of reasonableness is a local judgment, and includes use of historical data, high water marks, photographs of past flooding, etc., where available. **Failure to elevate at least two feet above grade in these zones may result in higher insurance rates.**

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B. Specific Standards

In all areas of special flood hazards where base flood elevation data has been provided as set forth in Section 3(B) BASIS FOR ESTABLISHING THE AREAS OF SPECIAL FLOOD HAZARD or Section 4(C)(2), Use of Other Flood Base Data, the following provisions are required;

1. Residential Construction

- a. New construction and substantial improvement of any residential structure shall have the lowest floor including basement, elevated one foot above base flood elevation.
- b. 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 meet or exceed the following minimum criteria:
 1. 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.
 2. The bottom of all openings shall be no higher than one foot above grade.
 3. Openings may be equipped with screens, louvers, or other coverings or devices provided that they permit the automatic entry and exit of floodwaters.

2. Nonresidential Construction

New construction and substantial improvement of any commercial, industrial or other nonresidential structure shall either have the lowest floor, including basement, elevated to the level of the base flood elevation; or, together with attendant utility and sanitary facilities, shall

- a. Be flood-proofed so that below the base flood level 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 design and methods of construction are in accordance with accepted standards of practice for meeting provisions of this subsection based on their development and/or review of the structural design, specifications, and plans. Such certifications shall be provided to the official as set forth in subsection 4(C)(b)(2).
- d. Nonresidential structures that are elevated, not flood-proofed, must meet the same standards for space below the lowest floor as described in 5(B)(2) of this subsection.
- e. Applicants flood-proofing nonresidential buildings shall be notified that flood insurance premiums will be based on rates that are one foot below the flood-proofed level (e.g. a building constructed to the base flood level will be rated as one foot below that level).

3. Manufactured Homes

- a. All manufactured homes to be placed or substantially improved within Zones A1-30, AH, and AE on the community's FIRM on sites:
 - 1. Outside of a manufactured home park or subdivision;
 - 2. In a new manufactured home park or subdivision;
 - 3. In an expansion to an existing manufactured home park or subdivision; or
 - 4. In an existing manufactured home park or subdivision on which a manufactured home has incurred "substantial damage" as the result of a flood;

Shall be elevated on a permanent foundation such that the lowest floor of the manufactured home is elevated one foot above the base flood elevation and be securely anchored to an adequately designed foundation system to resist flotation, collapse and lateral movement.

- b. Manufactured homes to be placed or substantially improved on sites in an existing manufactured home park or subdivision within Zones A1-30, AH, and AE on the community's FIRM that are not subject to the above manufactured home provisions be elevated so that either:
 - 1. The lowest floor of the manufactured home is elevated one foot above the base flood elevation; or

2. The manufactured home chassis is supported by reinforced piers or other foundation elements of at least equivalent strength that are no less than 36 inches in height above grade and be securely anchored to an adequately designed foundation system to resist flotation, collapse and lateral movement.

4. Recreational Vehicles

Recreational vehicles placed on sites within Zones A1-30, AH, and AE on the community's FIRM either:

- a. Be on the site for fewer than 180 consecutive days,
- b. Be fully licensed and ready for highway use, on its wheels or jacking system, is attached to the site only by quick disconnect type utilities and security devices, and has no permanently attached additions; or
- c. Meet the requirements of 5(2)-(3) above and the elevation and anchoring requirements for manufactured homes.

C. Floodways

Located within areas of special flood hazard established in subsection 3(B) of this section are areas designated as floodways. Since the floodway is an extremely hazardous area due to the velocity of flood waters which carry debris, potential projectiles, and erosion potential, the following provisions apply:

1. Prohibit encroachments, including fill, new construction, substantial improvements, and other development unless certification by a registered professional engineer or architect is provided demonstrating that encroachments shall not result in any increase in flood levels during the occurrence of the base flood discharge.
2. If Section 5(C)(1) is satisfied, all new construction and substantial improvements shall comply with all applicable flood hazard reduction provisions of subsection 5, PROVISIONS FOR FLOOD HAZARD PROTECTION.

D. Encroachments

The cumulative effect of any proposed development, where combined with all other existing and anticipated development, shall not increase the water surface elevation of the base flood more than one foot at any point.

Section 4.090. Solar Access

1. All new construction shall allow maximum solar access to south-facing building walls on December 21 of the year, between 10 a.m. and 3 p.m., unless it is demonstrated that such access protection is not feasible because of property size, configuration, orientation, vegetation, or topography. The County Building Official shall review each building permit application to ensure compliance with this requirement.
2. Setback adjustments to optimize or enhance solar access shall be considered relevant for a variance request under this ordinance.

Section 4.100. Property Line Adjustment**Sub-Sections:**

1. Purpose
2. Area of Application
3. Definitions
4. General Provisions
5. Agricultural Lands Zoning Districts
6. Forest Lands Zoning Districts
7. Submittal Requirements
8. Process

1. **PURPOSE.** The purpose of these provisions is to provide standards consistent with the Oregon Administrative Rules (OAR) and Oregon Revised Statutes (ORS) Chapters 92 and 215 for considering property line adjustments. Additionally, these provisions shall implement the provisions of the Zoning Ordinance and policies of the Comprehensive Plan.

2. **AREA OF APPLICATION.** The provisions of Section 4.100 apply to property line adjustments between two (2) established legal lots of record as defined in Sub-Section 3 of this Section.

3. **DEFINITIONS.** The purpose of the following definitions is to provide clarity to terms that are used in the provisions of this subsection:
 - A. **Property Line Adjustment.** A relocation of a common property line between two (2) abutting legal lots of record where an additional lot of record is not created, and any existing lot of record reduced in size by the adjustment complies with the provisions of this Ordinance.

 - B. **Legal Lot of Record.** A unit of land created as follows:
 - a. A lot in an existing, duly recorded subdivision, or;
 - b. A parcel in an existing, duly recorded major or minor land partition, or;
 - c. An existing unit of land for which a survey has been duly filed which conformed to all applicable regulations at the time of filing, or;

- d. Any unit of land created prior to zoning and partitioning regulations by deed or metes and bounds description, and recorded with the Harney County Clerk, provided, however that contiguous units of land so created under the same ownership and not conforming to the minimum property size of this ordinance shall be considered one (1) lot of record.
 - e. Except as stated above, a legal lot or record is NOT: A unit of land created solely to establish a separate tax account, or for mortgage purposes, that does not conform to all Zoning and Subdivision Ordinance requirements and applicable Comprehensive Plan provisions, in effect on the date when a recorded separate deed, tax account or contract creating it was signed by the parties to the deed or contract, unless it is sold under the foreclosure provisions of Chapter 88 of the Oregon Revised Statutes.
- C. Lot. A single unit of land created by the subdivision of land including the recording of an approved subdivision plat under the provisions of ORS Chapter 92.
- D. Parcel. A single unit of land created by the partitioning of land including the recording of an approved partition plat under the provisions of ORS Chapter 92.
- E. Plat. A final recorded subdivision plat, replat, or partition plat consistent with ORS Chapter 92 and this Ordinance.
- F. Property Line. For the purposes of this Section, property line shall mean the division line(s) between two (2) abutting lots of record.
- G. Replat. The act of platting the lots, parcels, tracts and/or easements in a recorded subdivision or partition plat to achieve a reconfiguration of the existing subdivision or partition plat, or to increase or decrease the number of lots in the subdivision or partition.

H. Undersized Lot or Parcel. A lot of record that does not satisfy the district land area requirement, as described in the underlying zoning district.

4. GENERAL PROVISIONS. Property line adjustments shall be consistent with all of the following provisions:

- A. Property line adjustments involving lots or parcels of land shall satisfy the setback and lot size provisions of the underlying zoning district except, when located within an urban or rural zoning district, an adjustment between undersized lots or parcels may be granted when the adjustment is consistent with all remaining provisions of this subsection. A lot or parcel exceeding the minimum lot or parcel size of the underlying zoning district shall not be reduced to less than the minimum lot or parcel size of the underlying zoning district. An existing lot or parcel containing at least 5,000 square feet of area shall not be reduced in size such that the resulting size of the lot or parcel is less than 5,000 square feet.
- B. Property line adjustments involving lots, parcels or tracts of land with nonconforming setbacks shall be granted provided the adjustment does not further reduce the setback and the adjustment satisfies the remaining provisions of this Ordinance. A registered professional land surveyor prior to final approval of the Property Line Adjustment Survey of Record shall verify setbacks.
- C. A property line adjustment shall be prohibited between lots or parcels of land separated by Urban, Rural, Forest or Agriculture Plan boundaries, as identified in the Comprehensive Plan.
- D. A property line adjustment shall not be permitted between lots or parcels of land separated by an urban growth boundary.
- E. A property line adjustment shall not be used to exceed the base density in the underlying zoning district(s).
- F. A property line adjustment application shall not be used to replat duly recorded subdivision or partition plats. For purposes of this Section, any proposal to reconfigure property lines within a plat that effectively vacates lots, parcels, tracts, easements or roads; increases or decreases the number of lots or parcels; or results in a significant reconfiguration of the plat, as determined by the Planning Director, shall be considered a Replat and reviewed pursuant to the subdivision or partition provisions of the Ordinance.

- G. A property line adjustment shall be surveyed and documented in accordance with ORS 92.060 (3), (7) & (9). The survey requirements for a property line adjustment are waived when:
 - a. Each of the resulting lots, parcels or tracts of land are greater than ten (10) acres in size; or
 - b. The affected lots or parcels are located within a platted subdivision or partition and the adjusted property line is a distance of even width along the common boundary.
- H. An approved property line adjustment Record of Survey Map and Legal Description of all lots, parcels or tracts involved in the adjustment pursuant to ORS 209.250, shall be recorded within seven (7) days after approval is granted with an attached Findings and Decision in the County Clerk's office. The approved property line adjustment shall not be effective until a Bargain and Sale Deed is also recorded with the County Clerk's office when two separate parties are involved in the property line adjustment.

5. AGRICULTURAL LANDS ZONING DISTRICTS

A property line adjustment for a lot, parcel or tract of land in areas designated Agriculture on the Comprehensive Plan map with or without an approved homestead or non-farm use may be permitted pursuant to the following provisions:

- a. A property line adjustment for a lot, parcel or tract of land exceeding eighty (80) acres may be approved when the adjustment does not reduce any lot, parcel or tract of land to less than the minimum lot size in the underlying zone.
- b. A property line adjustment for a lot, parcel or tract of land less than (80) acres may be approved pursuant to the following provisions:
 - 1. Not reduce an undersized lot, parcel or tract of land more than fifty percent (50%); and
 - 2. Only one (1) reduction is approved pursuant to this provision.

6. FOREST USE ZONING DISTRICT

A property line adjustment for a lot, parcel or tract of land without an approved homestead, non-forest or farm/forest management plan in areas designated

Forest Use on the Comprehensive Plan map may be permitted when the adjustment is consistent with these provisions:

- a. Property line adjustments for lots, parcels or tracts of land exceeding eighty (80) acres may be approved when the adjustment does not reduce any lot, parcel or tract of land to less than (80) acres.
- b. Property line adjustments for lots, parcels or tracts of land less than (80) acres may be approved pursuant to the following provisions:
 - 1. Not reduce an undersized lot, parcel or tract of land more than fifty percent (50%); and
 - 2. Only one (1) reduction is approved pursuant to this provision.

7. SUBMITTAL REQUIREMENTS

- A. Applications for property line adjustments shall be submitted to the Harney County Planning Department on forms provided.
- B. Each application shall be accompanied by a tentative plan drawn to scale of not less than one inch equals 20 feet nor more than one inch equals 200 feet, and containing at a minimum, the following:
 - a. Complete names, addresses and phone numbers of the owners of the tracts to be adjusted.
 - b. Property description of the proposed property line adjustment by Tax Lot numbers, Quarter Section, Section, Township and Range and if available, addresses.
 - c. Dimensions and size in square feet or acres of all proposed tracts to be adjusted.
 - d. Identification arrows showing the property proposed to be transferred.
 - e. Adjacent tracts under the same ownership including property descriptions by Tax Lot numbers, Quarter Section, Section, Township and Range and, if available, addresses.
 - f. North Arrow.
 - g. All adjacent roads (noting whether public or private), including name and road width.

- h. Location of wells.
- i. Type of sewage disposal, or name of sewer district, if applicable, including the location of any septic tanks and drain fields.
- j. Zoning.
- k. All existing structures on the tracts and their setbacks to property lines. Note whether the property lines referred to are existing or proposed.
- l. Natural drainage ways, streams, wetlands or other significant natural features of the tracts.
- m. Other pending applications, including building permits, on the subject tracts.
- n. All easements, including widths and types, labeled as existing or proposed, specifically noting the use and for whom they serve. NOTE: A property line adjustment cannot move an existing easement.

8. PROCESS FOR PROPERTY LINE ADJUSTMENT APPROVAL

A. A property line adjustment for a lot, parcel or tract of land shall be processed by the Planning Director, or designate, and shall meet noticing requirements as outlined in ORS 215.416. A complete Harney County Land Use Permit Application must be submitted before formal review can begin.

B. Property Line Adjustment Survey Submitted:

Two copies of the Property Line Adjustment Record of Survey Map and Legal Descriptions of all lots, parcels or tracts involved as they will stand AFTER the adjustment occurs (Legal Description must be in a Quarter Section format) and shall be submitted to the Planning Department as part of the Harney County Land Use Permit Application.

C. Final Planning Approval:

If the Property Line Adjustment Record of Survey Map and new Legal Descriptions for the effected lots, parcels or tracts are consistent with the Harney County Land Use Permit Application, and if all applicable criteria of this Ordinance have been satisfied, the Planning Director, or designate, shall signify Planning Department approval of the Property Line Adjustment Record of Survey Map and Legal Descriptions by signature on official Findings and Decisions.

D. Filing and Recording of Approved Property Line Adjustment Required:

The Property Line Adjustment Record of Survey Map and the Legal Descriptions of the properties affected by the adjustment shall be prepared by a registered professional land surveyor and shall be filed and recorded with the official Findings and Decision of the Land Use Permit requesting the adjustment. The Planning Director, or designate, shall record the Findings and Decision with the County Clerk's Office within seven (7) days from the final date of approval and in accordance with the time period set forth in ORS 215.427.

- E. If the property line adjustment involves two separate parties, a Bargain and Sale Deed must be filed with the County Clerk's Office before any changes to Assessor's maps or tax records can take affect and shall contain the names of the parties, the description of the adjusted line, references to the original recorded documents and signatures of all parties with proper acknowledgement.
- F. No building permits shall be issued for a tract that is dependent upon a property line adjustment until the Property Line Adjustment Findings and Decision (containing the Property Line Adjustment Record of Survey Map and the recorded legal descriptions) has been submitted and recorded with the County Clerk.

ORDINANCE HISTORY NOTIES: The Property Line Adjustment provisions, Section 4.100 of the Harney County Zoning Ordinance, were developed by the Harney County Planning Department and adopted by Harney County on August 16, 2000. Any changes from this point on will have the effective date listed after each modified paragraph with subsequent historical notes.

Section 4.110 Transportation Improvement Standards**Sub-Sections:**

- 1 Uses Permitted
- 2 Conditional Uses Permitted
- 3 Time Limitations on Transportation Related Conditional Use Permits

The intent of these provisions is to provide clear directions and guidelines when considering installation of transportation facilities in Harney County. Although some zone designations may address certain uses listed below, these provisions generally apply to all zones in the County. Thus, except where otherwise specifically regulated by this ordinance, the following improvements are permitted outright or conditionally.

1. USES PERMITTED OUTRIGHT.

- A. Uses permitted outright under ORS 215.213(1) (m) through (p) and ORS 215.283 (1) (k) through (n), consistent with the Transportation System Plan, the classification of the roadway, and approved road standards shall be allowed without land use review.
- B. Normal operation, maintenance, repair, and preservation activities of existing transportation facilities.
- C. Installation of culverts, pathways, medians, fencing, guardrails, lighting, and similar types of improvements within the existing right-of-way.
- D. Projects specifically identified in the Transportation System Plan as not requiring further land use regulation.
- E. Landscaping as part of a transportation facility.
- F. Emergency measures necessary for the safety and protection of property.
- G. Acquisition of right-of-way for public roads, highways and other transportation improvements designated in the Transportation System Plan except for those that are located in exclusive farm use or forest zones.
- H. Construction of a street or road as part of an approved subdivision or land partition approved consistent with the applicable land division ordinance.

