



Oregon

John A. Kitzhaber, M.D., Governor

Department of Land Conservation and Development

635 Capitol Street NE, Suite 150

Salem, Oregon 97301-2540

Phone: (503) 373-0050

Fax: (503) 378-5518

www.oregon.gov/LCD



NOTICE OF ADOPTED CHANGE TO A COMPREHENSIVE PLAN OR LAND USE REGULATION

Date: 09/26/2014
Jurisdiction: Clackamas County
Local file no.: ZDO-248
DLCD file no.: 001-14

The Department of Land Conservation and Development (DLCD) received the attached notice of adopted amendment to a comprehensive plan or land use regulation on 09/22/2014. A copy of the adopted amendment is available for review at the DLCD office in Salem and the local government office.

Notice of the proposed amendment was submitted to DLCD 35 days prior to the first evidentiary hearing.

Appeal Procedures

Eligibility to appeal this amendment is governed by ORS 197.612, ORS 197.620, and ORS 197.830. Under ORS 197.830(9), a notice of intent to appeal a land use decision to LUBA must be filed no later than 21 days after the date the decision sought to be reviewed became final. If you have questions about the date the decision became final, please contact the jurisdiction that adopted the amendment.

A notice of intent to appeal must be served upon the local government and others who received written notice of the final decision from the local government. The notice of intent to appeal must be served and filed in the form and manner prescribed by LUBA, (OAR chapter 661, division 10).

If the amendment is not appealed, it will be deemed acknowledged as set forth in ORS 197.625(1)(a). Please call LUBA at 503-373-1265, if you have questions about appeal procedures.

DLCD Contact

If you have questions about this notice, please contact DLCD's Plan Amendment Specialist at 503-934-0017 or plan.amendments@state.or.us



NOTICE OF ADOPTED CHANGE TO A COMPREHENSIVE PLAN OR LAND USE REGULATION

FOR DLCD USE	
File No.:	001-14 { 22259 }
Received:	9/22/2014

Local governments are required to send notice of an adopted change to a comprehensive plan or land use regulation **no more than 20 days after the adoption.** (See [OAR 660-018-0040](#)). The rules require that the notice include a completed copy of this form. **This notice form is not for submittal of a completed periodic review task or a plan amendment reviewed in the manner of periodic review.** Use [Form 4](#) for an adopted urban growth boundary including over 50 acres by a city with a population greater than 2,500 within the UGB or an urban growth boundary amendment over 100 acres adopted by a metropolitan service district. Use [Form 5](#) for an adopted urban reserve designation, or amendment to add over 50 acres, by a city with a population greater than 2,500 within the UGB. Use [Form 6](#) with submittal of an adopted periodic review task.

Jurisdiction: Clackamas County

Local file no.: **ZDO-248**

Date of adoption: 9/11/14

Date sent: 9/18/2014

Was Notice of a Proposed Change (Form 1) submitted to DLCD?

Yes: Date (use the date of last revision if a revised Form 1 was submitted): 5/5/14

No

Is the adopted change different from what was described in the Notice of Proposed Change? Yes No
If yes, describe how the adoption differs from the proposal:

Yes, many edits were made. However, the scope of the amendments remains substantially similar.

Local contact (name and title): Jennifer Hughes

Phone: 503-742-4518

E-mail: jenniferh@clackamas.us

Street address: 150 Beaver Creek Rd

City: Oregon City

Zip: 97045-

PLEASE COMPLETE ALL OF THE FOLLOWING SECTIONS THAT APPLY

For a change to comprehensive plan text:

Identify the sections of the plan that were added or amended and which statewide planning goals those sections implement, if any:

Chapter 11; Goals 1 and 2

For a change to a comprehensive plan map:

Identify the former and new map designations and the area affected:

Change from	to	acres.	A goal exception was required for this change.
Change from	to	acres.	A goal exception was required for this change.
Change from	to	acres.	A goal exception was required for this change.
Change from	to	acres.	A goal exception was required for this change.

Location of affected property (T, R, Sec., TL and address):

The subject property is entirely within an urban growth boundary

The subject property is partially within an urban growth boundary

If the comprehensive plan map change is a UGB amendment including less than 50 acres and/or by a city with a population less than 2,500 in the urban area, indicate the number of acres of the former rural plan designation, by type, included in the boundary.

Exclusive Farm Use – Acres:	Non-resource – Acres:
Forest – Acres:	Marginal Lands – Acres:
Rural Residential – Acres:	Natural Resource/Coastal/Open Space – Acres:
Rural Commercial or Industrial – Acres:	Other: – Acres:

If the comprehensive plan map change is an urban reserve amendment including less than 50 acres, or establishment or amendment of an urban reserve by a city with a population less than 2,500 in the urban area, indicate the number of acres, by plan designation, included in the boundary.

Exclusive Farm Use – Acres:	Non-resource – Acres:
Forest – Acres:	Marginal Lands – Acres:
Rural Residential – Acres:	Natural Resource/Coastal/Open Space – Acres:
Rural Commercial or Industrial – Acres:	Other: – Acres:

For a change to the text of an ordinance or code:

Identify the sections of the ordinance or code that were added or amended by title and number:

Amended Sections 106, 202, 305, 306, 307, 308, 309, 310, 312, 314, 401, 406, 407, 504, 505, 601, 702, 703, 704, 705, 706, 707, 708, 709, 710, 711, 712, 713, 813, 818, 822, 829, 830, 835, 837, 1002, 1011, 1013, 1016, 1018, 1102, 1103, 1105, 1106, 1107, 1202, 1203, 1204, 1205 and 1206; Adopted Sections 1307, 1308, 1309 and 1310; and Repealed Sections 104, 105, 1201, 1301, 1302, 1303, 1304, 1305, 1400 and 1500

For a change to a zoning map:

Identify the former and new base zone designations and the area affected:

Change from	to	Acres:
Change from	to	Acres:
Change from	to	Acres:
Change from	to	Acres:

Identify additions to or removal from an overlay zone designation and the area affected:

Overlay zone designation:	Acres added:	Acres removed:
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Location of affected property (T, R, Sec., TL and address):

List affected state or federal agencies, local governments and special districts: None

Identify supplemental information that is included because it may be useful to inform DLCD or members of the public of the effect of the actual change that has been submitted with this Notice of Adopted Change, if any. If the submittal, including supplementary materials, exceeds 100 pages, include a summary of the amendment briefly describing its purpose and requirements.

Comprehensive revision of the procedures applicable to the filing and processing of land use applications and legislative proposals; repeal allowance for local appeal of ministerial decisions; limit Design Review Committee/Historic Review Board to recommending, not decisionmaking, and standardize length of terms/number

of members; codify current practice of mailing notice of application for Type II applications; Reduce property owner notice distance in Mt. Hood zones from 500 to 300 feet

NOTICE OF ADOPTED CHANGE – SUBMITTAL INSTRUCTIONS

1. A Notice of Adopted Change must be received by DLCD no later than 20 days after the ordinance(s) implementing the change has been signed by the public official designated by the jurisdiction to sign the approved ordinance(s) as provided in [ORS 197.615](#) and [OAR 660-018-0040](#).

2. A Notice of Adopted Change must be submitted by a local government (city, county, or metropolitan service district). DLCD will not accept a Notice of Adopted Change submitted by an individual or private firm or organization.

3. **Hard-copy submittal:** When submitting a Notice of Adopted Change on paper, via the US Postal Service or hand-delivery, print a completed copy of this Form 2 on light green paper if available. Submit **one copy** of the proposed change, including this form and other required materials to:

Attention: Plan Amendment Specialist
Dept. of Land Conservation and Development
635 Capitol Street NE, Suite 150
Salem, OR 97301-2540

This form is available here:

<http://www.oregon.gov/LCD/forms.shtml>

4. **Electronic submittals** of up to 20MB may be sent via e-mail. Address e-mails to plan.amendments@state.or.us with the subject line “Notice of Adopted Amendment.”

Submittals may also be uploaded to DLCD’s FTP site at http://www.oregon.gov/LCD/Pages/papa_submittal.aspx.

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E-mails with attachments that exceed 20MB will not be received, and therefore FTP must be used for these electronic submittals. **The FTP site must be used for all .zip files** regardless of size. The maximum file size for uploading via FTP is 150MB.

Include this Form 2 as the first pages of a combined file or as a separate file.

5. **File format:** When submitting a Notice of Adopted Change via e-mail or FTP, or on a digital disc, attach all materials in one of the following formats: Adobe .pdf (preferred); Microsoft Office (for example, Word .doc or docx or Excel .xls or xlsx); or ESRI .mxd, .gdb, or .mpk. For other file formats, please contact the plan amendment specialist at 503-934-0017 or plan.amendments@state.or.us.

6. **Content:** An administrative rule lists required content of a submittal of an adopted change ([OAR 660-018-0040\(3\)](#)). By completing this form and including the materials listed in the checklist below, the notice will include the required contents.

Where the amendments or new land use regulations, including supplementary materials, exceed 100 pages, include a summary of the amendment briefly describing its purpose and requirements.

7. Remember to notify persons who participated in the local proceedings and requested notice of the final decision. ([ORS 197.615](#))

If you have any questions or would like assistance, please contact your DLCD regional representative or the DLCD Salem office at 503-934-0017 or e-mail plan.amendments@state.or.us.

ORDINANCE NO. ZDO-248

An Ordinance amending Chapter 11 of the Clackamas County Comprehensive Plan and Sections 106, 202, 305, 306, 307, 308, 309, 310, 312, 314, 401, 406, 407, 504, 505, 601, 702, 703, 704, 705, 706, 707, 708, 709, 710, 711, 712, 713, 813, 818, 822, 829, 830, 835, 837, 1002, 1011, 1013, 1016, 1018, 1102, 1103, 1105, 1106, 1107, 1202, 1203, 1204, 1205 and 1206 of the Clackamas County Zoning and Development Ordinance(ZDO); adopting Sections 1307, 1308, 1309 and 1310 of the ZDO; and repealing Sections 104, 105, 1201, 1301, 1302, 1303, 1304, 1305, 1400 and 1500 of the ZDO.

WHEREAS, the approved work program for the Planning and Zoning Division includes a five-year audit of the Clackamas County Zoning and Development Ordinance (ZDO) intended to update, streamline and clarify the County's land use regulations; and

WHEREAS, the second year of the ZDO audit focused in part on the procedural standards for reviewing land use permit applications, resulting in a proposal to amend these standards; and

WHEREAS, amendments to the Comprehensive Plan are necessary to ensure continued consistency between the Comprehensive Plan and the ZDO; and

WHEREAS, it is a policy of the Board of County Commissioners to provide excellent public service to citizens and the development community, streamline permitting processes, encourage sound land use and development and improve the Comprehensive Plan and ZDO as necessary; and

WHEREAS, the proposed amendments are consistent with the Statewide Planning Goals and Guidelines and the Metro Urban Growth Management Functional Plan; and

WHEREAS, after a duly-noticed public hearing on June 9, 2014, the Clackamas County Planning Commission recommended approval of amendments to the Comprehensive Plan and ZDO; and

WHEREAS, the Board of County Commissioners held a public hearing on July 16, 2014, and orally approved a modified version of the Planning Commission's recommendation; now therefore;

The Board of Commissioners of Clackamas County ordains as follows:

Section 1: Chapter 11 of the Clackamas County Comprehensive Plan is hereby amended as shown in Exhibit A, hereto attached.

Section 2: Sections 106, 202, 305, 306, 307, 308, 309, 310, 312, 314, 401, 406, 407, 504, 505, 601, 702, 703, 704, 705, 706, 707, 708, 709, 710, 711, 712, 713, 813, 818, 822, 829, 830, 835, 837, 1002, 1011, 1013, 1016, 1018, 1102, 1103, 1105, 1106, 1107, 1202, 1203, 1204, 1205 and 1206 of the Clackamas County Zoning and Development Ordinance(ZDO) are hereby amended; Sections 1307, 1308, 1309 and 1310 of the ZDO are hereby adopted; and Sections 104, 105, 1201, 1301, 1302, 1303, 1304, 1305, 1400 and 1500 of the ZDO are hereby repealed, as shown in Exhibit B, hereto attached.

Section 3: This ordinance shall be effective on October 13, 2014.

ADOPTED this 11th day of September, 2014

BOARD OF COUNTY COMMISSIONERS

Chair



Recording Secretary



**Ordinance ZDO-248
Amendments to the Comprehensive Plan**

Text to be added is underlined. Text to be deleted is ~~strikethrough~~.

THE PLANNING PROCESS

The purpose of Clackamas County's comprehensive planning process is to establish a framework for land use decisions that will meet the needs of ~~Clackamas~~ County residents; recognize the County's interrelationships with its cities, surrounding counties, the region, and the state; and ~~ensure~~insure that changing priorities and circumstances can be met. Coordination with other governmental agencies and refinement of this Plan and County ordinances is essential to achieve this end.

ISSUES

1. Coordination with cities, special districts and federal, state and regional agencies
2. Compatibility of County planning programs with those of other jurisdictions and agencies
3. Relationship of changing circumstances to County plans and ordinances
4. Implementation of County goals and policies
5. Public and private costs
6. Administration of ordinances and programs

SUMMARY OF FINDINGS AND CONCLUSIONS

1. Comprehensive planning in Oregon is mandated by the State. The 1973 Legislature adopted Senate Bill 100 (ORA Chapter 197) which established the Land Conservation and Development Commission (LCDC) and directed the commission to adopt Statewide Planning Goals and Guidelines. LCDC Goals and Guidelines were adopted in December 1974, and became effective January 1, 1975.

The Statewide Planning Goals require Clackamas County to:

- a. Provide opportunity for citizen involvement
- b. Establish a land use planning process and policy framework

- c. Preserve and maintain agricultural lands
 - d. Conserve forest lands for forest uses
 - e. Conserve open space and protect natural and scenic resources
 - f. Maintain and improve the quality of our air, water and land resources
 - g. Protect life and property from natural disasters and hazards
 - h. Satisfy the recreation needs of the citizens of the state and visitors
 - i. Diversify and improve the economy of the state
 - j. Provide for the housing needs of the citizens
 - k. Plan and develop a timely, orderly, and efficient arrangement of public facilities and services
 - l. Provide and encourage a safe, convenient, and economic transportation system
 - m. Conserve energy
 - n. Provide an orderly and efficient transition from rural to urban land use
 - o. Protect, conserve, enhance and maintain the natural scenic, historical, agricultural, economic and recreational qualities of the Willamette Greenway
2. LCDC adopted 19 statewide goals, of which the 15 listed above apply to Clackamas County. The remaining goals (16-19) apply only to Oregon's coastal areas.
 3. This Plan satisfies requirements and goals of the Land Conservation and Development Commission. The 15 goals that apply to Clackamas County are addressed within various chapters of the Plan, some as individual topic areas, and others covered in more than one chapter.
 4. Metro is responsible for coordinating land use planning activities of the jurisdictions within its district, including:
 - a. Coordinating local plan review for consistency with statewide goals and guidelines within the Metro jurisdiction. Plans of jurisdictions

outside the district are reviewed by the County.

- b. Requiring, local plans be consistent with the Metro Land Use Framework Element, the Region 2040 Urban Growth Management Functional Plan and Statewide Planning Goals.
 - c. Requiring amendments to the Plan in a timely manner consistent with regional goals and objectives and/or functional elements ~~(see Amendments, policy 3.1).~~
5. More than 150 different federal and state agencies, local governments, and special purpose districts provide services and are involved in planning or engage in activities which directly affect the scope and direction of the County's Plan. Agency boundaries seldom coincide.
 6. Interagency coordination is necessary to assure that the activities of the agencies reinforce each other and ~~this the County's Comprehensive~~ Plan.
 7. Area-wide management of problems is needed for transportation, air and water quality, housing and solid waste.
 8. The County contains 15 cities, all of which have adopted or intend to adopt, comprehensive plans, which may include land outside their boundaries.
 9. The County contains over 100 special districts, which provide services to unincorporated areas.

CITY, SPECIAL DISTRICT AND AGENCY COORDINATION

Clackamas County recognizes that many activities and problems spill across political boundaries, making coordination with special districts, cities, and state and federal agencies essential.

GOALS

- Provide a coordinated approach to problems which transcend local government and special purpose district boundaries or responsibilities.
- Coordinate various agency capital improvement programs with the County's Comprehensive Plan.
- Direct the activities of the various agencies toward implementation of ~~this~~
~~County's Comprehensive~~ Plan.
- Establish specific areas adjacent to ~~incorporated~~ city boundaries within which the County will coordinate land use actions with the individual city, and within which formal plan agreement will be sought.

POLICIES

- 1.0 Participate in interagency coordination efforts with federal, state, Metro, special purpose districts and cities. The County will maintain an updated list of federal, state and regional agencies, cities and special districts and will invite their participation in plan revisions, ordinance adoptions, and land use actions which affect their jurisdiction or policies.
- 2.0 Request state and regional governments, cities and special districts to inform the County of needs which should be addressed in the County's planning program.
- 3.0 Encourage and assist Metro in developing and updating its regional database.
- 4.0 Actively participate with Metro in identifying regional needs and priorities and implementing functional plans.
- 5.0 Continue to assist its citizens in contacting and communicating with other governmental agencies.
- 6.0 Adopt Urban Growth Management Agreements with each city and offer to sign such agreements with all special districts.

- 7.0 Apply ~~the County's Comprehensive~~this Plan to unincorporated dual interest areas, except those areas where the County has adopted city plan designations in accordance with an urban growth management agreement. Such agreements may provide that the County will not plan or zone dual interest areas at urban densities prior to their annexation by a city. After annexation to a city, ~~the County~~this Plan will continue to apply, in accordance with the provisions of ORS 215.130, until the city applies its own land use plan and/or zoning designation. The County will revise Urban Growth Management Agreements to ~~ensure~~insure that all agreements include provisions consistent with ORS 215.130.
- 8.0 Notify the parties to Urban Growth Management Agreements of proposed land use actions and Plan amendments and encourage participation in formulating and evaluating the proposals. Request necessary technical assistance in assessing impacts on the area and enter all formal comments into the public record.
- 9.0 ~~Ensure~~insure consistency between city and County plans. Any conflicts shall be stated in an Urban Growth Management Agreement, and resolution of these conflicts will occur through the Plan amendment process.
- 10.0 Engage the public in development of intergovernmental agreements.

AMENDMENTS AND IMPLEMENTATION

Clackamas County citizens need a Comprehensive Plan ~~that~~which will meet and guide changing needs and circumstances for the physical and economic growth within the County. The adoption of the Comprehensive Plan is not an end in itself. The Plan must be implemented by governmental or citizen action. It must be kept current through periodic review and appropriate revision.

GOALS

- ~~Ensure~~Assure that policies in this Plan are implemented.
- Establish Plan review and revision procedures ~~that~~which include provisions for participation by citizens and affected governmental units.
- ~~Ensure~~Assure an adequate factual base for decisions and actions.

POLICIES

- 1.0 ~~Ensure~~Assure that the Comprehensive Plan and County ordinances meet the goals of LCDC, the Region 2040 Urban Growth Management Functional Plan and the Metro Framework Plan.
- 2.0 ~~Ensure~~Assure that the Comprehensive Plan is regularly reviewed ~~and,~~ revised ~~and amended~~.
 - 2.1 Establish administrative and organizational procedures to ~~ensure~~insure adequate monitoring of population, vacant lands, transportation systems, public facility capacities, ~~and~~ environmental and economic changes, including a computerized data retrieval system.
 - 2.2 Maintain the adopted citizen involvement program to provide a means for the public to express their views on County or community needs, changes and improvements.
 - 2.3 Periodically reassess goals, general policies and implementation, as well as the database and alternatives on which this Plan is based.
 - 2.4 Formally review the Comprehensive Plan at periodic intervals.
- 3.0 Amend the Comprehensive Plan pursuant to the following procedures and guidelines.

- 3.1 ~~Allow initiation of a~~A map amendment ~~may be initiated~~ only by the Board of County Commissioners, the Planning Commission, the Planning Director, or the owner of the property for which a change is requested.
- 3.2 ~~Allow initiation of a~~A text amendment ~~may be initiated~~ only by the Board of County Commissioners, the Planning Commission, or the Planning Director, ~~Planning Commission or Board of County Commissioners.~~
- 3.3 ~~Consider all~~All proposed Comprehensive Plan amendments ~~are to be considered~~ at advertised public hearings before the Planning Commission and the Board of County Commissioners, in accordance with state law and County requirements.
- 3.4 ~~If the proposed amendment is For~~ quasi-judicial amendments, provide notice of application and public hearing to nearby property owners and the applicable Community Planning Organization a minimum of 20 will be notified as required. The Community Planning Organization in the affected area shall be notified at least 35 days prior to the first scheduled public hearing. Provide a copy of the application to the applicable Community Planning Organization a minimum of 35 days prior to the first scheduled public hearing.
- 3.5 ~~If the proposed amendment is For~~ legislative amendments, provide notice of proposal and public hearing, together with a copy of the proposal, will be mailed to all active and recognized Community Planning Organizations, and ensure that the proposal is available for review, a minimum of at least 35 days prior to the first scheduled public hearing.
- 3.5 Provide the opportunity for the Department of Land Conservation and DevelopmentDLCD and Metro to review and comment on proposed legislative amendments, pursuant to the applicable provisions of state law and the Metro~~Metro's Code and state laws.~~
- 3.6 Recognize the Board of County Commissioners as the decision making body for quasi-judicial and legislative Plan amendments, but provide for the Planning Commission to make recommendations to the Board on these amendments, except in the case of a Plan amendment to designate an historic resource, in which case the Historic Review Board shall be the recommending body.

- 4.0 Coordinate the Plan with regional policies by allowing the acknowledged ~~County~~ Plan to be "opened" periodically for amendments that specifically consider compliance with regional goals and objectives and functional elements.
- 4.1 "Open" the Plan, each of its elements, and the implementing ordinances for amendments that consider compliance with the goals and objectives and functional plans of Metro on a periodic basis.
- 4.2 Recognize that this provision is not to be construed as waiving any legal rights ~~that~~which the County may have to challenge the legality of a regional goal, objective or plan revision.
- 5.0 ~~Authorize~~Direct the Planning Director to make the initial decision on any questions of interpretation or applicability of ~~this~~the Comprehensive Plan. ~~Provide for the initial~~This decision ~~to~~may be appealed to the Planning Commission and for the Planning Commission's decision to be appealed to the Board of County Commissioners. ~~The interpretation made by the Planning Commission may be appealed to the governing body of the County pursuant to the appeals or review procedure of the Glackamas County Zoning and Development Ordinance.~~
- 6.0 Implement this Plan through appropriate ordinances and action.
- 6.1 Amend existing ordinances and adopt new ordinances to carry out the policies of this Plan.
- 6.2 Apply zoning in a timely manner ~~that~~which is consistent with this Plan.
- 6.3 Require all zoning and subdivision ordinances to be consistent with the intent of, and based on, this ~~Comprehensive~~ Plan.
- 6.4 Require all actions of the County on conditional uses, variances, zone changes, design review, and all other planning actions to be consistent with the intent of this Plan.
- 7.0 Consider the development and adoption of ~~Comprehensive~~ Plan amendments to meet special needs within specific neighborhoods or communities.
- 7.1 Develop when necessary detailed plans for areas of significant new development or redevelopment, Rural Communities, additional rural areas or areas of transition from rural to urban areas.

- 7.2 Develop appropriate community plans to implement housing, transportation and park policies where necessary at the community level.
- 8.0 Provide public facilities and services appropriate for urban and nonurban designations through participation with regional agencies, cities and special districts in studies to determine needs, service areas and jurisdictional responsibility.
 - 8.1 Include opportunities for appropriate citizen participation in all facilities and service plans and implementation decisions.
- 9.0 Pursue, as deemed appropriate, enactment or amendment of state statutes and regulations to facilitate opportunities for achieving the goals of this Plan.
- 10.0 Develop public financing systems that are more capable of providing the revenues needed to finance the public improvements needed to implement this Plan.
 - 10.1 Actively pursue funding possibilities including public/private partnerships, federal or state grants, real estate transfer tax, and tax increment financing to realize practical application and benefit of this Plan's policies.
 - 10.2 Pursue annual development of a Capital Improvement Program (~~CIP~~) for the coming fiscal year, the next five years, and the long-term outlook.
 - 10.3 Coordinate with federal, state and regional governments to maximize their contributions to County projects.
 - 10.4 Evaluate the use of a systems development charge based on the development's impact to help alleviate its impact on transportation facilities, open space and other publicly financed facilities.
- 11.0 ~~Ensure~~Ensure maximum public benefit from the policy directions in this Plan and the provisions in implementing ordinances by continuing to promote public information/education on land use opportunities and constraints.
- 12.0 Continue to administer state agency regulations at the local level in those cases where doing so will improve service to the people of the County. State programs ~~that~~which currently lend themselves to County

administration include soil tests for septic tank suitability, ~~and surface mining requirements.~~

**Ordinance ZDO-248
Amendments to the Zoning and Development Ordinance**

Text to be added is underlined. Text to be deleted is ~~strikethrough~~.

~~104~~ ~~SUMMARY OF REVIEW PROCEDURES~~

~~104.01~~ ~~ADMINISTRATION~~

~~The review of applications under this Ordinance shall be subject to one of following procedures:~~

~~A. The Administrative Action Review process established by Section 1300;~~

~~B. The Legislative Changes process established by Section 1400; or~~

~~C. The Planning Staff Review process, which shall be conducted as follows:~~

- ~~1. The applicant shall submit an application and supplementary materials, as required in this Ordinance, to the Planning Director.~~
- ~~2. The application shall be reviewed by the Planning Director, who shall approve, deny, or approve with conditions, the application on the basis of an evaluation of the proposal and the requirements and standards set forth in this Ordinance.~~
- ~~3. The Planning Director shall notify the applicant in writing of the decision.~~
- ~~4. Decisions of the Planning Director shall become final unless appealed in writing. The appeal must be received by the Planning Director within 12 days of the date of mailing of the notice of decision, or if the 12th day falls on a day on which the County is not open for business, by the next day on which the County is open for business. Anyone may appeal the decision. If appealed, the application shall be reviewed by the Hearings Officer pursuant to Section 1300. An appeal stays the proceedings in the matter appealed until the determination of the appeal by the Hearings Officer.~~

~~105 — PLANNING COMMISSION~~

~~105.01 — PURPOSE AND AUTHORITY~~

~~The Planning Commission is designated as the land use planning advisory body to the Board of County Commissioners and shall have the powers and duties described in Section 105 and subsequent sections of this Ordinance and such other powers and duties as may be imposed on it by County, state, or federal law.~~

~~105.02 — COMPOSITION~~

- ~~A. — The Planning Commission shall be composed of nine members, designated in positions labeled 1 through 9, appointed by and serving at the pleasure of the Board of County Commissioners.~~
- ~~B. — Members of the Planning Commission shall be residents of the various geographic areas of the County. 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 employees of any corporation that is engaged principally in the buying, selling, or developing of real estate for profit. No more than two voting members shall be engaged in the same kind of occupation, business, trade, or profession.~~

~~105.03 — TERMS~~

- ~~A. — Unless otherwise provided for, members of the Planning Commission shall serve four-year terms, beginning on May 1st of the year in which they are appointed. Terms may be renewed by the Board of County Commissioners.~~
- ~~B. — If a member of the Planning Commission does not complete his or her term, the Board of County Commissioners shall appoint a replacement to serve the remainder of that term.~~
- ~~C. — A member whose term has ended may continue to serve on the Planning Commission until the Board of County Commissioners renews that term or appoints a new member. The new term shall be considered to have begun on the date it would have under Subsection 105.03(A).~~

~~105.04 — ORGANIZATION AND BYLAWS~~

- ~~A. — The Planning Commission shall adopt bylaws governing its proceedings and appoint a chair and vice chair to manage those proceedings according to those bylaws, and County, state, and federal law.~~

CLACKAMAS COUNTY ZONING AND DEVELOPMENT ORDINANCE

~~B. In the event of a conflict between the bylaws and any provision of this Ordinance, this Ordinance shall govern. In the event of a conflict between the bylaws and a non-mandatory provision of state law, the bylaws shall govern.~~

106 AUTHORIZATION OF SIMILAR USES

106.01 APPLICABILITY

The sections of this Ordinance that regulate individual zoning districts identify the uses permitted in those districts. In addition:

- A. In the following zoning districts, uses similar to one or more of the listed uses for that zoning district may be authorized: PMD, RTC, RC, NC, C-2, RCC, RTL, CC, C-3, PMU, SCMU, OA, OC, RCO, VCS, VO, CI, BP, LI, GI, and RI;
- B. In the following zoning districts, uses similar to one or more of the listed limited uses for that zoning district may be authorized as a limited use: HDR, SHD, and RCHDR; ~~and~~
- C. Table 315-1, *Permitted Uses in the Urban Residential Zoning Districts*, identifies instances where uses similar to a listed conditional use may be authorized as a conditional use;
- D. Conditional uses similar to one or more of the listed conditional uses for the Historic Landmark, Historic District, and Historic Corridor overlay zoning district may be authorized; and
- E. Uses similar to one or more of the listed uses in Section 813, *Service and Recreational Uses*, may be authorized in those zoning districts that permit service and recreational uses pursuant to Section 813.

106.02 PROCESS AND STANDARDS

Authorization of a similar use shall be subject to the following:

- A. ~~A use similar to one or more of the listed uses for the applicable zoning district may be authorized by the Planning Director through an Authorization of a similar use is a type of interpretation application processed pursuant to Section 1308 Subsection 1305.03.~~
- B. A use may not be authorized as a similar use if it is specifically listed as prohibited in the applicable zoning district. “Specifically listed” does not include general references to prohibited uses, such as “uses of structures and land not specifically allowed.”
- C. Similarity to a “preexisting” use may not serve as the basis for authorization of a similar use, even in zoning districts where “preexisting” uses are specifically listed as a primary, accessory, limited, or conditional use.
- D. If a use is found to be similar to a primary, accessory, limited, or conditional use, it shall be subject to the same approval criteria, review process,

CLACKAMAS COUNTY ZONING AND DEVELOPMENT ORDINANCE

dimensional standards, and development standards as the use to which it is found to be most similar.

[Adopted by Ord. ZDO-235, 5/14/12]

202 **DEFINITIONS**

ACCESSORY BUILDING OR USE: A subordinate building or use, the function of which is clearly incidental to that of the main building or use on the same lot.

ACCESSWAY: A public right-of-way, a portion of which is hard surfaced, for use by pedestrians and bicyclists providing a direct route where public roads require significant out of direction travel.

ACCESS DRIVE: A private way, with a travel surface generally no more than 12 feet in width, created by deed or easement to provide vehicular ingress to, or egress from not more than two lots or parcels.

ACTIVE RECREATIONAL AREA: An area such as a park, sports field, or golf course, where turf provides a playing surface that is dedicated to active play.

ADJOINING: Contiguous or abutting exclusive of street width. It shall include the terms adjacent, abutting or contiguous.

ADULT BUSINESS: A range of commercial activities characterized by live, closed circuit, or reproduced material which has an emphasis on nudity and/or specified sexual activity. Such businesses generally limit their patrons to persons at least 18 years of age. Adult businesses include the following types of establishments: adult bookstores, adult theaters, adult arcades, adult cabarets, and adult paraphernalia shops, as defined below, and other establishments which feature any combination of activity or merchandise described below which collectively account for 25 percent, or more, of the establishment's activity or merchandise. These definitions shall not be construed to allow uses or activities which are unlawful under State criminal laws.

"Adult bookstore" is an establishment having as 25 percent or more of its merchandise for sale, rent, or viewing on the premises, such items as books, magazines, other publications, films, video tapes or video discs which are distinguished by their emphasis on specified sexual activities, as defined in this ordinance.

"Adult theater" is an establishment used for more than 25 percent of showtime for presenting material (either live, closed circuit, or prerecorded) for observation by patrons therein which has as a dominant theme an emphasis on nudity and/or specified sexual activities, as defined in this ordinance.

"Adult arcade" is an establishment offering viewing booths or rooms for one or more persons in which 25 percent, or more, of the material presented (either live, closed circuit, or reproduced) is characterized by an emphasis on nudity and/or specified sexual activities, as defined in this ordinance.

"Adult cabaret" is an establishment having as its primary attraction live exhibitions (either for direct viewing, closed circuit viewing, or viewing through a

transparent partition) for patrons, either individually, or in groups, where the exhibition material presented is characterized by an emphasis on nudity and/or specified sexual activities, as defined in this ordinance.

"Adult paraphernalia shop" is an establishment having as 25 percent or more of its merchandise objects which stimulate human genitalia and/or objects designed to be used to substitute for or be used with human genitalia while engaged in specified sexual activities, as defined in this ordinance.

AIRPORT, PERSONAL-USE: An airstrip restricted, except for aircraft emergencies, to use by the owner and, on an infrequent and occasional basis, by his invited guests, and to commercial activities in connection with agricultural operations only.

AIRPORT, PRIVATE USE: An airport restricted, except for aircraft emergencies, to use by the owner and his invited guests. The determination as to whether an airport is private or public-use is made by the Oregon Department of Aviation.

AIRPORT, PUBLIC-USE: An airport that is open to use by the flying public, with or without a request to use the airport.

ALLEY: A travel way that is used primarily for vehicular service access to the back or side of properties otherwise abutting on a street.

ALTERATION, CULTURAL RESOURCE: Any exterior change or modification, through public or private action, of any cultural resource or of any property located within an historic district including, but not limited to, exterior changes to or modification of structure, architectural details or visual characteristics such as paint color and surface texture, grading, surface paving, new structures, cutting or removal of trees and other natural features, disturbance of archaeological sites or areas, and the placement or removal of any exterior objects such as signs, plaques, light fixtures, street furniture, walls, fences, steps, plantings and landscape accessories affecting the exterior visual qualities of the property.

ANTIQUES: Goods that, by virtue of their age or unusual quality, are generally considered to be of historical and/or artistic interest, ordinarily such items are in good state of preservation or are restorable to their original conditions.

ARCHITECTURAL FEATURES: Features include, but are not limited to cornices, canopies, sunshades, gutters, chimneys, fireplaces, flues and eaves. Architectural features shall not include any portion of a structure built for the support, occupancy, shelter or enclosure of persons or property of any kind.

ARCHITECTURAL FEATURES, CULTURAL RESOURCE: The architectural elements embodying style, design, general arrangement and components of all of the outer surfaces of an improvement, including, but not limited to, the kind, color, texture of the building materials and type and style of all windows, doors, lights, signs and other fixtures appurtenant to such improvements.

AUTOMATIC IRRIGATION CONTROLLER: An automatic timing device used to remotely control valves that operate an irrigation system. Automatic irrigation controllers schedule irrigation events using either evapotranspiration (weather-based) or soil moisture data.

BABYSITTER: A person who goes into the home of a child to give care during the temporary absence of the parent or legal guardian or custodian.

BASEMENT: A portion of a building which has less than one-half of its height measured from finished floor to finished ceiling above the average elevation of the adjoining ground, but not an "underground structure" as defined in this ordinance.

BEACON: Any light with one or more beams directed into the atmosphere or directed at one or more points not on the same site as the light source; also, any light with one or more beams that rotate or move.

BED AND BREAKFAST ESTABLISHMENT: A use carried on in a structure designed for a single-family dwelling, except as provided under Section 832, which provides rooms for rent on a daily basis to the public and which includes a breakfast meal as part of the cost of the room. Bed and breakfast establishments do not include other similar uses, such as motels, health or limited care facilities, boarding houses, group quarters, hostels, or rescue missions. All bed and breakfast establishments require tourist facility licensing by the appropriate agency. Bed and breakfast residences and inns, as defined below, must also satisfy the State Health Division requirements. Three levels of bed and breakfast establishments are as follows:

"Bed and Breakfast Homestay" provides overnight accommodations plus breakfast in an owner-occupied dwelling that provides one or two guest rooms for occasional bed and breakfast guests, not exceeding five guests at one time. Primary use of the dwelling remains as a dwelling, not as a lodging establishment. All reservations are made in advance. Income derived from bed and breakfast activity does not generally represent a primary source of income. Bed and breakfast homestays are major home occupations, subject to Section 822.

"Bed and Breakfast Residence" provides overnight accommodations plus breakfast and occasional family-style meals for guests, in an operator- or owner-occupied dwelling that provides up to five rooms on an occasional or regular basis. Income derived from the bed and breakfast activity may represent a primary source of income. Bed and breakfast residences are subject to Section 832, and all requirements of the underlying district.

"Bed and Breakfast Inn" provides accommodations plus breakfast on a daily or weekly basis in an operator- or owner-occupied dwelling that is primarily used for this purpose. This use is operated as a commercial enterprise, encourages direct bookings from the public, and is intended to provide a major source of income to the proprietors. This level includes inns that operate restaurants offering meals to the general public as well as to overnight guests. Bed and breakfast inns are

subject to Section 832 and all requirements of the underlying district.

BICYCLE RACK: An apparatus designed to support the central frame of a bicycle and allow locking of both wheels, without the removal of wheels.

BIKEWAY: A paved facility provided for use by cyclists. There are five types of bikeways.

Shared Roadway: A type of bikeway where motorists and cyclists occupy the same roadway area. Shared roadways are allowed on neighborhood streets and on rural roads and highways.

Shoulder Bikeway: A bikeway which accommodates cyclists on paved roadway shoulder.

Bike Lane: A section of roadway designated for exclusive bicycle use, at the same grade as the adjacent roadway.

Bike Path: A bike lane constructed entirely separate from the roadway.

Cycle Track: An exclusive “grade-separated” bike facility elevated above the street level using a low-profile curb and a distinctive pavement material.

BLANKETING: The visual blocking of one sign by another as seen by a motorist traveling a street or highway.

BLOCK: A parcel of land bounded by streets, railroad rights-of-way, waterways, parks, unsubdivided acreage, or a combination thereof.

BUILDING: Any structure used or intended for supporting or sheltering any use or occupancy.

BUILDING ENVELOPE: The three dimensional space which is to be occupied by a building.

BUILDING LINE: A straight line that is parallel and adjacent to the front side of the main building and parallel to the front lot line.

BUILDING OR STRUCTURE HEIGHT: The term "height of building" shall be calculated by the methods identified in the State of Oregon Structural Specialty Code or the State of Oregon One and the Two Family Dwelling Specialty Code, as applicable.

BULK PLANT: Hazardous substances at the bulk plant level are manufactured, collected, repackaged, stored, or distributed, but are generally not used on the site. The primary emphasis of uses at the bulk plant level is on hazardous substances. Materials are stored in large permanent tanks. Bulk plant quantities are larger than amounts transported in or out in any single shipment. Processors of hazardous

substances will generally be at this level. Uses which produce hazardous substances as a by-product or accessory to another product are not in this category.

CARE: The provision of room and board and other services as needed to assist in activities of daily living, such as assistance with bathing, grooming, eating, medication management, money management or recreation.

COGENERATION FACILITY: A facility that produces, through the sequential use of energy, electric energy and useful thermal energy including but not limited to heat or steam, used for industrial, commercial, heating, or cooling purposes; and is more than 50 percent owned by a person who is not an electric utility, an electric holding company, an affiliated interest, or any combination thereof.

COMMERCIAL USE: The use of land and/or structures for the conduct of retail, service, office, artisan, restaurant, lodging, daycare, entertainment, private recreational, professional, and similar uses.

COMMON OWNERSHIP: Land commonly owned to include open space lands dedicated in planned unit developments and lands dedicated for open space which are owned by homeowners associations.

COMPOSTING: The managed process of controlled biological decomposition of green feedstocks. It does not include composting for the purposes of soil remediation.

COMPOSTING FACILITY: A site or facility, excluding home composting areas as described in Section 202 and agricultural composting conducted as a farm use, which utilizes green feedstocks to produce a useful product through a managed process of controlled biological decomposition. Composting may include amendments beneficial to the composting process. Vermiculture and vermicomposting are considered composting facilities. Composting facilities or sites may include sales of the finished product, as well as accessory products limited to topsoil, barkdust and aggregate commonly used in landscaping to wholesale and retail customers. The area utilized for the sale of said accessory products shall not exceed 10% of the area used for composting, or two (2) acres, whichever is less subject to the provisions of Subsection 834.03 and 834.04.

CONGREGATE HOUSING FACILITY: A building that contains more than one dwelling unit and provides common facilities and services for residents who require or desire a more supportive living environment than typically afforded to residents in multifamily, three-family, two-family, or single-family dwellings. Regular on-premise supervision by a registered physician, registered nurse, or other health care provider may be included.

CULTURAL RESOURCE: Improvements, buildings, structures, signs, features, sites, places, areas or other objects of scientific, aesthetic, educational, cultural, architectural, or historical significance to the citizens of the county.

CULTURAL RESOURCE INVENTORY: The official list of designated cultural features, sites, districts subject to the provisions of Section 707, Cultural Resources.

CULTURAL RESOURCES OBJECT: A material thing of functional, aesthetic, cultural, symbolic or scientific value, usually by design or nature movable.

DAYCARE FACILITY: A facility that provides regular daycare services to children under 13 years of age, including a day nursery, nursery school group, or similar unit operating under any name. A daycare facility shall not include services provided by a physician or nurse, or facilities operated primarily for education or supervised training or instruction, or daycare provided by a "babysitter" or "family daycare provider".

DEDICATION: The designation of land by its owner for any general or public use.

DESIGNATED SITE (historic site, cultural resource site, landmark site): A parcel or part thereof on which a cultural resource is situated, and any abutting parcel or part thereof constituting part of the premises on which the cultural resource is situated, and which has been designated pursuant to this Ordinance.

DESIGNATED STRUCTURE (landmark, cultural resource, historic structure): Any improvement that has special historical, cultural, aesthetic or architectural character, interest or value as part of the development, heritage or history of the county, the State of Oregon, or the nation and that has been designated pursuant to this ordinance.

DIRECT ROUTE: The shortest reasonable route between two points. A route is considered direct if it does not involve significant out of direction travel that could be avoided. Out of direction travel is significant if it is more than 50 percent longer than the straight line between two points.

DISTINCTIVE URBAN FOREST: Forested or woodland areas which are visually prominent or contain unique or rare tree and plant communities. These areas are usually found in association with other open space resources within the urban area.

DRIP IRRIGATION: Any non-spray low volume irrigation system utilizing emission devices with a flow rate measured in gallons per hour.

DRIP LINE: The outermost edge of a tree's canopy; when delineating the drip line on the ground, it will appear as an irregularly shaped circle defining the canopy's perimeter.

DROUGHT-TOLERANT PLANTS: Plants that will survive in the typical or somewhat less than typical amount of rainfall in the Willamette Valley, and therefore require very little or no supplemental water once established.

DWELLING: A building, or portion thereof, which contains one or more dwelling units. A dwelling may be a residential trailer or a manufactured dwelling but not a recreational vehicle.

DWELLING, ATTACHED SINGLE-FAMILY: A building, or portion thereof, that contains only one dwelling unit; shares at least one wall, or portion thereof, with another attached single-family dwelling; and is located on a separate lot of record from any other dwelling, except where otherwise permitted for an accessory dwelling unit. A manufactured dwelling or residential trailer is not an attached single-family dwelling.

DWELLING, DETACHED SINGLE-FAMILY: A building, or portion thereof, that contains only one dwelling unit and is detached from any other dwelling, except where otherwise permitted for an accessory dwelling unit. A manufactured dwelling or residential trailer is not a detached single-family dwelling.

DWELLING, MULTIFAMILY: A building, or portion thereof, that contains four or more dwelling units.

DWELLING, THREE-FAMILY: A building, or portion thereof, that contains three dwelling units.

DWELLING, TWO-FAMILY: A building, or portion thereof, that contains two dwelling units, both of which are located on the same lot of record. If one of the two dwelling units is an accessory dwelling unit, the building, or portion thereof, is not a two-family dwelling.

DWELLING UNIT: A building, or portion thereof, with one or more rooms designed for residential occupancy by one family.

DWELLING UNIT, ACCESSORY: A dwelling unit located on the same lot of record as a primary dwelling. The primary dwelling may be an attached or detached single-family dwelling, as specified in the underlying zoning district provisions.

EASEMENT: A right of usage of real property granted by an owner to the public or to specific persons, firms, and corporations.

EDIBLE GARDEN: A garden that contains plants that produce food for human consumption.

ELECTRIC VEHICLE CHARGING STATION: A location where a vehicle can plug into an electrical source to re-charge its batteries.

FAMILY: Any individual or group of persons, regardless of relationship but not exceeding 15 persons, living together as a single housekeeping unit within a dwelling unit.

FAMILY DAYCARE PROVIDER: A daycare provider who regularly provides daycare to 16 or fewer children, or as amended by ORS 657A.440, including the children of the provider, regardless of full-time or part-time status, in the provider's home in the family living quarters. Provision of daycare to more than 16 children, including the children of the provider, regardless of full-time or part-time status, in

the provider's home in the family living quarters shall constitute the operation of a "daycare facility" and shall be subject to the requirements of this Ordinance for daycare facilities.

FARMERS' MARKET: An organized seasonal outdoor market dedicated to the direct sales by growers of agricultural goods, including plants, produce, meats, and other animal products (e.g. eggs, cheese, honey).

FLAG: Any fabric, banner, or bunting containing distinctive colors, patterns, or symbols.

FLAG LOT: A lot or parcel which has access to a road, street or easement, by means of a narrow strip of lot or easement.

FLOOR AREA: The area included within the surrounding exterior walls of a building or portion thereof, exclusive of porches and exterior stairs, multiplied by the number of stories or portion thereof. The floor area of a building, or portion thereof, not provided with surrounding exterior walls shall be the usable area under the horizontal projection of the roof or floor above. Floor area shall not include portions of buildings used for parking of vehicles, except the square footage of commercial uses in parking structures can be counted as part of the total floor area.

FLOOR AREA RATIO (FAR): A measurement of density expressed as the ratio of square footage of building floor area to the square footage of the net site area. The greater the ratio, the greater the density. For example, a building occupying one-fourth of the net site area has a FAR of .25: 1, or .25; adding a second floor to the same building increases the FAR to .50:1, or .5.

FRATERNITY OR SORORITY HOUSE: A building occupied by and maintained exclusively for students affiliated with a school or college.

GRADE: The line of the street or ground surface deviation from the horizontal.

GREEN FEEDSTOCKS: Are defined as including yard debris, non-treated wood waste, vegetative food waste, produce waste, vegetative restaurant waste, vegetative food processor by-products, crop waste and livestock manure. For the purpose of these provisions, "non-treated wood waste" excludes wood waste treated with paint, varnish or other chemicals or preservatives.

GREEN ROOF: A vegetated roof designed to treat storm runoff.

GUEST HOUSE/STUDIO: A guest house or studio is a separate accessory structure, or portion thereof, which is built to residential (R-3 occupancy) building code requirements and which is used by members of the family residing in the primary dwelling or their nonpaying guests or employees on the premises. A "guest house" or "studio" shall be a temporary living area, and shall not be used for boarders or lodgers.

HARDSCAPES: In the practice of landscaping, refers to the inanimate, manmade, non-planted, outdoor areas where the soil is no longer exposed and that are surfaced with pervious or non-pervious durable materials such as masonry, wood, stone, paving, tile, or similar material to create patios, walkways, water fountains, benches, gazebos, etc.

HAZARDOUS SUBSTANCE, MATERIAL OR WASTE: Any hazardous substance, material or waste listed in the following federal regulations:

- A. Superfund Amendments and Reauthorization Act (SARA) of 1986, Section 302 Extremely Hazardous Substances List (40 C.F.R 355, App. A and B);
- B. Comprehensive Environmental Response Compensation & Liability Act Superfund (CERCLA) of 1980, Hazardous Substances List (40 C.F.R 302, Table 302.4);
- C. SARA of 1986, Section 313, Toxic Chemicals List (40 C.F.R Section 372.65);
- D. Resource Conservation and Recovery Act (RCRA) of 1976 and 1984 Amendments, Hazardous Wastes List (P & U Categories) (40 C.F.R Section 261.33(e) and (f)); and
- E. DOT Hazardous Materials Table (49 C.F.R Part 172.101).

HISTORIC AREA: Any area containing improvements which have a special character, historical interest or aesthetic value or which represent one or more architectural periods or styles typical of the history of the County and which improvements constitute a distinct section of the County that has been designated a cultural resource district pursuant to this ordinance.

HOME COMPOSTING: A composting area operated and controlled by the owner or person in control of a single family dwelling unit and used to dispose of vegetative waste, garden wastes, weeds, lawn cuttings, leaves and prunings generated from that property.

HOME OCCUPATION: An occupation or business activity which results in a product or service; is conducted, in whole or in part, in a dwelling and/or an accessory building normally associated with primary uses allowed in the underlying zoning district; is conducted by at least one family member occupying the dwelling; and is clearly subordinate to the residential use of the subject property. Home occupations do not include garage sales, yard sales, holiday bazaars, or home parties which are held for the purpose of the sale or distribution of goods or services unless such sales and/or parties are held more than six times in a calendar year or operate in excess of 24 total days in a calendar year.

HOMEOWNERS ASSOCIATION: The grouping or uniting of persons residing within a defined area, such as a subdivision, into an incorporated entity for the

prosecution of a common enterprise.

HOSPITAL, ANIMAL: A building or premises for the medical or surgical treatment of domestic animals or pets, including dog, cat, and veterinary hospitals.

HOTEL: A building which is designed or used to offer short-term lodging for compensation, with or without meals, for six or more people. A facility that is operated for the purpose of providing care beyond that of room and board is not a "hotel".

HOUSEKEEPING UNIT: A living arrangement within a dwelling unit in which the kitchen, living and dining rooms, and other general living areas of the dwelling unit are shared in common, and the duties, rights, and obligations associated with the performance of domestic tasks and management of household affairs, are shared by the residents by virtue of legal relationship or mutual agreement. Such a living arrangement also may include the provision of food, shelter, personal services, care, and when appropriate, a planned treatment or training program of counseling, therapy, or other rehabilitative social service, for persons of similar or compatible conditions or circumstances who are members of the resident family.

HYDROELECTRIC FACILITY: Any facility relating to the production of electricity by waterpower, including, but not limited to the power generating plant, associated dams, diversions, penstocks, navigation locks, fish ladders, fish screens, reservoirs and detention areas, recreation facilities, interconnecting transmission lines, substations, access roads, offices or commercial and industrial structures proposed to be built in connection with the energy facility; and activities involved in their construction and operation.

IMPROVEMENT: Any building structure, parking facility, fence, gate, wall, work of art or other object constituting a physical betterment of real property, or any part of such betterment.

INDIRECT ILLUMINATION: A nonelectric sign illuminated by an indirect or separate light source.

INDUSTRIAL USE: The use of land and/or structures for the manufacturing or processing of primary, secondary, or recycled materials into a product; warehousing and associated trucking operations; wholesale trade; and related development.

INSTITUTIONAL USE: The use of land and/or structures for activities such as daycare and pre-school facilities, public and private schools, colleges, universities, art, music, trade and other educational and training facilities, convalescent care facilities, nursing homes, hospitals, places of worship, fraternal lodges, municipal and civic buildings, transit centers and park-and-ride facilities, parks, swimming pools and other recreational facilities open to the public or a membership group, senior and community centers, libraries, museums, cemeteries and mausoleums, utility facilities, and similar public and private uses.

INVASIVE NON-NATIVE OR NOXIOUS VEGETATION: Plant species that are listed in the Oregon Department of Agriculture's Noxious Weed Policy and Classification System.

KENNEL: Any lot or premises on which four or more dogs, more than six months of age or with permanent canine teeth, are kept for purposes other than a veterinary clinic.

KIOSK: A small structure used as a newsstand, information booth, refreshment stand, bandstand, or display of goods, etc.

KITCHEN, ACCESSORY: A kitchen that complies with all of the following standards:

- It shall be incidental to a primary dwelling.
- It shall be located in a room that is approved for residential occupancy and used for a purpose in addition to that of a kitchen (e.g., a recreation room, a bedroom).
- It shall not be located in a detached accessory building.
- Any of the following features shall be located within a contiguous area that is no more than 30 inches deep and 10 feet long: cooking appliances, sinks, refrigerators, dishwashers, counters, and cabinets.

LANDSCAPING: Areas of land planted with groundcover, grasses, shrubs, annuals, perennials, or trees.

LIMITED USE: A use allowed in a district on a limited basis and subject to conditions specified therein which are generally more restrictive than the conditions placed on primary or accessory uses within the same district.

LIVESTOCK: One or more domesticated animals raised in an agricultural setting to produce commodities such as food, fiber, and labor. The term "livestock" includes miniature livestock, poultry, and farmed fish.

LOT: A unit of land created by a subdivision of land. For the purposes of this Ordinance, lot includes parcel and lot of record unless otherwise specified in the context of the specific provisions.

LOT AREA: The total horizontal area within the lot lines of a lot.

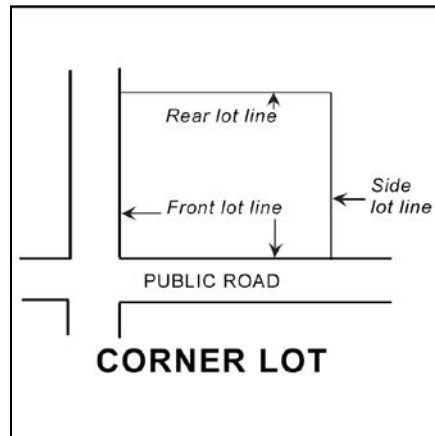
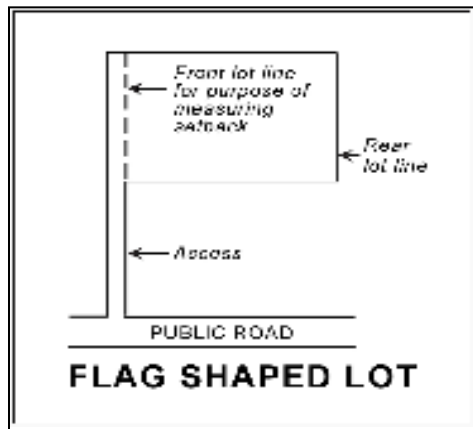
LOT, CORNER: A lot with street frontage on two streets intersecting at a corner of the lot. A lot within the radius curve of a single street is not a corner lot. A lot with access limited to, and frontage on, a state, County, public or private road and also with frontage on an intersecting private road or access drive is not a corner lot for the purpose of determining setbacks provided that the lot does not take access onto the latter abutting private road or access drive. In such a case, the frontage on the latter private road or access drive shall be treated as a side lot line.

LOT COVERAGE: The area of a lot covered by a building or buildings expressed as a percentage of the total lot area.

LOT DEPTH: The "lot depth" is the mean horizontal distance between the front line and the rear lot line of a lot.

LOT, DOUBLE FRONTAGE: A lot with street frontage along two opposite boundaries. See also "LOT, REVERSE FRONTAGE" AND "LOT, THROUGH".

LOT LINE, FRONT: Any boundary line separating the lot from a County, public, state or private road, or access drive. Except as otherwise provided in Subsection 903.07 of this Ordinance, the front lot line of a flag lot, for the purpose of determining setbacks, shall be within the boundaries of the lot by a distance equal to the width of the narrow strip or easement providing access to the lot. The front lot line shall be parallel to the lot line extending from the road to the lot line opposite and most distant from the road. (See following illustration for flag shaped lot).



LOT LINE, REAR: Any boundary line opposite and most distant from the front lot line, and not intersecting a front lot line. In the case of a corner lot, the rear lot line shall be any one of the boundary lines opposite the front lot lines. Any other opposite boundary line shall be a side lot line (see illustration above for corner lot). In the case of a triangular-shaped lot, there shall be no rear lot line for setback purposes.

LOT LINE, SIDE: Any boundary line not a front or rear lot line.

LOT OF RECORD: A lot, parcel, other unit of land, or combination thereof, that conformed to all zoning and Subdivision Ordinance requirements and applicable Comprehensive Plan provisions, in effect on the date when a recorded separate deed or contract creating the lot, parcel or unit of land was signed by the parties to the deed or contract; except:

- A. Contiguous lots under the same ownership when initially zoned shall be combined when any of these lots, parcels or units of land did not satisfy the lot

size requirements of the initial zoning district, excluding lots in a recorded plat.

