



# Oregon

Theodore R. Kulongoski, Governor

## Department of Land Conservation and Development

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Salem, Oregon 97301-2524

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Web Address: <http://www.oregon.gov/LCD>

### NOTICE OF ADOPTED AMENDMENT



April 14, 2006

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

FROM: Mara Ulloa, Plan Amendment Program Specialist

SUBJECT: Marion County Plan Amendment  
DLCD File Number 002-06

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: May 2, 2006**

This amendment was submitted to DLCD for review 45 days prior to adoption. Pursuant to ORS 197.830 (2)(b) only persons who participated in the local government proceedings leading to adoption of the amendment are eligible to appeal this decision to the Land Use Board of Appeals (LUBA).

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

**\*NOTE: THE APPEAL DEADLINE IS BASED UPON THE DATE THE DECISION WAS MAILED BY LOCAL GOVERNMENT. A DECISION MAY HAVE BEEN MAILED TO YOU ON A DIFFERENT DATE THAN IT WAS MAILED TO DLCD. AS A RESULT YOUR APPEAL DEADLINE MAY BE EARLIER THAN THE ABOVE DATE SPECIFIED.**

Cc: Doug White, DLCD Community Services Specialist  
Gary Fish, DLCD Regional Representative  
Sterling Anderson, Marion County

<paa> ya/



# FORM 2

## 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

(See second page for submittal requirements)

DEPT OF

APR 12 2006

LAND CONSERVATION  
AND DEVELOPMENT

Jurisdiction:

Local File No. LA06-01  
(If no number, use none)

Date of Adoption: 3/29/06  
(Must be filled in)

Date Mailed: April 11, 2006  
(Date mailed or sent to DLCD)

Date the Notice of Proposed Amendment was mailed to DLCD:

- |   |   |
|---|---|
| <input type="checkbox"/> Comprehensive Plan Text Amendment        | <input type="checkbox"/> Comprehensive Plan Map Amendment |
| <input checked="" type="checkbox"/> Land Use Regulation Amendment | <input type="checkbox"/> Zoning Map Amendment             |
| <input type="checkbox"/> New Land Use Regulation                  | <input type="checkbox"/> Other:                           |

(Please Specify Type of Action)

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

Consider the amendments to the Marion County Rural Zoning Ordinance #516 as amended. The amendments relate to the definition of schools and the language that identifies schools in the residential zones, the public zones and other zones. The intent of the amendments is to clarify the code language regarding public schools private schools and trade schools.

Describe how the adopted amendment differs from the proposed amendment. If it is the same, write "Same". If you did not give notice for the proposed amendment, write "N/A".

Plan Map Changed from: to:

Zone Map Changed from: to:

Location: Acres Involved:

Specify Density: Previous: New:

Applicable Statewide Planning Goals:

Was an Exception Adopted? Yes:  No:

Does Adopted Amendment affect the areas in unincorporated Marion County where the

Zoning Code applies? Yes  No

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DLCD File No.: 002-06  
(14938)

Did the Department of Land Conservation and Development receive a notice of Proposed

Amendment **FORTY FIVE (45) days prior to the first evidentiary hearing.** Yes:  No:

If no, do the Statewide Planning Goals apply. Yes:  No:

If no, did The Emergency Circumstances Require immediate adoption. Yes:  No:

Affected State or Federal Agencies, Local Governments or Special Districts:

Local Contact: Sterling Anderson Area Code + Phone Number: (503)588-5038

Address: PO box 14500 City: Salem

Zip Code+4: 97308

Email Address:

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### 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 (2) Copies 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. Submit **TWO (2) copies** the adopted material, if copies are bounded please submit **TWO (2) complete copies** of documents and maps.
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 copy this form on to **8-1/2x11 green paper only** ; or call the DLCD Office at (503) 373-0050; or Fax your request to:(503) 378-5518; or Email your request to [Larry.French@state.or.us](mailto:Larry.French@state.or.us) - ATTENTION: PLAN AMENDMENT SPECIALIST.

BEFORE THE BOARD OF COMMISSIONERS  
FOR MARION COUNTY, OREGON

In the Matter of Amendments to Chapter 110 (General )  
Provisions), Chapter 126 (Permitted Uses Generally), )  
Chapter 128 (Acreage Residential Zone), Chapter )  
131 (Single Family Residential Zone), Chapter 132 )  
(Duplex Residential Zone), Chapter 133(Limited )  
Multi-Family Residential Zone), Chapter 134 )  
(Multi-Family Residential Zone), Chapter 145 )  
(Commercial Zone), and Chapter 171 (Public Zone) of )  
the Marion County Rural Zoning Ordinance No. 516, )  
as amended, by amending provisions related to Schools )  
and declaring an emergency )

ORDINANCE NO. 1227

THE MARION COUNTY BOARD OF COMMISSIONERS HEREBY ORDAINS AS FOLLOWS:

SECTION I. Purpose

This Ordinance is enacted pursuant to the authority granted to general law counties in the State of Oregon by ORS Chapters 203, 197 and 215 to implement the County Comprehensive Plan by amending the Marion County Rural Zoning Ordinance as amended. The amendments relate to the provisions and definitions for Schools in the Rural Zoning Ordinance.

SECTION II. Authorization

The Marion County Board of Commissioners initiated legislative amendments to the Marion County Rural Zoning Ordinance by Resolution 06-1R dated January 11, 2006. The Board of Commissioners held a public hearing on the proposed amendments on March 15, 2006 for which proper notice and advertisement were given. All persons present during the public hearing were given the opportunity to speak or present written statements.

SECTION III. Evidence and Conclusion

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

SECTION IV. Amendments to the Marion County Rural Zoning Ordinance

1. Marion County Rural Zoning Ordinance is amended as set forth in Exhibit A, attached hereto and incorporated herein.

SECTION V. Severability and Saving Clause

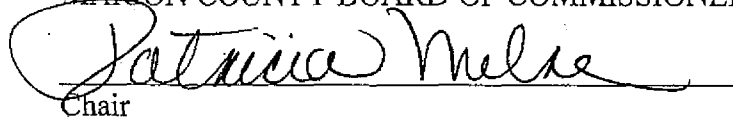
Should any section, subsection, paragraph, sentence, clause or phrase of this ordinance or any policy, provision, finding, statement, conclusion, or designation to a particular land use or area of land, or any other portion, segment or element of this ordinance or of any amendments thereto and adopted hereunder, be declared invalid for any reason, such declaration shall not affect the validity and continued to the Marion County urban and Rural Zoning Ordinance as amended herein, and if this ordinance or any portion thereof should be held to be invalid on one ground is the one upon which this ordinance or any portion thereof was enacted.

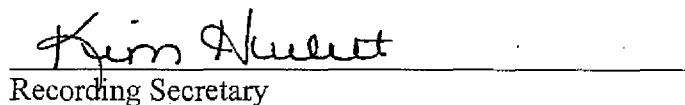
SECTION VI. Effective Date

This ordinance amending the Marion County Rural Zoning Ordinance No. 516 as amended being necessary to protect the public health, safety and welfare, an emergency is declared to exist and this ordinance shall become effective upon its passage.

SIGNED and FINALIZED this 29th day of March, 2006, at Salem, Oregon.

MARION COUNTY BOARD OF COMMISSIONERS

  
Chair

  
Recording Secretary

JUDICIAL NOTICE

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

cc: Planning Division

# EXHIBIT A

DECEMBER 1, 2005 DRAFT  
ADDITIONS IN **BOLD, UNDERLINED AND ITALICIZED**  
DELETIONS IN STRIKEOUT

## CHAPTER 110 GENERAL PROVISIONS

Revised \_\_\_\_\_  
Revised 07/28/04  
Revised 08/08/03  
Revised 12/12/02

Section	Title	Page
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110.670	Replacement of Official Zoning Map	
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110.730	Similar Uses	
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110.760	Complaints Regarding Violations	
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110.780	Minimum Street Width	
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110.800	Dwellings and all Other Buildings to be Accessible to Public Street	
110.810	Application of Zoning Regulations	
110.820	Conformance and Permits Required	
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110.831	Significant and Potential Mineral and Aggregate Sites	
110.832	Protection of Scenic and Natural Areas and Trails	
110.834	Noise Impacts	
110.835	Fish and Wildlife Habitats	
110.836	Historic Structures or Sites	
110.838	Agricultural Soils Determination	

- 110.840 Amendment of Text Only
- 110.850 Pending Zone Change Proceedings
- 110.860 Violations of Regulations
- 110.870 Enforcement and Penalties for Violations
- 110.880 Savings Clause
- 110.890 Repealing Conflicting Ordinances

**110.001**      **SHORT TITLE.** This ordinance shall be known as the Marion County Rural Zoning Ordinance, and may be so cited and pleaded.

**110.002**      **AUTHORITY.** This ordinance is enacted pursuant to the authority granted to Marion County in ORS Chapters 92, 197, 203, and 215.

**110.003**      **PURPOSE.** It is the intent and purpose of this ordinance to:

- (a) Provide and coordinate regulations governing the development and use of lands in the portions of Marion County outside acknowledged urban growth boundaries that implement and conform to the County Comprehensive Plan;
- (b) Promote and protect the public health, safety, and general welfare;
- (c) Conserve farm and forest lands for the production of crops, livestock, and timber products; and
- (d) Provide for development and arrangement of efficient public services and facilities within the County.

**110.005 - 110.615**      **DEFINITIONS**

**110.005**      **DEFINITIONS, GENERALLY.**

- (a) The meanings given terms in this chapter may, in certain contexts in which they are used, be clearly inapplicable. In such cases the context in which a term is used will indicate its intended meaning, and that intent shall control.
- (b) Where a term used in this ordinance is already defined in another County ordinance (e.g., the Marion County Urban Zoning Ordinance and the Uniform Building Code) the term is not redefined herein unless it has a different meaning in this ordinance, or is so frequently used herein that the same definition is reproduced in this chapter for the reader's convenience. If a term elsewhere defined in County ordinance is not defined herein, it is intended that such terms have the same meaning in this ordinance as the definitions elsewhere adopted unless the context otherwise clearly requires.
- (c) Terms not defined in this ordinance, shall have their ordinary accepted meanings within the context in which they are used. Webster's third New International Dictionary of the English Language, Unabridged, copyright 1961, shall be considered a standard reference to ordinary accepted meanings.

- (d) For the purpose of this ordinance, words used in the present tense include the future, the singular number includes the plural, the word "shall" is mandatory and not directory, the word "building" includes structure.
- (e) Terms defined in other chapters of this ordinance apply only within the chapter where the term is defined.

**110.010 ACCESSORY BUILDING.** A detached, subordinate building or portion of a main building, the use of which is incidental to that of the main building or to the use of the land.

**110.015 ACCESSORY.** A building, structure, vehicle, or use which is incidental and subordinate to and dependent upon the primary use on the lot.

**110.025 AIR CONTAMINANT.** Any dust, fume, gas, mist, odor, smoke, vapor, pollen, soot, carbon, acid, or particulate matter of any combination thereof.

**110.030 AIR CONTAMINATION.** Any source at, from, or by reason of which there is emitted into the atmosphere any air contaminant, regardless of who the person may be who owns or operates the building, premises or other property in, at, or on which such source is located, or the facility, equipment or other property by which the emission is caused or from which the emission comes.

**110.040 AIRPORT.** A landing area, runway or other facility designed, used, or intended to be used for the landing and taking off of aircraft, aircraft storage, hangars, and other necessary buildings and open spaces.

**110.045 ALLEY.** A public space or thoroughfare not more than 20 feet, but not less than 10 feet in width which has been dedicated or deeded to the public for public use providing a secondary means of access.

**110.050 ALTERATION, STRUCTURAL.** Any change or repair which would affect or materially change a supporting member of a building, such as a bearing wall, column, beam, or girder.

**110.052 ANTENNA.** A device the surface of which is used to capture an incoming and/or to transmit an outgoing electromagnetic radiation signal from wireless communication facilities. Antennae include the following types:

- (a) Omni-Direction ("whip") Antenna - receives and transmits signals in a 360 degree pattern.
- (b) Directional or Parabolic ("panel" or "disk") Antenna - receives and transmits signals in a directional pattern typically encompassing an arc of 120 degrees.
- (c) Other - All other transmitting or receiving equipment not specifically described herein shall be regulated in conformity with the type of antenna described herein which most closely resembles such equipment. For the purpose of this Chapter, the term "antenna" shall not include Accessory Antenna which are antennae less than 12 inches in its largest dimension and are not directly used to provide personal wireless communications services. An example would be a global positioning satellite (GPS) antenna.



- 110.055**      **APARTMENT.** An apartment shall mean a dwelling unit as defined in this ordinance.
- 110.060**      **APARTMENT HOTEL.** A building or portion thereof designed for or containing both individual guest rooms or suites or rooms and dwelling units.
- 110.065**      **APARTMENT HOUSE.** A building or portion thereof designed, built, rented, leased, let or hired out to be occupied, or which is occupied or is the home or residence of 3 or more families living independently of each other and doing their own cooking in said building, and shall include flats and apartments.
- 110.068**      **APPEAL PERIOD.** Means the number of days specified for the particular type of land use action for filing an appeal. The appeal period begins the day the notice of decision is mailed and ends at the close of business on the last day of the period. Business days, holidays and weekends are included. If the appeal period would otherwise end on a Saturday, Sunday or a holiday when County offices are closed, the appeal period ends at the close of business on the first following business day.
- 110.070**      **AUTO COURT.** See Motel.
- 110.075**      **AUTOMOBILE SERVICE STATION.** A premises used for retail sales directly to the consumer for the supplying of gasoline, oil, minor accessories, and services for automobiles.
- 110.080**      **AUTOMOBILE OR TRAILER SALES LOT.** A lot used for display, sale, or rental of new or used automobiles or trailers, where no repair work is done except minor, incidental repairs of automobiles or trailers to be displayed, sold or rented on the premises.
- 110.085**      **AUTOMOBILE TRAILER CAMP.** See Trailer Park, Mobile Home Park.
- 110.090**      **AUTOMOBILE WRECKING YARD: JUNK YARD.** A premises used for the storage or sale of used automobile parts or for the storage, crushing, recycling, dismantling, or abandonment of junk, obsolete automobiles, trailers, trucks, machinery, or parts thereof.
- 110.095**      **AWNING.** A movable shelter supported entirely from the exterior wall of a building and of a type which can be retracted, folded or collapsed against the face of a supporting building.
- 110.100**      **AWNING, MOBILE HOME, TRAILER.** A stationary structure, permanent or demountable, used in conjunction with a mobile home or trailer, other than a window awning, for the purpose of providing shelter from the sun and rain, and having a roof with supports and not more than 1 wall or storage cabinet substituting for a wall.
- 110.105**      **BASEMENT.** That portion of a building between floor and ceiling which is partly below and partly above grade, but so located that the vertical distance from grade to the floor below is equal to or greater than the vertical distance from grade to ceiling. If such portion of a building is not a basement, then it shall be considered a story.
- 110.108**      **BED AND BREAKFAST INN.** A single-family dwelling where lodging and a morning meal for guests only are offered for compensation, having no more than five sleeping rooms for this purpose. An establishment where more than one meal per day is offered shall not be deemed a bed and

breakfast inn. An establishment with more than five sleeping rooms shall be deemed a hotel. Unless specifically listed as a permitted or conditional use, a bed and breakfast inn is considered a home occupation. Weddings, receptions, group meetings, conferences and similar activities are not allowed as secondary uses, accessory uses or temporary uses in association with a Bed and Breakfast.

**110.110 BLOCK.** The properties abutting on one side of a street between either:

- (a) 2 cross streets;
- (b) Or between the city limits and the nearest cross streets;
- (c) Or when there is only 1 cross street:
  - (1) Between a cross street and the dead-end of a street;
  - (2) Between a cross street and the line projected from the centerline of an intersecting street, such as a "T" intersection;
  - (3) Between a cross street under consideration when there is no other cross street or intersecting street within 600 feet;
- (d) Or when there are no cross streets, then the block shall be between the points 600 feet from each side of the property under consideration and along the street.

**110.012 BOARD.** Means the Marion County Board of Commissioners.

**110.115 BOARDING HOUSE.** A building or portion thereof used for the purpose of providing meals or meals and lodging for pay or compensation of any kind to persons other than members of the family occupying such dwelling.

**110.120 BUILDING.** A structure built for the support, shelter, or enclosure of persons, animals, chattels, or property of any kind.

**110.123 BUILDING OFFICIAL.** The Building Official for Marion County duly appointed by the Board pursuant to the Uniform Building Code.

**110.125 CABANA.** A stationary, lightweight structure that may be prefabricated or demountable, with 2 or more walls, used adjacent to and in conjunction with a mobile home or trailer to provide additional living space and designed to be moved with the trailer or mobile home.

**110.130 CAMPGROUNDS.** A premises under 1 ownership where persons camp or live in any manner other than in a permanent building constructed entirely of wood or more lasting materials, excepting mobile home parks, and trailer parks.

**110.135 CARPORT.** A permanent structure not enclosed on two or more sides, and which is used or intended for the parking of motor vehicles.

**110.140 CELLAR.** See Basement.

**110.145 CEMETERY.** Land used or intended to be used for the burial of the dead, including pets, and dedicated for cemetery purposes, including a columbarium, crematory, mausoleum, or mortuary, when operated in conjunction with and within the boundary of such cemetery.

