

Amendments to the Development Code

Effective May 18, 1990, the Development Code replaced the former Zoning Ordinance and Land Division Ordinance to govern land use activities in Benton County.

The legislative history of every section of the Code is listed in brackets at the end of each section. For example:

89.005 Purpose. This Chapter is intended to encourage continued use, rehabilitation, and preservation of significant historic sites and structures. [Ord 90-0069, Ord 91-0080]

This section appears at the beginning of Chapter 89, Historic Preservation. This section was originally adopted in 1990 by Ordinance No. 90-0069. It was revised in 1991 by Ordinance No. 91-0080.

<u>Ord. No.</u>	<u>Eff. Date</u>	<u>File No.</u>	<u>Chapters Amended</u>
90-0069	5/18/90	L-90-1	Adoption of the Development Code (50-99)
90-0073	8/11/90	L-90-2	Rezone Marys River Estates from RR-2 to RR-5
90-0074	8/11/90	L-90-4	Expand Monroe UGB
90-0075	8/11/90	L-90-5	55
90-0077	10/5/90	L-90-7	76
91-0079	2/8/91	L-80-9	50
91-0080	4/27/91	L-90-12	87, 89
91-0081	4/27/91	L-90-12	Apply Sensitive Fish & Wildlife Habitat Overlay Zone to two sites
91-0082	2/22/91	L-80-11	50, 51, 64, 65
91-0083	3/8/91	L-90-10	Apply Wetland Overlay Zone to Jackson-Frazier Wetland
92-0092	7/17/92	L-91-1	51, 55, 61, 63, 64, 65, 68, 72, 76, 78, 79, 83, 86, 91, 94, 95, 96, 97, 98, 99
92-0093	11/7/92	PC-92-5	78
92-0094	11/7/92	PC-92-5	Apply Public Zone with Use Overlay to Peavy Arboretum
93-0096	3/5/93	L-91-1	51
93-0097	3/5/93	L-91-1	64, 91, 95
93-0098	5/21/93	L-90-12	55, 87
94-0103	3/18/94	L-92-1	60
94-0104	3/18/94	L-93-1	51, 63, 64, 82, 91
94-0108	11/6/94	L-94-4 & 5	55, 56
95-0114	11/4/95	L-95-1	60
96-0117	8/12/96	L-95-3	51
96-0118	8/12/96	L-95-3	51, 55, 60, 63, 64, 65, 68, 69, 72, 73, 76, 78, 79, 83, 85, 89, 91, 94, 95, 97, 98, 99
96-0119	12/13/96	L-96-3	91

<u>Ord. No.</u>	<u>Eff. Date</u>	<u>File No.</u>	<u>Chapters Amended</u>
97-0131	12/12/97	L-96-2	51, 63, 64, 79,91 and repeal 82
98-0134	3/20/98	L-97-3	51, 60, 64
98-0136	07/10/98	L-98-01	63, 64
98-0141	11/6/98	L-97-4	57. 64. 95, 97, 98, 100
99-0146	4/8/99	L-98-01	55, 64, 72, 79, 91
99-0147	4/8/99		52, 79
99-0148	7/8/99	L-98-03	
99-0154	2/10/2000	L-99-05	100
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Chapter 50

Benton County Comprehensive Plan

50.005 Comprehensive Plans Incorporated by Reference. (1) The Benton County Comprehensive Plan, including the Comprehensive Plan Map, is hereby incorporated by reference into the Benton County Code.

(2) The Comprehensive Plans of the Cities of Adair Village, Albany, Corvallis, Monroe and Philomath are hereby adopted as part of the Benton County Comprehensive Plan for the respective areas between the urban growth boundary and the city limits of the above mentioned cities. [Ord 90-0069]

50.010 Purpose. The Comprehensive Plan is the official policy guide for decisions about growth, development, and conservation of natural resources in Benton County. [Ord 90-0069]

50.015 Relationship to Development Code. The policies of the Comprehensive Plan shall serve as the basis for developing the implementing regulations of the Development Code. The policies of the Comprehensive Plan are not implementing regulations and shall not be directly applied to individual applications except as provided by the Development Code. When the interpretation of a particular Development Code provision is in doubt, the Comprehensive Plan shall be referred to for policy guidance. [Ord 90-0069]

Chapter 51

Development Code Administration

51.005 Title. BCC Chapters 51 to 100 shall be known as the Benton County Development Code. [Ord 90-0069]

51.10 Scope. The Development Code is intended to implement the Benton County Comprehensive Plan. All amendments to the Development Code shall comply with the Comprehensive Plan. Land within unincorporated Benton County may be used and developed only as provided by the Development Code. The Development Code is part of the Benton County Code, and unless otherwise provided, is subject to applicable general regulations of the Benton County Code. [Ord 90-0069]

51.011 Private Land Use Restrictions. There may be private land use restrictions (e.g. Covenants, Conditions and Restrictions) recorded in the public records of Benton County which limit or impair a property owner's ability to utilize their property. Nothing in the Benton County Development Code shall be interpreted as superseding or limiting the enforcement of such private land use restrictions. Benton County will not enforce and will not interpret private land use restrictions. Private land use restrictions are private legal matters which may be enforced in appropriate legal proceedings in the courts of this state. [Ord 97-0131]

51.015 Transition to the Development Code. (1) All applications filed prior to the effective date of this code shall be processed pursuant to Ordinance 7 or 26. [Ord 97-0131]

(2) All applications or permits approved pursuant to Ordinance 7 or 26 shall continue in full force and effect unless the approved use becomes nonconforming as a result of the adoption of the Development Code. If the use has become nonconforming, an approved application or permit shall continue in full force and effect if the use has been established or if the property owner qualifies for a vested right pursuant to BCC 53.335. Where a condition of approval specifies that a subsequent land use application be filed for review, or when an applicant wishes to change a condition or term of a prior approval, such application shall be processed in accordance with the provisions of the this code. [Ord 90-0069]

51.020 Definitions. As used in BCC Chapters 51 to 100:

- (1) "Access" means the method of ingress and egress.
- (2) "Accessory use or structure" means a use or structure which is incidental and subordinate to the principal use or structure.
- (3) "Base flood" means the flood having a one percent (1%) chance of being equaled or exceeded in any given year. The "base flood" also means "100 year flood".
- (4) "Base flood elevation" means the height of the flood waters during a base flood at points along the water course, expressed in feet above mean sea level.
- (5) "Big game" means deer and elk.
- (6) "Cemetery" means a place used for the permanent interment of human remains.
- (7) "Day care center" means an establishment providing specialized group care for thirteen or more children.
- (8) "Driveway" means access to private land.

- (9) "Dwelling" means a single-family dwelling. "Dwelling" includes a manufactured dwelling unless otherwise provided by this code. "Dwelling" does not mean a tent, tepee, yurt, hotel, motel, recreational vehicle or bus.
- (10) "Dwelling, multi-family" means a building used by two or more families living independently of each other in separate dwelling units.
- (11) "Family" means an individual, two or more related persons, or a group of not more than five unrelated persons living together as a housekeeping unit.
- (12) "Farm use" means one of the following:
- (a) In zones other than Exclusive Farm Use, Forest Conservation and Multi-Purpose Agriculture, "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 by the feeding, breeding, management and sale 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 and storage of the products raised on such land for human and animal use and disposal by marketing or otherwise. "Farm Use" also includes the propagation, cultivation, maintenance and harvesting of aquatic species. It does not include the use of land subject to the provisions of ORS Chapter 321, except land used exclusively for growing cultured Christmas trees or for hardwood species marketable as fiber for manufacturing paper products as described in ORS 321.267(1)(e). Farm use shall be appropriate for the continuation of existing, or the promotion of new, commercial agriculture enterprise in the area. [Ord. 2001-0174]
 - (b) In only the Exclusive Farm Use, Forest Conservation, and Multi-Purpose Agriculture zones, "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 produce of, livestock, poultry, fur-bearing animals, or honeybees, or for dairying and the sale of dairy products or any other agricultural or horticultural use or animal husbandry or any combination thereof. "Farm Use" includes the preparation, storage and disposal by marketing or otherwise of the products or by-products raised on such land for human or animal use. "Farm use" also includes the current employment of land for the primary purpose of obtaining a profit in money by stabling or training equines including but not limited to providing riding lessons, training clinics and schooling shows. "Farm Use" also includes the propagation, cultivation, maintenance and harvesting of aquatic species and bird and animal species to the extent allowed by the rules adopted by the State Fish and Wildlife Commission. "Farm use" includes the on-site construction and maintenance of equipment and facilities used for the activities described in this subsection. "Farm use" does not include the use of land subject to the provisions of ORS Chapter 321, except land used exclusively for growing cultured Christmas trees defined in ORS 215.203 (3) or land described in ORS 321.267 (1)(e) or 321.415 (5). [Ord. 2001-0174]
- (13) "Feed lot" means a premise where six or more cattle or pigs are kept within a confined area of less than five (5) acres such that a nuisance from noise, sound, or odor occurs.
- (14) "Fire break" means a minimum area of thirty (30) feet around a dwelling cleared of vegetation except for ornamental shrubbery, sod, single trees or similar plants used for ground cover. Trees and large ground cover shall be placed to prevent rapid movement of a fire. If slopes are greater than thirty percent (30%), "fire break" means a minimum of fifty (50) feet.
- (15) "Flag lot" means a parcel or lot connected by means of a narrow strip of land to a road right-of-way.
- (16) "Flood hazard" means a risk to life or property caused by flooding.

- (17) "Flood plain" means a land area capable of being inundated by water during a base flood.
- (18) "Flood proofing" means any combination of structural and non-structural additions or adjustments to properties and structures for the reduction or elimination of flood damage.
- (19) "Floodway" means that portion of the flood plain reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one foot.
- (20) "Floodway fringe" means that portion of the flood plain of a river or other watercourse that lies landward of the floodway and serves as a temporary floodwater storage area during the base flood.
- (21) "Forest use" means:
- (a) The production of trees and the processing of forest products;
 - (b) Open space, buffers from noise, and visual separation of conflicting uses;
 - (c) Watershed protection and wildlife and fisheries habitat;
 - (d) Soil protection from wind and water;
 - (e) Maintenance of clean air and water;
 - (f) Outdoor recreational activities and related support services, and wilderness values compatible with these uses; or
 - (g) Grazing land for livestock.
- (22) "Frontage" means the boundary of a parcel or lot abutting a road.
- (23) "Functional classification" means the designation of a road based upon the level of service intended, as specified by the Transportation Management Plan incorporated in the Benton County Comprehensive Plan. Private roads do not have a functional classification, but are considered local roads.
- (24) "Home occupation" means a business carried on within a dwelling or an accessory structure where the business is secondary to the use of the property as a residence.
- (25) "Junkyard" means any lot or premise where there is accumulated eight or more motor vehicles in any condition, or an equivalent volume of salvaged materials or solid waste. "Junkyard" includes an auto wrecking yard, garbage dump, junk dealer, and a scrap metal processing facility.
- (26) "Kennel" means one of the following:
- (a) "Commercial kennel" means a premise on which five or more adult dogs and/or cats are kept for breeding purposes for profit and/or where five or more adult dogs and/or cats are boarded for profit. A commercial kennel established for breeding purposes is characterized as a business venture with the primary purpose to produce and sell dogs or cats. An adult dog or cat is one that has reached the age of six months.
 - (b) "Hobby kennel" means a premise on which five or more adult dogs and/or cats are kept for purposes other than those described for a commercial kennel. These purposes include show, hunting, stock raising, or other personal use. An adult dog or cat is one that has reached the age of six months.
- (27) "Land division" means a subdivision or land partition where a new lot or parcel is created.
- (28) "Landfill" means land used for the disposal of solid wastes, and may include the removal and classification of recycled materials.
- (29) "Legislative land use action" means an ordinance amendment to the policies, procedures, standards or criteria of the Comprehensive Plan or Development Code which does not apply to specifically

identified persons or properties, except insofar as persons or properties are generally affected by reason of the change in such policies, procedures, standards or criteria.

(30) "Limited Land Use Decision" means a final decision or determination by a local government pertaining to a site within an urban growth boundary which concerns:

- (a) The approval or denial of a subdivision or partition, as described in ORS chapter 92;
- (b) The approval or denial of an application based on discretionary standards designed to regulate the physical characteristics of a use permitted outright, including but not limited to site review and design review.

(31) "Lot" means a unit of land created by a subdivision of land approved by Benton County and filed with the Benton County Records and Elections Department.

(32) "Major stream" means that stretch of a creek designated as a flood hazard area on the Flood Insurance Rate Maps.

(33) "Minor stream" means that stretch of a creek which is not designated as a flood hazard area on the Flood Insurance Rate Maps.

(34) "Manufactured dwelling" means:

- (a) A residential trailer, a structure constructed for movement on the public highways, that has sleeping, cooking and plumbing facilities, that is intended for human occupancy, is being used for residential purposes and was constructed before January 1, 1962.
- (b) A mobile house, a structure constructed for movement on the public highways, that has sleeping, cooking and plumbing facilities, that is intended for human occupancy, is being used for residential purposes and was constructed between January 1, 1962, and June 15, 1976, and met the construction requirements of Oregon mobile home law in effect at the time of construction.
- (c) A manufactured dwelling, a structure constructed for movement on the public highways, that has sleeping, cooking and plumbing facilities, that is intended for human occupancy, is being used for residential purposes and was constructed in accordance with federal manufactured housing construction and safety standards regulations in effect at the time of construction.

(35) "Mobile home or manufactured dwelling park" means a property designed for rental of four (4) or more spaces for mobile homes or manufactured dwellings.

(36) "Nonfarm use" means any use which is not a "farm use" as defined by this code.

(37) "Open space" means lands which:

- (a) Conserve or enhance natural or scenic resources;
- (b) Protect air or streams or water supply;
- (c) Promote conservation of soils or wetlands;
- (d) Conserve landscaped areas, such as public or private golf courses, which reduce air pollution and enhance the value of neighboring property;
- (e) Enhance the value to the public of abutting or neighboring parks, forests, wildlife preserves, nature reservations or sanctuaries;
- (f) Enhance recreational opportunities;
- (g) Preserve historic sites; or
- (h) Promote orderly urban or suburban development.

- (38) "Ordinary high water line" means the top of the bank of a stream or river.
- (39) "Owner" means the person on record with the Benton County Assessor as owning real property, or who is a contract purchaser of record of real property.
- (40) "Parcel" means a single unit of land conforming with all land development regulations in effect on the date the parcel was created. "Parcel" also refers to a unit of land legally created prior to partition ordinances and recognized as a distinct unit of land by the County pursuant to ORS 92.017. "Parcel" does not include a unit of land created solely to establish a separate tax account. "Parcel" does not include "lot" as defined under BCC 51.020(31).
- (a) Except as provided in (b), a parcel is considered legally created and will be recognized as a legally created unit of land if:
- (A) The creation of the parcel was approved by the County pursuant to County zoning and land division ordinances in effect at the time of the partitioning; or
 - (B) The creation of the parcel was by one of the following listed methods and the creation of the parcel was in accordance with applicable laws in effect at the time:
 - (i) The parcel is shown on a survey filed with the State of Oregon prior to October 5, 1973; or
 - (ii) The parcel was described in a land sales contract entered into prior to November 28, 1975; or
 - (iii) The parcel was described in a deed recorded prior to November 28, 1975.
- (b) Any legally created parcel as described in (a) above will cease to be recognized by the County as a distinct unit of land once it has been reconfigured, altered, or consolidated into a larger unit of land by approval or recording of any one or more of the following:
- (A) partition plat;
 - (B) subdivision plat;
 - (C) deed with a single unified metes and bounds legal description;
 - (D) deed expressly stating an intent to unify separately described parcels;
 - (E) covenant expressly stating an intent to unify separately described parcels.
- (c) A legally created unit of land does not mean a buildable unit of land. Zoning and other development restrictions may exist which require the combination of lots or parcels in order for such parcels to be developed. [Ord 96-0117, Ord 96-0118]
- (41) "Property line adjustment" means the relocation of a common boundary where an additional unit of land is not created.
- (42) "Partition land" means to divide land into two or three parcels or lots within a calendar year. "Partition land" does not include 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; or an adjustment of a property line by the relocation of a common boundary where an additional unit of land is not created and where the existing unit of land reduced in size by the adjustment complies with any applicable zoning ordinance; or a sale or grant by a person to a public agency or public body for state highway, county road, or other right-of-way purposes, provided that such road or right-of-way complies with the applicable comprehensive plan and other provisions of this code. However, any property divided by the sale or grant of property for state highway, county road, 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.
- (43) "Parent parcel" means a parcel or lot as described and recorded in County Deed Records on or before September 20, 1978.
- (44) "Planning Official" means the Director of the Development Department or the Director's designee.

(45) "Property line" means the exterior boundary of a lot or parcel. For contiguous lots or parcels held in common ownership and combined for development purposes, the property line for purposes of setbacks shall be the exterior boundary of the combined lots or parcels. Unless otherwise specified, setbacks set forth in this code shall be measured to the property line.

(46) "Public water system" means a system for the provision to the public of piped water for human consumption, if such system has more than three (3) service connections or supplies water to a public or commercial establishment which operates a total of at least sixty (60) days per year, and which is used by ten (10) or more individuals per day or is a facility licensed by the Health Division of the Oregon Department of Human Resources. A public water system is either a "community water system" or a "non-community water system".

(a) "Community water system" means a public water system which has fifteen (15) or more service connections used by year-round residents, or which regularly serves twenty-five (25) or more year-round residents;

(b) "Non-community water system" means a public water system that is not a community water system.

(47) "Quasi-judicial land use action" is land use decision made pursuant to existing criteria regarding specifically identified persons or properties.

(48) "Recreational vehicle" means a vacation trailer or other unit which is designed for human occupancy.

(49) "Replat" means the act of platting the lots, parcels, and easements in a recorded subdivision or partition plat to achieve a reconfiguration of the existing subdivision or partition plat or to increase or decrease the number of lots in the subdivision.

(50) "Residential home" means a home licensed by or under the authority of the Oregon Department of Human Resources under ORS 443.400 to 443.825 which provides residential care alone or in conjunction with treatment or training or a combination thereof for five or fewer individuals who need not be related. Staff persons required to meet Oregon Department of Human Resources licensing requirements shall not be counted in the number of facility residents, and need not be related to each other or to any resident of the residential home.

(51) "Residential facility" means a facility licensed by or under the authority of the Oregon Department of Human Resources under ORS 443.400 to 443.460 which provides residential care alone or in conjunction with treatment or training or a combination thereof for six to fifteen individuals who need not be related. Staff persons required to meet Oregon Department of Human Resources licensing requirements shall not be counted in the number of facility residents, and need not be related to each other or to any resident of the residential facility.

(52) "Resource zone" means the Exclusive Farm Use, Exclusive Farm Use-Homestead Agriculture, Multi-Purpose Agriculture, Flood Plain Agriculture, Forest Conservation, and Open Space Zones.

(53) "Restoration" means the process of accurately recovering the form and details of the property and its setting as they appeared at a particular period of time by means of removal of later improvements, or by the replacement of missing earlier features.

(54) "Right-of-way" means the area between the boundary lines of a road.

(55) "Road" means the entire right-of-way of any public or private way that provides access for persons to property.

(a) "Private road" means a road that has not been dedicated for public use and in which no rights have accrued to the public.

- (b) "Public road" means a road dedicated to the public, or a road which the public has accrued a right to use.
- (c) "County road" means a public road that has been accepted by the Board of Commissioners into the County road maintenance system.
- (56) "Roadway" means the road surface improved for use by vehicular traffic.
- (57) "Sanitary landfill" means land used for the disposal of solid wastes in accordance with State and County requirements.
- (58) School: A public or private place or institution for teaching, instructing, educating, and learning; including elementary, secondary, college or university levels, and trade schools; including their accessory structures.
- (59) "Seasonal farm-worker" means any person who, for an agreed remuneration or rate of pay, performs temporary labor for another to work in production of farm products or planting, cultivating or harvesting of seasonal agricultural crops or in forestation or reforestation of lands, including by not limited to, the planting, transplanting, tubing, precommercial thinning and thinning of trees and seedlings, the clearing, piling and disposal of brush and slash and other related activities.
- (60) "Seasonal farm-worker housing" means housing limited to occupancy by seasonal farm workers and their immediate families which is occupied no more than nine months a year.
- (61) "Secondary road" means a road which is not required to meet County urban or rural road standards.
- (62) "Setback" means the minimum allowable horizontal distance from a given line of reference (usually a property line) to the nearest vertical wall of a structure.
- (63) "Sign face" means the entire surface area of a sign upon which a message can be placed.
- (a) Where a sign has two display faces back to back, the area of only one face shall be considered the sign face. If one face is larger, the area of the larger sign face shall be considered the sign face. The supporting structure or bracing of a sign shall not be counted as part of the sign face, unless such structure or bracing is made a part of the sign's message.
- (b) Where a sign has more than one display face, all areas which are viewed simultaneously shall be considered the sign face of a single sign. All faces displayed on the same means of support, such as a single pole, shall be considered a single sign.
- (64) "Structural alterations" means a change in the supporting members of a structure, such as bearing walls, columns, beams, girders, or foundations.
- (65) "Structure height" means the vertical distance from the average finished grade to the highest point of a roof. "Average finished grade" means the midpoint between the highest and lowest finished grades adjacent to the building.
- (66) "Subdivide land" means to divide land into four or more lots within a calendar year.
- (67) "Subdivision" means either the act of subdividing land or a tract of land subdivided.
- (68) "Surface mining" means the extraction or processing of mineral or aggregate resources.
- (69) "Tract" means, for the purposes of the Exclusive Farm Use and Forest Conservation zones, one or more contiguous lots or parcels in the same ownership. [Ord 94-0108; Ord 2001-0174]
- (70) "Urban fringe" means that area between an urban growth boundary and the city limits of an incorporated city.

(71) "Water dependent use" means a use or activity which can be carried out only on or near water areas because the use requires access to the water body for water-borne transportation, recreation, energy production, or source of water. "Water dependent use" does not include effluent treatment and/or disposal.

(72) "Water related use" means a use which is not directly dependent upon access to a water body, but which provides goods or services that are directly associated with water dependent land or waterway use. "Water related use" does not include a dwelling, parking lot, spoil dump site, road, restaurant, business, factory, or trailer park.

(73) "Wetlands" means those areas that are inundated or saturated by surface or ground water at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions.

(74) "Winery" means a structure where grapes or other produce may be processed and converted to wine, bottled, blended, stored and sold. "Winery" includes a tasting room open to the public where wine may be sampled and purchased and where incidental wine related paraphernalia may be sold. [Ord 7, Ord 26, Ord 90-0069, Ord 92-0092, Ord 93-0096, Ord 96-0117, Ord 96-0118, Ord 98-0134]

51.100 Designated Primary Zones. The unincorporated portions of Benton County are divided into primary zones which establish the requirements for the use of land in a given area. Primary zones in Benton County are:

- (1) Exclusive Farm Use (EFU)
- (2) Multi-Purpose Agriculture (MPA)
- (3) Flood Plain Agriculture (FPA)
- (4) Forest Conservation (FC)
- (5) Open Space (OS)
- (6) Rural Residential (RR)
- (7) Urban Residential (UR)
- (8) Commercial (C)
- (9) Industrial (I)
- (10) Agricultural Industrial (AI)
- (11) Landfill Site (LS)
- (12) Public (P)
- (13) Rural Service Center (RSC)
- (14) Philomath Low-Density Residential (PR-1)
- (15) Philomath Medium-Density Residential (PR-2)
- (16) Philomath High-Density Residential (PR-3)
- (17) Philomath General Commercial (PC-2)
- (18) Philomath Light Industrial (PLI)
- (19) Philomath Heavy Industrial (PHI) [Ord 90-0069]

51.105 Overlay Zones. An overlay zone may be applied to any portion of a primary zone in order to establish special requirements in addition to those required by the primary zone. Overlay zones in Benton County are:

- (1) Flood Plain Management (/FPM)
- (2) Greenway Management (/GM)
- (3) Flexible Industrial (/FI)
- (4) Airport (/A)
- (5) Goal 5 Resources

- (a) Wetland (/W)
- (b) Surface Mining (/SM)
- (c) Sensitive Fish and Wildlife Habitat (/FW)

(6) Use (/U) [Ord 97-0131]

51.105 Overlay Zones. An overlay zone may be applied to any portion of a primary zone in order to establish special requirements in addition to those required by the primary zone. Overlay zones in Benton County are:

(1) Flood Plain Management (/FPM) The depiction of the Floodplain Management Overlay Zone on the Official Zoning Map is approximate; the official boundaries of this zone are shown on the Flood Insurance Rate Maps and Floodway Maps provided by the Federal Emergency Management Agency.

(2) Greenway Management (/GM) The depiction of the Greenway Management Overlay Zone on the Official Zoning Map is approximate; the official boundaries of this zone are shown on the adopted Willamette River Greenway maps located in the Planning Division.

(3) Flexible Industrial (/FI)

(4) Airport (/A) The depiction of the Airport Overlay Zone on the Official Zoning Map is derived from the boundaries described in Chapter 86. In the event of a conflict between these, the text description in Chapter 86 shall prevail.

(5) Goal 5 Resources

- (a) Wetland (/W)
- (b) Surface Mining (/SM)
- (c) Sensitive Fish and Wildlife Habitat (/FW)

(6) Use (/U)

[Ord 97-0131; 2004-0196]]

51.110 Official Zoning Map.

(1) The Official Zoning Map shall divide Benton County into primary and overlay zones and shall be consistent with the Benton County Comprehensive Plan Map and adopted City Comprehensive Plan Maps. The boundaries of the zones shown on the Official Zoning Map may be modified in accordance with the procedures for a zone change pursuant to this code. Annexation of territory to a City shall result in automatic amendment of the zoning map as of the effective date of annexation. [Ord 90-0069]

(2) The Official Zoning Map shall be maintained by the Planning Official in the offices of the Development Department. The Official Zoning Map adopted with an effective date of July 8, 2004, exists in official form as an electronic map layer within the Benton County geographic information system at a scale of 1:24,000.

- (a) The official copy of the electronic version of the zoning map shall be recorded onto permanent media to ensure the electronic information is protected.
- (b) When the official zoning map is amended by Ordinance, the Planning Official shall cause the changes to be made to the electronic version of the zoning map, and shall cause the electronic map's metadata to be annotated with the date and type of change and the ordinance number.

- (c) Any zoning map or map containing data from the official zoning map shall be annotated with the date of the most recent revision of the zoning map by ordinance, and shall state that the map data is valid at a maximum scale of 1:24,000.

(3) The Official Zoning Map adopted with an effective date of July 8, 2004, is intended to be consistent with the June 2, 1982 Zoning Map. The exceptions are those zone change requests adopted by ordinance after June 2, 1982. The owner of any property, the zoning of which was inadvertently changed by the conversion from the 1982 Zoning Map to the 2004 Zoning Map, may obtain correction of the error through the procedure in BCC 53.530.

(4) Interpretation of the zoning map shall comply with the following:

- (a) Zone boundaries are generally intended to coincide with discernable geographic features or property lines. In cases where a zone line crosses a lot or parcel without reference to a specific landmark (such as a road or stream), it may be necessary to consult the record of hearings that led to adoption of the Zoning Map, or other relevant information, in order to determine the precise location of the zone line.
- (b) Zone boundaries that are indicated as approximately following roads, railroad lines, streams or other water bodies shall be construed to follow the centerlines of these entities.
- (c) Zone boundaries that are indicated as approximately following city limits, urban growth boundaries, or property lines shall be construed to follow those lines.
- (d) Boundaries indicated as parallel to or extensions of the features listed above shall be so construed.
- (e) Where a water body, such as a river, changes location through annual erosion or accretion (i.e. the gradual and imperceptible removal or addition of alluvial material), any coincident zone line shall be interpreted as moving with the centerline of that body of water. Where a water body changes location through avulsion (i.e. the sudden and visible loss or addition to land, or the sudden change in the bed or course of the stream), any coincident zone line shall be interpreted as remaining in the location of the water body prior to the avulsion.

(5) Where a right-of-way is vacated, the zone requirements applicable to the property of which the vacated property becomes a part shall apply to the vacated property.

(6) Errors in the Official Zoning Map shall be resolved by means of the procedure in BCC 53.530.

(7) Refinement of the zoning map to improve consistency with the interpretation standards of subsection (4) may be effected under the direction of the Planning Official.

[Ord 2004-0196]

THE PLANNING OFFICIAL

51.205 Duties and Powers of the Planning Official. The Planning Official is responsible for the administration of the Development Code. In carrying out these duties, the Planning Official shall have the following powers:

(1) The Planning Official shall provide the official interpretation of the Comprehensive Plan and Development Code, including the Zoning Map and Comprehensive Plan Map. Any member of the public may apply for a Planning Official's Interpretation of provisions of the Comprehensive Plan or Development Code or their application to a specific property, project, or issue. The Planning Official's

Interpretation is an administrative land use action. The Interpretation shall be based on the Benton County Comprehensive Plan, the purpose and intent of the applicable code chapter(s), and any other information deemed relevant by the Planning Official. The interpretation cannot constitute a legislative act effectively amending the code or Comprehensive Plan. Notice of the decision shall be published in a newspaper of general circulation pursuant to BCC 51.625(2) and notice shall be provided to the applicant and any member of the public who has requested in writing to the Community Development Department within the past year to be notified of land use actions regarding the subject matter of the Interpretation. Additionally, for questions of interpretation pertaining to specific properties or land areas, notice shall be provided to owners of neighboring properties as specified in BCC 51.610(1)(a) through (c). The decision is subject to appeal under the provisions of BCC 51.805 through 51.840. The application for an interpretation may be referred to the Planning Commission at the discretion of the Planning Official. If referred, the Planning Commission will consider the matter as a quasi-judicial land use action at a public hearing pursuant to BCC 51.705 through 51.725.

(2) The Planning Official may approve a use not specifically listed in the Development Code in any zone, provided that the use is substantially similar in character, scale, and impact to permitted uses in the zone, and is compatible with the purpose of the zone. However, if the use in question is specifically listed in another zone, the Planning Official shall not approve the use through this procedure.

(3) The Planning Official, and any employee of Benton County, may enter upon land subject to a land use application or to enforce any provision of this code to make examinations and surveys in the performance of their functions.

(4) The Planning Official shall review and decide all land use applications, except as otherwise specifically provided by this code. The Planning Official may refer any application to the Planning Commission for a public hearing.

[Ord 90-0069; 2000-0161; 2004-0196]

CITIZEN ADVISORY COMMITTEES

51.305 Citizen Advisory Committees Established. The Board of Commissioners may establish Citizen Advisory Committees (CAC) in unincorporated areas of Benton County. [Ord 90-0069]

51.310 Purpose. The purpose of a CAC is to:

- (1) Encourage participation of citizens in all phases of the land use planning process and other aspects of County government that affect their area;
- (2) Increase communication between citizens and elected and appointed County officials;
- (3) Obtain input from citizens in a CAC area on land use legislation and actions affecting their area; and
- (4) Assist the County and educate citizens regarding the technical and legal aspects of land use planning.

[Ord 90-0069]

51.315 Participation. Participation in the activities of a CAC is open to any resident, property owner, or person operating or leasing a farm or business in the CAC area. CAC meetings shall be open to anyone who wishes to attend. [Ord 90-0069]

51.320 Bylaws. CAC membership, terms, organization, meeting requirements and the boundaries of CAC areas shall be established in the CAC bylaws adopted by the Board of Commissioners pursuant to BCC Chapter 3. The Board may establish a new CAC, abolish an inactive CAC, or combine CAC areas. [Ord 90-0069]

51.325 CAC Duties. (1) The Planning Official shall refer proposed legislative and quasi-judicial land use actions which require a public hearing to each affected active CAC, as determined by the Planning Official, for review and recommendation.

(2) The Planning Official may refer a proposed land use action which does not require a public hearing to an affected CAC for review and recommendation.

(3) Failure of a CAC to meet or to forward its recommendation to the Planning Official prior to the hearing or decision shall not affect the validity of the decision. [Ord 90-0069]

THE PLANNING COMMISSION

51.400 Planning Commission Codified. The Benton County Planning Commission, as established by County Resolution on July 11, 1951, and as developed and expanded by County Orders on December 12, 1963, February 1, 1978, September 2, 1981, and November 23, 1983, is hereby codified. [Ord 90-0069]

51.405 Powers and Duties. (1) The Planning Commission shall review and make recommendations to the Benton County Board of Commissioners concerning proposed amendments to the Benton County Comprehensive Plan, Development Code, or Zoning Map. Prior to making a final recommendation on a proposed amendment, the Planning Commission shall hold at least one public hearing on the amendment.

(2) The Planning Commission may propose amendments or additions to the Benton County Comprehensive Plan, Development Code, or Zoning Map. Prior to holding a public hearing on such proposed amendments, the Planning Commission shall receive preliminary authorization to consider amendments from the Board of Commissioners.

(3) The Planning Commission shall decide appeals of a decision of the Planning Official on applications made pursuant to this code, and shall decide applications as the initial decision maker as provided by this code. The Planning Commission shall hold a public hearing before deciding any land use action or appeal.

(4) The Planning Commission shall serve as the Committee for Citizen Involvement (CCI). The CCI shall assist the Board of Commissioners with the development and evaluation of Benton County's Citizen Involvement Program as it relates to land use planning. The CCI shall conduct an annual review of the Citizen Involvement Program, and report its findings to the Board of Commissioners. [Ord 90-0069]

51.410 Membership. (1) The Planning Commission shall consist of nine members appointed by the Board of Commissioners for staggered four year terms. Terms shall commence on January 1st, except as otherwise provided by BCC Chapter 3.

(2) In the event that a Planning Commissioner resigns or leaves office prior to the expiration of his or her term, the Board of Commissioners shall appoint a person to serve the unexpired portion of the original term.

(3) Members of the Planning Commission may be removed from office by the Board of Commissioners pursuant to BCC Chapter 3.

(4) No more than two voting members of the Planning Commission shall be engaged in the same kind of occupation, business, trade, or profession. No more than two voting members shall be engaged principally in the buying, selling or developing of real estate for profit, as individuals, or be members of any partnership or officers or employes of any corporation that is engaged principally in the buying, selling or developing of real estate for profit. [Ord 90-0069]

51.415 Bylaws. Bylaws governing the Planning Commission shall be established by resolution of the Board of Commissioners. [Ord 90-0069]

APPLICATION AND FEES

51.505 Method of Application. A person shall apply for a land use action or limited land use decision on a form provided by the Planning Official. Prior to reviewing an application, the Planning Official may request additional information which, in the opinion of the Planning Official, is necessary to complete the application. [Ord 90-0069, Ord 93-0096]

51.510 Signature on Application. The applicant shall sign the application. If the applicant is not the owner or the agent of the owner of the property subject to the land use action or limited land use decision, the property owner must authorize the application in writing before the Planning Official may review the application. For the purposes of this section, "agent of the owner" includes a public agency with condemnation authority which is proposing to construct a public improvement. [Ord 90-0069, Ord 93-0096]

51.515 Application Fee. (1) The Planning Official may charge a fee to process an application filed pursuant to the Development Code.

(2) Fees shall be set by order of the Board of Commissioners. The Planning Official shall review application fees annually and shall recommend proposed fees and fee changes to the Board for adoption. [Ord 90-0069]

51.520 Waiver of Fees. (1) Any application fee may be waived or reduced by the Planning Official upon written request if:

- (a) The proposed project will benefit the general public;
- (b) The applicant is a non-profit, community-oriented service organization; and
- (c) Payment of the application fee would pose a financial hardship to the applicant.

(2) Only the "local" portion of a fee may be waived or reduced when a portion of a fee must be remitted to another agency as required by law. [Ord 90-0069]

51.525 Revision of Application. (1) All documents or evidence relied upon by the applicant shall be submitted to the Planning Official and be made available to the public at the time notice is provided pursuant to BCC 51.605 to 51.615. If additional documents or evidence is provided in support of the application, any party shall be entitled to a continuance as follows:

- (a) If no public hearing will be conducted prior to the decision, any party which has reviewed the application materials shall be notified and given a reasonable opportunity to review the additional documents or evidence and submit testimony.
- (b) A public hearing may be continued pursuant to BCC 51.720 or 51.725.

(2) If the applicant proposes a revision to the application that changes the type of land use action or limited land use decision requested in the initial application, the applicant shall withdraw the initial application and shall file a new application for the revised request. [Ord 90-0069, Ord 92-0092, Ord 93-0096]

51.530 Withdrawal of Application; Fee Refund. (1) The applicant or owner may submit a written request to the Planning Official to withdraw an application prior to a decision to approve or deny the application. The Planning Official may refund all or part of the application fee based upon the amount of County staff work completed prior to the withdrawal.

(2) The applicant may submit a request to the Planning Official to withdraw an application after a final decision to approve the application. Upon receipt of such request, the Planning Official shall cancel the permit. No refund shall be granted where a permit is cancelled following a final decision. [Ord 90-0069]

51.535 Final Action. (1) The County shall take final action on an application, including resolution of all appeals to County bodies, within 120 days for permit, limited land use, or zone change applications involving land located within an urban growth boundary or involving mineral aggregate extraction, or within 150 days for all other applications, unless otherwise specified in the Benton County Code. The 120-day or 150-day time period begins the day the application is deemed complete by the Planning Official. The time period may be extended for a reasonable period of time at the request of the applicant. The time period does not apply to an appeal of a decision of the Board of Commissioners, or to a text amendment.

(2) The Planning Official shall determine whether an application is complete within thirty (30) days from the date of the filing of an application. If the Planning Official informs the applicant that the application is incomplete, the applicant has 14 days to submit written notice that he or she will be completing the application. The applicant then has 180 days to complete the application. If the applicant fails to respond within 14 days of the Planning Official's notification that the application is incomplete, such action shall be considered refusal to complete the application and the application shall be deemed complete for the purposes of BCC 51.535(1) on the 31st day after the application was filed with the County. If, at any time after the 14-day period following notification that the application is incomplete, the applicant refuses to complete the application, then the application shall be deemed complete for the purposes of BCC 51.535(1) on the date the applicant submits such refusal to the County.
[Ord 26, Ord 90-0069, Ord 98-0134, Ord 2000-0157]

NOTICE REQUIREMENTS

51.605 When Public Notice is Required. (1) The Planning Official shall issue public notice pursuant to BCC 51.605 to 51.625 of applications for the following quasi-judicial land use actions:

- (a) Alteration of a nonconforming use.
- (b) Alteration or demolition of a historic resource on the Benton County Register of Historic Resources.
- (c) Appeal of a decision of the Planning Official or Planning Commission.
- (d) Comprehensive Plan Map amendment.
- (e) Conditional use.
- (f) Creation of a farm or nonfarm parcel or lot.
- (g) Creation of a parcel or lot smaller than the minimum parcel or lot size in the Forest Conservation Zone.
- (h) Farm related dwelling.
- (i) Property line adjustment in the Exclusive Farm Use Zone.
- (j) Property line adjustment which results in a property smaller than the minimum parcel or lot size in the Forest Conservation Zone.
- (k) Placement or removal of a historic resource on the Benton County Register of Historic Resources.
- (l) Planned unit development.
- (m) Resource related dwelling on parcels or lots smaller than the minimum parcel or lot size in the Forest Conservation Zone.
- (n) Secondary farm related dwelling.
- (o) Subdivision.
- (p) Variance.
- (q) Vested right determination.
- (r) Zoning Map amendment.
- (s) Any other discretionary approval of a proposed development of land under the Benton County Comprehensive Plan or Development Code.

(2) The Planning Official shall issue public notice pursuant to BCC 51.605 to 51.625 for the following legislative land use actions:

- (a) Comprehensive Plan text amendment.
- (b) Development Code text amendment.

(3) The Planning Official shall issue public notice pursuant to BCC 51.621 for limited land use decision actions. [Ord 90-0069, Ord 92-0092, Ord 93-0096, Ord 96-0118]

51.610 Public Notice Requirements. (1) The Planning Official shall mail notice of a proposed quasi-judicial land use action for which BCC 51.605(1) requires public notice at least ten days prior to the date of decision or public hearing. The notice shall be sent by regular mail to the applicant and to owners of record of property on the most recent property tax assessment roll where such property is located:

- (a) Within 100 feet of the property which is the subject of the notice where the subject property is wholly or in part within an urban growth boundary;
- (b) Within 250 feet of the property which is the subject of the notice where the subject property is outside an urban growth boundary and not within a farm or forest zone; or
- (c) Within 750 feet of the property which is the subject of the notice where the subject property is within a farm or forest zone. If the 750 foot radius includes a portion of a neighborhood zoned for resource use that exceeds a density of one residence per two acres, the notice area shall be expanded to 1000 feet in that neighborhood only.

(2) Failure of a property owner to receive notice as provided by subsection (1) of this section shall not invalidate the proceedings if the Planning Official can demonstrate by affidavit that notice pursuant to subsection (1) was given.

(3) The Planning Official shall publish notice of all land use actions which require a public hearing in at least one newspaper of general circulation in Benton County. Notice shall be published at least ten (10) days prior to the date of public hearing.

(4) Notice shall be provided to any neighborhood or community organization recognized by the governing body and whose boundaries include the site.

(5) Nothing in BCC 51.605 to 51.625 shall preclude the County from providing additional notice where the County in its discretion deems additional notice to be appropriate. [Ord 90-0069, Ord 93-0096, Ord 2000-0157]

51.615 Form of Notice of Proposed Quasi-Judicial Land Use Action. (1) Public notice of a quasi-judicial land use action shall:

- (a) Explain the nature of the application or land use action and the use or uses which could be authorized;
- (b) List the applicable criteria from the Comprehensive Plan and Development Code that apply to the application at issue;
- (c) Set forth the street address or other easily understood geographical reference to the subject property;
- (d) State the proposed date of decision, or the date, time, and location of the public hearing;
- (e) State that failure of an issue to be raised in person or in writing by the close of the record at or following the final evidentiary hearing, or failure to provide sufficient specificity to afford the County decision maker the opportunity to respond to the issue precludes appeal to the Land Use Board of Appeals (LUBA) based on that issue;

(f) Include the name of a local government representative to contact and the telephone number of the County official where additional information can be obtained;

(g) State that a copy of the application, all documents and evidence relied upon by the applicant, together with all applicable criteria, are available for inspection at no cost, and a copy will be provided at reasonable cost;

(h) State that a copy of the staff report will be available for inspection at no cost at least seven days prior to the date of decision or public hearing, and a copy will be provided at reasonable cost; and

(i) State that any interested person may submit testimony prior to the final decision or prior to or at the public hearing, state the address to which written comments may be sent, and state the procedure for making the decision or for conduct of the hearing.

(2) The following statement shall appear on all notices sent to property owners pursuant to BCC 51.610(1):

NOTICE TO MORTGAGEE, LIENHOLDER, VENDOR, OR SELLER: ORS CHAPTER 215 REQUIRES THAT IF YOU RECEIVE THIS NOTICE IT MUST BE PROMPTLY FORWARDED TO THE PURCHASER. The recipient of this notice is hereby responsible to forward a copy of this notice to every person with a documented interest, including a renter or lessee.

(3) If the notice regards an appeal of a decision, the notice shall also include a description of the reasons for appeal and shall state the name of the appellant. [Ord 90-0069]

51.618 Public Notice Requirements for Legislative Land Use Actions. (1) The Planning Official shall publish notice of a proposed legislative land use action in at least one newspaper of general circulation in Benton County. Notice shall be published at least ten (10) days prior to the date of public hearing.

(2) The Planning Official shall mail notice of a proposed legislative land use action to all citizens, groups, organizations, and agencies, which testified in the most recent legislative action which addressed the subject matter under review in the proposed legislative land use action.

(3) The Planning Official shall mail notice of a proposed legislative land use action to all groups, organizations, and agencies, whether comprised of citizens or professionals, which have declared an interest in the subject matter addressed by the proposed legislative land use action. Such declaration shall have been directed to the Development Department in writing within one year of the pending public hearing on the proposed legislative land use action in response to a quasi-judicial land use action or as direct correspondence to the Planning Official.

(4) Nothing in this section shall preclude the County from providing additional notice where the County in its discretion deems additional notice to be appropriate. [Ord 92-0092]

51.620 Form of Notice of Proposed Legislative Land Use Actions. Public notice of a proposed legislative land use action shall:

(a) Explain the nature of the proposed legislative enactments;

(b) State the date, time, and location of the public hearing;

(c) Include the telephone number of the Development Department where additional information can be obtained;

(d) State that a copy of the proposed ordinance is available for inspection at the Development Department at no cost and a copy will be provided at reasonable cost; and

(e) State that any interested person may submit testimony prior to the final decision or prior to or at the public hearing and state the address to which written comments may be sent. [Ord 90-0069]

51.621 Form of Notice of Limited Land Use Decision Actions. (1) The Planning Official shall provide written notice to owners of property within 100 feet of the entire contiguous site for which the application is made. The list shall be compiled from the most recent property tax assessment roll. Notice shall also be provided to any neighborhood or community organization recognized by the governing body and whose boundaries include the site.

(2) The notice for limited land use decisions shall:

(a) Provide a 14-day period for submission of written comments prior to the decision;

(b) State that issues which may provide the basis for an appeal to the Board shall be raised in writing prior to the expiration of the comment period. Issues shall be raised with sufficient specificity to enable to decision maker to respond to the issue;

(c) List, by commonly used citation, the applicable criteria for the decision;

(d) Set forth the street address or other easily understood geographical reference to the subject property;

(e) State the place, date and time that comments are due;

(f) State that copies of all evidence relied upon by the applicant are available for review and that copies can be obtained at cost;

(g) Include the name and phone number of a local government contact person;

(h) Provide notice of the decision to applicant and any person who submits comments under BCC 51.630(2)(e) herein. The notice of decision must include an explanation of appeal rights; and

(i) Briefly summarize the local decision making process for the limited land use decision being made. [Ord 93-0096]

51.625 Notice of Decision Regarding a Quasi-Judicial Land Use Action. (1) The Planning Official shall mail a notice of decision for which BCC 51.605(1) requires public notice to the applicant, the appellant in the case of an appeal, and the affected property owners as defined in BCC 51.610(1). In addition, the Planning Official shall mail notice of decision to all persons who testified either orally or in writing regarding the proposed action. The Planning Official shall mail a notice of decision within two days from the date of the final decision as defined in BCC 51.810. If the Planning Official fails to mail the notice of decision within two days, the appeal period of a decision to a County appellate body shall be extended one day for each day the mailing of the notice is delayed.

(2) If the decision for which BCC 51.605(1) requires public notice was made by the Planning Official without a public hearing, the Planning Official shall, in addition to providing notice pursuant to BCC 51.625(1), publish notice of the decision in a newspaper of general circulation in Benton County.

(3) The notice shall be entitled "Notice of Decision" and shall describe the location and nature of land use action and the nature of the decision, including any conditions of approval. The notice shall state the date of the decision and shall state that copies of the Findings of Fact are available for inspection at the Development Department, and that a copy will be provided at reasonable cost. The notice shall also state that the decision may be appealed, shall state the requirements for standing to appeal pursuant to BCC 51.825, shall state the appeal period, and shall state the name, address, and phone number of the appropriate appellate authority. [Ord 90-0069]

51.630 Notice of Decision Regarding a Legislative Land Use Action. (1) The Planning Official shall mail a notice of decision to all persons who testified either orally or in writing regarding the proposed action. The Planning Official shall mail a notice of decision within two days from the date of the final

decision as defined in BCC 51.810. If the Planning Official fails to mail the notice of decision within two days, the appeal period of a decision to a County appellate body shall be extended one day for each day the mailing of the notice is delayed.

(2) The notice shall be entitled "Notice of Decision" and shall describe the nature of the land use action and the nature of the decision. The notice shall state the date of the decision and shall state that copies of the Findings of Fact are available for inspection at the Development Department, and that a copy will be provided at reasonable cost. The notice shall also state that the decision may be appealed, shall state the requirements for standing to appeal pursuant to BCC 51.825, shall state the appeal period, and shall state the name, address, and phone number of the appropriate appellate authority. [Ord 92-0092]

PUBLIC HEARINGS

51.705 Scheduling Public Hearings. The Planning Official shall schedule a public hearing on an application or an appeal that requires a decision by a hearings authority at the next available meeting of that body. The Planning Official shall schedule applications for hearing in the order in which they are received. [Ord 90-0069]

51.710 Exhibits and Evidence for Hearings Regarding Quasi-Judicial Land Use Actions and Limited Land Use Decision Actions. (1) All documents or evidence relied on by the applicant shall be submitted to the Development Department at least ten days prior to the date of the hearing and be made available to the public at the time notice pursuant to BCC 51.610 and 51.615 is provided.

(2) The staff report to be used at the hearing shall be available at least seven days prior to the date of the hearing.

(3) Any person may submit exhibits or written comments prior to or at a public hearing. Such exhibits and written comments shall be attached to the staff report. If such exhibits or written comments are submitted after the staff report is made available pursuant to subsection (2) of this section, the Planning Official shall submit them at the public hearing for inclusion into the record. [Ord 90-0069, Ord 93-0096, Ord 2000-0161]

51.715 Exhibits and Evidence for Hearings on Legislative Land Use Actions. (1) The proposed ordinance shall be drafted at least ten days prior to the date of the hearing and be made available to the public at the time notice pursuant to BCC 51.618 or 51.607 is provided.

(2) Any person may submit exhibits or written comments prior to or at a public hearing. The Planning Official shall submit exhibits submitted prior to the hearing at the public hearing for inclusion into the record. [Ord 90-0069, Ord 2000-0161]

51.720 Conduct of a Public Hearing. (1) A public hearing shall be conducted in accordance with the bylaws of the hearing authority.

(2) If the hearing is quasi-judicial, or a limited land use decision action, the applicant for the initial land use decision shall testify first, followed by those persons in favor of the application. The Chair shall then call for testimony from those in opposition to the application. In an appeal hearing, testimony in opposition shall begin with the appellant, if different from the applicant. The Chair shall then call for testimony from governmental bodies. Prior to closing the hearing, the Chair shall allow the applicant an opportunity to rebut opposing testimony. Rebuttal shall be limited to issues raised during testimony in opposition or by governmental bodies. Following deliberation and decision, the hearings authority shall state that the decision is subject to appeal, shall state the appeal period, shall state the name of the appellate authority, and shall note that the address and phone number of the appellate authority will be contained in the mailed notice of decision.

(3) If the hearing is legislative, the Chair will call for testimony generally and shall close the hearing after every person has been given an opportunity to comment.

(4) At the commencement of a quasi-judicial or limited land use decision action hearing, a presentation shall be made to those in attendance that:

- (a) Lists the applicable substantive criteria;
- (b) States that testimony and evidence must be directed toward the applicable substantive criteria or other criteria in the plan or Development Code which the person believes to apply to the decision; and
- (c) States that failure to raise an issue with sufficient specificity to afford the decision maker and the parties an opportunity to respond to the issue precludes appeal to the Land Use Board of Appeals based on that issue.

(5) Prior to closing an initial evidentiary hearing on a quasi-judicial or limited land use decision action, any participant may request an opportunity to present additional evidence, arguments or testimony. If such a request is made, the hearings authority shall either grant a continuance of the hearing pursuant to (a) below, or shall hold the record open for additional written testimony pursuant to (b) below.

(a) If the hearings authority grants a continuance, the hearing shall be continued to a date, time and place certain at least seven days hence. An opportunity shall be provided at the continued hearing for persons to present and rebut new evidence, arguments or testimony. If new written evidence is submitted at the continued hearing, any person may request, prior to the conclusion of the continued hearing, that the record be left open for at least seven days to submit additional written evidence, arguments or testimony for the purpose of responding to the new written evidence.

(b) If the hearings authority leaves the record open for additional written evidence, arguments or testimony, the record shall be left open for at least seven days. Any participant may file a written request with the local government for an opportunity to respond to new evidence submitted during the period the record was left open. If such a request is filed, the hearings authority shall reopen the record and allow any person to raise new issues which relate to the new evidence, arguments, testimony or criteria for decision-making which apply to the matter at issue.

(c) A continuance or extension granted pursuant to this section shall be subject to the local action deadline set forth in BCC 51.535, unless the continuance or extension is requested or agreed to by the applicant.

(d) Unless waived by the applicant, the hearings authority shall allow the applicant at least seven days after the record is closed to all other parties to submit final written arguments in support of the application. The applicant's final submittal shall be considered part of the record, but shall not include any new evidence. This seven-day period shall not be subject to the local action deadline set forth in BCC 51.535.

(6) After a quasi-judicial or limited land use decision action hearing has been closed and the record has been closed, the hearings authority shall decide the issue based on the evidence and testimony in the record and accompanied by a brief statement that explains the criteria and standards considered relevant to the decision and explains the justification for the decision based on the criteria, standards and facts set forth. The hearings authority shall adopt findings of fact in support of its decision. The hearings authority shall not make a decision which is different from the proposal described in the notice of proposed action provided pursuant to BCC 51.615(1) to such a degree that the notice of the proposed action does not reasonably describe the final decision, unless the hearings authority continues the public hearing for further testimony and issues new notice pursuant to BCC 51.605 to 51.625 which reasonably describes the proposed modification. [Ord 90-0069, Ord 93-0096, Ord 2000-0161]

51.725 Continuance of a Public Hearing. (1) In addition to a continuance required by BCC 51.720(5), the hearing authority may continue a public hearing at its discretion to a date and time certain. If a quorum of the hearing authority does not appear for a scheduled public hearing, the public hearing shall automatically be continued to the date and time of the next regularly scheduled meeting. Where a hearing is continued by the hearing authority, no additional public notice shall be required unless the continuation results in a change in the application to such a degree that the notice of the proposed action does not reasonably describe the application.

(2) When the hearings authority continues a hearing or reopens a record to admit new evidence or testimony, any person may raise new issues which relate to the new evidence, testimony or criteria for decision-making which apply to the matter at issue.

(3) A continued hearing shall be conducted in the same manner as the original hearing pursuant to the requirements of BCC 51.720. [Ord 90-0069]

APPEALS

51.805 Jurisdiction. A final decision on an application made pursuant to this code is subject to review by appeal. Except as otherwise provided by this code, a decision of the Planning Official may be appealed to the Planning Commission and a decision of the Planning Commission may be appealed to the Board of Commissioners. [Ord 26, Ord 90-0069]

51.810 Final Decision Required. No decision may be appealed except a final decision.

(1) A decision of the Planning Official becomes final on the date the Notice of Decision is signed by the Planning Official.

(2) A decision of the Planning Commission becomes final upon the date of the vote of the Planning Commission rendering a decision and adopting findings. A Planning Commission recommendation to the Board is not a final decision for purposes of appeal.

(3) A decision of the Board of Commissioners becomes final as follows:

(a) A decision of the Board regarding a land use action or limited land use decision action that requires adoption of an ordinance becomes final upon the date notice is mailed to those entitled pursuant to BCC 51.630, after the second reading of the ordinance as provided by the Benton County Charter.

(b) A decision of the Board regarding a land use action or limited land use decision action that does not require the adoption of an ordinance becomes final upon the date notice of the Board's adoption of the Findings of Fact, Conclusions of Law, and Order deciding the action is mailed to those entitled pursuant to BCC 51.625. [Ord 90-0069, Ord 93-0096, Ord 2000-0161]

51.815 Appeal Period. An appeal of a decision of the Planning Official or Planning Commission shall be filed within fourteen (14) calendar days from the date of final decision. An appeal of a decision of the Board of Commissioners shall be filed as provided by State law. [Ord 26, Ord 90-0069]

51.820 Effective Date of a Decision. A final decision becomes effective upon expiration of the appeal period. Except for land use ordinances, the filing of an appeal of a land use action automatically stays the decision until resolution of the appeal by County appellate authorities. Land use ordinances take effect as provided by the Benton County Charter. [Ord 26, Ord 90-0069]

51.825 Standing to Appeal. (1) Any person may appeal a decision of the Planning Official to the Planning Commission.

(2) The Planning Commission may determine upon its own initiative to call up a decision of the Planning Official for review. The Planning Commission may call up a decision of the Planning Official in one of two ways:

(a) If a public meeting of the Planning Commission occurs within the appeal period, the Commission may determine by majority vote at the public meeting to review a decision of the Planning Official and shall set a public hearing on the decision for the next regular Planning Commission meeting for which public notice pursuant to BCC 51.605 to 51.625 can be provided.

(b) If a public meeting of the Planning Commission does not occur within the appeal period, an individual Planning Commissioner may cause a decision to be reviewed at a public hearing at the next regular meeting for which public notice can be provided by filing a signed notice of appeal with the Planning Official within the appeal period. No appeal fee shall be charged.

(3) A person may appeal a decision of the Planning Commission to the Board of Commissioners if the person appeared before the Planning Commission regarding the decision either orally or in writing.