- B. A unit of land created solely to establish a separate tax account, or for mortgage purposes, that does not conform to all zoning and Subdivision Ordinance requirements and applicable Comprehensive Plan provisions, in effect on the date when a recorded separate deed, tax account or contract creating it was signed by the parties to the deed or contract, unless it is sold under the foreclosure provisions of Chapter 88 of the Oregon Revised Statutes.

LOT, REVERSE FRONTAGE: A double-frontage lot for which the boundary along one of the streets is established as the rear lot line. The rear lot line of the lot shall be that boundary abutting a primary arterial, railroad right-of-way or other feature which shall preclude access. See also “LOT, DOUBLE FRONTAGE” AND “LOT, REVERSE FRONTAGE”.

LOT, THROUGH: Lots, other than corner lots, that abut on two or more streets. See also “LOT, DOUBLE FRONTAGE” AND “LOT, REVERSE FRONTAGE”.

LOT WIDTH: The "lot width" is the mean horizontal distance between the side lot lines of a lot measured within the lot boundaries.

LOT, ZONING: A "zoning lot or lots" is a single tract of land located within a single block, which (at the time of filing for a building permit) is designated by its owner or developer as a tract to be used, developed, or built upon as a unit under single ownership or control. Therefore, a "zoning lot or lots" may or may not coincide with a lot of record.

LOW VOLUME IRRIGATION: The application of irrigation water at low pressure through a system of tubing or lateral lines and low-volume emitters such as drip, drip lines, and bubblers. Low volume irrigation systems are specifically designed to apply small volumes of water slowly at or near the root zone of plants.

MAJOR TRANSIT STOP: A transit center, major bus stop, or light rail stop, as identified on Comprehensive Plan Map 5-8a, *Transit, Urban*.

MAJOR TRANSIT STREET: A street with a Frequent Service Bus Line, as identified on Comprehensive Plan Map 5-8a, *Transit, Urban*; existing or planned High Capacity Transit, as identified on Comprehensive Plan Map 5-8c, *High Capacity Transit (HCT) System Plan*; or both.

MANUFACTURED DWELLING: A mobile home or manufactured home, but not a residential trailer or recreational vehicle.

MANUFACTURED HOME: A structure constructed on or after June 15, 1976, for a movement on the public highways that has sleeping, cooking and plumbing facilities,

that is designed, intended to be and/or being used for human occupancy by a family for residential purposes, and constructed in accordance with Federal manufactured housing construction and safety standards and regulations in effect at the time of construction.

MANUFACTURED HOME PARK: Any place where four or more manufactured homes are located within 500 feet of one another on a lot, tract or parcel of land under the same ownership, the primary purpose of which is to rent, lease or barter the use of such facilities. A manufactured home park does not include a lot or lots located within a subdivision.

MASTER PLAN: A sketch or other presentation showing the ultimate development layout of a parcel of property that is to be developed in successive stages or subdivisions. The plan need not be completely engineered but shall be of sufficient detail to illustrate the property's inherent features and probable development pattern.

MILL SITE, ABANDONED OR DIMINISHED: A mill, plant, or other facility engaged in the processing or manufacturing of wood products, including sawmills and facilities for the production of plywood, veneer, hardboard, panel products, pulp, and paper, that is located outside of urban growth boundaries; was closed after January 1, 1980, or has been operating at less than 25 percent of capacity since January 1, 2003; and contains or contained permanent buildings used in the production or manufacturing of wood products.

MIXED USE: A mix of uses located within a single building, such as retail on the first floor and residential or office uses on the upper floors.

MOBILE HOME: A structure constructed between January 1, 1962 and June 15, 1976, for movement on the public highways that has sleeping, cooking and plumbing facilities, that is designed, intended to be and/or being used for human occupancy by a family for residential purposes and met the construction requirements of Oregon mobile home law in effect at the time of construction.

MOBILE VENDING UNIT: A vehicle that is used in selling and dispensing goods or services to the customer. As used in this definition, a vehicle is motorized or non-motorized transportation equipment containing an axle and intended for use on public roads, including, but not limited to, a car, van, pickup, motorcycle, recreational vehicle, bus, truck, detached trailer, or a truck tractor with no more than one trailer.

MOTEL: A building or series of buildings in which lodging only is offered for compensation and which may have more than five sleeping rooms or units for this purpose and which is distinguished from a hotel primarily by reason of providing direct independent access to and adjoining parking for each rental unit designed primarily for automobile tourists and transient persons. The term includes auto courts, tourist courts, tourist homes, and motor lodges.

MULTI-USE DEVELOPMENT: A Multi-Use Development is a development which

includes a number of distinct categories of uses, one or more of which is not allowed as a primary or accessory use in the underlying zoning district. Multi-Use Developments are allowed as conditional uses subject to the procedures and standards set forth in Section 1016 of this Ordinance.

NATIVE PLANTS: Any indigenous or resident species currently or historically found in the Willamette Valley.

NATURAL AREA: An area of land or water that has substantially retained its character and functions as an important habitat for plant and animal life.

NONCONFORMING DEVELOPMENT: An element of development, such as landscaping, parking, height, signage, or setbacks that was created in conformance with development regulations which, due to a change in the zone or zoning regulations, is no longer in conformance with the current applicable regulations.

NONCONFORMING USE: A use of any building, structure or land allowed by right when established or that obtained a required land use approval when established but, due to a change in the zone or zoning regulations, is now prohibited in the zone.

NUDITY OR NUDE: Being devoid of a covering for the male or female genitalia consisting of an opaque material which does not simulate the organ covered and, in the case of a female, exposing to view one or both breasts without a covering over the nipple that is at least three inches in diameter and does not simulate the organ covered.

NURSERY: The propagation of trees, shrubs, vines or flowering plants for transplanting, sale, or for grafting or budding; planting of seeds or cuttings; grafting and budding one variety on another; spraying and dusting of plants to control insects and diseases, and buying and selling the above plant stock at wholesale or retail. Help and seasonal labor may be employed. The term "nursery" contemplates the sale of a product of such nursery. The conduct of a nursery business presumes parking places for customers, the keeping of sales records, and quarters for these functions. However, the use does not include the business of reselling goods purchased off the premises, except plant stock, or the establishment of a roadside stand.

NURSING HOME: A nursing, convalescent, or rest home facility licensed by the State under ORS chapters 441 and 442, or an assisting living facility licensed under ORS 443, which provides, for a period exceeding 24 hours, the continuous services of licensed nursing personnel to care for chronically ill or infirm patients, exclusive of those patients related to the owner or facility administrator by blood or marriage. Such nursing, convalescent, or rest home must provide nursing services to those patients who, in the judgment of a physician, registered nurse, or facility administrator, require remedial, restorative, supportive, or preventive nursing measures.

OPEN SPACE: Land within a development which has been dedicated in common to

the ownership within the development or to the public specifically for the purpose of providing places for recreational uses or for scenic purposes. Open space shall be used as such in perpetuity.

OVERBURDEN: Earth that lies above a natural deposit of a mineral.

OVERHEAD SPRINKLER IRRIGATION SYSTEMS: Systems that deliver water for irrigation from spray heads, rotors or other above-ground emitters that send water through the air.

OWNER: Person or persons holding fee title to a parcel, lot or tract of land, except in those instances when the land is being sold on contract, the contract purchaser shall be deemed the owner.

PARCEL: A unit of land created by a partition of land. For the purposes of this Ordinance, parcel includes lot and lot of record unless otherwise specified in the context of the specific provisions.

PARKING STRUCTURE: A structure having at least two levels which is designed and used for parking vehicles, or a structure having one level of covered parking area under an open space or recreational use. A one level surface parking area, garage or carport shall not be considered a "parking structure" for purposes of this Ordinance.

PARTITION: To divide an area or tract of land into two or three parcels within a calendar year when such area or tract of land exists as a unit or contiguous units of land under single ownership at the beginning of such year. "Partition" does not include divisions of land resulting from lien foreclosures, divisions of land resulting from foreclosure of recorded contracts for the sale of real property and divisions of land resulting from the creation of cemetery lots; and "partition" does not include any adjustment of a lot line by the relocation of a common boundary where an additional parcel is not created and where the existing parcel reduced in size by the adjustment is not reduced below the minimum lot size established by an applicable zoning ordinance. "Partition" does not include the sale of a lot in a recorded subdivision, even though the lot may have been acquired prior to the sale with other contiguous lots or property by a single owner.

PEDESTRIAN AMENITIES: Outdoor improvements directly visible and accessible to pedestrians that promote and facilitate pedestrian use, including plazas, pocket parks, courtyards, awnings or other weather protection, kiosks or gazebos, water features, drinking fountains, sculpture, outside seating areas, landscape planters, trellises, and street furniture.

PEDESTRIAN PATHWAY: A hard-surfaced or permeable hard-surfaced pedestrian facility adjacent to a public roadway where there is no curb, but is protected from vehicular traffic or set back behind a planting strip.

PEDESTRIAN-SCALE LIGHTING: Street lights designed to illuminate sidewalks

to provide security for nighttime use by pedestrians. Pedestrian scale lighting includes ornamental lighting with a 14- to 25-foot mounting height and which meets the Illumination Society guidelines for Commercial Collector roadways.

PENNANT: Any lightweight plastic, fabric, or other material, whether or not containing a message of any kind, suspended, usually in series, from a rope, wire, or string, and designed to move in the wind.

PERVIOUS: Any surface or material that allows the passage of water through the material and into the underlying soil.

~~PLANNING DIRECTOR: The administrative official of Clackamas County, or authorized staff member, designated to administer the responsibilities of the Planning Division.~~

PLAT, FINAL: A final map and other writing containing all the descriptions, locations, specifications, dedications, provisions, and information concerning a partition or subdivision.

PLAT, PRELIMINARY: A clearly legible and approximate drawing of the proposed layout of streets, blocks, lots and other elements of a subdivision or partition which shall help furnish a basis for the approval or disapproval of the general layout of a partition or subdivision. For the purposes of this Ordinance, "preliminary plat" shall be synonymous with "tentative plan" as used in Oregon Revised Statutes Chapter 92.

POROUS PAVEMENT: Surface to walk, drive or park on that may reduce stormwater runoff by allowing water to soak into the ground. Examples are permeable pavers, pervious concrete, porous asphalt, and gravel.

PREMISES: A lot, building, or portion of a lot or building, occupied by a use with its appurtenances.

PRESERVATION, CULTURAL RESOURCES: The identification, study, protection, restoration, rehabilitation or enhancement of cultural resources.

PRIMARY BUILDING WALL: Exterior building wall which contains a public entrance to the occupant's premises and faces either a street or a parking area.

PRODUCE STAND: A table, bench (or similar), cart, or structure, any of which may be covered, that is located or erected for the purpose of direct sales by growers of agricultural goods, including vegetables, fruits, flowers, bulbs, herbs, plants, honey, and similar products as determined by the Planning Director, but not including processed foods such as jams or jellies, that are produced on the same site at which the produce stand is located.

PROFESSIONAL SERVICES: Activities such as those offered by a physician, surgeon, dentist, lawyer, architect, engineer, accountant, artist, teacher, real estate agent, and insurance agent.

PUBLIC OWNERSHIP: Land owned by federal, state, regional, or local government, or governmental agency.

PUBLIC UTILITY: A utility regulated by the Public Utility Commission under ORS 757 or any other utility that provides electrical energy directly to consumers within the State of Oregon, including, but not limited to, municipalities, cooperatives and people's utility districts.

PUBLIC WATER SYSTEM: A system for the provision to the public of piped water for human consumption, if such system has more than three service connections and is a facility licensed by the State of Oregon Health Division.

RAINWATER COLLECTION SYSTEM: A system of pipes, container (rain barrel, rainwater tank, pond, or rainwater reservoir), valves and associated apparatus for collecting and storing harvested rainwater runoff, typically from rooftops via rain gutters, but also from ground catchment systems.

RECREATIONAL VEHICLE: A vehicle licensed by the Oregon State Department of Motor Vehicles, with or without motive power, which is designed, intended to be and/or used for temporary human occupancy for recreation, seasonal or emergency purposes, and has a gross floor area not exceeding 400 square feet in the set-up mode. These shall include but are not limited to park trailers, travel trailers, pickup campers, motor homes, fifth wheel trailers, camping and tent trailers.

RECYCLABLE DROP-OFF SITE: A convenient location not within a public right-of-way where mobile depots or drop boxes may be sited as a recyclable material collection point for nearby residents prior to delivery to a broker or user of such materials.

RECYCLE/RECYCLING: A process by which solid waste materials are transformed into new products in such a manner that the original products may lose their identity. It shall also include the collection, transportation, or storage of products by other than the original user or consumer, giving rise to the product's being in the stream of commerce for collection, disposal, recycling, reuse, resource recovery, or utilization.

RECYCLING CENTER: A facility that primarily purchases for recycling or reuse principal recyclable materials which have been source-separated by type, such as vegetative yard debris, paper, glass, and metal, by the person who last used the unseparated solid wastes, but not a salvage or junk yard. Principal recyclable materials are those items defined as such by the Oregon Department of Environmental Quality.

RELATIVE: A parent, child, brother, sister, grandparent or grandchild of a person or person's spouse.

RESERVE STRIP: A strip of land, usually one foot in width, across the end of a street or alley which shall be under the ownership of the County to insure street

extensions where needed.

RESIDENTIAL TRAILER: A structure constructed prior to January 1, 1962, for movement on the public highways that has sleeping, cooking and plumbing facilities, that is designed, intended to be and/or being used for human occupancy by a family for residential purposes and that was constructed in accordance with Federal Manufactured housing construction and safety standards and regulations in effect at the time of construction and is greater than 400 square feet and less than 700 square feet.

RESOURCE RECOVERY FACILITY: Any facility at which solid waste is processed for the purpose of extracting, converting to energy, or otherwise separating and preparing solid waste for reuse, but not a salvage or junk yard.

RIGHT-OF-WAY: A passageway conveyed for a specific purpose.

ROAD: A public or private way created to provide ingress to, or egress from, one or more lots, parcels, areas or tracts of land, or that provides for travel between places by vehicles. A private way created exclusively to provide ingress and egress to land in conjunction with a forest, farm or mining use is not a "road:". The terms "street", "access drive" and "highway" for the purposes of this Ordinance shall be synonymous with the term "road".

ROAD, COUNTY: A public way under County jurisdiction which has been accepted into the County road maintenance system by order of the Board of County Commissioners.

ROAD, PRIVATE: A private way created by deed or easement to provide vehicular ingress to, or egress from, three or more lots or parcels.

ROAD, PUBLIC: A public way dedicated or deeded for public use but not accepted into the County road maintenance system, intended primarily for vehicular circulation and access to abutting properties.

ROADWAY: That portion of a road or alley that has been improved for vehicular and pedestrian traffic.

SALVAGE: Separating, collecting or retrieving reusable solid waste for resale.

SALVAGE, JUNK YARD: A location on which solid wastes are separated, collected, and/or stored pending resale.

SCHOOL, COMMERCIAL: A building where instruction is given to pupils in arts, crafts, or trades, and operated as a commercial enterprise as distinguished from schools endowed and/or supported by taxation.

SCHOOL, PRIVATE: Includes private kindergartens, nurseries, play schools, and church-related schools.

SCREENING: Sight-obscuring fence, or sight-obscuring planting.

SERVICE STATION: A commercial establishment with sales and services limited to the sale of motor fuels and supplying goods and service generally required in the operation and maintenance of automotive vehicles and fulfilling a motorist's needs. These may include sale of petroleum products; sale and servicing of tires, batteries, automotive accessories and replacement items; washing and lubricating services; the performance of minor automotive maintenance and repair, and the supplying of other incidental customer services and products. Major automotive repairs, painting and fender work are excluded. An electric vehicle charging station is not a service station.

SHARED PARKING: Parking spaces used jointly by two or more uses within the same development, or separate adjacent developments, which either have peak hours of operation that do not overlap, or typically provide services to many of the same patrons (i.e. restaurant in an office complex or hotel providing lodging for convention participants within the same development), provided satisfactory legal evidence is presented in the form of deeds, leases, or contracts securing full access to such parking spaces for all parties jointly using them.

SIDEWALK: A concrete pedestrian facility adjacent to a curb along a public road or setback from the curb behind a planting strip.

SIGHT-OBSCURING FENCE: Any fence or wall which conceals or makes indistinct any object viewed through such fence or wall.

SIGHT-OBSCURING PLANTING: A dense perennial evergreen planting with sufficient foliage to obscure vision and which will reach a height of at least six feet within 30 months after planting.

SIGN: A presentation or representation, other than a house number, by words, letters, figures, designs, pictures or colors displayed out of doors in view of the general public so as to give notice relative to a person, a business, an article of merchandise, a service, an assemblage, a solicitation, or a request for aid or other type of identification. This definition specifically includes billboards, ground signs, freestanding signs, wall signs, roof signs, logo signs, and signs on the following: marquees, awnings, canopies, street clocks and furniture and includes the surface upon which the presentation or representation is displayed.

SIGN, ANIMATED: Any sign that uses movement or change of lighting to depict action or create a special effect or scene.

SIGN AREA, OR SURFACE AREA: The area, on the largest single face of a sign, within a perimeter which forms the outside shape of a sign. If the sign consists of more than one module, the total area of all modules will constitute the sign area. The area of a sign having no such perimeter or boarder shall be computed by enclosing the entire copy area within the outline of either a parallelogram, triangle, circle or any

other easily recognized geometric shape and then computing the area. Where a sign is of a three-dimensional, round or irregular shape, the largest cross section shall be used in flat projection for the purpose of computing sign area.

SIGN, BUILDING: Any sign attached to any part of a building, as contrasted to a freestanding sign.

SIGN, CHANGEABLE COPY: A sign or portion thereof with characters, letters, or illustrations that can be changed or rearranged without altering the face or the surface of the sign. A sign on which the message changes more than eight times per day shall be considered an animated sign and not a changeable copy sign for purposes of this ordinance.

SIGN, COMMERCIAL: Any sign associated with a commercial activity.

SIGN, DIRECTORY: An onsite sign that identifies and directs traffic to a number of tenants, uses, or buildings within a development.

SIGN, ELECTRONIC MESSAGE CENTER: A sign, display or device, or portion thereof, whose message may be changed by electronic process or remote control, and includes electronic time and temperature displays and the device known in the advertising industry as a commercial electronic variable message sign.

SIGN, FREESTANDING: A sign not attached to a building.

SIGN, INCIDENTAL: A sign, generally informational, that has a purpose secondary to the use of the site on which it is located, such as "no parking," entrance," "loading only," "telephone," and other similar directives.

SIGN, INTEGRAL ROOF: Any sign erected or constructed as an integral or essentially integral part of a normal roof structure of any design, such that no part of the sign extends vertically above the highest portion of the roof and such that no part of the sign is separated from the rest of the roof by a space of more than six inches.

SIGN, LOGO: A sign consisting of a trademark or symbol.

SIGN, MESSAGE: Anything displayed on an electronic message center sign, including copy and graphics.

SIGN, MONUMENT: A sign which extends from the ground or which has a support which places the bottom thereof less than two feet from the ground.

SIGN, OFF-PREMISES: A sign which advertises goods, products or services which are not sold, manufactured, or distributed on or from the premises or facilities on which the sign is located.

SIGN, POLE: A sign erected and maintained on a freestanding frame, mast or pole and not attached to any building but does not include ground-mounted signs.

SIGN, PORTABLE: Any sign not permanently attached to the ground or other permanent structure, and/or designed to be transported, including, but not limited to, signs designed to be transported by means of wheels; signs converted to A- or T-frames; menu and sandwich board signs; balloons used as signs; umbrellas used for advertising; and signs attached to or painted on vehicles parked and visible from the public right-of-way, unless said vehicle is used as other than a sign in the normal day-to-day operations of the business for transportation of goods and/or personnel.

SIGN, PROJECTING: Any sign affixed to a building or wall in such a manner that its leading edge extends more than six inches beyond the surface of such building or wall.

SIGN, PUBLIC SERVICE INFORMATION: Any sign, or message on an electronic message center sign, which provides the time, date, temperature, weather, or information concerning civic, charitable or other noncommercial activities.

SIGN, RESIDENTIAL: Any sign associated with a dwelling.

SIGN, ROOF: Any sign erected and constructed wholly on and on top of the roof of a building, supported by the roof structure.

SIGN, SEGMENTED MESSAGE: Any message or distinct subunit of a message presented by means of at least one display change on an electronic message center sign.

SIGN, TEMPORARY: Any sign that is normally considered to be of temporary duration and is not permanently mounted. Examples include, but are not limited to: commercial signs for limited term events, election signs, real estate signs, etc.

SIGN, TRAVELING MESSAGE: A message which appears to move across an electronic message center sign.

SIGN, WALL: Any sign parallel to, and attached within six inches of a wall, painted on the wall surface, or erected and confined within the limits of an outside wall of any building or structure, which is supported by such wall or building, and which displays only one sign surface.

SIGN, WINDOW: Any sign, pictures, symbol, or combination thereof, that is placed inside a window or upon the window panes or glass and is visible from the exterior of the window.

SIGNIFICANT NATURAL AREAS: Natural areas as defined in "Oregon National Areas - Clackamas County Data Summary" published by The Nature Conservancy. This list of natural areas may be amended by the County as additional areas are identified.

SMALL POWER PRODUCTION FACILITY: A facility that produces energy primarily by use of biomass, waste, solar energy, wind power, water power,

geothermal energy, or any combination thereof; is more than 50 percent owned by a person who is not an electric utility, an electric utility holding company, an affiliated interest, or any combination thereof; and has a power production capacity that, together with any other small power production facility located at the same site and owned by the same person, is not greater than 80 megawatts.

SOIL MOISTURE SENSING DEVICE OR SOIL MOISTURE SENSOR: A device that measures the amount of water in the soil. The device may also suspend or initiate an irrigation event.

SOLAR ENERGY SYSTEM: Any solar collector, or other solar energy device, the primary purpose of which is to provide for the collection, storage, and distribution of solar energy for space heating or cooling, water heating, or electricity. The power generating capacity of a “solar energy system” is limited to power consumed by the development to which the system is accessory, or—if the system feeds power into the grid of a public utility company—to an amount equivalent to no more than the annual usage of the development to which the system is accessory.

SOLID WASTE: Solid waste shall include all putrescible and non-putrescible waste, including, but not limited to: garbage; compost; organic waste; yard debris; brush and branches; land clearing debris; sewer sludge; residential, commercial and industrial building demolition or construction waste; discarded residential, commercial and industrial appliances, equipment and furniture; discarded, inoperable or abandoned vehicles or vehicle parts and vehicle tires; special vehicles and equipment that are immobile and/or inoperable; manufactured dwellings or residential trailers which are dilapidated, partially dismantled or fire damaged; manure; feces; vegetable or animal solid and semi-solid waste and dead animals; and infectious waste. Waste shall mean useless, unwanted or discarded materials. The fact that materials which would otherwise come within the definition of Solid Waste may, from time to time, have value and thus be utilized shall not remove them from the definition. The terms “solid waste” or “waste” do not include:

- A. Environmentally hazardous wastes as defined in ORS 466.055;
- B. Materials used for fertilizer or for other productive purposes on land in agricultural operations in the growing and harvesting of crops or the raising of fowl or animals. This exception does not apply to the keeping of animals on land which has been zoned for residential non-agricultural purposes;
- C. Septic tank and cesspool pumping or chemical toilet waste;
- D. For purposes of Article V of this Ordinance, reusable beverage containers as defined in ORS 459A;
- E. Source separated, principal recyclable materials as defined in ORS 459A and the Rules promulgated thereunder and under this Ordinance, which have been

purchased or exchanged for fair market value, unless said principal recyclable materials create a public nuisance pursuant to Article II of this Ordinance;

- F. Applications of industrial sludges or industrial waste by-products authorized through a Land Use Compatibility Statement of Management Plan approval and that have been applied to agricultural lands according to accepted agronomic practices or accepted method approved by the Land Use Compatibility Statement or Management Plan, but not to exceed 100 dry tons per acre annually;
- G. Stabilized municipal sewage sludge applied for accepted beneficial uses on land in agricultural, non-agricultural, or silvicultural operations;
- H. Sludge derived products applied for beneficial uses on land in landscaping projects.

SPECIFIED SEXUAL ACTIVITIES: Real or simulated acts of human sexual intercourse, human/animal sexual intercourse, masturbation, sadomasochism abuse (as defined on ORS 167.060), sodomy, or the exhibition of human sexual organs in a stimulated state, or the characterization thereof in printed form. This definition shall not be construed to allow uses or activities which are unlawful under State criminal laws.

STABLE, BOARDING OR RIDING: Premises that are used by the public for the training, riding, boarding, public exhibition or display of livestock for commercial or noncommercial purposes. An agricultural building, as defined in Chapter 4 of the Uniform Building Code, or premises used for the boarding, training or riding of three or less livestock other than those of the operator of the premises shall not be a "stable" for the purposes of this Ordinance.

STORY: A portion of a building included between a floor and the ceiling next above it, exclusive of a basement.

STREAM: A body of perennial running water, together with the channel occupied by such running water.

STREAM CORRIDOR AREA: An area including the streambed and a required strip or buffer of land on each side of the streambed necessary to maintain streamside amenities and existing water quality. The width of the stream corridor area varies with the site conditions and shall be determined by on-the-ground investigation, as provided under Subsection 1002.05(B). The intent of the stream corridor area shall be to preserve natural environmental qualities and the function of land to purify water before it reaches the stream but not to prohibit timber management activities pursuant to the State Forest Practices Act.

STREET FRONTAGE: The entire linear distance of a lot abutting a street. Toe strips or flair strips shall not be used to satisfy the minimum street frontage requirements of

the Ordinance.

STREET: See “ROAD”.

STREET FURNITURE: Any structural element other than residential, industrial or commercial buildings, streets, sidewalks and curbs shall be considered street furniture including, but not limited to, benches, bus shelters, newsstands, bulletin boards, kiosks, drinking fountains, bicycle stalls, etc.

STRUCTURE: Anything constructed or erected, which requires location on the ground or attached to something having a location on the ground.

SUBDIVIDE: To divide an area or tract of land into four or more lots within a calendar year when such area or tract exists as a unit or contiguous units, under a single ownership at the beginning of such year, whether or not that area or tract of land is divided by a water course or a road right-of-way.

SUBDIVISION: A division of property creating four or more lots in the same calendar year.

SURFACE MINING: Includes the mining of minerals by removing overburden and extracting a natural mineral deposit thereby exposed, or simply such extraction. Surface mining includes open-pit mining, auger mining, production of surface mining waste, prospecting and exploring that extracts minerals or affects land, processing to include rock crushing and batch plant operations, and excavation of adjacent offsite borrow pits other than those excavated for building access roads.

SURFACE MINING, MINERALS: Includes soil, clay, stone, sand, gravel, and any other inorganic solid excavated from a natural deposit in the earth for commercial, industrial, or construction use.

SURFACE MINING, NONAGGREGATE MINERALS: Coal and metal-bearing ores, including but not limited to ores that contain nickel, cobalt, lead, zinc, gold, molybdenum, uranium, silver, aluminum, chrome, copper or mercury.

SURFACE MINING, OPERATOR: A legal entity engaged in surface mining or in an activity at a surface mining site preliminary to surface mining.

SURFACE MINING, RECLAMATION: Procedures designed to minimize the disturbance from surface mining and to provide for the rehabilitation of surface resources through the use of plant cover, soil stabilization, and other procedures to protect the surface and subsurface water resources, and other measures appropriate to the subsequent beneficial use of mined lands.

SUSTAINABILITY: Using, developing, and protecting resources in a manner that enables people to meet their current needs and also provides that future generations can meet their own needs. Sustainability requires simultaneously meeting environmental, economic, and community needs.

TRACT: One or more contiguous lots or parcels under the same ownership.

TRAIL: A hard- or soft-surfaced facility for pedestrians, bicyclists, or equestrians that is separate from vehicular traffic. Trails often go through natural areas and are designed to have a minimal impact on the natural environment.

TRANSFER STATION: A fixed or mobile facility used as part of a solid waste collection and disposal system or resource recovery system, between a collection route and a processing facility or a disposal site, including but not limited to drop boxes made available for general public use. This definition does not include solid waste collection vehicles.

TRANSIT STOP: Any posted bus or light rail stop.

TURF LAWN: A ground-cover surface made up of thick, closely mowed, cultivated grass.

UNDERGROUND STRUCTURE: A structure in which more than 50 percent of the cubic footage of the enclosed, covered space is (1) constructed below the highest elevation of the ground adjoining the structure site prior to excavation; and (2) covered over by ground materials, such as soil, sod, sand or exterior paving, which are continuous on at least one side of the structure with contiguous surface ground materials. Conventional roofing materials may be used to cover any portion of the structure which extends above ground elevation. For an underground structure to be a "dwelling unit" access must be provided to outdoor space at floor level (within two feet of elevation) equal to at least 20 percent of the square footage of the enclosed, covered area of the structure.

Underground structures must meet all appropriate Uniform Building Code regulations and the requirements of the subject zoning district, except as provided in Section 904 of this Ordinance.

UNINCORPORATED COMMUNITY: A settlement that conforms to the definition set forth in Chapter 660, Division 22 of the Oregon Administrative Rules. The County's unincorporated communities are identified in Chapter 4 of the Comprehensive Plan and shown on Map IV-7 of the Comprehensive Plan.

USE: The purpose for which land or a building is arranged, designed or intended, or for which either land or a building is or may be occupied.

UTILITY CARRIER CABINETS: A small enclosure used to house utility equipment intended for offsite service, such as electrical transformer boxes, telephone cable boxes, cable TV boxes, fire alarm boxes, police call boxes, traffic signal control boxes, and other similar apparatus.

VEHICLE, COMMERCIAL: A commercially licensed and operated vehicle exceeding the capacity of one ton.

VISUALLY SENSITIVE AREAS: Prominent natural landscape features such as hillsides, forests, and waterways; historic district; visual corridors along major highways and rivers. Natural landscapes that occur within the urban area and along traffic corridors are of higher visual significance.

WALKWAY: A hard-surfaced facility for pedestrians, within a development or between developments, distinct from surfaces used by motor vehicles. A walkway is distinguished from a sidewalk by its location on private property.

WASTE-RELATED USES: Waste-related uses are characterized by uses that receive solid or liquid wastes from others for disposal on the site for transfer to another location, uses which collect sanitary wastes, or uses that manufacture or produce goods or energy from the composting of organic material. Waste-related uses also includes uses which receive hazardous wastes from others and which are subject to the regulations of OAR 340.100-110, Hazardous Waste Management.

WETLANDS: 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.

YARD: The open space, on a lot, between a structure or structures and any lot line. The minimum horizontal distance between any point on a lot line and the nearest part of any structure or building is the yard depth.

YARD, FRONT: Any yard abutting a state highway, County road, public road, private road, or access drive, except as modified by Subsections 903.01 and 903.07 or this Ordinance.

YARD, REAR: Any yard abutting a rear lot line.

YARD, SIDE: Any yard abutting a side lot line.

[Amended by Ord. ZDO-224, 5/31/11; Amended by Ord. ZDO-231, 1/31/12; Amended by Ord. ZDO-232, 3/12/12; Amended by Ord. ZDO-234, 6/7/12; Amended by Ord. ZDO-243, 9/9/13; Amended by Ord. ZDO-246, 3/1/14]

305 RECREATIONAL RESIDENTIAL DISTRICT (RR)

305.01 PURPOSE

Section 305 is adopted to:

- A. Implement the policies of the Comprehensive Plan for Rural areas regulated by the Mount Hood Community Plan; and
- B. Maintain and enhance the natural environmental and living qualities of those areas which are recreational residential in character through conservation of natural resources and carefully controlled development.

305.02 AREA OF APPLICATION

- A. Property may be zoned Recreational Residential if:
 - 1. The site has a Comprehensive Plan designation of Rural;
 - 2. The site is regulated by the Mount Hood Community Plan;
 - 3. The criteria in Section 1202 are satisfied;
 - 4. Parcels are generally two acres or smaller;
 - 5. The area is significantly affected by development; and
 - 6. There are no natural hazards, and the topography and soils conditions are well-suited for the location of homes.

305.03 PRIMARY USES

The following are primary uses in the Recreational Residential District:

- A. One detached single-family dwelling, residential home, or manufactured dwelling. A manufactured dwelling shall be subject to Section 824;
- B. Bus shelters under the ownership and/or control of a city, county, state, or municipal corporation, subject to Section 823;
- C. Utility carrier cabinets, subject to Section 830; and
- D. Wireless telecommunication facilities listed in Subsection 835.04, 835.05(2), or 835.05(3), subject to Section 835.

305.04 ACCESSORY USES

- A. Uses and structures customarily accessory and incidental to a primary use;

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- B. Produce stands, subject to Section 815;
- C. Livestock, subject to Section 821;
- D. Home occupations, including bed and breakfast homestays, subject to Section 822;
- E. Guest houses, subject to Section 833;
- F. Signs, subject to Section 1010;
- G. Solar energy systems;
- H. Rainwater collection systems;
- I. Electric vehicle charging stations for residents and their nonpaying guests; and
- J. Family daycare providers.

~~305.05 USES SUBJECT TO REVIEW BY THE PLANNING DIRECTOR~~

~~The Planning Director may approve the following use in the Recreational Residential District, pursuant to Subsection 1305.02:~~

- ~~A. Wireless telecommunication facilities listed in Subsections 835.05(A)(2) and (3), subject to Section 835.~~

305.056 CONDITIONAL USES

- A. ~~The Hearings Officer may approve~~ the following are conditional uses in the RRRecreational Residential District, approval of which is subject to pursuant to Section 1300. Approval shall not be granted unless the proposal complies with Section 1203 and any applicable provisions of Section 800.

- 1. Churches, with a minimum site area of two acres, subject to Section 804;
- 2. Schools, with a minimum site area of 10 acres, subject to Section 805;
- 3. Daycare facilities, subject to Section 807;
- 4. Service and recreational uses, subject to Section 813;
- 5. Quarry activities or uses: rock, gravel, sand, soil, aggregates, and similar extractive activities and uses, but none within any stream corridor area or within 100 feet of the average annual high water mark of any stream, river, or other body of water, whichever is greater, subject to Section 818;
- 6. Sanitary landfills, debris fills and solid waste transfer stations, with a minimum site area of three acres, subject to Section 819;

7. Public or private energy source developments. Hydroelectric facilities shall be subject to Section 829;
8. Bed and breakfast residences and inns, subject to Section 832;
9. Wireless telecommunication facilities listed in Subsection 835.06(A), subject to Section 835;
10. Aircraft landing areas for use by emergency aircraft only (fire, rescue, etc.);
11. Guest ranches, lodges, campgrounds, and similar recreation operations, with a minimum site area of one acre; and
12. Home occupations to host events, subject to Section 806.

305.0~~67~~ PROHIBITED USES

In the Recreational Residential District, uses of structures and land not specifically permitted are prohibited.

305.0~~78~~ DIMENSIONAL STANDARDS

- A. Purpose: The dimensional standards are intended to:
1. Provide for the protection of the natural environment and the surrounding areas from potentially adverse influences;
 2. Provide for and protect the unique character, livability, and scenic quality of the Mount Hood community;
 3. Provide for fire safety and protection of all structures;
 4. Protect the privacy and livability of on-and offsite dwellings and yard areas;
 5. Provide for adequate light and air circulation between structures;
 6. Provide for adequate snow slide area between structures above the 3,500-foot elevation;
 7. Ensure consistency in the scale of structures, both vertically and horizontally; and
 8. Provide for adequate open space within a development.
- B. Minimum Lot Size: New lots of record shall be a minimum of two acres in size, except as modified by Section 902.

- C. Density: Maximum density shall be calculated pursuant to Section 1012.
- D. Minimum Front Yard Setback: 20 feet from the front lot line or 40 feet from the centerline of the fronting road, whichever is greater, except as provided below:
- E. Corner or Through Lots: Structures on corner or through lots shall observe the minimum front yard setback on one road and shall have the option of maintaining a 15-foot setback or 35 feet from the centerline of the fronting road, whichever is greater, on the other road. Structures located above 3,500 feet in elevation shall have the option of maintaining a 10-foot setback, or 30 feet from the centerline of the fronting road, whichever is greater, on the other road.
- F. Minimum Side Yard Setback: 10 percent of the lot width calculated at the building line. However, regardless of lot width, a side yard setback shall not be less than five feet, and a side yard setback of more than 10 feet shall not be required.
- G. Minimum Structure Separation: Above 3,500 feet in elevation, separation distance between buildings with contiguous snow slide areas shall be a minimum of 20 feet. "Snow slide area" means the area around a structure that may be subject to snow buildup as a result of snow sliding from the sloped roof of the structure.
- H. Minimum Rear Yard Setback: 10 percent of the average lot depth. However, regardless of lot depth, a rear yard setback shall not be less than 10 feet, and a rear yard setback of more than 20 feet shall not be required.
- I. Lot Coverage: A 20-percent lot coverage limitation shall apply to lots contained in any subdivision recorded prior to September 16, 1974. In a planned unit development, the lot coverage limitation shall be calculated as a percentage of the average lot size. In calculating the average, common areas shall be included in the total area but the result shall be divided only by the number of building lots.
- J. Exceptions: Dimensional standards are subject to modification pursuant to Section 900.
- K. Variances: The requirements of Subsections 305.078(C) through (I) may be modified pursuant to Section 1205.

305.089 DEVELOPMENT STANDARDS

- A. General: Development shall be subject to the applicable provisions of Sections 1000 and 1100.

- B. Community and Design Plans: Development within a Community or Design Plan area identified in Chapter 10 of the Comprehensive Plan shall comply with the specific policies and standards for the adopted Community or Design Plan.
- C. Manufactured Dwelling Parks: Redevelopment of a manufactured dwelling park with a different use shall require compliance with Subsection 825.03.
- D. Design Features: All dwellings, except temporary dwellings approved pursuant to Section 1204, shall include at least three of the following features visible to the road. If a dwelling is located on a corner lot, the features shall be visible to the road from which the dwelling takes access.
1. A covered porch at least two feet deep;
 2. An entry area recessed at least two feet from the exterior wall to the door;
 3. A bay or bow window (not flush with the siding);
 4. An offset on the building face of at least 16 inches from one exterior wall surface to the other;
 5. A dormer;
 6. A gable;
 7. Roof eaves with a minimum projection of 12 inches from the intersection of the roof and the exterior walls;
 8. Roofline offsets of at least 16 inches from the top surface of one roof to the top surface of the other;
 9. An attached garage;
 10. Orientation of the long axis and front door to the road;
 11. A cupola;
 12. A tile or shake roof;
 13. Horizontal lap siding

[Amended by Ord. ZDO-224, 5/31/11]

306 MOUNTAIN RECREATIONAL RESORT DISTRICT (MRR)

306.01 PURPOSE

Section 306 is adopted to implement the policies of the Comprehensive Plan for Mountain Recreation areas.

306.02 AREA OF APPLICATION

Property may be zoned Mountain Recreational Resort if:

- A. The site has a Comprehensive Plan designation of Mountain Recreation; and
- B. The criteria in Section 1202 are satisfied.

306.03 PRIMARY USES

The following are primary uses in the Mountain Recreational Resort District:

- A. Multifamily dwellings;
- B. Three-family dwellings;
- C. Two-family dwellings;
- D. One detached single-family dwelling, residential home, or manufactured home. A manufactured home is subject to Section 824;
- E. Congregate housing facilities;
- F. Condominiums, subject to Section 803;
- G. Nursing homes, subject to Section 810;
- H. Bus shelters, subject to Section 823;
- I. Utility carrier cabinets, subject to Section 830;
- J. Bed and breakfast residences and inns, subject to Section 832;
- K. Wireless telecommunication facilities listed in Subsections ~~835.04(B)~~, ~~and 835.04(C)~~, ~~835.05(A)(2)~~, or ~~835.05(A)(3)~~, subject to Section 835;
- L. Lodging, boarding, and rooming houses for any number of guests;
- M. Public parks, playgrounds, recreational and community buildings and grounds, community gardens, public golf courses, tennis courts, and similar recreational uses, all of a noncommercial nature, provided that any principal

building or swimming pool shall be located a minimum of 30 feet from any other lot in a residential district;

- N. Park-and-ride facilities; and
- O. Hotels, motels, and associated convention facilities, except that a new hotel or motel in Rhododendron shall be limited to a maximum of 35 units.

306.04 ACCESSORY USES

The following are accessory uses in the Mountain Recreational Resort District:

- A. Uses and structures customarily accessory and incidental to a primary use;
- B. Indoor and outdoor recreational facilities, such as swimming pools, saunas, game and craft rooms, exercise rooms, community meeting rooms, lounges, playgrounds, tennis and other courts, bike and walking trails, and pedestrian plazas and courts;
- C. Offices, buildings, and facilities required for the operation, administration, and maintenance of any planned recreational resort development;
- D. Parking structures;
- E. Repair and maintenance services;
- F. The temporary storage within an enclosed structure of source-separated recyclable/reusable materials generated and/or used on-site prior to on-site reuse or removal by the generator or licensed or franchised collector to a user or broker;
- G. Self-service laundry facilities;
- H. Solar energy systems;
- I. Rainwater collection systems;
- J. Electric vehicle charging stations;
- K. Produce stands, subject to Section 815;
- L. Livestock, subject to Section 821;
- M. Home occupations, subject to Section 822;
- N. Temporary buildings for uses incidental to construction work. Such buildings shall be removed upon completion or abandonment of the construction work;
- O. Family daycare providers; and

- P. Signs, subject to Subsection 306.109(E).

306.05 LIMITED USES

- A. Uses incidental to a primary use, including level three and four mobile vending units, subject to Section 837; eating and drinking establishments; sports equipment rental, sale, service, or repair; specialty shops; arts and crafts galleries; personal service establishments; campgrounds; and similar recreational operations are permitted provided:
1. Limited uses are provided for as an integral part of the general plan of the development;
 2. Limited uses will not by reason of their location, construction, manner or timing of operations, signs, lighting, parking arrangements, or other characteristics have adverse effects on residential uses within or adjoining the zoning district or create traffic congestion or hazards to vehicular or pedestrian traffic; and
 3. Any application for a limited use is approved in conjunction with or after building permits for the primary use.

~~306.06 — USES SUBJECT TO REVIEW BY THE PLANNING DIRECTOR~~

~~The Planning Director may approve the following use in the Mountain Recreational Resort District, pursuant to Subsection 1305.02:~~

- ~~A. — Wireless telecommunication facilities listed in Subsections 835.05(A)(2) and (3), subject to Section 835.~~

306.067 CONDITIONAL USES

- A. ~~The Hearings Officer may approve~~ The following are conditional uses in the ~~MRR Mountain Recreational Resort~~ District, approval of which is subject to pursuant to Section 1300. ~~Approval shall not be granted unless the proposal complies with Section 1203 and any applicable provisions of Section 800.~~
1. Churches, subject to Section 804;
 2. Schools, subject to Section 805;
 3. Daycare facilities, subject to Section 807;
 4. Service and recreational uses, subject to Section 813, except that associated shops, garages, and general administrative offices may be included with public or private utility services, water storage facilities, and sanitary sewerage treatment systems;

5. Quarry activities or uses: rock, gravel, sand, soil, aggregates, and similar extractive activities and uses, but none within any stream corridor area or within 100 feet of the average annual high water mark of any stream, river, or other body of water, whichever is greater, subject to Section 818;
6. Sanitary landfills, debris fills, and solid waste transfer or processing stations, subject to Section 819;
7. Manufactured dwelling parks, subject to Section 825;
8. Public or private energy source development. Hydroelectric facilities shall be subject to Section 829;
9. Wireless telecommunication facilities listed in Subsection 835.06(A), subject to Section 835;
10. Personal use airports and helistops;
11. Recreational uses, including, but not limited to, ski areas and associated uses;
12. Multi-use developments, subject to Section 1016; and
13. The hosting of weddings, family reunions, class reunions, company picnics, and similar events.

306.0~~7~~⁸ PROHIBITED AND PREEXISTING USES

A. Prohibited Uses: The following uses shall be prohibited:

1. Uses of structures and land not specifically permitted;
2. The use of a residential trailer or mobile home as a dwelling, except within a lawfully established preexisting manufactured dwelling park or as authorized under Section 1204.

B. Preexisting Uses:

1. The minimum lot size for a new lot created for a preexisting dwelling shall be calculated pursuant to Subsection 306.0~~8~~⁹(B).
2. A lot created for a preexisting dwelling shall not be included in the gross site area used to determine the maximum density for the remaining lot.

306.0~~8~~⁹ DIMENSIONAL STANDARDS

A. Purpose: The dimensional standards are intended to:

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1. Provide for the protection of the natural environment and the surrounding areas from potentially adverse influences;
 2. Provide for and protect the unique character, livability, and scenic quality of the Mount Hood community;
 3. Provide for fire safety and protection of all structures;
 4. Protect the privacy and livability of on- and offsite dwellings and yard areas;
 5. Provide for adequate light and air circulation between structures;
 6. Provide for adequate snow slide area between structures above the 3,500-foot elevation;
 7. Ensure consistency in the scale of structures, both vertically and horizontally; and
 8. Provide for adequate open space within a development.
- B. Density: The district land area for purposes of calculating density pursuant to Section 1012 is 1,980 square feet per dwelling unit in Government Camp. In Wemme/Welches and Rhododendron, the district land area is based on dwelling unit size as follows:

Dwelling Unit Size (in square feet)	District Land Area in Wemme/Welches	District Land Area in Rhododendron
1200+	7,260	10,890
1000-1199	6,223	8,712
800-999	5,445	7,260
600-799	4,356	5,445
Less than 600	3,111	3,630

- C. Scenic Roads: Structures built on lots adjacent to roads designated as scenic roads on Comprehensive Plan Map 5-1, *Scenic Roads*, should be set back a sufficient distance from the right-of-way to permit a landscaped or natural buffer area.
- D. Minimum Perimeter Yard Setbacks: 10 feet to 30 feet depending on the following criteria:
 - 1. Yard setback requirements in the abutting zoning district; and
 - 2. Adjacent land use.
- E. Setback Exception: No perimeter yard setback is required from property lines that abut a national forest.
- F. Minimum Structure Separation: A minimum of 10 feet shall be required between all buildings, on- or off-site. Above 3,500 feet in elevation, the separation distance between buildings with contiguous snowslide areas shall be a minimum of 20 feet. "Snowslide area" means the area around a structure that may be subject to snow buildup as a result of snow sliding from the sloped roof of the structure.
- G. Maximum Building Height: 40 feet. This provision may be modified to allow a maximum height of 50 feet when necessary to accommodate understructure parking.
- H. Building Height Exception: The maximum building height for hotel developments in Government Camp shall be 70 feet. This provision shall be modified to allow a maximum height of 87.5 feet when necessary to accommodate understructure parking or where a higher structure will preserve significant natural features or views.
- I. Minimum Landscaping Area: 25 percent of the lot.
- J. Exceptions: Dimensional standards are subject to modification pursuant to Section 900.
- K. Variances: Dimensional standards may be modified pursuant to Section 1205.

306.409 DEVELOPMENT STANDARDS

- A. General: Development shall be subject to the applicable provisions of Sections 1000 and 1100. In addition, except as otherwise indicated below, the standards applicable to the Medium Density Residential District shall apply.

- B. Community and Design Plans: Development within a Community or Design Plan area identified in Chapter 10 of the Comprehensive Plan shall comply with the specific policies and standards for the adopted Community or Design Plan.
- C. Restricted Areas: Generally residential development is prohibited in the Floodplain Management District regulated by Section 703, river and stream corridors, wetlands, mass movement hazard areas regulated by Section 1003, and slopes greater than 25 percent. However, a single-family dwelling may be developed in a restricted area on a lot of record created prior to the adoption of this standard, subject to compliance with the applicable criteria in this Ordinance for such development. In the case of a land division, density accruing to restricted areas may be eligible for transfer to unrestricted areas as provided in Section 1012.
- D. Building Design: The following standards shall apply to commercial developments in Government Camp. These are recommended for all other developments.
1. Exterior Building Materials: Primary and accessory structures shall use wood, stone, stone veneer, or stucco for exterior construction. Stucco and textured concrete may be used as secondary materials. Stucco must be acrylic-based and combined with heavy timber, wood, or stone cladding. A rock, rock veneer, or textured concrete base shall be provided around building exteriors visible from roadways. No exposed plywood, particle board, plain concrete, cinder block, or grooved T1-11 is permitted.
 2. Roofing Materials: No composition shingles or galvanized or corrugated metal roofs are allowed.
 3. Design: Building design shall meet the design intent of mountain architecture as described in the Government Camp Design Guidelines Handbook. Examples of mountain architecture include "Cascadian", "Oregon Rustic", and the "National Park Style".
- E. Signs: Permanent identification signs shall be subject to Subsections 1010.09(A)(1) through (5). Signs may be indirectly illuminated and shall be complementary to the unique character of the Mount Hood Community in the use of graphics, symbols, and natural materials. On-site directional signing shall be sensitive to the needs of tourists. Government Camp signs shall comply with Section 1010.
- F. Manufactured Dwelling Parks: Redevelopment of a manufactured dwelling park with a different use shall require compliance with Subsection 825.03.

[Amended by Ord. ZDO-224, 5/31/11; Amended by Ord. ZDO-231, 1/31/12; amended by Ord. ZDO-246, 3/1/14]

307 RURAL AREA RESIDENTIAL 1-ACRE DISTRICT (RA-1)

307.01 PURPOSE

Section 307 is adopted to implement the policies of the Comprehensive Plan for Unincorporated Community Residential areas.

307.02 AREA OF APPLICATION

Property may be zoned Rural Area Residential 1-Acre District when the site has a Comprehensive Plan designation of Unincorporated Community Residential and the criteria in Section 1202 are satisfied.

307.03 PRIMARY USES

The following are primary uses in the Rural Area Residential 1-Acre District:

- A. Agriculture, horticulture, greenhouses, nurseries, and timber growing. Inside the Portland Metropolitan Urban Growth Boundary, refer to Subsection 1002.03 regarding a development restriction that may apply if excessive tree removal occurs;
- B. Livestock, subject to Section 821;
- C. One detached single-family dwelling, residential home, or manufactured dwelling. A manufactured dwelling shall be subject to Section 824;
- D. Public parks, playgrounds, recreational and community buildings and grounds, community gardens, public golf courses, tennis courts, and similar recreational uses, all of a noncommercial nature, provided that any principal building or swimming pool shall be located a minimum of 45 feet from any other lot in the residential district;
- E. Bus shelters under the ownership and/or control of a city, county, state, or municipal corporation, subject to Section 823;
- F. Utility carrier cabinets, subject to Section 830; and
- G. Wireless telecommunication facilities listed in Subsection 835.04, [835.05\(A\)\(2\), or 835.05\(A\)\(3\)](#), subject to Section 835.

307.04 ACCESSORY USES

The following are accessory uses in the Rural Area Residential 1-Acre District:

- A. Uses and structures customarily accessory and incidental to a primary use;
- B. Home occupations, including bed and breakfast homestays, subject to Section 822;

- C. Produce stands, subject to the parking requirements of Section 1015;
- D. Signs, subject to Section 1010;
- E. Guest houses, subject to Section 833;
- F. Solar energy systems;
- G. Rainwater collection systems;
- H. Electric vehicle charging stations for residents and their nonpaying guests; and
- I. Family daycare providers.

~~307.05 USES SUBJECT TO REVIEW BY THE PLANNING DIRECTOR~~

~~The Planning Directory may approve the following use in the Rural Area Residential 1-Acre District, pursuant to Subsection 1305.02:~~

- ~~A. Wireless telecommunication facilities listed in Subsections 835.05(A)(2) and (3), subject to Section 835.~~

307.056 CONDITIONAL USES

- A. ~~The Hearings Officer may approve. The following are conditional uses in the RA-1 Rural Area Residential 1-Acre District, approval of which is subject to pursuant to Section 1300. Approval shall not be granted unless the proposal complies with Section 1203 and any applicable provisions of Section 800.~~
 - 1. Two-family dwellings, subject to Section 802;
 - 2. Churches, subject to Section 804;
 - 3. Schools, subject to Section 805, except as restricted by Subsection 307.067(C);
 - 4. Daycare facilities, subject to Section 807;
 - 5. Cemeteries and crematoriums, subject to Section 808;
 - 6. Service and recreational uses, subject to Section 813;
 - 7. Surface mining, subject to Section 818;
 - 8. Sanitary landfills and debris fills, subject to Section 819;
 - 9. Hydroelectric facilities, subject to Section 829;
 - 10. Bed and breakfast residences and inns, subject to Section 832;

11. Wireless telecommunication facilities listed in Subsection 835.06(A), subject to Section 835;
12. Kennels, provided that the portion of the premises used is located a minimum of 200 feet from all property lines; and
13. Home occupations to host events, subject to Section 806.

307.0~~67~~7 PROHIBITED USES

The following are prohibited uses in the Rural Area Residential 1-Acre District:

- A. Uses of structures and land not specifically permitted;
- B. A subdivision or partition within the Portland Metropolitan Urban Growth Boundary resulting in the creation of one or more lots or parcels of less than 20 acres in size; and
- C. Schools within the areas identified as Employment, Industrial, and Regionally Significant Industrial on the Metro Region 2040 Growth Concept Map.

307.0~~78~~8 DIMENSIONAL STANDARDS

- A. Purpose: The dimensional standards are intended to:
 1. Provide for and protect the unique character, livability, and scenic quality of rural areas of the County;
 2. Provide for fire safety and protection of all structures; and
 3. Protect the privacy and livability of dwellings and yard areas.
- B. Minimum Lot Size: New lots of record shall be a minimum of one acre in size, except as restricted by Subsection 307.0~~67~~7(B) or as modified by Section 902 or 1013.
- C. Minimum Front Yard Setback: 30 feet.
- D. Minimum Side Yard Setback: 10 feet; however, accessory structures shall have a minimum side yard setback of five feet.
- E. Minimum Rear Yard Setback: 30 feet; however, accessory structures shall have a minimum rear yard setback of five feet.
- F. Scenic Roads: Structures built on lots adjacent to roads designated as scenic on Comprehensive Plan Map 5-1, Scenic Roads, V-5 of the Comprehensive Plan should be set back a sufficient distance from the right-of-way to permit a landscaped or natural buffer area.

- G. Exceptions: Dimensional standards are subject to modification pursuant to Section 900.
- H. Variances: The requirements of Subsections 307.078(B) through (E) may be modified pursuant to Section 1205.

307.089 DEVELOPMENT STANDARDS

- A. General: Development shall be subject to the applicable provisions of Sections 1000 and 1100.
- B. Parking: One off-street parking space located behind the front yard setback line shall be provided for each dwelling unit.
- C. Manufactured Dwelling Parks: Redevelopment of a manufactured dwelling park with a different use shall require compliance with Subsection 825.03.

[Amended by Ord. ZDO-224, 5/31/11; Amended by Ord. ZDO-245, 7/1/13]

308 RURAL AREA RESIDENTIAL 2-ACRE DISTRICT (RA-2)

308.01 PURPOSE

Section 308 is adopted to implement the policies of the Comprehensive Plan for Rural areas.

308.02 AREA OF APPLICATION

Property may be zoned Rural Area Residential 2-Acre District when the site has a Comprehensive Plan designation of Rural; the criteria in Policy 11.1 of the Rural section of Chapter 4 of the Comprehensive Plan are satisfied; and the criteria in Section 1202 are satisfied.

308.03 PRIMARY USES

The following are primary uses in the Rural Area Residential 2-Acre District:

- A. Agriculture, horticulture, greenhouses, nurseries, timber growing, grazing, and the raising of livestock and animals. Inside the Portland Metropolitan Urban Growth Boundary, refer to Subsection 1002.03 regarding a development restriction that may apply if excessive tree removal occurs;
- B. One detached single-family dwelling, residential home, or manufactured dwelling. A manufactured dwelling shall be subject to Section 824;
- C. Public parks, playgrounds, recreational and community buildings and grounds, community gardens, public golf courses, tennis courts, and similar recreational uses, all of a noncommercial nature, provided that any principal building or swimming pool shall be located a minimum of 45 feet from any other lot in the residential district;
- D. Bus shelters under the ownership and/or control of a city, county, state, or municipal corporation, subject to Section 823;
- E. Utility carrier cabinets, subject to Section 830; and
- F. Wireless telecommunication facilities listed in Subsection 835.04, 835.05(A)(2), or 835.05(A)(3), subject to Section 835.

