



Oregon

John A. Kitzhaber, M.D., Governor

Department of Land Conservation and Development

635 Capitol Street NE, Suite 150

Salem, OR 97301-2540

(503) 373-0050

Director's Office Fax (503) 378-5518

Main Fax: (503) 378-6033

Web Address: <http://www.lcd.state.or.us>



NOTICE OF ADOPTED AMENDMENT

March 7, 2011

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

FROM: Angela Houck, Plan Amendment Program Specialist

SUBJECT: Marion County Plan Amendment
DLCD File Number 001-11

The Department of Land Conservation and Development (DLCD) received the attached notice of adoption. Copies of the adopted plan amendment are available for review at DLCD offices in Salem, the applicable field office, and at the local government office.

Appeal Procedures*

DLCD ACKNOWLEDGMENT OR DEADLINE TO APPEAL: Friday, March 18, 2011

This amendment was not submitted to DLCD for review prior to adoption because the jurisdiction determined that emergency circumstances required expedited review. Pursuant to OAR 660-18-060, the Director or any person is eligible to appeal this action to LUBA under ORS 197.830 to 197.845.

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 DATE SPECIFIED ABOVE.**

Cc: Sterling Anderson, Marion County
Jon Jinings, DLCD Community Services Specialist
Steve Oulman, DLCD Regional Representative

<paa> N



FORM 2

DLCD

Notice of Adoption

In person electronic mailed

DATE
FEB 28 2011
STAMP
DEPT OF
LAND CONSERVATION
AND DEVELOPMENT
For Office Use Only

This Form 2 must be mailed to DLCD within **5-Working Days after the Final Ordinance is signed** by the public Official Designated by the jurisdiction and all other requirements of ORS 197.615 and OAR 660-018-000

Jurisdiction: **MARION COUNTY**

Local file number: **LA10-001**

Date of Adoption: **02/23/11**

Date Mailed: **02/28/11**

Was a Notice of Proposed Amendment (Form 1) mailed to DLCD? Yes No Date: 1/21/2010

Comprehensive Plan Text Amendment

Comprehensive Plan Map Amendment

Land Use Regulation Amendment

Zoning Map Amendment

New Land Use Regulation

Other:

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

Initiate consideration of amendments to the Marion County Zoning Code No. 516, as amended to update and conform to changes in the state law and other clean up amendments.

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

Plan Map Changed from:

to:

Zone Map Changed from:

to:

Location:

Acres Involved:

Specify Density: Previous:

New:

Applicable statewide planning goals:

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

Was an Exception Adopted? YES NO

Did DLCD receive a Notice of Proposed Amendment...

45-days prior to first evidentiary hearing?

Yes No

If no, do the statewide planning goals apply?

Yes No

If no, did Emergency Circumstances require immediate adoption?

Yes No

DLCD file No. 001-11 (18741) [16537]

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

Local Contact: **Sterling Anderson**

Phone: **(503) 588-5038** Extension:

Address: **5155 Silverton Rd NE**

Fax Number: - -

City: **Salem**

Zip: **97305**

E-mail Address:

ADOPTION SUBMITTAL REQUIREMENTS

This Form 2 must be received by DLCD no later than 5 days after the ordinance has been signed by the public official designated by the jurisdiction to sign the approved ordinance(s)
per ORS 197.615 and OAR Chapter 660, Division 18

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

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

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

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

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

AN ADMINISTRATIVE ORDINANCE

ORDINANCE NO. 1313

THE MARION COUNTY BOARD OF COMMISSIONERS HEREBY ORDAINS AS FOLLOWS:

SECTION I. Purpose

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

SECTION II. Authorization

The Marion County Board of Commissioners initiated legislative amendments to the Marion County Rural Zone Code by Resolution 10-1R dated January 13, 2010. The Marion County Planning Commission held a public hearing on October 19, 2010 and the Board of Commissioners held public hearings on December 15, 2010, and February 16, 2011, to consider the amendments, for which proper notice and advertisement were given. All persons present during the public hearing were given the opportunity to speak or present written statements.

SECTION III. Evidence and Conclusion

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

SECTION IV. Amendments

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

SECTION V. Severability and Savings Clause

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

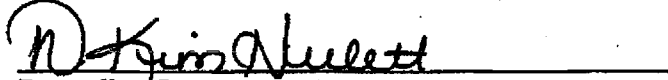
SECTION VI. Effective Date

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

SIGNED and FINALIZED this 23rd day of February,
2011, at Salem, Oregon.

MARION COUNTY BOARD OF COMMISSIONERS


Chair


Recording Secretary

JUDICIAL NOTICE

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

EXHIBIT A

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

CHAPTER 17.110 GENERAL PROVISIONS

17.110.001 **SHORT TITLE.** This title shall be known as the Marion County rural zoning ~~Ordinance~~ **Code**, and may be so cited and pleaded.

17.110.005 **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~~ **title** is already defined in ~~another County ordinance (e.g., MCC Title 16, Urban Zoning, and or the Uniform International Building Code)~~ the term is not redefined herein unless it has a different meaning in this ~~ordinance~~ **title**, 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~~ **title**, 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~~ **(ed 2002)** 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.

Terms defined in other chapters of this title apply only within the chapter where the term is defined.

17.110.223 **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 **that are under the jurisdiction of the State Fish and Wildlife Commission** 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 (3) or 321.824(3).

Preparation of products or by-products includes but is not limited to the cleaning, treatment, sorting, or packaging of the products or by-products. Products or by-products raised on such land means that those products or by-products are raised on the farm operation where the preparation occurs or on other farm land provided the

preparation is occurring only on land being used for the primary purpose of obtaining a profit in money from the farm use of the land.

17.110.285 INTERNATIONAL BUILDING CODE (IBC). “International building code (IBC)” means the code of building design and construction standards adopted by Marion County.

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

17.110.427 PARCEL. “Parcel” means a unit of land created by a partitioning as defined in ORS 92.010 in compliance with all applicable zoning and partitioning ~~ordinances~~ **code provisions contained in 17.172 MCC**, or created by deed or land sales contract if there were no applicable zoning or partitioning ~~ordinances~~ **code provisions contained in 17.172 MCC**, excluding units of land created solely to establish a separate tax account.

17.110.452 PARTITION LAND. “Partition land” means 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~~ **code provisions**;
- 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.

~~**17.110.582 — UNIFORM BUILDING CODE (U-BC). “Uniform building code (UBC)” means the code of building design and construction standards adopted by Marion County.**~~

17.110.620 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~~ **title**. 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
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
Public Zone
Commercial Zone
Community Commercial
Interchange District Zone
Unincorporated Community Industrial
Industrial Zone

FT Zone
P Zone
C Zone
CC 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 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.

17.110.670 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 one 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 ~~this ordinance~~ title 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 ~~ing ordinance~~ Code."

17.110.680 ADMINISTRATION OF THE TITLE. This title 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, is in violation of local, state or federal law, or is being used or has been divided in violation of the provisions of this ~~ordinance~~ title unless issuance of the permit would correct the violation.

The director shall handle all matters pertaining to zone changes, variances, land divisions, and conditional uses, and other administrative matters as prescribed by this ~~ordinance~~ title; 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~~ title.

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 this title 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 this title 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 MCC 17.122.120.

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 in MCC 17.115~~, shall be followed in making these decisions. The same process shall be used for other administrative reviews under this title. ~~including, but not limited to, modifications of the special setbacks in MCC 17.128.050(A), 17.136.070(A), 17.137.070(A), 17.138.060(A), and 17.139.070(A).~~

- A. ~~The decision shall be made on the basis of the Marion County Comprehensive Plan and applicable standards and criteria in this title. 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 MCC 17.119.020 and 17.119.025. Notwithstanding any other provisions of this ordinance, the director or designee may forward any land use permit or application to the planning commission or hearings officer for a public hearing and initial decision.~~
- 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 MCC 17.110.408 and 17.111.030(C) 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 15 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 15 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 subsection (B) of this section.~~

~~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 17.111 MCC.~~
- ~~G. MCC 17.122.070 through 17.122.130 shall apply to any appeals from the decision of the hearings officer.~~

17.110.700 EFFECT ON OTHER ORDINANCES, AGREEMENTS BETWEEN PARTIES. It is not intended by this title 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~~ **nor** is it intended by this ordinance **title** to interfere with or abrogate or annul any easement, covenant, or other agreement between parties;

~~Provided, however, that where this ordinance title 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 was imposed or required by such previous provision of this title, the existing provisions of this ordinance title shall apply control, except that such existing provisions precedence of this ordinance shall not apply to valid and unexpired permits previously granted under the terms and provisions of any ordinance.~~

17.110.705 PERMIT EXPIRATION DATES.

A. Except in the EFU, TC, SA and FT zones, and notwithstanding other provisions of this title, 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. The effective period of an approved application may be extended by the final decision maker or the Planning Director for additional one year periods if:

- 1. There have been no changes in land use law or plan policy that would apply to the application if reapplication was required; and**
- 2. A written request for an extension is filed by the applicant or applicant's successor prior to the expiration of the approval; and**

3. The decision, if rendered after the adoption of this title, included reference to the possibility of an extension, and the extension is consistent with any limits on extensions imposed in the original decision.

C. There shall be no limit on the number of extensions that may be requested and approved.

BD. 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.~~

17.110.770 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 a 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 a 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 or in the vicinity of 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 subsections (A), (B), (C) and (D) of this section do not provide for adequate intersection visibility. **This may include adjacent parcels or parcels across the road in unusual geometric situations.**
- 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 subsections (G)(1) and (2) of this section, 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 seven 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.

17.110.790 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 **title** or any other ordinance.

17.110.836 HISTORIC STRUCTURES OR SITES. The historic structures and sites identified in the Marion County Comprehensive Plan are a unique resource deserving of special consideration. **When the comprehensive land use plan identifies an 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.** ~~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.~~

CHAPTER 17.112
FUTURE RIGHT-OF-WAY LINES

Section	Title	Page
17.112.010	Establishment, Alterations, or Elimination of Future Right-of-Way Lines	
17.112.020	Special Street Setbacks	

17.112.020 SPECIAL STREET SETBACKS.

- A. The special setbacks in this section are based upon the functional classification of streets as described in the Marion County Rural Transportation System Plan outside urban growth boundaries. The purpose of these special setbacks is to permit the eventual expansion or improvement of streets and roads in order to safely accommodate vehicular or pedestrian traffic. The special setback shall be measured from the centerline of the street right-of-way.
- B. Except as provided herein structures, **including but not limited to utilities, retaining walls, fences, and curbing** and paved surfaces shall not be located within the special setbacks specified in subsection (F) of this section. Any portion of a structure lawfully established within a special street setback prior to adoption of this title shall be considered a non-conforming structure. Other yard areas and setbacks specified adjacent to streets shall be in addition to the special setbacks required by this section. These setback distances shall be measured at right angles to the centerline of the established right-of-way. Parking requirements shall be met outside of the special setback area.
- C. The planning director may approve placement of signs or light standards, and temporary structures, or paved surfaces within the special setback area upon determination that the county department of public works or Division of State Highways, if applicable, has no objections and provided the property owner signs a written agreement that the owner or his heirs or assigns will, within 45 days after being notified by the county remove all portions of the structure or signs, light standards, parking or temporary structures within the special setback. The agreement shall provide that if the owner fails to remove the listed items the county or state may do so at the expense of the owner and the expense shall be a lien against the land and may be collected or foreclosed in the same manner as liens entered in the county lien docket. The agreement shall be recorded by the owner in the applicable deed records. Notice requiring removal shall be given when the responsible public agency is planning a project or identifies an actual need to improve the street in front of the owner's property or the department of public works determines that the structure is a threat to the public health, safety or welfare. The agreement shall also provide that the owners shall not be entitled to any damages or compensation for the removing of any structure or loss of parking spaces approved under this provision but this stipulation shall not deny the owner the right to compensation for any land or any structures existing prior to the adoption of this title, taken for the a roadway-related project.
- D. The planning director may also approve temporary structures within the street yard required in the applicable zone, exclusive of the vision clearance area, subject to the requirements in subsection (C) of this section.
- E. Required yard areas adjacent to a street shall be measured from the setback lines as set forth in this section.
- F. Special setback requirements:

1. The special setback requirements shall be based on the functional classification in the Rural Transportation System Plan with the exception of those road segments listed under subsection (F)(2) of this section.

- a. State highway: 50 feet.
- b. Principal arterial: 50 feet.
- c. Arterial: 50 feet.
- d. Major collector: 40 feet.

All other facilities shall have a special setback of 30 feet as identified in the Rural Transportation System Plan (Section 10.3.6).

2. The following streets or roads shall have a centerline setback as specified:

- a. Oregon 99E from the northern City limits of the City of Salem to the northeast boundary of Marion County: 70 feet.
- b. Cordon Road adjacent to the Urban Growth Boundary of Salem and up to Hazelgreen Road: 60 feet.
- c. North Fork Road from Oregon 22 to Gates Hill Road: 50 feet.
- d. State Street from Howell Prairie Road to Cascade Highway: 40 feet.
- e. Sunnyview Road from Howell Prairie Road to Cascade Highway: 40 feet.
- f. Macleay Road from 65th Avenue to Howell Prairie Road: 40 feet.
- g. Riverside Road from River Road to Sidney Road: 40 feet.
- h. Sidney Road from Riverside Road to Buena Vista Road: 40 feet.
- i. Buena Vista Road from Sidney Road to Buena Vista Ferry: 40 feet.

**CHAPTER 17.113
LOT AREA, YARDS, AND HEIGHT RESTRICTIONS**

17.113.120 HEIGHT EXCEPTIONS.

A. **Transmission** Towers and chimneys may exceed the maximum height of the zone in which they are located.

B. Towers containing wind turbines or wind mills may exceed the maximum height requirements of the zone in which they are located provided they:

1. Meet the required yard setbacks in the applicable zone, and

2. Are setback from all property lines a distance equal to at least the tower height plus the length of one blade at its total extended height.

CB. Electronic communication antennas, such as radio and television receiving antennas, may exceed the height limits, but must meet provisions regulating such installation.

DC. Ham (non-commercial) radio transmitting towers and antennas may exceed the height requirements but must meet any other provisions regulating such installations.

FD. Steeples may exceed the maximum height of the zone in which they are located provided:

1. That they do not contain any habitable space;

2. That they do not exceed 185 feet in height;

3. That the planning commission or hearings officer permits a greater height, as a conditional use, when they are within 185 feet of or are in an RS zone.

CHAPTER 17.115
DETERMINATIONS AND ADMINISTRATIVE REVIEWS

<u>Section</u>	<u>Title</u>	<u>Page</u>
17.115.010	Authorization	1
17.115.020	Definition	1
17.115.030	Requests for a Determination	1
17.115.040	Review Procedure	2
17.115.050	Standards for Making Determinations	2
17.115.060	Scope of Determinations	2
17.115.070	Conditions Under Previous Ordinance	2
17.115.080	Modification or Withdrawal of Determinations and Administrative Reviews	2
17.115.090	Expiration and Extensions	3
17.115.100	Effect of Determinations on Zoning Ordinance Amendments	3
17.115.110	Administrative Review	3

17.115.010 AUTHORIZATION. The director is authorized to issue determinations or administrative reviews regarding conformance of existing or proposed uses on a particular lot or parcel with the requirements of this title, including determinations or administrative reviews relating to non-conforming uses as provided in Chapter 17.110 MCC, subject to the requirements of this chapter.

17.115.020 DEFINITION. A determination includes, but is not limited to, written information provided by the director regarding the application of this title to a specific lot or parcel such as an indication of conformance with applicable provisions of this title. In official correspondence or on a state agency permit, building permit, mobile home siting permit, occupancy permit, or similar document. (See Chapter 17.110 MCC for procedures for clarifying the applicability of this title under general circumstances). Oral information is not a determination and cannot be considered the basis for any act in violation of this title.

An administrative review is a written determination that requires an interpretation or the exercise of factual, policy, or legal judgment, and is considered a land use decision and is issued as a land use permit.

17.115.030 REQUESTS FOR A DETERMINATION. The following procedures shall apply to requests for written determinations not associated with a building permit, mobile home siting permit, occupancy permit or similar action.

- A.** Any interested person may request a written determination.
- B.** The request shall identify the name, address and phone number of the applicant, and the owner and address of the property.
- C.** Requests shall include a copy of the latest property transfer document.
- D.** The request shall also include a written explanation of the specific issues to be determined.

17.115.040 REVIEW PROCEDURE.

- A. The director shall review requests for determinations. For requests submitted under MCC 17.115.030 written findings shall be prepared indicating whether or not the use meets the criteria in MCC 17.115.050. The written determination shall identify the expiration date and procedure for obtaining an extension as provided in MCC 17.115.090.**
- B. The written determination shall be provided to the applicant and to any persons who request a copy.**
- C. The director may charge a fee set by order of the board for a written determination. The director shall keep a file of all written determinations.**
- D. The director shall not be responsible for verifying the accuracy or completeness of information provided by the applicant. The validity and effectiveness of determinations is limited to the facts presented by the applicant. No liability is assumed for erroneous or incomplete information in the request.**

17.115.050 STANDARDS FOR MAKING DETERMINATIONS. A determination of conformance with this title shall be made if the director finds compliance with the requirements of the applicable zone or overlay zone, the regulations pertaining to non-conforming uses in Chapter 17.114 MCC, the general development regulations in Chapters: 17.112, 17.113, 17.118, 17.120 through 17.121, 17.126 through 17.172, 17.191 MCC, and the definitional limits in Chapter 17.110 MCC. In addition, the director shall not make a determination of conformance with this title unless the provisions of this chapter have been met.

17.115.060 SCOPE OF DETERMINATIONS.

- A. For requests submitted pursuant to MCC 17.115.030 or 17.115.110 the director shall determine from available records whether the subject lot or parcel and existing uses were established in conformance with applicable county regulations.**
- B. If a determination cannot be made without interpretation or the exercise of factual, policy or legal judgment the director shall deny the request. When a determination with regard to a proposed use, structure, or legality of a parcel cannot be made without interpretation or the exercise of factual, policy or legal judgment, the proposed use, structure, or the legality of a parcel may be reviewed as an administrative review subject to submittal of an application as provided in MCC 17.115.110.**

17.115.070 CONDITIONS UNDER PREVIOUS ORDINANCE.

- A. If under previous ordinances conditions were imposed as part of a zone change or a resolution of intent to rezone that have not been met, or require continuing compliance, any determination or administrative review for the subject property shall identify the conditions and note that they remain in effect.**
- B. If a conditional use permit was granted under previous ordinances and the conditions imposed have not been met, or require continuing compliance, a determination for the subject property shall identify the conditions and note that they remain in effect.**

17.115.080 MODIFICATION OR WITHDRAWAL OF DETERMINATIONS AND ADMINISTRATIVE REVIEWS. Written determinations or administrative reviews may be modified or withdrawn prior to establishment of a use or occupancy of a structure if new information is received that

demonstrates that the determination or administrative review was in error. Those provided with a copy of the original determination or administrative review shall be provided a copy of the modified determination, or administrative review or notice of the withdrawal.

17.115.090 EXPIRATION AND EXTENSIONS. A determination remains effective for one year provided that determinations made as part of a permit issuance shall remain effective as long as the permit remains effective. An administrative review runs with the land, unless a specific expiration date is identified in the decision or the decision is revoked.

17.115.100 EFFECT OF DETERMINATIONS ON ZONING ORDINANCE AMENDMENTS. When a structure or use has been modified or established in reliance on a written determination or administrative review, and the applicable land use regulations change, the structure or use shall be subject to the provisions of Chapter 17.114 MCC, Nonconforming Use and Development.

17.115.110 ADMINISTRATIVE REVIEW. When a determination about a proposed use, structure or the legality of a parcel cannot be made without interpretation or the exercise of factual, policy or legal judgment, the proposed use, structure, or the legality of a lot or parcel may be reviewed as a administrative review subject to submittal of an application as provided in Chapters 17.119.20 and 17.119.25 MCC. The administrative review procedures, as provided below, shall be followed in making these decisions.

- A. The decision shall be made on the basis of the comprehensive plan and applicable standards and criteria in this title. The director or designee may attach any conditions of approval deemed necessary to ensure conformance of the use, structure, lot or parcel or to the standards or criteria. Administrative review applications may be filed and shall be signed as required in Chapter 17.119.20 and 17.119.25 MCC. Notwithstanding any other provisions of this title, the director or designee may forward any land use permit or application to the planning commission or hearings officer for a public hearing and initial decision.
- B. Notice of a decision 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 Chapter 17.110.408 MCC or as required by state law or administrative rule.
- C. The applicant or any person aggrieved or affected by the decision may file a request for a hearing to the planning division within 15 days of the date the decision was rendered.
- D. The applicant may file a request for reconsideration without a hearing to the planning division within 15 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 extension 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 applicant requesting reconsideration and as required in subsection (B) of this section.

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 at which 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 17.11 MCC.

G. MCC 17.122.070 through 17.122.130 shall apply to any appeals from the decision of the hearings officer.

**CHAPTER 17.116
ADJUSTMENTS**

17.116.020 CONDITIONS CRITERIA FOR GRANTING AN ADJUSTMENT.

A. The director, planning commission, hearings officer or board may permit and authorize an adjustment **to those standards listed in MCC 17.116.030** when it appears from the application and the facts presented that:

~~A. Practical difficulties or unnecessary hardship. That strict application of this title would result in practical difficulties or unnecessary hardship;~~

~~B. There are unusual circumstances or conditions applying to the land, buildings, or use referred to in the application, which circumstances or conditions do not apply generally to land, buildings, or uses in the same zone; however, nonconforming land uses or structures in the vicinity or violations of land use regulations or standards on the subject property shall not in themselves constitute such circumstances or conditions;~~

~~C. Not detrimental. That granting the application will not be detrimental to the public welfare or injurious to property or improvements in the neighborhood containing the property of the applicant;~~

~~D. Health or safety not adversely affected. That granting the application under the circumstances of the particular case will not adversely affect the health or safety of persons working or residing in the neighborhood containing the property of the applicant;~~

~~E. Necessary for enjoyment of property rights. That the granting of the application is necessary for the preservation and enjoyment of the substantial property rights of the applicant.~~

1. The proposed development will not have a significant adverse impact upon adjacent existing or planned uses and development; and

2. The adjustment will not have a significant adverse affect upon the health or safety of persons working or residing in the vicinity; and

3. The adjustment is the minimum necessary to achieve the purpose of the adjustment and is the minimum necessary to permit development of the property for the proposed use; and

4. The intent and purpose of the specific provision to be adjusted is clearly inapplicable under the circumstances; or, the proposed development maintains the intent and purpose of the provision to be adjusted.

B. Adjustment to special setback standards in the AR, EFU, SA, FT, and TC zones. The director, planning commission, hearings officer or board may permit and authorize an adjustment to the special setback standards listed in MCC 17.128.050(A), 17.136.070(A), 17.137.070(A), 17.138.060(A) and 17.139.070(A) as outlined in the those sections. The criteria in subsection A of this section do not apply to adjustments granted under this subsection.

17.116.030 LIMITS FOR ADJUSTMENTS. The director, planning commission, hearings officer or board may grant only the minimum adjustment ~~necessary to relieve the hardship or practical difficulty~~ and shall certify on the order authorizing the adjustment that such adjustment is the minimum. **Modifications exceeding these limits shall be processed as a variance under chapter 17.122 MCC.** The adjustment shall not exceed the following limits:

- A. Lot area. Maximum possible adjustment of two percent of the minimum lot area required but not more than 1,000 square feet. Adjustments to state-mandated minimum lot sizes are prohibited.
- B. Percentage of lot coverage. A maximum adjustment of two percent more than permitted but not more than 500 square feet.
- C. Front yard and any yard adjacent to a street. A maximum adjustment of 20 percent of the required yard front depth but in no instance shall this permit a yard depth of less than 10 feet adjacent to a street.
- D. Side Yard. A maximum adjustment of three feet but in no instance shall this permit a side yard depth of less than four feet for a one story building or less than five feet for a two or two-and-one-half story building.
- E. Rear Yard Depth. A maximum adjustment of either four feet for the building, or 10 feet if a yard area equal in area to that being covered is provided at some other place on the lot other than a required yard area, but in no instance shall this permit a rear yard depth of less than five feet for a one story building, five feet for a two story building, or seven feet for a two-and-one-half story building.
- F. Lot Width. A maximum of 10 percent of the required minimum width of 60 feet at the front building line.
- G. Subjects not included for adjustment. The number of dwelling units permitted, parking requirements, vision clearance area and the use of property are not subjects for adjustments.
- H. Fences. Construction of fences with greater height or density than permitted within the required 10-foot fence setback to a property line adjacent to a street, as set forth in MCC 17.117.080, may be approved subject to a favorable report by the county engineer.
- I. Height. A height adjustment of not more than 10 feet may be allowed for residential accessory structures.

**CHAPTER 17.118
OFF-STREET PARKING AND LOADING**

17.118.070 PARKING AND LOADING AREA DEVELOPMENT REQUIREMENTS. All parking and loading areas except those for single family dwellings shall be developed and maintained as follows:

- A. Location on Site: Required yards abutting a street shall not be used for parking or loading areas. Required side and rear yards, other than those adjacent to a street, may be used for parking and loading areas when such areas have been developed and are maintained as required by this title.
- B. Surfacing: All driveways, parking and loading areas shall have an all-weather surface that may include gravel, asphalt or concrete and shall be graded and drained as required by the Marion County department of public works. **Concrete driveway aprons in the public right-of-way on non-curved streets are prohibited.**
- C. Bumper guards or wheel barriers: Bumper guards or wheel barriers shall be installed so that no portion of a vehicle will project into a public right-of-way or over adjoining property.
- D. Size of parking spaces and driveways.
 - 1. Parking spaces shall be nine feet wide and 17 feet long;
 - 2. Driveways:
 - a. Maximum grade: 15 percent;
 - b. Width: driveways shall be 20 feet wide except that one-way driveways with no adjacent parking may be 12 feet wide;
 - c. One-way driveways shall be clearly marked or signed.
- E. Access: All parking or loading areas shall be served with either separate ingress and egress driveways or with an adequate turn-around which is always available and useable. All entrances and exits onto a public street shall conform to any driveway permit provisions required by the Marion County department of public works.
- F. Screening: when a parking or loading area is located abutting a property in an "R" zone, it shall be screened by a sight-obscuring fence, wall or hedge.
- G. Lighting: any light used to illuminate a parking or loading area shall be directed away from any abutting residential zone or public street.

**CHAPTER 17.120
SPECIFIC CONDITIONAL USES**

Article II. Solid Waste Disposal Sites

17.120.310	Purpose and Scope
17.120.315	Definitions
17.120.320	Conditional Uses
17.120.325	Minimum Standards
17.120.330	Application for Conditional Use Permit
17.120.335	Preliminary permit.
17.120.340	Procedures
17.120.345	Issuance of Permits
17.120.350	Amendment to Conditional Use Permit
17.120.355	Coordination with Solid Waste Disposal Committee and Other Regulator Agencies
17.120.360	Standards for Solid Waste Disposal Site Rehabilitation and Restoration
17.120.365	Suspension or Revocation of Solid Waste Disposal Site Permit
17.120.370	Failure to Maintain Site or Conditions
17.120.375	Administration and enforcement.
17.120.380	Required Agreements and Liens

17.120.310 PURPOSE AND SCOPE.

- A. To protect the health, safety and welfare of the people of Marion County and to provide a coordinated program for accumulation, storage and disposal of wastes and solid wastes, it is deemed essential to:
1. Provide necessary sites for disposal of wastes and solid wastes;
 2. Provide for a coordinated solid waste disposal program and encourage regional solid waste disposal systems;
 3. Provide for coordinating zoning regulations with Chapter 8.05 MCC, Solid Waste Management;
 4. Provide standards and procedures for reasonable protection of adjacent or nearby land uses;
 5. Provide for rehabilitation and ultimate site use for disposal sites after discontinuance of use for disposal;
 6. Provide for preliminary planning permit to allow initial consideration of disposal sites in coordination with other affected federal, state and local agencies;
 7. Provide for disposal sites and special regulations for accumulation, storage, or disposal of toxic or hazardous wastes.
- B. This title shall not apply to the growing or harvesting of crops or timber including, but not limited to, silvicultural practices or to agricultural operations conducted on premises owned or in possession of the person disposing of wastes or solid wastes on such premises.
- C. The intent and purpose of this section is to permit the location and development of solid waste disposal sites in appropriate locations in any zone in Marion County subject to the minimum standards herein set

forth and any conditions established by the commission or hearings officer, without a showing of hardship and after notice and public hearing as provided in MCC 17.120.340.

Notwithstanding the allowable use in any other zoning district in Marion County, any person initiating an operation as described in MCC 17.120.310 to 17.120.380 shall be required to comply with the requirements of this chapter.

17.120.330 APPLICATION FOR CONDITIONAL USE PERMIT. Application by the landowner shall be made to the commission or hearings officer on forms furnished by the planning division. Each application shall be accompanied by:

- A. An accurate plot plan showing exterior boundaries of the property on which the disposal site is to be located and the location of any existing or proposed structures, roads, proposed operating areas or other improvements, and the topography of the proposed site;
- B. A certified list of property owners in the affected area in the same manner as is set forth in MCC 17.123.050;
- C. A plan for rehabilitation and use of the site after the disposal has been terminated for a use permitted within the zone in which the land is located. Such a plan shall be prepared at a scale of not less than one inch equals 400 feet with topographic contours, an interval of which shall not be less than 25 feet. In its discretion, the commission or hearings officer may require a map or plan showing greater detail to determine compliance with this title and standards established by the commission or hearings officer;
- D. A copy of the application to the governing body of Marion County for a franchise pursuant to Chapter 8.05 MCC, Solid Waste Management, if the site is to be owned or to be operated by a person other than a governmental agency;
- E. An agreement required by MCC 17.120.380;
- F. ~~Except for applicants who have previously paid for a preliminary permit on the same site, a fee of \$25.00.~~

~~17.120.335 PRELIMINARY PERMIT.~~

- A. ~~In view of the extensive investigations which must be undertaken in coordination with federal, state and local agencies, persons desiring to obtain a solid waste disposal site conditional use permit may make application to the commission or hearings officer and the commission or hearings officer may grant preliminary approval of a proposed site without notice to interested persons or a public hearing.~~
- B. ~~The commission or hearings officer shall consider the location, the general proposal for access and site operation, the need for the site, the needs of the area, and the proposed restoration and rehabilitation of the site. The commission or hearings officer shall review the application as soon as possible after the petition has been filed. The granting of a preliminary permit is not binding either on the commission, hearings officer or on the applicant but is given to the applicant only as a guide. A conditional use permit application may be filed pursuant to MCC 17.120.330 regardless of the recommendation of the commission or hearings officer pursuant to this section.~~
- C. ~~Each application for a preliminary permit shall be on forms furnished by the planning division and shall be accompanied by a fee of \$25.00. The preliminary permit application may be withdrawn at any time; however, the \$25.00 fee shall not be returned. The application shall be accompanied by any franchise application as required pursuant to MCC 17.120.330 for a conditional use permit.~~
- D. ~~Test wells, test holes, or any other engineering tests may be conducted under a preliminary permit.~~

~~E. Except for existing solid waste disposal sites that qualify as nonconforming uses, no person holding a preliminary permit therefore shall establish, operate or maintain a solid waste disposal site unless and until a conditional use permit has been issued by the commission or hearings officer.~~

17.120.340 PROCEDURES.

- A. Notice and public hearing upon an application for a conditional use permitted under MCC 17.120.320 shall be the same as provided ~~for variances in MCC 17.111 122.050 060, except that, in addition, notice shall be given to property owners within the affected area as provided in MCC 17.123.060 for zone changes.~~
- B. Notice of the decision of the commission or hearings officer shall be given as provided in MCC 17.122.0605.
- C. Decisions of the commission or hearings officer on conditional use applications under MCC 17.120.320 shall be subject to the certification and appeal procedures and other provisions provided in MCC 17.122.070 through 122.1430 inclusive.

17.120.345 ISSUANCE OF PERMITS.

- A. The commission or hearings officer shall make such investigations as are necessary to determine whether the proposed site conforms fully to the regulations set forth herein.
- B. In addition to the requirements of MCC 17.120.310 through 17.120.380, the commission or hearings officer may prescribe additional restrictions or limitations when granting a ~~preliminary permit or a~~ conditional use permit for a proposed site. The commission or hearings officer may prescribe such additional conditions as it deems necessary to fulfill the purpose and intent of this title after finding that such conditions are necessary for the public health, safety, general welfare or to protect persons working or residing in the area, or to protect property or improvements in the area, or to protect the aesthetic qualities of the area, or to protect the environmental quality of the area.
- C. The commission or hearings officer may not reduce or change the requirements specified in MCC 17.120.310 through 17.120.380 except when proceedings have been held for variance of these requirements by the commission or hearings officer pursuant to Chapter 17.122 MCC; provided that an application for variance may be filed with an considered concurrently with the conditional use application, except that the notice of hearing shall separately state the variance applied for.

17.120.350 AMENDMENT TO CONDITIONAL USE PERMIT. When the conditional use permit holder wishes to amend the plans for the site or for the restoration or reuse of such site after a final permit has been granted, he shall make an application for such change and shall furnish a fee ~~of \$25.00~~ together with all information and agreements that would have been required had such change been included in the initial plans, information and agreements submitted to the commission or hearings officer. The commission or hearings officer shall follow the same procedure for notice and hearing as if the amendment were a new application for such a conditional use. The notice and hearing shall be limited to the subject of a requested change in plans.