**110.147 CHILD CARE FACILITY.** Any facility that provides childcare to children, including a childcare center, certified family childcare home, and registered family childcare home. It includes those known under a descriptive name, such as nursery school, preschool, kindergarten, child play school, before and after school care, or child development center, except those excluded under ORS 657A. 250. This term applies to the total child care operation. It includes the physical setting, equipment, staff, provider, program, and care of children.

**110.148 CHILD CARE HOME.**

- (a) A child care facility located in a building constructed as a single family dwelling that has certification to care for a maximum of 12 children at any one time; or
- (b) A group childcare home as used in OAR Chapter 657A.

**110.149 CHILD FOSTER HOME.** Refers to a home certified by the State Department of Human Services that is maintained and lived in by the person named on the foster home certification.

**110.150 CHURCH.** See Religious Organization.

**110.151 CLUB.** An organization, group, or association supported by the members thereof, the purpose of which is to render a service primarily for members and their guests, but shall not include any organization, group, or association the chief activity of which is to render a service customarily carried on as a business.

**110.152 CO-LOCATION.** The use of a single support structure and/or site by more than one wireless communications provider.

**110.154 COMPREHENSIVE PLAN.** The officially adopted generalized, coordinated land use map and policy statement of the Board that interrelates all functional and natural systems and activities relating to the use of land.

**110.156 CONDITIONAL USE.** Any use that is permitted in a particular zone only after review and approval as a conditional use and includes, where not excepted, conditional uses established under previous zoning ordinances.

**110.158 CONFERENCE GROUNDS.** A retreat or meeting place used for organized discussion and consultation, including overnight accommodations for conferees.

**110.160 CONVALESCENT HOME.** See Nursing Home.

**110.162 CORNER LOT.** A lot having two or more intersecting lot lines, which are also street or roadway right-of-way lines, in which the interior angle formed by the extensions of the street or roadway lot lines in the direction which they take at their intersection with the side or rear lot lines forms an angle of 135 degrees or less. In the event the street or roadway lot line is a curve at the point of intersection with a side or rear lot line, the tangent to the curve at that point shall be considered the direction of the lot line.

**110.163 CONTIGUOUS.** Means touching along a boundary at more than a point.

**110.165 COURT.** A space, open and unobstructed to the sky, located at or above grade level on a lot and bounded on 3 or more sides by walls of a building.

**110.168 CRITERIA.** Mandatory requirements used to evaluate land use actions that shall not be varied or adjusted.

**110.169 DAY NURSERY.** See Child Care Home.

**110.170 DECISION.** The written recommendation, order or ordinance by which the Zoning Administrator, Hearings Officer, Planning Commission or Board makes its disposition of a land use action.

**110.173 DEVELOPMENT STANDARDS.** Any standard or condition imposed in the applicable zone and in Chapters 110 to 191 and any conditions imposed as a condition of application approval.

**110.175 DIRECTOR.** The Planning Director or the Planning Director's designee.

**110.180 DORMITORY.** A building other than a hotel, boarding or rooming house, used primarily for sleeping purposes.

**110.185 DWELLING.** Any building or any portion thereof which is not an "apartment house" or a "hotel" as defined in this code, which contains one or more "apartment" or "guest rooms" used, intended or designed to be built, used, rented, leased, let or hired out to be occupied or which is occupied for living purposes but excluding hotels, motels, boarding or rooming houses, mobile homes, travel trailers, and campers.

**110.190 DWELLING UNIT.** An independent area in a building including permanent provision for living, sleeping, eating, cooking, and sanitation occupied by and serving: 1) a single family; or 2) a single family and rooming or boarding of up to two domestic employees or other persons; or 3) a single family and residents of a residential home as defined in subsection 110.477.

**110.195 DWELLING, SINGLE FAMILY.** A detached building on a lot, or portion of a building on a separate lot, containing only one dwelling unit, exclusive of a mobile home.

**110.200 DWELLING, TWO FAMILY (DUPLEX).** A building designed exclusively for occupancy by 2 families living independently of each other in independent dwelling units.

**110.205 DWELLING, MULTIPLE-FAMILY.** A building or portion thereof designed for occupancy by 3 or more families living independently of each other in independent dwelling units.

**110.210 EDUCATIONAL INSTITUTION.** A college, community college, or university supported by public funds or by contributions or endowments and giving general instruction, excluding elementary and high schools and trade or commercial schools.

**110.215 EQUIPMENT ENCLOSURE.** A small structure, shelter, cabinet, or vault used to house and protect the electronic equipment necessary for processing wireless communications signals. Associated equipment may include air conditioning and emergency generators.

**110.220 FAMILY.** One or two adults and children related by blood or legal guardianship to one or both of the adults living together in a dwelling unit; or, one to five persons any of whom are not related by blood, marriage, or legal guardianships, living together in a dwelling unit; one or more persons any of which are not related by blood, marriage, legal guardianship and who qualify as handicapped under the Federal Fair Housing Act (42 USC SS3602 H) or residents of a residential home as defined in subsection 110.477.

**110.223 FARM USE.** "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) of this section or land described in ORS 321.267 (1)(e) or 321.415 (5).

**110.225 FENCE.** An unroofed barrier or an unroofed enclosing structure such as masonry, ornamental iron, woven wire, wood pickets or solid wood or any other material used as an unroofed barrier to light, sight, air or passage.

**110.228 FOREST USE.** In those zones allowing "forest uses" the use of land for any of the following: the production of trees; the processing of forest products; open space; watersheds; wildlife and fisheries habitat; vegetative soil stabilization; air and water quality maintenance; outdoor recreational activities and related support services and wilderness; livestock grazing.

**110.230 FRATERNITY, SORORITY, STUDENT HOME.** A residential building in which living accommodations are furnished to students.

**110.232 FRONTAGE.** That portion of a lot that abuts a street, whether or not access to the property is accorded thereby, and whether or not a building or structure faces the street frontage. In context, coupled with the term "alley" or "roadway" "frontage" has the same meaning with respect to an abutting alley or roadway.

**110.235 GARAGE.** A building or portion thereof, other than a carport, designed and constructed for or used for the storage, parking or keeping of a motor vehicle.

**110.240 GARAGE, PRIVATE.** A detached accessory building or portion of a main building for the parking or temporary storage of automobiles in which no business, occupation or service is provided for or is in any way conducted.

**110.245 GARAGE, PUBLIC.** A building other than a private garage used for the care, repair or equipping of motor vehicles or where such vehicles are parked or stored for compensation, hire or sale.

**110.247 GOVERNING BODY.** Marion County Board of Commissioners.

**110.250 GRADE (GROUND LEVEL).** The lowest point of elevation of the finished surface of the ground between the exterior wall of a building and a point 5 feet distant from said wall or the lowest point of elevation of the finished surface of the ground between the exterior wall of a building and the property line if it is less than 5 feet distant from said wall. In case walls are parallel to and within 5 feet of a public sidewalk, alley or other public way, the grade shall be the elevation of the sidewalk, alley or public way.

**110.252 GRADE, NATURAL.** Grade with the land in an undisturbed state.

**110.255 GROUP CARE HOME.** A dwelling where residential care alone or in conjunction with treatment or training or a combination thereof is provided by a family or non-resident staff for resident individuals who need not be related. The provider family or non-resident staff need not be related to each other or to any resident of the dwelling. It includes a facility meeting this definition licensed by or under the authority of the Department of Human Resources under ORS 443.400 to 443.825. It includes homes for the aged and retirement homes. It also means a child care facility with no limits on where employees reside.

**110.257 GUEST.** Any person occupying a room or lodging room for living or sleeping purposes on a temporary and gratuitous basis.

**110.258 GUEST FACILITY.** An accessory building maintained for the purpose of providing temporary and gratuitous living accommodations, but dependent upon the main dwelling for cooking or bathroom facilities or both. Occupancy of a guest facility is limited to 120 days in a calendar year and subject to Section 126.020 (9).

**110.259 HEARINGS OFFICER.** The person(s) so designated by the Board.

**110.260 HEIGHT OF BUILDING.** The vertical distance above a reference datum measured to the highest point of the coping of a flat roof or to the deck line of a mansard roof or to the average height of the highest gable of a pitched or hipped roof. The height of a stepped or terraced building is the maximum height of any segment of the building. The reference datum shall be whichever of the following yields a greater height of building:

- (a) The elevation of the highest adjoining sidewalk or ground surface within a 5 foot horizontal distance of the exterior wall of the building when such sidewalk or ground surface is not more than 10 feet above grade.
- (b) An elevation 10 feet higher than the grade when the sidewalk or ground surface described in item (a) above is more than 10 feet above grade.

**110.262 HELIPORT.** A heliport is an area used or to be used for landing or take-off of helicopters or other VTOL aircraft capable of hovering and may include any or all of the area or buildings which are appropriate to accomplish these functions.

**110.265 HOMES FOR THE AGED AND INFIRM.** Means Group Care Home.

**110.270 HOME OCCUPATION.** Any business or professional activity engaged in the production of income by a resident of a dwelling or dwelling unit as a subordinate use of the building and its premises, and in conformance with the provisions of this ordinance. A home occupation may include a Limited Home Occupation, Conditional Home Occupation or a Home Occupation in a resource zone. Such term does not include the lease or rental of a dwelling unit or the rooming or boarding of persons on the same premises.

**110.275 HOSPITAL.** An institution devoted primarily to the rendering of healing, curing and nursing care, which maintains and operates facilities for the diagnosis, treatment or care of 2 more non-related individuals suffering from illness, injury or deformity, or where obstetrical or other healing or nursing care is rendered over a period exceeding 24 hours.

**110.280 HOSPITAL, VETERINARY.** A building or premises for the medical or surgical treatment of domestic animals or pets.

**110.285 HOTEL.** Any building containing guest rooms intended or designed to be used, or which are used, rented, or hired out to be occupied, or which are occupied for sleeping purposes by guests.

**110.290 JUNK YARD.** See Automobile Wrecking Yard.

**110.295 KINDERGARTEN.** See Child Care Facility.

**110.300 KENNEL.** Any lot or premises on which 4 or more dogs and/or cats or pets over the age of 4 months are kept for sale, lease, boarding, shows, training, or racing.

**110.302 LAND USE ACTION.** An amendment to the applicable county comprehensive plan or this ordinance, or a decision on a zone change, variance, adjustment, administrative review, or conditional use permit, including appeals from any of the foregoing.

**110.303. LANDSCAPED.** Primarily devoted to the planting and preservation of trees, shrubs, lawn and other organic ground cover, together with other natural or artificial supplements such as watercourses, ponds, fountains, decorative lighting, benches, arbors, gazebos, bridges, rock or stone arrangements, pathways, sculpture, trellises, and screens.

**110.304. LEGISLATIVE ACTION.** A land use action involving amendments to the applicable comprehensive plan, the text of this Ordinance, or an amendment to the Zoning Map involving five or more lots in separate ownership.

**110.305 LIQUID WASTE.** Any waste oils, septic tank pumping, industrial wastes and other similar materials.

**110.310 LOADING SPACE.** An off-street space or bay on the same lot or parcel with a building, or contiguous to a group of buildings, for the temporary parking of a commercial vehicle while loading or unloading merchandise, passengers or materials, and which abuts upon a street, alley, or other appropriate means of access.

**110.312 LODGES.** A facility providing temporary lodging in conjunction with outdoor recreational activities.

**110.315 LOT.** A unit of land created by a subdivision or partitioning as defined in ORS 92.010 in compliance with all applicable zoning, subdivision and partitioning ordinances; or created by deed or land sales contract if there were no applicable zoning, subdivision or partitioning ordinances, exclusive of units of land created solely to establish a separate tax account.

**110.320 LOT AREA.** The total area measured on a horizontal plane within the lines of a lot.

**110.325 LOT DEPTH.** The horizontal distance between the front lot line and the rear lot line measured at a point halfway between the side lot lines.

**110.330 LOT, INTERIOR.** A lot other than a corner lot.

**110.335 LOT LINE.** The lines bounding a lot as defined herein.

**110.340 LOT LINE, FRONT.**

(a) In the case of an interior lot having only one street or roadway easement frontage, the lot line separating the lot from the street right-of-way or the nearest right-of-way line of a roadway easement. In the case of an interior lot, a line separating the lot from the street, and in the case of a corner lot, a line separating the lot from the street on which the improvement or contemplated improvement will face.

(b) In the case of any lot not covered by (a), the lot line which the architecturally designed front of the building faces or the lot line designated by the zoning administrator on an approved site plan.

**110.345 LOT LINE, REAR.**

(a) In the case of any lot having a rear lot line designated on a subdivision approval the lot line so designated.

(b) In the case of any other lot, the lot line opposite, and most distant from the front lot line. In the case of a triangular shaped lot, the rear lot line for setback purposes shall be a line connecting points 20 feet from the intersecting side lot lines.

**110.350 LOT LINE, SIDE.** Any lot line that is not a front or rear lot line.

**110.355 LOT, CORNER.** A lot or portion thereof situated at the intersection of 2 or more streets.

**110.360 LOT OF RECORD.** A lot which is part of a subdivision or a lot or parcel described by metes and bounds, which has been recorded in the office of the County Recorder and which complied with all applicable laws at the time of its recording.

**110.365 LOT WIDTH.** The 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.

**110.370 MARQUEE.** A permanent roofed structure attached to and supported by the building and projecting over public property.



**110.375 MATERNITY HOME.** See Hospital.

**110.380 MOBILE HOME.** A structure constructed for movement on public highways that has sleeping, cooking, and plumbing facilities, is intended for use as a dwelling unit and is at least 8 feet wide and at least 35 feet long. This definition includes manufactured dwelling, manufactured home, mobile home, and residential trailer as those terms are defined in ORS 446.003 (26a) provided they meet the width and length requirements. The definition does not include recreational vehicles as defined in Section 110.466, or structures or vehicles that have a State of Oregon or U.S Government label designating them as a recreational vehicles. It also does not include buildings or structures subject to the structural specialty code adopted pursuant to ORS 455.100 to 455.450.

**110.385 MOBILE HOME PARK.** Any lot where four or more occupied mobile homes not in conjunction with farm use, are located, exclusive of mobile homes allowed under this ordinance as temporary dwellings, and mobile homes without a functioning bathroom or kitchen.

**110.390 MOTEL (TOURIST COURT).** A series of attached, semi-attached, or detached apartments, each composed of bedroom and bathroom, with each apartment having entrance leading directly from the outside of the building.

**110.392 NOISE IMPACT AREA.** The area within 500 feet of the boundaries of Highways 99 and 22, Interstate 5, the Woodburn Dragstrip, and within the NEF 30 or Ldn 65 contour line based on the projected use at the end of the airport master planning period around public airports, and any area identified as a Noise Impact Area in applicable county comprehensive plans.

**110.395 NONCONFORMING LOT.** A lot that does not meet the area or width requirements of the zone in which it is located.

**110.400 NONCONFORMING STRUCTURE.** A building or structure or portion thereof lawfully existing at the time this ordinance became effective, which was designed, erected or structurally altered, for a use that does not conform to the use regulations of the zone in which it is located, or which does not conform to the setbacks for maximum lot coverage or other provisions herein established for the zone.

**110.405 NONCONFORMING USE.** A use to which a building, structure, vehicle, or land was lawfully put at the time this ordinance became effective and which does not conform with the use regulations of the district in which it is located.

**110.408 NOTIFICATION AREA.** The notification area shall be as required in Section 111.030 (c) (unless a greater distance is required by Oregon Administrative Rules or Oregon Revised Statutes) from and parallel to the boundaries of the subject property.

**110.409 NOTIFICATION LIST.** A written list of the names and addresses of all property owners within the notification area. The names and addresses shall be obtained from the most recent property tax assessment roll at the time an application is received.

**110.410 NURSERY.** See Child Care Home.

**110.415 NURSING HOME.** Any home, place or institution which operates and maintains facilities providing convalescent or nursing care or both, for a period exceeding 24 hours, for 2 or more ill

or infirm patients not related to the nursing home administrator, or owner, by blood or marriage. Convalescent care may include, but need not be limited to, the procedures commonly employed in nursing and caring for the sick. A nursing home includes rest homes, sanitariums, convalescent homes, but does not include group care homes, hotel, hospital, or a chiropractic facility.

**110.425 OWNER.** The owner of record of real property as shown on the latest tax rolls or deed records of the county, or a person who is purchasing a parcel of property under written contract, including any person having legal or equitable interest in a lot or parcel other than a leasehold or an interest less than a leasehold.

**110.430 PARKING AREA, PRIVATE.** An open area, building or structure, other than a street or alley, used for the parking of the automobiles of residents and guests of a building.

**110.435 PARKING AREA, PUBLIC.** An open area, building or structure other than a private parking area, street, or alley used for the parking of automobiles and other motor vehicles, but not to include trucks, and available for use by the public or by persons patronizing a particular building or establishment.

**110.440 PARKING SPACE, AUTOMOBILE.** Space within a private or public parking area, building or structure, for the parking of one automobile.

**110.452 PARTITION LAND.** To divide land into two or three parcels of land within a calendar year, but does not include:

- (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 land reduced in size by the adjustment complies with an applicable zoning ordinance;
- (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 ORS 215.213 (2)(p) to (r) and 215.283 (2)(q) to (s). However, any property divided by the sale or grant of property for state highway, county road, city street or other right of way purposes shall continue to be considered a single unit of land until such time as the property is further subdivided or partitioned; or
- (e) A sale or grant by a public agency or public body of excess property resulting from the acquisition of land by the state, a political subdivision or special district for highways, county roads, city streets or other right of way purposes when the sale or grant is part of a property line adjustment incorporating the excess right of way into adjacent property. The property line adjustment shall be approved or disapproved by the applicable local government. If the property line adjustment is approved, it shall be recorded in the deed records of the county where the property is located.