308.04 ACCESSORY USES

The following are accessory uses in the Rural Area Residential 2-Acre District:

- A. Uses and structures customarily accessory and incidental to a primary use;
- B. Home occupations, including bed and breakfast homestays, subject to Section 822;

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- C. Produce stands, subject to the parking requirements of Section 1015;
- D. Signs, subject to Section 1010;
- E. Guest houses, subject to Section 833;
- F. Solar energy systems;
- G. Rainwater collection systems;
- H. Electric vehicle charging stations for residents and their nonpaying guests; and
- I. Family daycare providers.

~~308.05 USES SUBJECT TO REVIEW BY THE PLANNING DIRECTOR~~

~~The Planning Director may approve the following use in the Rural Area Residential 2-Acre District, pursuant to Subsection 1305.02:~~

- ~~A. Wireless telecommunication facilities listed in Subsections 835.05(A)(2) and (3), subject to Section 835.~~

308.056 CONDITIONAL USES

- A. ~~The Hearings Officer may approve. The following are conditional uses in the RA-2 Rural Area Residential 2-Acre District, approval of which is subject to pursuant to Section 1300. Approval shall not be granted unless the proposal complies with Section 1203 and any applicable provisions of Section 800.~~
 - 1. Churches, subject to Section 804;
 - 2. Schools, subject to Section 805, except as restricted by Subsection 308.067(C);
 - 3. Daycare facilities, subject to Section 807;
 - 4. Cemeteries and crematoriums, subject to Section 808;
 - 5. Hospitals, subject to Section 809;
 - 6. Service and recreational uses, subject to Section 813;
 - 7. Surface mining, subject to Section 818;
 - 8. Sanitary landfills and debris fills, subject to Section 819;
 - 9. Hydroelectric facilities, subject to Section 829;
 - 10. Bed and breakfast residences and inns, subject to Section 832;

11. Wireless telecommunication facilities listed in Subsection 835.06(A), subject to Section 835;
12. Kennels, provided that the portion of the premises used is located a minimum of 200 feet from all property lines;
13. Aircraft landing areas; and
14. Home occupations to host events, subject to Section 806.

308.0~~67~~7 PROHIBITED USES

The following are prohibited uses in the Rural Area Residential 2-Acre District:

- A. Uses of structures and land not specifically permitted;
- B. A subdivision or partition within the Portland Metropolitan Urban Growth Boundary resulting in the creation of one or more lots or parcels of less than 20 acres in size; and
- C. Schools within the areas identified as Employment, Industrial, and Regionally Significant Industrial on the Metro Region 2040 Growth Concept Map.

308.0~~78~~8 DIMENSIONAL STANDARDS

- A. Purpose: The dimensional standards are intended to:
 1. Provide for and protect the unique character, livability, and scenic quality of rural areas of the County;
 2. Provide for fire safety and protection of all structures; and
 3. Protect the privacy and livability of dwellings and yard areas.
- B. Minimum Lot Size: New lots of record shall be a minimum of two acres in size, except as restricted by Subsection 308.0~~67~~7(B) or as modified by Section 902.
- C. Minimum Front Yard Setback: 30 feet.
- D. Minimum Side Yard Setback: 10 feet.
- E. Minimum Rear Yard Setback: 30 feet; however, accessory structures shall have a minimum rear yard setback of 10 feet.
- F. Scenic Roads: Structures built on lots adjacent to roads designated as scenic on Comprehensive Plan Map 5-1, Scenic Roads, V-5 of the Comprehensive Plan should be set back a sufficient distance from the right-of-way to permit a landscaped or natural buffer area.

- G. Exceptions: Dimensional standards are subject to modification pursuant to Section 900.
- H. Variances: The requirements of Subsections 308.078(C) through (E) may be modified pursuant to Section 1205.

308.09 DEVELOPMENT STANDARDS

- A. General: Development shall be subject to the applicable provisions of Sections 1000 and 1100.
- B. Parking: One off-street parking space located behind the front yard setback line shall be provided for each dwelling unit.
- C. Manufactured Dwelling Parks: Redevelopment of a manufactured dwelling park with a different use shall require compliance with Subsection 825.03.

[Amended by Ord. ZDO-224, 5/31/11; Amended by Ord. ZDO-245, 7/1/13]

309 RURAL RESIDENTIAL FARM FOREST 5-ACRE DISTRICT (RRFF-5)

309.01 PURPOSE

Section 309 is adopted to implement the policies of the Comprehensive Plan for Rural areas.

309.02 AREA OF APPLICATION

Property may be zoned Rural Residential Farm Forest 5-Acre District when the site has a Comprehensive Plan designation of Rural; the criteria in Policy 11.2 of the Rural section of Chapter 4 of the Comprehensive Plan are satisfied; and the criteria in Section 1202 are satisfied.

309.03 PRIMARY USES

The following are primary uses in the Rural Residential Farm Forest 5-Acre District:

- A. One detached single-family dwelling, residential home, or manufactured dwelling. A manufactured dwelling shall be subject to Section 824;
- B. Current employment of land for general farm uses, including:
 - 1. Raising, harvesting, and selling of crops;
 - 2. Feeding, breeding, selling, and management of livestock, poultry, fur-bearing animals, or honeybees;
 - 3. Selling of products of livestock, poultry, fur-bearing animals, or honeybees;
 - 4. Dairying and the selling of dairy products;
 - 5. Preparation and storage of the products raised on such lands for man's use and animal use;
 - 6. Distribution by marketing or otherwise of products raised on such lands; and
 - 7. Any other agricultural use, horticultural use, animal husbandry, or any combination thereof;
- C. The propagation or harvesting of a forest product. Inside the Portland Metropolitan Urban Growth Boundary, refer to Subsection 1002.03 regarding a development restriction that may apply if excessive tree removal occurs;
- D. Public and private conservation areas and structures for the conservation of water, soil, forest, or wildlife habitat resources;

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- E. Fish and wildlife management programs;
- F. Public and private parks, community gardens, campgrounds, playgrounds, recreational grounds, hiking and horse trails, pack stations, corrals, stables, and similar casual uses provided that such uses are not intended for the purpose of obtaining a commercial profit;
- G. Bus shelters under the ownership and/or control of a city, county, state, or municipal corporation, subject to Section 823;
- H. Utility carrier cabinets, subject to Section 830; and
- I. Wireless telecommunication facilities listed in Subsection 835.04, 835.05(A)(2), or 835.05(A)(3), subject to Section 835.

309.04 ACCESSORY USES

The following are accessory uses in the Rural Residential Farm Forest 5-Acre District:

- A. Uses and structures customarily accessory and incidental to a primary use;
- B. Home occupations, including bed and breakfast homestays, subject to Section 822;
- C. Produce stands, subject to the parking requirements of Section 1015;
- D. Signs, subject to Section 1010;
- E. Guest houses, subject to Section 833;
- F. Solar energy systems;
- G. Rainwater collection systems;
- H. Electric vehicle charging stations for residents and their nonpaying guests; and
- I. Family daycare providers.

~~309.05 USES SUBJECT TO REVIEW BY THE PLANNING DIRECTOR~~

~~The Planning Director may approve the following use in the Rural Residential Farm Forest 5-Acre District, pursuant to Subsection 1305.02:~~

- ~~A. Wireless telecommunication facilities listed in Subsections 835.05(A)(2) and (3), subject to Section 835.~~

309.056 CONDITIONAL USES

- A. ~~The Hearings Officer may approve. The~~ the following are conditional uses in the ~~RRFF-5 Rural Residential Farm Forest 5-Acre~~ District, approval of which is subject to ~~pursuant to Section 1300. Approval shall not be granted unless the proposal complies with~~ Section 1203 ~~and any applicable provisions of Section 800.~~
1. Churches, subject to Section 804;
 2. Schools, subject to Section 805, except as restricted by Subsection 309.067(E);
 3. Daycare facilities, subject to Section 807;
 4. Cemeteries, subject to Section 808;
 5. Service and recreational uses that exceed the limits of Subsection 309.03(F), subject to Section 813;
 6. Operations conducted for the exploration, mining, and processing of geothermal resources, aggregate and other mineral resources, or other subsurface resources, subject to Section 818;
 7. Sanitary landfills and debris fills, subject to Section 819;
 8. Hydroelectric facilities, subject to Section 829;
 9. Bed and breakfast residences and inns, subject to Section 832;
 10. Composting facilities, subject to Section 834;
 11. Wireless telecommunication facilities listed in Subsection 835.06(A), subject to Section 835;
 12. Kennels, provided that the portion of the premises used is located a minimum of 200 feet from all property lines;
 13. Aircraft land uses;
 14. Commercial recreational uses that exceed the limits of Subsection 309.03(F);
 15. Commercial or processing activities that are in conjunction with timber and farm uses; and
 16. Home occupations to host events, subject to Section 806.

309.0~~67~~ PROHIBITED USES

The following are prohibited uses in the Rural Residential Farm Forest 5-Acre District:

- A. Uses of structures and land not specifically permitted;
- B. Except as approved pursuant to Subsection 902.01(B)(4), a subdivision or partition within the urban growth boundaries of Sandy, Molalla, Estacada, and Canby resulting in the creation of one or more lots or parcels of less than five acres in size;
- C. A subdivision or partition within the Portland Metropolitan Urban Growth Boundary resulting in the creation of one or more lots or parcels of less than 20 acres in size;
- D. Subdivisions in areas defined as Future Urban in Chapter 4 of the Comprehensive Plan; and
- E. Schools within the areas identified as Employment, Industrial, and Regionally Significant Industrial on the Metro Region 2040 Growth Concept Map.

309.0~~78~~ DIMENSIONAL STANDARDS

- A. Purpose: The dimensional standards are intended to:
 - 1. Provide for and protect the unique character, livability, and scenic quality of rural areas of the County;
 - 2. Provide for fire safety and protection of all structures;
 - 3. Protect the privacy and livability of dwellings and yard areas; and
 - 4. Preserve, within urban growth boundaries, large parcels of land for future development at urban densities.
- B. Minimum Lot Size: New lots of record shall be a minimum of five acres in size, except as restricted by Subsections 309.0~~67~~(B) through (D) or as modified by Section 902, 1013, or 1014. For the purpose of complying with the minimum lot size standard, lots that front on existing county or public roads may include the land area between the front property line and the middle of the road right-of-way.
- C. Minimum Front Yard Setback: 30 feet; however, there shall be no minimum front yard setback for bus shelters and roadside stands of no more than 400 square feet in area and no more than 16 feet in height.
- D. Minimum Side Yard Setback: 10 feet.

- E. Minimum Rear Yard Setback: 30 feet; however, accessory structures shall have a minimum rear yard setback of 10 feet.
- F. Scenic Roads: Structures built on lots adjacent to roads designated as scenic on Comprehensive Plan Map 5-1, *Scenic Roads*, should be set back a sufficient distance from the right-of-way to permit a landscaped or natural buffer area.
- G. Exceptions: Dimensional standards are subject to modification pursuant to Section 900.
- H. Variances: The requirements of Subsections 309.078(B) through (E) may be modified pursuant to Section 1205.

309.089 DEVELOPMENT STANDARDS

- A. General: Development shall be subject to the applicable provisions of Sections 1000 and 1100.
- B. Future Urban Areas: A partition in an area defined as Future Urban by Chapter 4 of the Comprehensive Plan shall be approved only if the proposed locations of improvements, including easements, dedications, structures, wells, and on-site sewage disposal systems are consistent with the orderly future development of the property at appropriate urban densities on the basis of the following criteria. One or more of the following factors shall guide the determination of the most appropriate district to apply to a specific property or area:
 - 1. Physical Site Conditions:
 - a. Land with soils subject to slippage, compaction, or high shrink-swell characteristics shall be zoned R-15 or R-20.
 - b. Land with slopes of:
 - i. 0 to 20 percent shall be considered for zones R-2.5, R-5, R-7 or R-8.5
 - ii. 20 percent or more shall be considered for zones R-10 to R-30.
 - 2. Capacity of Facilities: Land shall be zoned to maximize the capacity of facilities such as streets, sewers, water and storm drainage systems.
 - 3. Availability of Transit: Land within walking distance (approximately one-quarter mile) of transit service shall be zoned R-2.5, R-5, R-7 or R-8.5.
 - 4. Proximity to Trip Generators: Areas in close proximity to jobs, shopping, cultural and activity centers shall be zoned R-2.5, R-5, R-7 or R-8.5.

5. Neighborhood Preservation and Variety: Areas that have historically developed on large lots where little vacant land exists shall remain zoned consistent with the existing development pattern.
 6. Vacant Lands: Unless otherwise dictated by the preceding criteria, areas of mostly vacant and sparsely developed land shall be zoned R-2.5, R-5 or R-7. To achieve an average of 7,500 square feet or less per lot in Low Density Future Urban areas when conversion to Immediate Urban Low Density Residential occurs, the R-10 zone shall be limited to areas exceeding 20 percent slope and to Resource Protection areas. Flexible-lot-size subdivisions and other buffering techniques shall be encouraged in those areas immediately adjacent to developed subdivisions with lots of 20,000 square feet or more to protect neighborhood character, while taking full advantage of allowed densities.
 7. R-2.5: In addition to the above criteria, R-2.5 shall be applied only to:
 - a. Areas located within one-quarter mile of a designated Regional Center, Corridor or Main Street on Comprehensive Plan Map X-CRC-1, *Clackamas Regional Center Area Design Plan Regional Center, Corridors and Station Community*;
 - b. Areas with access to a residential collector or higher functional class street; and
 - c. Areas where the size of the site and adjoining properties zoned R-2.5 do not exceed 10 acres.
- C. Manufactured Dwelling Parks: Redevelopment of a manufactured dwelling park with a different use shall require compliance with Subsection 825.03.

[Amended by Ord. ZDO-224, 5/31/11; Amended by Ord. ZDO-245, 7/1/13; Amended by Ord. ZDO-246, 3/1/14]

310 FARM FOREST 10-ACRE DISTRICT (FF-10)

310.01 PURPOSE

Section 310 is adopted to implement the policies of the Comprehensive Plan for Rural areas.

310.02 AREA OF APPLICATION

Property may be zoned Farm Forest 10-Acre District when the site has been designated as Rural by the Comprehensive Plan; the criteria in Policy 11.3 of the Rural section of Chapter 4 of the Comprehensive Plan are satisfied; and the criteria in Section 1202 are satisfied.

310.03 PRIMARY USES

The following are primary uses in the Farm Forest 10-Acre District:

- A. One detached single-family dwelling, residential home, or manufactured dwelling. A manufactured dwelling shall be subject to Section 824.
- B. Current employment of land for general farm uses, including:
 - 1. Raising, harvesting, and selling of crops;
 - 2. Feeding, breeding, selling, and management of livestock, poultry, fur-bearing animals, or honeybees;
 - 3. Selling of products of livestock, poultry, fur-bearing animals, or honeybees;
 - 4. Dairying and the selling of dairy products;
 - 5. Preparation and storage of the products raised on such lands for man's use and animal use;
 - 6. Distribution by marketing or otherwise of products raised on such lands; and
 - 7. Any other agricultural use, horticultural use, animal husbandry, or any combination thereof;
- C. Propagation or harvesting of a forest product. Inside the Portland Metropolitan Urban Growth Boundary, refer to Subsection 1002.03 regarding a development restriction that may apply if excessive tree removal occurs;
- D. Public and private conservation areas and structures for the conservation of water, soil, forest, or wildlife habitat resources;

- E. Fish and wildlife management programs;
- F. Public and private parks, community gardens, campgrounds, playgrounds, recreational grounds, hiking and horse trails, pack stations, corrals, stables, and similar casual uses provided that such uses are not intended for the purpose of obtaining a commercial profit;
- G. Bus shelters under the ownership and/or control of a city, county, state, or municipal corporation, subject to Section 823;
- H. Utility carrier cabinets, subject to Section 830; and
- I. Wireless telecommunication facilities listed in Subsection 835.04, 835.05(A)(2), or 835.05(A)(3), subject to Section 835.

310.04 ACCESSORY USES

The following are accessory uses in the Farm Forest 10-Acre District:

- A. Uses and structures customarily accessory and incidental to a primary use;
- B. Home occupations, including bed and breakfast homestays, subject to Section 822;
- C. Produce stands, subject to the parking requirements of Section 1015;
- D. Signs, subject to Section 1010;
- E. Guest houses, subject to Section 833;
- F. Solar energy systems;
- G. Rainwater collection systems;
- H. Electric vehicle charging stations for residents and their nonpaying guests; and
- I. Family daycare providers.

~~310.05 — USES SUBJECT TO REVIEW BY THE PLANNING DIRECTOR~~

~~The Planning Director may approve the following use in the Farm Forest 10-Acre District, pursuant to Subsection 1305.02:~~

- ~~A. — Wireless telecommunication facilities listed in Subsections 835.05(A)(2) and (3), subject to Section 835.~~

310.0~~5~~⁶ CONDITIONAL USES

- A. ~~The Hearings Officer may approve. The~~ the following are conditional uses in the ~~FF-10 Farm Forest 10-Acre~~ District, approval of which is subject to pursuant to Section 1300. ~~Approval shall not be granted unless the proposal complies with Section 1203 and any applicable provisions of Section 800.~~
1. Churches, subject to Section 804;
 2. Schools, subject to Section 805, except as restricted by Subsection 310.067(C);
 3. Daycare facilities, subject to Section 807;
 4. Cemeteries, subject to Section 808;
 5. Service and recreational uses that exceed the limits of Subsection 310.03(F), subject to Section 813;
 6. Operations conducted for the exploration, mining, and processing of geothermal resources, aggregate and other mineral resources, or other subsurface resources, subject to Section 818;
 7. Sanitary landfills and debris fills, subject to Section 819;
 8. Hydroelectric facilities, subject to Section 829;
 9. Bed and breakfast residences and inns, subject to Section 832;
 10. Composting facilities, subject to Section 834;
 11. Wireless telecommunication facilities listed in Subsection 835.06(A), subject to Section 835;
 12. Kennels, provided that the portion of the premises used is located a minimum of 200 feet from all property lines;
 13. Aircraft land uses;
 14. Public and private parks, campgrounds, recreational grounds, hiking and horse trails, pack stations, corrals, boarding or riding stables, and other similar uses intended for the purpose of obtaining a commercial profit;
 15. Commercial or processing activities that are in conjunction with timber and farm uses; and
 16. Home occupations to host events, subject to Section 806.

~~310.067~~ PROHIBITED USES

The following are prohibited uses in the Farm Forest 10-Acre District:

- A. Uses of structures and land not specifically permitted;
- B. A subdivision or partition within the Portland Metropolitan Urban Growth Boundary resulting in the creation of one or more lots or parcels of less than 20 acres in size; and
- C. Schools within the areas identified as Employment, Industrial, and Regionally Significant Industrial on the Metro Region 2040 Growth Concept Map.

310.0~~7~~⁸ DIMENSIONAL STANDARDS

- A. Purpose: The dimensional standards are intended to:
 - 1. Provide for and protect the unique character, livability, and scenic quality of rural areas of the County;
 - 2. Provide for fire safety and protection of all structures;
 - 3. Protect the privacy and livability of dwellings and yard areas; and
 - 4. Preserve, within urban growth boundaries, large parcels of land for future development at urban densities.
- B. Minimum Lot Size: New lots of record shall be a minimum of 10 acres in size, except as restricted by Subsection 310.0~~6~~⁷(C) or as modified by Section 902 or 1013. For the purpose of complying with the minimum lot size standard, lots that front on existing county or public roads may include the land area between the front property line and the middle of the road right-of-way.
- C. Minimum Front Yard Setback: 30 feet; however, there shall be no minimum front yard setback for bus shelters and roadside stands of no more than 400 square feet in area and no more than 16 feet in height.
- D. Minimum Side Yard Setback: 10 feet.
- E. Minimum Rear Yard Setback: 30 feet; however, accessory structures shall have a minimum rear yard setback of 10 feet.
- F. Scenic Roads: Structures built on lots adjacent to roads designated as scenic on Comprehensive Plan Map 5-1, *Scenic Roads*, should be set back a sufficient distance from the right-of-way to permit a landscaped or natural buffer area.
- G. Exceptions: Dimensional standards are subject to modification pursuant to Section 900.

- H. Variances: The requirements of Subsections 310.0~~78~~⁸⁹(B) through (E) may be modified pursuant to Section 1205.

310.0~~88~~⁸⁹ DEVELOPMENT STANDARDS

- A. General: Development shall be subject to the applicable provisions of Sections 1000 and 1100.
- B. Manufactured Dwelling Parks: Redevelopment of a manufactured dwelling park with a different use shall require compliance with Subsection 825.03.

[Amended by Ord. ZDO-224, 5/31/11; Amended by Ord. ZDO-245, 7/1/13; Amended by Ord. ZDO-246, 3/1/14]

312 HOODLAND RESIDENTIAL DISTRICT (HR)

312.01 PURPOSE

Section 312 is adopted to:

- A. Implement the policies of the Comprehensive Plan for Low Density Residential areas regulated by the Mount Hood Community Plan; and
- B. Maintain and enhance the natural environmental and living qualities of those areas within the Mt. Hood Community which are recreational residential in character through conservation of natural resources and carefully controlled development.

312.02 AREA OF APPLICATION

Property may be zoned Hoodland Residential District if:

- A. The site has a Comprehensive Plan designation of Low Density Residential;
- B. The site is regulated by the Mount Hood Community Plan; and
- C. The criteria in Section 1202 are satisfied.

312.03 PRIMARY USES

The following are primary uses in the Hoodland Residential District:

- A. One detached single-family dwelling, residential home, or manufactured home. A manufactured home shall be subject to Section 824;
- B. One attached single-family dwelling per lot on up to 20 percent of the total number of lots in a subdivision or up to 100 percent of the lots in a planned unit development, subject to Section 838. If three or more dwelling units are attached to one another, design review shall be required pursuant to Section 1102.
- C. Bus shelters, subject to Section 823;
- D. Utility carrier cabinets, subject to Section 830;
- E. Wireless telecommunication facilities listed in Subsections 835.04(B), and 835.04(C), 835.05(A)(2), or 835.05(A)(3), subject to Section 835;
- F. Public parks, playgrounds, recreational and community buildings and grounds, community gardens, public golf courses, tennis courts, and similar recreational uses, all of a noncommercial nature, provided that any principal building, swimming pool, or use shall be located a minimum of 45 feet from any other lot in a residential district; and

- G. Park-and-ride facilities.

312.04 ACCESSORY USES

The following are accessory uses in the Hoodland Residential District:

- A. Uses and structures customarily accessory and incidental to a primary use;
- B. One accessory dwelling unit;
- C. Produce stands, subject to Section 815;
- D. Livestock, subject to Section 821;
- E. Home occupations, including bed and breakfast homestays, subject to Section 822;
- F. Guest houses, subject to Section 833;
- G. Signs, subject to Section 1010;
- H. Solar energy systems;
- I. Rainwater collection systems;
- J. Electric vehicle charging stations for residents and their nonpaying guests;
- K. Temporary buildings for uses incidental to construction work. Such buildings shall be removed upon completion or abandonment of the construction work; and
- L. Family daycare providers.

~~312.05 — USES SUBJECT TO REVIEW BY THE PLANNING DIRECTOR~~

~~The Planning Director may approve the following use in the Hoodland Residential District, pursuant to Subsection 1305.02:~~

- ~~A. — Wireless telecommunication facilities listed in Subsections 835.05(A)(2) and (3), subject to Section 835.~~

312.0~~5~~6 CONDITIONAL USES

- A. ~~The Hearings Officer may approve~~ The following are conditional uses in the HR~~Hoodland Residential~~ District, approval of which is subject to pursuant to Section 1300. ~~Approval shall not be granted unless the proposal complies with Section 1203 and any applicable provisions of Section 800.~~

- 1. Condominium conversions, subject to Section 803;

2. Churches, subject to Section 804;
3. Schools, subject to Section 805;
4. Daycare facilities, subject to Section 807;
5. Nursing homes, subject to Section 810;
6. Service and recreational uses, subject to Section 813;
7. Quarry activities or uses: rock, gravel, sand, soil, aggregates, and similar extractive activities and uses, but none within any stream corridor area or within 100 feet of the average annual high water mark of any stream, river, or other body of water, whichever is greater, subject to Section 818;
8. Sanitary landfills, debris fills and solid waste transfer stations, with a minimum site area of 3 acres, subject to Section 819;
9. Public or private energy source development. Hydroelectric facilities shall be subject to Section 829;
10. Bed and breakfast residences and inns, subject to Section 832;
11. Wireless telecommunication facilities listed in Subsection 835.06(A), subject to Section 835;
12. Personal use airports and helistops;
13. Guest ranches, lodges, campgrounds, and similar recreation operations, with a minimum site area of one acre;
14. Multi-use developments, subject to Section 1016; and
15. The hosting of weddings, family reunions, class reunions, company picnics, and similar events.

312.0~~6~~7 PROHIBITED USES

The following are prohibited use in the Hoodland Residential District:

- A. Uses of structures and land not specifically permitted; and
- B. The use of a residential trailer or mobile home as a dwelling, except within a lawfully established preexisting manufactured dwelling park or as authorized under Section 1204.

312.0~~7~~8 DIMENSIONAL STANDARDS

- A. Purpose: The dimensional standards are intended to:

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1. Provide for the protection of the natural environment and the surrounding areas from potentially adverse influences;
 2. Provide for and protect the unique character, livability, and scenic quality of the Mount Hood community;
 3. Provide for fire safety and protection of all structures;
 4. Protect the privacy and livability of on- and offsite dwellings and yard areas;
 5. Provide for adequate light and air circulation between structures;
 6. Provide for adequate snow slide area between structures above the 3,500-foot elevation;
 7. Ensure consistency in the scale of structures, both vertically and horizontally; and
 8. Provide for adequate open space within a development.
- B. Density: The district land area for purposes of calculating density pursuant to Section 1012 is 10,890 square feet per primary dwelling unit.
- C. Setback Exception: Notwithstanding Subsections 312.078(D), (E) and (G), no setback is required from property lines that abut a national forest.
- D. Minimum Front Yard Setback: 20 feet from the front property line or 40 feet from the centerline of the fronting road, whichever is greater, except as provided below:
1. Scenic Roads: Structures built on lots adjacent to roads designated as scenic roads on Comprehensive Plan Map 5-1, *Scenic Roads*, should be set back a sufficient distance from the right-of-way to permit a landscaped or natural buffer area.
 2. Corner or Through Lots: Structures on corner or through lots shall observe the minimum front yard setback on one road and shall have the option of maintaining a 15-foot setback or 35 feet from the centerline of the fronting road, whichever is greater, on the other road. Structures located above 3,500 feet in elevation shall have the option of maintaining a 10-foot setback, or 30 feet from the centerline of the fronting road, whichever is greater, on the other road.
- E. Minimum Side Yard Setback: 10 percent of the lot width calculated at the building line. However, regardless of lot width, a side yard setback shall not be less than five feet, and a side yard setback of more than 10 feet shall not be required.

- F. Minimum Structure Separation: Above 3,500 feet in elevation, the separation distance between buildings with contiguous snow slide areas shall be a minimum of 20 feet. "Snow slide area" means the area around the structure that may be subject to snow buildup as a result of snow sliding from the sloped roof of the structure.
- G. Minimum Rear Yard Setback: 10 percent of the average lot depth. However, regardless of lot depth, a rear yard setback shall not be less than 10 feet, and a rear yard setback of more than 20 feet shall not be required.
- H. Maximum Lot Coverage:
A 20-percent lot coverage limitation shall apply to lots contained in any subdivision recorded prior to September 16, 1974. In a planned unit development, the lot coverage limitation shall be calculated as a percentage of the average lot size. In calculating the average, common areas shall be included in the total area but the result shall be divided only by the number of building lots.
- I. Maximum Building Height: 40 feet. This provision may be modified to allow a maximum height of 50 feet when necessary to accommodate understructure parking.
- J. Exceptions: Dimensional standards are subject to modification pursuant to Section 900.
- K. Variances: Dimensional standards may be modified pursuant to Section 1205.

312.089 DEVELOPMENT STANDARDS

- A. General: Development shall be subject to the applicable provisions of Sections 1000 and 1100.
- B. Community and Design Plans: Development within a Community or Design Plan area identified in Chapter 10 of the Comprehensive Plan shall comply with the specific policies and standards for the adopted Community or Design Plan.
- C. Restricted Areas: Generally residential development is prohibited in the Floodplain Management District regulated by Section 703, river and stream corridors, wetlands, mass movement hazard areas regulated by Section 1003, and slopes greater than 25 percent. However, a single-family dwelling may be developed in a restricted area on a lot of record created prior to the adoption of this standard, subject to compliance with the applicable criteria in this Ordinance for such development. In the case of a land division, density accruing to restricted areas may be eligible for transfer to unrestricted areas as provided in Section 1012.

- D. Manufactured Dwelling Parks: Redevelopment of a manufactured dwelling park with a different use shall require compliance with Subsection 825.03.
- E. Design Features: All dwellings, except temporary dwellings approved pursuant to Section 1204, shall include at least three of the following features visible to the road. If a dwelling is located on a corner lot, the features shall be visible to the road from which the dwelling takes access.
1. A covered porch at least two feet deep;
 2. An entry area recessed at least two feet from the exterior wall to the door;
 3. A bay or bow window (not flush with the siding);
 4. An offset on the building face of at least 16 inches from one exterior wall surface to the other;
 5. A dormer;
 6. A gable;
 7. Roof eaves with a minimum projection of 12 inches from the intersection of the roof and the exterior walls;
 8. Roofline offsets of at least 16 inches from the top surface of one roof to the top surface of the other;
 9. An attached garage;
 10. Orientation of the long axis and front door to the road;
 11. A cupola;
 12. A tile or shake roof;
 13. Horizontal lap siding.

[Amended by Ord. ZDO-224, 5/31/11; Amended by Ord. ZDO-246, 3/1/14]

314 FUTURE URBAN 10-ACRE DISTRICT (FU-10)

314.01 PURPOSE

Section 314 is adopted to implement the goals and policies of the Comprehensive Plan for Future Urban areas.

314.02 AREA OF APPLICATION

The Future Urban 10-Acre District is applied to those areas designated as Future Urban by Chapter 4 of the Comprehensive Plan.

314.03 PRIMARY USES

The following are primary uses in the Future Urban 10-Acre District:

- A. One detached single-family dwelling, residential home, or manufactured dwelling. A manufactured dwelling shall be subject to Section 824;
- B. Current employment of land for general farm uses including:
 - 1. Raising, harvesting, and selling of crops;
 - 2. Feeding, breeding, selling, and management of livestock, poultry, furbearing animals, or honeybees;
 - 3. Selling of products of livestock, poultry, furbearing animals, or honeybees;
 - 4. Dairying and selling of dairy products;
 - 5. Preparation and storage of the products raised on such lands for man's use and animal use;
 - 6. Distribution by marketing or otherwise of products raised on such lands; and
 - 7. Any other agricultural use, horticultural use, animal husbandry, or any combination thereof;
- C. Propagation or harvesting of a forest product. Inside the Portland Metropolitan Urban Growth Boundary, refer to Subsection 1002.03 regarding a development restriction that may apply if excessive tree removal occurs;
- D. Public and private conservation areas and structures for the conservation of water, soil, forest, or wildlife habitat resources;
- E. Fish and wildlife management programs;

- F. Bus shelters under the ownership and/or control of a city, county, state, or municipal corporation, subject to the provisions of Section 823;
- G. Utility carrier cabinets, subject to Section 830; and
- H. Wireless telecommunication facilities listed in Subsections ~~835.04(B)~~, ~~and 835.04(C)~~, ~~835.05(A)(2)~~, or ~~835.05(A)(3)~~, subject to Section 835.

314.04 ACCESSORY USES

- A. The following are accessory uses in the Future Urban 10-Acre District:
- B. Uses and structures customarily accessory and incidental to a primary use;
- C. Produce stands, which in addition to selling produce grown on site, may sell agricultural products that are produced in the surrounding community in which the stand is located;
- D. Signs, subject to Section 1010;
- E. Guest houses, subject to Section 833;
- F. Home occupations, including bed and breakfast homestays, subject to Section 822;
- G. Solar energy systems;
- H. Rainwater collection systems; and
- I. Electric vehicle charging stations for residents and their nonpaying guests.

~~314.05 USES SUBJECT TO REVIEW BY THE PLANNING DIRECTOR~~

~~The Planning Director may approve the following use in the Future Urban 10-Acre District, pursuant to Subsection 1305.02:~~

- ~~A. Wireless telecommunication facilities listed in Subsections 835.05(A)(2) and (3), subject to Section 835.~~

314.056 CONDITIONAL USES

- A. ~~The Hearings Officer may approve~~ The following are conditional uses in the FU-10~~Future Urban 10-Acre~~ District, approval of which are subject to pursuant to Section 1300. ~~Approval shall not be granted unless the proposal complies with Section 1203 and any applicable provisions of Section 800.~~
 - 1. Expansion of existing churches, subject to Section 804;
 - 2. Expansion of existing schools, subject to Section 805;

3. Expansion of existing daycare facilities, subject to Section 807;
4. Cemeteries, subject to Section 808;
5. Service and recreational uses, excluding recreational vehicle camping facilities, subject to Section 813;
6. Sanitary landfills, debris fills, and transfer stations, subject to Section 819;
7. Hydroelectric facilities, subject to Section 829;
8. Bed and breakfast residences, subject to Section 832;
9. Wireless telecommunication facilities listed in Subsection 835.06(A), subject to Section 835;
10. Aircraft land uses;
11. Public and private parks, campgrounds, playgrounds, recreational grounds, hiking and horse trails, pack stations, corrals, boarding or riding stables, and other similar uses; and
12. Home occupations to host events, subject to Section 806.

314.0~~67~~ PROHIBITED USES

The following are prohibited uses in the Future Urban 10-Acre District:

- A. Uses of structures and land not specifically permitted;
- B. Any division of land resulting in the creation of one or more parcels of less than 10 acres in size, except as modified by Subsection 902.01(B)(4);
- C. Residential subdivisions;
- D. The use of a residential trailer as a dwelling, except within a lawfully established pre-existing manufactured dwelling park or as authorized under Section 1204; and
- E. Kennels.

314.0~~78~~ DIMENSIONAL STANDARDS

- A. Purpose: The dimensional standards are intended to:
 1. Provide for fire safety and protection of all structures;
 2. Protect the privacy and livability of dwellings and yard areas; and

3. Preserve, within urban growth boundaries, large parcels of land for future development at urban densities.
- B. Minimum Lot Size: New lots of record shall be a minimum of 10 acres in size, except as modified by Subsection 902.01(B)(4). For the purpose of complying with the minimum lot size standard, lots that front on existing county or public roads may include the land area between the front property line and the middle of the road right-of-way.
- C. Minimum Front Yard Setback: 30 feet; however, there shall be no minimum front yard setback for bus shelters and produce stands of no more than 100 square feet in area and no more than 16 feet in height.
- D. Minimum Rear Yard Setback: 30 feet; however, accessory structures shall have a minimum rear yard setback of 10 feet.
- E. Minimum Side Yard Setback: 10 feet.
- F. Scenic Roads: Structures built on lots adjacent to roads designated as scenic on Comprehensive Plan Map 5-1, *Scenic Roads*, should be set back a sufficient distance from the right-of-way to permit a landscaped or natural buffer area.
- G. Exceptions: Dimensional standards are subject to modification pursuant to Section 900.
- H. Variations: The requirements of Subsections 314.078(C) through (E) may be modified pursuant to Section 1205.

314.089 DEVELOPMENT STANDARDS

- A. General: Development is subject to the applicable provisions of Sections 1000 and 1100.
- B. Partitions: A partition shall be approved only if the proposed locations of improvements, including easements, dedications, structures, wells, and on-site sewage disposal systems are consistent with the orderly future development of the property at appropriate urban densities on the basis of the following criteria:
 1. Physical Site Conditions:
 - a. Land with soils subject to slippage, compaction, or high shrink-swell characteristics shall be zoned R-15 or R-20.
 - b. Land with slopes of:

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- i. 0 to 20 percent shall be considered for zones R-2.5, R-5, R-7 or R-8.5
 - ii. 20 percent or more shall be considered for zones R-10 to R-30.
 2. Capacity of Facilities: Land shall be zoned to maximize the capacity of facilities such as streets, sewers, water and storm drainage systems.
 3. Availability of Transit: Land within walking distance (approximately one-quarter mile) of transit service shall be zoned R-2.5, R-5, R-7 or R-8.5.
 4. Proximity to Trip Generators: Areas in close proximity to jobs, shopping, cultural and activity centers shall be zoned R-2.5, R-5, R-7 or R-8.5.
 5. Neighborhood Preservation and Variety: Areas that have historically developed on large lots where little vacant land exists shall remain zoned consistent with the existing development pattern.
 6. Vacant Lands: Unless otherwise dictated by the preceding criteria, areas of mostly vacant and sparsely developed land shall be zoned R-2.5, R-5 or R-7. To achieve an average of 7,500 square feet or less per lot in Low Density Future Urban areas when conversion to Immediate Urban Low Density Residential occurs, the R-10 zone shall be limited to areas exceeding 20 percent slope and to Resource Protection areas. Flexible-lot-size subdivisions and other buffering techniques shall be encouraged in those areas immediately adjacent to developed subdivisions with lots of 20,000 square feet or more to protect neighborhood character, while taking full advantage of allowed densities.
 7. R-2.5: In addition to the above criteria, R-2.5 shall be applied only to:
 - a. Areas located within one-quarter mile of a designated Regional Center, Corridor or Main Street on Comprehensive Plan Map X-CRC-1, *Clackamas Regional Center Area Design Plan Regional Center, Corridors and Station Community*;
 - b. Areas with access to a residential collector or higher functional class street; and
 - c. Areas where the size of the site and adjoining properties zoned R-2.5 do not exceed 10 acres.
- C. Manufactured Dwelling Parks: Redevelopment of a manufactured dwelling park with a different use shall require compliance with Subsection 825.03.

[Amended by Ord. ZDO-224, 5/31/11; Amended by Ord. ZDO-245, 7/1/13; Amended by Ord. ZDO-246, 3/1/14]

401 EXCLUSIVE FARM USE DISTRICT (EFU)

401.01 PURPOSE

Section 401 is adopted to implement the goals and policies of the Comprehensive Plan for Agriculture areas.

401.02 AREA OF APPLICATION

Property may be zoned Exclusive Farm Use District when the site has a Comprehensive Plan designation of Agriculture and the criteria in Section 1202 are satisfied.

401.03 DEFINITIONS

Unless specifically defined in Subsection 401.03 or in Section 202, words or phrases used in Section 401 shall be interpreted to give them the same meaning as they have in common usage and to give Section 401 its most reasonable application.

- A. Accessory Farm Dwelling: Includes all types of residential dwellings allowed by the applicable state building code and the number of dwelling units is determined by a land use decision.
- B. Agricultural Land: As defined in Oregon Administrative Rules (OAR) 660-33-0020.
- C. Commercial Farm: A farm unit with all of the following characteristics:
 - 1. The land is used for the primary purpose of obtaining a profit in money from farm use;
 - 2. The net income derived from farm products is significant; and
 - 3. Products from the farm unit contribute substantially to the agricultural economy, to agricultural processors, and to farm markets.
- D. Date of Creation and Existence: When a lot of record or tract is reconfigured pursuant to applicable law after November 4, 1993, the effect of which is to qualify a lot of record or tract for the siting of a dwelling, the date of the reconfiguration is the date of creation or existence. Reconfigured means any change in the boundary of the lot of record or tract.
- E. Dwelling: Unless otherwise provided in Section 401, a dwelling is a detached single-family dwelling or a manufactured dwelling.
- F. Farm Operator: A person who resides on and actively manages a “farm unit”.

- G. Farm Stand: A structure located on a part of the farm operation owned by the farm operator that is designed and used for the sale of farm crops and livestock grown on the farm operation, or grown on the farm operation and other farm operations in the local agricultural area, including the sale of retail incidental items and fee based activity to promote the sale of farm crops or livestock sold at the farm stand if the annual sale of the incidental items and fees from promotional activity do not make up more than 25 percent of the total sales of the farm stand; and the farm stand does not include structures designed for occupancy as a residence or for activities other than the sale of farm crops and livestock and does not include structures for banquets, public gatherings, or public entertainment.
- H. Farm Unit: The contiguous and noncontiguous tracts within the County or a contiguous county held in common ownership and used by the farm operator for farm use.
- I. Farm Use: As defined in Oregon Revised Statutes (ORS) 215.203.
- J. Fee-based Activity to Promote the Sale of Farm Crops or Livestock: A common farm-dependent accessory activity directly related to the sale of farm crops or livestock sold at the farm stand, such as, but not limited to, hay rides, corn mazes, and educational how-to-farm workshops, but not including activities with no direct relationship to the farm crops or livestock sold at the farm stand, such as, but not limited to, quilting classes, dance lessons, jewelry making, or crafts that are only intended to bring customers to the farm stand.
- K. Golf Course: As defined in OAR 660-033-0130(20).
- L. High Value Farmland: As defined in ORS 215.710 and OAR 660-033-0020(8).
- M. Immediate Family: A spouse, children, adopted children, stepchildren, to include the long term care of grandchildren and step-grandchildren, but not to include other extended family members.
- N. Irrigated: Agricultural land watered by an artificial or controlled means, such as sprinklers, furrows, ditches, or spreader dikes. An area or tract is “irrigated” if it is currently watered, or has established rights to use water for irrigation, including such tracts that receive water for irrigation from a water or irrigation district or other provider. An area or tract within a water or irrigation district that was once irrigated shall continue to be considered "irrigated" even if the irrigation water was removed or transferred to another tract.
- O. Low Value Farmland: All land not defined as High Value Farmland in ORS 215.710 and OAR 660-033-0020(8).

- P. Noncommercial Farm: A parcel where all or part of the land is used for production of farm products for use or consumption by the owners or residents of the property, or which provides insignificant income.
- Q. Owner: For purposes of a Lot of Record Dwelling, 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, niece, stepparent, stepchild, grandparent, or grandchild of the owner, or a business entity owned by any one or a combination of these family members.
- R. Ownership: Holding fee title to a lot of record, except in those instances when the land is being sold on contract, the contract purchaser shall be deemed to have ownership. Ownership shall include all contiguous lots of record meeting this definition.
- S. Private Park: Land that is used for low impact casual recreational uses such as picnicking, boating, fishing, swimming, camping, and hiking or nature oriented recreational uses such as viewing and studying nature and wildlife habitat and may include play areas and accessory facilities that support the activities listed above but does not include tracks for motorized vehicles or areas for target practice or the discharge of firearms.
- T. Relative: For purposes of a Temporary Dwelling for Care, relative means a child, parent, stepparent, grandchild, grandparent, stepgrandparent, sibling, stepsibling, niece, nephew, or first cousin.
- U. Tract: One or more contiguous lots of record under the same ownership, including lots of record divided by a county or public road, or contiguous at a common point. Lots of record divided by a state highway are not considered contiguous.

401.04 USES PERMITTED

~~Table 401-1 identifies the uses~~Uses permitted in the Exclusive Farm Use District are listed in Table 401-1.

- A. As used in Table 401-1:
1. "A" means the use is allowed.
 2. "~~Type IIPDR~~" means the use requires review of a Type II application~~is subject to Planning Director Review,~~ pursuant to Section 1307~~Subsection 1305.02.~~
 3. "C" means the use is a Conditional Use, approval of which is subject to Sections 1203, Conditional Use and 1300.

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4. The “Subject To” column identifies any specific provisions of Subsection 401.05 to which the use is subject.
 5. “N” means not applicable.
 6. “*NA1” means the use is not allowed except as set forth in Subsection 401.05(K)(1).
 7. “*NA2” means the use is not allowed except as set forth in Subsection 401.05(K)(1) or 401.05(K)(2) and (3).
 8. “~~HO~~ Type III” means the use requires review of a Type III application must be reviewed by the Hearings Officer, pursuant to Section 13071300 for compliance with standards as outlined within this Ordinance or by state law.
 9. “HV” meansis referencing High Value Farmland as provided for in ORS 215.710 and OAR 660-033-0020(8).
 10. “LV” meansis referencing Low Value Farmland, lands not described in ORS 215.710 and OAR 660-033-0020(8).
- B. Permitted uses are subject to the applicable provisions of Subsection 401.07, *Dimensional Standards*; Subsection 401.08, *Development Standards*; Section 1000, *Development Standards*; and Section 1100, *Development Review Process*.

Table 401-1: Permitted Uses in the Exclusive Farm Use District

	HV	LV	Use	Subject To
FARM AND FOREST USES	A	A	Propagation or harvesting of a forest product.	
	A	A	Farm use as defined in ORS 215.203	
	A	A	Other buildings customarily provided in conjunction with farm use.	
	PDRTY PE II	PDRTY YPE II	A facility for the processing of farm crops or the production of biofuel as defined in ORS 315.141.	401.05(B)(1)
	C	C	A facility for the primary processing of forest products.	401.05(B)(2)
NATURAL RESOURCE USES	HV	LV	Use	Subject To
	A	A	Creation of, restoration of, or enhancement of wetlands.	
	PDRTY PE II	PDRTY YPE II	The propagation, cultivation, maintenance, and harvesting of aquatic species that are not under the jurisdiction of the Oregon Fish and Wildlife Commission.	401.05(A)(1) & (C)(1)
RESIDENTIAL USES	HV	LV	Use	Subject To
	A	A	Uses and structures customarily accessory and incidental to a dwelling, only if a lawfully established dwelling exists.	
	A	A	Alteration, restoration, or replacement of a	401.05(A)(3) &

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		lawfully established dwelling, subject to OAR 660-033-0130(8).	(CD)(1)
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	HV	LV	Use	Subject To
RESIDENTIAL USES (cont.)	PDR TYPE II	PDR TYP E II	Replacement dwelling to be used in conjunction with farm use if the existing dwelling has been listed in a County inventory as historic property and listed on the National Register of Historic Places.	401.05(A)(3)
	N	PDR TYP E II	Lot of Record Dwelling on Low Value Farmland.	401.05(A)(2), (3), (4) & (CD)(2)
	PDR TYPE II	N	Lot of Record Dwelling on Class III or IV High Value Farmland.	401.05(A)(2), (3), (4) & (CD)(3)
	HOT TYPE III	N	Lot of Record Dwelling on Class I or II High Value Farmland.	401.05(A)(2), (3), (4) & (CD)(4)
	PDR TYPE II	N	Dwelling customarily provided in conjunction with a farm use on High Value Farmland.	401.05(A)(3) & (CD)(5)
	N	PDR TYP E II	Dwelling customarily provided in conjunction with a farm use on Low Value Farmland.	401.05(A)(3) & (CD)(6)
	PDR TYPE II	PDR TYP E II	Dwelling customarily provided in conjunction with a commercial dairy farm.	401.05(A)(3) & (CD)(7)
	N	PDR TYP E II	160 acre test for a dwelling.	401.05(A)(3), (4) & (CD)(8)
	N	PDR TYP E II	Capability test for a dwelling.	401.05(A)(3), (4) & (CD)(9)
	PDR TYPE II	PDR TYP E II	A single-family dwelling not provided in conjunction with farm use; a nonfarm dwelling.	401.05(A)(3), (4) & (DC)(10)
	PDR TYPE II	PDR TYP E II	Accessory farm dwelling for a relative.	401.05(A)(3) & (CD)(11)
	PDR TYPE II	PDR TYP E II	Accessory farm dwelling for year-round and seasonal farm workers.	401.05(A)(3) & (CD)(12)
	PDR TYPE II	PDR TYP E II	Temporary dwelling for care, subject to Subsection 1204.03.	401.05(A)(1), (3) & (CD)(13)
	PDR TYPE II	PDR TYP E II	Room and board arrangements for a maximum of five unrelated persons in existing dwellings.	401.05(A)(1) & (3)
	PDR TYPE II	PDR TYP E II	Residential home or facility as defined in ORS 197.660, in existing dwellings.	401.05(A)(1) & (3)
	HV	LV	Use	Subject To
COMMERCIAL USE	A	A	Family daycare provider.	
	A	A	Dog training classes.	401.05(DE)(11)
	A	A	Dog testing trials.	401.05(DE)(12)

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	A	A	A winery license for the first six of 18-day agri-tourism and other commercial events, subject to ORS 215.237 and 215.452.	401.05(A)(1) & (DE) (5)
	PDR TYPE II	PDR TYP E II	Farm stands, subject to OAR 660-033-0130(23) and ORS 215.283(1)(o).	
	PDR TYPE II	PDR TYP E II	Home occupations, subject to Section 822.	401.05(A)(1) & (DE) (1)
	PDR TYPE II	PDR TYP E II	A landscape contracting business.	401.05(A)(1) & (DE) (2)
	PDR TYPE II	PDR TYP E II	Agri-tourism single event.	401.05(A)(1) & (DE) (3)
	PDR TYPE II	PDR TYP E II	Agri-tourism for up to 6 events or activities.	401.05(A)(1) & (DE) (4)
	PDR TYPE II	PDR TYP E II	A winery as described in and subject to ORS 215.452 or 215.453, whichever is applicable, but not a restaurant open more than 25 days per calendar year.	
	PDR TYPE II	PDR TYP E II	A winery bed and breakfast facility as a home occupation, subject to ORS 215.448, as provided in ORS 215.452 or 215.453, whichever is applicable.	401.05(A)(1) & (DE) (6)
	HV	LV	Use	Subject To
COMMERCIAL USES (cont.)	C	C	A large winery with a restaurant in conjunction with a winery as described in ORS 215.453 that is open to the public for more than 25 days in a calendar year or the provision of private events in conjunction with a winery as described in ORS 215.453 that occur on more than 25 days in a calendar year.	401.05(A)(1), (DE) (7) & (8)
	C	C	Home occupation to host events, subject to Section 806.	401.05(A)(1) & (DE) (1)
	C	C	Commercial activities in conjunction with farm use, including the processing of farm crops into biofuel that exceeds the standards of ORS 215.203(2)(b)(K) or Subsection 401.05(B)(1).	401.05(A)(1) & (DE) (8)
	C	C	Winery agri-tourism or other commercial events for days seven through 18 of the 18-day limit, subject to ORS 215.237 and 215.452.	401.05(A)(1)
	C	C	Agri-tourism additional events not to exceed 18 events on a minimum of 80 acres.	401.05(A)(1) & (DE) (9)
	C	C	An aerial fireworks display business.	401.05(A)(1) & (DE) (10)
	C	C	Commercial dog boarding kennels.	401.05(A)(1)
	C	C	Dog training classes or testing trials that cannot be established under Subsection 401.05(E)(11) or (12).	401.05(A)(1)
	HV	LV	Use	Subject To
AGGREGATE OIL AND GAS	A	A	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	

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			compressors, separators, and other customary production equipment for an individual well adjacent to a wellhead. Any activities or construction relating to such operations shall not be a basis for an exception under ORS 197.732(1)(a) or (b).	
A	A		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).	
C	C		Operations conducted for mining, crushing, or stockpiling of aggregate and other mineral and other subsurface resources subject to ORS 215.298.	401.05(A)(1), (EF)(1) & (EF)(1)(a)
C	C		Processing as defined by ORS 517.750 of aggregate into asphalt or Portland cement.	401.05(A)(1), (EF)(1) & (EF)(1)(b)
C	C		Processing of other mineral resources and other subsurface resources.	401.05(A)(1), (EF)(1) & (EF)(1)(c)
C	C		Operations conducted for 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 Section 401.	401.05(A)(1), (EF)(1) & (EF)(1)(d)

	HV	LV	Use	Subject To
TRANSPORTATION USES	A	A	Climbing and passing lanes within the right of way existing as of July 1, 1987.	
	A	A	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 land parcels result.	
	A	A	Temporary public road and highway detours that will be abandoned and restored to original condition or use at such time as no longer needed.	
	A	A	Minor betterment of existing public road 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 utilized to support the operation and maintenance of public roads and highways.	
	PDR <u>YPE</u> II	PDR <u>TYP</u> E II	Parking of no more than seven log trucks, subject to ORS 215.311	401.05(A)(1)
	PDR <u>YPE</u> II	PDR <u>TYP</u> E II	Construction of additional passing and travel lanes requiring the acquisition of right-of-way but not resulting in the creation of new land parcels.	401.05(A)(1)

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	PDR TYPE II	PDR TYP E II	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.	401.05(A)(1)
	PDR TYPE II	PDR TYP E II	Improvement of public road and highway related facilities, such as maintenance yards, weigh stations, and rest areas, where additional property or right-of-way is required but not resulting in the creation of new land parcels.	401.05(A)(1)
	C	C	Roads, highways and other transportation facilities, and improvements not otherwise allowed under Section 401.	401.05(FG)(1)
	C	C	Personal-use airports for airplanes and helicopter pads, including associated hangar, maintenance, and service facilities.	401.05(A)(1) & (FG)(2)
	C	C	Transportation improvements on rural lands, subject to OAR 660-012-0065.	
	HV	LV	Use	Subject To
UTILITY AND SOLID WASTE DISPOSAL FACILITY USES	A	A	Irrigation reservoirs, canals, delivery lines, and those structures and accessory operational facilities, not including parks or other recreational structures and facilities, associated with a district as defined in ORS 540.505.	
	A	A	Solar energy system as an accessory use.	
	A	A	Rainwater collection systems as an accessory use.	