(4) The Board of Commissioners may determine by majority vote to call up a decision of the Planning Commission for review if the vote occurs within the appeal period. [Ord 26, Ord 90-0069]

51.830 Filing an Appeal. The appeal requirements of this section are jurisdictional. Failure to fully comply with the appeal requirements of this section is a jurisdictional defect. An appeal shall be filed with the Planning Official no later than 5:00 p.m. on the final day of the appeal period. The appeal must be filed in writing on the form provided by the Planning Official, and shall include:

(1) A statement of the reasons for the appeal, citing the specific Comprehensive Plan or Development Code provisions which are alleged to be violated;

(2) A statement of the standing to appeal; and

(3) Payment of the filing fee established by order of the Board of Commissioners. [Ord 26, Ord 90-0069, Ord 98-0134]

51.831 Fee Limitations. (1) Where the county provides only a notice of the opportunity to request a hearing, the county may charge a fee for the initial hearing. If an appellant prevails at the hearing or upon subsequent appeal, the fee for the initial hearing shall be refunded. The fee allowed in this paragraph shall not apply to appeals made by:

(a) The Department of Land Conservation and Development; or

(b) Citizen Advisory Committees established by the Board of Commissioners and whose boundaries include the site. [Ord 93-0096, Ord 98-0134]

51.835 Notice of Appeal Hearing. The Planning Official shall issue public notice of an appeal hearing pursuant to BCC 51.610 and BCC 51.615. In addition, the following persons shall be sent notice by mail of the appeal hearing at least ten (10) days in advance of the hearing:

(1) The appellant.

(2) The applicant, if different from the appellant.

(3) Those persons who testified either orally or in writing regarding the application prior to the decision that is under appeal. [Ord 90-0069]

51.840 Conduct of an Appeal Hearing. (1) The appellate authority shall conduct a public hearing pursuant to BCC 51.705 to 51.725 prior to deciding an appeal. The appellate authority shall review the record of the decision that is under appeal, and shall additionally consider any new evidence or testimony that is submitted into the record at the hearing. Any person may appear and be heard. The appellate authority shall affirm, reverse, or modify in whole or in part the decision that is under appeal. The appellate authority shall not modify the decision on appeal to such a degree that the notice of the appeal does not reasonably describe the final decision, unless the appellate authority continues the public hearing for further testimony and issues new notice pursuant to BCC 51.605 to 51.625 which reasonably describes the proposed modification. The appellate authority shall adopt findings of fact supporting its decision.

(2) An issue which may be the basis for an appeal to the Land Use Board of Appeals shall be raised not later than the close of the record at or following the final evidentiary hearing on the proposal before the Board of Commissioners. Such issues shall be raised with sufficient specificity to afford the Board of Commissioners and the parties an adequate opportunity to respond to each issue. [Ord 90-0069]

RECONSIDERATION OF DECISION BEFORE LUBA ON APPEAL

51.900 Reconsideration by Board of Commissioners of Decision Before LUBA on Appeal. At any time after the filing of a notice of intent to appeal a land use decision or limited land use decision to the Land Use Board of Appeals, and prior to the date set for filing of the record, the Board of Commissioners may withdraw its decision for purposes of reconsideration. If the Board of Commissioners withdraws an order for purposes of reconsideration, it shall within such time as the Land Use Board of Appeals allows, affirm, modify, or reverse its decision. [Ord 93-0096]

REMAND HEARINGS

51.905 Hearing Procedure on Remand from LUBA. When a final decision of the Board of Commissioners on a quasi-judicial land use action is remanded to the County by the Oregon State Land Use Board of Appeals (LUBA), the Board of Commissioners shall hold a hearing on remand. Notice shall be given pursuant to BCC 51.605 to 51.625, and the hearing shall be conducted pursuant to BCC 51.705 to 51.840 except that evidence and testimony shall be limited to the criterion or criteria or the issue or issues upon which LUBA based its decision to remand. These criteria or issues shall be described in the notice and at the hearing as provided by BCC 51.615(1)(b) and 51.720(4). [Ord 90-0069]

Chapter 52
Deleted [Ord 99-0131]

Chapter 53

General Review Criteria and Procedures

53.050 Interpretation. Any member of the public may apply for a Planning Official's Interpretation of provisions of the Comprehensive Plan or Development Code or their application to a specific property, project, or issue, pursuant to BCC 51.205. [Ord 2000-0161]

PERMITTED USES

53.105 Purpose. Permitted uses are land uses which are consistent with the purpose of the zone. [Ord 90-0069]

53.110 Review Process. In general, permitted uses are allowed to be established in a zone without review. Some permitted uses are regulated by a review process, but approval of such uses is based upon clear and objective standards. Unless specifically authorized by this code, the County may not impose additional criteria or conditions of approval upon a permitted use. [Ord 90-0069]

ADMINISTRATIVE REVIEW

53.150 Purpose. Administrative review is established as a procedure for land use actions involving little discretion.

53.160 Review Process. Upon receipt of a complete application, the Planning Official shall notify any affected agencies. The Notice of Proposed Quasi-Judicial Land Use Action of BCC 51.610 is not required. The Planning Official shall issue a decision based on the applicable standards and criteria, and shall provide notice of the decision pursuant to BCC 51.625. At the Planning Official's discretion, the matter may be referred to the Planning Commission. A decision of the Planning Official or Planning Commission may be appealed pursuant to BCC 51.805 through 51.840. [Ord 2000-0163]

CONDITIONAL USES

53.205 Purpose. Conditional uses are land uses which may have an adverse effect on surrounding permitted uses in a zone. [Ord 90-0069]

53.210 Permit Required. A person shall obtain a conditional use permit from the County in order to establish a conditional use. The decision to issue a conditional use permit is discretionary. [Ord 90-0069]

53.215 Criteria. The decision to approve a conditional use permit shall be based on findings that:

- (1) The proposed use does not seriously interfere with uses on adjacent property, with the character of the area, or with the purpose of the zone;
- (2) The proposed use does not impose an undue burden on any public improvements, facilities, utilities, or services available to the area; and
- (3) The proposed use complies with any additional criteria which may be required for the specific use by this code. [Ord 90-0069]

53.220 Conditions of Approval. The County may impose conditions of approval to mitigate negative impacts to adjacent property, to meet the public service demand created by the development activity, or to otherwise ensure compliance with the purpose and provisions of this code. On-site and off-site conditions may be imposed. An applicant may be required to post a bond or other guarantee pursuant to BCC 99.905 to 99.925 to ensure compliance with a condition of approval. Conditions may address, but are not limited to:

- (1) Size and location of site.

- (2) Road capacities in the area.
- (3) Number and location of road access points.
- (4) Location and amount of off-street parking.
- (5) Internal traffic circulation.
- (6) Fencing, screening and landscape separations.
- (7) Height and square footage of a building.
- (8) Signs.
- (9) Exterior lighting.
- (10) Noise, vibration, air pollution, and other environmental influences.
- (11) Water supply and sewage disposal.
- (12) Law enforcement and fire protection. [Ord 26, Ord 90-0069]

53.225 Modification of a Conditional Use Permit. An original applicant or successor in interest may request that a conditional use permit be modified if a change in circumstance has occurred since approval which would justify a change in the permit. Such application shall be processed as a new request for a conditional use permit. [Ord 26, Ord 90-0069]

53.230 Period of Validity. Unless otherwise specified at the time of approval, a conditional use permit for a single-family dwelling shall be valid for ten (10) years from the date of decision and other conditional use permits shall be valid for a period of two (2) years from the date of decision. [Ord 26, Ord 90-0069]

53.235 Extension of Permit. A conditional use permit may be extended for good cause at the discretion of the approving authority responsible for the original decision. The applicant shall submit the request for extension in writing to the Planning Official prior to expiration of the original permit. [Ord 26, Ord 90-0069]

NONCONFORMING USES

53.305 Nonconforming Use Allowed to Continue. A legally established use of any building, structure or land existing at the time of the enactment or amendment of the Development Code or Zoning Map may continue in use. Continuation of a nonconforming use includes a change of ownership or occupancy. [Ord 26, Ord 90-0069]

53.315 Alteration of a Nonconforming Use. (1) Alteration or change of a nonconforming use may be permitted if the alteration or change reasonably continues the use and if the alteration or change of the use has no greater adverse impact on the neighborhood than did the existing use at the time it became nonconforming. An application to alter a nonconforming use shall be reviewed by the Planning Commission. The Planning Commission may impose conditions of approval pursuant to BCC 53.220 in order to reduce the impact of the alteration on the neighborhood.

(2) Alteration of a nonconforming use shall be permitted when necessary to comply with any lawful regulatory requirement. An application to alter a nonconforming use pursuant to a lawful requirement shall be reviewed by the Planning Official. The Planning Official may impose conditions of approval pursuant to BCC 53.220 in order to reduce the impact of the alteration on the neighborhood. [Ord 26, Ord 90-0069]

53.320 Abandonment of a Nonconforming Use. A nonconforming use may not be resumed after a period of interruption or abandonment of one year unless the resumed use complies with the requirements of the Development Code in effect at the time of resumption of the use. [Ord 26, Ord 90-0069]

53.325 Alteration of a Nonconforming Building. Alteration of a nonconforming building shall not increase the degree of nonconformity of the existing building. [Ord 90-0069]

53.330 Restoration or Replacement. When a nonconforming use has been damaged or destroyed by calamity, such as fire, flood, wind or other casualty, the use may be restored or replaced. Restoration or replacement shall be commenced within one year from the occurrence of such calamity. [Ord 26, Ord 90-0069]

53.335 Vested Right to a Nonconforming Use. A use lawfully initiated under a prior ordinance, but which has not been completed at the time the use becomes nonconforming, shall have a vested right to continue to completion if construction or other preparation has progressed to a substantial degree. The Planning Official shall determine whether an applicant has a vested right to complete a nonconforming use based on the following requirements:

- (1) The applicant must have relied in good faith on the prior zoning or permit approval in making expenditures to develop his or her property in a given manner.
- (2) The expenditures made prior to the subsequent zoning regulation must demonstrate that the property owner has gone beyond mere contemplated use and has committed the property to an actual use which would have been made but for passage of the new zoning regulation.
- (3) The expenditures must relate more to the nonconforming use than to conforming uses. If the expenditures could reasonably apply to preparation of the property for a conforming use, such expenditures may not be considered as vesting a right to a nonconforming use.
- (4) The amount of prior expenditure must represent more than an incidental expense when considering the cost of the project as a whole.
- (5) The length of time since the proposed use became nonconforming must be reasonable, considering the nature of the project, economic conditions, or other factors. [Ord 90-0069]

VARIANCES

53.405 Purpose. A variance to any requirement of the Development Code may be granted where literal application of the requirement would cause significant hardship caused by unique characteristics of the property. [Ord 26, Ord 90-0069]

53.410 Variance Criteria. The decision to approve a variance shall be based on findings that:

- (1) Physical circumstances or other conditions of the land prevent the property from being reasonably developed in a manner consistent with the standards of the Development Code without significant hardship;
- (2) Such circumstances or conditions result in a hardship unique to the property in question;
- (3) The hardship does not result from actions of the applicant nor derive from personal circumstances of the applicant such as age, physical condition, or financial situation;
- (4) Strict adherence to the standard is unnecessary in that the proposed variance will not alter the essential character of the neighborhood in which the property is located, nor substantially or permanently impair the appropriate use or development of adjacent property; and
- (5) The proposed variance is the minimum variance of the standard that will afford relief and is the least modification possible of the provisions of the Development Code. [Ord 26, Ord 90-0069]

53.415 Variance Conditions. Conditions of approval pursuant to BCC 53.220 may be imposed on an approval of a variance to mitigate adverse impacts which may result from granting the variance. [Ord 90-0069]

53.420 Period of Validity. Unless otherwise specified at the time of approval, a variance shall be valid for one (1) year. [Ord 26, Ord 90-0069]

53.425 Extension of Variance Approval. A variance approval may be extended for good cause at the discretion of the approving authority responsible for the original decision. The applicant shall submit the request for extension in writing to the Planning Official prior to expiration of the initial variance. [Ord 90-0069]

ZONE CHANGE

53.505 Zone Change Criteria. The Official Zoning Map may be amended if:

- (1) The proposed zoning for the property is more appropriate than the current zoning, when considering existing uses, changes in circumstances since the current zoning was applied, or information that indicates that the current zoning was not properly applied;
- (2) The impact on adjacent properties will be minimal;
- (3) Any significant increase in the level of public services which would be demanded as a result of the proposed zone change can be made available to the area; and
- (4) The proposed zone change is consistent with the policies of the Comprehensive Plan. [Ord 90-0069]

53.510 Initiating a Zone Change. (1) A landowner may initiate a zone change for land in his or her ownership by submitting an application for a zone change to the Planning Official. The application shall include maps, drawings, data and other relevant information supporting the zone change.

(2) The Board of Commissioners may initiate a zone change. The Board shall direct the Planning Official to prepare maps, drawings, data, and other information supporting the proposed zone change. [Ord 90-0069]

53.515 Notice Requirements. In addition to the notice requirements set forth in BCC 51.605 to 51.625, the Planning Official shall notify the following applicable agencies or agents of a proposed zone change.

- (1) If a zone change is proposed for land located in a resource zone, the Planning Official shall notify the Oregon Department of Fish and Wildlife for comments regarding impact on significant wildlife habitat.
- (2) The Planning Official shall notify an airport owner of any hearing concerning a zone change for property located within 5,000 feet of a visual flight rules (VFR) airport or 10,000 feet of an instrumental flight rules (IFR) airport. [Ord 90-0069]

53.520 Planning Commission Review. The Planning Commission shall conduct a public hearing to review a proposed zone change. Following the close of the public hearing, the Planning Commission shall make a recommendation to the Board of Commissioners to approve, deny or modify the proposed zone change. The Commission shall include findings in support of its recommendation. [Ord 90-0069]

53.525 Board of Commissioners Review. The Board of Commissioners shall conduct a public hearing to review a proposed zone change. The Board may approve, modify, or deny the proposed zone change. The Board shall include findings in support of its decision. If the Board approves the zone change, the Board shall amend the Official Zoning Map by ordinance pursuant to the provisions of the Benton County Charter. [Ord 90-0069]

53.530 Correction of map error.

(1) Notwithstanding the criteria and procedures of BCC 53.505 through 53.525, if a lot or parcel can be shown to have been unintentionally re-zoned through adoption of the 2004 Zoning Map (Ord 2004-0196), the property owner may request correction of the error through the following procedure.

- (a) The property owner shall submit to the Planning Official evidence of the previous zoning and that the property was unintentionally re-zoned. Upon determination by the Planning Official that the property was unintentionally re-zoned, the Planning Official shall schedule the matter forthwith for a correction amendment by ordinance adopted by the Board of Commissioners.

- (b) If the Planning Official determines that the property does not meet the standard for correction in (a) above, that determination shall be issued in the form of an interpretation pursuant to BCC 51.205(1). The interpretation may be appealed to the Planning Commission as provided in BCC 51.205.
- (c) Any unintentional re-zoning that also involves error on the Comprehensive Plan Map shall be corrected simultaneously through the process for correcting the Zoning Map described in subsections (a) and (b) of this section.
- (d) The Planning Official, the Planning Commission as a body, or any member of the Board of Commissioners may cause an unintentional re-zoning to be considered for correction by the Board of Commissioners. The owner of the affected property shall be notified of the proposed correction at least 10 days prior to the Board of Commissioners considering the correction ordinance. The property owner shall have the opportunity to provide written comment prior to the Board of Commissioners action.

[Ord 2004-0196]

TEXT AMENDMENT

53.605 Purpose. On occasion, it may be appropriate to amend sections of the Comprehensive Plan or Development Code to respond to changing policies and conditions, or to clarify the text. [Ord 90-0069]

53.610 Initiating a Text Amendment. (1) The Board of Commissioners may initiate an amendment to this code. The Board shall direct the Planning Official to prepare a background report discussing the justification for the proposed text amendment.

(2) The Planning Commission may initiate a text amendment. The Planning Commission shall notify the Board of Commissioners of its intent to initiate an amendment. The Board must conceptually approve the amendment before the Planning Commission may cause an Ordinance to be drafted or a public hearing to be held. [Ord 90-0069]

53.615 Notice Requirements. In addition to the notice requirements set forth in BCC 51.605 to 51.625, the Planning Official shall notify the Oregon Department of Fish and Wildlife of any proposed text amendment affecting a resource zone, requesting comments regarding impact on significant wildlife habitat. [Ord 90-0069]

53.620 Planning Commission Review. The Planning Commission shall conduct a public hearing to review a proposed text amendment. Following the hearing, the Commission shall make a recommendation to the Board to approve, deny or modify the proposed text amendment. [Ord 90-0069]

53.625 Board of Commissioners Review. The Board of Commissioners shall hold a public hearing to review a proposed text amendment. The Board may accept, reject, or modify the proposed text amendment in whole or in part. Incorporation of any text amendment into the Development Code shall proceed pursuant to the Ordinance adoption provisions of the Benton County Charter. [Ord 90-0069]

Chapter 54

Reserved for Expansion

Chapter 55

Exclusive Farm Use Zone (EFU)

55.005 Exclusive Farm Use Zone. (1) The Exclusive Farm Use Zone (EFU) shall preserve and protect lands for continued and future commercial agricultural production and related uses, and conserve and protect open space, wildlife habitats, and other uses associated with agriculture. Except as otherwise provided by this code, the Exclusive Farm Use Zone shall preserve and maintain areas classified for farm use free from conflicting nonfarm uses and influences.

(2) Uses of land not compatible with the purpose of the Exclusive Farm Use Zone shall be prohibited to minimize potential hazards of damage from erosion, pollution, conflicting land uses, and further depletion of agricultural land resources. [Ord 26, Ord 90-0069]

APPLICATION OF THE ZONE

55.015 Standards for Application of the Exclusive Farm Use Zone. (1) The Exclusive Farm Use Zone is applied to lands classified by the U.S. Soil Conservation Service as predominantly Class I-IV soils which are not otherwise subject to an exception of the statewide planning goals. The Exclusive Farm Use Zone is also applied to other lands necessary to preserve and maintain farm use consistent with existing and future needs for agricultural production. Soil capability classifications are indicated by the nature and type of soil, size and location of the property, the suitability of the terrain, and other similar factors. The Exclusive Farm Use Zone is also applied to intervening lands in different soil classes which are suitable for farm use or needed to permit farm practices to be undertaken on adjacent or nearby agricultural lands. [Ord 26, Ord 90-0069, Ord 93-0098]

(2) High-value farmland means land in a tract:

(a) Composed predominantly of soils that are classified prime, unique, Class I or Class II when irrigated or not irrigated; or

(b) Located east of the summit of the Coast Range, and composed predominantly of the following soils in Class III or IV or composed predominantly of a combination of the soils described above and the following soils:

(A) Subclassification IIIe, specifically, Bellpine, Bornstedt, Burlington, Briedwell, Carlton, Cascade, Chehalem, Cornelius Variant, Cornelius and Kinton, Helvetia, Hillsboro, Hult, Jory, Kinton, Latourell, Laurelwood, Melbourne, Multnomah, Nekia, Powell, Price, Quatama, Salkum, Santiam, Saum, Sawtell, Silverton, Veneta, Willakenzie, Woodburn and Yamhill:

(B) Subclassification IIIw, specifically, Concord, Conser, Cornelius Variant, Dayton (thick surface) and Sifton (occasionally flooded);

(C) Subclassification IVe, specifically, Bellpine Silty Clay Loam, Carlton, Cornelius, Jory, Kinton, Latourell, Laurelwood, Powell, Quatama, Springwater, Willakenzie and Yamhill; and

(D) Subclassification IVw, specifically, Awbrig, Bashaw, Courtney, Dayton, Natroy, Noti and Whiteson; or

(c) Located west of the summit of the Coast Range, and growing specified perennials as demonstrated by the most recent aerial photography of the Agricultural Stabilization and Conservation Service of the U.S. Department of Agriculture taken prior to November 4, 1993. "Specified perennials" means perennials grown for market or research purposes including, but not limited to, nursery stock, berries, fruits, nuts, Christmas trees, or vineyards, but not including seed crops, hay, pasture or alfalfa; or

(d) Located west of the summit of the Coast Range and used in conjunction with a dairy operation on January 1, 1993, and composed predominantly of the following soils or a combination of the soils identified in subsection (2)(a) and the following soils:

- (A) Subclassification IIIe, specifically, Astoria, Hembre, Knappa, Meda, Quillayutte and Winema;
- (B) Subclassification IIIw, specifically, Brennar and Chitwood;
- (C) Subclassification IVe, specifically, Astoria, Hembre, Meda, Nehalem, Neskowin and Winema; and
- (D) Subclassification IVw, specifically, Coquille.

[Ord 94-0108; 2000-0157]

(3) For purposes of approving a land use application under the lot-of-record provisions of BCC 55.230, the soil class, soil rating or other soil designation of a specific lot or parcel may be changed if the property owner:

- (a) Submits a statement of agreement from the Natural Resources Conservation Service (NRCS) of the United States Department of Agriculture that the soil class, soil rating or other soil designation should be adjusted based on new information; or
- (b) (A) Submits a report from a soils scientist whose credentials are acceptable to the State Department of Agriculture that the soil class, soil rating or other soil designation should be changed; and
- (B) Submits a statement from the State Department of Agriculture that the Director of Agriculture or the director's designee has reviewed the report described in subparagraph (A) of this paragraph and finds the analysis in the report to be soundly and scientifically based.

[Ord 2000-0157; 2001-0174]

(4) For the purposes of review of a land use application under Benton County Code Sections 55.230, soil classes, ratings or other soil designations used in or made pursuant to this section are those of the NRCS in its most recent publication for that class, rating or designation before November 4, 1993 except for changes made pursuant to subsection (4) of this section.

(5) For the purposes of determining whether a tract is "High-value farmland" during review of a land use application under Benton County Code Sections 55.105, 55.106, 55.107, 55.108, 55.109, 55.110, 55.111, 55.112, 55.115, 55.205, 55.210, 55.220, and 55.328, soil classes, ratings or other soil designations used in or made pursuant to this section are those of the NRCS in its most recent publication for that class, rating or designation.

(6) For purposes of determining soil capability other than those described in subsections (4) through (6) of this section, the County may use more detailed soils data provided it is related to the NRCS land capability classification and is prepared by a soils scientist certified for changing soil designations by the Oregon Department of Agriculture.

[Ord 2000-0157; 2001-0174]

55.050 Notice of Pending Action. Notice of all applications for dwellings and land divisions in the Exclusive Farm Use Zone shall be mailed to the Department of Land Conservation and Development at their Salem office at least ten (10) days prior to the date of the decision or permit issuance. The notice shall contain the information set forth in BCC 51.615. [Ord 94-0108]

55.075 Period of Validity of Discretionary Decisions. A discretionary decision, except for a land division, approving a proposed development on Exclusive Farm Use land outside an urban growth boundary is void two years from the date of final decision, if the development action is not initiated in that period. [Ord 94-0108]

55.085 Extension of the Approval Period for Discretionary Decisions. The Planning Official may grant one extension for a period of up to 12 months if the applicant makes a written request for an extension prior to the expiration of the approval period. The applicant must state the reasons that prevented them from initiating or continuing development within the approval period. The Planning Official must determine that the applicant was unable to initiate or continue development during the approval period for reasons for which the applicant was not responsible, in order to approve the extension. Approval of an extension is not a land use decision and is not subject to appeal as a land use decision. Additional one year extensions may be authorized where applicable criteria for the decision have not changed. [Ord 94-0108; 2001-0174]

55.105 Permitted Uses. The following uses are allowed in the Exclusive Farm Use Zone:

- (1) Farm use.
- (2) The propagation or harvesting of a forest product.
- (3) Non-residential structures customarily provided in conjunction with farm or forest use.
- (4) Climbing and passing lanes within right-of-way existing as of July 1, 1987.
- (5) Reconstruction or modification of public roads and highways, including the placement of utility facilities overhead and in the subsurface of public roads and highways along the 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 or lots result.
- (6) Temporary public road and highway detours that will be abandoned and restored to original condition or use at such time as they are no longer needed.
- (7) Minor improvements to existing public roads and highway related facilities such as maintenance yards, weigh stations and rest areas, within right-of-way existing as of July 1, 1987, and contiguous public owned property which supports the operation and maintenance of public roads and highways.
- (8) Creation, restoration, or enhancement of wetlands.
- (9) Operations for the exploration for minerals as defined by ORS 517.750. Any activities or construction relating to such operations shall not be a basis for an exception under ORS 197.732(1)(a) or (b). [Ord 94-0108]
- (10) The breeding, kenneling and training of greyhounds for racing. This use is not allowed on high-value farmland.
- (11) Fire service facilities providing rural fire protection services.
- (12) Irrigation canals, delivery lines and those structures and accessory operational facilities associated with a district as defined in ORS 540.505.

(13) Onsite filming and activities accessory to onsite filming for 45 days or less. A decision of the County issuing any permits necessary for activities under this provision is not a land use decision. For purposes of this section, “on-site filming and activities accessory to on-site filming”:

(a) Includes:

(A) Filming and site preparation, construction of sets, staging, makeup and support services customarily provided for on-site filming.

(B) Production of advertisements, documentaries, feature film, television services and other film productions that rely on the rural qualities of an exclusive farm use zone in more than an incidental way.

(b) Does not include:

(A) Facilities for marketing, editing and other such activities that are allowed only as a home occupation; or

(B) Construction of new structures that requires a building permit.

(14) An outdoor mass gathering as defined in ORS 433.735 or other gathering of fewer than 3,000 persons that is not anticipated to continue for more than 120 hours in any three month period is not a land use decision as defined in ORS 197.015(10) or subject to review under this Chapter.

(15) A firearms training facility as defined in ORS 197.770 in existence on September 9, 1995 shall be allowed to continue operating until such time as the facility is no longer used as a firearms training facility.

(16) Public or private schools, including all buildings essential to the operation of a school. This use shall not be approved on High-Value Farmland. This use shall not be approved within three miles of an urban growth boundary unless an exception is approved pursuant to ORS 197.732 and OAR Chapter 660, Division 4. Existing facilities wholly within a farm use zone may be maintained, enhanced or expanded on the same tract, subject to other requirement of law.

(17) Churches and cemeteries in conjunction with churches. This use shall not be approved on High-Value Farmland, nor within three miles of an urban growth boundary unless an exception is approved pursuant to ORS 197.732 and OAR Chapter 660, Division 4. Existing facilities wholly within a farm use zone may be maintained, enhanced or expanded on the same tract, subject to other requirement of law.

(18) Implementation of a wildlife habitat conservation and management plan approved by the Oregon Department of Fish and Wildlife pursuant to ORS 215.802.

(19) A replacement dwelling to be used in conjunction with farm use if the existing dwelling has been listed in a County Register as historic property as defined in ORS 358.480. In order to meet the requirements specified in the statute, a historic dwelling must be listed on the National Register of Historic Places and the Benton County Register of Historic Resources. The existing dwelling shall cease to be used as a dwelling within three months after completion of the replacement dwelling. The landowner shall sign a covenant as required by BCC 55.405(6).

[Ord 2001-0174]

55.106 Uses permitted in the Exclusive Farm Use Zone subject to review by the Planning Official pursuant to BCC 53.160. Uses in this section are permitted, provided the standards listed below are met.

(1) Wineries.

(a) A winery authorized under this section is a facility that produces wine with a maximum annual production of:

(A) Less than 50,000 gallons. The applicant shall show that vineyards have been planted, and/or that a contract has been executed, to obtain grapes from a vineyard of at least fifteen (15) acres, whether in the applicant's ownership or otherwise.

(B) At least 50,000 gallons and no more than 100,000 gallons. The applicant shall show that vineyards have been planted, and/or that a contract has been executed, to obtain grapes from a vineyard of at least forty (40) acres, whether in the applicant's ownership or otherwise.

(b) A winery shall allow only the sale of wines produced in conjunction with the winery and items directly related to wine, the sales of which are incidental to retail sale of wine on-site. Such items include those served by a limited service restaurant as defined in ORS 624.010. [Ord 90-0069; 2001-0174]

(2) Farm Stand.

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

(b) A farm stand does not include structures designed for occupancy as a residence or for activities other than the sale of farm crops and livestock and does not include structures for banquets, public gatherings or public entertainment. [Ord 94-0108; 2001-0174]

(3) Seasonal Farmworker Housing, as defined in BCC 51.020 and subject to the standards of (a) through (l) below. In the alternative to meeting the standards below, an applicant for Seasonal Farmworker Housing may apply for Conditional Use review pursuant to BCC 55.210(9). Temporary housing to be used no more than 30 days in a calendar year is exempt from the requirements of this section, provided no more than 20 people are accommodated, the temporary housing is located at least 300 feet from another dwelling on a different ownership, and the housing structure(s) are removed or disassembled when the 30-day use period concludes.

(a) The housing will be located on soils that are not high-value soils as defined in BCC 55.015(2)(a) through (d);

(b) The facility shall be located on a tract of at least 10 acres.

(c) The number of persons accommodated shall be limited to not more than 2 persons per acre of land in the subject tract, up to a total of no more than 40 people.

(d) To demonstrate the need for seasonal farmworker housing, there shall be crops planted on the contiguous ownership where the housing is located, or on other owned or leased lands that are part of the farm, that require the number of seasonal farm workers proposed to be accommodated; or, written evidence of a contract with a buyer for annual crops to be raised on the subject farm that require the number of seasonal farm workers proposed to be accommodated.

(e) The seasonal farm workers occupying the temporary farm housing shall be employed on the subject contiguous ownership and other owned or leased lands that are part of the farm at least 50% of the time worked.

(f) The farm owner or someone responsible for the management of the housing and employed by the farm owner shall live in the seasonal farm housing or in a dwelling located on the subject contiguous owned and leased land within 660 feet of the temporary farm housing.

(g) Weekly franchised solid waste collection shall be provided when the temporary farm housing is occupied.

(h) If a state agency is authorized to issue licenses for seasonal farm housing, evidence that a license has been issued for the temporary farm housing shall be provided prior to the first occupancy each year.

- (i) The housing facility shall be completely vacant for at least 93 consecutive days per 12 months.
- (j) The housing facility shall be located at least 100 feet from property lines and at least 660 feet from a dwelling located on a different ownership.
- (k) Residential structures, manufactured dwellings or recreational vehicles used as seasonal farmworker housing shall obtain required building/placement permits and shall comply with all applicable provisions of the Benton County Development Code and applicable building code.
- (l) On-site sanitation and water facilities shall be provided and shall meet the requirements of the Benton County Health Department.

[Ord 2000-0163]

(4) Utility facility service lines, limited to utility lines and accessory facilities or structures that end at the point where the utility service is received by the customer and that are located on one or more of the following:

- (a) A public right of way;
- (b) Land immediately adjacent to a public right of way, provided the written consent of all adjacent property owners has been obtained; or
- (c) the property to be served by the utility. [Ord 2001-0174]

(5) 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) A utility facility is necessary for public service if the facility must be sited in an exclusive farm use zone in order to provide the service. To demonstrate that a utility facility is necessary, an applicant must show that reasonable alternatives have been considered and that the facility must be sited in an exclusive farm use zone due to one or more of the following factors:

- (A) Technical and engineering feasibility;
- (B) 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;
- (C) Lack of available urban and nonresource lands;
- (D) Availability of existing rights-of-way;
- (E) Public health and safety; and
- (F) Other requirements of state and federal agencies.

(b) Costs associated with any of the factors listed in subsection (a) 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.

(c) The owner of a utility 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 section 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.

(d) The governing body of the county or its designee shall impose clear and objective conditions on an application for utility facility siting to mitigate and minimize the impacts of the proposed facility, if any, on surrounding lands devoted to farm use in order to prevent a significant change in accepted farm practices or a significant increase in the cost of farm practices on the surrounding farmlands.

(e) In addition to the provisions of subsections (a) to (d) of this rule, 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.

(f) The provisions of subsections (a) to (d) of this section do not apply to interstate natural gas pipelines and associated facilities authorized by and subject to regulation by the Federal Energy Regulatory Commission.

[Ord 2001-0174]

(6) (a) Maintenance, repair or replacement of existing legally established dwellings. To be eligible for replacement, an existing dwelling shall have:

(A) intact exterior walls and roof structure;

(B) indoor plumbing consisting of a kitchen sink, toilet and bathing facilities connected to a sanitary waste disposal system;

(C) interior wiring for interior lights;

(D) a heating system;

(b) Replacement must occur within one year of removal or destruction of the structure. In the case of replacement, the dwelling to be replaced shall be removed, demolished, or converted to an allowable use within three months of the completion of the replacement dwelling. A replacement dwelling may be sited on any part of the same lot or parcel. A dwelling established under this section shall comply with all applicable siting standards. However, the standards shall not be applied in a manner that prohibits the siting of the dwelling. If the dwelling to be replaced is located on a portion of the lot or parcel not zoned for exclusive farm use, the applicant, as a condition of approval, shall execute and record in the deed records for the county where the property is located 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 Planning Official or the Planning Official's designee and state that the provisions of this section regarding replacement dwellings have changed to allow the siting of another dwelling. The Planning Official or the Planning Official's designee shall maintain a record of the lots and parcels that do not qualify for the siting of a new dwelling under the provisions of this section, including a copy of the deed restrictions and release statements filed under this section;

(c) An accessory farm dwelling authorized pursuant to OAR 660-033-0130(24)(a)(B)(iii), may only be replaced by a manufactured dwelling.

(d) The landowner shall sign a covenant as required by BCC 55.405(6).

[Ord 94-0108; 2001-0174]

(7) A facility for the processing of farm crops. The farm on which the processing facility is located must provide at least one-quarter of the farm crops processed at the facility. The building established for the processing facility shall not exceed 10,000 square feet of floor area exclusive of the floor area 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. A processing facility shall comply with all applicable siting standards but the standards shall not be applied in a manner that prohibits the siting of

the processing facility. The County shall not approve any division of a lot or parcel that separates a processing facility from the farm operation on which it is located. [Ord 2001-0174]

(8) A site for the takeoff and landing of model aircraft, including such buildings or facilities as may reasonably be necessary. 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 preexisted the use approved under this section. The site shall not include an aggregate surface or hard surface area unless the surface preexisted the use approved under this section. 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. [Ord 2001-0174]

(9) Operations for the exploration for and production of 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. [Ord 2001-0174]

55.108 Uses not permitted on High-Value farmland. (1) The following uses are not permitted to be established on high-value farmland:

- (a) Commercial Dog Kennels
- (b) Destination Resorts.
- (c) A site for the disposal of solid waste approved by the governing body of a city or county or both and for which a permit has been granted under ORS 459.245 by the Department of Environmental Quality together with equipment, facilities or buildings necessary for its operation.
- (d) Public or private schools, including all buildings essential to the operation of a school.
- (e) Churches and cemeteries in conjunction with churches.
- (f) Private parks, playgrounds, hunting and fishing preserves and campgrounds.
- (g) Golf courses.
- (h) The breeding, kenneling and training of greyhounds for racing.
- (i) Composting facilities for which a permit has been granted by the Department of Environmental Quality under ORS 459.245 and OAR 340-96-020.

[Ord 2001-0174]

(2) Existing facilities of the uses in BCC 55.108(a)-(j) may be maintained, enhanced or expanded on the same tract, subject to BCC 53.215, BCC 53.220, and BCC 55.215. An existing golf course may be expanded consistent with the requirements of BCC 55.215 and BCC 55.210(2), but shall not be expanded to contain more than 36 total holes. [Ord 94-0108; 2001-0174]

FARM-RELATED DWELLINGS

55.109 Farm Related Dwellings on High Value Farmland. (1) On land identified as high-value farmland, a dwelling considered customarily provided in conjunction with farm use may be allowed subject to review by the Planning Official, pursuant to BCC 53.160, for compliance with the following criteria:

- (a) The subject tract is currently employed for the farm use, that produced at least \$80,000 (1994 dollars) in gross annual income from the sale of farm products in the last two years or three of the last five years; and
- (b) Except as permitted for seasonal farm worker housing there is no other dwelling on the subject tract; and

(c) The dwelling will be occupied by a person or persons who produced the commodities which grossed the income in BCC 55.109(1)(a).

(d) In determining the gross income required by BCC 55.109(1)(a), only gross income from land owned, not leased or rented, shall be counted, and the cost of purchased livestock shall be deducted from the total gross income.

(e) The subject parcel or lot is legally established. [Ord 94-0108]

(f) The landowner shall sign a covenant as required by BCC 55.405(6).

[Ord 2001-0174]

FARM-RELATED DWELLINGS ON LAND NOT IDENTIFIED AS HIGH VALUE

55.110 Farm Related Dwelling on a Parcel or Lot Over 160 Acres. (1) One farm related dwelling may be permitted on a legally established parcel or lot in the Exclusive Farm Use Zone on land not identified as high value, subject to review by the Planning Official, pursuant to BCC 53.160, for compliance with the following criteria:

(a) The parcel or lot on which the dwelling will be located is at least 160 acres, and not designated as rangeland;

(b) The subject property is currently employed in farm use;

(c) The dwelling will be occupied by a person or persons who will be principally engaged in the farm use of the land, such as planting, harvesting, marketing or caring for livestock, at a commercial scale; and

(d) Except as provided for seasonal farm worker housing there is no other dwelling on the subject tract. [Ord 94-0108]

(e) The landowner shall sign a covenant as required by BCC 55.405(6).
[Ord 2001-0174]

55.111 Farm Related Dwelling on a Parcel or Lot Between 10 and 160 Acres. If the County prepares the potential gross sales figures pursuant to BCC 55.111(3) and subject to review by the Department of Land Conservation and Development, then one farm-related dwelling may be permitted on a legally established parcel or lot of non-High Value farm land, subject to review by the Planning Official.

(1) To identify the commercial farm or ranch tracts to be used to determine BCC 55.111(2), the gross sales capability of each tract in the study area including the subject tract must be determined, using the gross sales figures prepared by Benton County according to section (3) below, as follows:

(a) Identify the study area. This includes all the land in the tracts wholly or partially within one mile of the perimeter of the subject tract;

(b) Determine for each tract in the study area the number of acres in every land classification from the county assessor's data;

(c) Determine the potential earning capability for each tract by multiplying the number of acres in each land class by the gross sales per acre for each land class provided by the Land Development and Conservation Commission. Add these to obtain the potential earning capability for each tract.

(d) Identify those tracts capable of grossing at least \$10,000 dollars based on the data generated in BCC 55.111(1)(c);

(e) Determine the median size and median gross sales capability for those tracts capable of generating at least \$10,000 dollars in annual gross sales to use in BCC 55.111(2)(a) and (b).

(2) On land not identified as high-value farmland pursuant to BCC 55.015(2), a dwelling may be considered customarily provided in conjunction with farm use if:

(a) The subject tract is at least as large as the median size of those commercial farm or ranch tracts capable of generating at least \$10,000 in annual gross sales that are located within a study area which includes all tracts wholly or partially within one mile from the perimeter of the subject tract; and

(b) The subject tract is capable of producing at least the median level of annual gross sales of county indicator crops as the same commercial farm or ranch tracts used to calculate the tract size in BCC 55.111(2)(a); and

(c) The subject tract is currently employed for a farm use, as defined in ORS 215.203, at a level capable of producing the annual gross sales required in BCC 55.111(2)(b); and

(d) The subject lot or parcel on which the dwelling is proposed is not less than 10 acres; and

(e) Except as provided for seasonal farm worker housing, there is no other dwelling on the subject tract; and

(f) If the proposed dwelling is based on a farm use which has not been established at the time of application, land use approval shall be subject to a condition that no building permit may be issued prior to the establishment of the farm use required by BCC 55.111(2)(c).

(g) 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.

(3) In order to review a farm dwelling pursuant to section (2), the county may prepare, subject to review by the Department of Land Conservation and Development (DLCD), a table of the estimated potential gross sales per acre for each assessor land class (irrigated and nonirrigated) required in section (1). DLCD shall provide assistance and guidance to the county in the preparation of this table. The table shall be prepared as follows:

(a) Determine up to three indicator crop types with the highest harvested acreage for irrigated and for nonirrigated lands in the county using the most recent OSU Extension Service Commodity Data Sheets, Report No. 790, "Oregon County and State Agricultural Estimates", or other USDA/Extension Service documentation;

(b) Determine the combined weighted average of the gross sales per acre for the three indicator crop types for irrigated and for nonirrigated lands, as follows:

(A) Determine the gross sales per acre for each indicator crop type for the previous five years (i.e., divide each crop type's gross annual sales by the harvested acres for each crop type);

(B) Determine the average gross sales per acre for each crop type for three years, discarding the highest and lowest sales per acre amounts during the five year period;

(C) Determine the percentage each indicator crop's harvested acreage is of the total combined harvested acres for the three indicator crop types;

(D) Multiply the combined sales per acre for each crop type identified under paragraph (B) of this subsection by its percentage of harvested acres to determine a weighted sales per acre amount for each indicator crop;

(E) Add the weighted sales per acre amounts for each indicator crop type identified in paragraph (D) of this subsection. The result provides the combined weighted gross sales per acre.

(c) Determine the average land rent value for irrigated and nonirrigated land classes in the county's exclusive farm use zones according to the annual "income approach" report prepared by the county assessor pursuant to ORS 308.345;

(d) Determine the percentage of the average land rent value for each specific land rent for each land classification determined in subsection (c) of this section. Adjust the combined weighted sales per acre amount identified in paragraph (b)(E) of this section using the percentage of average land rent (i.e., multiply the weighted average determined in paragraph (4)(b)(E) of this rule by the percent of average land rent value from subsection (4)(c) of this rule). The result provides the estimated potential gross sales per acre for each assessor land class that will be provided to each county to be used as explained under subsection (3)(c) of this rule.

[Ord 94-0108; 2001-0174]

55.112 Farm Related Dwelling \$40,000 Gross Annual Income Test. One farm related dwelling is permitted on a legally established parcel or lot of non-High Value farmland, subject to review by the Planning Official pursuant to BCC 53.160.

(1) On land not identified as high-value farmland, a dwelling may be considered customarily provided in conjunction with farm use if:

(a) The subject tract is currently employed for the farm use, that produced in the last two years or three of the last five years the lower of the following:

(A) At least \$40,000 (1994 dollars) in gross annual income from the sale of farm products; or

(B) Gross annual income of at least the midpoint of the median income range of gross annual sales for farms in the county with gross annual sales of \$10,000 or more according to the 1992 Census of Agriculture, Oregon; and

(b) Except as permitted for seasonal farm worker housing there is no other dwelling on the subject tract; and

(c) The dwelling will be occupied by a person or persons who produced the commodities which grossed the income in BCC 55.112(1)(a).

(d) In determining the gross income required by BCC 55.112(1)(a), only gross income from land owned, not leased or rented, shall be counted, and the cost of purchased livestock shall be deducted from the total gross income attributed to the tract. [Ord 94-0108]

(e) The landowner shall sign a covenant as required by BCC 55.405(6).
[Ord 2001-0174]

55.115 Accessory Farm-Related Dwellings. Accessory farm related dwellings are permitted in the Exclusive Farm Use Zone subject to review by the Planning Official pursuant to BCC 53.160.

(1) An accessory farm dwelling is permitted on a legally established parcel or lot if:

(a) The subject property and contiguous property in the same ownership are in farm use;

(b) The accessory dwelling will be occupied by a person or persons who will be principally engaged in the farm use of the land and whose assistance in the management of the farm use is or will be required by the primary farm operator;

(c) The accessory dwelling will be located:

(A) On the same lot or parcel as the dwelling of the primary farm operator; or

(B) On the same tract as the principal farm dwelling if the lot or parcel on which the accessory dwelling will be sited is consolidated with the other lots and parcels in the tract into a single parcel or lot when the dwelling is allowed; or

(C) On a lot or parcel on which the principal farm dwelling is not located, when the accessory farm dwelling is a manufactured dwelling and a deed restriction is filed with the county clerk. The deed restriction shall require the manufactured dwelling to be removed when the lot or parcel is conveyed to another party. An accessory farm dwelling approved pursuant to this rule may not be occupied by a person or persons who will not be principally engaged in the farm use of the land and whose assistance in the management of the farm use is not or will not be required by the farm operator. The manufactured dwelling may remain if it is reapproved under these rules.

(d) There is no other dwelling on the subject farm or ranch that is vacant or currently occupied by persons not working on the subject farm or ranch and could reasonably be used as the requested accessory dwelling;

(e) The principal farm dwelling to which the proposed dwelling would be accessory meets one of the following:

(A) On land not identified as high-value farmland, the principal farm dwelling is located on a tract that is currently employed for farm use, as defined in ORS 215.203, that produced in the last two years or three of the last five years the lower of the following:

(i) At least \$40,000 (1994 dollars) in gross annual income from the sale of farm products. In determining the gross income, the cost of purchased livestock shall be deducted from the total gross income attributed to the tract;

(ii) Gross annual income of at least the midpoint of the median income range of gross annual sales for farms in the county with gross annual sales of \$10,000 or more according to the 1992 Census of Agriculture, Oregon. In determining the gross income, the cost of purchased livestock shall be deducted from the total gross income attributed to the tract; or

(B) On land identified as high-value farmland, the principal farm dwelling is located on a tract that is currently employed for farm use, as defined in ORS 215.203, that produced at least \$80,000 (1994 dollars) 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.

(f) The landowner shall sign a covenant as required by BCC 55.405(6).

(2) The governing body shall not approve a division of land that would separate the accessory farm dwelling approved pursuant to BCC 55.115 from the parcel or lot on which the dwelling of the farm operator is located, unless the dwelling meets the criteria for a principal farm related dwelling. [Ord 26, Ord 90-0069, Ord 94-0108]

(3) An accessory farm dwelling approved pursuant to this section cannot later be used to satisfy the requirements for a dwelling not provided in conjunction with farm use pursuant to BCC 55.220. [Ord 2001-0174]

55.120 Farm-Help Dwelling for a Relative of the Farm Operator. A dwelling may be permitted in the Exclusive Farm Use zone, subject to review by the Planning Official, pursuant to BCC 53.160, for compliance with the following criteria:

(1) The dwelling will be located on property used for farm use;

(2) The dwelling will be located on the same lot or parcel as the dwelling of the farm operator, and occupied by a grandparent, grandchild, parent, child, brother or sister of the farm operator or the farm

operator's spouse, whose assistance in the management and farm use of the existing commercial farming operation is required by the farm operator;

(3) The farm operator shall continue to play the predominant role in the management and farm use of the farm. For purposes of this section, 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.

(4) The landowner shall sign a covenant as required by BCC 55.405(6).

[Ord 2001-0174]

CONDITIONAL USES

55.205 Conditional Uses Reviewed by the Planning Official subject to BCC 53.215, BCC 53.220, and BCC 55.215. The following uses may be allowed in the Exclusive Farm Use Zone by conditional use permit approved by the Planning Official, except as otherwise prohibited by BCC 55.108:

(1) Commercial activity in conjunction with farm use, but not including the processing of farm crops pursuant to BCC 55.106(6). [Ord 2001-0174]

(2) Commercial utility facility for the purpose of generation of power for public use by sale. A power generation facility shall not preclude more than 12 acres of high-value farmland nor more than 20 acres of other land from use as a commercial agricultural enterprise unless an exception is taken pursuant to OAR 660, Division 4. [Ord 2001-0174]

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

(4) A facility for the primary processing of forest products, provided that such facility is found to not seriously interfere with accepted farming practices and is compatible with farm uses described in ORS 215.203(2). Such a facility may be approved for a one-year period which is renewable. These facilities are intended to be only portable or temporary in nature. The primary processing of a forest product, as used in this section, means the use of a portable chipper or stud mill or other similar methods of initial treatment of a forest product in order to enable its shipment to market. Forest products, as used in this section, means timber grown upon the tract where the primary processing facility is located. [Ord 2001-0174]

(5) Transmission towers over 200 feet in height.

(6) Commercial kennels, except on High-Value Farmland. [Ord 2001-0174]

(7) Residential home or facility, as defined in ORS 197.660, in an existing dwelling. The property owner shall sign a covenant as required by BCC 55.405(6). [Ord 2001-0174]

(8) The propagation, cultivation, maintenance and harvesting of aquatic or insect species. Insect species shall not include any species under quarantine by the State Department of Agriculture or the United States Department of Agriculture. The county shall provide notice of all applications under this section to the State Department of Agriculture. Notice shall be provided in accordance with the county's land use regulations but shall be mailed at least 20 calendar days prior to any administrative decision or initial public hearing on the application. [Ord 2001-0174]

(9) Construction of additional passing and travel lanes requiring the acquisition of right-of-way, but not resulting in the creation of new land parcels or lots.

(10) 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 or lots.

(11) Improvement of public roads 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 or lots.

(12) One manufactured dwelling, recreational vehicle, or temporary use of an existing building in conjunction with an existing dwelling as a temporary use for the term of a hardship suffered by the existing resident or relative of the resident, subject to the standards of BCC 91.545 and 91.550 and the following:

(a) Within three months of the end of the hardship, the manufactured dwelling or recreational vehicle shall be removed or demolished or, in the case of an existing building, the building shall be removed, demolished or returned to an allowed nonresidential use. A temporary residence approved under this section is not eligible for replacement under BCC_55.106(5). Oregon Department of Environmental Quality review and removal requirements also apply. As used in this section "hardship" means a medical hardship or hardship for the care of an aged or infirm person or persons.

(b) The property owner shall sign a covenant as required by BCC 55.405(6). [Ord 2001-0174]

(13) A Home occupation, subject to the standards of BCC 91.205 - 91.230 and this section. Home occupations shall be operated substantially in the dwelling or other buildings normally associated with uses permitted in the zone in which the property is located. A home occupation shall be operated by a resident or employee of a resident of the property on which the business is located, and shall employ on the site no more than five full-time or part-time persons, except that a home occupation located on high-value farmland may employ only residents of the home. [Ord 2001-0174]

(14) Room and board arrangements for a maximum of five unrelated persons in existing residences. The property owner shall sign a covenant as required by BCC 55.405(6). [Ord 2001-0174]

(15) Private family burial grounds. Lots shall not be offered for sale in a private family burial ground. Every private family burial ground shall:

(a) Comply with State regulations for burial on private property;

(b) Be located at least 100 feet from wells, springs, and other water sources used for drinking, fifty (50) feet from any stream, river, lake, or pond, and twenty-five (25) feet from property lines;

(c) Be documented by a Notice of Family Burial Grounds. A map shall accompany the Notice, showing the location of the burial grounds. The Notice shall indicate whether the gravesites are marked or unmarked. The Notice and map shall be recorded in the County Deed Records and the applicant shall pay the recording fees.

(16) A dwelling in conjunction with a wildlife habitat conservation and management plan authorized by ORS 215.802(1), provided the proposed dwelling:

(a) Will be situated on a lot or parcel existing on November 4, 1993, that qualifies for a farm dwelling under BCC 55.109 through 55.112 or a non-farm dwelling under BCC 55.220; and

(b) Will not be established on a lot or parcel that is 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;

(c) Complies with BCC 55.215; and

(d) Is the only dwelling situated on the affected lot or parcel. [Ord 2001-0174]

(17) On-site filming and activities accessory to on-site filming that exceed 45 days on any site within a one-year period or involve erection of sets that would remain in place for longer than 45 days. In addition to other activities described in the definition of “on-site filming” in BCC 55.105 (14), these activities may include office administrative functions such as payroll and scheduling, and the use of campers, truck trailers or similar temporary facilities. Temporary facilities may be used as temporary housing for security personnel. [Ord 2001-0174]

[Ord 26, Ord 90-0069, Ord 90-0075, Ord 94-0108, Ord 99-0146; Ord 2001-0174]

55.210 Conditional Uses Approved by the Planning Commission, subject to BCC 53.215, BCC 53.220, and BCC 55.215. The following uses may be allowed in the Exclusive Farm Use Zone by conditional use permit approved by the Planning Commission, except as otherwise prohibited by BCC 55.108:

(1) Extension of a new water line where it is found that the water system is a rural water system. [Ord 90-0069]

(2) Golf courses, except on high-value farmland. For the purposes of this section, a golf course is defined as an area of land with highly maintained natural turf laid out for the game of golf with a series of nine or more holes, each including a tee, a fairway, a putting green, and often one or more natural or artificial hazards. The course shall be a nine or 18 hole regulation golf course or a combination 9 and 18 hole regulation golf course consistent with the following:

(a) A regulation 18 hole golf course is generally characterized by a site of about 120 to 150 acres of land, has a playable distance of 5,000 to 7,200 yards, and a par of 64 to 73 strokes.

(b) A regulation 9 hole golf course is generally characterized by a site of about 65 to 90 acres of land, has a playable distance of 2,500 to 3,200 yards, and a par of 32 to 36 strokes.

(c) Non-regulation golf courses are not allowed uses within these areas. "Non-regulation golf course" means a golf course or golf course-like development that does not meet the definition of golf course in this rule, including but not limited to executive golf courses, Par 3 golf courses, pitch and putt golf courses, miniature golf courses, and driving ranges.

(d) Accessory uses to golf courses shall be limited consistent with the following standards:

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

(B) Accessory uses shall be limited in size and orientation on the site to serve the needs of persons and their guests who patronize the golf course to golf. An accessory use that provides commercial services (e.g. food and beverage service, pro shop, etc.) shall be located in the clubhouse rather than in separate buildings. [Ord 2001-0174]

- (3) Destination Resort which is approved consistent with the requirements of statewide planning Goal 8. This use is not permitted on high-value farmland. [Ord 2001-0174]
- (4) Aids to navigation and aviation.
- (5) Temporary asphalt and concrete batch plants as accessory uses to specific highway projects. However, no application shall be approved to allow batching and blending of mineral and aggregate into asphalt cement 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.
- (6) Operations conducted for:
- (a) 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 under BCC 55.105;
 - (b) Mining, crushing or stockpiling of aggregate and other mineral and other subsurface resources subject to BCC 91.910;
 - (c) Processing, as defined by ORS 517.750, of aggregate into asphalt or portland cement. However, no application shall be approved to allow batching and blending of mineral and aggregate into asphalt cement within two miles of a planted vineyard. This restriction does not apply to operations for batching and blending of mineral and aggregate under a local land use approval on the effective date of this code, or subsequent renewal of an existing approval. 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 ; and
 - (d) Processing of other mineral resources and other subsurface resources. [Ord 2001-0174]
- (7) Private parks, playgrounds, hunting and fishing preserves, campgrounds, except on high-value farmland.
- (a) 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 4. A campground is an area 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. 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. Campgrounds authorized under this section shall not include intensively developed recreational uses such as swimming pools, tennis courts, retail stores, or gas stations. Overnight temporary use in the same campground by a camper or camper's vehicle shall not exceed a total of 30 days during any consecutive 6 month period.
 - (b) Campsites may be occupied by a tent, travel trailer, yurt or recreational vehicle. Separate sewer, water or electric service hook-ups shall not be provided to individual camp sites except that electrical service may be provided to yurts allowed for by subsection (c) of this rule.
 - (c) Subject to the approval of the Planning Commission, a private campground may provide yurts for overnight camping. No more than one-third or a maximum of 10 campsites, whichever is smaller, may include a yurt. The yurt shall be located on the ground or on a wood floor with no permanent foundation. Upon request of the Board of County Commissioners, the Land Conservation and Development Commission may provide by rule for an increase in the number of yurts allowed on all or a portion of the campgrounds in a county if the Commission determines that the increase will comply with the standards described in ORS 215.296(1). As used in BCC

55.210(7), "yurt" means a round, domed shelter of cloth or canvas on a collapsible frame with no plumbing, sewage disposal hook-up or internal cooking appliance. [Ord 2001-0174]

(8) Public parks, playgrounds or community centers owned by a governmental agency or a nonprofit community organization and operated primarily by and for residents of the local rural community. A public park may be established consistent with the provisions of ORS 195.120, and OAR 660-034-0035 and 660-034-0040. [Ord 2001-0174]

(9) A site for the disposal of solid waste approved by the governing body of a city or county or both and for which a permit has been granted under ORS 459.245 by the Oregon Department of Environmental Quality together with equipment, facilities or buildings necessary for its operation. [Ord 94-0108]

(10) A mass gathering, defined as a gathering of more than 3000 people any part of which is held in open spaces and which is expected to continue over 120 hours in any three-month period.

(a) A mass gathering shall be allowed by the Planning Commission if:

(A) The organizer makes application for a permit to the Planning Commission.

(B) The applicant demonstrates to the Planning Commission that the applicant has complied or can comply with the requirements for an outdoor mass gathering permit of ORS 433.750.

(C) The Planning Commission shall make findings that:

(i) Any permits required by the applicable land use regulations have been granted; and

(ii) The proposed gathering is compatible with existing land uses and does not materially alter the stability of the overall land use pattern of the area.