**110.453 PERMIT.** Any determination, conditional use, variance or adjustment granting permission to do an act or to engage in activity where such permission is required by this zoning ordinance.

**110.454 PERMITTED USE.** Those uses permitted in a zone that are allowed without obtaining a conditional use permit.

**110.455 PERSON.** A natural person, his heirs, executors, administrators, or assigns and also includes a firm, partnership or corporation, its or their successors or assigns, or the agent of any of the aforesaid, and any political subdivision, agency, board or bureau of the State.

**110.457 PET.** A domestic animal customarily kept, and cared for, by the occupants of a dwelling for personal pleasure, and which are not raised for food, fur, or monetary gain. Typically, dogs, cats, birds and other small mammals and reptiles, but not including fowl, herd animals, goats or horses.

**110.460 PLANNING COMMISSION.** The Marion County Planning Commission.

**110.461 PRIMARY BUILDING, STRUCTURE, OR USE.** A permanent or temporary building, structure, vehicle, or use that is not an accessory or secondary building, structure or use.

**110.462 PUBLIC UTILITY FACILITY.** All on-site and off-site improvements and related accessories to be accepted for ownership, maintenance and operation by a public agency, including but not limited to, sanitary sewers and pump stations, water lines including related reservoirs, pump stations, pressure reading stations and hydrants, storm drain systems, bike paths and pedestrian paths, and streets including alleys, street lights, street name signs, traffic control systems and devices.

**110.464 QUASI-JUDICIAL.** Any land use action not meeting the definition of a legislative action.

**110.465 RAMADA.** A stationary structure having a roof extending over a mobile home or trailer, which may also extend over a patio or parking space for motor vehicles, and is used principally for protection from sun and rain.

**110.466 RECREATIONAL VEHICLE.** A vehicle with or without motive power, that is designed for human occupancy, to be used temporarily for recreational or emergency purposes, that has a gross floor space of less than 400 square feet. Recreational vehicle includes camping trailers, camping vehicles, motor homes, park trailers, bus conversions, van conversions, tent trailers, travel trailers, truck campers and any vehicle converted for use or partial use as a recreational vehicle.

**110.467 RECREATIONAL VEHICLE PARK.** A lot upon which 2 or more recreational vehicle spaces are located, established, or maintained. Where 2 or more recreational vehicle spaces are provided within a campground, the portion of the campground with the recreational vehicle spaces shall be considered a recreational vehicle park.

**110.468 RECREATIONAL VEHICLE SPACE.** The portion of a lot where a recreational vehicle is parked and occupied or intended to be parked and occupied. A camping site within a campground that is equipped with electrical, water, or sewer hookups designed for use by recreational vehicles shall be considered a recreational vehicle space.

- 110.469 RECYCLING DEPOT.** A lot or portion of a lot used for the collection, sorting, and temporary storage of non-putrescible waste and discarded materials that are reprocessed elsewhere into usable raw materials or taken elsewhere to be re-used or recycled. The term does not include drop stations.
- 110.470 REFUSE.** Any putrescible and non-putrescible solid wastes including garbage, rubbish, ashes, dead animals, abandoned automobiles, junk, solid market wastes, street cleaning, and industrial wastes (including waste disposal in industrial salvage).
- 110.472 RELIGIOUS ORGANIZATION (CHURCH).** Establishments operated by religious organizations for worship and religious training or study of its members and the administration of such establishments. If a church, synagogue, temple, mosque, chapel, meeting house or other nonresidential place of worship is allowed on real property under the local zoning ordinances, the county shall allow the reasonable use of the real property for activities customarily associated with the practices of the religious activity, including worship services, religion classes, weddings, funerals, child care and meal programs, but not including private or parochial school education for pre-kindergarten through grade 12 or higher education.
- 110.475 REPAIR.** The reconstruction or renewal of any part of an existing building for the purpose of its maintenance. The word "repair" or "repairs" shall not include structural changes.
- 110.476 RESIDENTIAL FACILITY.** Means a dwelling where residential care alone or in conjunction with treatment or training or a combination thereof is provided by a family or non-resident staff for resident individuals who need not be related. The provider family or non-resident staff need not be related to each other or to any resident of the dwelling. It includes a facility meeting this definition licensed by or under the authority of the Department of Human Resources under ORS 443.400 to 443.825. It also means a child care facility with no limits on where employees reside.
- 110.477 RESIDENTIAL HOME.** A dwelling unit where the resident family provides residential care alone or in conjunction with treatment or training or a combination thereof for the resident individuals who need not be related. Any home employees must reside in the dwelling unit. The provider family need not be related to those receiving residential care. It includes a home meeting this definition licensed by or under the authority of the Department of Human Resources under 443.400 to 443.825. It also means a child care facility in a dwelling unit where any facility employees reside in the dwelling unit.
- 110.480 REST HOME.** See Nursing Home.
- 110.485 RESTAURANT, CAFE.** An establishment where prepared food is served to the public for consumption within the building, or to "take out" to some other location.
- 110.490 RESTAURANT, DRIVE-IN.** An establishment where prepared food is served to the public for consumption on the premises, or to "take out" to some other location.
- 110.495 ROADWAY.** Means a right-of-way across private property granted by the property owner to owners of one or more lots and allowing vehicles access from a street or roadway to those lots.
- 110.500 ROOMING HOUSE.** A residential building, or portion thereof, providing sleeping rooms where lodging for three or more persons is provided for compensation.

**110.505 SCHOOL, CAREER, TRADE OR COMMERCIAL.** A building or property where any private proprietary professional, technical, home study, correspondence, business or other school instruction, organization or person that offers any instruction or training for the purpose or purported purpose of instructing, training or preparing persons for any profession. instruction, training or lessons is given to pupils for a fee in money or otherwise which fee is the principal reason for the existence of the school.

**110.510 SCHOOL, ELEMENTARY OR SECONDARY JUNIOR HIGH OR HIGH.** An institution, public or private parochial, offering instruction in several branches of learning and study in pre-kindergarten, kindergarten, or grades 1 through 12 or any part thereof, in accordance with the rules and regulations of the State Department of Education.

**110.515 SCRAP AND WASTE MATERIALS ESTABLISHMENT.** Any establishment or place of business that is maintained, operated or used for storing, keeping, buying or selling old or scrap copper, brass, rope, rags, batteries, paper, rubber, or debris, junked, dismantled, wrecked, scrapped, or ruined motor vehicles or motor vehicle parts (except wrecking yards), iron, steel, or other old scrap metal or non-metal materials. Scrap and waste materials establishment does not include drop stations, solid waste transfer stations, or recycling depots.

**110.522 SECONDARY USE.** A use located on a lot with one or more primary uses that occupies less than 40% of the lot and it is, or can be, maintained independent of the primary use (see Section 126.20 for regulations).

**110.523 SEMI-PUBLIC.** Any use that is partly but not completely public and is open to at least some persons outside the regular constituency of an entity or institution having some features of a public institution, such a non-profit organization, as a public service.

**110.524 SOLID WASTE TRANSFER STATION.** A fixed or mobile facility, used as an adjunct to collection vehicle(s), resource recovery facility, or disposal site between the collection of the waste/solid waste and disposal site, including but not limited to, another vehicle, a concrete slab, pit, building, hopper, railroad gondola or barge. The term does not include a self-propelled compactor type solid waste collection vehicle into which scooters, pick-ups, small packers or other satellite collection vehicles dump collected solid waste for transport to a transfer, disposal, landfill or resource recovery site or facility.

**110.525 STABLE, PRIVATE.** An accessory building for the keeping of horses owned by the occupants of the premises and not kept for remuneration, hire, or sale.

**110.530 STABLE, PUBLIC.** A building in which horses are kept for remuneration, hire, or sale, including saddle and riding clubs.

**110.532 STANDARD INDUSTRIAL CLASSIFICATION MANUAL (SIC),** The document so entitled, referenced by Section 110.730, published in 1987, and used in this Ordinance to identify land use classifications

**110.533 STANDARDS.** See Development Standards.

**110.540 STORY.** That portion of a building included between the upper surface of any floor and the upper surface of the floor next above, except that the topmost story shall be that portion of a building

included between the upper surface of the topmost floor and the ceiling or roof above. If the finished floor level directly above a basement, cellar, or unused under floor space is more than 6 feet above grade as defined herein for more than 50% of the total perimeter or is more than 12 feet above grade as defined herein at any point, such basement, cellar or unused under floor space shall be considered as a story.

**110.545 STORY, HALF.** A story under a gable, hip or gambrel roof, the wall plates of which, on at least 2 opposite exterior walls, are not more than 2 feet above the floor of such story.

**110.550 STREET.** A way of travel more than 20 feet wide that has been dedicated or deeded to the public for public use.

**110.555 STRUCTURE.** That which is built or constructed, an edifice or building of any kind, or any piece of work artificially built up or composed of parts joined together in some definite manner, regardless of whether it is wholly or partly above or below grade including mobile homes.

**110.556 SUBDIVIDE LAND.** To divide land into four or more lots within a calendar year.

**110.557 SUBDIVISION.** Either an act of subdividing land or an area or a tract of land subdivided.

**110.558 SUPPORT STRUCTURE.** A structure to which antennae and other necessary associated hardware are mounted. Support structures include, but are not limited to the following:

- (a) Lattice tower - a support structure that consists of a network of crossed metal braces, forming a tower that is usually triangular or square in cross-section.
- (b) Monopole - a support structure that consists of a single pole sunk into the ground and/or attached to a foundation.
- (c) Guyed tower - a support structure that consists of metal crossed strips or bars and is steadied by wire guys in a radial pattern around the tower.
- (d) Existing structure - an existing or approved nonresidential structure or building, water tower or tank, utility pole, wireless communication support structure, etc.

**110.560 TEMPORARY USE** means a primary, secondary, or accessory use that occurs on a lot for less than 6 months in any calendar year, or a lesser period as prescribed in Section 126.30 or elsewhere in this Ordinance.

**110.565 TRAILER (TRAVEL OR VACATION).** A vehicle or structure equipped with wheels for highway use that is intended for human occupancy, which is not being used for residential purposes and is being used for vacation and recreational purposes.

**110.567 TRANSMISSION FACILITY.** High voltage (57 KV or more) power lines and related support structures used to convey electricity from a power generator facility to electric substations along a line or corridor.

**110.568 TRANSMISSION TOWERS.** A single structure and related unoccupied buildings transmitting or relaying electronic signals to the surrounding area or along a communication corridor including radio, television and telephone transmitters and microwave relay stations.

**110.575 TOURIST COURT.** See Motel.

**110.580 TRUCK.** A motor vehicle designed or used for carrying, conveying, or moving over highways of this State any property, article, or thing and having a combined weight of vehicle and maximum load to be carried thereon of more than 6,000 lbs.

**110.581 TURNAROUND AREA.** A paved area of a sufficient size and configuration that a motor vehicle having a turning radius of 30 feet or less may maneuver around to head in the opposite direction without having to move in reverse more than once.

**110.582 UNIFORM BUILDING CODE (UBC).** The code of building design and construction standards adopted by Marion County.

**110.583 URBAN GROWTH BOUNDARY (UGB).** The 20 years growth limit identified in a City Comprehensive Plan and the Marion County Comprehensive Plan acknowledged under ORS Chapter 197.

**110.584 UTILITY FACILITY.** Any water, gas, sanitary sewer, storm sewer, electricity, telephone and wire communication service, and CATV (cable television) service lines, mains, pumping stations, reservoirs, poles, underground transmission facilities, substations, and related physical facilities which do not include buildings regularly occupied by employees, parking areas, or vehicle, equipment and material storage areas, wireless communications facility or wireless communications facility attached.

Under the provisions of the EFU, SA, and FT zones, "wireless communications facility" and "wireless communications facility attached" shall be included in the definition of utility facility. Under the provisions of the TC zone these facilities shall be considered microwave and radio communication facilities and transmission towers.

**110.585 USE (noun).** The purpose for which land or a building is arranged, designed, or intended, or for which either land or a building is or may be occupied.

**110.586 VEHICLE.** For the purposes of this Ordinance vehicle shall have the same meaning as the definition in the rules and regulations of the State Department of Motor Vehicles.

**110.590 VISION CLEARANCE.** A triangular area at the street or highway corner of a corner lot, or the corner at an alley-street intersection of a lot, the space being defined by a diagonal line across the corner between the points on the street right-of-way line or street-alley right-of-way line measured from the corner.

**110.592 WIRELESS COMMUNICATION FACILITIES (WCF).** An un-staffed facility for the transmission and reception of electromagnetic signals used for commercial communications. WCFs are composed of two or more of the following components: (1) Antenna; (2) Support Structure; (3) Equipment Enclosures; and (4) Security Barrier.

**110.594 WIRELESS COMMUNICATION FACILITIES ATTACHED (WCFA).** A wireless communication facility that is attached to an existing or approved structure, e.g., an existing building wall

or roof, mechanical equipment, tower or pole, water tank, utility pole, or light pole, that does not include an additional wireless communications support structure.

**110.595 YARD.** A space other than a court on the same lot with a building open from the ground upward except as otherwise provided herein.

**110.600 YARD, FRONT.** A yard extending across the full width of the lot, the depth of which is the minimum horizontal distance between the front lot line and a line parallel thereto at the nearest point of the foundation of the main building.

**110.603 YARD, INTERIOR.** A front, side or rear yard that is not adjacent to a street or roadway.

**110.605 YARD, LANDSCAPED.** An open area or areas devoted primarily to the planting and maintaining of trees, grass, shrubs, and plants together with sufficient permanent irrigation installation to properly maintain all vegetation. As complimentary features, such as fountains, pools, screens, decorative lighting, sculpture and outdoor furnishings may be placed within said area.

**110.610 YARD, REAR.** A yard extending across the full width of the lot between the most rear main building and the rear lot line, but for determining the depth of the required rear yard, it shall be measured horizontally from the nearest point of the rear lot line; or, if the rear lot line adjoins an alley, then from the center line of the alley, toward the nearest part of the foundation of the main building.

**110.615 YARD, SIDE.** A yard, between the main building and the side lot line, extending from the front yard, or front lot line where no front yard is required, to the rear yard; the width of the required side yard shall be measured horizontally from the nearest point of the side lot line toward the nearest part of the foundation of the main building.

**110.618 YURT.** A round, domed shelter of cloth or canvas on a collapsible frame with no plumbing, sewage disposal hook-up or internal cooking appliances.

**110.620 ZONES: OFFICIAL MAP.** The County (Marion) is hereby dividing into use zones, as shown on the official zoning map which, together with all explanatory matter thereon, is hereby adopted and declared to be a part of this ordinance. The zone names and designations are as follows:

<u>FULL NAME</u>	<u>DESIGNATION</u>
Acreage Residential Zone	"AR" Zone
Single Family Residential Zone	"RS" Zone
Duplex Residential Zone	"RD" Zone
Limited Multi-Family Residential Zone	"RL" Zone
Multi-Family Residential Zone	"RM" Zone
Exclusive Farm Use Zone	"EFU" Zone
Special Agriculture Zone	"SA" Zone
Timber Conservation Zone	"TC" Zone
Farm/Timber Zone	"FT" Zone
Public Zone	"P" Zone
Commercial Zone	"C" Zone
Community Commercial	"CC" Zone



Interchange District Zone  
Unincorporated Community Industrial  
Industrial Zone

"ID" Zone  
"IUC" Zone  
"I" Zone

Whenever the terms "S" zone, "A" zone, "R" zone, "F" zone, "C" zone, "P" zone, or "I" zone are used herein, they shall be deemed to refer to all zones containing the same zone letter in their names. For example, the term "R" zone shall include the RS, RD, RL, and RM zones.

The RS zone is the most restricted zone and the I zone is the least restricted zone. The CC and C zones shall be considered less restricted than the RM zone, but more restricted than the IUC zone.

**110.630**        CERTIFICATION. The Board and the County Clerk shall certify that "this is the official zoning map referred to in Section 110.620 of the Marion County Zoning Ordinance."

**110.650**        LOCATION. Regardless of the existence of purported copies of the official zoning map which may from time to time be made or published, there shall be only one official zoning map which shall be located in the County Planning Division office, and which official zoning map shall be the final authority as to the zoning status of land and water areas, buildings and other structures.

**110.660**        AMENDING OFFICIAL ZONING MAP. When an ordinance has been enacted amending the official zoning map, the Director shall so change the official map.

**110.670**        REPLACEMENT OF OFFICIAL ZONING MAP. In the event the official zoning map becomes damaged, destroyed, lost or difficult to interpret because of the nature and number of changes and additions, or when it is necessary or desirable for some other reason, the Board may adopt all or part of a new zoning map by resolution, and such map shall supersede the prior official zoning map. The superseded map shall be filed for reference purposes for at least 1 year. The new official map may correct drafting or other errors and omissions in the prior official zoning map, but no such corrections shall have the effect of amending the ordinance or any subsequent amendment thereof. The replacement map shall be certified by the Board and County Clerk that "this official zoning map supersedes and replaces the official zoning map (date of map being replaced) as part of the Marion County Rural Zoning Ordinance."