	HV	LV	Use	Subject To
UTILITY AND SOLID WASTE DISPOSAL FACILITY USES (cont.)	A	A	Electric vehicle charging stations for residents and their non-paying guests.	
	A	A	Meteorological towers.	
	A	A	Collocation of antennas with associated equipment on a previously approved wireless telecommunication facility, subject to Subsection 835.04(A).	
	A	A	Placement of telecommunication antennas with associated equipment on an existing utility pole, subject to Subsection 835.04(B).	
	A	A	Utility facility service lines. Utility facility service lines are utility lines and accessory facilities or structures that end at the point where the utility service is received by the customer and are located on one or more of the following: a public right-of-way; land immediately adjacent to a public right-of-way provided the written consent of all adjacent property owners has been obtained; and/or the property to be served by the utility.	
	PDR TYP E II	PDR TYP E II	Wind energy power production systems as an accessory use.	401.05(GH)(1)
	PDR TYP E II	PDR TYP E II	Essential public communication services, as defined in Subsection 835.03(D). The use is subject to ORS 215.275, if it includes a transmission tower less than or equal to 200 feet	

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			in height.	
	<u>PDR</u> <u>TYP</u> <u>E II</u>	<u>PDR</u> <u>TYP</u> <u>E II</u>	Collocation of wireless telecommunication facilities as identified in Subsection 835.05(A)(2), subject to Subsection 835.05(A), provided such facilities include a transmission tower that is over 200 feet in height.	
	<u>PDR</u> <u>TYP</u> <u>E II</u>	<u>PDR</u> <u>TYP</u> <u>E II</u>	Utility facilities necessary for public service, including wireless telecommunication facilities not otherwise provided for in Section 401, associated transmission lines subject to ORS 215.283(1)(c)(A) or (B) and 215.276, and wetland waste water 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.	401.05(GH)(2)
	<u>PDR</u> <u>TYP</u> <u>E II</u>	N	Composting operations and facilities on high value farmland.	401.05(A)(1) & (GH)(3)
	N	<u>PDR</u> <u>TYP</u> <u>E II</u>	Composting operations and facilities on low value farmland.	401.05(A)(1) & (GH)(4)
	*NA1	C	Composting operations and facilities, subject to Section 834.	401.05(A)(1) & (GH)(5)
	C	C	Transmission towers over 200 feet in height, except as otherwise provided in Section 401 for essential public communication services. Towers supporting wireless telecommunication facilities are subject to Section 835.	401.05(A)(1)

	HV	LV	Use	Subject To
<u>UTILITY AND SOLID WASTE DISPOSAL FACILITY USES (cont.)</u>	C	C	Commercial utility facilities for the purpose of generating power for public use by sale, not including wind or photovoltaic solar power generation facilities.	401.05(A)(1) & (GH)(6)
	C	C	Wind power generation facilities as commercial utility facilities for the purpose of generating power for public use by sale, subject to OAR 660-033-0130(37).	401.05(A)(1)
	C	C	Photovoltaic solar power generation facilities as commercial utility facilities for the purpose of generating power for public use by sale, subject to OAR 660-033-0130(38).	401.05(A)(1)
	*NA1	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.	401.05(A)(1)
	HV	LV	Use	Subject To
<u>AND</u> <u>QUA</u> <u>SI-</u>	A	A	Land application of reclaimed water, agricultural process or industrial process water, or biosolids for agricultural, horticultural, or forest production,	

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			or for irrigation in connection with a use allowed in the EFU zoning district, subject to the issuance of a license, permit, or other approval by the Department of Environmental Quality under ORS 454.695, 459.205, 468B.050, 468B.053, or 468B.055, or in compliance with rules adopted under ORS 468(B).095.	
	A	A	Onsite filming and activities accessory to onsite filming for 45 days or less.	
	<u>PDR I</u> <u>YPE II</u>	<u>PDR</u> <u>TYP</u> <u>E II</u>	A site for the takeoff and landing of model aircraft, including such buildings or facilities as may reasonably be necessary.	401.05(H)(1)
	<u>PDR I</u> <u>YPE II</u>	<u>PDR</u> <u>TYP</u> <u>E II</u>	Public parks and playgrounds.	401.05(A)(1), (5) & (H)(2)
	<u>PDR I</u> <u>YPE II</u>	<u>PDR</u> <u>TYP</u> <u>E II</u>	Fire service facilities providing rural fire protection services.	
	<u>PDR I</u> <u>YPE II</u>	<u>PDR</u> <u>TYP</u> <u>E II</u>	Community centers.	401.05(A)(1), (5) & (H)(3)
	<u>PDR I</u> <u>YPE II</u>	<u>PDR</u> <u>TYP</u> <u>E II</u>	Living history museum.	401.05(A)(1), (5) & (H)(4)
	<u>PDR I</u> <u>YPE II</u>	<u>PDR</u> <u>TYP</u> <u>E II</u>	Firearms training facility as provided in ORS 197.770.	401.05(A)(5) & (H)(5)
	<u>PDR I</u> <u>YPE II</u>	<u>PDR</u> <u>TYP</u> <u>E II</u>	Expansion of existing county fairgrounds and activities directly relating to county fairgrounds governed by county fair boards established pursuant to ORS 565.210.	401.05(A)(1)
	<u>PDR I</u> <u>YPE II</u>	<u>PDR</u> <u>TYP</u> <u>E II</u>	A county law enforcement facility that lawfully existed on August 20, 2002, and is used to provide rural law enforcement services primarily in rural areas, including parole and post-prison supervision, but not including a correctional facility as defined under ORS 162.135.	401.05(A)(1)

	HV	LV	Use	Subject To
PARKS, PUBLIC, AND QUASI-PUBLIC USES (cont.)	*NA1	<u>PDR I</u> <u>YPE II</u>	Churches and cemeteries in conjunction with churches, consistent with ORS 215.441, which does not include private or parochial school education for prekindergarten through grade 12 or higher education.	401.05(A)(5)
	C	C	Operations for the extraction and bottling of water.	401.05(A)(1)
	C	C	Onsite filming and activities accessory to onsite filming for more than 45 days as provided for in ORS 215.306.	401.05(A)(1)
	*NA2	C	Public or private schools for kindergarten through grade 12, including all buildings essential to the operation of a school, primarily for residents of the rural area in which the	401.05(A)(1) & (5)

			school is located.	
	*NA1	C	Private parks, playgrounds, hunting and fishing preserves, and campgrounds.	401.05(A)(1), (5) & (H)(6)
	*NA1	C	Golf courses.	401.05(A)(1), (5) & (H)(7)
	HV	LV	Use	Subject To
OUTDOOR GATHERINGS	A	A	An outdoor mass gathering or other gathering described in ORS 197.015(10)(d).	401.05(I)(1)
	C	C	Any outdoor gathering subject to review of the Planning Commission under ORS 433.763.	401.05(I)(2)

401.05 APPROVAL CRITERIA FOR SPECIFIC USES

The following criteria apply to some of the uses listed in Table 401-1. The applicability of a specific criterion to a listed use is established by Table 401-1.

A. General Criteria

1. Uses may be approved only where such uses:
 - a. Will not force a significant change in accepted farm or forest practices on surrounding lands devoted to farm or forest use; and
 - b. Will not significantly increase the cost of accepted farm or forest practices on surrounding lands devoted to farm or forest use.
2. The Natural Resources Conservation Service (NRCS) Internet Soils Survey for Clackamas County shall be used to determine the soil classification and soil rating for a specific lot of record, except for purposes of approving a Lot of Record Dwelling application, the applicant may submit a report from a professional soils classifier whose credentials are acceptable to the Oregon Department of Agriculture that the soil class, soil rating or other soil designation should be changed; and submits a statement from the Oregon Department of Agriculture that the Director of Agriculture or the director’s designee has reviewed the report and finds the analysis in the report to be soundly and scientifically based.
3. The landowner for the dwelling shall 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. An approval to construct a dwelling may be transferred to any other person after the effective date of the land use decision.

5. No enclosed structure with a design capacity greater than 100 people, or group of structures with a total design capacity of greater than 100 people, shall be approved in connection with the use within three miles of an urban growth boundary, unless an exception is approved pursuant to ORS 197.732 and OAR chapter 660, division 4, or unless the structure is described in a master plan adopted under the provisions of OAR chapter 660, division 34.
 - a. Any enclosed structures or group of enclosed structures described in Subsection 401.05(A)(5) within a tract must be separated by at least one-half mile. For purposes of Subsection 401.05(A)(5), “tract” means a tract as defined by Subsection 401.03(U) that was in existence as of June 17, 2010.
 - b. Existing facilities wholly within a farm use zone may be maintained, enhanced, or expanded on the same tract, subject to other requirements of law, but enclosed existing structures within a farm use zone within three miles of an urban growth boundary may not be expanded beyond the requirements of Subsection 401.05(A)(5).

B. Farm and Forest Uses

1. A facility for the processing of farm crops or the production of biofuel as defined in ORS 315.141 or an establishment for the slaughter or processing of poultry pursuant to ORS 603.038 shall be located on a farm that provides at least one-quarter of the farm crops processed at the facility. If a building is established or used for the processing facility or establishment, the farm operator may not devote more than 10,000 square feet of floor area to the processing facility or establishment, exclusive of the floor area designated for preparation, storage, or other farm use. A processing facility or establishment must comply with all applicable siting standards but the standards may not be applied in a manner that prohibits the siting of the processing facility. Any division of a lot of record that separates a processing facility or establishment from the farm operation on which it is located is prohibited.
2. A facility for the primary processing of forest products shall not seriously interfere with accepted farming practices and shall be compatible with farm uses described in ORS 215.203(2). Such facility may be approved for a one-year period that is renewable and is intended to be only portable or temporary in nature. The primary processing of a forest product, as used in Subsection 401.05(B)(2), 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 Subsection 401.05(B)(2) means timber grown upon a tract where the primary processing facility is located.

~~C.~~ Natural Resource Uses

- ~~1. The County shall provide notice of all applications for the propagation, cultivation, maintenance, and harvesting of aquatic species that are not under the jurisdiction of the Oregon Fish and Wildlife Commission to the Oregon Department of Agriculture. Notice shall be provided in accordance with Section 1302 but shall be mailed at least 20 calendar days prior to the issuance of the Planning Director's decision.~~

~~CD.~~ Residential Uses

1. A lawfully established dwelling may be altered, restored, or replaced if, when an application for a permit is submitted, substantial evidence is provided that:
 - a. The dwelling to be altered, restored, or replaced has, or formerly had:
 - i. Intact exterior walls and roof structure;
 - ii. Indoor plumbing consisting of a kitchen sink, toilet, and bathing facilities connected to a sanitary waste disposal system;
 - iii. Interior wiring for interior lights; and
 - iv. A heating system; and
 - b. The dwelling was assessed as a dwelling for the previous five property tax years, or, if the dwelling has existed for less than five years, from that time; and
 - c. Notwithstanding Subsection 401.05(D)(1)(b), if the value of the dwelling was eliminated as a result of either of the following circumstances, the dwelling was assessed as a dwelling until such time as the value of the dwelling was eliminated:
 - i. The destruction (i.e., by fire or natural hazard), or demolition in the case of restoration of the dwelling; or
 - ii. The applicant establishes the dwelling was improperly removed from the tax rolls. "Improperly removed" means the dwelling has taxable value in its present state, or had taxable value when the dwelling was first removed from the tax roll or was destroyed by fire or natural hazard and the County stopped assessing the dwelling even though the current or former owner did not request removal of the dwelling from the tax roll.

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- d. The dwelling to be replaced must be removed, demolished or converted to an allowable nonresidential use:
 - i. Within one year from the certified occupancy; or
 - ii. If the dwelling to be replaced is in such a state of disrepair that the structure is unsafe for occupancy or constitutes an attractive nuisance, the dwelling to be replaced must be removed within 90 days from the date a replacement permit is issued; and
 - iii. If a dwelling is removed to another off-site location, the applicant must obtain approval for the new location.
 - e. A dwelling to be replaced shall be recorded in the deed records of the County that it has been removed, demolished or converted.
 - f. If a dwelling to be replaced is located on a portion of the parcel that is not zoned EFU, the applicant shall record in the deed records of the County an irrevocable statement prohibiting the siting of another dwelling on that portion of the parcel.
2. Lot of Record Dwelling when determined to be located on Low Value Farmland, subject to the following criteria:
- a. The lot of record on which the dwelling will be sited was lawfully created prior to January 1, 1985.
 - b. The lot of record has been under the continuous ownership of the present owner who either,
 - i. Acquired the lot of record prior to January 1, 1985, or
 - ii. Acquired the lot of record by devise or intestate succession from a person or persons who had continuously owned the property since January 1, 1985.
 - c. The tract on which the dwelling will be sited does not include a dwelling;
 - d. The lot of record on which the dwelling will be sited was not part of a tract that contained a dwelling on November 4, 1993.
 - e. The proposed dwelling is not prohibited by, and will comply with, the requirements of the acknowledged Comprehensive Plan, this Ordinance and other provisions of law.

- f. When the lot of record on which the dwelling will be sited is part of a tract, all remaining portions of the common ownership shall remain in common ownership as long as the dwelling remains as approved.
 - g. The dwelling either will not seriously interfere with the preservation of big game winter range areas identified on Comprehensive Plan Map III-2, *Scenic and Distinctive Resource Areas*, or can be adequately mitigated. Estimated impacts and appropriate mitigation measures shall be submitted by the applicant and based on the best available data and assessment methods from the appropriate agency. The Oregon Department of Fish and Wildlife (ODFW) suggests to the County that in the absence of mitigation measures, winter range is seriously impacted by residential densities which exceed one unit per 80 acres or one unit per 40 acres, if clustered within 200 feet.
3. Lot of Record Dwelling when determined to be located on High Value Farmland consisting predominantly of Class III and IV Soil, subject to the following criteria:
- a. The lot of record on which the dwelling will be sited was lawfully created prior to January 1, 1985.
 - b. The lot of record has been under the continuous ownership of the present owner who either,
 - i. Acquired the lot of record prior to January 1, 1985, or
 - ii. Acquired the lot of record by devise or intestate succession from a person or persons who had continuously owned the property since January 1, 1985.
 - c. The tract on which the dwelling will be sited does not include a dwelling.
 - d. The lot of record on which the dwelling will be sited was not part of a tract that contained a dwelling on November 4, 1993.
 - e. The proposed dwelling is not prohibited by, and will comply with, the requirements of the acknowledged Comprehensive Plan, this Ordinance and other provisions of law.
 - f. When the lot of record on which the dwelling will be sited is part of a tract, all remaining portions of the common ownership land shall remain in common ownership as long as the dwelling remains as approved.

- g. The tract is no more than 21 acres.
 - h. 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, 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.
 - i. The dwelling either will not seriously interfere with the preservation of big game winter range areas identified on Comprehensive Plan Map III-2, *Scenic and Distinctive Resource Areas*, or the impacts can be adequately mitigated so as not to interfere. Estimated impacts and appropriate mitigation measures shall be submitted by the applicant and based on the best available data and assessment methods from the appropriate agency. ODFW suggests to the County that in the absence of impact mitigation measures, winter range is seriously considered impacted by residential densities which exceed one unit per 80 acres or one unit per 40 acres, if clustered within 200 feet.
4. Lot of Record Dwelling when determined to be located on High Value Farmland consisting predominantly of Prime, Unique, Class I or II Soils, ~~subject to if a Hearings Officer review pursuant to Subsection 1300 finds~~ the following criteria:
- a. The lot of record on which the dwelling will be sited was lawfully created prior to January 1, 1985.
 - b. The lot of record has been under the continuous ownership of the present owner who either,
 - i. Acquired the lot of record prior to January 1, 1985, or
 - ii. Acquired the lot of record by devise or intestate succession from a person or persons who had continuously owned the property since January 1, 1985.
 - c. The tract on which the dwelling will be sited does not include a dwelling;
 - d. The lot of record on which the dwelling will be sited was not part of a tract that contained a dwelling on November 4, 1993.

- e. The proposed dwelling is not prohibited by, and will comply with, the requirements of the acknowledged Comprehensive Plan, this Ordinance and other provisions of law.
 - f. When the lot of record on which the dwelling will be sited is part of a tract, all remaining portions of the common ownership land shall remain in common ownership as long as the dwelling remains as approved.
 - g. The lot of record 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. Extraordinary circumstances include very steep slopes, deep ravines, rivers, streams, roads, railroads or utility lines or other similar natural or physical barriers that by themselves or in combination, separate the subject property from adjacent agricultural land and prevent it from being practicably managed for farm use by itself or together with adjacent or nearby farms. A 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.
 - h. The dwelling will not materially alter the stability of the overall land use pattern in the area.
 - i. The dwelling either will not seriously interfere with the preservation of big game winter range areas identified on Comprehensive Plan Map III-2, *Scenic and Distinctive Resource Areas*, or can be adequately mitigated. (Estimated impacts and appropriate mitigation measures shall be submitted by the applicant and based on the best available data and assessment methods from the appropriate agency. ODFW suggests to the County that in the absence of mitigation measures, winter range is seriously impacted by residential densities which exceed one unit per 80 acres or one unit per 40 acres, if clustered within 200 feet).
5. Dwelling in conjunction with a farm use on High Value Farm Land: A primary farm dwelling for the farm operator may be allowed subject to the following criteria:
- a. The subject tract is currently employed in farm use on which the farm operator earned at least \$80,000 in gross annual income from the sale of farm products in each of the last two years or three of the last five years, or in an average of three of the last five years;
 - b. Lots of record in Eastern Oregon shall not be used to qualify a dwelling under this criterion.

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- c. The lot of record on which the dwelling will be sited was lawfully created;
 - d. Except as permitted in Subsection 401.05(D)(12), there is no other dwelling on the subject tract;
 - e. The dwelling will be occupied by a person or persons who produced the commodities which generated the income;
 - f. In determining the gross income requirement, the cost of purchased livestock shall be deducted from the total gross annual income attributed to the tract.
 - g. Only gross income from land owned, not leased or rented, shall be counted.
 - h. An irrevocable deed restriction shall be recorded with the County Clerk's Office acknowledging that all future rights to construct a dwelling on other properties used to qualify the primary farm dwelling is precluded except for accessory farm dwellings, accessory relative farm dwellings, temporary hardship dwelling or replacement dwellings, and that any gross farm income used to qualify the primary farm dwelling cannot be used again to qualify any other parcel for a primary farm dwelling.
 - i. Only a lot of record zoned for farm use in Clackamas County or a contiguous county may be used to meet the gross income requirements.
6. Dwelling in conjunction with a farm use on Low Value Farmland: A primary farm dwelling for the farm operator may be allowed on low value farmland subject to the following criteria:
- a. The subject tract is currently employed in farm use on which the farm operator earned at least \$32,500 in gross annual income from the sale of farm products in each of the last two years or three of the last five years, or in an average of three of the last five years;
 - b. Lots or record in Eastern Oregon shall not be used to qualify a dwelling under this criterion.
 - c. Except as permitted in Subsection 401.05(D)(12), there is no other dwelling on the subject tract;
 - d. The lot of record on which the dwelling will be sited was lawfully created;

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- e. The dwelling will be occupied by a person or persons who produced the commodities which generated the income;
 - f. In determining the gross income, the cost of purchased livestock shall be deducted from the total gross income attributed to the tract.
 - g. Only gross income from land owned, not leased or rented, shall be counted.
 - h. Gross farm income earned from a lot of record which has been used previously to qualify another lot of record for the construction or siting of a primary farm dwelling may not be used.
 - i. Only lots of record zoned for farm use in Clackamas County or a contiguous county may be used to meet the gross income requirements.
 - j. An irrevocable deed restriction shall be recorded with the County Clerk's Office acknowledging that all future rights to construct a dwelling on other properties used to qualify the primary farm dwelling is precluded except for accessory farm dwellings, accessory relative farm dwellings, temporary hardship dwelling or replacement dwellings, and that any gross farm income used to qualify the primary farm dwelling cannot be used to qualify any other parcel for a primary farm dwelling.
7. A dwelling customarily provided in conjunction with a commercial dairy farm, which is a dairy operation that owns a sufficient number of producing dairy animals capable of earning the gross annual income required by OAR 660-033-0135(3)(a) or (4)(a), whichever is applicable, from the sale of fluid milk, if;
- a. The subject tract will be employed as a commercial dairy; and
 - b. The dwelling is sited on the same lot of record as the buildings required by the commercial dairy; and
 - c. Except for a replacement of a lawfully established dwelling, there is no other dwelling on the subject tract; and
 - d. The dwelling will be occupied by a person or persons who will be principally engaged in the operation of the commercial dairy farm, such as the feeding, milking or pasturing of the dairy animals or other farm use activities necessary to the operation of the commercial dairy farm; and

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- e. The building permits, if required, have been issued for and construction has begun for the buildings and animal waste facilities required for a commercial dairy farm; and
 - f. The Oregon Department of Agriculture has approved the following:
 - i. A permit for a “confined animal feeding operation” under ORS 468B.050 and 468B.200 to 468B.230; and
 - ii. A Producer License for the sale of dairy products under ORS 621.072.
8. 160 Acre Test, subject to the following criteria:
- a. The parcel on which the dwelling will be located is at least 160 acres.
 - b. The subject tract is currently employed in a 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.
 - d. Except as permitted in Subsection 401.05(D)(12), there is no other dwelling on the subject tract; or
9. Capability Test, subject to the following criteria:
- 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.
 - b. Lots of record in Eastern Oregon shall not be used to qualify a dwelling under this criterion.
 - c. 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 Subsection 401.05(D)(9)(a).
 - d. The subject tract is currently employed for a farm use at a level capable of producing the annual gross sales required in Subsection 401.05(D)(9)(a).

- e. The subject lot of record on which the dwelling is proposed is not less than 10 acres.
 - f. Except as permitted in Subsection 401.05(D)(12), there is no other dwelling on the subject tract.
 - 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.
 - h. If no farm use has 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 Subsection 401.05(D)(9)(a).
10. Dwelling not in Conjunction with a Farm Use: A dwelling for a nonfarm use may be allowed subject to the following criteria:
- a. The dwelling or activities associated with the dwelling will not force a significant change in or significantly increase the cost of accepted farming or forest practices on nearby lands devoted to farm or forest use;
 - b. The dwelling will be sited on a lot of record 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;
 - c. The dwelling will be sited on a lot of record lawfully created before January 1, 1993.
 - d. The dwelling shall not materially alter the stability of the overall land use pattern of the area. The County shall consider the cumulative impact of possible new nonfarm dwellings and parcels on other lots of record in the area similarly situated, subject to:
 - i. Identify a study area for the cumulative impacts analysis. The study area shall include at least 2,000 acres or a smaller area not less than 1,000 acres, if the smaller area is a “distinct agricultural area” based on topography, soils types, land use pattern, or the type of farm operations or practices that distinguish it from other adjacent agricultural areas. Findings shall describe the study area, its boundaries, and the location of the subject parcel with 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; and to the extent OAR 660-033-0130(4)(a)(D)(ii) is applicable.

- 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 (farms, 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 Subsections 401.05(D)(2) through (4) and (10), 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.
 - iii. Determine whether approval of the proposed nonfarm dwelling 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.
 - e. The dwelling shall comply with such other conditions as the County considers necessary.
 - f. Prior to Planning Director approval for issuance of a building or manufactured dwelling permit, the applicant shall notify the County Assessor that the lot of record is no longer being used for farmland and; request the County Assessor to disqualify the lot of record for special assessment under ORS 308.370, 308.765, 321.257 to 321.381, 321.730 or 321.815 and; pay any additional tax imposed upon disqualification from special assessment. A lot of record that has been disqualified pursuant to Subsection 401.05(D)(10)(f) shall not requalify for special assessment unless, when combined with another contiguous lot of record, it constitutes a qualifying parcel.
11. Accessory Farm Dwelling – Relative: An accessory farm dwelling for a relative, and their immediate family unless otherwise specified, of the farm operator may be allowed subject to the following criteria:

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- a. The accessory farm dwelling shall be located on the same lot of record as the primary farm dwelling of the farm operator;
- b. The accessory farm dwelling shall be located on a lawfully created lot of record;
- c. The accessory farm dwelling shall be occupied by child, parent, stepparent, grandchild, grandparent, stepgrandparent, sibling, stepsibling, niece, nephew or first cousin, of the farm operator or the farm operator's spouse, whose assistance in the management and farm use, such as planting, harvesting, marketing or caring for livestock, is or will be required by the farm operator.
- d. The size, type, and intensity of the farm operation shall be used to evaluate the need for the dwelling.
- e. The net income derived from the farm products shall be significant and products from the farm unit shall contribute substantially to the agricultural economy, to agricultural processors and farm markets.
- f. The accessory farm dwelling shall be occupied by a person or persons whose assistance in the management and farm use of the existing commercial farming operation is required by the farm operator. The farm operator shall continue to play the predominant role in the management of the farm use of the farm unit. 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;
- g. There are no other dwellings on the lot of record that are vacant or currently occupied by persons not working on the subject farm unit that could reasonably be used as an accessory farm dwelling.
- h. At any time the accessory farm dwelling is not used for farm help or the farm management plan is not implemented and maintained as approved in the land use application, the dwelling shall be removed, demolished or if not a manufactured dwelling, converted to a nonresidential accessory structure (change of occupancy permit) within 90 days.
- i. Any lot of record land division or property line adjustment which results in the location of any accessory farm dwelling on a lot of record separate from the farm use property for which it has been established is prohibited.

12. Accessory Farm Dwellings – Year-round and Seasonal Farm Workers:

An accessory farm dwelling for a nonrelative, and their immediate family unless otherwise specified, of the farm operator may be allowed subject to the following criteria:

- a. The accessory farm dwelling shall be occupied by a person or persons who will be principally engaged in the farm use of the land and on other commercial farms in the area, whose seasonal or year-round assistance in the management of the farm use, such as planting, harvesting, marketing or caring for livestock, is or will be required by the farm operator on the farm unit.
- b. The accessory farm dwelling shall be located on a lawfully created lot of record;
- c. The accessory farm dwelling shall be located:
 - i. On the same lot of record as the primary farm dwelling; or
 - ii. On the same tract as the primary farm dwelling when the lot of record on which the accessory farm dwelling will be sited is consolidated into a single parcel with all other contiguous lots of record in the tract; or
 - iii. On a lot of record on which the primary 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 of record is conveyed to another party. The manufactured dwelling may remain if it is re-approved pursuant to Section 401; or
 - iv. On any lot of record, when the accessory farm dwelling is limited to only attached multi-unit residential structures allowed by the applicable state building code or similar types of farmworker housing as that existing on the farm operation registered with the Department of Consumer and Business Services, Oregon Occupational Safety and Health Division under ORS 658.750. All accessory farm dwellings approved under Subsection 401.05(D)(12)(c)(iv) shall be removed, demolished, or converted to a nonresidential use when farm worker housing is no longer required.
 - v. On a lot of record on which the primary farm dwelling is not located, when the accessory farm dwelling is located on a lot of record at least the size of the applicable minimum lot size and the

lot of record complies with the gross farm income requirements of Subsection 401.05(D)(12)(g) or 401.05(D)(12)(h), whichever is applicable.

- d. There are no other dwellings on lands designated for exclusive farm use owned by the farm operator that is vacant or currently occupied by persons not working on the subject farm or ranch and that could reasonably be used as an accessory farm dwelling.
- e. All multi-unit accessory dwellings shall be consistent with the intent of the Legislative Assembly as provided in ORS 215.243.
- f. The primary farm dwelling to which the proposed dwelling would be accessory shall meet one of the following:
 - g. On Low Value Farmland, the primary farm dwelling is located on a farm operation that is currently employed for farm use, as defined in ORS 215.203, on which the farm operator earned the lower of at least \$32,500 in gross annual income from the sale of farm products or at least the midpoint of the median income range of gross annual sales of \$10,000 or more according to the 1992 Census of Agriculture, Oregon, in each of the last two years or three of the last five years or in an average of three of the last five years, or
 - h. On land identified as High Value Farmland, the primary farm dwelling is located on a farm operation that is currently employed for farm use, as defined in ORS 215.203, on which the farm operator earned at least \$80,000 in gross annual income from the sale of farm products in each of the last two years or three of the last five years or in an average of three of the last five years.
- i. In determining the gross annual income, the cost of purchased livestock shall be deducted from the total gross income attributed to the tract.
- j. Only gross annual income from land owned, not leased or rented, shall be counted.
- k. Any proposed land division or property line adjustment of a lot of record for an accessory farm dwelling approved pursuant to Subsection 401.05(D)(12) shall not be approved. If it is determined that an accessory farm dwelling satisfies the requirements for a dwelling in conjunction with a farm use under Subsection 401.05(D)(5) or (6), a parcel may be created consistent with the minimum parcel size requirements in Subsection 401.07(A).

- l. An accessory farm dwelling approved pursuant to Subsection 401.05(D)(12) shall not later be used to satisfy the requirements for a dwelling not provided in conjunction with farm use pursuant to Subsection 401.05(D)(10).
 - m. At any time the dwelling is not used for farm help or the farm management plan is not implemented and maintained as approved in the land use application, the dwelling shall be removed, demolished or if not a manufactured dwelling, converted to a nonresidential accessory structure (change of occupancy permit) within 90 days.
 - n. “Farmworker”, means an individual who, for an agreed remuneration or rate of pay, performs labor, temporarily or on a continuing basis, for a person in the production of farm products, planting, cultivating or harvesting of seasonal agricultural crops; or forestation or reforestation of land, including but not limited to planting, transplanting, tubing, precommercial thinning and thinning of trees or seedlings, the clearing, piling and disposal of brush and slash and other related activities.
 - o. “Farmworker Housing”, means housing limited to occupancy by farmworkers and their immediate families, and no dwelling unit of which is occupied by a relative of the owner or operator of the farmworker housing.
 - p. “Relative”, for the purposes of Subsection 401.05(D)(12), means an ancestor, lineal descendant, or whole or half sibling of the owner or operator or the spouse of the owner or operator.
 - q. “Farmworker Housing Owner”, means a person that owns farmworker housing. It does not mean a person whose interest in the farmworker housing is that of a holder of a security interest in the housing.
13. One manufactured dwelling, residential trailer, or recreational vehicle, in conjunction with an existing dwelling as a temporary use for the term of a hardship suffered by the existing resident or a relative of the resident. Within three months of the end of the hardship, the manufactured dwelling, residential trailer, or recreational vehicle shall be removed or demolished. A temporary residence approved under Subsection 401.05(D)(13) is not eligible for replacement under Subsection 401.05(D)(1). County Department of Water Environment Services on-site sewage disposal system review and removal requirements also apply.

~~D.E.~~ Commercial Uses

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1. The home occupation shall not unreasonably interfere with other uses permitted in the EFU zoning district and shall not be used as justification for a zone change.
2. A landscape contracting business, as defined in ORS 671.520, or a business providing landscape architecture services, as described in ORS 671.318, if the business is pursued in conjunction with the growing and marketing of nursery stock on the land that constitutes farm use.
3. A single agri-tourism or other commercial event or activity in a calendar year that is personal to the applicant and is not transferrable by sale of the tract, subject to ORS 215.239, 215.283(4)(a), and (6) and the following:
 - a. Agri-tourism events shall not include any mass gatherings or other outdoor gatherings; and
 - b. “Incidental and subordinate”, as related to agri-tourism, means that the event or activity is strictly secondary and ancillary to on-site farming in terms of income generated, area occupied, and off-site impacts; and
 - c. “Agri-tourism”, means a commercial event or activity that is logically, physically, and/or economically connected to and supports an existing on-site farm operation and promotes the practice of agriculture.
4. Agri-tourism for up to six events or other commercial events or activities in a calendar year that is personal to the applicant and is not transferrable by sale of the tract, subject to ORS 215.239, 215.283(4)(c), and (6) and the following:
 - a. Agri-tourism events shall not include any mass gatherings or other outdoor gatherings; and
 - b. “Incidental and subordinate”, as related to agri-tourism, means that the event or activity is strictly secondary and ancillary to on-site farming in terms of income generated, area occupied, and off-site impacts; and
 - c. “Agri-tourism”, means a commercial event or activity that is logically, physically, and/or economically connected to and supports an existing on-site farm operation and promotes the practice of agriculture.
5. A winery license, as provided under ORS 215.452 for the first six of an 18-day limit for agri-tourism or other commercial events, is not a land use decision or a permit but is subject to administrative review to determine the following conditions can be satisfied:
 - a. The term of the approval shall not exceed five years; and

- b. Subsections 806.03(I), (L), (N), (O), and (P).
6. A winery bed and breakfast facility as provided for in ORS 215.452 and 215.453 as a home occupation subject to ORS 215.448, on the same tract as a winery and in association with the winery, and the following:
- a. The maximum number of guest rooms allowed for the bed and breakfast facility shall be seven.
 - b. May prepare and serve two meals per day to registered guests of the bed and breakfast facility; and
 - c. Meals may be served at the bed and breakfast facility or at the winery; and
 - d. No guest shall stay more than 60 days in any one-year period. An accurate, up-to-date guest register shall be maintained and available for review by any authorized agent of the County or state.
 - e. To exceed the maximum number of guest rooms allowed for the bed and breakfast facility will require review under Section 1203.
7. A large winery with a restaurant in conjunction with a winery as described in ORS 215.453 that is open to the public for more than 25 days in a calendar year or the provision of private events in conjunction with a winery as described in ORS 215.453 that occur on more than 25 days in a calendar year, subject to the following:
- a. Other events and activities not included in a large winery by statute shall only include commercial activities that are in conjunction with farm use;
 - b. The commercial activities shall be essential to the practice of agriculture;
 - c. “Incidental”, as related to a winery, means that all goods and services shall be included in the 25 percent incidental gross sales income limit, whether provided directly by the winery or indirectly by a third party, such as but not limited to a caterer; and
 - d. Goods and services provided by a restaurant on a large winery open more than 25 days per calendar year are not included in the meaning of incidental.

8. Commercial activities in conjunction with farm use, including the processing of farm crops into biofuel that exceeds the standards of ORS 215.203(2)(b)(K) or Subsection 401.05(B)(1). The commercial activity shall be essential to the practice of agriculture.
9. Agri-tourism for up to 18 additional events or other commercial events or activities in a calendar year that occurs more frequently or for a longer period of time, on a minimum 80 acre tract, subject to ORS 215.239, 215.283(4)(d), (5), and (6) and the following:
 - a. Agri-tourism events shall not include any mass gatherings or other outdoor gatherings, and
 - b. “Incidental and subordinate”, as related to agri-tourism, means that the event or activity is strictly secondary and ancillary to on-site farming in terms of income generated, area occupied, and off-site impacts; and
 - c. “Agri-tourism”, means a commercial event or activity that is logically, physically and/or economically connected to and supports an existing on-site farm operation and promotes the practice of agriculture.
10. An aerial fireworks display business that has been in continuous operation at its current location within an exclusive farm use zone since December 31, 1986, and possesses a wholesaler’s permit to sell or provide fireworks.
 - a. As part of the conditional use approval process, for the purpose of verifying the existence, continuity, and nature of the business, representatives of the business may apply to the County and submit evidence including, but not limited to, sworn affidavits or other documentary evidence that the business qualifies. Alteration, restoration, or replacement of an aerial fireworks display business may be altered, restored, or replaced pursuant to Section 1206.
11. Dog training classes, which may be conducted outdoors or in preexisting farm buildings that existed on January 1, 2013, when:
 - a. The number of dogs participating in training does not exceed 10 dogs per training class; and
 - b. The number of training classes to be held on-site does not exceed six per day.
12. Dog testing trials, which may be conducted outdoors or in preexisting farm buildings that existed on January 1, 2013, when:

- a. The number of dogs participating in a testing trial does not exceed 60; and
- b. The number of testing trials to be conducted on-site is limited to four or fewer trials per calendar year.

EF. Mineral, Aggregate, Oil, and Gas Uses

1. Mineral, Aggregate, Oil and Gas Uses: Pursuant to ORS 215.298 a land use permit is required for mining more than 1000 cubic yards of material or excavation preparatory to mining of a surface area of more than one acre. A permit for mining of aggregate shall be issued only for a site included on an inventory acknowledged in the Comprehensive Plan for the following:
 - a. Operations conducted for mining, crushing, or stockpiling of aggregate and other mineral and other subsurface resources, subject to ORS 215.298.
 - b. Processing as defined by ORS 517.750 of aggregate into asphalt or Portland cement; and
 - i. New uses that batch and blend mineral and aggregate into asphalt cement may not be authorized within two miles of a planted vineyard. Planted vineyard means one or more vineyards totaling 40 acres or more that are planted as of the date the application for batching and blending is filed.
 - c. Processing of other mineral resources and other subsurface resources.
 - d. Operations conducted for 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 Section 401.

FG. Transportation Uses

1. Roads, highways and other transportation facilities, and improvements not otherwise allowed under Section 401 may be established, subject to the adoption of an exception to Goal 3, Agricultural Lands, and to any other applicable goal with which the facility or improvement does not comply. In addition, transportation uses and improvements may be authorized under conditions and standards as set forth in OAR 660-012-0035 and 660-012-0065.
2. A personal-use airport 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 allowed under this definition may be granted through waiver action by the Oregon Department of Aviation in specific instances. A personal-use airport lawfully existing as of September 13, 1975, shall continue to be allowed subject to any applicable rules of the Oregon Department of Aviation.

GH. Utility and Solid Waste Disposal Facility Uses

1. Wind energy power production systems as an accessory use, provided:
 - a. The system is not a commercial power generating facility;
 - b. No turbine has an individual rated capacity of more than 100kW, nor does the cumulative total rated capacity of the turbines comprising the installation exceed 100 kW;
 - c. The system complies with the Oregon Department of Environmental Quality noise standards otherwise applicable to commercial and industrial uses for quiet areas, measured at the nearest property line of the noise-sensitive use. This may be demonstrated through information provided by the manufacturer;
 - d. The system is prohibited if tower lighting for aviation safety is required;
 - e. The system will be located outside an urban growth boundary on a minimum of one acre;
 - f. The system does not exceed 150 feet in height from base to the height of the tower plus one blade;
 - g. The system is set back a distance not less than the tower height plus one blade from all property lines; and
 - h. Roof mounted system towers shall extend no more than an additional five feet above the highest ridge of a building's roof or 15 feet above the highest eave, whichever is higher, but shall not exceed 150 feet in height from finished grade.
2. A utility facility necessary for public service may be established as provided in ORS 215.275 and 215.276. A facility is necessary if it must be situated in an agricultural zone in order for the service to be provided. An associated transmission line for a utility facility is subject to OAR 660-033-0130(16)(b).

3. Composting operations and facilities allowed on high-value farmland, subject to the following:
 - a. Composting operations and facilities on high value farmland must:
 - i. Compost only on-farm produced compostable materials; or
 - ii. Compost only off-site materials and use all on-site generated compost for on-farm production in conjunction with, and auxiliary to, the farm use on the subject tract; or
 - iii. Compost any off-site materials with on-farm produced compostables and use all on site generated compost for on-farm production in conjunction with, and auxiliary to, the farm use on the subject tract; and
 - iv. Be an accepted farming practice in conjunction with and auxiliary to farm use on the subject tract; meaning that if off-site materials are added to on-farm produced compostables, the total amount of compost generated by the operation or facility does not exceed the amount of compost reasonably anticipated to be used on the subject tract; and
 - v. Limit buildings and facilities used in conjunction with the composting operation to those required for the operation of the subject facility; and
 - vi. Meet the performance and permitting requirements of the Department of Environmental Quality under OAR 340-093-0050 and 340-096-0060.
 - b. Excess compost from operations and facilities on high value farmland may only be sold or transported if:
 - i. The operation or facility does not use off-site materials; and
 - ii. It is sold or transported to neighboring farm operations within two and one-half miles of the subject tract; and
 - iii. It is sold or transported in bulk loads of not less than one unit (7.5 cubic yards) in size that are transported in one vehicle.
4. Composting operations and facilities allowed on low-value farmland that constitute accepted farming practices in conjunction with and auxiliary to farm use on the subject tract, subject to Subsection 401.05(H)(3).

5. Composting operations and facilities allowed on low value farmland that do not constitute accepted farming practices and are not in conjunction with and auxiliary to an on-site farm use on the subject tract shall be subject to Section 834.
6. Commercial utility facilities for the purpose of generating power for public use by sale, but not including wind power or photovoltaic solar power generation. A power generation facility shall not preclude more than 12 acres on High Value Farmland, or more than 20 acres on Low Value Farmland, from use as a commercial agricultural enterprise unless an exception is taken pursuant to Oregon Administrative Rule 660, Division 4; and
 - a. A power generation facility may include on-site and off-site facilities for temporary workforce housing for workers constructing a power generation facility. Such facilities must be removed or converted to an allowed use under OAR 660-033-0130(19) (a private campground) or other statute or rule when the project construction is complete. Temporary workforce housing facilities not included in the initial approval may be considered through a minor amendment request. A minor amendment request shall be subject to 401.05(A)(1) and shall have no effect on the original approval. Permanent features of a power generation facility shall not preclude more than 20 acres from use as a commercial agricultural enterprise unless an exception is taken pursuant to ORS 197.732 and OAR chapter 660, division 4.

III. Parks, Public, and Quasi-public Uses

1. Buildings and facilities associated with a site for the takeoff and landing of model aircraft 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 Subsection 401.05(I)(1). The site shall not include an aggregate surface or hard surface area unless the surface preexisted the use approved under Subsection 401.05(I)(1). An owner of property used for the purpose authorized in Subsection 401.05(I)(1) may charge a person operating the use on the property rent for the property. An operator may charge users of the property a fee that does not exceed the operator's cost to maintain the property, buildings and facilities. As used in Subsection 401.05(I)(1), "model aircraft" means a small-scale version of an airplane, glider, helicopter, dirigible or balloon that is used or intended to be used for flight and is controlled by radio, lines, or design by a person on the ground.
2. Public parks including only the uses specified under OAR 660-034-0035 or 660-034-0040, whichever is applicable. A public park may be established consistent with the provisions of ORS 195.120.

3. 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 community center authorized under Subsection 401.05(I)(3) may provide services to veterans, including but not limited to emergency and transitional shelter, preparation and service of meals, vocational and educational counseling and referral to local, state or federal agencies providing medical, mental health, disability income replacement and substance abuse services, only in a facility that is in existence on January 1, 2006. The services may not include direct delivery of medical, mental health, disability income replacement or substance abuse services.
4. "Living History Museum" means a facility designed to depict and interpret everyday life and culture of some specific historic period using authentic buildings, tools, equipment and people to simulate past activities and events. As used in Subsection 401.05(I)(4), a living history museum shall be related to resource based activities and shall be owned and operated by a governmental agency or a local historical society. A living history museum may include limited commercial activities and facilities that are directly related to the use and enjoyment of the museum and located within authentic buildings of the depicted historic period or the museum administration building, if areas other than an exclusive farm use zone cannot accommodate the museum and related activities or if the museum administration buildings and parking lot are located within one quarter mile of an urban growth boundary. "Local historical society" means the local historical society, recognized as such by the county governing body and organized under ORS chapter 65.
5. Firearms training facility that predated September 10, 1995 as provided in ORS 197.770. Firearms training facilities shall not be sited within three miles of an Urban Growth Boundary.
6. Private parks, playgrounds, hunting and fishing preserves, and campgrounds. 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. Except on a lot of record 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.
 - b. 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.

- c. Campsites may be occupied by a tent, travel trailer, yurt, or recreational vehicle.
 - d. Separate sewer, water, or electric service hook-ups shall not be provided to individual campsites except that electrical service may be provided to yurts allowed for by Subsection 401.05(I)(6)(g).
 - e. Campgrounds authorized by Subsection 401.05(I)(6) shall not include intensively developed recreational uses such as swimming pools, tennis courts, retail stores, or gas stations.
 - f. Overnight temporary use in the same campground by a camper or camper's vehicle shall not exceed a total of 30 days during any consecutive six-month period.
 - g. 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. As used in Subsection 401.05(I)(6), "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.
7. Golf courses, on land determined not to be high value farmland, as defined in ORS 195.300, subject to OAR 660-033-0130(20).

II. Outdoor Gatherings

1. An outdoor mass gathering as defined in ORS 433.735 or other gathering of 3,000 or fewer persons that is not anticipated to continue for more than 120 hours in any three-month period. Agri-tourism and other commercial events or activities may not be permitted as mass gatherings under ORS 215.283(4).
2. Any outdoor gathering of more than 3,000 persons that is anticipated to continue for more than 120 hours in any three-month planning period is subject to review by the Planning Commission under the provisions of ORS 433.763. Outdoor gatherings may not include agri-tourism events or activities.

JK. Nonconforming Uses

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1. Existing facilities wholly within a farm use zone may be maintained, enhanced, or expanded on the same tract, subject to other requirements of law. An existing golf course may be expanded consistent with the requirements of Subsection 401.05(A)(1) and OAR 660-033-0130(20), but shall not be expanded to contain more than 36 total holes.
2. In addition to and not in lieu of the authority in Section 1206 to continue, alter, restore, or replace a nonconforming use, a use formerly allowed pursuant to ORS 215.283(1)(a), as in effect before January 1, 2010, the effective date of 2009 Oregon Laws, chapter 850, section 14, may be expanded subject to:
 - a. The requirements of Subsection 401.05(K)(3); and
 - b. Conditional approval as provided in Subsection 401.05(A)(1).
3. A nonconforming use described in Subsection 401.05(K)(2) may be expanded if:
 - a. The use was established on or before January 1, 2009; and
 - b. The expansion occurs on:
 - i. The lot of record on which the use was established on or before January 1, 2009; or
 - ii. A lot of record that is contiguous to the lot of record described in Subsection 401.05(K)(3)(b)(i) and that was owned by the applicant on January 1, 2009.

401.06 PROHIBITED USES

Uses of structures and land not specifically permitted are prohibited.

401.07 DIMENSIONAL STANDARDS

- A. Minimum Lot Size: New lots of record shall be a minimum of 80 acres in size, except as provided in Subsection 401.09 or as modified by Section 902. For the purpose of complying with the minimum lot size standard, lots of record that front on existing county or public roads may include the land area between the front property line and the middle of the road right-of-way.
- B. Minimum Front Yard Setback: 30 feet.
- C. Minimum Side Yard Setback: 10 feet.

- D. Minimum Rear Yard Setback: 30 feet; however, accessory structures shall have a minimum rear yard setback of 10 feet.
- E. Exceptions: Dimensional standards are subject to modification pursuant to Section 900.
- F. Variances: The requirements of Subsections 401.07(B) through (D) may be modified pursuant to Section 1205.

401.08 DEVELOPMENT STANDARDS

- A. Manufactured Dwelling Parks: Redevelopment of a manufactured dwelling park with a different use shall require compliance with Subsection 825.03.

401.09 LAND DIVISIONS

Land divisions are permitted, if consistent with one of the following options and Oregon Revised Statutes (ORS) Chapter 92. ~~Except in the case of a conditional use division under Subsection 401.09(B),~~ Aa land division pursuant to Subsection 401.09(A) shall require ~~is subject to Planning Director review of a Type I application pursuant to Section 1307~~ Subsection 1305.02. A land division pursuant to Subsection 401.09(B), (C), (D), or (E), shall require review of a Type II application pursuant to Section 1307.

- A. 80-Acre Minimum Lot Size Land Divisions: A land division may be approved, if each new lot of record is a minimum of 80 acres in size, as established by Subsection 401.07(A).
- B. Nonfarm Use Land Divisions: A land division creating parcels less than 80 acres in size may be approved for a fire service facility and for nonfarm uses, except dwellings, set out in ORS 215.283(2), if the parcel for the fire service facility or nonfarm use is not larger than the minimum size necessary for the use.
- C. Nonfarm Dwelling Land Divisions: Lots of record less than 80 acres in size may be approved, subject to the following criteria:
 - 1. The originating lot of record is at least 80 acres, and is not stocked to the requirements under ORS 527.610 to 527.770;
 - 2. The lot of record is composed of at least 95% Class VI through Class VIII agricultural soils, and composed of at least 95% soils not capable of producing 50 cubic feet per acre per year of wood fiber;
 - 3. The new lot of record for a dwelling will not be smaller than 20 acres; and
 - 4. No new lot of record may be created until the criteria in Subsections 401.05(D)(10)(a), (b), (d), (e), and (f) for a dwelling are satisfied.

- D. Parks/Open Space/Land Conservation Land Divisions: A land division for a provider of public parks or open space, or a not-for-profit land conservation organization, may be approved subject to ORS 215.263(10) and Subsection 401.05(A)(1).
- E. Historic Property Land Divisions: A land division may be approved to create a parcel with an existing dwelling to be used for historic property that meets the requirements of ORS 215.283(1)(L).

401.10 SUBMITTAL REQUIREMENTS

~~In addition to the submittal requirements identified in Subsection 1307.07(C), an~~An application for any use requiring review ~~of a Type I, II, or III application by the Planning Director pursuant to Subsection 1305.02~~ shall include:

- ~~A. A complete Land Use Application form;~~
- ~~B. An~~An accurate site plan drawn to scale on ~~eight-and-one-half-inch by 11-inch or eight-and-one-half-inch by 14-inch 8.5"x 11" or 8.5"x 14"~~ paper, showing the subject property and proposal;
- ~~C. An application fee;~~
- ~~D. A Supplemental Application form or a detailed narrative addressing each of the applicable approval criteria for the proposed use; and~~
- ~~E. In addition, applications for farm~~Farm dwellings requiring a justification of income shall include tax forms, farm receipts, or other appropriate documentation demonstrating the income produced from the subject property.

401.11 APPROVAL PERIOD AND TIME EXTENSION

- A. Approval Period: Approval of ~~a Type I, II, or III application~~an administrative action under Section 401 is valid for four years from the date of the final written decision. If the County's final written decision is appealed, the approval period shall commence on the date of the final appellate decision. During this four-year period, the approval shall be implemented. "Implemented" means:
 1. For a land division, the final plat shall be recorded with the County Clerk. If a final plat is not required under Oregon Revised Statutes Chapter 92, deeds with the legal descriptions of the new parcels shall be recorded with the County Clerk; or
 2. For all other ~~applications~~administrative actions, a building or manufactured dwelling placement permit for a new primary structure that was the subject of the ~~application~~administrative action shall be obtained and maintained. If no building or manufactured dwelling placement

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permit is required, all other necessary County development permits shall be obtained and maintained.

- B. Time Extension: If the approval of a Type I, II, or III application~~an administrative action~~ is not implemented within the initial approval period established by Subsection 401.11(A), a two-year time extension may be approved ~~by the Planning Director~~ pursuant to Section 1310 Subsection 1305.02, and subject to Subsection 1305.05.
- C. Subsections 401.11(A) and (B) do not apply to home occupations or conditional uses, which shall be subject to any applicable approval period and time extension provisions of Sections 822 or 1203, respectively.

[Amended by Ord. ZDO-224, 5/31/11; Amended by Ord. ZDO-230, 9/26/11; Amended by Ord. ZDO-234, 6/7/12; Amended by Ord. ZDO-241, 1/1/13; Amended by Ord. ZDO-247, 3/1/14]

406 TIMBER DISTRICT (TBR)

406.01 PURPOSE

Section 406 is adopted to implement the goals and policies of the Comprehensive Plan for Forest areas.

406.02 AREA OF APPLICATION

Property may be zoned Timber District when the site has a Comprehensive Plan designation of Forest, consistency with Policy 11.0 of the Forest section of Chapter 4 of the Comprehensive Plan is demonstrated, and the criteria in Section 1202 are satisfied.

406.03 DEFINITIONS

Unless specifically defined in Subsection 406.03 or in Section 202, words or phrases used in Section 406 shall be interpreted to give them the same meaning as they have in common usage and to give Section 406 its most reasonable application.

- A. Auxiliary: 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 not designed to remain for the forest's entire growth cycle from planting to harvesting. An auxiliary use is removed when a particular forest practice has concluded.
- B. Cubic Foot Per Acre: As defined in Oregon Administrative Rules (OAR) 660-006-0005(3).
- C. Cubic Foot Per Tract Per Year: As defined in OAR 660-006-0005(4).
- D. Date of Creation and Existence: When a lot of record or tract is reconfigured pursuant to applicable law after November 4, 1993, the effect of which is to qualify a lot of record or tract for the siting of a dwelling, the date of the reconfiguration is the date of creation or existence. Reconfigured means any change in the boundary of the lot of record or tract.
- E. Dwelling: Unless otherwise provided in Section 406, a dwelling is a detached single-family dwelling or a manufactured dwelling.
- F. Firearms Training Facility: An indoor facility only, that provides training courses and issues certifications required for law enforcement personnel, by the Oregon Department of Fish and Wildlife, or by nationally recognized programs that promote shooting matches, target shooting, and safety.

- G. Forest Operation: Any commercial activity relating to the growing or harvesting of any forest tree species as defined in Oregon Revised Statutes (ORS) 527.620(6).
- H. Navigation: References an instrument within a waterway or flightway that assists in traveling to a destination for water vessels and aircraft.
- I. Owner: For purposes of a Lot of Record Dwelling, “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, niece, stepparent, stepchild, grandparent, or grandchild of the owner, or a business entity owned by any one or a combination of these family members.
- J. Ownership: Holding fee title to a lot of record, except in those instances when the land is being sold on contract, the contract purchaser shall be deemed to have ownership. Ownership shall include all contiguous lots of record meeting this definition.
- K. Private Park: Land that is used for low impact casual recreational uses such as picnicking, boating, fishing, swimming, camping, hiking, or nature-oriented recreational uses such as viewing and studying nature and wildlife habitat and may include play areas and accessory facilities that support the activities listed above but does not include tracks for motorized vehicles or areas for target practice or the discharge of firearms.
- L. Relative: For purposes of a Temporary Dwelling for Care, “relative” means a child, parent, stepparent, grandchild, grandparent, stepgrandparent, sibling, stepsibling, niece, nephew, or first cousin of the owner.
- M. Temporary Structures: Onsite structures which are auxiliary to and used during the term of a particular forest operation and used in the preliminary processing of a particular forest operation such as: pole and piling preparation, small portable sawmill, small pole building, etc. Temporary structures are allowed for a period not to exceed one year.
- N. Tract: One or more contiguous lots of record under the same ownership, including lots of record divided by a County or public road, or land contiguous at a common point. Lots of record divided by a state highway are not considered contiguous.

406.04 USES PERMITTED

~~Table 406-1 identifies the uses~~ Uses permitted in the Timber District are listed in Table 406-1.

- A. As used in Table 406-1:

1. “A” means the use is allowed.
 2. “~~Type IIPDR~~” means the use requires review of a Type II application is subject to Planning Director Review, pursuant to Section 1307 Subsection 1305.02.
 3. “C” means the use is a Conditional Use, approval of which is subject to Sections 1203, Conditional Use and 1300.
 4. The “Subject To” column identifies any specific provisions of Subsection 406.05 to which the use is subject.
- B. Permitted uses are subject to the applicable provisions of Subsection 406.07, *Dimensional Standards*; Subsection 406.08, *Development Standards*; Section 1000, *Development Standards*; and Section 1100, *Development Review Process*.