(b) In reviewing an application for a permit to hold an outdoor mass gathering, the county governing body may require such plans, specifications and reports as it may deem necessary for proper review and it may request and shall receive from all public officers, departments and agencies of the state and its political subdivisions such cooperation and assistance as it may deem necessary. If the county governing body determines upon examination of the permit application that the outdoor mass gathering creates a potential for injury to persons or property, the county governing body may require organizers to obtain an insurance policy in an amount commensurate with the risk, but not exceeding \$1 million. The policy of casualty insurance shall provide coverage against liability for death, injury or disability of any human or for damage to property arising out of the outdoor mass gathering. The county shall be named as an additional insured under the policy.

(c) In the event of failure to remove all debris or residue and repair any damage to personal or real property arising out of the outdoor mass gathering within 72 hours after its termination and to remove any temporary structures used at the outdoor mass gathering within three weeks after its termination, the county governing body may file suit against the organizer for financial settlement as is needed to remove debris, residue or temporary structures and to repair such damage to real or personal property of persons not attending the outdoor mass gathering. The organizer shall be wholly responsible for payment of any fines imposed under ORS 433.990 (7). [Ord 2001-0174]

(11) Composting facilities for which a permit has been granted by the Department of Environmental Quality under ORS 429.245 and OAR 340-96-020. This use is not allowed on high-value farmland. The type of operations and facilities allowed are those defined by the Environmental Quality Commission under OAR 340-096-0024(1), (2) or (3). 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. [Ord 2001-0174]

(12) Seasonal farmworker housing. As an alternative to meeting the standards of BCC 55.106(3), a property owner may request review of a proposal for seasonal farmworker housing subject to the criteria below. The conditional use criteria of BCC 53.215 and 55.215 shall not apply.

- (a) The applicant shall demonstrate a need for the proposed housing for seasonal farmworkers in the area; and
- (b) The applicant shall show that the demonstrated need cannot be met by available land in rural centers and other land not zoned for farm or forest use; and
- (c) The facility shall meet the standards of BCC 55.106(3)(g) through (l)
- (d) The Planning Commission may impose conditions of approval to mitigate the impact of the facility on surrounding uses and on farm and forest practices, and to ensure safe and adequate facilities, provided such conditions are clear and objective and do not have the effect of discouraging needed housing through unreasonable cost or delay. These conditions may include any of the standards of BCC 55.106(3)(b) through (f). [Ord 2001-0174]

55.215 Conditional Use Criteria. (1) A use allowed under BCC 55.205 or 55.210 may be approved only upon findings that the use meets the Conditional Use Criteria of BCC 53.215 and will not:

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

(2) An applicant for a use allowed under BCC 55.205 or 55.210 may demonstrate that the standards for approval set forth in subsection (1) of this section will be satisfied through the imposition of conditions. Any conditions so imposed shall be clear and objective.

(3) The standards set forth in subsection (1) of this section shall not apply to farm or forest uses conducted within:

- (A) Lots or parcels with a single-family residential dwelling approved under BCC 55.220 or 55.230;
- (B) An exception area approved under ORS 197.732; or
- (C) An acknowledged urban growth boundary.

[Ord 90-0069, Ord 94-0108, Ord 2001-0174]

55.218 Complaint Regarding Conditional Approval.

(1) A person engaged in farm or forest practices on lands devoted to farm or forest use, but not a person residing in a single-family residential dwelling which was approved under BCC 55.220 or 55.230 or is within either an exception area approved under ORS 197.732 or an acknowledged urban growth boundary, may file a complaint with the local governing body alleging:

- (a) That a condition imposed pursuant to BCC 55.215(2) of this section has been violated;
- (b) That the violation has:

(A) Forced a significant change in accepted farm or forest practices on surrounding lands devoted to farm or forest use; or

(B) Significantly increased the cost of accepted farm or forest practices on surrounding lands devoted to farm or forest use; and

(c) That the complainant is adversely affected by the violation.

(2) Upon receipt of a complaint, the Planning Official shall:

(a) Forward the complaint to the operator of the use;

(b) Review the complaint in the manner set forth in ORS 215.402 to 215.438; and

(c) Determine whether the allegations made pursuant to subsection (1) of this section are true.

(3) Upon a determination that the allegations of the complaint are true, the Planning Official at a minimum shall notify the violator that a violation has occurred, direct the violator to correct the conditions that led to the violation within a specified time period and warn the violator against the commission of further violations.

(4) If the conditions that led to a violation are not corrected within the time period specified pursuant to subsection (3) of this section, or if there is a determination pursuant to subsection (2) of this section following the receipt of a second complaint that a further violation has occurred, the County at a minimum shall assess a fine against the violator.

(5) If the conditions that led to a violation are not corrected within 30 days after the imposition of a fine pursuant to subsection (4) of this section, or if there is a determination pursuant to subsection (2) of this section following the receipt of a third or subsequent complaint that a further violation has occurred, the Planning Official shall at a minimum order the suspension of the use until the violator corrects the conditions that led to the violation.

(6) If a use allowed under BCC 55.205 or 55.210 is initiated without prior approval pursuant to BCC 55.215, the Planning Official at a minimum shall notify the user that prior approval is required, direct the user to apply for approval within 21 days and warn the user against the commission of further violations. If the user does not apply for approval within 21 days, the Planning Official shall order the suspension of the use until the user applies for and receives approval. If there is a determination pursuant to subsection (2) of this section following the receipt of a complaint that a further violation occurred after approval was granted, the violation shall be deemed a second violation and the County at a minimum shall assess a fine against the violator.

[Ord 2001-0174]

NON-FARM DWELLINGS

55.220 Nonfarm Dwellings: Notice, Criteria and Conditions.

(1) A dwelling not provided in conjunction with farm use may be allowed in the Exclusive Farm Use Zone by conditional use permit approved by the Planning Commission. The decision to approve a conditional use permit for a nonfarm dwelling shall be based on findings that the proposed dwelling complies with BCC 53.215, BCC 53.220, BCC 55.215, and the following criteria:

(a) East of the summit of the Coast Range

(A) 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.

(B) The dwelling will not materially alter the stability of the overall land use pattern of the area. In determining whether a proposed nonfarm dwelling will alter the stability of the land use pattern in the area, a county shall consider the cumulative impact of possible new nonfarm dwellings and parcels on other lots or parcels in the area similarly situated; To address this standard, the county shall:

(i) Identify a study area for the cumulative impacts analysis. The study area shall include at least 2000 acres or a smaller area not less than 1000 acres, if the smaller area is a distinct agricultural area based on topography, soil types, land use pattern, or the type of farm or ranch operations or practices that distinguish it from other, adjacent agricultural areas. Findings shall describe the study area, its boundaries, the location of the subject parcel within this area, why the selected area is representative of the land use pattern surrounding the subject parcel and is adequate to conduct the analysis required by this standard. Lands zoned for rural residential or other urban or nonresource uses shall not be included in the study area.

(ii) Identify within the study area the broad types of farm uses (irrigated or nonirrigated crops, pasture or grazing lands), the number, location and type of existing dwellings (farm, nonfarm, hardship, etc.), and the dwelling development trends since 1993. Determine the potential number of nonfarm/lot-of-record dwellings that could be approved under subsection 55.220 and subsection 55.230 of this rule, including identification of predominant soil classifications, the parcels created prior to January 1, 1993 and the parcels larger than the minimum lot size that may be divided to create new parcels for nonfarm dwellings under ORS 215.263(4). 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 nonfarm dwellings under this subparagraph;

(iii) Determine whether approval of the proposed nonfarm/lot-of-record dwellings together with existing nonfarm 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 nonfarm dwellings will make it more difficult for the existing types of farms in the area to continue operation due to diminished opportunities to expand, purchase or lease farmland, acquire water rights or diminish the number of tracts or acreage in farm use in a manner that will destabilize the overall character of the study area.

(C) The dwelling is situated on land generally unsuitable for the production of farm crops and livestock, considering the terrain, adverse soil or land conditions, drainage and flooding, vegetation, location and size of the tract.; If the parcel or lot is under forest assessment, the dwelling shall be situated upon generally unsuitable land for the production of merchantable tree species recognized by the Forest Practices Rules, considering the terrain, adverse soil or land conditions, drainage and flooding, vegetation, location and size of the parcel or lot; and

(D) The dwelling will be sited on a lot or parcel created before January 1, 1993;

(E) The dwelling complies with conditions imposed pursuant to BCC 53.220.

(b) West of the summit of the Coast Range:

(A) (i) The dwelling is situated upon a lot or parcel, or a portion of a lot or parcel, that is generally unsuitable land for the production of farm crops and livestock or merchantable tree species, considering the terrain, adverse soil or land conditions, drainage and flooding, vegetation, location and size of the tract. A lot or parcel shall not be considered unsuitable solely because of size or location if it can reasonably be put to farm or forest use in conjunction with other land; and

(ii) A lot or parcel is not "generally unsuitable" simply because it is too small to be farmed profitably by itself. If a lot or parcel can be sold, leased, rented or otherwise managed as a part of a commercial farm or ranch, it is not "generally unsuitable". A lot or parcel is presumed to be suitable if it is composed predominantly of Class I-IV soils. Just because a lot or parcel is unsuitable for one farm use does not mean it is not suitable for another farm use; or

(iii) If the parcel is under forest assessment, the dwelling shall be situated upon generally unsuitable land for the production of merchantable tree species recognized by the Forest Practices Rules, considering the terrain, adverse soil or land conditions, drainage and flooding, vegetation, location and size of the parcel. If a lot or parcel is under forest assessment, the area is not "generally unsuitable" simply because it is too small to be managed for forest production profitably by itself. If a lot or parcel under forest assessment can be sold, leased, rented or otherwise managed as a part of a forestry operation, it is not "generally unsuitable". If a lot or parcel is under forest assessment, it is presumed suitable if it is composed predominantly of soils capable of producing 50 cubic feet of wood fiber per acre per year. If a lot or parcel is under forest assessment, to be found compatible and not seriously interfere with forest uses on surrounding land it must not force a significant change in forest practices or significantly increase the cost of those practices on the surrounding land;

(B) The dwelling will not materially alter the stability of the overall land use pattern of the area. In determining whether a proposed nonfarm dwelling will alter the stability of the land use pattern in the area, a county shall consider the cumulative impact of nonfarm dwellings on other lots or parcels in the area similarly situated by applying the standards set forth in BCC 55.220(1)(a)(C). If the application involves the creation of a new parcel for the nonfarm dwelling, a county shall consider whether creation of the parcel will lead to creation of other nonfarm parcels, to the detriment of agriculture in the area by applying the standards set forth in BCC 55.220(1)(a)(C); and

(C) The dwelling complies with conditions imposed pursuant to BCC 53.220.

(D) The dwelling will be sited on a lot or parcel created before January 1, 1993, or will be sited on a parcel created under BCC 55.328.
[Ord 2000-0157; Ord 2001-0174]

(2) Where a proposed nonfarm dwelling would be located in a significant big game habitat area as identified in the Natural Resources and Hazards Background Report, the Planning Official shall provide the Oregon Department of Fish and Wildlife an opportunity to comment on consistency with significant habitat values. The County will make findings regarding consistency. The Department of Fish and Wildlife shall be provided a minimum of ten (10) working days notice prior to the decision on the conditional use permit.

(3) As a condition of final approval of a conditional use permit to establish a nonfarm dwelling, the owner of the subject parcel or lot shall disqualify the parcel or lot for valuation for farm use or forest use. The County shall not issue a building permit for the construction of a nonfarm dwelling without evidence the parcel or lot has been disqualified from farm use valuation, and any additional tax or penalty imposed by the County Assessor, as required by State law, has been paid. [Ord 26, Ord 90-0069, Ord 93-0098, Ord 94-0108, Ord 2000-0157]

(4) If a single-family dwelling is established on a lot or parcel as set forth in BCC 55.220 or BCC 55.230, no additional permanent dwelling may later be sited on the same lot or parcel under the non-farm dwelling (BCC 55.220) or lot-of-record (BCC 55.230) provisions. [Ord 94-0108; 2001-0174]

(5) The property owner shall sign a covenant as required by BCC 55.405(6).
[Ord 2001-0174]

LOT OF RECORD DWELLINGS

55.230 Lot of Record Dwellings.

(1) A Lot of Record Dwelling may be approved if:

(a) The lot or parcel on which the dwelling will be sited was lawfully created and was acquired and owned continuously by the present owner (as defined in BCC 55.230(6)):

(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 since prior to January 1, 1985;

(b) The tract on which the dwelling will be sited does not include a dwelling;

(c) If the lot or parcel on which the dwelling will be sited was part of a tract on November 4, 1993, no dwelling exists on another lot or parcel that was part of that tract.

(d) The proposed dwelling is not prohibited by, and will comply with, the requirements of the acknowledged comprehensive plan and land use regulations and other provisions of law;

(e) The lot or parcel on which the dwelling will be sited is not high-value farmland except as provided in BCC 55.230(5) and (6); and

(f) When the lot or parcel on which the dwelling will be sited lies within an area designated in an acknowledged comprehensive plan as habitat of big game, the siting of the dwelling is consistent with the limitations on density upon which the acknowledged comprehensive plan and land use regulations intended to protect the habitat are based. Note: The Benton County Comprehensive Plan policies for big game habitat currently do not apply to land in the Exclusive Farm Use.

(2) 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.

(3) The property owner shall sign a covenant as required by BCC 55.405(6).

(4) If a single-family dwelling is established on a lot or parcel as set forth in BCC 55.220 or BCC 55.230, no additional permanent dwelling may later be sited on the same lot or parcel under the non-farm dwelling (BCC 55.220) or lot-of-record (BCC 55.230) provisions.

(5) A dwelling allowed under BCC 55.230 may be denied approval in any area where it is determined that approval of the dwelling would:

(a) Exceed the facilities and service capabilities of the area;

(b) Materially alter the stability of the overall land use pattern of the area; or

(c) Create conditions or circumstances that the county determines would be contrary to the purposes or intent of its acknowledged comprehensive plan or land use regulations.

(6) For purposes of BCC 55.230(1) only, "owner" 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, nephew, stepparent, stepchild, grandparent or grandchild of the owner or a business entity owned by any one or a combination of these family members.

(7) The county assessor shall be notified that the governing body intends to allow the dwelling.
[Ord 94-0108]

(8) A property that has been granted an approval for a single-family dwelling under the provisions of BCC 55.230 may be sold or otherwise transferred to any other person. Unless the land use decision specifies a period of validity, the land use approval remains valid for the period allowed by law.

[Ord 2001-0174]

LOT OF RECORD DWELLING ON HIGH-VALUE FARMLAND CLASS I AND II SOILS.

(9) Notwithstanding the requirements of BCC 55.230(1)(e), a single-family dwelling may be sited on high-value farmland if:

- (a) It meets the other requirements of BCC 55.230 (1) through (4);
- (b) The lot or parcel is protected as high-value farmland as defined in BCC 55.015(2)(a); and
- (c) The Planning Commission, determines that:

(A) 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. (B) The dwelling will comply with the provisions of BCC 55.215.

(C) The dwelling will not materially alter the stability of the overall land use pattern in the area by applying the standards set forth in BCC 55.220(1)(a)(B).

- (d) The County shall provide notice of all applications for dwellings allowed under this subsection to the State Department of Agriculture. Notice shall be provided in accordance with BCC 51.605 through 51.630, but shall be mailed at least 20 calendar days prior to the public hearing before the Planning Commission.

[Ord 2001-0174]

LOT OF RECORD DWELLING ON HIGH VALUE FARMLAND CLASS III AND IV SOILS.

(10) Notwithstanding the requirements of BCC 55.230(1)(e), a single-family dwelling may be sited on high-value farmland if:

- (a) It meets the other requirements of BCC 55.230(1) and (2);
- (b) The tract on which the dwelling will be sited is:
 - (A) Identified in BCC 55.015(2)(b) or (d); and
 - (B) Not high-value farmland defined in BCC 55.015(2)(a); and
 - (C) Twenty-one acres or less in size.
- (c) (A) The tract is 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 January 1, 1993; or

(B) The tract 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. 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.

[Ord 2001-0174]

CREATION OF NEW PARCELS ; PROPERTY LINE ADJUSTMENTS

55.305 General Provisions.

(1) A property line adjustment or land partition may be permitted in the Exclusive Farm Use Zone pursuant to this code. Subdivisions and planned unit developments are not consistent with the purpose and intent of the Exclusive Farm Use Zone and are prohibited.

(2) No new parcel shall be created from a lot or parcel containing:

- (a) A farm help dwelling for a relative (BCC 55.120);
- (b) A temporary medical hardship dwelling (BCC 55.205(14)),
- (c) A non-farm dwelling (BCC 55.220) unless the land division is approved under the rules for creating a non-farm parcel (BCC 55.328); or
- (d) A farm processing facility (BCC 55.106(6)) if the land division would separate the processing facility from the farm operation.

[Ord 26, Ord 90-0069, Ord 94-0108, Ord 96-0118, Ord 2001-0174]

55.310 Creation of Farm Parcels in the Exclusive Farm Use Zone.

- (1) A parcel for farm use may be created in the Exclusive Farm Use Zone, subject to approval by the Planning Official.
- (2) The size of any new or remaining parcels, unless approved for non-farm use, shall be at least the minimum parcel or lot size of 80 acres

[Ord 26, Ord 90-0069, Ord 93-0098, Ord 94-0108, Ord 2001-0174]

55.328 Creation of a Non-Farm Parcel for Residential Use. A new parcel may be allowed for a dwelling not provided in conjunction with farm use, subject to approval by the Planning Official as follows:

- (1) The dwelling to be sited on the new parcel has been approved under the requirements for dwellings not in conjunction with farm use in BCC 55.220(1) - (5);
- (2) Series partitions (as defined in ORS 92.305) and subdivisions for non-farm dwellings are not allowed.
- (3) A non-farm parcel east of the summit of the Coast Range shall meet the following criteria in addition to those of BCC 55.328(1) and (2):
 - (a) The originating farm parcel or lot is equal to or larger than the applicable minimum lot or parcel size;
 - (b) Is not stocked to the requirements under ORS 527.610 to 527.770;
 - (c) Is composed of at least 95% Class VI through Class VIII soils; and

(d) Is composed of at least 95% soils not capable of producing 50 cubic feet per acre per year of wood fiber; and

(e) The new lot or parcel will not be smaller than 20 acres.

(4) A new parcel may be allowed only if the remaining farm parcel is equal to or larger than the applicable minimum lot or parcel size. [Ord 94-0108; 2001-0174]

55.330 Creation of a Parcel for Nonfarm Non-residential Use.

(1) A nonfarm parcel for non-farm uses, except dwellings, listed in ORS 215.283(2) may be created in the Exclusive Farm Use Zone, subject to approval by the Planning Official. The parcel shall be the minimum size necessary for the nonfarm use. If the nonfarm use is not existing, a permit for the nonfarm use shall be approved pursuant to BCC 55.215 prior to creation of the nonfarm parcel. [Ord 26, Ord 90-0069, Ord 94-0108]

(2) In addition to the uses listed in (1) above, a non-farm parcel may be created for a church or for open space purposes, subject to the following:

(a) A parcel smaller than minimum parcel size may be created for the purpose of establishing a church, including cemeteries in conjunction with the church if:

(A) The church has been approved under ORS 215.283 (1);

(B) The newly created lot or parcel is not larger than five acres; and

(C) The remaining lot or parcel, not including the church, meets the minimum lot or parcel size described in BCC 55.310(1)(a) either by itself or after it is consolidated with another lot or parcel.

(b) A parcel may be created for the purpose of allowing a provider of public parks or open space, or a not-for-profit land conservation organization, to purchase, subject to the following:

(A) A parcel created by the land division that contains a dwelling shall be 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

(iv) May not be smaller than 25 acres unless the purpose of the land division is:

(a) To facilitate the creation of a wildlife or pedestrian corridor or the implementation of a wildlife habitat protection plan; or

(b) 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.

(C) The owner of any parcel involved in the land division and not containing a dwelling shall sign and record in the deed records for the County an irrevocable deed restriction prohibiting the owner and the owner's successors in interest from pursuing a cause of action or claim of relief alleging an injury from farming or forest practices for which no claim or action is allowed under ORS 30.936 or 30.937.

[Ord 2001-0174]

55.335 Creation of a Parcel for an Existing Dwelling. A parcel may be created for an existing dwelling to be used:

(1) As a residential home as described in ORS 197.660 (2) only if the dwelling has been approved under ORS 215.213 (3) or 215.284 (1), (2), (3) or (4); or

(2) For historic property that meets the requirements of ORS 215.283 (1)(o). [Ord 2001-0174]

55.340 No final approval of a division of land for nonfarm use under this section shall be given unless additional taxes imposed upon the change in use have been paid. [Ord 94-0108; 2001-0174]

SITING STANDARDS

55.405 Siting Standards and Requirements. All structures allowed in the Exclusive Farm Use Zone shall be sited in compliance with BCC Chapter 99 and the following additional standards:

(1) A dwelling shall be placed at least thirty (30) feet from a property line and at least forty-five (45) feet from the edge of a roadway. Architectural features shall not project more than two (2) feet into a required setback.

(2) Non-residential structures shall be placed at least twenty (20) feet from any property line, except that no setback is required for a structure of 120 square feet or less. A side or rear setback for a non-residential structure may be reduced to three (3) feet if that the structure:

- (a) Is detached from other buildings by five (5) feet or more;
- (b) Does not exceed a height of twenty (20) feet; and
- (c) Does not exceed an area of 500 square feet.

(3) A structure which is not a water dependent use shall be placed at least fifty (50) feet from the ordinary high water line of a river or major stream. In the case of a creek or minor stream, a structure which is not a water dependent use shall be placed at least twenty-five (25) feet from the ordinary high water line. [Ord 94-0108]

(4) A dwelling located within 200 feet of a forested area shall be provided with a spark arrestor on each chimney and a fire-retardant roof. [Ord 26, Ord 90-0069]

(5) A minimum thirty (30) foot fire break shall be maintained. [Ord 94-0108]

(6) Approval of any dwelling in the EFU zone shall include a condition of approval requiring the landowner for the dwelling to sign and record in the deed records for the county a document binding the landowner and the landowner's successors in interest, prohibiting them from pursuing a claim for relief or cause of action alleging injury from farming or forest practices for which no action or claim is allowed under ORS 30.936 or 30.937. [Ord 2001-0174]

(7) A nonfarm dwelling shall be sited at least 300 feet from property zoned for resource use, or shall conform to this standard to the greatest extent possible. This requirement shall not be applied to setbacks adjacent to an improved public road except when required by an approved conditional use permit. [Ord 2001-0174]

Chapter 56

Multi-Purpose Agriculture (MPA)

56.005 Purpose. The Multi-Purpose Agriculture Zone shall preserve and protect lands for continued agricultural and forestry uses; conserve and protect open space, wildlife habitats, and other uses associated with agriculture; encourage continued development of the local agricultural base; and protect and preserve the social and economic base of the community. [Ord 26, Ord 90-0069]

56.010 Standards for Application. (1) The Multi-Purpose Agriculture Zone is applied to areas in the Alsea and Lobster Valleys where there is a mix of forested hillsides and agricultural river valleys that are divided into ownerships averaging approximately twenty (20) acres. This resource zone is intended to apply to areas where large scale agriculture cannot or does not exist, primarily due to the narrow width of the valleys, unfarmable steep hillsides and other social and economic factors. This area also contains lands which may not be suitable for resource use because of site specific characteristics. Agricultural and forestry operations in these areas are generally conducted by individuals who derive less than fifty percent (50%) of their income from farming or forestry. Therefore, Multi-Purpose Agriculture zoning recognizes that a non-resource use can be an acceptable secondary use when it can be shown not to interfere with resource uses or detract from the resource base. [Ord 26, Ord 90-0069]

(2) The Multi-Purpose Agriculture Zone is an Exclusive Farm Use Zone. With the exception of the minimum parcel or lot size of 20 acres, Benton County Code Chapter 55, Exclusive Farm Use Zone applies to land zoned Multi-Purpose Agriculture. [Ord 94-0108]

MINIMUM PARCEL OR LOT SIZE

56.305 Minimum Parcel or Lot Size. The minimum parcel or lot size in the Multi-Purpose Agriculture Zone shall be twenty (20) acres. [Ord 26, Ord 90-0069, Ord 94-0108]

Chapter 57

Flood Plain Agriculture Zone (FPA)

57.005 Purpose. The Flood Plain Agriculture Zone shall preserve and protect lands for continued agricultural production, harvesting and related uses; and conserve and protect open spaces, wildlife habitats, and other such uses associated with land subject to flooding. This zone shall provide for multiple uses of flood plain areas when such uses are compatible with recurring flooding and adjacent land utilization. [Ord 26, Ord 90-0069]

57.010 Standards for Application. The Flood Plain Agriculture Zone is applied to select areas within the Corvallis Urban Growth Boundary subject to recurring flood inundation. [Ord 26, Ord 90-0069]

PERMITTED USES

57.105 Permitted Uses. The following uses are allowed in the Flood Plain Agriculture Zone:

- (1) Farm use.
- (2) Forest use.
- (3) One dwelling per parcel or lot.
- (4) One manufactured dwelling in conjunction with an existing dwelling as a temporary use for the term of a hardship suffered by the existing resident or a relative of the resident.
- (5) Home occupation.
- (6) Day care for fewer than thirteen children.
- (7) Accessory use or structure. [Ord 26, Ord 90-0069]

CONDITIONAL USES

57.205 Conditional Uses Approved. The following uses may be allowed in the Flood Plain Agriculture Zone by conditional use permit approved by the Planning Official:

- (1) Public wildlife preserve.
- (2) Dam, power plant, transmission line, and transmission station, together with associated structures.
- (3) Water supply, water treatment facility, wastewater treatment facility, reservoir and other related facilities.
- (4) Operations conducted for the exploration, mining, and processing of geothermal resources, aggregate and other mineral resources or other subsurface resources.
- (5) Golf course.
- (6) Park or recreation facility, greenway corridor acquisition, and bike paths.
- (7) Day care center. [Ord 26, Ord 90-0069]

MINIMUM PARCEL OR LOT SIZE

57.305 Minimum Parcel or Lot Size. All new parcels or lots created shall be reviewed under the provisions for Planned Unit Developments (PUD) contained in BCC Chapter 100. One parcel or lot may be created under the PUD provisions per five (5.00) acres. [Ord 90-0069, Ord 98-0141]

SITING STANDARDS

57.405 Siting Standards and Requirements. All structures allowed in the Flood Plain Agriculture Zone shall be sited in compliance with BCC Chapter 99 and the following additional standards:

(1) A dwelling shall be placed at least thirty (30) feet from a property line, and at least forty-five (45) feet from the edge of an roadway. Architectural features shall not project more than two (2) feet into a required setback.

(2) Non-residential structures shall be placed at least twenty (20) feet from any property line, except no setback is required for a non-residential structure of 120 square feet or less. A side or rear setback for a non-residential structure may be reduced to three (3) feet if that the structure:

- (a) Is detached from other buildings by five (5) feet or more;
- (b) Does not exceed a height of twenty (20) feet; and
- (c) Does not exceed an area of 500 square feet.

(4) A structure which is not a water dependent use shall be placed at least fifty (50) feet from the ordinary high water line of any river or major stream. In the case of a creek or minor streams, a structure which is not a water dependent use shall be placed at least twenty-five (25) feet from the ordinary high water line. [Ord 26, Ord 90-0069]

Chapter 58

Reserved for Expansion

Chapter 59

Reserved for Expansion

Chapter 60

Forest Conservation (FC)

PURPOSE

60.005 Forest Conservation Zone. (1) The Forest Conservation Zone shall conserve forest lands, promote the management and growing of trees, support the harvesting of trees and primary processing of wood products, and protect the air, water, and wildlife resources in the zone. Resources important to Benton County and protected by this chapter include watersheds, wildlife and fisheries habitat, maintenance of clean air and water, support activities related to forest management, opportunities for outdoor recreational activities, and grazing land for livestock. Except for activities permitted or allowed as a conditional use, non-forest uses shall be prohibited in order to minimize conflicts with forest uses, reduce the potential for wildfire, and protect this area as the primary timber producing area of the County.

(2) The provisions of this Chapter are not intended to regulate activities governed by the Forest Practices Act and Rules.

(3) The provisions of this Chapter are based on the mandatory standards related to land use activities on forest land specified under Oregon state statutes, and Goal 4 of the Oregon Land Use Planning Program and the implementation requirements adopted by the Land Conservation and Development Commission pursuant to Chapter 660, Division 6 of the Oregon Administrative Rules. [Ord 6, Ord 22, Ord 26, Ord 26B, Ord 26F, Ord 90-0069, Ord 94-0103]

60.010 [Ord 6, Ord 22, Ord 26, Ord 26B, Ord 26F, Ord 90-0069, repealed by 94-0103]

60.015 [Ord 26F, Ord 90-0069, repealed by Ord 94-0103]

APPLICATION OF THE ZONE

60.020 Standards for Application for the Forest Conservation Zone. The Forest Conservation Zone is applied to areas designated Forestry on the adopted Comprehensive Plan Map in compliance with Statewide Planning Goal 4 and OAR 660. This zone consists of areas containing forest soils which are not otherwise subject to an exception of the statewide planning goals. The Forest Conservation Zone is also applied to other lands necessary to preserve and maintain forest uses consistent with existing and future needs for forest management. Forest land capability is indicated by the nature and type of soil, slope, size and location of the property, the suitability of the terrain, and other similar factors. The Forest Conservation Zone is also applied to intervening lands which are suitable for forest management related uses or needed to protect forest land. [Ord 6, Ord 22, Ord 26, Ord 26B, Ord 26F, Ord 94-0103]

60.050 Notice of Pending Action. Notice of all applications for dwellings and land divisions in the Forest Conservation Zone shall be mailed to the Department of Land Conservation and Development and the Department of Forestry at their Salem and field offices at least ten (10) days prior to the date of decision or permit issuance. The information shall contain the information set forth in BCC 51.615. [Ord 90-0069]

60.080 Soils Designations.

(1) For purposes of determining the “cubic feet per acre per year” in the review of an application for a dwelling pursuant to BCC 60.108(2), the county shall use the average annual increase in cubic foot volume of wood fiber per tract for fully stocked stands at the culmination of mean annual increment as reported by the USDA Soil Conservation Service/Natural Resources Conservation Service. Where the SCS/NRCS data are not available or are shown to be inaccurate, an alternative method for determining productivity may be used. An alternative method must provide equivalent data and be approved by the Department of Forestry.

(2) For purposes other than those described in subsection (1), the County shall use the soil designation most recently published by the Natural Resources Conservation Service, except that the County may use

more detailed soils data provided it is related to the NRCS land capability classification and is prepared by a soils scientist certified for changing soil designations by the Oregon Department of Agriculture. [Ord 2001-0174]

PERMITTED USES

60.105 Permitted Uses Allowed in the Forest Conservation Zone. The following uses are allowed in the Forest Conservation Zone:

- (1) Forest operations, forest practices, and any other forest management activities authorized under the Forest Practices Act and Rules. For purposes of this section and pursuant to OAR 660-06-005(2), forest operation means any commercial activity relating to the growing or harvesting of any forest tree species as defined in ORS 527.620(6).
- (2) Temporary on-site structures which are auxiliary to and used during the term of a particular forest operation, including temporary helipads. For purposes of this section and section (3) below, and pursuant to OAR 660-06-025(2)(d), "auxiliary" means a use or alteration of a structure or land which provides help or is directly associated with the conduct of a particular forest practice. An auxiliary structure is located on site, temporary in nature, and is not designed to remain for the forest's entire growth cycle from planting to harvest. An auxiliary use is removed when a particular forest practice has concluded.
- (3) Physical alterations to the land auxiliary to forest practices including, but not limited to, those made for purposes of mineral exploration, gravel extraction and processing for forest road construction, solid waste disposal sites, dams, reservoirs, road construction or recreational facilities. For purposes of this section and pursuant to OAR 660-06-025(2)(d), "auxiliary" is defined in BCC 60.105(2). [Ord 2001-0174]
- (4) Uses to conserve soil, air, and water quality and to provide for wildlife and fisheries resources.
- (5) One dwelling per tract as provided for under BCC 60.108 and BCC 60.109.
- (6) Farm use as defined under BCC 51.020.
- (7) Local distribution of utilities (e.g. electricity, telephone, natural gas) via overhead or underground lines within existing rights-of-way, and accessory equipment (e.g. electric distribution transformers, poles, meter cabinets, terminal boxes, pedestals), or equipment which provides service hookups, including water service hookups.
- (8) Temporary portable facility for the primary processing of forest products. The facility shall not be placed on a permanent foundation and shall be removed at the conclusion of the forest operation requiring its use.
- (9) Exploration for mineral and aggregate resources.
- (10) Mining and processing of mineral and aggregate resources within the Surface Mining Overlay Zone (BCC Chapter 87).
- (11) Towers and fire stations for forest fire protection.
- (12) Widening of roads within existing rights-of-way in conformance with the transportation policies of the Comprehensive Plan including public roads and highway projects as described in ORS 215.283(1)(k) through (n). [Ord 2001-0174]
- (13) Water intake facilities, canals and distribution lines for farm irrigation and ponds.
- (14) Caretaker residences for public parks and fish hatcheries.
- (15) Uninhabitable structures accessory to fish and wildlife enhancement.

(16) Temporary forest labor camps. These accommodations for employees are intended to provide housing for forest management activities or harvesting in the immediate vicinity of the facility, will not be constructed on permanent foundations, will exist no longer than 6 months, and must comply with all pertinent Benton County health and safety requirements.

(17) Maintenance, repair, additions to, or replacement of existing legally established dwellings.

(a) To be eligible for replacement, an existing dwelling shall have:

(A) Intact exterior walls and roof structures;

(B) Indoor plumbing consisting of a kitchen sink, toilet and bathing facilities connected to a sanitary waste disposal system;

(C) Interior wiring for interior lights;

(D) A heating system.

(b) Replacement must occur within one year of removal or destruction of the structure. [Ord 2001-0174]

(18) Structures accessory to a use listed in BCC 60.105(1) through (17). [Ord 2001-0174]

(19) Private hunting and fishing operations without any accommodations. [Ord 2001-0174]

(20) An outdoor mass gathering as defined in ORS 433.735 or other gathering of fewer than 3,000 persons that is not anticipated to continue for more than 120 hours in any three month period is not a land use decision as defined in ORS 197.015(10) or subject to review under this Chapter.

[Ord 6, Ord 6B, Ord 22, Ord 26, Ord 26B, Ord 26F, Ord 90-0069, Ord 94-0103, Ord 95-0114, Ord 2001-0174]

DWELLINGS IN FOREST CONSERVATION ZONE

60.107 Purpose. The review criteria and approval standards set forth in BCC 60.108 are drawn directly from mandatory provisions of state statutes. [Ord 94-0103]

60.108 Dwellings in the Forest Conservation Zone. One dwelling may be allowed on a tract in the Forest Conservation Zone under either (1) or (2) of this section, but only if the siting standards of BCC 60.405 and 60.410 are met, it complies with the requirements of the Comprehensive Plan and Development Code, and no dwellings exist or are allowed on other parts of the tract. Deed restrictions shall be required to ensure dwellings are not allowed on other lots or parcels that make up the tract.

(1) A dwelling may be allowed if it complies with other provisions of law and is sited on a tract of at least 160 contiguous acres or 200 acres in one ownership that are not contiguous but are Benton County or adjacent counties and zoned for forest use. A deed restriction shall be filed pursuant to subsection (3) of this section for all tracts that are used to meet the acreage requirements of this paragraph.

(2) A dwelling may be allowed if the lot or parcel is predominantly composed of soils that are:

(a) Capable of producing 0 to 49 cubic feet per acre of wood fiber if:

(A) All or part of at least three other lots or parcels that existed on January 1, 1993, are within a 160-acre square centered on the center of the subject tract; and

(B) At least three dwellings existed on January 1, 1993, and continue to exist on the other lots or parcels; or

(b) Capable of producing 50 to 85 cubic feet per acre per year of wood fiber if:

(A) All or part of at least seven other lots or parcels that existed on January 1, 1993, are within a 160-acre square centered on the center of the subject tract; and

(B) At least three dwellings existed on January 1, 1993, and continue to exist on the other lots or parcels; or

(c) Capable of producing more than 85 cubic feet per acre per year of wood fiber if:

(A) All or part of at least eleven other lots or parcels that existed on January 1, 1993, are within a 160-acre square centered on the center of the subject tract; and

(B) At least three dwellings existed on January 1, 1993, and continue to exist on the other lots or parcels.

(d) Lots or parcels within Urban Growth Boundaries shall not be used to satisfy the eligibility requirements under this section.

(e) Except as described in BCC 60.108(2)(f), if the tract under BCC 60.108(2)(a) through (c) abuts a road that existed on January 1, 1993, the evaluation of parcels and dwellings in the vicinity *may* be made by creating a 160-acre rectangle that is one mile long and one-fourth mile wide centered on the center of the subject tract and that is to the maximum extent possible, aligned with the road.

(f) If a tract 60 acres or larger described under BCC 60.108(2) abuts a road or perennial stream, the evaluation of parcels and dwellings in the vicinity *shall* be made in accordance with BCC 60.108(2)(e). However, one of the three required dwellings shall be on the same side of the road or stream as the tract, and:

(A) Be located within a 160-acre rectangle that is one mile long and one-fourth mile wide centered on the center of the subject tract and that is, to the maximum extent possible, aligned with the road or stream; or

(B) Be within one-quarter mile from the edge of the subject tract but not outside the length of the 160-acre rectangle, and on the same side of the road or stream as the tract.

(g) If, under (f) above, a road crosses the tract on which the dwelling will be located, at least one of the three required dwellings shall be on the same side of the road as the proposed dwelling. [Ord 6, Ord 22, Ord 26, Ord 26B, Ord 26F, Ord 94-0103]

(h) "Tract" means one or more contiguous lots or parcels 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.

(i) "Cubic Foot Per Tract Per Year" means the average annual increase in cubic foot volume of wood fiber per tract for fully stocked stands at the culmination of mean annual increment as reported by the USDA Soil Conservation Service. Where the SCS data are not available or are shown to be inaccurate, an alternative method for determining productivity may be used. An alternative method must provide equivalent data and be approved by the Department of Forestry.

(3) (a) The applicant for a dwelling authorized by subsection (1) of this section that requires one or more lot or parcel to meet minimum acreage requirements shall provide evidence that the covenants, conditions and restrictions form adopted at the end of BCC Chapter 60 as "Exhibit A" has been recorded with the county clerk of the county or counties where the property subject to the covenants, conditions and restrictions is located;

(b) The covenants, conditions and restrictions are irrevocable, unless a statement of release is signed by an authorized representative of the county or counties where the property subject to the covenants, conditions and restrictions is located;

(c) Enforcement of the covenants, conditions and restrictions may be undertaken by the Department of Land Conservation and Development or by the county or counties where the property subject to the covenants, conditions and restrictions is located;

(d) The failure to follow the requirements of this section shall not affect the validity of the transfer of property or the legal remedies available to the buyers of property which is subject to the covenants, conditions and restrictions required by this section;

(e) The Planning Official shall maintain a copy of the covenants, conditions and restrictions filed in the county deed records pursuant to this section and a map or other record depicting tracts which do not qualify for the siting of a dwelling under the covenants, conditions and restrictions filed in the county deed records pursuant to this section. The map or other record required by this subsection shall be readily available to the public in the county planning office.

[Ord 2001-0174]

60.109 Lot of Record Dwellings.

(1) A dwelling may be located on a tract that is composed of soils not capable of producing 5,000 cubic feet per year of commercial tree species and is located within 1,500 feet of a public road as defined in (5) below that provides or will provide access to the tract. The road shall be maintained and 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.

(2) A dwelling authorized under this section shall comply with the following requirements:

(a) When the lot or parcel on which the dwelling will be sited lies within an area designated in the Benton County Comprehensive Plan as habitat of big game, the siting of the dwelling shall be consistent with the limitations on density as provided in the Big Game Policies of the Natural Resources and Hazards element of the Plan.

(b) When the lot or parcel on which the dwelling will be sited is part of a tract, the remaining portions of the tract shall be consolidated into a single lot or parcel when the dwelling is allowed.

(3) A dwelling allowed under this section may be allowed only if:

(a) 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 since prior to January 1, 1985.

(b) The tract on which the dwelling will be sited does not include a dwelling and deed restrictions shall be required to ensure dwellings are not allowed on other lots or parcels that make up the tract;

(c) 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;

(d) The siting standards of BCC 60.405 and 60.410 are met; and

(e) The dwelling complies with the requirements of the Comprehensive Plan and Development Code.

(4) For the purposes of BCC 60.109(3) only, "Owner" 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 a business entity owned by any one or combination of these family members.

(5) For the purposes of BCC 60.109, "public road" means a road over which the public has a right of use that is a matter of public record.

[Ord 95-0114; 2001-0174]

60.110 [Ord 6, Ord 22, Ord 26, Ord 26B, Ord 26F, Ord 90-0069, repealed by Ord 94-0103]

CONDITIONAL USES

60.205 Conditional Uses Subject to Approval by the Planning Official. The following uses may be allowed in the Forest Conservation Zone by conditional use permit approved by the Planning Official in conformance with the criteria set forth in BCC 60.220, 53.215, and 53.220.

- (1) Permanent facility for the primary processing of forest products.
- (2) Permanent logging equipment repair and storage.
- (3) Log scaling and weigh stations.
- (4) Forest management research and experimentation facilities as defined by ORS 526.215 or where accessory to forest operations.
- (5) Fire stations for rural fire protection.
- (6) Utility facilities for the purpose of generating power. A power generation facility shall not preclude more than 10 acres from use as a commercial forest operation unless an exception is taken pursuant to OAR 660, Division 4.
- (7) Water intake facilities, related treatment facilities, pumping stations, and distribution lines.
- (8) Reservoirs and water impoundments.
- (9) Cemeteries.
- (10) Home occupations authorized under a permit issued in conformance with BCC 91.205 - 91.230 and which shall be subject to the following additional standards:
 - (a) It shall be operated by a resident or employee of a resident of the property on which the business is located;
 - (b) It shall employ on the site no more than five full-time or part-time persons;
 - (c) It shall be operated substantially in the dwelling or other buildings normally associated with uses permitted in the zone in which the property is located;
 - (d) It shall not unreasonably interfere with other uses permitted in the zone in which the property is located; and
 - (e) It shall be reviewed annually by the Planning Official for compliance with the Code.
- (11) One manufactured dwelling, recreational vehicle, or temporary use of an existing building in conjunction with an existing dwelling as a temporary use for the term of a hardship suffered by the existing resident or relative of the resident, subject to the standards of BCC 91.545 and 91.550 and the following:

(a) Within three months of the end of the hardship, the manufactured dwelling or recreational vehicle shall be removed or demolished or, in the case of an existing building, the building shall be removed, demolished or returned to an allowed nonresidential use. A temporary residence approved under this section is not eligible for replacement under BCC_60.105(17). Oregon Department of Environmental Quality review and removal requirements also apply. As used in this section "hardship" means a medical hardship or hardship for the care of an aged or infirm person or persons.

(b) The property owner shall sign a covenant as required by BCC 60.220.

[Ord 6, Ord 22, Ord 22U, Ord 26, Ord 26B, Ord 26F, Ord 90-0069, Ord 94-0103, Ord 2001-0174, Ord 95-0114]

60.210 [Ord 22, Ord 26, Ord 26B, Ord 26F, Ord 90-0069, repealed by Ord 94-0103]

60.215 Conditional Uses Subject to Review by the Planning Commission. The following uses may be allowed in the Forest Conservation Zone by a conditional use permit approved by the Planning Commission in conformance with the criteria set forth in BCC 60.220, 53.215, and 53.220.

(1) Parks and campgrounds:

(a) Private parks and campgrounds. Campgrounds in private parks shall only be those allowed by this subsection. Except on a lot or parcel contiguous to a lake or reservoir, campgrounds shall not be allowed within three miles of an urban growth boundary unless an exception is approved pursuant to ORS 197.732 and OAR Chapter 660, Division 4. For the purposes of Chapter 60 of this Code, "campground" means an area devoted to overnight temporary use for vacation, recreation or emergency purposes, but not for residential purposes. and is established on a site or is contiguous to lands with a park or other outdoor natural amenity that is accessible for recreational use by the occupants of the campground. A campground shall be designed and integrated into the rural agricultural and forest environment in a manner that protects the natural amenities of the site and provides buffers of existing native trees and vegetation or other natural features between campsites. A camping site may be occupied by a tent, travel trailer or recreational vehicle. Separate sewer, water or electric service hook-ups shall not be provided to individual camp sites. A "campground" shall not include intensively developed recreational uses such as swimming pools, tennis courts, retail stores or gas stations. Overnight temporary use in the same campground by a camper or camper's vehicle shall not exceed a total of 30 days during any consecutive 6 month period.

(b) Public parks pursuant to OAR 660-034-0035 and 660-034-0040.

(2) Firearms training facilities.

(3) Private seasonal accommodations for fishing or fee hunting operations, subject to the following requirements:

(a) accommodations are limited to no more than 15 guest rooms;

(b) only minor incidental and accessory retail sales are permitted;

(c) accommodations are occupied temporarily for the purpose of fishing or hunting during seasons authorized by the Oregon Fish and Wildlife Commission; and

(d) accommodations for fishing must be located within 1/4 mile of fish bearing Class I waters as defined under the Forest Practice Rules.

- (4) New electric transmission lines with right of way widths of up to 100 feet as specified under ORS 772.210. New distribution lines (e.g. gas, oil, geothermal) with rights-of-way 50 feet or less in width;
- (5) Temporary asphalt and concrete batch plants as accessory uses to specific highway projects.
- (6) Expansion of an existing private airstrip or permanent helipad.
- (7) Public road and highway projects as described in ORS 215.283(2)(p) through (r) and 215.283(3).
- (8) 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.
- (9) Mining and processing of mineral or aggregate resources outside the Surface Mining Overlay Zone.
- (10) Destination resorts reviewed and approved pursuant to ORS 197.435 - 197.465 and Statewide Planning Goal 8.
- (11) Disposal site for solid waste approved by the Benton County Board of Commissioners and the Oregon Department of Environmental Quality together with equipment, facilities, or buildings necessary for its operation.
- (12) Television, microwave, and radio communication facilities and transmission towers.
- (13) Aids to navigation and aviation.
- (14) Extension of new water lines of a rural water supply system.
- (15) A mass gathering, defined as a gathering of more than 3000 people any part of which is held in open spaces and which is expected to continue over 120 hours in any three-month period.
 - (a) A mass gathering shall be allowed by the Planning Commission if:
 - (A) The organizer makes application for a permit to the Planning Commission.
 - (B) The applicant demonstrates to the Planning Commission that the applicant has complied or can comply with the requirements for an outdoor mass gathering permit of ORS 433.750.
 - (C) The Planning Commission shall make findings that:
 - (i) Any permits required by the applicable land use regulations have been granted; and
 - (ii) The proposed gathering is compatible with existing land uses and does not materially alter the stability of the overall land use pattern of the area.
 - (b) In reviewing an application for a permit to hold an outdoor mass gathering, the county governing body may require such plans, specifications and reports as it may deem necessary for proper review and it may request and shall receive from all public officers, departments and agencies of the state and its political subdivisions such cooperation and assistance as it may deem necessary. If the county governing body determines upon examination of the permit application that the outdoor mass gathering creates a potential for injury to persons or property, the county governing body may require organizers to obtain an insurance policy in an amount commensurate with the risk, but not exceeding \$1 million. The policy of casualty insurance shall provide coverage against liability for death, injury or disability of any human or for damage to property arising out of the outdoor mass gathering. The county shall be named as an additional insured under the policy.

(c) In the event of failure to remove all debris or residue and repair any damage to personal or real property arising out of the outdoor mass gathering within 72 hours after its termination and to remove any temporary structures used at the outdoor mass gathering within three weeks after its termination, the county governing body may file suit against the organizer for financial settlement as is needed to remove debris, residue or temporary structures and to repair such damage to real or personal property of persons not attending the outdoor mass gathering. The organizer shall be wholly responsible for payment of any fines imposed under ORS 433.990 (7).

(16) Youth camps, pursuant to OAR 660-006-0031.

[Ord 6, Ord 22, Ord 26, Ord 26B, Ord 26F, Ord 90-0069, Ord 94-0103, Ord 2001-0174]

60.220 Conditional Use Criteria. (1) A use allowed under BCC 60.205 or 60.215 may be approved only upon findings that the use:

(a) Will not force a significant change in, or significantly increase the cost of, accepted farming or forest practices on agriculture or forest lands;

(b) Will not significantly increase fire hazard or significantly increase fire suppression costs or significantly increase risks to fire suppression personnel; and

(c) Complies with criteria set forth in BCC 53.215 and 53.220.

(2) As a condition of approval of a conditional use permit, the owner shall sign the following declaratory statement to be recorded into the County Deed Records for the subject property on which the conditional use is located that recognizes the rights of adjacent and nearby land owners to conduct forest operations consistent with the Forest Practices Act and Rules:

The property herein described is situated in the Forest Conservation Zone in Benton County, Oregon. The purpose of such zone is to conserve forest land, promote the management and growing of trees, support the harvesting of trees and primary processing of wood products, and minimize conflicts with forest and farm uses. Residents may be subjected to customary forest or farm management practices which produce noise, dust, smoke, and other impacts. The resource nature of surrounding properties can result in herbicide spraying, slash burning, timber cutting, farm operations, big-game use and other accepted resource management practices. Resource uses are the preferred uses in this zone.

In consideration for the approval by Benton County of the following use _____, the grantee, including heirs, assigns and lessees, recognizes that such impacts are likely to occur, and agrees therefore that no action shall be brought at law or before any governmental body or agency involving the non-negligent utilization or continuation of accepted resource-management practices such as, but not limited to, the examples noted above. As used in this section, "accepted resource management practices" means a mode of operation that is authorized under the Forest Practices Act or necessary to a farm or forest operation to obtain a profit in money. [Ord 22, Ord 26, Ord 26B, Ord 26F, Ord 94-0103]

CREATION OF NEW PARCELS OR LOTS; PROPERTY LINE ADJUSTMENTS

60.305 Minimum Parcel or Lot Size in the Forest Conservation Zone. The minimum parcel or lot size in the Forest Conservation Zone shall be eighty (80) acres. [Ord 6, Ord 22, Ord 26, Ord 26B, Ord 26F, Ord 90-0069, Ord 94-0103, Ord 96-0118]

60.310 [Ord 26B, Ord 26F, Ord 90-0069, repealed by Ord 94-0103]

60.315 Creation of a Parcel or Lot Smaller than the Minimum Parcel or Lot Size for a Non-Residential Purpose.

(1) A parcel or lot less than 80 acres in size in the Forest Conservation Zone for the non-residential uses listed in subsection (4) may be approved by the Planning Official if the proposed parcel or lot will:

- (a) Not force a significant change in, or significantly increase the cost of accepted farming or forest practices on agriculture or forest lands;
 - (b) Not significantly increase fire hazard or significantly increase fire suppression costs or significantly increase risks to fire suppression personnel;
 - (c) Not alter the stability of the surrounding land use patterns; and
 - (d) Be the minimum necessary to accommodate the non-residential use.
- (2) Where a parcel or lot smaller than 80 acres is proposed, the County shall provide the Oregon Department of Fish and Wildlife an opportunity to comment on the consistency with significant habitat values. The County shall make findings regarding consistency. The Department of Fish and Wildlife shall be provided with a minimum of ten (10) working days notice prior to the decision on the land partition.
- (3) As a condition of approval, the applicant for creation of a parcel or lot smaller than 80 acres shall sign a declaratory statement to be recorded into the County Deed Records that conforms to BCC 60.220(2) and has the following two additional statements:
- (a) All rights to build a dwelling on the parcel or lot less than 80 acres are removed; and
 - (b) Any future partitioning of the subject parcel or lot as it existed on March 7, 1994, will maintain a net density of at least 80 acres per parcel or lot.
- (4) Pursuant to OAR 660-06-025(3)(m-o) and OAR-06-025(4)(a-o), such divisions are only allowed for the following uses:
- (a) 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 adjustment to the well head.
 - (b) Destination resorts reviewed and approved pursuant to ORS 197.435 to ORS 197.465 and Goal 8 of the State Land Use Program.
 - (c) Disposal site for solid waste ordered established by the Oregon Environmental Quality Commission together with equipment, facilities or buildings necessary for its operation.
 - (d) Permanent facility for the primary processing of forest products.
 - (e) Permanent logging equipment repair and storage.
 - (f) Log scaling and weigh stations.
 - (g) Disposal site for solid waste approved by the Board of Commissioners and for which the Oregon Department of Environmental Quality has granted a permit under ORS 459.245, together with equipment, facilities or buildings necessary for its operation.
 - (h) Parks and campgrounds.
 - (i) Mining and processing of oil, gas, or other subsurface resources, as defined in ORS Chapter 520 and not otherwise permitted under subsection (3)(m) of this rule (e.g. compressors, separators and storage serving multiple wells), and mining and processing of mineral or aggregate resources as defined in ORS Chapter 517.
 - (j) Television, microwave and radio communication facilities and transmission towers.
 - (k) Fire stations for rural fire protection.
 - (l) Utility facilities for the purpose of generating power. A power generation facility shall not preclude more than 10 acres from use as a commercial forest operation unless an exception is taken pursuant to OAR 660, Division 4.
 - (m) Aids to navigation and aviation.

- (n) Water intake facilities, related treatment facilities, pumping stations, and distribution lines.
- (o) Reservoirs and water impoundments.
- (p) Firearms training facilities.
- (q) Cemeteries.

[Ord 26B, Ord 26F, Ord 90-0069, Ord 94-0103, Ord 2001-0174]

60.320 Creation of a Parcel Smaller than the Minimum Parcel Size for an Existing Dwelling. (1) A parcel smaller than the minimum parcel size which contains an existing dwelling may be created subject to the following requirements:

- (a) The parcel established shall not be larger than five acres, except as necessary to recognize physical factors such as roads or streams, in which case the parcel shall be no larger than 10 acres; and
- (b) The dwelling existed prior to June 1, 1995; and
- (c) The remaining parcel, not containing the dwelling, meets the minimum land division standards for the Forest Conservation Zone or the remaining parcel, not containing the dwelling, is consolidated with another parcel, and together the parcels meet the minimum land division standards of the zone; and
- (d) The remaining parcel, not containing the dwelling is not entitled to a dwelling unless subsequently authorized by law or goal.

(2) As a condition of approval for a partition under BCC 60.320, the landowners shall sign a deed covenant to be recorded into the County Deed Records on the remaining parcel, not containing the dwelling, which prohibits the siting of a dwelling on the parcel.

(3) The restriction imposed under BCC 60.320(2) shall be irrevocable unless a statement of release is signed by the Planning Official indicating that the comprehensive plan or land use regulations applicable to the property have been changed in such a manner that the parcel is no longer subject to statewide planning goals pertaining to agricultural or forest land.

(4) The Planning Official shall maintain a record of parcels that do not qualify for the siting of a new dwelling under restrictions imposed under BCC 60.320(2). The record shall be readily available to the public.

(5) As a condition of approval of a land division allowed under BCC 60.320, the landowner shall sign the declaratory statement contained in BCC 60.220(2) to be recorded into the County Deed Records for the parcel containing the dwelling. This statement recognizes the rights of adjacent and nearby landowners to conduct forest operations consistent with the Forest Practices Act and Rules. [Ord 98-0134]

60.325 Creation of a Parcel Smaller than the Minimum Parcel Size to Facilitate a Forest Practice.

(1) A parcel smaller than 80 acres may be approved to facilitate a forest practice as defined in ORS 527.620. Approvals shall be based on findings which demonstrate that there are unique property-specific characteristics present in the proposed parcel that require an amount of land smaller than the minimum

area requirements BCC 60.305 in order to conduct the forest practice. Parcels created pursuant to this subsection:

- (a) Shall not be eligible for siting of new dwelling;
- (b) Shall not serve as the justification for the siting of a future dwelling on other lots or parcels;
- (c) Shall not result in a parcel of less than 35 acres, except:
 - (A) Where the purpose of the land division is to facilitate an exchange of lands involving a governmental agency; or
 - (B) Where the purpose of the land division is to allow transactions in which at least one participant is a person with a cumulative ownership of at least 2,000 acres of forest land; and
- (d) If associated with the creation of a parcel where a dwelling is involved, shall not result in a parcel less than the minimum lot or parcel size of the zone or the minimum size required for dwellings approved under OAR 660-006-0027(1)(e).

(2) As a condition of approval of a land division allowed under BCC 60.325, the landowner shall sign the declaratory statement contained in BCC 60.220(2) to be recorded into the County Deed Records for the parcel containing the dwelling. This statement recognizes the rights of adjacent and nearby landowners to conduct forest operations consistent with the Forest Practices Act and Rules.