2. CONDITIONAL USES PERMITTED

- A. Construction, reconstruction or widening of highways, roads, bridges or other transportation projects that are: (1) not improvements designated in the Transportation System Plan or (2) not designed and constructed as part of a subdivision or planned development subject to site plan and/or conditional use review, shall comply with the Transportation System Plan and applicable standards, and shall address the following criteria. For state projects that require an Environmental Impact Statement (EIS) or Environmental Assessment (EA), the draft EIS or EA shall be reviewed and used as the basis for findings to comply with the following criteria:
1. The project is designed to be compatible with existing land use and social patterns, including noise generation, safety and zoning.
 2. The project is designed to minimize avoidable environmental impacts to identified wetlands, wildlife habitat, air and water quality, cultural resources and scenic qualities.
 3. The project preserves or improves the safety and function of the facility through access management, traffic calming, or other design features.
 4. The project includes provision for bicycle and pedestrian circulation as consistent with the comprehensive plan and other requirements of this ordinance.
- B. Construction of rest areas, weigh stations, temporary storage and processing sites.
- C. If review under this Section indicates that the use or activity is inconsistent with the Transportation System Plan, the procedure for a plan amendment shall be undertaken prior to or in conjunction with the conditional use permit review.

3. TIME LIMITATION ON TRANSPORTATION-RELATED CONDITIONAL USE PERMITS.

- A. Authorization of a conditional use shall be void after a period specified by the applicant as reasonable and necessary based on season, right-of-way acquisition, and other pertinent factors. This period shall not exceed three years.

Section 4.120 Site Plan Review Procedures

Site Plan Review Procedures for Access Management.

1. Applicants shall submit a preliminary site plan for review to Harney County Planning Department. At a minimum, the site plan shall show:
 - A. Location of existing and proposed access point(s) on both sides of the road where applicable. Applicants must present evidence of legal access to any subject parcel proposed for development prior to the issuance of building permits and/or issuance of land use permits. For applicants that abut a county road, applicant may obtain an approach permit from the County Road Department to satisfy this requirement.
 - B. Distances to neighboring constructed access points, median openings (where applicable), traffic signals (where applicable), intersections, and other transportation features on both sides of the property;
 - C. Number and direction of lanes to be constructed on the driveway plus striping plans;
 - D. All planned transportation features (such as sidewalks, bikeways, auxiliary lanes, signals, etc.);
 - E. Parking and internal circulation plans including walkways and bikeways;
 - F. A detailed description of any requested variance and the reason the variance is requested.
2. Subdivision and site plan review shall address the following access criteria:
 - A. All proposed roads shall follow the natural topography and preserve natural features of the site as much as possible. Alignments shall be planned to minimize grading.
 - B. Access shall be properly placed in relation to sight distance, driveway spacing, and other related considerations, including opportunities for joint and cross access.
 - C. The road system shall provide adequate access to buildings for residents, visitors, deliveries, emergency vehicles and garbage collection.
 - D. An internal pedestrian system of sidewalks or paths shall provide connections to parking areas, entrances to the development, and open space, recreational, and other community facilities associated with the

development. Streets shall have sidewalks on both sides. Pedestrian linkages shall also be provided to the peripheral street system.

- E. The access shall be consistent with the access management standards adopted in the Transportation System Plan.
3. Any application that involves access to the State Highway System shall be reviewed by the Oregon Department of Transportation for conformance with state access management standards.

ORDINANCE HISTORY NOTES: The Site Plan Review Procedures provisions, Section 4.120 of the Harney County Zoning Ordinance, were developed by the Harney County Planning Department as part of the Harney County TSP Implementation program and adopted by Harney County on April 18, 2001. Any changes from this point forward will have the effective date listed after each modified paragraph with subsequent historical notes.

ARTICLE 5. EXCEPTIONS

Sections:

5.010. Nonconforming Uses

5.020. General Exceptions to Lot Size Requirements

Section 5.010. Nonconforming Uses

1. Subject to the provisions of ORS 215.130 (5) and the provisions of this Section, a nonconforming use or structure may be continued but may not be altered or extended. The extension of a nonconforming use to a portion of a structure which was arranged or designed for the nonconforming use at the time of passage of this Ordinance is not an enlargement or expansion of a nonconforming use. A nonconforming structure, which conforms with respect to use may be altered or extended if the alteration or extension does not cause the structure to deviate further from the standards of this Ordinance.
2. If the nonconforming use is discontinued for a period of one year, further use of the property shall conform to this Ordinance.
3. If a nonconforming use is replaced by another use, the new use shall conform to this Ordinance.
4. If a nonconforming structure or a structure containing a nonconforming use is destroyed by any cause to an extent exceeding 80 percent of its fair market value as indicated by the records of the County Assessor and is not returned to use and in actual operating condition within one year from the date of destruction, a future structure or use on the site shall conform to this Ordinance.
5. Nothing contained in this Ordinance shall require any changes in the plans, construction, alteration, or designated use of a structure for which a zoning building permit has been issued by the County and construction has commenced prior to the adoption of this Ordinance, provided the structure, if nonconforming or intended for a nonconforming use, is completed and in use within two years from the time the permit is issued.

Section 5.020. General Exceptions to Lot Size Requirements

If a lot or the aggregate of contiguous lots held in a single ownership outside a resource zone, as recorded in the office of the County Clerk at the time of the passage of this Ordinance, has an area or dimension which does not meet the lot size requirements of the zone in which the property is located, the holdings may be occupied by a use permitted in the zone subject to the other requirements of the zone, providing that the use is approved by the Planning Commission.

ORDINANCE HISTORY NOTIES: The Site Plan Review Procedures provisions, Section 4.120 of the Harney County Zoning Ordinance, were developed by the Harney County Planning Department as part of the Harney County TSP Implementation program and adopted by Harney County on April 18, 2001. Any changes from this point forward will have the effective date listed after each modified paragraph with subsequent historical notes.

ARTICLE 6. CONDITIONAL USES

Sections:

- 6.010. Authorization to Grant or Deny Conditional Uses
- 6.020. Standards Governing Conditional Use
- 6.030. Procedure for Taking Action on a Conditional Use Application
- 6.040. Time Limit on a Permit for a Conditional Use

Section 6.010. Authorization to Grant or Deny Conditional Uses

Conditional uses listed in this Ordinance may be permitted, enlarged, or altered upon authorization of the Planning Commission in accordance with the standards and procedures set forth in this article.

1. In permitting a new conditional use or the alteration of an existing conditional use the Planning Commission may impose, in addition to those standards and requirements expressly specified by this Ordinance, additional conditions which the Planning Commission considers necessary to protect the best interests of the surrounding area or the County as a whole. These conditions may include the following:
 - A. Increasing the required lot size or yard dimension.
 - B. Limiting the height of buildings.
 - C. Controlling the location and number of vehicle access points.
 - D. Increasing the street width.
 - E. Increasing the number of required off-street parking spaces.
 - F. Limiting the number, size, location, and lighting of signs.
 - G. Requiring diking, fencing, screening, landscaping, or other facilities to protect adjacent or nearby property.
 - H. Designating sites for open space.
 - I. The performance characteristics of renewable energy resource production and/or power generation operations including, but not limited to: hours of operation, noise, glare, air emissions, waste handling, fire protection, water impoundments, and related environmental impacts.

- J. Require that the landowner requesting a single-family dwelling sign a statement declaring that the landowner will not in the future complain about accepted farming practices on nearby lands devoted to farm or forest use. (ORS 215.293)
- 2. In the case of a use existing prior to the effective date of this Ordinance and classified in this Ordinance as a conditional use, any change in the use or in lot area or an alteration of structure shall conform to the requirements for conditional use.
- 3. The design and operation of energy facilities approved as conditional uses including, but not limited to: hours of operation, noise, glare, air and water emissions, waste handling, fire protection, water impoundments, aesthetics, and related environmental impacts.

Section 6.020. Standards Governing Conditional Use

In addition to the standards of the zone in which the conditional use is located and the general standards of this Ordinance, conditional uses shall meet the following standards:

- 1. **Building Height.** The height limitations of any zone may be exceeded by a conditional use to a maximum permitted height of 75 feet, provided that each yard is increased over the yard requirement by the addition of five feet for every five feet or fraction thereof of additional height over 35 feet.
- 2. **Utility Substation or Pumping Station.** The minimum lot size of the zone in which a public utility is to be located may be waived by the Planning Commission only on finding that the waiver will not result in noise or other detrimental effect on adjacent property. No equipment storage shall be permitted on the site.
- 3. No structure shall be within 100 feet of a lake or reservoir.
- 4. **Mineral and Aggregate Operations in Energy Resource Sites.** Before a conditional use permit is issued, any mineral and aggregate operation which proposes excavations greater than five acres in size inside an inventoried renewable energy resource site shall submit a plan of operations and restoration that adequately protects the renewable energy resource values at or adjacent to the proposed excavation.
- 5. **Energy Facilities.** For proposed facilities under Oregon Energy Facility Siting Council jurisdiction, conditional use permits shall be granted according to the siting standards of EFSC as adopted in Oregon Administrative Rules Chapter

345, or amended hereafter. For facilities not under EFSC jurisdiction (less than 25 megawatts), the following siting standards shall apply:

A. General. All facilities shall be subject to the following standards:

1. Water Quality. Facilities shall be designed and operated such that water quality in impoundments is acceptable for the water's expected use as defined by State water quality standards.
2. Scenic Quality. Facilities shall be designated and operated so as to be as compatible as practical with surrounding scenic characteristics. Insofar as practical, vegetation shall be restored on the portions of the site disturbed by construction. Upon completion of construction all temporary structures not required for future use, and all other construction debris, shall be removed.
3. Fish and Wildlife Resources. Facilities shall be designed and operated so as to protect surrounding fish and wildlife resources as much as practical. Facilities shall not jeopardize, in a material way, habitat areas, which are necessary to sustain local or migratory populations of such resources.
4. Historic and Cultural Resources. Facilities shall be designed and operated so as to minimize disturbance to historic and archeological resources. The developer shall promptly inform the County of any such resources encountered during construction or operations, and also inform the County of arrangements for preservation and interpretation of such resources.
5. Fire Protection. Facilities shall be designated and operated so as to provide reasonable fire protection measures.
6. Site Use. The site shall not be used for any purpose other than the production of renewable resources and/or electrical power, and those uses specified in the conditional use permit.
7. Pollution Discharges. Facilities shall be designed and operated in such a manner as to minimize the discharge of air and water pollution.
8. Public Health and Safety. Facilities shall be designed and operated so as to be capable of withstanding, without failure, reasonably expected loads.
9. Water Rights. Facilities shall be designed and operated so as not to infringe upon existing water rights of others as established by the Oregon Water Resources Department.

10. Socioeconomic Impact. Facilities shall be designed so as to minimize adverse socioeconomic impacts to the County, including, but not limited to, increased demands for governmental services or capital expenditures.
 11. Beneficial use of Waste. Facilities shall be designed and operated so as to make beneficial use, to the extent practical, of waste and byproducts produced by the facility.
 12. Waste Disposal. All waste not beneficially used otherwise shall be disposed of in compliance with all applicable laws and regulations.
 13. Erosion Control. Facilities shall be designed and operated so as to minimize erosion and disturbance to natural drains.
- B. Geothermal. Facilities utilizing geothermal resources shall be subject to the following standards:
1. Subsidence and Seismic Activity. Facilities shall be designed and operated so as to minimize land subsidence or induced seismic activity which would result from the production and/or injection of geothermal resources. The potential for such activity and proposed precautionary measures shall be submitted for all proposed facilities.
 2. Access Protection. Facilities shall be designed and operated such that unattended equipment shall be protected from access by unauthorized persons.
 3. Blow-out Control. In the event of a blow-out or other uncontrolled venting, the operator shall immediately act to control the blow-out or venting. No more than 48 hours shall elapse from the time of the blow-out or venting to the time of equipment relocation to re-secure the well.
 4. Groundwater Protection. Facilities shall be designed and operated so as to maintain and protect the integrity of groundwater aquifers and geothermal reservoirs, and prevent adverse interference between them.
 5. Pipelines. Facilities shall be designed and operated such that transmission pipelines do not impede vehicular traffic; are equipped with adequate catch-basins and/or drainage acceptable for condensates.
- C. Wind. All facilities utilizing wind resources shall be subject to the following standards:

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1. Public Health and Safety. Facilities shall be designed and operated in compliance with Octive Band limitations established by the Oregon Department of Environmental Quality.
 2. Rotor Safety. Facilities shall be equipped with both manual and automatic controls to limit the rotational speed of the blade below the design limits of the rotor.
 3. Guy Wires. Anchor points for guy wires shall be located within the property lines of the facility and not across any electric transmission lines.
 4. Electromagnetic Interference. Facilities shall be designed and operated so as not to cause harmful interference with the existing microwave communications link, or other airwaves broadcasts.
 5. Height. The lowest reach of the rotor shall be 75 feet from the ground, unless it can be demonstrated by the applicant that a lower height would not subject the rotor to excessive turbulence. In no case shall the rotor be less than 15 feet from the ground.
 6. Wind Access. Towers shall be set back five rotor diameters from the downwind property lines in the direction of the dominant winds across the property, and two diameters from all other property lines, unless it can be demonstrated that a lesser setback can protect the wind access for the downwind properties.
- D. Solar. All facilities utilizing solar resources shall be subject to the following standards:
1. Glare. Facilities shall be designed and operated so as to prevent glare or reflections from adversely affecting surrounding properties.
- E. Hydro. All facilities utilizing hydro resources shall be subject to the following standards:
1. Fish Resources. Facilities shall be designed and operated so as not to jeopardize local adronymous fish populations. A program for upstream and downstream migratory game fish, food fish, and adronymous fish through the facilities shall be established.
 2. Stream Flow. Facilities shall be designed and operated so as to accommodate low, normal, and flood flows of the stream. A description of the minimum flow proposed to be released during periods of low water, and a full description of the relation of any

proposed ponding of the flow to the conservation utilization of available water resources, shall be provided.

6. DESTINATION RESORTS. A proposed development shall meet the following standards:

- A. The resort shall be located on a site of 160 acres or more.
- B. At least 50 percent of the site shall be dedicated to permanent open space, excluding streets and parking areas.
- C. At least \$2 million plus inflation from 1984 shall be spent on improvements for onsite developed recreational facilities and visitor-oriented accommodations exclusive of costs for land, sewer and water facilities and roads. Not less than one-third of this amount shall be spent on developed recreational facilities.
- D. Visitor-oriented accommodations including meeting rooms, restaurants with seating for 100 persons and 150 separate rentable units for overnight lodging shall be provided. Accommodations available for residential use shall not exceed two such units for each unit of overnight lodging.
- E. Commercial uses allowed are limited to types and levels of use necessary to meet the needs of visitors to the development. Industrial uses of any kind are not permitted.
- F. In lieu of the standards in Subsection (a), (c) and (d) of this section, the standards set forth in Subsection (g) of this section apply to a destination resort:
 - 1. On land that is not defined as agricultural or forest land under any state-wide planning goal.
 - 2. On land where there has been an exception to any state-wide planning goal on agricultural lands, public facilities and services and urbanization; or
 - 3. On such secondary lands as the commission deems appropriate.
- G. The following standards apply to the provisions of Subsection (f) of this section:
 - 1. The resort shall be located on a site of 20 acres or more.
 - 2. At least \$1 million plus inflation from 1984 shall be spent on improvements for onsite developed recreational facilities and visitor-

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oriented accommodations exclusive of costs for land, sewer and water facilities and roads. Not less than one-third of this amount shall be spent on developed recreational facilities.

3. At least 25 units, but not more than 75 units, of overnight lodging shall be provided.
4. Restaurant and meeting room with at least one seat for each unit of overnight lodging shall be provided.
5. Residential uses shall be limited to those necessary for the staff and management of the resort.
6. The County governing body or its designate has reviewed the resort proposed under this subsection and has determined that the primary purpose of the resort is to provide lodging and other services oriented to a recreational resource which can only reasonably be enjoyed in a rural area. Such recreational resources include, but are not limited to, a hot spring, a ski slope, or a fishing stream.
7. The resort shall be constructed and located so that it is not designed to attract highway traffic. Resorts shall not use any manner of outdoor advertising signing except:
 - a. Tourist oriented directional signs as provided in ORS 377.715 to 377.830; and
 - b. Onsite identification and directional signs.