17.120.365 SUSPENSION OR REVOCATION OF SOLID WASTE DISPOSAL SITE PERMIT.

- A. ~~In addition to the provisions of MCC 17.122.140,~~ The commission or hearings officer may, after a public hearing, at which all interested persons have a right and opportunity to be heard, suspend a solid waste disposal site permit for failure to comply with MCC 17.120.310 through 17.120.380 or other applicable provisions. Prior to such hearing, the commission or hearings officer shall obtain a recommendation from the Marion County solid waste committee. Before any action of suspension is

finally ordered by the commission or hearings officer, the commission or hearings officer shall obtain the concurrence of the governing body.

- B. The commission or hearings officer may, following the same procedures specified in subsection (A) of this section, revoke a solid waste disposal site permit for failure to comply with MCC 17.120.310 through 17.120.380 or other applicable provisions. The commission or hearings officer shall make a finding prior to revocation that there is an immediate and serious danger to the public, an immediate and serious threat or actual pollution of air, water or surrounding land or other serious hazard or public nuisance.

~~17.120.375 — ADMINISTRATION AND ENFORCEMENT. It shall be the duty of the county building official, county health officer, and county engineer to enforce MCC 17.120.310 through 17.120.380. Prior to issuance of a preliminary permit or of a conditional use permit, prior to establishment of any site and during the operation, maintenance or restoration or rehabilitation of such site pursuant to MCC 17.120.310 through 17.120.380, it shall be the duty of said officials to determine compliance with those sections and with any condition imposed by the commission or hearings officer. For this purpose, the county engineer, county health officer or county building official, or their duly authorized representatives may enter upon public or private property to perform any such duty. In addition to the right of entry specified by this section, the landowner as holder of the conditional use permit and the holder of any franchise to operate the site shall agree to this right of entry as provided in MCC 17.120.380.~~

17.120.380 REQUIRED AGREEMENTS AND LIENS.

- A. The Governing Body finds and declares that a properly established, maintained, operated, and rehabilitated solid waste disposal site is a utility facility necessary for public service and, as such, is a valuable asset in improving environmental quality of the County. The Board further finds and declares that an improperly established, operated, maintained, or rehabilitated site may become a public or private nuisance, produce a condition of unsightliness, establish a health hazard or otherwise create a condition detrimental to the environmental quality of the area and of the County. To implement these findings, the Governing Body further finds and declares that it is necessary and appropriate to require agreements from the landowners who apply for a conditional use permit the agreements required by this section and further finds and declares that the appropriate remedy to reimburse costs of the County incurred in enforcement of Sections MCC 17.120.310 to 17.120.380 is, upon failure of the landowner or franchise holder to pay such costs, the imposition of lien against the premises.
- B. On forms issued by the Planning Division, the landowner who is applying for a conditional use permit for a site pursuant to Sections MCC 17.120.310 to 17.120.380 and the holder of any franchise to operate such site, shall jointly and severally agree to accept, to be responsible for or to be liable for:
1. The entry upon subject premises by named officials pursuant to Section MCC 17.120.375.
 2. Proper establishment, maintenance, and operation of the site as required by Section MCC 17.120.370.
 3. Rehabilitation and restoration of the site upon termination for use as a disposal site pursuant to Section MCC 17.120.360.
- C. In the event the landowner or the franchise holder does not comply with his agreement executed pursuant to subsection (b) of this section and within a reasonable time after written notice to comply, the Governing Body may institute proceedings under subsection (d) of the section to enforce compliance. "Reasonable time" within this subsection shall be determined by the Commission or Hearings Officer upon the basis of the health, safety, and welfare of the people of Marion County and of the area and in

determining what is a reasonable time, the Commission or Hearings Officer may give consideration to, but shall not be limited by the following:

- (1) The nature of the deficiency;
- (2) Conditions created by the deficiency;
- (3) Hazard to health or safety;
- (4) The creation of a condition of unsightliness;
- (5) The creation of a public or private nuisance;
- (6) Whether there is a satisfactory alternative practice, procedure or operation.

- D. In the event that the landowner or franchise holder fails to comply with the order of the Commission or Hearings Officer within the time specified by the Commission or Hearings Officer, the Commission or Hearings shall notify the Marion County Governing Body. The Governing Body may institute proceedings for enforcement by giving 30 days written notice to the landowner or franchise holder, or both, at their last known addresses. The Board may shorten the notice period to not less than 24 hours notice if the Governing body finds an immediate or serious danger to the public through the creation of a health hazard or a public or private nuisance. After required notice, the Governing Body may hold a public hearing. After such public hearing and on the basis thereof, the governing Body shall have the power to order appropriate county agencies to correct and deficiencies in the establishment, maintenance or operation of the site, or to make the required rehabilitation and restoration.
- E. The cost incurred by the County in carrying out subsection (d) of this section shall be paid by the landowner or the franchise holder or both. If not paid, the Governing Body may order appropriate action to be taken to impose a lien upon the subject premises.
- F. The Commission or Hearings Officer may order the filing in the County Deed Records of the conditional use permit including the agreements executed pursuant to this section as a recorded encumbrance on the real property to assure compliance with the conditions and agreements.

CHAPTER 17.120
SPECIFIC CONDITIONAL USES
Article III. Mineral and Aggregate Resource Operations

17.120.430 APPLICATION REQUIREMENTS. An application for a new or expanding mineral or aggregate site shall be adequate if it includes:

- A. A Comprehensive Plan Amendment application for an aggregate resource under OAR 660-23-180(3) that includes:
 - 1. Information regarding quantity, quality, and location sufficient to determine whether the site is significant pursuant to OAR 660-23-180(3); and
 - 2. A Post Acknowledge Plan Amendment (PAPA) determination, pursuant to OAR 660-23-180(5) including:
 - ~~3.~~ a. A conceptual site reclamation plan;
 - 4. b. A traffic impact assessment for the area within one mile of the entrance to the mining area;
 - ~~5.~~ c. Proposals to minimize any conflicts with existing uses preliminarily identified by the applicant within a 1,500-foot impact area; and
 - ~~6.~~ d. A site plan indicating the location, hours of operation, and other pertinent information for all proposed mining and associated uses.

- B. A Comprehensive Plan amendment and conditional use application for an aggregate resource under OAR 660-23-180(4) that includes:
 - 1. Information sufficient to determine whether the aggregate resource site is significant pursuant to OAR 660-23-180(4) and information pursuant to OAR 660-23-180(6) that includes:
 - a. A conceptual site reclamation plan;
 - b. A site plan indicating the location, hours of operation, and other pertinent information for all proposed mining and associated uses and the maximum amount of mined aggregate material specified under OAR 660-23-180(4)(a).

- C. A conditional use application for sites in non-agriculture zones and not required to qualify as significant that includes:
 - 1. A conceptual site reclamation plan unless specified as exempted;
 - 2. A site plan indicating the location, hours of operation, and other pertinent information for all proposed mining and associated uses including the specified maximum amount of mined aggregate material;
 - 3. Information required under the appropriate zone and in MCC 17.120.450(E).

17.120.460 STANDARDS FOR DEVELOPMENT AND OPERATION. Unless specifically deleted or modified as part of the post-acknowledgment plan amendment or conditional use approval the following standards and requirements apply:

A. Dimensional Requirements.

1. Lot Area: The minimum area shall be that area necessary to meet setback requirements.
2. Setbacks for mineral and aggregate extraction shall be:
 - a. The extraction area must be at least 100 feet from any property line;
 - b. The extraction area must be at least 500 feet from a habitable building existing on adjacent property at the time the use is established;
 - c. When a site abuts another mineral and aggregate site, no setback for mineral and aggregate extraction is required along the common boundary line, unless such setback is determined by the county to be necessary.
3. Setbacks for mineral and aggregate processing and loading shall be as follows:
 - a. One hundred feet from any property line; and
 - b. Five hundred feet from a habitable building existing on adjacent property at the time the processing operation is established;
4. Setbacks for offices, shops or other accessory structures shall be regulated by the zone in which the proposed operation is located.
5. Storage of overburden is allowed within setbacks. There shall be no setback for existing roads, internal truck paths or other transportation facilities. Any new roads, internal transportation or other transportation facilities shall not be located closer than 50 feet from a habitable building on adjacent property existing at the time storage commences.
6. Height. The maximum height of any structure, except mineral and aggregate processing and extraction equipment, shall be 85 feet.

B. Screening and Fencing.

1. Fencing shall be required only if the site is adjacent to an urban or rural residential zone. When fencing is required, it shall be of cyclone type, a minimum of six feet high. Any site owner or operator may voluntarily fence a site.
2. Existing deciduous and evergreen vegetation within required setback areas that screen visibility of the operation from adjacent property or public roads shall be retained unless located within a vision clearance area or determined by the county to be a public safety hazard.

C. Access.

1. Access to sites that do not qualify as significant, the following standards apply:
 - a. All private access roads connecting mineral and aggregate sites to public highways, roads or streets shall be paved or graveled. If graveled, the applicant shall provide a written agreement to the county to grade and treat the access road as needed during the

period from June to September, or as determined in the conditional use, to reduce dust. If the access connects with a paved public road it shall be paved for a distance of 100 feet from the existing paved road.

- b. If access from a mineral and aggregate site is by graveled public highways, roads or streets, the applicant shall provide a written agreement to the county to annually grade and treat the first 2,000 feet of such roadway, or as determined in the conditional use permit, to reduce dust impacts.
- c. Vehicular barriers or gates shall be required at all vehicular access points to the site. The gate shall be located no closer than 85 feet to the public right-of-way unless a lesser distance is established as part of the conditional use permit.
- d. The public roads used to access the site may be specified or otherwise regulated in the conditional use permit, including requirements for improvements at specific locations or on-going maintenance to address safety concerns.

- 2. For sites that qualify as significant, access requirements shall comply with OAR 660-23-180(5)(b)(B).

D. Hours of Operation.

- 1. Extraction, processing and transportation activity shall be allowed Monday through Friday between the hours of 6:00 a.m. through 6:00 p.m. Transportation activity shall be allowed Saturdays between the hours of 6:00 a.m. through 6:00 p.m. No extraction, processing or transportation activity is allowed on the following holidays: January 1, Memorial Day, July 4, Labor Day, Thanksgiving Day, and December 25.
- 2. Blasting shall be restricted to the hours of 9:30 a.m. to 4:30 p.m., Monday through Friday. No blasting shall occur on Saturdays, Sundays or the following holidays: January 1, Memorial Day, July 4, Labor Day, Thanksgiving Day, and December 25.
- 3. An owner or operator may request, and the director may grant, an exception to provide for additional hours of operation for a mineral and aggregate extraction and processing operations when additional hours of operation are needed to alleviate a public emergency. Public emergency includes:
 - a. Damage to public roads or structures that requires immediate repair.
 - b. Road construction or repair that is scheduled during nighttime hours to reduce traffic conflicts.

E. Environmental Standards.

- 1. Any crusher, asphalt batch plant or concrete plant, shall have a valid DEQ permit.
- 2. Owners or operators shall present evidence of the appropriate DEQ permits prior to commencing operations.
- 3. Owners or operators of mineral and aggregate operations shall comply with the Department of Environmental Quality ("DEQ") sound levels in OAR 340-35-035 for habitable buildings on nearby property.

F. Safety Standards. Access roads to all mineral and aggregate resource sites shall be gated and locked when not in operation.

G. Site Reclamation. A site reclamation plan shall be submitted prior to the public hearing. It shall be amended to conform to any conditions of county approval and be approved by DOGAMI prior to commencement of operations. DOGAMI approval shall be evidenced by a DOGAMI surface mining operating permit.

H. Performance Agreements.

1. The operator of a mineral and aggregate site shall provide the county with ~~a letter and two copies of relevant documents~~ **evidence** that demonstrate the operator has in full force and effect the bond or security deposit with DOGAMI to assure conformance with the state-required reclamation plan. This information shall be provided to the county prior to commencing operations.
2. Mineral and aggregate operations shall be insured for \$100,000.00 against liability and tort arising from production activities or incidental operations conducted or carried on by virtue of any law, ordinance or condition, and the insurance shall be kept in full force and effect during the period of such operations.

Evidence of a prepaid policy of such insurance that is effective for a period of one year shall be deposited with the county prior to commencing any mineral and aggregate operations. The owner or operator shall annually provide the county with evidence that the policy has been renewed.

I. A landowner or operator shall hold a valid operating permit from the State Department of Geology and Mineral Industries (DOGAMI) for sites surface mined after July 1, 1972 as defined in ORS 215.298 and ORS 517.750. A separate permit is required for each separate surface mining operation (per) ORS517.790.

**CHAPTER 17.121
PLANNED DEVELOPMENT**

17.121.240 PLANNED DEVELOPMENT STREETS AND ROADWAYS. Any street bordering or within a planned development shall have public right-of-way and improvements consistent with adopted Marion County department of public works' standards and upon approval of the board be accepted into the county road system. Plans for all streets shall be submitted for review and approval by the department of public works. Along streets the vision clearance requirements of MCC 17.110.770, including intersections with roadways shall apply. Roadways shall be improved to the following standards:

- A. Roadways shall be a minimum of 20 feet in width, curb to curb; provided that if parking is to be allowed on either side of the street the minimum width shall be increased by seven feet for each side of the street on which parking is to be allowed. Parking shall be parallel.
- B. Roadways shall be paved with portland cement concrete or asphalt concrete and designed and constructed to adequately support traffic loads and provide adequate drainage.
- C. Dead-end roadways over 300 feet in length shall have a cul-de-sac bulb with 38-foot curb radius or as required by the local fire district. Shorter dead-end roadways shall have a turnaround area. No dead-end roadways shall exceed 500 feet in length.
- D. Concrete curbs shall be provided.
- E. The roadway system shall have direct connection to a paved street.

17.121.250 ADDITIONAL REQUIREMENTS.

- A. Street Names and Addresses. Each street and roadway shall be named and each dwelling and other buildings shall be numbered as proved in Chapter 11.55 MCC, Naming and Addressing Roads/Property.
- B. Accessory Structure Setbacks. An accessory structure shall not be located closer than five feet from any dwelling or other accessory buildings on an adjacent lot, except that a double carport or garage may be built that serves two adjacent dwellings. Accessory buildings shall be set back at least ten feet from the boundary of the planned development.
- C. Dwelling Setbacks from Roadways. Dwellings shall be set back minimum distance of eight feet from any adjacent roadway, and five feet from any adjacent sidewalk, provided that a vision clearance shall be maintained as provided in MCC 17.110.770.
- D. Dwelling Setbacks from Streets. A dwelling and any structure in the development other than a sign or fence shall be at least 20 feet from a street right-of-way.
- E. Storm Drainage. All lots shall be provided with adequate storm drainage and connected to the storm drainage system if such system is available. Such facilities shall be sufficient to safely transport through the development all volumes of water generated upstream and on the site. Where streets and associated public drainage facilities will be constructed or where connections will be made to existing public drainage facilities, all design and construction shall conform to Department of Public Works' Engineering Standards. On-site detention facilities may be required.
- F. Recreation Vehicles. Planned developments may accommodate only mobile homes and dwellings. Recreational vehicles are not allowed except for storage in a designated storage area. A recreational

vehicle shall not remain overnight in a planned development unless it is parked in a designated recreational vehicle storage area.

- G. **Building Height, Location, and Lot Coverage.** Except as modified by this chapter, all structures within a planned development shall comply with all provisions of the zone in which the development is located as to height, location, and lot coverage.
- H. **Driveways.** Each lot within the development shall have direct access to a roadway or to a public street which the development abuts on both sides. The driveway shall be unobstructed area, not less than 10 feet in width, and shall be paved and well drained.
- I. **Fire Hydrants.** Fire hydrants, if required, shall be provided within the roadway and on public streets in the development in conformance with the design and capacity requirements of the fire district.
- J. **On-Site Storage.** Furniture, tools, equipment, building materials, or supplies belonging to the management of the development stored outdoors shall be screened. Screening shall be sight-obscuring and shall blend with the development environment.
- K. **Walkways.** Provisions shall be made for hard-surfaced, well-drained walkways, not less than 30 inches in width, from each dwelling to open space, common areas, retail services, and to a street or roadway. If the walkway is adjacent to the street or roadway the curb may be included in meeting the width requirements.

**CHAPTER 17.122
VARIANCES**

17.122.010 POWER TO GRANT VARIANCES. Subject to the restrictions and provisions contained in this ordinance ~~title~~, the director, planning commission, hearings officer or board shall have the power to vary or modify the strict application of any of the standards of this ordinance ~~title~~ in any case where such strict application would result in practical difficulties or unnecessary hardships with reference to requirements governing: lot area, lot width, percentage of lot coverage and number of dwelling units or structures permitted on a lot, height of structures, location, yards, signs, parking and loading space, vision clearance and other standards when limits for an adjustment in MCC 17.116.030 are exceeded. Variances to allow uses or new uses not otherwise allowed are prohibited. Variances to criteria and definitions are also prohibited.

17.122.020 CRITERIA FOR GRANTING A VARIANCE.

A. The director, planning commission, hearings officer or board may permit and authorize a variance when it appears from the application and the facts presented that:

- ~~A.1.~~ There are unnecessary, unreasonable hardships or practical difficulties which can be relieved only by modifying the literal requirements of ~~this ordinance title~~; and
- ~~B.2.~~ There are unusual circumstances or conditions applying to the land, buildings, or use referred to in the application, which circumstances or conditions do not apply generally to land, buildings, or uses in the same zone; however, nonconforming land uses or structures in the vicinity or violations of land use regulations or standards on the subject property shall not in themselves constitute such circumstances or conditions; and
- ~~C.3.~~ The degree of variance from the standard is the minimum necessary to permit development of the property for the proposed use; and
- ~~D.4.~~ The variance will not have a significant adverse affect on property or improvements in the neighborhood of the subject property; and
- ~~E.5.~~ The variance will not have a significant adverse affect upon the health or safety of persons working or residing in the vicinity; and
- ~~F.6.~~ The variance will maintain the intent and purpose of the provision being varied.

B. Variance to standards in Chapter 17.191 MCC Signs. The director, planning commission, hearings officer or board may permit and authorize a variance to the standards in Chapter 17.191 when it appears from the application and the facts presented that the criteria in MCC 17.191.120 are satisfied. The criteria in subsection A of this section do not apply to variances granted under this subsection.

CHAPTER 17.126
PERMITTED USES GENERALLY

17.126.020 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 17.110, 17.112, 17.113, 17.114, 17.116, 17.117, 17.118, 17.120, 17.121 MCC, 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~~ **No stove top, range, or conventional oven is allowed;**
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 as a dwelling unit; and
 - h. The guest facility shall not have an address.
10. Rooming or boarding of up to two 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 four 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 MCC 17.126.040;
 13. Additional kitchens in a dwelling unit provided all kitchens in the dwelling unit are used by only one family **and subject to the recording of a covenant restricting the use to a single family dwelling;**
 14. Offering to sell five 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 Residential Home* (see MCC 17.110.190(C))**
 18. Sleeping quarters for domestic employees of the resident of the dwelling unit or mobile home;
 19. Bed and breakfast establishments in AR zones provided they do not include more than four lodging rooms and may employ no more than two persons ("person" includes volunteers, non-resident employee, partner or any other person).
 20. Ham radio facilities.
- B. Fences are a permitted accessory or secondary use in all zones subject to the requirements in Chapter 17.117 MCC.
- 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 Chapter 17.118 MCC; or, they may be parked elsewhere on the lot where accessory buildings are permitted provided the parking area is screened by a six 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 or parcel shall be for the personal use of the occupants of the dwelling and the personal use of employees of an approved conditional use home occupation.**

a. One vehicle used in conjunction with a home occupation ~~and~~ or one vehicle used in other employment may be parked on the lot. ~~provided that~~

b. In the RS zone, the any vehicle **that is rated at more than one ton** capacity shall be parked in an enclosed structure ~~if it is rated at more than one 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 17.110 MCC).

- 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 six 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 five vehicles are parked outdoors on the lot the parking area shall be screened by a six 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 percent 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. Except in SA, EFU, FT and TC zones, 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.

- K. Private Energy Generating Facilities (such as wind turbines, solar power panels, fuel cells, and hydro power facilities) are permitted in all zones as an accessory use provided:**

- 1. The applicant shall provide a copy of a Net Metering Agreement with a nameplate rating that restricts the electrical power generation capacity to private electrical power on the property.**
- 2. The property owner shall not receive any monetary compensation or credit for annually accumulated excess electrical power.**
- 3. Any excess energy shall be transferred under provisions listed in OAR 860-039-0060.**
- 4. Wind turbine towers shall be the factory default color.**

**CHAPTER 17.128
AR ACREAGE RESIDENTIAL ZONE**

17.128.020 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 one half the height of the tower is provided.~~
- FG.** Creation, restoration, or enhancement of wetlands as defined in ORS 197.
- GH.** Limited home occupations (see limited use, MCC 17.125.100).
- HI.** Wireless communication facilities attached (see limited use, MCC 17.125.110).
- IJ.** Religious organizations and expansions of existing religious organizations where the religious organization or the expanded religious organization will be less than 20,000 square feet in total area.
- JK.** Replacement of a lawfully established dwelling, subject to the special siting standards in MCC 17.128.050(B), when the dwelling:
 - 1. Is a manufactured dwelling, mobile home, or manufactured home, the replaced dwelling shall be removed or demolished within 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 90 days of the occupancy of the replacement dwelling.

17.128.050 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. **These setbacks may be reduced if it is determined, concurrently with any land use application or as provided in Chapter 17.116 MCC, that a lesser setback will meet the following review criteria for alternative home sites:**
 - 1. The location of the home site will have the least impact on nearby or adjoining forest or agricultural lands.**

2. The location of the home site ensures that adverse impacts on forest operations and accepted farming practices on the tract will be minimized.
3. The amount of agricultural and forestlands used to site access roads, service corridors, the dwelling and structures is minimized.
4. The risks associated with wildfire are minimized.

- 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.
- D. The special setback in subsection (A) of this section shall not be applied in a manner that prohibits dwellings approved pursuant to ORS 195.300 to 195.336 nor should the special setback in subsection (A) of this section prohibit a claimant's application for homesites under ORS 195.300 to 195.336.

17.128.060 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 MCC 17.128.030, and a greater height is requested and approved as part of the conditional use permit.
- B. Minimum Setbacks. Except as required in MCC 17.128.050(A), the following setback requirements shall be implemented for all new structures other than residential accessory structures (see Chapter 17.117 MCC), 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 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 Chapter 17.112).

**CHAPTER 17.136
EXCLUSIVE FARM USE ZONE**

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

- A. Farm uses (see farm use definition, MCC 17.110.223).
- B. The propagation or harvesting of a forest product.
- C. Buildings, other than dwellings, customarily provided in conjunction with farm use.
- D. Alteration, restoration, or replacement of a lawfully established dwelling with filing of the Declaratory Statement in MCC 17.136.100(C), when the dwelling:
 - 1. Has a "percentage good" rating of 40 percent or more in the current County Assessor's records.
 - 2. In the case of replacement, the replaced dwelling is removed, demolished or converted to an allowable non-residential use within three months of the **final inspection or** occupancy of the replacement dwelling.
 - 3. In the case of replacement of a manufactured dwelling, the unit to be replaced is a manufactured home as defined in ORS 446.003 [manufactured after June 15, 1976].
 - 4. If the dwelling to be replaced is located on a portion of the lot or parcel not zoned EFU, SA (special agriculture) or FT (farm timber), the applicant shall execute and record in the deed records a deed restriction prohibiting the siting of a dwelling on that portion of the lot or parcel. The restriction imposed shall be irrevocable unless a statement of release is placed in the deed records for the county. The release shall be signed by the county or its designee and state that the provisions of this section regarding replacement of dwellings have changed to allow the siting of another dwelling.
- E. Operations for the exploration for geothermal resources as defined by ORS 522.005 and oil and gas as defined by ORS 520.005, including the placement and operation of compressors, separators, and customary production equipment for an individual well adjacent the wellhead. Any activities or construction relating to such operations shall not be a basis for an exception under ORS 197.732.
- F. Operations for the exploration for minerals as defined by ORS 517.750.
- G. Widening of roads including public road and highway projects as follows:
 - 1. Climbing and passing lanes within the street right-of-way existing as of July 1, 1987.
 - 2. Reconstruction or modification of public streets, including the placement of utility facilities overhead and in the subsurface of public roads and highways along public right-of-way, but not including the addition of travel lanes, where no removal or displacement of buildings would occur, or no new parcels result.

3. Temporary public street detours that will be abandoned and restored to original condition or use at such time as no longer needed.
 4. Minor betterment of existing public street related facilities such as maintenance yards, weigh stations and rest areas, within rights-of-way existing as of July 1, 1987, and contiguous public-owned property utilized to support the operation and maintenance of public streets.
- H. Creation of, restoration of, or enhancement of wetlands.
- I. On-site filming and activities accessory to filming, as defined in MCC 17.136.140(A), if the activity would involve no more than 45 days on any site within a one-year period.

17.136.030 DWELLINGS PERMITTED SUBJECT TO STANDARDS. The following dwellings may be established in the EFU zone with filing of the declaratory statement in MCC 17.136.100(C), subject to approval by the Director, based on satisfaction of the standards and criteria listed for each type of dwelling pursuant to the procedures in ~~MCC 17.110.680~~. **Chapter 17.115 MCC**.

- A. Primary Farm Dwellings. A single-family dwelling customarily provided in conjunction with farm use. The dwelling will be considered customarily provided in conjunction with farm use when:
1. It is located on high-value farmland, as defined in MCC 17.136.140(D) and satisfies following standards:
 - a. There is no other dwelling on the subject farm operation on lands zoned EFU, SA or FT other than seasonal farm worker housing. The term "farm operation" means all lots or parcels of land in the same ownership that are used by the farm operator for farm use;
 - b. The subject tract produced in the last two years or three of the last five years at least \$80,000 in gross annual income from the sale of farm products. In determining gross annual income from the sale of farm products, the cost of purchased livestock shall be deducted from the total gross income attributed to the tract. Only gross income from land owned, not leased or rented shall be counted;
 - c. The subject tract is currently employed for the farm use that produced the income required in subsection (A)(1)(b) of this section;
 - d. The proposed dwelling will be occupied by a person or persons who produced the commodities which generated the income in subsection (A)(1)(b) of this section; or
 2. It is not located on high-value farmland, as defined in MCC 17.136.140(D) and satisfies the following standards:
 - a. There is no other dwelling on the subject farm operation on lands zoned EFU, SA or FT other than seasonal farm worker housing. The term "farm operation" means all lots or parcels of land in the same ownership that are used by the farm operator for farm use;
 - b. The subject tract produced at least \$40,000 in gross annual income from the sale of the farm products in the last two years or three of the last five years. In determining gross income, the cost of purchased livestock shall be deducted from the total gross income attributed to the tract. Only gross income from land owned, not leased or rented shall be counted;

- c. The subject tract is currently employed for the farm use that produced the income required in subsection (A)(2)(b) of this subsection;
 - d. The dwelling will be occupied by a person or persons who produced the commodities which generated the income required in subsection (A)(2)(b) of this subsection; or
3. It is not located on high-value farmland, as defined in MCC 17.136.140(D) and satisfies the following standards:
- a. There is no other dwelling on the subject farm operation on lands zoned EFU, SA or FT other than seasonal farm worker housing. The term "farm operation" means all lots or parcels of land in the same ownership that are a used by the farm operator for farm use;
 - b. The parcel on which the dwelling will be located is at least 160 acres;
 - c. The subject tract is currently employed for farm use, as defined in ORS 215.203;
 - d. The dwelling will be occupied by a person or person who will be principally engaged in the farm use of the land, such as planting, harvesting, marketing, or caring for livestock, at a commercial scale; or
4. It is in conjunction with a commercial dairy farm as defined in this chapter and if:
- a. The subject tract will be employed as a commercial dairy as defined; and
 - b. The dwelling is sited on the same lot or parcel as the buildings required by the commercial dairy; and
 - c. Except as permitted by ORS 215.283(1)(p) (1999 Edition), (Seasonal Farmworker Housing), there is no other dwelling on the subject tract; and
 - d. The dwelling will be occupied by a person or persons who will be principally engaged in the operation of the commercial dairy farm, such as the feeding, milking or pasturing of the dairy animals or other farm activities necessary to the operation of the commercial dairy farm; and
 - e. The building permits, if required, have been issued for and construction has begun for the buildings and animal waste facilities required for a commercial dairy farm; and
 - f. The Oregon Department of Agriculture has approved the following:
 - i. A permit for a "confined animal feeding operation" under ORS 468B.050 and ORS 468B.200 to 468B.230; and
 - ii. A producer license for the sale of dairy products under ORS 621.072.
5. The applicant had previously operated a commercial farm use and if:
- a. Within the previous two years, the applicant owned and operated a farm or ranch operation that earned the gross farm income in the last five years or four of the last

seven years as required by MCC 17.136.030(A)(1) or (2) of this section, whichever is applicable.

- b. The subject lot or parcel on which the dwelling will be located is:
 - i. Currently employed for the farm use, as defined in this title, that produced in the last two years or three of the last five years the gross farm income required by MCC 17.136.030(A)(1) or (2) of this section, whichever is applicable, and
 - ii. At least the size of the applicable minimum lot size in this chapter; and
 - (A) Except as permitted in ORS 215.283(1)(p)(1999 Edition) (Seasonal Farmworker Housing) there is no other dwelling on the subject tract; and
 - (B) The dwelling will be occupied by a person or persons who produced the commodities, that grossed the income in subsection (A)~~(2)(b)~~ of this section;
 - (C) In determining the gross income required by subsections (A)(5)(a) and (b) of this section, the cost of purchased livestock shall be deducted from the total gross income attributed to the tract, and only gross income from land owned not leased or rented, shall be counted.

- 6. All of the property in a tract used for the purposes of establishing a farm dwelling shall be held, sold and conveyed subject to the following covenants, conditions and restrictions:

It is not lawful to use the property described in this instrument for the construction or siting of a dwelling or to use the acreage of the tract to qualify another tract for the construction or siting of a dwelling.

These covenants, conditions, and restrictions can be removed only and at such time as the property described herein is no longer protected under the statewide planning goals for agricultural and forest lands or the legislature otherwise provides by statute that these covenants, conditions and restrictions may be removed and the authorized representative of the county or counties in which the property subject to these covenants, conditions and restrictions are located executes and records a release of the covenants, conditions and restrictions, consistent with OAR 660-006-0027.

- B. Secondary Farm Dwellings. Secondary (accessory) dwellings customarily provided in conjunction with farm use. The dwelling will be considered customarily provided in conjunction with farm use when:

- 1. The primary dwelling and the proposed dwelling will each be occupied by a person or persons who will be principally engaged in the farm use of the land and whose seasonal or year-round assistance in the management of the farm uses, such as planting, harvesting, marketing or caring for livestock, is or will be required by the farm operator.
- 2. There is no other dwelling on lands in the EFU, SA or FT zone owned by the farm operator that is vacant or currently occupied by persons not working on the subject farm and could reasonably be used as an additional farm dwelling.
- 3. The proposed dwelling will be located:

- a. On the same lot or parcel as the primary farm dwelling; or
 - b. On the same contiguous ownership as the primary dwelling, and the lot or parcel on which the proposed dwelling will be sited is consolidated into a single parcel with all other contiguous lots and parcels in the same ownership; or
 - c. On a lot or parcel on which the primary farm dwelling is not located, when the secondary farm dwelling is limited to only a manufactured dwelling with a deed restriction filed with the county clerk. The deed restriction shall require the additional dwelling to be removed when the lot or parcel is conveyed to another party. Occupancy of the additional farm dwelling shall continually comply with subsection (B)(1) of this section; or
 - d. On a lot or parcel on which the primary farm dwelling is not located, when the accessory farm dwelling is limited to only attached multi-unit residential structures allowed by the applicable state building code or similar types of farm labor housing as existing farm labor housing on the farm operation registered with the Department of Consumer and Business Services, Oregon Occupational Safety and Health Division under ORS 658.750. The county shall require all accessory farm dwellings approved under this subsection to be removed, demolished or converted to a nonresidential use when farm worker housing is no longer required; or
 - e. On a lot or parcel on which the primary farm dwelling is not located, when the accessory farm dwelling is located on a lot or parcel at least the size of the applicable minimum lot size and the lot or parcel complies with the gross farm income requirements in subsection (B)(4) below, whichever is applicable.
4. The primary farm dwelling to which the proposed dwelling would be accessory satisfies the following criteria:
- a. On land not identified as high-value farmland, the primary farm dwelling is located on land that is currently employed for farm use and produced at least \$40,000 gross annual income from the sale of farm products in the last two or three of the last five years; or
 - b. On land identified as high-value farmland, the primary farm dwelling is located on land that is currently employed for farm use and produced at least \$80,000 in gross annual income from the sale of farm products in the last two years or three of the last five years; or
 - c. The primary dwelling is located on a commercial dairy farm as defined in this chapter; and
 - i. The building permits, if required, have been issued and construction has begun or been completed for the buildings and animal waste facilities required for a commercial dairy farm; and
 - ii. The Oregon Department of Agriculture has approved a permit for a “confined animal feeding operation” under ORS 468B.050 and ORS 468B.200 to 468B.230; and

iii. Producer License for the sale of dairy products under ORS 621.072.

d. In determining the gross income in subsections (B)(4)(a) and (b) of this subsection, the cost of purchased livestock shall be deducted from the total gross income attributed to the tract.