[Ord 2001-0174]

SITING STANDARDS

60.405 Siting Standards and Requirements. All new structures allowed in the Forest Conservation Zone shall be sited in compliance with BCC Chapter 99 and the following standards:

- (1) As a condition of approval, an applicant for a residence or structure in the Forest Conservation Zone shall sign a declaratory statement consistent with BCC 60.220(2) to be recorded in the County Deed Records for the parcel or lot upon which the dwelling is constructed.
- (2) Non-residential structures shall be located at least twenty (20) feet from a parcel or lot line, except no setback is required for a structure of 120 square feet or less. A required side or rear setback for a non-residential structure may be reduced to three (3) feet if the structure:
 - (a) Is detached from other buildings by five (5) feet or more;
 - (b) Does not exceed a height of twenty (20) feet; and
 - (c) Does not exceed an area of 500 square feet.
- (3) A structure which is not a water dependent use shall be placed at least fifty (50) feet from the ordinary high water line of any river or major stream. In the case of a creek or minor stream, a structure which is not a water dependent use shall be placed at least twenty-five (25) feet from the ordinary high water line.
- (4) All new development approved by Benton County shall have a site specific development plan addressing emergency water supplies for fire protection which is approved by the local fire protection agency. The plan shall address:
 - (a) Emergency access to the local water supply in the event of a wildfire or other fire-related emergency;
 - (b) Provision of an all-weather road or driveway to within 10 feet of the edge of identified water supplies which contain 4,000 gallons or more and exist within 100 feet of the driveway or road at a reasonable grade (e.g. 12 percent or less); and

(c) Emergency water supplies shall be clearly marked along the access route with a Fire District approved sign.

(5) The owner of any new structure shall maintain a primary fuel-free fire-break surrounding the structure on land that is owned or controlled by the owner, in accordance with the provisions 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. [Ord 6, Ord 22, Ord 26, Ord 26B, Ord 26F, Ord 90-0069, Ord 94-0103]

[Ord 2001-0174]

60.410 Additional Siting Standards and Conditions for Dwellings. All new dwellings allowed in the Forest Conservation Zone shall be sited in compliance with BCC Chapter 99, BCC 60.405 and the following additional standards:

(1) A dwelling shall be placed at least thirty (30) feet from a property line, and at least forty-five (45) feet from a roadway. Architectural features shall not project more than two (2) feet into a required setback.

(2) Each dwelling shall be located at least 300 feet from property zoned for resource use, or shall conform to this standard to the greatest extent practical. This requirement shall not be applied to setbacks adjacent to an improved public road except when required by an approved conditional use permit.

(3) Approval of a dwelling shall be subject to the following requirements:

(a) Approval of a dwelling requires the owner of the tract to 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;

(b) The planning department shall notify the county assessor of the above condition at the time the dwelling is approved;

(c) If the lot or parcel is more than 10 acres, the property owner shall submit a stocking survey report to the county assessor and the assessor will verify that the minimum stocking requirements have been met by the time required by Department of Forestry rules.

(d) Upon notification by the assessor the Department of Forestry will determine whether the tract meets minimum stocking requirements of the Forest Practices Act. If the department determines that the tract does not meet those requirements, the department will notify the owner and the assessor that the land is not being managed as forest land. The assessor will then remove the forest land designation pursuant to ORS 321.359 and impose the additional tax pursuant to ORS 321.372.

(e) The County governing body or its designate shall require as a condition of approval of a single-family dwelling in the Forest Conservation zone that the landowner for the dwelling sign and record in the deed records for the county a document binding the landowner, and the landowner's successors in interest, prohibiting them from pursuing a claim for relief or cause of action alleging injury from farming or forest practices for which no action or claim is allowed under ORS 30.936 or 30.937.

(4) The owner of any new dwelling shall maintain a primary and secondary fuel-free fire-break surrounding the structure on land that is owned or controlled by the owner, in accordance with the provisions 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.

(5) All buildings shall have roofs constructed of materials defined under the Uniform Building Code as either Class A or Class B (such as but not limited to composite mineral shingles or sheets, exposed concrete slab, ferrous or copper sheets, slate shingles, clay tiles or cement tiles).

- (6) The dwelling will not be sited on a slope of greater than forty (40) percent.
- (7) The dwelling shall use a domestic water supply from a well or spring and a sewage disposal system as provided by Chapter 99.
- (8) The dwelling shall be located upon a parcel or lot within a fire protection district or is provided with residential fire protection by contract. If the County determines that inclusion within a fire protection district or contracting for residential fire protection is impracticable, the County may authorize an alternative means for protecting the dwelling from fire hazards. The means selected may include a fire sprinkling system, onsite equipment and water storage or other methods that are reasonable, given the site conditions. 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. Road access shall be provided to within 15 feet of the water's edge for firefighting pumping units. The road access shall accommodate the turnaround of firefighting equipment during the fires season. Permanent signs shall be posted along the access route to indicate the location of the emergency water source.
- (9) If the dwelling has a chimney or chimneys, each chimney shall have a spark arrester.
- (10) The following siting standards shall apply where the residential density is greater than one dwelling per forty (40) acres in the peripheral big game range or one dwelling per eighty (80) acres in the major big game range, calculated on the basis of each 640 acre section or portion of the section within the game range:
- (a) Dwellings and structures shall be located near each other and existing roads.
 - (b) Dwellings and structures shall be located to minimize habitat conflicts and shall utilize least valuable habitat areas.
 - (c) Road development providing access to the dwelling shall be minimized.
- (11) A secondary fuel break shall extend a minimum of 100 feet in all directions around the primary safety zone. The goal within this safety zone is to reduce fuels so that the overall intensity of any wildfire is lessened and the likelihood of crown fires or crowning is reduced.
- (12) A dwelling shall be sited on the least valuable wildlife habitat on the property, or clustered near dwellings on other parcels or lots in order to lessen the impact on wildlife habitat and help to maintain an overall density that is compatible with wildlife habitat management. In cases where dwellings are clustered, the 300-foot setback from adjacent property zoned for resource use may not be feasible. A dwelling shall also be sited to avoid intruding unnecessarily on areas free from existing roads and dwellings. The Planning Official shall balance these standards with the required siting and permit standards elsewhere in this code to minimize adverse impacts.
- (13) 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 U.S. 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.

[Ord 6, Ord 22, Ord 26, Ord 26B, Ord 26F, Ord 94-0103, Ord 2001-0174]

EXHIBIT "A"

Declaration of Covenants, Conditions and Restrictions Form

Whereas, the undersigned _____ hereinafter referred to as Declarant, is owner in fee simple of the property described in Exhibit A attached hereto and incorporated by reference herein and

Whereas, the Declarant desires to declare their intention to create certain covenants, conditions and restrictions in order to effectuate and comply with the requirements of Oregon Administrative Rule (OAR 660-006-0027).

Declarant hereby declares that all of the property described on Exhibit A 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 created by this instrument.

In witness whereof, the undersigned, being Declarant herein, has heretofore set their hand this

_____ day of _____, _____.

State of _____)

County of _____)

The foregoing instrument was acknowledged before me this _____ day of _____,

_____ by _____.

Notary Public for Oregon

My Commission expires: _____

Chapter 61

Open Space (OS)

61.005 Purpose. The Open Space Zone shall preserve and protect natural, scenic, or recreational resources by managing such resources primarily for open space and recreational purposes. The Open Space Zone shall only be applied upon application of the property owner. [Ord 26, Ord 90-0069]

61.010 Standards of Application. The Open Space Zone may be applied to the following types of areas:

- (1) Wetlands, as recorded on the U.S. Fish and Wildlife Service National Wetland Inventory Maps.
- (2) Privately owned wildlife refuge or sanctuary, as defined in ORS 501.045.
- (3) Land approved for open space use assessment under the provisions of ORS 308.740 to 308.790.
- (4) Land approved for riparian habitat protection under the provisions of ORS 308.025 and Chapter 720.
- (5) Open space area identified by the County or City Comprehensive Plan.
- (6) Historical, archaeological or geological sites. [Ord 26, Ord 90-0069, Ord 92-0092]

61.105 Site Management Plan. An application for a zone change to Open Space shall include a site management plan. Such plan shall limit the nature and type of uses allowed in the Open Space Zone consistent with the nature of the resource designed to be protected by the plan. The following information shall be represented on the site management plan:

- (1) A brief narrative of intent and proposed uses, including an adequate description of unique natural features or areas that may be located on site.
- (2) Site topography, drainage areas, creeks or ponds, and areas of major vegetation types.
- (3) Existing structures, improvements, roadway access and utilities, if any.
- (4) Existing land uses, ownership, property lines and building locations on adjoining property within 350 feet of the subject property.
- (5) Proposed uses for the subject site, including all proposed structures, vehicular and pedestrian circulation patterns and a site drainage plan; and
- (6) Any other appropriate information requested by the Planning Official. [Ord 26, Ord 90-0069]

61.110 Criteria for Review of Plan. The following criteria shall be used to evaluate whether the site management plan is consistent with the nature of the resource it is designed to protect:

- (1) The proposed uses will not result in the loss of rare, irreplaceable, or irreplaceable natural features, or scientific opportunity;
- (2) The proposed uses will not disturb substantially unaltered natural features or areas, or areas possessing natural features;
- (3) The proposed uses will result in a public benefit which would be maximized on the subject site when compared to similar properties not possessing unique features;
- (4) Adequate buffers shall exist within the proposed open space zone to assure compatibility between proposed uses and surrounding farming and forestry uses, where applicable; and

(5) The site management plan shall be applied along with other standards and requirements to determine if the proposed uses meet the intent of this zone. [Ord 26, Ord 90-0069]

61.115 Amendment of an Adopted Plan. Proposed changes to an approved site management plan shall be reviewed by the County in the same manner as the original approval. [Ord 26, Ord 90-0069]

61.205 Permitted Uses. The following uses are allowed in an Open Space Zone, subject to the limitations or requirements of a site management plan approved pursuant to this chapter:

- (1) A public or private park, recreation area, or open space use, including a hunting and fishing preserve.
- (2) A public campground or picnic sites and public playlot, playground or playfield.
- (3) A public boat launching and fishing facility.
- (4) A public bicycle and/or pedestrian path or trail system outside a County or public right-of-way.
- (5) An equestrian path or trail system.
- (6) A golf course, with a minimum of fifty (50) acres, excluding support buildings.
- (7) Farm use.
- (8) Forest use. [Ord 26, Ord 90-0069]

61.305 Conditional Uses Approved by the Planning Official. The following uses may be allowed in the Open Space Zone by conditional use permit approved by the Planning Official, subject to the site management plan submitted pursuant to this chapter:

- (1) One dwelling for a caretaker or watchman, in conjunction with a permitted use.
- (2) Temporary structures as may be required during construction of an authorized permanent structure. Such temporary structure shall be removed upon final inspection of the permanent structure by the Building Inspector.
- (3) Driving range not in conjunction with a golf course.
- (4) Support buildings in conjunction with a golf course. [Ord 26, Ord 90-0069]

61.405 Minimum Parcel or Lot Size. The minimum parcel or lot size shall be consistent with the site management plan. [Ord 26, Ord 90-0069]

61.505 Siting Standards. All structures allowed in the Open Space Zone shall be sited in compliance with BCC Chapter 99 and the following additional standards:

- (1) The maximum building height for any dwelling shall be thirty-five (35) feet. Structures such as chimneys, spires, domes, elevator shaft housings, towers, aeriols, flagpoles, agricultural buildings, and other similar objects not used for human occupancy are not subject to the building height limitations of this code.
- (2) A dwelling located within 200 feet of a forested area shall be provided with a spark arrestor on each chimney and a fire-retardant roof.
- (3) A structure which is not a water dependent use shall be placed at least fifty (50) feet from the ordinary high water line of any river or major stream. In the case of a creek or minor stream, a structure which is not a water dependent use shall be placed at least twenty-five (25) feet from the ordinary high water line. [Ord 26, Ord 90-0069, Ord 92-0092]

Chapter 62

Reserved for Expansion

Chapter 63

Rural Residential (RR)

63.005 Purpose. The Rural Residential Zone shall provide areas within Benton County where rural residential lifestyles can occur outside recognized urban areas without conflicting with agriculture and forestry uses. [Ord 26, Ord 90-0069]

63.010 Application. The Rural Residential Zone shall apply to areas outside urban areas on land generally unsuitable for resource use, or which are otherwise developed, committed to, or needed for rural residential use, subject to land capabilities to support residential use based on the carrying capacity of the land for water, sewage, roads, and natural hazards, etc. [Ord 26, Ord 90-0069]

63.015 Transitional Areas. Certain areas near urban growth boundaries are zoned Rural Residential/Transitional (RR/T), indicating that these areas may be added to the urban growth boundary in the future. [Ord 22P, Ord 26, Ord 90-0069]

PERMITTED USES

63.105 Permitted Uses. The following uses are allowed in the Rural Residential Zone:

- (1) Farm or forest use.
- (2) One dwelling per parcel. For the purposes of this section, “dwelling” includes a manufactured dwelling that complies with the manufactured dwelling standards in BCC 91.505 to 91.510, as well as all other applicable requirements of BCC Chapter 91.
- (3) Residential home.
- (4) Day care for fewer than thirteen children.
- (5) One manufactured dwelling in conjunction with an existing dwelling as a temporary use for the term of a hardship suffered by the existing resident or a relative of the resident, subject to the terms and conditions set forth in BCC 91.545 and 91.550. The hardship manufactured dwelling shall comply with all other applicable requirements of BCC Chapter 91, except the additional placement standards of BCC 91.510 shall not apply.
- (6) Home occupation.
- (7) Accessory use or structure. [Ord 26, Ord 90-0069, Ord 94-0104, Ord 97-0131]

CONDITIONAL USES

63.205 Conditional Uses. The following uses may be allowed in the Rural Residential Zone by conditional use permit approved by the Planning Official:

- (1) Park or recreational facility and greenway corridor acquisition.
- (2) Television or radio station cable television facility, transmitter or tower.
- (3) Public or private facility for the provision of power, water, or sewage disposal and associated structures and transmission lines.
- (4) Private airstrip.

- (5) Church, grange hall, community hall, or other similar non-profit community facility.
- (6) Commercial kennel.
- (7) School.
- (9) Residential facility.
- (10) Day care center.
- (11)
- (12) Fire stations. [Ord 26, Ord 90-0069, Ord 97-0131, Ord 98-0136]

MINIMUM PARCEL OR LOT SIZES

63.305 Minimum Parcel or Lot Size. (1) The minimum parcel or lot size shall be specified by the suffix number following the "RR" designation on the Official Zoning Map:

- (a) "RR-1" means one (1) acre minimum parcel or lot size.
- (b) "RR-2" means two (2) acre minimum parcel or lot size.
- (c) "RR-5" means five (5) acre minimum parcel or lot size.
- (d) "RR-10" means ten (10) acre minimum parcel or lot size.
- (e) "RR-20" means twenty (20) acre minimum parcel or lot size.

(2) A minimum parcel or lot size shall be established for a given area based on existing development, impact on public services, carrying capacity of the land for water and sewage disposal, and impact on surrounding resource zones. [Ord 26, Ord 90-0069, Ord 96-0118]

63.405 Siting Standards. All structures allowed in the Rural Residential Zone shall be sited in compliance with BCC Chapter 99 and the following additional standards:

- (1) A setback to a road right-of-way shall be at least twenty-five (25) feet and at least forty (40) feet from the edge of an existing roadway.
- (2) A side setback shall be at least eight (8) feet. If structures exist on an adjoining property, a minimum thirty (30) foot setback shall be maintained between the proposed structure and any existing structure on the adjoining property, unless the two dwellings are attached at the property line.
- (3) A rear setback shall be at least twenty-five (25) feet.
- (4) Architectural features shall not project more than two (2) feet into a required setback.
- (5) A non-residential structure shall not be built within a setback abutting a road. No setback is required for a non-residential structure of 120 square feet or less. A required side or rear setback for a non-residential structure may be reduced to three (3) feet if the structure:
 - (a) Is detached from other buildings by five (5) feet or more;
 - (b) Does not exceed a height of twenty (20) feet; and
 - (c) Does not exceed an area of 500 square feet.
- (6) A structure which is not related to a water dependent use shall be placed at least fifty (50) feet from the ordinary high water line of river or major stream. In the case of a creek or minor stream, a structure

which is not a water dependent use shall be placed at least twenty-five (25) feet from the ordinary high water line.

(7) A dwelling shall be located no closer than 300 feet from a resource zone, or conform to this standard to the greatest extent possible. If this is not feasible, the owner shall sign a declaratory statement to be recorded in the County Deed Records recognizing resource use of adjacent lands. This requirement shall not be applied to a setback adjacent to a public road, except when required by an approved conditional use permit.

(8) A dwelling located within 200 feet of a forested area shall be provided with a spark arrestor on each chimney and a fire-retardant roof.

(9) A minimum thirty (30) foot fire break shall be maintained at all times around structures located on a parcel or lot contiguous to land in the Forest Conservation Zone.

(10) A structure shall not exceed forty (40) feet in height. Structures such as chimneys, spires, domes, elevator shaft housings, towers, aeriels, flagpoles, agricultural buildings, and other similar objects not used for human occupancy are not subject to the building height limitations of this code. [Ord 26, Ord 90-0069, Ord 92-0092, Ord 96-0118]

Chapter 64

Urban Residential (UR)

64.005 Purpose. The Urban Residential Zone shall provide for the establishment of areas suitable for future urban density residential development. [Ord 26, Ord 90-0069]

64.010 Application. The Urban Residential Zone shall be applied in unincorporated areas inside an urban growth boundary according to the Comprehensive Plan. [Ord 26, Ord 90-0069]

64.105 Permitted Uses. The following uses are allowed in the Urban Residential Zone:

(1) One dwelling per parcel. For the purposes of this section, “dwelling” includes a manufactured dwelling that complies with the manufactured dwelling placement in BCC 91.505 and 91.510, as well as all other applicable requirements of BCC Chapter 91.

(2) One manufactured dwelling per space in a mobile home or manufactured dwelling park. The manufactured dwelling shall comply with the minimum placement standards for a Manufactured Dwelling in 91.515. The manufactured dwelling in an approved park shall comply with the applicable manufactured dwelling standards in Chapter 91, except that additional placement standards of BCC 91.510 shall not apply, and BCC 91.515 shall be applicable.

(3) Home occupation.

(4) Day care for fewer than thirteen children.

(5) One manufactured dwelling in conjunction with an existing dwelling as a temporary use for the term of a hardship suffered by the existing resident or a relative of the resident, subject to the terms and conditions set forth in 91.502, 91.505, BCC 91.545 and 91.550. The hardship manufactured dwelling shall comply with all other applicable requirements standards of Chapter 91, except the additional placement standards of BCC 91.510 shall not apply.

(6) Residential home.

(7) Church, grange hall, community hall, or other similar non-profit community facility.

(8) Farm or forest use except for feed lots.

(9) Accessory use or structure.

(10) Fire stations or other public facilities rendering a public service to the community when located on an arterial or collector road as designated in the County’s Comprehensive Plan. [Ord 26, Ord 90-0069, Ord 94-0104, Ord 97-0131, Ord 98-0136]

64.205 Conditional Uses. The following uses may be allowed in the Urban Residential Zone by conditional use permit approved by the Planning Official:

(1) Park or recreational facility, or greenway corridor acquisition.

(2) Television or radio station, cable television facility, transmitter or tower.

(3) Dam, power plant, transmission line and transmission stations, together with associated structures.

(4) Water supply, water treatment facility, wastewater treatment facility, or water or wastewater transmission facilities.

- (5) Operation conducted for the exploration, mining and processing of geothermal resources, aggregate, and other mineral resources, or other subsurface resources.
- (6) Solid waste pickup and transfer centers licensed pursuant to BCC Chapter 23.
- (7) Mobile home or manufactured dwelling park, recreational vehicle park.
- (8) Residential facility.
- (9) Day care center.
- (10) One duplex as the only permanent dwelling on a parcel or lot.
- (11) A public or private school.
- (12) Fire stations or other public facilities rendering a public service to the community that are not located on an arterial or collector road as designated in the County's Comprehensive Plan. [Ord 26, Ord 90-0069, Ord 94-0104, Ord 96-0118, Ord 98-0134, Ord 99-0146]

64.210 Conditional Uses Approved by the Planning Commission. A cemetery may be allowed in the Urban Residential Zone by conditional use permit approved by the Planning Commission. [Ord 26, Ord 90-0069]

64.305 Minimum Parcel or Lot Size. (1) The minimum parcel or lot size shall be specified by the suffix number following the "UR" designation on the Official Zoning Map:

- (a) "UR-1" means one (1) acre minimum parcel or lot size.
- (b) "UR-5" means five (5) acre minimum parcel or lot size, except in the Corvallis Urban Growth Boundary it shall mean one parcel or lot may be created per five (5) acres of gross area, subject to the Planned Unit Development standards in Chapter 100 [Ord 98-0141].
- (c) "UR-10" means ten (10) acre minimum parcel or lot size, except in the Corvallis Urban Growth Boundary it shall mean one parcel or lot may be created per ten (10) acres of gross area, subject to the Planned Unit Development standards in Chapter 100 [Ord 98-0141].
- (d) "UR-50" means fifty (50) acre minimum parcel or lot size, except in the Corvallis Urban Growth Boundary it shall mean one parcel or lot may be created per fifty (50) acres of gross area, subject to the Planned Unit Development standards in Chapter 100 [Ord 98-0141].

(2) All land divisions in the Corvallis Urban Fringe Area, including partitions, subdivisions, and planned unit developments shall comply with the standards contained in BCC Chapter 100. [Ord 26, Ord 90-0069, Ord 96-0118, Ord 98-0141]

64.310 Conditions to Land Divisions in the Corvallis Urban Fringe.

(1) All land divisions in the Corvallis Urban fringe shall be conditioned upon the property owner recording a covenant consenting to annex when the property becomes contiguous to the City.

(2) An applicant for a land division in the Urban Residential Zone within the Corvallis Urban Fringe shall submit a conversion plan showing possible future urban development. Where the requested division results in a parcel or lot ten (10) acres and larger, a conversion plan shall show only arterial and perimeter streets, and road rights-of-way, drainageways, and utility trunk easements. Where the requested division would result in a parcel or lot smaller than ten (10) acres the conversion plan shall show street and road rights-of-way, utility easements, drainageways, and future property divisions at urban densities. All dwellings shall be placed within boundaries of the future parcels or lots shown on the conversion plan and shall meet urban setbacks of the City of Corvallis Land Development Code. [Ord 26, Ord 90-0069, Ord 96-0118]

64.315 Deleted [Ord 26, Ord 90-0069, Ord 96-0118, Ord 98-0141]

64.320 Land Divisions in the Philomath Urban Fringe. An applicant for a land division in the Urban Residential Zone in the Philomath Urban Fringe shall submit a conversion plan showing possible future urban development. When the land division results in a parcel or lot five (5) acres or larger, the conversion plan shall show only arterial and perimeter street and road rights-of-way, drainageways, and utility trunk easements. When the land division results in a parcel or lot smaller than five (5) acres, the conversion plan shall show street and road rights-of-way, utility easements, drainageways, and future property divisions at urban densities. Dwellings shall be placed within boundaries of future lots or parcels as shown on the conversion plan and shall meet urban setbacks of the City of Philomath Zoning Ordinance. The conversion plan shall be referred to the City of Philomath for review and recommendation. [Ord 26, Ord 90-0069, Ord 96-0118]

SITING STANDARDS

64.350 Siting Standards. All structures allowed in the Urban Residential Zone shall be sited in compliance with BCC Chapter 99 and the following additional standards:

- (1) A setback to a road right-of-way shall be at least twenty-five (25) feet and at least forty (40) feet from the edge of an existing roadway.
- (2) A side setback shall be at least eight (8) feet.
- (3) A rear setback shall be at least twenty-five (25) feet.
- (4) Architectural features shall not project more than two (2) feet into a required setback.
- (5) A non-residential structure shall not be built within a setback abutting a road. No setback is required for structures of 120 square feet or less. A side or rear setback for a non-residential structure may be reduced to three (3) feet if that structure:
 - (a) Is detached from other buildings by five (5) feet or more;
 - (b) Does not exceed a height of twenty (20) feet; and
 - (c) Does not exceed an area of 500 square feet.
- (6) A structure which is not related to a water dependent use shall be placed at least fifty (50) feet from the ordinary high water line of any river or major stream. In the case of a creek or minor stream, a structure which is not a water dependent use shall be placed at least twenty-five (25) feet from the ordinary high water line.
- (7) Any structure within the Corvallis Urban Growth Boundary shall be at least twenty-five (25) feet from the edge of riparian habitat, evidenced by existing non-aquatic vegetation which is generally dependent upon a seasonally high water table, or at least forty (40) feet from the edge of the drainageway, whichever is greater.
- (8) A structure shall not exceed forty (40) feet in height. Structures such as chimneys, spires, domes, elevator shaft housings, towers, aeriels, flagpoles, agricultural buildings, and other similar objects not used for human occupancy are not subject to the building height limitations of this code.
- (9) A maximum of twenty-five percent (25%) of existing natural riparian vegetation within twenty-five (25) feet of the ordinary high water line of the Marys River, by area, may be removed for any reason within the riparian setback area. Additional land may be cleared of riparian vegetation in order to:
 - (a) Remove dead or diseased vegetation, or vegetation which constitutes a hazard to public safety or a threat to existing healthy indigenous vegetation;
 - (b) Construct pedestrian access (pathways) to the waterway;
 - (c) Install or maintain an artificial or structural shoreline stabilizatin, provided that natural erosion control measures or other non-structural solutions are not feasible and applicable state and federal standards are met; or

(d) Remove blackberry vines, Scotch Broom, or other noxious vegetation as defined by the Oregon Department of Agriculture, provided that such vegetation is replaced with other more suitable vegetation.

(10) A dwelling located within 200 feet of a forested area shall be provided with a spark arrestor on each chimney and a fire-retardant roof.

(11) A minimum thirty (30) foot fire break shall be maintained at all times around structures located on a parcel or lot contiguous to land in the Forest Conservation Zone. [Ord 26, Ord 90-0069, Ord 91-0082, Ord 92-0092, Ord 93-0097, Ord 96-0118]

Chapter 65

Philomath Low-Density Residential Zone (PR-1)

65.005 Purpose. The Philomath Low-Density Residential Zone is intended to provide for urban development, primarily single-family dwellings, within the Philomath Urban Growth Boundary prior to annexation through the provision of urban services in accordance with a municipal service agreement. [Ord 90-0069]

65.010 Application. The Philomath Low-Density Residential Zone shall apply to unincorporated areas designated for Low Density Residential Development in the Philomath Comprehensive Plan which are provided municipal water and sewer service and are subject to a delayed annexation agreement or municipal service agreement. [Ord 90-0069]

65.015 Permitted Uses. The following uses are allowed in the Philomath Low-Density Residential Zone:

- (1) Single-family dwelling.
- (2) Home occupation.
- (3) Day care for fewer than thirteen children.
- (4) Residential home.
- (5) Duplex, on corner lots or parcels only.
- (6) Accessory use or structure.
- (7) Public utilities. [Ord 90-0069]

65.020 Conditional Uses. The following uses may be allowed in the Philomath Low Density Residential Zone by conditional use permit approved by the Planning Official:

- (1) Church or community center.
- (2) Park, playground, fire station or library.
- (3) Nursery school or day care center.
- (4) Nursing home.
- (5) Golf course, country club, or other recreational or athletic club.
- (6) Public or private school.
- (7) Professional office, except veterinarian.
- (8) Mobile home or manufactured dwelling park. [Ord 90-0069]

65.025 Minimum Parcel or Lot Size. (1) For parcels or lots in the Philomath Low-Density Residential Zone which are subject to a delayed annexation agreement or municipal services agreement, the minimum parcel or lot size shall be determined by the type of use as follows:

- (a) Single-family dwelling: 7,000 square feet.
- (b) All conditional uses: 7,000 square feet.
- (c) Duplex: 5,000 square feet for each dwelling unit.

(2) Parcels or lots in the Philomath Low-Density Residential Zone which are not subject to a delayed annexation agreement or a municipal services agreement shall have a five (5) acre minimum parcel or lot size. [Ord 90-0069, Ord 96-0118]

65.030 Siting Standards. All structures allowed in the Philomath Low-Density Residential Zone shall be sited in compliance with BCC Chapter 99 and the following additional standards:

- (1) A setback to a road right-of-way shall be at least fifteen (15) feet, except an attached or detached garage shall be at least twenty (20) feet.
- (2) A side setback shall be at least eight (8) feet, unless a common or impervious wall is provided in conformance with the zero lot line development standards provided in BCC 65.035.
- (3) A rear setback shall be at least fifteen (15) feet.
- (4) Obstructions greater than two and one-half (2.5) feet in height shall not be located within twenty (20) feet of an intersection of two streets or a street and railroad, or within ten (10) feet of an intersecting street and alley.
- (5) A non-residential structure shall not be built within a setback abutting a road. No setback is required for structures of 120 square feet or less. A side or rear setback for a non-residential structure may be reduced to three (3) feet if the structure:
 - (a) Is detached from other buildings by five (5) feet or more;
 - (b) Does not exceed a height of twenty (20) feet; and
 - (c) Does not exceed an area of 500 square feet.
- (6) A structure which is not a water dependent use shall be placed at least fifty (50) feet from the ordinary high water line of any river or major stream. In the case of a creek or minor stream, a structure which is not a water dependent use shall be placed at least twenty-five (25) feet from the ordinary high water line.
- (7) A structure shall not exceed thirty-five (35) feet in height. Structures such as chimneys, spires, domes, elevator shaft housings, towers, aerials, flagpoles, agricultural buildings, and other similar objects not used for human occupancy are not subject to the building height limitations of this code.
- (8) Buildings in complexes on a parcel or lot shall be separated at least sixteen (16) feet from other buildings or one foot for each foot of building height, whichever is greater.
- (9) All buildings on a parcel or lot shall occupy not more than thirty-five percent (35%) of the parcel or lot area.
- (10) All off-street parking areas and road approaches shall be paved with an asphaltic concrete or Portland cement concrete. [Ord 90-0069, Ord 92-0092, Ord 96-0118]

65.035 Zero Lot Line Development Standards. (1) Two single-family residences may be attached at a common wall if:

- (a) Appropriate easements for common maintenance have been recorded.
 - (b) The common wall complies with all building code requirements.
- (2) Where no common wall is utilized, the side setback for a single-family residence may be reduced to zero if:
- (a) The wall of the residence with the reduced side setback is impervious with no penetrations including windows, screens or vents, and complies with all building code requirements.
 - (b) The adjoining residence is located at least fifteen (15) feet from the impervious wall.
 - (c) An easement for the maintenance of the impervious wall has been obtained from the adjoining property.
 - (d) Overhangs and other architectural features attached to the impervious wall do not extend into the adjoining side setback.
 - (e) The character and design of the impervious wall is continuous.

(f) The residence with the reduced side setback diverts rainwater runoff away from the adjoining property. [Ord 90-0069]

Philomath Medium-Density Residential Zone (PR-2)

65.105 Purpose. The Philomath Medium-Density Residential Zone is intended to provide for urban development of one to four family dwellings within the Philomath Urban Growth Boundary prior to annexation through the provision of urban services in accordance with a municipal service agreement. [Ord 90-0069]

65.110 Standards for Application. The Philomath Medium-Density Residential Zone shall apply to unincorporated areas designated for Medium Density Residential Development in the Philomath Comprehensive Plan which are provided municipal water and sewer service and are subject to a delayed annexation agreement or municipal service agreement. [Ord 90-0069]

65.115 Permitted Uses. The following uses are allowed in the Philomath Medium-Density Residential zone subject to applicable siting standards:

- (1) Single-family dwelling.
- (2) Home occupation.
- (3) Day care for fewer than thirteen children.
- (4) Residential home.
- (5) Duplex, triplex, or fourplex.
- (6) Residential facility.
- (7) Accessory use or structure.
- (8) Public utilities.
- (9) Manufactured dwelling. [Ord 90-0069, Ord 91-0082]

65.120 Conditional Uses. The following uses may be allowed in the Philomath Medium Density Residential Zone by conditional use permit approved by the Planning Official:

- (1) All uses identified in BCC 65.020.
- (2) Condominium conversion of an existing duplex, triplex, or fourplex. [Ord 90-0069]

65.125 Minimum Parcel or Lot Size. (1) For parcels or lots in the Philomath Medium-Density Residential Zone which are subject to a delayed annexation agreement or municipal services agreement, the minimum parcel or lot size shall be determined according to the type of use as follows:

- (a) Single-family dwelling: 5,000 square feet.
- (b) All conditional uses: 5,000 square feet.
- (c) Duplex, triplex or fourplex: 3,600 square feet for each dwelling unit.

(2) Parcels or lots in the Philomath Medium-Density Residential Zone which are not subject to a delayed annexation agreement or a municipal services agreement shall have a five (5) acre minimum parcel or lot size. [Ord 90-0069, Ord 96-0118]

65.130 Siting Standards. All structures allowed in the Philomath Medium-Density Residential Zone shall be sited in compliance with BCC Chapter 99 and the following additional standards:

- (1) A setback to a road right-of-way shall be at least fifteen (15) feet, except a garage shall be at least twenty (20) feet.
- (2) A side setback shall be at least eight (8) feet, unless a common or impervious wall is provided on a lot line, in conformance with zero lot line development standards in BCC 65.135.
- (3) A rear setback shall be at least fifteen (15) feet.

- (4) No obstructions including walls, structures, fences or shrubs shall extend greater than two and one-half (2.5) feet in height within twenty (20) feet of a point of two intersecting streets or a street and railroad or within ten (10) feet of a point of an intersecting street and alley.
- (5) A non-residential structure shall not be built within a setback abutting a road. No setback is required for structures of 120 square feet or less. A side or rear setback for a non-residential structure may be reduced to three (3) feet if that structure:
- (a) Is detached from other buildings by five (5) feet or more;
 - (b) Does not exceed a height of twenty (20) feet; and
 - (c) Does not exceed an area of 500 square feet.
- (6) A structure which is not a water dependent use shall be placed at least fifty (50) feet from the ordinary high water line of any river or major stream. In the case of a creek or minor stream, a structure which is not a water dependent use shall be placed at least twenty-five (25) feet from the ordinary high water line.
- (7) A structure shall not exceed thirty-five (35) feet in height. Structures such as chimneys, spires, domes, elevator shaft housings, towers, aerials, flagpoles, agricultural buildings, and other similar objects not used for human occupancy are not subject to the building height limitations of this code.
- (8) Buildings in complexes on a parcel or lot shall be separated at least sixteen (16) feet from other buildings or one foot for each foot of building height, whichever is greater.
- (9) All buildings on a parcel or lot shall occupy not more than forty percent (40%) of the parcel or lot area.
- (10) A minimum of twenty percent (20%) of the parcel or lot area, or 1,000 square feet, whichever is greater, exclusive of any driveway, roadway, parking area or public easement, shall be landscaped with plantings and ground cover as a usable open space area.
- (11) Central garbage collection areas and other accessory mechanical and service facilities shall be screened with a sight obscuring fence or landscaping.
- (12) All off-street parking areas and road approaches shall be paved with an asphaltic concrete or Portland cement concrete. [Ord 90-0069, Ord 92-0092, Ord 96-0118]
- 65.135 Zero Lot Line Development Standards.** (1) Two single-family residences may be attached at a common wall if:
- (a) Appropriate easements for common maintenance have been recorded.
 - (b) The common wall complies with all building code requirements.
- (2) Where no common wall is utilized, the side setback for a single-family residence may be reduced to zero if:
- (a) The wall of the residence with the reduced side setback is impervious with no penetrations including windows, screens or vents, and complies with all building code requirements.
 - (b) The adjoining residence is located at least fifteen (15) feet from the impervious wall.
 - (c) An easement for the maintenance of the impervious wall has been obtained from the adjoining property.
 - (d) Overhangs and other architectural features attached to the impervious wall do not extend into the adjoining side setback.
 - (e) The character and design of the impervious wall is continuous.

(f) The residence with the reduced side setback diverts rainwater runoff away from the adjoining property. [Ord 90-0069]

Philomath High-Density Residential Zone (PR-3)

65.205 Purpose. The Philomath High-Density Residential Zone is intended to provide for urban development of multi-family dwellings within the Philomath Urban Growth Boundary prior to annexation through the provision of urban services in accordance with a municipal service agreement. [Ord 90-0069]

65.210 Standards for Application. The Philomath High-Density Residential Zone shall apply to unincorporated areas designated for High-Density Residential development in the Philomath Comprehensive Plan which are provided municipal water and sewer service and are subject to a delayed annexation agreement or municipal service agreement. [Ord 90-0069]

65.215 Permitted Uses. The following uses are allowed in the Philomath High-Density Residential Zone:

- (1) Single-family dwelling.
- (2) Home occupation.
- (3) Day care for fewer than thirteen children.
- (4) Residential home.
- (5) Multi-family dwelling.
- (6) Residential facility.
- (7) Accessory use or structure.
- (8) Public utilities.
- (9) Manufactured dwelling. [Ord 90-0069, Ord 91-0082]

65.220 Conditional Uses. The following uses may be allowed in the Philomath High-Density Residential Zone by conditional use permit approved by the Planning Official:

- (1) All uses identified in BCC 65.020.
- (2) Condominium conversion of an existing duplex, triplex, or fourplex.
- (3) Club, lodge or fraternal organization. [Ord 90-0069]

65.225 Minimum Parcel or Lot Size. (1) For parcels or lots in the Philomath High-Density Residential Zone which are subject to a delayed annexation agreement or municipal services agreement, the minimum parcel or lot size shall be determined according to the type of use as follows:

- (a) Single-family dwelling: 5,000 square feet.
- (b) All conditional uses: 5,000 square feet.
- (c) Duplex, triplex or fourplex: 3,600 square feet for each dwelling unit.
- (d) Any other multi-family dwelling: 2,500 square feet per dwelling unit.

(2) Parcels or lots in the Philomath High-Density Residential Zone which are not subject to a delayed annexation agreement or a municipal services agreement shall have a five (5) acre minimum parcel or lot size. [Ord 90-0069, Ord 96-0118]

65.230 Siting Standards. All structures allowed in the Philomath High-Density Residential Zone shall be sited in compliance with BCC Chapter 99 and the following additional standards:

- (1) A setback to a road right-of-way shall be at least fifteen (15) feet, except a garage shall be at least twenty (20) feet.
- (2) A side setback shall be at least eight (8) feet, unless a common or impervious wall is provided in conformance with zero lot line development standards provided in BCC 65.235.
- (3) A rear setback shall be at least fifteen (15) feet.

- (4) No obstructions including walls, structures, fences or shrubs shall extend greater than two and one-half (2.5) feet in height within twenty (20) feet of a point of two intersecting streets or a street and railroad or within ten (10) feet of a point of an intersecting street and alley.
- (5) A non-residential structure shall not be built within a setback abutting a road. No setback is required for structures of 120 square feet or less. A side or rear setback may be reduced to three (3) feet for a non-residential structure if the structure:
- (a) Is detached from other buildings by five (5) feet or more;
 - (b) Does not exceed a height of twenty (20) feet; and
 - (c) Does not exceed an area of 500 square feet.
- (6) A structure which is not a water dependent use shall be placed at least fifty (50) feet from the ordinary high water line of any river or major stream. In the case of a creek or minor stream, a structure which is not a water dependent use shall be placed at least twenty-five (25) feet from the ordinary high water line.
- (7) A structure shall not exceed thirty-five (35) feet in height. Structures such as chimneys, spires, domes, elevator shaft housings, towers, aerials, flagpoles, agricultural buildings, and other similar objects not used for human occupancy are not subject to the building height limitations of this code.
- (8) Buildings in complexes on a parcel or lot shall be separated at least sixteen (16) feet from other buildings or one foot for each foot of building height, whichever is greater.
- (9) The courtyard area of a garden apartment building shall be a minimum width of sixteen (16) feet or one and one-quarter (1.25) feet for each foot of building height, whichever is greater.
- (10) A minimum of twenty percent (20%) of the parcel or lot area, or 1,000 square feet, whichever is greater, exclusive of any driveway, roadway, parking area or public easement, shall be landscaped with plantings and ground cover as a usable open space area.
- (11) Central garbage collection areas and other accessory mechanical and service facilities shall be screened with a sight obscuring fence or landscaping.
- (12) All off-street parking areas and road approaches shall be paved with an asphaltic concrete or Portland cement concrete. [Ord 90-0069, Ord 92-0092, Ord 96-0118]

65.235 Zero Lot Line Development Standards. (1) Two single-family residences may be attached at a common wall if:

- (a) Appropriate easements for common maintenance have been recorded.
 - (b) The common wall complies with all building code requirements.
- (2) Where no common wall is utilized, the side setback for a single-family residence may be reduced to zero if:
- (a) The wall of the residence with the reduced side setback is impervious with no penetrations including windows, screens or vents, and complies with all building code requirements.
 - (b) The adjoining residence is located at least fifteen (15) feet from the impervious wall.
 - (c) An easement for the maintenance of the impervious wall has been obtained from the adjoining property.
 - (d) Overhangs and other architectural features attached to the impervious wall do not extend into the adjoining side setback.
 - (e) The character and design of the impervious wall is continuous.
 - (f) The residence with the reduced side setback diverts rainwater runoff away from the adjoining property. [Ord 90-0069]

Chapter 66

Reserved for Expansion

Chapter 67

Reserved for Expansion

Chapter 68

Commercial Zone (C)

68.005 Purpose. The Commercial Zone shall establish standards for commercial activity in areas within Benton County. [Ord 26, Ord 90-0069]

68.010 Application. The Commercial Zone shall apply to areas designated Commercial on the adopted Comprehensive Plan Map. [Ord 26, Ord 90-0069]

68.050 Use Overlay Zone. A Use Overlay Zone designation (/U) is applied to areas that have special restrictions on permitted and conditional uses. Uses on these properties have been restricted to comply with the requirements for Exceptions to Statewide Planning Goals (OAR 660-004-0018). Permitted and conditional uses within a Use Overlay Zone are listed in Ordinance 2003-0184 and supersede those listed in this Chapter. All other provisions of this Chapter are applicable. Use Overlay designations have been applied to the following areas:

- (a) Lakepark Entertainment Center [Ord 2003-0185; Ord 2003-0184]

68.105 Permitted Uses. The following uses are allowed in the Commercial Zone:

- (1) Professional office, clinics and personal service outlet.
- (2) Restaurant, tavern, motel, hotel, and membership clubs.
- (3) Service station.
- (4) Sale of goods.
- (5) Vehicle parking lot.
- (6) One dwelling required for the employer or employee for management or safeguarding of the commercial use.
- (7) Residential home.
- (8) One manufactured dwelling in conjunction with an existing dwelling as a temporary use for the term of a hardship suffered by the existing resident or a relative of the resident.
- (9) Day care for fewer than thirteen children.
- (10) Farm use or forest use.
- (11) Accessory use or structure. [Ord 26, Ord 90-0069]

68.205 Conditional Uses. The following uses may be allowed in the Commercial Zone by conditional use permit approved by the Planning Official:

- (1) Public or private school.
- (2) One dwelling. [Ord 26, Ord 90-0069]

68.305 Minimum Parcel or Lot Size. The minimum parcel or lot size in the Commercial Zone shall be determined by the type of facilities available. The minimum parcel or lot size shall be:

- (1) Two (2) acres when both an individual water supply system and sewage disposal system are used.

- (2) One (1) acre when either a community water supply system or a community sewage disposal system is used.
- (3) Ten thousand (10,000) square feet when both a community sewage disposal system and community water system are used.
- (4) Five (5) acres when the parcel or lot is located within the Corvallis Urban Growth Boundary. [Ord 26, Ord 90-0069, Ord 96-0118]

68.405 Site Development Plan. When a building addition, new construction, or placement of a structure is proposed in the Commercial Zone, the applicant shall submit a site development plan prior to the issuance of building permits. A site development plan shall contain an appropriate level of detail showing existing and proposed locations of buildings, access, parking, loading, landscaping, drainage, water supply, sewage disposal, public utilities, and exterior lighting. The plan shall demonstrate compliance with siting standards provided in BCC 68.410 and other provisions of this code. [Ord 90-0069]

68.410 Siting Standards. All structures allowed in the Commercial Zone shall be sited in compliance with BCC Chapter 99 and the following additional standards:

- (1) Either every site shall be adequately served by water, sewage disposal, and improved roads, or final approval of the site development plan shall be contingent on assurances for the provision of the necessary facilities.
- (2) The setback to a road right-of-way shall be at least twenty-five (25) feet. Such area shall be utilized exclusively for landscaping, fences, walls and driveways.
- (3) A side or rear setback shall be at least twenty-five (25) feet. The side or rear setback may be reduced to ten (10) feet if adjoining land is zoned for commercial or industrial use.
- (4) No setback is required for a structure of 120 square feet or less. A side or rear setback for an accessory structure may be reduced to three (3) feet if the structure:
 - (a) Is detached from other buildings by five (5) feet or more;
 - (b) Does not exceed a height of twenty (20) feet; and
 - (c) Does not exceed an area of 500 square feet.
- (5) Architectural features shall not project more than two (2) feet into a required setback.
- (6) A structure which is not related to a water dependent use shall be placed at least fifty (50) feet from the ordinary high water line of any river or major stream. In the case of a creek or minor stream, a structure which is not a water dependent use shall be placed at least twenty-five (25) feet from the ordinary high water line.
- (7) A vision clearance area shall be maintained at the intersection of two rights-of-way, or a right-of-way and a driveway. The vision clearance area shall extend thirty (30) feet from the intersection of the right-of-way lines or a right-of-way line and a driveway. No structure, vegetation or embankment shall be permitted in a vision clearance area in excess of two (2) feet in height above the center of the road or driveway.
- (8) Off-street parking areas and setbacks adjacent to residential zoned areas shall be adequately landscaped and screened to create a visual buffer.
- (9) A structure shall not exceed forty (40) feet in height. Structures such as chimneys, spires, domes, elevator shaft housings, towers, aerials, flagpoles, agricultural buildings, and other similar objects not used for human occupancy are not subject to the building height limitations of this code.
- (10) Off-street parking and loading shall be consistent with BCC 91.605 to 91.660.

(11) Access shall be designed to cause minimum interference with traffic movements on abutting streets. Where necessary, additional rights-of-way shall be dedicated to maintain adequate traffic circulation. Setbacks shall be reviewed when requiring a dedication of additional right-of-way.

(12) The arrangement of buildings, parking areas, signs, and other facilities shall be designed and oriented to minimize noise and glare effects on adjacent properties.

(13) Artificial lighting, including illuminated signs and lights for parking areas, shall be arranged and constructed to avoid direct glare or unreasonable interference with the use and enjoyment of adjacent properties. [Ord 26, Ord 90-0069, Ord 92-0092]

Chapter 69

Philomath General Commercial Zone (PC-2)

69.000 Purpose. The Philomath General Commercial District is intended to provide for commercial development within the Philomath Urban Growth Boundary prior to annexation through the provision of urban services in accordance with a municipal services agreement. [Ord 90-0069]

69.005 Standards for Application. The Philomath General Commercial Zone shall apply to unincorporated areas designated for General Commercial development in the Philomath Comprehensive Plan which are provided municipal water and sewer service and are subject to a delayed annexation agreement or a municipal services agreement. [Ord 90-0069]

69.010 Permitted Use. The following uses are allowed in the Philomath General Commercial Zone:

- (1) Retail sales and service establishments.
- (2) Professional offices.
- (3) Restaurant and drinking establishments.
- (4) Motel.
- (5) Funeral parlor.
- (6) Vehicle parking lot.
- (7) Public buildings and uses.
- (8) Church.
- (9) Residences provided in conjunction with a permitted use.
- (10) Residential home.
- (11) Day care for fewer than thirteen children.
- (12) Accessory use or structure. [Ord 90-0069]

69.015 Conditional Uses. The following uses may be allowed in the Philomath General Commercial Zone by conditional use permit approved by the Planning Official:

- (1) Drive-in restaurant.
- (2) Service station.
- (3) Carwash. [Ord 90-0069]

69.020 Minimum Parcel or Lot Size. There is no minimum parcel or lot size for property in the Philomath General Commercial Zone served by municipal water and sewer service and subject to a delay annexation agreement or municipal service agreement. Property not served by municipal water and sewer shall have a minimum parcel or lot size of two (2) acres. [Ord 90-0069, Ord 96-0118]

69.025 Site Development Plan. When a building addition, new construction, or placement of a structure is proposed in the Philomath General Commercial Zone, the applicant shall submit a site development plan prior to the issuance of building permits. A site development plan shall contain an appropriate level of detail showing existing and proposed locations of buildings, access, parking, loading, landscaping, drainage, water supply, sewage disposal, public utilities, and exterior lighting. The plan shall demonstrate compliance with siting standards provided in BCC 69.030 and other provisions of this code. [Ord 90-0069]

69.030 Siting Standards. All structures allowed in the Philomath General Commercial Zone shall be sited in compliance with BCC Chapter 99 and the following additional standards:

- (1) There are no front, rear, or side setbacks, except a four (4) foot rear or side setback if abutting a residential zone.
- (2) Full lot coverage is permitted if setback and parking requirements are met.
- (3) A proposed building to be located within twenty (20) feet of a residential zone shall not exceed twenty-five (25) feet in height.
- (4) Exterior lighting shall not face directly, shine or reflect glare onto an adjacent street or property.
- (5) Sidewalks or bike paths shall be provided in accordance with appropriate standards, approved land development plans and access design.
- (6) All off-street parking areas and road approaches shall be paved with an asphaltic concrete or Portland cement concrete.
- (7) Outside storage or operational areas shall be screened from view by a coniferous hedge or sight obscuring fence. The fence shall be at least six (6) feet in height. A coniferous hedge shall attain a height of at least six (6) feet within four (4) years of planting. [Ord 90-0069]
- (8) Obstructions greater than two and one-half (2.5) feet in height shall not be located within twenty (20) feet of an intersection of two streets or a street and railroad, or within ten (10) feet of an intersecting street and alley. [Ord 90-0069]

Chapter 70

Reserved for Expansion

Chapter 71

Reserved for Expansion

Chapter 72

Industrial (I)

72.005 Purpose. The Industrial Zone shall provide areas where manufacturing or other industrial activities can occur within Benton County. [Ord 26, Ord 90-0069]

72.010 Application. The Industrial Zone shall apply to areas designated Industrial on the adopted Comprehensive Plan Map. [Ord 26, Ord 90-0069]

72.105 Permitted Uses. The following uses are allowed in the Industrial Zone:

- (1) Research facility, testing laboratory and facility for the manufacturing, processing and/or assembling of products, provided a permit is not required from the Oregon Department of Environmental Quality.
- (2) Vehicle and manufactured dwelling sales and/or repair.
- (3) Transportation terminals and warehouses.
- (4) Vocational school.
- (5) Aggregate processing, and concrete and asphalt batch plants.
- (6) Outside storage of materials, except junkyards.
- (7) One dwelling required for the employer or employee for management or safeguarding of the industrial use.
- (8) Farm use and forest use.
- (9) Accessory use or structure. [Ord 26, Ord 90-0069, Ord 2001-0172]

72.205 Conditional Uses.

(1) A research facility, correctional and law enforcement facilities, junkyard, or testing laboratory or facility for the manufacturing, fabrication, processing or assembly of products which requires a permit from the Oregon Department of Environmental Quality may be allowed in the Industrial Zone by conditional use permit approved by the Planning Official. The decision to approve a conditional use permit shall be based on findings that the public health and safety will not be substantially affected by the proposed use when considering smoke, dust, odor, gas, fumes, glare, vibration, noise water pollution, radiation hazard or other noxious impacts.

(2) Mining of aggregate or mineral resources may be allowed in the Industrial Zone by conditional use permit approved by the Planning Commission, pursuant to BCC 53.215 through 53.235. In addition to the conditional use criteria of BCC 53.215, approval requires the Planning Commission make the following findings:

- (a) Mining will not significantly diminish the ability of the land to be used for other industrial uses in the future; and
- (b) The mined land will be reclaimed to a topographic character and stability comparable to, or more conducive to general, non-mining industrial uses than, the characteristics existing prior to mining.

[Ord 26, Ord 90-0069, Ord 99-0146, Ord 2001-0172]

72.305 Minimum Parcel or Lot Size. (1) The minimum parcel or lot size for any parcel or lot zoned "I-20" on the Official Zoning Map shall be twenty (20) acres.

(2) Where no suffix number follows the "I" designation on the Official Zoning Map, the minimum parcel or lot size in the Industrial Zone shall be determined by the type of public facilities available. The minimum parcel or lot size shall be:

- (a) Two (2) acres when both an individual water supply system and a sewage disposal system are used.
- (b) One (1) acre when either a community water supply system or a community sewage disposal system is used.
- (c) Fifteen thousand (15,000) square feet when both a community sewage disposal system and community water system are used. [Ord 26, Ord 90-0069, Ord 96-0118]

72.405 Site Development Plan. When a building addition, new construction, or placement of a structure is proposed in the Industrial Zone, the applicant shall submit a site development plan prior to the issuance of building permits. A site development plan shall contain an appropriate level of detail showing existing and proposed locations of buildings, access, parking, loading, landscaping, drainage, water supply, sewage disposal, public utilities, and exterior lighting. The plan shall demonstrate compliance with siting standards provided in BCC 72.410 and other provisions of this code. [Ord 90-0069]

72.410 Siting Standards. All structures located in the Industrial Zone shall be sited in compliance with BCC Chapter 99 and the following additional standards:

- (1) Either every site shall be adequately served by water, sewage disposal, sidewalks and improved roads, or final approval of the site development plan shall be contingent on assurances for the provision of the necessary facilities.
- (2) The setback to a road right-of-way shall be at least sixty (60) feet. Twenty-five (25) feet adjacent to the road right-of-way shall be utilized primarily for landscaping, fences, walls and driveways.
- (3) A side or rear setback shall be at least ten (10) feet, except when adjacent to a residential zone, in which case twenty-five (25) feet of landscaped buffer, including a visual screen of no less than five (5) feet in height, shall be provided.
- (4) No setback is required for a structure of 120 square feet or less. Except when adjacent to a residential zone, a side or rear setback for an accessory structure may be reduced to three (3) feet if the structure:
 - (a) Is detached from other buildings by five (5) feet or more;
 - (b) Does not exceed a height of twenty (20) feet; and
 - (c) Does not exceed an area of 500 square feet.
- (5) Architectural features shall not project more than two (2) feet into a required setback.
- (6) A structure which is not a water dependent use shall be placed at least fifty (50) feet from the ordinary high water line of any river or major stream. In the case of a creek and minor stream, a structure which is not a water dependent use shall be placed at least twenty-five (25) feet from the ordinary high water line.
- (7) Any structure within the Corvallis Urban Growth Boundary shall be at least twenty-five (25) feet from the edge of riparian habitat, evidenced by existing non-aquatic vegetation which is generally dependent upon a seasonally high table, or at least forty (40) feet from the edge of the drainageway, whichever is greater.
- (8) A landscape plan shall be submitted for the first twenty-five (25) feet of all setbacks adjacent to a road in compliance with the following minimum standards:
 - (a) Seventy-five percent (75%) of the area shall contain live landscape materials (grass, trees, or shrubs);
 - (b) A vision clearance area shall be maintained at the intersection of two rights-of-way or a right-of-way and a driveway. The vision clearance area shall extend thirty (30) feet from the intersection of the right-of-way lines or a right-of-way line and a driveway. No structure, vegetation or embankment shall be permitted in a vision clearance area in excess of two (2) feet in height above the center of the road or driveway; and
 - (c) Off-street parking areas and setbacks adjacent to non-industrial zoned areas shall be adequately landscaped and screened.