Section 6.030. Procedure for Taking Action on a Conditional Use Application

The procedure for taking action on a conditional use application shall be as follows:

1. A property owner may initiate a request for a conditional use by filing an application with the Planning Commission using forms prescribed pursuant to Section 9.040.
2. Before the Planning Commission may act on a conditional use application, it shall hold a public hearing thereon, following procedure as established in Section 9.060.

3. Within five days after a decision has been rendered with reference to a conditional use application, the Planning Commission shall provide the applicant with written notice of the decision of the Commission.

Section 6.040. Time Limit on a Permit for a Conditional Use

Authorization of a conditional use shall be void after one year or such lesser time as the authorization may specify unless substantial construction has taken place. However, the Planning Commission may extend authorization for an additional period not to exceed one year, on request.

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ARTICLE 7. VARIANCES

Sections:

- 7.010. Authorization to Grant or Deny Variances
- 7.020. Circumstances for Granting a Variance
- 7.030. Procedure for Taking Action on a Variance Application
- 7.040. Time Limit on a Permit for a Variance

Section 7.010. Authorization to Grant or Deny Variances

The Planning Commission may authorize variances from the requirements of this Ordinance where it can be shown that owing to special and unusual circumstances related to a specific lot, strict application of the Ordinance would cause an undue or unnecessary hardship. No variance shall be granted to allow the use of property for a purpose not authorized within the zone in which the proposed use could be located. In granting a variance, the Planning Commission may attach conditions which it finds necessary to protect the best interests of the surrounding property or vicinity and otherwise achieve the purpose of this Ordinance.

Section 7.020. Circumstances for Granting a Variance

A variance may be granted only in the event that all of the following circumstances exist:

1. Exceptional or extraordinary circumstances apply to the property, which do not apply generally to other properties in the same zone or vicinity, and result from lot size or shape, topography, or other circumstances over which the owners of the property since enactment of this Ordinance have had no control.
2. The variance is necessary for the preservation of a property right of the applicant substantially the same as owners of the property in the same zone or vicinity possess.
3. The variance would not be materially detrimental to the purpose of the Ordinance, or to property in the same zone or vicinity in which the property is located, or otherwise conflict with the objectives of any County plan or policy.
4. The variance requested is the minimum variance, which would alleviate the hardship.

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Section 7.030. Procedure for Taking Action on a Variance Application

The procedure for taking action on application for a variance shall be as follows:

1. A property owner may initiate a request for a variance by filing an application with the Planning Commission, using forms prescribed in Section 9.040.
2. Before the Planning Commission may act on a variance application, it shall hold a hearing, following procedure as established in Section 9.060.
3. Within five days after a decision has been rendered with reference to a variance application, the Planning Commission shall provide the applicant with written notice of the decision of the Commission.

Section 7.040. Time Limit on a Permit for a Variance

Authorization of a variance shall be void after one year unless substantial construction has taken place. However, the Planning Commission may extend authorization for an additional period not to exceed one year, on request.

ARTICLE 8. AMENDMENTS

Sections:

- 8.010. Authorization to Initiate Amendments
- 8.020. Public Hearings on Amendments
- 8.030. Record of Amendments
- 8.040. Limits on Reapplication

Section 8.010. Authorization to Initiate Amendments

An amendment to the text of this Ordinance or to a zoning map may be initiated by the County Court, the County Planning Commission, or by application of a property owner. The request by a property owner for an amendment shall be accomplished by filing an application with the Planning Commission using forms prescribed pursuant to Section 9.040.

Section 8.020. Public Hearings on Amendments

1. The Planning Commission shall conduct a public hearing on the proposed amendment at its earliest practicable meeting after the amendment is proposed and shall, within 40 days after the hearing, recommend to the County Court approval, disapproval, or modified approval of the proposed amendment. After receiving the recommendation of the Planning Commission, the County Court shall hold a public hearing on the proposed amendment in accordance with ORS 215.060 and 215.223.
2. A proposal to amend the Harney County Comprehensive Plan, Zoning Ordinance or to adopt a new land use regulation must be submitted to the Director of The Department of Land Conservation and Development 45 days prior to the first evidentiary hearing date on the adoption. (ORS 197.610 (1).)
3. The applicant must show that the proposed change conforms to the Harney County Comprehensive Plan.
4. concerning a Comprehensive Plan or land use regulation affecting transportation facilities:
 - A. A plan or land use regulation amendment significantly affects a transportation facility if it:

1. Changes the functional classification of an existing or planned transportation facility;
 2. Changes standards implementing a functional classification system;
 3. Allows types or levels of land use that would result in levels of travel or access that are consistent with the functional classification of a transportation facility; or
 4. Would reduce the level of service or associated volume/capacity ratio of the facility below the minimum acceptable level identified in the Transportation System Plan.
- B. Amendments to the comprehensive plan and land use regulations which significantly affect a transportation facility shall assure that allowed land uses are consistent with the function, capacity and level of service of the facility identified in the Transportation System Plan. This shall be accomplished by one of the following:
1. Limiting allowed land uses to those consistent with the planned function of the transportation facility.
 2. Amending the Transportation System Plan to ensure that existing, improved, or new transportation facilities are adequate to support the proposed land uses consistent with the requirement of the Transportation Planning Rule; or,
 3. Altering land use designations, densities, or design requirements to reduce demand for automobile travel and meet travel needs through other modes.

Section 8.030. Record of Amendments

The County Clerk shall maintain records of amendments to the text of the Ordinance and zoning map.

Section 8.040. Limits on Reapplication

No application of a property owner for an amendment to the text of this Ordinance or to the zoning map shall be considered by the Planning Commission within the one-year period immediately following a previous denial of such request, except the Planning Commission may permit a new application, if in the opinion of the Planning Commission, new evidence or a change in circumstances warrant it.

ORDINANCE HISTORY NOTES: The Public Hearings on Amendments provisions, Section 8.020 subsections 3 and 4 of the Harney County Zoning Ordinance, were added by the Harney County Planning Department as part of the Harney County TSP Implementation program and adopted by Harney County on April 18, 2001. Any changes from this point forward will have the effective date listed after each modified paragraph with subsequent historical notes.

ARTICLE 9. ADMINISTRATIVE RULES

Sections:

- 9.010. Administrative
- 9.020. Building Permits
- 9.030. Appeals
- 9.040. Form of Petition, Application, and Appeals
- 9.050. Filing Fees
- 9.060. Public Hearings
- 9.070. Procedural Rules for Conducting Public Hearings
- 9.080. Authorization for Similar Uses
- 9.090. Site Plan Review
- 9.100. Road Naming and Rural Addressing

Section 9.010. Administrations

The Planning Commission shall have the power and duty to enforce the provisions of this Ordinance.

Section 9.020. Building Permits

1. No person, firm, or corporation shall erect, construct, alter, repair, move, improve, remove, convert, or demolish any building or structure in Harney County, or cause the same to be done, without first obtaining a separate building permit for each such building or structure from the Building Official.
2. No person shall install a manufactured dwelling without obtaining a placement permit prior to the placement of the home on a lot or parcel (modified 11/1/00, Ord. 2000-42).
3. No person, firm or corporation shall connect electrical service to any construction site, or to any structure, manufactured dwelling erected, installed or altered within Harney County for which a building permit or manufactured home placement permit has not been obtained (modified 11/1/00, Ord. 2000-42).
4. Harney County specifically restricts the placement of manufactured dwellings, as defined in Section 1.030137(B), which were not previously placed in the

County AND were not on the County Assessment Rolls since 1999 (added 11/1/00, Ord. 2000-42).

5. Manufactured dwellings, as defined in Section 1.030(137)(B) of this Ordinance, which are currently placed in the County AND on the County Assessment Rolls since 1999 may continue to be used as a residential structure and can be moved within the County and receive building permits (added 11/1/00, Ord. 2000-42).
6. Manufactured dwellings, as defined in Section 1.030(137)(C) of this Ordinance, which are currently placed or new to the County can be issued building permits (added 11/1/00, Ord. 2000-42).
7. Manufactured dwellings will not be issued temporary or permanent storage permits in the County beginning November 1, 2000 (added 11/1/00, Ord. 2000-42).
8. Wells or pumping stations used solely for agricultural purposes or agricultural buildings for which a building permit is not required are exempt from the provisions of this Ordinance.
9. Recreational vehicles, as defined in Section 1.030 (160) of this Ordinance, are not to be used as permanent residential structures in the County unless located in a permitted RV Park or otherwise receives land use approval. In this regard, the following standards apply (added 11/1/00, Ord. 2000-42):
 - A. Recreational vehicles are not to be inhabited for more than a 30-day consecutive period of time.
 - B. Building permits will not be issued on recreational vehicles (i.e. electrical, manufactured home placement, mechanical, plumbing or structural permits).
 - C. Recreational vehicles are not to be connected permanently to any sort of septic system.

Section 9.030. Appeals

1. An appeal from a ruling of the Planning Commission regarding a requirement of the Ordinance may be made only to the County Court
2. An action or ruling of the Planning Commission pursuant to this Ordinance may be appealed to the County Court within 15 days after the Planning Commission has rendered its decision. Written notice of the appeal shall be filed with the Planning Commission. If the appeal is not filed within the 15-day

period, the decision of the Planning Commission shall be final. If the appeal is filed, the County Court shall receive a report and recommendation from the Planning Commission and shall hold a public hearing on the appeal.

3. An action or ruling of the County Court pursuant to this Ordinance may be appealed to the Land Use Board of Appeals, by filing a "Notice of Intent to Appeal" within 21 days of the date of the final decision. (ORS 197.625. (1).)
4. An appeal may be filed only by a person/s who participated either orally or in writing, who filed a "Notice of Intent to Appeal" and is aggrieved or has interests adversely affected by the decision.
5. An appeal on a Quasi-Judicial decision may be filed if the person/s filed a "Notice of Intent to Appeal", appeared before the local government, special district, or state agency orally or in writing and was entitled to a notice and hearing prior to the decision being reviewed or is aggrieved or has interests adversely affected by the final decision. (ORS 197.830.
6. A decision to not adopt a legislative amendment or a new land use regulation cannot be appealed. (ORS 197.620)

Section 9.040. Form of Petition, Application, and Appeals

Petitions, applications, and appeals provided for in this Ordinance shall be made on forms prescribed by the County. Applications shall be accompanied by plans, and specifications, drawn to scale, showing the actual shape and dimensions of the lot to be built upon; the sizes and locations on the lot of all existing and proposed structures; the intended use of each structure; the number of families, if any, to be accommodated there-on; the relationship of the property to the surrounding area; and such other information as is needed to determine conformance of this Ordinance.

Energy Facilities. For proposed facilities under Oregon Energy Facility Siting Council (EFSC) jurisdiction, an abbreviated summary of the EFSC application is required. For facilities not under EFSC jurisdiction, an application containing information on each subject called for in EFSC applications is required.

Section 9.050. Filing Fee

(Modified 11/1/00 through Ord. 2000-43 replacing the previous text entirely.)

1. Fee Schedule The following fees shall be paid to the Harney County Planning Department upon filing of a land use permit application or when purchasing other products related to the Planning Department. Advertising, notification fees and other related costs shall be paid prior to the final decision date. Such fees shall not be refundable.

Item	Cost
Comprehensive Plan Amendment	\$200.00
Conditional Use Permit	\$125.00
Farm Dwelling and other Permitted Uses requiring Administrative Review	-
Property Line Adjustment	\$50.00
Partition (Dividing a property into 3 parcels or less)	\$175.00
Site Plan Review – required for all applications	\$35.00
Subdivision (Dividing a property into 4 or more lots)	\$200.00 + \$10 per lot
Variance	\$125.00
Zone Change (Rezone) (Map/Text, Requires Zone Change Petition)	\$200.00
Appeals to Planning Commission or County Court Decision	\$250.00
Copy of Comprehensive Plan	\$35.00
Copy of Zoning Ordinance/Subdivision and Partition Ordinance	\$25.00
Tape Recordings of Meeting (per tape)	\$8.00

2. Wind Energy Facility Fees. Applications submitted for Wind Energy facility development require significantly more resources of the County to process and therefore adhere to the following special provisions:
 - a. A filing fee of \$1000.00 shall accompany an application for a Wind Energy Facility.
 - b. At the time of filing an application for a Wind Energy Facility, the Planning Director shall require the applicant to sign a memorandum of agreement to pay the County any costs associated with the application that are not covered by the initial filing fee. Funds obtained

through the memorandum of agreement shall provide a means for the County to recover the cost of contracted services, legal counsel, travel, or material costs.

- c. The memorandum of agreement shall be furnished by the Planning Department
- d. If an applicant refuses to enter into a memorandum of agreement or there is failure to negotiate an acceptable cost recovery fee, the applicant may appeal the Planning Director's decision to the Harney County Court for resolution. If the applicant and the County fail to reach an agreement, the application will not be processed.

3. Additional Costs. All applications have additional costs of notices in the local newspaper, notices to adjacent property owners and maps associated with the application (i.e. adjacent property owners, soils, floodplain, etc.).

- A. Notices in newspaper. The actual cost of publication will be conveyed to the applicant. The publication cost shall be paid before a final decision is issued.
- B. Notices to Adjacent Property Owners. Notices of the application are sent to adjacent property owners as well as the Findings and Decision document. The applicant is billed \$2.00 per adjacent property owner receiving these two mailings.
- C. Maps associated with the application. Each application will have an assortment of maps to show various features of the property. Each map will cost \$8.00 (not all of the maps listed below may be generated for every application):
 - a. Adjacent Property Owners: This map will show the adjacent property owners and who is required to receive a notice with associated names and addresses.
 - b. Soils Map: This map will show the various soils that make up the parcel in question. The determination of soils types and compatibility details such as whether or not the parcel consists of high-value farmland.
 - c. Floodplain Map: This map will show the various floodplain designations set by the Federal Emergency Management Agency (FEMA) and whether or not additional permits will be needed when building occurs. This map will only be completed if the property is located, wholly or in part, within a Special Flood Hazard flood zone (i.e. Zone A).

- d. National Wetlands Inventory Map: This map will show the property as it relates to the National Wetlands Inventory or if hydric soils are present on the property. This map will only be completed if the property is located, wholly or in part, within a National Wetland Inventory area or have hydric soils present.

4. Fee Waivers. In some cases the fees for land use permit applications may be waived. These situations are only to be authorized by the Harney County Court on a case-by-case basis. It is recognized that there are other fees to be paid in the course of development (i.e. sanitary sewage disposal fees, building permit fees, etc.) and that relief from land use permit application fees may only help the applicant slightly. Waivers are to be granted on a very limited basis and are the exception not the rule. The criteria to be used during the deliberation of these waivers are:

- A. Hardship: The financial situation of the applicant has much to do on whether or not the land use permit application fee(s) should be waived. If it can be shown that the payment of the required fee(s) would be so burdensome that the applicant would not be able to move forward with the desired permit the Harney County Court may find to waive such fee.
- B. Scope of development. It will hold more weight if the development sought for through the land use permit application is for a private landowner to site a single-family residence than for a commercial oriented development to seek such a fee waiver.
- C. Frequency.
 - a. It is only possible to ask for and receive one land use permit application fee waiver per landowner.
 - b. If it becomes a situation where there are an abnormal number of individuals asking for land use permit application fee waivers the Harney County Court will look into the economic feasibility of such fees.

5. Rural Addressing Fees. The fees associated with Rural Addressing will be for the installation and materials of Road Guide Signs and the installation and materials for Number Stakes along with the upkeep of databases and mapping: (added 8/21/02, Ord. 2002-54)

<u>Item</u>	<u>Cost</u>
Road Guide Sign (Application Fee): Includes processing and noticing.	\$25.00
Road Guide Sign: Initial, Replacement * and Additional (Supplemental Fee, charged after adoption by County Court, intersecting County or private roads): Includes updating databases, purchase of a road guide sign and installation.	No Charge
Road Guide Signs: Initial, Replacement * and Additional Signs (Supplemental fee, charged after adoption by County Court, intersecting State Highway): When a County or private road intersects a State Highway the sign must comply with State Highway Sign Standards making it a larger and more expensive sign.	No Charge
Number Stake: Initial and Replacement stakes (Application Fee): Includes Processing, Number Stake and Installation.	\$50.00/ea
Number Stake: Initial and Replacement stake where the property owner will install the number stake. *	\$15.00/ea
* Property owners that install their own number stake(s) can use the County's number stake driver to install the stake in the ground. The property owner can use the driver once a deposit is secured to ensure the County has the driver returned. The property owner has 7 calendar days to use the driver and return it to the County or the deposit becomes the County's. When the driver is returned to the County the deposit will be returned to the property owner.	\$200

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Section 9.060. Public Hearings

One or more public hearings must be held on any zoning ordinance enacted by the County Governing body or Planning Commission.