**110.680**        ADMINISTRATION OF THE ORDINANCE. This ordinance shall be jointly administered by the County Building Official and by the Director or designee.

The Building Official and the Director or other designated officer, prior to issuing any permit pertaining to the use of land or structures, or the erection or alteration of any structure, shall ascertain that the proposed use or construction shall in all ways conform to the requirements set forth in this ordinance.

No permit for the use of land or structures or for the alteration or construction of any structure shall be issued and no land use approval shall be granted if the land for which the permit or approval is sought is being used in violation of any condition of approval of any land use action, or is being used or has been divided in violation of the provisions of this ordinance unless issuance of the permit would correct the violation.

The Director shall handle all matters pertaining to zone changes, variances, and conditional uses, and other administrative matters as prescribed by this ordinance; and such other matters as directed by the Planning Commission, Hearings Officer, or Board.

Any provision in any plat requiring that the Board or the Planning Commission approve any future land uses or divisions shall be satisfied if the proposed land use or division is reviewed and approved by the Hearings Officer, Planning Director or designee in accordance with the other provisions of this ordinance.

The Director or the Hearings office may deny any land use application if it is determined that the application includes any false or misleading information. Before a decision granting an application becomes final, any land use permit granted pursuant to Marion County Rural Zoning Ordinance may be reconsidered by the Director or Hearings Officer and may be denied if it is determined that the application included any false or misleading information.

Any land use permit granted pursuant to Marion County Rural Zoning Ordinance shall be subject to revocation by the Director if the Director determines that the application for the permit included any false or misleading information, if the conditions of approval have not been complied with or are not being maintained, or if the land use is not being conducted in full compliance with the requirements of local, state and federal laws.

The Director's decision revoking a land use permit may be appealed to the Hearings Officer, who shall hold a public hearing in order for the permit holder to show cause why the permit should not be revoked. No hearing may be held without a minimum 12 days notice to the permit holder.

If the Hearings Officer finds that the conditions of permit approval have not been complied with or are not being maintained, or that the land use is not being conducted in compliance with applicable laws, the Hearings Officer may grant a reasonable time for compliance. If corrections are not made within that time, the permit shall be revoked effective immediately upon expiration of the time specified. The Hearings Officer's decision may be appealed to the Board as provided in MCRZO section 122.120.

All land uses shall be conducted in full compliance with any other County Ordinance, Code or requirement of State Law. Failure to conform to other applicable laws shall be grounds for revocation of the permit.

The Director or designee shall determine whether dwellings, structures or uses are a permitted use subject to standards and the limited use provisions in the applicable zone. The administrative review procedures, as provided below, shall be followed in making these decisions. The same process shall be used for other administrative reviews under this Ordinance including, but not limited to, modifications of the special setbacks in Sections 128.050 (a), 136.050 (a), 137.050 (a), 138.050 (a), and 139.050 (a).

- (a) The decision shall be made on the basis of the Marion County Comprehensive Plan and applicable standards and criteria in the Rural Zoning Ordinance. The Director or designee may attach any conditions of approval deemed necessary to ensure conformance of the use or structure to the standards or criteria. Administrative Review applications may be filed and shall be signed as required in Sections 119.020 and 119.025.
- (b) Notice of a decision allowing a proposed use shall be sent to the applicant, the owner(s) of the subject property, the co-tenants if the subject property is owned by tenants in common, and all property owners within the notification area prescribed by Section 110.408 and Section 111.030
- (c) of this ordinance or as required by state law or administrative rule.

- (c) The applicant or any persons aggrieved or affected by the decision may file a request for a hearing to the County Planning Division within 12 days of the date the decision was rendered. The request must be in writing and should explain wherein the decision is factually or legally incorrect, or state new facts material to the decision that were not available to the Director or designee.
- (d) The applicant may file a request for reconsideration without a hearing to the County Planning Division within 12 days of the date the decision was rendered. The request must be in writing and received in the Planning Division office prior to the decision being final, and should explain wherein the decision is factually or legally incorrect, or state new facts material to the decision that were not available to the Director, or propose modifications that will better conform the proposal to the requirements of the ordinance. The request for reconsideration shall include a signed 30 day waiver of the 150 day time limit in ORS 215.427.

Applicants shall be limited to one request for reconsideration per application. The Director shall reconsider the matter and provide notice to the person requesting reconsideration and as required in (b).

The Board may call up any action of the Director, Planning Commission or Hearings Officer in granting or denying Administrative Reviews. This action of the Board shall be taken at the meeting where notice of the decision is presented. When the Board takes such action the Director's, Planning Commission's or Hearings Officer's records pertaining to the Administrative Review in question shall be submitted to the Board by the Director or Hearings Officer. The call up shall stay all proceedings in the same manner as the filing of a notice of appeal.

- (e) When reconsideration has been requested, the decision is stayed until final action is taken.
- (f) On request for a hearing, the Hearings Officer shall hold a hearing on the matter in accordance with Chapter 111 of this Ordinance.
- (g) Sections 122.070 through 122.130 of this Ordinance shall apply to any appeals from the decision of the Hearings Officer.

**110.690**     MINIMUM REQUIREMENTS. In interpreting and applying this ordinance, the provisions herein shall be held to be the minimum requirements adopted for the promotion of the public health, safety, comfort, convenience, and general welfare and shall apply uniformly to each class or kind of structure or land.

**110.700**     EFFECT ON OTHER ORDINANCES, AGREEMENTS BETWEEN PARTIES. It is not intended by this ordinance to repeal, abrogate, annul or in any way to impair or interfere with any existing provision of law or ordinance, previously adopted, relating to the use of buildings or premises, or relating to the erection, construction, establishment, alteration, or enlargement of any buildings or improvements; nor is it intended by this ordinance to interfere with or abrogate or annul any easement, covenant, or other agreement between parties; provided, however, that where this ordinance imposes a greater restriction upon the erection, construction, establishment, alteration, or enlargement of buildings, structures, or improvements, or the use of any such structures or premises in said several zones or districts, or any of them, than is imposed or required by such existing provisions of this ordinance shall control, except that such precedence of this ordinance shall not apply to valid and unexpired permits previously granted under the terms and provisions of any ordinance.

**110.705**      **PERMIT EXPIRATION DATES.**

- (a) Except in the EFU, TC, SA and FT zones, and notwithstanding other provisions of this ordinance, a discretionary decision approving a proposed development expires two years from the date of the final decision if the development action is not initiated during that period. The Director may grant an extension period of up to 12 months if:
  - (1) An applicant makes a written request for an extension of the development approval period.
  - (2) The request is submitted to the county prior to expiration of the approval period.
  - (3) The applicant states the reasons that prevented the applicant from beginning or continuing development within the approval period.
  - (4) The county determines that the applicant was unable to begin or continue development during the approval period for reasons for which the applicant was not responsible.
- (b) Approval of an extension granted under this section is not a land-use decision described in ORS 197.015 and is not subject to appeal as a land use decision.
- (c) Additional one-year extensions may be authorized where applicable criteria for the decision have not changed.

**110.710**      **RULES FOR INTERPRETATION OF ZONE BOUNDARIES.** Where uncertainty exists as to the boundaries of zones as shown on the official zoning map, the following rules shall apply:

- (a) Boundaries indicated as approximately following the centerlines of streets, highways, or alleys shall be construed to follow such centerlines.
- (b) Boundaries indicated as approximately following platted lot lines shall be construed as following such lot lines;
- (c) Boundaries indicated as approximately following County boundaries shall be construed as following County boundaries;
- (d) Boundaries indicated as following railroad lines shall be construed to be midway between the main tracks;
- (e) Boundaries indicated as approximately following the centerlines of streams, rivers, canals, lakes, or other bodies of water shall be construed to follow such centerlines;
- (f) Boundaries indicated as parallel to or extensions of features indicated in subsections (a) through (e) above shall be so construed. Distances not specifically indicated on the official zoning map shall be determined by the scale of the map;
- (g) Where physical or cultural features existing on the ground are at variance with those shown on the official zoning map, or in other circumstances not covered by subsections (a) through (f) above, the Director shall interpret the zone boundaries, and if need be, may refer the matter to the Planning Commission or Hearings Officer for their interpretation.

**110.720**      **INTERPRETATION OF ORDINANCE.**

- (a) The Director may, in the administration of this ordinance, issue an interpretation of its provisions consistent with (b) (1) and (2) below. This interpretation is not a land use decision and is not appealable.
- (b) When, in the administration of this ordinance, there is doubt by the Director regarding the intent of the ordinance, the Director may request an interpretation of the provision by the Planning Commission or Hearings Officer, who may issue an interpretation of the question if they have determined that such interpretation is within their power and is not a legislative act. Any interpretation of the ordinance shall be based on the following:
  - (1) The purpose and intent of the ordinance as applied to the particular section and question; and
  - (2) The opinion of the Marion County Legal Counsel when requested by the Director, Planning Commission or Hearings Officer.
- (c) The Director, Planning Commission or Hearings Officer may decide that the interpretation of the question is not within their power or that there is insufficient basis upon which to make an interpretation and may request the Director to study the problem and, where necessary, propose an amendment to the ordinance.
- (d) The interpretation by the Planning Commission or Hearings Officer shall be forwarded to the Board for its information. Copies of the interpretation shall also be furnished each Commissioner, the Hearings Officer and the Director. When such interpretation is of general public interest, copies of such interpretation shall be made available for public distribution.

**110.730**      **SIMILAR USES.** The Director may permit in any zone any use not described or listed in this ordinance for any other zone if, in the opinion of the Director, the requested use is of the same general type and is similar to the uses permitted in the zone. Such review and permission shall be made in the same manner as other interpretations of this ordinance. The Director shall use the Standard Industrial Classification Manual 1987 as a guide in making this interpretation.

**110.740**      **FEES.** Filing fees shall be set by Order of the Board of Commissioners.

**110.750**      **ENFORCEMENT.** It shall be the duty of the Director and County Building Official to enforce this ordinance. It shall be unlawful for any person to violate any provision of this ordinance, to permit or maintain any such violation, to refuse to obey any provisions hereof, or to fail or refuse to comply with any such provision except as variation may be allowed under this ordinance. Proof of such unlawful act or failure to act shall be deemed prima facie evidence that such act is that of the owner. Prosecution or failure to prosecute either the owner or the occupant shall not be deemed to relieve the other of responsibility for the violation.

Violations of this ordinance may be prosecuted and penalties assessed pursuant to Marion County Enforcement Ordinance.

**110.760**      **COMPLAINTS REGARDING VIOLATIONS.** Whenever a violation of this ordinance occurs or is alleged to have occurred, any person may file a signed written complaint with the Director or

County Building Official. It shall be the duty of said official to investigate any such complaint and any violation regardless of whether or not a complaint has been made thereof and to take such action as may be necessary. The Director has the discretion to choose not to enforce a violation.

**110.765**        **BOARD AUTHORITY.** The Board may, on its own motion, summon any application for a land use decision at any time and make the initial determination on said application. In those cases where the Board exercises its authority to make the initial determination on an application, the Board substitutes itself for the Planning Commission, Hearings Officer or Director and shall follow all procedures for reaching a decision just as if the Board was the Planning Commission, Hearings Officer or Director, except that the decision issued is final and appealable only to the Oregon Land Use Board of Appeals.

**110.770**        **VISION CLEARANCE AREA.** The following regulations shall apply in all zones at all intersections of streets, alleys, roadways, and driveways in order to provide safe visibility for vehicular and pedestrian traffic:

- (a) Local street intersections shall have vision clearance areas defined by a minimum of 30 foot legs along each street. Where there is stop control at the intersection of local streets, the vision clearance area shall have a minimum of a 10 foot leg on the minor street and a 50 foot leg on the major street.
- (b) Local streets intersecting streets designated as collectors or arterials in the Comprehensive Plan shall have vision clearance areas defined by minimum of a 10 foot leg along the local street and an 100 foot leg along the collector or arterial street.
- (c) Private roadways, driveways and public alleys intersecting local streets shall have vision clearance areas defined by a minimum of a 10 foot leg along the driveway and a 50 foot leg along the street.
- (d) Private roadways, driveways and public alleys intersecting streets designated as collectors or arterials in the Comprehensive Plan shall have vision clearance areas defined by a minimum of a 10 foot leg along the driveway and an 100 foot leg along the collector or arterial street.
- (e) The Department of Public Works may prescribe special dimensions and conditions for the vision clearance area at intersections of driveways, roadways and streets with a public street according to recognized traffic engineering standards, where, due to grade, road alignment and geometry, irregular lot shape, substandard right-of-way width, or vehicle speeds, the vision clearance areas provided in (a), (b), (c) and (d) do not provide for adequate intersection visibility.
- (f) The vision clearance area shall be defined as the area contained by a diagonal line across the corner between points on: a public right-of-way or public easement line; a boundary of a private roadway easement or 10 feet from the centerline thereof, whichever is greater; a line parallel to and 10 feet from the centerline of a driveway. The points are measured from the intersection of the right-of-way lines or the boundary of a roadway or driveway. If no point exists it shall be measured from the point of intersection of the projection of these lines.
- (g) Except as provided in (1) and (2) below, the vision clearance area required by this section shall not contain any planting, fences, walls, structures, or temporary or permanent obstructions to vision, including parked vehicles, exceeding 30 inches in height above the curb level or the end of the travel lane when there is no curb:

- (1) Only one supporting post or pillar, no greater than 12 inches in diameter or 12 inches on the diagonal if rectangular, is permitted within a vision clearance area unless otherwise approved by the Department of Public Works. Exceptions are posts or supporting members of street signs, street lights and traffic control signs installed as directed by the Department of Public Works, or any other sign, post or pole erected for public safety.
- (2) Vision clearance shall be required to a minimum height of 7 feet above the curb level or edge of travel lane where there is no curb. Where public buses, trucks and other service vehicles travel on the minor leg of the intersection, vision clearance shall be required up to a height of 10 feet above the curb level or edge of travel lane where there is no curb.
- (h) The street classification (local, collector or arterial) shall be as established in the Marion County Transportation System Plan.
- (i) The vision clearance provisions of this section shall not be construed as waiving or altering any yard, landscaping or setback requirements that may be required by this or any other ordinance.

**110.780**      **MINIMUM STREET WIDTH.** All street rights-of-way shall be not less than as set forth below:

- (a) Arterials and collectors as set forth in Section 112.030.
- (b) Through streets, 60 feet.
- (c) Cul-de-sac, 50 feet wide unless otherwise specified by the Director, Planning Commission or Hearings Officer.

**110.790**      **LOTS ABUTTING A PARTIAL STREET.** No building permit shall be issued for a building or structure on a lot which abuts a street dedicated to a portion only of its required width and is located on that side which has not yet been dedicated or condemned, unless the yards provided on such lot include both that portion of the lot lying within the required street and the required yards. This portion shall not be construed as being in lieu of or waiving any subdivision or partitioning requirement of this or any other ordinance.

**110.800**      **DWELLINGS AND ALL OTHER BUILDINGS TO BE ACCESSIBLE TO PUBLIC STREET.** Every dwelling shall be situated on a lot having direct access by abutting upon a public street or a pre-existing private driveway of a width not less than 20 feet. A private drive shall not serve more than 4 dwelling units unless the parcels, on which those units are proposed to be placed, were established with the approval of the Marion County Planning Commission or Hearings Officer in accordance with State law and Marion County Ordinances, prior to May 1, 1977, or were approved under Chapter 121, Planned Development.

NOTE: Driveway widths, grade and surfacing pertaining to parking lots access will be referred to Parking Section.

**110.810**      **APPLICATION OF ZONING REGULATIONS.** The regulations set by this ordinance within each zone shall be minimum regulations and shall apply uniformly to each class or kind of structure or land.

**110.820** CONFORMANCE AND PERMITS REQUIRED. No building structure, or premises shall hereafter be used or occupied, and no building or structure or part thereof shall hereafter be erected, constructed, moved, structurally altered, or enlarged unless in conformity with all the regulations herein specified for the zone in which it is located, and then only after applying for and securing all permits and licenses required by all laws and ordinances, except as provided in subsection (a) and (b) below.

- (a) Federally owned lands are exempt from the permit provisions of this Ordinance. However, land use activities on federal lands shall be managed in a manner consistent with the intent of the Marion County Comprehensive Plan, Zoning Ordinance, and the Land Policy and Management Act of 1976;
- (b) On public park lands, park maintenance including rehabilitation, replacements minor improvements, repair and similar maintenance activities are not subject to conditional use permit requirements. In addition, development of new facilities identified in County approved State Parks master plans and in County approved County Park plans are not subject to the conditional use procedures.

**110.830** WATER RESOURCE PROTECTION. The impact of proposed land uses on water resources shall be evaluated and potential adverse impacts on the water resource shall be minimized.

Where evidence indicates groundwater limitations and the development will use groundwater as a water supply, the developer shall demonstrate that adequate water can be provided without adversely affecting the ground water resource.

**110.831** SIGNIFICANT AND POTENTIAL MINERAL AND AGGREGATE SITES. Proposed land uses within 1,500 feet of a County designated or approved significant or potential mineral or aggregate extraction site shall be evaluated and if it will be adversely affected, the proposed use shall be relocated, buffered or the potential impact otherwise mitigated without imposing special requirements of the extraction operation.

**110.832** PROTECTION OF SCENIC AND NATURAL AREAS AND TRAILS. Proposed land uses regulated by Marion County within, or adjacent to, scenic and natural areas and recreational trails designated for protection in the Comprehensive Plan shall be evaluated to determine if the proposed use will adversely impact on the designated resource. If there are potential adverse impacts, the proposed use shall be modified or conditioned to mitigate the impacts.