- (9) A structure shall not exceed sixty (60) feet in height. Structures such as chimneys, spires, domes, elevator shaft housings, towers, aerials, flagpoles, agricultural buildings, and other similar objects not used for human occupancy are not subject to the building height limitations of this code.
- (10) Off-street parking and loading comply with BCC 91.605 to 91.660.
- (11) Access shall be designed to cause minimum interference with traffic movements on abutting streets. Where necessary, additional rights-of-way shall be dedicated to maintain adequate traffic circulation. Setbacks shall be reviewed when requiring a dedication of an additional right-of-way.
- (12) The arrangement of buildings, parking areas, signs and other facilities shall be designed and oriented to minimize noise and glare effects on adjacent properties.
- (13) Artificial lighting, including illuminated signs and lights for parking areas, shall be arranged and constructed to avoid direct glare or unreasonable interference with the use and enjoyment of adjacent properties. [Ord 26, Ord 90-0069, Ord 92-0092]

Chapter 73

Philomath Light Industrial Zone (PLI)

73.005 Purpose. The Philomath Light Industrial Zone is intended to provide for light industrial development within the Philomath Urban Growth Boundary prior to annexation through the provisions of urban services in accordance with a municipal service agreement. [Ord 90-0069]

73.010 Standards for Application. The Philomath Light Industrial Zone shall apply to unincorporated areas designated for Light Industrial development in the Philomath Comprehensive Plan which are provided municipal water and sewer service subject to a delayed annexation agreement or municipal service agreement. [Ord 90-0069]

73.020 Permitted Uses. The following uses are allowed in the Philomath Light Industrial Zone:

- (1) The manufacture, assembly, processing, research or testing of materials or products, provided that a "Regular Discharge Permit" from the Oregon Department of Environmental Quality is not required.
- (2) Wholesaling, warehousing and storage of materials and products.
- (3) Commercial and service activities, including:
 - (a) Agricultural supply and equipment sales.
 - (b) Automobile sales and repair.
 - (c) Funeral parlor.
 - (d) Indoor recreation facilities.
 - (e) Machinery and equipment rental and sales.
 - (f) Professional offices.
 - (g) Restaurants, excluding drive-in restaurants.
- (4) Public utilities.
- (5) Transportation facilities including truck freight and distribution terminals.
- (6) Public facilities owned or operated by a governmental entity.
- (7) Accessory use or structure. [Ord 90-0069]

73.025 Conditional Uses. The following uses may be allowed in the Philomath Light Industrial Zone by conditional use permit approved by the Planning Official:

- (1) Auction house.
- (2) Church.
- (3) Communication transmission or receiver facility not in conjunction with another use.
- (4) Private heliport.
- (5) Single-family dwelling or manufactured dwelling in conjunction with a permitted or conditional use.
- (6) Horse riding and training facilities. [Ord 90-0069]

73.030 Minimum Parcel or Lot Size. There is no minimum parcel or lot size within the Philomath Light Industrial Zone. [Ord 90-0069, Ord-96-0118]

73.035 Site Development Plan. When a building addition, new construction, or placement of a structure is proposed in the Philomath Light Industrial Zone, the applicant shall submit a site development plan prior to the issuance of building permits. A site development plan shall contain an appropriate level of detail showing existing and proposed locations of buildings, access, parking, loading, landscaping, drainage, water supply, sewage disposal, public utilities, and exterior lighting. The plan shall demonstrate compliance with siting standards provided in BCC 73.040 and other provisions of this code. [Ord 90-0069]

73.040 Siting Standards. All structures located in the Philomath Light Industrial Zone shall be sited in compliance with BCC Chapter 99 and the following additional standards:

- (1) A front, side or rear setback abutting a residential zone shall be at least thirty (30) feet. This setback may be reduced by two (2) feet for each foot of wall height facing the property line. Up to one-third of a required setback may be used for parking.
- (2) There is no setback for a side or rear setback abutting a commercial and industrial zone.
- (3) Full lot coverage is permitted if setback and parking requirements are met.
- (4) Maximum structure height shall be 45 feet, or three (3) stories, which ever is greater.
- (5) No obstruction, including walls, structures, fences or shrubs greater than two and one-half (2.5) feet in height shall extend within twenty (20) feet of a point of two intersecting streets or a street and railroad, or within ten (10) feet of a point of an intersecting street and alley.
- (6) Exterior lighting shall be located in such a manner to neither face directly, shine or reflect glare onto an adjacent street or property.
- (7) All wiring for communication and power service up to 1,000 volts shall be located underground.
- (8) Sidewalks or bike paths shall be provided in accordance with appropriate standards, approved land development plans and access design.
- (9) All off-street parking areas and road approaches shall be paved with an asphaltic concrete or Portland cement concrete.
- (10) The site shall be landscaped according to the following minimum standards:
 - (a) One tree (a minimum of six (6) feet in height at the time of planting) per 900 square feet of required front setback area;
 - (b) One shrub per 200 square feet of required front setback area;
 - (c) Any parcel or lot abutting a residential zone shall screen outside storage or operation areas from view by the planting of a coniferous hedge or trees or the erection of a sight obscuring fence. The fence shall be at least six feet in height. Live plantings shall be selected to provide for a visual screen six (6) feet in height within five (5) years of planting;
 - (d) All selected landscaping species not tolerant to summer drought shall be served with an underground sprinkler system; and
 - (e) Dumpster stations shall be visually screened from public rights-of-way. [Ord 90-0069, Ord 96-0118]

Philomath Heavy Industrial Zone (PHI)

73.105 Purpose. The Philomath Heavy Industrial Zone is intended to provide for heavy industrial development within the Philomath Urban Growth Boundary prior to annexation through the provision of urban services in accordance with a municipal service agreement. Heavy industrial zoned areas are designed to accommodate uses which are generally incompatible with non-industrial urban uses. Designated areas should have good rail and/or highway access. [Ord 90-0069]

73.110 Standards for Application. The Philomath Heavy Industrial Zone shall apply to unincorporated areas designated for Heavy Industrial development in the Philomath Comprehensive Plan which are provided municipal water and sewer service subject to a delayed annexation agreement or municipal service agreement. [Ord 90-0069]

73.120 Permitted Uses. The following uses are allowed in the Philomath Heavy Industrial Zone:

(1) The manufacture, assembly, processing, research or testing of materials or products not requiring a conditional use permit, provided that all applicable State and federal health and pollution standards are met.

(2) All uses permitted in the Philomath Light Industrial Zone as identified in BCC 73.520. [Ord 90-0069]

73.125 Conditional Uses. The following uses may be allowed in the Philomath Heavy Industrial Zone by conditional use permit approved by the Planning Official:

(1) Airport.

(2) Automobile wrecking yard, junk yard.

(3) Cement, lime or similar products manufacture.

(4) Chemical manufacture.

(5) Explosives storage or manufacture.

(6) Extraction and processing of rock, sand, gravel, or other earth products.

(7) Incineration plant.

(8) Petroleum products manufacture or refining.

(9) Pulp mill.

(10) Rendering plant, tannery, slaughter house, feed lot.

(11) Smelting or refining of metallic ore or minerals.

(12) Solid waste disposal transfer station.

(13) Single-family dwelling or manufactured dwelling in conjunction with a permitted or conditional use.

(14) Accessory use or structure. [Ord 90-0069]

73.130 Minimum Parcel or Lot Size. There is no minimum parcel or lot size within the Philomath Heavy Industrial Zone. [Ord 90-0069, Ord 96-0118]

73.135 Site Development Plan. When a building addition, new construction, or placement of a structure is proposed in the Philomath Heavy Industrial Zone, the applicant shall submit a site development plan prior to the issuance of building permits. A site development plan shall contain an appropriate level of detail showing existing and proposed locations of buildings, access, parking, loading, landscaping, drainage, water supply, sewage disposal, public utilities, and exterior lighting. The plan shall demonstrate

compliance with siting standards provided in BCC 73.140 and other provisions of this code. [Ord 90-0069]

73.140 Siting Standards. All structures located in the Philomath Heavy Industrial Zone shall be sited in compliance with BCC Chapter 99 and the following additional standards:

- (1) A front, side or rear setback abutting a residential zone shall be at least fifty (50) feet. This setback may be reduced by three (3) feet for each foot of wall height facing the property line. Up to one-third of a required setback may be used for parking.
- (2) There is no setback to a side or rear parcel, lot, or property line abutting a commercial and industrial zone.
- (3) Full lot coverage is permitted provided setback and parking requirements are met.
- (4) Maximum structure height shall be sixty (60) feet, or three (3) stories, whichever is greater.
- (5) Exterior lighting shall be located in such a manner to neither face directly, shine or reflect glare onto an adjacent street or property.
- (6) All wiring for communication and power service up to 1,000 volts shall be located underground.
- (7) Sidewalks or bike paths shall be provided in accordance with appropriate standards, approved land development plans and access design.
- (8) All off-street parking areas and road approaches shall be paved with an asphaltic concrete or Portland cement concrete.
- (9) The site shall be landscaped according to the following minimum standards:
 - (a) One tree (a minimum of six (6) feet in height at the time of planting) per 900 square feet of required front setback area;
 - (b) One shrub per 200 square feet of required front setback area;
 - (c) Any parcel or lot abutting a residential zone shall screen outside storage or operation areas from view by the planting of a coniferous hedge or trees or the erection of a sight obscuring hedge. The fence shall be at least six (6) feet in height. Live plantings shall be selected to provide for a visual screen six (6) feet in height within five (5) years of planting;
 - (d) All selected landscaping species not tolerant to summer droughts shall be served with an underground sprinkler system; and
 - (e) Dumpster stations shall be visually screened from public rights-of-way. [Ord 90-0069, Ord 96-0118]

Chapter 74

Reserved for Expansion

Chapter 75

Reserved for Expansion

Chapter 76

Agricultural Industrial (AI)

76.005 Purpose. The Agricultural Industrial Zone shall provide areas where rural industry directly related to the area's agricultural and forestry resources can occur within Benton County. [Ord 26, Ord 90-0069, Ord 90-0077]

76.010 Application. The Agriculture Industrial Zone is applied to areas forestry and agricultural related industrial uses compatible with agriculture uses. Application of the Agricultural Industrial Zone to land designated for resource use by the County Comprehensive Plan shall require a Comprehensive Plan Amendment and an exception to applicable Statewide Planning Goals. [Ord 26, Ord 90-0069, Ord 90-0077]

76.015 Transitional Areas - Philomath. Certain areas near the Philomath Urban Growth Boundary are zoned Agricultural Industrial/Transitional (AI/T) as shown on the Official Zoning Map, indicating that these areas may be added to the Philomath Urban Growth Boundary in the future. [Ord 26, Ord 90-0069]

76.105 Permitted Uses. The following uses are allowed in the Agricultural Industrial Zone:

- (1) Agriculture related warehousing, packing, processing, or cold storage.
- (2) Sales, service, and storage of agriculture related vehicles and accessories and products required for farm use.
- (3) Winery.
- (4) One dwelling required for the employer or employee for management or safeguarding of the industrial use.
- (5) Farm use.
- (6) Forest use.
- (7) Accessory use or structure. [Ord 26, Ord 90-0069]

76.205 Conditional Uses. The following industrial uses may be allowed in the Agricultural Industrial Zone by conditional use permit approved by the Planning Official. [Ord 90-077]

- (1) Other agricultural related industrial uses which are not permitted pursuant to BCC 76.105.
- (2) The primary processing of forestry products including but not limited to the production of wood chips, veneer, or dimensial lumber. [Ord 90-0077]
- (3) The warehousing of forest products including but not limited to the storage of saw logs, dimensional lumber, other primary wood products or wood by-products. [Ord 26, Ord 90-0069, Ord 90-0077]

76.305 Minimum Parcel or Lot Size. The minimum parcel or lot size in the Agricultural Industrial Zone shall be one (1) acre. [Ord 26, Ord 90-0069, Ord 96-0118]

76.405 Site Development Plan. When a building addition, new construction, or placement of a structure is proposed in the Agriculture Industrial Zone, the applicant shall submit a site development plan prior to the issuance of building permits. A site development plan shall contain an appropriate level of detail showing existing and proposed locations of buildings, access, parking, loading, landscaping, drainage, water supply, sewage disposal, public utilities, and exterior lighting. The plan shall demonstrate compliance with siting standards provided in BCC 76.410 and other provisions of this code. [Ord 90-0069]

76.410 Siting Standards. All structures located in the Agriculture Industrial Zone shall be sited in compliance with BCC Chapter 99 and the following standards:

- (1) Either every site shall be adequately served by water, sewage disposal, improved roads, or final approval of the site development plan shall be contingent on assurances for the provision of the necessary facilities.
- (2) A setback to a road right-of-way shall be at least sixty (60) feet, of which twenty-five (25) feet adjacent to the road right-of-way shall be utilized exclusively for landscaping, fences, walls, and ingress/egress driveways.
- (3) A side or rear setback shall be at least thirty (30) feet, except the setback may be reduced to ten (10) feet if the abutting land is zoned for industrial use.
- (4) Architectural features shall not project more than two (2) feet into a required setback.
- (5) A structure which is not a water dependent use shall be placed at least fifty (50) feet from the ordinary high water line of any river or major stream. In the case of a creek or minor stream, a structure which is not a water dependent use shall be placed at least twenty-five (25) feet from the ordinary high water line.
- (6) No setback is required for a structure of 120 square feet or less. Except when adjacent to a residential zone, a required side or rear setback for an accessory structure may be reduced to three (3) feet if the accessory structure:
 - (a) Is detached from other buildings by five (5) feet or more;
 - (b) Does not exceed a height of twenty (20) feet; and
 - (c) Does not exceed an area of 500 square feet.
- (7) A vision clearance area shall be maintained at the intersection of two rights-of-way or a right-of-way and a driveway. The vision clearance area shall extend thirty (30) feet from the intersection of the right-of-way lines or a right-of-way line and a driveway. No structure, vegetation or embankment shall be permitted in a vision clearance area in excess of two feet in height above the center of the road or driveway.
- (8) Off-site parking and loading shall comply with BCC 91.604 to 91.660.
- (9) Access shall be designated to cause minimum interference with traffic movements on abutting streets. Where necessary, additional rights-of-way shall be dedicated to maintain adequate traffic circulation.
- (10) The arrangement of buildings, parking areas, signs and other facilities shall be designated and oriented to minimize noise and glare relative to adjacent properties.
- (11) Artificial lighting, including illuminated signs and lights for parking areas shall be arranged and constructed to avoid direct glare or unreasonably interference with the use or enjoyment of adjacent properties. [Ord 26, Ord 90-0069, Ord 92-0092]

Chapter 77

Landfill Site (LS)

77.005 Purpose. The Landfill Site Zone shall establish a specific landfill area in Benton County. [Ord 26I, Ord 90-0069]

77.010 Application. The Landfill Site Zone recognizes the existing site in the Coffin Butte area, and allows for its continued use pursuant to Oregon Department of Environmental Quality (DEQ) permits, Benton County Code Chapter 23, and an approved Site Development Plan. [Ord 26I, Ord 90-0069]

77.105 Permitted Uses. The following uses are allowed in the Landfill Site Zone:

- (1) Municipal solid waste disposal, in accordance with a Solid Waste Disposal Franchise and an approved Site Development Plan.
- (2) Recycling facilities.
- (3) Forestry and agricultural use as a conversion factor leading to reclamation of the site in the future.
- (4) Aggregate and mineral resource use in accordance with Oregon Department of Geology and Mineral Industry Permits.
- (5) Structures normally associated with the operation of a landfill.
- (6) Operation of equipment in conjunction with landfill operations.
- (7) Installation and operation of monitoring devices as required by DEQ such as leachate sample equipment, leachate treatment facilities, and vector control systems.
- (8) Landfill gas monitoring and recovery systems. [Ord 26I, Ord 90-0069]

77.205 Prohibited Uses. The following uses are prohibited in the Landfill Site Zone:

- (1) Hazardous waste disposal.
- (2) Disposal of materials prohibited by the Solid Waste Disposal Franchise. [Ord 26I, Ord 90-0069]

77.305 Conditional Uses Approved by the Planning Commission. Any proposal to expand the area approved for a landfill within the Landfill Site Zone is allowed by conditional use permit approved by the Planning Commission. The Benton County Environmental Health Division and the Solid Waste Advisory Council shall review and make recommendations through the Planning Official to the Planning Commission regarding the Site Development Plan Map and narrative. The Oregon Department of Environmental Quality shall be given an opportunity to review and comment on any proposal which may affect this site. [Ord 26I, Ord 90-0069]

77.310 Conditional Use Review. (1) The applicant for a conditional use permit shall provide a narrative which describes:

- (a) Adjacent land use and impacts upon adjacent uses;
- (b) Future use of site as reclaimed, and impacts of that reclamation on adjacent uses;
- (c) Provisions for screening of the site from public roads and adjacent property;
- (d) Egress and ingress; and
- (e) Other information as required by the Planning Official.

(2) A site plan map shall accompany a conditional use permit application. The map shall contain at least a scale, north arrow, assessor map numbers, location of existing landfill, access, proposed alteration, leachate treatment or monitoring areas surface water systems, and existing and proposed screening (location and types of materials). A statement shall be placed on the map that the site plan map and narrative together are considered as the Site Development Plan. A signature block shall be included for the date the approval is given and the signature of the Planning Official indicating approval.

(3) A conditional use permit application shall contain a reclamation plan describing present efforts and future reclamation plans related to the site.

(4) The following environmental and operational considerations shall be reviewed prior to changes in the documents referenced above:

- (a) Geology;
- (b) Groundwater and surface water;
- (c) Soil depth and classification, and erosion control factors;
- (d) Slope; and
- (e) Cover material availability, transportation, and use. [Ord 26I, Ord 90-0069]

77.405 Review of DEQ Permits. Copies of materials submitted to the Oregon Department of Environmental Quality as a part of any permit process shall be submitted to the Planning Official. If at any time the Planning Official determines that permit application materials or conditions of DEQ permit are judged to merit public review, a Public Hearing before the Planning Commission shall be scheduled. [Ord 26I, Ord 90-0069]

Chapter 78

Public (P)

78.005 Purpose. The Public Zone shall assure that uses of public lands are compatible with adjacent uses. [Ord 26, Ord 90-0069]

78.010 Application. The Public Zone may be applied to properties owned by federal, State, or local government agencies. [Ord 26, Ord 90-0069]

78.050 Use Overlay Zone. A Use Overlay Zone designation (/U) is applied to areas that have special restrictions on permitted and conditional uses. Uses on these properties have been restricted to comply with the requirements for Exceptions to Statewide Planning Goals (OAR 660-04-018). Permitted and conditional uses within a Use Overlay Zone are listed in the ordinance implementing the zone and supersede those listed in this Chapter. All other provisions of this Chapter are applicable. Use Overlay designations have been applied to the following areas:

(a) Peavy Arboretum. [Ord 92-0093]

78.105 Permitted Uses. The following uses are allowed in the Public Zone:

- (1) Farm use.
- (2) Forest use.
- (3) Public school, including a college or university and associated research facilities.
- (4) Public park.
- (5) Fairgrounds.
- (6) Water supply, water treatment facility, wastewater treatment facility, reservoir and other related facilities.
- (7) Biological research facility.
- (8) Airport and related facilities.
- (9) Accessory use or structure.
- (10) Caretaker dwellings in conjunction with a permitted use. [Ord 26, Ord 90-0069]

78.205 Conditional Uses. Any use which is not permitted within the Public Zone is allowed by conditional use permit approved by the Planning Official. [Ord 26, Ord 90-0069]

78.305 Minimum Parcel or Lot Size. (1) The minimum parcel or lot size for any parcel or lot designated "P-50" on the Official Zoning Map shall be fifty (50) acres.

(2) The minimum parcel or lot size for all other land in the Public Zone within the Corvallis Urban Growth Boundary shall be five (5) acres. [Ord 90-0069, Ord 96-0118]

78.405 Siting Standards. All structures allowed in the Public Zone shall be sited in compliance with BCC Chapter 99 and the following additional standards:

(1) A primary structure shall be placed at least thirty (30) feet from a property line and at least forty-five (45) feet from the edge of an existing roadway, whichever is greater. Architectural features shall not project more than two (2) feet into a required setback.

(2) An accessory structure shall not be placed closer than twenty (20) feet from any property line. No setback is required for an accessory structure of 120 square feet or less. A side or rear setback for an accessory structure may be reduced to three (3) feet if the structure:

- (a) Is detached from other buildings by five (5) feet or more;
- (b) Does not exceed a height of twenty (20) feet; and
- (c) Does not exceed an area of 500 square feet.

(3) A structure shall not exceed forty (40) feet in height. Structures such as chimneys, spires, domes, elevator shaft housings, towers, aeriols, flagpoles, agricultural buildings, and other similar objects not used for human occupancy are not subject to the building height limitations of this code.

(4) A structure which is not a water dependent use shall be placed at least fifty (50) feet from the ordinary high water line of any river or major stream. In the case of a creek or minor stream, a structure which is not a water dependent use shall be placed at least twenty-five (25) feet from the ordinary high water line. [Ord 26, Ord 90-0069, Ord 92-0092]

Chapter 79

Rural Service Center Zone (RSC)

79.005 Purpose. The Rural Service Center Zone shall provide standards and procedures for areas containing concentrations of local commercial services to meet the needs of rural residents, as well as limited tourist commercial services consistent with the maintenance of the rural character of the area. [Ord 90-0069]

79.010 Application. The Rural Service Center Zone may be applied to unincorporated areas designated by the Benton County Comprehensive Plan as rural service centers. [Ord 90-0069]

79.105 Permitted Uses. (1) The following uses are allowed in the Rural Service Center Zone:

- (a) Farm use, excluding hog and mink farms, subject to BCC 79.210.
- (b) One dwelling per lot(s) or parcel(s) containing at least 5,000 square feet.
- (c) Residential home.
- (d) Home occupation.
- (e) Park, cemetery, or playground, or community building.
- (f) Church, school, grange hall, community hall, or other similar non-profit community facility.
- (g) Day care for fewer than thirteen children.
- (h) Accessory use or structure.

(2) The following uses are allowed in the Rural Service Center Zone, subject to a site development plan:

- (a) Retail stores, office or service establishments.
- (b) Agriculturally oriented commercial use.
- (c) Day care center.
- (d) Television or radio station.
- (e) Restaurant or tavern. [Ord 90-0069, Ord 97-0131]

79.205 Conditional Uses. The following uses may be allowed in the Rural Service Center Zone by conditional use permit approved by the Planning Official:

- (1) One dwelling per lot(s) or parcel(s) containing less than 5,000 square feet.
- (2) Multi-family dwelling on lot(s) or parcel(s) containing at least 2,500 square feet per dwelling unit.
- (3) Residential facility.
- (4) Solid waste disposal site, including pickup and transfer centers licensed pursuant to BCC Chapter 23.
- (5) Facility for water supply water treatment, or wastewater treatment, and associated transmission facilities.
- (6) One manufactured dwelling as the only dwelling on a parcel or lot.
- (7) Transmission, reception or relay tower for broadcast signals.

- (8) Tourist or travelers accommodations.
- (9) Mobile home or manufactured dwelling park.
- (10) Recreational vehicle park or campground.
- (11) Kennel or animal hospital.
- (12) Automobile repair garage or service station.
- (13) Commercial amusement or recreation establishment.
- (14) Fire stations [Ord 90-0069, Ord 96-0118, Ord 99-0146]

79.210 Limitations on Uses. The following limitations shall apply to uses allowed by BCC 79.105(1) of this chapter. Animal husbandry and other similar agricultural practices permitted pursuant to BCC 79.105(1) shall be limited to the extent that the accumulation of solid waste by-products of a livestock operation as defined in BCC 21.005(6) shall not be detectable beyond the confines of parcels or lots engaged in farm use. The Planning Official in consultation with the Environmental Health Division may order the operator of a farm use in violation of this section to abate the nuisance by reducing the intensity of livestock on the parcel or lot, off-site disposal of solid waste or any other appropriate method of abatement. Failure to comply with an order will be considered a violation of this code subject to enforcement proceedings in Chapter 26 of the Benton County Code. [Ord 90-0069, Ord 96-0118, Ord. 99-0147]

79.305 Minimum Parcel or Lot Size. The minimum parcel or lot size in the Rural Service Center Zone shall be determined by the type of services currently serving a parcel or lot as follows:

- (1) If a parcel or lot is served by both an approved community, municipal or public water system and an approved community or public sewerage system, the minimum parcel or lot size shall be 6,000 square feet for each dwelling unit or commercial use.
- (2) If a parcel or lot is served by either an approved community, municipal, or public water system, or an approved community or public sewerage system, the minimum parcel or lot size shall be 20,000 square feet.
- (3) If a parcel or lot is not served by either an approved community, municipal or public water system or an approved community or public sewerage system, the minimum parcel or lot size shall be one acre. [Ord 90-0069, Ord 96-0118]

79.405 Site Development Plan. When a building addition, new construction, or placement of a non-residential structure allowed pursuant to BCC 79.105(2) or 79.205 is proposed in the Rural Service Center Zone, the applicant shall submit a site development plan prior to the issuance of building permits. A site development plan shall contain an appropriate level of detail showing existing and proposed locations of buildings, access, parking, loading, landscaping, drainage, water supply, sewage disposal, public utilities, and exterior lighting. The plan shall demonstrate compliance with siting standards provided in BCC 79.505 and other provisions of this code. [Ord 90-0069]

79.505 Siting Standards. All structures allowed in the Rural Service Center Zone shall be sited in compliance with BCC Chapter 99 and the following additional standards:

- (1) The setback to a road right-of-way shall be at least twenty (20) feet, except as provided for commercial structures sited pursuant to BCC 79.505(15).
- (2) The side setback shall be at least six (6) feet, unless a common or impervious wall is provided on a lot line, in conformance with the zero property line adjustment development standards in BCC 65.035.
- (3) The rear setback shall be at least twenty (20) feet.
- (4) Architectural features shall not project more than two (2) feet into a required setback.

(5) A structure which is not a water dependent use shall be placed at least fifty (50) feet from the ordinary high water line of any river or major stream. In the case of a creek or minor stream, a structure which is not a water dependent use shall be placed at least twenty-five (25) feet from the ordinary high water line.

(6) No accessory structure shall be built within a setback abutting a road. There is no required setback for structures of 120 square feet or less. A required side or rear setback for an accessory structure may be reduced to three (3) feet if the accessory structure:

- (a) Is detached from other buildings by five (5) feet or more;
- (b) Does not exceed a height of twenty (20) feet; and
- (c) Does not exceed an area of 500 square feet area.

(7) The primary building and all accessory buildings combined shall not cover more than thirty-five percent (35%) of the total parcel or lot area.

(8) A structure shall not exceed forty (40) feet in height. Structures such as chimneys, spires, domes, elevator shaft housings, towers, aeriels, flagpoles, agricultural buildings, and other similar objects not used for human occupancy are not subject to the building height limitations of this code.

(9) Off-street parking and loading shall be consistent with this code.

(10) Access shall be designed to cause minimum interference with traffic movements on abutting streets.

(11) The arrangement of buildings, parking areas, signs, and other facilities shall be designed and oriented to minimize noise and glare relative to adjacent properties.

(12) Artificial lighting, including illuminated signs and lights for parking areas, shall be arranged and constructed to avoid direct glare or unreasonable interference with the use and enjoyment of adjacent properties.

(13) All commercial uses, including parking and loading areas, shall be screened from adjoining residential property by the establishment and maintenance of a landscaped buffer or the erection of a sight-obscuring fence which meets the following standards:

- (a) A sight-obscuring fence must be a minimum of five (5) feet in height.
- (b) A landscaped buffer must be comprised of coniferous plant material which will achieve a height of five (5) feet within four (4) years of planting.

(14) Parking areas for commercial uses not located on an arterial or collector roadway, as designated in the County Comprehensive Plan, shall be located either in a side or rear yard, or be screened pursuant to BCC 79.505(13).

(15) A commercial building located on an arterial or collector, as designated in the County Comprehensive Plan, may be located with no front yard setback. [Ord 90-0069, Ord 92-0092, Ord 96-0118]

Chapter 80

Reserved for Expansion

Chapter 81

Reserved for Expansion

Chapter 82

Deleted [Ord 97-0131]

Chapter 83

Floodplain Management Overlay (/FP)

83.005 Purpose. The Flood Plain Management Overlay Zone shall implement the provisions of the National Flood Insurance Act of 1968 and the Flood Disaster Protection Act of 1973, thereby regulating certain areas subject to flooding in order to reduce the hazard of floods to life and property. [Ord 26, Ord 90-0069]

83.010 Application. (1) The Flood Plain Management Overlay Zone shall apply to all areas of special flood hazard identified by the Federal Insurance Administration in a report prepared by the Federal Emergency Management Agency (FEMA) entitled "The Flood Insurance Study for Unincorporated Areas of Benton County, Oregon", dated August 5, 1986, including the Flood Insurance Rate Maps, and Flood Boundary and Floodway Maps accompanying the report except as otherwise provided by this code. The maps were revised to reflect the Letter of Map Revision approved by FEMA on August 23, 1991. The Flood Insurance Study is hereby incorporated by reference into the Development Code and is on file at the Benton County Development Department.

(2) The Flood Plain Management Overlay Zone is divided into two subzones: the floodway and the floodway fringe. The boundaries of the floodway and the floodway fringe shall be those delineated on the Flood Boundary and Floodway Maps except as otherwise provided by BCC 83.010(3).

(3) Except as provided by this section, the floodway within the unincorporated portion of the Corvallis Urban Growth Boundary shall be based upon a 0.2 feet rise standard for an increase in the 100 year flood elevation rather than a one foot rise standard utilized by FEMA. The floodway boundary of streams within the unincorporated portion of the Corvallis Urban Growth Boundary shall be based upon maps prepared by the City of Corvallis which apply the 0.2 feet rise standard, except for sections of Jackson and Frazier Creeks between Route 99W and Highland Drive, where the FEMA floodway maps shall apply pursuant to BCC 83.010(1). [Ord 26, Ord 90-0069, Ord 92-0092]

83.015 Definitions. (1) For purposes of this chapter, "substantial improvement" means any repair, reconstruction, or improvement of a structure the cost of which equals or exceeds fifty percent (50%) of the actual cash value of the structure.

(2) For purposes of this chapter, "recreational vehicle" means a vehicle which is:

- (a) Built on a single chassis;
- (b) 400 square feet or less when measured at the largest horizontal projection;
- (c) Designed to self-propelled or permanently towable by a light duty truck; and
- (d) Designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use.

[Ord 26, Ord 90-0069, Ord 2000-0157]

83.105 Floodplain Boundary Determination; Use of Other Data. If it is uncertain whether any proposed development described in BCC 83.110(1) is located in the flood plain, it shall be clearly demonstrated to the satisfaction of the County Engineer that the site in question is not subject to flood hazard. When base flood elevation data has not been provided by the FEMA, the County Engineer shall obtain, review, and reasonably utilize any base flood elevation and floodway data available from federal, state, or other sources. [Ord 26, Ord 90-0069]

83.110 Permit Required. (1) A permit shall be obtained prior to construction of a new structure, substantial improvement to any structure, the placement of a manufactured dwelling, or the initiation of other land development activities including, but not limited to, mining, dredging, filling, grading, paving, excavation or drilling operations in the floodway or in the floodway fringe. Standard agricultural practices of a reoccurring character are exempt from the provisions of this chapter.

- (2) An application for a permit shall be submitted on a form provided by the Planning Official with plans, engineering calculations, and other information determined to be necessary for the review of the application by the Planning Official and County Engineer.
- (3) An application shall be reviewed by the Planning Official and County Engineer to determine:
 - (a) The applicability of provisions of this chapter.
 - (b) Compliance with provisions of this chapter.
 - (c) That the proposed development will not cause a significant negative effect on surrounding properties by changing the flow of flood waters or increasing flood elevations in the immediate vicinity.
- (4) The County Engineer may require the design and installation of mitigative measures necessary to comply with BCC 83.110(3)(c).
- (5) A permit shall not be issued until all necessary permits required by Federal or State law or County Ordinance have been secured. [Ord 26, Ord 90-0069, Ord 92-0092]

83.205 Floodway Determination; Restrictions. (1) The County Engineer shall determine whether any proposed development described in BCC 83.110(1) is located in a designated floodway as provided by BCC 83.010.

(a) If the proposed development is located in a designated floodway, the applicant shall clearly demonstrate that all encroachments, including fill, new construction, substantial improvements, and other development within the floodway would not result in any increase in flood levels during the occurrence of the base flood discharge.

(b) If the proposed development is located in a floodplain but not in a floodway as designated on the Flood Boundary and Floodway Map, the applicant shall clearly demonstrate that the cumulative effect of the proposed development shall not increase the water surface elevation of the base flood more than one (1) foot at any point.

(2) The applicant shall derive base flood elevation data using the same or similar engineering methods used for "The Flood Insurance Study of Unincorporated Areas of Benton County, Oregon". The County Engineer and the Federal Emergency Management Agency may provide technical assistance. The applicant shall provide for certification by a licensed professional engineer or architect that the proposed development complies with provisions of this section.

(3) Structural improvements and the placement of fill, other than in a public benefit such as a public improvement project, shall not be permitted within a floodway in the Corvallis Urban Growth Boundary as described in BCC 83.010(3). For the purposes of this section, public improvement projects include, but are not limited to, the construction of bridges, roads, and storm water detention facilities. Non-structural improvements, such as parking lots and other operations which do not introduce encroachments within the floodway, are permitted, provided that certification is submitted by a registered professional engineer that the permitted development shall not result in any increase in flood levels during the occurrence of the base flood discharge. [Ord 26, Ord 90-0069, Ord 92-0092]

83.210 General Development Standards. All development in the Flood Plain Management Overlay Zone shall comply with the following standards:

(1) All new construction and substantial improvements shall be anchored to prevent flotation, collapse, or lateral movement of the structure.

(2) All new construction and substantial improvements shall be constructed with materials and utility equipment resistant to flood damage. Builders shall use methods and practices that minimize flood damage.

(3) Electrical, heating, ventilation, plumbing, air-conditioning equipment and other service facilities shall be elevated above the base flood elevation, or shall be designed to prevent water from entering or accumulating within the components during conditions of flooding. All new and replacement water supply and sewage disposal systems shall be designed to minimize or eliminate infiltration of flood waters and discharge into floodwaters.

(4) Storage or processing of materials in a manner that would be hazardous in a flood shall be prohibited. [Ord 26, Ord 90-0069]

83.215 Special Siting Standards for Residential Structures and Recreational Vehicles. New and substantially improved dwellings and recreational vehicles in the Flood Plain Management Overlay Zone shall comply with the general development standards set forth in BCC 83.210 and the following standards:

(1) The lowest floor, including basement, of any new dwelling, or substantial improvement of a dwelling, or placement of a manufactured dwelling shall be elevated a minimum of one (1) foot above the base flood elevation. Applications for building permits shall be reviewed by the County Engineer to assure that proposed construction will be reasonably safe from flooding when considering historical data, high water marks, photographs of past flooding, etc., where available.

(2) A manufactured dwelling shall be securely anchored to prevent flotation, collapse or lateral movement, and shall be installed using methods and practices that minimize flood damage.

(3) A recreational vehicle placed within the A1-30, AH, AE, V1-30, V, and VE Flood Zones shall either:

(a) Be on the site for fewer than 180 consecutive days; or

(b) Be fully licensed and ready for highway use, on its wheels or jacking system, is attached to the site only by quick disconnect type utilities and security devices, and has no permanently attached addition; or

(c) meet the requirements for manufactured dwellings under subsections (1) and (2) of this section.

(4) Where the average grade elevation of a site cannot be determined by the County Engineer from available information, such as topographic maps, surveys of adjacent structures or road centerline elevations, the applicant shall submit a record of the average grade elevation as certified by an Oregon registered professional land surveyor. [Ord 26, Ord 90-0069, Ord 2000-0157]

83.220 Enclosed Areas Below Residential Structures. Areas below the lowest floor of a residential structure in the Flood Plain Management Overlay Zone may be fully enclosed if such areas are floodproofed below the base flood elevation. Such areas 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 shall either be certified by an Oregon registered professional engineer or architect or shall meet or exceed the following minimum criteria.

(1) A minimum of two openings having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding shall be provided;

(2) The bottom of all openings shall be no higher than one (1) foot above grade; and

(3) Openings may be equipped with screens, louvers, or other coverings or devices provided that they permit the automatic entry and exit of floodwaters. [Ord 26, Ord 90-0069]

83.223 Special Siting Standards for Garages and Other Accessory Structures. (1) In the alternative to compliance with BCC 83.225 (1), any garage, whether attached or detached to a dwelling, or any other accessory structure may be allowed if that construction:

(a) Complies with BCC 83.210;

(b) Has structural components capable of resisting hydrostatic and hydrodynamic loads and effects of buoyancy as certified by an Oregon registered professional engineer; and

(c) Is designed to automatically equalize hydrostatic flood forces on exterior walls by allowing the entry and exit of floodwaters as provided by BCC 83.220.

(2) As a condition of approval, the owner shall sign the following declaratory statement to be recorded in the County Deed Records for the parcel or lot upon which the building is constructed: This property is situated within a flood hazard zone as shown on the Flood Insurance Rate Maps prepared by the Federal Emergency Management Agency. The construction of a garage or other residential accessory structure is permitted by Benton County at an elevation below the base flood elevation for the site. In consideration for not constructing the first floor of the structure above the base flood elevation, the owner agrees that the structure will be used exclusively for the purpose declared on the building permit, and that the structure will not be used for any other occupancy without obtaining the necessary building permits from Benton County to convert the occupancy. This agreement further serves as notice to the owner and successors in interest that contents of the structure are not insurable against flood loss except as provided by the insurer. [Ord 92-0092, Ord 96-0118]

83.225 Special Siting Standards for Nonresidential Structures. New and substantially improved nonresidential structures in the Flood Plain Management Overlay Zone shall comply with the general development standards set forth in BCC 83.210 and the following standards:

(1) The lowest floor, including basement, of any new agricultural, commercial, industrial, or other nonresidential structure, or substantial improvement to such structure, shall be elevated a minimum of one (1) foot above the base flood elevation. Applications for building permits shall be reviewed by the County Engineer to assure that proposed construction will be reasonably safe from flooding when considering historical data, high water marks, photographs of past flooding, etc., where available.

(2) Enclosed areas below nonresidential structures that are elevated shall comply with the requirements described in BCC 83.220. [Ord 26, Ord 90-0069]

83.230 Exception to Elevating Agricultural Structures. In the alternative to compliance with BCC 83.225(1) any new or substantially improved agricultural structure may be allowed in the Flood Plain Management Overlay Zone if such structure is designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters. An agricultural structure means a nonresidential structure customarily provided in conjunction with farm use for which all improvements contained within and attached to said structures are otherwise exempt from building code requirements in accordance with the Oregon State Speciality Code. In addition, such structures shall comply with the requirements of BCC 83.210. Designs for meeting this requirement must either be certified by an Oregon registered professional engineer or architect or must meet or exceed the minimum criteria set forth in BCC 83.220. [Ord 26, Ord 90-0069]

83.235 Exception to Elevating Other Non-Residential Structures. (1) In the alternative to compliance with BCC 83.225(1), any nonresidential construction other than an agricultural structure may be allowed if that construction:

(a) Complies with BCC 83.210;

(b) Is floodproofed so that the portion of the structure below the base flood level is watertight with walls substantially impermeable to the passage of water;

(c) Has structural components capable of resisting hydrostatic and hydrodynamic loads and effects of buoyancy; and

(d) Is certified by an Oregon registered professional engineer or architect that the design and methods of construction are in accordance with accepted standards of practice for meeting provisions of this subsection based on their development and/or review of the structural design, specifications and plans.

(2) Where the average grade elevation of a site cannot be determined by the County Engineer from available information, such as topographic maps, surveys of adjacent structures or road centerline elevations, the applicant shall submit a record of such elevation data. Such data shall include the actual elevation to which the structure has been floodproofed and the average grade elevation at the site as certified by an Oregon registered professional land surveyor. [Ord 26, Ord 90-0069]

83.240 Notice of Floodproofing Implications. An applicant choosing to floodproof a nonresidential building pursuant to BCC 83.230 or BCC 83.235 shall be notified in writing that flood insurance

premiums will be based on rates that are one (1) foot below the floodproofed level (e.g. a building floodproofed to the base flood level will be rated as one (1) foot below that level). [Ord 26, Ord 90-0069]

83.300 Major Development Proposals. (1) Where the primary zone permits a subdivision, mobile home or manufactured dwelling park, or mobile home or manufactured dwelling subdivision, such use may be allowed in the Flood Plain Management Overlay Zone if:

- (a) Such use is consistent with the need to minimize flood damage;
- (b) The applicant demonstrates that public utilities and facilities such as water supply, sewage disposal, natural gas and electrical systems are located and constructed to minimize flood damage; and
- (c) The applicant demonstrates that adequate drainage has been provided to reduce exposure to flood damage.

(2) Where base flood elevation data has not been provided by FEMA or is not available from another authoritative source, the applicant shall provide such data if the proposed subdivision or park equals or exceeds fifty (50) lots or parcels, or five (5) acres. Such data shall be derived using the same or similar engineering methods used in "The Flood Insurance Study for Unincorporated Areas of Benton County, Oregon". [Ord 26, Ord 90-0069]

83.310 Alteration or Relocation of a Watercourse. The Planning Official shall notify adjacent communities and the Department of Land Conservation and Development of permit applications for alteration or relocation of a watercourse. The Planning Official shall submit evidence of such notification to FEMA. The County shall stipulate maintenance requirements for altered or relocated portion of any watercourse so that flood carrying capacity is not diminished as a condition of permit approval pursuant to BCC 83.710. [Ord 26, Ord 90-0069, Ord 2000-0157]

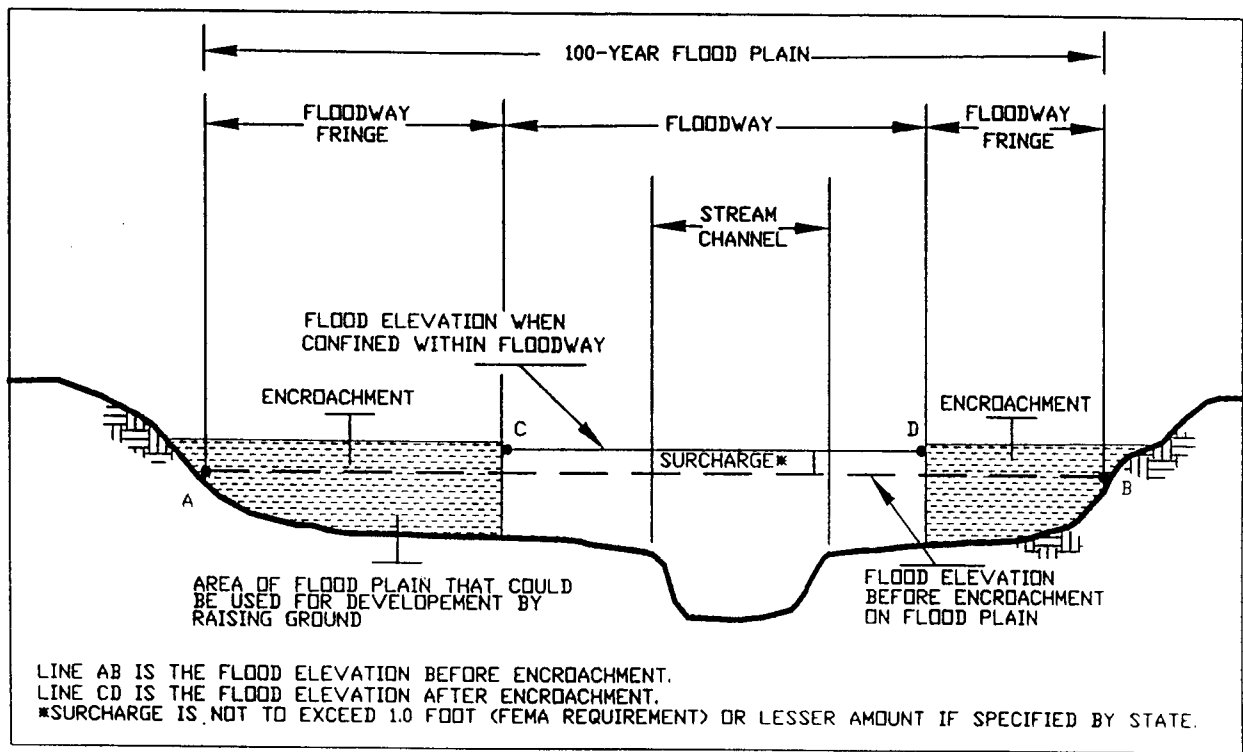
83.405 Records of Compliance. The County Building Official shall certify compliance with the provisions of this chapter.

(1) The County Building Official shall obtain and record the actual elevation of the lowest habitable floor (including basement) of all new and substantially improved structures subject to this section and indicate whether the building contains a basement.

(2) The County Building Official shall verify and record the actual elevation of all new and substantially improved floodproofed structures and obtain and maintain certifications required by BCC 83.220 and BCC 83.235(1).

(3) All records pertaining to compliance with the provisions of this chapter shall be maintained for public inspection by the County Building Official. [Ord 26, Ord 90-0069]

FLOODWAY RELATIONSHIPS



DRAWN BY: K. HARRIS
 PLOT DATE: 02-06-97
 Filename: D:\MPTD\FLOOD-87.dwg

Chapter 84

Greenway Management Overlay (/GM)

84.005 Purpose. (1) The Greenway Management Overlay Zone shall protect the natural, scenic, and recreational qualities of lands along the Willamette River in Benton County, and implement the goals and policies of the State of Oregon's Willamette River Greenway Program.

(2) Nothing in this chapter is intended to authorize public use of private property. Public use of private property is a trespass violation unless owner permission is given in a particular situation, or appropriate easements and access have been acquired in accordance with applicable laws. [Ord 26, Ord 90-0069]

84.010 Application. The Greenway Management Overlay Zone is applied to lands along the Willamette River identified on the Oregon State Highway Division Willamette River Greenway Maps on file at the Development Department, 180 N.W. 5th Street, Corvallis, which maps are incorporated by reference into this code. [Ord 26, Ord 90-0069]

PERMITTED USES

84.105 Permitted Uses. The following uses are allowed in the Greenway Management Overlay Zone:

(1) Existing gravel extraction operations operating under permit from the Oregon Department of Geology and Mineral Industries (DOGAMI) or Division of State Lands (DSL).

(2) Signs, markers, aids, etc., placed by a public agency on public lands to serve the public, or signs on private lands no larger than one and one half square feet to identify private property.

(3) Activities to protect, conserve, enhance and maintain public scenic, historical and natural uses on public lands.

(4) Recreational development including minor land alterations for drainage, portable chemical toilets, fire rings, fencing, signing, walking trails on State-owned lands and parks and other recreational facilities as designated in the Comprehensive Plan. More intensive recreational development requests shall be reviewed by the County Parks Board and by the Planning Official.

(5) Erosion control operations not requiring a permit from the Division of State Lands.

(6) Farm use.

(7) The cutting of timber for public safety, erosion control, or personal noncommercial use.

(8) Reasonable emergency procedures necessary to protect an existing use or facility for the safety or protection of property.

(9) Maintenance and repair of an existing use or improvement.

(10) Landscaping, construction of driveways, modifications of existing structures, and the construction or placement of accessory structures or facilities commonly provided in conjunction with existing improvements.

(11) Other legally existing uses, provided, however, that any change or intensification of such use shall require review as provided by this chapter. [Ord 26, Ord 90-0069]

CONDITIONAL USES

84.305 Conditional Uses. The following uses may be allowed in the Greenway Management Overlay Zone by conditional use permit approved by the Planning Official:

- (1) All permitted uses in the primary zone which are not permitted in the Greenway Management Overlay Zone.
- (2) Boat moorage.
- (3) Water intake and utilities not associated with a farm use, dwelling, or manufactured dwelling.
- (4) Facilities for the purpose of generating power for private or public use.
- (5) Dwelling.
- (6) Operations conducted or the exploration, mining, and processing of geothermal resources, aggregate, and other mineral resources or other subsurface resources. [Ord 26, Ord 90-0069]

84.310 Notice of Application for Conditional Use Permit. The Oregon Department of Fish and Wildlife, and the Parks and Recreation Division of the Oregon Department of Transportation shall be given notice by certified mail within two (2) days of receipt of an application for a conditional use permit in the Greenway Management Overlay Zone. Both agencies shall also be notified of the final decision taken by the County on such applications. [Ord 26, Ord 90-0069]

84.315 Conditional Use Criteria. The decision to approve a conditional use permit in the Greenway Management Overlay Zone shall be based on the following criteria as applicable. The proposed use shall:

- (1) Preserve and maintain existing agricultural lands for farm use.
- (2) Protect significant fish and wildlife habitats.
- (3) Protect and enhance significant natural and scenic areas, viewpoints and vistas.
- (4) Protect, restore, or enhance areas of ecological, scientific, historical, or archaeological significance.
- (5) Maintain or enhance the quality of the air and water in and adjacent to the river.
- (6) Retain in their natural state areas of annual flooding (the two and ten year flood plains), water areas, and wetlands to the maximum possible extent. Areas subject to the base flood level shall be retained in open space uses.
- (7) Maintain the natural vegetative fringe by all means practicable to assure scenic quality, protection of wildlife, protection from erosion, and screening of uses from the river.
- (8) Be compatible with the site, the surrounding area and the environment.
- (9) Protect areas which have erosion potential by means compatible with the natural character of the Greenway.
- (10) Satisfy recreational needs by public and private means in a manner consistent with the natural limitations of the land, and minimize conflicts with adjacent land uses.
- (11) Provide public safety and protection of public and private property, especially from vandalism and trespass.
- (12) Provide the maximum possible open space, natural vegetation, or landscaped area between the activity and the river.

(13) Provide public access to and along the river including pedestrian, bicycle, and water-related uses as necessary to implement the Greenway Plan within urbanizing areas.

(14) Meet applicable criteria for the review of boat moorage set forth by the Parks and Recreation Division of the Oregon Department of Transportation. [Ord 26, Ord 90-0069]

84.320 Aggregate Extraction in the Greenway. In addition to complying with the requirements of BCC 84.315, conditional use permits for extraction of known aggregate deposits shall demonstrate that such operations will be conducted in a manner designed to minimize adverse effects on prime agricultural soils, water quality, fish and wildlife, recreation areas, vegetation, bank stability, stream flow, visual quality, and public safety, and to guarantee necessary reclamation for approved subsequent use. Mining of point bars is considered an effective method of minimizing bank erosion. [Ord 26, Ord 90-0069]

84.405 Siting Standards. All structures allowed in the Greenway Management Overlay Zone shall be sited in compliance with the standards of the primary zone, BCC Chapter 99, and the following additional standards:

(1) No structure or use shall be placed in a manner likely to cause contamination of a stream, lake or other body of water as established by the Oregon Department of Environmental Quality.

(2) A structure which is not a water dependent use shall not be placed closer than 75 feet of the ordinary high water line of any stream or river. [Ord 26, Ord 90-0069]

Chapter 85

Flexible Industrial Overlay (/FI)

85.005 Purpose. The Flexible Industrial Overlay Zone shall ensure the orderly industrial development of six specific parcels or lots situated within the Corvallis Urban Growth Boundary. [Ord 26J, Ord 90-0069, Ord 96-0118]

85.105 Development Options. (1) The property owner may choose either one or a combination of the following options:

- (a) One use per ten acre parcel or lot created from each parent parcel. The minimum parcel or lot size for this option is ten acres.
- (b) Parcels or lots of less than ten acres shall be contiguous. One use per parcel or lot shall be permitted.

(2) The total number of parcels or lots allowed per parent parcel is shown below. Subsequent division of the parent parcel in excess of the total shown below shall not occur prior to annexation:

<u>Parent Parcel Number*</u>	<u>Acreage</u>	<u>Number of Parcels or Lots Per Parent Parcel</u>
16	23	2
22	45	4
24	65	6
25	57	5
26	54	5
27	57	5

*These parent parcels are identified in the "Corvallis Area Industrial Land Report", January 1982, OD4COG, on file in the office of the Benton County Development Department, 180 N.W. 5th Street, Corvallis, which report is incorporated by reference into this code. [Ord 26J, Ord 90-0069, Ord 96-0118]

85.205 Permitted Uses. The following uses are permitted in the Flexible Industrial Overlay Zone:

- (1) Light industrial uses:
 - (a) Production, processing, assembling, packaging, or treatment of food products from previously processed materials.
 - (b) Production, processing, assembling, and packaging of finished products from previously prepared materials.
 - (c) Manufacturing and assembling of electronic instruments and equipment and electrical devices.
- (2) Commercial uses: animal sales and services (commercial kennels, veterinary), automobiles and equipment repairs (heavy, light, and farm equipment), wholesaling, storage and distribution (light).
- (3) Agricultural uses: horticulture (cultivation, storage), packing and processing (limited).
- (4) Permitted accessory uses. One dwelling or manufactured dwelling shall be permitted per development site and shall be developed simultaneously with or following development of primary and accessory uses. Such dwelling or manufactured dwelling shall be arranged and related to the principal

use and located for principal services to the employees or users of one or more of the primary uses on the same development site. [Ord 26J, Ord 90-0069]

85.210 Review of Permitted Uses. (1) The Planning Official shall review permitted uses in the Flexible Industrial Overlay Zone that require a Minimal Source Permit or a Regular Discharge Permit from the Oregon Department of Environmental Quality (DEQ). If the Planning Official determines that the scope of a specific request requires a public hearing, the Planning Official may refer the request to the Planning Commission.

(2) Uses shall be permitted only when the Planning Official or Planning Commission finds that public health, safety, and welfare associated with surrounding land uses will not be adversely affected based on technical findings regarding environmental quality performance standards. Approval by DEQ may be required before final action is taken by the Planning Official or Planning Commission.

(3) When it appears that noise, dust, odors, emissions, or other adverse environmental impacts will extend outside the boundary of a parcel or lot upon which development is proposed, the Planning Official or Planning Commission shall impose conditions reducing such adverse environmental impacts so that the use will not create a public nuisance. [Ord 26J, Ord 90-0069, Ord 96-0118]

85.305 Development Requirements. (1) Any application for a land use decision or building permit for these parcels or lots made to the County will obligate the property owner of the entire parent parcel and the owner of any parcel or lot created as a result of a land use decision or building permit approval to agree not to remonstrate against annexation to the City of Corvallis, and each party shall agree not to remonstrate against the formation of a local improvement district for the installation of public services in the future.

(2) The following material shall be submitted with all development applications in accordance with the standards and conditions of this chapter:

- (a) An access plan for the development area and for the parent parcel.
- (b) A plan showing the location of future city services and utilities.
- (c) A map depicting natural drainageways. [Ord 26J, Ord 90-0069, Ord 96-0118]

85.405 Development Standards. All structures allowed in the Flexible Industrial Overlay Zone shall be sited in compliance with the standards of the primary zone, BCC Chapter 99, and the following additional standards:

(1) Access shall be consolidated to cause minimum interference with traffic movements on abutting streets. Where necessary, additional rights-of-way shall be dedicated to maintain adequate traffic circulation.

(2) Where access is proposed to a State highway, approval by and compliance with the requirements of the Oregon State Highway Division is required.

(3) Easements for future city services and utilities shall be granted.

(4) Nonremonstrance agreements for future city services and utilities shall be signed.

(5) A consent to annex shall be signed. [Ord 26J, Ord 90-0069]

Chapter 86

Airport Overlay (/A)

86.005 Purpose. The Airport Overlay Zone shall enhance the utility of the Corvallis Municipal Airport by preventing the establishment of any structure or use of land which unreasonably obstructs the airspace required for the safe flight of aircraft in landing or taking off or is otherwise hazardous to such landing or taking off of aircraft. The Airport Overlay Zone is intended to implement recommendations contained in the Corvallis Municipal Airport Master Plan, 1990 - 2010, hereby incorporated by reference. [Ord 90-0069, Ord 92-0092]

86.010 Definitions. (1) "Primary surface" means an imaginary rectangular surface at ground level longitudinally centered on each runway. The primary surface is 1,000 feet wide for Runway 17-35, 500 feet wide for Runway 9-27, and extends 200 feet beyond the end of each runway.

(2) "Approach surface" means an imaginary inclined surface at the end of each runway. It is horizontally centered on the extended runway centerline, extending outward and upward from the end of the primary surface.

(a) The approach surfaces for Runways 9 and 27 (east-west) extend for a distance of 5,000 feet from the end of the primary surface being 500 feet in width where it abuts the primary surface, and 1,500 feet wide at its farthest point.

(b) The approach surface for Runway 35 (south) extends for a distance of 10,000 feet from the end of the primary surface, being 1,000 feet in width where it abuts the primary surface, and 3,500 feet in width at the southern boundary.

(c) The approach surface for Runway 17 (north) extends for a distance of 10,000 feet from the end of the primary surface, being 1,000 feet in width where it abuts the primary surface, and 4,000 feet in width at the northern boundary.

(3) Horizontal Surface. A horizontal plane 150 feet above the established airport elevation, the perimeter of which is constructed by swinging arcs of 5,000 feet from the center of each end of the Primary Surface of Runway 9-27 and 10,000 feet from the center of each end of the Primary Surface of Runways 17-35 and connecting the adjacent arcs by lines tangent to those arcs.

(4) Conical Surface. Extends twenty (20) feet outward for each one foot upward (20:1) for 4,000 feet beginning at the edge of the horizontal surface and upward extending to a height of 350 feet above the airport elevation.

(5) Transitional Zones. Extend seven (7) feet outward for each one foot upward (7:1) beginning on each side of the Primary Surface which point is the same elevation as the runway surface, and from the sides of the approach surfaces thence extending upward to a height of 150 feet above the airport elevation (Horizontal Surface). [Ord 90-0069]

86.015 Standards of Application. (1) The Airport Overlay Zone shall apply to all lands in unincorporated Benton County lying within the Clear Zone Approach Safety Zone and Buffer Zone described as follows:

(a) The Clear Zone includes the land under that portion of the approach surface of each runway which includes an area centered on the extended centerline of the primary surface and an area adjoining the Primary Surface being of a width and length specified in the diagrams contained in BCC 86.015(2).