1. Conditional Use or Variance. Each notice of hearing authorized by this Ordinance shall be published in a newspaper of general circulation in the County no more than 20 days and no fewer 10 days prior to the date of the hearing.
2. Amendments to the Ordinance, Zoning Map, or Comprehensive Plan Map. Two notices of hearing authorized by this Ordinance shall be published in a newspaper of general circulation in the County; the first notice being published at least 20 days prior to a hearing date and the second no less than 10 days prior to the hearing date.
3. In addition, a notice of hearing on a conditional use, variance or an amendment to the Zoning Map shall be mailed to all owners of property within 100 feet of the property if the property is located wholly or in part within an urban growth boundary, 250 feet of the property if the property is located outside of an urban growth boundary and is not within a farm or forest zone, or 500 feet of the property within a farm or forest zone for which the variance, conditional use, or zoning map amendment has been requested. The notice of hearing shall be mailed at least 20 days prior to the evidentiary hearing or 10 days prior to the hearing if two or more evidentiary hearings are allowed.
4. Notice of a public hearing on an application shall be provided to the owner of an airport defined by the Department of Transportation as a "public use airport" if the property is within 5,000 feet of the side or end of a runway of an airport determined by the Department of Transportation to be a visual airport or within 10,000 feet of the side or end of an airport determined by the Department of Transportation to be an "instrument airport".
5. Failure of a person to receive the notice prescribed on this section shall not impair the validity of the hearing.
6. At the beginning of a hearing a statement describing the applicable substantive criteria shall be made. Testimony and evidence must be directed toward the criteria and failure to address a criterion precludes appeal based on that criterion. ORS 215.416 (5).
7. The Planning Commission and the County Court may recess a hearing in order to obtain additional information or to serve further notice upon other

property owners or persons it decides may be interested in the proposal being considered. Upon recessing, the time and date when the hearing is to be resumed shall be announced.

8. Final action on an application for a permit or zone change for land within an urban growth boundary, including resolution of all appeals under ORS 215.422, shall be taken within 150 days after the application is deemed complete. (ORS 215.427.)
9. Final action on an application for a permit or zone change for land outside of an urban growth boundary, including resolution of all appeals under ORS 215.422, shall be taken within 150 days after the application is deemed complete. (ORS 215.427.)
10. The applicant shall be notified within 30 days of receipt of application of any omission of information. If the applicant refuses to submit the missing information, the application shall be deemed complete on the 31st day after receipt of application. (ORS 215.427)
11. At the request of the applicant, the 150-day period may be extended for a specified period of time at the written request of the applicant. The total of all extensions may not exceed 215 days. (ORS 215.427(5).)
12. If final action is not taken within 150 days after the application is deemed complete, the applicant may apply in Circuit Court for a "Writ of Mandamus" under ORS 34.130 to get an issuance of approval. (ORS 215.429.)
13. The 120/150-day period does not apply to an amendment of an acknowledged comprehensive plan or land use regulation or adoption of a new land use regulation that requires the "Post Acknowledgement Procedure". (ORS 215.427 (7).)
14. A decision of the Planning Commission or County Court under ORS 215.431 shall comply with the "Post Acknowledgement Procedures" set forth in ORS 197.610 to 197.625. This does not apply to any plan amendment which an exception is required by ORS 197.732 or land designated under a state-wide Planning goal addressing agriculture or forest lands.

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Section 9.070. Procedural Rules for Conducting Public Hearings

Procedure for all matters considered shall be as follows, unless otherwise directed by the Planning Commission or County Court.

1. Opening of Hearing. The presiding officer shall commence the hearing by announcing the nature and purpose of the hearing and summarizing the rules for the conduct of the hearing.
2. Disclosure of Prehearing Ex Parte Contacts.
 - A. Policy for Disclosure Rule. To assure fair and impartial recommendations and determinations and to assure advocates the opportunity to respond or refute information which the Planning Commission or County Court members have available to them, it is mandatory that full disclosures of prehearing (ex parte) consideration of all public hearing land use agenda items be made at the time of the public hearing.

Planning Commission or County Court members should avoid prehearing contacts so that their recommendations and determinations can be made based solely on the evidence presented at the time of public hearing.

- B. Disclosure of Contacts by Planning Commission or County Court with Public and Staff. Any discussion, except at a public hearing of the Planning Commission or County Court, between any voting member and an applicant or his representative, or any other person with a direct interest, concerning a specific case while such matter is scheduled or likely to come before the Planning Commission or County Court shall be made known, and the substance thereof related by such member, at the beginning of the public hearing before the Planning Commission or County Court on such case, all of which shall be entered into the record.

This disclosure rule applies to contacts with staff members as well as members of the public and is to be interpreted to provide full disclosure of prehearing consideration and post hearing predetermination discussion of public hearing agenda items.

- C. Disclosure of Visual Inspections of Property (Views). The Planning Commission or County Court members may visually inspect properties and the general vicinity of properties involved in a land use hearing. Any member of the Planning Commission or County Court who has taken a viewed of the property must disclose that they have done so at the hearing, report any observations which were made that are material to the Planning Commission or County Court's deliberations. The Planning Commission or County Court shall then allow for public testimony regarding the view.

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3. Disqualification of Members. Except for legislative hearings conducted by the Planning Commission or County Court, a member of a hearing body shall not participate in a discussion of the proposal or vote on the proposal when any of the following conditions exist:
 - A. Any of the following have a direct or substantial financial interest in the proposal: the hearing body member or the member's spouse, brother, sister, child, parent, father-in-law, mother-in-law, any business in which the member is then serving or has served within the previous two years, or any business with which the member is negotiating for or has an arrangement or understanding concerning prospective partnership or employment.
 - B. The member owns property within the area entitled to receive notice of the public hearing.
 - C. The member has a direct private interest in the proposal.
 - D. For any other valid reason, the member has determined that participation in the hearing and decision cannot be in an impartial manner.
4. Challenges for Bias, Prejudgment or Personal Interest.
 - A Any proponent or opponent of a proposal to be heard by the Planning Commission or County Court may challenge the qualification of any Planning Commission or County Court member to participate in such a hearing and decision.
 - B Such written challenge must be delivered by personal service to the Director of the Planning Department or Chairman of the County Court and the member whose qualification is challenged not less than 48 hours preceding the time set for public hearing.
 - C Such challenge must state facts in writing, by affidavit, relied upon by the submitting party relating to a member/s bias, prejudgment, personal interest, or other facts, which leads a party to believe that the member will not participate and make a decision in an impartial manner.
 - D Such challenge shall be incorporated into the record of the hearing.
 - E Any member whose participation has been challenged by an allegation of bias, prejudgment, personal interest or partiality or who has been subject to significant ex parte or prehearing contact from proponents or opponents may make a statement in response thereto or in explanation thereof, for the record, and his decision to abstain or not. This statement

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shall not be subject to cross-examination, except upon consent of that member, but shall be subject to rebuttal by any person.

Section 9.080. Authorization of Similar Uses

The Planning Commission may permit in a particular zone a use not listed in this Ordinance, provided the use is of the same general type as the uses permitted there by this Ordinance. However, this section does not authorize inclusion in a zone of a use not specifically listed as a use in another zone, or a use which is of the same general type and similar to the use specifically listed in another zone.

Section 9.090 Site Plan Review

1. The proposed use shall not impose an undue burden on the public transportation system. For developments that are likely to generate more than 400 average daily motor vehicle trips (ADT's), the applicant shall provide adequate information, such as a traffic impact study or traffic counts, to demonstrate the level of impact to the surrounding road system. The developer shall be required to mitigate impacts attributable to the project.
2. The determination of impact or effect and the scope of the impact study should be coordinated with the provider of the affected transportation facility.
3. Dedication of land for streets, transit facilities, sidewalks, bikeways, paths, or access ways shall be required where the existing transportation system will be impacted by or is inadequate to handle the additional burden caused by the proposed use.
4. Improvements such as paving, curbing, installation or contribution to traffic signals, construction of sidewalks, bikeways, accessways, paths, or streets that serve the proposed use where the existing transportation system may be burdened by the proposed use are required.

Section 9.100 Road Naming and Rural Addressing**Sub-Sections:**

- 1 Authority
- 2 Purpose
- 3 Road Naming and Renaming
- 4 Rural Addressing

The intent of these provisions is to provide clear directions and guidelines when naming a road or providing rural addresses to new residences.

1. **AUTHORITY:** The following legislative procedural requirements relating to the naming and renaming of roads and the numbering of properties within the unincorporated portion of Harney County are hereby adopted pursuant to the authority granted Harney County by ORS 215.110.

2. **PURPOSE:** The procedures set forth herein are for the purpose of establishing and maintaining a uniform rural addressing policy in Harney County for the naming and renaming of roads and the assignment of rural addresses. It is intended that this policy will clarify and set the requirements and responsibilities of individuals, public bodies and departments involved in the naming and renaming of roads and the assignment of rural addresses. In addition, it provides the public with an outline of the required process for road naming and renaming and the assignment of rural addresses.

3. **ROAD NAMING AND RENAMING**

A. **Required Review and Action for Road Naming:** The County Court shall review and take appropriate action on all road naming and renaming when:

1. Any existing public or County road is named or renamed;
2. Any public or County road is established, except when new public or County roads will have names established within the provisions of the Harney County Zoning, Partition and Subdivision Ordinance or in the provisions for establishing a public way as provided by ORS Chapter 368;
or

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3. Any private road that provides access to three or more buildings and requires a name in order to promote the health, safety and welfare of the public.

B. Application

1. An application to name or rename a road shall be submitted to the Harney County Court and shall include at a minimum the following:
 - a. Name of applicant;
 - b. Location of roadway by description and/or map;
 - c. Legal status i.e., ownership of road, if known (attach map showing area);
 - d. Existing road name, if known;
 - e. Proposed road name;
 - f. Reasons for request;
 - g. Petition (attach, if any); and,
 - h. Fee – See Section 3(C) below
2. The application may be submitted by any of the following applicants:
 - a. The property owner(s) or person(s) living along the road;
 - b. Any public or semi-public agency whose function is affected by road names; or
 - c. Harney County:
 - i. County Court;
 - ii. Clerk's Office;
 - iii. Planning Department;
 - iv. Road Department;
 - v. Assessor or Tax Collector;
 - vi. Sheriff

3. The proposed road name must comply with the following standards:

- a. Name limited to a maximum of fifteen (15) letters and three (3) words, excluding the suffix directional indicator, i.e., Road, Lane, Loop or Drive.
- b. No duplication with other existing road names;
- c. No similar sounding or confusing names;
- d. The designation of roads shall generally conform to the following:
 - i. Roads running predominantly north-south shall be known as a "Road";
 - ii. Roads running predominantly east-west shall be known as a "Lane";
 - iii. Roads dead-ending 1000 feet or less from their beginning points shall be known as a "Drive";
 - iv. Roads whose beginning and ending points intersect on a common road shall be known as a "Loop";
 - v. Where road name changes are proposed, every effort will be made to maintain historical road names.

C. Fee

1. An application fee will be charged for new and changed road names based on current sign construction and installation costs and the number of new signboards required (Section 9.050(4)).
2. The foregoing application and supplemental fees shall not be applicable to an application made by Harney County or any of its departments.

D. Processing Road Name Applications: The Harney County Planning Department shall have the responsibility for processing and maintaining applications for road naming and renaming and shall perform such function in the following manner:

1. Verify legal status, i.e., ownership and maintenance of road;

2. Check proposed road name(s) for duplication or similarity with other existing road names;
3. Perform a field check, when necessary;
4. Assist applicant or other affected person(s) to find alternate names when required;
5. Notify appropriate departments and agencies if the road, i.e., name change or new name, affects them.
 - a. Road Department;
 - b. Assessor's Office and Tax Office;
 - c. Post Office;
 - d. Planning Department;
 - E. County Clerk's Office;
 - e. Utility Companies;
 - i. Telephone company;
 - ii. Local Electric Company;
 - iii. Gas Company;
 - iv. Sewer and water districts or similar companies; and,
 - v. Cable companies.
 - g. Affected fire district(s);
 - h. Local school district(s);
 - I. County Surveyor;
 - j. Emergency Services; and,
 - k. Adjacent urban jurisdictions.

E. Completion: The original documentation shall be recorded in the office of the County Clerk with a copy of the original to be kept in the office of the Planning Department. County maps and files shall be updated as appropriate.

F. Installation and Maintenance of Road Guide Signs (added 8/21/02 via Ord. 2002-53)

1. The signboards shall be ordered by the Harney County Planning Department; all other materials necessary for the installation of the sign (i.e. sign posts, hardware, etc.) shall be handled by the Harney County Planning Department.
2. The Harney County Planning Department shall be responsible for installing the road guide signs within a reasonable period of time after the County Court has approved of the road name and all other procedures have occurred.
3. Road Guide Signs shall be maintained by Harney County with these timeframes:
 - a. Road Guide Signs on County Roads shall be replaced when damage occurs within a short timeframe once all materials are obtained (i.e. new road guide signs are obtained).
 - b. Road Guide Signs on Private Roads shall be replaced when damage occurs once a year unless otherwise deemed to be replaced more quickly.

4. RURAL ADDRESS NUMBERS

A. Purpose: The purpose of this subsection is to provide a uniform property numbering system, which allows adequate space between numbers for development and also provides a simple and logical method for expedient response in locating all buildings (defined in (C) below) within the County's road network.

B. Exceptions: Rural addresses shall primarily encompass areas outside city limits or urban growth areas. Rural addresses may also be applied to areas of conflict such as an urban growth boundary dividing a road.

C. Definitions: The following definitions shall apply to the provisions of this ordinance:

BUILDING: A structure designed for human occupancy, such as a residence or place of business, or other structures as determined by the Planning Department.

DRIVEWAY: A private way that provides vehicular access to less than three buildings.

D. Address Assignment Program: Rural address numbers shall be assigned based on a five-digit number derived from the Oregon State Coordinate System with appropriate alterations to meet local needs for a uniform number system.

E. Address Assignment: The Harney County Planning Department shall have responsibility for processing rural address applications for new or replacement buildings.

F. Rural Address Application

1. An application for a rural address shall be submitted to the Harney County Planning Department and shall include the following:
 - a. Name of applicant;
 - b. Location of property for which an address is to be assigned;
 - c. Name of the road or roads abutting the property for which an address is to be assigned;
 - d. Location of access point from adjacent property or roads abutting the property; and,
 - e. Site plan location of the structure proposed for addressing.
2. The application may be submitted by any of the following applicants:
 - a. The property owner(s) or persons occupying the property;
 - b. Any public or semi-public agency whose function is affected by rural addresses; or,
 - c. Harney County departments:
 - i. County Court;
 - ii. Planning Commission;

- iii. Planning Department;
- iv. Road Department;
- v. Assessor or Tax Collector;
- vi. Sheriff; and,
- vii. Surveyor.

G. Assignment Process: The Harney County Planning Department shall perform the following functions:

1. Verify property location and appropriate access road.
2. Assign an address number which conforms to the established numbering system recognizing the following:
 - i. Buildings accessed from roads predominantly extending north-south will have a modified five-digit number derived from the north-south axis, or x-axis, of the State Plane Coordinate System. Addresses for buildings west of a road shall end in an even number and addresses for buildings east of a road shall end in an odd number.
 - ii. Buildings accessed from lanes predominantly extending east-west will have a modified five digit number derived from the east-west axis, or y-axis of the State Coordinate System.
 - iii. Addresses for buildings essentially south of a lane shall end in an even number and addresses for buildings north of a lane shall end in an odd number.
 - iv. Address numbers are derived from a combination of Assessor maps and the United States Geological Survey Maps.
3. Notify the applicant of the assigned address.

H. Fees

1. A fee will be charged for new and changed rural addresses based on current number stake construction and installation costs and the number of new number stakes required (Section 9.050(4)).