5. The dwelling will be consistent with the fish and wildlife habitat policies of the Comprehensive Plan if located in a designated big game habitat area.

6. Secondary farm dwellings shall be a manufactured home, or other type of attached multi-unit residential structure allowed by the applicable state building code, and a deed restriction filed with the county clerk requiring removal of the manufactured home or removal, demolition or conversion to a non-residential use if other residential structures are used, when the occupancy or use no longer complies with the criteria or standards under which the manufactured home was originally approved.

C. A secondary single-family dwelling on real property used for farm use subject to the following standards:

1. A dwelling on property used for farm use located on the same lot or parcel as the dwelling of the farm operator, and occupied by a relative of the farm operator or farm operator's spouse, which means grandparent, step grandparent, grandchild, parent, stepparent, child, stepchild, brother, sister, stepsibling, niece, nephew or first cousin of either, if the farm operator does or will require the assistance of the relative in the management of the farm use.

2. The farm operator shall continue to play the predominant role in management and farm use of the farm. A farm operator is a person who operates a farm, doing the work and making the day-to-day decisions about such things as planting, harvesting, feeding, and marketing.

3. A deed restriction is filed with the county clerk requiring removal of the dwelling when the occupancy or use no longer complies with the criteria or standards under which the dwelling was originally approved.

4. For purposes of this subsection, a commercial farm operation is one that meets the income requirements for a primary farm dwelling identified in subsection (A)(1)(b) of this section, and the parcel where the dwelling is proposed contains a minimum of 80 acres.

5. All of the property in a tract used for the purposes of establishing a farm dwelling shall be held, sold and conveyed subject to the following covenants, conditions and restrictions:

It is not lawful to use the property described in this instrument for the construction or siting of a dwelling or to use the acreage of the tract to qualify another tract for the construction or siting of a dwelling.

These covenants, conditions, and restrictions can be removed only and at such time as the property described herein is no longer protected under the statewide planning goals for agricultural and forest lands or the legislature otherwise provides by statute that these covenants, conditions and restrictions may be removed and the authorized representative of the county or counties in which the property subject to these covenants, conditions and restrictions are located executes and records a release of the covenants, conditions and restrictions, consistent with OAR 660-006-0027.

D. Dwelling Alteration and Replacement. Alteration, restoration, or replacement of a lawfully established dwelling with filing of the declaratory statement in MCC 17.136.100(C), other than as permitted in MCC 17.136.020(D), when the dwelling.

1. Has intact exterior walls and roof structure;
2. Has indoor plumbing consisting of a kitchen sink, toilet, and bathing facilities connected to a sanitary waste disposal system;
3. Has interior wiring for interior lights;
4. Has a heating system; and
5. In the case of replacement, the replaced dwelling is removed, demolished or converted to an allowable non-residential use within three months of the **final inspection or** occupancy of the replacement dwelling.
6. For the case in which the applicant has requested a deferred replacement permit, the dwelling to be replaced shall be removed or demolished within three months after the deferred replacement permit is issued. A deferred replacement permit allows construction of the replacement dwelling at any time. If, however, the established dwelling is not removed or demolished within three months after the deferred replacement permit is issued, the permit becomes void. The replacement dwelling must comply with applicable building codes, plumbing codes, sanitation codes and other requirements relating to health and safety or to siting at the time of consideration. A deferred replacement permit may not be transferred, by sale or otherwise, except by the applicant to the spouse or a child of the applicant.
7. If the dwelling to be replaced is located on a portion of the lot or parcel not zoned EFU, SA or FT the applicant shall execute and record in the deed records a deed restriction prohibiting the siting of a dwelling on that portion of the lot or parcel.

The restriction imposed shall be irrevocable unless a statement of release is placed in the deed records for the county. The release shall be signed by the county or its designee and state that the provisions of this section regarding replacement dwellings have changed to allow the siting or another dwelling.

17.136.040 **USES PERMITTED SUBJECT TO STANDARDS.** The following uses may be permitted in the EFU zone subject to approval of the request by the planning director, based on satisfaction of the standards and criteria specified for each use, pursuant to MCC ~~17.110.680-~~**17.115.**

A. Farm Stand. Farm stand subject to the following standards:

1. Structures shall be designed used for the sale of farm crops and livestock grown on the farm operation, or grown on the farm operation and other farm operations in the local agricultural area.
 - a. As used in this section, "farm crops or livestock" includes both fresh and processed farm crops and livestock grown on the farm operation, or grown on the farm operation and other farm operations in the local agricultural area. As used in this subsection, "processed crops and livestock" includes jams, syrups, apple cider, animal products and

other similar farm crops and livestock that have been processed and converted into another produce but not prepared food items.

b. As used in this section, "local agricultural area" is limited to the State of Oregon.

2. The sale of incidental retail items and fee-based activity to promote the sale of farm crops or livestock sold at the farm stand is permitted provided the annual sales of the incidental items and fees from promotional activity do not make up more than 25 percent of the total annual sales of the farm stand.

3. Farm stand shall not include structures designed for occupancy as a residence or for activities other than the sale of farm crops and livestock and does not include structures for banquets, public gatherings or public entertainment.

B. Winery. Winery, as defined in MCC 17.136.140(G). The winery shall include only the sale of:

1. Wines produced in conjunction with the winery.

~~2. Items directly related to wine, the sales of which are incidental to the sale of wine on-site. Such items include those served by a limited service restaurant, as defined in ORS 624.010.~~

2. Items directly related to the sale and promotion of wine produced in conjunction with the winery, the sale of which is incidental to retail sale of wine on-site, including food and beverages served by a limited service restaurant, as defined in ORS 624.010, wine not produced in conjunction with the winery and gifts.

3. Services directly related to the sale and promotion of wine produced in conjunction with the winery, the sale and delivery of which are incidental to retail sale of wine on-site, including private events hosted by the winery or by patrons of the winery, at which wine produced in conjunction with the winery is featured.

4. The gross income from the sale of incidental items and services under subsection (2) and (3) of this section may not exceed 25 percent of the gross income from the retail sale on-site of wine produced in conjunction with the winery.

C. Religious Organization and Cemeteries. Religious organization and cemeteries in conjunction with religious organizations subject to the following:

1. New religious organizations **and cemeteries in conjunction with religious organizations:**

a. ~~M~~**ay** not be established on high-value farmland. ~~Existing religious organizations and cemeteries in conjunction with religious organizations may be maintained, enhanced, or expanded on the same tract wholly within a farm zone.~~

b. New religious organizations and cemeteries in conjunction with religious organizations, **not on high-value farmland** may be established. **All new religious organizations and cemeteries in conjunction with religious organizations** within three miles of an urban growth boundary ~~of a city unless an exception is approved pursuant to OAR Chapter 660, Division 004.~~ **shall meet the following standards:**

- (i) No enclosed structure with a design capacity greater than 100 people, or group of structures with a total design capacity of greater than 100 people shall be approved, unless an exception is approved pursuant to OAR Chapter 660, Division 004.
- (ii) Any new enclosed structure or group of enclosed structures subject to this section shall be situated no less than one-half mile from other enclosed structures approved under OAR 660-33-130(2) on the same tract.
- (iii) For the purposes of this subsection "tract" means a tract as defined in MCC 17.136.140(F) in existence on (MAY 5, 2010).

2. Existing religious organizations and cemeteries in conjunction with religious organizations:

- a. Existing religious organizations and cemeteries in conjunction with religious organizations on may be maintained, enhanced, or expanded on the same tract wholly within a farm zone.
- b. Existing enclosed structures within three miles of an urban growth boundary may not be expanded beyond the limits in subsection (C)(1)(b)(i – iii) of this section.

D. Public and Private Schools. Public or private schools for kindergarten through grade 12, including all building essential to the operation of a school, subject to the following:

1. New schools primarily for the residents of the rural area in which the school is located:

- a. New schools may not be established on high-value farmland.
- b. ~~No n~~New schools not on high-value farmland may be established. Any new school within three miles of an urban growth boundary ~~of a city unless an exception is approved pursuant to OAR Chapter 660, Division 004~~ shall meet the following standards:
 - (i) No enclosed structure with a design capacity greater than 100 people, or group of structures with a total design capacity of greater than 100 people shall be approved, unless an exception is approved pursuant to OAR Chapter 660, Division 004.
 - (ii) Any new enclosed structure or group of enclosed structures subject to this section shall be situated no less than one-half mile from other enclosed structures approved under OAR 660-33-130(2) on the same tract.
 - (iii) For the purposes of this subsection "tract" means a tract as defined in MCC 17.136.140(F) in existence on (MAY 5, 2010).
- c. New schools must be determined to be consistent with the provisions contained in MCC 17.136.060(A)(1).

2. Existing schools primarily for the residents of the rural area in which the school is located:

- a. Existing schools **on high-value farmland** may be maintained, enhanced, or expanded on the same tract wholly within a farm zone.
 - b. **Existing schools not on high-value farmland may be maintained, enhanced, or expanded consistent with the provisions contained in MCC 17.136.060(A)(1).**
 - c. **Existing enclosed structures within three miles of an urban growth boundary may not be expanded beyond the limits in subsection (D)(1)(b)(i-iii) of this section.**
3. **Existing schools that are not primarily for residents of the rural area in which the school is located may be expanded on the tax lot on which the use was established or on a contiguous tax lot owned by the applicant on January 1, 2009, however, existing enclosed structures within three miles of an urban growth boundary may not be expanded beyond the limits in subsection (D)(1)(b)(i – iii) of this section.**
- E. Filming Activities. On-site filming and activities accessory to filming, and defined in MCC 17.136.1340(A), if the activity:
- 1. Involves filming or activities accessory to filming for more than 45 days; or
 - 2. Involves erection of sets that would remain in place longer than any 45 day period.
 - 3. 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.
- F. Facilities for Processing Farm Crops. A facility for processing of farm crops, or the production of biofuel as defined in ORS 315.141, subject to the following:
- 1. The farm on which the processing facility is located must provide at least one-quarter of the farm crops processed at the facility.
 - 2. The building established for the processing facility shall not exceed 10,000 square feet of floor area exclusive of the floor area designated for preparation, storage or other farm use or devote more than 10,000 square feet to the processing activities within another building supporting farm use.
 - 3. The processing facility shall comply with all applicable siting standards but the standards shall not be applied in a manner that prohibits siting of the processing facility.
 - 4. Division of a lot or parcel that separates a processing facility from the farm operation on which is it is located shall not be approved.
- G. Model Aircraft. A site for the takeoff and landing of model aircraft, including such building or facilities as may reasonably be necessary subject to the following:
- 1. Buildings and facilities shall not be more than 500 square feet in floor area or placed on a permanent foundation unless the building or facility pre-existed the use.
 - 2. The site shall not include an aggregate surface or hard area surface unless the surface pre-existed the use.

3. As used in this section, "model aircraft" means a small-scale version of an airplane, glider, helicopter, dirigible or balloon that is used or intended to be used for flight and controlled by radio, lines or design by a person on the ground.
4. **An owner of property used for the propose authorized in this paragraph may charge a person operating the use on the property rent for the property. An operator may charge users of the property a fee that does not exceed the operator's cost to maintain the property, buildings and facilities.**

H. Wildlife Habitat Conservation. A wildlife habitat conservation and management plan on a lot or parcel subject to the following:

1. The lot or parcel contains an existing legally established dwelling; or
2. Approval for the dwelling is obtained under provisions contained in MCC 17.136.030(A), (D) or 17.136.050(A).
3. The dwelling is situated on a legally created lot or parcel existing on November 4, 1993.
4. The lot or parcel is not predominantly composed of soils rated Class I or II, when not irrigated, or rated prime or unique by the Natural Resource Conservation Service, or any combination of such soils.

I. ~~Other Uses.~~ Utility facilities necessary for public service, including wetland waste treatment systems, but not including commercial facilities for the purpose of generating electrical power for public use by sale or transmission towers over 200 feet in height. A facility is "necessary" if it must be situated in the EFU **zoning in** order for the service to be provided. An applicant must demonstrate that reasonable alternatives have been considered and that the facility must be sited in an EFU zone due to one or more of the following factors as found in OAR 660-33-130(16):

1. Technical and engineering feasibility;
2. The proposed facility is locationally dependent. A utility facility is locationally dependent if it must cross land in one or more areas zoned for Exclusive Farm Use in order to achieve a reasonably direct route or to meet unique geographical needs that cannot be satisfied on other lands;
3. Lack of available urban and non-resource lands;
4. Availability of existing right-of-way;
5. Public health and safety; and
6. Other requirements of state and federal agencies.
 - a. Costs associated with any of the factors listed above may be considered, but cost alone may not be the only consideration in determining that a utility facility is necessary for public service. Land costs shall not be included when considering alternative locations for substantially similar utility facilities and the siting of utility facilities that are not substantially similar.

- b. The owner of a utility facility approved under this section shall be responsible for restoring, to its former condition as nearly as possible, any agricultural land and associated improvements that are damaged or otherwise disturbed by the siting, maintenance, repair or reconstruction of the facility. Nothing in this subsection shall prevent the owner of the utility facility from requiring a bond or other security from a contractor or otherwise imposing upon a contractor the responsibility for restoration.
- c. The applicant shall address the requirements of MCC 17.136.060(A)(1).
- d. In addition to the provisions above, the establishment or extension of a sewer system as defined by OAR 660-011-0060(1)(f) in an exclusive farm use zone shall be subject to the provisions of OAR 660-011-0060.
- e. The provisions of this subsection do not apply to interstate natural gas pipelines and associated facilities authorized by and subject to regulation by the Federal Energy Regulatory Commission.
- f. **If the criteria contained in MCC 17.136.040(I) for siting a utility facility on land zoned for exclusive farm use are met for a utility facility that is a transmission line, the utility provider shall, after the route is approved by the siting authorities and before construction of the transmission line begins, consult the record owner of high-value farmland in the planned route for the purpose of locating and constructing the transmission line in a manner that minimizes the impact on farming operations on high-value farmland. If the record owner does not respond within two weeks after the first documented effort to consult the record owner, the utility provider shall notify the record owner by certified mail of the opportunity to consult. If the record owner does not respond within two weeks after the certified mail is sent, the utility provider has satisfied the provider's obligation to consult. The requirement to consult under this section is in addition to and not in lieu of any other legally required consultation process. For the purposes of this subsection:**
 - (i) **'Consult' means to make an effort to contact for purpose of notifying the record owner of the opportunity to meet.**
 - (ii) **'Transmission line' means a linear utility facility by which a utility provider transfers the utility product in bulk from a point of origin or generation, or between transfer stations, to the point at which the utility product is transferred to distribution lines for delivery to end users.**

- J. Parking of not more than seven log trucks on a tract when the use will not:
 - 1. Force a significantly change in accepted farm or forest practices on surrounding lands devoted to farm or forest use.
 - 2. Significantly increase the cost of accepted farm or forest practices on surrounding land devoted to farm or forest use.
- K. Fire service facilities providing rural fire protection services.

- L. Irrigation canals, delivery lines and those structures and accessory operational facilities associated with a district as defined in ORS 540.505.
- M. Utility facility service lines. Utility facility service lines and accessory facilities or structures that end at the point where the utility service is received by the customer and that are located on one or more of the following:
 - 1. A public right-of-way;
 - 2. Land immediately adjacent to a public right-of-way, provided the written consent of all adjacent property owners has been obtained; or
 - 3. The property to be served by the utility.
- N. Subject to the issuance of a license, permit or other approval by the Department of Environmental Quality under ORS 454.695, 459.205, 468B.050, 468B.053 or 468B.055, or in compliance with rules adopted under ORS 468B.095, and with the requirements of ORS 215.246, 215.247, 215.249 and 215.251 the land application of reclaimed water, agricultural process or industrial process water or biosolids for agricultural, horticultural or silvicultural production, or for irrigation in connection with a use allowed in an exclusive farm use zone under this division.

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

- A. Single-family dwelling or manufactured home not in conjunction with farm use, subject to the criteria and standards in MCC 17.136.060(B), 17.136.070 and 17.136.100.
- B. Temporary residence for hardship purposes subject to the requirements of MCC 17.120.040 with filing of the declaratory statement in MCC 17.136.100(C).
- C. Portable or temporary facility for primary processing of forest products subject to MCC 17.136.060(E).
- D. The following commercial uses:
 - 1. Home occupations, including bed and breakfast inns, subject to the criteria in MCC 17.136.060(C) with filing of a declaratory statement in MCC 17.136.100(C).
 - 2. Commercial activities in conjunction with farm use, including the processing of farm crops into biofuel not permitted under MCC 17.136.040(F), and subject to MCC 17.136.060(D), but including a winery not permitted under MCC 17.136.040(B).
 - 3. Expansion of a lawfully established dog kennel with filing of the declaratory statement in MCC 17.136.100(C).
 - 4. Room and board arrangements for a maximum of five unrelated persons in existing dwellings with filing of the declaratory statement in MCC 17.136.100(C).
 - 5. The propagation, cultivation, maintenance and harvesting of aquatic species that are not under the jurisdiction of the State Fish and Wildlife Commission.

6. A landscape contracting business, as defined in ORS 671.520, or a business providing landscape architecture services, as described in ORS 671.318, if the business is pursued in conjunction with the growing and marketing of nursery stock on the land that constitutes farm use.
7. Composting Facilities
 - a. Composting operations and facilities allowed on high-value farmland are limited to those that are exempt from a permit from the Department of Environmental Quality (DEQ) under OAR 340-093-0050, only require approval of an agricultural compost management plan by the Oregon Department of Agriculture, or require a permit from the DEQ under OAR 340-093-0050 where the compost is applied primarily on the subject farm or used to manage and dispose of by-products generated on the subject farm. Excess compost may be sold to neighboring farm operations in the local area and shall be limited to bulk loads of at least one unit (7.5 cubic yards) in size. Buildings and facilities used in conjunction with the composting operation shall only be those required for the operation of the subject facility.
 - b. Composting operations and facilities allowed on land not defined as high-value farmland shall be limited to the composting operations and facilities allowed by subsection (D)(7)(a) of this subsection or that require a permit from the Department of Environmental Quality under OAR 340-093-0050. Buildings and facilities used in conjunction with the composting operation shall only be those required for the operation of the subject facility. Onsite sales shall be limited to bulk loads of at least one unit (7.5 cubic yards) in size that are transported in one vehicle.

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

E. The following mining and processing activities:

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

F. The following utility use:

1. Commercial utility facilities for the purpose of generating power for public sale, subject to Section MCC 17.136.060(F).
- 2. Wind power generation facilities subject to MCC 17.136.060(G)**
3. Transmission towers over 200 feet in height.

- G. Personal-use airports for airplanes and helicopter pads, including associated hanger, maintenance and service facilities as defined in ORS 215.283(2)(g).
- H. The following recreation uses subject to MCC 17.136.060(J) :
1. Expansion of a lawfully established private park, playground, hunting and fishing preserve or campground subject to MCC 17.136.060(~~G~~ **H**) with filing of the declaratory statement in MCC 17.136.100(C).
 2. Expansion of a lawfully established community center, operated primarily by and for residents of the local rural community, where the land and facilities are owned and operated by a governmental agency or non-profit community organization with filing of the declaratory statement in MCC 17.136.100(C).
 3. Public parks, open spaces, and playgrounds including only those uses specified under OAR 660-034-035 or OAR 660-034-0040, whichever is applicable, and consistent with ORS 195.120 and with filing of the declaratory statement in MCC 17.136.100(C).
 4. Expansion of a lawfully established golf course on the same tract consistent with definitions in MCC 17.136.140(C), and with filing of the declaratory statement in MCC 17.136.100(C).
 5. Living history museum subject to MCC 17.136.060(~~H~~ **I**)(2), and with filing of the declaratory statement in MCC 17.136.100(C).
- I. Expansion of a lawfully established solid waste disposal site together with facilities and buildings for its operation.
- J. The following transportation uses:
1. Construction of additional passing and travel lanes requiring the acquisition of right-of-way but not resulting in the creation of new land parcels.
 2. Reconstruction or modification of public streets involving the removal or displacement of buildings but not resulting in the creation of new land parcels.
 3. Improvement of public street related facilities, such as maintenance yards, weigh stations and rest areas where additional property or right-of-way is required but not resulting in the creation of new land parcels.
 4. Roads, highways, and other transportation facilities and improvements not otherwise allowed in this chapter, when an exception to statewide Goal 3 and any other applicable statewide planning goal with which the facility or improvement does not comply, and subject to OAR Chapter 660, Division 012.
- K. A replacement dwelling to be used in conjunction with farm use and with filing of the declaratory statement in MCC 17.136.100(C), if the existing dwelling is listed in the Comprehensive Plan inventory and the National Register of Historic Places as historic property as defined in ORS 358.480.
- L. Residential home or adult foster home, as defined in ORS 197.660 and MCC 17.110.477, in an existing dwelling and with filing of the declaratory statement in MCC 17.136.100(C).

M. A county law enforcement facility that lawfully existed on August 20, 2002, and is used to provide rural law enforcement services primarily in rural areas, including parole and post-prison supervision, but not including a correctional facility as defined under ORS 162.135 as provided for in ORS 215.283(2).

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

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

A. The following criteria apply to all conditional uses in the EFU zone:

1. 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. Land devoted to farm or forest use does not include farm or forest use on lots or parcels upon which a non-farm or non-forest dwelling has been approved and established, in exception areas approved under ORS 197.732, or in an acknowledged urban growth boundary.
2. Adequate fire protection and other rural services are, or will be, available when the use is established.
3. The use will not have a significant adverse impact on watersheds, groundwater, fish and wildlife habitat, soil and slope stability, air and water quality.
4. Any noise associated with the use will not have a significant adverse impact on nearby land uses.
5. 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.

B. Non-Farm Dwellings. The following additional criteria apply to non-farm dwelling requests:

1. The dwelling will be sited on a lot or parcel that is predominantly composed of Class IV through Class VIII soils that would not, when irrigated, be classified as prime, unique, Class I or Class II soils. Soils classifications shall be those of the Soil Conservation Service in its most recent publication, unless evidence is submitted as required in MCC 17.136.130.
2. The dwelling will be sited on a lot or parcel that does not currently contain a dwelling and was created before January 1, 1993. The boundary of the lot or parcel cannot be changed after November 4, 1993, in any way that enables the lot or parcel to meet the criteria for non-farm dwelling.
3. The dwelling will not materially alter the stability of the overall land use pattern of the area. In making this determination the cumulative impact of possible new non-farm dwellings on other lots or parcel in the area similarly situated shall be considered. To address this standard, the following information shall be provided:
 - a. Identify a study area for the cumulative impact analysis. The study area shall include at least 2000 acres or a smaller area not less than 1000 acres, if the smaller area is a distinct agricultural area based on topography, soil types, land use pattern, or the type of

farm or ranch operations or practices that distinguish it from other, adjacent agricultural areas. Findings shall describe the study area, its boundaries, the location of the subject parcel within this area, why the selected area is representative of the land use pattern surrounding the subject parcel and is adequate to conduct the analysis required by this standard. Lands zoned for rural residential or other urban or non-resource uses shall not be included in the study area;

- b. Identify within the study area the broad types of farm uses (irrigated or non-irrigated crops, pasture or grazing lands), the number, location and type of existing dwellings (farm, non-farm, hardship, etc.), and the dwelling development trends since 1993. Determine the potential number of non-farm dwellings that could be approved under MCC 17.136.050(A), including identification of predominant soil classifications and parcels created prior to January 1, 1993. The findings shall describe the existing land use pattern of the study area including the distribution and arrangement of existing uses and the land use pattern that could result from approval of the possible non-farm dwellings under this provision;
- c. Determine whether approval of the proposed non-farm dwellings together with existing non-farm dwellings will materially alter the stability of the land use pattern. The stability of the land use pattern will be materially altered if the cumulative effect of existing and potential non-farm dwellings will make it more difficult for the existing types of farms in the area to continue operation due to diminished opportunities to expand, purchase, lease farmland, acquire waste rights or diminish the number of tracts or acreage in farm use in a manner that will destabilize the overall character of the study area.

C. Home Occupations. Notwithstanding MCC 17.1190.270 and 17.120.075, home occupations, including the parking of vehicles in conjunction with the home occupation and bed and breakfast inns, are subject to the following criteria:

- 1. A home occupation or bed and breakfast inn shall be operated by a resident of the dwelling on the property on which the business is located. Including residents, no more than five full-time or part-time persons shall work in the home occupation ("person" includes volunteer, non-resident employee, partner or any other person).
- 2. It shall be operated substantially in:
 - a. The dwelling; or
 - b. Other buildings normally associated with uses permitted in the zone in which the property is located.
- 3. It shall not unreasonably interfere with other uses permitted in the zone in which the property is located.
- 4. A home occupation shall not be authorized in structures accessory to resource use on high-value farmland.
- 5. A sign shall meet the standards in Chapter 17.191 MCC.

6. The property, dwelling or other buildings shall not be used for assembly or dispatch of employees to other locations.
7. Retail and wholesale sales that do not involve customers coming to the property, such as internet, telephone or mail order offsite sales, and incidental sales related to the home occupation services being provided are allowed. No other sales are permitted as, or in conjunction with, a home occupation.

D. Commercial Activities in Conjunction with Farm Use:

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

E. Forest Products Processing Facility. A portable or temporary facility for the primary processing of forest products is subject to the following criteria and limitations:

1. The use shall not seriously interfere with accepted farming practices.
2. The use shall be compatible with farm uses described in ORS 215.203(2).
3. The use may be approved for a maximum one-year period, which is renewable.
4. The primary processing of forest product, as used in this section, means the use of a chipper, stud mill, or other similar facility for initial treatment of a forest product in order to enable its shipment to market. Forest products, as uses in this section, means timber grown upon a tract where the primary processing facility is located.

F. Power Generation Facility. ~~Power generation facilities shall be subject to the following criteria:~~ **A power generation facility shall not preclude more than:**

- ~~1. The facility will not be located on a portion of the subject property that is comprised of soils that are irrigated and classified prime, unique, Class I or Class II, or not irrigated and classified prime, unique Class I or Class II.~~
- ~~2. Will not preclude more than 12 acres from use as a commercial agricultural enterprise unless an exception is taken pursuant to OAR 660, Division 004; or~~
- ~~3. The facility will be located on a portion of the subject property not comprised of the soils identified in subsection (F)(1) of this section and will not preclude more than 20 areas from use as a commercial agriculture enterprise unless an exception is taken pursuant to ORS 197.732 and OAR 660, Division 004.~~

- 1. Twelve acres from use as a commercial agricultural enterprise on high-value farmland unless an exception in taken pursuant to OAR Chapter 660, Division 004.**

2. Twenty acres from use as a commercial agricultural enterprise on farmland that is not high-value unless an exception is taken pursuant to ORS 197.732 and OAR Chapter 660, Division 004.

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

1. For purposes of this section, a wind power generation facility includes, but is not limited to, the following system components: all wind turbine towers and concrete pads, permanent meteorological towers and wind measurement devices, electrical cable collection systems connecting wind turbine towers with the relevant power substation, new or expanded private roads (whether temporary or permanent) constructed to serve the wind power generation facility, office and operation and maintenance buildings, temporary lay-down areas and all other necessary appurtenances.
2. For high-value farmland soils described at ORS 195.300(10), the following must be satisfied:
 - (A) Reasonable alternatives have been considered to show that siting the wind power generation facility or component thereof on high-value farmland soils is necessary for the facility or component to function properly or if a road system or turbine string must be placed on such soils to achieve a reasonably direct route considering the following factors:
 - (i) Technical and engineering feasibility;
 - (ii) Availability of existing rights of way; and
 - (iii) The long term environmental, economic, social and energy consequences of siting the facility or component on alternative sites, as determined under (B) of this subsection.
 - (B) The long-term environmental, economic, social and energy consequences resulting from the wind power generation facility or any components thereof at the proposed site with measures designed to reduce adverse impacts are not significantly more adverse than would typically result from the same proposal being located on other agricultural lands that do not include high-value farmland soils.
 - (C) Costs associated with any of the factors listed in paragraph (A) of this subsection may be considered, but costs alone may not be the only consideration in determining that siting any component of a wind power generation facility on high-value farmland soils is necessary.
 - (D) The owner of a wind power generation facility approved under this section shall be responsible for restoring, as nearly as possible, to its former condition any agricultural land and associated improvements that are damaged or otherwise disturbed by the siting, maintenance, repair or reconstruction of the facility. Nothing in this subsection shall prevent the owner of the facility from requiring a

bond or other security from a contractor or otherwise imposing on a contractor the responsibility for restoration.

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

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

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

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

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

4. For nonarable lands, meaning lands that are not suitable for cultivation, it must be determined that the requirements of 17.136.060(G)(3)(D) are satisfied.

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

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

1. Except on a lot or parcel contiguous to a lake or reservoir, private campgrounds shall not be allowed within three miles of an urban growth boundary unless an exception is approved pursuant to ORS 197.732 and OAR Chapter 660, Division 004.

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

I. Other Uses.

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

As used in this subsection:

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

J. The following criteria apply to those uses identified in MCC 17.136.050

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

17.136.070 NON-FARM DWELLING REQUIREMENTS. The following regulations shall apply to non-farm dwellings.

A. Special Setbacks:

1. Dwellings. A special dwelling setback of 200 feet from any abutting parcel in farm use or timber production is required.
2. Accessory buildings. A special setback of 100 feet is required for buildings accessory to a dwelling from any abutting parcel in farm use or timber production.
3. Adjustments. The special setbacks in subsections (A)(1) and (2) of this section may be reduced if it is determined, concurrently with any land use application or as provided in Chapter 17.116 MCC, that a lesser setback will meet the following review criteria for alternative sites: prevent activities associated with the dwelling or accessory building from seriously interfering with farming or forest practices as provided in MCC 17.110.680.
 - a. The site will have the least impact on nearby or adjoining forest or agricultural lands.
 - b. The site ensures that adverse impacts on forest operations and accepted farming practices on the tract will be minimized.
 - c. The amount of agricultural and forestlands used to site access roads, service corridors, the dwelling and structures is minimized.
 - d. The risks associated with wildfire are minimized.
4. The special setback in subsection (A)(1) of this section shall not be applied in a manner that prohibits dwellings approved pursuant to ORS 195.300 to 195.336 nor should the special setback in subsection (A)(1) of this section prohibit a claimant's application for homesites under ORS 195.300 to 195.336.

- B. Fire Hazard Reduction: As a condition of approval for any non-farm dwelling located closer than 200 feet to timber, the owner shall be required to maintain a primary and secondary fuel-free break area in accordance with the provision in "Recommended Fire Siting Standards for Dwellings and Structures for

Dwellings and Structures and Fire Safety Design Standards for Roads” dated March 1, 1991, and published by the Oregon Department of Forestry.

- C. Prior to issuance of any residential building permit for an approved non-farm dwelling under MCC 17.136.050(A), evidence shall be provided that the county assessor has disqualified the lot or parcel for valuation at true cash value for farm or forest use; and that the additional tax or penalty has been imposed, if any is applicable, as provided by ORS 308A.113 or ORS 308A.724 or ORS 321.359(1)(b), ORS 321.842(1)(A) and 321.716. A parcel that has been disqualified under this section shall not requalify for special assessment unless, when combined with another contiguous parcel, it constitutes a qualifying parcel.

17.136.100 DEVELOPMENT REQUIREMENTS. The following standards apply to development in an EFU 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 MCC 17.136.050, and a greater height is requested and approved as part of the conditional use permit.

B. Minimum Setbacks: Except as required in MCC 17.136.070(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 20 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 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 Chapter 17.112 MCC).

C. Declaratory Statement. For all dwellings, and other uses deemed appropriate, the property owner shall be required to sign and allow the entering the following declaratory statement into the chain of the lot(s) or parcel(s):

“The property herein described is situated in or near a farm or forest zone or area in Marion County, Oregon, where the intent is to encourage, and minimize conflicts with, farm and forest use. Specifically, residents, minimize conflicts with, farm and forest use. Specifically, residents, property owners and visitors may be subjected to common, customary and accepted farm or forest management practices conducted in accordance with federal and state laws which that ordinarily and necessarily produce noise, dust, smoke and other impacts. The grantees grantors, including their heirs, assigns and lessees do hereby accept the potential impacts from farm and forest practices as normal and necessary and part of the risk of establishing a dwelling, structure or use in this area, and I/We acknowledge the need to avoid activities that conflict with nearby farm and forest uses and practices, I/We grantors will not pursue a claim for relief or course of action alleging injury from farming or forest practice for which no action is allowed under ORS 30.936 or 30.937.”

17.136.120 **PERMIT EXPIRATION DATES.**

- A. Notwithstanding other provisions of this ordinance, a discretionary decision, except for a land division, approving a proposed development in the EFU zone expires two years from the date of the final decision if the development action is not initiated **and all required conditions are met** in 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 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.
- D. If a permit is approved for a proposed residential development in the EFU zone, the permit shall be valid for four years. For the purposes of this subsection, "residential development" only includes the dwellings provided for under MCC 17.136.020(D), 17.136.030(D) and 17.136.050(A).
- E. An extension of a permit consistent with subsection (D) of this section and with subsections (A)(1) through (4) of this section and where applicable criteria for the decision have not changed shall be valid for two years.