(b) The Approach Safety Zone includes the land under that portion of the approach surface of each runway, outside the Clear Zone and the land area under the Transitional Surface including an area center on the extended center line of the primary surface and runway being of a width and length specified in the diagrams contained in BCC 86.015(2).

(c) The Buffer Zone includes that area within 14,000 feet of the center line of Runway 17-35 not including the Clear Zone and Approach Safety Zone.

(2) The length and width of the Clear Zone and Approach Safety Zone as measured from the centerline or extended centerline of the airport's runway for each runways as shown on the following diagram for Runways 9, 27, 17, and 35. [Ord 90-0069]

86.105 General Restrictions. No use in the Airport Overlay Zone shall:

- (1) Create electrical interference with navigational signals or radio communication between the airport and aircraft;
- (2) Make it difficult for pilots to distinguish between airport lights and others;
- (3) Result in glare in the eyes of pilots using the airport;
- (4) Impair visibility in the vicinity of the airport; or
- (5) Create bird strike hazards; or
- (6) Otherwise endanger or interfere with the landing, takeoff, or maneuvering of aircraft intending to use the airport. [Ord 90-0069]

86.110 Clear Zone Restrictions. No above grade structures are permitted within the Clear Zone except those airport related facilities approved by state and federal aeronautic agencies. [Ord 90-0069]

86.115 Approach Safety Zone Restrictions. The following uses are prohibited in the Approach Safety Zone:




- (1) Place of public assembly, such as a school, church, grange, community hall or day care center or other similar facilities.
- (2) Industrial discharge impairing visibility, including smoke or steam pollution sources.
- (3) Above ground utility facilities such as television/radio transmission towers, wind generating towers, water towers, and overhead lines except service lines.
- (4) Activities that create bird strike hazards such as water impoundment, or hunting or fishing reserves.
- (5) Parks and campgrounds.
- (6) Any structure which exceeds a height greater than fifty (50) feet above the elevation of the associated primary surface (MSL), except as otherwise determined to be in accordance with the height limits established by the Corvallis Airport Master Plan.
- (7) Residential dwelling within 5,000 feet of the Primary Surface. [Ord 90-0069, Ord 92-0092]

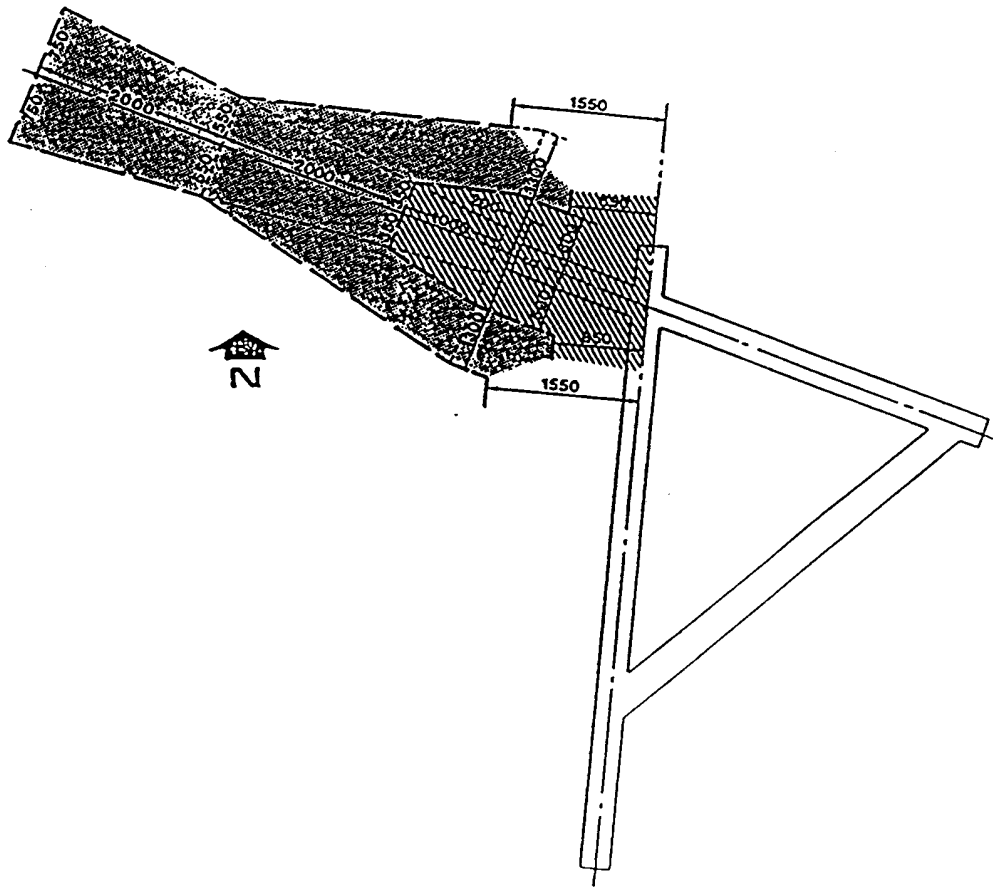
86.120 Buffer Zone Restrictions. No structure within the Buffer Zone shall exceed a height greater than 396 feet (MSL) except as otherwise determined to be in accordance with the height limits established by the 1979 Corvallis Airport Master Plan. [Ord 90-0069]

86.125 Covenant Required. Prior to the issuance of a building permit or approval of land use request within the Approach Safety Zone or portions of the Buffer Zone within 1500 feet of a runway, taxiway, hanger or aircraft storage area, an applicant shall submit to the Planning Official for recording a signed covenant recognizing noise impacts resulting from airport operations and waiving rights to remonstrate against the same. The Planning Official shall provide a copy to the Corvallis Airport Manager. [Ord 90-0069]




86.205 Notice of Construction. The proponent of proposed construction or alteration on land located within the Airport Overlay Zone shall contact the Northwest Mountain Region, Federal Aviation Administration, Seattle, Washington, to determine whether the proponent is required to submit FAA Form 7460-1 (Notice of Proposed Construction). A copy of such form must also be submitted to the Aeronautics Division of the Oregon Department of Transportation. [Ord 90-0069]

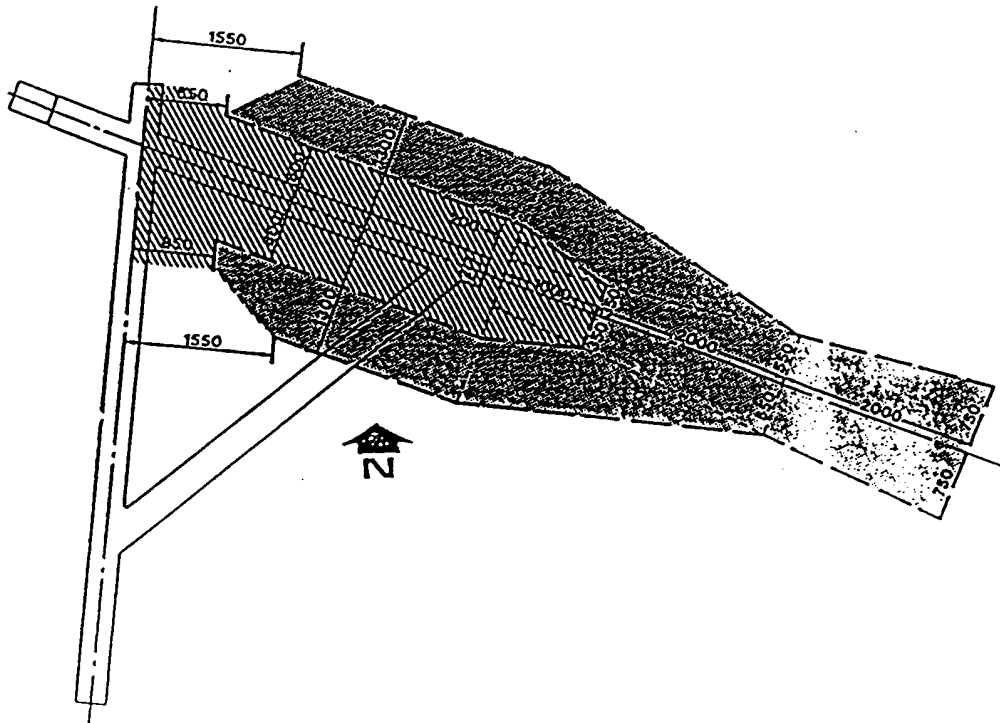
Runway 9

-  Clear Zone
-  Approach Safety Zone
-  Buffer Zone

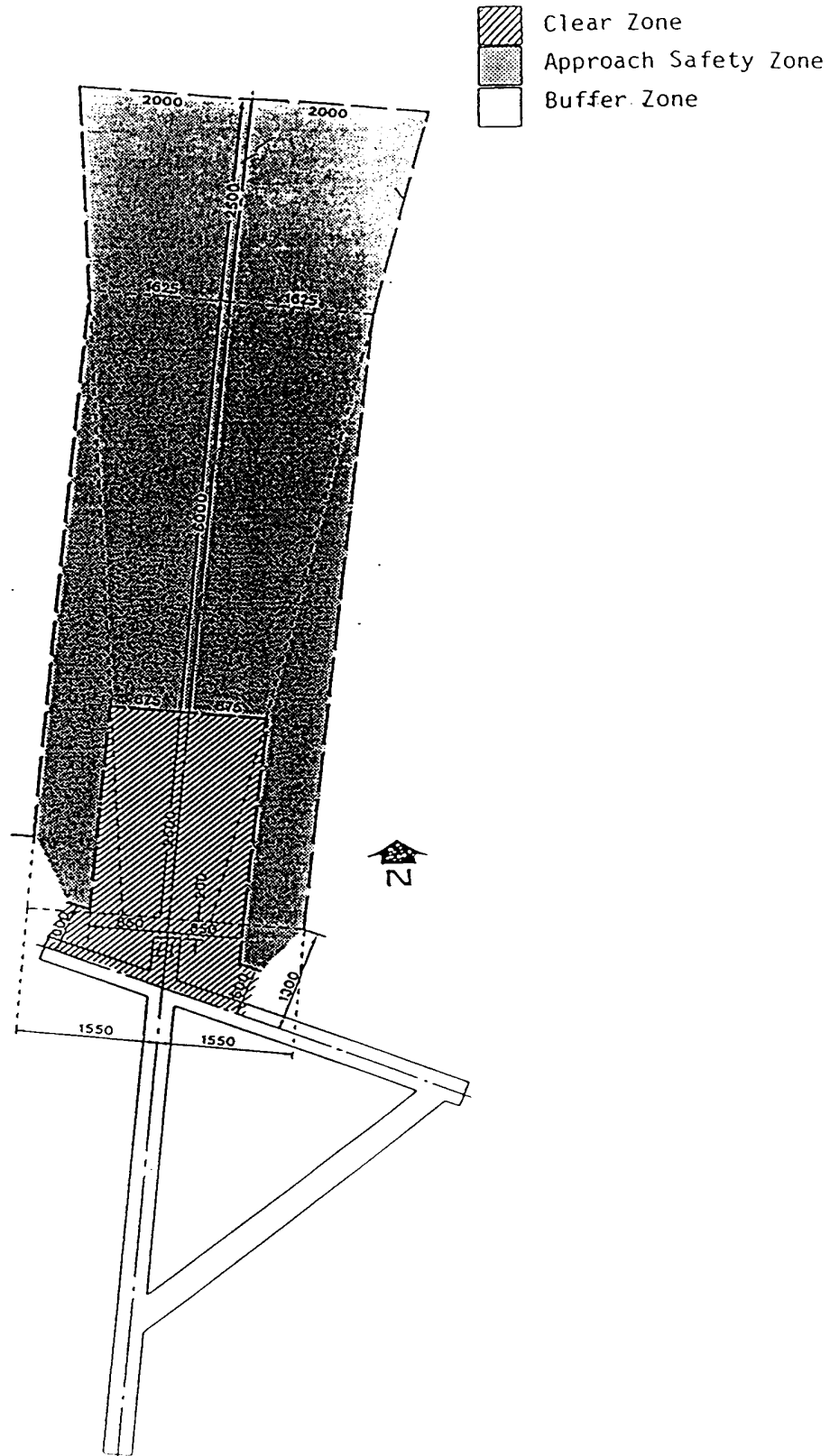


Runway 27




-  Clear Zone
-  Approach Safety Zone
-  Buffer Zone

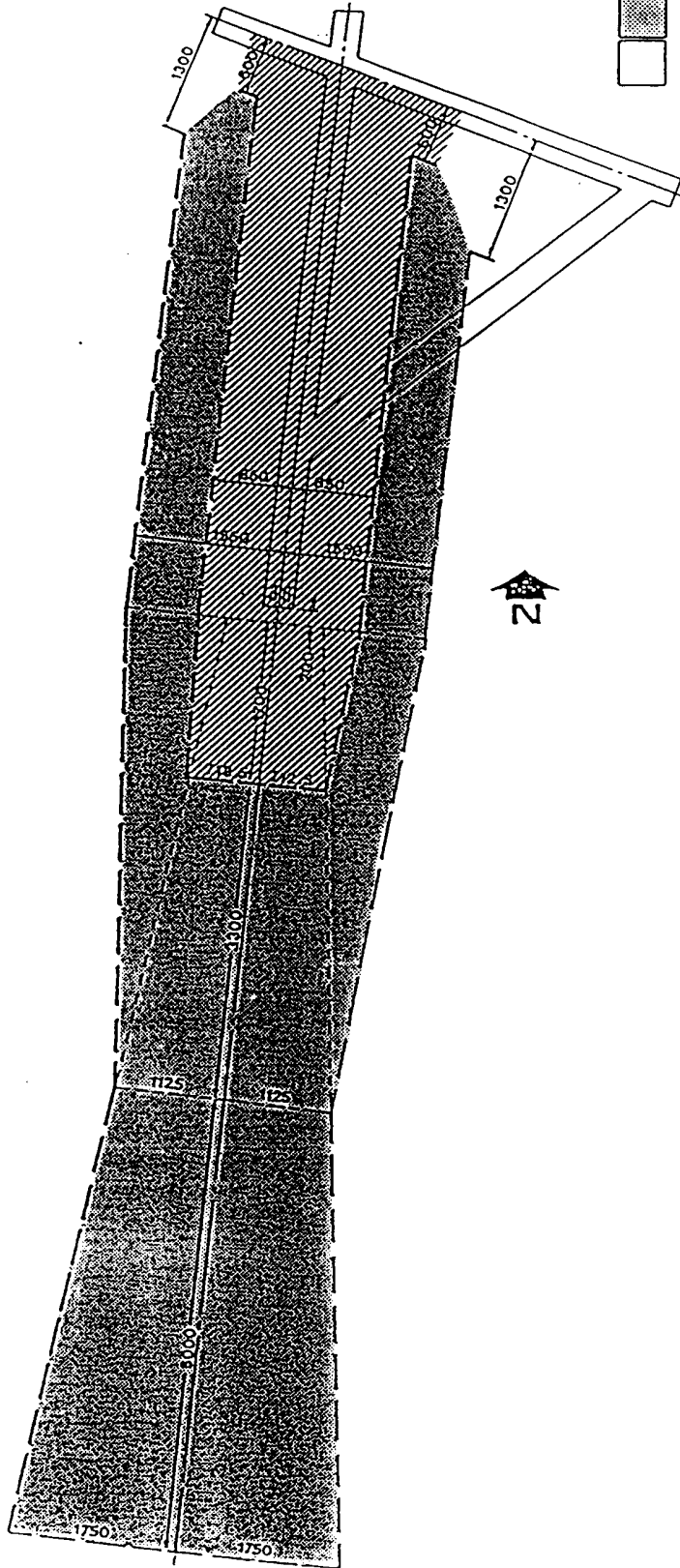


Runway 17



Runway 35

-  Clear Zone
-  Approach Safety Zone
-  Buffer Zone



Chapter 87

Goal 5 Resources

WETLAND OVERLAY (/W)

87.005 Purpose. The Wetland Overlay Zone shall provide for wetland protection in accordance with Statewide Planning Goal 5. [Ord 91-0080]

87.010 Application. The Wetland Overlay Zone shall apply to the Jackson-Frazier Wetland as inventoried in the February, 1991 ESEE Analysis adopted into the Natural Resources and Hazards Background Report of the Benton County Comprehensive Plan. [Ord 91-0080]

87.020 Uses and Activities. The following uses and activities may be permitted within the Wetland Overlay subject to the criteria contained in BCC 87.025 and other provisions of this Code.

- (1) Conservation or preservation of soil, water, vegetation, fish and other wildlife.
- (2) Outdoor recreational activities, such as fishing, birdwatching, or hiking.
- (3) Management activities to maintain or enhance wetland values, including mowing, spraying, prescribed burning, herbicide application, selective vegetation removal, maintenance of drainage ditches and other drainage controls.
- (4) Education and Scientific Research. [Ord 91-0080]

87.025 Review Criteria. The development of facilities or the installation of land improvements related to uses and activities identified in BCC 87.020 shall;

- (1) Utilize the best available management practices; and
- (2) Not result in any adverse impact to the identified natural values of the wetland which are recognized in the ESEE Analysis. [Ord 91-0080]

SURFACE MINING OVERLAY ZONE (/SM)

87.100 Purpose. The Surface Mining Overlay Zone shall protect significant aggregate and mineral resources from conflicting uses. [Ord 91-0080]

87.110 Application. The Surface Mining Overlay Zone shall be applied to the impact area for a specific surface mining site. Expansion of an existing site or establishment of a new site for removal and processing of mineral or aggregate resources may be reviewed to determine the significance of the potential site. A significant site shall be added to the Comprehensive Plan inventory of mineral and aggregate sites for protection pursuant to Statewide Planning Goal 5. The provisions for the Surface Mining Overlay Zone shall be determined on a site-specific basis in order to resolve those conflicts identified through the analysis of the economic, social, environmental, and energy consequences. The provisions of the Surface Mining Overlay Zone shall be the provisions set forth in the management plan for that site adopted pursuant to BCC 87.130 to 87.140. Such protection does not exempt the use from the provisions of the primary zone. [Ord 91-0080]

87.120 Procedure for Application. A person may initiate a zone change pursuant to BCC 53.505 to 53.525 and an amendment to the Comprehensive Plan pursuant to BCC 53.605 to 53.625 for protection of the mineral or aggregate site pursuant to Statewide Planning Goal 5. An application shall include the following information:

- (1) An estimate of the quantity of the resource, in cubic yards, as determined by drilling, digging test holes, or other survey methods.

(2) A description of the quality of the resource, including a statement of compliance with federal, state, or local standards issued by a certified lab according to the following applicable methods:

- (a) Resistance to Abrasion (AASHTO Designation T96, ASTM Designation C131, OSHD Test Method 211);
- (b) Sodium Sulfate Soundness (OSHD Test Method 206);
- (c) Oregon Air Degradation (OSHD Test Method 208); or
- (d) Other test methods appropriate for the type of resource.

(3) If the resource does not comply with the federal, state, or local standards as required in subsection (2) of this section, the description of quality shall be supported by a market analysis of the product, including such factors as use of the product, distance to market, and transportation routes.

(4) Site map showing the location of test holes and approximate limits of the resource.

(5) Description of the method(s) of extraction, including types of machinery.

(6) Vicinity map outlining the area which may be impacted by extraction operations, considering such factors as equipment noise, dust dispersion, range of projectiles, and seismic effects from blasting. The map shall show all property lines, public and private roads, existing land uses, existing structures, and water bodies within the potential impacted area. The area delineated as the potential impacted area shall be considered the affected area for purposes of public notice. Included with the map shall be pertinent information which provides the rationale for the boundary of the potential impacted area.

(7) Identification of all existing uses which may conflict with extraction of the resource, and all uses reasonably expected to occur within the zone which may conflict with extraction of the resource.

(8) A copy of the reclamation permit application to the Oregon Department of Geology and Mining Industries, if available. [Ord 91-0080]

87.130 Surface Mining Site Management Plan. (1) The Planning Commission shall conduct a public hearing pursuant to BCC 51.705 to 51.725 to review the proposed zone change and Comprehensive Plan amendment.

(2) Notice of the public hearing shall be mailed to the Oregon Department of Fish and Wildlife, and to landowners within the potential impacted area pursuant to BCC 51.605 to 51.625.

(3) The Planning Commission shall determine the economic, social, environmental, and energy (ESEE) consequences of any conflicting uses on the resource site. If any conflicting use is subject to other Statewide Planning Goals, the ESEE consequences of both resources shall be determined.

(4) The Planning Commission shall analyze the ESEE consequences and formulate the provisions for a site-specific management plan within the framework of one of the following options:

(a) Protect the resource site. All conflicting uses are prohibited within a designated impacted area. The resource site shall be of sufficient importance relative to conflicting uses, and the ESEE consequences of conflicting uses shall be of sufficient magnitude, to prohibit conflicting uses from the defined impacted area. The management plan shall specify what conflicting uses are prohibited.

(b) Allow conflicting uses fully. No conflicting uses are prohibited on the site or in the impacted area. The conflicting uses shall be of sufficient importance relative to the resource site to allow all conflicting uses to be developed to the fullest extent permitted by the zone(s), irrespective of ESEE consequences. No management plan shall be prepared and no overlay zone shall be applied.

(c) Limit conflicting uses. Conflicting uses are allowed within given parameters. Conflicting uses may be limited to an extent which affords a desired degree of protection to the resource site. The management plan shall specify what conflicting uses are allowed to the fullest extent permitted by the zone(s), what conflicting uses are prohibited, and which uses are allowed subject to standards or limitations intended to protect the resource site.

(5) The Planning Commission shall make a recommendation to the Board of Commissioners on the significance of the resource site and on the overlay zone and management plan.

(6) The Planning Commission shall adopt findings regarding:

(a) The significance of the resource site in terms of location, quality, and quantity of the resource, based on the information contained in the application; and that

(b) The proposed management plan to be implemented through the overlay zone, if any, affords the protection to the resource site required by Statewide Planning Goal 5 while balancing the applicability of other Statewide Planning Goals.

(7) The Board of Commissioners shall dispose of the recommendation pursuant to BCC 53.525 and 53.625. The management plan shall be adopted by ordinance. Findings adopted by the Board of Commissioners shall be included on the Comprehensive Plan inventory of mineral and aggregate sites protected under Statewide Planning Goal 5. [Ord 91-0080]

SENSITIVE FISH AND WILDLIFE HABITAT OVERLAY (/FW)

87.200 Purpose. The Sensitive Fish and Wildlife Habitat Overlay Zone shall protect sensitive habitats not protected by other programs such as the Willamette River Greenway Program, the Oregon Forest Practices Act or the "Cooperative Agreement between the Board of Forestry and the Fish and Wildlife Commission." The zone shall protect areas that have been identified by Oregon Department of Fish and Wildlife or Oregon Department of Forestry as containing a significant nesting, or roosting site or watering habitat for species that are classified as threatened or endangered and areas designated as sensitive bird nesting, roosting, or watering sites. Habitat protection shall be achieved through the use of site specific management plans that ensure that proposed uses and activities will not destroy or result in the abandonment of these areas. [Ord 91-0080, Ord 93-0098]

87.210 Application. (1) The Sensitive Fish and Wildlife Habitat Overlay Zone shall be applied to all Northern Bald Eagle nests and roosts, Spotted Owl nests, Osprey nests, Great Blue Heron rookeries, and Band-tailed Pigeon mineral springs.

(2) Unless alternatively identified by using cultural boundaries, waterways, topography, or through a site specific evaluation of significant habitat components, an established Sensitive Fish and Wildlife Habitat Overlay Zone shall include the area:

(b) Within 600 feet of a Great Blue Heron rookery or band-tailed Pigeon mineral spring.

(3) (a) Within 1/4 mile of a Northern Bald Eagle nest or roosting site, Spotted Owl nest, or Osprey nest; or

The County shall initiate a review of the application of this zone at the request of the property owner or ODFW if a significant change in habitat has occurred. [Ord 91-0080]

87.220 Development Permit Review Required. Within the Sensitive Fish and Wildlife Habitat Overlay Zone, the removal of trees, except for public safety or erosion control, or any development activity which requires a permit shall be subject to the review procedure and evaluation criteria set forth in BCC 87.230. The provisions of this chapter do not apply to land use actions that are under the jurisdiction of the Oregon Forest Practices Act. [Ord 91-0080, Ord 93-0098]

87.230 Review Procedure and Evaluation Criteria. (1) The County shall notify Oregon Department of Forestry (ODF) and Oregon Department of Fish and Wildlife (ODFW) of any permit proposal or tree removal within the Sensitive Fish and Wildlife Habitat Overlay Zone within seven days of the permit request. ODF and ODFW shall review the request and submit a determination of impact report to the County within 14 days of the date of notification. The report shall include conclusions regarding the consequences of allowing the proposed use to occur. If ODF and ODFW provide a finding of no impact, or if no response is received by the end of the 14 day comment period, the provisions of this Section do not apply.

(2) Submittal of a report concluding that a significant impact may occur from the proposed use shall be supported by findings that either:

(a) The proposed use would be located within 600 feet of Northern Bald Eagle nest or roosting site, Spotted Owl nest, or Osprey nest or within 300 feet of a Great Blue Heron rookery or a Band-tailed Pigeon mineral spring; or

(b) Due to unique site conditions such as topography, a proposed use located outside the area established in BCC 87.210(2) but within the overlay zone will impact the habitat. ODFW shall provide the basis for such a finding in its determination of impact report.

(3) A site specific habitat management plan shall be submitted to the County by ODF or ODFW within 14 days of the determination of impact report. The plan shall consider nesting trees, critical nesting periods, roosting sites, buffer areas, and any other relevant factors and shall also identify measures that would specifically limit the proposed use in a manner consistent with BCC 87.200. ODF and ODFW shall consult with the permit applicant, site landowners, and other persons and agencies in developing the management plan.

(4) If a determination of impact is made, the County shall review the applicant's development plan, the habitat management plan, and other relevant information. The County shall impose conditions on the proposed use in order to ensure that it will not destroy the sensitive habitat or result in abandonment of the area. The County shall deny the application if such impacts of the proposed use can not be mitigated and that the development may lead to destruction or abandonment of the sensitive habitat. [Ord 91-0080, Ord 93-0098]

Chapter 88

Reserved for Expansion

Chapter 89

Historic Preservation

ADMINISTRATION

89.005 Purpose. This Chapter is intended to encourage continued use, rehabilitation, and preservation of significant historic sites and structures. [Ord 90-069, Ord 91-0080]

HISTORIC RESOURCES COMMISSION

89.010 Historic Resources Commission Established. (1) A Benton County Historic Resources Commission (HRC) is hereby created.

(2) The Historic Resources Commission shall:

- (a) Review and maintain the Benton County Cultural Resources Survey as the depository of information about historic resources in Benton County, and as the primary source of historic resources for inclusion on the Benton County Register of Historic Resources, and submit such information to the State Historic Preservation Officer for inclusion on the State Wide Inventory;
- (b) Receive and take action on requests to include a potential historic resource on, or remove a listed historic resource from, the Benton County Register of Historic Resources;
- (c) Review and act on National Register of Historic District applications;
- (d) Review and make recommendations to the County Development Department and Planning Commission on proposed land use actions and programs that may impact resources listed on the Benton County Register of Historic Resources;
- (e) Review and make decisions on demolition permits and building permits for exterior alteration of structures listed on the Benton County Register of Historic Resources;
- (f) Promote the use and preservation of historic resources by developing, in cooperation with other concerned parties, programs for the education, pleasure, energy conservation, housing, and public welfare and benefit of the County, and provide technical assistance to owners wishing to improve their historic properties;
- (g) Obtain and maintain up-to-date information on private, state and federal historic preservation organization and agency activities, seek to establish and maintain local programs that are consistent with these activities, and create and maintain a current reference library at the Benton County Historical Museum for individual use and consultation;
- (h) Recommend local historic resources for nomination to the National Register of Historic Places nomination;
- (i) Seek funding and professional assistance for historic resource survey and planning, and for repair, maintenance, rehabilitation, or restoration of historic resources;
- (j) Promote public awareness and interest in Benton County historic resources; and
- (k) Perform other duties relating to historic resources upon request of the Benton County Board of Commissioners. [Ord 85-003, 85-026, Ord 90-069]

BENTON COUNTY REGISTER OF HISTORIC RESOURCES

89.205 Creation of Register. The Benton County Register of Historic Resources is hereby created and recognized as the official County list of property that possesses cultural and historic values worthy of preservation. The purpose of the Register is to provide additional protection and additional incentives to preserve significant historic structures. [Ord 85-003, 85-026, Ord 90-069]

89.210 Location of Register. The Register shall be maintained and located at the Benton County Development Department. A copy of the Register shall be located at the Benton County Historical Society Museum. [Ord 85-003, ORD 90-069, Ord 91-0080]

89.215 Procedure for Placement of Historic Resource on Register.

(1) A site or structure may be considered for placement on the Benton County Register of Historic Resources:

- (a) Upon application of an owner of a potential historic resource;
- (b) Upon determination by the Historic Resources Commission that an historic resource should be reviewed for inclusion on the Register to comply with the requirements of Statewide Planning Goal 5; or
- (c) Upon petition by a representative of an affected state agency or by any member of the public and with the endorsement of a majority of members of the Historic Resources Commission, for the review of any structure or site not reviewed by the Commission pursuant to BCC 89.215(2).

(2) Placement of a property on the Register after July 1, 2000 shall only occur if:

- (a) The property owner signs an affidavit of consent to have the property listed; and
- (b) Signs a deed covenant to be recorded into the County Deed Records, binding on the current property owner and the owner's successors in interest, agreeing to retain the historic designation for a period of at least 20 years.

(3) If the property owner does not consent to the historic designation, the property shall not be listed on the Register. In such case, the County shall not issue any permits for demolition or alteration of the property for 120 days from the date of objection. [Ord 91-0080; 2000-0161]

89.220 Sites on the Inventory of Historic Resources. (1) The Historic Resources Commission (HRC) shall review all the structures and sites on the Benton County Inventory of Historic Resources, contained in the Open Space Scenic and Cultural Resource background Report of the Benton County Comprehensive Plan to determine compliance with the requirements of BCC 89.230. The Commission shall conduct the review of site and structures on the inventory in accordance with the procedures contained within BCC 89.225.

(2) The Goal 5 review process contained in BCC 89.225 shall be completed prior to or concurrent with a review for exterior alteration or demolition of any site on the Benton County Inventory of Historic Resources. This includes sites classified as significant resources (Goal 5 classification "1C") on the Inventory. [Ord 93-0101]

89.225 Procedures for Notice, Hearings, and Findings. (1) The notice procedures contained in BCC 51.610 through 51.615 shall be followed for public hearings before the HRC to consider placing a site or structure on the Register.

(2) Public Hearings for placement of a site or structure on the Register shall be conducted in accordance with BCC 51.705 through 51.725.

(3) The HRC shall make written findings supporting its decision based upon the review criteria contained in BCC 89.230.

(4) Notice of a decision of the HRC shall be provided in accordance with BCC 51.625.

(5) Following expiration of the appeal period, the Planning Official shall provide for recording a notice in the County Deed Records indicating placement of a site or structure on the Register and a brief summary of requirements provided by BCC 89.305 to 89.510. [Ord 91-0080]

89.230 Review Criteria. (1) A site or structure shall be eligible for placement on the Register if the resource is adequately identified and described by existing data sources or other information provided with the petition and the preponderance of evidence demonstrates that the site or structure:

(a) Is at least fifty (50) years old, and includes identifiable integrity of location, design, setting, materials, workmanship, feeling, or association that reflects the significance of the property; and

(b) Is associated with events that have made a significant contribution to the broad patterns of history of Benton County, the region, the State or the nation; or

(c) Is associated with the lives of persons significant in this history of Benton County, the region, the states or the nation; or

(d) Embodies distinctive characteristics of a type, period, or method of construction, or possesses high artistic values, or represents a significant and distinguishable entity even though components may lack individual distinction; or

(e) Represents types or styles of construction that were once common and now are among the last examples surviving in the County, the region or the State; or

(f) Has yielded or may be likely to yield, information important in prehistory or history.

(2) If the HRC determines that a resource is eligible for placement on the Register pursuant to Subsection 1 of this Section, the HRC shall consider potential conflicting uses, which if allowed could negatively impact the resource, pursuant to Statewide Planning Goal 5. The Economic, Social, Environment and Energy Consequences (ESEE) of the conflicting uses shall be identified and evaluated to determine if conflicting uses should be limited or whether conflicting uses shall be fully allowed. If the conflicting use is found to have a higher value as evident in the analysis of the ESEE consequences, the conflicting use may be allowed fully in accordance with Statewide Planning Goal 5 and the site or structure under review shall not be placed on the Register. [Ord 85-003, 85-026, Ord 90-069, Ord 91-0080]

89.235 Removal of Resource from Historic Register. (1) If an historic resource has been demolished or destroyed, the HRC may remove the resource from the Register without a hearing. In addition, if a destroyed resource site has received approval for a special use pursuant to this chapter, the HRC shall make a written request to the Planning Official to invalidate the approval.

(2) Requests for removal of an historic resource from the Register for any reason other than demolition or destruction shall be processed through the procedure provided in this chapter. To remove an historic resource from the Register, the HRC must determine that the findings made pursuant to BCC 89.230 for inclusion on the Register no longer apply.

(3) Notwithstanding (2) above, a property placed on the Register prior to July 1, 2000, shall be removed from the Register upon request of the property owner(s).

(a) The current owner shall submit a written request to the Planning Official for the property to be removed from the Register, stating that the historic designation was imposed on the property.

(b) Upon receipt of a request that complies with BCC 89.235(3)(a), the County shall remove the historic designation.

(c) If a property is removed from the Register by the process in this subsection, the County shall not issue any permits for demolition or alteration of the subject property for at least 120 days from the date the property owner requests removal of the property from the Register. [Ord 85-003, 85-026, Ord 90-069, Ord 91-0080, 2000-0161]

89.240 Appeals. A decision made by the HRC to approve or deny inclusion of an historic resource on the Register or to remove an historic resource from the Register may be appealed to the Board of Commissioners pursuant to BCC 51.805 through 51.825. [Ord 85-003, Ord 90-069, Ord 91-0080]

EXTERIOR ALTERATION OR DEMOLITION OF A STRUCTURE ON THE COUNTY REGISTER

89.305 Permits Required. A permit is required for the exterior alteration, demolition or removal of any structure listed on the Benton County Register of Historic Resources, or any buildings, structures, objects, sites, or districts listed in the National Register of Historic Places, or within approved national register historic districts pursuant to the National Historic Preservation Act of 1966 (PL 89-665; 16 U.S.C. 470).. For the purpose of this section "exterior alteration" includes any construction activity which would affect the character or integrity of a site or structure. Ordinary maintenance of a site or structure, including cleaning, painting, and minor repairs which do not require the installation or replacement of exterior building materials are exempt from exterior alteration review requirements. The construction of additions, changes in an exterior facade including the replacement of doors or windows and the replacement of other architectural features are subject to review under this section. [Ord 85-003, Ord 90-069, Ord 91-0080, 2000-0161]

89.310 Exception to Permit Requirements. Nothing in this section prevents the construction, reconstruction, alteration, restoration, demolition, or removal of any exterior architectural feature or any property on the Register when the Building Official, Fire Marshall, or Rural Fire District Chief determines that such emergency action is required for the public safety due to unsafe or dangerous condition. Prior to such emergency action, the Chairperson of the Historic Resources Commission shall be notified. [Ord 85-003]

89.315 Permit Process. (1) Application for a permit to alter or demolish a structure listed on the Register shall be on such forms and in such detail as prescribed by the Planning Official. The Planning Official shall schedule a public hearing on the request at the next available meeting of the Historic Resources Commission.

(2) Upon receipt of a completed application, the Planning Official shall refer the request to all appropriate County agencies, the County Building Official, the chairperson of the Historic Resources Commission, and the chairperson of any city-appointed historic preservation group, if the request is located within an urban growth boundary.

(3) If the site or structure is listed on the National Register of Historic Places and the owner receives tax benefits under the provisions of ORS 358.475, the Planning Official shall also refer such applications to the State Historic Preservation Office.

(4) Public notice procedures in BCC 51.610 to 51.615 shall be followed for public hearings before the Commission.

(5) The hearing shall be conducted in accordance with BCC 51.705 through 51.725. [Ord 85-003, Ord 90-0069, Ord 91-0080]

89.320 Review Criteria for an Alteration Permit. (1) The Historic Resources Commission shall review an application for exterior alteration pursuant to the following guidelines:

(a) The removal or alteration of any historic material or distinctive architectural feature should be avoided.

(b) Alterations that have no historical basis, or which seek to create an earlier or later appearance inconsistent with the age or type of the structure *sought* be altered, should be discouraged.

(c) Changes in a structure which have taken place over time and which have acquired significance in their own right within the meaning of BCC 89.230(1), should be protected.

(d) Deteriorated architectural features should be repaired rather than replaced. In the event that replacement is necessary, the new material should match the material being replaced in composition, design, color, texture and other visual qualities.

(e) Repair or replacement of missing architectural features should be based on accurate duplication of the feature, substantiated by historic, physical, or pictorial evidence rather than on conjectural designs or the availability of architectural elements from other structures.

(f) Contemporary design for alterations or additions to existing properties should be discouraged unless such alteration and additions will not destroy significant historical, architectural or cultural material and such design is compatible with the size, scale, color, material, and character of the property, neighborhood or environment.

(g) New additions, or alterations should be done in such manner that if the additions or alterations were to be removed in the future, the essential form and integrity of the structure would be unimpaired.

(h) Alterations or additions should not significantly alter the character of the site or potential archaeological resource.

(2) A decision by the Historic Resources Commission to approve, approve with Conditions, or deny an application for an exterior alteration permit shall be based upon the following criteria:

(a) The extent to which the state of repair of the structure creates a need for the alterations. An alteration required because of a defect or deterioration in the structural or environmental systems of the historic resource shall be given greater deference than an alteration for cosmetic purposes.

(b) The cost of complying with the guidelines in Subsection 1 as compared to the cost of the alteration as proposed by the applicant shall not cause an undue hardship on the applicant; and

(c) The significance and integrity of the historic resource, and the degree of impact of the proposed alteration.

(3) The Historic Resources Commission may attach conditions to the approval of an alteration permit in order to mitigate the impact of an alteration on an historic resource. Conditions may address, but shall not be limited to:

(a) Design;

(b) Material;

(c) Location;

(d) Scale;

(e) Size; and

(f) Style.

(3) If a property owner removes a property from the Register by means of BCC 89.235(3), the Historic Resources Commission shall not issue a permit for any alteration for at least 120 days from the date the property owner requests removal of the property from the Register.

[Ord 91-0080, 2000-0161]

89.325 Review Criteria for a Demolition Permit. (1) A decision by the Historic Resources Commission to approve, approve with conditions, delay a final decision or deny an application for demolition shall be based upon the following criteria:

(a) The state of repair of the structure;

(b) The rehabilitation costs;

(c) The cultural or historic significance of the resource, including assessment of such items as integrity of location, design, setting, materials, workmanship, feeling, or association; and

(d) The economic, cultural, and energy consequences of demolition of the structure.

(2) The Historic Resources Commission may order that action on a demolition request be deferred for a period not to exceed 150 days. A decision to defer action on a demolition request shall be based upon an identified course of action which provides for the investigation of alternatives to demolition, documentation of the property prior to demolition or other appropriate mitigative measures. During this period, the HRC may attempt to determine if public or private acquisition and preservation is feasible, or if other alternatives could be carried out to prevent demolition or removal of the structure. At the end of the delay period, the HRC shall make a final decision within ten (10) working days. Approval, or approval with conditions, shall only be made prior to the expiration of a 150 day waiting period when the Building Official and Fire Marshall or Rural Fire District Chief have determined that the demolition request is necessary due to applicable building, fire, life, and safety codes.

(3) If a property owner removes a property from the Register by means of BCC 89.235(3), the Historic Resources Commission shall not issue a demolition permit for at least 120 days from the date the property owner requests removal of the property from the Register. [Ord 85-0030, Ord 90-0069, Ord 91-0080, 2000-0161]

89.330 Appeals. A decision of this Historic Resources Commission decision on a request for exterior alteration or demolition of a site or structure on the Register may be appealed to the Board of Commissioners pursuant to BCC 51.805 - 51.825. [Ord 85-003, Ord 90-069, Ord 91-0080]

SPECIAL USES ALLOWED FOR REGISTER PROPERTIES

89.400 Home Occupation. (1) All uses permitted under ORS 215.448 (Home Occupation) shall be reviewed by the Historic Resources Commission when such uses are proposed for a structure listed on the Benton County Register of Historic Resources. The HRC shall recommend approval, approval with modifications or denial of application to the Planning Official for final approval.

(2) The decision to approve a Home Occupation proposed for a structure on the Register shall be based on compliance with the following criteria:

(a) The home occupation shall be operated by a resident of the property on which the business is proposed to be located;

(b) The home occupation shall be conducted in the dwelling or other existing buildings;

(c) The home occupation shall employ no more than five full-time or part-time persons in any work shift;

(d) A minimum of two parking spaces or as otherwise determined to be required by the use shall be provided on-site for the home occupation;

(e) The home occupation shall not seriously interfere with existing uses on nearby land or with other uses permitted in the zone in which the property is located;

(f) The home occupation shall be compatible with the historic and architectural integrity of the structure and surrounding site;

(g) The home occupation shall not destroy or seriously detract from the distinguishing character or qualities of the structure and surrounding site;

(h) The location, size, design, and operating characteristics of the home occupation shall not adversely affect the livability or appropriate development of abutting properties and the surrounding neighborhood; and

(i) The proposed site of the home occupation shall have adequate services and physical characteristics, including water supply, sewage disposal, access (ingress and egress) and parking.

(3) Home occupations located in structures on the Register shall be reviewed by the Planning Official every twelve (12) months following the date the use is approved. The use may continue if it complies with the conditions of its approval. The approval of a home occupation shall not be used as sole justification for a zone change; nor shall an approval of a home occupation permit construction of any new structure that would not otherwise be allowed in the zone in which the use is to be established.

(4) All signs shall be subject to review and recommendation by the Historic Resources Commission, and shall not detract from the historic or architectural integrity of the site, considering the proposed material, design, size and location of such signs. [Ord 26, Ord 90-0069]

89.410 Special Uses. (1) The following special uses may be allowed by conditional use permit pursuant to BCC 53.205 to 53.235 for a structure listed on the Benton County Register of Historic Resources in any zone except for resource zones, subject to review by the Historic Resources Commission. The Historic Resources Commission shall recommend approval, approval with modifications, or denial of application to the Planning Official who shall make the final decision.

- (a) Bed and breakfast accommodations.
- (b) Eating establishment.
- (c) Arts and craft galleries.

(2) In addition to conditional use permit criteria, the decision to recommend or grant a special use shall be based on findings that demonstrate compliance with the following criteria:

- (a) The proposed use will be conducted in the dwelling or existing buildings;
- (b) The proposed use will not interfere with existing uses on nearby land or with other uses permitted in the zone in which the property is located.
- (c) The proposed use will be compatible with the historic and architectural integrity of the structure and surrounding site;
- (d) The proposed use will not destroy or detract from the distinguishing character or qualities of the structure and surrounding site;
- (e) The location, size, design, and operating characteristics of the proposed use will be compatible with and will not adversely affect the livability or appropriate development of abutting properties and the surrounding neighborhood; and
- (f) The proposed site has the physical characteristics needed to support the proposed use, such as, but not limited to, suitability for necessary sewage treatment system, adequacy of quantity and quality of water and adequacy of access (ingress and egress) and parking.

(3) Special uses shall be reviewed by the Planning Official every twelve (12) months following the date the use is approved. The use may continue if it complies with the conditions of its approval. The approval of a special use shall not be used as justification for a zone change; nor shall an approval permit construction of any new structure that would not otherwise be allowed in the zone in which the use is to be established.

(4) All signs shall be subject to review and recommendation by the Historic Resources Commission, and shall not detract from the historic or architectural integrity of the site, considering the proposed material, design, size and location of such signs. [Ord 26, Ord 90-0069]

LAND PARTITIONS; PROPERTY LINE ADJUSTMENTS

89.500 Land Partitions and Property Line Adjustments Involving Historic Resources. An owner of a property on the County Register located in any zone may apply to separate the historic site from land in the same ownership pursuant to BCC 89.510 without a hearing, unless a hearing is otherwise required to comply with any other land partition provision of this code. Requests for a land partition or property line adjustment to separate an historic structure or site from adjacent land in the same ownership shall be referred for review by the Historic Resources Commission. The Historic Resources Commission shall

recommend approval, approval with modifications, or denial to the Planning Official or Planning Commission, who shall make the final decision. [Ord 26, Ord 90-0069, Ord 96-0118]

89.505 Waiver of Minimum Parcel or Lot Size. Withstanding any minimum parcel or lot size requirements specified by an adopted Comprehensive Plan or requirements of the Statewide Planning Program, a proposed parcel or lot containing a historic site or structure need not comply with the minimum parcel or lot size required by the assigned zoning. The acreage or area contained within the proposed parcel or lot shall be sufficient to comply with applicable criteria in BCC 89.510. [Ord 90-0069, Ord 91-0080, Ord 96-0118]

89.510 Criteria for Land Partitions and Property Line Adjustments. The decision to approve a land partition or property line adjustment involving an historic resource shall be based on findings which demonstrate that the proposed action:

- (1) Includes a structure or site listed on the County Historic Register;
- (2) Is compatible with the historic and architectural integrity of the historic structure or site;
- (3) Does not destroy or detract from the distinguishing character or qualities of the historic structure or site;
- (4) Is of a size possible to serve the interests of the affected property owner and to adequately protect the integrity of the historic structure or site;
- (5) Has no substantial adverse effect on the livability or appropriate development and existing uses of abutting properties and the surrounding area;
- (6) Incorporates adequate physical characteristics needed to comply with setback (if feasible), septic, water and road standards contained in this code;
- (7) Is appropriate to provide for the preservation and protection of a significant historic structure or site; and
- (8) Complies with appropriate criteria in BCC Chapters 95 to 98. [Ord 26, Ord 90-0069, Ord 96-0118]

Chapter 90

Reserved for Expansion

Chapter 91

Special Use Standards

91.005 Purpose. A variety of land uses are permitted in more than one zone. It is the purpose of this chapter to provide uniform standards for certain land uses, with the standards applicable to all zones in which such uses are allowed. These standards shall be applied in addition to all other standards and criteria appropriate to the review process required by the zone. [Ord 90-0069]

CARE CENTERS

91.105 Day Care Center Standards. Every day care center shall:

- (1) Comply with the occupancy requirements of the Benton County Building Code; and
- (2) Comply with State regulations for a day care center. [Ord 90-0069]

91.110 Residential Facility Standards. Every residential facility shall:

- (1) Comply with the occupancy requirements of the Benton County Building Code; and
- (2) Comply with State regulations for a residential facility. [Ord 90-0069]

91.115 Standards for Residential Home. Every residential home shall:

- (1) Be located in an existing single-family dwelling;
- (2) Comply with the occupancy requirements of the Benton County Building Code; and
- (3) Comply with State regulations for a residential home. [Ord 90-0069]

CEMETERIES

91.150 Cemetery Standards. Every cemetery, whether private or public, where parcels or lots are offered for sale, except private family burial grounds, shall:

- (1) Comply with all State regulations for cemeteries; and
- (2) Comply with subdivision standards set forth in BCC Chapter 97. [Ord 90-0069]

91.155 Standards for Private Family Burial Grounds. Private family burial grounds may be allowed in any zone by conditional use permit approved by the Planning Commission. Lots or parcels shall not be offered for sale in a private family burial ground. Every private family burial ground shall:

- (1) Comply with State regulations for burial on private property;
- (2) Be located at least 100 feet from wells, springs, and other water sources used for drinking, fifty (50) feet from any stream, river, lake, or pond, and twenty-five (25) feet from property lines; and
- (3) Be documented by a Notice of Private Family Burial Grounds. A map shall accompany the Notice, showing the location of the burial grounds. The Notice shall indicate whether the gravesites are marked or unmarked. The Notice and map shall be recorded in the County Deed Records and the applicant shall pay the recording fees. [Ord 90-0069]

HOME OCCUPATIONS

91.200 General Provisions. In addition to the requirements of BCC 55.205, 60.205, or 89.400, every home occupation shall conform to the applicable standards of BCC 91.205, 91.210, or 91.215 as determined by parcel or lot size. [Ord 96-0119]

91.205 Home Occupations on a Parcel or Lot of Less Than One Acre. Every home occupation shall conform to the following:

- (1) Occupy no more than twenty-five percent (25%) of the total floor area of the residence or 500 square feet of gross floor area of an accessory structure;
- (2) Not display any external evidence of an occupation outside the structure except as permitted for signs under BCC 91.805 through 91.820;
- (3) Limit activities to the extent that traffic generated by the occupation shall not exceed ten (10) trips per day;
- (4) Produce no noise or obnoxious odors, vibrations, glare, or fumes detectable to normal sensory perception outside the structure;
- (5) Employ only members of the household; and
- (6) Home occupations conducted in an accessory structure require a permit that shall be renewed every two years. [Ord 96-0119]

91.210 Home Occupation on a Parcel or Lot of One to Five Acres. Every home occupation shall conform to the following:

- (1) Occupy no more than twenty-five percent (25%) of the total floor area of the residence or 750 square feet of gross floor area of an accessory structure;
- (2) Limit activities to the extent that traffic generated by the occupation shall not exceed ten (10) trips per day;
- (3) Produce no noise or obnoxious odors, vibrations, glare, or fumes detectable to normal sensory perception outside the structure;
- (4) Employ no more than one person in addition to those who reside in the household;
- (5) Home occupations with outside storage of materials, good, supplies, or equipment are allowed provided it is screened from view of adjacent lands and rights-of-way; and
- (6) Home occupations conducted outside the home require a permit that shall be renewed every two years. [Ord 96-0119]

91.215 Home Occupation on a Parcel or Lot Greater Than Five Acres. Every home occupation shall conform to the following:

- (1) Occupy no more than twenty-five percent (25%) of the total floor area of the residence or 2000 square feet of gross floor area of an accessory structure;
- (2) Limit activities to the extent that traffic generated by the occupation shall not exceed ten (10) trips per day;
- (3) Produce no noise or obnoxious odors, vibrations, glare, or fumes detectable to normal sensory perception outside the structure;
- (4) Employ no more than two persons in addition to those who reside in the household;
- (5) Home occupations with outside storage of materials, goods, supplies, or equipment is allowed provide it is screened from view of adjacent lands and rights-of-way;
- (6) Home occupations conducted outside the home require a permit that shall be renewed every two years. [Ord 96-0119]

91.220 Exceptions to Dimensional Standards. An exception to dimensional standards provided in BCC 91.205 to 91.215 to establish or expand a home occupation in excess of these standards up to fifty percent (50%) may be allowed by conditional use permit approved by the Planning Official. [Ord 90-0069]

91.225 Effect of Deed Restrictions. Issuance of a home occupation permit does not relieve the owner from provisions of any deed covenants, conditions, or restrictions on public record. The applicant shall identify and achieve compliance with all deed covenants, conditions, and restrictions prior to commencement of the home occupation. [Ord 90-0069]

91.230 Building Permits Required for Home Occupation. A building permit shall be obtained from the Development Department for any required modification or addition to any structure or building used for a home occupation, or to the electrical, plumbing, or mechanical systems of any building or structure used for a home occupation, pursuant to the Benton County Building Code. [BCC 11.005 to 11.305] Such permit requirements are applicable to any change in occupancy of an accessory building to accommodate a home occupation. Building permits for construction of new, or expansion of existing structures occupied by a home occupation shall conform with standards contained in BCC 91.205 to 91.215. [Ord 90-0069]

JUNKYARDS

91.305 Junkyard Standards. Every junkyard shall:

- (1) Provide at least a six (6) foot high sight-obscuring fence of wood or metal to enclose the entire portion of the site used for wrecking, storage, and display. If the fence is constructed of metal, it shall be painted one color only;
- (2) Store all items within the fenced area, and ensure that no items are piled any higher than the fence;
- (3) Provide for storage and off-site disposal of oil and other chemicals in conformance with standards established by the Oregon Department of Environmental Quality and the Environmental Protection Agency;
- (4) Include a forty (40) foot setback from any building to a parcel or lot line, and a fifty (50) foot setback from any crushing equipment to a parcel or lot line; and
- (5) Comply with all State requirements. A license is required for dealing in motor vehicles or dismantling motor vehicles. [Ord 90-0069, Ord 96-0118]

KENNELS

91.405 Permitted Locations of Kennels. (1) A hobby kennel is allowed as an accessory use to a dwelling in any zone.

- (2) A commercial kennel is allowed as a home occupation in any zone.
- (3) A commercial kennel not provided in conjunction with a dwelling is allowed by conditional use permit approved by the Planning Official in the Rural Residential Zone (RR).
- (4) A commercial kennel may be allowed as an accessory use to a veterinary clinic or pet shop.
- (5) A commercial kennel may be established as a primary use only as allowed by the applicable zone. [Ord 26, Ord 90-0069]

91.410 Kennel Standards. (1) All animals shall be boarded within a building. The animals may be released outside in a fenced impoundment only during the hours of 6 a.m. to 9 p.m. The animals shall be confined within an enclosed building between the hours of 9 p.m. and 6 a.m. These requirements shall not apply to dogs used primarily as protection dogs (guard dogs, dogs for shepherding livestock, etc.) on land zoned Exclusive Farm Use (EFU), Multi-Purpose Agricultural (MPA), Forest Conservation (FC). The building shall comply with the Benton County Building Code pertaining to the structural integrity and ventilation associated with the structure. The building may be required to be sound-proofed to a level deemed appropriate by the Planning Official in consultation with the Building Official based upon the size of the kennel and adjacent land uses.

(2) The kennel building and impoundment area shall be at least thirty (30) feet from a property line or forty-five (45) feet from a road. These setbacks may be reduced by thirty percent (30%) if a sight-obscuring fence or vegetation is present or installed. In no instance shall the building and impoundment encroach on a setback established for a primary use for the zone in which the property is located.

(3) All animal waste shall be disposed of in a sanitary manner as approved by the Benton County Sanitarian.

(4) All dogs shall be licensed in compliance with BCC Chapter 9. [Ord 26, Ord 90-0069]

MANUFACTURED DWELLINGS

91.502 Use of Manufactured Dwellings. Manufactured dwellings shall be used as single-family dwellings and shall not be used for commercial purposes, except as follows:

(1) Manufactured dwellings may be used for purposes other than a single-family dwelling when the change of occupancy is approved by the Building Official in accordance with the provisions of the Oregon specialty codes and this Code. When the occupancy of a manufactured dwelling changes, the insignia shall be removed and returned to the Building Code Agency. Except as provided in (2) below, manufactured dwellings shall be used solely for the purpose of a residential dwelling in the Urban Residential Zone.