2. The property owner may exercise the option of installing the number stake at which point the fee will coincide with the fee schedule found in Section 9.050(4).
 3. The foregoing application fees shall not be applicable to an application made by Harney County or any of its departments.
- I. Installation and Maintenance (added 8/21/02 via Ord. 2002-53)
1. The number stakes shall be ordered and prepared by the Harney County Planning Department; all other materials necessary for the installation of the number stakes (i.e. stake driver, etc.) shall also be the responsibility of the Harney County Planning Department.
 2. The Harney County Planning Department shall be responsible for installing the number stakes within a reasonable period of time after the assignment of the rural address has been approved and all other procedures have occurred (i.e. within 2-4 weeks).
 3. The property owner may install the number stake. A deposit will be held for the use of the number stake driver and the deposit becomes the County's if the driver is not returned to the Harney County Planning Department within 7 calendar days.
 4. Number Stakes shall be maintained by the Harney County Planning Department. Replacement of number stakes shall occur when requested by the property owner with installation occurring within a reasonable period of time by the Harney County Planning Department (i.e. 2-4 weeks).

ORDINANCE HISTORY NOTES: The Site Plan Review provisions, Section 9.090 of the Harney County Zoning Ordinance, were developed by the Harney County Planning Department as part of the Harney County TSP Implementation program and adopted by Harney County Ordinance 2001-47 on April 18, 2001. The Road Naming and Rural Addressing provisions, Section 9.100 of the Harney County Zoning Ordinance, were previously known as Ordinance 25 adopted by the Harney County Court on August 17, 1994. There were modifications made and the ordinance was incorporated into the Harney County Zoning Ordinance via Ordinance 2002-53 on August 21, 2002. Any changes from this point forward will have the effective date listed after each modified paragraph with subsequent historical notes.

ARTICLE 10 GENERAL PROVISIONS

Sections:

- 10.010. Interpretation
- 10.020. Severability
- 10.030. Abatement and Penalty
- 10.040. Validity of Ordinances and Development Patterns

Section 10.010. Interpretation

Where the conditions imposed by a provision of this Ordinance are less restrictive than comparable conditions imposed by any other provisions of this Ordinance or any other Ordinance, the provisions which are more restrictive shall govern.

Section 10.020. Severability

The provisions of this Ordinance are severable. If any section, sentence, clause or phrase of this Ordinance is adjudged by a Court of competent jurisdiction to be invalid, the decision shall not affect the validity of the remaining portions of this Ordinance.

Section 10.030. Abatement and Penalty

A person violating a provision of the Ordinance shall be subject to the provisions of ORS 215.185; and 215.190.

Section 10.040. Validity of Ordinances and Development Patterns

All Development patterns made and adopted prior to September 1963 shall be deemed to meet the requirements of ORS 215.010, 215.030, 215.050, 215.060, 215.110, 215.213, 215.223 and 215.233. Nothing in the above references shall impair the validity of ordinances adopted prior to September 2, 1963. (ORS 215.233)

Exhibit "B"

Harney County Recording No.

20090150



Harney County Subdivision and Partitioning Ordinance

Harney County Courthouse
450 N. Buena Vista • Burns OR 97720
Phone 541-573-6655 • Fax 541-573-2762

REVISED: January 2009

Harney County

SUBDIVISION AND PARTITIONING ORDINANCE

AN ORDINANCE PRESCRIBING REGULATIONS GOVERNING THE SUBDIVISIONS OF LAND, FOR THE PREPARATIONS, PROCEDURES AND APPROVAL OF SUBDIVISION PLATS AND IMPROVEMENTS, AND PROVIDING PENALTIES FOR THE VIOLATION THEREOF, IN THE UNINCORPORATED AREAS OF HARNEY COUNTY, OREGON.

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ARTICLE 1. PURPOSES, ADMINISTRATION, PROVISIONS AND DEFINITIONS

Sections:

- 101. Adoption
- 102. Purpose and Objectives
- 103. Short Title
- 104. Application -Authority for Local Regulation
- 105. Advisory Role of County Planning Commission
- 106. Relationship to Comprehensive Plan and Zoning Ordinance
- 107. Relationship to Comprehensive Plan
- 108. Relationship to Zoning Ordinance
- 109. Construction and Definitions

Section 101. Adoption

There is hereby adopted, as provided herein, a subdivision ordinance for the County of Harney, State of Oregon.

Section 102. Purpose and Objectives

The subdivision ordinance is adopted to preserve, protect and promote the public health, safety, convenience, prosperity and general welfare. More specifically the subdivision ordinance is adopted in order to achieve the following objectives:

- A. To aid in the implementation of the Comprehensive Plan of the County of Harney, and elements thereof, as adopted by the County Court;
- B. To provide lots of sufficient size and appropriate design for the purposes for which they are to be used, in accordance with the Harney County Comprehensive Plan;
- C. To assist in the implementation of the Oregon Statewide Land Use Goals and Guidelines;

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- D. To implement the intent and purpose of the Land Use Zones throughout the county as they apply to particular properties;
- E. To provide streets of adequate capacity for the anticipated traffic, which would utilize them, and to assure that they are designed to promote a safe vehicular and pedestrian traffic circulation system;
- F. To accommodate new development in a manner which will preserve and enhance the County's living environment and create new beauty through skilled subdivision design;
- G. To provide for water supply, sewage disposal, storm drainage and other utilities and facilities which may be required by conditions of an urban rural environment;
- H. To protect and enhance real property values;
- I. To coordinate subdivision policies and regulations of the County with those of cities within the County in order to facilitate the transition from county to municipal jurisdiction of that land which is developed first in unincorporated territory and is annexed subsequently to city; and, to assure unimpeded development of such new urban expansion that is logical, desirable and in accordance with the goals, objectives and policies of the County's Comprehensive Plan, and the Urban Growth Management Agreement as adopted by the County and Cities;
- J. To protect and conserve renewable energy resources, and to allow for their continued availability and utilization;

Section 103. Short Title

This ordinance shall be known as the "Subdivision Ordinance."

Section 104. Application - Authority for Local Regulation

Pursuant to the provisions of Chapter 92 of the Oregon Revised Statutes, referred to herein as the Plats and Subdivision Act, and in addition to any other regulations provided by law, the regulations hereinafter in this ordinance contained shall apply to all subdivisions or parts of subdivisions whether presently existing or hereafter made, entirely or partially, within the unincorporated limits of Harney County.

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Section 105. Advisory Role of the County Planning Commission

The Planning Commission of the County of Harney, State of Oregon, is hereby charged with the duty of making investigations and reports on the design and improvement of proposed subdivisions. The Commission shall have such additional powers and duties with respect to subdivisions, the maps thereof and the procedure relating thereof as are prescribed by the Plats and Subdivision Act and by this ordinance.

Section 106. Relationship to Comprehensive Plan and Zoning Ordinance

The subdivision plat shall conform to the policies of the Comprehensive Plan and implementing zoning ordinances as adopted by the County Court, with respect to the type and density of land use, population densities and distribution, locations and sizes of public areas, and rights-of-way and improvement of streets.

Section 107. Relationship to Comprehensive Plan

The alignments of streets or highways within a subdivision plat shall conform generally with the alignments of streets or highways shown on the Comprehensive Plan or an element thereof.

Section 108. Relationship to Zoning Ordinance

A subdivision plat shall conform in all respects with applicable regulations of the zoning ordinance.

Section 109. Construction and Definitions**A. CONSTRUCTION**

1. TENSE: Words used in the present tense include the future tense.
2. NUMBER: Words used in the singular include the plural, and words used in the plural include the singular.
3. SHALL AND MAY: The word "shall" is mandatory. The word "may" is permissive.
4. GENDER: The masculine shall include the feminine and neuter.
5. HEADINGS: In the event there is any conflict or inconsistency between the heading of an article, section or paragraph of this ordinance and the context thereof, the said heading shall not be deemed to affect the scope, meaning or intent of such context.

B. GENERAL TERMINOLOGY

1. The word "County" shall mean the County of Harney, Oregon.
2. The words "County Court" shall mean the County Board of Commissioners of the County of Harney.
3. The words "Planning Commission" and "Commission" shall mean the Planning Commission duly appointed by the County Court.
4. The words "Planning Director", "Roadmaster", "Engineer and/or Surveyor", "County Surveyor", and "Assessor" shall mean the Planning Director, County Roadmaster, County Surveyor, and Assessor of the County of Harney.

C. LOTS CREATED FOR THE PURPOSE OF FINANCING

The lot size minimums established by the Zoning Ordinance shall not apply to lots created solely for the purpose of financing the sale of a lot. Such lots shall be required to be partitioned in the manner provided in any Ordinance adopted by Harney County controlling subdivision and partitioning adopted pursuant to ORS 92.044 and 92.046. Lots created for the purpose of financing shall carry the following conditions:

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1. That the lots shall not be sold separately.
2. That only one single permitted use will be allowed on the lots created, considered in their aggregate.
3. That the smallest of the lots created shall not be less than one acre.
4. That the County Assessor on completion of the financing arrangements will recombine the lots.

D. DEFINITIONS

For the purpose of this ordinance, certain words and terms used herein are defined as follows:

1. ALLEY: A public way, 20 feet in width, permanently dedicated or reserved as a secondary means of access to abutting property.
2. BLOCK: A contiguous series of lots bounded on all sides by streets, railroad right-of-way, land that is not subdivided, or a watercourse.
3. BUILDING LINE: A dashed line on a plat restricting the location of buildings or structures, or that distance as prescribed by the zoning ordinance, when applicable.
4. COMPREHENSIVE PLAN: A plan adopted by the Planning Commission and County Court and acknowledged by the State of Oregon Land Conservation and Development Commission, which provides objectives and policy guidelines for the growth and development of the County, including amendments thereto.
5. FIRE-BREAK: A break in the ground cover fuels as specified by the fire protection agency involved.
6. LOT: A single parcel of land for which a legal description is filed on record or the boundaries of which are shown on a subdivision plat filed in the office of the County Clerk. The term "lot" shall include a part of a single parcel of land when such part is used as though a separate lot for all purposes and under all requirements of this ordinance: Except for the parcel of land on which condominium structures are placed. The term "lot" does not include a condominium as used under ORS 91.505 through 91.675 "Unit Ownership Law".
7. LOT AREA: The total horizontal net area within the lot lines of a lot.

8. LOT, CORNER: A lot situated at the intersection of two (2) or more streets, which have an angle of intersection of not more than 135 degrees.
9. LOT DEPTH: The depth of a lot shall be the horizontal length of a straight line connecting the bisecting points of the front and rear lot lines.
10. LOT, DOUBLE FRONTAGE: An interior lot having frontage on and with access on two (2) parallel or approximately parallel streets.
11. LOT, INTERIOR: A lot other than a corner lot or reserve corner lot.
12. LOT, KEY: The first lot to the rear of a reversed corner lot whether or not separated by an alley.
13. LOT LINE, FRONT: In the case of an interior lot, a line separating the lot from the street. In the case of a corner lot, the line separating the narrowest street frontage of the lot line from the street.
14. LOT LINE, REAR: A lot line which is opposite and most distant from the front lot line
15. LOT LINE, SIDE: Any lot boundary line that is not a front lot line or a rear lot line.
16. LOT, REVERSED CORNER: A corner lot, which rears upon the side yard of another lot.
17. LOT WIDTH: The average horizontal distance between the side lot lines, measured at right angles to the lot depth at a point midway between the front and rear lot lines.
18. MAJOR PARTITION: A partition, which includes the creation of a road or street.
19. MINOR PARTITION: A partition that is subject to approval by a city or county under a regulation or ordinance adopted pursuant to ORS 92.046 and that does not include the creation of a road or street.
20. PARTITION: Either an act of partitioning land or an area or tract of land partitioned as defined in ORS 92.010.
21. PARTITION LAND: To divide an area or tract of land into two or three parcels, within a calendar year, when such area or tract of land exists as a unit or contiguous units of land under single ownership at the beginning of such year. "Partition land" does not include divisions of land resulting from lien foreclosures, divisions of land resulting from foreclosures of

recorded contracts for the sale of real property and divisions of land resulting from the creation of cemetery lots; and "partition land" does not include any common boundary where an additional parcel is not created and where the existing parcel reduced in size by the adjustment is not reduced below the minimum lot size established by any applicable zoning ordinance. "Partition land" does not include the sale of a lot in a recorded subdivision, even if a single owner acquired the lot prior to the sale with other contiguous lots or property.

22. PLAT: A final map, diagram, drawing or replat containing all descriptions, locations, specifications, dedications, provisions and information concerning a subdivision as specified by this ordinance.
23. RENEWABLE ENERGY RESOURCES: Biomass, geothermal, wind, solar, and hydro resources.
24. RESERVE STRIP: A strip of property, contiguous to a public way, which is offered to the County for street purposes but where the offer is not accepted by the County until additional adjacent right-of-way is acquired by the County. In addition, the access rights are abandoned until such time as the County acquires the additional adjacent right-of-way.
25. RIGHT-OF-WAY: The area between the boundary lines of an alley, easement, street or highway.
26. ROADWAY: The portion or portions of the right-of-way of a street or highway developed for vehicular traffic.
27. SERIES PARTITIONED LANDS AND SERIES PARTITION: A series of partitions of land resulting in the creation of four or more parcels over a period of more than one calendar year. Partitions can be composed of a series of minor partitions, a series of major partitions or a series combining both major and minor partitions.
28. SERIES PARTITIONER: Any person who causes land to be partitioned into a series partition, or who develops a series partition, but does not include a public agency or officer authorized by law to make partitions.
29. STANDARD SPECIFICATIONS: Specifications of the County established by recommendation of the Planning Commission and adopted by resolution of the County Court pertaining to the design and installation of subdivision improvements. Copies are on file in the offices of the Planning Director and County Road Department and to which reference is made and which contain the minimum requirements for the design and construction of improvements covered by this ordinance.

30. STREET: The entire area between the right-of-way lines of any public way other than an alley used or intended to be used for vehicular traffic, including public ways designated as roads, highways, lanes, places, circles, avenues or by other similar designations.
- a. Arterial - A street designated as an arterial which is used or is intended to be used as part of the principal network of through traffic within the county.
 - b. Collector Street or County Feeder Road - A street designated as a Collector Street or County Feeder Road on the Comprehensive Plan or an element thereof which is used or is intended to be used principally for the movement of traffic between major arterials and local streets and roads within the county.
 - c. Local Street - A street which is used or intended to be used for providing the primary access to abutting lots within a subdivision.
 - d. Cul-de-sac - A minor street having only one outlet for vehicular traffic, with a turn-a-round at the opposite end, which is not intended to be extended or continued to serve future subdivisions or development on adjacent lands.
 - e. Frontage Road - A street which is parallel to and adjacent to a major arterial, limited access highway or freeway, and which provides access to abutting properties while relieving them of the effects of through traffic on the adjacent parallel facility.
 - f. Stubbed Street - A street having only one outlet for vehicular traffic and which is intended to be extended or continued to serve future subdivisions or development on adjacent land.
 - g. Half Street - A street having only a portion of its width provided in one subdivision, with the remainder of its width to be provided through the subdivision of adjacent property.
31. SUBDIVIDE LAND: A divided area or tract of land into four or more lots within a calendar year when such area or tract of land exists as a unit or contiguous units of land under a single ownership at the beginning of such year.
32. SUBDIVIDER: Any person, firm, corporation, partnership or association who causes land to be divided into subdivision as defined herein.
33. SUBDIVISION: An act of subdividing land or a tract of land subdivided as defined in the Section.

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- A. Rural Recreation Subdivision - subdivision located in an area zoned as Rural Recreational, with lots having an area ranging from (5) acres to forty (40) acres.
- B. Rural Residential Subdivision - A subdivision located in an area zoned as Rural Residential, with lots having an area ranging from five (5) acres to forty (40) acres.
- C. Rural Subdivision - A subdivision located in an area designated by the Comprehensive Plan for agricultural use with lots having a gross area ranging from forty (40) acres or more.
- D. Planned Development Subdivision - A subdivision of land which is designed to provide an open space or recreation area for the direct use and benefit of all the lot owners within the subdivision. A planned development includes a "Planned Unit", a "Homes Association" and "Common Property" which are defined as follows:
 - 1. Planned-unit: A land area which (1) has both individual building sites and open space, known as common property such as a park, and (2) is designed and organized to be capable of satisfactory use and operation as a separate entity without necessarily having the participation of other building sites or other common property; the ownership of the common property may be either public or private.
 - 2. Homeowners association: An incorporated, non-profit corporation to operate under recorded land agreements through which (a) each lot owner in a planned-unit or other described land area is automatically a member, and (b) each lot is automatically subject to a charge for a proportionate share of the expenses for the organization's activities, such as maintaining a common property.
 - 3. Common property: A parcel or parcels of land, together with the improvements thereon, the use and enjoyment of which are shared by the owners and occupants of the individual building sites in the planned-unit.