Table 406-1: Uses Permitted in the Timber District

	Type	Use	Subject To
FARM AND FOREST USES	A	Forest operations or forest practices including, but not limited to, reforestation of forest land, road construction and maintenance, harvesting of a forest tree species, application of chemicals and disposal of slash where such uses pertain to forest uses and operations. Inside the Portland Metropolitan Urban Growth Boundary, refer to Subsection 1002.03 regarding a development restriction that may apply if excessive tree removal occurs.	
	A	Temporary on-site structures which are auxiliary to and used during the term of a particular forest operation.	
	A	Physical alterations to the land auxiliary to forest practices including, but not limited to, those made for purposes of exploration, mining, commercial gravel extraction and processing, landfills, dams, reservoirs, road construction, or recreational facilities.	
	A	Farm use as defined in ORS 215.203.	
	A	Uses and structures customarily accessory and incidental to a farm or forest use, only if a primary farm or forest use exists.	
	PDRT TYPE II	Temporary portable facility for the primary processing of forest products.	406.05(B)(1)
	C	Permanent facility for the primary processing of forest products.	406.05(A)(1) & (6)
	C	Permanent facilities for logging equipment repair and storage.	406.05(A)(1) & (6)
	C	Log scaling and weigh stations.	406.05(A)(1) & (6)

	Type	Use	Subject To
NATURAL RESOURCE USES	A	Uninhabitable structures accessory to fish and wildlife enhancement.	
	C	Forest management research and experimentation facilities.	406.05(A)(1) & (C)(1)
	Type	Use	Subject To
RESIDENTIAL USES	A	Uses and structures customarily accessory and incidental to a dwelling, only if a lawfully established dwelling exists.	
	A	Alteration, restoration, or replacement of a lawfully established dwelling.	406.05(D)(1)
	PDRT YPE II	Forest Lot of Record Dwelling.	406.05(A)(3), (4), (5) & (D)(2)
	PDRT YPE II	Forest Template Test Dwelling.	406.05(A)(3), (4), (5) & (D)(3)
	PDRT YPE II	160 Acre Forest Dwelling.	406.05(A)(3), (4), (5) & (D)(4)
	PDRT YPE II	200 Acre Noncontiguous Tract Forest Dwelling	406.05(A)(3), (4), (5) & (D)(5)
	PDRT YPE II	Caretaker residences for public parks and public fish hatcheries.	406.05(A)(2) & (5)
	PDRT YPE II	Temporary forest labor camp, subject to Subsection 1204.01, for a period not to exceed one year.	
	PDRT YPE II	Temporary dwelling for care, subject to Subsection 1204.03.	406.05(A)(1), (2) & (D)(6)
	Type	Use	Subject To
COMMERCIAL USES	A	Family daycare provider.	
	PDRT YPE II	Home occupation, subject to Section 822.	406.05(A)(1), (2), (5) & (E)(1)
	C	Home occupation to host events, subject to Section 806.	406.05(A)(1), (2), (5) & (E)(1)
	C	Home occupation for canine skills training, subject to Section 836.	406.05(A)(1), (2) (5) & (E)(1)
	C	Private accommodations for fishing on a temporary basis.	406.05(A)(1), (2), (5) & (E)(2)
	C	Private seasonal accommodations for fee based hunting.	406.05(A)(1), (5) & (E)(3)
	Type	Use	Subject To
MINERAL, AGGREGATE, OIL, AND GAS USES	A	Exploration for mineral and aggregate resources as defined in ORS Chapter 517 and subject to the requirements of the Department of Geology and Mineral Industries.	
	C	Mining and processing of oil, gas, or other subsurface resources.	<u>406.05(A)(1), (6) & (F)(1)</u>
	C	Exploration for and production of geothermal, gas, and oil.	<u>406.05(A)(1), (6) & (F)(2)</u>

	Type	Use	Subject To
TRANSPORTATION USES	A	Widening of roads within existing rights-of-way in conformance with Chapter 5 of the Comprehensive Plan.	
	A	Climbing and passing lanes within the right of way existing as of July 1, 1987.	
	A	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 land parcels result.	
	A	Temporary public road and highway detours that will be abandoned and restored to original condition or use at such time as no longer needed.	
	A	Minor betterment of existing public road 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 utilized to support the operation and maintenance of public roads and highways.	
	PDRT TYPE II	Construction of additional passing and travel lanes requiring the acquisition of right-of-way but not resulting in the creation of new land parcels.	406.05(A)(1)
	PDRT TYPE II	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.	406.05(A)(1)
	PDRT TYPE II	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.	406.05(A)(1)
	PDRT TYPE II	Parking of up to seven dump trucks and seven trailers, subject to ORS 215.311.	406.05(A)(1)
	C	Aids to navigation and aviation.	406.05(A)(1) & (6)
	C	Expansion of existing airports.	406.05(A)(1)
	C	Temporary asphalt and concrete batch plants as accessory uses to specific highway projects.	406.05(A)(1)
	C	Roads, highways, and other transportation facilities and improvements not otherwise allowed under this Ordinance.	406.05(A)(1) & (G)(1)
	Type	Use	Subject To
ST PDRT TYPE II	A	Collocation of antennas with associated equipment on a previously approved wireless	

		telecommunication facility, subject to Subsection 835.04(A).	
	A	Placement of telecommunication antennas with associated equipment on an existing utility pole, subject to Subsection 835.04(B).	
	A	Essential public communication services, subject to Subsection 835.04(C).	
	Type	Use	Subject To
UTILITY AND SOLID WASTE DISPOSAL FACILITY USES (cont.)	A	Local distribution lines (i.e., electric, telephone, natural gas) and accessory equipment (i.e., electric distribution transformers, poles, meter cabinets, terminal boxes, pedestals), or equipment which provides service hookups, including water service hookups.	
	A	Water intake facilities, canals and distribution lines for farm irrigation and ponds.	
	A	Solar energy systems as an accessory use.	
	A	Rainwater collection systems as an accessory use.	
	A	Electric vehicle charging stations for residents and their nonpaying guests.	
	A	Meteorological towers.	
	PDRT YPE II	Wind energy power production systems as an accessory use.	406.05(H)(1)
	PDRT YPE II	Collocation of antennas with associated equipment on a previously approved wireless telecommunication facility that exceed Subsection 835.04(A), subject to Subsection 835.05(A).	
	PDRT YPE II	Placement of telecommunication antennas with associated equipment on replacement utility pole that exceeds the replaced pole by no more than 20 feet, subject to Subsection 835.05(A).	
	C	Wireless telecommunication facilities listed in Subsection 835.06, subject to Section 835.	
	C	Water intake facilities, related treatment facilities, pumping stations, and distribution lines.	406.05(A)(1) & (6)
	C	Reservoirs and water impoundments.	406.05(A)(1), (2) & (5)
	C	A disposal site for solid waste 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. A composting facility is subject to Section 834.	406.05(A)(1) & (6)
	C	A disposal site for solid waste that has been ordered established by the Oregon Environmental Quality Commission under ORS 459.049, together with the equipment, facilities, or buildings necessary for its operation.	406.05(A)(1) & (6)
	C	Commercial utility facilities for the purpose of generating power.	406.05(A)(1), (6) & (H)(2)
C	New electric transmission lines.	406.05(A)(1) & (H)(3)	
C	Television, microwave, and radio communication facilities.	406.05(A)(1), (6) & (H)(4)	

	Type	Use	Subject To
PARKS AND PUBLIC/QUASI-PUBLIC USES	A	Private hunting and fishing operations without any lodging accommodations.	
	A	Towers and fire stations for forest fire protection.	
	C	Fire stations for rural fire protection.	406.05(A)(1) & (6)
	C	Youth camps on 40 acres or more, subject to OAR 660-006-0031.	406.05(A)(1) & (2)
	C	Cemeteries.	406.05(A)(1) & (6)
	Type	Use	Subject To
PARKS AND PUBLIC/QUASI-PUBLIC USES (cont.)	C	Firearms training facility.	406.05(A)(1) & (6)
	C	Private parks and campgrounds.	406.05(A)(1), (2), (6) & (I)(1)
	C	Public parks including only those uses specified under OAR 660-034-0035 or 660-034-0040, whichever is applicable.	406.05(A)(1) & (6)
	Type	Use	Subject To
OUTDOOR GATHERINGS	A	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.	406.05(J)(1)
	C	An outdoor mass gathering of more than 3,000 persons that continues or can reasonably be expected to continue for more than 120 hours within any three-month period and any part of which is held in open spaces.	406.05(A)(1) & (J)(2)

406.05 APPROVAL CRITERIA FOR SPECIFIC USES

The following criteria apply to some of the uses listed in Table 406-1. The applicability of a specific criterion to a listed use is established by Table 406-1.

A. General Criteria

1. The use may be allowed provided that:
 - a. The proposed use will not force a significant change in, or significantly increase the cost of, accepted farming or forest practices on agriculture or forest lands; and
 - b. The proposed use will not significantly increase fire hazard or significantly increase fire suppression costs or significantly increase risks to fire suppression personnel.
2. A written statement recorded with the deed or written contract with the County or its equivalent is obtained from the land owner that recognizes the rights of the adjacent and nearby land owners to conduct forest operations consistent with the Oregon Forest Practices Act and Rules.
3. The landowner for the dwelling shall 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. An approval to construct a dwelling may be transferred to any other person after the effective date of the land use decision.
5. If road access to the use is by a road owned and maintained by a private party or by the Oregon Department of Forestry, the United States Bureau of Land Management (BLM), or the United States Forest Service (USFS), 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.
6. A land division for the use may be approved pursuant to Subsection 406.09(D).

B. Farm and Forest Uses

1. Temporary portable facility for the primary processing of forest products grown on-site, subject to Subsection 1204.01, for a period not to exceed one year.

C. Natural Resource Uses

1. Forest management research and experimentation facilities as described by ORS 526.215 or where accessory to forest operations.

D. Residential Uses

1. Alteration, restoration, or replacement of a lawfully established dwelling that:
 - a. Has intact exterior walls and roof structure;
 - b. Has indoor plumbing consisting of a kitchen sink, toilet, and bathing facilities connected to a sanitary waste disposal system;
 - c. Has interior wiring for interior lights;
 - d. Has a heating system; and
 - e. In the case of replacement, is removed, demolished, or—if not a manufactured dwelling or residential trailer—converted to an allowable use within 90 days from the occupancy of the new dwelling. Manufactured dwellings and residential trailers to be replaced shall be

removed from the property within 30 days from the occupancy of the new dwelling.

2. Lot of Record Dwelling, subject to the following criteria:
 - a. The lot of record on which the dwelling will be sited was lawfully created prior to January 1, 1985.
 - b. The lot of record on which the dwelling will be sited was acquired by the present owner:
 - i. Prior to January 1, 1985; or
 - ii. By devise or intestate succession from a person who acquired the lot or parcel prior to January 1, 1985.
 - c. The tract on which the dwelling will be sited does not include a dwelling.
 - d. The lot of record on which the dwelling will be sited was not part of a tract that contained a dwelling on November 4, 1993.
 - e. The property is not capable of producing 5,000 cubic feet per year of commercial tree species.
 - f. The property is located within 1,500 feet of a public road, as defined under ORS 368.001 that provides or will provide access to the subject tract. The road shall be maintained and either paved or surfaced with rock and shall not be a BLM road, or a USFS 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 USFS and the landowners adjacent to the road, a local government, or a state agency.
 - g. The proposed dwelling is not prohibited by this Ordinance or the Comprehensive Plan, or any other provisions of law.
 - h. When the lot or parcel on which the dwelling will be sited is part of a tract, the remaining portions of adjacent common ownership land shall remain in common ownership as long as the dwelling remains as approved.
 - i. The County Assessor's Office shall be notified of all approvals granted under Subsection 406.05(D)(2).
3. Forest Template Dwelling, subject to the following criteria:

- a. The tract on which the dwelling will be sited does not include a dwelling.
- b. No dwellings are allowed on other lots of record that make up the tract.
- c. A deed restriction shall be recorded with the County Clerk stating no other lots of record that make up the tract may have a dwelling.
- d. The lot of record upon which the dwelling is to be located was lawfully created.
- e. The County Assessor's Office shall be notified of all approvals granted under Subsection 406.05(D)(3).
- f. The lot of record upon which the dwelling will be sited shall pass a template test, conducted as follows:
 - i. A 160 acre square template shall be centered upon the subject tract. The template may be rotated around the center point to the most advantageous position. After a position has been selected, the template shall remain fixed while lots of record and dwellings are counted. If the subject tract is larger than 60 acres and abuts a road or perennial stream, the 160 acre template shall be one-quarter mile wide by one mile long, be centered upon the subject tract, and, to the maximum extent possible, have its length aligned with the road or perennial stream.
 - ii. If the predominant soil type on the subject tract has a forest production capability rating, as determined by the Natural Resources Conservation Service (NRCS) Internet Soils Survey of:
 - A) Less than 50 cubic feet per acre per year of wood fiber production, at least part of a minimum of three lots of record shall fall within the template, and a minimum of three lawfully established dwellings shall exist on the lots within the template area; or
 - B) 50 – 85 cubic feet per acre per year of wood fiber production, at least part of a minimum of seven lots of record shall fall within the template, and a minimum of four lawfully established dwellings shall exist on the lots within the template area; or
 - C) Greater than 85 cubic feet per acre per year of wood fiber production, at least part of a minimum of 11 lots of record shall fall within the template, and a minimum of five lawfully

established dwellings shall exist on the lots within the template area.

iii. The following types of lots of record and dwellings shall not be counted toward satisfying the minimum number of lots of record or dwellings required pursuant to Subsection 406.05(D)(3)(d)(ii) to pass a template test:

- A) Lots of record larger than 80 acres;
- B) Lots of record created on or after January 1, 1993;
- C) Dwellings on lots of record larger than 80 acres;
- D) Dwellings constructed on or after January 1, 1993;
- E) Lots of record or dwellings located within an urban growth boundary;
- F) Temporary dwellings; and
- G) The subject property.

iv. If the subject tract is larger than 60 acres and abutting a road or perennial stream, a minimum of one of the dwellings required by Subsection 406.05(D)(3)(d)(ii) shall be located on the same side of the road or stream as the subject tract and shall either be located within the template or within one-quarter mile of the edge of the subject tract and not outside the length of the template. If a road crosses the tract on which the dwelling will be sited, a minimum of one of the dwellings required by Subsection 406.05(D)(3)(d)(ii) shall be located on the same side of the road as the proposed dwelling.

4. 160 Acre Minimum Forest Dwelling, subject to the following criteria:

- a. The tract on which the dwelling is to be sited is at least 160 acres.
- b. The tract on which the dwelling will be sited does not include a dwelling.
- c. The lot of record upon which the dwelling is to be located was lawfully created.
- d. The County Assessor's Office shall be notified of all approvals granted under Subsection 406.05(D)(4).

5. 200 Acre Noncontiguous Dwelling, subject to the following criteria:
 - a. The tract on which the dwelling will be sited does not include a dwelling;
 - b. An owner of tracts that are not contiguous but are in Clackamas County adds together the acreage of two or more tracts that total 200 acres or more;
 - c. The owner submits proof of an irrevocable deed restriction, recorded in the deed records of the county, for the tracts in the 200 acres. The deed restriction shall preclude all future rights to construct a dwelling on the tracts not supporting the proposed dwelling, or to use the tracts to total acreage for future siting of dwellings for present and any future owners unless the tract is no longer subject to protection under goals for agricultural and forest lands;
 - d. None of the lots of record or tracts used to total 200 acres may already contain a dwelling.
 - e. All lots of record or tracts used to total a minimum of 200 acres must have a Comprehensive Plan designation of Forest;
 - f. The lot of record upon which the dwelling is to be located was lawfully created;
 - g. The County Assessor's Office shall be notified of all approvals granted under Subsection 406.05(D)(5).
6. A manufactured dwelling, residential trailer, or recreational vehicle may be used for care in conjunction with an existing dwelling for the term of a health hardship suffered by the existing resident or a relative.

E. Commercial Uses

1. The home occupation shall not unreasonably interfere with other uses permitted in the zoning district in which the subject property is located and shall not be used as justification for a zone change.
2. Private accommodations for fishing occupied on a temporary basis may be allowed subject to the following:
 - a. Accommodations limited to no more than 15 guest rooms as that term is defined in the Oregon Structural Specialty Code; and
 - b. Only minor incidental and accessory retail sales are permitted; and

- c. Accommodations occupied temporarily for the purpose of fishing during fishing seasons authorized by the Oregon Fish and Wildlife Commission; and
 - d. Accommodations must be located within one-quarter mile of fish bearing Class I waters.
3. Private seasonal accommodations for fee hunting operations may be allowed subject to the following:
- a. Accommodations are limited to no more than 15 guest rooms as that term is defined in the Oregon Structural Specialty Code; and
 - b. Only minor incidental and accessory retail sales are permitted; and
 - c. Accommodations are occupied temporarily for the purpose of hunting during game bird and big game hunting seasons authorized by the Oregon Fish and Wildlife Commission.

F. Mineral, Aggregate, Oil, and Gas Uses

1. Mining and processing of oil, gas, or other subsurface resources, as defined in ORS Chapter 520 and mining and processing of aggregate and mineral resources as defined in ORS Chapter 517;
2. 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 a well head;

G. Transportation Uses

1. Roads, highways, and other transportation facilities and improvements not otherwise allowed under this Ordinance, with:
 - a. The adoption of an exception to the goal related to forest lands and to any other applicable goal with which the facility or improvement does not comply; or
 - b. Compliance with ORS 215.296 for those uses identified by rule of the Oregon Land Conservation and Development Commission as provided in Section 3, Chapter 529, Oregon Laws 1993.

H. Utility and Solid Waste Disposal Facility Uses

1. Wind energy power production systems as an accessory use, provided:

- a. The system is not a commercial power generating facility;
 - b. No turbine has an individual rated capacity of more than 100kW, nor does the cumulative total rated capacity of the turbines comprising the installation exceed 100 kW;
 - c. The system complies with the Oregon Department of Environmental Quality noise standards otherwise applicable to commercial and industrial uses for quiet areas, measured at the nearest property line of the noise-sensitive use. This may be demonstrated through information provided by the manufacturer;
 - d. The system is prohibited if tower lighting for aviation safety is required;
 - e. The system will be located outside an urban growth boundary on a minimum of one acre;
 - f. The system does not exceed 150 feet in height from base to the height of the tower plus one blade;
 - g. The system is set back a distance not less than the tower height plus one blade from all property lines; and
 - h. Roof mounted system towers shall extend no more than an additional five feet above the highest ridge of a building's roof or 15 feet above the highest eave, whichever is higher, but shall not exceed 150 feet in height from finished grade.
2. Commercial 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. Hydroelectric facilities shall also be subject to Section 829.
 3. New electric transmission lines with right-of way widths of up to 100 feet as specified in ORS 772.210. New distribution lines (i.e., gas, oil, geothermal, telephone, fiber optic cable) with rights-of-way 50 feet or less in width.
 4. Television, microwave, and radio communication facilities and transmission towers, provided the base of such structure shall not be closer to the property line than a distance equal to the height of the tower.

I. Parks, Public, and Quasi-Public Uses

1. Private parks and campgrounds: Campgrounds in private parks shall only be those allowed by Subsection 406.05(I)(1). 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, subject to the following:
 - a. Except on a lot of record 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.
 - b. 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.
 - c. Campsites may be occupied by a tent, travel trailer, yurt, or recreational vehicle.
 - d. Separate sewer, water, or electric service hook-ups shall not be provided to individual campsites except that electrical service may be provided to yurts allowed for by Subsection 406.05(I)(1)(g).
 - e. Campgrounds authorized by Subsection 406.05(I)(1) shall not include intensively developed recreational uses such as swimming pools, tennis courts, retail stores, or gas stations.
 - f. Overnight temporary use in the same campground by a camper or camper's vehicle shall not exceed a total of 30 days during any consecutive six-month period.
 - g. 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. As used in Subsection 406.05(I)(1), "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.

J. Outdoor Gatherings

1. 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, subject to ORS 433.735 through 433.760.

2. An outdoor mass gathering of more than 3,000 persons that continues or can reasonably be expected to continue for more than 120 hours within any three-month period and any part of which is held in open spaces, shall be subject to review by the Planning Commission under the provisions of ORS 433.763.

406.06 PROHIBITED USES

Uses of structures and land not specifically permitted are prohibited.

406.07 DIMENSIONAL STANDARDS

- A. Minimum Lot Size: New lots of record shall be a minimum of 80 acres in size, except as provided in Subsection 406.09 or as modified by Section 902. For the purpose of complying with the minimum lot size standard, lots of record that front on existing county or public roads may include the land area between the front property line and the middle of the road right-of-way.
- B. Minimum Front Yard Setback: 30 feet.
- C. Minimum Side Yard Setback: 10 feet.
- D. Minimum Rear Yard Setback: 30 feet; however, accessory structures shall have a minimum rear yard setback of 10 feet.
- E. Exceptions: Dimensional standards are subject to modification pursuant to Section 900.
- F. Variances: The requirements of Subsections 406.07(B) through (D) may be modified pursuant to Section 1205.

406.08 DEVELOPMENT STANDARDS

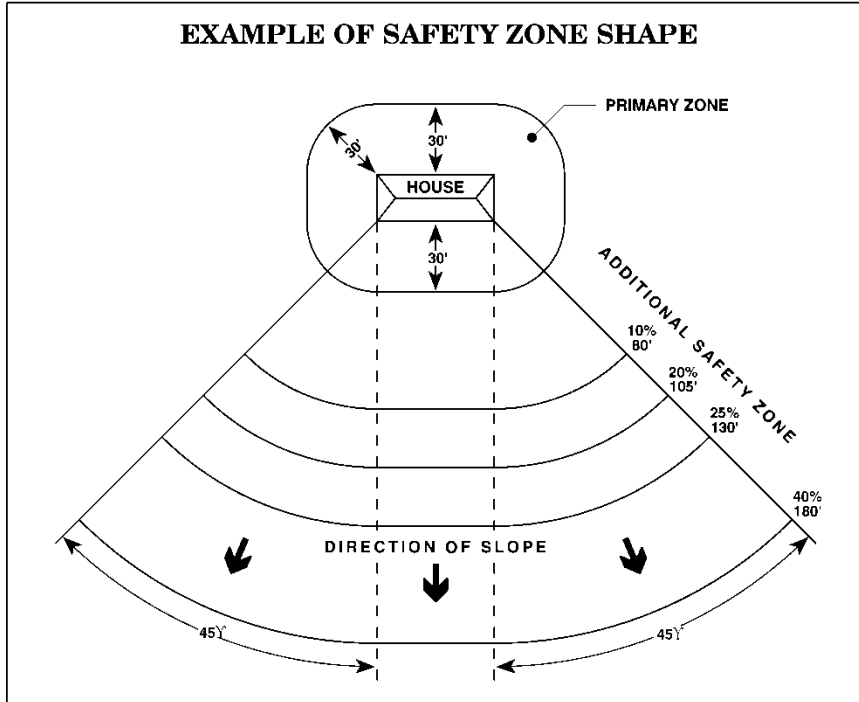
- A. Fire-Siting Standards for New Structures: Fuel-free break areas shall be provided surrounding any new structure approved pursuant to a land use application based on standards in effect on or after February 5, 1990, as follows:
 1. A primary fuel-free break area shall be maintained surrounding any new structure, including any new dwelling.
 - a. The primary safety zone is a fire fuel break extending a minimum distance around structures. The minimum distance is established by Table 406-2 and Figure 406-1. The goal within the primary safety zone is to remove fuels that will produce flame lengths in excess of one foot. Vegetation within the primary safety zone may include green lawns and shrubs less than 24 inches in height. Trees shall be

spaced with greater than 15 feet between the crowns and pruned to remove dead and low (less than eight feet) branches. Accumulated leaves, needles, limbs and other dead vegetation shall be removed from beneath trees. Nonflammable materials (i.e., rock) instead of flammable materials (i.e., bark mulch) shall be placed next to the structure. As slope increases, the primary safety zone shall increase away from the structure and down the slope at a 45-degree angle from the structure, in accordance with Table 406-2 and Figure 406-1:

Table 406-2: Minimum Primary Safety Zone

Slope	Feet of Primary Safety Zone	Feet of Additional Primary Safety Zone Down Slope
0%	30	0
10%	30	50
20%	30	75
25%	30	100
40%	30	150

Figure 406-1: Example of Primary Safety Zone



2. For any new dwelling, a secondary fuel-free break area shall be cleared and maintained on land surrounding the dwelling that is owned or controlled by the owner.
 - a. The secondary fuel-free break extends around the primary safety zone required pursuant to Subsection 406.08(A)(1). The goal of the secondary fuel-free break shall be to reduce fuels so that the overall intensity of any wildfire would be lessened and the likelihood of crown fires and crowning is reduced. Vegetation within the secondary fuel-free break shall be pruned and spaced so that fire will not spread between crowns of trees. Small trees and brush growing underneath larger trees shall be removed to prevent spread of fire up into the crowns of the larger trees. Dead fuels shall be removed. The minimum width of the secondary fuel-free break shall be 100 feet.
3. Where the fuel-free breaks can reasonably be satisfied, they must be.
4. Section 1205 shall not be used to modify fuel-free breaks.
5. If a structure cannot reasonably satisfy fuel-free breaks on the subject property due to the size, shape, topography, or other physical characteristics of the property, the standards may be modified by one or more of the following alternatives:
 - a. Irrevocable easements for fuel-free break safety zones may be obtained from adjacent property owners so that the fuel-free break

safety zone can be maintained. The easement(s) shall be recorded with the County Clerk.

- b. The area of an existing road right-of-way or access easement in use and adjacent to the subject property may be utilized to satisfy the fuel-free break safety zone requirement.
 - c. Structures within a River and Stream Conservation Area or the Willamette River Greenway shall be sited consistent with the requirements of Sections 704 and 705, respectively. Structures shall be sited so that a primary safety zone can be completed around the structure outside of the river or stream corridor setback/buffer area. The area within the river or stream setback/buffer area shall be exempt from the secondary fuel-free break area requirements.
6. The fuel-free break standards shall be completed and approved by the Planning Director prior to issuance of any septic, building, or manufactured dwelling permits. Maintenance of the fuel-free breaks shall be the continuing responsibility of the property owner.
- B. Additional Fire-Siting Standards for New Dwellings: The following fire-siting standards shall apply to any new dwelling approved pursuant to a land use application based on standards in effect on or after February 5, 1990.
1. The dwelling shall be located upon a parcel within a fire protection district or shall be provided with residential fire protection by contract. If the dwelling is not within a fire protection district, the applicant shall provide evidence that the applicant has asked to be included within the nearest such district. If inclusion within a fire protection district or contracting for residential fire protection is impracticable, an alternative means for protecting the dwelling from fire hazards shall be provided. 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 Oregon 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.
 2. The dwelling shall have a fire retardant roof.

3. The dwelling shall not be sited on a slope of greater than 40 percent.
 4. If the dwelling has a chimney or chimneys, each chimney shall have a spark arrester.
- C. Compatibility Siting Standards: The following compatibility siting standards shall apply to any new structure, including any new dwelling, approved pursuant to a land use application based on standards in effect on or after February 5, 1990.
1. Structures shall be sited on the subject property so that:
 - a. They have the least impact on nearby or adjoining forest or agricultural lands;
 - b. The siting ensures that adverse impacts on forest operations and accepted farming practices on the tract will be minimized;
 - c. The amount of forest lands used to site access roads, service corridors, and structures is minimized; and
 - d. The risks associated with wildfire are minimized.
 2. Siting criteria satisfying Subsection 406.08(C)(1) may include setbacks from adjoining properties, clustering near or among existing structures, siting close to existing roads, and siting on that portion of the subject property least suited for growing trees.
 3. The applicant shall provide evidence that the domestic water supply is from a source authorized in accordance with the Oregon Water Resources Department's (OWRD) administrative rules for the appropriation of ground water or surface water and not from a Class II stream as defined in the Oregon Forest Practices Rules (OAR Chapter 629). Evidence of a domestic water supply means:
 - a. Verification from a water purveyor that the use described in the application will be served by the purveyor under the purveyor's rights to appropriate water;
 - b. A water use permit issued by the OWRD for the use described in the application; or
 - c. Verification from the OWRD that a water use permit is not required for the use described in the application. If the proposed water supply is from a well and is exempt from permitting requirements under ORS 537.545, the applicant shall submit the well constructor's report to the County upon completion of the well.

- D. Manufactured Dwelling Parks: Redevelopment of a manufactured dwelling park with a different use shall require compliance with Subsection 825.03.

406.09 LAND DIVISIONS

Land divisions are permitted, if consistent with one of the following options and Oregon Revised Statutes Chapter 92. A land division pursuant to Subsection 406.09(A) shall require review of a Type I application pursuant to Section 1307~~is subject to Planning Director review pursuant to Subsection 1305.02~~. A land division pursuant to Subsection 406.09(B), (C), (D), (E), or (F) shall require review of a Type II application pursuant to Section 1307.

- A. 80-Acre Minimum Lot Size Land Divisions: A land division may be approved if each new lot of record is a minimum of 80 acres in size, as established by Subsection 406.07(A).
- B. Multiple Dwelling Land Divisions: A lot of record may be divided subject to Subsection 406.05(A)(2) and the following provisions:
1. At least two lawfully established dwellings existed on the lot of record prior to November 4, 1993;
 2. Each dwelling complies with the criteria for a replacement dwelling under Subsection 406.05(D)(1);
 3. Except for one lot or parcel, each lot or parcel created under this provision is not less than two nor greater than five acres in size;
 4. At least one of the existing dwellings is located on each lot or parcel created under this provision;
 5. The landowner of a lot or parcel created under this provision provides evidence that a restriction has been recorded in the Deed Records for Clackamas County that states the landowner and the landowner's successors in interest are prohibited from further dividing the lot or parcel. This restriction shall be irrevocable unless released by the Planning Director indicating the land is no longer subject to the statewide planning goals for lands zoned for Forest use;
 6. A lot of record may not be divided under this provision if an existing dwelling on the lot of record was approved through:
 - a. A statute, an administrative rule, or a land use regulation that prohibited or required removal of the dwelling or prohibited a subsequent land division of the lot of record; or

- D. Conditional Use Divisions: A land division creating parcels less than 80 acres in size may be approved for a conditional use to which Subsection 406.05(A)(6) is applicable, subject to the following criteria:
1. The parcel created for the conditional use shall be the minimum size necessary for the use;
 2. Either the conditional use was approved pursuant to Subsections 406.05(A)(1) and (2), or—for those uses not subject to Subsections 406.05(A)(1) and (2)—compliance with Subsections 406.05(A)(1) and (2) shall be demonstrated; and
 3. The landowner shall sign a statement that shall be recorded with the County Clerk, declaring that the landowner will not in the future complain about accepted farming or forest practices on nearby lands devoted to farm or forest use.
- E. Parks/Open Space/Land Conservation Divisions: A land division for a provider of public parks or open space, or a not-for-profit land conservation organization, may be approved subject to ORS 215.783. In addition, the landowner shall sign a statement that shall be recorded with the County Clerk, declaring that the landowner will not in the future complain about accepted farming or forest practices on nearby lands devoted to farm or forest use.
- F. Forest Practice Divisions: A land division creating parcels less than 80 acres in size may be approved, subject to the following criteria:
1. The division will facilitate a forest practice as defined in ORS 527.620;
 2. There are unique property specific characteristics present in the proposed parcel that require an amount of land smaller than 80 acres in order to conduct the forest practice;
 3. Parcels created pursuant to Subsection 406.09(F):
 - a. Are not eligible for siting of a new dwelling;
 - b. May not serve as the justification for the siting of a future dwelling on other lots of record;
 - c. May not, as a result of the land division, be used to justify redesignation or rezoning of resource lands; and
 - d. May not result in a parcel of less than 35 acres, unless the purpose of the land division is to:

- i. Facilitate an exchange of lands involving a governmental agency;
or
- ii. 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
- e. The landowner shall sign a statement that shall be recorded with the County Clerk, declaring that the landowner and the landowner’s successors in interest will not in the future complain about accepted farming or forest practices on nearby lands devoted to farm or forest use.

406.10 SUBMITTAL REQUIREMENTS

~~In addition to the submittal requirements identified in Subsection 1307.07(C), an~~ application for any use requiring review ~~of a Type I or II application by the Planning Director pursuant to Subsection 1305.02~~ shall include:

- ~~A. A complete Land Use Application form;~~
- ~~B. An~~ accurate site plan drawn to scale on ~~eight-and-one-half-inch by 11-inch or eight-and-one-half-inch by 14-inch~~ 8.5" x 11" or 8.5" x 14" paper, showing the subject property and proposal;
- ~~C. An application fee; and~~
- ~~D. A Supplemental Application form or a detailed narrative addressing each of the applicable approval criteria for the proposed use.~~

406.11 APPROVAL PERIOD AND TIME EXTENSION

- A. Approval Period: Approval of ~~a Type I or II application~~ an administrative action under Section 406 is valid for four years from the date of the final written decision. If the County’s final written decision is appealed, the approval period shall commence on the date of the final appellate decision. During this four-year period, the approval shall be implemented. “Implemented” means:
 - 1. For a land division, the final plat shall be recorded with the County Clerk. If a final plat is not required under Oregon Revised Statutes Chapter 92, deeds with the legal descriptions of the new parcels shall be recorded with the County Clerk; or
 - 2. For all other ~~applications~~ administrative actions, a building or manufactured dwelling placement permit for a new primary structure that was the subject of the ~~application~~ administrative action shall be obtained

and maintained. If no building or manufactured dwelling placement permit is required, all other necessary County development permits shall be obtained and maintained.

- B. Time Extension: If the approval of a Type I or II application~~an administrative action~~ is not implemented within the initial approval period established by Subsection 406.11(A), a two-year time extension may be approved ~~by the Planning Director~~ pursuant to Section 1310~~Subsection 1305.02, and subject to Subsection 1305.05.~~
- C. Subsections 406.11(A) and (B) do not apply to home occupations or conditional uses, which shall be subject to any applicable approval period and time extension provisions of Sections 822 or 1203, respectively.

[Amended by Ord. ZDO-224, 5/31/11; Amended by Ord. ZDO-230, 9/26/11; Amended by Ord. ZDO-234, 6/7/12; Amended by Ord. ZDO-245, 7/1/13; Amended by Ord. ZDO-247, 3/1/14]

407 AG/FOREST DISTRICT (AG/F)

407.01 PURPOSE

Section 407 is adopted to implement the goals and policies of the Comprehensive Plan for Forest areas.

407.02 AREA OF APPLICATION

Property may be zoned Ag/Forest District when the site has a Comprehensive Plan designation of Forest, consistency with Policy 11.0 of the Forest section of Chapter 4 of the Comprehensive Plan is demonstrated, and the criteria in Section 1202 are satisfied.

407.03 DEFINITIONS

The definitions set forth in Subsections 401.03 and 406.03 apply to Section 407. Unless specifically defined in Subsection 401.03, Subsection 406.03, or Section 202, words or phrases used in Section 407 shall be interpreted to give them the same meaning as they have in common usage and to give Section 407 its most reasonable application.

407.04 USES PERMITTED

~~Table 407-1 identifies the uses~~ Uses permitted in the Ag/Forest District are listed in Table 407-1.

A. As used in Table 407-1:

1. "A" means the use is allowed.
2. "~~Type IIPDR~~" means the use requires review of a Type II application~~is subject to Planning Director Review~~ pursuant to Section 1307~~Subsection 1305.02~~.
3. "C" means the use is a Conditional Use, approval of which is subject to Sections 1203, Conditional Use~~and 1300~~.
4. The "Subject To" column identifies any specific provisions of Subsection 401.05 or 406.05 to which the use is subject.

B. Permitted uses are subject to the applicable provisions of Subsection 406.07, *Dimensional Standards*; Subsection 406.08, *Development Standards*; Section 1000, *Development Standards*; and Section 1100, *Development Review Process*.

Table 407-1: Permitted Uses in the Ag/Forest District

	Type	Use	Subject To
FARM AND FOREST USES	A	Forest operations or forest practices including, but not limited to, reforestation of forest land, road construction and maintenance, harvesting of a forest tree species, application of chemicals and disposal of slash where such uses pertain to forest uses and operations. Inside the Portland Metropolitan Urban Growth Boundary, refer to Subsection 1002.03 regarding a development restriction that may apply if excessive tree removal occurs.	
	A	Temporary on-site structures which are auxiliary to and used during the term of a particular forest operation.	
	A	Physical alterations to the land auxiliary to forest practices including, but not limited to, those made for the purposes of exploration, mining, commercial gravel extraction and processing, landfills, dams, reservoirs, road construction, or recreational facilities.	
	A	Farm use as defined in ORS 215.203.	
	A	Uses and structures customarily accessory and incidental to a farm or forest use, only if the primary farm or forest use exists.	
	PDRTY PE II	Temporary portable facility for the primary processing of forest products.	406.05(B)(1)
	PDRTY PE II	A facility for the processing of farm crops or the production of biofuel as defined in ORS 315.141.	401.05(B)(1)
	C	Permanent facility for the primary processing of forest products.	406.05(A)(1) & (6)
	C	Permanent facilities for logging equipment repair and storage.	406.05(A)(1) & (6)
	C	Log scaling and weigh stations.	406.05(A)(1) & (6)
	Type	Use	Subject To
NATURAL RESOURCE USES	A	Uninhabitable structures accessory to fish and wildlife enhancement.	
	A	Creation of, restoration of, or enhancement of wetlands.	
	PDRTY PE II	The propagation, cultivation, maintenance, and harvesting of aquatic species that are not under the jurisdiction of the Oregon Fish and Wildlife Commission.	401.05(A)(1) & (C)(4)
	C	Forest management research and experimentation facilities.	406.05(A)(1) & (C)(1)
	Type	Use	Subject To
RESIDENTIAL USES	A	Uses and structures customarily accessory and incidental to a dwelling, only if a lawfully established dwelling exists.	
	A	Alteration, restoration, or replacement of a lawfully established dwelling, subject to OAR 660-033-0130(8).	406.05(D)(1)

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	Type	Use	Subject To
RESIDENTIAL USES (cont.)	<u>PDRTY</u> <u>PE II</u>	Replacement dwelling to be used in conjunction with farm use if the existing dwelling has been listed in a County inventory as historic property and listed on the National Register of Historic Places.	401.05(A)(3)
	<u>PDRTY</u> <u>PE II</u>	Forest Lot of Record Dwelling on land that was predominantly forest on January 1, 1993.	406.05(A)(3), (4), (5) & (D)(2)
	<u>PDRTY</u> <u>PE II</u>	Agricultural Lot of Record Dwelling on land that was predominantly agriculture on January 1, 1993.	401.05(A)(2), (3), (4) & (C)(2) , <u>or</u> (3) , or (4)
	<u>TYPE III</u>	<u>Agricultural Lot of Record Dwelling on land that was predominantly agriculture on January 1, 1993.</u>	<u>401.05(A)(2), (3), (4) & (C)(4)</u>
	<u>PDRTY</u> <u>PE II</u>	Agricultural Dwelling in conjunction with a farm use on High Value Farmland on land that was predominantly agriculture on January 1, 1993.	401.05(A)(3) & (C)(5)
	<u>PDRTY</u> <u>PE II</u>	Agricultural Dwelling in conjunction with a farm use on Low Value Farmland on land that was predominantly agriculture on January 1, 1993.	401.05(A)(3) & (C)(6)
	<u>PDRTY</u> <u>PE II</u>	Agricultural Dwelling customarily provided in conjunction with a commercial dairy farm on land that was predominantly agriculture on January 1, 1993.	401.05(A)(3) & (C)(7)
	<u>PDRTY</u> <u>PE II</u>	Agricultural 160 acre test on low value farmland for a dwelling on land that was predominantly agriculture on January 1, 1993.	401.05(A)(3), (4) & (C)(8)
	<u>PDRTY</u> <u>PE II</u>	Agricultural Capability test on low value farmland for a dwelling on land that was predominantly agriculture on January 1, 1993.	401.05(A)(3), (4) & (C)(9)
	<u>PDRTY</u> <u>PE II</u>	Agricultural Nonfarm dwelling on land that was predominantly agriculture on January 1, 1993.	401.05(A)(3), (4) & (C)(10)
	<u>PDRTY</u> <u>PE II</u>	Agricultural Accessory farm dwelling for a relative on land that was predominantly agriculture on January 1, 1993.	401.05(A)(3) & (C)(11)
	<u>PDRTY</u> <u>PE II</u>	Agricultural Accessory farm dwelling for year-round and seasonal farm workers on land that was predominantly agriculture on January 1, 1993,	401.05(A)(3) & (C)(12)
	<u>PDRTY</u> <u>PE II</u>	Forest Template Test Dwelling on land that was predominantly forest on January 1, 1993.	406.05(A)(3), (4), (5) & (D)(3)
	<u>PDRTY</u> <u>PE II</u>	160 Acre Forest Dwelling on land that was predominantly forest on January 1, 1993.	406.05(A)(3), (4), (5) & (D)(4)
	<u>PDRTY</u> <u>PE II</u>	200 Acre Noncontiguous Tract Forest Dwelling on land that was predominantly forest on January 1, 1993.	406.05(A)(3), (4), (5) & (D)(5)
	<u>PDRTY</u> <u>PE II</u>	Caretaker residences for public parks and public fish hatcheries.	406.05(A)(2) & (5)
	<u>PDRTY</u> <u>PE II</u>	Temporary forest labor camp, subject to Subsection 1204.01, for a period not to exceed one year.	
	<u>PDRTY</u> <u>PE II</u>	Temporary dwelling for care, subject to Subsection 1204.03.	406.05(A)(1), (2) & (D)(6)
	<u>PDRTY</u> <u>PE II</u>	Room and board arrangements for a maximum of five unrelated persons in existing dwellings.	401.05(A)(1) & (3)
	<u>PDRTY</u> <u>PE II</u>	Residential home or facility as defined in ORS 197.660, in existing dwellings.	401.05(A)(1) & (3)

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	Type	Use	Subject To
COMMERCIAL USES	A	Family daycare provider.	
	A	Dog training classes.	401.05(DE)(11)
	A	Dog testing trials.	401.05(DE)(12)
	A	A winery license for the first six of 18-day agri-tourism and other commercial events, subject to ORS 215.237 and 215.452.	401.05(A)(1) & (DE)(5)
	PDRTY PE II	Farm stands, subject to OAR 660-033-0130(23) and ORS 215.283(1)(o).	401.05(DE)(1)
	PDRTY PE II	Home occupation, subject to Section 822.	406.05(A)(1), (2), (5) & (E)(1)
	PDRTY PE II	A landscape contracting business.	401.05(A)(1) & (DE)(2)
	PDRTY PE II	Agri-tourism single event.	401.05(A)(1) & (DE)(3)
	PDRTY PE II	Agri-tourism for up to 6 events or activities.	401.05(A)(1) & (DE)(4)
	PDRTY PE II	A winery as described in and subject to ORS 215.452 or 215.453, whichever is applicable, but not a restaurant open more than 25 days per calendar year.	
	PDRTY PE II	A winery bed and breakfast facility as a home occupation, subject to ORS 215.448, as provided in ORS 215.452 or 215.453, whichever is applicable.	401.05(A)(1) & (DE)(6)
	C	A large winery with a restaurant in conjunction with a winery as described in ORS 215.453 that is open to the public for more than 25 days in a calendar year or the provision of private events in conjunction with a winery as described in ORS 215.453 that occur on more than 25 days in a calendar year.	401.05(A)(1), (DE)(5) & (6)
	C	Home occupation to host events, subject to Section 806.	406.05(A)(1), (2), (5) & (E)(1)
	C	Commercial activities in conjunction with farm use, including the processing of farm crops into biofuel that exceeds the standards of ORS 215.203(2)(b)(K) or Subsection 401.05(B)(1).	401.05(A)(1) & (DE)(6)
	C	Winery agri-tourism or other commercial events for days seven through 18 of the 18-day limit, subject to ORS 215.237 and 215.452.	401.05(A)(1)
	C	Agri-tourism additional events not to exceed 18 events on a minimum of 80 acres.	401.05(A)(1) & (DE)(7)
	C	Private accommodations for fishing on a temporary basis.	406.05(A)(1), (2), (5) & (E)(2)
	C	Private seasonal accommodations for fee based hunting.	406.05(A)(1), (5) & (E)(3)
	C	An aerial fireworks display business.	401.05(A)(1) & (DE)(8)
	C	Commercial dog boarding kennels.	401.05(A)(1)
C	Dog training classes or testing trials that cannot be established under Subsection 401.05(E)(11) or (12).	401.05(A)(1)	

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	Type	Use	Subject To
MINERAL, AGGREGATE, OIL, AND GAS USES	A	Exploration for mineral and aggregate resources as defined in ORS Chapter 517 and subject to the requirements of the Department of Geology and Mineral Industries.	
	A	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 a wellhead. Any activities or construction relating to such operations shall not be a basis for an exception under ORS 197.732(1)(a) or (b).	
	A	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).	
	C	Operations conducted for mining, crushing, or stockpiling of aggregate and other mineral and other subsurface resources subject to ORS 215.298.	401.05(A)(1), (EF)(1) & (EF)(1)(a)
	C	Processing as defined by ORS 517.750 of aggregate into asphalt or Portland cement.	401.05(A)(1), (EF)(1) & (EF)(1)(b)
	C	Processing of other mineral resources and other subsurface resources.	401.05(A)(1), (EF)(1) & (EF)(1)(c)
	C	Operations conducted for 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 Section 407.	401.05(A)(1), (EF)(1) & (EF)(1)(d)
	C	Mining and processing of oil, gas, or other subsurface resources.	406.05(A)(1), (6) & (F)(1)
	C	Exploration for and production of geothermal, gas, and oil.	406.05(A)(1), (6) & (F)(2)
		Type	Use
TRANSPORTATION USES	A	Widening of roads within existing rights-of-way in conformance with Chapter 5 of the Comprehensive Plan.	
	A	Climbing and passing lanes within the right of way existing as of July 1, 1987.	
	A	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 land parcels result.	
	A	Temporary public road and highway detours that will be abandoned and restored to original condition or use at such time as no longer needed.	

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	Type	Use	Subject To
TRANSPORTATION USES (cont.)	A	Minor betterment of existing public road 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 utilized to support the operation and maintenance of public roads and highways.	
	PDRTY PE II	Parking of up to seven dump trucks and seven trailers, subject to ORS 215.311.	406.05(A)(1)
	PDRTY PE II	Parking of no more than seven log trucks, subject to ORS 215.311.	401.05(A)(1)
	PDRTY PE II	Construction of additional passing and travel lanes requiring the acquisition of right-of-way but not resulting in the creation of new land parcels.	406.05(A)(1)
	PDRTY PE II	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.	406.05(A)(1)
	PDRTY PE II	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.	406.05(A)(1)
	C	Aids to navigation and aviation.	406.05(A)(1) & (6)
	C	Personal-use airports for airplanes and helicopter pads, including associated hangar, maintenance, and service facilities.	401.05(A)(1) & (EG) (2)
	C	Expansion of existing airports.	406.05(A)(1)
	C	Temporary asphalt and concrete batch plants as accessory uses to specific highway projects.	406.05(A)(1)
C	Roads, highways, and other transportation facilities and improvements not otherwise allowed under this Ordinance.	401.05 (EG) (1)	
	Type	Use	Subject To
UTILITY AND SOLID WASTE DISPOSAL FACILITY USES	A	Collocation of antennas with associated equipment on a previously approved wireless telecommunication facility, subject to Subsection 835.04(A).	
	A	Placement of telecommunication antennas with associated equipment on an existing utility pole, subject to Subsection 835.04(B).	
	A	Essential public communication services, subject to Subsection 835.04(C).	
	A	Local distribution lines (i.e., electric, telephone, natural gas) and accessory equipment (i.e., electric distribution transformers, poles, meter cabinets, terminal boxes, pedestals), or equipment which provides service hookups, including water service hookups.	
	A	Irrigation reservoirs, canals, delivery lines and those structures and accessory operational facilities, not including parks or other recreational structures and	

CLACKAMAS COUNTY ZONING AND DEVELOPMENT ORDINANCE

	facilities, associated with a district as defined in ORS 540.505.	
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	Type	Use	Subject To
UTILITY AND SOLID WASTE DISPOSAL FACILITY USES (cont.)	A	Water intake facilities, canals and distribution lines for farm irrigation and ponds.	
	A	Solar energy systems as an accessory use.	
	A	Rainwater collection systems as an accessory use.	
	A	Electric vehicle charging stations for residents and their non-paying guests.	
	A	Meteorological towers.	
	PDRTY PE II	Wind energy power production systems as an accessory use.	406.05(H)(1)
	PDRTY PE II	Collocation of antennas with associated equipment on a previously approved wireless telecommunication facility that exceed Subsection 835.04(A), subject to Subsection 835.05(A).	
	PDRTY PE II	Placement of telecommunication antennas with associated equipment on replacement utility pole that exceeds the replaced pole by no more than 20 feet, subject to Subsection 835.05(A).	
	PDRTY PE II	Composting operations and facilities on high value farmland.	401.05(A)(1) & (GH)(3)
	C	Wireless telecommunication facilities listed in Subsection 835.06, subject to Section 835.	406.05(A)(1)
	C	Composting facilities on low value farmland.	401.05(A)(1) & (GH)(4)
	C	Water intake facilities, related treatment facilities, pumping stations, and distribution lines.	406.05(A)(1) & (6)
	C	Reservoirs and water impoundments.	406.05(A)(1),(2) & (6)
	C	A disposal site for solid waste 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.	406.05(A)(1) & (6)
	C	A disposal site for solid waste that has been ordered established by the Oregon Environmental Quality Commission under ORS 459.049, together with the equipment, facilities, or buildings necessary for its operation.	406.05(A)(1) & (6)
	C	Commercial utility facilities for the purpose of generating power.	406.05(A)(1), (6) & (H)(2)
C	New electric transmission lines.	406.05(A)(1) & (H)(3)	
C	Television, microwave, and radio communication facilities.	406.05(A)(1), (6) & (H)(4)	

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	Type	Use	Subject To
PARKS, PUBLIC, AND QUASI-PUBLIC USES	A	Private hunting and fishing operations without any lodging accommodations.	
	A	Towers and fire stations for forest fire protection.	
	A	Land application of reclaimed water, agricultural process or industrial process water, or biosolids for agricultural, horticultural, or forest production, or for irrigation in connection with a use allowed in the EFU zoning district, subject to the issuance of a license, permit, or other approval by the Department of Environmental Quality under ORS 454.695, 459.205, 468B.050, 468B.053, or 468B.055, or in compliance with rules adopted under ORS 468(B).095.	
	A	Onsite filming and activities accessory to onsite filming for 45 days or less.	
	PDRTY PE II	A site for the takeoff and landing of model aircraft, including such buildings or facilities as may reasonably be necessary.	401.05(H)(1)
	PDRTY PE II	Community centers.	401.05(A)(1), (5)& (H) (3)
	PDRTY PE II	Living history museum.	401.05(A)(1), (5)& (H) (4)
	PDRTY PE II	Expansion of existing county fairgrounds and activities directly relating to county fairgrounds governed by county fair boards established pursuant to ORS 565.210.	401.05(A)(1)
	PDRTY PE II	A county law enforcement facility that lawfully existed on August 20, 2002, and is used to provide rural law enforcement services primarily in rural areas, including parole and post-prison supervision, but not including a correctional facility as defined under ORS 162.135.	401.05(A)(1)
	PDRTY PE II	Churches and cemeteries in conjunction with churches, consistent with ORS 215.441, which does not include private or parochial school education for prekindergarten through grade 12 or higher education.	401.05(A)(5)
	PDRTY PE II	Fire service facilities providing rural fire protection services.	
	C	Operations for extraction and bottling of water.	401.05(A)(1)
	C	Onsite filming and activities accessory to onsite filming for more than 45 days as provided for in ORS 215.306.	401.05(A)(1)
	C	Public or private schools for kindergarten through grade 12, including all buildings essential to the operation of a school, primarily for residents of the rural area in which the school is located.	401.05(A)(1) & (5)
	C	Golf courses.	401.05(A)(1), (5)& (H) (7)
	C	Youth camps on 40 acres or more, subject to OAR 660-006-0031.	406.05(A)(1) & (2)
C	Cemeteries.	406.05(A)(1) & (6)	

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	C	Firearms training facility.	406.05(A)(1) & (6)
	C	Private parks and campgrounds.	406.05(A)(1),(2),(6)&(I)(1)
	C	Public parks including only those uses specified under OAR 660-034-0035 or 660-034-0040, whichever is applicable.	406.05(A)(1) & (6)
	Type	Use	Subject To
OUTDOOR GATHERINGS	A	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.	406.05(J)(1)
	C U	An outdoor mass gathering of more than 3,000 persons that continues or can reasonably be expected to continue for more than 120 hours within any three-month period and any part of which is held in open spaces.	406.05(A)(1) & (J)(2)

407.05 PROHIBITED USES

Uses of structures and land not specifically permitted are prohibited.

407.06 DIMENSIONAL STANDARDS

Subsection 406.07, which establishes dimensional standards in the Timber District, shall apply in the Ag/Forest District.

407.07 DEVELOPMENT STANDARDS

Subsection 406.08, which establishes development standards in the Timber District, shall apply in the Ag/Forest District.

407.08 LAND DIVISIONS

Subsection 406.09, which establishes land division standards in the Timber District, shall apply in the Ag/Forest District.

407.09 SUBMITTAL REQUIREMENTS

Subsection 406.10, which establishes submittal requirements in the Timber District, shall apply in the Ag/Forest District.

407.10 APPROVAL PERIOD AND TIME EXTENSION

Subsection 406.11, which establishes approval period and time extension standards in the Timber District, shall apply in the Ag/Forest District.

[Amended by Ord. ZDO-224, 5/31/11; Amended by Ord. ZDO-230, 9/26/11; Amended by Ord. ZDO-234, 6/7/12; Amended by Ord. ZDO-241, 1/1/13; Amended by Ord. ZDO-245, 7/1/13; Amended by Ord. ZDO-247, 3/1/14]

504 RURAL TOURIST COMMERCIAL DISTRICT (RTC)

504.01 PURPOSE

Section 504 is adopted to implement the policies of the Comprehensive Plan for Community Commercial areas regulated by the Mount Hood Community Plan.

504.02 AREA OF APPLICATION

Property may be zoned Rural Tourist Commercial District when:

- A. The site has a Comprehensive Plan designation of Community Commercial;
- B. The site is regulated by the Mount Hood Community Plan; and
- C. The criteria in Section 1202 are satisfied.

504.03 PRIMARY USES

The following are primary uses in the Rural Tourist Commercial District to serve the surrounding community and tourists. A mixture of small-scale uses within a building or complex is encouraged:

- A. The following uses, at a scale appropriate to serve the surrounding community:
 - 1. Apparel stores and dressmaking shops;
 - 2. Bakery shops;
 - 3. Catering establishments;
 - 4. Confectionery stores;
 - 5. Delicatessen shops and restaurants, but not drive-in restaurants or drive-thru service;
 - 6. Drug stores;
 - 7. Fabric and dry goods stores;
 - 8. Florist and gift shops;
 - 9. Grocery and produce stores;
 - 10. Hardware and garden supplies; and
 - 11. Meat and fish markets.

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12. Barber and beauty shops;
 13. Clothes pressing, alterations, and tailoring shops;
 14. Daycare facilities and other adult or child care facilities, operated during the daytime, subject to Section 807;
 15. Dry cleaners; laundry agencies; self-service laundromats and dry cleaning facilities;
 16. Exercise and tanning studios;
 17. Offices for doctors, dentists, chiropractors, naturopathic treatment personnel, and other health service personnel; small clinics or community health care programs;
 18. Photo finishing;
 19. Shoe repair;
 20. Veterinarian services and pet supplies;
 21. Video rental stores;
 22. Bed and breakfast residences and inns, subject to Section 832; and
- B. Accounting and income tax service;
 - C. Antique and second hand stores;
 - D. Arts and crafts stores, including manufacturing of the crafts to be sold in that store, and craft classes;
 - E. Auto and truck repair services, and sale of replacement parts;
 - F. Banks, credit unions, savings and loans;
 - G. Billiard halls and game rooms;
 - H. Book and stationery stores;
 - I. Building materials retailers and plumbing, electrical and building contractors;
 - J. Clothing stores;
 - K. Community and government services such as community action agencies, extension services, fire stations, tourist information, forest service and post offices;

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- L. Doctor and dentist offices;
- M. Firewood sale;
- N. Feed stores, including wholesale and retail sales and storage;
- O. Food lockers;
- P. Garden store, including wholesale and retail sales of seeds, seedlings and nursery stock, fertilizer and mulch;
- Q. Gunsmith;
- R. Houseware and household appliance and equipment sales and repair;
- S. Insurance agents;
- T. Leather goods and hides sales;
- U. Locksmith;
- V. Logging contractors;
- W. Liquor stores;
- X. Museums;
- Y. Offices, meeting rooms, rental and sales outlets and equipment storage for organizations related to farm or forestry uses such as water boards, farmers co-ops, granges, wholesalers or retailers of farm or forestry equipment, materials and products;
- Z. Pottery and ceramic goods, including manufacturing of pottery to be sold in that store, and classes;
- AA. Real Estate Agents;
- BB. Service stations, subject to Section 820;
- CC. Electric vehicle charging stations;
- DD. Taverns;
- EE. Upholstery shops, including retail sales;
- FF. Veterinary services and clinics;
- GG. Churches, subject to Section 804;

- HH. Public utility installations;
- II. Recreational vehicle camping facilities, subject to Subsection 813.01(D);
- JJ. Motels, hotels, and resort accommodations are subject to the density provisions of Subsection 504.~~0807~~(L). Commercial uses associated with hotel/motel facilities and resort accommodations (i.e. restaurants, gift shops, conference rooms) are allowed subject to the limitations of Subsection 504.~~0807~~(J);
- KK. Park and ride lots, facilities, and bus shelters, subject to Section 823;
- LL. Community parking structures in Government Camp, to the extent that they are consistent with an adopted community parking plan;
- MM. Public and private schools, and trade schools;
- NN. Detached single-family dwellings on lots of record existing on December 7, 1983. Such dwellings established in Government Camp are exempt from Government Camp specific standards, except for minimum setback standards;
- OO. Utility carrier cabinets, subject to Section 830;
- PP. Sports equipment rental, sale, service, or repair;
- QQ. Other uses intended to serve the community and surrounding rural area or the travel needs of people passing through the area;
- RR. Wireless telecommunication facilities listed in Subsection 835.04 or 835.05, subject to Section 835; and
- SS. Mobile vending units, subject to Section 837.

504.04 ACCESSORY USES

The following are accessory uses in the Rural Tourist Commercial District:

- A. Uses and structures customarily accessory and incidental to a primary use;
- B. Temporary buildings for uses incidental to construction work. Such buildings shall be removed upon completion or abandonment of the construction work;
- C. Solar energy systems;
- D. Rainwater collection systems;
- E. Signs, subject to Section 1010;

- F. The temporary storage within an enclosed structure of source-separated recyclable/reusable materials generated and/or used on site prior to onsite reuse or removal by the generator or licensed or franchised collector to a user or broker; and
- G. Recyclable drop-off sites, subject to Section 819.

~~504.05~~ ~~USES SUBJECT TO REVIEW BY THE PLANNING DIRECTOR~~

~~The Planning Director may approve the following use in the Rural Tourist Commercial District, pursuant to Subsection 1305.02:~~

- ~~A. Wireless telecommunication facilities listed in Subsection 835.05, subject to Section 835.~~

504.~~06~~05 CONDITIONAL USES

The ~~Hearings Officer may approve the~~ following are conditional uses in the ~~RTC~~Rural Tourist Commercial District, approval of which is subject to ~~pursuant to Section 1300. Approval shall not be granted unless the proposal complies with Section 1203 and any applicable provisions of Section 800.~~

- A. Recycling centers and transfer stations, subject to Section 819;
- B. Hydroelectric facilities, subject to Section 829;
- C. Theme parks and amusement parks;
- D. Mini-storage facilities, consistent with the building design standards of Subsection 504.09(C)(4) and having a minimum 15-foot setback between the front property line and the developed portion of the site, excluding landscaping. No outside storage shall be permitted; and
- E. Recreational activities such as, but not limited to, ski areas and associated uses.