CHAPTER 17.137
SA (SPECIAL AGRICULTURE) ZONE

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

- A. Farm uses (see farm use definition, MCC 17.110.223).
- B. The propagation or harvesting of a forest product.
- C. Buildings, other than dwellings, customarily provided in conjunction with farm use.
- D. Alteration, restoration, or replacement of a lawfully established dwelling with filing of the declaratory statement in MCC 17.137.100(C), when the dwelling:
 - 1. Has a "percentage good" rating of 40 percent or more in the current county assessor's records.
 - 2. In the case of replacement, the replaced dwelling is removed, demolished or converted to an allowable nonresidential use within three months of the final inspection or occupancy of the replacement dwelling.
 - 3. In the case of replacement of a manufactured dwelling, the unit to be replaced is a manufactured home as defined in ORS 446.003 [manufactured after June 15, 1976].
 - 4. If the dwelling to be replaced is located on a portion of the lot or parcel not zoned SA or EFU (exclusive farm use), the applicant shall execute and record in the deed records a deed restriction prohibiting the siting of a dwelling on that portion of the lot or parcel. The restriction imposed shall be irrevocable unless a statement of release is placed in the deed records for the county. The release shall be signed by the county or its designee and state that the provisions of this section regarding replacement dwellings have changed to allow the siting of another dwelling.
- E. Operations for the exploration for geothermal resources as defined by ORS 522.005 and oil and gas as defined by ORS 520.005, including the placement and operation of compressors, separators and other customary production equipment for an individual well adjacent to the wellhead. Any activities or construction relating to such operations shall not be a basis for an exception under ORS 197.732.
- F. Operations for the exploration for minerals as defined by ORS 517.750.
- G. Widening of roads including public road and highway projects as follows:
 - 1. Climbing and passing lanes within the street right-of-way existing as of July 1, 1987.
 - 2. Reconstruction or modification of public streets, including the placement of utility facilities overhead and in the subsurface of public roads and highways along public right of way, but not including the addition of travel lanes, where no removal or displacement of buildings would occur, or no new parcels result.

3. Temporary public street detours that will be abandoned and restored to original condition or use at such time as no longer needed.
 4. Minor betterment of existing public street related facilities such as maintenance yards, weigh stations and rest areas, within rights-of-way existing as of July 1, 1987, and contiguous public-owned property utilized to support the operation and maintenance of public streets.
- H. Creation of, restoration of, or enhancement of wetlands.
- I. On-site filming and activities accessory to filming, as defined in MCC 17.137.130(A), if the activity would involve no more than 45 days on any site within a one-year period.

17.137.030 DWELLINGS PERMITTED SUBJECT TO STANDARDS. The following dwellings may be established in the SA zone with filing of the declaratory statement in MCC 17.137.100(C), subject to approval by the director, based on satisfaction of the standards and criteria listed for each type of dwelling, pursuant to the procedures in ~~MCC 17.140.680~~. **Chapter 17.115 MCC.**

- A. Primary Farm Dwellings. A single-family dwelling customarily provided in conjunction with farm use. The dwelling will be considered customarily provided in conjunction with farm use when:
1. It is located on high-value farmland, as defined in MCC 17.137.130(D) and satisfies the following standards:
 - a. There is no other dwelling on the subject farm operation on lands zoned EFU, SA, or FT other than seasonal farm worker housing. The term "farm operation" means all lots or parcels of land in the same ownership that are used by the farm operator for farm use.
 - b. The subject tract produced in the last two years or three of the last five years at least \$80,000 in gross annual income from the sale of farm products. In determining gross income, the cost of purchased livestock shall be deducted from the total gross income attributed to the tract. Only gross income from land owned, not leased or rented shall be counted.
 - c. The subject tract is currently employed for the farm use that produced the income required in subsection (A)(1)(b) of this section.
 - d. The proposed dwelling will be occupied by a person or persons who produced the commodities which generated the income in subsection (A)(1)(b) of this section; or
 2. It is not located on high-value farmland, as defined in MCC 17.137.130(D) subject to the following standards:
 - a. There is no other dwelling on the subject farm operation on lands zoned EFU, SA or FT other than seasonal farm worker housing. The term "farm operation" means all lots or parcels of land in the same ownership that are used by the farm operator for farm use
 - b. The subject tract produced at least \$40,000 in gross annual income from the sale of farm products in the last two years or three of the last five years. In determining the gross income, the cost of purchased livestock shall be deducted from the total gross

income attributed to the tract. Only gross income from land owned, not leased or rented shall be counted.

- c. The subject tract is currently employed for the farm use that produced the income required in subsection (A)(2)(b) of this section.
 - d. The dwelling will be occupied by a person or persons who produced the commodities which generated the income required in subsection (A)(2)(b) of this section; or
3. It is not located on high-value farmland, as defined in MCC 17.137.130(D) and satisfies the following standards:
- a. There is no other dwelling on the subject farm operation on lands zoned EFU, SA or FT other than seasonal farm worker housing. The term "farm operation" means all lots or parcels of land in the same ownership that are used by the farm operator for farm use
 - b. The parcel on which the dwelling will be located is at least 160 acres.
 - c. The subject tract is currently employed for farm use, as defined in ORS 215.203.
 - d. The dwelling will be occupied by a person or persons who will be principally engaged in the farm use of the land, such as planting, harvesting, marketing, or caring for livestock, at a commercial scale.
4. It is in conjunction with a commercial dairy farm as defined in MCC17.137.130(B) and if:
- a. The subject tract will be employed as a commercial dairy as defined; and
 - b. The dwelling is sited on the same lot or parcel as the buildings required by the commercial dairy; and
 - c. Except as permitted by ORS 215.283(1)(p) (1999 Edition), (Seasonal Farmworker Housing), there is no other dwelling on the subject tract; and
 - d. The dwelling will be occupied by a person or persons who will be principally engaged in the operation of the commercial dairy farm, such as the feeding, milking or pasturing of the dairy animals or other farm activities necessary to the operation of the commercial dairy farm; and
 - e. The building permits, if required, have been issued for and construction has begun for the buildings and animal waste facilities required for a commercial dairy farm; and
 - f. The Oregon Department of Agriculture has approved the following:
 - i. A permit for a "confined animal feeding operation" under ORS 468B.050 and ORS 468B.200 to 468B.230; and
 - ii. A producer license for the sale of dairy products under ORS 621.072.
5. The applicant had previously operated a commercial farm use and if:

- a. Within the previous two years, the applicant owned and operated a farm or ranch operation that earned the gross farm income in the last five years or four of the last seven years as required by subsection (A)(1) or (2) of this section, whichever is applicable;
- b. The subject lot or parcel on which the dwelling will be located is:
 - i. Currently employed for the farm use, as defined in this title, that produced in the last two years or three of the last five years the gross farm income required by subsection (A)(1) or (2) of this section, whichever is applicable; and
 - ii. At least the size of the applicable minimum lot size in this Chapter; and
 - (A) Except as permitted in ORS 215.283(1)(p)(1999 Edition) (Seasonal Farmworker Housing), there is no other dwelling on the subject tract; and
 - (B) The dwelling will be occupied by a person or persons who produced the commodities which grossed the income in by subsection (A)(5)(a) of this section;
 - (C) In determining the gross income required by subsections (A)(5)(a) and (A)(5)(b)(i) of this section, the cost of purchased livestock shall be deducted from the total gross income attributed to the tract, and only gross income from land owned, not leased or rented, shall be counted.

- 6. All of the property in a tract used for the purposes of establishing a farm dwelling shall be held, sold and conveyed subject to the following covenants, conditions and restrictions:

It is not lawful to use the property described in this instrument for the construction or siting of a dwelling or to use the acreage of the tract to qualify another tract for the construction or siting of a dwelling.

These covenants, conditions, and restrictions can be removed only and at such time as the property described herein is no longer protected under the statewide planning goals for agricultural and forest lands or the legislature otherwise provides by statute that these covenants, conditions and restrictions may be removed and the authorized representative of the county or counties in which the property subject to these covenants, conditions and restrictions are located executes and records a release of the covenants, conditions and restrictions, consistent with OAR 660-006-0027.

- B. Secondary Farm Dwellings. Secondary (accessory) dwellings customarily provided in conjunction with farm use when:

- 1. The primary dwelling and the proposed dwelling will each be occupied by a person or persons who will be principally engaged in the farm use of the land and whose seasonal or year-around assistance in the management of the farm use, such as planting, harvesting, marketing or caring for livestock, is or will be required by the farm operator.

2. There is no other dwelling on lands in the SA or EFU zone owned by the farm operator that is vacant or currently occupied by persons not working on the subject farm and could reasonably be used as an additional farm dwelling.
3. The proposed dwelling will be located:
 - a. On the same lot or parcel as the primary farm dwelling; or
 - b. On the same contiguous ownership as the primary dwelling, and the lot or parcel on which the proposed dwelling will be sited is consolidated into a single parcel with all other contiguous lots and parcels in the same ownership; or
 - c. On a lot or parcel on which the primary farm dwelling is not located, when the secondary farm dwelling is limited to only a manufactured dwelling with a deed restriction is filed with the county clerk. The deed restriction shall require the additional dwelling to be removed when the lot or parcel is conveyed to another party. Occupancy of the additional farm dwelling shall continually comply with subsection (B)(1) of this section; or
 - d. On a lot or parcel on which the primary farm dwelling is not located, when the accessory farm dwelling is limited to only attached multi-unit residential structures allowed by the applicable state building code or similar types of farm labor housing as existing farm labor housing on the farm operation registered with the Department of Consumer and Business Services, Oregon Occupational Safety and Health Division under ORS 658.750. The County shall require all accessory farm dwellings approved under this subsection to be removed, demolished or converted to a nonresidential use when farm worker housing is no longer required; or
 - e. On a lot or parcel on which the primary farm dwelling is not located, when the accessory farm dwelling is located on a lot or parcel at least the size of the applicable minimum lot size and the lot or parcel complies with the gross farm income requirements in subsection (B)(4) of this section, whichever is applicable.
4. The primary dwelling to which the proposed dwelling would be accessory satisfies the following criteria:
 - a. On land not identified as high-value farmland, the primary farm dwelling is located on land that is currently employed for farm use and produced at least \$40,000 in gross annual income from the sale of farm products in the last two or three of the last five years; or
 - b. On land identified as high-value farmland, the primary farm dwelling is located on land that is currently employed for farm use and produced at least \$80,000 in gross annual income from the sale of farm products in the last two years or three of the last five years.
 - c. The primary dwelling is located on a commercial dairy farm as defined in this Chapter; and

- i. The building permits, if required, have been issued and construction has begun or been completed for the buildings and animal waste facilities required for a commercial dairy farm; and
 - ii. The Oregon Department of Agriculture has approved a permit for a “confined animal feeding operation” under ORS 468B.050 and ORS 468B.200 to 468B.230; and
 - iii. Producer License for the sale of dairy products under ORS 621.072.
- d. In determining the gross income in subsections (B)(4)(a) and (b) of this section, the cost of purchased livestock shall be deducted from the total gross income attributed to the tract.

- 5. The dwelling will be consistent with the fish and wildlife habitat policies of the Comprehensive Plan if located in a designated big game habitat area.
- 6. Secondary farm dwellings shall be a manufactured home, or other type of attached multi-unit residential structures allowed by the applicable state building code, and a deed restriction is filed with the county clerk requiring removal of the manufactured home, or removal, demolition or conversion to a non-residential use if other residential structures are used, when the occupancy or use no longer complies with the criteria or standards under which the manufactured home was originally approved.

C. A secondary single-family dwelling on real property used for farm use subject to the following standards:

- 1. A dwelling on property used for farm use located on the same lot or parcel as the dwelling of the farm operator, and occupied by a relative of the farm operator or farm operator’s spouse, which means grandparent, step-grandparent, grandchild, parent, stepparent, child, stepchild, brother, sister, stepsibling, niece, nephew or first cousin of either, if the farm operator does or will require the assistance of the relative in the management of the farm use.
- 2. The farm operator shall continue to play the predominant role in management and farm use of the farm. A farm operator is a person who operates a farm, doing the work and making the day-to-day decisions about such things as planting, harvesting, feeding, and marketing.
- 3. A deed restriction is filed with the county clerk requiring removal of the dwelling when the occupancy or use no longer complies with the criteria or standards under which the dwelling was originally approved.
- 4. For purposes of this subsection, a commercial farm operation is one that meets the income requirements for a primary farm dwelling identified in MCC 17.137.030(A)(1)(b), and the parcel where the dwelling is proposed contains a minimum of 80 acres.
- 5. All of the property in a tract used for the purposes of establishing a farm dwelling shall be held, sold and conveyed subject to the following covenants, conditions and restrictions

It is not lawful to use the property described in this instrument for the construction or siting of a dwelling or to use the acreage of the tract to qualify another tract for the construction or siting of a dwelling.

These covenants, conditions, and restrictions can be removed only and at such time as the property described herein is no longer protected under the statewide planning goals for agricultural and forest lands or the legislature otherwise provides by statute that these covenants, conditions and restrictions may be removed and the authorized representative of the county or counties in which the property subject to these covenants, conditions and restrictions are located executes and records a release of the covenants, conditions and restrictions, consistent with OAR 660-006-0027.

- D. Lot-of-Record Dwelling. A single family dwelling subject to the following standards and criteria:
1. The lot or parcel on which the dwelling will be sited was lawfully created and acquired and owned continuously by the present owner:
 - a. Since prior to January 1, 1985; or
 - b. By devise or intestate succession from a person who acquired and had owned continuously the lot or parcel since prior to January 1, 1985.
 - c. "Owner", as the term is used in this section only, includes the wife, husband, son, daughter, mother, father, brother, brother-in-law, sister, sister-in-law, son-in-law, daughter-in-law, mother-in-law, father-in-law, aunt, uncle, niece, nephew, stepparent, stepchild, grandparent, or grandchild of the owner or business entity owned by any one or combination of these family members.
 2. The tract on which the dwelling will be sited does not include a dwelling.
 3. The lot or parcel on which the dwelling will be sited was part of a tract on November 4, 1993, no dwelling exists on another lot or parcel that was part of that tract.
 4. When the lot or parcel on which the dwelling will be sited is part of a tract, the remaining portions of the tract are consolidated into a single lot or parcel when the dwelling is allowed.
 5. The request is not prohibited by, and complies with, the Comprehensive Plan and other provisions of this ordinance, including but not limited to floodplain, greenway, and big game habitat area restrictions.
 6. The proposed dwelling will not:
 - a. Exceed the facilities and service capabilities of the area.
 - b. Create conditions or circumstances contrary to the purpose of the special agriculture zone.
 7. A lot-of-record dwelling approval may be transferred one time only by a person who has qualified under this section to any other person after the effective date of the land-use decision.
 8. The county assessor shall be notified that the county intends to allow the dwelling.
 9. The lot or parcel on which the dwelling will be sited is not high-value farmland as defined

in MCC 17.137.130(D); or

10. The lot or parcel on which the dwelling will be sited is high-value farmland as defined in MCC 17.137.130(D)(2) or (3) and:
 - a. Is twenty-one acres or less in size.
 - b. The tract on which the dwelling is to be sited is not a flaglot and is:
 - i. Bordered on at least 67 percent of its perimeter by tracts that are smaller than 21 acres, and at least two such tracts had dwellings on them on January 1, 1993; or
 - ii. Bordered on at least 25 percent of its perimeter by tracts that are smaller than 21 acres, and at least four dwellings existed on January 1, 1993, within one-quarter mile of the center of the subject tract. No more than two of the four dwellings may be within an urban growth boundary; or
 - c. The tract on which the dwelling is to be sited is a flaglot and is:
 - i. The tract is a flaglot and is bordered on at least 25 percent of its perimeter by tracts that are small than 21 acres, and at least four dwellings existed on January 1, 1993, within 1/4 mile of the center of the subject tract and on the same side of the public road that provides access to the subject tract. The Board, or its designee, must interpret the center of the subject tract as the geographic center of the flaglot if the applicant makes a written request for that interpretation and that interpretation does not cause the center to be located outside the flaglot. Up to two of the four dwellings may lie within an urban growth boundary, but only if the subject tract abuts an urban growth boundary:
 - ii. "Flag lot" means a tract containing a narrow strip or panhandle of land providing access from the public road to the rest of the tract.
 - iii. "Geographic center of the flag lot" means the point of intersection of two perpendicular lines of which the first line crosses the midpoint of the longest side of a flaglot, at a 90-degree angle to the side, and the second line crosses the midpoint of the longest adjacent side of the flaglot; or
11. The lot or parcel on which the dwelling is to be sited is high-value farmland as defined in MCC 17.137.130(D)(1) and:
 - a. The hearings officer determines that:
 - i. The lot or parcel cannot practicably be managed for farm use, by itself or in conjunction with other land, due to extraordinary circumstances inherent in the land or its physical setting that do not apply generally to other land in the vicinity. For the purposes of this section, this criterion asks whether the subject lot or parcel can be physically put to farm use without undue hardship or difficulty because of extraordinary circumstances inherent in the land or its physical setting. Neither size alone nor a parcel's limited economic potential demonstrate that a lot or parcel cannot be practicably managed for farm use.

Examples of “extraordinary circumstances inherent in the land or its physical setting” include very steep slopes, deep ravines, rivers, streams, roads, railroad or utility lines or other similar natural or physical barriers that by themselves or in combination separate the subject lot or parcel from adjacent agricultural land and prevent it from being practicably managed for farm use by itself or together with adjacent or nearby farms. A lot or parcel that has been put to farm use despite the proximity of a natural barrier or since the placement of a physical barrier shall be presumed manageable for farm use; and

- ii The use will not force a significant change in or significantly increase the cost of farm or forest practices on surrounding lands devoted to farm or forest use; and
- iii The dwelling will not materially alter the stability of the overall land use pattern in the area. To address this standard, the following information shall be provided:
 - (A) Identify a study area for the cumulative impacts analysis. The study area shall include at least 2000 acres or a smaller area not less than 1000 acres, if the smaller area is a distinct agricultural area based on topography, soil types, land use pattern, or the type of farm operations or practices that distinguish it from other, adjacent agricultural areas. Findings shall describe the study area, its boundaries, the location of the subject parcel within this area, why the selected area is representative of the land use pattern surrounding the subject parcel and is adequate to conduct the analysis required by this standard. Lands zoned for rural residential or other urban or non-resource uses shall not be included in the study area;
 - (B) Identify within the study area the broad types of farm uses (irrigated or non-irrigated crops, pasture or grazing lands), the number, location and type of existing dwellings (farm, non-farm, hardship, etc.), and the dwelling development trends since 1993. Determine the potential number of non-farm/lot-of- record dwellings that could be approved under subsection D of this section and MCC 17.137.050(A), including identification of predominant soil classifications and parcels created prior to January 1, 1993. The findings shall describe the existing land use pattern of the study area including the distribution and arrangement of existing uses and the land use pattern that could result from approval of the possible non-farm dwellings under this provision;
 - (C) Determine whether approval of the proposed non-farm/lot-of-record dwellings together with existing non-farm dwellings will materially alter the stability of the land use pattern in the area. The stability of the land use pattern will be materially altered if the cumulative effect of existing and potential non-farm dwellings will make it more difficult for the existing types of farms in the area to continue operation due to diminished opportunities to expand, purchase, lease farmland, acquire water rights or diminish the number of tracts or acreage in farm use in a manner that will

destabilize the overall character of the study area.

- b. The county shall provide notice of the application for a dwelling allowed under this subsection to the Oregon Department of Agriculture.

E. Dwelling Alteration and Replacement. Alteration, restoration or replacement of a lawfully established dwelling with filing of the declaratory statement in MCC 17.137.100(C), other than as permitted in MCC 17.137.020(D), when the dwelling:

1. Has intact exterior walls and roof structure;
2. Has indoor plumbing consisting of a kitchen sink, toilet and bathing facilities connected to a sanitary waste disposal system;
3. Has interior wiring for interior lights;
4. Has a heating system; and
5. In the case of replacement, is removed, demolished or converted to an allowable non-residential use within three months of the **final inspection or** occupancy of the replacement dwelling.
6. For the case in which the applicant has requested a deferred replacement permit, the dwelling to be replaced shall be removed or demolished within three months after the deferred replacement permit is issued. A deferred replacement permit allows construction of the replacement dwelling at any time. If, however, the established dwelling is not removed or demolished within three months after the deferred replacement permit is issued, the permit becomes void. The replacement dwelling must comply with applicable building codes, plumbing codes, sanitation codes and other requirements relating to health and safety or to siting at the time of consideration. A deferred replacement permit may not be transferred, by sale or otherwise, except by the applicant to the spouse or a child of the applicant.
7. If the dwelling to be replaced is located on a portion of the lot or parcel not zoned SA or EFU, the applicant shall execute and record in the deed records a deed restriction prohibiting the siting of a dwelling on that portion of the lot or parcel. The restriction imposed shall be irrevocable unless a statement of release is placed in the deed records for the county. The release shall be signed by the county or its designee and state that the provisions of this section regarding replacement dwellings have changed to allow the siting of another dwelling.

17.137.040 **USES PERMITTED SUBJECT TO STANDARDS.** The following uses may be permitted in the SA zone subject to approval of the request by the director, based on satisfaction of the standards and criteria specified for each use, pursuant to the procedures in MCC 17.110.680. **17.115.**

A. Farm Stand. Farm stand subject to the following standards:

1. Structures shall be designed and used for the sale of farm crops and livestock grown on the farm operation, or grown on the farm operation and other farm operations in the local agricultural area.
 - a. As used in this section, "farm crops or livestock" includes both fresh and processed farm crops and livestock grown on the farm operation, or grown on the farm operation and other farm operations in the local agricultural area. As used in this section,

“processed crops and livestock” includes jams, syrups, apple cider, animal products and other similar farm crops and livestock that have been processed and converted into another produce but not prepared food items.

b. As used in this section, “local agricultural area” is limited to the State of Oregon.

2. The sale of incidental retail items and fee-based activity to promote the sale of farm crops or livestock sold at the farm stand is permitted provided the annual sales of the incidental items and fees from promotional activity do not make up more than 25 percent of the total annual sales of the farm stand.
3. Farm stand shall not include structures designed for occupancy as a residence or for activities other than the sale of farm crops and livestock and does not include structures for banquets, public gatherings or public entertainment.

B. Winery. Winery, as defined in MCC 17.137.130(G). The winery shall include only the sale of:

1. Wines produced in conjunction with the winery.
- ~~2. Items directly related to wine, the sales of which are incidental to the sale of wine on-site. Such items include those served by a limited service restaurant, as defined in ORS 624.010.~~
- 2. Items directly related to the sale and promotion of wine produced in conjunction with the winery, the sale of which is incidental to retail sale of wine on-site, including food and beverages served by a limited service restaurant, as defined in ORS 624.010, wine not produced in conjunction with the winery and gifts.**
- 3. Services directly related to the sale and promotion of wine produced in conjunction with the winery, the sale and delivery of which are incidental to retail sale of wine on-site, including private events hosted by the winery or by patrons of the winery, at which wine produced in conjunction with the winery is featured.**
- 4. The gross income from the sale of incidental items and services under subsection (2) and (3) of this section may not exceed 25 percent of the gross income from the retail sale on-site of wine produced in conjunction with the winery.**

C. Religious Organizations and Cemeteries. Religious organizations and cemeteries in conjunction with religious organizations subject to the following:

1. New religious organizations ~~may not be established on high-value farmland. Existing religious organizations and cemeteries in conjunction with religious organizations; may be maintained, enhanced, or expanded on the same tract wholly within a farm zone.~~

a. May not be established on high-value farmland.

b. New religious organizations and cemeteries in conjunction with religious organizations, not on high-value farmland may be established. All new religious organizations and cemeteries in conjunction with religious organizations. — 2.

~~———— A new religious organization may not be established within three miles of an urban growth boundary of a city unless an exception is approved pursuant to OAR Chapter 660, Division 004.~~ **shall meet the following standards:**

- (i) No enclosed structure with a design capacity greater than 100 people, or group of structures with a total design capacity of greater than 100 people shall be approved, unless an exception is approved pursuant to OAR Chapter 660, Division 004.
- (ii) Any new enclosed structure or group of enclosed structures subject to this section shall be situated no less than one-half mile from other enclosed structures approved under OAR 660-33-130(2) on the same tract.
- (iii) For the purposes of this subsection "tract" means a tract as defined in MCC 17.137.130(F) in existence on (MAY 5, 2010).

2. Existing religious organizations and cemeteries in conjunction with religious organizations:

- a. Existing religious organizations and cemeteries in conjunction with religious organizations on may be maintained, enhanced, or expanded on the same tract wholly within a farm zone.
- b. Existing enclosed structures within three miles of an urban growth boundary may not be expanded beyond the limits in subsection (C)(1)(b)(i – iii) of this section.

D. Public and Private Schools. Public or private schools for kindergarten through grade 12, including all buildings essential to the operation of a school, subject to the following:

1. New schools primarily for the residents of the rural area in which the school is located:

- a. New schools may not be established on high-value farmland.
- b. ~~No~~ New schools not on high-value farmland may be established. Any new school within three miles of an urban growth boundary of a city unless an exception is approved pursuant to OAR Chapter 660, Division 004 shall meet the following standards:
 - (i) No enclosed structure with a design capacity greater than 100 people, or group of structures with a total design capacity of greater than 100 people shall be approved, unless an exception is approved pursuant to OAR Chapter 660, Division 004.
 - (ii) Any new enclosed structure or group of enclosed structures subject to this section shall be situated no less than one-half mile from other enclosed structures approved under OAR 660-33-130(2) on the same tract.
 - (iii) For the purposes of this subsection "tract" means a tract as defined in MCC 17.137.130(F) in existence on (MAY 5, 2010).
- c. New schools must be determined to be consistent with the provisions contained in MCC 17.136.060(A)(1).

2. **Existing schools primarily for the residents of the rural area in which the school is located:**
 - a. Existing schools **on high-value farmland** may be maintained, enhanced, or expanded on the same tract wholly within a farm zone.
 - b. **Existing schools not on high-value farmland may be maintained, enhanced, or expanded consistent with the provisions contained in MCC 17.136.060(A)(1).**
 - c. **Existing enclosed structures within three miles of an urban growth boundary may not be expanded beyond the limits in subsection (D)(1)(b)(i – iii) of this section.**
3. **Existing schools that are not primarily for residents of the rural area in which the school is located may be expanded on the tax lot on which the use was established or on a contiguous tax lot owned by the applicant on January 1, 2009, however, existing enclosed structures within three miles of an urban growth boundary may not be expanded beyond the limits in subsection (D)(1)(b)(i – iii) of this section.**

E. Filming Activities. On-site filming and activities accessory to filming, and defined in MCC 17.137.130(A), if the activity:

1. Involves filming or activities accessory to filming for more than 45 days; or
2. Involves erection of sets that would remain in place longer than any 45 day period.
3. 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.

F. Facility for Processing Farm Crops. A facility for the processing of farm crops, or the production of biofuel as defined in ORS 315.141, subject to the following:

1. The farm on which the processing facility is located must provide at least one-quarter of the farm crops processed at the facility.
2. The building established for the processing facility shall not exceed 10,000 square feet of floor area exclusive of the floor area designated for preparation, storage or other farm use or devote more than 10,000 square feet to the processing activities within another building supporting farm use.
3. The processing facility shall comply with all applicable siting standards but the standards shall not be applied in a manner that prohibits siting of the processing facility.
4. Division of a lot or parcel that separates a processing facility from the farm operation on which it is located shall not be approved.

G. Model Aircraft. A site for the takeoff and landing of model aircraft, including such buildings or facilities as may reasonably be necessary subject to the following:

1. Buildings and facilities shall not be more than 500 square feet in floor area or placed on a permanent foundation unless the building or facility pre-existed the use.

2. The site shall not include an aggregate surface or hard area surface unless the surface pre-existed the use.
3. As used in this section, "model aircraft" means a small-scale version of an airplane, glider, helicopter, dirigible or balloon that is used or intended to be used for flight and controlled by radio, lines or design by a person on the ground.
4. **An owner of property used for the propose authorized in this paragraph may charge a person operating the use on the property rent for the property. An operator may charge users of the property a fee that does not exceed the operator's cost to maintain the property, buildings and facilities.**

H. Wildlife Habitat Conservation. A wildlife habitat conservation and management plan on a lot or parcel subject to the following:

1. The lot or parcel contains an existing legally established dwelling; or
2. Approval for the dwelling is obtained under provisions contained in MCC 17.137.030(A), (D), (E), or 17.137.050(A).
3. The dwelling is situated on a legally created lot or parcel existing on November 4, 1993.
4. The lot or parcel is not predominantly composed of soils rated Class I or II, when not irrigated, or rated Prime or Unique by the Natural Resources Conservation Service, or any combination of such soils.

I. ~~Other Uses.~~

~~4.~~ Utility facilities necessary for public service, including wetland waste treatment systems, but not including commercial facilities for the purpose of generating electrical power for public use by sale or transmission towers over 200 feet in height. A facility is "necessary" if it must be situated in the SA zone in order for the service to be provided. An applicant must demonstrate that reasonable alternatives have been considered and that the facility must be sited in an SA zone due to one or more of the following factors as found in OAR 660-33-130(16):

1. Technical and engineering feasibility;
2. The proposed facility is locationally dependent. A utility facility is locationally dependent if it must cross land in one or more areas zoned for Special Agriculture in order to achieve a reasonably direct route or to meet unique geographical needs that cannot be satisfied on other lands;
3. Lack of available urban and nonresource lands;
4. Availability of existing rights-of-way;
5. Public health and safety; and
6. Other requirements of state and federal agencies.

- a. Costs associated with any of the factors listed above may be considered, but cost alone may not be the only consideration in determining that a utility facility is necessary for public service. Land costs shall not be included when considering alternative locations for substantially similar utility facilities and the siting of utility facilities that are not substantially similar.
- b. The owner of a utility facility approved under this section shall be responsible for restoring, to its former condition as nearly as possible, any agricultural land and associated improvements that are damaged or otherwise disturbed by the siting, maintenance, repair or reconstruction of the facility. Nothing in this subsection shall prevent the owner of the utility facility from requiring a bond or other security from a contractor or otherwise imposing on a contractor the responsibility for restoration.
- c. The applicant shall address the requirements of MCC 17.137.060(A)(1) .
- d. In addition to the provisions above, the establishment or extension of a sewer system as defined by OAR 660-011-0060(1)(f) in a special agriculture zone shall be subject to the provisions of OAR 660-011-0060.
- e. The provisions of this subsection do not apply to interstate natural gas pipelines and associated facilities authorized by and subject to regulation by the Federal Energy Regulatory Commission.
- f. **If the criteria contained in MCC 17.137.040(I) for siting a utility facility on land zoned for exclusive farm use are met for a utility facility that is a transmission line, the utility provider shall, after the route is approved by the siting authorities and before construction of the transmission line begins, consult the record owner of high-value farmland in the planned route for the purpose of locating and constructing the transmission line in a manner that minimizes the impact on farming operations on high-value farmland. If the record owner does not respond within two weeks after the first documented effort to consult the record owner, the utility provider shall notify the record owner by certified mail of the opportunity to consult. If the record owner does not respond within two weeks after the certified mail is sent, the utility provider has satisfied the provider's obligation to consult. The requirement to consult under this section is in addition to and not in lieu of any other legally required consultation process. For the purposes of this subsection:**
 - (i) **'Consult' means to make an effort to contact for purpose of notifying the record owner of the opportunity to meet.**
 - (ii) **'Transmission line' means a linear utility facility by which a utility provider transfers the utility product in bulk from a point of origin or generation, or between transfer stations, to the point at which the utility product is transferred to distribution lines for delivery to end users.**

J. Parking of not more than seven log trucks on a tract when the use will not:

1. Force a significant change in accepted farm or forest practices on surrounding lands devoted to farm or forest use.
 2. Significantly increase the cost of accepted farm or forest practices on surrounding lands devoted to farm or forest use.
- K. Fire service facilities providing rural fire protection services.
- L. Irrigation canals, delivery lines and those structures and accessory operational facilities associated with a district as defined in ORS 540.505.
- M. Utility facility service lines. Utility facility service lines are utility lines and accessory facilities or structures that end at the point where the utility service is received by the customer and that are located on one or more of the following:
1. A public right-of-way;
 2. Land immediately adjacent to a public right-of-way, provided the written consent of all adjacent property owners has been obtained; or
 3. The property to be served by the utility.
- N. Subject to the issuance of a license, permit or other approval by the Department of Environmental Quality under ORS 454.695, 459.205, 468B.050, 468B.053 or 468B.055, or in compliance with rules adopted under ORS 468B.095, and with the requirements of ORS 215.246, 215.247, 215.249, and 215.251, the land application of reclaimed water, agricultural process or industrial process water or biosolids for agricultural, horticultural or silvicultural production, or for irrigation in connection with a use allowed in a special agriculture zone under this division.

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

- A. Single-family dwelling or mobile home not in conjunction with farm uses, subject to the criteria and standards in MCC 17.137.060(B), 17.137.070, and 17.137.100.
- B. Temporary residence for hardship purposes pursuant to MCC 17.120.040 with filing of the declaratory statement in MCC17.137.100(C).
- C. Portable or temporary facility for primary processing of forest products subject to MCC 17.137.060(D).
- D. The following commercial uses:
 1. Home occupations, including bed and breakfast inns, subject to the criteria in MCC 17.137.060(C) with filing of the declaratory statement in MCC17.137.100(C).
 2. Commercial activities in conjunction with farm use, including the processing of farm crops into biofuel not permitted under MCC 17.137.040(F), ~~except the processing of farm crops pursuant to MCC 17.137.040(F)~~, and subject to MCC 17.137.060(I J), but including a winery not permitted under MCC 17.137.040(B).