(2) A portion of a manufactured dwelling may be used for an approved home occupation if the remainder of the structure is used as a single-family dwelling by the same person. [Ord 93-0097, Ord 97-0131]

91.505 Minimum Standards for Manufactured Dwelling Placement. Manufactured dwellings shall:

(1) Bear an Oregon insignia of compliance. If the manufactured dwelling is placed in a residential zone it shall bear an insignia of compliance with the Manufactured Housing Construction and Safety Standards Code as of June 15, 1976;

(2) Have the underfloor crawlspace entirely enclosed with a perimeter foundation, skirting or equivalent. The towing hitch shall be removed or concealed;

(3) Be sited on the parcel or lot in conformance with all siting requirements, such as drainage and hillside placement, as stipulated in the Benton County Building and Plumbing Codes;

(4) Be connected to an approved individual subsurface sewage disposal system, or to a sewage treatment facility approved by the Oregon Department of Environmental Quality. Prior to issuance of a manufactured dwelling placement permit for any manufactured dwelling not connected to a municipal or community sewer system, the applicant shall provide for the installation of a standard or alternative subsurface sewage disposal system which is adequate in size, location, design and specification to serve the proposed manufactured dwelling; and

(5) Be anchored to a continuous permanent concrete, concrete block, or equivalent foundation built to County and State standards. [Ord 97-0131]

91.510 Placement Standards for Manufactured Dwellings in the Urban Residential and Rural Residential Zones. In addition to the minimum standards set forth in BCC 91.505, a manufactured dwelling placed in the Urban and Rural Residential Zones shall:

(1) Contain at least 800 square feet of occupied space in a unit in the Rural Residential Zone or 1,000 square feet in a double-section or larger multi-section unit in the Urban Residential Zone;

(2) Be constructed with roofing materials similar in appearance to other residences in the area and have a roof with a minimum pitch of three feet in height for each twelve feet in width (3/12);

- (3) Be constructed with siding materials similar in appearance to other residences in the area and shall have no reflective, unpainted, or uncoated metal siding;
- (4) Have its foundation installed according to one of the methods listed in the most current Oregon Manufactured Dwelling Standard;
- (5) Be placed on an excavated and back-filled foundation and enclosed at the perimeter;
- (6) Be certified by the manufacturer to have an exterior thermal envelope meeting performance standards which reduce heat loss to levels equivalent to the performance standards required of single-family dwellings constructed under the state building code as defined in ORS 455.010. Evidence demonstrating that the manufactured dwelling meets “Super Good Cents” energy efficiency standards is deemed to satisfy this requirement without further certification from the manufacturer;
- (7) If sited within the Corvallis urban growth boundary have a garage or carport with exterior materials similar in appearance to the main unit;
- (8) Have all wheels, axles, hitch mechanisms, and transient lights removed; and
- (9) Comply with every development standard to which a conventional single-family residential dwelling on the same parcel or lot would be subject. [Ord 90-0069, Ord 94-0104, Ord 97-0131]

91.515 Placement Standards for Manufactured Dwellings in zones other than Rural Residential and Urban Residential. In addition to the minimum standards set forth in BCC 91.505, a manufactured dwelling placed in zones other than Rural Residential and Urban Residential for the purpose of a residential dwelling shall contain more than 320 square feet of occupied space in a single, double, expando, or multi-section unit, including those with add-a-room units. [Ord 90-0069, Ord 97-0131]

91.520 Repealed. [Ord 90-0069, Ord 97-0131]

91.525 Accessory Buildings. Accessory structures to manufactured dwellings shall be designed and constructed in accordance with the applicable Oregon Specialty Codes, the Oregon Manufactured Dwelling Standards and this Code. [Ord 26, Ord 90-0069, Ord 97-0131]

91.530 Alterations and Additions. All alterations, repairs, conversions and remanufacturing of manufactured dwellings shall require building permits and shall be made in accordance with the Benton County Building Code requirements and the following applicable standards:

- (1) Additional skirting shall be made of materials similar to the siding of the manufactured dwelling, or of materials of good quality;
- (2) A building permit shall be obtained prior to construction of a carport;
- (3) A building permit shall be obtained prior to construction of a deck that exceeds thirty-one (31) inches in height from ground level;
- (4) All additions to a manufactured dwelling shall be constructed and finished in durable weather resistant materials comparable in quality to those used in the construction and finishing of the principle unit to which they are attached, and shall meet all Structural Specialty Code requirements. [Ord 26, Ord 90-0069, Ord 97-0131]

91.535 Storage of Manufactured Dwellings. A manufactured dwelling may be temporarily stored on a parcel or lot if the unit may be legally established on the parcel or lot in accordance with this code. The owner shall obtain a manufactured dwelling placement permit prior to storage. The period of storage shall commence the day the placement permit is issued and may not exceed ninety (90) days. Permission to store the unit does not vest the right for the unit to permanently occupy the property. [Ord 26, Ord 90-0069, Ord 96-0118]

91.540 Temporary Manufactured Dwelling Permit During Construction. The Planning Official may grant a permit for temporary placement of a manufactured dwelling in any zone for occupancy during the construction of a permitted dwelling. Such permits shall be issued concurrently with the dwelling building permits. Any manufactured dwelling used under these provisions shall be placed pursuant to the provisions of BCC 91.505(4) through (6), and shall be removed upon occupancy of the new dwelling, or within one year of issuance of such permits, whichever is sooner. [Ord 26, Ord 90-0069]

91.545 Temporary Manufactured Dwelling for Hardship Purpose. (1) A manufactured dwelling may be allowed as an accessory use to a dwelling in any zone in order to alleviate a medical hardship. The manufactured dwelling to be used must meet all applicable County and State health and building requirements, including Chapter 91, except that the additional placement standards of BCC 91.510 shall not apply. The manufactured dwelling shall be used in conjunction with a permanent residential structure on the same parcel. A bonafide medical hardship shall be substantiated by a statement from the attending physician that the manufactured dwelling is necessary to provide adequate and immediate health care for a relative who needs close attention and who would otherwise be required to receive needed attention from a hospital or care facility. Tenancy of the manufactured dwelling shall be limited to a member or members of the property owner's immediate family or a person (and immediate family) who is directly responsible for care of the owner or members of the owner's immediate family.

(2) Manufactured dwellings used for medical hardship purposes shall contain more than 320 square feet of occupied space and when sited in Rural Residential Zones shall bear an insignia of compliance with the Manufactured Housing Construction and Safety Standards Code as of June 15, 1976. [Ord 97-0131]

91.550 Conditions of Approval for Hardship Dwellings. (1) A temporary manufactured dwelling for hardship purposes shall be valid only for the owner(s) of the property. The manufactured dwelling shall be removed when the need to relieve a family hardship no longer exists, or upon sale, transfer or disposal of the property.

(2) Approval of a temporary manufactured dwelling for hardship purposes shall be renewed annually by the applicant. To renew the hardship approval, the applicant shall submit to the Community Development & Parks Department a notarized statement attesting that either the hardship for which the manufactured dwelling was granted is still in existence; or the hardship no longer exists and the manufactured dwelling has been removed.

(3) A temporary manufactured dwelling for hardship purposes shall be connected to an existing water supply and septic system, if authorized by the County Sanitarian. The County Sanitarian may inspect the septic system as allowed by State law and collect the appropriate fees for such inspection. Installation of a second septic system on the property to serve a hardship manufactured dwelling shall not constitute a vested right for a second permanent dwelling.

(4) Temporary manufactured dwellings shall not be expanded or attached to a permanent structure.

(5) The temporary manufactured dwelling shall be required to meet all setback requirements for the zone in which it is located.

(6) A deed covenant recognizing the provisions of this section shall be signed by the property owner and recorded in the County Deed Records for the subject property prior to issuance of permits of placement of the dwelling. [Ord 26, Ord 90-0069, Ord 92-0092, Ord 97-0131]

91.555 Mobile Home or Manufactured Dwelling Park Standards. Every mobile home or manufactured dwelling park shall:

- (1) Require all manufactured dwellings to be placed in accordance with BCC 91.505;
- (2) Have the following space sizes: At least seventy-five percent (75%) of the spaces will be 5,000 square feet or larger; up to twenty-five percent (25%) of the spaces may be as small as 3,500 square feet. Only 5,000 square foot space or larger spaces will be allowed around the perimeter of the park;
- (3) Have all improvements set back a minimum of twenty-five (25) feet from a roadway, or fifteen (15) feet from a public right-of-way and eight (8) feet from rear and side setbacks;
- (4) Have two off-street parking spaces per manufactured dwelling space, or community parking for second vehicles;
- (5) Be developed in accordance with ORS Chapter 446 and OAR Chapter 814 Division 28;
- (6) Provide for internal pedestrian circulation separate from vehicular traffic;
- (7) Provide for the installation and maintenance of landscaping and vegetation of all areas not committed to parking, manufactured dwelling spaces, streets or buildings;
- (8) Allow accessory vehicles (boats, motor homes, etc.) to be parked only in a screened, protected community space;
- (9) Provide a minimum fifty (50) square foot enclosed storage building per manufactured dwelling parcel or lot; and
- (10) Be screened from streets and surrounding property by berms or landscaping or a combination thereof as necessary to provide a visual barrier at least five (5) feet in height along rear and side property lines and two (2) feet in height along front property lines. [Ord 26, Ord 90-0069]

91.560 Development Plan Requirements. The development plan for a proposed mobile home or manufactured dwelling park shall illustrate compliance with the standards set forth in BCC 91.555 and shall:

- (1) Demonstrate that municipal or public water supply system and sewage disposal system are available;
- (2) Demonstrate that present or planned expansion capacity of neighborhood schools will accommodate children from the park;
- (3) Show contour lines at two foot intervals. The source and accuracy of contour lines shall be specified;
- (4) Show the location, names, width, elevation and grades of existing and proposed streets in or adjacent to the proposed park;
- (5) Show the location of all areas subject to the base flood;
- (6) Show the location, width and purpose of all easements;
- (7) Show the location of all utilities including water, sewer, power, telephone, natural gas and/or cable television;
- (8) Include a proposed plan for storm water drainage;
- (9) Show the location and purpose of all common or public facilities;
- (10) Include a timetable for construction of all improvements; and
- (11) Address the impact of the proposed park on water, sewer, fire protection, law enforcement, schools, solid waste disposal and other services. [Ord 90-0069]

91.565 Occupancy of Recreational Vehicles. Recreational vehicles may be placed for temporary residential occupancy at one location as an accessory use only in any zone without permits for a period not to exceed thirty (30) days. One sixty day extension is allowed for which a placement permit is required. Recreational vehicles may be placed for temporary residential occupancy during the construction of a permitted dwelling for a period not to exceed one year. Recreational vehicles may be used as a primary residence only within mobile home or manufactured dwelling parks and resource zones, subject to appropriate land use approval required by other sections of the Development Code and applicable building and septic permit requirements. [Ord 90-0069]

PARKING AND LOADING

91.605 Off-Street Parking. Except as otherwise required by other provisions of the Development Code, structures built, enlarged or increased in capacity shall provide for the following off-street parking space requirements. Gross floor is that area considered to be habitable under the terms of the Benton County Building Code.

- (1) A single-family, multi-family dwelling or manufactured dwelling shall provide two (2) spaces for each dwelling unit.
- (2) Libraries, museums, and art galleries shall provide one (1) space for each 500 square feet of gross floor area.
- (3) A motel or hotel shall provide one (1) space for each guestroom or suite.
- (4) A retail store, service or repair shop, bank, financial institution or office shall provide one (1) space for each 400 square feet of gross floor area.
- (5) A place of public assembly including church, stadium, arena, club, lodge, auditorium, meeting room, and undertaking establishment shall provide one (1) space for each 100 square feet of gross floor area or one (1) space for each eight (8) seats, whichever is greater.
- (6) A day care center, residential facility, residential home, preschool nursery or kindergarten shall provide two (2) spaces for each teacher or supervisor.
- (7) An elementary school shall provide two (2) spaces for each classroom.
- (8) A middle school shall provide three (3) spaces for each classroom.
- (9) A senior high school, college or commercial school shall provide six (6) spaces for each classroom.
- (10) A hospital, convalescent hospital, nursing home, retirement center, sanitarium, or rest home shall provide one (1) space for each 1,000 square feet of gross floor area.
- (11) A bowling alley shall provide six (6) spaces for each alley.
- (12) A medical and dental clinic shall provide one (1) space for each 300 square feet of gross floor area.
- (13) A restaurant, bar, or similar establishment shall provide one (1) space for each 125 square feet of gross floor area.
- (14) An industrial or wholesale establishment, warehouse, air, rail, or trucking freight terminal shall provide one (1) space per employee on the largest shift.
- (15) A mobile home or manufactured dwelling park shall provide two (2) parking spaces for each mobile home or manufactured dwelling space.
- (16) Correctional and law enforcement facilities shall provide one (1) space for every five beds. [Ord 26, Ord 90-0069, Ord 99-0146]

91.610 Location of Spaces. (1) Off-street parking spaces for single-family dwellings and duplexes shall be located on the same parcel or lot as the dwelling.

(2) Off-street parking spaces for all uses other than single-family dwellings and duplexes shall be located not further than 300 feet, measured in a straight line, from the building or use they are required to serve. [Ord 26, Ord 90-0069, Ord 96-0118]

91.615 Multiple Users of Parking Area. A common parking area may be used to comply with off-street parking standards for two or more structures. The number of parking spaces in a common parking area shall meet the peak demand, based on hours of operation. [Ord 90-0069]

91.620 Parking Surface. All parking areas, except as otherwise required by the zone, shall be hard-surfaced with asphaltic concrete, portland cement concrete, or crushed rock. All parking areas, except those in conjunction with a dwelling or duplex, shall be graded so that stormwater does not drain over the sidewalk or onto any abutting property. [Ord 90-0069]

91.625 Loading Area. Off-street parking areas provided to fulfill the requirements of this code shall not be used for loading and unloading operations except during periods of the day when not required to provide for parking needs. New structures and structures enlarged by more than fifty percent (50%) of the floor area which receive or distribute material or merchandise by truck shall provide and maintain off-street loading berths in sufficient numbers and size to adequately provide for the needs of the particular use. [Ord 26, Ord 90-0069]

91.630 Curbs. Parking spaces along the outer boundaries of a parking area shall be contained by a curb or a bumper rail placed to prevent a motor vehicle from extending over an adjacent property or a street. Planting or screening may be required. [Ord 26, Ord 90-0069]

91.635 Lighting. Lighting which may be provided in a parking or loading area shall not create or reflect substantial glare on an adjacent residential area. [Ord 26, Ord 90-0069]

91.640 Design for Parking Areas. Parking areas may be designed so that parking spaces are arranged at either 45 degree, 60 degree or 90 degree angles, or approved variations thereof, as shown on the following illustration. Minimum dimensions for each parking space shall be eight (8) feet by eighteen (18) feet or nine (9) by twenty-three (23) feet for parallel parking spaces. Access driveways shall also conform to the illustrated standards. [Ord 90-0069]

91.645 Driveways. Off-street parking spaces for uses other than single-family dwellings and duplexes shall obtain access from a driveway which provides for internal traffic circulation. Driveways shall be designed to facilitate internal traffic flow and safety of ingress and egress to the site. Intersections of driveways with public roadways should be limited to the minimum number required. A road approach permit is required for each driveway intersection pursuant to BCC 99.510. [Ord 90-0069]

91.650 Landscape Standards. Landscaping is required for all off-street parking areas for three or more vehicles abutting property zoned PR-1, PR-2, or PR-3. The landscaping shall consist of a fence, hedge or other similar screening. [Ord 90-0069]

91.655 Continued Use of Parking Space. The provision and maintenance of off-street parking spaces are continuing obligations of the property owner. No building or other permit shall be issued until plans are presented that show adequate parking space in conformity with the Development Code. The subsequent use of property for which the permit is issued shall be conditional upon the unqualified continuance and availability of the amount of parking space required by the Development Code. [Ord 90-0069]

91.660 Change in Use. No owner or occupant of a parcel, lot, or building shall change the use of the property to a use for which the Development Code requires increased off-street parking unless the required increase in off-street parking is provided. [Ord 26, Ord 90-0069, Ord 96-0118]

91.665 Parking for Disabled Persons. At least one parking space shall be reserved for parking for disabled persons for each fifty (50) occupants and each increment thereof. A sign shall be posted near each parking space on public or private property that is reserved for parking for disabled persons. The sign shall state the following:

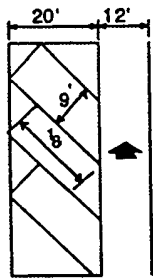
Parking with D.M.V. Disabled Permit Only.
Violators subject to towing under ORS 811.620

and fine up to \$250 under ORS 811.615.

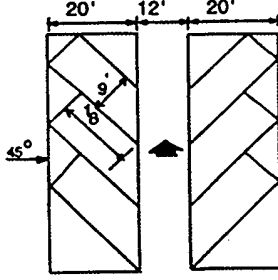
[Ord 90-0069]

DESIGN FOR PARKING AREAS

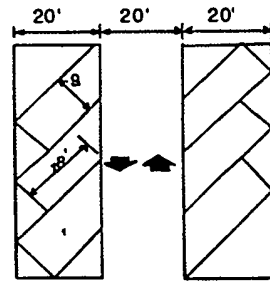
45 DEGREE PARKING



Head-in Parking
One Way Circulation

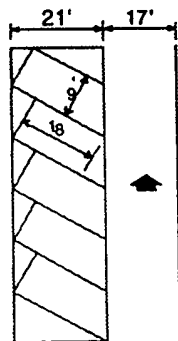


Head-in Parking Double Row
One Way Circulation

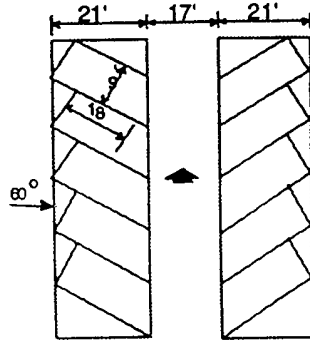


Head-in Parking Double Row
Two Way Circulation

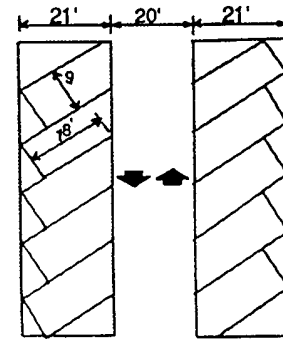
60 DEGREE PARKING



Head-in Parking
One Way Circulation

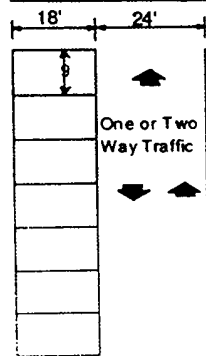


Head-in Parking
One Way Circulation

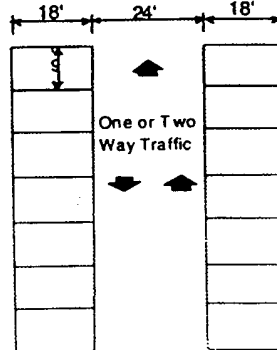


Head-in Parking Double Row
Two Way Circulation

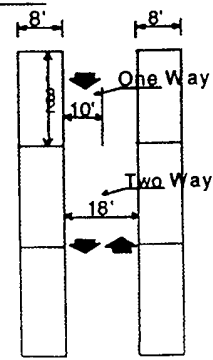
90 DEGREE AND PARALLEL PARKING



Head-in Parking
Single Row



Head-in Parking
Double Row



Head-in Parking
Single and Double Row

SEWER SERVICES

91.705 Extension of Services. Extension of municipal sewer services to areas outside urban growth boundaries may be allowed only for the following purposes:

- (1) To serve an area designated a "health hazard" according to the procedure required by State law; or
- (2) To serve an area designated Industrial or Rural Residential on the Comprehensive Plan Map for which the following findings have been made:
 - (a) The provision of municipal sewer services outside urban growth boundaries is compatible with policies in the City's comprehensive plan;
 - (b) Provision of municipal sewer service by a City does not impair the City's long-term commitment to or ability to service land either within the City or within the City's urban growth boundary;
 - (c) The proposed extension of municipal sewer services will not service any intervening rural lands, and that no connections shall be allowed in areas zoned Exclusive Farm Use or Forest Conservation;
 - (d) The extension of municipal sewer services shall not be a basis for future determination of commitment of intervening lands;
 - (e) There is not a feasible alternative for servicing the proposed development, considering soil suitability for subsurface sewage disposal, costs of a subsurface system, and the long term viability of such a system to function successfully; and
 - (f) If an urban level of services will be provided, provision of such services complies with the requirements for an exception to Statewide Planning Goals 11 and 14. [Ord 90-0069]

SIGNS

91.805 Scope. Every sign erected, altered or relocated within unincorporated Benton County shall conform to the provisions of the Development Code. Nothing within this section shall imply any limitation on the content or message of a sign. [Ord 90-0069]

91.810 Number and Size of Signs. (1) The number of signs allowed for each separate and identifiable use or establishment is not restricted by this section. The total sign face area of all freestanding and projecting signs shall not exceed that provided for by this section unless otherwise authorized by BCC 91.815. Signs which do not project from a building are excluded from the calculation of total sign face area, including signs painted directly on a wall or roof, installed in a window, or mounted flush to a wall or roof.

(2) The maximum allowable sign face area in square feet (s.f.) is determined from the functional classification of the roadway adjoining the use as identified in the County Transportation Management Plan. In the case of frontage on more than one roadway, the roadway providing access to the use shall determine the allowable sign face area. Where access is obtained from more than one roadway, the higher classification shall be utilized to determine the allowable sign face area.

Type of Use

Functional Classification of Adjoining Roadway

	<u>Local</u>	<u>Collector</u>	<u>Arterial</u>
(3) Permitted Uses in Rural Residential, Urban Residential and Philomath Residential Zones	4 s.f.	6 s.f.	8 s.f.
(4) Permitted and Conditional Uses in Resource Zones and Conditional Uses in Rural, Urban and Philomath Residential Zones except where otherwise restricted as a condition of approval	16 s.f.	32 s.f.	50 s.f.
(5) All uses in Commercial and Industrial Zones and legal non-conforming industrial and commercial uses	100 s.f.	200 s.f.	300 s.f.
(6) All uses in the Rural Service Center Zone	20 s.f.	70 s.f.	120 s.f.
(7) No parcel or lot shall contain a total sign face area which exceeds one and one-half (1.5) square feet for each linear foot of adjoining road frontage. [Ord 90-0069, Ord 96-0118]			

91.815 Exceptions to Sign Size Requirements. An exception to the sign face area standards provided in BCC 91.810 may be allowed by conditional use permit approved by the Planning Official. In addition to complying with the criteria set forth in BCC 53.215, a sign larger than the sign face area standard shall not impair the public safety. [Ord 90-0069]

91.820 General Sign Provisions. (1) The use of a rotating beacon or flashing light designed to attract attention is prohibited.

(2) Free standing signs shall be located no closer than 200 feet from any other freestanding sign established within 30 feet of the same adjoining right-of-way boundary. Freestanding signs shall not be elevated more than twenty-five (25) feet measured from the grade elevation to the bottom of the sign. All freestanding signs elevated greater than eight (8) feet measured from the grade elevation to the bottom of the sign shall require a building permit.

(3) A sign shall not create a public or private nuisance by its light, brilliance, type, design, or character.

(4) A sign shall not be constructed or erected that obscures the safe sight distance of the travelling public.

(5) For traffic guidance on private property, non-illuminated signs not exceeding four (4) square feet of sign face per sign are permitted in addition to those permitted by BCC 91.810.

(6) A sign is exempt from front and side setback standards of the zone, but the sign face shall not encroach on abutting lands.

(7) No portion of a sign shall extend into a road right-of-way unless authorized by the Board of Commissioners or the State Highway Division.

(8) A sign may not extend above the ridgeline or roof of a building.

(9) A sign shall not be affixed to a utility pole. [Ord 26, Ord 90-0069]

SURFACE MINING

91.905 Surface Mining Standards. Every applicant for a surface mining operation shall:

- (1) Obtain approval of a reclamation plan from the Oregon Department of Geology and Mineral Industries or the Oregon Division of State Lands. Operation and reclamation plans shall demonstrate consistency with the intended subsequent site use.
- (2) If the mining is the primary cause of traffic on an unpaved public road, that road shall be kept dust-free by the applicant if dwellings are located within 300 feet of the roadway.
- (3) Provide screening to obscure the mining site and to minimize dust and other annoyance to adjoining occupied property and adjacent public roads. Unless otherwise approved, the screening shall consist of an ornamental fence or wall, a landscaped berm or preservation of a natural slope, or vegetation.
- (4) Ensure that the mining operation does not exceed the maximum sound level permitted by the Oregon Department of Environmental Quality. A berm or other similar method may be used to reduce the sound off site to the level permitted by the Oregon Department of Environmental Quality.
- (5) Provide on-site parking for employees, customers, and visitors to the mining site.
- (6) Maintain a security fence between the mining operation and the public road when such road is located within 200 feet of the mining operation.
- (7) Not excavate in a manner which would result in disturbance of perimeter fencing or screening, or would impair the intent of the reclamation plan. [Ord 26, Ord 90-0069]

91.910 Mining Standards for Exclusive Farm Use Zones. (1) For purposes of BCC Chapters 55 and 56, a land use permit is required for mining more than 1,000 cubic yards of material or excavation preparatory to mining of a surface area of more than one acre.

(2) A permit for mining of aggregate shall be issued only for a site included on an inventory in the Comprehensive Plan.

(3) For purposes of BCC Chapters 55 and 56 and this section, "mining" includes all or any part of the process of mining by the removal of overburden and the extraction of natural mineral deposits thereby exposed by any method including open-pit mining operations, auger mining operations, processing, surface impacts of underground mining, production of surface mining refuse and the construction of adjacent or off-site borrow pits except those constructed for use as access roads. "Mining" does not include excavations of sand, gravel, clay, rock or other similar materials conducted by a landowner or tenant on the landowner or tenant's property for the primary purpose of reconstruction or maintenance of access roads and excavation or grading operations conducted in the process of farming or cemetery operations, on-site road construction or other on-site construction or nonsurface impacts of underground mines. [Ord 90-0069]

Chapter 92

Reserved for Expansion

Chapter 93

Reserved for Expansion

Chapter 94

Property Line Adjustments

94.005 Scope. No person shall relocate a property line in unincorporated Benton County without approval of a property line adjustment pursuant to this chapter. [Ord 7, Ord 90-0069, Ord 96-0118]

94.105 Standards. A property line may be adjusted between two adjoining properties provided that:

- (1) Each existing property is a legally divided unit of land.
- (2) Each resulting property complies with the minimum parcel or lot size requirement for the zone, except:
 - (a) A parcel or lot which is currently smaller than the minimum parcel or lot size need not comply with the minimum parcel or lot size requirement of the zone in which it is located.
 - (b) The minimum parcel or lot size shall not apply when the property line adjustment corrects the encroachment of any structure over a property line.
- (3) Any on-site sewage disposal system is protected to the satisfaction of the County Sanitarian. Where the property line adjustment may encroach on an existing system or replacement area, the applicant shall clearly identify the location of the system and replacement area. The Sanitarian may require an on-site inspection to locate the system and replacement area.
- (4) Each resulting property complies with the general property design standards set forth in BCC 99.305 to 99.315, and the setbacks of the zone.
- (5) Each resulting property complies with the access or frontage standards of BCC 99.405 to 99.420.
- (6) If a property or structure does not currently conform to any standard of this section, the property line adjustment shall not increase the degree of non-conformity to that standard. [Ord 7, Ord 90-0069, Ord 92-0092, Ord 96-0118]

94.205 Initiating the Review Procedure. (1) Any application for a property line adjustment shall be accompanied by a map which illustrates that the proposed property line adjustment complies with the standards of this chapter.

- (2) The map shall conform to map standards established by the Planning Official.
- (3) A survey of the adjusted property line shall be completed for all lands zoned Urban Residential (UR) and Rural Residential (RR) and for resulting properties of ten acres or less in other zones. [Ord 7, Ord 90-0069, Ord 92-0092, Ord 96-0118]

94.210 Decision. (1) No public notice or hearing is required for an application for a property line adjustment, unless the property is zoned Exclusive Farm Use.

- (2) The Planning Official shall approve or deny the proposal, based upon findings justifying the decision.
- (3) If the property line adjustment is approved, the Planning Official shall sign and date the property line adjustment map and Notice of Decision.
- (4) The Planning Official shall collect the current recording fees from the applicant and record the Notice of Decision of the property line adjustment in the County Deed Records. [Ord 7, Ord 90-0069, Ord 96-0118]

Chapter 95

Partitions

95.005 Scope. All partitions shall be subject to the provisions of this chapter. Partitions within the Corvallis Urban Growth Boundary shall also be reviewed pursuant to the Planned Unit Development standards contained in BCC Chapter 100. For the purposes of this chapter, "road" means a public or private way that is created to provide ingress or egress for persons to two or more lots, parcels, areas or tracts of land, excluding a private way that is created to provide ingress or egress to such land in conjunction with the use of such land for forestry, mining, or agricultural purposes. [Ord 7, Ord 90-0069, Ord 92-0092, Ord 98-0141]

95.010 Deed Release. (1) The Planning Official may grant the owner or contract purchaser of land an exemption to the provisions of this chapter in order to secure financing for a portion of a parcel or lot.

(2) A division of land resulting from lien foreclosure shall be exempt from the provisions of this chapter.

(3) The applicant shall sign and submit for recording in the County Deed Records for the subject property a deed covenant containing the following statement in acknowledgement of the provisions of this section:

The Owner(s) or Contract Purchaser(s) agree to treat the land described herein as a single unit, notwithstanding the fact that portions may be given a separate tax account. Sale of any portion of the property without prior approval by Benton County of a land partition will be a violation of the Benton County Code, except that a division of land resulting from lien foreclosure shall be exempt from the provisions of the Benton County Code. [Ord 93-0097, Ord 96-0118]

95.050 Replatting. A replat of a recorded partition plat shall be reviewed as a new request for a partition and shall be subject to all provisions of this chapter. When a utility easement is proposed to be realigned, reduced in width or omitted by a replat, all affected utility companies or public agencies shall be notified consistent with BCC 51.605 to 51.615. [Ord 92-0092]

APPLICATIONS

95.105 Approval Process. The applicant is advised to consult with the Development Department staff prior to compiling necessary information for the preparation and submission of an application. Completion of a partition is accomplished through a two step review resulting in preliminary and final approvals. For purposes of appeal, a decision issuing or denying a preliminary approval may be appealed on the issues of compliance with the criteria in BCC 95.120. Final approval is a final decision for purposes of appeal on the issue of whether the applicant has complied with the conditions of approval imposed at preliminary approval. [Ord 90-0069, Ord 92-0092]

95.110 Preliminary Series Partition Plat. (1) A landowner may partition a parent parcel into three parcels or lots through the provisions of this chapter. A landowner proposing to further partition the parent parcel into a fourth or subsequent parcel or lot shall first obtain approval of a preliminary series partition plat if the remaining acreage in the parent parcel exceeds three times the minimum parcel or lot size.

(2) The application for a preliminary series partition plat shall contain a partition plan showing the boundaries, acreage and frontage of any future parcels or lots, the location and width of future road rights-of-way, and existing structures, driveways, wells, septic systems and drainageways on the subject parcel or lot.

(3) Approval of a preliminary series partition plat is granted by the Planning Commission based on findings that each parcel or lot in the plan will comply with the standards set forth in BCC 95.120.

(4) The Planning Commission may impose conditions of approval to mitigate negative impacts to adjacent property, to meet the public service demand created by the proposed partitioning, or to otherwise ensure compliance with the purpose and provisions of this code. On-site and off-site conditions may be

imposed. An applicant may be required to post a bond or other guarantee pursuant to BCC 99.905 to 99.920 to ensure compliance with a condition of approval.

(5) Land in an approved preliminary series partition plat may be partitioned pursuant to BCC Chapters 95 or 96 without further Planning Commission approval, provided the proposed partition does not deviate by more than ten percent (10%) from approved parcel or lot size or dimensions. A plat modification which exceeds this standard but otherwise substantially conforms to the approved preliminary series partition plat may be approved by the Planning Official, subject to notice requirements pursuant to BCC 51.605 to 51.625. [Ord 7, Ord 90-0069, Ord 96-0118]

95.115 Applications for a Partition. An application for a partition shall be accompanied by:

(1) A sketch which illustrates the proposed partition. A survey is not required for the preparation of the sketch. The sketch shall show:

- (a) The entire boundary of the parent parcel and the boundaries of each proposed parcel or lot;
- (b) The acreage of each proposed parcel or lot;
- (c) The amount of frontage of each proposed parcel or lot on an adjacent public road or street or on an existing private road or street;
- (d) The location of any improvements, including buildings, driveways, wells and septic systems and the setbacks of existing buildings and septic systems to proposed property lines; and
- (e) The location of any existing private road that will provide access to the proposed parcels or lots. If information is available, describe the location, grade, depth and composition of the road base, and the width of both the all weather surface and the base.

(2) A plan and profile of the proposed road if a road will be constructed to provide access to a proposed parcel or lot. The plan shall be accompanied by a topographic survey or contour map at two foot intervals if less than a fifteen percent (15%) slope (otherwise at five foot intervals). [Ord 90-0069, Ord 92-0092, Ord 96-0118]

95.120 Preliminary Approval. Preliminary approval is granted by the approving authority based on findings that the proposed partition:

- (1) Complies with the criteria for creation of new parcels or lots of the zone in which the proposed parcels or lots are located;
- (2) Complies with requirements for consideration of sensitive land conditions of BCC 99.105 to 99.110;
- (3) Complies with the parcel or lot design criteria of BCC 99.305 to 99.315; and
- (4) Complies with the access or frontage standards of BCC 99.405 to 99.420. [Ord 7, Ord 90-0069, Ord 92-0092, Ord 96-0118]

95.125 Conditions of Approval. The following conditions shall be imposed at the time of preliminary approval and must be met prior to issuance of final approval:

- (1) An Oregon licensed land surveyor shall survey and monument the parcels or lots, except that:
 - (a) A parcel or lot in a resource zone which exceeds ten (10) acres need not be surveyed or monumented.
 - (b) A parcel or lot in a non-resource zone which exceeds ten (10) acres or two and one-half times the minimum parcel or lot size, whichever is greater, need not be surveyed or monumented.
 - (c) Notwithstanding BCC 95.125(1)(b), the Planning Official may require that all parcels and lots created by a partition be surveyed and monumented if the County Surveyor recommends that due to

errors and discrepancies of previous surveys, a complete survey is in the best interest of the owners of the subject and adjoining parcels or lots, or if series partitions of the parent parcel necessitates a complete boundary survey to assure the planned development of the property.

(2) A partition plat shall be prepared by an Oregon licensed land surveyor in accordance with ORS Chapter 92 and County Surveyor Plat Standards. The surveyor shall submit the original plat and a true reproducible of the plat, and the filing fee to the County Surveyor.

(3) The applicant shall comply with the requirements of BCC 99.505 to 99.960 for roads, sewage disposal, water supply, and fire protection.

(4) All taxes, interest and penalties shall be paid in the manner prescribed for subdivision plats pursuant to ORS 92.095.

(5) The approving authority may impose any other conditions required by a specific section of this code or by State law. [Ord 7, Ord 90-0069, Ord 92-0092, Ord 96-0118]

95.130 Effective Period of Preliminary Approval. (1) The preliminary approval shall be effective for a period of one (1) year from the date of decision, after which time the approval automatically expires.

(2) The approving authority may extend the preliminary approval for one additional six (6) month period. The applicant shall submit a written request for extension to the Planning Official prior to expiration of the preliminary approval, stating reasons why the initial deadline was not met, and provide evidence that all conditions of approval will be completed within the extension period. [Ord 90-0069]

95.150 Final Approval. (1) Final approval is granted by the Planning Official based upon findings that the applicant has complied with all the conditions imposed in the preliminary approval. Final approval completes the land partition.

(2) To obtain final approval the applicant shall submit one set of documents demonstrating compliance with the conditions of approval.

(3) The landowner(s) or contract purchaser(s) shall acknowledge a documented recorded ownership interest in the parcel or lot by signing the partition plat. The signature shall be notarized.

(4) The Planning Official shall provide for signature of the plat by the Assessor and Tax Collector, or their designee(s), signifying payment of taxes, interest or penalties pursuant to ORS 92.095.

(5) The Planning Official shall signify final approval of the partition by signing the partition plat.

(6) The County Surveyor shall signify compliance with plat standards by signing the partition plat.

(7) All improvements to be dedicated to the public shall be installed to the satisfaction of the County Engineer prior to final approval of the partition. In lieu of complete installation of public improvements, an improvement agreement and performance guarantee may be submitted pursuant to BCC 99.905 to 99.920.

(8) The Board of Commissioners shall signify acceptance of any right-of-way dedication by signing the partition plat.

(9) The County Surveyor shall record the plat with the Benton County Records and Elections Office.

(10) The Assessor shall assign a new tax account to each parcel or lot in an approved partition plat. [Ord 7, Ord 90-0069, Ord 92-0092, Ord 96-0118]

Chapter 96

[Ord 90-0069, Repealed by Ord 92-0092]

Reserved for Expansion

Chapter 97

Subdivisions

97.005 Scope. A subdivision is a division of land into four or more parcels or lots within a calendar year. All subdivisions shall be subject to the provisions of this chapter. Subdivisions within the Corvallis Urban Growth Boundary shall also be reviewed pursuant to the Planned Unit Development standards contained in BCC Chapter 100. [Ord 7, Ord 90-0069, Ord 98-0141]

97.050 Replatting. A replat of a recorded subdivision plat shall be reviewed as a new request for a subdivision and shall be subject to all provisions of this chapter. When a utility easement is proposed to be realigned, reduced in width or omitted by a replat, all affected utility companies or public agencies shall be notified consistent with BCC 51.605 to 51.615. [Ord 92-0092]

APPLICATION

97.105 Letter of Intent to Subdivide. The applicant shall inform the Planning Official in writing of the intention to apply for a subdivision, and request a pre-application conference. A sketch plan and narrative must accompany the letter of intention with sufficient detail to outline the development plan. [Ord 7, Ord 90-0069].

97.110 Pre-Application Conference. The Planning Official shall schedule a pre-application conference with the applicant within twenty-one (21) days following receipt of the letter of intention. Representatives of public and private agencies may attend or may submit such information and recommendations that will assist the applicant in preparing the tentative subdivision plat. The applicant or the Planning Official may request additional meetings. [Ord 7, Ord 90-0069]

97.115 Application. (1) A complete application for a subdivision shall include fifteen copies of a preliminary plat that conforms to map standards established by the County Surveyor and ORS Chapter 92. A preliminary plat shall illustrate:

- (a) Parcel, lot, and road design consistent with the Development Code.
- (b) Location, names, width, elevation and grades of existing and proposed streets in, or adjacent to, the proposed subdivision.
- (c) Contour lines at two foot intervals unless otherwise approved by the County Engineer. Five foot contour lines may be used in areas of greater than fifteen (15) percent slope or if the tract is divided into parcels or lots of five (5) acres or more. The source and accuracy of contour shall be specified.
- (d) The location of at least one temporary benchmark within the boundaries of the proposed subdivision.
- (e) The location of all areas subject to the base flood as shown on the Flood Boundary and Floodway Map on file in the office of the Development Department, 180 N.W. Fifth Street, Corvallis.
- (f) Soils using USDA Soil Conservation Service information or field studies prepared from specific site data.
- (g) The proposed parcel or lot lines, approximate dimensions and lot and block numbers.
- (h) Proposed phases or additions for the completion of public improvements and the filing of final plats.
- (i) The location, width and purpose of all easements.

(j) The location of all utilities including water, sewer, power, telephone, natural gas and cable television.

(k) The proposed plan for stormwater drainage including any off-site improvements.

(l) The location and purpose of all common or public facilities.

(m) The proposed subdivision name, and the name, address, and phone number of the applicant and all representatives responsible for the plan.

(n) A vicinity map showing the boundary of the parent parcel, intersecting property lines, adjacent streets, sewers, water lines and ownerships abutting the boundary of the parent parcel as found in the County Assessor's records.

(2) An application shall further include a narrative that provides the following information.

(a) A phased development schedule.

(b) A schedule for construction of all improvements.

(c) The proposed method for providing water supply for each parcel or lot.

(d) The proposed method for providing sewage disposal for each parcel or lot.

(e) Description of the impact of the proposed subdivision on water, sewer, fire protection, law enforcement, schools, hospitals, solid waste disposal and other services.

(f) Description of all community facilities or systems including a maintenance program for such systems.

(g) A copy of tentative covenants, conditions and restrictions, if any, proposed by the applicant.

(3) The applicant shall submit two copies of the tentative plat and the appropriate fee to the County Surveyor. [Ord 7, Ord 90-0069, Ord 92-0092, Ord 96-0118]

97.120 Design Standards. A subdivision shall be designed to comply with the land development standards contained in BCC Chapter 99. In addition, the minimum width for utility easements shall be:

(1) Ten (10) feet when abutting a rear property line.

(2) Sixteen (16) feet when centered on a rear property line, resulting in eight (8) feet on either side of the property line.

(3) Five (5) feet along prescribed side property lines as authorized by the County Engineer. [Ord 7, Ord 90-0069, Ord 96-0118]

PRELIMINARY APPROVAL

97.205 Notice of Pending Action. After receiving a complete application, the Planning Official shall schedule a public hearing and issue public notice for the purpose of reviewing the subdivision's preliminary plat. The Planning Official shall coordinate review of the preliminary plat with all affected city, county, state and federal agencies and all affected special districts. [Ord 90-0069]

97.210 Approval of Preliminary Plat. The Planning Commission shall review all preliminary plat documents and conduct a public hearing for the purpose of reviewing the proposed subdivision. The Planning Commission shall consider the provisions of the Development Code, and approve, approve with modifications or conditions, or deny the proposal. The decision shall be based upon findings justifying the decision. Approval of the tentative plat shall be a final decision for the purpose of appeal on the issue of compliance with BCC Chapter 99. [Ord 90-0069, Ord 92-0092]

97.215 Public Improvements. The Planning Commission may require that all public improvements be installed and dedicated prior to final plat approval or a bond shall be required ensuring completion pursuant to BCC 99.905 to 99.920. The amount of the bond shall be established by the County Engineer. The bond shall be submitted by the applicant prior to final plat approval. [Ord 90-0069]

97.305 Effective Period. Unless a phasing schedule is approved by the Planning Commission, a tentative plat shall be effective for a period of twelve (12) months from the date of decision, after which time the approval automatically expires. [Ord 7, Ord 90-0069]

97.310 Extension of Effective Period. (1) The Planning Official may grant one extension of six (6) months for submitting the final plat and documents. The applicant shall submit the request for extension in writing to the Planning Official prior to expiration of the effective period and shall provide evidence that the plat and documents will be completed within 18 months of the tentative plat approval.

(2) The Planning Commission may grant one extension of twelve (12) months for submitting the final plat and documents. The applicant shall submit the request for extension in writing to the Planning Official prior to the expiration date of the effective period. The applicant shall submit evidence that the plat and documents will be completed within twenty-four (24) months of the tentative plat approval. [Ord 7, Ord 90-0069]

FINAL PLAT REVIEW

97.405 Final Plat Submittal. The applicant shall submit two sets of prints and all accompanying documents to the Planning Official prior to expiration of the tentative plat. The original of the final plat shall be filed with the County Surveyor. The plat and documents shall contain all modifications required as conditions of approval. The final plat submittal shall include the following items:

(1) A final plat map that complies with map standards established by the County Surveyor and ORS Chapter 92. Such plat shall illustrate or include:

(a) All existing and proposed easement lines. The description of each easement shall include the purpose, width, length and bearing, and sufficient ties to locate the easement with respect to the subdivision lines. If an easement is not definitely located, a statement of the easements shall be given. If the easement has been recorded, the recording reference shall be listed.

(b) The land to be dedicated for any purpose, public or private, as distinguished from parcels or lots intended for sale.

(c) A certificate signed and acknowledged by all parties having any recorded title interest in the land (except lienholders) consenting to the preparation and recording of the final plat.

(d) Certificates for signatures of approval by the Chairman of the Planning Commission, County Engineer, Assessor, Tax Collector, County Surveyor and the Board of Commissioners.

(e) Other certifications required by State law.

(2) Drawings and calculations which illustrate or include:

(a) Traverse data including the coordinates of the boundary of the subdivision and ties to section corners and donation land claim corners, and showing the error of closure.

(b) The computation of all distances, angles, and courses shown on the final plat.

(c) Ties to monuments, adjacent subdivisions, and street corners.

(3) Evidence of adequate quality and quantity of water to each parcel or lot.

(4) Evidence of adequate sewage disposal for each parcel or lot.

(5) A copy of any final covenants, conditions, and restrictions applicable to the subdivision, to be recorded with the final plat.

(6) Documents dedicating all roads, pedestrian ways, drainage channels, easements, and other public rights-of-way.

(7) Plans, specifications and supporting documents for improvements of lands dedicated for roads, pedestrian ways, drainage channels, easements, and other public rights-of-way.

(8) The applicant shall pay engineering review fee. [Ord 7, Ord 90-0069, Ord 92-0092]

97.410 Staff Review of the Final Plat. The Planning Official, Engineer, and County Surveyor shall concurrently review the final plat for conformity with the approved tentative plat and State law.

(1) If the Planning Official, County Engineer or County Surveyor determine that the final plat and documents do not conform to the approved tentative plat and State law, the applicant shall be afforded the opportunity to make corrections. The corrections shall be completed within three (3) months following expiration of the tentative plat approval.

(2) Minor changes from the tentative plat may be authorized by the Planning Official provided that such changes are required by engineering or other circumstances unforeseen at the time the tentative plat was approved. All changes must be consistent with the provisions of the Development Code. If other revisions are made to the subdivision plan, and the Planning Official finds that such revisions differ significantly from the approved tentative plat, the final plat shall be denied. [Ord 90-0069]

97.415 Final Plat Signatures. Once staff review and approval has occurred, the County Surveyor shall forward the final plat to the Planning Commission Chairman, County Engineer, Assessor, Tax Collector, County Surveyor and special district board chairman, if applicable, for signature. [Ord 7, Ord 90-0069]

97.420 Final Plat Approval by the Board. The County Surveyor shall submit the signed final plat to the Board of Commissioners for final approval. The Board of Commissioners shall grant final approval by signing and dating the final subdivision plat. Approval of the final plat shall be a final decision of the issue of compliance with BCC 97.405 to 97.410. [Ord 90-0069]

97.505 Filing the Final Plat. The County Surveyor shall file and record the final subdivision plat and record the Notice of Final Approval with the County Records and Elections Office. The applicant shall be responsible for the recording fees. Prior to recording a Notice of Final Approval, the application shall submit a Statement of Water Rights that has been completed by the applicant, and signed by the Oregon Water Resources Department if a water right is appurtenant to the land. [Ord 90-0069]

Chapter 98

Planned Unit Development

98.005 Purpose. The planned unit development (PUD) is intended to add flexibility to the subdivision standards and procedures of the Development Code in order to address topographic, economic or aesthetic factors encountered in the development process. It is the purpose of the PUD review process to allow new or innovative design and technology; to promote the most appropriate use of the land; to facilitate adequate and economical provisions for roads and public facilities; and to preserve the natural and scenic features of a site. Regardless of the provisions of this chapter, all planned unit developments within the city of Corvallis Urban Growth Boundary shall be reviewed pursuant to the Planned Unit Development standards contained in BCC Chapter 100. [Ord 26, Ord 90-0069, Ord 98.005]

98.010 Design Standards. A PUD is a specialized form of subdivision. A proposed PUD shall therefore conform to all subdivision and land partition standards of this code, except that certain standards may be varied as provided by this chapter. [Ord 90-0069]

98.105 Density of Development. (1) Parcels or lots smaller than the minimum parcel or lot size may be allowed in a PUD where open space and clustering of parcels or lots are proposed such that the overall density of the PUD is maintained at or less than the level allowed by the minimum parcel or lot size.

(2) The overall density of the PUD may be increased up to twenty-five (25) percent beyond that allowed by the minimum parcel or lot size where the proposed PUD contains areas allocated for a functional common area, such as a park, or the increase in density is warranted by the design and amenities incorporated in the proposed PUD. [Ord 26, Ord 90-0069, Ord 96-0118]

98.110 Off-Street Parking. The number of off-street parking spaces in a PUD may be reduced below the minimum required by this code if the nature of the proposed use warrants such reduction. [Ord 26, Ord 90-0069]

98.115 Uses. (1) In addition to permitted uses and uses allowed by conditional use permit in the zone, commercial uses may be allowed in a residential PUD, subject to approval of a conditional use permit. A conditional use permit for a commercial use in an approved PUD shall be approved by the Planning Commission.

(2) In addition to satisfying the conditional use permit requirements of BCC 53.215, an application for a conditional use permit in a PUD shall demonstrate that:

- (a) The use is primarily for the service and convenience of residents within the PUD; and
- (b) Such use shall not change or alter the predominate character of the PUD. [Ord 26, Ord 90-0069]

98.120 Parks. A common park area shall be designated in a residential PUD if the PUD is to be comprised of parcels or lots smaller than one acre in size. Such a park area shall be accessible to and available for use by the residents of the development, and shall be suitable for scenic or recreational purposes. [Ord 26, Ord 90-0069]

APPLICATION

98.205 Letter of Intention. The applicant shall inform the Planning Official in writing of the intention to apply for a PUD. A sketch plan and narrative must accompany the letter of intention with sufficient detail to outline the proposed PUD. [Ord 26, Ord 90-0069]

98.210 Pre-Application Conference. The Planning Official shall schedule a pre-application conference with the applicant no more than fourteen (14) days following receipt of the letter of intention. Representatives of public and private agencies may attend or may submit such information and

recommendations that will assist the applicant in preparing the development plan. The applicant or Planning Official may request additional meetings. [Ord 26, Ord 90-0069]

98.215 Application for a PUD. A complete application for a PUD shall include the following documentation:

- (1) Fifteen copies of a PUD map that illustrates the following information:
 - (a) Existing topography, including identification of areas subject to slide, slump, erosion or flooding hazards.
 - (b) The location of existing structures, vegetation and natural features.
 - (c) Proposed location of buildings, roads, driveways and off-street parking.
 - (d) Proposed building types and density.
 - (e) Proposed open space areas, indicating use, ownership, and maintenance.
- (2) A vicinity map showing the plan in relation to the surrounding community.
- (3) A narrative that provides the following development details:
 - (a) Proof of ownership and a legal description of all lands included within the PUD.
 - (b) A phasing schedule, if the PUD will be platted in phases.
 - (c) A description of the general nature of the development.
 - (d) Copies of special agreements, covenants or restrictions governing the use, maintenance, and continued protection of common areas, roads and public facilities. [Ord 7, Ord 90-0069, Ord 92-0092]

REVIEW

98.305 Planning Commission Review. The Planning Commission shall conduct a public hearing for the purpose of reviewing the proposed PUD. The Planning Commission shall consider the provisions of the Development Code, and approve, approve with modifications or conditions, or deny the request. The decision shall be based upon findings justifying the decision. [Ord 26, Ord 90-0069]

98.310 Signing an Approved PUD Map. The applicant shall submit to the Planning Official a reproducible copy of the approved PUD map no larger than 11 x 17 inches. The Chairman of the Planning Commission shall sign and date the map. The Planning Official shall retain the map for County records. [Ord 90-0069]

98.315 Effect of Approval. No development shall occur in an approved PUD except in conformance with the approved Plan, and any applicable portions of the Development Code. Nonconforming development shall be considered a violation of the Development Code. [Ord 90-0069]

POST APPROVAL REVIEW

98.405 Modification of Approved Plan. A modification of an approved PUD plan which does not deviate by more than ten percent (10%) from approved parcel or lot size or dimensions may be approved by the Planning Official. A plat modification which exceeds this standard but otherwise substantially conforms to the approved PUD plan may be approved by the Planning Official, subject to notice requirements pursuant to BCC 51.605 to 51.625. A modification which does not substantially conform to the approved PUD plan shall be reviewed pursuant to the procedures for initial PUD approval. [Ord 90-0069, Ord 96-0118]

98.410 Deadline for Completion. The applicant or successor in interest shall submit all final plat documents for subdivision of the PUD within two (2) years of the date of approval, or within the guidelines of an approved phasing schedule. [Ord 90-0069]

98.415 Extension of Deadline. An applicant may apply for an extension of the PUD deadline. The applicant must demonstrate that the deadline could not be met based upon reasons or conditions outside the applicant's control. The applicant must further demonstrate that substantial construction is reasonably likely to occur within the subsequent two year period or, if the deadline exceeded was established by an approved phasing schedule, must submit an updated phasing schedule for review and approval. An extension shall be subject to review by the Planning Commission. The Planning Commission may approve, amend, or deny the extension. [Ord 90-0069]

98.420 Monitoring Development. The Planning Official shall review each approved PUD on a annual basis to determine whether the PUD is developing on schedule or in compliance with its approved Plan. If the Planning Official determines that the PUD is not developing on schedule or in conformance with its approved plan, the Planning Official shall notify the owner in writing that the owner must apply for a modification to the approved plan or for an extension to the PUD deadline within sixty days of the mailing of the notice in order to bring the PUD into compliance. If the owner fails to apply for a modification or extension within that time period, or if the modification or extension is denied, the Planning Official may revoke the PUD. [Ord 26, Ord 90-0069]

VACATION OF PUD

98.505 Application. The PUD owner may apply for vacation of all or part of the PUD. If a portion of the PUD has been subdivided, the application must demonstrate that the vacation will not adversely impact road, water, or sewage disposal improvements constructed for the land within the subdivided portion of the PUD. [Ord 90-0069]

98.510 Planning Commission Review. The Planning Commission shall review and conduct a public hearing concerning the application for vacation of a PUD. Individual notice of the hearing shall be sent to all persons owning property within the approved PUD. The Planning Commission may approve, deny, or modify the request. [Ord 90-0069]

Chapter 99

General Development Standards

99.005 Scope. All development within Benton County, including land partitions, subdivisions and associated land development, and the construction of residential dwellings, industrial, commercial, or public buildings and other accessory structures shall conform to applicable standards of this chapter. [Ord 26, Ord 7, Ord 90-0069]

SENSITIVE LAND

99.105 Description of Sensitive Land. Certain land characteristics may render a site "sensitive" to development. Sensitive land includes, but is not limited to:

- (1) Land having geologic hazard potential or identified by the Oregon Department of Geology and Mineral Industries in Geologic Hazards of Eastern Benton County, hereby incorporated by reference.
- (2) Land containing soils subject to high erosion hazard when disturbed, or lands containing soils subject to high shrink-swell potential as identified by the USDA Soil Conservation Service in the Soil Survey of Benton County Area, Oregon, or the Soil Survey of Alsea Area, Oregon, hereby incorporated by reference. [Ord 7, Ord 90-0069]

99.110 Consideration. An applicant for a land partition or building permit shall consider the geology, topography, soils, vegetation and hydrology of the land when designing a parcel or lot, or siting improvements. The Planning Official or Building Official may impose conditions or modifications necessary to mitigate potential hazards or otherwise provide for compliance with adopted Comprehensive Plan policies. The Planning Official or Building Official shall consider the recommendation of the County Engineer, municipal officials within urban growth boundaries, and other technical sources in the determination of sensitive land conditions and mitigating measures. [Ord 7, Ord 90-0069, Ord 96-0118]

99.115 Mitigating Sensitive Land Conditions. The following guidelines shall be considered in the establishment of conditions and mitigating measures:

- (1) Roads should be located in upland areas on benches, ridge tops and gentle slopes as opposed to steep hillsides and narrow canyon bottoms.
- (2) Native vegetation removal or soil disturbance should be minimized on moderate and steep slopes and hillsides. If possible, avoid such activities during winter months.
- (3) Surface water runoff should be minimized or provide appropriate means for handling surface water runoff.
- (4) Techniques should be utilized that minimize erosion, such as protective groundcover.
- (5) Engineering assessment of hazard potential should be required for land development.
- (6) Geotechnical investigations should be required for roads and foundations in slide-prone areas. [Ord 7, Ord 90-0069]

99.120 Notice of Highly Expansive Soils. If the Planning Official or Building Official requires a site soil analysis and site recommendation report as a condition of approval for issuance of a building report for a residence, and the analysis and report identify the presence of highly expansive soils, then prior to issuance of the building permit, such official shall:

- (1) Include a copy of that report with the construction plans filed with the building permit in the Development Department; and

(2) Record in the County Clerk Lien Record a notice containing a legal description of the property and an informational notice in the following form:

This property has been identified as having highly expansive soils. This condition may create special maintenance requirements. Before signing or accepting any instrument transferring title, persons acquiring title should check with the appropriate planning or building department.

[Ord 90-0069]

99.205 Protection of Corvallis Fringe Drainageways. (1) Proposed land divisions or the proposed development or enlargement of selected commercial, industrial or public buildings on lots or parcels within the Corvallis Urban Growth Boundary which adjoin or wholly contain drainageways identified in the Corvallis Drainageway Master Plan, hereby incorporated by reference, shall be subject to the provisions of this section. "Selected commercial, industrial, and public buildings" means those projects which would create an impervious area covered by parking, driveways, sidewalks, and the building footprint which exceeds 20,000 square feet or twenty percent (20%) of the parcel or lot size, whichever is less.

(2) Any proposal to create a parcel or lot of less than five (5) acres or to develop or enlarge a selected commercial, industrial or public building shall require the dedication to the City of Corvallis for purposes of flood protection and stormwater conveyance that portion of the drainageway contained within the subject parcel or lot. The area subject to dedication is defined as that portion of the floodway identified on the Corvallis Urban Growth Boundary Floodway Maps adopted pursuant to BCC 83.010(3).

(3) Any proposed partition subject to BCC 99.205(2) or the development or enlargement of a selected commercial, industrial or public building subject to BCC 99.205(1) shall require the dedication of an easement to the City of Corvallis. The easement shall be a minimum of twenty-five (25) feet in width, parallel to and measured from the centerline of the subject drainageway. The purpose of the easement shall be to obtain access to the drainageway for channel maintenance and preservation of riparian vegetation. In the event that an area of riparian vegetation, as evidenced by the presence of non-aquatic species which are generally dependent upon a high seasonal water table, extends beyond the twenty-five (25) foot minimum width of the easement, additional area may be required to be subject to the easement. The easement shall restrict the construction of improvements, removal of riparian vegetation, and the installation of landscaping within the subject area.