504.~~07~~06 PROHIBITED AND PREEXISTING USES

The following are prohibited uses in the Rural Tourist Commercial District:

- A. Uses of structures and land not specifically allowed.
- B. New detached single-family dwellings on lots created after December 7, 1983, except when accessory to a primary use. However, a dwelling which lawfully existed on December 7, 1983, shall not be a nonconforming use, and may be altered or expanded without review under Section 1206.
- C. The use of a mobile home or residential trailer as a permanent dwelling or office except within a recreational vehicle or trailer park.

- D. All other preexisting uses and structures not specifically permitted in Section 504 shall be nonconforming uses subject to Section 1206.
- E. Pre-existing structures in Government Camp which lawfully existed prior to February 8, 2007, shall not be identified as a nonconforming use and may be altered or expanded in compliance with the standards of Sections 504 and 1102.

504.~~0807~~ DIMENSIONAL STANDARDS

- A. Purpose: The dimensional standards are intended to:
 - 1. Provide for protection of surrounding properties and the historic character of the Mt. Hood Community;
 - 2. Ensure that the minimum operational requirements of the development are provided onsite;
 - 3. Establish the maximum limits of development;
 - 4. Provide for coordinated, pleasing and efficient utilization of Rural Tourist Commercial areas; and
 - 5. Provide a safe, pedestrian-oriented environment and community gathering areas in the Government Camp core commercial district that extends from E. Wy'East Trail to E. Union Street and E. Lige Lane (First Street) to Highway 26.
- B. Setback from National Forest: No setback is required where development abuts a National Forest.
- C. Minimum Front Yard Setback: 25 feet, except:
 - 1. In Government Camp Village, as identified on Comprehensive Plan Map X-MH-4, *Government Camp Village Plan, Land Use Plan & Boundary*, the minimum front yard setback from a property line abutting Government Camp Loop shall be four feet. However, there is no minimum setback from Government Camp Loop for a building cantilever. Structures shall be designed to include measures to protect the public and vehicles from snow slide incidents. These measures shall be implemented in compliance with the State of Oregon Structural Specialty Code and Subsection 504.08(G). A corner lot with frontage on Government Camp Loop shall comply with a minimum front yard setback of 10 feet from the property line abutting the other road.
 - 2. Except as established by Subsection 504.~~0807~~(C)(1), in Government Camp Village, as identified on Comprehensive Plan Map X-MH-4, a corner lot shall comply with the 25-foot minimum front yard setback from

one of the front lot lines and shall comply with a 10-foot minimum front yard setback from the other front lot line.

- D. Maximum Front Yard Setback: None, except in Government Camp Village, as identified on Comprehensive Plan Map X-MH-4, the maximum front yard setback from a property line abutting Government Camp Loop shall be 10 feet. An exception to this requirement is allowed to accommodate public plaza space.
- E. Minimum Rear Yard Setback: 10 feet. When a rear yard abuts a more restrictive zone, the minimum setback shall be 20 feet.
- F. Minimum Side Yard Setback: 10 feet. When a side yard abuts a more restrictive zone, the minimum setback shall be 20 feet. However, in Government Camp Village, as identified on Comprehensive Plan Map X-MH-4, there is no minimum side yard setback, except as may be required to comply with Subsection 504.0807(G).
- G. Minimum Building Separation Requirement: A minimum of 10 feet shall be required between all buildings on- or off-site, except above 3,500 feet elevation, where the separation distance between buildings with contiguous snow slide areas shall be a minimum of 20 feet. "Snow slide area" means the area around a structure that may be subject to snow buildup as a result of snow sliding from the sloped roof of the structure.
- H. Minimum Landscaping Area: 15 percent of the lot. However, in Government Camp Village, as shown on Comprehensive Plan Map X-MH-4, the minimum shall be 10 percent, except that there shall be no minimum for properties with frontage on Government Camp Loop from Wy'East Trail to Olive Street and on Little Trail from Olive Street to Church Street, where public plazas are provided in compliance with Subsection 504.09(E).
- I. Government Camp Maximum Building Height: The maximum building height shall be 70 feet. This provision shall be modified to allow a height increase up to 25 percent when necessary to accommodate understructure parking, or to preserve natural features or views.
- J. Government Camp Commercial Development Floor Area Limitation: The maximum floor area allowed for commercial development is 8,000 square feet per use. A use shall be defined as a separate leaseable space. Commercial uses customarily associated with hotel, motel, or resort uses shall be allowed up to 8,000 square feet per use in addition to the area taken up by the hotel itself.
- K. Rhododendron Rural Service Center Floor Area Limitation: 4,000 square feet per building.

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L. Density: The maximum number of hotel, motel, or resort units per acre shall be as follows:

1. Government Camp Village: Hotel/motel accommodations in Government Camp Village may be provided up to a maximum of 50 units per acre, with a limitation of 100 units per development.
2. Other Villages: Units allowed per acre shall be determined on the basis of the unit size and village density, as specified on the following chart:

Unit Size (in square feet)	Maximum Number of Units per Acre in Wemme/Welches Resort Community	Maximum Number of Units per Acre in Rhododendron Rural Service Center
1,200 +	6	4
1,000-1,199	7	5
800-999	8	6
600-799	10	8
400-599	14	12
200-399	32	22

M. Hotels/Motels: Hotels and motels are allowed if served by community sewer, up to a maximum of 35 units within Rural Community or Rural Service Center, and no limit within Resort Communities.

N. Exceptions: Dimensional standards are subject to modification pursuant to Section 900.

O. Variances: The standards of Subsection 504.08-07 may be modified pursuant to Section 1205.

504.0908 DEVELOPMENT STANDARDS

A. General: Development is subject to the applicable provisions of Sections 1000 and 1100.

B. Community and Design Plans: Development within a Community or Design Plan area identified in Chapter 10 of the Comprehensive Plan shall comply with the specific policies and standards for the adopted Community or Design Plan.

C. Government Camp Design Standards: The following standards shall apply to Government Camp and shall govern where any standards are in conflict with other provisions of Section 504. These standards shall apply to all new development and, where reasonable, to remodels.

1. Main Entrance Siting: Properties with street frontage on Government Camp Loop shall locate the main entrance and pedestrian amenities on Government Camp Loop.

2. Loading and Delivery: Shall not be located on Government Camp Loop unless there is no other access.
 3. Walkways: Walkways parallel to Government Camp Loop are not required, however if a walkway is extended from the existing 10-foot-wide sidewalk fronting Government Camp Loop, it shall be constructed of materials consistent with the existing 10-foot-wide sidewalk. Covered walkways may be provided along the building frontage of development on properties with street frontage on Government Camp Loop from Wy'East Trail to Olive Street and on Little Trail from Olive Street to Church Street. When a covered walkway is constructed it shall be a permanent structure at a minimum of 8-feet in width and attached to the building, it shall not project beyond the property lines, and shall be consistent with the building design and materials and existing 10-foot sidewalk fronting Government Camp Loop. A covered walkway shall extend along the entire frontage of the building.
 4. Exterior Building Materials: Building and accessory structures shall use wood, stone, stone veneer, stucco, for exterior construction. Stucco and textured concrete may be used as secondary materials. Stucco must be acrylic based and be combined with heavy timber, wood, or stone cladding. A rock, rock veneer, or textured concrete base shall be provided around the building exteriors with street frontage. No exposed plywood, particle board, plain concrete, cinder block, or grooved T1-11 is permitted.
 5. Roofing Materials: No non-architectural composition shingles or galvanized or corrugated metal roofs are allowed.
 6. Design: Building design shall meet the design intent of mountain architecture styles as described in the Government Camp Village Design Guidelines Handbook. Examples of mountain architecture include "Cascadian", "Oregon Rustic", and the "National Park Style".
- D. Signs: In addition to the provisions of Section 1010, all signs in the Rural Tourist Commercial District (RTC) shall be complimentary to the unique historic character of the Mt. Hood corridor in the use of graphics, symbols, lighting and natural materials. In addition, identification and onsite directional signing shall be sensitive to the needs of tourists. Identification signing may be provided for each distinctive village or area designated in the Mt. Hood Community Plan subject to approval by the State Highway Division and the Design Review Committee.
- E. Government Camp Landscaping and Plaza Space: Development with street frontage on Government Camp Loop from Wy'East Trail to Olive Street and on Little Trail from Olive Street to Church Street may provide a combination of landscaping and onsite public plaza space. Plaza space shall be permanent space open to the public. The plaza space shall be integrated into the

development and be both accessible and visible from Government Camp Loop or Little Trail where there is no frontage on Government Camp Loop.

The following requirements shall apply along Government Camp Loop from Wy'East Trail to Olive Street and along Little Trail from Olive Street to Church Street, if plazas are established to comply with the landscape requirements.

1. Square footage required: A minimum of 100 square feet of plaza space may be provided for developments with up to 1999 square feet. Developments 2000 square feet and larger may provide a minimum of 150 square feet. This shall be developed as one contiguous space. Developments 5000 square feet and larger may develop the plaza as two separate plazas.
 2. Plaza surface materials: Surface materials shall consist of textured concrete, concrete mixed with aggregate, rock, rock veneer, pavers, bricks, or wood. No asphalt is permitted.
 3. Plaza landscaping: 10 percent of the total plaza area shall be landscaped with planters and/or hardy native vegetation.
 4. Seating: A minimum of three permanent adult seating spaces shall be provided in the plaza for developments with up to 1999 square feet of floor area. One additional seating space shall be provided for each 1000 square feet of development. Seating spaces shall be constructed of wood, wrought iron, rock, rock veneer or textured concrete.
 5. Garbage receptacles: At least one garbage receptacle shall be provided in the plaza. Receptacles shall be clad in wood or stone.
- F. Manufactured Dwelling Parks: Redevelopment of a manufactured dwelling park with a different use shall require compliance with Subsection 825.03.

[Amended by Ord. ZDO-224, 5/31/11; Amended by Ord. ZDO-230, 9/26/11; Amended by Ord. ZDO-231, 1/31/12; Amended by Ord. ZDO-235, 5/14/12; Amended by Ord. ZDO-245, 7/1/13]

505 RURAL COMMERCIAL DISTRICT (RC)

505.01 PURPOSE

This section is adopted to implement the policies of the Comprehensive Plan for Rural Commercial areas.

505.02 AREA OF APPLICATION

Property may be zoned Rural Commercial District when the site has a Comprehensive Plan designation of Rural Commercial and the criteria in Section 1202 are satisfied.

505.03 PRIMARY USES

A. The following are primary uses in the Rural Commercial District:

1. Accounting and income tax services;
2. Antique and second-hand stores;
3. Apparel stores and dressmaking shops;
4. Arts and crafts stores, including manufacturing of the crafts to be sold in that store and craft classes;
5. Auto, truck, and equipment repair services, and sale of replacement parts;
6. Bakeries;
7. Banks, credit unions, and savings and loans;
8. Barber and beauty shops;
9. Bed and breakfast residences and inns, subject to Section 832;
10. Billiard halls with no more than six tables and game rooms which provide no more than 20 mechanical or electronic games of science and skill;
11. Book and stationery stores;
12. Building materials retailers and plumbing, electrical, and building contractors;
13. Catering establishments;
14. Clothes pressing, alterations, and tailoring shops;

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15. Community and government services, such as community action agencies, extension services, fire stations, and post offices;
16. Confectionery stores;
17. Daycare facilities and other adult- or child-care facilities, operated during the daytime, subject to Section 807;
18. Delicatessens and restaurants, excluding drive-in restaurants;
19. Drug stores;
20. Dry cleaners, laundry agencies, and self-service laundromats;
21. Electric vehicle charging stations;
22. Exercise and tanning studios;
23. Fabric and dry goods stores;
24. Firewood sales;
25. Feed stores, including wholesale and retail sales and storage;
26. Fertilizer and similar agricultural and forestry materials wholesale and retail sales and storage;
27. Florist and gift shops;
28. Food lockers;
29. Garden stores, including wholesale and retail sales of seeds, seedlings, and nursery stock;
30. Grocery and produce stores;
31. Gunsmiths;
32. Hardware and garden supply stores;
33. Housewares and household appliance and equipment sales and repair;
34. Insurance agents;
35. Leather goods and hides sales;
36. Locksmiths;

37. Logging contractors;
38. Liquor stores;
39. Meat and fish markets;
40. Mobile vending units;
41. Museums;
42. Offices for doctors, dentists, chiropractors, naturopathic treatment personnel, and other health service personnel; small clinics; and community healthcare programs;
43. Offices, meeting rooms, rental and sales outlets, and equipment storage for organizations related to farm or forestry uses such as water boards, farmers co-ops, granges, and wholesalers or retailers of farm or forestry equipment, materials, and products;
44. Photo finishing;
45. Pottery and ceramics stores, including manufacturing of pottery to be sold in that store, and classes;
46. Real estate agencies;
47. Service stations, subject to Section 820;
48. Shoe repair;
49. Taverns;
50. Telephone co-ops;
51. Upholstery shops, including retail sales;
52. Utility carrier cabinets, subject to Section 830;
53. Veterinary services and pet supply stores;
54. Video rental stores; and
55. Wireless telecommunication facilities listed in Subsection 835.04 or 835.05, subject to Section 835.

505.04 ACCESSORY USES

- A. The following are accessory uses in the Rural Commercial District:
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1. Uses and structures customarily accessory and incidental to a primary use;
2. Temporary buildings for uses incidental to construction work. Such buildings shall be removed upon completion or abandonment of the construction work;
3. Solar energy systems;
4. Rainwater collection systems;
5. The temporary storage within an enclosed structure of source-separated recyclable/reusable materials generated and/or used on-site prior to on-site reuse or removal by the generator or licensed or franchised collector to a user or broker;
6. Recyclable dropoff sites, subject to Section 819;
7. Drive-thru window service, subject to Subsections 827.02(C) through (E); and
8. Signs, subject to Section 1010.

~~505.05 — USES SUBJECT TO REVIEW BY THE PLANNING DIRECTOR~~

~~The Planning Directory may approve the following use in the Rural Commercial District, pursuant to Subsection 1305.02:~~

- ~~A. — Wireless telecommunication facilities listed in Subsection 835.05, subject to Section 835.~~

505.056 CONDITIONAL USES

- A. ~~The Hearings Officer may approve. T~~he following are conditional uses in the ~~RC~~Rural Commercial District, approval of which is subject to pursuant to Section 1300. Approval shall not be granted unless the proposal complies with Section 1203 and any applicable provisions of Section 800.
1. Churches, subject to Section 804;
 2. Primary and secondary schools and trade schools for trades associated with agriculture and forestry industries, subject to Sections 805, except as restricted by Subsection 505.067(A)(4);
 3. Service and recreational uses, excluding recreational vehicle camping facilities, subject to Section 813;
 4. Recycling centers and transfer stations, subject to Section 819;

5. Hydroelectric facilities, subject to Section 829;
6. Mini-storage facilities, vehicle storage, and recreational vehicle storage;
and
7. The hosting of weddings, family reunions, class reunions, company picnics, and similar events.

505.0~~67~~7 PROHIBITED AND PREEXISTING USES

- A. The following are prohibited uses in the Rural Commercial District:
 1. Uses of structures and land not specifically allowed;
 2. New dwellings, except when accessory to a primary use;
 3. A subdivision or partition within the Portland Metropolitan Urban Growth Boundary resulting in the creation of one or more lots or parcels of less than 20 acres; and
 4. Schools within the areas identified as Employment, Industrial, and Regionally Significant Industrial on the Metro Region 2040 Growth Concept Map.
- B. Lawfully established dwellings shall not be nonconforming uses and shall be allowed to remodel or expand without review under Section 1206.
- C. Lawfully established commercial uses that existed on December 20, 2001, and are not otherwise provided for in this section, shall not be nonconforming uses and are allowed outright.

505.0~~78~~8 DIMENSIONAL STANDARDS

- A. Purpose: The dimensional standards are intended to:
 1. Provide for protection of surrounding properties and the historic character of unincorporated communities;
 2. Ensure that the minimum operational requirements of the development are provided on-site;
 3. Establish the maximum limits of development; and
 4. Ensure that the use and building scale are in character with the unincorporated community and appropriate to meet the needs of the unincorporated community and surrounding area residents.
- B. Minimum Front Yard Setback: 30 feet.

- C. Minimum Side Yard Setback: 10 feet; however, if the side yard abuts a more restricting zoning district, the minimum side yard setback shall be 20 feet.
- D. Minimum Rear Yard Setback: 10 feet; however, if the rear yard abuts a more restrictive zoning district, the minimum rear yard setback shall be 20 feet.
- E. Minimum Road Frontage: 50 feet.
- F. Minimum Lot Size: None, except as restricted by Subsection 505.067(A)(3).
- G. Minimum Landscaping Area: 15 percent of the lot.
- H. Maximum Building Floor Area:
 - 1. For a commercial use within an unincorporated community, the maximum building floor area per use shall be 4,000 square feet. However, a lawfully established use that existed on December 20, 2001, and serves the community or the travel needs of people passing through the area, may expand to occupy a maximum of 4,000 square feet of building floor area or 50 percent more building floor area than was occupied by the use on December 20, 2001, whichever is greater.
 - 2. For a commercial use outside an unincorporated community, the maximum building floor area per use shall be 3,000 square feet. However, a lawfully established use that existed on December 20, 2001, may expand to occupy a maximum of 3,000 square feet of building floor area or 25 percent more building floor area than was occupied by the use on December 20, 2001, whichever is greater.
- I. Exceptions: Dimensional standards are subject to modification pursuant to Section 900.
- J. Variances: The requirements of Subsections 505.078(B) through (E) and (G) may be modified pursuant to Section 1102 when such modification is consistent with Section 1205. A proposed reduction that exceeds 20 percent of the requirement shall be processed as a separate variance application pursuant to Section 1205.

505.089 DEVELOPMENT STANDARDS

- A. General: Development shall be subject to the applicable provisions of Sections 1000 and 1100.
- B. Community Plans and Design Plans: Development within a Community or Design Plan area identified in Chapter 10 of the Comprehensive Plan shall comply with the specific policies and standards for the adopted Community or Design Plan.

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- C. Signs: Signs shall be complementary to the historic character and rural scale of the unincorporated community in the use of graphics symbols, lighting, and natural materials.
- D. Manufactured Dwelling Parks: Redevelopment of a manufactured dwelling park with a different use shall require compliance with Subsection 825.03.

[Amended by Ord. ZDO-224, 5/31/11; Amended by Ord. ZDO-235, 5/14/12]

601 CAMPUS INDUSTRIAL DISTRICT (CI)

601.01 PURPOSE

Section 601 is adopted to implement the policies of the Comprehensive Plan for Campus Industrial areas.

601.02 AREA OF APPLICATION

The Campus Industrial District shall apply only to those properties zoned Campus Industrial prior to September 9, 2013.

601.03 PRIMARY USES

A. The following business and industrial uses may occupy up to 100 percent of the total floor area of the development:

1. Experimental, film or testing laboratories, provided no operation shall be conducted or equipment used which would create hazards, and/or noxious or offensive conditions.
2. Industries which manufacture products from, or otherwise process, previously prepared materials which satisfy the following conditions:
 - a. The use is employee-intensive, providing approximately 15 or more jobs for every developed acre of land.
 - b. The use is not of a type or intensity which produces odor, smoke, fumes, noise, glare, heat or vibrations which are incompatible with other primary uses allowed in this district.
 - c. The physical and operational requirements of the use, including type of structure used and volume of heavy truck traffic generated, are similar to other industrial and office uses allowed in this district.
3. Printing, publishing, bookbinding, graphic or photographic reproduction, blueprinting or photo processing.
4. Trade or community schools primarily serving the business community within the area.
5. Corporate headquarters or regional offices with 50 or more employees.

B. Offices, except corporate headquarters or regional offices allowed under Subsection 601.03(A) and those offices specified as limited uses under Subsection 601.05, may occupy up to 70 percent of the total floor area of the development.

C. High Density Residential uses, subject to Section 315, may occupy up to 75 percent of the total floor area of the development. Density and land area used for

this use shall be subject to the limits specified under Subsection 601.08(F), except as provided under Subsection 601.08(G).

- D. Public and private community buildings, indoor and outdoor recreational facilities, such as swimming pools, racquetball clubs, athletic clubs, health and exercise spas, gymnasiums, tennis courts, playgrounds, and other similar uses, developed to serve primarily the recreational needs of residents and employees of the district, may occupy up to 100 percent of the floor area of the development.
- E. Utility carrier cabinets, subject to Section 830.
- F. Wireless telecommunication facilities, subject to Section 835.

601.04 ACCESSORY USES

The following are allowed as accessory uses in the Campus Industrial District:

- A. Uses and structures customarily accessory and incidental to a primary use;
- B. Employee lounges and dining rooms, conference rooms for tenant use, newsstands, central mail room and self-service postal and banking facilities, and products information and display areas which are included within the primary use structures;
- C. Warehouse or storage structures provided in conjunction with a primary use under Subsection 601.03 on the same site;
- D. Indoor and outdoor recreational facilities, such as swimming pools, saunas, game and craft rooms, exercise and dance studios, community meeting rooms, lounges, playgrounds, tennis and other courts, bike and walking trails, and pedestrian plazas and courts, which are provided in association with a primary use within the same development;
- E. Parking structures;
- F. Bus shelters, subject to Section 823;
- G. Signs, subject to Section 1010;
- H. Bicycle racks, pedestrian amenities, and transit amenities;
- I. Rental and development information offices;
- J. Handyman and maintenance services in association with primary, accessory or limited uses in the development;
- K. The temporary storage within an enclosed structure of source-separated recyclable/reusable materials generated and/or used on site prior to onsite reuse or removal by the generator or licensed or franchised collector to a user or broker;

- L. Self-service laundry facilities;
- M. Solar energy systems;
- N. Rainwater collection systems;
- O. Electric vehicle charging stations;
- P. Temporary buildings for uses incidental to construction. Such buildings shall be removed upon completion or abandonment of the construction work;
- Q. Daycare facilities, subject to Section 807; and
- R. Level one mobile vending units, subject to Section 837.

601.05 LIMITED USES

- A. The following retail and service commercial uses may be allowed on a limited basis as part of the development of this district when developed concurrently with or after the primary uses, subject to the provisions of Subsection 601.05(B):
 - 1. The following neighborhood commercial uses:
 - a. Apparel stores and dressmaking shops;
 - b. Bakery shops;
 - c. Catering establishments;
 - d. Confectionery stores;
 - e. Delicatessen shops and restaurants, but not drive-in restaurants or drive-thru service;
 - f. Drug stores;
 - g. Fabric and dry goods stores;
 - h. Florist and gift shops;
 - i. Grocery and produce stores;
 - j. Hardware and garden supplies;
 - k. Meat and fish markets;
 - l. Barber and beauty shops;
 - m. Clothes pressing, alterations, and tailoring shops;

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- n. Daycare facilities and other adult or child care facilities, operated during the daytime, subject to Section 807;
 - o. Dry cleaners; laundry agencies; self-service laundromats and dry cleaning facilities;
 - p. Exercise and tanning studios;
 - q. Offices for doctors, dentists, chiropractors, naturopathic treatment personnel, and other health service personnel; small clinics or community health care programs;
 - r. Photo finishing;
 - s. Shoe repair;
 - t. Veterinarian services and pet supplies;
 - u. Video rental stores;
 - v. Bed and breakfast residences and inns, subject to Section 832;
 - w. Preexisting retail or service commercial uses; and
 - x. Mobile vending units, subject to Section 837;
- 2. Banks;
 - 3. Clinics for doctors, dentists, chiropractors, naturopathic and counseling treatment personnel, and other health services; and
 - 4. Bars and cocktail lounges in conjunction with a restaurant.
- B. Limitations and conditions on the development of the limited uses itemized above shall be as follows:
- 1. The total combined floor area occupied by all limited uses shall not exceed 10 percent of the total floor area occupied by primary uses.
 - 2. All limited uses shall be located, arranged and integrated within the development to serve primarily the shopping and service needs of residents and employees of the district.
 - 3. Uses shall not be or a type of intensity that produce odor, smoke, fumes, noise, glare, heat or vibrations, which are incompatible with associated primary uses in the area.

601.06 CONDITIONAL USES

~~The Hearings Officer may approve. The following are conditional uses in the CI Campus Industrial District, approval of which is subject to pursuant to Section 1300. Approval shall not be granted unless the proposal complies with Section 1203 and any applicable provisions of Section 800.:~~

- A. Conversion of multifamily dwellings into condominiums, subject to Section 803;
- B. Service and recreational uses that exceed a primary or accessory use, subject to Section 813;
- C. Hydroelectric facilities, subject to Section 829;
- D. Heliports;
- E. Retail and service commercial uses not included as limited use under Subsection 601.05(A), subject to the additional limitations and conditions of Subsection 601.05(B);
- F. Uses listed as limited uses in Subsection 601.05(A) on a site separate from a primary use, when:
 - 1. The site is physically separated from all other undeveloped or underdeveloped properties in the district; or
 - 2. The site is not physically separated from other undeveloped or underdeveloped sites, but the applicant demonstrates:
 - a. The site is located on a primary access or frontage road, served or planned to be served, by public transit.
 - b. There is no alternative site in the area for the proposed use.
 - c. It is not possible to develop the proposed use in conjunction with a primary use.
- G. Development of a primary use listed in Subsection 601.03 and its associated accessory and limited uses, on a lot or site area which is smaller than the minimum area requirement for the use, and which is not physically separated from all other undeveloped or underdeveloped properties in this district, may be approved when the applicant demonstrates the following:
 - 1. The proposed lot size is not smaller than half the minimum lot size for the use.
 - 2. It is not possible to develop the site in conjunction with an adjacent lot or lots, as provided under Subsection 601.08(B).
 - 3. The purposes set forth under Subsection 601.08(A) are addressed and satisfied in the proposed use and design of the development; and

H. Multi-use developments, subject to Section 1016.

601.07 PROHIBITED USES

Uses of structures and land not specifically permitted in Section 601 shall be prohibited in the Campus Industrial District, except as provided in Section 106.

601.08 DIMENSIONAL STANDARDS

A. Purpose: The dimensional standards are intended to:

1. Encourage coordinated development, and the most efficient and maximum use of the Campus Industrial District;
2. Provide for adequate structure separation to ensure air and light access and fire safety and protection for all development site areas and structures within the district and adjoining districts;
3. Provide for a compatible mix of uses supportive of public transportation facilities;
4. Provide for the protection of adjacent properties; and
5. Provide for open space and outdoor activity areas.

B. Site Area Requirements: A "site area" for purposes of Section 601 shall be the total land area to be developed as a unit, prior to the creation of any new parcels or lots within the land area. A site area may be either of the following:

1. A single tax lot, or two or more contiguous tax lots, under the same ownership.
2. Two or more contiguous tax lots under separate ownership, provided that:
 - a. All individual property owners are members of a group formed for the purpose of developing the properties as a single planned development, and
 - b. All individual tax lot ownerships are converted into development shares prior to any building permit being issued for the project, or

- c. The group shall record, in the office of the County Clerk, a contract in which all members agree to subject the use and development of individual tax lots or ownerships to the development plan for the site area as approved by the County. No permit shall be issued on any separate tax lot or ownership for any structure or use not indicated on the County approved development plan for the site area.

C. Minimum Site Area:

- 1. Developments which include uses under at least two of the primary use categories under Subsection 601.03(A) through (D); shall require a minimum site area of three acres.
- 2. Developments which include only uses under Subsection 601.03(A) and accessory uses; shall require a minimum site area of two acres.
- 3. Developments which include only uses under Subsection 601.03(D) shall require a minimum site area of one acre.

D. Undersized Lots: Any primary use under Subsection 601.03, and its associated accessory and limited uses, may be established on a lot smaller than the minimum site area that is physically separated from all other underdeveloped properties in this district, or that is approved as a conditional use under Subsection 601.06(G). However, any lot less than two acres in size resulting from a property line adjustment is not buildable, except for recreational uses under Subsection 601.03(D) on a lot a minimum of one acre in size, unless combined with other property as provided under Subsection 601.08(B).

E. Floor Area Ratio: The maximum floor area for all primary and conditional uses within a site area shall not exceed the net site area multiplied by one (1:1 ratio).

F. Floor Area Requirements: Any primary use or combination of primary uses under Subsections 601.03(A) through (D) may be allowed within a development at floor area percentages, excluding accessory uses, not exceeding those illustrated in Table 601-1.

Table 601-1: Floor area limitations for primary use categories under Subsection 601.03

A	B	C	D
100 percent	70 percent	75 percent	100 percent

- 1. Land area and density for residential uses shall be as follows:

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- a. No more than 25 percent of a site area may be developed with exclusively high-density residential uses, and associated accessory and limited uses.
 - b. The entire site, or any portion thereof, may be developed with mixed-use structures which combine housing and other primary uses allowed in this district.
 - c. The entire area may be used to calculate the allowed density under the district land area standard for the HDR District and Section 1012, subject to the floor area limitation of this district.
2. Limited Uses: Only primary use floor area may be included for purposes of calculating the allowed limited use floor area for a development.
- G. Exceptions to Floor Area Requirements: The requirements under Subsection 601.08(F) may be modified or waived ~~by the Hearings Officer, pursuant to Section 1300. Approval shall not be granted, unless the applicant provides evidence substantiating~~ subject to compliance with Subsections 601.08(G)(1) through (3), or Subsection 601.08(G)(4):
1. The modification or waiver is consistent with the purposes under Subsection 601.08(A); and
 2. The need for the use for which additional floor area is requested is at least as great as the need for other compatible primary uses allowed in this district; and
 3. The proposed use, and location of the use, is compatible with, and complementary to existing or proposed developments within the district area; or
 4. A substantial mix of primary uses has been established within the immediate district area to the extent that all primary use categories under Subsections 601.03(A) through (D) are represented.
- H. Maximum Lot Coverage: 55 percent.
- I. Minimum Perimeter Setback: 15 feet.
1. The following uses may be allowed within a perimeter setback area that fronts on a public, county, or state road:
 - a. Landscaping;
 - b. Bikeways, trails, pedestrian walks and plazas;
 - c. Access driveways; and

- d. Bus shelters and other pedestrian amenities.
- 2. The following uses may be allowed within perimeter setback areas that are adjacent to other site areas:
 - a. Landscaping;
 - b. Bikeways, trails, pedestrian walks, patios, courts;
 - c. Coordinated joint-use circulation drives, parking, loading, recreational activity areas, plazas, and
 - d. Coordinated joint-use structures.
- J. Minimum Street Frontage: 50 feet.
- K. Minimum Landscaping Area: 25 percent of the lot.
- L. Exceptions to Dimensional Standards: The requirements of Section 601.08 are not subject to modification pursuant to Sections 903 and 904. However, the requirements for lot coverage, perimeter setback, and street frontage may be modified through design review pursuant to Section 1102. Approval shall not be granted unless the variance criteria under Section 1205 are satisfied.

601.09 DEVELOPMENT STANDARDS

The following development standards shall apply in the Campus Industrial District.

- A. General: Development is subject to the applicable provisions of Sections 1000 and 1100.
- B. Community and Design Plans: Development within a Community or Design Plan area identified in Chapter 10 of the Comprehensive Plan shall comply with the specific policies and standards for the adopted Community Plan or Design Plan.
- C. Outdoor Storage: No outdoor storage of materials shall be allowed.

[Amended by Ord. ZDO-224, 5/31/11; Amended by Ord. ZDO-231, 1/31/12; Amended by Ord. ZDO-235, 5/14/12; Amended by Ord. ZDO-243, 9/9/13]

702 OPEN SPACE MANAGEMENT DISTRICT (OSM)

702.01 PURPOSE

The intent of the Open Space Management District is to preserve and manage the County's committed open space resources for the benefit, health, and welfare of the people. These resources provide the community with recreation areas, help satisfy a need for contrast with the built environment, protect natural areas and provide areas of quiet contemplation and enjoyment of the natural environment.

702.02 AREAS OF APPLICATION

The Open Space Management District shall apply to those areas identified as urban on the Comprehensive Plan and Mount Hood Community Plan maps, in Metro's Urban Reserve Areas, or identified in the Metropolitan Greenspaces Master Plan.

- A. Parks, whether existing, acquired, or dedicated in the future (see Section 1011 for dedication requirements).
- B. Other public and private recreation areas, including school playgrounds and golf courses.
- C. Cemeteries.
- D. Unique or distinctive natural areas which have been either dedicated to the public or preserved through an easement.
- E. Natural areas in Metro's Urban Reserve Areas or identified in the Metropolitan Greenspaces Master Plan, when under public or common ownership.

702.03 PRIMARY USES

- A. Public and private outdoor recreation facilities, and parks, including covered but not enclosed areas. Such facilities may include ball fields, swimming pools, play equipment, driving ranges, tennis courts, community gardens, fountain courts, and plazas, provided such uses and facilities are not intended for the purpose of obtaining a commercial profit. These uses are allowed in the urban area and urban services areas. Outside the urban areas these uses are subject to Subsection 702.05.
- B. Nature trails, bird sanctuaries, nature conservancies, and other similar natural areas provided such uses are not intended for the purpose of obtaining a commercial profit.
- C. Cemeteries
- D. Utility carrier cabinets, subject to Section 830

- E. Surface water retention and detention facilities. In the Clackamas River flood plain: surface water management biofiltration ponds and surface water pollution reduction facilities that minimize impact on the natural environment.
- F. Areas suitable for flood storage and flood mitigation purposes.
- G. Wetland mitigation and enhancement facilities.

702.04 ACCESSORY USES

- A. Accessory uses listed under Subsection 702.04(B) may be allowed, provided that any structure shall be designed and integrated into the site by:
 - 1. Minimizing visual impacts by landscaping.
 - 2. Providing skirting for manufactured dwellings, residential trailers, recreational vehicles, and other structures which do not have a continuous foundation.
- B. Accessory uses subject to the above conditions include:
 - 1. A caretaker's dwelling
 - 2. Restroom and locker room facilities
 - 3. Information and interpretive centers
 - 4. Pro shops and other concession sales uses incidental to a primary use, provided the combined total area devoted to this use does not exceed 500 square feet.
 - 5. Maintenance buildings associated with a primary use
- C. Parking and loading areas.
- D. Bus and mass transit shelters, subject to Section 823.
- E. Security facilities, such as lights, gates, and fences.
- F. Clubhouses and lodges.
- G. Cemetery office buildings, crematoriums, and mausoleums in conjunction with a cemetery, subject to Section 808.
- H. Rainwater collection systems.
- I. Solar collection systems.
- J. Electric vehicle charging stations.

702.05 CONDITIONAL USES

- A. The following are conditional uses in the OSM District, approval of which is may be allowed subject to ~~review by the Hearings Officer pursuant to Section 1300. Approval shall not be granted unless the proposal satisfies the criteria under~~ Section 1203.
1. Indoor recreation facilities, meeting rooms, interpretive centers and other similar uses provided such uses are not intended for the purpose of obtaining a commercial profit;
 2. Fire stations, public schools and libraries when associated with open space or recreational facilities;
 3. Pro shops and other concession sales uses incidental to a primary use exceeding the area standards of Subsection 702.04(B)(4);
 4. Water treatment facilities and other public utilities that exceed the limitations of primary uses in Subsection 702.03; and
 5. Any use ~~that the Hearings Officer finds to be~~ customarily provided in public or private recreation areas.

702.06 DEVELOPMENT STANDARDS

Development in the Open Space Management District is subject to the applicable provisions of Section 1000 and the review procedures set forth in Section 1103. In addition, improvements shall meet the following standards:

- A. Landscape the site to produce a setting appropriate to its function.
- B. Provide an efficient internal circulation system and facilities layout plan.
- C. Maximize access for pedestrians, bicyclists, transit riders, and the handicapped in active recreation areas.
- D. Provide conveniences for handicapped users.
- E. In case of parks, conform to the classifications and standards in policies 1.1 - 1.3 of the Parks Section of the Comprehensive Plan.
- F. Locate principal and accessory buildings at least 10 feet from any lot in a residential district.
- G. Manufactured Dwelling Parks: Redevelopment of a manufactured dwelling park with a different use shall require compliance with Subsection 825.03.
- H. Community and Design Plans: Development within a Community or Design Plan area identified in Chapter 10 of the Comprehensive Plan shall comply

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with the specific policies and standards for the adopted Community or Design Plan.

[Amended by Ord. ZDO-224, 5/31/11]

703 FLOODPLAIN MANAGEMENT DISTRICT (FMD)

703.01 FINDINGS OF FACT

A Floodplain Management District (FMD) is needed for the following reasons:

- A. Flood Losses Resulting from Periodic Inundation: The flood hazard areas of the County are subject to periodic inundation that results in loss of life and property, health and safety hazards, disruption of commerce and governmental services, extraordinary public expenditures for flood protection and relief, and impairment of the County's tax base, all of which adversely affect the public health, safety, and general welfare.
- B. General Causes of These Flood Losses: Flood losses are caused by:
 - 1. The cumulative effect of obstruction in floodways causing increase in flood heights and velocities; and
 - 2. The occupancy of flood hazard areas by uses vulnerable to floods or hazardous to others that are inadequately elevated or otherwise unprotected from flood damages.

703.02 PURPOSE

This section is adopted to promote the public health, safety, and general welfare, and to minimize flood losses with provisions designed to:

- A. Restrict or prohibit uses that are dangerous to health, safety, or property in times of flooding or that cause increased flood heights or velocities;
- B. Require that uses vulnerable to floods, including public facilities that serve such uses, be provided with flood protection at the time of initial construction;
- C. Protect individuals, as much as possible, from buying lands that are not suitable for intended purposes because of flood hazard; and
- D. Minimize the need for rescue and relief efforts associated with flooding undertaken at the expense of the general public.

703.03 WARNING AND DISCLAIMER OF LIABILITY

The degree of flood protection required by the FMD is considered reasonable for regulatory purposes and is based on engineering and scientific study. Larger floods may occur on rare occasions, or the flood height may be increased by manmade or natural causes, such as ice jams and bridge openings restricted by debris. This section does not imply that areas outside the FMD or land uses permitted within the FMD will be free from flooding or flood damages. This section shall not create liability on

the part of the County, or any officer or employee thereof, for any flood damages that result from reliance on the FMD or any administrative decision lawfully made hereunder.

703.04 AREA OF APPLICATION

The FMD is applied to the special flood hazard area (SFHA) identified by the Federal Insurance Administration in a scientific and engineering report entitled, "The Flood Insurance Study for Clackamas County, Oregon & Incorporated Areas," (FIS) dated June 17, 2008, with accompanying Flood Insurance Rate Maps (FIRMs).

- A. The FIS and FIRMs are hereby adopted by reference and declared to be a part of this section and are on file at the County Department of Transportation and Development.
- B. The Planning Director shall make interpretations where needed, as to the exact location of the boundaries of the SFHA (for example, where there appears to be a conflict between a mapped boundary and actual field conditions, topography and/or elevations). In areas where base flood elevation data have been provided, the Planning Director may require the applicant to submit an elevation certificate to determine whether the proposed development is located in the SFHA. To most precisely determine the base flood elevation of the subject area, the elevations provided by the FIS flood profiles in combination with the cross section lines on the FIRM shall supersede the base flood elevation lines and values identified on the FIRM.

703.05 DEFINITIONS

Unless specifically defined below, words or phrases used in this section shall be interpreted to give them the same meaning as they have in common usage and to give this section its most reasonable application.

- A. Base Flood: The flood having a one percent chance of being equaled or exceeded in any given year. Also known as the "regulatory flood," or the "100-year flood," the base flood is the national standard used by the National Flood Insurance Program and all federal agencies for the purposes of requiring the purchase of flood insurance and regulating new development.
- B. Base Flood Elevation: The computed elevation to which floodwater is anticipated to rise during the base flood. Base flood elevations are shown on Flood Insurance Rate Maps and on the flood profiles included in the Flood Insurance Study.
- C. Basement: Any area of a building that has its floor below ground level on all sides.

- D. Below-Grade Crawl Space: An enclosed area below the base flood elevation — which is in nearly all cases considered by the National Flood Insurance Program to also be a basement — that generally serves as the foundation for a structure and exhibits the following characteristics:
1. All sides of the crawl space are below the adjacent exterior grades outside the crawl space;
 2. The interior grade inside the crawl space is not more than two feet below the lowest adjacent exterior grade; and
 3. The height, measured from the interior grade of the crawl space to the top of the crawl space foundation, does not exceed four feet at any point.
- E. Community Rating System: A program of the National Flood Insurance Program (NFIP) that recognizes jurisdictions for implementing floodplain management practices and standards that exceed NFIP minimum requirements. Membership in the program results in increased public safety and property protection, along with reductions in flood insurance premiums.
- F. Conditional Letter of Map Revision: The Federal Emergency Management Agency's (FEMA's) comment on a proposed project that would, upon construction, affect the hydrologic or hydraulic characteristics of a flooding source and thus result in the modification of the existing regulatory floodway, the effective base flood elevations, or the special flood hazard area. The letter does not revise an effective National Flood Insurance Program map, but it indicates whether the project, if built as proposed, would be recognized by FEMA.
- G. Cross Section: A source of data that is developed during the hydraulic analyses of a stream in the course of producing the Flood Insurance Rate Maps (FIRMs) and the Flood Insurance Study (FIS). Cross sections provide an elevation view of the floodplain taken perpendicular to the flow at specific points and are typically determined using field survey information and topographic maps. Some of the locations of cross sections are shown on the FIRMs and are, in turn, cross-referenced in the FIS, where they provide precise information about a variety of data that relates to flood conditions.
- H. Development: Any manmade change to improved or unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations, or storage of equipment or materials. Development does not include those activities of a type and magnitude that cause no effects on water surface elevations, no effects on the level of insurable damages, and no adverse impacts to upstream or downstream properties, as determined by the Planning Director, based on documentation supplied by the applicant.

- I. Elevation Certificate: A form produced by the Federal Emergency Management Agency (FEMA) that is completed by a professional engineer, licensed architect, or licensed surveyor, usually through field survey work, that reports elevation information about grades, structures, and other facilities. An elevation certificate is used to determine the relationship of grades, structures, and other facilities to the base flood elevation. It is also used to certify building elevations to ensure compliance with community floodplain regulations; determine proper insurance rates; and support a Letter of Map Amendment or Letter of Map Revision Based on Fill. Communities that participate in the Community Rating System are required to use an elevation certificate for all official reporting and recordkeeping of elevations.
- J. Encroachments: Activities or construction within the floodway, including fill, new construction, substantial improvements, and other development.
- K. Federal Emergency Management Agency (FEMA): A federal agency, whose primary mission is to reduce the loss of life and property and protect the nation from all hazards, including natural disasters, acts of terrorism, and other manmade disasters, by leading and supporting the nation in a risk-based, comprehensive emergency management system of preparedness, protection, response, recovery, and mitigation. Among other things, FEMA manages and oversees the National Flood Insurance Program.
- L. Flood: A general and temporary condition of partial or complete inundation of normally dry land area from:
 - 1. The overflow of inland or tidal waters; and/or
 - 2. The unusual and rapid accumulation of runoff of surface waters from any source.
- M. Flood Fringe Area: In areas where base flood elevation data have been provided and floodways have been established, the flood fringe area is the portion of the special flood hazard area that is outside of the floodway.
- N. Flood Hazard Area: The portion of the special flood hazard area where flood elevations are available but the floodway has not been defined.
- O. Flood Insurance Rate Map: The official map on which the Federal Insurance Administration has delineated both the special flood hazard area and the risk premium zones applicable to the community.
- P. Flood Insurance Study: The official report provided by the Federal Insurance Administration that includes flood profiles, the Flood Insurance Rate Maps, and the water surface elevations of the base flood.
- Q. Flood Profile: A graph, found in the Flood Insurance Study, of computed flood elevations at floodplain cross sections that is typically available for a

stream that has base flood elevations shown on the Flood Insurance Rate Map (FIRM). Elevations provided by the flood profiles, used in combination with the cross section lines on the FIRM, are the most accurate means of determining the base flood elevation at a particular site.

- R. Flood Prone Area: The portion of the special flood hazard area that has been determined by approximate methods and, consequently, for which base flood elevation data are not available.
- S. Floodplain: Land area that is adjacent to rivers and streams and is subject to periodic and recurring inundation by floodwaters.
- T. Floodproofing: A combination of structural provisions, changes, or adjustments to properties and structures subject to flooding primarily for the reduction or elimination of flood damages to properties, water and sanitary facilities, structures, and contents of buildings in a flood hazard area.
- U. Floodway: The channel of the river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one foot, often referred to as the “regulatory floodway.”
- V. Hydraulic Shadow: The area that is upstream and downstream of an existing structure or other obstruction, where the water is essentially stagnant due to water flowing around the structure or obstruction, as defined on pages 1-3 of the June 2001 *Hydraulic Shadow Computations* document, on file at the County Department of Transportation and Development.
- W. Letter of Map Amendment (LOMA): An official amendment, by letter from the Federal Emergency Management Agency, to an effective National Flood Insurance Program map. A LOMA establishes a property’s location in relation to the special flood hazard area. LOMAs usually are issued because a property has been inadvertently mapped as being in the floodplain, but is actually on natural high ground above the base flood elevation.
- X. Letter of Map Revision (LOMR): The Federal Emergency Management Agency’s modification to an effective Flood Insurance Rate Map (FIRM). LOMRs generally are based on the implementation of physical measures that affect the hydrologic or hydraulic characteristics of a flooding source and thus result in the modification of the existing regulatory floodway, the effective base flood elevations, or the special flood hazard area. The LOMR officially revises the FIRM, and sometimes the Flood Insurance Study (FIS) report, and when appropriate, includes a description of the modifications. The LOMR generally is accompanied by an annotated copy of the affected portions of the FIRM or FIS report.
- Y. Letter of Map Revision Based on Fill: The Federal Emergency Management Agency’s modification of the special flood hazard area shown on the Flood

Insurance Rate Map based on the placement of fill outside the existing regulatory floodway.

- Z. Lowest Construction Elements: The lowest flooring system of a structure that consists of repeated structural members, spaced 24 inches or less on center.
- AA. Lowest Floor: The lowest floor of the lowest enclosed area (including basement). An unfinished or flood resistant enclosure, usable solely for parking of vehicles, building access, or storage, in an area other than a basement, is not considered a building's lowest floor, provided that such enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirements of Subsection 703.11(A)(1).
- BB. Manufactured Home: A structure, transportable in one or more sections, that is built on a permanent chassis and is designed for use with or without a permanent foundation when connected to the required utilities. For floodplain management purposes, the term "manufactured home" also includes park trailers, travel trailers, and other similar vehicles placed on a site for greater than 180 consecutive days.
- CC. National Flood Insurance Program (NFIP): A federal program that is administered by the Federal Emergency Management Agency that is designed to reduce the loss of life, damage to property, and rising disaster relief costs, both within and beyond the special flood hazard area. The NFIP makes federally backed flood insurance available to communities that agree to adopt and enforce floodplain management ordinances that meet or exceed NFIP requirements.
- DD. New Construction: Structures for which the start of construction commenced on or after the effective date of this section.
- EE. "No-Rise" Certification: A certification that is provided by a professional engineer or licensed architect that demonstrates through accompanying hydrologic and hydraulic analyses, performed in accordance with standard engineering practice and National Flood Insurance Program rules and regulations, that an encroachment within the floodway will not result in any increase in the flood levels during the regulatory flood discharge. The supporting technical data should be based on the standard step-backwater computer model used to develop the 100-year floodway shown on the Flood Insurance Rate Map.
- FF. Obstruction: Any dam, wall, wharf, embankment, levee, dike, pile, abutment, projection, excavation, channel, rectification, bridge, conduit, culvert, building, wire, fence, rock, gravel, refuse, fill, structure, or matter in, along, across, or projected into any channel, watercourse, or regulatory flood hazard area that may impede, retard, or change the direction of the flow of water, either in itself or by catching or collecting debris carried by such water, or that

is placed where it might be carried downstream by the flow of water resulting in damage to life or property.

- GG. Pre-FIRM Structure: A structure that was built before March 1, 1978, the effective date of the first Flood Insurance Rate Map (FIRM) for the County, and hence, prior to the date when detailed flood hazard data and flood elevations were provided to the County.
- HH. Post-FIRM Structure: A structure that was built on or after March 1, 1978, the effective date of the first Flood Insurance Rate Map (FIRM) for the County.
- II. Recreational Vehicle: A vehicle that is:
1. Built on a single chassis;
 2. 400 square feet or less when measured at the largest horizontal projection;
 3. Designed to be self-propelled or permanently towable by a light duty truck; and
 4. Designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use.
- JJ. Regulatory Flood Protection Elevation: The elevation to which uses regulated by the FMD are required to be elevated or floodproofed.
- KK. Shallow Flooding Area: The portion of the special hazard area with average flood depths of one to three feet that usually exhibit sheet flow on sloping terrain. For areas of alluvial fan flooding, velocities are also determined.
- LL. Special Flood Hazard Area: (SFHA): The land area covered by the floodwaters of the base flood on National Flood Insurance Program (NFIP) maps and, thus, the area determined by detailed or approximate studies to be in a 100-year floodplain. The SFHA is subject to the NFIP's floodplain management regulations and the mandatory purchase of flood insurance. The SFHA includes the floodway, flood fringe, flood hazard, flood prone, and shallow flooding areas.
- MM. Start of Construction: Includes substantial improvement, and means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, placement or other improvement was within 180 days of the permit date. The actual start means either the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading, and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footings,

piers, or foundation or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. For a substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of the building, whether or not that alteration affects the external dimensions of the structure.

- NN. Structure: A walled and roofed building, manufactured home, or a gas or liquid storage tank that is principally above ground.
- OO. Substantial Damage: Any damage of any origin sustained by a pre-FIRM structure, or a structure for which the applicable Flood Insurance Rate Map or the Flood Insurance Study has been updated or revised since the date of construction of the structure, whereby the cost of restoring the structure to its before damaged condition would equal or exceed 50 percent of the market value of the structure before the damage occurred. The market value of the structure before the damage occurred shall be the structure's Real Market Value that is provided by the County Assessor's office. The cost of restoring a structure shall be determined by the County Building Codes Division, pursuant to Subsection R105.3.1.1 of the 2005 Oregon Residential Specialty Code and through subsequent versions of the applicable, adopted Building Code that address substantially damaged structures within the special flood hazard area.
- PP. Substantial Improvement: Any repair, rehabilitation, reconstruction, or improvement — or series of repairs, rehabilitations, reconstruction, or improvements — of a pre-FIRM structure, or a structure for which the applicable Flood Insurance Rate Map or the Flood Insurance Study has been updated or revised since the date of construction of the structure, the cost of which — or cumulative costs of which at the time of the most recent repair, rehabilitation, reconstruction, or improvement — equals or exceeds 50 percent of the market value of the structure. The market value of the structure shall be determined at the time of the most recent repair, rehabilitation, reconstruction, or improvement, either before the improvement or repair is started, or if the structure has been damaged and is being restored, before the damage occurred. The market value of the structure shall be the structure's Real Market Value that is provided by the County Assessor's office. The cost of repair, rehabilitation, reconstruction, or improvement of a structure, or series thereof, shall be determined by the County Building Codes Division, pursuant to Subsection R105.3.1.1 of the 2005 Oregon Residential Specialty Code and through subsequent versions of the applicable, adopted Building Code that address substantially improved buildings within the special flood hazard area. Substantial improvement is considered to occur when the first alteration of any wall, ceiling, floor, or other part of the structure commences, whether or not that alteration affects the external dimensions of the structure. Substantial improvement does not, however, include:

1. Any project to improve a structure to correct existing violations of state or local health, sanitary, or safety code specifications provided such violations have been identified by the local code enforcement official and the project is the minimum necessary to assure safe living conditions; or
2. Any alteration of a structure listed on the National Register of Historic Places or a State Inventory of Historic Places.

QQ. Wet Floodproofing: Permanent or contingent measures that are applied to a structure or its contents that prevent or provide resistance to damage from flooding, while allowing floodwaters to enter the structure or area. Generally, this includes properly anchoring the structure, using flood resistant materials below the base flood elevation and protecting mechanical and utility equipment. Application of wet floodproofing as a flood protection technique under the National Flood Insurance Program is limited to enclosures below elevated residential and non-residential structures and to nonresidential structures that have been issued variances by the County.

703.06 EXEMPT USES

The following uses are exempt from the requirement to obtain a Floodplain Development Permit and from compliance with Subsections 703.10 and 703.11 .

- A. Uses that do not constitute development. Examples of uses that may qualify for this exemption include farming, wild crop harvesting, archery ranges, wildlife and nature preserves, target ranges, trap and skeet ranges, hunting and fishing areas, hiking and horseback riding trails, lawns, gardens, and play areas.
- B. Repair, rehabilitation, reconstruction, or improvement of a pre-FIRM structure that is not a substantial improvement and where the structure has not sustained substantial damage. If the structure is located in the floodway, no increase in ground coverage shall result unless:
 1. A “no-rise” certification is provided; or
 2. Proof is provided by a professional engineer or licensed architect that the area within which the increase in ground coverage is proposed lies within the hydraulic shadow.
- C. Fish enhancement projects — including stream crossings that are a direct component of such projects — outside of the floodway sponsored or approved by a state or federal agency.

703.07 DEVELOPMENT IN THE FLOODWAY

Development in the floodway is prohibited, except as provided in Subsection 703.06(B), or for the uses listed in this subsection. The following uses are allowed only if permitted in the underlying zoning district and, with the exception of fish enhancement projects, require approval of a Floodplain Development Permit:

- A. Development that requires a waterfront location (e.g., marinas and boat ramps). A “no-rise” certification shall be provided.
- B. Riprap or other structural stream bank protection measures. A “no-rise” certification and the evidence required in Subsection 703.10(J)(2) shall be provided, or the criteria in Subsection 703.10(J)(1) shall be met.
- C. Hydroelectric facilities. A “no-rise” certification shall be provided;
- D. Stream crossings, except those that are a direct component of a fish enhancement project sponsored or approved by a state or federal agency, subject to Subsection 703.10(G);
- E. Replacement, substantial improvement, or repair of substantial damage of a structure that was constructed prior to the establishment of, or revisions to, the floodway, subject to the following:
 - 1. The development shall comply with Subsection 1206.05 and the applicable provisions of Subsections 703.10 and 703.11.
 - 2. Foundations shall be designed by a professional engineer or licensed architect, to the satisfaction of the County Building Codes Division, to withstand the mean velocity of floodwaters in the floodway, as they are listed in the Floodway Data tables of the Flood Insurance Study, and to withstand the scouring forces associated with those floodwater velocities.
 - 3. If an increase in ground coverage is proposed, the applicant shall provide either a “no-rise” certification or proof by a professional engineer or licensed architect that the area within which the increase in ground coverage is proposed lies within the hydraulic shadow.
- F. Fish enhancement projects — including stream crossings that are a direct component of such projects — sponsored or approved by a state or federal agency, subject to the following:
 - 1. The project ~~requires review~~ shall be reviewed as a Type I application pursuant to ~~Section 1307~~ Subsection 104.01(A).
 - 2. The responsible agency shall provide a feasibility analysis and certification, prepared by a qualified professional, that the project is designed to keep any rise in 100-year flood levels as close to zero as

practically possible and that no structures shall be impacted by any potential rise.

3. Routine maintenance of the project shall be required in order to sustain conveyance over time, and a long-term maintenance program shall be included in the analysis and certification.