3. Dog kennels, ~~including the breeding, kenneling and training of greyhounds for racing,~~ in conjunction with a dwelling occupied by the kennel operator, subject to MCC 17.137.060(D)(2) with filing of the declaratory statement in MCC17.137.100(C).
4. Room and board arrangements for a maximum of five unrelated persons in existing residences with filing of the declaratory statement in MCC17.137.100(C).
5. The propagation, cultivation, maintenance and harvesting of aquatic species that are not under the jurisdiction of the State Fish and Wildlife Commission.
6. A landscape contracting business, as defined in ORS 671.520, or a business providing landscape architecture services, as described in ORS 671.318, if the business is pursued in conjunction with the growing and marketing of nursery stock on the land that constitutes farm use.
7. Composting Facilities
 - a. Composting operations and facilities allowed on high-value farmland are limited to those that are exempt from a permit from the Department of Environmental Quality (DEQ) under OAR 340-093-0050, only require approval of an Agricultural Compost Management Plan by the Oregon Department of Agriculture, or require a permit from the DEQ under OAR 340-093-0050 where the compost is applied primarily on the subject farm or used to manage and dispose of by-products generated on the subject farm. Excess compost may be sold to neighboring farm operations in the local area and shall be limited to bulk loads of at least one unit (7.5 cubic yards) in size. Buildings and facilities used in conjunction with the composting operation shall only be those required for the operation of the subject facility.
 - b. Composting operations and facilities allowed on land not defined as high-value farmland shall be limited to the composting operations and facilities allowed by subsection (D)(7)(a) of this section or that require a permit from the Department of Environmental Quality under OAR 340-093-0050. Buildings and facilities used in conjunction with the composting operation shall only be those required for the operation of the subject facility. Onsite sales shall be limited to bulk loads of at least one unit (7.5 cubic yards) in size that are transported in one vehicle.

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

E. The following mining and processing activities:

1. Mining and processing of geothermal resources as defined by ORS 522.005 and oil and gas as defined by ORS 520.005 not otherwise permitted in MCC 17.137.020.
2. Mining of aggregate and other mineral and other subsurface resources subject to ORS 215.298 and MCC 17.120.410 through MCC 17.13720.480.
3. Processing, as defined by ORS 517.750, of aggregate into asphalt or portland cement subject to MCC 17.13720.060(H I)(1) and MCC 17.120.410 through 480.
4. Processing of other mineral resources and other subsurface resources subject to MCC 17.120.410 through 17.13720.480.

- F. The following utility uses:
1. Commercial utility facilities for the purpose of generating power for public sale, subject to MCC 17.137.060(E)
 - 2. Wind power generation facilities subject to MCC 17.137.060(F)**
 3. Transmission towers over 200 feet in height.
- G. Personal-use airports for airplanes and helicopter pads, including associated hangar, maintenance and service facilities as defined in ORS 215.283(2)(h).
- H. The following recreation uses **subject to MCC 17.136.060(K)**:
1. Private parks, playgrounds, hunting and fishing preserves and campgrounds subject to MCC 17.137.060(~~F~~ **G**) and (~~H~~ **I**)(2) with filing of the declaratory statement in MCC17.137.100(C).
 - ~~2. Community centers, operated primarily by and for residents of the local rural community, where the land and facilities are owned and operated by a governmental agency or non-profit community organization with filing of the declaratory statement in MCC17.137.100(C).~~
 3. Public parks, open spaces, and playgrounds including only those uses specified under OAR 660-034-035, or OAR 660-034-0040, whichever is applicable, and consistent with ORS 195.120 and with filing of the declaratory statement in MCC17.137.100(C).
 4. Golf courses, as defined in MCC 17.137.130(C), and subject to the requirements in MCC 17.137.060(~~G~~ **H**) with filing of the declaratory statement in MCC17.137.100(C).
 5. Living history museum subject to MCC 17.137.060 (~~H~~ **I**)(3) with filing of the declaratory statement in MCC17.137.100(C).
- I. Disposal site for solid waste that has been ordered established by the Oregon Environmental Quality Commission under ORS 459.049, or for which the Department of Environmental Quality has granted a permit under ORS 459.245, together with facilities and buildings for its operation, subject to MCC 17.137.060(~~H~~ **I**)(2) with filing of the declaratory statement in MCC17.137.100(C).
- J. The following transportation uses:
1. Construction of additional passing and travel lanes requiring the acquisition of right-of-way but not resulting in the creation of new land parcels.
 2. Reconstruction or modification of public streets involving the removal or displacement of buildings but not resulting in the creation of new land parcels.
 3. Improvement of public street related facilities, such as maintenance yards, weigh stations and rest areas where additional property or right-of-way is required but not resulting in the creation of new land parcels.

4. Roads, highways, and other transportation facilities and improvements not otherwise allowed in this chapter, when an exception to statewide Goal 3 and any other applicable statewide planning goal with which the facility or improvement does not comply, and subject to OAR Chapter 660, Division 12.
- K. A replacement dwelling to be used in conjunction with farm use with filing of the declaratory statement in MCC17.137.100(C), if the existing dwelling is listed in the Comprehensive Plan inventory and the National Register of Historic Places as historic property as defined in ORS 358.480.
- L. Residential home or adult foster home, as defined in ORS 197.660 and MCC 17.110.477, in an existing dwelling with filing of the declaratory statement in MCC17.137.100(C).
- N. Expansion of existing schools not for kindergarten through grade 12 established on or before January 1, 2009, on the same tract wholly within a farm zone subject to MCC 137.060(K).**

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

- A. The following criteria apply to all conditional uses in the SA zone:
 1. 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. Land devoted to farm or forest use does not include farm or forest use on lots or parcels upon which a non-farm or non-forest dwelling has been approved and established, in exception areas approved under ORS 197.732, or in an acknowledged urban growth boundary.
 2. Adequate fire protection and other rural services are or will be available when the use is established.
 3. The use will not have a significant adverse impact on watersheds, groundwater, fish and wildlife habitat, soil and slope stability, air and water quality.
 4. Any noise associated with the use will not have a significant adverse impact on nearby land uses.
 5. 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.
- B. Non-Farm Dwellings. The following additional criteria apply to non-farm dwelling requests:
 1. The dwelling will be sited on a lot or parcel that is predominantly composed of Class IV through Class VIII soils that would not, when irrigated, be classified as prime, unique, Class I or Class II soils. Soils classifications shall be those of the Soil Conservation Service in its most recent publication, unless evidence is submitted as required in MCC 17.137.120(B).
 2. The dwelling will be sited on a lot or parcel that does not currently contain a dwelling and was created before January 1, 1993. The boundary of the lot or parcel cannot be changed after November 4, 1993 in a way that enables the lot or parcel to qualify for a non-farm dwelling.

3. The dwelling will not materially alter the stability of the overall land use pattern of the area. In making this determination the cumulative impact of possible new nonfarm dwellings and parcels on other lots or parcels in the area similarly situated shall be considered. To address this standard, information outlined in MCC 17.137.030(D)(11)(a)(iii) shall be provided.

C. Home Occupations. Notwithstanding MCC 17.110.270 and 17.120.075, home occupations, including the parking of vehicles in conjunction with the home occupation, including bed and breakfast inns, are subject to the following criteria:

1. A home occupation or bed and breakfast shall be operated by a resident of the dwelling on the property on which the business is located. Including the residents, no more than five full-time or part-time persons shall work in the home occupation ("person" includes volunteer, non-resident employee, partner or any other person).
2. It shall be operated substantially in:
 - a. The dwelling; or
 - b. Other buildings normally associated with uses permitted in the zone in which the property is located.
3. It shall not unreasonably interfere with other uses permitted in the zone in which the property is located.
4. A home occupation shall not be authorized in structures accessory to resource use on high-value farmland.
5. A sign shall meet the standards in Chapter 17.191 MCC.
6. The property, dwelling or other buildings shall not be used for assembly or dispatch of employees to other locations.
7. Retail and wholesale sales that do not involve customers coming to the property, such as internet, telephone or mail order offsite sales, and incidental sales related to the home occupation services being provided are allowed. No other sales are permitted as, or in conjunction with, a home occupation.

D. Forest Products Processing Facility. A portable or temporary facility for the primary processing of forest products is subject to the following criteria and limitations:

1. The use shall not seriously interfere with accepted farming practices.
2. The use shall be compatible with farm uses described in ORS 215.203(2).
3. The use may be approved for a maximum one-year period, which is renewable.
4. The primary processing of a forest product, as used in this section, means the use of a chipper, stud mill, or other similar facility for initial treatment of a forest product in order to enable its shipment to market. Forest products, as used in this section, means timber grown upon a tract where the primary processing facility is located.

E. Power Generation Facility. A power generation facility shall not preclude more than:

1. Twelve acres from use as a commercial agricultural enterprise on high-value farmland unless an exception is taken pursuant to OAR Chapter 660, Division 004.
2. Twenty acres from use as a commercial agricultural enterprise on farmland that is not high-value unless an exception is taken pursuant to ORS 197.732 and OAR Chapter 660, Division 004.

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

1. **For purposes of this section, a wind power generation facility includes, but is not limited to, the following system components: all wind turbine towers and concrete pads, permanent meteorological towers and wind measurement devices, electrical cable collection systems connecting wind turbine towers with the relevant power substation, new or expanded private roads (whether temporary or permanent) constructed to serve the wind power generation facility, office and operation and maintenance buildings, temporary lay-down areas and all other necessary appurtenances.**
2. **For high-value farmland soils described at ORS 195.300(10), the following must be satisfied:**
 - (A) **Reasonable alternatives have been considered to show that siting the wind power generation facility or component thereof on high-value farmland soils is necessary for the facility or component to function properly or if a road system or turbine string must be placed on such soils to achieve a reasonably direct route considering the following factors:**
 - (i) **Technical and engineering feasibility;**
 - (ii) **Availability of existing rights of way; and**
 - (iii) **The long term environmental, economic, social and energy consequences of siting the facility or component on alternative sites, as determined under (B) of this subsection.**
 - (B) **The long-term environmental, economic, social and energy consequences resulting from the wind power generation facility or any components thereof at the proposed site with measures designed to reduce adverse impacts are not significantly more adverse than would typically result from the same proposal being located on other agricultural lands that do not include high-value farmland soils.**
 - (C) **Costs associated with any of the factors listed in paragraph (A) of this subsection may be considered, but costs alone may not be the only consideration in determining that siting any component of a wind power generation facility on high-value farmland soils is necessary.**
 - (D) **The owner of a wind power generation facility approved under this section shall be responsible for restoring, as nearly as possible, to its former condition any agricultural land and associated improvements that are damaged or otherwise**

disturbed by the siting, maintenance, repair or reconstruction of the facility. Nothing in this subsection shall prevent the owner of the facility from requiring a bond or other security from a contractor or otherwise imposing on a contractor the responsibility for restoration.

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

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

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

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

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

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

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

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

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

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

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

I. Other Uses.

1. New uses that batch and blend mineral and aggregate into asphalt cement may not be authorized within two miles of a planted vineyard. "Planted vineyard" means one or more vineyards totaling 40 acres or more that are planted as of the date the application for batching and blending is filed.
2. For uses listed in MCC 17.137.050(D)(3), (H)(1) and (I), new facilities on high-value farmland shall not be authorized. Existing legally established facilities on high-value farmland may be maintained, enhanced, or expanded on the same tract.

3. A living history museum related to resource-based activities owned and operated by a governmental agency or a local historical society, together with limited commercial activities and facilities that are directly related to the use and enjoyment of the museum and located within authentic buildings of the depicted historic period or the museum administration building, if areas other than a Special Agriculture Zone cannot accommodate the museum and related activities or if the museum administration buildings and parking lot are located within one quarter mile of an urban growth boundary.

As used in this paragraph:

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

J. Commercial Activities in Conjunction with Farm Use

1. The commercial activity must be primarily a customer or supplier of farm uses.
2. The commercial activity must enhance the farming enterprises of the local agricultural community to which the land hosting that commercial activity relates.
3. The agricultural and commercial activities must occur together in the local community. ~~to satisfy the statute.~~
4. The products and services provided must be "essential to the practice of agriculture."
5. The special setback in subsection (A)(1) of this section shall not be applied in a manner that prohibits dwellings approved pursuant to ORS 195.300 to 195.336 nor should the special setback in subsection (A)(1) of this section prohibit a claimant's application for homesites under ORS 195.300 to 195.336.

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

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

17.137.070 **NON-FARM DWELLING REQUIREMENTS.** The following regulations shall apply to non-farm dwellings:

A. Special Setback.

1. Dwellings. A special dwelling setback of 200 feet from any abutting parcel in farm use or timber production is required.
2. Accessory buildings. A special setback of 100 feet is required for buildings accessory to a dwelling from any abutting parcel in farm use or timber production.
3. Adjustments. The special setbacks in subsections (A)(1) and (2) of this section may be reduced if it is determined, **concurrently with any land use application or as provided in Chapter 17.116 MCC**, that a lesser setback will **meet the following review criteria for alternative sites**: ~~prevent activities associated with the dwelling or accessory building from seriously interfering with farming or forest practices as provided in MCC 17.110.680.~~
 - a. **The site will have the least impact on nearby or adjoining forest or agricultural lands.**
 - b. **The site ensures that adverse impacts on forest operations and accepted farming practices on the tract will be minimized.**
 - c. **The amount of agricultural and forestlands used to site access roads, service corridors, the dwelling and structures is minimized.**
 - d. **The risks associated with wildfire are minimized.**
4. The special setback in subsection (A)(1) of this section shall not be applied in a manner that prohibits dwellings approved pursuant to ORS 195.300 to 195.336 nor should the special setback in subsection (A)(1) of this section prohibit a claimant's application for homesites under ORS 195.300 to 195.336.

B. Fire Hazard Reduction: As a condition of approval for any non-farm dwelling located closer than 200 feet to timber, the owner shall be required to provide continuing fire hazard management in accordance with Chapter 3 of "Fire Safety Consideration for Development in Forested Area", 1978, and any revisions thereto.

C. Prior to issuance of any residential building permit for an approved non-farm dwelling under MCC 17.137.050(A), evidence shall be provided that the county assessor has disqualified the lot or parcel for valuation at true cash value for farm or forest use; and that the additional tax or penalty has been imposed, if any is applicable, as provided by ORS 308A.113 or ORS 308A.724 or ORS 321.359(1)(b), ORS 321.842(1)(A) and 321.716. A parcel that has been disqualified under this section shall not requalify for special assessment unless, when combined with another contiguous parcel, it constitutes a qualifying parcel.

17.137.090 **MINIMUM PARCEL SIZE, DIVISIONS OF LAND, AND PROPERTY LINE ADJUSTMENTS.** The following regulations shall apply when property line adjustments and partitioning of land within the SA zone subject to the provisions of Chapter 17.172 MCC are proposed:

A. Minimum Parcel Size for Newly Created Parcels.

1. Farm Parcels: The minimum parcel size for any new parcel in the SA zone is 80 acres, except as provided in subsection (A)(2) of this section.
2. Non-farm Parcels: A new non-farm parcel created pursuant to subsection (B) of this section shall only be as large as necessary to accommodate the use and any buffer area needed to ensure compatibility with adjacent farm uses.

B. Requirements for Creation of New Non-farm Parcels:

1. A new non-farm parcel may be created for uses listed in MCC 17.137.040(C) and 17.137.050, except the residential uses in MCC 17.137.050(A) and (B).
2. The criteria in MCC 17.137.060 applicable to the use shall apply to the creation of the parcel.
3. A non-farm parcel shall not be approved before the non-farm use is approved.
4. A division of land for non-farm use shall not be approved unless any additional tax imposed for the change has been paid, or payment of any tax imposed is made a condition of approval.
5. If the land division is for the purpose of allowing a provider of public parks or open space, or a not-for-profit land conservation organization, to purchase at least one of the resulting parcels subject to the following criteria:
 - a. A parcel created by the land division that contains a dwelling is large enough to support continued residential use of the parcel.
 - b. A parcel created pursuant to this subsection that does not contain a dwelling:
 - i. Is not eligible for siting a dwelling, except as may be authorized under ORS 195.120;
 - ii. May not be considered in approving or denying an application for siting any other dwelling;
 - iii. May not be considered in approving a redesignation or rezoning of forestlands or farmlands except for a redesignation or rezoning to allow a public park, open space or other natural resource use; and
 - c. May not be smaller than 25 acres unless the purpose of the land division is:
 - i. To facilitate the creation of a wildlife or pedestrian corridor or the implementation of a wildlife habitat protection plan; or
 - ii. To allow a transaction in which at least one party is a public park or open space provider, or a not-for-profit land conservation organization, that has cumulative ownership of at least 2,000 acres of open space or park property.

6. A division of land smaller than the minimum lot or parcel size described in MCC 17.137.090(A) and (B) may be approved to establish a religious organization including cemeteries in conjunction with the religious organization if they meet the following requirements:
 - a. The religious organization has been approved under MCC 17.137.040(C);
 - b. The newly created lot or parcel is not larger than five acres; and
 - c. The remaining lot or parcel, not including the religious organization, meets the minimum lot or parcel size described in subsection (A) and (B) of this section either by itself or after it is consolidated with another lot or parcel.

C. Property Line Adjustments:

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

17.137.100
SA zone:

DEVELOPMENT REQUIREMENTS. The following standards apply to development in a

- 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 MCC 17.137.050, and a greater height is requested and approved as part of the conditional use permit.
- B. Minimum Setbacks. Except as required in MCC 17.137.070(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 20 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 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 Chapter 17.112 MCC).
- C. Declaratory Statement. For all dwellings, and other uses deemed appropriate, the property owner shall be required to sign and allow the entering the following declaratory statement into the chain of title for the lot(s) or parcel(s):

The property herein described is situated in or near a farm or forest zone or area in Marion County, Oregon, where the intent is to encourage, and minimize conflicts with, farm and forest use. Specifically, residents, property owners and visitors may be subjected to common, customary and accepted farm or forest management practices conducted in accordance with federal and state laws which that ordinarily and necessarily produce noise, dust, smoke and other impacts. The grantees grantors, including their heirs, assigns and lessees do hereby accept the potential impacts from farm and forest practices as normal and necessary and part of the risk of establishing a dwelling, structure or use in this area, and I/We acknowledge the need to avoid activities that conflict with nearby farm or forest uses and practices, grantors I/We will not pursue a claim for relief or course of action alleging injury from farming or forest practice for which no action is allowed under ORS 30.936 or 30.937.

17.137.110 PERMIT EXPIRATION DATES.

- A. Notwithstanding other provisions of this ordinance, a discretionary decision, except for a land division, approving a proposed development in the SA zone expires two years from the date of the final decision if the development action is not initiated **and all required conditions are met** in 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.
 - D. If a permit is approved for a proposed residential development in the SA zone, the permit shall be valid for four years. For the purposes of this subsection, "residential development" only includes the dwellings provided for under MCC 17.137.020(D), 17.137.030(D) and (E), and 17.137.050(A).
 - E. An extension of a permit consistent with subsection (D) of this section and with subsections (A)(1) through (4) of this section and where applicable criteria for the decision have not changed shall be valid for two years.

CHAPTER 17.138
TC (TIMBER CONSERVATION) ZONE

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

- A. Farm Uses (see farm use definition, MCC 17. 110.223).
- B. Buildings, other than dwellings, customarily provided in conjunction with farm or forest use.
- C. Forest operations or forest practices including, but not limited to, reforestation, road construction and maintenance, harvesting of a forest tree species, application of chemicals and disposal of slash pursuant to ORS 527 (Forest Practices Act).
- D. Temporary forest labor camp.
- E. Alteration, restoration, or replacement of a lawfully established dwelling with filing of the declaratory statement in MCC 17.138.060(B), when the dwelling:
 - 1. Has a “percentage good” rating of 40 percent or more in the current county assessor’s records.
 - 2. In the case of replacement, the replaced dwelling is removed, demolished or converted to an allowable nonresidential use within three months of the **final inspection or** occupancy of the replacement dwelling.
 - 3. In the case of replacement of a manufactured dwelling, the unit to be replaced is a manufactured home as defined in ORS 446.003 [manufactured after June 15, 1976].
 - 4. In the case of replacement, the replacement dwelling shall be situated in the same location as the existing dwelling.
- F. Temporary on-site structures which are auxiliary, as defined in MCC 17.138.120(A), to and used during the term of a particular forest operation pursuant to ORS 527.
- G. Physical alteration to the land auxiliary, as defined in MCC 17.138.120(A), to forest practices including, but not limited to, those made for purposes of exploration, mining, commercial gravel extraction and processing, landfills, dams, reservoirs, road construction or recreational facilities pursuant to ORS 527.
- H. Uses to conserve soil, air and water quality and to provide for wildlife and fisheries resources.
- I. Local distribution lines (e.g. electric, telephone, natural gas) and accessory equipment (e.g. electric distribution transformers, poles, meter cabinets, terminal boxes, pedestals), or equipment which provides service hookups, including water service hookups.
- J. Temporary portable facility for the primary processing of forest products.
- K. Exploration for mineral and aggregate resources as defined in ORS Chapter 517.
- L. Private hunting and fishing operations without any lodging accommodations.

- M. Towers and fire stations for forest fire protection.
- N. Widening of roads including public road and highway projects as follows:
 - 1. Climbing and passing lanes within the street right-of-way existing as of July 1, 1987.
 - 2. Reconstruction or modification of public streets, including the placement of utility facilities overhead and in the subsurface of public roads and highways along public right-of-way, but not including the addition of travel lanes, where no removal or displacement of buildings would occur, or no new parcels result.
 - 3. Temporary public street detours that will be abandoned and restored to original condition or use at such time as no longer needed.
 - 4. Minor betterment of existing public street related facilities such as maintenance yards, weigh stations and rest areas, within rights-of-way existing as of July 1, 1987, and contiguous public-owned property utilized to support the operation and maintenance of public streets.
- O. Water intake facilities, canals and distribution lines for farm irrigation and ponds.
- P. Caretaker dwelling for public park or public fish hatchery.
- Q. Uninhabitable structures accessory to fish and wildlife enhancement.
- R. Exploration for and production of geothermal, gas, oil, and other associated hydrocarbons, including the placement and operation of compressors, separators and other customary production equipment for an individual well adjacent to the well head.
- S. Destination resorts reviewed and approved pursuant to the destination resort siting requirements in ORS 197.435 to ORS 197.465 and State Land Use Goal 8.
- T. Disposal site for solid waste that has been ordered established by the Oregon Environmental Quality Commission under ORS 459.049, together with the equipment, facilities or buildings necessary for its operation.

17.138.030 DWELLINGS PERMITTED SUBJECT TO STANDARDS. The following dwellings may be established in the TC zone, subject to approval by the Director, based on satisfaction of the standards and criteria listed for each type of dwelling, pursuant to the procedures in ~~MCC 17.110.680~~ **Chapter 17.115 MCC.**

- A. Lot-of-Record Dwellings. A single family dwelling, subject to the special use and siting requirements in MCC 17.138.060, may be allowed on a lot or parcel provided:
 - 1. The lot or parcel on which the dwelling will be sited was lawfully created and was acquired and owned continuously by the present owner:
 - a. Since prior to January 1, 1985; or
 - b. By devise or by intestate succession from a person who acquired and had owned continuously the lot or parcel prior to January 1, 1985.

- c. "Owner", as the term is used in this section, includes the wife, husband; son, daughter, mother, father, brother, brother-in-law, sister, sister-in-law, son-in-law, daughter-in-law, mother-in-law, father-in-law, aunt, uncle, niece, nephew, stepparent, step child, grandparent or grandchild of the owner or a business entity owned by any one or combination of these family members.
 - 2. The tract on which the dwelling will be sited does not include a dwelling. "Tract" means all contiguous lands in the same ownership.
 - 3. The lot or parcel on which the dwelling will be sited was part of a tract on November 4, 1993, no dwelling exists on another lot or parcel that was part of that tract.
 - 4. The subject tract is composed of soils not capable of producing 5,000 cubic foot per year of commercial tree species. (See definitions in MCC 17.138.120(B) and (C).)
 - 5. The subject tract is located within 1,500 feet of a public road as defined under ORS 368.001 that provides or will provide access to the subject tract. The road shall be maintained and be either paved or surfaced with rock, and shall not be:
 - a. A United States Bureau of Land Management road; or
 - b. A United States Forest Service road unless the road is paved to a minimum width of 18 feet, there is at least one defined lane in each direction and a maintenance agreement exists between the United States Forest Service and landowners adjacent to the road, a local government or a state agency.
 - 6. The proposed dwelling is not prohibited by, and will comply with land use regulations and other provisions of law including MCC 17.110.830 through 17.110.836.
 - 7. The dwelling will be consistent with the density policy if located in the big game habitat area identified in the Comprehensive Plan.
 - 8. The remaining portions of the tract and the subject lot or parcel are consolidated into a single lot or parcel when the dwelling is allowed.
- B. Template Dwelling. A single family dwelling, subject to the special use and siting requirements in MCC 17.138.060, may be allowed on a lot or parcel provided:
- 1. The tract on which the dwelling will be sited does not include a dwelling. "Tract" means all contiguous lands in the same ownership. A tract shall not be considered to consist of less than the required acreage because it is crossed by a public road or waterway.
 - 2. No dwellings are allowed on other lots or parcels that make up the tract, and the other lots or parcels in the tract cannot be used to justify another forest dwelling. Evidence must be provided that covenants, conditions and restrictions have been recorded with the county clerk of the county or counties where the property is located for any other lot or parcel within the subject tract.
 - 3. The lot or parcel is:
 - a. Predominantly composed of soils that are capable of producing zero to 49 cubic feet per acre per year of wood fiber, and there are within a 160-acre square centered on the

center of the subject tract all or part of at least three other lots or parcels that existed on January 1, 1993, and all or part of at least three dwellings that existed on January 1, 1993, and continue to exist; or

- b. Predominantly composed of soils that are capable of producing 50 to 85 cubic feet per acre per year of wood fiber, and there are within a 160-acre square centered on the center of the subject tract all or part of at least seven other lots or parcels that existed on January 1, 1993, and all or part of at least three dwellings that existed on January 1, 1993, and continue to exist; or
- c. Predominantly composed of soils that are capable of producing more than 85 cubic feet per acre per year of wood fiber, and there are within a 160-acre square centered on the center of the subject tract all or part of at least eleven other lots or parcels that existed on January 1, 1993, and all or part of at least three dwellings that existed on January 1, 1993, and continue to exist; and
- d. If the tract is 60 acres or larger and abuts a road or perennial stream the measurements shall be made by using a 160-acre rectangle that is one mile long and one-fourth mile wide centered on the center of the subject tract and is to the maximum extent possible aligned with the road or stream; and

If a road crosses the tract on which the dwelling will be located, at least one of the required dwellings shall be on the same side of the road as the proposed dwelling and be located within the 160-acre rectangle or within one-quarter mile from the edge of the subject tract and not outside the length of the 160-acre rectangle; or

- e. If the tract abuts a road that existed on January 1, 1993, and subsection (B)(3)(d) of this section does not apply, the measurements may be made using a 160-acre rectangle that is one mile long and one-fourth mile wide centered on the center of the subject tract and is to the maximum extent possible aligned with the road.
 - f. Lots or parcels within an urban growth boundary cannot be used to satisfy the requirements in this subsection.
4. The proposed dwelling is not prohibited by and will comply with land use regulations and other provisions of law including MCC 17.110.830 through 17.110.836.
 5. The dwelling will be consistent with the density policy if located in the big game habitat area identified in the Comprehensive Plan.

C. Large Parcel Dwelling. A single family dwelling, subject to the special use and siting requirements in MCC 17.138.060 may be allowed provided:

1. The lot or parcel on which the dwelling will be located was created before January 1, 1994, or is a consolidated parcel comprised entirely of contiguous lots or parcels that were created before January 1, 1994.
2. The lot or parcel contains at least 160 acres in the TC zone.
3. The lot or parcel on which the dwelling will be sited does not include a dwelling.

4. The proposed dwelling is not prohibited by and will comply with land use regulations and other provisions of law including MCC 17.110.830 through 17.110.836.
5. The dwelling will be consistent with the density policy if located in the big game habitat area identified in the Comprehensive Plan.

D. Dwelling Alteration and Replacement. Alteration, restoration or replacement of a lawfully established dwelling with filing of the declaratory statement in MCC 17.138.060(B), other than as permitted in MCC 17.138.020(E), when the dwelling:

1. Has intact exterior walls and roof structure;
2. Has indoor plumbing consisting of a kitchen sink, toilet and bathing facilities connected to a sanitary waste disposal system;
3. Has interior wiring for interior lights;
4. Has a heating system; and
5. In the case of replacement, is removed, demolished or converted to an allowable nonresidential use within three months of the **final inspection or** occupancy of the replacement dwelling.
6. In the case of replacement, the replacement dwelling shall meet siting requirements set forth in MCC 17.138.060(A)(2) or (3).
- ~~7. For the case in which the applicant has requested a deferred replacement permit, the dwelling to be replaced shall be removed or demolished within three months after the deferred replacement permit is issued. A deferred replacement permit allows construction of the replacement dwelling at any time. If, however, the established dwelling is not removed or demolished within three months after the deferred replacement permit is issued, the permit becomes void. The replacement dwelling must comply with applicable building codes, plumbing codes, sanitation codes and other requirements relating to health and safety or to siting at the time of consideration. A deferred replacement permit may not be transferred, by sale or otherwise, except by the applicant to the spouse or a child of the applicant.~~

17.138.035 USES PERMITTED SUBJECT TO STANDARDS.

- A. Wildlife Habitat Conservation. A wildlife habitat conservation and management plan on a lot or parcel subject to the following:
1. The lot or parcel contains an existing legally established dwelling; or
 2. Approval for the dwelling is obtained under provisions contained in MCC 17.138.030(A), (B), or (C), **or (D).**
 3. The dwelling is situated on a legally created lot or parcel existing on November 4, 1993.
 4. The lot or parcel is not predominantly composed of soils rated Class I or II, when not irrigated, or rated Prime or Unique by the Natural Resources Conservation Service, or any combination of such soils.

17.138.060 **SPECIAL USE AND SITING REQUIREMENTS.** The following regulations apply to new and replacement dwellings, structures accessory to a dwelling, and may also be applied as a condition of approval for other uses in MCC 17.138.040.

A. Special Siting Requirements.

1. Dwellings and structures shall comply with the special requirements in subsection (A)(2) or (3) of this section. Compliance with the provisions in subsection (A)(2) and (B), (F) and (G) of this section satisfies the criteria in subsection (A)(3) of this section. Alternative sites that meet the criteria in subsection (A)(3) of this section may be approved **concurrently with any land use application or** as provided in **Chapter 17.116** MCC 17.110.680.
2. Siting standards for dwellings and other buildings.
 - a. Dwellings shall be at least 200 feet from any abutting parcel in farm use or timber production. Buildings other than a dwelling shall be located at least 100 feet from any abutting parcel in farm use or timber production.
 - b. The special setback in subsection (A)(2)(a) of this section shall not be applied in a manner that prohibits dwellings approved pursuant to ORS 195.300 to 195.336 nor should the special setback in subsection (A)(2)(a) of this section prohibit a claimant's application for homesites under ORS 195.300 to 195.336.
 - c. The dwelling or other building shall be located within 300 feet of the driveway entrance on an abutting public road; or, if the property does not abut a public road for a distance of at least 60 feet, the dwelling or other building shall be located within 300 feet of the point where the driveway enters the buildable portion of the property.
3. Review criteria for alternative sites. Sites for dwellings or buildings that do not meet the siting requirements in subsection (A)(2) of this section may be approved if the proposed site will meet the following criteria:
 - a. The site will have the least impact on nearby or adjoining forest or agricultural lands;
 - b. The site ensures that adverse impacts on forest operations and accepted farming practices on the tract will be minimized;
 - c. The amount of agricultural and forest lands used to site access roads, service corridors, the dwelling and structures is minimized; and
 - d. The risks associated with wildfire are minimized.

B. Declaratory Statement. For all dwellings, and other uses deemed appropriate, the property owner shall be required to sign and allow the entering the following declaratory statement into the chain of title for the lot(s) or parcel(s):

The property herein described is situated in or near a farm or forest zone or area in Marion County, Oregon, where the intent is to encourage, and minimize conflicts with farm and forest use. Specifically, residents, property owners and visitors may be subjected to common, customary and accepted farm or forest management practices conducted in accordance with federal and state laws which that ordinarily and necessarily produce noise, dust, smoke and other impacts. The grantees grantors, including their heirs, assigns and lessees do hereby accept the potential impacts from farm

and forest practices as normal and necessary and part of the risk of establishing a dwelling, structure or use in this area, and ~~I/We~~ acknowledge the need to avoid activities that conflict with nearby farm or forest uses and practices, grantors I/We will not pursue a claim for relief or course of action alleging injury from farming or forest practice for which no action is allowed under ORS 30.936 or 30.937.

C. Domestic Water Supply.

1. The applicant shall provide evidence that the domestic water supply is from a source authorized in accordance with the Water Resources Department's administrative rules for the appropriation of ground water or surface water and not from a Class II stream as defined in the Forest Practices Rules (OAR Chapter 629).
2. Evidence of a domestic water supply means verification from a water purveyor that the use described in the application will be served by the purveyor under the purveyor's rights to appropriate water; or a water use permit issued by the Water Resources Department for the use described in the application; or verification from the Water Resources Department that a water use permit is not required for the use.
3. If the proposed water supply is from a well and is exempt from permitting requirements under ORS 537.545, the applicant shall submit the well constructor's report upon completion of the well.