(4) Any proposed partition, irrespective of size, which adjoins or wholly contains a drainageway shall be required to record a covenant generally describing an area subject to future dedication as described in BCC 99.205(2) and (3) and reserving the described area for the dedication upon the request of the City of Corvallis. [Ord 7, Ord 90-0069, Ord 92-0092, Ord 96-0118]

99.225 Development Activities in Wetlands. (1) If the subject property is situated wholly or partially within areas identified as wetlands on the Statewide Wetlands Inventory on file in the office of the Benton County Development Department, and if a permit from the Division of State Lands has not been issued for the proposed activity, the Planning Official shall provide notice to the Division of State Lands, the applicant, and the owner of record within five days of receipt of the following types of applications:

- (a) Subdivisions, planned unit developments.
- (b) Building permits for new structures.
- (c) Conditional use permits and variances that involve physical alterations to the land or construction of new structures.
- (d) Other development permits and approvals that allow physical alteration of the land, including development in the floodplain.

(2) If the Division of State Lands responds to a notice provided by this section, approval of the application shall include one of the following notice statements:

- (a) Issuance of a permit under ORS 541.605 to 541.685 by the Division of State Lands is required for the project before any physical alteration takes place within the wetlands; or
- (b) The Division of State Lands has determined that no permit is required; or
- (c) The Division of State Lands has determined that no permit is required until specific proposals to remove, fill or alter the wetlands are submitted.

(3) If the Division of State Lands fails to respond to any notice provided under this section within thirty (30) days of notice, the approval of the application shall include written notice to the applicant and the owner of record that the proposed activity may require state or federal permits. [Ord 90-0069]

99.230 Partitions and Map Amendments in Wetlands. If the subject property for a partition, or quasi-judicial comprehensive plan map or zoning map amendment, is situated wholly or partially within areas identified as wetlands on the State-wide Wetlands Inventory, the Planning Official shall provide notice to the applicant and the owner of record of the possible presence of wetlands and the potential need for state and federal permits. The Planning Official shall provide the Division of State Lands with a copy of the notification. [Ord 90-0069, Ord 92-0092]

PARCEL AND LOT DESIGN

99.305 Parcel and Lot Configuration. The depth to width ratio of every proposed parcel or lot shall not exceed 2.5 to 1, or the least modification of this standard when considering the location, nature of the land and the type of use contemplated. [Ord 7, Ord 90-0069, Ord 96-0118]

99.310 Flag Lots. The access strip to a flag lot shall be at least twenty-five (25) feet wide, and shall not exceed 300 feet in length inside an urban growth boundary or 750 feet in length outside an urban growth boundary. [Ord 7, Ord 90-0069]

99.315 Resource Buffer Zone. (1) A 300 foot setback to adjoining land in a resource zone shall be reserved on any proposed parcel or lot in a nonresource zone, if feasible. In the alternative, a setback less than 300 feet is permitted if it is the least modification of the 300 foot standard and would conform to the prevailing setbacks of the neighborhood. This standard does not apply to a yard adjoining a public road.

(2) If reservation of a 300 foot setback is not feasible, a declaratory statement shall be recorded in the County Deed Records recognizing resource use on adjacent lands. [Ord 26, Ord 90-0069, Ord 96-0118]

FRONTAGE

99.405 General Rule of Frontage. (1) Every new dwelling and new structure designed for commercial, industrial or public occupancy which is not part of an existing use on a parcel or lot shall be sited on a parcel or lot which has a minimum of twenty-five (25) feet of frontage along an improved public road.

(2) Every proposed parcel or lot in a land division shall have a minimum of twenty-five (25) feet of frontage along an improved public road.

(3) Double frontage parcels or lots are permitted only to separate incompatible land uses or to limit access to an arterial or collector roadway. Double frontage parcels or lots are subject to BCC 99.430. [Ord 7, Ord 90-0069, Ord 96-0118]

99.410 Frontage Exception for New Dwellings. (1) In the alternative to compliance with 99.405(1), a new dwelling may be allowed without the required frontage if:

- (a) The parcel or lot has no physical frontage on a public road right-of-way; or
- (b) The roadway within the adjoining public road right-of-way has not been constructed to County Secondary Road Standards in BCC 99.515(4); or

(c) The parcel or lot is unable to achieve access to an adjoining right-of-way due to physical constraints such as terrain or water bodies, or due to legal constraints such as restrictions contained within the title records or conditions previously imposed by the County.

(2) A building permit for a proposed dwelling which qualifies for an exception pursuant to BCC 99.410(1) may be issued if:

(a) The applicant submits evidence of an easement of record which provides for access across private property between the subject property and an improved public roadway; or

(b) If the parcel or lot fronts or obtains access via an unimproved or substandard roadway within a public right-of-way, the applicant causes the roadway to be improved to County Secondary Road Standards in BCC 99.515(4). [Ord 90-0069, Ord 96-0118]

99.415 Frontage Exception for Partitions. (1) A partition to create a parcel or lot which does not conform to BCC 99.405 may be approved if all of the following criteria are met:

(a) Not more than six (6) parcels or lots including the proposed parcel or lot obtain access via an existing private road or street. Parcels or lots used exclusively for resource use shall not be considered;

(b) The easement is a minimum of fifty (50) feet in width and no more than 1,250 feet in length measured from the point of intersection with a public road or street to the proposed access point on the proposed parcel or lot. The minimum easement width may be reduced below fifty feet if not more than three parcels or lots could potentially be served by the easement;

(c) The existing private road or street intersects a public road or street which meets County Secondary Road Standards contained in BCC 99.515(4); and

(d) The existing private road or street is improved to County Secondary Road Standards contained in BCC 99.515(4) for the total number of non-resource parcels or lots served by the easement.

(2) In lieu of compliance with BCC 99.415(1)(d), an applicant may submit for recording a covenant recognizing the requirement for improvements to the private roadway prior to the issuance of a building permit on the proposed parcel(s) or lot(s) and identifying the estimated cost of construction of improvements as determined by a professional engineer or a licensed road building contractor.

(3) The applicant must submit evidence of an easement granting to the applicant, and the applicant's heirs and successors the rights and privileges to use the easement, and must also submit a covenant binding the same to participate in the maintenance of improvements within the easement.

(4) A proposed parcel or lot zoned for and primarily engaged in a resource use shall be exempted from the provisions of this Section except that the applicant shall submit evidence of an easement of record which provides for access across private property between the subject property and an improved public roadway.

(5) A private road or street which does not comply with BCC 99.415(1)(a) and (b) shall be dedicated to the public and improved to public road standards prior to further partitioning of land using the road for access.

(6) If the proposed partition which creates a proposed private roadway is located within an urban growth boundary, the applicant shall submit for recording a signed covenant reserving the easement containing the proposed private road or street for future dedication and a non-remonstrance agreement for the formation of a local improvement district. [Ord 90-0069, Ord 92-0092, Ord 96-0118]

99.420 [Ord 90-0069, repealed by Ord 92-0092]

99.430 Multiple Frontage. Where a parcel or lot has frontage and legal access on more than one road, whether public or private, the functional classifications of each road shall be used to determine the access location. Exception can be made where factors such as terrain or other obstacles prevent obtaining practical access via the preferred roadway.

- (1) Where a parcel or lot has frontage on a private road and either an arterial or collector road, the private road shall be used for access and a covenant waiving access rights to the collector or arterial road shall be entered into by the applicant.
- (2) Where a parcel or lot has frontage on a local public road and either an arterial or collector road, the local road shall be used for access and a covenant waiving access rights to the collector or arterial road entered into by the applicant.
- (3) Where a parcel or lot has frontage on a private road and a local public road, either may be used for access.
- (4) Where a parcel or lot has frontage on two local public roads, either road may be used for access. [Ord 90-0069, Ord 96-0118]

ROADS AND DRIVEWAYS

99.505 Dedication of Right-of-Way. (1) An applicant for a partition within an urban growth boundary may be required to dedicate right-of-way as a condition of approval to provide for the future development or improvement of existing and planned transportation facilities in accordance with adopted Comprehensive Plan policies and requirements.

(2) Where an existing road right-of-way does not comply with the minimum County standard for the applicable road classification, an applicant for a partition located in a non-resource zone shall dedicate to the County sufficient right-of-way to meet the minimum County road standard along the frontage of the parcel or lot being divided. Such dedication shall occur prior to final approval of the partition. Such dedication will not be required:

- (a) Where the applicant signs a covenant to be recorded in County Deed Records waiving building rights until such time as sufficient right-of-way is dedicated or otherwise acquired; or
- (b) Where the partition does not result in the creation of one or more developable parcels or lots. A newly created parcel or lot shall not be considered developable if no new dwelling or use can be located on the parcel or lot without further partitioning or without first obtaining a conditional use permit.

(3) Property acquired for public road purposes shall be surveyed and monumented by the County. [Ord 90-0069, Ord 92-0092, Ord 96-0118]

99.510 Road Approach Permits. (1) If a new road approach is proposed, the applicant shall obtain a road approach permit prior to construction of the road approach. If the proposed road approach would connect to a State highway, the permit shall be obtained from the State Highway Division. If the proposed road approach would connect to any other public road, the permit shall be acquired from Benton County. A road approach permit is not required for the construction of an approach connecting with a private road or street.

(2) A new road approach shall be constructed in accordance with the specifications prescribed by the County Engineer or the State Highway Division. The specifications shall be related to the use of the driveway, the nature of the adjoining public road, and the characteristics of drainage structure at the selected location.

(3) An occupancy permit or final inspection approval required in accordance with the State Building Code shall not be issued for any structure on a parcel or lot with a road approach which was installed in violation of permit requirements, specifications or conditions. [Ord 90-0069]

99.515 Road Design and Construction Standards. (1) Schematic layout of proposed public and private roads or streets shall adhere to the following general guidelines:

- (a) Streets should be aligned to join with planned collector and arterial streets and/or existing streets.
- (b) Streets should be designed to respect topography and meet all applicable engineering standards.

- (c) Intersections shall be approximate or actual right angles.
 - (d) Surface drainage shall be toward the intersecting street or through a drainage easement on abutting parcels or lots.
 - (e) Cul-de-sacs shall end with a minimum turning radius of 45 feet; however, for cul-de-sacs less than 200 feet in length within areas zoned for single-family residential use, an alternative design ("T", "Y", or other) or location may be approved by the County Engineer.
 - (f) Cul-de-sacs in excess of 900 feet in length within commercial or industrial areas or which serve more than 20 residential parcels or lots shall provide a secondary means of access for emergency use (fire lane).
 - (g) Dead-end streets shall be designed to connect with future streets on adjacent property. A temporary turn-around may be required.
 - (h) The County may reserve a one foot wide strip of public road right-of-way adjoining private land for the purpose of controlling access.
 - (i) Development containing more than twenty (20) parcels or lots shall contain multiple points of access into the development.
 - (j) Geometric design will follow AASHTO: A POLICY ON GEOMETRIC DESIGN OF HIGHWAYS & STREETS, 1984 ED., standards, except when the County Engineer finds terrain or other conditions making it impossible or unfeasible to do so.
- (2) All roads within existing or proposed public rights-of-way located outside an Urban Growth Boundary shall be designed and constructed pursuant to the Rural Design Criteria identified in Table I and Figure II. Plans and construction shall be approved by the County Engineer.
- (3) All roads within existing or proposed public right-of-way located within an Urban Growth Boundary shall be designed and constructed pursuant to Urban Design Criteria identified in Table II and Figure III. Plans shall be reviewed and approved by the County Engineer in consultation with public works staff of the appropriate city.
- (4) A private road or street created by partition, or an existing private or public road which provides for access to parcels or lots created by partition shall be improved to the following County Secondary Road Standards. Required plans and construction of improvements shall be inspected and approved by the County Engineer, and the applicant shall pay an engineering review fee.
- (a) The road base shall be not less than that required to accommodate a twenty (20) foot wide road with minimum slopes for drainage improvements specified in Figure I.
 - (b) The road grade shall not exceed twelve percent (12%). Road sections under 100 feet in length which are paved may have grades to a maximum of seventeen percent (17%).
 - (c) The graveled surface shall be at least sixteen (16) feet in width for a road serving only two parcels or lots, and twenty (20) feet in width for a road serving three or more parcels or lots.
 - (d) The standards for sub-base, aggregate, compaction and vehicle turnout and turnarounds shall conform to the guidelines in Figure I.
- (5) For the protection of the public interest, the County Engineer may require improvements in excess of adopted standards, if terrain or other conditions warrant such a change.
- (6) Additional off-site improvements may be required as a conditions of land division if it is found by the Planning Official, County Engineer, Planning Commission or Board of Commissioners that the land division will have a significant impact on the level of service or maintenance costs for existing roads, drainage, or other public facilities. [Ord 7, Ord 90-0069, Ord 92-0092, Ord 96-0118]

TABLE I, RURAL DESIGN STANDARDS

Local road standards are designated as RL-1, RL-2 and RL-3. Collector standards are designated as RC-1 and RC-2. Arterial standards are designated as RA-1 and RA-2.

<u>Standard</u>	<u>Zones</u>	<u>Projected ADT</u>	<u>Projected DHV</u>	<u>Minimum ROW</u>	<u>Surface Width</u>	<u>Paving Material</u>	<u>Crushed Base Equivalent</u>
RL-1	Resource	0-100	<30/hr	50 ft	18 ft	AC,PCC, APM	18 inches
RL-2	Dead end RR	0-200	<30/hr	50 ft	18 ft	AC,PCC APM	18 inches
RL-3	Resource, RR <1,000ft	100-750	<100/hr	60 ft	20 ft	4 inch AC,PCC	18 inches
RC-1	Resource	100-750	<100/hr	60 ft	20 ft	4 inch AC,PCC	18 inches
RC-2	Resource, RR	750-2000	<300/hr	60-70ft	24 ft	4 inch AC,PCC	20 inches
RA-1	All zones	1000-5000	<900/hr	80 ft	24-34ft	6 inch AC,PCC	20 inches
RA-2	All zones	>5000	>900/hr	100 ft	50-70ft	6 inch AC,PCC	24 inches

<u>Standard</u>	<u>Shoulder</u>	<u>Maximum Grade</u>	<u>Bike Path</u>	<u>Min. Curve Radius</u>	<u>Design Speed</u>	<u>Parking</u>	<u>Road Approach</u>
RL-1	4 ft gravel	17%	None	200 ft	30 mph	Limited Emergency	Shared 400ft gap
RL-2	4 ft gravel	15%	None	200 ft	30 mph	Parking Allowed	Shared 250ft gap
RL-3	5 ft paved	15%	RR Zone Class III	250 ft	30 mph	Limited Emergency	Shared 450ft gap
RC-1	5 ft paved	12%	RR Zone Class III	500 ft	45 mph	Emergency Only	Shared 400ft gap
RC-2	5 ft paved	10%	RR Zone Class III	760 ft	45 mph	Emergency Only	Shared 400ft gap
RA-1	6 ft paved	5%-8%	All zones Class III	800 ft	50 mph	Emergency Only	None
RA-2	6ft-12ft paved	4%-6%	All zones Class III	800 ft	50 mph	Emergency Only	None

TABLE II, URBAN DESIGN STANDARDS

Local road standards are designated as UL-1, UL-2 and UL-3. The collector standard is designated as UC-1. Arterial standards are designated as UA-1 and UA-2.

<u>Standard</u>	<u>Zones</u>	<u>Projected ADT</u>	<u>Projected DHV</u>	<u>Minimum ROW</u>	<u>Surface Width</u>	<u>Paving Material</u>	<u>Crushed Base Equivalent</u>
UL-1	UR RR2/PUD	0-200	<30/hr	50-60 ft	24 ft	AC,PCC	12 inches
UL-2	UR/PUD	0-750	<100/hr	60 ft	28 ft	AC,PCC	16 inches
UL-3	UR/PUD, C,I	0-1,000	<300/hr	60 ft	34 ft	AC,PCC	16 inches
UC-1	UR/PUD, C,I	750-2000	<600/hr	60-70ft	36 ft	AC,PCC	18 inches
UA-1	All zones	1000-5000	<900/hr	80 ft	40-52ft	AC,PCC	18 inches
UA-2	All zones	>5000	>900/hr	80-100ft	50-70ft	AC,PCC	24 inches

<u>Standard</u>	<u>Shoulder</u>	<u>Maximum Grade</u>	<u>Sidewalk Bikepath</u>	<u>Min. Curve Radius</u>	<u>Design Speed</u>	<u>Parking</u>	<u>Road Approach</u>
UL-1	Std.C&G Mountable PCC	15%	5 ft side No path	200 ft	30 mph	None	100 ft apart
UL-2	Std.C&G Mountable PCC	15%	5 ft side No path	250 ft	30 mph	One side only	100 ft apart
UL-3	Std.C&G	10%	5 ft side No path	275 ft	30 mph	Both sides if UR	100 ft apart
UC-1	Std.C&G	10%	6 ft side 4 ft path	600 ft	45 mph	None	Shared 100 ft apart
UA-1	Std.C&G	5%-8%	6 ft side 4 ft path	800 ft	50 mph	None	Left turn refuge
UA-2	Std.C&G	4%-6%	6 ft side 4 ft path	800 ft	50 mph	None	Left turn refuge

Figure I, County Secondary Road Section

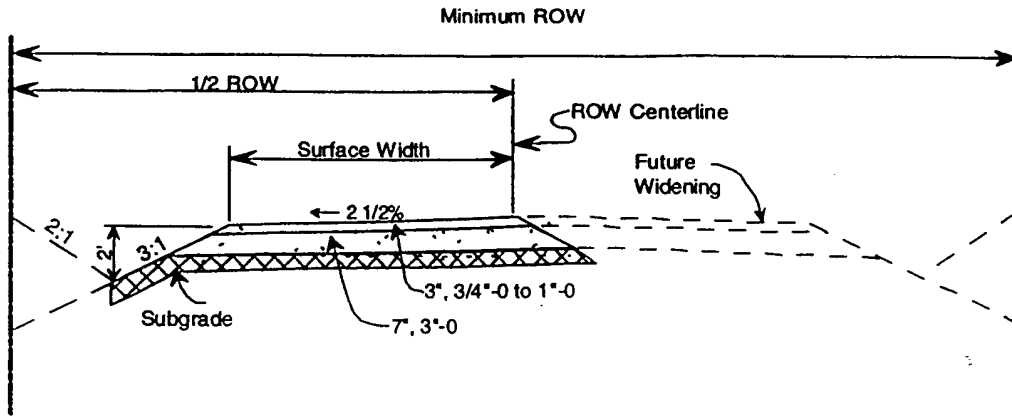


Figure II, Rural Standard Road Section

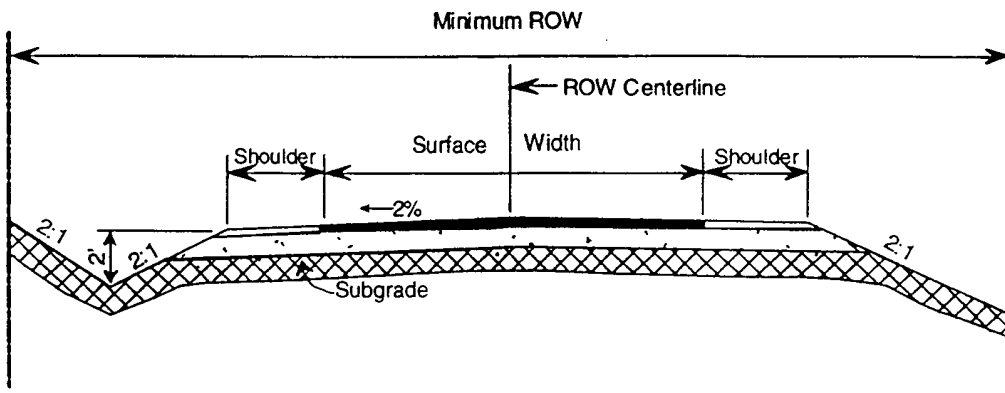
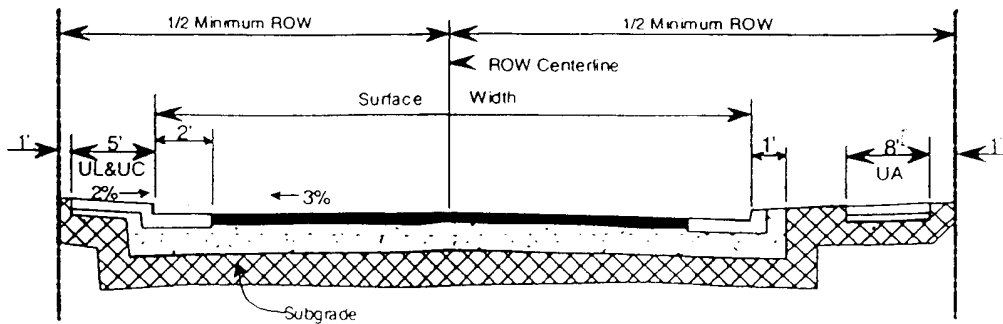


Figure III, Urban Standard Road Section



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99.520 Improvements in a Public Right-of-Way. An applicant intending to construct or upgrade a roadway within a public right-of-way shall be responsible for design and installation of all improvements within the public road right-of-way. Such improvements shall commence from an existing improved public roadway and continue to the subject property and twenty-five (25) feet along the frontage of the proposed parcel or lot, or to the private driveway serving the building site, whichever is greater. Required plans and construction of improvements shall be inspected and approved by the County Engineer. [Ord 90-0069, Ord 96-0118]

99.525 Annexation to a Road District. The landowner of a parcel or lot contiguous to, but not within a road district, shall submit a petition to annex to said district if the applicant requests access to a public road maintained by such district. The petition to annex shall be submitted prior to final approval of a land partition or prior to issuance of a permit to construct or place a residential dwelling, or commercial, industrial, or public building. [Ord 90-0069, Ord 96-0118]

99.530 Participation in a Future Road Improvement District. If a proposed land division or use will result in a measurable singular or cumulative effect on the capacity of any adjoining roadway, the applicant may be required to sign and submit for recording into the County Deed Records a covenant agreeing to participate in a future road improvement district. The effect of the proposed land division or use shall be based on the character of the use, the existing road conditions including the unutilized and unreserved capacity of the roadway, and the capacity of the roadway based upon adopted roadway standards for the functional classification of the road as designated in the Comprehensive Plan. A traffic analysis shall include the most recent average daily traffic count data. The covenant shall be binding for a period not to exceed twenty (20) years. [Ord 90-0069]

FIRE PROTECTION

99.605 Annexation to Fire District Required. If a proposed parcel or lot in a non-resource zone abuts a rural fire protection district, the applicant shall petition for annexation to the district prior to final approval of a land division. [Ord 7, Ord 90-0069, Ord 96-0118]

SEWAGE DISPOSAL

99.705 Sewage Disposal. Each proposed dwelling, parcel, lot, or place of public occupancy shall be served by a sewage disposal system which complies with the requirements of the Oregon Department of Environmental Quality requirements. [Ord 90-0069, Ord 96-0118]

99.710 Site Evaluation Required. An applicant for a land division or building permit shall obtain site suitability evaluation approval from the County Sanitarian prior to the issuance of a permit or final approval of a land partition indicating that each proposed parcel or lot is capable of accommodating a standard septic system or approved alternative system. [Ord 7, Ord 90-0069, Ord 96-0118]

99.715 Existing System Evaluation. If the subject parcel or lot contains an existing septic system, the applicant for any land use decision shall request the County Sanitarian to evaluate the existing septic system. If the County Sanitarian recommends a repair to the system, provisions of the repair permit shall be fulfilled prior to final approval of a building permit or a land partition. [Ord 90-0069, Ord 96-0118]

99.720 Existing Community/Municipal Systems. (1) If connection to an existing community or municipal sewage system is proposed, an applicant shall submit evidence that the service agency is mutually bound and able to serve the development.

(2) Where the parcels or lots in a proposed subdivision will be served by an existing community or municipal sewage system, the governing body of the community or municipal sewage system shall certify on the subdivision plat that a sewage disposal system will be available to the parcel or lot line of each parcel or lot depicted on the subdivision plat.

(3) Connections to community or municipal sewage systems shall be limited to uses within urban growth boundaries or approved systems within rural service centers or rural residential areas. [Ord 7, Ord 90-0069, Ord 92-0092]

99.725 New Community/Municipal Systems. If a new community or municipal sewage system is proposed, the applicant shall prepare and submit preliminary plans and justification for the system pursuant to provisions of this code for review and County approval. Additional review of formal plans and specifications will be required by the County Engineer, the Department of Environmental Quality and a municipality, if within an urban growth boundary. Capacity of the system shall be limited to that necessary to serve existing and permitted growth within the area. The applicant shall show proof of the long-term financial responsibility and financing for construction and operation of the sewer system in accordance with this code, except where a district or municipality has accepted the responsibility. [Ord 7, Ord 90-0069]

99.735 Exemption to Site Evaluation Requirement. (1) An applicant for a partition of land zoned for resource use, but not including a partition of land intended for non-resource use, shall not be required to obtain a site evaluation pursuant to BCC 99.710 as a condition of final approval of the partition. A site evaluation will be required prior to development of a use requiring a septic system or as a condition of a permit to establish a resource related residence or other resource related use.

(2) An applicant for a partition may petition for an exemption to BCC 99.710 requiring a septic site approval as a condition of final approval of the partition. The parcel or lot proposed for the exemption shall contain at least ten (10) acres or two and one-half (2.5) times the minimum parcel or lot size for the zone in which it is located, whichever is less. The applicant shall demonstrate to the satisfaction of the County Sanitarian that the soils on the parcel or lot are generally suitable for a standard septic system or approved alternative system. As a condition of the exemption, the applicant shall sign and submit for recording in the County Deed Records a covenant waiving residential building rights from the parcel or lot approved for the exemption. This covenant shall be terminated when the provisions set forth in BCC 99.710 are met.

(3) Notwithstanding BCC 99.735(2), no exception shall be granted for any proposed parcel or lot situated within an area designated on the Environmental Survey Priority List as adopted by order of the Board of Commissioners. [Ord 90-0069, Ord 92-0092, Ord 96-0118]

WATER SUPPLY

99.805 Water Source. Each proposed dwelling, parcel, lot, or place of public occupancy shall be served by one of the following water sources:

(1) A new or existing well or improved spring.

(2) An existing well or improved spring that currently serves one or two other dwellings. The applicant shall secure an easement to supply water from the owner of the land on which the water source is located and to permit the maintenance of all physical improvements of the water system. Such easement shall be review and approved by the County Sanitarian.

(3) An existing public water system, if authorized by the water system's representative.

(4) A new or expanded community water system, if approved pursuant to this code, and determined to be in conformance with the standards and plan specifications for water systems by the County Sanitarian and County Engineer. Expansion of the Camp Adair (Adair Village) water system or any new community water systems within the boundaries of Adair Village Rural Fire Protection District shall provide sufficient fire flows determined to be necessary by the district's fire chief in accordance with the Uniform Fire Code, as adopted by the District and the County. [Ord 90-0069, Ord 96-0118]

99.810 Water Well Standards. If a well is proposed for individual use or to supply water system, the applicant shall submit the following evidence that the well yields an adequate flow of microbiologically safe water for each dwelling, lot, or parcel.

(1) A well log prepared by a licensed well driller and filed with the State Watermaster indicating the well is a drilled, cased well.

(2) A water quality test prepared by an approved testing laboratory showing that the well meets the Environmental Protection Agency (EPA) standards for coliform bacteria. (Inorganic or organic chemicals

that may be present, need not be determined). If water quality does not meet the EPA standards, the Benton County Health Department must approve plans for water treatment.

- (3) A current certified production report prepared by one of the following:
 - (a) Registered professional engineer, licensed in Oregon;
 - (b) Licensed water-well constructor, licensed in Oregon;
 - (c) Pump installer, licensed in Oregon;
 - (d) Registered geologist; licensed in Oregon; or
 - (e) Registered sanitarian, licensed in Oregon. [Ord 7, Ord 90-0069, Ord 96-0118]

99.815 Pump Test Production Report. (1) The production of a newly drilled well shall be determined by one of the following tests.

(a) A controlled pump test for a minimum of one (1) hour after its water level has stabilized. This test shall demonstrate that the well is producing at least five (5) gallons of water per minute. The flow quantity and water level (corrected to ground surface) shall be monitored either manually or by continuous recording equipment. The static water level shall be recorded before the pump is started. After pumping begins, readings shall be measured every quarter hour until the water level in the well stabilizes. Thereafter, the flow quantity shall be measured at half-hour intervals for a minimum of one hour. The water level shall be measured immediately after the pump is shut down, and one half-hour thereafter;

(b) An air test for a minimum of one (1) hour, with no storage remaining in the well casing. This test shall demonstrate that the well is producing at least ten (10) gallons of water per minute; or

(c) A bailer test for a minimum of one (1) hour. This test shall demonstrate that the well is producing at least five (5) gallons per minute.

(2) The production of an existing well shall be determined by one of the following tests:

(a) Any test described in subsection (1) of this section; or

(b) Where a pump has been installed in an existing well, the pump may be used to conduct a pump test. The static water level shall be recorded before the pump is started. After pumping begins, the flow quantity shall be measured hourly for four (4) hours minimum at a rate of five (5) gallons per minute or higher, or for two (2) hours minimum if the rate is ten (10) gallons per minute or higher.

(3) If a well does not yield the minimum production rate set forth in subsections (1) or (2) of this section, an applicant will be required to provide for the installation of an approved water storage system sufficient to meet the flow requirements of the user(s). An approved water storage system must be designed by a registered professional engineer or a licensed well installer. Water storage system designs previously approved by the Environmental Health Division may be installed without further review. New designs require review and approval by the Environmental Health Division. [Ord 7, Ord 90-0069]

99.820 Spring Standards. If a spring is proposed to be used as a water source, the applicant shall design and construct improvements to protect the spring from contamination and to collect the water for distribution. This shall be done as follows:

(1) The County Sanitarian shall conduct a survey of the area surrounding the spring and collect samples of the spring water.

(2) The County Sanitarian shall advise the applicant what measures are necessary to ensure water quality.

(3) The applicant shall prepare plans and specifications for spring improvements including a perimeter fence and spring box. In some cases, infiltration galleries, storage and/or filtration may be required.

(4) The County Sanitarian and County Engineer shall review the plans and specifications.

(5) The applicant shall construct the improvements according to the approved plans and specifications.

(6) The County Sanitarian shall sample the water. Periodic sampling is advised. [Ord 90-0069]

99.825 Public Water System Standards. If a public water system is proposed, the following standards shall apply.

(1) If a new system is proposed, the applicant shall prepare and submit formal plans and specifications for review and approval by the County Sanitarian and County Engineer in accordance with ORS Chapter 333 and OAR Chapter 48.

(2) If connection to an existing system is proposed, the applicant shall prepare and submit formal plans and specifications for review and approval by the County Engineer and the engineer representing the water system.

(3) If a gross density of greater than two units per acre is proposed, a minimum flow of 500 gallons per minute for fire protection with a continuous flow for a minimum of 30 minutes shall be provided.

(4) The applicant shall show proof of long-term financial responsibility and financing for construction and adoption of the water system in accordance with this code except where a district or municipality has accepted the responsibility.

(5) Where the parcels or lots in a proposed subdivision will obtain water from a public water system, whether a municipal or privately-owned water system, the governing body of the public water system shall certify on the subdivision plat that water will be available to the parcel or lot line of each parcel or lot depicted on the subdivision plat. [Ord 7, Ord 90-0069, Ord 92-0092]

99.830 Statement of Water Rights (1) A plat or replat of a subdivision or partition shall bear a statement of water rights on the plat. The statement shall contain the water rights certificate number if a water right is appurtenant, or a water permit number if the water right is not perfected. If no water right or permit is appurtenant, the statement shall indicate such.

(2) After filing an approved plat or replat of a subdivision or partition for a parcel or lot to which a water right or permit is appurtenant, the applicant shall also submit a copy of the plat or replat to the Oregon Water Resources Department for the purpose of updating the water rights records of the department. [Ord 90-0069, Ord 92-0092, Ord 96-0118]

99.835 Exemption to Water Supply Requirements. (1) An applicant for a partition of land zoned for resource use, but not including a partition of land intended for non-resource use, shall not be required to document a water supply pursuant to BCC 99.805 to 99.825 as a condition of final approval of the partition. Evidence of a water source will be required prior to development of a use requiring a potable water supply or as a condition of a permit to establish a resource related residence or other resource related use.

(2) An applicant for a partition may petition for an exemption to BCC 99.805 to 99.825 requiring documentation of a water supply as a condition of final approval of the partition. The parcel or lot proposed for the exemption shall contain at least ten (10) acres or two and one-half (2.5) times the minimum parcel or lot size for the zone in which it is located, whichever is less. The applicant shall demonstrate to the satisfaction of the County Sanitarian that groundwater supplies in the surrounding area are of sufficient quantity and quality as demonstrated by information on the production of wells in the vicinity and other technical sources. As a condition of the exemption, the applicant shall sign and submit for recording in the County Deed Records a covenant waiving residential building rights from the parcel or lot approved for the exemption. This covenant shall be terminated when the provisions set forth in BCC 99.805 to 99.825 are met.

(3) Notwithstanding BCC 99.835(2), no exception shall be granted for any proposed parcel or lot situated within an area designated on the Environmental Survey Priority List as adopted by order of the Board of Commissioners. [Ord 90-0069, Ord 92-0092, Ord 96-0118]

IMPROVEMENTS AGREEMENT

99.905 Improvements Agreement. When required as a condition of development for a conditional use, partition, subdivision or planned unit development, the applicant shall execute a standard improvements agreement provided by the County Engineer guaranteeing the construction of any required public improvements. The Agreement shall be recorded to put all purchasers and interested parties on notice. The agreement shall provide that:

- (1) If at any time there is a breach in the agreement, the Building Official shall withhold issuance of all building permits within the subdivision or partition until such breaches have been satisfactorily corrected.
- (2) The applicant shall be responsible for installing all required improvements, including, but not limited to, streets, storm drainage, pedestrianways, water system, sewage system, etc., to the standards and specifications approved by the County Engineer and/or Board of Commissioners. All work shall be completed to the County Engineer's approval within 18 months of final plat approval, or when building permits have been issued on fifty percent (50%) of the parcels or lots, whichever comes first. [Ord 90-0069, Ord 92-0092, Ord 96-0118]

99.910 Review and Inspections. Plans for public improvements required as a condition of development shall be submitted for review and approval by the County Engineer. During the installation of improvements, the County Engineer shall conduct periodic inspections of work-in-progress. The County Engineer shall charge a fee for plans review and inspection services as established by Order of the Board of Commissioners. [Ord 90-0069]

99.915 Performance Guarantee. (1) The applicant shall file with the County Engineer a performance guarantee to assure full and faithful performance. The guarantee shall be made in one of the following forms:

(a) An escrow of funds, irrevocable sight draft, letter of credit, franchised guarantee or other certification by a reputable lending institution. Such lending institution shall not be directly owned or controlled by the applicant. The amount of funds shall be released only upon authorization of the County Engineer.

(b) A surety bond executed by a surety company authorized to transact business in the State of Oregon in a form approved by the County Counsel. The bond shall guarantee to the County that the financial backing is available so that all improvements will be completed and paid for within the time specified in BCC 99.905.

(2) The guarantee shall ensure that the applicant has funds committed in the amount determined by the County Engineer for the purpose of covering the cost of the improvements and repairs, including related engineering and incidental expenses. In the event of default by the applicant, the guarantee shall ensure that the County shall have, upon demand, funds to construct, complete or pay for all improvements or incidental expenses, including improvements full or partially constructed by the County, and bills which are outstanding for work done thereon by any party. [Ord 90-0069]

99.920 Calling the Guarantee. If the applicant fails to carry out provisions of the agreement and the County has unreimbursed costs or expenses resulting from such failure, the County shall call on the guarantee for reimbursement. If the amount of the bond or cash deposit exceeds the cost and expense incurred, the remainder shall be released. If the amount of the bond or cash deposit is less than the costs and expense incurred, the applicant shall be liable to the County for the difference. [Ord 90-0069]

99.925 Warranty. Upon completion of roadways and other public facilities to County standards and specifications, there shall be a minimum of one year warranty period prior to County acceptance of roadway maintenance. Before this acceptance, maintenance and repair of roadways shall be the duty of the applicant or of the homeowners association. [Ord 90-0069]

Chapter 100

Planned Unit Development in Corvallis Urban Fringe

100.000 Scope and Purpose.

(1) All applications for land divisions in the Urban Residential (UR) and Flood Plain Agriculture (FPA) zones within the Corvallis urban growth boundary are subject to the provisions of this chapter. Applications for partitions and subdivisions of land between the Corvallis city limits and urban growth boundary shall comply with the applicable provisions of BCC Chapters 95 and 97 and this chapter. The procedures, standards, and criteria in this chapter shall be applied when the requirements in another section of this code are not consistent with the provisions of this chapter.

(2) The procedures and requirements of this chapter are established to accomplish the following purposes:

- (a) To insure, to the greatest extent possible, that land within the urban growth boundary is used for or kept available for urban uses;
- (b) To establish standards that provide for the efficient and orderly transition of land within the urban growth boundary to planned urban uses considering existing natural features and planned future uses;
- (c) To allow new or innovative design and technology; to promote appropriate land use; to facilitate adequate and economic provision of public and / or private services and facilities; and to protect the natural and scenic features of the site.

(3) Creation of a parcel for any of the purposes listed in subsection (a) below is exempt from the requirements of Chapter 100, provided the requirements of this section are met.

- (a) To be exempt from Chapter 100, the parcel shall be created for only publicly owned open space, a publicly owned park or a publicly owned recreation facility.
- (b) For a parcel created pursuant to and for the purposes of the provisions in subsection (a) of this section, the property owner shall sign a deed covenant to be recorded into the County Deed Records prior to creation of the parcel prohibiting use of that parcel for residential development or any use other than publicly owned open space, publicly owned park, publicly owned recreation facility or undeveloped open space owned by a not-for-profit land conservation organization, until the property is annexed to the city.
- (c) Development and use of the property shall be subject to the approval requirements of the zone.
- (d) A request for an exemption pursuant to this section shall be accompanied by a statement from the public entity proposing to acquire the property indicating intent to acquire the property and describing the proposed use of the property.
- (e) Land divided under this section shall be considered in calculating the number of residential lots or parcels that may be created on the remainder parcel pursuant to BCC 100.205(6)(b).
- (f) Creation of a parcel under this section does not disqualify the parent parcel from the density bonus provision of BCC 100.205(6)(c); however, a parcel created under this section shall not be used to justify a density bonus if the parcel is sold, rather than donated, to the receiving public entity.

[Ord. 2001-0168]

100.105 Letter of Intent to Partition or Subdivide. The applicant shall inform the Planning Official in writing of the intention to apply for a partition or subdivision and request a pre-application conference. A sketch plan and narrative must accompany the letter of intention with sufficient detail to outline the development plan.

100.110 Pre-application Conference. The Planning Official shall schedule a pre-application conference within twenty-one days following receipt of the letter of intention. Representatives of public and private agencies may attend or may submit such information and recommendations that will assist the applicant in preparing the application. The applicant or Planning Official may request additional meetings. The Planning Official shall provide written documentation of the substance of the meeting to the applicant within ten working days after the meeting.

100.150 Application Requirements.

- (1) In addition to the application requirements for partitions and subdivisions contained in Chapters 95 and 97, respectively, an application for a land division within the Corvallis urban growth boundary shall contain the following information and documentation:
 - (a) The location of existing structures, including building types, driveways, and off-street parking;
 - (b) The location of streams, lakes, ponds, drainageways, floodplains, wetlands, hydric soils, significant vegetation, riparian areas, and other significant natural features;
 - (c) Soils and soil characteristics, including shrink-swell potential, erosion hazard, slide potential, and any other potential limitations, using USDA Soil Conservation Service information or field studies prepared from specific site data;
 - (d) The location of any known sensitive or endangered species of flora or fauna, or significant historic or cultural resource on the property;
 - (e) Any proposed open spaces, including proposed ownership, use, and maintenance;
 - (f) The location of existing utility systems including sanitary sewer, storm sewer, drainageways, and water, where appropriate;
 - (g) Any proposed significant topographic changes including contours at intervals sufficient to indicate topographic conditions (generally two or five foot contours), including identification of areas subject to slide, slump, erosion or flooding hazards;
 - (h) Any measures proposed to mitigate impacts to identified sensitive lands;
 - (i) The proposed circulation system including roads, bikeways, and access to roads. Public or private ownership of each facility shall be clearly identified. The current condition of public facilities shall be identified, as well as the proposed standard to which the facility will be improved or constructed by the applicant;
 - (j) A narrative that provides:
 - (A) A phased development schedule if the development is to be phased;
 - (B) A schedule for construction of all improvements;
 - (C) The proposed method for providing water supply for each parcel or lot;
 - (D) The proposed method for providing sewage disposal for each parcel or lot;
 - (E) A description of the impact of the proposed development on water, sewer, fire protection, law enforcement, schools, hospitals, solid waste disposal, and other services;
 - (F) A description of all community facilities or systems including a maintenance program for all proposed systems; and
 - (G) A copy of tentative covenants, conditions, and restrictions, if any, proposed by the applicant.
- (2) The Planning Official, in the application process, may waive any of the requirements of this section where it is determined, in the judgment of the Planning Official, that the information is not necessary to properly evaluate the application. The Planning Official may require additional information deemed necessary to evaluate the application.

100.205 Design Standards.

- (1) **General.** An application for a Planned Unit Development shall comply with all applicable development standards of this code.
- (2) **Access.**
 - (a) Streets and roads interior to the proposed development shall be located and aligned according to the provisions of Chapter 99 and constructed to the applicable urban standards identified in the Corvallis Transportation Plan and Corvallis Land Development Code. Streets and roads interior to the development shall be constructed to full urban standards concurrent with the approval of the land division and development of the property except as provided in BCC 100.205(2)(b).
 - (b) In exceptional circumstances, the approving authority may allow construction of streets and roads to a transitional standard. Construction to a transitional standard may only be allowed if the approving authority finds that exceptional engineering considerations make it not practical to construct streets or roads to urban standards concurrent with the proposed development. The approving authority shall consult with the City and County Engineers in making a determination to allow a transitional standard.

- (c) If an exception is granted under 100.205(2)(b), the approving authority shall impose conditions that specify how streets will be improved to the applicable urban standards with subsequent development of the property. The conditions of approval shall provide mechanisms that insure that the financial obligation of present and future owners of the property to fully finance the construction of streets and roads to the applicable urban standards is met. These conditions may include but are not limited to:
 - (A) Posting of a financial guarantee;
 - (B) An irrevocable petition for public improvements;
 - (C) An agreement to participate in future Improvement Districts;
 - (D) Specific provisions in covenants, conditions, and restrictions that specify the future obligation of the property owner(s) and which are attached to the property; and
 - (E) Other means deemed necessary and appropriate by the approving authority.

(3) Sewage Disposal.

- (a) The sewage disposal system for the proposed development shall comply with the provisions of Chapter 99 and the requirements of the Oregon Department of Environmental Quality. The sewage disposal area may be located on-site or off-site. A deed restriction shall be placed on each property in the PUD which requires structures with individual sewage disposal systems to be connected to the City of Corvallis sewer system at the expense of the property owner when it is available to the property and which also states the owner, or future owner, will not remonstrate against connection to the city sewage disposal system.
- (b) Conditions of approval shall require installation of city standard sewer lines and other applicable system improvements that can be connected to the city sewage system when the property is annexed to the city or when city services otherwise become available.
- (c) The requirement for installation of city standard sewer lines and other system improvements may be modified or waived if the approving authority finds that, because of the length of time before city services may be available, site characteristics, and / or engineering considerations, it is not practical to install these improvements concurrent with the proposed development. The approving authority shall consult with the County Sanitarian and City and County Engineers in making this determination. In all cases, community systems, if utilized, shall be constructed to City of Corvallis standards and designed to be incorporated into the City system. Community systems, if utilized by the developer, will be designed and constructed to City of Corvallis standards, be publicly owned and maintained, or if privately owned, provide adequate assurances through a formal agreement that provide for adequate levels of ongoing maintenance and operation and will ensure a smooth transition to public ownership.
- (d) If city standard sewer lines and other applicable system improvements are not required with approval of the application, the approving authority shall impose conditions that provide mechanisms that insure, to the greatest extent possible, that the financial obligation of present and future owners of the property to fully finance urban level sewage system improvements is met. These conditions may include but are not limited to:
 - (A) Posting of a financial guarantee;
 - (B) An irrevocable petition for public improvements;
 - (C) An agreement to participate in future Improvement Districts;
 - (D) Specific provisions in covenants, conditions, and restrictions that specify the future obligation of the property owner(s) and which are attached to the property; and
 - (E) Other means deemed necessary and appropriate by the approving authority.

(4) Water.

- (a) The water supply for the development shall comply with the provisions of Chapter 99 and the requirements of the Oregon Health Division. The water source may be located on-site or off-site. A deed restriction shall be placed on each property in the PUD which requires the water supply to be connected to the City of Corvallis water system at the expense of the property owner when it is available to the property and which also states the owner, or future owner, will not remonstrate against connection to the city water system.
- (b) Conditions of approval shall require the installation of city standard water lines and other applicable system improvements that can be connected to the city water system when the property is annexed to the city or when city services otherwise become available.

- (c) The requirement for installation of city standard water lines and other system improvements may be modified or waived if the approving authority finds that, because of the length of time before city services may be available, site characteristics, and / or engineering considerations, it is not practical to install these improvements concurrent with the proposed development. The approving authority shall consult with the County Sanitarian and City and County Engineers in making this determination. In all cases, community systems, if utilized, shall be constructed to City of Corvallis standards and designed to be incorporated into the City system. Community systems, if utilized by the developer, will be designed and constructed to City of Corvallis standards, be publicly owned and maintained, or if privately owned, provide adequate assurances through a formal agreement that provide for adequate levels of ongoing maintenance and operation and will ensure a smooth transition to public ownership.
- (d) If city standard water lines and other applicable system improvements that can be connected to the city water system are not required with the approval of the application, the approving authority shall impose conditions that insure, to the greatest extent possible, that the financial obligation of present and future owners of the property to fully finance urban level water system improvements is met. These conditions may include but are not limited to:
 - (A) Posting of a financial guarantee;
 - (B) An irrevocable petition for public improvements;
 - (C) An agreement to participate in future Improvement Districts;
 - (D) Specific provisions in covenants, conditions, and restrictions that specify the future obligation of the property owner(s) and which are attached to the property; and
 - (E) Other means deemed necessary and appropriate by the approving authority.

(5) Drainage.

- (a) Natural drainageways necessary to convey storm water through and from the subject property shall be reserved or dedicated to the public for such purposes. The area required to be dedicated or reserved for future drainageway shall be identified as determined by the Corvallis Land Development Code.
- (b) Drainage improvements shall be constructed to the applicable City of Corvallis urban standards.
- (c) In exceptional circumstances, the approving authority may allow construction of drainage improvements to a transitional standard. Construction to a transitional standard may only be allowed if the approving authority finds that exceptional engineering considerations make it not practical to construct improvements to urban standards concurrent with the proposed development. The approving authority shall consult with the City and County Engineers in making a determination to allow a transitional standard.
- (d) If an exception is granted under 100.205(5)(b), the approving authority shall impose conditions that specify how the drainage system will be improved to the applicable urban standards with subsequent development of the property. The conditions of approval shall provide mechanisms that insure, to the greatest extent possible, that the financial obligation of present and future owners of the property to fully finance urban standard drainage improvements is met. These conditions may include but are not limited to:
 - (A) Posting of a financial guarantee;
 - (B) An irrevocable petition for public improvements;
 - (C) An agreement to participate in future Improvement Districts;
 - (D) Specific provisions in covenants, conditions, and restrictions that specify the future obligation of the property owner(s) and which are attached to the property;
 - (E) Other means deemed necessary and appropriate by the approving authority.

(6) Parcel or Lot Size

- (a) Parcels or lots created shall be located in a manner that allows for the orderly and efficient transition of the entire property to urban uses. Parcels or lots shall be the minimum size necessary to provide for reasonable development and for the provisions of streets, sewage disposal, water, drainage, and other improvements pursuant to the applicable provisions of this code. Parcels and lots shall contain a minimum of 5,000 square feet and a maximum of 20,000 square feet, except that the remainder parcel resulting from the creation of these parcels and lots need not comply with the 20,000 square foot maximum. In addition, the following exceptions apply:

- (A) A one-time exemption to the maximum parcel size of 20,000 square feet shall be allowed to create one parcel with a minimum size of 1 acre. Only tracts, as defined in (C)(i) below, that are at least 10 acres in the UR-5-and FPA zones or 20 acres in the UR-10 zone shall qualify for such exemption. Such a parcel shall count as one of the parcels permitted in subsection (b). All other lots or parcels created pursuant to this chapter shall comply with the minimum and maximum size requirements in subsection (a) above.
- (B) The owner of a tract is eligible for only one exemption in subsection (A) above for the entire tract as it existed on November 6, 1998. The remaining portions of the tract will not be eligible for the exemption
- (C) As a condition of approval, the owner shall sign a deed covenant to be recorded into the County Deed Records against all lots and parcels contained in the tract as it existed on November 6, 1998. The covenant shall notify all future owners contained in the tract that those lots and parcels shall not be eligible for the exemptions allowed by subsection (A) above.
 - (i) For the purpose of this section “tract” means one or more contiguous lots or parcels in the same ownership.
 - (ii) For the purposes of this section “owner” is defined in Section 51.020.
- (b) The maximum number of parcels or lots that may be created from an existing parcel is determined by dividing total acreage of the subject property, as it existed on the effective date of these provisions, November 6, 1998, by the minimum parcel size in the zoning district and taking the resulting whole number of lots. For example: (a) a 29.9 acre parcel in a UR-5 zone could be divided into five lots; and (b) an 89.9 acre parcel in a UR-10 zone could be divided into eight lots.
- (c) A density bonus, in addition to the maximum number of lots prescribed by subsection (b) above, may be approved through the PUD approval when it is found that the PUD provides amenities, as defined below, that warrant a density bonus. The number of lots may be increased up to twenty-five (25) percent beyond the maximum otherwise allowed where the proposed PUD provides for overall public benefit beyond the minimum level necessary to support the development of the PUD. All lots shall conform to all other development standards of this Code.
- (d) In order for a development to be eligible for a density bonus, it must be demonstrated that there is a public benefit beyond what is required by the Benton County Development Code and other applicable regulations and provide at least one of the following amenities:
 - (A) Park/Open Space: A bonus may be allowed if the proposed PUD contains areas allocated for park or recreation use. The park or open space shall be compatible with the applicable City or County Master Plan. If the proposed park is within or abutting the developed area of the PUD, the park shall be developed and dedicated to the City, County or other public entity prior to issuance of building or manufactured home placement permits. If a park or open space is explicitly delineated on an acknowledged City or County Master Plan and is on the undeveloped portion of the property then the land for the park or open space shall be dedicated to the City, County or other public entity as a condition of final plat approval. If the park or open space is not explicitly delineated in the City or County Master Plan, the land for the park need not be dedicated, but only reserved on the final plat. In the latter case, the reservation on the final plat may include limitations on uses within the reserved area to maintain the public park values of the land.

- (B) **Trails:** A bonus may be allowed if the proposed PUD contains a trails system connecting the PUD to public amenities such as other trails, parks and school facilities. The trail shall be compatible with the applicable City or County Master Plan. If the proposed trail is within the developed area of the PUD, the trail shall be developed and dedicated to the City, County or other public entity prior to issuance of building or manufactured home placement permits. If a trail is explicitly delineated on an acknowledged City or County Master Plan and is on the undeveloped portion of the property then the land for the trail shall be dedicated to the City, County or other public entity as a condition of final plat approval. If the trail is not explicitly delineated in the City or County Master Plan, the land for the trail need not be dedicated, but only reserved on the final plat. In the latter case, the reservation on the final plat may include limitations on uses within the reserved area to maintain the public trail values of the land.
- (C) **Infrastructure:** A bonus may be allowed if public facilities such as street improvements, or utilities are provided that are in excess of those required under the provisions of this code. The infrastructure elements shall be constructed at the time of the initial PUD development, and shall meet the applicable City or County public improvement standards.
- (D) **Sensitive Areas:** This bonus is based on the preservation of sensitive natural area, such as steep slopes, wetlands or significant vegetation, in excess of the preservation requirements of this Code or other applicable regulations. The affected area may be deeded to a public agency or protected by restrictive covenant. The sensitive area shall be controlled by the same party as the applicant, but does not need to be within the property subject to the PUD application.
- (E) **Urban Development Pattern:** This bonus is based on an urban development pattern that proposes all of the lots be 8,000 square feet or smaller laid out in a manner that allows the proposed development to be consistent with the City of Corvallis' Comprehensive Plan designation and Land Development Code provisions.
- (F) **Affordable Housing:** This bonus is based on providing affordable housing, as defined in the definition chapter of the City of Corvallis' Land Development Code.
- (G) **Other Amenities:** The decision making body and the developer may identify and agree upon other amenities which meet the goal of this provision, through this review and approval process.
- (H) **Covenants:** Any amenities, as described above, which are the basis for a density bonus shall be constructed as part of the PUD and accepted by the applicable public agency, or guaranteed by restrictive covenants that run with the land affected by the PUD approval, or by posting of a financial guarantee, an irrevocable petition for public improvements, an agreement to participate in future Improvement Districts, specific provisions in covenants, conditions, and restrictions that specify the future obligation of the property owner(s) and which are attached to the property, or other means deemed necessary and appropriate by the approving authority. Terms of the covenants may include initial commitment of the amenity, on-going maintenance or long term future commitments. The form, content, and terms of the covenants are subject to approval by the County through the PUD approval process.
- (7) **Clustering of Parcels or Lots.** Parcels or lots created under the provisions of this chapter shall be clustered except as allowed in (6) above. For purposes of this chapter, "cluster" is defined as: "A development technique wherein lots and parcels are generally arranged together along a road, street, or cul-de-sac."
- (8) **Use of Parcels or Lots.** Subject to the standard approval provisions of this code, all parcels or lots may contain any of the uses permitted in the zoning district, including a single-family residence and accessory uses in the Urban Residential zone.
- (9) **Utilities.** All utilities shall be installed underground by the developer at the time that services are available and prior to road construction, if feasible.

- (10) **Service Districts.** Phases of the Planned Development shall identify the parcels or lots that are to be served by service districts for sewage and water systems prior to the provision of city services. Prior to the formation of a service district, the applicant shall submit documentation showing how the district will operate, including finances, rules, and ownership. A review shall be completed by the Planning Official, County Engineer, and County Counsel to determine the feasibility of the district. [Ord 99-0154; 2001-0168]

100.305 Review Procedure.

Applications subject to the provisions of this chapter shall be reviewed pursuant to the applicable procedures for partitions and subdivisions contained in BCC Chapters 95, 97, and 100.

100.405 Conditions of Approval. In addition to the applicable conditions of approval for partitions and subdivisions contained in BCC Chapters 95, 97, and 99, the following conditions may be required for approval of Planned Developments within the Corvallis urban growth boundary:

- (1) The approving authority may impose any other conditions deemed necessary to comply with applicable provisions of this code or state or federal law;
- (2) The property owner(s) may be required to enter into agreement(s) providing for guarantees for the future provision of all improvements on the property at full city standards;
- (3) The property owner(s) may be required to enter into a planned development agreement with the county;
- (4) The property owner(s) shall be required to record a covenant prohibiting further division of the parcel or lot until annexation occurs when the parcel or lot, as it existed on the effective date of these provisions (*[insert date]*), has been divided into the maximum number or lots or parcels allowed pursuant to BCC 100.205(6);
- (5) The property owner(s) may be required to annex to existing adjacent service districts, to create new service districts, or to provide an alternative suitable method approved by the approving authority, for the monitoring, maintenance, and repair of the following services:
 - (a) Streets;
 - (b) Street lights;
 - (c) Water systems;
 - (d) Sewage disposal systems;
 - (e) Storm drainage;
 - (f) Police services in addition to those normally provided by the Sheriff;
 - (g) Park maintenance and improvements; and
 - (h) Other services determined to be necessary by the approving authority.
- (6) At time of annexation, a public or private service district shall be dissolved upon inspection of improvements and a determination that the system served by the service district meets City standards.

100.505. Extension of Effective Period.

An extension of the preliminary approval period for an application subject to the provisions of this chapter shall be subject to the applicable approval extension provisions and procedures of Chapter 95 for partitions and Chapter 97 for subdivisions.

100.610 Final Plat Approval and Filing.

Final plat approval and filing shall be subject to the applicable provisions and procedures of Chapter 95 for partitions and Chapter 97 for subdivisions.

100.615 Final Plat Signatures.

Final plat signatures shall be subject to the applicable provisions and procedures of Chapter 95 for partitions and Chapter 97 for subdivisions.

100.620 Final Plat Approval by the Board.

Final plat approval by the Board of County Commissioners shall be subject to the applicable provisions and procedures of Chapter 95 for partitions and Chapter 97 for subdivisions.

100.625 Filing the Final Plat.

The final plat shall be filed subject to the applicable provisions and procedures of Chapter 95 for partitions and Chapter 97 for subdivisions. [Ord 98-0141]