703.08 DUTIES OF THE PLANNING DIRECTOR

Duties of the Planning Director under this section shall include:

- A. The Planning Director shall review Floodplain Development Permits to determine if the proposed development adversely affects the flood carrying capacity of the special flood hazard area. For purposes of this subsection, "adversely affects" means that the cumulative effect of the proposed development and all other existing and anticipated development, will not increase the water surface elevation of the base flood more than one foot at any point.
- B. Within the special flood hazard area, when more detailed base flood elevation or floodway data is available outside of the adopted Flood Insurance Study (FIS) from a federal, state or other authoritative source — such as preliminary or draft information from a new study that will revise the FIS —the Planning Director may obtain, review, and reasonably utilize such data. When the data pertains to a preliminary or draft FIS in Zone A, the Planning Director is required to reasonably utilize the data, and is allowed discretion in using this data only to the extent that the technical or scientific validity of the data in the draft or preliminary FIS is questioned by a qualified professional.
- C. For all new or substantially improved structures, the Planning Director shall obtain either an elevation certificate or a Federal Emergency Management Agency National Flood Insurance Program Floodproofing Certificate for Non-Residential Structures.
 1. In either case, the currently effective form shall be used, and it shall be completed in accordance with the accompanying instructions.
 2. The determination regarding which certificate is required shall be made based on the nature of the development consistent with National Flood Insurance Program regulations.
- D. The Planning Director shall maintain for public inspection all records pertaining to the provisions of this section.
- E. The Planning Director shall notify adjacent communities and the State Department of Land Conservation and Development prior to any alteration or

relocation of a watercourse, and submit evidence of such notification to the Federal Insurance Administration.

703.09 FLOODPLAIN DEVELOPMENT PERMITS

Except as provided under Subsections 703.06(B) and (C) and 703.07(F), a Floodplain Development Permit (FDP) shall be obtained for development in the FMD. Work that is necessary to protect, repair, maintain, or replace existing structures, utility facilities, roadways, driveways, and stream banks in response to emergencies may be undertaken prior to obtaining an FDP, provided that an FDP is obtained after the emergency has passed. An FDP requires review as a Type II application pursuant to Section 1307.

- A. Submittal Requirements: In addition to the submittal requirements identified in Subsection 1307.07(C), aAn application for an FDP shall include ~~the~~ following:
1. A site plan drawn to scale, showing elevations of the site; pertinent structure, fill, or storage elevations; size, location, and spatial arrangement of all proposed and existing structures on the site; and location and elevations of streets, water supply, sanitary facilities, and soil types; and other applicable information;
 2. Specifications for building construction and materials, loads and forces, and effect on soil bearing pressures, erosion control, floodproofing, filling, dredging, grading, channel improvement, storage of materials, water supply, and sanitary facilities;
 3. A description of the extent to which any watercourse will be altered or relocated as a result of proposed development; and
 4. Either an elevation certificate or a Federal Emergency Management Agency National Flood Insurance Program Floodproofing Certificate for Non-Residential Structures.
 - a. In either case, the currently effective form shall be used, and it shall be completed in accordance with the accompanying instructions, and based on construction drawings and proposed site locations of development.
 - b. The determination regarding which certificate is required shall be made based on the nature of the proposed development consistent with National Flood Insurance Program regulations.
- B. Factors of Consideration: In reviewing an application for an FDP, the following factors shall be considered:

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1. The danger to life and property due to increased flood heights or velocities caused by encroachments;
 2. The danger that materials may be swept on to other lands or downstream to the injury of others;
 3. The proposed water supply and sanitation systems and the ability of those systems to prevent disease, contamination, and unsanitary conditions;
 4. The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner;
 5. The importance to the community of the service provided by the proposed facility;
 6. The requirements of the facility for a waterfront location;
 7. The availability of alternative locations not subject to flooding for the proposed use;
 8. The compatibility of the proposed use with existing development and development anticipated in the foreseeable future;
 9. The relationship of the proposed use to the Comprehensive Plan and floodplain management program for the area;
 10. The safety of access to property in times of flood for ordinary and emergency vehicles;
 11. The expected heights, velocity, duration, rate of rise, and sediment transport of the floodwaters expected at the site; and
 12. Other factors that are relevant to the purpose of this section.
- C. Approval Criteria: ~~An FDP shall be subject to~~The Planning Director may approve an FDP, pursuant to Subsection 1305.02, if the applicant provides evidence substantiating the following standards and criteria:
1. All necessary permits have been obtained from those federal, state, or local governmental agencies from which prior approval is required.
 2. If the proposed development is in the floodway, the standards of Subsection 703.07 have been met.
 3. If the proposed development includes alteration of a watercourse, maintenance will be provided within the altered or relocated portion of said watercourse so that the flood carrying capacity is not diminished.

4. The proposed development will comply with the applicable provisions of Subsections 703.10 and 703.11.
- D. Conditions of Approval: The County may attach conditions of approval to an FDP if such conditions are deemed necessary to further the purpose of this section. Such conditions may include, but are not limited to:
1. Limitations on periods of use and operation;
 2. Imposition of operation controls, sureties, and deed restrictions; and
 3. Floodproofing and other protective measures, such as:
 - a. Installation of watertight doors, bulkheads, and shutters;
 - b. Reinforcement of walls to resist water pressure;
 - c. Use of paints, membranes, or mortars to reduce seepage of water through walls;
 - d. Addition of mass or weight to structures to resist flotation;
 - e. Installation of pumps to lower water levels in structures;
 - f. Construction of water supply and waste treatment systems to prevent the entrance of floodwaters;
 - g. Pumping facilities for subsurface external foundation wall and basement floor pressures;
 - h. Construction to resist rupture or collapse caused by water pressure or floating debris;
 - i. Cutoff valves on sewer lines or the elimination of gravity flow basement drains; and
 - j. Requirements for construction of channel modifications, dikes, levees, and other protective measures.
- E. Finalization of an FDP: If a preliminary elevation certificate or floodproofing certificate was required for a structure, a building permit for that structure shall not receive a final approval or certificate of occupancy until the County approves a final elevation certificate or floodproofing certificate that is based on the as-built/finished construction.
- F. Approval Period: Approval of an FDP is valid for four years from the date of the final written decision. If the County's final written decision is appealed, the approval period shall commence on the date of the final appellate decision. During this four-year period, the approval shall be implemented, or the approval will become void.
1. "Implemented" means all major development permits shall be obtained and maintained, or if no major development permits are required to

complete the development contemplated by the approved FDP, “implemented” means all other necessary County development permits (e.g. grading permit, building permit for an accessory structure) shall be obtained and maintained.

- a. A “major development permit” is:
 - i. A building or manufactured dwelling placement permit for a new primary structure that was part of the FDP approval; or
 - ii. A permit issued by the County Engineering Division for parking lot or road improvements that were part of the FDP approval.

- G. Time Extension: If the approval of an FDP is not implemented within the initial approval period established by Subsection 703.09(F), a two-year time extension may be approved ~~by the Planning Director, pursuant to Section 1310 Subsection 1305.02, and subject to Subsection 1305.05.~~

703.10 GENERAL STANDARDS

Development in the FMD shall comply with the following standards:

A. Anchoring:

- 1. All new construction and substantial improvements shall be anchored to prevent flotation, collapse, or lateral movement of the structure.

B. Construction Materials and Methods, and Utilities:

- 1. The following standards shall apply to below-grade crawl spaces. For more detailed information, refer to FEMA Technical Bulletin 11-01, *Crawlspace Construction for Buildings Located in Special Flood Hazard Areas*. For flood insurance purposes, there is an additional charge that is added to the basic flood insurance policy premium for structures that are built on below-grade crawl spaces.
 - a. The building shall be designed and adequately anchored to resist flotation, collapse, and lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy. Hydrostatic loads and the effects of buoyancy can usually be addressed through the openings required by Subsection 703.10(B)(1)(b). Because of hydrodynamic loads, crawl-space construction is prohibited in areas with flood velocities greater than five feet per second unless the design is reviewed by a qualified design professional, such as a professional engineer or licensed architect. Other types of foundations are recommended for these areas.
 - b. The crawl space shall have openings that equalize hydrostatic pressures by allowing the automatic entry and exit of floodwaters. The

- bottom of each flood vent opening shall be no more than one foot above the lowest adjacent exterior grade.
- c. Portions of the building below the base flood elevation (BFE) shall be constructed with materials resistant to flood damage. This includes not only the foundation walls of the crawl space used to elevate the building, but also any joists, insulation, or other materials that extend below the BFE. The recommended construction practice is to elevate the bottom of joists and all insulation above BFE.
 - d. Any building utility systems within the crawl space shall be elevated above the BFE or designed so that floodwaters cannot enter or accumulate within the system components during flood conditions. Ductwork, in particular, shall either be placed above the BFE or sealed from floodwaters.
 - e. The interior grade of a crawl space below the BFE shall not be more than two feet below the lowest adjacent exterior grade.
 - f. The height of the below-grade crawl space, measured from the interior grade of the crawl space to the top of the crawl space foundation wall shall not exceed four feet at any point. The height limitation is the maximum allowable unsupported wall height according to the engineering analyses and building code requirements for flood hazard areas.
 - g. There shall be an adequate drainage system that removes floodwaters from the interior area of the crawl space. The enclosed area shall be drained within a reasonable time after a flood event. The type of drainage system will vary because of the site gradient and other drainage characteristics, such as soil types. Possible options include natural drainage through porous, well-drained soils and drainage systems such as perforated pipes, drainage tiles, or gravel or crushed stone drainage by gravity or mechanical means.
 - h. The velocity of floodwaters at the site should not exceed five feet per second for any crawl space. For velocities in excess of five feet per second, other foundation types should be used.
2. All new construction and substantial improvements shall be constructed with materials and utility equipment resistant to flood damage, and using methods and practices that minimize flood damage. For more detailed information, refer to November 1999 FEMA Publication 348, *Protecting Building Utilities from Flood Damage*; and FEMA Technical Bulletin 2-93, *Flood-Resistant Materials Requirements*.
 3. New and replacement water supply systems shall be designed to minimize or eliminate infiltration of floodwaters into the system.

4. New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of floodwaters into the system and discharge from the system into floodwaters.
 5. All equipment, machinery, appliances, and electrical boxes that pertain to electrical, ventilation, plumbing, and heating and air-conditioning systems and services, as well as outside fuel storage tanks, outside air-conditioning units, and other interior or exterior service facilities, systems, equipment, machinery, and appliances shall be designed, elevated, floodproofed, and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding. Floodproofed facilities, systems, equipment, machinery, and appliances — except for waterproofed wires and cables, as well as waterproofed and sealed plumbing pipes and other plumbing services — shall be certified as such by a preliminary and final floodproofing certificate. Non-floodproofed facilities, systems, equipment, machinery, and appliances shall be elevated at least two feet above the BFE, except that duct systems may be elevated at least one foot above the BFE.
 6. Onsite waste disposal systems shall be located to avoid impairment to them or contamination from them during flooding.
 7. A professional engineer or licensed architect shall certify that the design and methods of construction are in accordance with accepted standards of practice for meeting provisions of this subsection based on their development and/or review of the structural design, specifications, and plans. Such certifications shall be provided to the County.
- C. Substantial Improvement and Substantial Damage: A structure for which a substantial improvement or repair of substantial damage is proposed shall be elevated, retrofitted, upgraded, etc., such that the structure and all of its interior and exterior service facilities, systems, equipment, machinery and appliances shall be brought into compliance with the applicable standards of this section.
- D. Manufactured Homes:
1. Manufactured homes to be placed or substantially improved shall be elevated on a permanent foundation such that the lowest floor is elevated at least two feet above the BFE, or the lowest construction elements are elevated at least 18 inches above the BFE, whichever results in the higher elevation of the lowest floor.
 2. Manufactured homes shall be anchored to prevent flotation, collapse, or lateral movement, and shall be installed using methods and practices that minimize flood damage. Anchoring methods may include, but are not limited to, use of over-the-top or frame ties to ground anchors.

3. Manufactured homes shall be placed pursuant to Section 824, utilizing the applicable designs and guidelines, as approved by the Building Codes Division, of the September 1985 FEMA Publication, *Manufactured Home Installation in Flood Hazard Areas*, or any more recent or replacement publication thereof.

E. Recreational Vehicles: Recreational vehicles shall be:

1. Located on the site for fewer than 180 consecutive days;
2. Fully licensed and ready for highway use;
3. Supported on wheels or a jacking system;
4. Attached to services on the site only by quick-disconnect type utilities and security devices; and
5. Void of any permanently attached additions.

F. Fill:

1. Any fill or other materials — except those proposed within the interior of, and inside the walls of, a crawl space, foundation, basement or enclosure floor — shall be shown to have a beneficial purpose and the amount thereof not greater than is necessary to achieve that purpose, as demonstrated by a plan submitted by the applicant, showing the uses to which the filled land will be put and the final dimensions of the proposed fill or other materials.
2. Fill or other materials shall be protected against erosion by riprap, vegetative cover, or bulkheading.
3. Structures may be allowed to be constructed on fill and thereby elevated above the BFE, subject to the following standards:
 - a. The fill shall be placed such that the lowest adjacent finished grade of the fill to the foundation of the structure is at least two feet above the BFE.
 - b. The lowest portion of the lowest structural support system of the building (i.e., the bottom of slab, bottom of footings, or bottom of any other lowest on-grade or sub-grade supporting member) shall be located at least one foot above the BFE.
 - c. Placement of the fill shall require approval of a grading permit.
 - d. The structure shall be constructed pursuant to the applicable standards of FEMA Technical Bulletin 10-01, *Ensuring That Structures Built on Fill in or near Special Flood Hazard Areas Are Reasonably Safe from Flooding*.

4. All fill placed at or below the BFE shall be balanced with at least an equal amount of material removal either on-site, or from a nearby area at or below the BFE and in the same drainage basin. In addition, the following standards shall apply:
 - a. Excavation below the level of the seasonal groundwater table shall not be used in balancing fill volumes against excavation volumes;
 - b. The mean annual groundwater level shall be determined by soil morphology, or other available data on groundwater conditions;
 - c. Balancing of a fill shall occur at the same time as the fill is placed on the development site;
 - d. The site plan required in Subsection 703.09(A)(1) shall identify the area where material is removed from the floodplain to balance fill volumes, including pertinent elevations and volume of fill removed;
 - e. A professional engineer or licensed architect shall certify that the amount of material removed balances the amount of fill material;
 - f. A suitable recorded easement or similar legally binding mechanism, in a form acceptable to County Counsel shall be provided to the Planning Director, indicating that future development of the delineated area where material is removed to balance fill volumes is prohibited, and the delineated area cannot be used in the future as balancing for a fill; and
 - g. When the balancing occurs off-site, the application shall also include:
 - i. Authorization from the owner of the property where the balancing will occur; and
 - ii. A legal description of the parcel where the balancing will occur.
5. The following uses or activities are not subject to the provisions of Subsection 703.10(F)(4):
 - a. Removal and/or fill necessary to plant new trees or vegetation;
 - b. Removal and/or fill required for the construction of storm-water runoff detention facilities and/or structures; and
 - c. Removal and/or fill required for the construction of other facilities such as levees designed specifically to reduce or mitigate flood impacts.

G. Stream Crossings, Including Bridges and Culverts, and Transportation Projects:

1. Stream crossings and transportation projects shall be designed as balanced removal and fill projects, or designed to not raise the BFE.

2. Stream crossings and transportation projects that encroach into the floodway shall obtain a “no-rise” certification, or, if the “no-rise” condition cannot be achieved, shall obtain a Conditional Letter of Map Revision, prior to permitting the work, followed by a Letter of Map Revision after the work has been completed.
3. Stream crossings and transportation projects shall be designed to minimize the area of fill in the special flood hazard area (SFHA) and to minimize erosive water velocities.
4. Stream crossings shall be as close to perpendicular to the stream as practicable.
5. Stream crossings shall be designed to allow fish passage.
6. Stream crossings and transportation projects are subject to review and approval pursuant to applicable federal and state statutes and administrative rules.

H. Subdivisions:

1. Subdivisions shall be consistent with the need to minimize flood damage.
2. Subdivisions shall have public utilities and facilities, such as sewer, gas, electrical, and water systems, located and constructed to minimize flood damage.
3. Subdivisions shall have adequate drainage provided to reduce exposure to flood damage.
4. The applicant shall provide base flood elevations for the area of development. Where base flood elevation data have not been provided or are not available from another authorized source, the data shall be generated for subdivisions that contain at least 50 lots or five acres.

I. Toxic or Hazardous Materials:

1. The storage or use of toxic or hazardous materials in conjunction with nonresidential uses is prohibited, except as permitted in Subsection 703.10(I)(2).
2. Storage or use of toxic or hazardous materials may be permitted if the applicant demonstrates the following:
 - a. The proposed development requires toxic or hazardous materials for operation.
 - b. An area outside the SFHA is not available to be used for storage or use of toxic or hazardous materials.

- c. The containers, structures, facilities and machinery that contain, use or process the toxic or hazardous materials shall be elevated:
 - i. A minimum of two feet above the BFE in flood fringe and flood hazard areas;
 - ii. A level to be determined pursuant to Subsection 703.11(C)(1) in flood prone areas; or
 - iii. The depth number specified on the Flood Insurance Rate Map — or a minimum of two feet above the highest adjacent grade if no depth number is specified — in shallow flooding areas.
- d. The structures that support the containers, structures, facilities, and machinery that contain, use or process the toxic or hazardous materials shall comply with Subsections 703.10(A) and 703.10(B)(2) and (7).

J. Riprap or Other Structural Stream Bank Protection Measures:

- 1. If riprap or other structural stream bank protection measures are proposed to repair bank damage, bank removal or bank erosion, the following criteria shall be met. For the purpose of this subsection, “pre-existing conditions” are the conditions of the repair area upon which the FIRM(s), Flood Boundary and Floodway Map(s), and FIS(s) were based that were in effect during the period that the bank was damaged, removed and / or eroded, leading up to the proposed repair.
 - a. The measures shall not encroach any further into the stream channel than the pre-existing conditions.
 - b. The measures shall not add any more cubic yards of bank material than was in place in the pre-existing conditions.
 - c. The measures shall not exceed the height of the bank nor protrude above the topography that was in place in the pre-existing conditions.
 - d. The pre-existing conditions shall be demonstrated through some combination of historical and aerial photography, survey and cross-section information, maps or plans, hydrologic and hydraulic modeling, or any other pertinent information.
 - e. The applicant shall provide evidence from a professional engineer, with expertise in hydrology, hydraulics, fluvial geomorphology, or hydrogeology, that the proposal complies with Subsections 703.10(J)(1)(a) through (d) and that the proposed stream bank protection measures will cause no adverse impacts to upstream or downstream properties, when compared to impacts of the pre-existing conditions.
- 2. If riprap or other structural stream bank protection measures are proposed for reasons other than to repair bank damage, bank removal or bank erosion, or if the repair exceeds the standards of Subsection 703.10(J)(1),

the applicant shall provide evidence from a professional engineer, with expertise in hydrology, hydraulics, fluvial geomorphology, or hydrogeology, that the proposed stream bank protection measures will cause no adverse impacts to upstream or downstream properties.

703.11 SPECIFIC STANDARDS

- A. Flood Fringe and Floodway Areas: In flood fringe and floodway areas, as indicated on the Flood Insurance Rate Map (FIRM) or determined pursuant to Subsection 703.08(B), development shall comply with the following criteria:
1. Residential Construction: New construction and substantial improvement of a dwelling shall have the lowest floor, including basement, elevated at least two feet above the base flood elevation (BFE) — or the lowest construction elements elevated at least one foot above the BFE, whichever results in the higher elevation of the lowest floor — except that new or substantially improved manufactured homes shall have the lowest floor, including basement, elevated at least two feet above the BFE, or the lowest construction elements elevated at least 18 inches above the BFE, whichever results in the higher elevation of the lowest floor. Fully enclosed areas below the lowest floor that are subject to flooding are prohibited, or shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters. Designs for meeting this requirement shall either be certified by a professional engineer or licensed architect or shall meet or exceed the following minimum criteria. For more detailed information, refer to FEMA Technical Bulletin 1-93, *Openings in Foundation Walls*.
 - a. A minimum of two openings having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding shall be provided, unless the applicant provides documentation from a professional engineer or licensed architect that a flood vent manufacturer's product can provide less than one square inch of opening for every square foot of enclosed area and still meet National Flood Insurance Program standards.
 - b. The bottom of all openings shall be no higher than one foot above grade.
 - c. Openings may be equipped with screens, louvers, or other coverings or devices provided that they permit the automatic entry and exit of floodwaters.
 2. Nonresidential Construction: New construction and substantial improvement of a nonresidential structure shall either comply with Subsection 703.11(A)(1), or, together with attendant utility and sanitary facilities, shall comply with the following criteria. For more detailed

information, refer to FEMA Technical Bulletin 3-93, *Non-Residential Floodproofing — Requirements & Certification*.

- a. The structure shall be floodproofed, so that below the point one foot above the BFE, the structure is watertight, with walls substantially impermeable to the passage of water. Applicants floodproofing nonresidential structures shall be notified in writing that flood insurance premiums will be based on rates that are one foot below the floodproofed level (e.g. a building floodproofed to one foot above the BFE will be rated as being floodproofed to the BFE).
- b. The structure shall have structural components capable of resisting hydrostatic and hydrodynamic loads and effects of buoyancy.
- c. A professional engineer or licensed architect shall certify that the design and methods of construction are in accordance with accepted standards of practice for meeting provisions of this subsection based on their development and/or review of the structural design, specifications, and plans. Such certifications shall be provided to the County.

B. Flood Hazard Areas: In flood hazard areas, as indicated on the FIRM or determined pursuant to Subsection 703.08(B), development shall comply with Subsection 703.11(A) and the following criteria:

1. The cumulative effect of the proposed development and all other existing and anticipated development, shall not increase the water surface elevation of the base flood more than one foot at any point.
2. Whenever possible, structures shall be constructed with the longitudinal axis parallel to the direction of flood flow.
3. So far as practical, structures shall be placed approximately on the same flood flow lines as those of adjoining structures.

C. Flood Prone Areas: In flood prone areas, development shall comply with the following criteria:

1. Proposed construction shall be reasonably safe from flooding. The test of reasonableness is a local judgment and includes use of historical data, high water marks, photographs of past flooding, post-flood improvements to the waterway, etc., where available. Failure to elevate the lowest floor to at least two feet above the highest grade may result in higher insurance rates.
2. Proposed residential construction shall comply with Subsections 703.11(A)(1)(a) through (c). Proposed nonresidential construction, together with attendant utility and sanitary facilities, shall comply with Subsections 703.11(A)(2)(a) through (c). However, the level to which the

structure must be elevated or floodproofed shall be determined pursuant to Subsection 703.11(C)(1).

3. Proposed construction shall comply with Subsections 703.11(B)(2) and (3).
- D. Shallow Flooding Areas: In shallow flooding areas development shall comply with the following criteria:
1. New construction and substantial improvement of a dwelling shall comply with Subsections 703.11(A)(1)(a) through (c) and shall have the lowest floor, including basement, elevated above the highest adjacent grade of the building site to a minimum of two feet above the depth number specified on the FIRM, or shall have the lowest construction elements elevated to a minimum of one foot above the depth number specified on the FIRM, whichever results in the higher elevation of the lowest floor. If no depth number is specified, the lowest floor, or the lowest construction elements, whichever results in the higher elevation of the lowest floor, shall be elevated at least two feet above the highest adjacent grade of the building site.
 2. New construction and substantial improvement of a nonresidential structure shall either comply with Subsection 703.11(D)(1), or, together with attendant utility and sanitary facilities, shall comply with Subsection 703.11(A)(2)(a) through (c), except that the structure shall be floodproofed to the elevation identified in Subsection 703.11(D)(1).
 3. Adequate drainage paths shall be provided around structures on slopes to guide floodwaters around and away from proposed structures.

703.12 EXCEPTION

- A. Approval Criteria: Certain non-residential structures — such as detached garages and storage sheds solely used for parking and limited storage that are no greater than 400 square feet in area, pole barns used for storage of farm machinery and equipment, small garden sheds, and structures used in conjunction with agricultural activities — may be granted an exception from the elevation and floodproofing standards of Subsection 703.11, subject to the following criteria. (For more detailed information, refer to FEMA Technical Bulletin 7-93, *Wet Floodproofing Requirements*.)
1. The exception is reviewed pursuant to Subsection 703.13, and compliance with the approval criteria of Subsection 703.13(A) is demonstrated.
 2. The structure will be wet floodproofed.
 3. The structure will not cause significant flood risk.

4. The structure will not be used for human habitation, and will be utilized primarily for storage or parking.
 5. The structure will be designed to have low flood damage potential.
 6. The structure will be constructed and placed on the building site so as to offer the minimum resistance to the flow of flood waters.
 7. The structure will be constructed with flood-resistant materials that meet the requirements of the County Building Codes Division, up to:
 - a. A minimum of one foot above the BFE in flood fringe and flood hazard areas;
 - b. A level to be determined pursuant to Subsection 703.11(C)(1) in flood prone areas; or
 - c. The depth number specified on the Flood Insurance Rate Map — or a minimum of two feet above the highest adjacent grade if no depth number is specified — in shallow flooding areas.
 8. If the structure will be located in the floodway, the structure will comply with Subsection 703.07.
- B. Insurance Consequences: If an exception is granted for a structure that is accessory to a dwelling and the structure will exceed a value greater than 10 percent of the value of the dwelling, the applicant shall be given written notice that substantial increases in insurance rates may result.

703.13 VARIANCES

- A. Approval Criteria: In conjunction with review of a Floodplain Development Permit, ~~the Planning Director may approve~~ a variance from the requirements of this section ~~may be approved; if the applicant provides evidence substantiating the followings~~ subject to the following standards and criteria:
1. The request is consistent with Subsection 703.09(B).
 2. There is good and sufficient cause for the variance.
 3. Compliance with the requirements for which the variance is requested would cause an exceptional hardship to the applicant.
 4. Approval of the variance would not result in increased flood levels, additional threats to public safety, extraordinary public expense, or a nuisance condition.
 5. The variance requested is the minimum necessary, considering the flood hazard, to provide relief.

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6. If the proposal is to repair or rehabilitate a historic structure that is listed on the National Register of Historic Places or a State Inventory of Historic Places, the proposed repair or rehabilitation will not preclude the structure's continued designation as a historic structure, and the variance is the minimum necessary to preserve the historic character and design of the structure.
- B. Insurance Consequences: If a variance is granted that allows the lowest floor of a structure to be built below the regulatory flood protection elevation, the applicant shall be given written notice that the cost of flood insurance will be commensurate with the increased risk resulting from the reduced lowest floor elevation.

[Amended by Ord. ZDO-230, 9/26/11]

704 RIVER AND STREAM CONSERVATION AREA (RSCA)

704.01 PURPOSE

Section 704 is adopted to:

- A. Maintain the integrity of the rivers and streams in the County by minimizing erosion, promoting bank stability, maintaining and enhancing water quality and fish and wildlife habitat, and preserving scenic quality and recreational potential;
- B. Maintain rivers in their natural state to the maximum extent practicable, thereby recognizing their natural, scenic, historic, economic, cultural, and recreational qualities; and
- C. Implement the River Design Plans set forth in Chapter 3 of the Comprehensive Plan.

704.02 DEFINITIONS

Unless specifically defined in Subsection 704.02, words or phrases used in Section 704 shall be interpreted to give them the same meaning as they have in common usage and to give Section 704 its most reasonable application.

- A. Composite Bank Stabilization: A combination of structural and nonstructural bank stabilization methods that includes a revetment of rock with a natural vegetation cover or overlay.
- B. Development: Any manmade change to improved or unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavation, or any other activity which results in the removal of substantial amounts of vegetation or in the alteration of natural site characteristics.
- C. Mean High Water Line: The bank of any river or stream established by the annual fluctuations of water generally indicated by physical characteristics such as a line on the bank, changes in soil conditions, or vegetation line.
- D. Nonstructural Bank Stabilization: The placement of natural vegetation—to include a filter fabric if desired—along a shoreline for the primary purpose of bank stabilization.
- E. Structural Bank Stabilization: The placement of a manmade, concrete wall or revetment of rock along a shoreline for the primary purpose of bank stabilization.

704.03 AREA OF APPLICATION

- A. Section 704 applies to land that is generally within a quarter mile of the mean high water line of the Clackamas, Sandy/Salmon, Molalla/Pudding, Roaring, Tualatin, and Zig Zag Rivers. These lands are classified as Principal River Conservation Areas and are identified on Comprehensive Plan Maps III-1a, *Principal River Conservation Area Clackamas River Design Plan*, III-1b, *Principal River Conservation Area Sandy-Salmon River Design Plan*, III-1c, *Principal River Conservation Area Molalla River Design Plan*, III-1d, *Principal River Conservation Area Tualatin River Design Plan*, and III-2, *Scenic & Distinctive Resource Areas*. The location of these rivers may vary from these maps, if more specific information is provided.

- B. Section 704 also applies to land that is located within 100 feet of the mean high water line of large Type F streams, except principal rivers identified in Subsection 704.03(A), identified on Water Protection Rule Classification (WPRC) Maps compiled pursuant to OAR 629-635-000 and adopted as part of the Comprehensive Plan. The location of these streams may vary from these maps if more specific information is provided. Classified as Stream Conservation Areas (SCAs), these large streams are designated in the Comprehensive Plan as those that generally have annual average flows of 10 cubic feet per second or greater.

- C. Section 704 also applies to land that is located within 70 feet of the mean high water line of medium Type F streams, identified on the WPRC Maps. The location of these streams may vary from these maps if more specific information is provided. Classified as SCAs, these medium streams are designated in the Comprehensive Plan as those that generally have annual average flows of greater than two cubic feet per second and less than 10 cubic feet per second.

- D. Section 704 also applies to land that is located within 50 feet of the mean high water line of small Type F streams, identified on the WPRC Maps. The location of these streams may vary from these maps if more specific information is provided. Classified as SCAs, these small streams are designated in the Comprehensive Plan as those that generally have annual average flows of less than two cubic feet per second.

- E. The provisions of Section 704 are in addition to those requirements of the State Scenic Waterways Act, Omnibus Oregon Wild and Scenic Rivers Act of 1988, and the Federal Wild and Scenic Rivers Act of 1968. In those areas so designated, the requirements of the County shall be administered subject to the application requirements of Subsection 704.08 and prevail when they are more restrictive than state and federal standards.

- F. Notwithstanding Subsections 704.03(A) through (E), Section 704 does not

apply to land that is inside the Metropolitan Service District Boundary or the Portland Metropolitan Urban Growth Boundary, nor does it apply to Oregon Department of Fish and Wildlife, or other state or federally approved, fish enhancement projects.

704.04 RIVER AND STREAM SETBACKS

The following minimum setbacks shall apply to structures exceeding 120 square feet or 10 feet in height:

- A. Structures shall be located a minimum of 100 feet from the mean high water line of a principal river. This minimum setback may be increased up to 150 feet from the mean high water line to lessen the impact of development. In determining the minimum setback, the following shall be considered:
 - 1. The size and design of any proposed structures;
 - 2. The width of the river;
 - 3. The topography of the land between the site and the river;
 - 4. The type and stability of the soils;
 - 5. The type and density of existing vegetation between the site and the river;
 - 6. Established recreation areas or areas of public access; and
 - 7. Visual impact of any structures.
- B. Structures shall be located a minimum of 100 feet from the mean high water line of a large stream.
- C. Structures shall be located a minimum of 70 feet from the mean high water line of a medium stream.
- D. Structures shall be located a minimum of 50 feet from the mean high water line of a small stream.

704.05 SETBACK EXCEPTIONS

- A. The following uses are exempt from the minimum setback standards of Subsection 704.04:
 - 1. Residential lots of record where lot depth precludes compliance with the setback standards of Subsection 704.04, provided that:

- a. Structures shall be sited the maximum distance from the mean high water line which meets the setback and other standards of the underlying zoning district; and
 - b. The footprint of structures shall not exceed 25 percent of the lot area;
2. Repairs, additions, alterations to, or replacement of structures, roadways, driveways, or other development, which is located closer to a river or stream than permitted by the setback requirements of Subsection 704.04, provided that such development does not encroach into the setback any more than the existing structures, roadways, driveways, or other development;
 3. Water dependent uses such as private boat docks, marinas, or boat ramps, provided that structures shall be muted earth tones and any structure shall be the minimum size necessary to accommodate the use;
 4. Uses such as roads, bridges, culverts, pipes, and power lines that are necessary for crossing streams, provided they do not create barriers to fish movement and that adverse impacts are mitigated;
 5. Water impoundments, diversions, detention and retention facilities, and hydroelectric facilities; and
 6. Structural, nonstructural, and composite bank stabilization, provided that structural bank stabilization shall only be approved if:
 - a. Structural bank stabilization is required to protect existing structures;
 - b. Nonstructural bank stabilization will be insufficient to adequately protect existing structures; and
 - c. The structural bank stabilization will utilize composite bank stabilization.
- B. In addition to the exemptions listed in Subsection 704.05(A), the minimum setback standards of Section 704 may be modified for purposes consistent with the adopted Economic, Social, Environmental, and Energy analyses for the applicable watershed.

704.06 DEVELOPMENT STANDARDS

- A. The maximum height of a dwelling or a structure accessory to a dwelling shall be 35 feet, if the dwelling or accessory structure can be seen from a principal river.

- B. Commercial or industrial facilities, such as structures, parking areas, and storage areas shall comply with Subsection 704.04, and signs shall be screened from view of the Principal River or Stream Conservation Area by an opaque vegetation buffer. These facilities shall be subject to design review, pursuant to Section 1102.
- C. Subdivisions and partitions shall be designed, where possible, to allow compliance with Section 704.

704.07 VEGETATION PRESERVATION REQUIREMENTS

- A. A minimum of 75 percent of the setback area (distance) shall be preserved with native vegetation.
- B. Tree cutting and grading shall be prohibited within the buffer or filter strip, with the following exceptions:
 - 1. Trees that endanger life or structures may be removed.
 - 2. Tree cutting and grading may be permitted in conjunction with those uses listed in Subsections 704.05 and 704.06, to the extent necessary to accommodate those uses. Disturbed areas that are outside the footprint of structures and other improvements shall be restored with native vegetation.
 - 3. Vegetation removal may occur when approved by the Oregon Department of Fish and Wildlife, upon written notification that such removal is required as part of a river or stream enhancement project.
- C. Commercial forest activities and harvesting practices outside an urban growth boundary shall be subject to the Oregon Forest Practices Act. Commercial forest harvesting activities inside an urban growth boundary shall be reviewed pursuant to the Forest Policies of the Comprehensive Plan.

704.08 SUBMITTAL REQUIREMENTS

In addition to the submittal requirements identified in Subsection 1307.07(C), an application filed pursuant to Subsection 704.09 shall include ~~the following:~~

- ~~A. A completed land use application on a form provided by the Planning Director;~~
- AB. A site plan showing existing vegetation and development, and locations of proposed development or tree-cutting activity;
- BC. Elevations of any proposed structures;

- ~~CD~~. Exterior materials list for any proposed structures, including type and colors of siding and roofing;
- ~~DE~~. Cross-section of any area within the vegetative buffer or filter strip where grading, filling, or excavating will occur; and
- ~~EF~~. A stream buffer restoration plan showing the location, number, and species of native trees and vegetation to be planted.

704.09 ADMINISTRATION OF SECTION 704

- A. Development and tree-cutting activities controlled by Section 704 in a Principal River Conservation Area (PRCA) shall be reviewed ~~by the Planning and Zoning Division staff~~ to ensure consistency with Section 704. Proposed developments on lands within 150 feet of the mean high water line shall be ~~reviewed through a Type II applications subject to Planning Director review,~~ pursuant to ~~Section 1307 Subsection 1305.02~~. For lands beyond 150 feet of the mean high water line, notice shall be sent to the U.S. Forest Service and Bureau of Land Management.
- B. Development and grading permits in a Stream Conservation Area (SCA) shall be reviewed ~~through a Type II application~~ pursuant to ~~Section 1307 Subsection 104.01(C)~~.
- C. Approval of a PRCA or SCA permit is valid for four years from the date of the final written decision. If the County's final written decision is appealed, the approval period shall commence on the date of the final appellate decision. During this four-year period, the approval shall be implemented, or the approval will become void.
 - 1. "Implemented" means all major development permits shall be obtained and maintained, or if no major development permits are required to complete the development contemplated by the approved PRCA or SCA permit, "implemented" means all other necessary County development permits (e.g. grading permit, building permit for an accessory structure) shall be obtained and maintained.
 - a. A "major development permit" is:
 - i. A building or manufactured dwelling placement permit for a new primary structure that was part of the PRCA or SCA permit approval; or
 - ii. A permit issued by the County Engineering Division for parking lot or road improvements that were part of the PRCA or SCA permit approval.

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- D. If the approval of a PRCA permit ~~by the Planning Director, pursuant to Subsection 1305.02,~~ is not implemented within the initial approval period established by Subsection 704.09(C), a two-year time extension may be approved ~~by the Planning Director,~~ pursuant to Section 1310~~Subsection 1305.02,~~ and subject to ~~Subsection 1305.05.~~

[Amended by Ord. ZDO-230, 9/26/11]

705 WILLAMETTE RIVER GREENWAY (WRG)

705.01 PURPOSE

Section 705 is adopted to:

- A. Protect, conserve, enhance, and maintain the natural, scenic, historical, agricultural, economic, and recreational qualities of lands along the Willamette River;
- B. Maintain the integrity of the Willamette River by minimizing erosion, promoting bank stability, and maintaining and enhancing water quality and fish and wildlife habitats; and
- C. Implement the Willamette River Design Plan set forth in Chapter 3 of the Comprehensive Plan.

705.02 DEFINITIONS

Unless specifically defined in Subsection 705.02, words or phrases used in Section 705 shall be interpreted to give them the same meaning as they have in common usage and to give Section 705 its most reasonable application.

- A. Change of Use: Making a different use of the land or water which requires construction, alterations of the land, water, or other areas outside of existing structures and which substantially alters or affects the land or water.
- B. Develop: To bring about growth or availability; to construct or alter a structure; to conduct a mining operation; to make a physical change in the use or appearance of land; to divide land into parcels; to create or terminate rights of access.
- C. Development: The act, process, or result of developing.
- D. Intensification: Any addition or action which increases or expands the area or amount of an existing use, or the level of activity, including remodeling the exterior of a structure if the remodeling substantially alters the appearance of the structure.
- E. Water-Dependent Use: A use or activity that can be carried out only on, or adjacent to water areas because the use requires access to the water body for water borne transportation, recreation, energy production, or source of water.

705.03 AREA OF APPLICATION

Section 705 applies to development, change of use, or intensification of use on lands

and water within the Willamette River Greenway, except:

- A. A change of use of a building or other structure which does not substantially alter or affect the land or water upon which it is situated;
- B. Landscaping, driveway construction, modifications of existing structures, and the construction or placement of subsidiary structures or facilities which are usual and necessary to the use and enjoyment of existing improvements;
- C. Changes, modifications, and other practices customarily related to those farm uses described in Section 401;
- D. Gravel removal from the bed of the Willamette River when conducted under a permit from the State of Oregon, and when compatible with the purposes stated in Subsection 705.01;
- E. Customary dredging and channel maintenance;
- F. The placing, by a public agency, of signs, workers, or aids to serve the public;
- G. Activities to protect, conserve, enhance, and maintain public recreational, scenic, historical, and natural uses on public lands;
- H. Acquisition and maintenance of scenic easements by the Oregon Parks and Recreation Department; and
- I. The partial harvest of timber beyond the vegetative fringes in areas not covered by a scenic easement when the harvest is consistent with an approved plan under the Oregon Forest Practices Act (OFPA). If such activity is not covered by the OFPA, it shall be reviewed as a Type II application pursuant to Section 1307, Subsection 104.01(C) to ensure consistency with the purposes stated in Subsection 705.01. Commercial forest activities and harvesting practices shall provide for vegetation buffers and the intended shading, soil stabilizing, and water filtering effects required by the OFPA.

705.04 STANDARDS FOR INTENSIFICATION, CHANGE OF USE, OR DEVELOPMENT WITHIN THE WILLAMETTE RIVER GREENWAY

All intensification, change of use, or development shall require a Willamette River Greenway (WRG) permit. ~~The Planning Director may approve a~~ WRG permit requires review as a Type II application; pursuant to Section 1307 Subsection 1305.02, ~~and shall be subject to if the applicant provides evidence substantiating~~ the following standards and criteria:

- A. The request is consistent with the purposes stated in Subsection 705.01.

- B. Where necessary, public access has been provided by appropriate legal means to and along the river.
- C. The request will provide the maximum possible landscaped area, open space, or vegetation between the activity and the river. The depth of this area need not exceed 150 feet.
- D. The request will result in the preservation of a buffer or filter strip of natural vegetation along the river bank. The depth of this vegetative buffer or filter strip need not exceed 150 feet, and shall be determined by consideration of the following:
 - 1. The character of the use or development;
 - 2. The width of the river;
 - 3. Steepness of the terrain;
 - 4. Type and stability of the soil; and
 - 5. The type and density of the existing vegetation.
- E. Structures shall observe a minimum setback between 100 and 150 feet from the mean low water level. The setback shall be determined by evaluation of the criteria stated in Subsection 705.04. Residential lots of record and water-dependent uses unable to meet this requirement shall be exempt from this setback.
- F. The maximum height of a dwelling or a structure accessory to a dwelling shall be 35 feet.
- G. Private noncommercial docks and boathouses shall be subject to the following standards, in addition to the other standards in Subsection 705.04:
 - 1. General Provisions:
 - a. Private noncommercial docks, boathouses, and pilings shall either be dark natural wood colors, or painted dark earth tones (dark brown or green).
 - b. The square footage of docks and boathouses is measured as the length times the width of the outer edge of the structure.
 - c. The length-to-width ratio of a private noncommercial dock shall not exceed 3:1.

- d. Only one dock and boathouse is allowed per riverfront lot of record.
2. Oregon City Falls to Multnomah County line:
 - a. Private noncommercial docks shall not exceed 400 square feet.
 - b. Private boathouses are prohibited.
3. Oregon City Falls to Marion County line:
 - a. Private noncommercial docks shall not exceed 700 square feet.
 - b. Private noncommercial boathouses shall not exceed 500 square feet.
 - c. Private noncommercial boathouses shall not exceed 12 feet in height, measured from the platform of the dock to the roof peak.
4. All docks located on state-owned submerged and/or submersible land must be leased or registered with the Oregon Division of State Lands, according to state law.

705.05 PROHIBITED USES

The following uses are prohibited in the Willamette River Greenway (WRG):

- A. Low head hydroelectric dam facilities, which adversely impact fisheries or the scenic and water quality of the river; and
- B. Private noncommercial docks and moorages in the limited use rural portions of the WRG identified on Comprehensive Plan Map III-1e, *Willamette River Greenway Design Plan*.

705.06 SUBMITTAL REQUIREMENTS

In addition to the submittal requirements identified in Subsection 1307.07(C), an application for a Willamette River Greenway permit shall include ~~the following~~:

- ~~A. A completed land use application on a form provided by the Planning Director;~~
- AB. A site plan showing existing vegetation and development, and locations of proposed development or activity;
- BC. Elevations of any proposed structures;

~~C~~D. Exterior materials list for any proposed structures, including type and colors of siding and roofing; and

~~D~~E. Cross section of any area within the vegetative buffer or filter strip where grading, filling, or excavating will occur.

705.07 APPROVAL PERIOD AND TIME EXTENSION ADMINISTRATION OF SECTION 705

~~A.~~ ~~A minimum of 15 working days prior to the issuance of a decision on a Willamette River Greenway (WRG) permit:~~

~~1. Written notice, including a copy of the application, shall be sent to the Oregon Parks and Recreation Department, by certified mail return receipt requested; and~~

~~2. Written notice shall be sent to the Oregon Division of State Lands.~~

AB. Approval of a WRG permit is valid for four years from the date of the final written decision. If the County's final written decision is appealed, the approval period shall commence on the date of the final appellate decision. During this four-year period, the approval shall be implemented, or the approval will become void.

1. "Implemented" means all major development permits shall be obtained and maintained, or if no major development permits are required to complete the development contemplated by the approved WRG permit, "implemented" means all other necessary County development permits (e.g. grading permit, building permit for an accessory structure) shall be obtained and maintained. A "major development permit" is:

- a. A building or manufactured dwelling placement permit for a new primary structure that was part of the WRG permit approval; or
- b. A permit issued by the County Engineering Division for parking lot or road improvements that were part of the WRG permit approval.

BC. If the approval of a WRG permit is not implemented within the initial approval period established by Subsection 705.07(B), a two-year time extension may be approved ~~by the Planning Director,~~ pursuant to Section 1310~~Subsection 1305.02, and subject to Subsection 1305.05.~~

[Amended by Ord. ZDO-230, 9/26/11]

706 HABITAT CONSERVATION AREA DISTRICT (HCAD)

706.01 PURPOSE

Section 706 is adopted to implement the policies of the Comprehensive Plan for Habitat Conservation Areas.

706.02 AREA OF APPLICATION

- A. Section 706 applies in the Habitat Conservation Area District (HCAD). The HCAD applies to all parcels containing a Habitat Conservation Area (HCA). The HCAD also applies to any area that is less than 100 feet outside the boundary of an HCA even if the area is not located on the same parcel as the HCA. HCAs are identified on maps adopted by reference in Chapter 3 of the Comprehensive Plan (hereinafter referred to as the HCA Map) and are categorized as High, Moderate, or Low HCA. Notwithstanding the HCA Map, however, Section 706 does not apply to areas that are outside both the Metropolitan Service District Boundary and the Portland Metropolitan Urban Growth Boundary.
- B. An applicant may dispute the location of an HCA by submitting an application for HCA Map Verification pursuant to Subsection 706.06(B) or by applying for a Comprehensive Plan amendment to modify the HCA Map. HCA Map Verification does not amend the Comprehensive Plan.
- C. Development within an HCA in accordance with the provisions of Section 706 shall not result in removal of such developed areas from the HCA and shall not change the applicable HCA category.

706.03 DEFINITIONS

Unless specifically defined in Subsection 706.03, words or phrases used in Section 706 shall be interpreted to give them the same meaning as they have in common usage and to give Section 706 its most reasonable application.

- A. Bankfull Stage: The stage or elevation at which water overflows the natural banks of streams or other waters of the state and begins to inundate the upland. The bankfull stage may be approximated using either the two-year recurrence interval flood elevation or one foot measured vertically above the ordinary mean high water line.
- B. Building Footprint: The area that is covered by buildings or other roofed structures. A roofed structure includes any structure more than six feet above grade at any point, and that provides an impervious

cover over what is below. Building footprint also includes uncovered horizontal structures such as decks, stairways, and entry bridges that are more than six feet above grade. Eaves are not included in the building footprint. Underground facilities and structures are defined based on the foundation line.

- C. Developed Areas Not Providing Vegetative Cover: Areas that do not meet the definition of Forest Canopy, Low Structure Vegetation or Open Soils, or Woody Vegetation.
- D. Developed Flood Area: A flood area (a) upon which a building or other structure has been located, or (b) that is an uncovered, hard-surfaced area or an area covered with a perforated hard surface (such as “Grasscrete”) that is able to withstand vehicular traffic or other heavy-impact uses; provided, however, that graveled areas shall not be considered developed flood areas.
- E. Development: Any manmade change defined as structures, roads, utilities, mining, dredging, paving, filling, or grading in amounts greater than 10 cubic yards. In addition, “development” is any other activity that results in the removal of more than 10 percent or 20,000 square feet of the Habitat Conservation Area vegetation on a lot of record, whichever is less. The calculation of the amount of vegetative cover removed shall be done separately for each lot of record and shall include all vegetative cover removed after January 5, 2009, regardless of whether the removal is done as one project or a series of projects. When individual trees are removed, the area contained within the tree’s drip line shall be the basis for calculating the square footage of vegetation removed.
- F. Disturb: Manmade changes to the existing physical status of the land, which are made in connection with development.
- G. Disturbance Area: An area that contains all temporary and permanent development, exterior improvements, and staging and storage areas on the site. For new development the disturbance area must be contiguous. The disturbance area does not include agricultural and pasture lands or naturalized areas.
- H. Drip Line: The outermost edge of a tree’s canopy; when delineating the drip line on the ground, it will appear as an irregularly shaped circle defining the canopy’s perimeter.
- I. Ecological Functions: The primary biological and hydrologic characteristics of healthy fish and wildlife habitat. Riparian ecological functions include microclimate and shade, streamflow moderation and water storage, bank stabilization and sediment/pollution control,

sources of large woody debris and natural channel dynamics, and organic material sources. Upland wildlife ecological functions include size of habitat area, amount of habitat with interior conditions, connectivity of habitat to water resources, connectivity to other habitat areas, and presence of unique habitat types.

- J. Emergency: Any manmade or natural event or circumstance causing or threatening loss of life, injury to person or property, and includes, but is not limited to, fire, explosion, flood, severe weather, drought, earthquake, volcanic activity, spills or releases of oil or hazardous material, contamination, utility or transportation disruptions, and disease.
- K. Enhancement: The process of improving upon the natural functions and/or values of an area or water resource that has been degraded by human activity. Enhancement activities may or may not return the site to a pre-disturbance condition, but create/recreate beneficial processes and resources that occur naturally.
- L. Erosion: The movement of soil particles resulting from actions of water or wind.
- M. Fill: Any material such as, but not limited to, sand, soil, rock, or gravel that is placed in a wetland or flood area for the purposes of development.
- N. Flood Areas: Lands contained within the Floodplain Management District regulated by Section 703 and lands that were inundated in the February 1996 flood. (Note: Areas that were mapped as flood areas but were filled to a level above the base flood level prior to September 30, 2005, consistent with all applicable local, state, and federal laws shall no longer be considered habitat based on their status as flood areas.)
- O. Flood Management Areas: Flood areas and, in addition, lands that have documented evidence of flooding.
- P. Forest Canopy: Areas that are part of a contiguous grove of trees of one acre or larger in area with approximately 60% or greater crown closure, irrespective of whether the entire grove is within 200 feet of the relevant water resource.
- Q. Habitat-Friendly Development: A method of developing property that has less detrimental impact on fish and wildlife habitat than do traditional development methods. Examples include clustering development to avoid habitat, using alternative materials and designs such as pier, post, or piling foundations designed to minimize tree root disturbance, managing storm water on-site to help filter rainwater and recharge groundwater sources, collecting rooftop water in rain barrels

for reuse in site landscaping and gardening, and reducing the amount of effective impervious surface created by development.

- R. Invasive Non-Native or Noxious Vegetation: Plant species that are listed in the Oregon Department of Agriculture's Noxious Weed Policy and Classification System.
- S. Low Structure Vegetation or Open Soils: Areas that are part of a contiguous area one acre or larger of grass, meadow, crop-lands, or areas of open soils located within 300 feet of a surface stream (low structure vegetation areas may include areas of shrub vegetation less than one acre in size if they are contiguous with areas of grass, meadow, crop-lands, orchards, Christmas tree farms, holly farms, or areas of open soils located within 300 feet of a surface stream and together form an area of one acre in size or larger).
- T. Mitigation: The reduction of adverse effects of proposed development by considering, in the following order
 1. Avoiding the impact by not taking a certain action or parts of an action;
 2. Minimizing impacts by limiting the degree or magnitude of the action and its implementation;
 3. Rectifying the impact by repairing, rehabilitating, or restoring the affected environment;
 4. Reducing or eliminating the impact over time by preservation and maintenance operations during the life of the action by monitoring and taking appropriate measures; and
 5. Compensating for the impact by replacing or providing comparable substitute Habitat Conservation Areas.
- U. Native Vegetation: Vegetation native to the Portland metropolitan area provided that it is not invasive non-native or noxious vegetation.
- V. Open Space: Land that is undeveloped and that is planned to remain so indefinitely. The term encompasses parks, forests, and farmland. It may also refer only to land zoned as being available to the public, including playgrounds, watershed preserves, and parks.
- W. Ordinary Mean High Water Line: The line on the bank or shore to which water ordinarily rises in season.
- X. Practicable: Available and capable of being done after taking into consideration cost, existing technology, and logistics in light of overall

project purpose and probable impact on ecological functions. The practicability of a development option shall include consideration of the type of HCA that will be affected by the proposed development. For example, High HCAs have been so designated because they are areas that have been identified as having lower urban development value and higher-valued habitat, so it should be more difficult to show that alternative development options that avoid the habitat are not practicable. On the other hand, Low HCAs have been so designated because they are areas that have been identified as having higher urban development value and lower-valued habitat, so it should be less difficult to show that alternative development options that avoid the habitat are not practicable.

- Y. Restoration: The process of returning a disturbed or altered area or water resource to a previously existing natural condition. Restoration activities reestablish the structure, function, or diversity to that which existed prior to impacts caused by human activity.
- Z. Riparian: Those areas associated with streams, lakes, and wetlands where vegetation communities are predominately influenced by their association with water.
- AA. Significant Detrimental Impact: An impact that affects the natural environment, considered individually or cumulatively with other impacts on the HCA, to the point where existing fish and wildlife habitat functional values are degraded.
- BB. Stormwater: The surface water runoff that results from all natural forms of precipitation.
- CC. Stormwater Pretreatment Facility: Any structure or drainage way that is designed, constructed, and maintained to collect and filter, retain, or detain surface water run-off during and after a storm event for the purpose of water quality improvement.
- DD. Stream: A body of running water moving over the earth's surface in a channel or bed, such as a creek, rivulet, or river. A stream flows at least part of the year, including perennial and intermittent streams. Streams are dynamic in nature and their structure is maintained through build-up and loss of sediment.
- EE. Structure: A building or other major improvement that is built, constructed, or installed, not including minor improvements—such as fences, utility poles, flagpoles, or irrigation system components—that are not customarily regulated through zoning codes.
- FF. Urban Development Value: The economic value of a property lot or parcel as determined by analyzing three separate variables: assessed

land value, value as a property that could generate jobs (“employment value”), and the Metro 2040 design type designation of property. The urban development value of all properties containing regionally significant fish and wildlife habitat is depicted on the Metro Habitat Urban Development Value Map.

- GG. Utility Facilities: Buildings, structures, or any constructed portion of a system that provides for the production, transmission, conveyance, delivery, or furnishing of services including, but not limited to, heat, light, water, power, natural gas, sanitary sewer, stormwater, telephone, and cable television. Utility facilities do not include stormwater pre-treatment facilities.
- HH. Water Resource: All rivers, streams (regardless of whether they carry year-round flow, i.e., including intermittent streams), springs which feed streams and wetlands and have year-round flow, flood management areas, wetlands, and all other bodies of open water.
- II. Watershed: A watershed is a geographic unit defined by the flows of rainwater or snowmelt. All land in a watershed drains to a common outlet, such as a stream, lake, or wetland.
- JJ. Wetlands: Areas that are inundated or saturated by surface water or ground water at a frequency and duration sufficient to support and under normal circumstances do support a prevalence of vegetation typically adapted for life in saturated soil conditions. Wetlands generally include swamps, marshes, bogs, and similar areas. Wetlands are those areas identified and delineated by a qualified wetland specialist as set forth in the 1987 Corps of Engineers Wetland Delineation Manual.
- KK. Woody Vegetation: Areas that are part of a contiguous area one acre or larger of shrub or open or scattered forest canopy (less than 60% crown closure) located within 300 feet of a surface stream.

706.04 EXEMPT USES

The following uses and activities are exempt from the requirements of Section 706, except that if the use or activity requires a building or grading permit, a Construction Management Plan shall be required pursuant to Subsection 706.06(A). Notwithstanding the requirement for HCA Map Verification under Subsection 706.06(B), the HCA Map shall be deemed reliable for the purpose of administering Subsection 706.04 unless an approved HCA Map Verification exists for the subject property, in which case the approved HCA Map Verification shall be used to administer Subsection 706.04.

- A. Uses and activities that do not constitute development, except if the use or activity is prohibited by Subsection 706.05;
- B. Development that:
 - 1. Had it been proposed prior to January 5, 2007, would not have required a land use, building, erosion prevention and sediment control, or grading permit; and
 - 2. Is located on a parcel that is developed with a dwelling for which a building or manufactured home placement permit was issued prior to January 5, 2007, or a dwelling that was lawfully established prior to the requirement to obtain such a permit;
- C. Development, authorized by a valid design review or conditional use permit for which a complete application was submitted prior to January 5, 2009, provided that the development will not result in an increase in the HCA disturbance area approved under the design review or conditional use permit;
- D. Development on a partition parcel or a subdivision lot, provided that the parcel or lot is part of a partition or subdivision approved pursuant to Subsection 706.10(A)(4) or (B);
- E. Maintenance, alteration, expansion, repair, and replacement of existing structures, provided that the building footprint is not increased;
- F. Expansion or replacement of an existing structure, provided that:
 - 1. The expansion or replacement shall not intrude more than 500 square feet into the HCA in addition to the building footprint that lawfully existed on January 5, 2007. If more than one expansion or replacement of the same structure is undertaken—regardless of whether the work is done as one project or a series of projects—the total increase in the intrusion in the HCA shall not exceed this 500-square-foot limit;
 - 2. The new intrusion into the HCA shall be no closer to the protected water resource than the pre-existing structure; and
 - 3. Replacement is lawfully commenced within one year of destruction of the original structure. “Lawfully commenced” means the filing of an application for a land use, building, septic, grading, manufactured dwelling or residential trailer placement, plumbing, electrical, or other development permit required by the County or other appropriate permitting agency that is necessary to begin replacement of the structure.