ARTICLE 2. PHYSICAL IMPROVEMENT REQUIREMENTS

Sections:

- 201. Rights-of-Way and Street Improvements
- 202. Alleys
- 203. Drainage Works
- 204. Sewage Disposal
- 205. Water Supply and Fire Suppression
- 206. Other Improvements
- 207. Minimum Rights-of-Way and Street Improvements

Section 201. Rights-of-Way and Street Improvements

Street or road rights-of-way and street and road improvements shall be provided in accordance with the minimum standards for the various classes of subdivisions prescribed in Section 207 of this ordinance, and shall be constructed to the Standard Specifications for Design and Construction as adopted by resolution of the County Court and on record at the time of Planning Commission approval of the preliminary plat. Furthermore, applicants must present evidence of legal access to any subject parcel proposed for development prior to the issuance of building permits and/or issuance of land use permits. For applicants that abut a county road, applicant may obtain an approach permit from the County Road Department to satisfy this requirement.

No subdivision shall be recorded unless improved public access in accordance with Section 207 is provided from the subdivision to a street maintained by a city or the County or to a highway maintained by the State. Where the provision of public access requires the crossing of federal lands, approval shall be obtained from the federal agency having jurisdiction over said lands crossed and shall improve such access to the standards prescribed in Section 207. Where subdivision requires an access approach to a state highway, approval shall be obtained from the State Highway Department prior to Planning Commission approval of the preliminary plat.

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Section 202. Alleys

Alleys 20 feet in width may be required at the rear of lots proposed for commercial or industrial subdivisions. Alleys in residential areas shall be discouraged.

Section 203. Drainage Works

The subdivider shall provide such drainage structures or improvements as may be necessary to prevent the ponding of surface water within the roadway of a street, and to assure the unimpeded flow of water within natural drainage courses traversed by a street.

Section 204. Sewage Disposal

Sewage disposal facilities shall be provided for each lot within a rural recreation, rural residential, and rural and planned development subdivision in accordance with the requirements and standards of disposal administered by and under the jurisdiction of the Department of Environmental Quality. The subdivider shall be responsible for providing the necessary information required by said department to determine lot sizes and adequacy of sewage facilities.

Section 205. Water Supply and Fire Suppression

Facilities for the provision of domestic water supply and fire suppression shall be provided as follows:

RURAL RECREATION AND RURAL SUBDIVISIONS

In any recreation, rural residential, or rural subdivision where lots are to be greater than five (5) acres in area and where sewage disposal is to be provided by means of individual sewage disposal systems, water may be supplied from wells in individual lots provided that the Department of Environmental Quality determines that individual sewage disposal systems will be located and constructed so as not to contaminate any existing or proposed well, or any existing stream or underground water supply on the property to be subdivided or on adjoining property.

Section 206. Other Improvements

In addition to the improvements required under other Sections of this Article, the subdivider may be required to provide other improvements because of specific features of the land and the design and location of the subdivision. Improvements such as bridges, culverts, and the fencing of watercourses, rights-of-way and recreation areas and facilities may be required where necessary for the health, safety and general welfare of residents of the subdivision.

- A. **FIRE PROTECTION:** Provisions for fire protection shall be made where forest or other vegetation is likely to constitute a fire hazard, as follows:
1. **Firebreaks:** Firebreaks shall be provided as may be specified by the appropriate fire protection agency. Access roads may be used as fire breaks where provided at suitable locations.
 2. **Emergency Access:** An improved all-weather access road from the subdivision may be required by the Planning Commission for purposes of fire protection egress and ingress to insure public safety as may be specified by the appropriate fire protection agency.
 3. **Water Facilities:** In subdivisions where fire suppression facilities are not specified under Section 205, water facilities for fire protection shall be provided as may be specified by the appropriate agency.
- B. **CONSTRUCTION OF OPEN DITCHES:** No open ditches may be constructed for the purpose of lowering a water table. French drains or underground tile systems may be installed in a manner specified or approved by the County Engineer, Roadmaster, and/or Surveyor.

Section 207. Minimum Rights-of-Way and Street Improvements

Where a subdivision abuts an existing paved County maintained road or roads, the subdivider shall dedicate that additional right-of-way required to bring the road to one-half the standard right-of-way prescribed for the type of road involved. If an abutting road is not dedicated and improved to the standards specified in this section, the subdivider shall dedicate and may be required to improve such road for the type involved except as provided in Section 301 (J) or may be required to provide a performance bond for the improvement of such road as prescribed in Section 614 of this ordinance. Street rights-of-way and improvements shall be provided as specified in the following Tables for the type

of subdivision involved. Specific standards for the design and construction of improvements not shown herein shall be in accordance with adopted County Standards and Specifications.

A. RURAL RECREATION AND RURAL SUBDIVISIONS

Table 1

**MINIMUM STREET RIGHT OF WAY AND BASIC IMPROVEMENT
STANDARDS
FOR RURAL RECREATION SUBDIVISIONS AND RURAL SUBDIVISIONS**

Type of Street	Right of Way Width	Improvement of Paving Width	Type of Paving & Improvement	Curbs	Maximum % of Grade	Radius of Curvature*	Street Intersection Curb Radius	Tangents Between Curves	Street Signs
Arterial	80'	28'	1	No.	6	500'	None	2	1
Collector	80'	28'	1	No.	6	250'	None	2	1
Local	80'	28'	1	No.	6	100'	None	2	1
Cul-de-sac	80' (4)	28' (4)	1	No.	6	(--)	None	2	1
Frontage	80'	28'	1	No.	6	-5	None	2	1

- (1) Gravel or equivalent as specified by County Road Department.
- (2) Suitable tangents shall be provided as terrain permits.
- (3) One (1) street sign shall be provided at each intersection for each street. Additional signs may be required as specified by the County Road Department.
- (4) The improvement radius at the turnaround of a cul-de-sac shall be 35' on a right of way radius of 45'.
- (5) The radius of curvature of a frontage road shall correspond generally with that of the adjacent major arterial, limited access highway or freeway.
- (6) Shall be determined by County Engineer, Roadmaster, and/or Surveyor.
- (7) Cul-de-sac shall be discouraged from being included in the county road system

*Radius may vary depending on traffic and construction design criteria.

NOTE: Refer to County Road Standards for construction design specifications and policies

ARTICLE 3, SUBDIVISION DESIGN REQUIREMENTS

Sections:

- 301. Streets
- 302. Easements
- 303. Flood Hazards
- 304. Planned Unit Developments Recreation
- 305. Allocation of Space for Public and Private Facilities and Recreation
- 306. Minimum Lot Standards
- 307. Partial Recording Based on Preliminary Plat

Section 301. Streets

A. Definitions.

1. Accessway: A walkway that provides pedestrian and bicycle passage either between roads or from a road to a building or other destination such as a school, park, or transit stop. Accessways generally include a walkway and additional land on either side of the walkway, often in the form of an easement or right-of-way, to provide clearance and separation between the walkway and adjacent uses. Accessways through parking lots are generally physically separated from adjacent vehicle parking or parallel vehicle traffic by curbs or similar devices and include landscaping, trees, and lighting. Where accessways cross driveways, they are generally raised, paved, or marked in a manner that provides convenient access for pedestrians.
2. Bicycle: A vehicle designed to operate on the ground on wheels, propelled solely by human power, upon which any person or persons may ride, and with two tandem wheels at least 14 inches in diameter. An adult tricycle is considered a bicycle.
3. Bicycle Facilities: A general term denoting improvements and provisions made to accommodate or encourage bicycling, including parking facilities and all bikeways.

4. Bikeway: Any road, path or way that is in some manner specifically open to bicycle travel, regardless of whether such facilities are designated for the exclusive use of bicycles or are shared with other transportation modes. (These are further defined in the Harney County Bicycle and Pedestrian Plan).
5. Pedestrian Facilities (also walkway): A general term denoting improvements and provisions made to accommodate or encourage walking, including sidewalks, accessways, crosswalks, ramps, paths and trails.
6. Neighborhood Activity Center: An attraction or destination for residents of surrounding residential areas. Includes, but is not limited to existing or planned schools, parks, shopping areas, transit stops, and employment areas.
7. Reasonably direct: A route that does not deviate unnecessarily from a straight line, or a route that does not involve a significant amount of out-of-direction travel for likely users.
8. Safe and convenient: Bicycle and pedestrian routes that:
 - a. Are reasonably free from hazards, and
 - b. Provide a reasonably direct route of travel between destinations, considering that the optimum travel distance is one-half mile or less for pedestrians and three miles or less for bicyclists.
9. Walkway: A hard-surfaced area intended and suitable for pedestrians including sidewalks and the surfaced portions of accessways.

B. Standards for Bicycle and Pedestrian Circulation.

1. Bicycle Parking: The development shall include the number and type of bicycle parking facilities required in the Off-Street Parking and Loading section of this Title. The location and design of bicycle parking facilities shall be indicated on the site plan.
2. Pedestrian Access and Circulation:
 - a. Internal pedestrian circulation shall be provided in new commercial, office, and multi-family residential developments through the clustering of buildings, construction of hard surface walkways, landscaping, accessways, or similar techniques.
3. Commercial Development Standards:

- a. New commercial buildings, particularly retail shipping and offices, shall be oriented to the street, near or at the setback line. A main entrance shall be oriented to the street. For lots with more than two front yards, the building(s) shall be oriented to the two busiest streets.
 - b. Off-Street motor vehicle parking for new commercial developments shall be located at the side or behind the building(s).
- 4. All site plans (industrial and commercial) shall clearly show how the site's internal pedestrian and bicycle facilities connect with external existing or planned facilities or systems.
- 5. Approval of Subdivision Tentative Plans and Final Plats. Information required shall include the location and design of all proposed pedestrian and bicycle facilities, including accessways.

C. Cul-de-Sacs and Accessways

- 1. Cul-de-sacs or permanent dead-end roads may be used as part of a development plan; however through roads are encouraged except where topographical, environmental, or existing adjacent land use constraints make connecting roads infeasible. Where cul-de-sacs are planned, accessways shall be provided connecting the ends of cul-de-sacs to each other, to other roads, or to neighborhood activity centers.
- 2. Accessways for pedestrians and bicyclists shall be 10 feet wide and located within a 20-foot-wide right-of-way or easement. If the roads within the subdivision are lighted, the accessways shall also be lighted. Stairs or switchback paths may be used where grades are steep.
- 3. Accessways for pedestrians and bicyclists shall be provided at mid-block where the block is longer than 600 feet.
- 4. The Hearings Body or Planning Director may determine, based upon evidence in the record, that an accessway is impracticable. Such evidence may include but is not limited to:
 - a. Physical or topographic conditions make an accessway connection impractical. Such conditions include, but are not limited to, extremely steep slopes, wetlands, or other bodies of water where a connection cannot reasonably be provided.

- b. Buildings or other existing development on adjacent lands physically preclude a connection now or in the future, considering potential for redevelopment.

Where accessways would violate provisions of leases, easements, covenants, restrictions, or other agreements existing as of May 1, 1995, that preclude a required accessway connection.

- D. The radius of curvature, grade, tangents between curves and intersection curb return radius of streets shall conform with the minimum standards prescribed under section 207 of this ordinance.
- E. Alignment of Streets: Streets located on opposite sides of an intersecting street shall have their centerlines directly opposite each other where possible; otherwise, the centerlines shall be separated by not less than 100 feet.
- F. Location of Centerline: The centerline of the paving shall correspond to the centerline of the right-of-way where possible and practical.
- G. Continuation of Streets: Subdivision streets, which constitute the continuation of streets in contiguous territory, shall be aligned so that their centerlines coincide. Where straight-line continuations are not possible, such centerlines shall be continued by curves. New streets of the continuations of a street in contiguous territory may be required by the Planning Commission where such continuation is necessary to maintain the function of the street or a desirable existing or planned pattern of streets and blocks in the surrounding area pursuant to Section 303 of this ordinance.
- H. Intersection Angles: Street intersections shall be as near right angles as possible except where topography requires a lesser angle, but in no case shall the acute angle be less than 60 degrees.
- I. Streets in Subdivisions Adjoining Unsubdivided Land:
 - 1. Stubbed Streets: Where a subdivision adjoins unsubdivided land, streets, which may be necessary to assure the proper subdivision of the adjoining land or the continuation of the function of a major arterial or collector street shall be provided through to the boundary line of the subdivision.
 - 2. Half Streets: Half streets proposed adjacent and parallel to the boundary line of the subdivision, while generally not acceptable, may be approved where essential to the reasonable development of the subdivision when in conformity with other requirements of this ordinance and when the Planning Commission finds it will be practical to require the dedication and improvement of the other half when the adjoining property is subdivided.

Half streets shall not be permitted where lots would front on such streets. Where half streets are provided, a performance bond may be required to insure full improvements until such time as the remaining half street on adjacent property is dedicated and improved. Whenever an existing half street is adjacent and parallel to the boundary line of a proposed subdivision, the subdivider shall dedicate and improve such additional right-of-way as may be necessary to meet the standards prescribed under Section 207 of this ordinance for the type of street involved.

J. Reserve Strips:

1. A reserve strip may be provided at the dead-end of a stubbed street and along the boundary line of the subdivision adjacent to a half street and shall be offered for dedication to the County for future street purposes at the direction of the Subdivision Committee. Reserve strips at other locations and for other purposes shall not be approved.
2. Reserve strips shall be designed on the final plat of the subdivision and shall be specifically referred to in the dedication certificate.

K. Existing Streets: Whenever existing streets adjacent to or within a subdivision are of inadequate width, additional right-of-way and improvements shall be provided at the time of subdivision in accordance with the standards prescribed under Section 207 of this ordinance.

L. Cul-de-sacs: Except where special circumstances of design are apparent, cul-de-sacs shall not have a length of more than 800 feet in length in rural recreation, rural residential, or rural subdivisions and shall terminate with a turn-a-round with a radius of not less than 45 feet.

M. Frontage Roads and Non-Access Rights: Where property is to front upon a major arterial, a frontage road separated from the major arterial may be required for access to the subdivision. Where property is to front upon a limited access highway, a frontage road separated from the limited access highway shall be provided for access to the subdivision. Frontage roads will not be required when the lots of the subdivision back-on to a major arterial, limited access highway, and where access rights to said major arterial, limited access highway have been acquired previously by a public agency or are offered for dedication. Where a frontage road is provided, or where lots are proposed to back-on or side-on to a major arterial or limited access highway and access rights to the rear of said lot are offered for dedication, the improvement requirements of this ordinance pertaining to the major arterial or limited access highway shall not be required.

N. Railroad Grade Crossing: Where a subdivision adjoins or contains a railroad right-of-way and the design of the subdivision includes a major arterial or

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collector street crossing of the railroad, the design of the street crossing shall take due consideration of the minimum distance required for approach grades and right-of-way width required for a future grade separation of the railroad.

Section 302. Easements

- A. Utility easements: Easements shall be provided along property lines where necessary for the placement of overhead or underground utilities and where necessary to provide the subdivision with electric power, communication facilities, street lighting, sewer lines, water lines, gas lines or drainage. Such easements shall be labeled "Public Utility Easement" on the preliminary and final plat; they shall be at least 12 feet in width and centered on lot lines where possible except for utility pole guy-line easements which may be reduced to six (6) feet in width and easements along the rear of lots adjacent to unsubdivided land which may be reduced to 10 feet in width.
- B. Pedestrian Easements: When desirable for public convenience, pedestrian easements may be required to connect to cul-de-sacs or to pass through unusually long or odd shaped blocks.

Section 303. Flood Hazards

Areas which are subject to the ponding of surface waters, or of flooding caused by surface waters or high water table shall not be subdivided until necessary measures, as documented by the United States Department of Housing and Urban Development, have been taken or are required to be taken as a condition of approval of the preliminary plat to eliminate the hazard involved. An investigation and report shall be made to the Planning Commission on the adequacy of measures taken or proposed to be taken by the subdivider to eliminate the hazard. The existence of such hazard may be cause for disapproval of the preliminary plat.

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Section 304. Planned Unit Developments

Where a planned unit development has been authorized pursuant to applicable zoning regulations, the plan of the subdivision shall conform with the plan of the Planned Unit Development as approved by the Planning Commission and County Court. Where a planned unit approach to property development is desired by a subdivider, but where provisions of a zoning ordinance are not applicable, the subdivider may request approval of a planned unit development and the Planning Commission may authorize exceptions to the regulations in this ordinance with the provisions of Article 7 of this ordinance.