D. Road Access. As a condition of approval, if road access to the dwelling is by a road owned and maintained by a private party or by the Oregon Department of Forestry, the Bureau of Land Management, or the U.S. Forest Service then the applicant shall provide proof of a long-term road access use permit or agreement. The road use permit may require the applicant to agree to accept responsibility for road maintenance.

E. Tree Planting.

1. Prior to issuance of a building or siting permit for the dwelling on a tract of more than 10 acres in size, the landowner shall plant a sufficient number of trees on the tract to demonstrate that the tract is reasonably expected to meet Department of Forestry stocking requirements at the time specified in Department of Forestry administrative rules.
2. At the time required by the Department of Forestry rules the owner shall submit a stocking survey report to the county assessor and the assessor shall verify that the minimum stocking requirements have been met.

F. Fire Protection.

1. The dwelling shall be located upon a parcel within a fire protection district or shall be provided with residential fire protection by contract. If the dwelling is not within a fire protection district, the applicant shall provide evidence that the applicant has asked to be included within the nearest such district.
2. If inclusion within a fire protection district or contracting for residential fire protection is impracticable, an alternative means for protecting the dwelling from fire hazards may be approved pursuant to the procedures set forth in MCC ~~17.110.680~~ 17.115, subject to the requirements of subsection (F)(3) of this section.

3. Alternative means of fire protection may include a fire sprinkling system, onsite equipment and water storage or other methods that are reasonable, given the site conditions.
 - a. If a water supply is required for fire protection, it shall be a swimming pool, pond, lake, or similar body of water that at all times contains at least 4,000 gallons or a stream that has a continuous year round flow of at least one cubic foot per second. The applicant shall provide verification from the Water Resources Department that any permits or registrations required for water diversion or storage have been obtained or that permits or registrations are not required for the use.
 - b. Road access shall be provided to within 15 feet of the water's edge for fire-fighting pumping units. The road access shall accommodate the turnaround of fire fighting equipment during the fire season. Permanent signs shall be posed along the access route to indicate the location of the emergency water source.

G. Fire Hazard Reduction.

1. The owners of a dwelling, or structure occupying more than 200 square feet, shall maintain a primary fuel-free break area on land surrounding the dwelling that is owned or controlled by the owner in accordance with the provision in "Recommended Fire Siting Standards for Dwellings and Structures and Fire Safety Design Standards for Roads" dated March 1, 1991 and published by the Oregon Department of Forestry.
2. The dwelling shall have a fire retardant roof.
3. The dwelling shall not be sited on a slope of greater than 40 percent.
4. If the dwelling has a chimney or chimneys, each chimney shall have a spark arrester.

H. Road and Drainage standards.

1. Public road access to structures of more than 200 square feet in area or a dwelling shall comply with ~~Section 4 of the Marion County Department of Public Works Engineering Standards adopted by the Board of County Commissioners April 11, 1990~~ **applicable at the time the application was filed.**
2. Except for private roads and bridges accessing only commercial forest uses, private road or driveway access to structures of more than 200 square feet in area or a dwelling shall meet the requirements of the local fire protection district or forest protection district except that the county maximum grade standard for a private road is 15 percent. A greater grade may be approved by the Fire District or, if the site is not in a fire district, by the State Department of Forestry.
3. Drainage standards for private roadways shall ~~be those in Section 5 of~~ **comply** with the **Marion County Department of Public Works Engineering Standards** except that corrugated metal culverts of equivalent size and strength may be used.

17.138.110 **PERMIT EXPIRATION DATES.**

- A. Notwithstanding other provisions of this ordinance, a discretionary decision, except for a land division, approving a proposed development in the TC zone expires two years from the date of the final decision if the development action is not initiated **and all required conditions are met** in 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.
- D. If a permit is approved for a proposed residential development in the TC zone, the permit shall be valid for four years. For the purposes of this subsection, "residential development" only includes the dwellings provided for under MCC 17.138.020(E) and 17.138.030.
- E. An extension of a permit consistent with subsection (D) of this section and with subsections (A)(1) through (4) of this section and where applicable criteria for the decision have not changed shall be valid for two years.

CHAPTER 17.139
FT (FARM/TIMBER) ZONE

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

- A. Farm uses (see farm use definition, MCC 17.110.223).
- B. Buildings, other than dwellings, customarily provided in conjunction with farm use.
- C. Forest operations or forest practices including, but not limited to, reforestation, road construction and maintenance, harvesting of a forest tree species, application of chemicals and disposal of slash pursuant to ORS 527 (Forest Practices Act).
- D. Temporary forest labor camp.
- E. Alteration, restoration, or replacement of a lawfully established dwelling with filing of the declaratory statement in MCC 17.139.070(B), when the dwelling:
 - 1. Has a "percentage good" rating of 40 percent or more in the current county assessor's records.
 - 2. In the case of replacement, the replaced dwelling is removed, demolished or converted to an allowable nonresidential use within three months of the **final inspection or** occupancy of the replacement dwelling;
 - 3. In the case of replacement of a manufactured dwelling, the unit to be replaced is a manufactured home as defined in ORS 446.003 [manufactured after June 15, 1976].
 - 4. If the lot or parcel was predominantly devoted to farm use on January 1, 1993, and the dwelling to be replaced is located on a portion of the lot or parcel not zoned FT or EFU the applicant shall execute and record in the deed records a deed restriction prohibiting the siting of a dwelling on that portion of the lot or parcel. The restriction imposed shall be irrevocable unless a statement of release is placed in the deed records for the county. The release shall be signed by the county or its designee and state that the provisions of this section regarding replacement dwellings have changed to allow the siting of another dwelling.
 - 5. If the lot or parcel was predominantly devoted to forest use on January 1, 1993, the replacement dwelling shall be situated in the same location as the existing dwelling.
- F. Temporary on-site structures auxiliary, as defined in MCC 17.139.130(A), to and used during the term of a particular forest operation pursuant to ORS 527.
- G. Physical alteration to the land auxiliary, as defined in MCC 17.139.130(A), to forest practices including, but not limited to, those made for purposes of exploration, mining, commercial gravel extraction and processing, landfills, dams, reservoirs, road construction or recreational facilities pursuant to ORS 527.
- H. Uses to conserve soil, air and water quality and to provide for wildlife and fisheries resources, including creation, restoration, or enhancement of wetlands.

- I. Local distribution lines (e.g. electric, telephone, natural gas) and accessory equipment (e.g. electric distribution transformers, poles, meter cabinets, terminal boxes, pedestals), or equipment which provides service hookups, including water service hookups.
- J. Exploration for mineral and aggregate resources as defined in ORS Chapter 517.
- K. Private hunting and fishing operations without any lodging accommodations.
- L. Towers and fire stations for forest fire protection.
- M. Widening of roads including public road and highway projects as follows:
 - 1. Climbing and passing lanes within the street right-of-way existing as of July 1, 1987.
 - 2. Reconstruction or modification of public streets, including the placement of utility facilities overhead and in the subsurface of public roads and highways along public right of way, but not including the addition of travel lanes, where no removal or displacement of buildings would occur, or no new parcels result.
 - 3. Temporary public street detours that will be abandoned and restored to original condition or use at such time as no longer needed.
 - 4. Minor betterment of existing public street related facilities such as maintenance yards, weigh stations and rest areas, within rights-of-way existing as of July 1, 1987, and contiguous public-owned property utilized to support the operation and maintenance of public streets.
- N. Water intake facilities, canals and distribution lines for farm irrigation and ponds.
- O. Caretaker residences for public park or public fish hatchery.
- P. Uninhabitable structures accessory to fish and wildlife enhancement.
- Q. Exploration for and production of geothermal, gas, oil, and other associated hydrocarbons, including the placement and operation of compressors, separators and other customary production equipment for an individual well adjacent to the well head.
- R. On-site filming and activities accessory to filming, as defined in MCC 17.139.130(B), if the activity would involve no more than 45 days on any site within a one-year period.

17.139.030 DWELLINGS PERMITTED SUBJECT TO STANDARDS. The following dwellings may be established in the FT zone, with filing of the declaratory statement in MCC 17.139.070(B), subject to approval by the director, based on satisfaction of the standards and criteria listed for each type of dwelling, pursuant to the procedures in ~~MCC 17.110.680~~ **Chapter 17.115 MCC**. Subsections (A) through (D) of this section provide criteria for siting a dwelling based on the predominant use of the tract on January 1, 1993, for forest land. Subsections (E) through (I) of this section list criteria for siting a dwelling based on the predominant use of the tract on January 1, 1993, for farm use.

- A. Lot-of-Record Dwellings. A single-family dwelling, subject to the special use and siting requirements in MCC 17.139.070, may be allowed on a lot or parcel predominantly devoted to forest use on January 1, 1993, provided:

1. The lot or parcel on which the dwelling will be sited was lawfully created and was acquired and owned continuously by the present owner:
 - A. Since prior to January 1, 1985; or
 - B. By devise or by intestate succession from a person who acquired and had owned continuously the lot or parcel prior to January 1, 1985.
 - C. "Owner", as the term is used in this section only, includes the wife, husband, son, daughter, mother, father, brother, brother-in-law, sister, sister-in-law, son-in-law, daughter-in-law, mother-in-law, father-in-law, aunt, uncle, niece, nephew, stepparent, stepchild, grandparent, or grandchild of the owner or business entity owned by any one or combination of these family members.
2. The tract on which the dwelling will be sited does not include a dwelling. "Tract" means all contiguous lands in the same ownership.
3. The lot or parcel on which the dwelling will be sited was part of a tract on November 4, 1993, no dwelling exists on another lot or parcel that was part of that tract.
4. The subject tract is composed of soils not capable of producing 5,000 cubic feet per year of commercial tree species. (See definitions in MCC 17.139.130(H) and (I).)
5. The subject tract is located within 1,500 feet of a public road as defined under ORS 368.001 that provides or will provide access to the subject tract. The road shall be maintained and be either paved or surfaced with rock, and shall not be:
 - A. A United States Bureau of Land Management road; or
 - B. A United States Forest Service road unless the road is paved to a minimum width of 18 feet, there is at least one defined lane in each direction and a maintenance agreement exists between the United States Forest Service and landowners adjacent to the road, a local government or a state agency.
6. The proposed dwelling is not prohibited by, and will comply with land use regulations and other provisions of law including MCC 17.110.830 through 17.110.836.
7. The dwelling will be consistent with the density policy if located in the big game habitat area identified in the Comprehensive Plan.
8. The remaining portions of the tract and the subject lot or parcel are consolidated into a single lot or parcel when the dwelling is allowed.

B. Template Dwellings. A single-family dwelling, subject to the special use and siting requirements in MCC 17.139.070, may be allowed on a lot or parcel predominantly devoted to forest use on January 1, 1993, provided:

1. The tract on which the dwelling will be sited does not include a dwelling. "Tract" means all contiguous lands in the same ownership. A tract shall not be considered to consist of less than the required acreage because it is crossed by a public road or waterway.

2. No dwellings are allowed on other lots or parcels that make up the tract, and the other lots or parcels in the tract cannot be used to justify another forest dwelling. Evidence must be provided that covenants, conditions and restrictions have been recorded with the county clerk of the county or counties where the property is located for any other lot or parcel within the subject tract.
3. The lot or parcel is:
 - a. Predominantly composed of soils that are capable of producing zero to 49 cubic feet per acre per year of wood fiber, and there are within a 160-acre square centered on the center of the subject tract all or part of at least three other lots or parcels that existed on January 1, 1993, and all or part of at least three dwellings that existed on January 1, 1993 and continue to exist; or
 - b. Predominantly composed of soils that are capable of producing 50 to 85 cubic feet per acre per year of wood fiber, and there are within a 160-acre square centered on the center of the subject tract all or part of at least seven other lots or parcels that existed on January 1, 1993, and all or part of at least three dwellings that existed on January 1, 1993 and continue to exist; or
 - c. Predominantly composed of soils that are capable of producing more than 85 cubic feet per acre per year of wood fiber, and there are within a 160-acre square centered on the center of the subject tract all or part of at least eleven other lots or parcels that existed on January 1, 1993, and all or part of at least three dwellings that existed on January 1, 1993 and continue to exist; and
 - d. If the tract is 60 acres or larger and abuts a road or perennial stream the measurements shall be made by using a 160-acre rectangle that is one mile long and one-fourth mile wide centered on the center of the subject tract and is to the maximum extent possible aligned with the road or stream; and

If a road crosses the tract on which the dwelling will be located, at least one of the required dwellings shall be on the same side of the road as the proposed dwelling and be located within the 160-acre rectangle or within one-quarter mile from the edge of the subject tract and not outside the length of the 160-acre rectangle; or
 - e. If the tract abuts a road that existed on January 1, 1993 and subsection (D) of this section does not apply, the measurements may be made using a 160-acre rectangle that is one mile long and one-fourth mile wide centered on the center of the subject tract and is to the maximum extent possible aligned with the road.
 - f. Lots or parcels within an urban growth boundary cannot be used to satisfy the requirements in this subsection.
4. The proposed dwelling is not prohibited by and will comply with land use regulations and other provisions of law including MCC 17.110.830 through 17.110.836.
5. The dwelling will be consistent with the density policy if located in the big game habitat area identified in the Comprehensive Plan.

C. Large Parcel Dwellings. A single-family dwelling, subject to the special use and siting requirements in MCC 17.139.070, may be allowed on a lot or parcel predominantly devoted to forest use on January 1, 1993, provided:

1. The lot or parcel on which the dwelling will be located was created before January 1, 1994, or is a consolidated parcel comprised entirely of contiguous lots or parcels that were created before January 1, 1994.
2. The lot or parcel contains at least 160 acres in the FT or TC zone, or a combination of these zones.
3. The tract on which the dwelling will be sited does not include a dwelling.
4. The proposed dwelling is not prohibited by and will comply with land use regulations and other provisions of law including MCC 17.110.830 through 110.836.
5. The dwelling will be consistent with the density policy if located in the big game habitat area identified in the Comprehensive Plan.

D. Dwelling Alteration and Replacement. Alteration, restoration or replacement of a lawfully established dwelling with filing of the declaratory statement in MCC 17.139.070(B), other than as permitted in MCC 17.139.020(E), when the dwelling:

1. Has intact exterior walls and roof structure;
2. Has indoor plumbing consisting of a kitchen sink, toilet and bathing facilities connected to a sanitary waste disposal system;
3. Has interior wiring for interior lights;
4. Has a heating system; and
5. In the case of replacement, is removed, demolished or converted to an allowable nonresidential use within three months of the occupancy of the replacement dwelling.
6. In the case of replacement, the replacement dwelling shall meet siting requirements set forth in MCC 17.139.070(A)(2) or (A)(3).

E. Primary Farm Dwellings. A single-family dwelling, subject to the special use and siting requirements in MCC 17.139.070, customarily provided in conjunction with farm use. The dwelling will be considered customarily provided in conjunction with farm use when:

1. It is located on high-value farmland, as defined in MCC 17.139.130(E) on a lot or parcel predominantly devoted to farm use on January 1, 1993, and satisfies the following standards:
 - a. There is no other dwelling on the subject farm operation on lands zoned EFU, SA or FT other than seasonal farm worker housing. The term "farm operation" means all lots or parcels of land in the same ownership that are used by the farm operator for farm use.
 - b. The subject tract produced in the last two years or three of the last five years at least \$80,000 in gross annual income from the sale of farm products. The cost of purchased

livestock shall be deducted from the total gross income attributed to the tract. Only gross income from land owned, not leased or rented shall be counted.

- c. The subject tract is currently employed for the farm use that produced the income required in subsection (E)(1)(b) of this section.
 - d. The dwelling will be occupied by a person or persons who produced the commodities which generated the income in subsection (E)(1)(b) of this section; or
2. It is not located on high-value farmland, as defined in MCC 17.139.130(E) on a lot or parcel predominantly devoted to farm use on January 1, 1993, and satisfies the following standards:
- a. There is no other dwelling on the subject farm operation on lands zoned EFU, SA or FT other than seasonal farm worker housing. The term "farm operation" means all lots or parcels of land in the same ownership that are used by the farm operator for farm use.
 - b. The subject tract produced at least \$40,000 in gross annual income from the sale of farm products in the last two years or three of the last five years. In determining gross income, the cost of purchased livestock shall be deducted from the total gross income attributed to the tract. Only gross income from land owned, not leased or rented shall be counted.
 - c. The subject tract is currently employed for the farm use that produced the income required in subsection (E)(1)(b) of this section.
 - d. The dwelling will be occupied by a person or persons who produced the commodities which generated the income required in subsection (E)(1)(b) of this section; or
3. It is not located on high-value farmland, as defined in MCC 17.139.130(E) on a lot or parcel predominantly devoted to farm use on January 1, 1993, and satisfies the following standards:
- a. There is no other dwelling on the subject farm operation on lands zoned EFU, SA or FT other than seasonal farm worker housing. The term "farm operation" means all lots or parcels of land in the same ownership that are used by the farm operator for farm use.
 - b. The parcel on which the dwelling will be located is at least 160 acres.
 - c. The subject tract is currently employed for farm use, as defined in ORS 215.203.
 - d. The dwelling will be occupied by a person or persons who will be principally engaged in the farm use of the land, such as planting, harvesting, marketing, or caring for livestock, at a commercial scale.
4. It is in conjunction with a commercial dairy farm as defined in this chapter and if:
- a. The subject tract will be employed as a commercial dairy as defined; and
 - b. The dwelling is sited on the same lot or parcel as the buildings required by the commercial dairy; and

- c. Except as permitted by ORS 215.283 (1)(p) (1999 Edition), (Seasonal Farmworker Housing), there is no other dwelling on the subject tract; and
 - d. The dwelling will be occupied by a person or persons who will be principally engaged in the operation of the commercial dairy farm, such as the feeding, milking or pasturing of the dairy animals or other farm activities necessary to the operation of the commercial dairy farm; and
 - e. The building permits, if required, have been issued for and construction has begun for the buildings and animal waste facilities required for a commercial dairy farm; and
 - f. The Oregon Department of Agriculture has approved the following:
 - i. A permit for a "confined animal feeding operation" under ORS 468B.050 and ORS 468B.200 to 468B.230; and
 - ii. A producer license for the sale of dairy products under ORS 621.072.
5. The applicant had previously operated a commercial farm use and if:
- a. Within the previous two years, the applicant owned and operated a farm or ranch operation that earned the gross farm income in the last five years or four of the last seven years as required by MCC 17.139.030(E)(1) or (2), whichever is applicable;
 - b. The subject lot or parcel on which the dwelling will be located is:
 - i. Currently employed for the farm use, as defined in this title, that produced in the last two years or three of the last five years the gross farm income required by MCC 17.139.030(E)(1) or (2), whichever is applicable; and
 - ii. At least the size of the applicable minimum lot size in this title; and
 - iii. Except as permitted in ORS 215.283(1)(p)(1999 Edition) (Seasonal Farmworker Housing), there is no other dwelling on the subject tract; and
 - iv. The dwelling will be occupied by a person or persons who produced the commodities which grossed the income in subsection (E)(5)(a) of this section;
 - v. In determining the gross income required by subsections (E)(5)(a) and (E)(5)(b)(i) of this section, the cost of purchased livestock shall be deducted from the total gross income attributed to the tract, and only gross income from land owned, not leased or rented, shall be counted.
6. All of the property in a tract used for the purposes of establishing a farm dwelling shall be held, sold and conveyed subject to the following covenants, conditions and restrictions:

It is not lawful to use the property described in this instrument for the construction or siting of a dwelling or to use the acreage of the tract to qualify another tract for the construction or siting of a dwelling.

These covenants, conditions, and restrictions can be removed only and at such time as the property described herein is no longer protected under the statewide planning goals for agricultural and forest lands or the legislature otherwise provides by statute that these covenants, conditions and restrictions may be removed and the authorized representative of the county or counties in which the property subject to these covenants, conditions and restrictions are located executes and records a release of the covenants, conditions and restrictions, consistent with OAR 660-006-0027.

F. Secondary Farm Dwellings. Secondary (accessory) dwellings, subject to the special use and siting requirements in MCC 17.139.070, customarily provided in conjunction with farm use, on a lot or parcel predominantly devoted to farm use on January 1, 1993, when:

1. The primary dwelling and the proposed dwelling will each be occupied by a person or persons who will be principally engaged in the farm use of the land and whose seasonal or year-around assistance in the management of the farm use, such as planting, harvesting, marketing or caring for livestock, is or will be required by the farm operator.
2. There is no other dwelling on lands in the FT, SA or EFU zones owned by the farm operator that is vacant or currently occupied by persons not working on the subject farm and could reasonably be used as an additional farm dwelling.
3. The proposed dwelling will be located:
 - a. On the same lot or parcel as the primary farm dwelling; or
 - b. On the same contiguous ownership as the primary dwelling, and the lot or parcel on which the proposed dwelling will be sited is consolidated into a single parcel with all other contiguous lots and parcels in the same ownership; or
 - c. On a lot or parcel on which the primary farm dwelling is not located, when the secondary farm dwelling is limited to only a manufactured dwelling with a deed restriction is filed with the county clerk. The deed restriction shall require the additional dwelling to be removed when the lot or parcel is conveyed to another party. Occupancy of the additional farm dwelling shall continually comply with subsection (F)(1) of this section; or
 - d. On a lot or parcel on which the primary farm dwelling is not located, when the accessory farm dwelling is limited to only attached multi-unit residential structures allowed by the applicable state building code or similar types of farm labor housing as existing farm labor housing on the farm operation registered with the Department of Consumer and Business Services, Oregon Occupational Safety and Health Division under ORS 658.750. The county shall require all accessory farm dwellings approved under this subsection to be removed, demolished or converted to a nonresidential use when farm worker housing is no longer required; or
 - e. On a lot or parcel on which the primary farm dwelling is not located, when the accessory farm dwelling is located on a lot or parcel at least the size of the applicable minimum lot size and the lot or parcel complies with the gross farm income requirements in subsection (F)(4) of this section, whichever is applicable.

4. The primary dwelling to which the proposed dwelling would be accessory satisfies the following criteria:
 - a. On land not identified as high-value farmland, the primary farm dwelling is located on land that is currently employed for farm use and produced at least \$40,000 in gross annual income from the sale of farm products in the last two years or three of the last five years; or
 - b. On land identified as high-value farmland, the primary farm dwelling is located on land that is currently employed for farm use and produced at least \$80,000 in gross annual income from the sale of farm products in the last two years or three of the last five years; or
 - c. The primary dwelling is located on a commercial dairy farm as defined in MCC 17.139.130(C); and
 - i. The building permits, if required, have been issued and construction has begun or been completed for the buildings and animal waste facilities required for a commercial dairy farm; and
 - ii. The Oregon Department of Agriculture has approved a permit for a confined animal feeding operation under ORS 468B.050 and ORS 468B.200 to 468B.230; and
 - iii. The Oregon Department of Agriculture has approved a producer license for the sale of dairy products under ORS 621.072.
 - d. In determining the gross income in subsections (F)(4)(a) and (b) of this subsection, the cost of purchased livestock shall be deducted from the total gross income attributed to the tract.
5. The dwelling will be consistent with the Fish and Wildlife Habitat policies of the Comprehensive Plan if located in a designated big game habitat area.
6. Secondary farm dwellings shall be a manufactured home, or other type of attached multi-unit residential structure allowed by the applicable State Building Code, and a deed restriction (removal agreement) is filed with the county clerk requiring the removal of the manufactured home, or removal, demolition or conversion to a non-residential use, if other residential structures are used, when the occupancy or use no longer complies with the criteria or standards under which the manufactured home was originally approved.

G. A secondary single-family dwelling on real property used for farm use since at least January 1, 1993, subject to the special use and siting requirements in MCC 17.39.070, and subject to the following standards:

1. A dwelling on property used for farm use located on the same lot or parcel as the dwelling of the farm operator, and occupied by a relative of the farm operator or farm operator's spouse, which means grandparent, step-grandparent, grandchild, parent, stepparent, child, brother, sister, stepsibling, niece, nephew or first cousin of either, if the farm operator does or will require the assistance of the relative in the management of the farm use.

2. The farm operator shall continue to play the predominant role in management and farm use of the farm. A farm operator is a person who operates a farm, doing the work and making the day-to-day decisions about such things as planting, harvesting, feeding, and marketing.
3. A deed restriction is filed with the county clerk requiring removal of the dwelling when the occupancy or use no longer complies with the criteria or standards under which the dwelling was originally approved.
4. For purposes of this subsection, a commercial farm operation is one that meets the income requirements for a primary farm dwelling identified in MCC 17.139.030(E)(1)(b), and the parcel where the dwelling is proposed contains a minimum of 80 acres.
5. All of the property in a tract used for the purposes of establishing a farm dwelling shall be held, sold and conveyed subject to the following covenants, conditions and restrictions:

It is not lawful to use the property described in this instrument for the construction or siting of a dwelling or to use the acreage of the tract to qualify another tract for the construction or siting of a dwelling.

These covenants, conditions, and restrictions can be removed only and at such time as the property described herein is no longer protected under the statewide planning goals for agricultural and forest lands or the legislature otherwise provides by statute that these covenants, conditions and restrictions may be removed and the authorized representative of the county or counties in which the property subject to these covenants, conditions and restrictions are located executes and records a release of the covenants, conditions and restrictions, consistent with OAR 660-006-0027.

H. Lot-of-record Dwellings. A lot-of-record dwelling on a lot or parcel predominantly devoted to farm use on January 1, 1993, subject to the special use and siting requirements in MCC 17.139.070, and subject to the following standards and criteria:

1. The lot or parcel on which the dwelling will be sited was lawfully created and acquired and owned continuously by the present owner:
 - a. Since prior to January 1, 1985; or
 - b. By devise or intestate succession from a person who acquired and had owned continuously the lot or parcel since prior to January 1, 1985.
 - c. "Owner", as the term is used in this section only, includes the wife, husband, son, daughter, mother, father, brother, brother-in-law, sister, sister-in-law, son-in-law, daughter-in-law, mother-in-law, father-in-law, aunt, uncle, niece, nephew, stepparent, stepchild, grandparent, or grandchild of the owner or business entity owned by any one or combination of these family members.
2. The tract on which the dwelling will be sited does not include a dwelling; and
3. The lot or parcel on which the dwelling will be sited was part of a tract on November 4, 1993, no dwelling exists on another lot or parcel that was part of that tract; and

4. When the lot or parcel on which the dwelling will be sited is part of a tract, the remaining portions of the tract are consolidated into a single lot or parcel when the dwelling is allowed; and
5. The request is not prohibited by, and complies with, the Comprehensive Plan and other provisions of this ordinance, including but not limited to floodplain, greenway, and big game habitat area restrictions; and
6. The proposed dwelling will not:
 - a. Exceed the facilities and service capabilities of the area.
 - b. Create conditions or circumstances contrary to the purpose of the FT zone.
7. A lot-of-record dwelling approval may be transferred one time only by a person who has qualified under this section to any other person after the effective date of the land-use decision; and
8. The county assessor shall be notified that the county intends to allow the dwelling; and
9. The lot or parcel on which the dwelling will be sited is not high-value farmland as defined in MCC 17.139.130(E); or
10. The lot or parcel on which the dwelling will be sited is high-value farmland as defined in MCC 17.139.130(E)(2) or (3) and:
 - a. Is 21 acres or less in size; and
 - b. The tract on which the dwelling is to be sited is not a flag lot and is:
 - i. Bordered on at least 67 percent of its perimeter by tracts that are smaller than 21 acres, and at least two such tracts had dwellings on them on January 1, 1993; or
 - ii. Bordered on at least 25 percent of its perimeter by tracts that are smaller than 21 acres, and at least four dwellings existed on January 1, 1993, within one-quarter mile of the center of the subject tract. No more than two of the four dwellings may be within an urban growth boundary; or
 - c. The tract on which the dwelling is to be sited is a flag lot and is:
 - i. The tract is a flag lot and is bordered on at least 25 percent of its perimeter by tracts that are smaller than 21 acres, and at least four dwellings existed on January 1, 1993, within one-quarter mile of the center of the subject tract and on the same side of the public road that provides access to the subject tract. The board, or its designee, must interpret the center of the subject tract as the geographic center of the flaglot if the applicant makes a written request for that interpretation and that interpretation does not cause the center to be located outside the flaglot. Up to two of the four dwellings may lie within an urban growth boundary, but only if the subject tract abuts an urban growth boundary;

- ii. "Flag lot" means a tract containing a narrow strip or panhandle of land providing access from the public road to the rest of the tract.
 - iii. "Geographic center of the flaglot" means the point of intersection of two perpendicular lines of which the first line crosses the midpoint of the longest side of a flaglot, at a 90-degree angle to the side, and the second line crosses the midpoint of the longest adjacent side of the flag lot.
11. The lot or parcel on which the dwelling is to be sited is high-value farmland as defined in MCC 17.139.130(E)(1) and:
- a. The hearings officer determines that:
 - i. The lot or parcel cannot practicably be managed for farm use, by itself or in conjunction with other land, due to extraordinary circumstances inherent in the land or its physical setting that do not apply generally to other land in the vicinity. For the purposes of this section, this criterion asks whether the subject lot or parcel can be physically put to farm use without undue hardship or difficulty because of extraordinary circumstances inherent in the land or its physical setting. Neither size alone nor a parcel's limited economic potential demonstrate that a lot or parcel cannot be practicably managed for farm use. Examples of extraordinary circumstances inherent in the land or its physical setting include very steep slopes, deep ravines, rivers, streams, roads, railroad or utility lines or other similar natural or physical barriers that by themselves or in combination separate the subject lot or parcel from adjacent agricultural land and prevent it from being practicably managed for farm use by itself or together with adjacent or nearby farms. A lot or parcel that has been put to farm use despite the proximity of a natural barrier or since the placement of a physical barrier shall be presumed manageable for farm use; and
 - ii. The use will not force a significant change in or significantly increase the cost of farm or forest practices on surrounding lands devoted to farm or forest use; and
 - iii. The dwelling will not materially alter the stability of the overall land use pattern in the area. To address this standard, the following information shall be provided:
 - (A) Identify a study area for the cumulative impacts analysis. The study area shall include at least 2000 acres or a smaller area not less than 1000 acres, if the smaller area is a distinct agricultural area based on topography, soil types, land use pattern, or the type of farm operations or practices that distinguish it from other, adjacent agricultural areas. Findings shall describe the study area, its boundaries, the location of the subject parcel within this area, why the selected area is representative of the land use pattern surrounding the subject parcel and is adequate to conduct the analysis required by this standard. Lands zoned for rural residential or other urban or non-resource uses shall not be included in the study area;

- (B) Identify within the study area the broad types of farm uses (irrigated or non-irrigated crops, pasture or grazing lands), the number, location and type of existing dwellings (farm, non-farm, hardship, etc.), and the dwelling development trends since 1993. Determine the potential number of non-farm/lot-of-record dwellings that could be approved under subsection (H) of this section and MCC 17.139.050(A), including identification of predominant soil classifications and parcels created prior to January 1, 1993. The findings shall describe the existing land use pattern of the study area including the distribution and arrangement of existing uses and the land use pattern that could result from approval of the possible non-farm dwellings under this provision;
- (C) Determine whether approval of the proposed non-farm/lot-of-record dwellings together with existing non-farm dwellings will materially alter the stability of the land use pattern in the area. The stability of the land use pattern will be materially altered if the cumulative effect of existing and potential non-farm dwellings will make it more difficult for the existing types of farms in the area to continue operation due to diminished opportunities to expand, purchase, lease farmland, acquire water rights or diminish the number of tracts or acreage in farm use in a manner that will destabilize the overall character of the study area.

b. The county shall provide notice of the application for a dwelling allowed under this subsection to the Oregon Department of Agriculture.

I. Dwelling Alteration and Replacement. Alteration, restoration or replacement of a lawfully established dwelling with filing of the declaratory statement in MCC 17.139.070(B), other than as permitted in MCC 17.139.020(E), when the dwelling:

1. Has intact exterior walls and roof structure.
2. Has indoor plumbing consisting of a kitchen sink, toilet and bathing facilities connected to a sanitary waste disposal system.
3. Has interior wiring for interior lights.
4. Has a heating system.
5. In the case of replacement, is removed, demolished or converted to an allowable nonresidential use within three months of the **final inspection or** occupancy of the replacement dwelling.
6. For the case in which the applicant has requested a deferred replacement permit, the dwelling to be replaced shall be removed or demolished within three months after the deferred replacement permit is issued. A deferred replacement permit allows construction of the replacement dwelling at any time. If, however, the established dwelling is not removed or demolished within three months after the deferred replacement permit is issued, the permit becomes void. The replacement dwelling must comply with applicable building codes, plumbing codes, sanitation codes and other requirements relating to health and safety or to siting at the time of consideration. A deferred replacement permit may not be transferred, by sale or otherwise, except by the applicant to the spouse or a child of the applicant.

7. If the dwelling to be replaced is located on a portion of the lot or parcel not zoned FT, SA or EFU, the applicant shall execute and record in the deed records a deed restriction prohibiting the siting of a dwelling on that portion of the lot or parcel. The restriction imposed shall be irrevocable unless a statement of release is placed in the deed records for the county. The release shall be signed by the county or its designee and state that the provisions of this section regarding replacement dwellings have changed to allow the siting of another dwelling.