**110.834** NOISE IMPACTS. A proposed residence or place of public assembly proposed in a noise impact area identified in the Comprehensive Plan, shall be referred to the DEQ (Department of Environmental Quality) for comment on how serious the impact will be and how the proposal can be modified to maintain acceptable noise levels. Adequate mitigation of noise impacts shall be provided.

**110.835** FISH AND WILDLIFE HABITATS. The impact of land use actions regulated by this Ordinance on fish and wildlife habitat identified in the Marion County Comprehensive Plan shall be evaluated and the proposal modified or conditioned as necessary to minimize potential adverse impacts and to preserve the existing resource.

**110.836** HISTORIC STRUCTURES OR SITES. The historic structures and sites identified in the Marion County Comprehensive Plan are a unique resource deserving of special consideration. To



ensure that these and any other historic structures and sites identified in the future are protected the following regulations shall apply to lands containing a historic structure or site and to adjacent lands:

- (a) Where the Comprehensive Land Use Plan identifies a historic use or structure the subject property shall be identified by a graphic symbol on the official zoning map. Designation on the official zone map shall be amended automatically to correspond to any additions or deletions in the Comprehensive Land Use Plan designation.

**110.838**      **AGRICULTURAL SOILS DETERMINATION.** Agricultural soils determinations shall be based on the classifications shown in "Soil Survey of Marion County Area: September, 1972", unless the applicant provides a detailed soils evaluation from a consulting soils scientist whose credentials have been certified as acceptable to the State Department of Agriculture that the soil class, soil rating, or other soil designation should be changed, and the report satisfies the most recent requirements in the Oregon Administrative Rules for acceptable soils reports.

**110.840**      **AMENDMENT OF TEXT ONLY.** Any amendment of this ordinance that amends, supplements or changes only the text hereof, shall be initiated by the Board, Hearings Officer or by the Planning Commission by resolution. Whenever an amendment is initiated by the Board the resolution shall be referred to the Director, Planning Commission or Hearings Officer for its recommendation.

In every case of a proposed amendment, the Director shall fix a date for a public hearing before the Board, Planning Commission or Hearings Officer and shall cause notice to be given as provided in Chapter 111. After the public hearing, the Director, Planning Commission or Hearings Officer may refer its recommendations to the Board.

**110.850**      **PENDING ZONE CHANGE PROCEEDINGS.** Any petition or proceeding pending before the Planning Commission, Hearings Officer or the Board for a zone change or reclassification of any premises from one zone to another, or for any variance, shall abate by the passage of this ordinance, but the petitioner, if he so requests, shall be permitted to amend his petition or application so as to conform to the designation of zones and other provisions of this ordinance.

**110.860**      **VIOLATIONS OF REGULATIONS UNLAWFUL; PROOF OF VIOLATION PRIMA FACIE EVIDENCE OF OWNER'S RESPONSIBILITY.** It shall be unlawful for any person to violate any provision of this ordinance, to permit or maintain any such violation, to refuse to obey any provision hereof, or to fail or refuse to comply with any such provision except as variation may be allowed under this ordinance. Proof of such unlawful act or failure to act shall be deemed prima facie evidence that such act is that of the owner. Prosecution or lack thereof of either the owner or the occupant shall not be deemed to relieve the other.

**110.870**      **ENFORCEMENT AND PENALTIES FOR VIOLATIONS.** Violations of this ordinance may shall be prosecuted and penalties assessed pursuant to Marion County Enforcement Ordinance.

**110.880**      **SAVINGS CLAUSE.** If any section, paragraph, subdivision, clause, sentence, or provision of this ordinance shall be adjudged by any court of competent jurisdiction to be unconstitutional or invalid, such judgment shall not affect, impair, invalidate, or nullify the remainder of this ordinance, but the effect thereof shall be confined to the section, paragraph, subdivision, clause, sentence, or provision immediately involved in the controversy in which such judgment or decree shall be rendered, it

being the intent of the Board to enact the remainder of this ordinance notwithstanding the parts so declared unconstitutional and invalid; and should any section, paragraph, subdivision, clause, sentence or provision of this ordinance be declared unreasonable or inapplicable to a particular premises or to a particular use at any particular location, such declaration of judgment shall not affect, impair, invalidate, or nullify such section, paragraph, subdivision, clause, sentence, or provision as to any other premises or use.

**110.890**        **REPEALING CONFLICTING ORDINANCES.** The following ordinances passed by the Board and all ordinances amendatory thereof, and all other ordinances and parts of ordinances in conflict herewith, hereby are repealed:

Ordinance No. 24	2/3/60	Ordinance No. 140	8/18/67
Ordinance No. 25	4/27/60	Ordinance No. 151	8/18/67
Ordinance No. 26	6/29/60	Ordinance No. 149	12/6/67
Ordinance No. 68	1/16/63	Ordinance No. 175	7/31/68
Ordinance No. 62	3/13/64		
Ordinance No. 78	10/14/63		
Ordinance No. 83	3/11/64		
Ordinance No. 183	3/22/68		

DECEMBER 1, 2005 DRAFT  
ADDITIONS IN **BOLD, UNDERLINED AND ITALICIZED**  
DELETIONS IN STRIKEOUT

CHAPTER 126  
PERMITTED USES GENERALLY

Revised \_\_\_\_\_ Ord #  
Revised 10/06/04 Ord.#1204  
Revised 07/28/04  
Revised 08/06/03  
Revised 12/12/02

Section	Title	Page
126.010	Uses Permitted in all Zones	
126.020	Permitted Secondary and Accessory Structures and Uses	
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**126.010 USES PERMITTED IN ALL ZONES.** The following uses, facilities and activities whether primary, accessory, secondary or temporary, are permitted in all zones subject to compliance with the requirements in Chapters 110, 112, 113, 114, 116, 117, 118, 120, 121, 176, 177, 178, 179, and 191, except when specifically prohibited or when a conditional use is required in the applicable primary or overlay zones:

- (a) Public rights-of-way and easements existing at the time of adoption of this Ordinance, including public streets, roads and utilities located therein, except as provided in SA, EFU, FT and TC zones.
- (b) Except in SA, EFU, FT and TC zones, expansion and realignment of existing right-of-way and easements, including improvement and construction of streets, roads and utilities in conformance with the applicable comprehensive plan and the standards of the Department of Public Works. Street right-of-way shall not be expanded to a greater width than twice the special setback in Chapter 112 unless the expansion is necessary to include cut and fill slopes and turn lanes at intersections.
- (c) Except in SA, EFU, FT and TC zones, establishment of new public right-of-way and easements, including construction of streets, roads and utilities in conformance with the applicable comprehensive plan, the standards of the Department of Public Works, and the County Subdivision and Partitioning Ordinance. Street right-of-way shall not be greater in width than twice the special setback in Chapter 112 unless the greater width is necessary to include cut and fill slopes and turn lanes at intersections.
- (d) Railroad tracks and related structures and facilities located within existing rights-of-way controlled by railroad companies. Also, except in SA, EFU, FT and TC zones, expansion and realignment of railroad right-of-ways. Railroad right-of-way shall not be greater in width than necessary to accommodate rail supporting structure and drainage facilities.

- (e) Use of non-geothermal groundwater, natural or man-made waterways and impoundments, and related structures and facilities for supply associated with permitted uses.
- (f) Creation, restoration, or enhancement of wetlands as defined in ORS 197.015 (17).
- (g) Condominium buildings.

**126.020 PERMITTED SECONDARY AND ACCESSORY STRUCTURES AND USES.** The following secondary and accessory uses and structures shall be permitted on a lot or parcel with a primary use and are subject to the limitations and requirements in Chapters 110, 112, 113, 114, 116, 117, 118, 120, 121, and the requirements in any applicable overlay zone:

- (a) The following accessory structures and uses are permitted on a lot in any zone in conjunction with a permitted dwelling unit or mobile home:
  - (1) Decks and patios (open, covered, or enclosed);
  - (2) Storage building for: firewood, equipment used in conjunction with dwelling and yard maintenance; personal property (except vehicles) not in conjunction with any commercial or industrial business other than a home occupation;
  - (3) Vegetable gardens, orchards and crop cultivation for personal use, including greenhouses. No sale of produce is permitted.
  - (4) Sauna;
  - (5) Hobby shop;
  - (6) Shelter for pets;
  - (7) Fallout shelters;
  - (8) Swimming pools and hot tubs;
  - (9) Guest facilities not in a primary dwelling unit provided:
    - (A) Only one guest facility is allowed per contiguous property ownership; and
    - (B) Total combined maximum floor area shall not exceed 600 square feet, including all levels and basement floor areas; and
    - (C) No kitchen facilities are allowed, including no refrigerator or freezer, stove, oven, or other cooking facilities; and
    - (D) All water, sewer, electricity and natural gas services for the guest facility shall be extended from the primary dwelling services; no separate meters for the guest facility shall be allowed; and
    - (E) The guest facility shall be located within 100 feet of the primary use dwelling on the same property measured from the closest portion of each structure; and
    - (F) The guest facility shall use the same septic system as the primary use dwelling, except when a separate system is required by the Building Inspection Division due to site constraints, or failure of the existing system, or where the size or condition of the existing system precludes its use, additional drain lines may be added to an existing system, when appropriate; and
    - (G) The guest facility shall not be occupied for more than 120 days in any calendar year; and
    - (H) The guest facility shall not have an address.
  - (10) Rooming or boarding of up to 2 persons in a dwelling unit;

- (11) Pets, provided a conditional use permit is required in the RS and AR zones if there are more than 10 mammals over 4 months old. No birds or furbearing animals, other than pets, and no live stock, poultry, or beekeeping are permitted in RS zones.
  - (12) One recreational vehicle space subject to the requirements in Section 126.040;
  - (13) Additional kitchens in a dwelling unit provided all kitchens in the dwelling unit are used by only one family;
  - (14) Offering to sell 5 or less vehicles owned by the occupants of the dwelling unit in any calendar year;
  - (15) Garages and carports for covered vehicle parking;
  - (16) Child foster home;
  - (17) Sleeping quarters for domestic employees of the resident of the dwelling unit or mobile home;
  - (18) Bed and Breakfast establishments in AR zones provided they do not include more than 4 lodging rooms and may employ no more than two persons ("person" includes volunteers, non-resident employee, partner or any other person).
  - (19) Ham radio facilities.
- (b) Fences are a permitted accessory or secondary use in all zones subject to the requirements in Chapter 117.
  - (c) Transit stop shelters and school bus stop shelters are a permitted secondary use in all zones. Shelters shall not be located within a required vision clearance area.
  - (d) Parking of vehicles in a structure or outdoors is a permitted accessory use in conjunction with a dwelling in any zone provided:
    - (1) The vehicles are owned by the occupant of the lot or domestic employees of the occupant; and
    - (2) Vehicles parked outdoors in a residential zone may be parked in a space within the front yard meeting the requirements for required parking in Section 118; or, they may be parked elsewhere on the lot where accessory buildings are permitted provided the parking area is screened by a 6 foot high sight-obscuring fence, wall or hedge if the vehicle is parked within 100 feet of another lot in a residential zone. On a lot in the RS zone not more than three vehicles shall be parked within require yards adjacent to streets; and
    - (3) Vehicles parked on a lot in a residential zone shall be for the personal use of the occupants of the dwelling. One vehicle used in conjunction with a home occupation or other employment may be parked on the lot provided that in the RS zone the vehicle shall be parked in an enclosed structure if it is rated at more than 1 ton capacity.
  - (e) Portable classrooms and dormitories for students are a permitted accessory use in conjunction with elementary and secondary schools (as defined in Chapter 110).
  - (f) Except in SA, EFU, FT and TC zones, a parsonage in conjunction with a religious organization.
  - (g) Parking of vehicles in a structure or outdoors is a permitted accessory or secondary use in the CC, C, IUC, ID and I zones provided:

- (1) The vehicles are owned by the occupant of the lot;
  - (2) If vehicles are stored outdoors, the parking area shall be an all-weather surface, and be enclosed by a 6 foot high sight-obscuring fence, wall, hedge or berm; and
  - (3) If vehicles are parked outdoors, the vehicles shall be operational, and used in conjunction with the primary use of the lot. If more than 5 vehicles are parked outdoors on the lot the parking area shall be screened by a 6 foot high sight-obscuring fence, wall or hedge if located within 100 feet of a lot in a residential zone and from streets.
- (h) Drop stations are permitted in CC, C, IUC, and I zones.
- (i) Retail sales or offices in a building in conjunction with a use in an industrial zone provided:
- (1) The floor area of the retail sales or offices shall not be more than 30% of the floor area of the industrial use;
  - (2) The development requirements are met for the accessory use as if it was a primary use; and
  - (3) The accessory use shall be located on the same lot as the primary use and the building shall be owned or leased by the industrial business owner.
- (j) Accessory and secondary uses not otherwise permitted may be allowed as a conditional use provided the use is consistent with the definition of accessory or secondary and is compatible with the purpose of the zone and land uses on adjacent lots.

**126.030 PERMITTED TEMPORARY USES.** The following temporary uses shall be permitted subject to the following limitations and requirements and the requirements in applicable overlay zones:

- (a) Storage of a mobile home on a lot for not more than 1 year, unless extensions are granted, where the mobile home is or has been a permitted use and the mobile home is offered for sale. The mobile home shall not be used for sleeping, eating or restroom purposes.
- (b) Garage sales and yard sales in any zone in conjunction with a dwelling, and auctions in Commercial and Industrial zones, provided there are not more than 3 sales in a calendar year with each sale not to exceed 3 consecutive days. All display of merchandise to remain on private property.
- (c) One recreational vehicle space on a lot or parcel without a dwelling in the AR, SA, FT and TC zones subject to the requirements in Section 126.040, except subsections (b) and (c). In addition, the space shall:
  - (1) Not be occupied for more than 120 days in any calendar year; and
  - (2) Satisfy all development standards and requirements applied to a non-resource related dwelling in the applicable zone.
- (d) A real estate sales office in a subdivision or planned community containing more than 50 lots or dwelling units for sale or lots or dwelling units that remain available for sale to the public.

- (e) Temporary uses that do not meet the limitations identified in this Section and other temporary uses not addressed herein may be approved as a conditional use as provided in Chapter 119 subject to meeting the following criteria:
  - (1) The temporary use is compatible with the purpose of the zone and adjacent land uses.
  - (2) The temporary use will have adequate public services to maintain the public health and safety.
  - (3) The operator of the temporary use has signed an agreement with the Planning Division regarding termination of the use consistent with the time limitations established in the conditions of approval.
- (f) Mobile asphalt batching plant provided:
  - (1) The use is for a single paving project and the use will not exceed 90 days; and
  - (2) The use will not involve permanent installations or structures, will not leave any residue on the property, involves no change in the land or buildings and makes no permanent impact on the surrounding area.

**126.040 RECREATIONAL VEHICLE SPACES.** Recreational vehicle spaces shall meet the following use and development standards. Long-term storage of a recreational vehicle must comply with the requirements for accessory uses and structures.

- (a) The space shall have an all-weather surface and be drained to prevent standing water.
- (b) A space shall not be located closer than 10 feet to any other spaces, any building, dwelling, mobile home, street or roadway boundary and not closer than 10 feet to any property line.
- (c) If the space is occupied by an occupied recreational vehicle for more than 120 days in any calendar year, the space shall be located in a recreational vehicle park.
- (d) The space shall not be located in any required off-street parking space or required yard areas.
- (e) Unless located in a recreational vehicle park no permanent electrical or gas connections are permitted.
- (f) Unless located in a recreational vehicle park the space shall not be rented or leased for consideration.

DECEMBER 1, 2005 DRAFT  
ADDITIONS IN **BOLD, UNDERLINED AND ITALICIZED**  
DELETIONS IN ~~STRIKEOUT~~

CHAPTER 128  
AR ACREAGE RESIDENTIAL ZONE

Revised \_\_\_\_\_ Ord # \_\_\_\_\_  
Revised 12/12/02

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128.020 Permitted Uses	
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128.040 Conditional Use Review Criteria	
128.045 Commercial Activities in Conjunction with Farm Use	
128.050 Special Siting Standards for Dwellings Near Resource Zones	
128.060 Development Standards	
128.070 Minimum Lot Size and Density	

**128.010 PURPOSE.** The purpose and intent of the Acreage Residential zone is to provide appropriate regulations governing the division and development of lands designated Rural Residential in the Marion County Comprehensive Plan. Acreage Residential zones are areas that are suitable for development of acreage homesites. Such areas are necessary to meet the housing needs of a segment of the population desiring the advantages of a rural homesite. It is the intent that residential sites be provided with adequate water supply and wastewater disposal without exceeding the environmental and public service capability of the area or compromising the rural character of the area.

**128.020 PERMITTED USES.** Within an AR (ACREAGE RESIDENTIAL) zone no building, structure or premises shall be used or arranged except for the following purposes:

- (a) Single family dwelling.
- (b) Farm use, including the sale of produce that is raised on the premises.
- (c) Planned developments.
- (d) Playgrounds and parks operated by governmental agencies.
- (e) Public and private utility facility and public buildings such as fire stations, sheriff and police substations.
- (f) Private wind powered electrical generating facilities provided setback of ½ the height of the tower is provided.