Section 305. Allocation of Space for Private and Public Facilities and Recreation

- A. Common Recreation and Open Space and Facilities for the Exclusive Use of Property Owners within the Subdivision: The Subdivider is encouraged to include in the proposed subdivision such recreation space and facilities for the use of property owners within the subdivision as may be necessary and desirable to enhance the environment of the subdivision. Such space and facilities should be located so as to be within reasonable walking distance of all lots within the subdivision.
- B. Public Facilities and Recreation: Consideration shall be given by the subdivider to the reservation of sites for solid waste pick up and disposal, schools, park and recreation and other essential public services and facilities required to serve the subdivision. The reservation of sites required for general public service, use and enjoyment may be made the subject of conditional approval of the preliminary plat by the Planning Commission provided, however, that the Planning Commission can make the following findings:
 - 1. That sites required are consistent with policies and proposals of the Comprehensive Plan or elements thereof.
 - 2. That sites required will be purchased for public use within one (1) year after the recording of the final plat of the subdivision, and that evidence of such intent to purchase has been submitted in writing by a public agency having authority for such purchase.
 - 3. That the intended use of sites required will be compatible with the intended use of property within the remainder of the subdivision. In no case shall the Planning Commission require the dedication and development of sites covered by this paragraph by the subdivider as a

condition of approving the preliminary plat; however, the subdivider may voluntarily make such dedication. The subdivider shall indicate, as part of the preliminary plat, how sites reserved for public use would be developed otherwise in the event they are not purchased by a public agency within the time period specified under this paragraph. Extension of the time period within which sites may be required to be reserved for public use is at the sole option of the subdivider.

Section 306. Partial Recording Based On Preliminary Plat

Where a final plat is proposed to be recorded on only a part of the area included within an approved preliminary plat, the preliminary plat shall be prepared in such a manner that such partial recording will result in compliance with all of the applicable provisions of Articles 2 and 3 of this ordinance.

Renewable Energy Resource Sites: Where a land development is proposed within or adjacent to an inventoried resource site (1C), the County through the Planning Commission and/or County Court, may require additional setbacks and/or screening necessary for assuring compatibility between uses.

ORDINANCE HISTORY NOTES: Article 3, Subdivision Design Requirements provisions, Section 301 of the Harney County Subdivision Ordinance was modified and adopted by the County Court on June 2001, through a Periodic Review Work Task dealing with the Transportation System Plan. Any changes to this Section from this point on will have the effective date listed after each modified paragraph with subsequent historical notes.

ARTICLE 4, SUBDIVISION

COMMITTEE

Sections:

- 401. Establishment of Committee
- 402. Duties of Committee
- 403. Subdivision Conference

Section 401. Establishment of Committee

There is hereby established a Subdivision Committee to act in a technical capacity for the Planning Commission and County Court. The Subdivision Committee members shall consist of a County Planning Commission member who shall be the Chairman, the County Engineer, Roadmaster, and/or Surveyor and such other specialists the Planning Director deems necessary .

Section 402. Duties of Committee

It shall be the duty of the Subdivision Committee to examine and review all preliminary plats and make its recommendations to the Planning Commission in accordance with the procedures outlined in Section 506 of this ordinance. The Committee shall establish regular meeting dates and rules of procedure and shall publish such dates and procedures.

Section 403. Subdivision Conference

The Planning Commission Chairman shall schedule a Subdivision Committee conference with the subdivider and/or his planner, engineer or surveyor. The subdivision committee members (or duly authorized representatives) shall attend the conference. Representatives of other agencies as outlined in Section 501, C. of this ordinance, may attend and shall be encouraged by the Planning Commission Chairman to attend the subdivision conference. As a result of the discussion between the subdivider and/or his engineer or surveyor and the Subdivision Committee, the subdivider may request such additional meetings as may be necessary.

ARTICLE 5, PRELIMINARY PLAT

Sections:

- 501. Filing Procedure
- 502. Form and Scale of Preliminary Plat
- 503. Information on Preliminary Plat
- 504. Filing Fees
- 505. Subdivision, Series Partitions and Major Partition Review and Planning Commission Action
- 506. Minor Partition Review
- 507. Termination of Preliminary Map Approval

Section 501. Filing Procedure

- A. A notice of intent to file a preliminary plat and a request for a hearing date shall be given to the Planning Department five (5) days prior to a regular Planning Commission meeting. The preliminary plat shall be filed twenty (20) days prior to the scheduled hearing date.
- B. The subdivider, partitioner, or series partitioner shall prepare a preliminary plat in accordance with the provisions of this ordinance, which shall be filed with the County Planning Commission. Such filing shall be made prior to the initiation of any construction work within the proposed subdivision, which might be affected by changes in the preliminary plat.
- C. The time for filing the preliminary plat shall be construed to be the time when the preliminary plat is filed with and officially received by the County Planning Commission.
- D. The subdivider, partitioner, or series partitioner shall file twenty (20) copies of the preliminary plat with the Harney County Planning Commission. Within three (3) working days after said filing, the Planning Commission shall transmit one (1) copy to each of the following:
 - 1. County Engineer, Roadmaster, and/or Surveyor;
 - 2. County Assessor;
 - 3. County Court;
 - 4. The Oregon State Department of Environmental Quality;

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5. State Highway Department where applicable;
6. School districts within which jurisdiction the subdivision is located;
7. Any public or private utilities serving the area; and,
8. The fire protection agency where involved.

In addition, copies will be provided to the Cities of Burns and Hines in accordance with the Urban Growth Management Agreement. The applicant shall provide additional copies of the preliminary map, where necessary to permit transmittal to all parties listed above. Transmittal shall include a request for comments and recommendations, which may assist the Planning Commission in the review of the preliminary plat.

Section 502. Form and Scale of Preliminary Plat

The preliminary plat shall be clearly and legibly drawn. It need not be a finished drawing, but it shall show all pertinent information to scale in order that the Planning Commission may have adequate understanding of what is proposed during the review process. The scale of the preliminary plat shall be one (1) inch equals 100 feet for areas under 40 acres, and shall be one (1) inch equals 200 feet for areas over 40 acres.

Section 503. Information on Preliminary Plat

A. GENERAL INFORMATION

1. NAME

- a. For subdivisions, a subdivision name which does not conflict with the name of an existing subdivision, and a plat number assigned by the Planning Director preceded by the words "Preliminary Plat No.____."
- b. For partitions, a map number assigned by the Planning Director preceded by the words "Preliminary Map No.____." A name, which does not conflict, with the name of an existing subdivision or partition is optional.

2. Name and address of the owner and/or subdivider.

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3. Name and address of the planner, licensed engineer or surveyor who prepared the plat.
4. Date of preparation, north point, scale, approximate acreage and boundary lines.

B. INFORMATION CONCERNING EXISTING CONDITIONS

1. The location, names and widths of improved and unimproved streets within or adjacent to the subdivision.
2. The location, width and use or purpose of any easement on the property.
3. Contour lines sufficient to show the direction and general grade of land slope. Contours shown on United States Geological Survey maps may be superimposed for this purpose.
4. The location and direction of natural watercourses and areas subject to flooding.
5. The location of structures, irrigation canals and ditches, pipelines, and railroads, and natural features such as rock out-croppings and cover which are of an area or size sufficient to influence the design of the subdivision.
6. The location of city boundary lines and the boundary lines of public districts, which lie within the subdivision, or within 500 feet of the exterior boundaries of the subdivision.
7. A vicinity map showing the relationship of the proposed subdivision to surrounding development, streets and any public sewer and water utilities and services in the area.
8. The location of any overlying or adjacent renewable energy resource site contained in the County inventory.

C. INFORMATION CONCERNING PROPOSED DEVELOPMENT

1. The location, names, width, approximate grades and curve radii of all proposed streets
2. The location, width and purpose of proposed easements.

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3. The location and approximate dimensions of lots; proposed lot and block numbers.
 4. The location, approximate acreage and approximate dimensions of areas proposed for public use.
 5. The proposed use of any lot which is not intended for single-family residential use.
 6. An outline of the areas proposed for partial recording of a final plat if phased recording is contemplated.
- D. THE ESTIMATED TIME WHEN IMPROVEMENTS ARE PROPOSED TO BE MADE OR INSTALLED.
- E. DESCRIPTION OF ANY COMMUNITY FACILITIES WHICH WOULD SERVE THE PROPOSED SUBDIVISION.
- F. JUSTIFICATION AND REASONS FOR ANY EXCEPTIONS TO THE PROVISIONS OF THIS ORDINANCE WHICH ARE BEING REQUESTED UNDER THE PROVISIONS OF ARTICLE 7.
- G. PROOF OF OWNERSHIP

A letter from a licensed title company stating the recorded owner(s) of the land proposed to be subdivided.

Section 504. Filing Fees

A non-refundable fee shall be paid to the County by the subdivider, series partitioner, or partitioner at the time of filing. Said fee, for subdivisions, shall be \$200 plus \$10.00 per lot with a maximum of \$500.00. The Planning Commission or the County Court shall set fees for series partitions and minor and major partitions.

Section 505. Subdivision, Series Partitions and Major Partition Review and Planning Commission Action

- A. The Planning Commission shall set a date for consideration of the preliminary plat by the Planning Commission, which date shall be within 45 days after the plat was filed unless the time limit for review and action on the plat is extended by mutual agreement of the Planning Commission and the

subdivider. Within fourteen (14) days of receipt of the preliminary plat, the Subdivision Committee shall convene at the subdivision conference as specified in Article 4 of this ordinance and shall prepare for the Planning Commission a written report of their recommendations regarding the proposed subdivision. Written report to the Planning Commission by the Subdivision Committee shall be submitted to the Planning Office at least four (4) days prior to the date of Planning Commission consideration. Failure to submit such a report by any member of the Subdivision Committee shall be deemed approval of the preliminary plat by that member.

- B. The Planning Commission shall consider the recommendations of the Subdivision Committee and other agencies and determine whether the preliminary plat is in the conformity with the provisions of this ordinance. Upon that basis, the Planning Commission shall, by resolution, approve, conditionally approve, or disapprove the proposed subdivision. Within five (5) days of Planning Commission action on the preliminary plat, the Planning Commission shall report such an action in writing directly to the subdivider and his planner, engineer or surveyor. Approval of the preliminary plat shall constitute approval of the final plat, subject to the requirements of Article 6 of this ordinance, if there is no change in the plan of the subdivision at the time of filing the finale plat. If the map is disapproved by the Planning Commission, the reasons therefore shall be set forth in the report to the subdivider. If the preliminary plat is approved subject to conditions shall relate only to the authority granted to the Planning Commission by this ordinance. A preliminary plat approved subject to conditions by the Planning Commission need not be revised to reflect such conditions, but such conditions shall be reflected in the preparation of the final plat.
- C. If no action is taken by the Planning Commission within the time limits prescribed above in this Section, the preliminary plat as filed shall be deemed to be approved and it shall be the duty of the Planning Commission to certify the approval.
- D. Within fifteen (15) days after the date of the Planning Commission's action, the Planning Commission shall transmit the complete record of its review and action to the County Court. Upon receipt of the record, the County Court may review the decision of the Planning Commission. The County Court may affirm, reverse or modify the decision of the Planning Commission provided that such decision is not in conflict with the provisions and intent of this ordinance. Unless notified within twenty (20) days, the decision of the Planning Commission shall be affirmed.

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- E. If the subdivider, or any other party, is dissatisfied with any action of the Planning Commission with respect to the preliminary plat, he may, within ten (10) days of such action, appeal the action of the Planning Commission to the County Court. An appeal shall be filed with the Court, in writing, and shall state specifically wherein it is claimed there was an error or abuse of discretion by the Planning Commission. The Court shall give notice to the appellant and the Planning Commission of the date when the appeal of the subdivider is to be heard. At its next regular meeting, the County Court shall review the action of the Planning Commission and the written appeal of the appellant and shall report its action to the appellant and to the Planning Commission in writing. When an appeal is filed and heard by the County Court, the hearing shall constitute meeting the requirements of review and action by the County Court as prescribed in Paragraph D of this Section.

Section 506. Minor Partition Review

- A. Minor partition maps shall be reviewed by the Planning Commission and shall be approved, conditionally approved, or disapproved at the earliest regular scheduled meeting after the date of filing. If the map is approved subject to conditions, these conditions shall relate only to the provisions of this ordinance.
- B. Within five (5) days after the decision has been rendered, the Planning Director shall provide the applicant with written notice of the decision of the Commission.
- C. If the partitioner is dissatisfied with any action of the Planning Commission with respect to the preliminary map, he may, within fifteen (15) days of the action, appeal to the County Court. Written notice shall be filed with the Planning Director. If the appeal is not filed within the fifteen (15) day period, the decision of the Planning Commission shall be final. If the appeal is filed, the County Court shall receive a report and recommendation thereon from the Planning Commission and shall hold a public hearing on the appeal.

Section 507. Termination of Preliminary Map Approval

Failure by the subdivider, series partitioner, or partitioner to record a final plat within eighteen (18) months of the date of approval or conditional approval of the preliminary plat by the Planning Commission shall terminate all proceedings. The Planning Commission may grant an extension of time not exceeding one (1) year if the subdivider submits an application in writing. In the event the Planning Commission denies a subdivider's application for extension, the subdivider may appeal to the County Court. Where proceedings have terminated because of failure to record a final plat or failure to receive extension by the Planning Commission or County Court, a new preliminary plat shall be filed in accordance with the provisions of this ordinance before a final plat may thereafter be recorded or any lot sold.

ARTICLE 6, FINAL PLAT

Sections:

- 601. Requirements
- 602. Fees
- 603. Form of Final Plat
- 604. Information on the Final Plat
- 605. Survey Requirements
- 606. Certificate on Final Plat
- 607. Dedications and Public Utility Requirements
- 608. Designation and Conveyance of Reserve Strips as Lots
- 609. Improvement Plans
- 610. Improvements
- 611. Monuments
- 612. Evidence of Water Supply
- 613. Procedure for Processing Final Plat
- 614. Improvements Agreement
- 615. Deed Notation of Resource Site

Section 601. Requirements

Within eighteen (18) months after approval or conditional approval of the preliminary plat, the subdivider may cause the subdivision or any part thereof to be surveyed and a final plat to be prepared in conformity with the preliminary plat as approved or conditionally approved. The subdivider shall file with the County Engineer, Roadmaster, and/or Surveyor one (1) complete set of original tracings and two (2) complete sets of black and white or blue-line prints of the final plat, and one (1) copy of the deed restrictions applicable to the subdivision. The final plat shall conform to the requirements of this Article and shall follow the procedures established herein.

Section 602. Fees

At the time of filing the final plat, the subdivider shall pay such fees to the County Clerk as may be set by resolution of the County Court.

Section 603. Form of Final Plat

The final plat shall be submitted in the form prescribed by the Plats and Subdivision Act.

Section 604. Information on the Final Plat

The final plat shall show the following:

- A. The plat number and name of the subdivision, if any, date of preparation, north point, and scale.
- B. A legal description of all property being subdivided, by reference to recorded subdivisions and sectional surveys.
- C. Affidavits, certificates, acknowledgements, endorsements, acceptances of dedication, and notary seals required by law and by this ordinance.
- D. The locations, names and widths of streets.
- E. The locations and widths of pedestrian ways.
- F. The locations and dimensions of public areas and the net acreage.
- G. The widths and sidelines of all easements to which the lots are subject, and the book and page number of the County records in which the easement appears. If the easement is not definitely located on record, the dimensions of the easement shall appear on the drawing. Broken lines shall denote easements for utilities and other similar purposes.
- H. Locations and widths of drainage channels, railroad rights-of-way, reserve strips, and of streets, alleys and pedestrian ways adjacent to the proposed subdivision.
- I. Limitations on rights of access to and from streets and lots and other parcels of land; dedications of access rights to specific lots where appropriate.
- J. City boundary lines, near or adjacent to the subdivision.
- K. Normal high water lines for any creek, river, or other body of water.
- L. The net dimensions of each lot. Ditto marks may be used where lot dimensions are repetitively identical. Sufficient data shall be shown to determine readily the bearing and length of each lot line.