17.139.40 **USES PERMITTED SUBJECT TO STANDARDS.** The following uses may be permitted in the FT zone subject to approval of the request by the director, based on satisfaction of the standards and criteria specified for each use, pursuant to the procedures in MCC 17.110.680 **17.115.**

A. Farm Stand. Farm stand subject to the following standards:

1. Structures shall be designed and used for the sale of farm crops and livestock grown on the farm operation, or grown on the farm operation and other farm operations in the local agricultural area.
 - a. As used in this section, "farm crops or livestock" includes both fresh and processed farm crops and livestock grown on the farm operation, or grown on the farm operation and other farm operations in the local agricultural area. As used in this subsection, "processed crops and livestock" includes jams, syrups, apple cider, animal products and other similar farm crops and livestock that have been processed and converted into another produce but not prepared food items.
 - b. As used in this section, "local agricultural area" is limited to the state of Oregon.
2. The sale of incidental retail items and fee-based activity to promote the sale of farm crops or livestock sold at the farm stand is permitted provided the annual sales of the incidental items and fees from promotional activity do not make up more than 25 percent of the total annual sales of the farm stand.
3. Farm stand shall not include structures designed for occupancy as a residence or for activities other than the sale of farm crops and livestock and does not include structures for banquets, public gatherings or public entertainment.

B. Winery. Winery, as defined in MCC 17.139.130(G). The winery shall include only the sale of:

1. Wines produced in conjunction with the winery.
- ~~2. Items directly related to wine, the sales of which are incidental to the sale of wine on-site. Such items include those served by a limited service restaurant, as defined in ORS 624.010.~~
- 2. Items directly related to the sale and promotion of wine produced in conjunction with the winery, the sale of which is incidental to retail sale of wine on-site, including food and beverages served by a limited service restaurant, as defined in ORS 624.010, wine not produced in conjunction with the winery and gifts.**
- 3. Services directly related to the sale and promotion of wine produced in conjunction with the winery, the sale and delivery of which are incidental to retail sale of wine on-site,**

including private events hosted by the winery or by patrons of the winery, at which wine produced in conjunction with the winery is featured.

4. The gross income from the sale of incidental items and services under subsection (2) and (3) of this section may not exceed 25 percent of the gross income from the retail sale on-site of wine produced in conjunction with the winery.

C. Religious Organizations and Cemeteries. Religious organizations and cemeteries in conjunction with religious organizations subject to the following:

1. ~~New religious organizations may not be established on high-value farmland. Existing religious organizations and cemeteries in conjunction with religious organizations; wholly within a farm use zone, may be maintained, enhanced, or expanded on the same tract.~~

a. May not be established on high-value farmland.

b. New religious organizations and cemeteries in conjunction with religious organizations, not on high-value farmland may be established. All new religious organizations and cemeteries in conjunction with religious organizations, — 2- — A new religious organization may not be established within three miles of an urban growth boundary of a city unless an exception is approved pursuant to OAR Chapter 660, Division 004. shall meet the following standards:

(i) No enclosed structure with a design capacity greater than 100 people, or group of structures with a total design capacity of greater than 100 people shall be approved, unless an exception is approved pursuant to OAR Chapter 660, Division 004.

(ii) Any new enclosed structure or group of enclosed structures subject to this section shall be situated no less than one-half mile from other enclosed structures approved under OAR 660-33-130(2) on the same tract.

(iii) For the purposes of this subsection “tract” means a tract as defined in MCC 17.139.130(F) in existence on (MAY 5, 2010).

2. Existing religious organizations and cemeteries in conjunction with religious organizations:

a. Existing religious organizations and cemeteries in conjunction with religious organizations on may be maintained, enhanced, or expanded on the same tract wholly within a farm zone.

b. Existing enclosed structures within three miles of an urban growth boundary may not be expanded beyond the limits in subsection (C)(1)(b)(i – iii) of this section.

D. Public and Private Schools. Public or private schools for kindergarten through grade 12, including all buildings essential to the operation of a school, subject to the following:

1. New schools primarily for the residents of the rural area in which the school is located:

- a. New schools may not be established on high-value farmland.
 - b. ~~No~~ **New schools not on high-value farmland may be established. Any new school within three miles of an urban growth boundary of a city unless an exception is approved pursuant to OAR Chapter 660, Division 004 shall meet the following standards:**
 - (i) **No enclosed structure with a design capacity greater than 100 people, or group of structures with a total design capacity of greater than 100 people shall be approved, unless an exception is approved pursuant to OAR Chapter 660, Division 004.**
 - (ii) **Any new enclosed structure or group of enclosed structures subject to this section shall be situated no less than one-half mile from other enclosed structures approved under OAR 660-33-130(2) on the same tract.**
 - (iii) **For the purposes of this subsection "tract" means a tract as defined in MCC 17.139.130(F) in existence on (MAY 5, 2010).**
 - c. **New schools must be determined to be consistent with the provisions contained in MCC 17.136.060(A)(1).**
2. **Existing schools primarily for the residents of the rural area in which the school is located:**
- a. Existing schools **on high-value farmland** may be maintained, enhanced, or expanded on the same tract wholly within a farm zone.
 - b. **Existing schools not on high-value farmland may be maintained, enhanced, or expanded consistent with the provisions contained in MCC 17.136.060(A)(1).**
 - c. **Existing enclosed structures within three miles of an urban growth boundary may not be expanded beyond the limits in subsection (D)(1)(b)(i – iii) of this section.**
3. **Existing schools that are not primarily for residents of the rural area in which the school is located may be expanded on the tax lot on which the use was established or on a contiguous tax lot owned by the applicant on January 1, 2009, however, existing enclosed structures within three miles of an urban growth boundary may not be expanded beyond the limits in subsection (D)(1)(b)(i – iii) of this section.**
- E. Filming Activities. On-site filming and activities accessory to filming, as defined in MCC 17.139.130(B), if the activity:
1. Involves filming or activities accessory to filming for more than 45 days; or
 2. Involves erection of sets that would remain in place longer than any 45 day period.
 3. 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.

- F. Facility for the Processing of Farm Crops. A facility for the processing of farm crops, or the production of biofuel as defined in ORS 315.141, subject to the following:
1. The farm on which the processing facility is located must provide at least one-quarter of the farm crops processed at the facility,
 2. The building established for the processing facility shall not exceed 10,000 square feet of floor area exclusive of the floor area designated for preparation, storage or other farm use or devote more than 10,000 square feet to the processing activities within another building supporting farm use.
 3. The processing facility shall comply with all applicable siting standards but the standards shall not be applied in a manner that prohibits siting of the processing facility.
 4. Division of a lot or parcel that separates a processing facility from the farm operation on which it is located shall not be approved.
- G. Model Aircraft. A site for the takeoff and landing of model aircraft, including such buildings or facilities as may reasonably be necessary subject to the following:
1. Buildings and facilities shall not be more than 500 square feet in floor area or placed on a permanent foundation unless the building or facility pre-existed the use.
 2. The site shall not include an aggregate surface or hard area surface unless the surface pre-existed the use.
 3. As used in this section, "model aircraft" means a small-scale version of an airplane, glider, helicopter, dirigible or balloon that is used or intended to be used for flight and controlled by radio, lines or design by a person on the ground.
 4. **An owner of property used for the propose authorized in this paragraph may charge a person operating the use on the property rent for the property. An operator may charge users of the property a fee that does not exceed the operator's cost to maintain the property, buildings and facilities.**
- H. Wildlife Habitat Conservation. A wildlife habitat conservation and management plan on a lot or parcel subject to the following:
1. The lot or parcel contains an existing legally established dwelling; or
 2. Approval for the dwelling is obtained under provisions contained in MCC 17.139.030(A), (B), (C), (D), (E), (H), (I) or 17.139.050(A);
 3. The dwelling is situated on a legally created lot or parcel existing on November 4, 1993;
 4. The lot or parcel is not predominantly composed of soils rated Class I or II, when not irrigated, or rated Prime or Unique by the Natural Resources Conservation Service, or any combination of such soils.
- I. ~~Other Uses.~~ Utility facilities necessary for public service, including wetland waste treatment systems, but not including commercial facilities for the purpose of generating electrical power for public use by

sale or transmission towers over 200 feet in height. A facility is "necessary" if it must be situated in the FT zone in order for the service to be provided. An applicant must demonstrate that reasonable alternatives have been considered and that the facility must be sited in an FT zone due to one or more of the following factors as found in OAR 660-33-130(16):

1. Technical and engineering feasibility;
2. The proposed facility is locationally dependent. A utility facility is locationally dependent if it must cross land in one or more areas zoned for farm/timber in order to achieve a reasonably direct route or to meet unique geographical needs that cannot be satisfied on other lands;
3. Lack of available urban and nonresource lands;
4. Availability of existing rights-of-way;
5. Public health and safety; and
6. Other requirements of state and federal agencies.
 - a. Costs associated with any of the factors listed above may be considered, but cost alone may not be the only consideration in determining that a utility facility is necessary for public service. Land costs shall not be included when considering alternative locations for substantially similar utility facilities and the siting of utility facilities that are not substantially similar.
 - b. The owner of a utility facility approved under this section shall be responsible for restoring, to its former condition as nearly as possible, any agricultural land and associated improvements that are damaged or otherwise disturbed by the siting, maintenance, repair or reconstruction of the facility. Nothing in this subsection shall prevent the owner of the utility facility from requiring a bond or other security from a contractor or otherwise imposing on a contractor the responsibility for restoration.
 - c. The applicant shall address the requirements of MCC 17.139.060(A)(1).
 - d. In addition to the provisions above, the establishment or extension of a sewer system as defined by OAR 660-011-0060(1)(f) in a farm/timber zone shall be subject to the provisions of OAR 660-011-0060.
 - e. The provisions of this subsection do not apply to interstate natural gas pipelines and associated facilities authorized by and subject to regulation by the Federal Energy Regulatory Commission.
 - f. **If the criteria contained in MCC 17.137.040(I) for siting a utility facility on land zoned for exclusive farm use are met for a utility facility that is a transmission line, the utility provider shall, after the route is approved by the siting authorities and before construction of the transmission line begins, consult the record owner of high-value farmland in the planned route for the purpose of locating and constructing the transmission line in a manner that minimizes the impact on farming operations on high-value farmland. If the record owner does not respond within two weeks after the first documented effort to consult the record owner, the utility provider shall notify the record owner by certified mail of the opportunity to consult. If the record owner does not respond within two weeks after the**

certified mail is sent, the utility provider has satisfied the provider's obligation to consult. The requirement to consult under this section is in addition to and not in lieu of any other legally required consultation process. For the purposes of this subsection:

(i) 'Consult' means to make an effort to contact for purpose of notifying the record owner of the opportunity to meet.

(ii) 'Transmission line' means a linear utility facility by which a utility provider transfers the utility product in bulk from a point of origin or generation, or between transfer stations, to the point at which the utility product is transferred to distribution lines for delivery to end users.

J. Parking of not more than seven log trucks on a tract when the use will not:

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

K. Subject to the issuance of a license, permit or other approval by the Department of Environmental Quality under ORS 454.695, 459.205, 468B.050, 468B.053 or 468B.055, or in compliance with rules adopted under ORS 468B.095, and with the requirements of ORS 215.246, 215.247, 215.249, and 215.251, the land application of reclaimed water, agricultural process or industrial process water or biosolids for agricultural, horticultural or silvicultural production, or for irrigation in connection with a use allowed in the farm/timber zone under this division.

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

A. Single family dwelling or mobile home not in conjunction with farm uses on a lot or parcel predominantly devoted to farm use on January 1, 1993, meeting the criteria and standards in MCC 17.139.060(B) and 17.139.070.

B. Temporary residence for hardship purposes per MCC 17.120.040, meeting the standards and requirements in MCC 17.139.070.

C. The following uses supporting forest operations:

1. Log scaling and weigh stations.
2. Permanent logging equipment repair and storage.
3. Forest management research and experimentation facilities as defined in ORS 526.215 or where accessory to a forest operation.
4. Temporary portable facility for the primary processing of forest products, subject to MCC 17.139.060(I).

D. The following commercial uses:

1. Home occupations, including bed and breakfast inns, subject to MCC 17.139.060(C) and the requirements in MCC 17.139.070(B).
2. Commercial activities in conjunction with farm use, including the processing of farm crops into biofuel not permitted under MCC 17.139.040(F), ~~except the processing of farm crops pursuant to MCC 17.139.040(F)~~ and subject to MCC 17.139.060 (L), but including a winery not permitted under MCC 17.139.040 (B).
3. Dog kennels, ~~including the breeding, kenneling and training of greyhounds for racing~~, in conjunction with a dwelling occupied by the kennel operator, subject to MCC 17.139.060(E) and the requirements in ~~Section~~ MCC 17.139.070(B).
4. Room and board arrangements for a maximum of five unrelated persons in an existing dwelling, subject to the requirements in MCC 17.139.070(B).
5. The propagation, cultivation, maintenance and harvesting of aquatic species that are not under the jurisdiction of the State Fish and Wildlife Commission.
6. A landscape contracting business, as defined in ORS 671.520, or a business providing landscape architecture services, as described in ORS 671.318, if the business is pursued in conjunction with the growing and marketing of nursery stock on the land that constitutes farm use.
7. Composting Facilities
 - a. Composting operations and facilities allowed on high-value farmland are limited to those that are exempt from a permit from the Department of Environmental Quality (DEQ) under OAR 340-093-0050, only require approval of an Agricultural Compost Management Plan by the Oregon Department of Agriculture, or require a permit from the DEQ under OAR 340-093-0050 where the compost is applied primarily on the subject farm or used to manage and dispose of by-products generated on the subject farm. Excess compost may be sold to neighboring farm operations in the local area and shall be limited to bulk loads of at least one unit (7.5 cubic yards) in size. Buildings and facilities used in conjunction with the composting operation shall only be those required for the operation of the subject facility.
 - b. Composting operations and facilities allowed on land not defined as high-value farmland shall be limited to the composting operations and facilities allowed by subsection (D)(7)(a) of this section or that require a permit from the Department of Environmental Quality under OAR 340-093-0050. Buildings and facilities used in conjunction with the composting operation shall only be those required for the operation of the subject facility. Onsite sales shall be limited to bulk loads of at least one unit (7.5 cubic yards) in size that are transported in one vehicle.
- 8. Operations for the extraction and bottling of water, except in the sensitive groundwater overlay zone.**

E. The following mining and processing activities:

1. Operations for the exploration for and production of oil, gas and geothermal resources as defined by ORS 520.005 and ORS 522.005, including the placement and operation of compressors, separators and storage serving multiple wells and other customary production equipment otherwise permitted in this chapter.
2. Operations conducted for mining, crushing or stockpiling of aggregate and other mineral and other subsurface resources subject to ORS 215.298 and MCC 17.120.410 through 17.120.480.
3. Processing as defined in ORS 517.750 of aggregate into asphalt or portland cement subject to the standards in MCC 17.139.060(D) and MCC 17.120.410 through 17.120.480.
4. Processing of other mineral resources and other subsurface resources subject to MCC 17.120.410 through 17.120.480.
5. Temporary asphalt and concrete batching plants as accessory uses to specific highway projects.

F. The following utility uses:

1. Water intake facilities, related treatment facilities, pumping stations, and distribution lines.
2. Television, microwave and radio communication facilities and transmission towers over 200 feet in height.
3. Utility facilities for the purpose of generating power. A power generation facility shall not preclude more than:
 - a. Ten acres from use as a commercial forest operation unless an exception is taken pursuant to OAR Chapter 660, Division 004.
 - b. Twelve acres from use as a commercial agricultural enterprise on high-value farmland unless an exception is taken pursuant to OAR Chapter 660, Division 004.
 - c. Twenty acres from use as a commercial agricultural enterprise on farmland that is not high-value unless an exception is taken pursuant to ORS 197.732 and OAR Chapter 660, Division 004.
4. Aids to navigation and aviation.
5. New electric transmission lines with right of way widths of up to 100 feet specified in ORS 772.210.
6. New distribution lines (gas or oil, for example) with right of way widths up to 50 feet.

G. Personal-use airports for airplanes and helicopter pads, including associated hangar, maintenance and service facilities as defined in ORS 215.283(2)(h).

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

1. Private parks, playgrounds and campgrounds, subject to MCC 17.139.060(E) and (F), and subject to MCC 17.139.070(B).

2. Private seasonal accommodations for fee hunting or fishing operations, subject to MCC 17.139.060(E) and (G), and subject to MCC 17.139.070(B).
 3. Destination resorts reviewed and approved pursuant to the destination resort siting requirements in ORS 197.435 to ORS 197.465 and State Land Use Goal 8, subject to MCC 17.139.060(E) and 17.139.070(B).
 4. Community centers, operated primarily by and for residents of the local rural community, where the land and facilities are owned and operated by a governmental agency or a nonprofit community organization, subject to MCC 17.139.070(B).
 5. Public parks, open spaces, and playgrounds including only those uses specified under OAR 660-034-035 or OAR 660-034-0040, whichever is applicable, and with filing of the declaratory statement in MCC 17.137.100(C) and consistent with ORS 195.120 and subject to MCC 17.139.070(B).
 6. Golf courses, as defined in MCC 17.139.130(D) and subject to the requirements of MCC 17.139.060(H) and subject to the requirements of MCC 17.139.070(B).
 7. A "youth camp" may be established in compliance with OAR 660-006-0031. The purpose is for the establishment of a youth camp that is generally self-contained and located on a parcel suitable to limit potential impacts on nearby and adjacent land and to be compatible with the forest environment. This ordinance applies to youth camps established after July 12, 1999, and shall meet the requirements in MCC 17.139.060(J).
 8. Living history museum on a lot or parcel where the predominant use of the tract on January 1, 1993, was farm use, subject to MCC 17.139.060(K), with the filing of a declaratory statement in MCC 17.139.070(B).
- I. Disposal site for solid waste that has been ordered established by the Oregon Environmental Quality Commission under ORS 459.049, or for which the Department of Environmental Quality has granted a permit under ORS 459.245, together with equipment, facilities or buildings necessary for its operation, subject to MCC 17.139.060(E) and 17.139.070(B).
 - J. Reservoirs and water impoundments, subject to MCC 17.139.070(B).
 - K. Firearms training facility as provided in ORS 197.770.
 - L. The following transportation uses:
 1. Construction of additional passing and travel lanes requiring the acquisition of right-of-way but not resulting in the creation of new land parcels.
 2. Reconstruction or modification of public roads and highways involving the removal or displacement of buildings but not resulting in the creation of new land parcels.
 3. Improvement of public road and highway related facilities, such as maintenance yards, weigh stations and rest areas, where additional property or right-of-way is required but not resulting in the creation of new land parcels.

4. Roads, highways, and other transportation facilities and improvements not otherwise allowed in this chapter, when an exception to statewide Goal 3 and any other applicable statewide planning goal with which the facility or improvement does not comply, and subject to OAR Chapter 660, Division 012.
- M. Fire stations for rural fire protection.
 - N. The propagation, cultivation, maintenance and harvesting of aquatic species.
 - O. A residential home or adult foster home, as defined in ORS 197.660 and section 110.477, in an existing dwelling, subject to the requirements in MCC 17.139.070(B).
 - P. A replacement dwelling to be used in conjunction with farm use if the existing dwelling is listed in the Comprehensive Plan Inventory and the National Register of Historic Places as historic property as defined in ORS 358.480 and subject to the requirements in MCC 17.139.070(B).
 - Q. Expansion of an existing, legally established, airport.
 - N. Expansion of existing schools not for kindergarten through grade 12 established on or before January 1, 2009, on the same tract wholly within a farm zone subject to MCC 139.060(M).**

17.139.060 **CONDITIONAL USE REVIEW CRITERIA.** The uses identified in MCC 17.139.050 shall satisfy the criteria in the applicable subsection below.

- A. The following criteria apply to all uses in MCC 17.139.050 and other uses where referenced:
 1. 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. Land devoted to farm or forest use does not include farm or forest use on lots or parcels upon which a non-farm or non-forest dwelling has been approved and established, in exception areas approved under ORS 197.732, or in an acknowledged urban growth boundary.
 2. The use will not significantly increase fire hazard or significantly increase fire suppression costs or significantly increase risks to fire suppression personnel.
 3. Adequate fire protection and other rural services are or will be available when the use is established.
 4. The use will not have a significant adverse impact on watersheds, groundwater, fish and wildlife habitat, soil and slope stability, air and water quality.
 5. Any noise associated with the use will not have a significant adverse impact on nearby land uses.
 6. 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.
- B. Non-farm Dwellings. The following additional criteria apply to non-farm dwellings:

1. The dwelling will be sited on a lot or parcel that is predominantly composed of Class IV through Class VIII soils that would not, when irrigated, be classified as prime, unique, Class I or Class II soils. Soils classifications shall be those of the Soil Conservation Service in its most recent publication, unless evidence is submitted as required in MCC 17.139.120(B).
2. The dwelling will be sited on a lot or parcel that does not currently contain a dwelling and was created before January 1, 1993. The boundary of the lot or parcel cannot be changed after November 4, 1993, in any way that enables the lot or parcel to meet the criteria for a non-farm dwelling.
3. The dwelling will not materially alter the stability of the overall land use pattern of the area. In making this determination the cumulative impact of possible new nonfarm dwellings and parcels on other lots or parcels in the area similarly situated shall be considered. To address this standard, information outlined in MCC 17.139.030(H)(11)(a)(iii) shall be provided.
4. Disqualification. Prior to issuance of any residential building permit for an approved non-farm dwelling under MCC 17.139.050(A), the applicant shall provide evidence that the county assessor has disqualified the lot or parcel for valuation at true cash value for farm or forest use; and that the additional tax or penalty has been imposed, if any is applicable, as provided by ORS 308A.113 or ORS 308A.724 or ORS 321.359(1)(b), ORS 321.842(1)(A) and 321.716. A parcel that has been disqualified under this section shall not requalify for special assessment unless, when combined with another contiguous parcel, it constitutes a qualifying parcel.

C. Home Occupation. Notwithstanding MCC 17.110.270 and 17.120.075, home occupations, including the parking of vehicles in conjunction with the home occupation, including bed and breakfast inns, are subject to the following criteria:

1. A home occupation or bed and breakfast shall be operated by a resident of the dwelling on the property on which the business is located. Including the residents, no more than five full-time or part-time persons shall work in the home occupation ("person" includes volunteer, non-resident employee, partner or other person).
2. It shall be operated substantially in:
 - a. The dwelling; or
 - b. Other buildings normally associated with uses permitted in the zone in which the property is located.
3. It shall not unreasonably interfere with other uses permitted in the zone in which the property is located.
4. A home occupation shall not be authorized in structures accessory to resource use on high-value farmland.
5. A sign shall meet the standards in Chapter 17.191 MCC.
6. The property, dwelling or other buildings shall not be used for assembly or dispatch of employees to other locations.

7. Retail and wholesale sales that do not involve customers coming to the property, such as internet, telephone or mail order offsite sales, and incidental sales related to the home occupation services being provided are allowed. No other sales are permitted as, or in conjunction with, a home occupation.
- D. New uses that batch and blend mineral and aggregate into asphalt cement may not be authorized within two miles of a planted vineyard. "Planted vineyard" means one or more vineyards totaling 40 acres or more that are planted as of the date the application for batching and blending is filed.
- E. For uses listed in MCC 17.139.050(D)(3), (H)(1),(2) and (3), and (I), new facilities on high-value farmland shall not be authorized. Existing legally established facilities on high-value farmland may be maintained, enhanced, or expanded on the same tract where the current use is located.
- F. Private Parks, playgrounds and campgrounds shall meet the following criteria:
1. Except on a lot or parcel contiguous to a lake or reservoir, private campgrounds shall not be allowed within three miles of an urban growth boundary unless an exception is approved pursuant to ORS 197.732 and OAR Chapter 660, Division 004.
 2. It shall be devoted to overnight temporary use for vacation, recreational or emergency purposes, but not for residential purposes and is established on a site or is contiguous to lands with a park or other outdoor natural amenity that is accessible for recreational use by the occupants of the campground.
 3. A campground shall be designed and integrated into the rural agricultural and forest environment in a manner that protects the natural amenities of the site and provides buffers of existing native trees and vegetation or other natural features between campsites.
 4. A camping site shall only be occupied by a tent, travel trailer or recreational vehicle. Private campgrounds may provide yurts for overnight camping subject to the following:
 - a. No more than one-third or a maximum of 10 campsites, whichever is smaller may include yurts;
 - b. The yurt shall be located on the ground or on a wood floor with no permanent foundation.
 5. Separate sewer, water or electric service hook-ups shall not be provided to individual campsites.
 6. It shall not include intensively developed recreational uses such as swimming pools, tennis courts, retail stores or gas stations.
 7. Overnight temporary use in the same campground by a camper or camper's vehicle shall not exceed a total of 30 days during any consecutive six month period.
- G. Temporary accommodations for hunting or fishing. The following criteria apply to private seasonal accommodations for fee hunting and private accommodations for fishing:
1. Accommodations are limited to no more than 15 guest rooms as that term is defined in the Oregon Structural Specialty Code.

2. Only minor incidental and accessory retail sales are permitted.
3. Accommodations are occupied temporarily for the purpose of:
 - a. Hunting during game bird and big game hunting seasons authorized by the Oregon Fish and Wildlife Commission; or
 - b. Fishing during fishing seasons authorized by the Oregon Fish and Wildlife Commission, and are located within one-quarter mile of fish-bearing Class I waters.
4. Accommodations shall comply with the special use and siting requirements in MCC 17.139.070, except subsection (E).

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

1. New golf courses shall not be permitted on high-value farmland, as defined in MCC 17.139.130(E).
2. A legally established existing golf course on high-value farmland may be expanded on the subject tract where the current use is located, consistent with the provisions of MCC 17.139.130(D).

I. A portable or temporary facility for the primary processing of forest products is subject to the following criteria and limitations:

1. The use shall not seriously interfere with accepted farming practices.
2. The use shall be compatible with farm uses described in ORS 215.203(2).
3. The use may be approved for a maximum one-year period, which is renewable.
4. The primary processing of a forest product, as used in this section, means the use of a portable chipper, stud mill, or other similar facility for initial treatment of a forest product in order to enable its shipment to market. Forest products as used in this section means timber grown upon a tract where the primary processing facility is located.

J. Youth camps on a lot or parcel predominantly in forest use on January 1, 1993:

1. Youth camps shall be owned and leased and operated by a state or local government or a nonprofit corporation as defined under ORS 65.001, to provide an outdoor recreational and educational experience for persons 21 years of age or younger. Youth camps do not include any manner of juvenile detention center or facility.
2. The number of overnight camp participants that may be accommodated shall be determined by the board, or its designee, based on the size, topography, geographic features and any other characteristics of the proposed site for the youth camp. A youth camp shall not provide overnight accommodations for more than 350 youth camp participants, including staff, except the board, or its designee, may allow up to eight nights during the calendar year when the number of overnight participants may exceed the total number of over-night participants.

- Overnight stays for adult programs primarily for individuals over 21 years of age, not including staff, shall not exceed 10 percent of the total camper nights offered by the youth camp.
3. A campground as described in MCC 17.139.050(H)(1) through (5) shall not be established in conjunction with a youth camp.
 4. A youth camp shall not be allowed in conjunction with an existing golf course and a youth camp shall not interfere with the exercise of legally established water rights on adjacent properties.
 5. The youth camp shall be located on a lawful parcel that provides a forested setting to ensure outdoor experience without depending upon the use of adjacent public and private land. This determination shall be based on the size, topography, geographic features and any other characteristics of the proposed site for the youth camp, as well as, the number of overnight participants and type and number of proposed facilities. The parcel shall be a minimum of 40 acres with suitable protective buffers to separate the visual and audible aspects of youth camp activities from other nearby and adjacent lands. The buffers shall consist of forest vegetation, topographic or other natural features as well as structural setbacks from adjacent public and private lands, roads, and riparian areas. The structural setback from roads and adjacent public and private property shall be 250 feet unless the Board, or its designee, sets a different setback based upon the following criteria that may be applied on a case-by-case basis:
 - a. The proposed setback will prevent conflicts with commercial resource management practices, and;
 - b. Will prevent a significant increase in safety hazards associated with vehicular traffic; and
 - c. Will provide an appropriate buffer from visual and audible aspects of youth camp activities from other nearby and adjacent resource lands.
 6. The parcel shall be suitable to provide for the establishment of sewage disposal facilities without requiring a sewer system as defined in OAR 660-011-0060(1)(f). Prior to granting final approval, the board or its designee shall verify that a proposed youth camp will not result in the need for a sewer system.
 7. A youth camp may provide for the following facilities:
 - a. Recreational facilities limited to passive improvements, such as open areas suitable for ball fields, volleyball courts, soccer fields, archery or shooting ranges, hiking and biking trails, horseback riding or swimming that can be provided in conjunction with the site's natural environment. Intensively developed facilities such as tennis courts, gymnasiums, and golf courses shall not be allowed. One swimming pool may be allowed if no lake or other water feature suitable for aquatic recreation is located on the subject property or immediately available for youth camp use.
 - b. Primary cooking and eating facilities shall be included in a single building. Except in sleeping quarters, the board or its designee may allow secondary cooking and eating facilities in one or more buildings designed to accommodate other youth camp activities. Food services shall be limited to the operation of the youth camp and shall

be provided only for youth camp participants. The sale of individual meals may be offered only to family members or guardians of youth camp participants.

- c. Bathing and laundry facilities except that they shall not be provided in the same building as sleeping quarters and up to three camp activity buildings, not including primary cooking and eating facilities.
 - d. Sleeping quarters including cabins, tents or other structures. Sleeping quarters may include toilets, but, except for the caretaker's dwelling, shall not include kitchen facilities. Sleeping quarters shall be provided only for youth camp participants and shall not be offered as overnight accommodations for persons not participating in youth camp activities or as individual rentals.
 - e. Administrative, maintenance and storage buildings; permanent structure for administrative services, first aid, equipment and supply storage, and for use as an infirmary if necessary or requested by the applicant, and covered areas that are not fully enclosed.
 - f. An infirmary may provide sleeping quarters for the medical care provider, (e.g. doctor, registered nurse, emergency medical technician, etc).
 - g. A caretaker's residence may be established in conjunction with a youth camp prior to or after the effective date of this rule, if no other dwelling exists on the subject property.
8. A proposed youth camp shall comply with the following safety requirements in OAR 660-006-0035 and shall have a fire safety protection plan developed for each youth camp that includes fire prevention measures; on-site pre-suppression and suppression measures; and the establishment and maintenance of fire safe area(s) in which camp participants can gather in the event of a fire.
- a. Except as determined under subsection (J)(8)(b) and (c) of this section, a youth camp's on-site fire suppression capability shall at least include a 1,000 gallon mobile water supply that can access all areas of the camp; and a 30-gallon-per-minute water pump and an adequate amount of hose and nozzles; and a sufficient number of fire-fighting hand tools; and trained personnel capable of operating all fire suppression equipment at the camp during designated periods of fire danger.
 - b. An equivalent level of fire suppression facilities may be determined by the board or its designee. The equivalent capability shall be based on the Oregon Department of Forestry's (ODF) Wildfire Hazard Zone rating system, the response time of the effective wildfire suppression agencies, and consultation with ODF personnel if the camp is within an area protected by the Oregon Department of Forestry and not served by a local structural fire protection provider.
 - c. The provisions for on-site fire suppression may be waived by the board or its designee if the youth camp is located in an area served by a structural fire protection provider and that provider informs the board in writing that on-site fire suppression at the camp is not needed.
- K. Living History Museum (only on a tract predominantly in farm use on January 1, 1993). A living history museum related to resource-based activities owned and operated by a governmental agency or a

local historical society, together with limited commercial activities and facilities that are directly related to the use and enjoyment of the museum and located within authentic buildings of the depicted historic period or the museum administration building, if areas other than a farm/timber zone cannot accommodate the museum and related activities or if the museum administration buildings and parking lot are located within one quarter mile of an urban growth boundary.

1. As used in this paragraph:

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

L. Commercial Activities in Conjunction with Farm Use

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

M. The following criteria apply to those uses identified in MCC 17.139.050

1. No enclosed structure with a design capacity greater than 100 people, or group of structures with a total design capacity of greater than 100 people, shall be approved within three miles of an urban growth boundary unless an exception is approved pursuant to OAR Chapter 660, Division 004.
2. Any new enclosed structure or group of enclosed structures subject to this section shall be situated no less than one-half mile from other enclosed structures approved under OAR 660-33-130(2) on the same tract. For the purposes of this subsection "tract" means a tract as defined in MCC 17.139.130(F) in existence on (MAY 5, 2010).
3. Existing facilities wholly within a farm use zone may be maintained, enhanced or expanded on the same tract, but existing enclosed structures within three miles of an urban growth may not be expanded beyond the limits of this subsection.

17.139.070 SPECIAL USE AND SITING REQUIREMENTS. The following regulations shall apply to new dwellings, structures accessory to a dwelling, and they may also be applied as a standard or condition of approval for dwellings, other structures and uses including but not limited to those in MCC 17.139.030, 17.139.040 and 17.139.050.