- (g) Creation, restoration, or enhancement of wetlands as defined in ORS 197.
- (h) Limited home occupations (see Limited Use, Section 125.100).
- (i) Wireless communication facilities attached (see Limited Use, Section 125.110).
- (j) Churches and expansions of existing churches where the church or the expanded church will be less than 20,000 square feet in total area.
- (k) Replacement of a lawfully established dwelling, subject to the special siting standards in Section 128.050 (b), when the dwelling:
  - (1) Is a manufactured dwelling, mobile home, or manufactured home, the replaced dwelling shall be removed or demolished within ninety (90) days of the occupancy of the replacement dwelling.
  - (2) Is a site built dwelling, the replaced dwelling shall be removed, demolished or converted to an allowable non-residential use within ninety (90) days of the occupancy of the replacement dwelling.

**128.030 CONDITIONAL USES.** The following uses may be permitted subject to obtaining a conditional use permit:

- (a) Kennels.
- (b) Temporary use of a mobile home or recreational vehicle during certain hardship conditions, subject to Section 120.040.
- (c) Day nursery.
- (d) Commercial uses in conjunction with farm use subject to Section 128.045.
- (e) Churches and expansions not qualifying under 128.020(j) above, and related conference and residence facilities. ~~and schools (elementary, middle and high schools).~~
- (f) *Schools, elementary and secondary (as defined in Chapter 110).***
- (g) Conditional home occupation (other than those home occupations listed in Section 125.100) (see Specific Conditional Uses, Section 120.075).
- (h) Wireless communication facilities (see Specific Conditional Uses, Section 120.080).

**128.040 CONDITIONAL USE REVIEW CRITERIA.** The following criteria apply to all conditional uses in the AR zone:

- (a) The conditional use as described by the applicant will be in harmony with the purpose and intent of the zone.

- (b) The use will not increase traffic beyond the capacity of existing roads.
- (c) Adequate fire protection and other rural services are, or will be, available when the use is established.
- (d) The use will not have a significant adverse impact on watersheds, groundwater, fish and wildlife habitat, soil and slope stability, air and water quality.
- (e) Any noise associated with the use will not have a significant adverse impact on nearby land uses.
- (f) The use will not have a significant adverse impact on potential water impoundments identified in the comprehensive plan, and not create significant conflicts with operations included in the comprehensive plan inventory of significant mineral and aggregate sites.

**128.045 COMMERCIAL ACTIVITIES IN CONJUNCTION WITH FARM USE.**

- (a) The commercial activity must be primarily a customer or supplier of farm uses.
- (b) The commercial activity must enhance the farming enterprises of the local agricultural community to which the EFU land hosting that commercial activity relates.
- (c) The agricultural and commercial activities must occur together in the local community to satisfy the statute.
- (d) The products and services provided must be "essential to the practice of agriculture."

**128.050 SPECIAL SITING STANDARDS FOR DWELLINGS NEAR RESOURCE ZONES.**

- (a) Any new dwelling in an AR zone shall be required to maintain a special setback from any parcel in the EFU, SA, FT, or TC zones when necessary to minimize potential conflicts with farm or forest uses. A 100-foot setback is the standard adjacent to farm use and 200 feet is the standard adjacent to forest uses.
- (b) The owner of a proposed dwelling to be located within 500 feet of the EFU, SA, FT, TC zones shall be required to concur in the filing of the Declaratory Statement prescribed in the respective resource zone.
- (c) The owner of a proposed dwelling located on a parcel adjacent to the FT or TC zone shall, as a condition of approval, be required to provide for fire hazard management in accordance with Chapter 3 of "Fire Safety Considerations For Developments in Forested Areas, 1978" and any revisions thereto.

**128.060 DEVELOPMENT STANDARDS.** The following standards apply to development in an AR zone.

- (a) Maximum Height:
  - (1) Dwellings - 35 feet

- (2) Farm related structures on farm parcels - none
  - (3) Non-residential and non-farm structures - 35 feet unless they are in conjunction with conditional uses allowed in Section 128.030, and a greater height is requested and approved as part of the conditional use permit.
- (b) Minimum Setbacks: Except as required in Section 128.050(a), the following setback requirements shall be implemented for all new structures other than farm-exempt buildings, signs and fences:
- (1) Rear Yard - A minimum of 20 feet.
  - (2) Side Yard - A minimum of 10 feet, except for lots or parcels of one-half acre or smaller created prior to January 1, 1994, in which case the side yard setback shall be five (5) feet. In the case of a corner lot any side yard adjacent to a street shall be not less than 20 feet.
  - (3) Front Yard - A minimum of 20 feet. When by ordinance a greater setback or a front yard of greater depth is required than specified in this section, then such greater setback line or front yard depth shall apply (See Section 112).

**128.070 MINIMUM LOT SIZE AND DENSITY.** The minimum lot size for subdivisions and partitioning is 2 acres. When a numerical suffix has been applied to the AR zone, the minimum lot size shall conform to the numerical designation. The minimum lot size shall also apply to planned developments.

DECEMBER 1, 2005 DRAFT  
ADDITIONS IN ***UNDERLINED AND ITALICIZED***  
DELETIONS IN STRIKEOUT

CHAPTER 131  
RS SINGLE FAMILY RESIDENTIAL ZONE

Revised \_\_\_\_\_ Ord # \_\_\_\_\_  
Revised 04/97

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131.020	Transitional uses	
131.030	Conditional uses	
131.040	Height	
131.050	Rear yard	
131.060	Side yard	
131.070	Front yard	
131.080	Lot Area and Width	

**131.010 USE.** Within an RS (SINGLE FAMILY RESIDENTIAL) zone no building, structure or premises shall be used, arranged or designed to be used, erected, structurally altered, or enlarged except for 1 or more of the following uses:

- (a) Single family dwelling;
- (b) Playgrounds, parks;
- (c) Public buildings and structures, such as libraries or fire stations;
- (d) Public utility structures and buildings such as pump stations and reservoirs, electric substations, when they comply with all yard and setback requirements;
- (e) Limited home occupations (see Limited Use, Section 125.100);
- (f) Subdivision or planned development pre-cutting and assembly facility (See Limited Use, Section 125.020);
- (g) Subdivision or planned development sales office or development office (See Limited Use, Section 125.030).
- (h) Mobile home (see Limited Use, Section 125.050).
- (i) Wireless communication facilities attached (see Limited Use, Section 125.110).

**131.020 TRANSITIONAL USES.** Transitional uses shall be permitted in an RS zone where the side of a lot abuts upon any business zone or industrial district, provided that such transitional use does not extend across a street or alley and in no case more than 165 feet from the boundary of the less restricted zone which it adjoins, as follows:

- (a) Two family dwelling (duplexes) on a lot of 7,000 square feet or more;
- (b) Public and semi-public uses, buildings and structures:
  - (1) Churches;
  - (2) Community or neighborhood club buildings, including swimming pools and other allied facilities, when erected by a non-profit community club for the improvement of the zone or social recreation of the members;
- (c) Other main uses:
  - (1) Public automobile parking areas when located and developed as prescribed in Chapter 118;
  - (2) Outdoor plant nursery;
  - (3) Privately operated kindergartens or day nurseries, provided the residential character of the building is unchanged.

**131.030 CONDITIONAL USES.** When authorized under the procedure provided for conditional uses in this Ordinance, the following uses will be permitted in an RS zone:

- (a) Public and semi-public buildings and structures:
  - (1) Churches;
  - (2) Community or neighborhood club buildings, swimming pools and other allied facilities, when erected by a non-profit community club for the improvement of the zone or social recreation of the members;
  - (3) Radio and TV facilities without antennae and support structures;
  - (4) Schools (~~elementary, junior high, and high school~~); elementary and secondary (as defined in Chapter 110).
- (b) Dwellings:
  - (1) Two family dwellings (duplexes) on a corner lot of 7,000 square feet or more (See Specific Conditional Uses, Section 120.020);
- (c) Miscellaneous uses:
  - (1) Privately operated kindergartens or day nurseries provided the residential character of the building is unchanged;
  - (2) Beauty shop where no assistants are employed;
- (d) Planned development;
- (e) Boat, camper and trailer storage area or lot (See Specific Conditional Uses, Section 120.030);

- (f) Temporary use of mobile homes during certain hardship conditions (see Specific Conditional Uses, Section 120.040);
- (g) Solid waste disposal sites (See Specific Conditional Uses, Sections 120.310 to 120.380);
- (h) Conditional home occupation (other than those home occupations listed in Section 125.100) (See Specific Conditional Uses, Section 120.075).
- (i) Group care home.

**131.040 HEIGHT.** In any RS zone, no building or structure shall exceed 35 feet or 2 1/2 stories in height except churches and public and semi-public buildings where permitted may, when approved by the Planning Commission or Hearings Officer, be built to a height of 70 feet or 6 stories provided any such building sets back from every street and lot line 1 foot for each foot of height of the building in excess of 35 feet in addition to other yard setback requirements herein specified.

**131.050 REAR YARD.**

- (a) There shall be a rear yard on every lot in the RS zone, which rear yard shall have a minimum depth of 24 feet for a 1 story building, 30 feet for a 2 story building, and 36 feet for a 2 1/2 story building. In the case of a corner lot, the minimum depth shall be 14 feet for a 1 story building, 20 feet for a 2 story building, and 26 feet for a 2 1/2 story building and the rear yard may be provided adjacent to either interior lot line provided, however, any rear yard provided adjacent to a street shall conform to the setback set forth in Section 113.080.
- (b) In lieu of subsection (a) of this section, in the event that the building is at an angle to the rear lot line or has offsets, the rear yard depth may be averaged providing that no point is less than 20 feet, 25 feet, or 30 feet for 1, 2, and 2 1/2 story buildings, respectively.

**131.060 SIDE YARDS.** There shall be a side yard on each side of the main building on every lot in an RS zone in width not less than 5 feet for a 1 story building, not less than 6 feet for a 2 1/2 story building provided, however, any side yard provided adjacent to a street shall conform to the setback set forth in Section 113.080.

**131.070 FRONT YARD.** Every building erected, constructed or altered in an RS zone shall conform to the front yard setback set forth in Section 113.080. When, by this Ordinance or any other ordinance, a greater setback or a front yard of greater depth is required than specified in this section, then such greater setback line or front yard depth shall apply.

**131.080 LOT AREA AND WIDTH.** In an RS zone the minimum requirements for lot area shall be 6,000 square feet for each dwelling, 7,000 square feet for each legally established two family dwelling, and every lot shall have a minimum width of 60 feet at the front building line. No dwelling or main building other than a dwelling shall occupy more than 30% of the lot area except where an accessory building is attached to or made a part of the dwelling or main building in which case 35% of the lot area may be occupied by such dwelling or main building. The minimum lot area requirements for buildings other than dwellings shall be of an area not less than the sum of the area occupied by the building or buildings and the area required for yards herein or 6,000 square feet whichever is greater.

DECEMBER 1, 2005 DRAFT  
ADDITIONS IN **BOLD, UNDERLINED AND ITALICIZED**  
DELETIONS IN STRIKEOUT

CHAPTER 132  
RD (DUPLEX RESIDENTIAL) ZONE

Revised \_\_\_\_\_ Ord # \_\_\_\_\_  
Revised 4/97

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132.020	Transitional Uses	
132.030	Conditional Uses	
132.040	Height	
132.050	Rear Yard	
132.060	Side Yard	
132.070	Front Yard	
132.080	Lot Area and Width	

**132.010 USE.** Within any RD (Duplex Residential) zone no building, structure, or premises shall be used, arranged or designed to be used, erected, structurally altered or enlarged except for one or more of the following uses:

- (a) Any use permitted in an RS zone;
- (b) Two (2) family dwelling unit in a single structure;
- (c) A private garage or parking area for not more than three (3) motor vehicles for each dwelling unit on the same lot with or within the dwelling to which it is accessory and in which garage no business or industry is conducted;
- (d) Limited home occupations, (See Limited Use, Section 125.100).
- (e) Wireless communication facilities, attached (See Limited Use, Section 125.110).

**132.020 TRANSITIONAL USES.** The regulations concerning transitional uses in an RD zone shall be the same as in an RS zone.

**132.030 CONDITIONAL USES.** When authorized under the procedure provided for conditional uses in this ordinance, the following uses will be permitted in an RD zone:

- (a) Public and semi-public use buildings and structures:
  - (1) Churches;

- (2) Community or neighborhood club buildings, swimming pools and other allied facilities, when erected by a non-profit community club for the improvement of the zone or social recreation of the members;
  - (3) Radio and TV facilities without antennae and support structures;
  - (4) Schools (~~elementary, junior high, and high school~~); *elementary and secondary as defined in Chapter 110*;
- (b) Dwellings:
- (1) Three (3) family dwellings in one (1) building on a corner lot of 8,000 square feet or more;
- (c) Miscellaneous uses:
- (1) Privately operated kindergartens or day nurseries, provided the residential character of the building is unchanged;
  - (2) Beauty shop, where no assistants are employed;
- (d) Planned development;
- (e) Boat, camper and trailer storage area or lot (see Specific Conditional Uses, Section 120.030);
- (f) Temporary use of mobile home during certain hardship conditions (see Specific Conditional Uses, Section 120.040);
- (g) Solid waste disposal sites (see Conditional Uses, Section 120.310 to 120.380);
- (h) Conditional Home Occupation (other than those home occupations listed in Section 125.100) (see Specific Conditional Uses, Section 120.075).

**132.040 HEIGHT.** In an RD zone no building or structure shall exceed 35 feet or 2 ½ stories in height, except churches and public and semi-public buildings, where permitted, may, when approved by the Director, Planning Commission or Hearings Officer, be built to a height of 70 feet or 6 stories, provided any such building sets back from every street and lot line one foot for every foot of height of the building in excess of 35 feet, in addition to other yard and setback requirements herein specified.

**132.050 REAR YARD.** There shall be a rear yard on every lot in an RD zone, which rear yard shall have a minimum depth of 24 feet for a one (1) story building; 30 feet for a two (2) story building; and 36 feet for a 2 ½ story building, and rear yard may be provided adjacent to either interior lot line, provided, however, any rear yard provided adjacent to a street shall conform to the setback set forth in Section 113.080.

**132.060 SIDE YARDS.** There shall be a side yard on each side of the main building on every lot in an RD zone in width not less than five (5) feet for a one (1) story building, nor less than six (6) feet for a 2 or 2 ½ story building, provided, however, any side yard provided adjacent to a street shall conform to the setback set forth in Section 113.080.



**132.070 FRONT YARD.** Every building erected, constructed, or altered in an RD zone shall conform to the front yard setback set forth in Section 113.080. When by this ordinance or any other ordinance a greater setback or a front yard of greater depth is required than specified in this section, then such greater setback line or front yard depth shall apply.

**132.080 LOT AREA AND WIDTH.** In an RD zone the minimum requirements for lot area shall be 6,000 square feet for each dwelling having 1 dwelling unit and 7,000 square feet for each dwelling have 2 dwelling units in a single structure. Every lot shall have a minimum width of 60 feet at the front building line. No dwelling or main building other than a dwelling shall occupy more than 30% of the lot area, except where an accessory building is attached to or made a part of the dwelling, or main by such dwelling or main building. The minimum lot area requirements for buildings other than dwellings shall be of an area not less than the sum of the area occupied by the building or buildings, and the area required for yards herein, or 6,000 square feet, whichever is greater.

DECEMBER 1, 2005 DRAFT  
ADDITIONS IN **BOLD, UNDERLINED AND ITALICIZED**  
DELETIONS IN ~~STRIKEOUT~~

CHAPTER 133  
RL (LIMITED MULTI-FAMILY RESIDENTIAL) ZONE

Revised \_\_\_\_\_ Ord #  
Revised 4/97

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133.040	Height	
133.050	Side and Rear Yards	
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133.070	Landscaped Yards	
133.080	Lot Area and Width	

**133.010 USE.** Within any RL, Limited Multi-Family Residential, zone, no building, structure, or premises shall be used, arranged or designed to be used, erected, structurally altered or enlarged, except for one or more of the following uses:

- (a) Any use permitted in an RD zone;
- (b) Unlimited number of dwelling units including:
  - (1) Apartment houses;
  - (2) Court apartment;
  - (3) Churches;
  - (4) Community or neighborhood clubs;
  - (5) Kindergarten or day nursery.
- (c) Limited home occupations, (See Limited Use, Section 125.100).
- (d) Wireless communication facilities attached (See Limited Use, Section 125.100).

**133.020 TRANSITIONAL USES.** Transitional uses shall be permitted in an RL zone where the side of a lot abuts upon any business zone or industrial zone, provided that such transitional use does not extend across a street or alley and in no case more than 165 feet from the boundary of the less restricted zone which it adjoins, as follows:

- (a) Public parking areas when developed as prescribed in Chapter 118;
- (b) Outdoor plant nursery.

**133.030 CONDITIONAL USES.** When authorized under the procedure provided for conditional uses in this ordinance, the following uses will be permitted in an RL zone:

- (a) Planned development;
- (b) Dormitories;
- (c) Sorority and fraternity houses;
- (d) Student homes;
- (e) Boarding houses (also see accessory uses);
- (f) Rooming houses;
- (g) Homes for the aged;
- (h) Retirement homes;
- (i) Rest homes;
- (j) Mobile home parks;
- (k) Nursing homes;
- (l) Sanitariums;
- (m) Boat, camper and trailer storage area or lot (see Specific Conditional Uses, Section 120.030);
- (n) Schools, elementary and secondary (as defined in Chapter 110); (~~elementary, junior high, and high schools~~);
- (o) Group care home;
- (p) Temporary use of mobile home during certain hardship conditions (see Specific Conditional Uses, Section 120.040);
- (q) Solid waste disposal sites (see Specific Conditional Uses, Section 120.310 to 120.380);
- (r) Conditional home occupation (other than those home occupations listed in Section 125.100) (see Specific Conditional Uses, Section 120.075).