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- M. Lot number beginning with number "1" and numbered consecutively in each block; block numbers beginning with the number "1" and continuing consecutively without omission or duplication throughout the same name shall be a continuation of the numbering in the original subdivision.
- N. Any additional information required by the Planning Commission as a condition of preliminary plat approval.
- O. The following Surveying data:
 - 1. The radius, length, and central angle of curves.
 - 2. The location of all permanent monuments within the proposed subdivision.
 - 3. Ties to and names of adjacent subdivision.
 - 4. Ties to any boundary lines involved.

Section 605. Survey Requirements

- A. A complete and accurate survey of the land to be subdivided shall be made by an engineer or surveyor licensed to practice in the State of Oregon, in accordance with standard practices and principles of land surveying.
- B. The traverse of the exterior boundaries of a subdivision plat and of each block and lot shall close within a limit of error as specified by State law.

Section 606. Certificates on Final Plat

The following certificates and acknowledgments and others required by State law shall appear on the final plat. Such certificates may be combined where appropriate.

- A. A certificate of ownership, signed and acknowledged by the record owner and all parties owning an interest in the property, consenting to the preparation and recordation of the final plat, offering for dedication all parcels of land, streets, alleys, pedestrian ways, drainage channels, easements and other rights-of-way intended for public use, and, offering for dedication rights of access to and from prescribed streets, lots and parcels of land.

- B. A certificate of the registered engineer or licensed surveyor who prepared the survey and the final plat.
- C. A certificate for execution by the Chairman of the Planning Commission on behalf of the Planning Commission.
- D. A certificate for execution by the County Engineer, Roadmaster, and/or Surveyor.
- E. A certificate for execution by the County Assessor.
- F. A certificate of execution by the County Court.

Section 607. Dedications and Public Utility Requirements

- A. All parcels of land shown on the final plat as intended for public use shall be offered for dedication for public use at the time the plat is filed, except those parcels which are intended for the exclusive use of lot owners in the subdivision, their licensees, visitors, tenants and servants, and except parcels of land reserved for public use under the provisions of Section 307 of this ordinance.
- B. All streets, pedestrian ways, drainage channels, easements and other rights-of-way shown on the final plat as intended for public use, shall be offered for dedication for public use at the time the final plat is filed.
- C. All rights of access to and from streets, lots and parcels of land shown on the final plat intended to be surrendered shall be offered for dedication at the time the final plat is filed.

Section 608. Designation and Conveyance of Reserve Strips as Lots

A reserve strip(s) may be provided across the end of stubbed streets adjoining unsubdivided land or along half streets adjoining unsubdivided land shall be designated provided, however, that such reserve strip lots shall be exempt from all other provisions of this ordinance to lots. These reserve strips shall be offered to the County for dedication at the time the final plat is recorded; however, all rights of vehicular access across said reserve strips shall be abandoned until such time as the County acquires additional adjacent right-of-way.

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Section 609. Improvement Plans

The County Road Department may require, where topographical and drainage conditions warrant, improvement plans showing street grades and physical improvements, natural drainage ways and drainage works.

Section 610. Improvements

- A. The subdivider shall improve, or agree to improve all lands dedicated for streets, alleys, pedestrian ways, drainage channels, easements and other rights-of-way as a condition precedent to acceptance thereof and approval of the final plat, subject to the exceptions prescribed under Paragraph J, Section 301 of this ordinance.
- B. Improvements shall conform to the specifications of design and materials as provided in the standard specifications adopted by the County Court. The subdivider shall give notice to the County Road Department prior to the commencement of construction of improvements.
- C. The County shall have the right to enter upon the sites or improvements for the purpose of inspecting them.

Section 611. Monuments

- A. All monuments shall be marked or tagged according to the provisions of State law.
- B. In making a survey for the subdivision, the surveyor shall set sufficient, permanent monuments prior to the recording of the final plat so that the survey or any part thereof may be readily retraced. The size, type and depth of monuments shall be in accordance with the Standard Specifications.

Section 612. Evidence of Water Supply

Proof of available water supply adequate to serve each lot as required in Section 205 of this ordinance shall be provided prior to approval of the final plat by the Planning Commission and acceptance by the County Court.

Section 613. Procedure for Processing Final Plat

The County Planning Commission shall be responsible for the final plat conformance to preliminary plat approval and final plat processing and submittal to the Court pursuant to the provisions of this Section.

- A. The final plat shall be submitted to the County Engineer, Roadmaster, and/or Surveyor who shall examine the final plat and determine the sufficiency of the affidavits and acknowledgments, the correctness of surveying data, mathematical data, and computations, and determine whether the provisions of the Plats and Subdivisions Act and the Final Map requirements of this ordinance have been complied with. The subdivider shall provide traverse sheets and work sheets or accurate and complete electronic computations showing the closure of the exterior boundaries of the subdivision as required by the County Engineer, Roadmaster, and/or Surveyor. The final plat shall be returned to the subdivider with notations as to errors or omissions, if any. If the final plat is found to be correct, the matters shown thereon are sufficient and all applicable provisions of the Plats and Subdivisions Act and this ordinance have been complied with, the County Engineer, Roadmaster, and/or Surveyor shall certify his approval on the original plat.
- B. Any required improvement plans, profiles and specifications of proposed improvements shall be submitted to the County Road Department for approval at the time the final plat is submitted for checking. Such plans and profiles shall show the full details of the proposed improvements. Where standards and specifications are the same as those adopted by the County Court, they may be submitted by reference.
- C. Any performance agreement required shall be submitted to the County Road Department on forms provided thereby. The Road Department shall determine that the security amount proposed pursuant to Section 614 herein, is adequate to cover the cost of all required improvement and related work. Where improvement plans are required, approval of such plans shall include a performance agreement.
- D. After the final plat has been checked and certified by the County Engineer, Roadmaster, and/or Surveyor, the final plat shall be submitted to the County Planning Commission who shall deliver the plat to the Assessor for certification (unless done by the subdivider or agent). If the final plat conforms to the preliminary plat as approved by the Planning Commission and no changes have been made which the Planning Commission has not approved, the Chairman of the Planning Commission shall certify the final plat on behalf of the Commission.
- E. After the final plat has been checked and approved as provided in this Section, and when all the certificates which appear on the final plat except the

approval certificates of the County Court and County Clerk, have been signed and, where necessary, acknowledged, the Planning Commission shall certify the final plat and submit the plat along with any proposed improvements agreement to the County Court for approval. The Planning Director shall so notify the subdivider.

- F. Upon receipt of the final plat, the County Court shall consider said plat, the plan of the subdivision and the offers of dedication in accordance with the requirements of this ordinance. If the subdivider has entered into an agreement with the County Court in accordance with the provisions of Section 614 of this ordinance, the County Court shall approve the final plat. No plat shall have any force or effect until the same has been approved by the County Court and no title to any property described in any offer of dedication shall pass until the final plat has been recorded.

Section 614. Improvements Agreement

- A. Prior to the approval by the County Court of the final plat, the subdivider shall execute and file an agreement between himself and the County Court, specifying the period within which he or his agent or contractor shall complete all improvement work, and providing that, if he shall fail to complete such work within such period, the County shall call upon the Surety to complete the same. The agreement shall provide for inspection of all improvements by the County. Such agreement may provide:

1. For the construction of the improvements in units;
2. For an extension of time under conditions therein specified; and
3. For progress payment.

The subdivider shall file with the aforesaid agreement, to assure his full and faithful performance thereof, a bond for such sum as is, by the County Road Department, deemed sufficient to cover the cost of said improvements, and incidental expenses and to cover replacement and repair of existing streets and other improvements damaged in the development of the subdivision. A surety company authorized by the District Attorney as to form shall execute such bond. In lieu of said bonds; the subdivider may elect any one other following alternatives to assure full and faithful performance.

1. The subdivider may deposit with the County cash money in an amount fixed as aforesaid by the County.

2. The subdivider may submit written certification by a bank or other reputable lending institution that money is being held to cover the cost of the improvements and incidental expenses and that it will be released only upon authorization of the County as the case of cash.
3. Bond acceptable to the County Court.
4. The subdivider may enter into an agreement with the County Court setting forth the period of time within which he plans to construct improvements, either in whole or part. Such agreement shall specify that the subdivider shall deposit in an escrow account for the benefit of the County an amount of money equal to twice the pro-rata share of improvement costs for the entire subdivision attributable to a single lot, at the time of sale of said lot; provided, however, that:
 - a) This alternative procedure shall be permitted only for a final plat not exceeding twenty (20) lots;
 - b) This alternative procedure shall not be permitted for subsequent phases of development until the improvements in the initial final plat have been completed; and,
 - c) Such an agreement will not extend more than 12 months from the date of execution unless extended by the County Court as an amendment to the agreement.

Section 615. Deed Notation of Resource Site

Within the agreement called for in Section 614, the land developer shall also agree to note within the deeds of sale for all property in the land development, the type and location of the resource site described in Section 604(p).

ARTICLE 7, VARIANCES

Sections:

- 701. Variances Authorized
- 702. Application
- 703. Referrals
- 704. Action of Planning Commission
- 705. Appeal to County Court
- 706. Planned Unit Development

Section 701. Variances Authorized

Variances and conditional variances to the regulations prescribed by this ordinance may be authorized by the Planning Commission in accordance with Section 704 of this article.

Section 702. Application

Application for a variance will be made to the Planning Commission on a form prescribed by the Commission. The subdivider shall state fully the grounds of the application, the facts relied upon and any other data pertinent to the findings prerequisite to the granting of a variance prescribed in Section 704 of this Article. The application shall be filed at the time of filing the preliminary plat of a subdivision.

Section 703. Referrals

The Planning Commission shall transmit copies of the application for a variance to the Subdivision Committee together with requests for recommendations on the proposed variance. Any variances requested by the subdivider shall be made the subject of study by the Subdivision Committee and they are to report to the Planning Commission.

Section 704. Action of Planning Commission

The Planning Commission shall consider the application for a variance at the same meeting at which it considers the preliminary map. A variance may be granted without conditions, or may be granted subject to prescribed conditions, provided that the Commission shall make all of the following findings:

- A. That there are special circumstances or conditions affecting the property that do not normally apply to other property and that such circumstances or conditions make it impossible or impractical to comply with the ordinance.
- B. That the variance is necessary for the proper design and/or function of the subdivision.
- C. That the granting of the variance will not be detrimental to the public welfare or injurious to other property in the area in which the property is situated.
- D. That the granting of the variance is in accordance with the purposes and objectives prescribed in Article 1 of this ordinance.
- E. That the variance is necessary for the preservation and enjoyment of a substantial property right because of an extraordinary hardship which would result from strict compliance with the regulations of this ordinance.

The Planning Commission shall deny an application for a variance if the Commission cannot make the findings prescribed above.

Section 705. Appeal to County Court

The Planning Commission's action on an application for a variance may be made the subject of an appeal by the subdivider to the County Court. The appeal shall be filed with the Court in writing within fifteen (15) days after Planning Commission action and shall state specifically wherein it is claimed that there was an error or abuse of discretion by the Planning Commission. The County Court may sustain, reject, or overrule any recommendations or rulings of the Planning Commission, provided, however, that such action shall not be inconsistent with the provisions of this ordinance.

Section 706. Planned Unit Development**A. PURPOSE AND UTILIZATION**

1. Planned unit developments, involving the daring application of design, are encouraged to achieve a more functional, esthetically pleasing and harmonious living environment within the County than might be achieved otherwise through strict adherence to the regulations of this ordinance. In certain instances, the objectives of this ordinance may be achieved by the development of planned units, which do not conform, with the more conventional standards of subdivision design and improvement prescribed by this ordinance.
2. A planned unit development approach may be utilized in the design and development of an urban or rural recreation subdivision, but may be utilized for a rural subdivision.
3. A planned unit development may include lots, blocks, streets and other improvements in an arrangement which will accommodate a variety of dwelling types and a variety of land uses which are made to complement each other and harmonize with existing or planned uses in the vicinity, by innovation in design.

B. AUTHORITY OF PLANNING COMMISSION

In order to provide for the design and location of such well planned developments, the Planning Commission is empowered to grant exceptions to the regulations of this ordinance, following review and recommendation by the Subdivision Committee, in the manner prescribed by this Article and this Section. A Planned Unit Development is allowed in each zone as a Conditional Use. The Subdivision and Conditional Use proceedings may be held concurrently.

C. STANDARDS

1. A planned unit development may involve a plan and program for the development of a complete community or unit thereof; provided, however, that a planned unit development shall involve a site area of not less than 10 acres.

2. The standards of rights-of-way, street improvements and subdivision design may vary from those prescribed in Articles 2 and 3 of this ordinance, provided that the subdivider can demonstrate by his design proposal and such additional evidence as may be submitted that the purpose of this Article and the objectives of this ordinance will be achieved.
3. The minimum area, width, depth and frontage of lots may be less than that prescribed in Section 302 of this ordinance, provided that reductions in lot areas are compensated for by open space. Rural Recreation Subdivisions may have similar reductions in lot requirements when a domestic water system is developed.
4. Planned development subdivisions may be designed to provide for increased overall densities up to fifty percent (50%) more than that which would be created by the strict adherence to the minimum standards of Section 302 for urban subdivisions provided that the subdivision is designed for the following purposes:
 - a. A building development project, rather than for a lot sale or promotional sales program.
 - b. Cluster housing development for the purpose of obtaining maximum open space and/or recreation benefits.
 - c. Maintenance of Open Space: As a condition of approving a planned unit development and granting modifications to the standard subdivision requirements, the subdivider shall present in writing with the tentative maps the means by which the preservation and permanent maintenance of the open spaces or recreational areas, which includes all private driveways, walkways and other areas owned in common, is to be accomplished and the payment of taxes thereon assured. No exceptions to the standard subdivision requirements shall be permitted unless the Planning Commission determines that the subdivider has adequately provided for the permanent maintenance of open space and payment of taxes.

**ARTICLE 8, PENALTIES,
ENFORCEMENT,
CONSTITUTIONALITY, ENACTMENT**

Sections:

- 801. Penalties
- 802. Enforcement
- 803. Voidable Conveyance
- 804. Compliance with Oregon Real Estate Regulations
- 805. Constitutionality
- 806. Amendment, Repeal
- 807. Enactment

Section 801. Penalties

Any offer to sell, contract to sell, sale, or deed of conveyance of a subdivision, or any part thereof, before a final plat in full compliance with the provisions of this ordinance has been duly recorded shall be a misdemeanor. Any person, firm, partnership or corporation, upon conviction shall be punishable by a fine of not more than Five Hundred Dollars (\$500.00), or by imprisonment in the County Jail for a period of not more than six (6) months, or by both such fine and imprisonment. Nothing herein contained shall be deemed to bar any legal, equitable, or summary remedy to which the county or any other political subdivision, person, firm, partnership, or corporation may otherwise be entitled. The county or any other political subdivision, person, firm, partnership or corporation may file suit in the superior court of the county to restrain or enjoin any attempted or proposed subdivision or sale in violation of this ordinance.

Section 802. Enforcement

It shall be the responsibility of the Planning Commission to notify the District Attorney of any violation of this ordinance and to sign any necessary complaints.

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Section 803. Voidable Conveyances

Any deed of conveyance, sale or contract to sell made contrary to the provisions of this ordinance is voidable at the sole option of the grantee, buyer, or person contracting to purchase, his heirs, personal representative, or trustee in insolvency or bankruptcy within one (1) year after the date of execution of the deed of conveyance, sale or contract to sell. The deed of conveyance, sale, or contract to sell is binding upon any assignee to transferee of the grantee, buyer or person contraction to purchase, other than those above enumerated, and upon the grantor, vendor, or person contracting to sell, or his assignee, heir, or devisee.

Section 804. Compliance with Oregon Real Estate Regulations

Prior to the sale of or contract to sell any lot within subdivision, a final subdivision plat shall be recorded and the subdivider shall file a "Notice of Intent" with the Oregon State Board of Real Estate.

Section 805. Constitutionality

If any section, sub-section, sentence, clause or phrase of this ordinance is for any reason held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of the ordinance. The County Court of the County of Harney hereby declares that it would have passed this ordinance and each section, sub-section, sentence, clause and phrase thereof, irrespective of the fact that any one or more of other sections, sub-sections, clauses or phrases be declared invalid or unconstitutional.

Section 806. Amendment, Repeal

This ordinance may be amended or repealed as provided by law.

Section 807. Enactment

This ordinance shall take effect and be in force at the expiration of 21 days from and after its passage, which date is Feb 11, 2009.

Passed and adopted by the County Court of Harney County, State of Oregon of the 21 day of JAN., 2009.