A. Special Siting Requirements:

1. Dwellings and structures shall comply with the special requirements in subsection (A)(2) or (3) of this section. Compliance with the provisions in subsection (A)(2) of this section and subsections (B), (F) and (G) satisfies the criteria in (A)(3) of this section. Alternative sites that meet the criteria in subsection (3) of this section ~~and~~ may be approved **concurrently with any land use application** or as provided in **Chapter 17.116** MCC 17.110.680.
2. Siting Standards for Dwellings and Other Buildings.
 - a. Dwellings shall be at least 200 feet from any abutting parcel in farm use or timber production. Buildings other than a dwelling shall be located at least 100 feet from any abutting parcel in farm use or timber production.
 - b. The special setback in subsection (A)(2)(a) of this section shall not be applied in a manner that prohibits dwellings approved pursuant to ORS 195.300 to 195.336 nor should the special setback in subsection (A)(2)(a) of this section prohibit a claimant's application for homesites under ORS 195.300 to 195.336.
 - c. The dwelling or other building shall be located within 300 feet of the driveway entrance on an abutting public road; or, if the property does not abut a public road for a distance of at least 60 feet, the dwelling or other building shall be located within 300 feet of the point where the driveway enters the buildable portion of the property.
3. Review criteria for alternative sites. Sites for dwellings or buildings that do not meet the siting requirements in subsection (A)(2) of this section may be approved if the proposed site will meet the following criteria:
 - a. The site will have the least impact on nearby or adjoining forest or agricultural lands.
 - b. The site ensures that adverse impacts on forest operations and accepted farming practices on the tract will be minimized.
 - c. The amount of agricultural and forestlands used to site access roads, service corridors, the dwelling and structures is minimized.
 - d. The risks associated with wildfire are minimized.

- B. Declaratory Statement. The owner of property for which a dwelling, structure or other specified use has been approved shall be required to sign and allow the entering of the following declaratory statement into the chain of title for the subject lots or parcels:

The property herein described is situated in or near a farm or forest zone or area in Marion County, Oregon, where the intent is to encourage, and minimize conflicts with farm and forest use. Specifically, residents, property owners and visitors may be subjected to common, customary and accepted farm or forest management practices conducted in accordance with federal and state laws which ordinarily and necessarily produce noise, dust, smoke and other impacts. The ~~grantees~~ grantors, including their heirs, assigns and lessees do hereby accept the potential impacts from farm and forest practices as normal and necessary and part of the risk of establishing a dwelling, structure or use in this area, and ~~I~~We acknowledge the need to avoid activities that conflict with nearby farm or forest uses and practices, ~~I~~We grantors will not pursue a claim for relief or course of action alleging injury from farming or forest practice for which no action is allowed under ORS 30.936 or 30.937.

C. Domestic Water Supply.

1. The applicant shall provide evidence that the domestic water supply is from a source authorized in accordance with the Water Resources Department's administrative rules for the appropriation of ground water or surface water and not from a Class II stream as defined in the Forest Practices Rules (OAR Chapter 629).
2. Evidence of a domestic water supply means verification from a water purveyor that the use described in the application will be served by the purveyor under the purveyor's rights to appropriate water; or a water use permit issued by the Water Resources Department for the use described in the application; or verification from the Water Resources Department that a water use permit is not required for the use.
3. If the proposed water supply is from a well and is exempt from permitting requirements under ORS 537.545, the applicant shall submit the well constructor's report upon completion of the well.

D. Road Access. As a condition of approval, if road access to the dwelling is by a road owned and maintained by a private party or by the Oregon Department of Forestry, the Bureau of Land Management, or the U.S. Forest Service, the applicant shall provide proof of a long-term road access use permit or agreement. The road use permit may require the applicant to agree to accept responsibility for road maintenance.

E. Tree Planting Requirements for Lots or Parcels over 10 Acres:

1. Prior to issuance of a building or siting permit for a dwelling, approved under the provisions in MCC 17.139.030(A), (B) or (C), on a tract of more than 10 acres in size, the landowner shall plant a sufficient number of trees on the tract to demonstrate that the tract is reasonably expected to meet Department of Forestry stocking requirements at the time specified in Department of Forestry administrative rules.
2. At the time required by the Department of Forestry rules the owner shall submit a stocking survey report to the county assessor and the assessor shall verify that the minimum stocking requirements have been met.

F. Fire Protection.

1. The dwelling shall be located upon a parcel within a fire protection district or shall be provided with residential fire protection by contract. If the dwelling is not within a fire protection district, the applicant shall provide evidence that the applicant has asked to be included within the nearest such district.
2. If inclusion within a fire protection district or contracting for residential fire protection is impracticable, an alternative means for protecting the dwelling from fire hazards may be approved, pursuant to the procedures set forth in MCC ~~17.110.680~~ 17.115, subject to the requirements of subsection (F)(3) of this section.
3. Alternative means of fire protection may include a fire sprinkling system, on-site equipment and water storage or other methods that are reasonable, given the site conditions. The following requirements apply:

- a. If a water supply is required for fire protection, it shall be a swimming pool, pond, lake, or similar body of water that at all times contains at least 4,000 gallons or a stream that has a continuous year round flow of at least one cubic foot per second. The applicant shall provide verification from the Water Resources Department that any permits or registrations required for water diversion or storage have been obtained or that permits or registrations are not required for the use.
- b. Road access to the water supply required in subsection (F)(3)(A) of this section shall be provided to within 15 feet of the water's edge for fire-fighting pumping units. The road access shall accommodate the turnaround of fire fighting equipment during the fire season. Permanent signs shall be posed along the access route to indicate the location of the emergency water source.

G. Fire Hazard Reduction.

1. The owners of a dwelling, or structure occupying more than 200 square feet, shall maintain a primary fuel-free break area on land surrounding the dwelling that is owned or controlled by the owner in accordance with the provision in "Recommended Fire Siting Standards for Dwellings and Structures and Fire Safety Design Standards for Roads" dated March 1, 1991, and published by the Oregon Department of Forestry.
2. The dwelling shall have a fire retardant roof.
3. The dwelling shall not be sited on a slope of greater than 40 percent.
4. If the dwelling has a chimney or chimneys, each chimney shall have a spark arrester.

H. Road and Drainage Standards.

1. Public road access to structures of more than 200 square feet in area or a dwelling shall comply with ~~Section 4 of the Marion County Department of Public Works Engineering Standards adopted by the Board of County Commissioners April 11, 1990~~ **applicable at the time the application was filed.**
2. Except for private roads and bridges accessing only commercial forest uses, private road or driveway access to structures of more than 200 square feet in area or a dwelling shall meet the requirements of the local fire protection district or forest protection district, except that the county maximum grade standard for a private road is 15 percent. A greater grade may be approved by the fire district or, if the site is not in a fire district, by the State Department of Forestry.
3. Drainage standards for private roadways shall ~~be those in Section 5 of~~ **comply with the Marion County Department of Public Works Engineering Standards** except that corrugated metal culverts of equivalent size and strength may be used.

17.139.090 MINIMUM PARCEL SIZE, DIVISIONS OF LAND, AND PROPERTY LINE

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

A. Minimum Parcel Size for Newly Created Parcels:

1. The minimum parcel size shall be 80 acres, except as provided in subsections (A)(2), and (B) or (C) of this section.
 2. A new parcel less than 80 acres may be approved as follows:
 - a. The parcel shall only be as large as necessary to accommodate the use and any buffer area needed to ensure compatibility with adjacent farm or forest uses.
 - b. The criteria in MCC 17.139.060 applicable to the proposed use of the parcel shall apply to the creation of the parcel.
 - c. A parcel shall not be approved before the use is approved.
 - d. A division of land for non-farm/forest use shall not be approved unless any additional tax imposed for the change has been paid or payment has been made a condition of approval.
- B. Requirements for creation of new non-farm parcels if the land was predominantly devoted to farm use on January 1, 1993. A new parcel smaller than 80 acres may be created only for those uses listed in MCC 17.139.040(C) and 17.139.050, except the residential uses in MCC 17.139.050(A) and (B).
1. If the land division is for the purpose of allowing a provider of public parks or open space, or a not-for-profit land conservation organization, to purchase at least one of the resulting parcels subject to the following:
 - a. A parcel created by the land division that contains a dwelling is large enough to support continued residential use of the parcel.
 - b. A parcel created pursuant to this subsection that does not contain a dwelling:
 - i. Is not eligible for siting a dwelling, except as may be authorized under ORS 195.120;
 - ii. May not be considered in approving or denying an application for siting any other dwelling;
 - iii. May not be considered in approving a redesignation or rezoning of forestlands except for a redesignation or rezoning to allow a public park, open space or other natural resource use; and
 - c. May not be smaller than 25 acres unless the purpose of the land division is:
 - i. To facilitate the creation of a wildlife or pedestrian corridor or the implementation of a wildlife habitat protection plan; or
 - ii. To allow a transaction in which at least one party is a public park or open space provider, or a not-for-profit land conservation organization, that has cumulative ownership of at least 2,000 acres of open space or park property.

2. A division of land smaller than the minimum lot or parcel size described in MCC 17.139.090(A) and (B) may be approved to establish a religious organization including cemeteries in conjunction with the religious organization if they meet the following requirements:
 - a. The religious organization has been approved under MCC 17.139.040(C);
 - b. The newly created lot or parcel is not larger than five acres; and
 - c. The remaining lot or parcel, not including the religious organization, meets the minimum lot or parcel size described in MCC 17.139.090(A) and (B) either by itself or after it is consolidated with another lot or parcel.

C. Requirements for creation of new non-forest parcels if the land was predominantly devoted to forest use on January 1, 1993:

1. For a permitted use listed in MCC 17.139.020(Q); or
2. For a conditional use listed in MCC 17.139.050(C)(1) and (2), (E)(1), (F)(1) through (4), (H)(1), (3) and (5), (I), (J), (K), and (M).
3. A division of land to create two parcels for the purpose of allowing a provider of public parks or open space, or a not-for-profit land conservation organization, to purchase one of the resulting parcels may be approved as follows:
 - a. A parcel created by the land division that is not sold to a provider of public parks or open space or to a not-for-profit land conservation organization must comply with the following:
 - i. If the parcel contains a dwelling or another use allowed under ORS chapter 215, the parcel must be large enough to support continued residential use or other allowed use of the parcel; or
 - ii. If the parcel does not contain a dwelling, the parcel is eligible for siting a dwelling as may be authorized under ORS 195.120 or as may be authorized under provisions contained in MCC 17.139.030(A), (B), or (C), based on the size and configuration of the parcel.
 - b. Before approving a proposed division of land under this section, the governing body of a county or its designee shall require as a condition of approval that the provider of public parks or open space, or the not-for-profit land conservation organization, present for recording in the deed records for the county in which the parcel retained by the provider or organization is located an irrevocable deed restriction prohibiting the provider or organization and their successors in interest from:
 - i. Establishing a dwelling on the parcel or developing the parcel for any use not authorized in a forest zone or mixed farm and forest zone except park or conservation uses; and
 - ii. Pursuing a cause of action or claim of relief alleging an injury from farming or forest practices for which a claim or action is not allowed under ORS 30.936 or 30.937.

- c. If a proposed division of land under this section results in the disqualification of a parcel for a special assessment or the withdrawal of a parcel from designation as riparian habitat, the owner must pay additional taxes before the county may approve the division.

D. Property Line Adjustments:

1. When one or more lots or parcels subject to a proposed property line adjustment are larger than the minimum parcel size pursuant to MCC 17.136.090(A)(1), the same number of lots or parcels shall be as large or larger than the minimum parcel size after the adjustment. When all lots or parcels subject to the proposed adjustment are as large or larger than the minimum parcel size, no lot or parcel shall be reduced below the applicable minimum parcel size. If all lots or parcels are smaller than the minimum parcel size before the property line adjustment, the minimum parcel size pursuant to this section does not apply to those lots or parcels.
2. A property line adjustment may not be used to:
 - a. Decrease the size of a lot or parcel that, before the relocation or elimination of the common property line, is smaller than the minimum lot or parcel size for the applicable zone and contains an existing dwelling or is approved for the construction of a dwelling, if the abutting vacant tract would be increased to a size as large as or larger than the minimum tract size required to qualify the vacant tract for a dwelling;
 - b. Decrease the size of a lot or parcel that contains an existing dwelling or is approved for construction of a dwelling to a size smaller than the minimum lot or parcel size, if the abutting vacant tract would be increased to a size as large as or larger than the minimum tract size required to qualify the vacant tract for a dwelling; or
 - c. Allow an area of land used to qualify a tract for a dwelling based on an acreage standard to be used to qualify another tract for a dwelling if the land use approval would be based on an acreage standard.

E. Property Line Adjustments if the land was predominantly devoted to forest use on January 1, 1993:

1. Parcels larger than 80 acres may not be reduced to below 80 acres.
2. Parcels smaller than 80 acres may be reduced or enlarged provided:
 - a. If the tract does not include a dwelling and does not qualify for a dwelling under MCC 17.139.030(A) or (B), any reconfiguration after November 4, 1993 cannot in any way enable the lot or parcel to meet the criteria for a new dwelling under MCC 17.139.030(A) or (B).
 - b. Except as provided in subsection (E)(2)(c) of this section a lot or parcel that is reduced will be better suited for management as part of a commercial forest and, if capable of producing 5,000 cubic feet per year of commercial tree species will not be reconfigured so that the cubic feet per year capability of the lot or parcel is reduced.
 - c. A lot or parcel may be reduced to the minimum size necessary for the use if the lot or parcel:

- i. Was approved as a non-farm or non-forest parcel, or
 - ii. Is occupied by an approved non-farm or non-forest dwelling, or
 - iii. More than half of the parcel is occupied by a use in MCC 17.139.020 or 17.139.050 other than a dwelling or farm or forest use, or
 - iv. The lot or parcel is occupied by a dwelling established before January 1, 1994, and is not capable of producing 5,000 cubic feet per year of commercial tree species as defined in MCC 17.139.130(H).
- d. A property line adjustment may not be used to:
- i. Decrease the size of a lot or parcel that, before the relocation or elimination of the common property line, is smaller than the minimum lot or parcel size for the applicable zone and contains an existing dwelling or is approved for the construction of a dwelling, if the abutting vacant tract would be increased to a size as large as or larger than the minimum tract size required to qualify the vacant tract for a dwelling;
 - ii. Decrease the size of a lot or parcel that contains an existing dwelling or is approved for construction of a dwelling to a size smaller than the minimum lot or parcel size, if the abutting vacant tract would be increased to a size as large as or larger than the minimum tract size required to qualify the vacant tract for a dwelling; or
 - iii. Allow an area of land used to qualify a tract for a dwelling based on an acreage standard to be used to qualify another tract for a dwelling if the land use approval would be based on an acreage standard.

17.139.110 PERMIT EXPIRATION DATES.

- A. Notwithstanding other provisions of this title, a discretionary decision, except for a land division, approving a proposed development in the FT zone expires two years from the date of the final decision if the development action is not initiated **and all required conditions are met** in 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.

- D. If a permit is approved for a proposed residential development in the FT zone, the permit shall be valid for four years. For the purposes of this subsection, "residential development" only includes the dwellings provided for under MCC 17.139.020(E), 17.139.030(A), (B), (C), (D), (H) and (I), and 17.139.050(A).
- E. An extension of a permit consistent with subsection (D) of this section and with subsections (A)(1) through (4) of this section and where applicable criteria for the decision have not changed shall be valid for two years.

**CHAPTER 17.165
I (INDUSTRIAL) ZONE**

17.165.040 CONDITIONAL USES. When authorized under the procedure provided for conditional uses in this ordinance, the following uses will be permitted in an I zone, subject to MCC 17.165.060:

- A Mining, crushing or stockpiling of aggregate and other mineral and other subsurface resources subject to MCC 17.120.410 through 17.120.480.**
- ~~A. Mining pits and quarries facilities (SIC 14);~~
 - B. Petroleum, petroleum products, by-products manufacturing and storage facilities (SIC 29);
 - C. Metals, primary, manufacturing facilities (SIC 33);
 - D. Machinery manufacturing facilities (SIC 35);
 - E. Railroad equipment manufacturing (SIC 3743);
 - F. Automobile Wreckers (SIC 5093);
 - G. Welding shop (SIC 7692);
 - H. Blacksmith (SIC 7699);
 - I. Public power generation;
 - J. Solid Waste Disposal Sites (see specific conditional uses, MCC 17.120.310 through 17.120.380);
 - ~~K. Sand and Gravel Resource Sites (see specific conditional uses, MCC 17.120.410 through 120.480);~~
 - L. Heliport;
 - M. Wireless communication facilities (see specific conditional uses, MCC 17.120.080);
 - N. Recreational vehicle, mobile home and boat repair and manufacturing;
 - O. Kennels, boarding and raising of animals;
 - P. Public power generation facilities;
 - ~~Q. Mineral and aggregate resource operations;~~
 - R. Training facilities in conjunction with industrial activities;**
 - S. Manufacturing, processing, trucking, wholesale distribution, and storage uses not listed in MCC 17.165.020 or 17.165.030 and not exceeding 35,000 square feet of floor (SIC 20 through 39 and 42).

**CHAPTER 17.172
SUBDIVISION AND PARTITION REQUIREMENTS**

17.172.120 PROPERTY LINE ADJUSTMENTS. The following requirements shall apply to all property line adjustments:

- A. Regardless of the size of the adjustment, when a property line to be adjusted is part of a division of land previously approved by Marion County it shall be subject to the approval of the planning director.
- B. Except as provided in subsection (A) of this section, no approval is necessary for property line adjustments in the RM (multiple-family residential), C (commercial), CC (community commercial), ID (interchange district), I (industrial), or IUC (unincorporated community industrial) zones.
- ~~C. Except as provided in subsection (B) of this section, all property line adjustments shall require approval under the partitioning procedure if the adjustment exceeds 10 percent of the total land area of the smallest affected parcel.~~
- D. Any adjustment or removal of a property line or public easement involving a parcel in a recorded partition plat or lot line in a recorded subdivision shall be performed by means of the replat process specified in ORS 92.180 to 92.190.
- E. Property line adjustment deeds shall be recorded with the Marion County Clerk's Office prior to submitting the property line adjustment survey, if a survey is required. Deed recording reference numbers shall be noted on the required survey.**

17.172.180 DEAD-END STREETS. When it appears necessary to continue streets to an adjacent acreage, the streets shall be platted to the boundary or property line of the proposed subdivision ~~without a turnaround. In all other cases, dead-end streets~~ **and** shall have a turnaround with a configuration approved by the Marion County Department of ~~P~~**u** ~~W~~**o** ~~r~~**k** ~~s~~ **E** ~~n~~**g** ~~i~~**n** ~~e~~**e** ~~r~~**i** ~~n~~**g**.

17.172.280 PERFORMANCE STANDARDS. Whenever adequate assurances of performance are required as a condition of approval of any subdivision under this ordinance, the applicant shall provide one of the following:

- A. A surety bond executed by a surety company authorized to transact business in the State of Oregon, in an amount equal to ~~12500~~ percent of the construction cost of the required **public** improvements, as verified by the county.
- B. A verified deposit with a responsible escrow agent or trust company of cash or negotiable bonds in an amount equal to ~~12500~~ percent of the construction costs of the required **public** improvements, together with an agreement that the deposit may be disbursed only upon county approval. The agreement shall include a provision that the county shall allow release of the deposit in such amounts and at such times as a corresponding proportion of the required improvements are completed to the satisfaction of the county engineer following an inspection by the county engineer or the engineer's authorized representative.
- C. An irrevocable letter of credit from one or more financial or lending institutions pledging that funds equal to ~~12500~~ percent of the construction cost of all required improvements are available to the applicant and are guaranteed for payment for the improvements.

Regardless of the option chosen above, no building permits for any structures within the subdivision will be issued until all improvements have been completed by the applicant. In the event the applicant fails to complete all improvements, the county may estimate the cost of completing any required improvement, call on the bond or deposit for the funds necessary to complete the improvement, and complete the improvement to the extent of the funds obtained upon call of the bond or deposit. If the amount obtained from the bond or deposit is insufficient to complete the improvement, the county may either hold the collected funds until additional funds are authorized for the improvement or expend the collected funds on a revised improvement or on a portion of the improvement as determined reasonable by the director of public works. Following final inspection, if the improvement is complete and the amount of the bond or deposit exceeds the actual cost to the county of completing the improvement, the remainder shall be released.

- D. **Maintenance Bonds.** The applicant shall provide a maintenance bond in a form approved by the office of legal counsel equal to 40 percent of the construction cost of all required improvements. The applicant shall provide the bond within 30 days after final review of the required improvements. The bond shall remain in effect for one year after the completion of construction of all required improvements. The purpose of the bond is to guarantee applicant's obligation to maintain all required improvements for a period of one year after completion of construction of all required improvements. After the expiration of the one year period, any remaining balance on the bond shall be released. The bond shall include a provision stating that, in the event the county must take legal action to recover on this bond, and it prevails at trial or on appeal, the county shall be entitled to recover its reasonable attorney fees and its costs and disbursements. Nonpayment of the bond will not invalidate applicant's obligations under the bond.

17.172.320 STREET OR ROAD IMPROVEMENTS. All **public** street or road improvements including pavement, curbs, sidewalks, signage, and surface drainage shall be in accordance with the specifications and standards prescribed by the director of public works. Subdivision plats shall not have final approval until such time as the director of public works, or his/her designee, is satisfied that the street improvements will be completed in accordance with the specifications and standards set forth by the Marion County department of public works.

No building permits within a subdivision or partition shall be issued until the director of public works, or his/her designee, approves that the improvements have been completed or, sufficient improvement agreements and financial guarantees have been recorded.

17.172.840 ACTION AND RECORDING OF FINAL PLATS. After receiving detailed approval, a subdivider shall submit a final plat for approval. A subdivision plat, when ready for final approval prior to recording, shall be substantially in accordance with the approved detailed plan. The final plat shall be tied into the geodetic coordinate system used in the county. After the final plat has been filed with the Marion County surveyor and a copy forwarded to the planning division, the director shall review the final plat and compare it with the approved detailed plan to ascertain whether the final plan substantially conforms to the approved detailed plan and the conditions of approval. Before submitting the final to the board for approval, the final plat shall be approved and signed by all persons set out in the dedication, the mortgagees, if any, the director, county surveyor, county on-site wastewater specialist, **county engineer**, county assessor, and the signature and seal of the registered land surveyor responsible for the laying out of the subdivision. All the conditions of detailed approval shall be fulfilled before submitting the final plat to the county surveyor for approval and signature. If the county surveyor or planning director finds that there has not been substantial conformance with the approved detailed plan, the subdivider shall be advised of the changes that must be made and afforded an opportunity to make such changes.

When the final plat has been reviewed by the director and is found to be in substantial conformity to the approved detailed plan, the subdivider has fully complied with ORS 92.090(4) and (5), the director or authorized representative shall sign the final plat. The director may elect to submit the final plat to the commission or hearings officer for further review.

All signatures on the final plat shall be in black archival ink. Where the subdivider has expressed the intent, in writing, to develop the subdivision in phases, or stages, the final plat may contain all or only a portion of the approved detailed plan.

**CHAPTER 17.178
FLOODPLAIN OVERLAY ZONE**

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

- A. "Accessory" means a building, structure, vehicle, or use which is incidental and subordinate to and dependent upon the primary use on the lot.
- B. "Area of shallow flooding" means a designated AO or AH Zone on the Flood Insurance Rate Map (FIRM). The base flood depths range from one to three feet; a clearly defined channel does not exist; the path of flooding is unpredictable and indeterminate; and velocity flow may be evident. AO is characterized as sheet flow and AH indicates ponding.
- C. "Base flood level" means the flood level having a one percent chance of being equaled or exceeded in any given year (100-year floodplain).
- D. "Basement" means any area of a building having its floor subgrade (below ground level on all sides) and not meeting the requirements for crawlspace construction in FEMA Technical Bulletin 11-01.
- E. "Critical facility" means buildings or locations vital to the emergency response effort (e.g., emergency operations centers, 911 centers, police and fire stations, municipal water distribution and storage systems, hospitals, road departments and select roads and bridges, radio and TV stations and towers), and buildings or locations that, if damaged, would create secondary disasters (e.g., hazardous materials facilities, water and wastewater distribution and treatment facilities, schools, nursing homes, natural gas and petroleum pipelines, and prison or jail facilities).
- F. "Conveyance" means the carrying capacity of all or a part of the floodplain. It reflects the quantity and velocity of floodwaters. Conveyance is measured in cubic feet per second (CFS). If the flow is 30,000 CFS at a cross section, this means that 30,000 cubic feet of water pass through the cross section each second.
- G. "Existing manufactured home park or subdivision" is one in which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed was completed before the effective date (August 15, 1979) of the community's floodplain management regulations. The construction of facilities includes, at a minimum, the installation of utilities, construction of streets, and either final site grading or the pouring of concrete pads.
- H. "Encroachment" means any obstruction in the floodplain, which affects flood flows.
- I. "Flood" or "flooding" means a general and temporary condition of partial or complete inundation of usually dry land areas from the unusual and rapid accumulation of runoff of surface waters from any source.
- J. "Floodplain boundary floodway map (FBFM)" means the map portion of the Flood Insurance Study (FIS) issued by the Federal Insurance Agency on which is delineated the floodplain, floodway (and floodway fringe) and cross sections (referenced in the text portion of the FIS).

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

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

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

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

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

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

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

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

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

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

insurance premiums than buildings that have the preferred crawlspace construction (the interior grade of the crawlspace is at or above the adjacent exterior grade).

7. A garage attached to a residential structure, constructed with the garage floor slab below the base flood elevation, may be constructed to wet floodproofing standards provided that:
 - a. The garage shall meet the standards for openings in subsection (A)(5) of this section; and
 - b. The garage shall be constructed with unfinished materials acceptable for wet floodproofing to two feet above the base flood elevation or, where no BFE has been established, to two feet above the highest adjacent grade.
 8. A detached residential accessory structure may be constructed to wet floodproofing standards provided that:
 - a. The accessory structure shall be located on a property with a dwelling;
 - b. The accessory structure shall be limited to vehicle parking and limited storage (no workshops, offices, recreation rooms, etc);
 - c. The accessory structure shall be constructed with unfinished materials acceptable for wet floodproofing to two feet above the base flood elevation or, where no BFE has been established, to two feet above the highest adjacent grade;
 - d. The accessory structure shall not be used for human habitation;
 - e. The accessory structure shall be constructed and placed on the building site so as to offer the minimum resistance to the flow of floodwaters;
 - f. The accessory structure shall meet the standards for openings in subsection (A)(5) of this section and,
 - g. The accessory structure shall meet the criteria for a variance in MCC 17.178.090.
 - h. *A declaratory statement is recorded requiring compliance with the standards in 17.178.060(A)(8)(b-f) and 17.178.060(F)(3).***
- B. Manufactured Homes in Existing Manufactured Home Parks. The standards in subsection (A) of this section shall apply to location of a manufactured home in a vacant space in a manufactured home park existing prior to adoption of the ordinance codified in this title.
- C. Non-residential Development
1. New construction and substantial improvement of any commercial, industrial or other non-residential structures shall either have the lowest floor, including basement, elevated to two feet above the level of the base flood elevation, and where the base flood elevation is not available, the lowest floor, including basement, shall be elevated to two feet above the highest adjacent natural grade (within five feet) of the building site; or together with attendant utility and sanitary facilities, shall:

- a. Be floodproofed to an elevation of two feet above base flood elevation or, where base flood elevation has not been established two feet above the highest adjacent grade, so that the structure is watertight with walls substantially impermeable to the passage of water.
 - b. Have structural components capable of resisting hydrostatic and hydrodynamic loads and effects of buoyancy.
 - c. Be certified by a registered professional engineer or architect that the standards in this subsection are satisfied. This certificate shall include the specific elevation (in relation to mean sea level) to which such structures are floodproofed.
 - d. Non-residential structures that are elevated, not floodproofed, must meet the same standards for space below the lowest floor as described in subsections (A)(4 5) and (§ 6) of this section.
 - e. Applicants floodproofing non-residential buildings shall be notified by the zoning administrator that flood insurance premiums will be based on rates that are one foot below the floodproofed level (e.g. a building constructed to the base flood level will be rated as one foot below that level).
2. New construction of any commercial, industrial or other non-residential structures are prohibited in the floodway. An exception to this prohibition may be granted if a floodplain development permit and variance consistent with MCC 17.178.080 are obtained. This prohibition does not apply to water dependent uses.
 3. An agricultural structure may be constructed to wet floodproofing standards provided that:
 - a. The structure shall be used solely for agricultural purposes, for which the use is exclusively in conjunction with the production, harvesting, storage, drying, or raising of agricultural commodities, the raising of livestock, and the storage of farm machinery and equipment;
 - b. The structure shall be constructed with unfinished materials acceptable for wet floodproofing to two feet above the base flood elevation or, where no BFE has been established, to two feet above the highest adjacent grade;
 - c. The structure shall not be used for human habitation;
 - d. The structure shall be constructed and placed on the building site so as to offer the minimum resistance to the flow of floodwaters;
 - e. The structure shall meet the standards for openings in subsection (A)(5) of this section; and,
 - f. The structure shall meet the criteria for a variance in MCC 17.178.090.

CHAPTER 17.179
GM (GREENWAY MANAGEMENT) OVERLAY ZONE

17.179.080 NOTIFICATION.

- A. ~~In addition to the notification requirements of MCC 17.119.130 and 17.119.150, written notice including the greenway development permit application will be sent immediately to the Oregon Department of Transportation. Notice to the Department of Transportation will be sent by certified mail return receipt requested. The Director shall allow ten days from the date of mailing to respond before a decision is made.~~
- B. ~~Any of the affected agencies, or planning director may, during the ten day notice period, request a public hearing. If a written request for a hearing is received by the director, the director shall schedule a public hearing before the hearings officer or planning commission who shall hear and decide the application in the same manner as for an appeal.~~
- C. ~~Notice of the planning director's decision shall be mailed to the Department of Transportation in addition to those specified in MCC 17.119.150.~~

NOTICE OF DECISION. In addition to the request for comments provided in MCC 17.119.130 and 17.119.150, notice of decision approving conditional uses or adjustments in the greenway management overlay zone shall be sent to the Oregon Parks and Resource Department in the same manner as required in Chapter MCC 17.119.150 for a person requesting notice of a decision in writing.

CHAPTER 17.191
SIGNS

17.191.060 SIGNS PERMITTED IN RESIDENTIAL ZONES. Except as provided in MCC 17.191.040, no sign shall be erected or maintained in residential zones except as set forth in this section:

A. Maximum Square Footage.

1. RS Zone.

- a. **For single family, duplex, or home occupations,** ~~One~~ unlighted wall or window sign not exceeding four square feet.
- b. For uses other than dwellings **those in (a) above,** one freestanding internally illuminated or electronic display sign not exceeding 32 square feet with a dwell time of one hour, except changes to correct hour-and-minute or temperature information, which may change no more often than once every three seconds.
- c. One temporary sign not exceeding six square feet and 30 inches above grade visible for 60 days twice per year.
- d. One temporary sign up to 32 square feet may be approved as a variance as provided in MCC 17.191.120.

2. AR Zone.

- a. **For single family, or home occupations,** ~~One~~ unlighted wall, window or freestanding sign not exceeding 32 square feet.
- b. For uses other than dwellings **those in (a) above** one internally or indirectly illuminated freestanding sign or one electronic display sign not exceeding 32 square feet with a dwell time of one hour, except changes to correct hour-and-minute or temperature information, which may change no more often than once every three seconds, may be erected in place of a freestanding sign.
- c. One temporary sign not exceeding 32 square feet visible for 60 days twice per year.

3. RM Zone.

- a. **For single family, duplex, or home occupations,** ~~One~~ unlighted wall, window or freestanding sign not exceeding 32 square feet.
- b. For uses other than dwellings **those in (a) above** one internally or indirectly illuminated freestanding sign or one electronic display sign not exceeding 32 square feet with a dwell time of one hour, except changes to correct hour-and-minute or temperature information, which may change no more often than once every three seconds, may be erected in place of a freestanding sign.
- c. One temporary sign not exceeding six square feet and 30 inches above grade visible for 60 days twice per year.

- d. For apartments and retirement homes, only one temporary banner sign not exceeding 50 square feet per street frontage, located on that frontage, and visible for 30 days four times per year.

B. Height Limitations. Signs shall comply with the following maximum height limitations:

1. Freestanding sign: six feet
2. Wall and window signs: eight feet
3. For signs allowed in subsections (A)(1)(b), (2)(b) and (3)(b) of this section: 15 feet

C. Setbacks. Unless specified otherwise, signs shall comply with the following minimum setback requirements: signs shall be located at least three feet from a lot line abutting a street. All signs shall comply with requirements for vision clearance areas and special street setbacks. Freestanding signs may be erected in special setback areas. [See MCC 17.191.090].

D. Illumination.

1. Indirect illumination shall be directed away from and not be reflected upon adjacent premises, streets or roadways. Illumination shall be subject to the standards in MCC 17.191.100(A).
2. The light source for an internally illuminated sign may be comprised of light emitting diodes, so long as the light emitting diodes are used for illumination only, do not create an electronic display or effect, and conform to the brightness limitations set forth in MCC 17.191.100(B).



DEPT OF
FEB 28 2011
LAND CONSERVATION
AND DEVELOPMENT

FIRST CLASS
Hasler
016H26518203
\$06.700
02/25/2011
Mailed From 97301
US POSTAGE



MARION COUNTY PUBLIC WORKS
5155 SILVERTON RD NE
SALEM, OREGON 97305

TO:

STATE OF OREGON LCDC
DENNIS MILLER
635 CAPITOL ST NE SUITE 200
SALEM OR 97301-6033