**133.040 HEIGHT.** In an RL zone, no building or structure except a single family dwelling on a separate deeded lot shall exceed one story or 20 feet in height. Single family dwellings shall not exceed 35 feet or 2 1/2 stories. When approved by the Planning Commission or Hearings Officer as a conditional use, churches and public and semi-public buildings, where permitted, may be built to a height not to exceed 70 feet or 6 stories, provided any such building sets back from every street and lot line one foot for each foot of height of the building in excess of 35 feet; in addition to other yard and setback requirements herein specified.

**133.050 SIDE AND REAR YARDS.**

- (a) There shall be a side yard and a rear yard on every lot in an RL zone, which yards shall have a minimum depth of 6 feet; provided there shall be added to the side yard and rear yard minimum requirements aforesaid, one foot for each multiple of 15 feet or portion thereof, that the length of that side of the building measures over 30 feet. Notwithstanding Section 110.610 the rear yard in an RL zone shall be measured from the property line.
- (b) In lieu of subsection (a) above, side and rear yards may be provided which will allow placement of portions of a main building with offsets and jogs at varying yard depths, provided the said yards shall conform to the following conditions:
  - (1) The minimum yard depth for any continuous wall between offsets and jogs shall be computed and provided as in (a) above for that portion of the wall between offsets and jogs; provided the total yard area equals that which would have been otherwise provided in (a) above, which area shall be determined by multiplying the length of the yard times the depth of the yard.

- (2) The minimum yard depth for any portion of a building shall be six feet.
- (c) Notwithstanding the provisions of subsections (a) and (b) of this section, any side yard or rear yard adjacent to a street shall have a minimum yard depth of 20 feet. No parking shall be allowed within 10 feet of the street property line; provided, however, in no case shall parking be allowed in a required rear yard abutting the parallel or approximately parallel street of a through lot. For the purposes of this subsection, through lot shall be defined as a lot having frontage on two parallel or approximately parallel streets.
- (d) The yard depth between two or more main buildings on the same lot shall be equal to that side yard depth measured to an assumed property line drawn between the buildings. The yard depth between the assumed property line and the building shall be not less than as provided in (a) above.

**133.060 FRONT YARD.** In an RL zone, there shall be a minimum front yard of 20 feet. No parking shall be allowed in the required minimum front yard.

**133.070 LANDSCAPED YARDS.**

- (a) In an RL zone the following landscaped yard shall be provided for residential uses other than single and two family dwellings:
  - (1) For each dwelling unit with 1 or less bedrooms - 300 square feet;
  - (2) For each dwelling unit with 2 bedrooms - 400 square feet;
  - (3) For each dwelling unit with 3 bedrooms - 500 square feet;
  - (4) For each dwelling unit with more than 3 bedrooms - 500 square feet plus 100 square feet for each additional bedroom in each unit.
- (b) In an RL zone all required yards adjacent to a street shall be landscaped, save that portion devoted to off-street parking. Such landscaping may be counted in fulfilling the requirements of (a) above.

**133.080 LOT AREA AND WIDTH.** In an RL zone the minimum requirements for lot area shall be 6,000 square feet for a single family dwelling. The minimum lot area requirements for other residential uses shall be 5,000 feet plus additional lot area computed as follows:

- (a) For the first through fifth unit:
  - (1) For each dwelling unit with 1 or less bedroom - 750 square feet;
  - (2) For each dwelling unit with 2 bedrooms - 1,000 square feet;
  - (3) For each dwelling unit with 3 or more bedrooms - 1,200 square feet;
- (b) For sixth dwelling unit and each succeeding dwelling unit, the following additional lot area shall be required:

- (1) For each dwelling unit with 1 or less bedrooms, one story - 1,250 square feet;
  - (2) For each dwelling unit with 2 bedrooms, one story - 1,675 square feet;
  - (3) For each dwelling unit with 3 or more bedrooms, one story - 2,150 square feet.
- (c) No main building or group of main buildings shall occupy more than 40% of the lot area, and no detached accessory structure may occupy more than 25% of any side or rear yard, except that covered or enclosed parking structures limited to one story in height shall be excluded from these coverage provisions.
- (d) Every lot in an RL zone shall have a minimum width of 50 feet at the front building line. The minimum lot area requirements for buildings other than dwellings shall be of an area not less than the sum of the area occupied by the building or buildings, and the area required for yards herein, or 5,000 square feet, whichever is greater.

RL LIMITED MULTI-FAMILY RESIDENTIAL DISTRICT

Lot Area Requirements  
Base 5,000 square feet

<u>UNITS</u>	<u>SQ. FT. PER UNIT</u>	<u>ONE BEDROOM ADD</u>	<u>SQ.FT. PER UNIT</u>	<u>TWO BEDROOM ADD</u>	<u>SQ. FT. PER UNIT</u>	<u>THREE BED. ADD</u>
1	750	5,750	1,000	6,000	1,200	6,200
2	750	6,500	1,000	7,000	1,200	7,400
3	750	7,250	1,000	8,000	1,200	8,600
4	750	8,000	1,000	9,000	1,200	9,800
5	750	8,750	1,000	10,000	1,200	11,000
6	1,250	10,000	1,675	11,675	2,150	13,150
7	1,250	11,250	1,675	13,350	2,150	15,300
8	1,250	12,500	1,675	15,025	2,150	17,450
9	1,250	13,750	1,675	16,700	2,150	19,600
10	1,250	15,000	1,675	18,375	2,150	21,750
11	1,250	16,250	1,675	20,050	2,150	23,900
12	1,250	17,500	1,675	21,725	2,150	26,050
13	1,250	18,750	1,675	23,400	2,150	28,200
14	1,250	20,000	1,675	25,075	2,150	30,350
15	1,250	21,250	1,675	26,750	2,150	32,500
16	1,250	22,500	1,675	28,425	2,150	34,650
17	1,250	23,750	1,675	30,100	2,150	36,800
18	1,250	25,000	1,675	31,775	2,150	38,950
19	1,250	26,250	1,675	33,450	2,150	41,100
20	1,250	27,500	1,675	35,125	2,150	43,250
21	1,250	28,750	1,675	36,800	2,150	45,400
22	1,250	30,000	1,675	38,475	2,150	47,550
23	1,250	31,250	1,675	40,150	2,150	49,700
24	1,250	32,500	1,675	41,825	2,150	51,850
25	1,250	33,750	1,675	43,500	2,150	54,000
26	1,250	35,000	1,675	45,175	2,150	56,150
27	1,250	36,250	1,675	46,850	2,150	58,300
28	1,250	37,500	1,675	48,525	2,150	60,450
29	1,250	38,750	1,675	50,200	2,150	62,600
30	1,250	40,000	1,675	51,875	2,150	64,750

DECEMBER 1, 2005 DRAFT  
ADDITIONS IN **ITALICIZED**  
DELETIONS IN STRIKEOUT

CHAPTER 134  
RM (MULTI-FAMILY RESIDENTIAL) ZONE

Revised \_\_\_\_\_ Ord #  
Revised 4/97

Section	Title	Page
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134.020	Transitional Uses	
134.030	Conditional Uses	
134.040	Height	
134.050	Side and Rear Yards	
134.060	Front Yard	
134.070	Landscaped Yards	
134.080	Lot Area and Width	

**134.010 USE.** Within any RM, Multi-Family Residential, zone no building, structure, or premises shall be used, arranged or designed to be used, erected, structurally altered or enlarged, except for one or more of the following uses:

- (a) Any use permitted in an RL zone;
- (b) Unlimited number of dwelling units including:
  - (1) Dormitories;
  - (2) Sorority and fraternity houses;
  - (3) Student homes;
  - (4) Boarding houses (also see accessory uses);
  - (5) Rooming houses;
  - (6) Homes for the aged;
  - (7) Retirement homes;
  - (8) Rest homes;
  - (9) Nursing homes;
  - (10) Sanitariums;
  - (11) Apartment houses;
  - (12) Court apartments;
  - (13) Churches;
  - (14) Community or neighborhood clubs;
  - (15) Kindergartens or day nurseries;
  - (16) Group care home.

- (c) Optional businesses:
  - (1) Any apartment or boarding house housing more than 25 families may have therein a newsstand, barber shop, beauty parlor, food shop, and dining rooms when conducted and entered only from within the building.
- (d) Limited home occupations, (see Limited Use, Section 125.100);
- (e) Wireless communication facilities attached (see Limited Use, Section 125.110).

**134.020 TRANSITIONAL USES.** Transitional uses shall be permitted in an RM zone where the side of a lot abuts upon any business zone or industrial zone, provided that such transitional use does not extend across a street or alley and in no case more than 165 feet from the boundary of the less restricted zone which it adjoins, as follows:

- (a) Public parking areas when developed as prescribed in Chapter 118;
- (b) Outdoor plant nursery.

**134.030 CONDITIONAL USES.** When authorized under the procedure provided for conditional uses in this ordinance, the following uses will be permitted in an RM zone:

- (a) Planned development;
- (b) Mobile home parks;
- (c) Boat, camper and trailer storage area or lot (see Specific Conditional Uses, Section 120.030);
- (d) Schools *elementary and secondary (as defined in Chapter 110)*; (~~elementary, junior high, and high schools~~);
- (e) Fraternal or lodge buildings;
- (f) Temporary use of mobile home during certain hardship conditions (see Specific Conditional Uses, Section 120.040);
- (g) Solid waste disposal sites (see Specific Conditional Uses, Section 120.310 to 120.380);
- (h) Conditional home occupation (other than those home occupations listed in Section 125.100) (see Specific Conditional Uses, Section 120.075).

**134.040 HEIGHT.** In an RM zone, no building or structure shall exceed 35 feet or 2 1/2 stories in height, except churches and public and semi-public buildings, where permitted, may be built to a height not to exceed 70 feet or 6 stories, provided any such building sets back from every street and lot line 1 foot for each foot of height of the building in excess of 35 feet, in addition to other yard and setback requirements herein specified.

**134.050 SIDE AND REAR YARDS.**

- (a) There shall be a side yard and a rear yard on every lot in an RM zone, which yards shall have a minimum depth as follows:
  - (1) One (1) story - 6 feet
  - (2) Two (2) stories - 7 feet
  - (3) Two and one-half stories (2 1/2) - 8 feet



Provided there shall be added to the side yard and rear yard minimum requirements aforesaid, one foot for each multiple of 15 feet or portion thereof, that the length of that side of the building measures over 30 feet. Notwithstanding Section 110.610 the rear yard in an RM zone shall be measured from the property line.

- (b) In lieu of subsection (a) of this section, side and rear yards may be provided which will allow placement of portions of a main building with offsets and jogs at varying yard depths, provided the said yards shall conform to the following conditions:
  - (1) The minimum yard depth for any continuous wall between offsets and jogs shall be computed and provided as in subsection (a) of this section for that portion of the wall between offsets and jogs; provided the total yard area equals that which would have been otherwise provided in said subsection (a) which area shall be determined by multiplying the length of the yard times the depth of the yard.
  - (2) The minimum yard depth for any portion of a building shall be six feet for a one story, 7 feet for two story, and 8 feet for a two and one-half story building.
- (c) Notwithstanding the provisions of subsections (a) and (b) any side or rear yard adjacent to a street shall have a minimum yard depth of 20 feet. No parking shall be allowed within 10 feet of the street property line; provided, however, in no case shall parking be allowed in a required rear yard abutting the parallel or approximately parallel street of a through lot. For the purposes of this subsection, through lot shall be defined as a lot having frontage on two parallel or approximately parallel streets.
- (d) The yard depth between two or more main buildings on the same lot shall be equal to that side yard depth measured to an assumed property line drawn between the buildings. The yard depth between the assumed property line and the building shall be not less than as provided in (a) of this section.

**134.060 FRONT YARD.** In an RM zone, there shall be a minimum front yard of 20 feet. No parking shall be allowed in the required minimum front yard.

**134.070 LANDSCAPED YARDS.**

- (a) In an RM zone the following landscaped yard shall be provided for residential uses other than single and two family dwellings:
  - (1) For each dwelling unit with 1 or less bedrooms - 300 square feet;
  - (2) For each dwelling unit with 2 bedrooms - 400 square feet;
  - (3) For each dwelling unit with 3 bedrooms - 500 square feet;
  - (4) For each dwelling unit with more than 3 bedrooms - 500 square feet plus 100 square feet for each additional bedroom in each unit.
- (b) In an RM zone all required yards adjacent to a street shall be landscaped, save that portion devoted to off-street parking. Such landscaping may be counted in fulfilling the requirements of subsection (a).

**134.080 LOT AREA AND WIDTH.** In an RM zone the minimum requirements for lot area shall be 6,000 square feet for a single family dwelling. The minimum lot area requirements for other residential uses shall be 5,000 square feet additional lot area computed as follows:

- (a) For the first through fifth unit:
  - (1) For each dwelling unit with 1 or less bedroom - 750 square feet;
  - (2) For each dwelling unit with 2 bedrooms - 1,000 square feet;
  - (3) For each dwelling unit with 3 or more bedrooms - 1,200 square feet;
  
- (b) For sixth dwelling unit and each succeeding dwelling unit, the following additional lot area shall be required:
  - (1) For each dwelling unit with 1 or less bedrooms:
    - One (1) story - 1,250 square feet;
    - Two (2) story - 1,000 square feet
  
  - (2) For each dwelling unit with 2 bedrooms:
    - One (1) story - 1,675 square feet;
    - Two (2) story - 1,300 square feet;
  
  - (3) For each dwelling unit with 3 or more bedrooms:
    - One (1) story - 2,150 square feet;
    - Two (2) story - 1,700 square feet.
  
- (c) No main building or group of main buildings shall occupy more than 40% of the lot area, and no detached accessory structure may occupy more than 25% of any side or rear yard, except that covered or enclosed parking structure limited to one story in height shall be excluded from these coverage provisions.
  
- (d) Every lot in an RM zone shall have a minimum width of 50 feet at the front building line. The minimum lot area requirements for buildings other than dwellings shall be of an area not less than the sum of the area occupied by the building or buildings, and the area required for yards herein, or 5,000 square feet, whichever is greater.

RM MULTI-FAMILY RESIDENTIAL DISTRICT  
 Lot Area Requirements  
 Two Story

UNITS	SQ. FT. PER UNIT	ONE BEDROOM ADD	SQ. ST. PER UNIT	TWO BEDROOM ADD	SQ. FT. PER UNIT	THREE BEDROOM ADD
1	750	5,750		6,000		6,200
2	750	6,500		7,000		7,400
3	750	7,250		8,000		8,600
4	750	8,000		9,000		9,800
5	750	8,750		10,000		11,000
6	1,000	9,750	1,300	11,300	1,700	12,700
7	1,000	10,750	1,300	12,600	1,700	14,400
8	1,000	11,750	1,300	13,900	1,700	16,100
9	1,000	12,750	1,300	15,200	1,700	19,500
10	1,000	13,750	1,300	16,500	1,700	19,500
11	1,000	14,750	1,300	17,800	1,700	21,200
12	1,000	15,750	1,300	19,100	1,700	22,900
13	1,000	16,750	1,300	20,400	1,700	24,600
14	1,000	17,750	1,300	21,700	1,700	26,300
15	1,000	18,750	1,300	23,000	1,700	28,000
16	1,000	19,750	1,300	24,300	1,700	29,700
17	1,000	20,750	1,300	25,600	1,700	31,400
18	1,000	21,750	1,300	26,900	1,700	33,100
19	1,000	22,750	1,300	28,200	1,700	34,800
20	1,000	23,750	1,300	29,500	1,700	36,500
21	1,000	24,750	1,300	30,800	1,700	38,200
22	1,000	25,750	1,300	32,100	1,700	29,900
23	1,000	26,750	1,300	33,400	1,700	41,600
24	1,000	27,750	1,300	35,700	1,700	43,200
25	1,000	28,750	1,300	37,200	1,700	45,000
26	1,000	29,750	1,300	38,500	1,700	46,700
27	1,000	30,750	1,300	39,800	1,700	48,400
28	1,000	31,750	1,300	41,100	1,700	50,100
29	1,000	32,750	1,300	42,400	1,700	51,800
30	1,000	33,750	1,300	43,700	1,700	53,500

DECEMBER 1, 2005 DRAFT  
ADDITIONS IN **BOLD, UNDERLINED AND ITALICIZED**  
DELETIONS IN STRIKEOUT

CHAPTER 145  
C - COMMERCIAL ZONE

Revised \_\_\_\_\_ Ord # \_\_\_\_\_  
Adopted 07/28/04

Section	Title	Page
145.010	Purpose	
145.020	Permitted Uses	
145.030	Conditional Uses	
145.040	Approval Standards for Conditional Uses	
145.050	Scale of Commercial Uses	
145.060	Prohibited and Lawfully Established Existing Uses	
145.070	Exemptions for Resource Related Uses	
145.080	Property Development Standards	
145.090	Landscaping	

**145.010 PURPOSE.** The purpose of the C (Commercial) zone is to implement the Rural Development policies of the Comprehensive Plan and recognize existing commercial uses in rural and natural resource areas of the county. This zone is applied to land committed to, or intended for, commercial uses outside Urban Unincorporated Communities, Rural Communities, and Rural Service Centers, as those terms are defined in the Comprehensive Plan and Oregon Administrative Rules. The purpose and intent of the Commercial zone is to provide for the location, in rural areas, of needed commercial uses which are not dependent upon urban services. The C zone encourages orderly and compatible development of commercial uses, including agricultural related industry, on rural lands. These lands are suited for commercial use due to marginal agricultural soils, adverse circumstances such as shape, proximity to railroad or transmission line corridors or proximity to markets or resources. The Commercial zone may be appropriate in rural areas designated in the Marion County Comprehensive Plan as Commercial or locations that meet the intent of the zone.

The uses within the C zone are functionally classified by description of the particular activity or by reference to a category in the "Standard Industrial Classification Manual, (SIC)." The SIC index number is referenced as an aid to interpretation of uses. Where the term used to describe a use is defined in Chapter 110, the definition takes precedence over any SIC classification.

**145.020 PERMITTED USES.** Within any C zone no building, structure, or premises shall be used, or arranged, except as permitted by this ordinance. Only the following uses may be permitted at a scale appropriate to serve the rural area, subject to section 145.050:

- (A) Agricultural services and Forestry (SIC 07 and 08, except 0752 kennels);

- (B) Offices for building construction contractors, heavy construction contractors and special trade contractors (SIC 15, 16, and 17);
- (C) Glass products made of purchased glass (SIC 323);
- (D) Transportation and warehousing (SIC 40, 41, 4212, 4225, 43, 4491, 4492, 45, 47);
- (E) Communication (SIC 48, except 4812 cellular telephone communications, see (S)(3) below);
- (F) Motor vehicle wholesale (SIC 5012);
- (F) Retail sales (SIC 52, 53, 54, 56, 57, 58, 59, except 598 fuel dealers, see (S)(4) below);
- (G) Financial, insurance and real estate offices (SIC 60, 61, 62, 63, 64, 65 and 67);
- (H) Recreation vehicle parks and campsites (SIC 7033);
- (I) Services (SIC 72, 73, except crematories and heavy construction equipment rental and leasing);
- (J) Automotive repair, services, and parking (SIC 75, except 7521 automobile parking);
- (K) Retail and service (SIC 76, except 7692 welding shop and 7699 blacksmith);
- (L) Amusement and recreation (SIC 79, except 7948 racing facilities);
- (M) Professional offices (SIC 80, 81, 87);
- (N) Vocational Career, trade or commercial schools and educational services (SIC 821, 824 and 829 and as defined in Chapter 110);
- (O) Schools, elementary and secondary (as defined in Chapter 110);
- (P) Non-profit membership organizations (SIC 86);
- (Q) Sheet metal shop;
- (R) Caretaker's dwelling;
- (S) Fire station;
- (T) Public and private utility facilities and buildings including cooperatives necessary for public service;
- (U) Laboratory seed and soil testing, research;
- (V) The following uses are subject to special standards:
  - (1) Mobile home towing service (see Limited Use, Section 125.070);
  - (2) Wireless communication facilities attached (see Limited Use, Section 125.110);
  - (3) Fuel oil distribution firm (see Limited Use, Section 125.060);
  - (4) Automobile parking lot when developed as described in Chapter 118 (SIC 7521);
- (W) Uses legally established and existing on the date of adoption of this ordinance. Such uses are permitted pursuant to this section only on the lot(s) or parcel(s) where they existed on the date of adoption of this ordinance, subject to 145.060.

**145.030 CONDITIONAL USES.** When authorized under the procedure provided for conditional uses in this ordinance, the following uses will be permitted in a C zone, subject to section 145.050:

- (A) Crematories;
- (B) Fee fishing pond or lake;
- (C) Kennels (boarding and raising of animals);
- (D) Mineral Resource Sites (see specific conditional uses, Section 120.410-120.480);
- (E) Heliport;
- (F) Wireless communication facilities (see Specific Conditional Uses, Section 120.080);
- (G) U-haul concrete mix store;
- (H) Utilities - secondary truck parking and material storage yard;
- (I) Welding shop (SIC 7692);

- (J) Blacksmith (SIC 7699);
- (K) Colleges and universities (SIC 822);
- (L) Cabinet shop and sales firm (see Specific Conditional Uses, Section 120.050);
- (M) Boat, camper and trailer storage area or lot (see Specific Conditional Uses, Section 120.030);
- (N) Home occupations, subject to section 120.075;
- (O) Retail and service uses not listed in section 145.020 and not exceeding 3,500 square feet of floor.

**145.040 APPROVAL STANDARDS FOR CONDITIONAL USES.** Conditional use requests in the C zone are subject to the following criteria:

- (A) The use will not force a significant change in, or significantly increase the cost of, accepted farm or forest practices on surrounding lands devoted to farm or forest use;
- (B) The proposed use will not, by itself or in combination with existing uses, result in public health hazards or adverse environmental impacts that violate state or federal water quality regulations;
- (C) The proposed use will not, by itself or in combination with existing uses, exceed the carrying capacity of the soil or of existing water supply resources and sewer services;
- (D) The traffic generated by the proposed use is consistent with the identified function, capacity, and level of service of transportation facilities serving the use; or improvements are imposed that maintain the existing level of service;
- (E) The proposed use will not create significant adverse effects on existing uses or permitted uses on adjacent land, considering such factors as noise, dust and odors; and,
- (F) The proposed use shall not have industrial or manufacturing processes that require water or discharges of wastewater except upon demonstration that the use has an on-site sewage disposal site approved by Marion County or the Oregon Department of Environmental Quality.

**145.050 SCALE OF COMMERCIAL USES.**

- (A) New permitted and conditional uses may be established up to a maximum of 3,500 square feet of floor area.
- (B) Lawfully established uses existing as of the date of adoption of this ordinance may be expanded up to 3,500 square feet of floor area, or an additional 25% of the floor area that existed as of the date of adoption of this ordinance, whichever is greater.
- (C) Public uses are not subject to size limitations.
- (D) Except as established in (B) and (C), for a use to exceed the square foot limitations requires taking an exception to Goal 14. Such exception shall be processed as an amendment to the Marion County Comprehensive Plan.

**145.060 PROHIBITED AND LAWFULLY ESTABLISHED EXISTING USES.**

- (A) Uses of structures and land not specifically permitted in the Commercial zone.
- (B) New residential dwellings, except when accessory to a primary use. However, a dwelling that legally existed at the time of adoption of this Ordinance shall not be a nonconforming use, and may be remodel, expanded, or replaced.
- (C) Lawfully established commercial uses that existed prior to zoning or established through the applicable land use process on or before the date of this ordinance, not otherwise listed in the zone, are allowed outright and shall not be classified as non-conforming uses.
- (D) All other lawfully established, existing uses and structures not specifically permitted in the C zone shall be considered nonconforming uses subject to the provisions of Chapter 114.

**145.070 EXEMPTIONS FOR RESOURCE RELATED USES.** Agriculture, forestry and forestry products, and resource related uses that can demonstrate the following are exempt from size and height limitations. Resource related uses may also have an option of being established as uses within county resource zones.

- (A) The commercial activity must be primarily a customer or supplier of farm, forest, or natural resource related uses.
- (B) The commercial activity must enhance the farming, forestry, or natural resource related enterprises of the local community.
- (C) The agriculture, forestry, or natural resource related activities and commercial activities must occur together in the local community.
- (D) The products and services provided must be essential to the practice of agriculture, forestry or natural resource preservation and utilization.

**145.080 PROPERTY DEVELOPMENT STANDARDS.**

- (A) Height. The maximum height of any structure shall be 35 feet.
- (B) Setbacks.

Front Yard - No structure other than a fence, wall, or sign shall be located closer than 20 feet from a public right-of-way. When by ordinance a greater setback or a front yard of greater depth is required than specified in this section, then such greater setback line or front yard depth shall apply (see Section 113).

Side and rear yard - No side or rear yard setback is required where abutting property is zoned for commercial or industrial use. Where not abutting a commercial or industrial zone, structures other than fences, walls, and signs shall comply with the following setbacks:

- (1) Residential or public zone - 10 feet
- (2) Farm or forest zone - 30 feet

Parking - Parking spaces may abut a public right-of-way and side and rear property lines adjacent to commercial, industrial, or public zones, subject to the landscaping requirements in Section 145.090. Parking spaces shall be set back a minimum of 10 feet from residential, agricultural, and forest zones and shall be screened with a six foot fence, wall or hedge.

- (C) Lot Area/Lot Coverage. There is no minimum lot size.
- (D) Parking. The off-street parking and loading requirements of Chapter 118 apply.
- (E) Access to state highways. Any new or expanded use with frontage on a state highway shall demonstrate that the property has access approved by the Oregon Department of Transportation or approved access to an alternative public right-of-way.
- (F) Traffic Analysis. Demonstrate that the development will be consistent with the identified function, capacity, and level of service of transportation facilities serving the site. A transportation impact analysis, approved by the Marion County Department of Public Works, may be required prior to building permit approval.
- (G) Sewage Disposal. Demonstrate that the development will not exceed the existing carrying capacity of the local sewage disposal system or has an on-site sewage disposal site approved by Marion County or the Department of Environmental Quality.

**145.090 LANDSCAPING.** The following provisions apply to lots and parcels upon which a new structure is erected, or where a graveled or unimproved lot is paved, or a lot is newly developed for the outdoor sale or display of merchandise, goods or services:

- (A) Front yards shall be provided with a landscaped area at least three feet wide adjacent to the right-of-way line, exclusive of through direct driveways, on every lot upon which a new structure is erected, or where a graveled or unimproved lot is paved, or a lot is newly developed for the outdoor sale or display of merchandise, goods or services.
- (B) Side and rear yards abutting a residential zone shall be landscaped adjacent to parking and loading zones.



DECEMBER 1, 2005 DRAFT  
ADDITIONS IN ***UNDERLINED AND ITALICIZED***  
DELETIONS IN STRIKEOUT

CHAPTER 171  
P (PUBLIC) ZONE

Revised \_\_\_\_\_ Ord # \_\_\_\_\_  
Revised 07/28/04  
Revised 01/01

Section	Title	Page
171.010	Purpose	
171.020	Uses	
171.030	Conditional Uses	
171.040	Scale of Uses	
171.050	Prohibited and Lawfully Established Existing Uses	
171.060	Property Development Standards	

**171.010 PURPOSE.** The purpose and intent of the P zone is to provide regulations governing the development of lands appropriate for specific public and semi-public uses and to ensure their compatibility with adjacent uses. It is intended that this zone be applied to individual parcels shown to be an appropriate location for a certain public or semi-public use. If the use existing at the time the P zone is applied is discontinued or if a proposed use is not established, it is the intent that the land be rezoned to conform to surrounding zoning or be devoted to permitted uses. It is not intended that a property zoned Public for one type of use be allowed to change without demonstrating that the proposed conditional use will be compatible with adjacent uses and the property is better suited to the proposed use than alternative locations.

**171.020 USES.** Within any P (PUBLIC) zone no building, structure or premises shall be used, arranged, or designed to be used, erected, structurally altered or enlarged except for the following purposes:

- (A) Farm use;
- (B) Forest use;
- (C) Dwellings (including mobile homes) and other structures customarily provided in conjunction with farm or forest use subject to the criteria in Section 139.030;
- (D) Utility facilities necessary for public service except public power generation.
- (E) Wireless communication facilities attached subject to the following development standards:

- (1) Notwithstanding other height limitations in this Ordinance Omni-directional (whip) antennae not exceeding 20 feet in height and directional/parabolic antennae not exceeding 7 feet in diameter or width and 15 feet in height may be attached to or located on existing structures.
  - (2) Antenna and associated equipment shall be surfaced in a nonreflective color to match the structure on which it is located. An equipment enclosure may be set back from the edge of a roof by a distance at least equal to its height in lieu of screening.
  - (3) Equipment enclosures shall be located within the building on which it is located wherever possible, otherwise, equipment enclosures shall be fenced by a 6 foot high fence, wall or hedge.
  - (4) Antennae shall not be illuminated except as required by the Oregon State Aeronautics Division or the Federal Aviation Administration.
  - (5) A wireless communication facility, attached, and equipment enclosure, shall be removed by the facility owner or property owner within 6 months of the date it ceases to be operational.
- (F) Wireless communications facilities (See Limited Use, Section 125.120).
  - (G) Fire and emergency services stations and police substations; training facilities, administrative offices and living quarters for fire, emergency, and police services are permitted in conjunction with these uses, not to exceed 20 full-time persons and 200 day-use visitors.

**171.030 CONDITIONAL USES.** When authorized under the procedure provided for conditional uses in this Ordinance, the following uses will be permitted in a P zone:

- (A) Airport and airport related commercial and industrial uses;
- (B) Public ball park, exposition, fairground, museum, stock show and related commercial uses subject to 171.040;
- (C) Cemeteries, crematoriums and mausoleums;
- (D) Dwelling for the caretaker or watchman; housing for the staff required for an approved conditional use;
- (E) Golf courses, public parks and playgrounds, recreational resorts and retreats, related camping and related commercial uses subject to 171.040;
- (F) Churches, ~~public and private schools~~ and related conference and residence facilities;
- (G) *Schools, elementary and secondary (as defined in Chapter 110);***

- (H) Military training facilities and armory;
- (I) Public institutions for detention or correction;
- (J) Residential facilities, institutions and schools for the handicapped or mentally retarded;
- (K) Public service buildings, structures and uses, (e.g. field offices, outdoor storage of equipment, reservoir, water tower, pump station, sewage treatment plant, solid waste disposal site, power generation) except fire, police and emergency service stations.
- (L) Fire and emergency services stations and police substations; training facilities, administrative offices and living quarters for fire, emergency, and police services exceeding 20 full-time persons and 200 day-use visitors.

**171.040 SCALE OF COMMERCIAL USES:**

- (A) New commercial uses in conjunction with public uses may be established up to a maximum of 3,500 square feet of floor area.
- (B) Lawfully established commercial uses existing as of the date of adoption of this ordinance may be expanded up to 3,500 square feet of floor area, or an additional 25% of the floor area that existed as of the date of adoption of this ordinance, whichever is greater.
- (C) Except as established in (B), for a commercial use to exceed the square foot limitations requires taking an exception to Goal 14. Such exception shall be processed as an amendment to the Marion County Comprehensive Plan

**171.050 PROHIBITED AND LAWFULLY ESTABLISHED EXISTING USES:**

- (A) Uses of structures and land not specifically permitted in the Public zone.
- (B) New residential dwellings, except when accessory to a primary use. However, a dwelling that legally existed at the time of adoption of this Ordinance shall not be a nonconforming use, and may be remodel, expanded, or replaced.
- (C) Lawfully established commercial and industrial uses that existed prior to zoning or established through the applicable land use process on or before the date of this ordinance, not otherwise listed in the zone, are allowed outright and shall not be classified as non-conforming uses.
- (D) All other lawfully established, existing uses and structures not specifically permitted in the Public zone shall be considered nonconforming uses subject to the provisions of Chapter 114.

**171.060 PROPERTY DEVELOPMENT STANDARDS:**

- (A) HEIGHT. No building or structure in a P zone shall exceed 6 stories or 70 feet, provided that buildings or structures shall set back from every street and lot line 1 foot for each

foot of height of the building in excess of 35 feet in addition to all other yard and setback requirements herein specified.

- (B) FRONT YARD. Front yard shall be a minimum of 20 feet. No parking shall be permitted within the minimum front yard area.
- (C) SIDE YARDS. Where the side of a lot in a P zone abuts upon the side of a lot in any "R" zone, there shall be a minimum side yard of 10 feet. Otherwise there shall be no minimum side yard setback. Where the side of a lot abuts upon a street there shall be a minimum side yard of 20 feet wherein no parking shall be permitted.
- (D) REAR YARD. In a P zone there shall be a rear yard that shall have a minimum depth of 30 feet.
- (E) LOT AREA AND COVERAGE. The minimum requirements in P zones for dwellings shall be 1 acre except 6,000 square feet inside an unincorporated community boundary where public sewer and water service is provided. No main building, including dwellings, shall occupy more than 30% of the lot area.
- (F) OPEN STORAGE.
  - (1) All yard areas, exclusive of those required to be landscaped as provided in Section 171.060 (G), may be used for materials and equipment storage areas related to a use permitted in the P zone, provided such area is screened so it cannot be seen from public roads, or from dwellings on property in other zones.
  - (2) The surface of open storage areas, including automobile and truck parking area shall be paved or graveled and maintained at all times in a dust-free condition.
- (G) LANDSCAPING. The area within 20 feet of a street shall be landscaped. As a condition of approval for a conditional use additional landscaping may be required if necessary to make the use compatible with the area.
- (H) PERFORMANCE STANDARDS. No land or structure shall be used or occupied unless maintained and operated in continuing compliance with all applicable standards adopted by the Oregon Department of Environmental Quality.
- (I) SEWAGE DISPOSAL. Demonstrate that the development will not exceed the existing carrying capacity of the local sewage disposal system or has an on-site sewage disposal site approved by Marion County or the Department of Environmental Quality.
- (J) TRAFFIC ANALYSIS. Demonstrate that the development will be consistent with the identified function, capacity, and level of service of transportation facilities serving the site. A transportation impact analysis, approved by the Marion County Department of Public Works, may be required prior to building permit approval.