- G. Development that will have a disturbance area that does not exceed 120 square feet. If more than one development is undertaken pursuant to this exemption—regardless of whether the work is done as one project or a series of projects—the total disturbance area shall not exceed this 120 square-foot limit;
- H. Temporary clearing of vegetative cover in an HCA, not to exceed 200 square feet per lot of record, for the purpose of site investigations and pits for preparing soil profiles, provided that cleared areas are replanted with native vegetation when the investigation is complete. After replanting, no open soil areas greater than 25 square feet in area shall remain. If a tree is removed, the area contained within the tree’s drip line shall be the basis for calculating the square footage of vegetative cover removed. If a tree is removed in an HCA and the tree is equal to or greater than 6 inches in diameter at breast height, it shall be replaced as set forth in Table [706-6](#);
- I. Maintenance of existing gardens, pastures, lawns, and landscaping, including the installation of new irrigation systems within existing gardens, pastures, lawns, and landscaping;
- J. Removal of invasive non-native or noxious vegetation and the planting or propagation of native vegetation, provided that:
 - 1. Handheld tools are used to remove invasive non-native or noxious vegetation; and
 - 2. After such removal, all open soil areas greater than 25 square feet are replanted with native vegetation;
- K. Farming practices, as defined in Oregon Revised Statutes (ORS) 30.930, and farm uses, as defined in ORS 215.203, in zoning districts where agricultural uses are a primary use, except that this exemption does not apply to buildings associated with farm practices or farm uses;
- L. Forest practices, as defined in ORS 30.930, on forestlands, as defined in ORS 30.930, outside the Portland Metropolitan Urban Growth Boundary;
- M. Maintenance, alteration, repair, and replacement of existing roads, railroads, and utilities, provided that there is no additional intrusion into the HCA;
- N. Maintenance and repair of existing manmade water control facilities, such as irrigation and drainage ditches, constructed ponds and lakes, wastewater facilities, and stormwater pre-treatment facilities;

- O. Projects with the sole purpose of restoring or enhancing wetlands, streams, or fish and wildlife habitat areas, provided that the project is part of an approved local, regional, state, or federal restoration or enhancement plan;
- P. Removal of dead or diseased trees or trees that pose an imminent hazard to persons or property, provided that a consulting arborist's report, or other credible evidence, is provided by the owner of the subject property and verifies the dead, diseased, or hazardous condition of the trees proposed for removal;
- Q. Low-impact outdoor recreation facilities for public use, such as multi-use paths, trails, picnic areas, interpretive and educational displays, and overlooks, provided that:
 - 1. The facility is located outside of a Water Quality Resource Area regulated pursuant to Section 709;
 - 2. The facility includes less than 500 square feet of new impervious surface; and
 - 3. Any proposed trails are constructed using non-hazardous, pervious materials, with a maximum width of four feet;
- R. Emergency procedures or activities undertaken which are necessary to remove or abate hazards and nuisances, or for the protection of public health, safety, and welfare, provided that:
 - 1. Such remedial or preventative action must take place within a timeframe too short to allow for compliance with the requirements of Section 706; and
 - 2. After the emergency, the owner shall mitigate adverse impacts to the HCA resulting from the emergency action; and
- S. Facilities that infiltrate stormwater onsite, including the associated piping, provided that forest canopy and areas within the drip lines of trees are not disturbed and that only native vegetation is planted in these facilities. Such facilities may include, but are not limited to, vegetated swales, rain gardens, vegetated filter strips, and vegetated infiltration basins.

706.05 PROHIBITED USES

The following uses and activities are prohibited within a Habitat Conservation Area:

- A. The planting of invasive non-native or noxious vegetation; and

- B. Outside storage of materials and equipment, unless such storage began before January 5, 2009, or is approved pursuant to review under Subsection 706.06(C).

706.06 DEVELOPMENT REVIEW REQUIREMENTS

The following review requirements are applicable to development in the Habitat Conservation Area District (HCAD) unless such development is exempt pursuant to Subsection 706.04.

- A. A Construction Management Plan (CMP), consistent with Subsection 706.08, shall be required for development in the HCAD, regardless of whether development will occur within an HCA. However, if an area is in the HCAD solely because it is less than 100 feet outside the boundary of an HCA located on a different parcel, Subsection 706.06(A) shall not apply unless HCA Map Verification required pursuant to Subsection 706.06(B) determines that an HCA exists on the same parcel as the area for which development is proposed. An application for a CMP shall be reviewed pursuant to one of the following processes:

1. The application shall be reviewed as a Type I application pursuant to Section 1307~~Subsection 104.01(C)~~; or
2. The application shall be filed concurrently with an application for review under Subsection 706.06(B) or 706.06(C), in which case the applications will be consolidated and reviewed pursuant to the process required by Subsection 706.06(B)(4) or 706.06(C)(3), respectively;

- B. In order to confirm the location of an HCA, HCA Map Verification, consistent with Subsection 706.09, shall be required or allowed as follows:

1. HCA Map Verification shall be required for:
 - a. Development that is proposed to be either in an HCA or less than 100 feet outside of the boundary of an HCA, as shown on the HCA Map; or
 - b. A parcel that:
 - i. Either contains an HCA, or any part of which is less than 100 feet outside the boundary of an HCA, as shown on the HCA Map; and
 - ii. Is the subject of a land use application for a partition, subdivision, or any other land use application the approval

of which would authorize new development on the subject parcel.

2. An application for HCA Map Verification may be submitted even if one is not required pursuant to Subsection 706.06(B)(1).
3. If a parcel is subject to Subsection 706.06(B)(1)(b), an application for HCA Map Verification shall be filed concurrently with the other land use application referenced in Subsection 706.06(B)(1)(b)(ii) unless a previously approved HCA Map Verification for the subject property remains valid.
4. An application for HCA Map Verification shall be reviewed as a Type II application pursuant to Section 1307~~Subsection 1305.02~~ unless the application is filed concurrently with another land use application that requires review as a Type III application~~by the Hearings Officer~~, in which case the applications will be consolidated and reviewed as a Type III application pursuant to ~~the Hearings Officer review provisions of~~ Section 1307~~1300~~.

~~5. Notice required by Subsection 1302.01(B) or 1305.02(F) shall be provided to Metro and any watershed council recognized by the Oregon Watershed Enhancement Board and whose boundaries include the subject property.~~

- C. An HCA Development Permit, consistent with Subsection 706.10, shall be required for:
1. Development in an HCA or for a parcel that:
 - a. Contains an HCA; and
 - b. Is the subject of a land use application for a partition or subdivision.
 2. If a parcel is subject to Subsections 706.06(C)(1)(a) and (b), an application for an HCA Development Permit shall be filed concurrently with the application for a partition or subdivision.
 3. An application for an HCA Development Permit shall be reviewed as a Type II application pursuant to Section 1307~~Subsection 1305.02~~ unless the application is filed concurrently with another land use application that requires review as a Type III application~~by the Hearings Officer~~, in which case the applications will be consolidated and reviewed as a Type III application pursuant to ~~the Hearings Officer review provisions of~~ Section 1307~~1300~~.

- D. Approval of HCA Map Verification or an HCA Development Permit shall be valid for four years from the date of the final written decision. If the County’s final written decision is appealed, the approval period shall commence on the date of the final appellate decision. During this four-year period, the approval shall be implemented, or the approval will become void.
1. For an HCA Development Permit directly related to an application for a partition or subdivision, “implemented” means that the final plat of the partition or subdivision shall be recorded with the County Clerk.
 2. For any other HCA Development Permit, “implemented” means all major development permits shall be obtained and maintained, or if no major development permits are required to complete the development contemplated by the approved HCA Development Permit, “implemented” means all other necessary County development permits (e.g. grading permit, building permit for an accessory structure) shall be obtained and maintained. A “major development permit” is:
 - a. A building or manufactured dwelling placement permit for a new primary structure that was part of the HCA Development Permit approval; or
 - b. A permit issued by the County Engineering Division for parking lot or road improvements that were part of the HCA Development Permit approval.
 3. For HCA Map Verification, “implemented” has the meaning set forth in Subsection 706.06(D)(1) and (2), except that under Subsection 706.06(D)(2), if the approval did not contemplate a specific development proposal, “implemented” means at least one County development permit shall be obtained and maintained.
- E. If the approval of HCA Map Verification or an HCA Development Permit is not implemented within the initial approval period established by Subsection 706.06(D), a two-year time extension may be approved ~~by the Planning Director, pursuant to Section 1310 Subsection 1305.02, and subject to Subsection 1305.05.~~ pursuant to [Section 1310 Subsection 1305.02, and subject to Subsection 1305.05.](#)
- F. HCA Map Verification that was valid on the date when the final plat for a subdivision or partition was recorded with the County Clerk shall remain valid for subsequent development on the lots or parcels created by the subdivision or partition.

706.07 SUBMITTAL REQUIREMENTS

In addition to the submittal requirements identified in Subsection 1307.07(C),
aApplications filed pursuant to Section 706 shall comply with the following submittal requirements.

A. An application for a Construction Management Plan shall include:

- ~~1. A completed land use application on a form provided by the Planning Director;~~
12. A site plan of the subject property, drawn to scale and identifying the following:
 - a. Location and type of existing and proposed development, including but not limited to, building footprints, roads, driveways, parking areas, utilities, onsite sewage disposal systems, wells, landscaping, and filling or grading in an amount greater than 10 cubic yards. Label each element as existing or proposed;
 - b. Location and width of existing adjacent roads and road rights-of-way;
 - c. Location of the Habitat Conservation Area (HCA) as shown on the HCA Map or as identified pursuant to an approved HCA Map Verification;
 - d. Drip lines outside the HCA of trees that are inside the HCA;
 - e. Distance between the HCA boundary and proposed development outside the HCA;
 - f. The site ingress and egress proposed to be used by construction vehicles;
 - g. Proposed equipment and material staging and stockpile areas; and
 - h. Proposed orange construction fencing required pursuant to Subsection 706.08(B);
23. An Erosion Prevention and Sediment Control (EPSC) plan. This plan may be included on the site plan if acceptable to the EPSC regulatory authority; and
34. If a modification or waiver of the construction fencing requirement of Subsection 706.08(B) is proposed, a narrative demonstrating compliance with Subsection 706.08(B)(1) or (2).

B. An application for HCA Map Verification shall include:

- ~~1. A completed land use application on a form provided by the Planning Director;~~

12. A summer 2002 aerial photograph of the subject property, with lot lines shown, at a scale of at least one map inch equal to 50 feet for lots of 20,000 or fewer square feet, and a scale of at least one map inch equal to 100 feet for larger lots (available from the Metro Data Resource Center, 600 N.E. Grand Ave., Portland, OR 97232; 503-797-1742);
23. For an application filed pursuant to Subsection 706.09(A)(2), either:

 - a. A documented demonstration of the misalignment between the HCA Map (generated from the summer 2002 aerial photographs) and the tax lot lines of the subject property. For example, the applicant could compare the road rights-of-way boundaries shown on the tax lot layer for roads within 500 feet of the subject property with the location of such roads as viewed on the summer 2002 aerial photograph of the same area to provide evidence of the scale and amount of incongruity between the HCA Map and the tax lot lines, and the amount of adjustment that would be appropriate to accurately depict habitat on the subject property; or
 - b. A documented demonstration of another type of computer mapping error that was made in the creation of the HCA map;
34. For an application filed pursuant to Subsection 706.09(A)(3):

 - a. A site plan of the subject property, drawn to scale and identifying the following:

 - i. Location and type of existing development, including but not limited to, building footprints, roads, driveways, parking areas, utilities, onsite sewage disposal systems, wells, landscaping, and filling or grading in an amount greater than 10 cubic yards. Label the elements that were developed after August 1, 2002;
 - ii. Location and width of existing adjacent roads and road rights-of-way;
 - iii. Location of the HCA as shown on the HCA Map, including off-site HCA where review is required due to proposed development within 100 feet outside the HCA boundary and including the location of High, Moderate, and Low HCA; and
 - iv. Location of the HCA as proposed by the applicant, including the location of High, Moderate, and Low HCA;
 - b. A summer 2005 aerial photograph of the subject property (or, if available, an aerial photograph taken closer to, but not after,

January 5, 2009), with lot lines shown, at a scale of at least one map inch equal to 50 feet for lots of 20,000 or fewer square feet, and a scale of at least one map inch equal to 100 feet for larger lots (available from the Metro Data Resource Center, 600 N.E. Grand Ave., Portland, OR 97232; 503-797-1742);

- c. Any approved development permits (e.g. building, grading, land use) and site plans related to the development of the property that took place between August 1, 2002, and January 5, 2009; and
- d. A narrative that correlates with the submitted site plan and development permits and identifies the type and scope of the new development that has occurred and the previously identified habitat that no longer exists because it is now part of a developed area; and

45. For an application filed pursuant to Subsection 706.09(A)(4):

- a. A site plan of the subject property, drawn to scale and identifying the following:
 - i. Location and type of existing development, including but not limited to, building footprints, roads, driveways, parking areas, utilities, onsite sewage disposal systems, wells, landscaping, and filling or grading in an amount greater than 10 cubic yards;
 - ii. Location and width of existing adjacent roads and road rights-of-way;
 - iii. Location of the HCA as shown on the HCA Map, including off-site HCA where review is required due to proposed development within 100 feet outside the HCA boundary and including the location of High, Moderate, and Low HCA;
 - iv. Location of the HCA as proposed by the applicant, including the location of High, Moderate, and Low HCA;
 - v. Location of any rivers, streams, wetlands, and flood areas;
 - vi. Location of agricultural areas (e.g. pastures, orchards);
 - vii. Location of naturalized areas (e.g. meadows, woods); and
- b. A report prepared and signed by either a qualified natural resource professional - such as a wildlife biologist, botanist, or hydrologist - or an environmental engineer registered in Oregon. The report shall include:
 - i. A description of the qualifications and experience of all persons that contributed to the report, and, for each person

that contributed, a description of the elements of the analysis to which the person contributed;

- ii. Additional aerial photographs if the applicant believes they provide better information regarding the subject property, including documentation of the date and process used to take the photographs and an expert's interpretation of the additional information they provide;
- iii. A topographic map of the subject property, drawn to scale and shown by contour lines of two-foot intervals for slopes less than 15 percent and 10-foot intervals for slopes 15 percent or greater. On properties that are two acres or larger, such a contour map is required only for the portion of the property to be developed; and
- iv. A narrative analysis and any additional documentation necessary to address each step of the verification process set forth in Subsection 706.09(E).

C. An application for an HCA Development Permit under Subsection 706.10(A) shall include:

~~1. A completed land use application on a form provided by the Planning Director;~~

12. A site plan of the subject property, drawn to scale and identifying the following:

- a. Location and type of existing and proposed development, including but not limited to, building footprints, roads, driveways, parking areas, utilities, onsite sewage disposal systems, wells, landscaping, and filling or grading in an amount greater than 10 cubic yards. Label each element as existing or proposed;
- b. Location and width of existing adjacent roads and road rights-of-way;
- c. Location of the HCA as identified pursuant to a valid HCA Map Verification, and including the location of High, Moderate, and Low HCA;
- d. Location of any rivers, streams, wetlands, and flood areas;
- e. Location of agricultural areas (e.g. pastures, orchards);
- f. Location of naturalized areas (e.g. meadows, woods);
- g. Drip lines outside the HCA of trees that are inside the HCA;
- h. For a property containing less than one acre of HCA, the location of all trees within the HCA that are greater than six

inches diameter at breast height (DBH), identified by DBH and species. For properties containing one acre or more of HCA, the applicant may approximate the number of trees within the HCA that are greater than six inches DBH and the DBH range, and provide a listing of the dominant species;

- i. The location of all trees with a DBH of six inches or greater that are proposed to be removed, identified by DBH and species;
- j. The site ingress and egress proposed to be used by construction vehicles;
- k. Proposed equipment and material staging and stockpile areas; and
- l. Location of any Water Quality Resource Area regulated by Section 709;

23. A mitigation plan that demonstrates compliance with Subsections 706.10(A)(6), (7), and, if applicable, (8);

34. If offsite mitigation is proposed pursuant to Subsection 706.10(A)(7)(b), the mitigation plan required by Subsection 706.07(C)(~~23~~) shall address both the subject property and the alternate mitigation site and shall document the following:

- a. The number of trees and shrubs that can be planted onsite;
- b. The onsite location where those trees and shrubs can be planted;
- c. An explanation of why it is not practicable for the remainder of the mitigation to occur onsite; and
- d. Identification of the proposed location for off-site mitigation and documentation that the applicant possesses legal authority to conduct and maintain the mitigation, such as having a sufficient ownership interest in the mitigation site, and, if the mitigation is not within an HCA, documentation that the mitigation site will be protected from development after the monitoring period expires by a restrictive covenant, conservation easement, or public dedication;

45. If the applicant proposes to vary the number and size of required trees and shrubs pursuant to Subsection 706.10(A)(8), a report, prepared and signed by a qualified professional, such as a botanist or a certified landscape architect, that:

- a. Explains why the numbers and sizes of trees and shrubs that the applicant proposes to plant will achieve, at the end of the fifth year after initial planting, comparable or better mitigation

results as the results that would be achieved if the applicant complied with all of the requirements of Subsection 706.10(A)(6)(a) through (c); and

- b. Discusses site preparation, including soil additives, removal of invasive and noxious vegetation, plant diversity, plant spacing, planting season, and immediate post-planting care including mulching, irrigation, wildlife protection, and weed control;

D. An application for an HCA Development Permit under Subsection 706.10(B) shall include:

1. The items listed in Subsections 706.07(C)(1) ~~and (2)~~;
2. A topographic map of the subject property, drawn to scale and shown by contour lines of two-foot intervals for slopes less than 15 percent and 10-foot intervals for slopes 15 percent or greater. On properties that are two acres or larger, such a contour map is required only for the portion of the property to be developed;
3. If grading will occur within the HCA, a grading plan showing the proposed alteration of the ground at one-foot vertical contours in areas of slopes less than five percent, two-foot vertical contours in areas of slopes from five percent to 15 percent, and five-foot vertical contours in areas of slopes greater than 15 percent;
4. An Impact Evaluation and Alternatives Analysis, prepared and signed by either a qualified natural resource professional—such as a wildlife biologist, botanist, or hydrologist—or an environmental engineer registered in Oregon. The report shall include:
 - a. A description of the qualifications and experience of all persons that contributed to the analysis, and, for each person that contributed, a description of the elements of the analysis to which the person contributed;
 - b. Identification of the ecological functions of the HCA on the subject property. The ecological functions to be evaluated are those identified in Subsections 706.10(B)(2)(b)(i) through (iii);
 - c. Evaluation of alternative locations, design modifications, or alternative methods of development to determine which options reduce significant detrimental impacts on the HCA and the ecological functions provided by the HCA. At a minimum, the approaches identified in Subsections 706.10(B)(1)(a) through (g) shall be considered; and
 - d. Determination of the alternative that best meets the applicable approval criteria, and identification of unavoidable significant detrimental impacts; and

5. A mitigation plan that demonstrates compliance with Subsections 706.10(A)(6), (7), and, if applicable, (8) or an alternative mitigation plan. An alternative mitigation plan shall be prepared and signed by a qualified professional, such as a botanist or a certified landscape architect. The report shall include:
 - a. A description of the qualifications and experience of all persons that contributed to the plan, and, for each person that contributed, a description of the elements of the plan to which the person contributed;
 - b. An explanation of how the proposed mitigation will adequately compensate for the impacts to ecological functions described in the Impact Evaluation and Alternatives Analysis. The mitigation that would be required under Subsections 706.10(A)(6) and (7)(a) may be used as the baseline mitigation required to compensate for disturbance to an HCA that provides an average level of ecological functions. The explanation shall include:
 - i. If the mitigation that would be required under Subsections 706.10(A)(6) and (7)(a) is used as the baseline mitigation required to compensate for disturbance to an HCA, a calculation of the number of trees and shrubs that would be required under Subsection 706.10(A)(6)(a);
 - ii. A site plan showing where the specific mitigation activities will occur and the numbers and sizes of trees and shrubs that are proposed to be planted; and
 - iii. A discussion of site preparation, including soil additives, removal of invasive and noxious vegetation, plant diversity, plant spacing, planting season, and immediate post-planting care, including mulching, irrigation, wildlife protection, and weed control;
 - c. Documentation of coordination with appropriate local, regional, special district, state, and federal regulatory agencies;
 - d. A list of all parties responsible for implementing and monitoring the mitigation plan and, if mitigation will occur offsite, the names of the owners of property where mitigation plantings will occur;
 - e. A mitigation site monitoring and reporting plan;
 - f. If the proposed mitigation will not be conducted onsite, a map and accompanying narrative that details the following:
 - i. The number of trees and shrubs that can be planted onsite;
 - ii. The onsite location where those trees and shrubs can be planted;

- iii. An explanation of why it is not practicable for the remainder of the mitigation to occur onsite; and
 - iv. The proposed location for off-site mitigation and documentation that the applicant can carry out and ensure the success of the mitigation, including documentation that the applicant possesses legal authority to conduct and maintain the mitigation, such as having a sufficient ownership interest in the mitigation site, and, if the mitigation is not within an HCA, documentation that the mitigation site will be protected from development after the monitoring period expires by a restrictive covenant, conservation easement, or public dedication;
 - g. If the mitigation area is offsite and not within the same subwatershed (6th Field Hydrologic Unit Code) as the disturbed HCA, an explanation of why it is not practicable to conduct the mitigation within the same subwatershed and of why and how, considering the purpose of the mitigation, the mitigation will provide more ecological functional value if implemented outside of the subwatershed; and
 - h. An implementation schedule, including a timeline for construction, mitigation, mitigation maintenance, monitoring, and reporting and a contingency plan. If in-stream work in fish-bearing streams is proposed as part of the mitigation plan, documentation that such work will be done in accordance with the Oregon Department of Fish and Wildlife in-stream work timing schedule shall be submitted.
- E. Except for utility facilities reviewed pursuant to Subsection 706.10(A)(1) and notwithstanding any other provisions of Subsection 706.07, for utility facilities developed by public utilities on property that is not owned by the utility, the utility shall not be required to map or provide any information about the property except for the area within 300 feet of the proposed disturbance area.

706.08 CONSTRUCTION MANAGEMENT PLANS

A Construction Management Plan (CMP) shall comply with the following criteria.

- A. Erosion prevention and sediment control (EPSC) measures shall be required and shall comply with the standards of the EPSC regulatory authority.
- B. Orange construction fencing (i.e. safety fencing, snow fencing, or a comparable product) shall be installed on or outside the boundary of

the HCA, except where the drip line of a protected tree extends outside the HCA, in which case the drip line shall be included inside the fencing. This requirement may be modified or waived if:

1. Disturbance of the HCA is authorized pursuant to Subsection 706.04 or 706.10, in which case the fencing shall be installed in such a manner as to protect the area of the HCA not authorized for disturbance; or
 2. The HCA is already lawfully developed, in which case the fencing shall be installed in such a manner as to protect any water resource that is the basis for the HCA designation and any area of the HCA where naturalized vegetative cover exists.
- C. Trees in the HCA shall not be used as anchors for stabilizing construction equipment.
- D. Native soils disturbed during development shall be conserved on the subject property.
- E. Development shall not commence until the EPSC measures and fencing required pursuant to Subsections 706.08(A) and (B) are in place.
- F. Compliance with the CMP shall be maintained until the development is complete.

706.09 HCA MAP VERIFICATION

HCA Map Verification shall be subject to the following criteria.

- A. An applicant for HCA Map Verification shall use one or more of the following methods to verify the Habitat Conservation Area (HCA) boundary and, if applicable, the boundary between High, Moderate, and Low HCA.
1. The applicant may concur with the accuracy of the HCA Map of the subject property;
 2. The applicant may demonstrate that a computer mapping error was made in the creation of the HCA map (e.g., the mapped vegetative cover layer—which was derived from aerial photographs taken in the summer of 2002 and was used to establish the Vegetative Cover Map and the HCA Map—in Metro’s geographic information system database does not align precisely with the tax lot layer, thereby resulting in an HCA Map of the subject property that is also misaligned with tax lot lines);

3. The applicant may demonstrate that the subject property was developed lawfully between August 1, 2002 (when the taking of the aerial photographs used to determine the regional habitat inventory commenced) and January 5, 2009 and, therefore, that the HCA boundary or category (High, Moderate, or Low) is inaccurate; or
 4. If the identified HCA is riparian habitat rather than publicly-owned upland habitat, the applicant may demonstrate that the HCA Map is inaccurate for a reason other than those described in Subsections 706.09(A)(2) and (3).
- B. ~~The Planning Director or, if the application is reviewed pursuant to the Hearings Officer review provisions of Section 1300, the Hearings Officer, shall determine~~ The location of any HCA on the subject property shall be determined by considering information submitted by the applicant, information collected during any site visit that may be made to the subject property, information generated by prior HCA Map Verification that has occurred on adjacent properties, and any other relevant information that has been provided.
- C. For applications filed pursuant to Subsection 706.09(A)(1) or (2), the HCA Map shall be deemed to be accurate unless, as described in Subsection 706.09(A)(2), there was a computer mapping error (e.g., an alignment error) made in the creation of the HCA map.
- D. For applications filed pursuant to Subsection 706.09(A)(3), developed areas not providing vegetative cover shall be removed from the HCA, provided that they were developed lawfully between August 1, 2002, and January 5, 2009, and are more than 50 feet from the water resource. Developed areas not providing vegetative cover that were developed lawfully between August 1, 2002, and January 5, 2009, and are 50 feet or less from the water resource, shall remain classified as HCA, but the HCA category shall be changed if necessary to remain consistent with Tables 706-1 and 706-2.
- E. For applications filed pursuant to Subsection 706.09(A)(4), the HCA boundary shall be established as follows:
1. Locate the water resource that was inventoried by Metro and is the basis for the HCA designation, including: Bankfull stage of streams, rivers, and bodies of open water on or within 200 feet of the subject property; flood areas on or within 100 feet of the subject property; and wetlands on or within 150 feet of the subject property based on the 1994 Clackamas County Wetland Inventory maps adopted by reference in Chapter 3 of the Comprehensive Plan and the Metro 2002 Wetland Inventory Map (available from

the Metro Data Resource Center, 600 N.E. Grand Ave., Portland, OR 97232; 503-797-1742). Identified wetlands shall be further delineated consistent with methods currently accepted by the Oregon Division of State Lands and the U.S. Army Corps of Engineers.

2. Identify the vegetative cover status of all areas on the subject property that are within 200 feet of the bankfull stage of streams, rivers, and bodies of open water; are wetlands or are within 150 feet of wetlands; and are flood areas or are within 100 feet of flood areas.
 - a. Vegetative cover status shall be as identified on the Metro Vegetative Cover Map (available from the Metro Data Resource Center, 600 N.E. Grand Ave., Portland, OR 97232; 503-797-1742); or
 - b. Vegetative cover status may be adjusted if the property was developed lawfully between August 1, 2002, and January 5, 2009, or an error was made at the time the vegetative cover status was determined by Metro. To assert the latter type of error, applicants shall submit an analysis of the vegetative cover on their property using summer 2002 aerial photographs and the definitions of the different vegetative cover types provided in Subsection 706.03.

3. Determine whether the degree that the land slopes upward from all streams, rivers, and bodies of open water on or within 200 feet of the subject property is greater than or less than 25 percent. A minimum of three slope measurements along the water resource shall be made on the subject property. The measurements shall be made at no more than 100-foot increments, which means that more than three measurements may be required, depending on the length of the water resource on the subject property. Slope shall be measured in 25-foot increments away from the water resource until a point 200 feet from the starting point of measurement is reached. Where the protected water resource is confined by a ravine or gully, the top of ravine is the break in the greater-than-25-percent slope; and

4. Using Table [706-1](#) and the data identified pursuant to Subsections 706.09(E)(1) through (3), identify all Class I and II riparian areas on the subject property. The riparian class may vary within a single property.

Table [706-1](#): Method for Locating Boundaries of Class I and II Riparian Areas

Distance from Water	Vegetative Cover Status ¹			
	Developed areas	Low structure	Woody vegetation	Forest canopy

CLACKAMAS COUNTY ZONING AND DEVELOPMENT ORDINANCE

Resource	not providing vegetative cover	vegetation or open soils		
Streams				
0-50'	Class II	Class I ²	Class I	Class I
50'-100'		Class II ³	Class I	Class I
100'-150'		Class II ³ if slope>25%	Class II ³ if slope>25%	Class II ³
150'-200'		Class II ³ if slope>25%	Class II ³ if slope>25%	Class II ³ if slope>25%
Wetlands (Wetland itself is a Class I Riparian Area)				
0-100'		Class II ³	Class I	Class I
100'-150'				Class II ³
Flood Areas				
Within 300' of river or surface stream		Class I	Class I	Class I
More than 300' from river or surface stream	See footnote 4.	Class II ³	Class II ³	Class I
0-100' from edge of flood area			Class II ^{3,5}	Class II ³

¹ The vegetative cover type assigned to any particular area is based on two factors: the type of vegetation and the size of the overall contiguous area of vegetative cover to which a particular piece of vegetation belongs. For example, in order to qualify as “forest canopy,” the forested area has to be part of a larger patch of forest of at least one acre in size.

² These areas shall be Class II riparian areas if the stream is a high gradient stream. High gradient streams are identified on the Metro Vegetative Cover Map. If the applicant believes the gradient of a stream was incorrectly identified, then the applicant may demonstrate the correct classification by identifying the channel type using the methodology described in the Oregon Watershed Assessment Manual, published by the Oregon Watershed Enhancement Board, and appended to the Metro’s Riparian Corridor and Wildlife Habitat Inventories Report, Attachment 1 to Exhibit F to Metro Ordinance No. 05-1077C.

³ Areas that have been identified as habitats of concern, as designated on the Metro Habitats of Concern Map (available from the Metro Data Resource Center, 600 N.E. Grand Ave., Portland, OR 97232; 503-797-1742), shall be Class I riparian areas, unless additional information is provided that establishes that they do not meet the criteria used to identify habitats of concern as described in Metro’s Technical Report for Fish and Wildlife. Examples of habitats of concern include: Oregon white oak woodlands, bottomland hardwood forests, wetlands, native grasslands, riverine islands or deltas, and important wildlife migration corridors.

⁴ If development prior to January 5, 2009, within a contiguous, undeveloped flood area (to include contiguous flood areas on adjacent properties) that was not mapped as having any vegetative cover has reduced the size of that contiguous flood area to less than one half of an acre in size, then the remaining flood area shall also be considered a developed flood area and shall not be identified as habitat.

⁵ Only if within 300 feet of a river or surface stream.

5. Use the Metro Habitat Urban Development Value Map (available from the Metro Data Resource Center, 600 N.E. Grand Ave., Portland, OR 97232; 503-797-1742) to identify the urban development value of the subject property.
 - a. An upward adjustment of the subject property’s urban development value designation shall be made if the Metro 2040

Design Type designation for the subject property has changed from a category designated as a lower urban development value category to one designated as a higher urban development value category. 2040 Design Type designations are identified on the Metro 2040 Applied Concept Map (available from the Metro Data Resource Center, 600 N.E. Grand Ave., Portland, OR 97232; 503-797-1742). The urban development value categories of the 2040 Design Types are identified in the footnotes to Table 706-2.

- b. If the subject property is owned by a regionally significant educational or medical facility, as designated by Title 13 of the Metro Urban Growth Management Functional Plan, it is designated as of high urban development value.
 - c. If the subject property is located outside the Portland Metropolitan Urban Growth Boundary and therefore does not have a Metro 2040 Design Type designation, it is designated as of high urban development value.
6. Use Table 706-2 to cross-reference habitat class with urban development value in order to categorize identified HCA as High, Moderate, or Low HCA.

Table 706-2: Method for Identifying Habitat Conservation Areas (HCA)

Fish & wildlife habitat classification	High urban development value¹	Medium urban development value²	Low urban development value³	Publicly Owned Parks and Open Spaces
Class I Riparian	Moderate HCA	High HCA	High HCA	High HCA ⁴
Class II Riparian	Low HCA	Low HCA	Moderate HCA	Moderate HCA ⁴
Class A Upland Wildlife	No HCA	No HCA	No HCA	High HCA ⁴
Class B Upland Wildlife	No HCA	No HCA	No HCA	High HCA ⁴

NOTE: The default urban development value of property is as depicted on the Metro Habitat Urban Development Value Map. The Metro 2040 Design Type designations provided in the following footnotes are only for use when making an adjustment pursuant to Subsection 706.09(E)(5)(a).

¹ Primary 2040 design type: Central City, Regional Centers, Town Centers, and Regionally Significant Industrial Areas

² Secondary 2040 design type: Main Streets, Station Communities, Other Industrial Areas, and Employment Centers

³ Tertiary 2040 design type: Inner and Outer Neighborhoods and Corridors

⁴ HCAs in publicly owned parks and open spaces designated as natural areas shall be considered High HCA+. HCAs in other publicly owned parks and open spaces shall be designated as shown in Table 706-2.

706.10 HABITAT CONSERVATION AREA DEVELOPMENT PERMITS

A Habitat Conservation Area (HCA) Development Permit shall be approved if the applicant provides evidence substantiating compliance with either Subsection 706.10(A) or (B). However, if the proposed development is in a Water Quality Resource Area (WQRA) regulated pursuant to Section 709, it shall comply with either Subsection 706.10(B) or 709.10, except that if the subject parcel contains an HCA and a WQRA and is the subject of a land use application for a partition or subdivision, the partition or subdivision shall comply with the requirements of Subsections 706.10 and 709.11, and if the provisions conflict, the most restrictive standard shall apply.

- A. Development in an HCA shall be permitted subject to the following criteria:
 - 1. Except as provided in Subsections 706.10(A)(2) through (5), a maximum disturbance area (MDA) shall apply to the subject property.
 - a. For property inside the Portland Metropolitan Urban Growth Boundary (UGB), the MDA shall be calculated pursuant to Table 706-3 for property with a Comprehensive Plan designation of Urban Low Density Residential and Table 706-4 for property with any other Comprehensive Plan designation.

Table 706-3: Maximum Disturbance Area for Urban Low Density Residential Property

HCA Type ¹	Maximum Disturbance Area
High	50 percent of the area of the subject property, up to a maximum of 5,000 square feet
Moderate/Low ²	65 percent of the area of the subject property, up to a maximum of 6,000 square feet

¹ If more than one HCA Type is present on the subject property, the MDA shall be based on the predominant type. For the purpose of this provision, High HCA shall be the predominant type if at least 50 percent of the area of the HCA on the subject property is High HCA.

² For the purpose of Table 706-3, Moderate and Low HCA shall be combined as one HCA Type.

Table 706-4: Maximum Disturbance Area for Other Property Inside the UGB

HCA Type	Maximum Disturbance Area ¹
High	10 percent of High HCA on the subject property
Moderate	15 percent of Moderate HCA on the subject property
Low	50 percent of Low HCA on the subject property

¹ The MDA refers only to the maximum percentage of each type of HCA that may be disturbed. Table 706-4 imposes no limit on disturbance area outside an HCA.

- b. For property outside the Portland Metropolitan Urban Growth Boundary, the MDA shall be calculated pursuant to Table 706-5, except that the MDA shall be calculated pursuant to Table 706-4 for:

- i. Commercial development;
- ii. Industrial development;
- iii. Buildings associated with farming practices, as defined in Oregon Revised Statutes (ORS) 30.930, and farm uses, as defined in ORS 215.203, in zoning districts where agricultural uses are a primary use; and
- iv. Buildings associated with forest practices, as defined in ORS 30.930, on forestlands, as defined in ORS 30.930.

Table 706-5: Maximum Disturbance Area Outside the UGB

HCA Type ¹	Maximum Disturbance Area
High	5 percent of the area of the subject property or 5,000 square feet, whichever is greater
Moderate/Low ²	5 percent of the area of the subject property or 6,000 square feet, whichever is greater

¹ If more than one HCA Type is present on the subject property, the MDA shall be based on the predominant type. For the purpose of this provision, High HCA shall be the predominant type if at least 50 percent of the area of the HCA on the subject property is High HCA.

² For the purpose of Table 3, Moderate and Low HCA shall be combined as one HCA Type.

- c. For property subject to Table 706-3 or 706-5, the MDA shall be located outside the HCA except:
 - i. If the MDA exceeds the non-HCA area, the excess MDA may be located in Low HCA; and
 - ii. If the MDA exceeds the area of non- and Low HCA combined, the excess MDA may be located in Moderate HCA; and
 - iii. If the MDA exceeds the area of non-, Low, and Moderate HCA combined, the excess MDA may be located in High HCA.
 - d. In determining compliance with the MDA standard, both existing and proposed disturbance area shall be included in the calculation.
2. The following disturbance area limitations shall apply to certain utility facilities. Utility facilities other than those addressed in Subsections 706.10(A)(2)(a) through (c) shall be subject to Subsection 706.10(A)(1).
- a. The disturbance area for private connections of utility lines, pipes, or cables to other utility facilities shall be no greater than 10 feet wide.

- b. The disturbance area for the upgrade of existing utility lines, pipes, or cables shall be no greater than 15 feet wide.
 - c. The disturbance area for new underground utility lines, pipes, or cables shall be no greater than 25 feet wide and shall disturb no more than 200 linear feet of Water Quality Resource Area regulated pursuant to Section 709, within any 1,000 linear foot stretch of Water Quality Resource Area regulated pursuant to Section 709, provided that this disturbance area, with the exception of necessary access points to the utility facility, shall be restored by the planting of native vegetation.³²
3. A partition of a parcel that contains an HCA shall comply with one of the following options:
- a. There shall be no more than a 30 percentage point difference in the percentage of each parcel's area that is in an HCA. For example, a partition that produces two parcels, one that is 55 percent HCA and the other that is 35 percent HCA, is permissible; whereas a partition that produces two parcels, one that is 75 percent HCA and the other that is 30 percent HCA, is not permissible. In this case, development in the HCA shall be subject to further review under Section 706;
 - b. The partition shall comply with Subsection 706.10(A)(4); or
 - c. The applicant shall demonstrate, through an analysis of different possible partition plans based on the characteristics and zoning of the subject property, that it is not practicable to comply with Subsection 706.10(A)(3)(a) or (b) and that the applicant's alternate plan will result in the smallest practicable percentage point difference in the percentage of each parcel's area that is in an HCA.
4. A subdivision of property that contains an HCA shall require that a minimum of 90 percent of the subject property's High HCA and a minimum of 80 percent of its Moderate HCA shall be platted as a tract rather than as part of any lot. Any HCA that remains outside such a tract may be developed, subject to compliance with the mitigation standards of Subsection 706.10(A) or (B). Unless any HCA that remains outside an HCA tract is protected from development by a restrictive covenant or a conservation easement, it shall be assumed that such areas eventually will be developed, and mitigation shall be required. Mitigation shall be completed, or a performance bond in an amount sufficient to cover the cost of mitigation shall be posted with the County, prior to approval of the final plat.

- a. If over 50% of the HCA on the subject property is High HCA, the entire calculation is for High (i.e., 90% of the HCA shall be placed within a separate tract).
 - b. If over 50% of the HCA on a property is Moderate HCA, the entire calculation is for Moderate (i.e., 80% of the HCA shall be placed within a separate tract).
 - c. An HCA tract shall be protected from development by restrictive covenant, conservation easement, or public dedication. However, the tract may be subject to an easement conveying storm and surface water management rights to the surface water management authority. The tract shall be designated as one of the following prior to final plat approval:
 - i. A private natural area owned by a homeowners association or a private non-profit with the mission of land conservation; or
 - ii. A public natural area where the tract has been dedicated to a public entity.
5. The MDA for publicly owned parks and open spaces designated as natural areas shall be five percent of the HCA on the subject property. Subsection 706.10(A)(5) imposes no limit on disturbance area outside an HCA for such natural areas.
6. If development in an HCA is approved pursuant to Subsection 706.10(A), compliance with the following mitigation standards shall be required, except that the mitigation standards for development in a wetland (as distinct from an HCA that is adjacent to a wetland) shall be only those required by federal and state law.
- a. Required Plants and Plant Densities. All trees, shrubs and ground cover shall be native vegetation. An applicant shall comply with Subsection 706.10(A)(6)(a)(i) or (ii), whichever results in more tree plantings, except that where the disturbance area is one acre or more, the applicant shall comply with Subsection 706.10(A)(6)(a)(ii).
 - i. The mitigation requirement shall be calculated based on the number and size of trees that are removed from the site. Trees that are removed from the site shall be replaced as shown in Table [706-5](#). Conifers shall be replaced with conifers. Bare ground shall be planted or seeded with native grasses or herbs. Non-native sterile wheat grass may also be planted or seeded, in equal or lesser proportion to the native grasses or herbs; or

Table [706-6](#): Tree Replacement

Size of Tree to be Removed (inches in diameter at breast height)	Number of Trees and Shrubs to be Planted
6 to 12	2 trees and 3 shrubs
over 12 to 18	3 trees and 6 shrubs
over 18 to 24	5 trees and 12 shrubs
over 24 to 30	7 trees and 18 shrubs
over 30	10 trees and 30 shrubs

- ii. The mitigation requirement shall be calculated based on the size of the disturbance area within the HCA. Native trees and shrubs shall be planted at a rate of five trees and 25 shrubs per every 500 square feet of disturbance area (calculated by dividing the number of square feet of disturbance area by 500, and then multiplying that result times five trees and 25 shrubs, and rounding all fractions to the nearest whole number of trees and shrubs; for example, if there will be 330 square feet of disturbance area, then 330 divided by 500 equals 0.66, and 0.66 times five equals 3.3, so three trees shall be planted, and 0.66 times 25 equals 16.5, so 17 shrubs shall be planted). Bare ground shall be planted or seeded with native grasses or herbs. Non-native sterile wheat grass may also be planted or seeded, in equal or lesser proportion to the native grasses or herbs.
- b. Plant Size. Replacement trees shall be at least one-half inch in caliper, measured at six inches above the ground level for field grown trees or above the soil line for container grown trees (the one-half inch minimum size may be an average caliper measure, recognizing that trees are not uniformly round), unless they are oak or madrone which may be one-gallon size. Shrubs shall be in at least a one-gallon container or the equivalent in ball and burlap and shall be at least 12 inches in height.
- c. Plant Spacing. Trees shall be planted between eight and 12 feet on center, and shrubs shall be planted between four and five feet on center, or clustered in single species groups of no more than four plants, with each cluster planted between eight and 10 feet on center. When planting near existing trees, the drip line of the existing tree shall be the starting point for plant spacing measurements.
- d. Plant Diversity. Shrubs shall consist of at least two different species. If 10 trees or more are planted, then no more than 50 percent of the trees may be of the same genus.

- e. Invasive Vegetation. Invasive non-native or noxious vegetation shall be removed within the mitigation area prior to planting, and shall be removed or controlled for five years following the date that the mitigation planting is completed.
 - f. Mulching. Mulch shall be applied around new plantings at a minimum of three inches in depth and 18 inches in diameter.
 - g. Tree and Shrub Survival. Trees and shrubs that die shall be replaced in kind to the extent necessary to ensure that a minimum of 80 percent of the trees initially required and 80 percent of the shrubs initially required shall remain alive on the fifth anniversary of the date that the mitigation planting is completed.
 - h. Monitoring and Reporting. Monitoring of the mitigation site shall be the ongoing responsibility of the property owner. For a period of five years following the date that the mitigation planting is completed, the property owner shall submit an annual report to the Planning Director documenting the survival of the trees and shrubs on the mitigation site. In lieu of complying with the monitoring and reporting requirement, the property owner may post with the County a performance bond, or other surety acceptable to the County, in an amount sufficient to cover costs of plant material and labor associated with site preparation, planting, and maintenance. An applicant who elects to post a surety shall be subject to Subsections 1104.03 through 1104.05.
7. The mitigation area required by Subsection 706.10(A)(6) shall be located as follows:
- a. All vegetation shall be planted on the subject property, either within the HCA or in an area contiguous to the HCA, provided, however, that if the vegetation is planted in an area contiguous to the HCA, such area shall be protected from development by a restrictive covenant, conservation easement, or public dedication.
 - b. Off-site mitigation within the same subwatershed (6th Field Hydrologic Unit Code) as the HCA within which development is proposed, may be approved for part or all of the required mitigation, if the applicant provides evidence substantiating that:
 - i. It is not practicable to complete the mitigation on-site; and
 - ii. The applicant possesses legal authority to conduct and maintain the mitigation, such as having a sufficient ownership interest in the mitigation site, and, if the

mitigation is not within an HCA, that the mitigation site will be protected from development after the monitoring period expires by a restrictive covenant, conservation easement, or public dedication.

8. An applicant may request to proportionally vary the number and size of trees and shrubs required pursuant to Subsections 706.10(A)(6)(a) and (b)—for example, to plant fewer larger trees and shrubs or to plant more smaller trees and shrubs—and a corresponding modification of the plant spacing requirements of Subsection 706.10(A)(6)(c). The request shall be approved if the applicant provides evidence substantiating that the proposed planting will achieve, at the end of the fifth year after initial planting, comparable or better mitigation results as the results that would be achieved if the applicant complied with all of the requirements of Subsections 705.10(A)(6)(a) through (c).
- B. Development in an HCA that does not comply with Subsection 706.10(A) shall be permitted subject to the following criteria:
1. Development in the HCA shall be avoided to the extent practicable. If there is more than one category (High, Moderate, or Low) of HCA on the subject property, then the applicant shall first avoid the intrusion of development into the higher-valued HCA, to the extent practicable. To comply with these requirements, the following approaches shall be used, to the extent practicable:
 - a. Multi-story construction;
 - b. Minimizing building and development footprint;
 - c. Maximizing the use of native landscaping materials and meeting applicable landscaping requirements by preservation of the HCA as permitted by Section 1009;
 - d. Minimal excavation foundation systems (e.g., pier, post, or piling foundation);
 - e. Transfer of density from the HCA to another part of the subject property as permitted by Section 1012;
 - f. Placing facilities that are required to infiltrate stormwater onsite, including associated piping, within the HCA, provided that such facilities comply with Subsection 706.04(R); and
 - g. Complying with the setback standards of Subsection 706.11 rather than those of the underlying zoning district.
 2. If there is no practicable alternative that will avoid disturbance of the HCA, then significant detrimental impacts to the HCA shall be minimized as follows:

- a. The proposed development shall minimize loss of habitat as compared to other practicable alternatives, including significantly different practicable alternatives that would result in less development within the HCA.
- b. The proposed development shall minimize significant detrimental impacts to ecological functions of the HCA on the subject property as compared to other practicable alternatives, including significantly different practicable alternatives that would result in less development within the HCA. The ecological functions that shall be considered are:
 - i. Connectivity of the habitat to water;
 - ii. Connectivity of the habitat to other habitat areas; and
 - iii. The functions identified in Table [706-7](#).

Table [706-7](#): Ecological functional values of riparian corridors

Ecological function	Landscape features providing functional values
Microclimate and shade	Forest canopy or woody vegetation within 100 feet of a stream; a wetland ¹ ; or a flood area ²
Streamflow moderation and water storage	A wetland or other water body ³ with a hydrologic connection to a stream; or a flood area ²
Bank stabilization, sediment and pollution control	All sites within 50 feet of a surface stream; Forest canopy, woody vegetation, or low structure vegetation/open soils within 100 feet of a stream or a wetland; or forest canopy, woody vegetation, or low structure vegetation/open soils within a flood area; and Forest canopy, woody vegetation, or low structure vegetation/open soils within 100-200 feet of a stream if the slope is greater than 25 percent
Large wood and channel dynamics	Forest canopy within 150 feet of a stream or wetland, or within a flood area; and The channel migration zone is defined by the flood area, but where there is no mapped flood area, a default of 50 feet is established to allow for the channel migration zone.
Organic material sources	Forest canopy or woody vegetation within 100 feet of a stream or wetland, or within a flood area

¹ Refers to “hydrologically-connected wetlands,” which are located partially or wholly within ¼ mile of a surface stream or flood area.

² Developed flood areas are not identified as HCAs because they do not provide primary ecological functional value.

³ “Other water body” could include lakes, ponds, reservoirs, or manmade water resource that is not a water quality facility or farm pond.

- c. If there is more than one category of HCA on the subject property, then development within a higher-valued HCA shall

be considered more detrimental than development within a lower-valued HCA.

- d. To the extent practicable, development in the HCA shall be designed, located, and constructed to:
 - i. Minimize grading, removal of native vegetation, and disturbance and removal of native soils by using the approaches required by Subsection 706.08, reducing building footprints, and using minimal excavation foundation systems (e.g., pier, post, or piling foundation);
 - ii. Minimize adverse hydrological impacts on water resources, such as by using the techniques described in Part (a) of Table 706-8, unless their use is prohibited by an applicable and required state or federal permit issued to a unit of local government having jurisdiction in the area, such as a permit required under the federal Clean Water Act, 33 U.S.C. §§1251 et seq., or the federal Safe Drinking Water Act, 42 U.S.C. §§300f et seq., and including conditions or plans required by such permit;
 - iii. Minimize impacts on wildlife corridors and fish passage, such as by using the techniques described in Part (b) of Table 706-8; and
 - iv. Consider using the techniques described in Part (c) of Table 706-8.

Table 706-8: Habitat-Friendly Development Practices¹

Part (a): Design and Construction Practices to Minimize Hydrologic Impacts
<ol style="list-style-type: none"> 1. Amend disturbed soils to original or higher level of porosity to regain infiltration and stormwater storage capacity. 2. Use pervious paving materials for residential driveways, parking lots, walkways, and within centers of cul-de-sacs. 3. Incorporate stormwater management in road right-of-ways. 4. Landscape with rain gardens to provide on-lot detention, filtering of rainwater, and groundwater recharge. 5. Use green roofs for runoff reduction, energy savings, improved air quality, and enhanced aesthetics. 6. Disconnect downspouts from roofs and direct the flow to vegetated infiltration/filtration areas such as rain gardens. 7. Retain rooftop runoff in a rain barrel for later on-lot use in lawn and garden watering. 8. Use multi-functional open drainage systems in lieu of more conventional curb-and-gutter systems. 9. Use bioretention cells as rain gardens in landscaped parking lot islands to reduce runoff volume and filter pollutants. 10. Apply a treatment train approach to provide multiple opportunities for storm

<p>Part (a): Design and Construction Practices to Minimize Hydrologic Impacts</p>
<p>water treatment and reduce the possibility of system failure.</p> <ol style="list-style-type: none"> 11. Reduce sidewalk width and grade them such that they drain to the front yard of a residential lot or retention area. 12. Reduce impervious impacts of residential driveways by narrowing widths and moving access to the rear of the site. 13. Use shared driveways. 14. Reduce width of residential streets, depending on traffic and parking needs. 15. Reduce street length, primarily in residential areas, by encouraging clustering and using curvilinear designs. 16. Reduce cul-de-sac radii and use pervious vegetated islands in center to minimize impervious effects, and allow them to be utilized for truck maneuvering/loading to reduce need for wide loading areas on site. 17. Eliminate redundant non-ADA sidewalks within a site (i.e., sidewalk to all entryways and/or to truck loading areas may be unnecessary for industrial developments). 18. Minimize car spaces and stall dimensions, reduce parking ratios, and use shared parking facilities and structured parking. 19. Minimize the number of stream crossings and place crossing perpendicular to stream channel if possible. 20. Allow narrow street right-of-ways through stream corridors whenever possible to reduce adverse impacts of transportation corridors.
<p>Part (b): Design and Construction Practices to Minimize Impacts on Wildlife Corridors and Fish Passage</p>
<ol style="list-style-type: none"> 1. Carefully integrate fencing into the landscape to guide animals toward animal crossings under, over, or around transportation corridors. 2. Use bridge crossings rather than culverts wherever possible. 3. If culverts are utilized, install slab, arch or box type culverts, preferably using bottomless designs that more closely mimic stream bottom habitat. 4. Design stream crossings for fish passage with shelves and other design features to facilitate terrestrial wildlife passage. 5. Extend vegetative cover through the wildlife crossing in the migratory route, along with sheltering areas.
<p>Part (c): Miscellaneous Other Habitat-Friendly Design and Construction Practices</p>
<ol style="list-style-type: none"> 1. Use native vegetation throughout the development (not just in HCA). 2. Locate landscaping (required by other sections of this Ordinance) adjacent to HCA. 3. Reduce light spill-off into HCAs from development. 4. Preserve and maintain existing trees and tree canopy coverage, and plant trees, where appropriate, to maximize future tree canopy coverage.

¹ These development practices represent the state of scientific knowledge at the time of the adoption of Section 706. If more effective habitat-friendly practices become available, they may be used.

3. If development in an HCA is approved pursuant to Subsection 706.10(B), compliance with the following mitigation standards shall be required, except that the mitigation standards for development in a wetland (as distinct from an HCA that is adjacent to a wetland) shall be only those required by federal and state law.
 - a. Compliance with Subsections 706.10(A)(6), (7), and, if applicable, (8) shall be required; or
 - b. An alternative mitigation plan (e.g., a proposal to create an alternative plant community type such as an oak savannah or a low-structure plant community, or where an applicant demonstrates that a portion of identified HCA on the subject property provides only impaired ecological functions) may be approved, subject to the following criteria:
 - i. The mitigation plan shall demonstrate that it compensates for significant detrimental impacts to the ecological functions provided by the HCA on the subject property, after taking into consideration efforts to minimize such significant detrimental impacts through the use of the techniques described in Table [706-8](#) and through any additional or innovative techniques.
 - ii. Mitigation shall occur on the subject property, except that offsite mitigation may be approved pursuant to Subsection 706.10(A)(7)(b). In addition, off-site mitigation outside the subwatershed (6th Field Hydrologic Unit Code) in which the disturbed HCA is located—but inside the Metropolitan Service District boundary or the Portland Metropolitan Urban Growth Boundary—may be approved if it is not practicable to complete the mitigation within the same subwatershed and if, considering the purpose of the mitigation, the mitigation will provide more ecological functional value if implemented outside of the subwatershed.
 - iii. All mitigation plantings shall be native vegetation.
 - iv. All in-stream work in fish-bearing streams shall be done in accordance with the Oregon Department of Fish and Wildlife in-stream work-timing schedule.
 - v. A mitigation maintenance plan shall be included and shall be sufficient to ensure the success of the planting.
4. Municipal potable water, stormwater (drainage), and wastewater utility facilities, which may include, but are not limited to, water treatment plants, wastewater treatment plants, raw water intakes, pump stations, transmission mains, conduits or service lines,

terminal storage reservoirs, and outfall devices, shall not have to comply with Subsection 706.10(B)(1), provided that:

- a. Where practicable, the development shall not encroach closer to a water resource than existing operations and development, or for new projects where there are no existing operations or development, the development shall not encroach closer to a water resource than practicable; and
- b. Best management practices shall be employed that accomplish the following:
 - i. Account for watershed assessment information in project design;
 - ii. Minimize the trench area and tree removal within the HCA;
 - iii. Utilize and maintain erosion prevention and sediment control measures until other site stabilization measures are established, post-construction;
 - iv. Replant immediately after backfilling or as soon as effective;
 - v. Preserve wetland soils and retain soil profiles;
 - vi. Minimize compactions and the duration of the work within the HCA;
 - vii. Complete in-water construction during appropriate seasons, or as approved within requisite state or federal permits;
 - viii. Monitor water quality during the construction phases, if applicable; and
 - ix. Implement a full inspection and monitoring program during and after project completion, if applicable.

706.11 SETBACKS

For parcels that contain a Habitat Conservation Area and are inside the Portland Metropolitan Urban Growth Boundary, the minimum front, rear, and side yard setbacks shall be zero, except:

- A. Garages and carports shall comply with the minimum front yard setback of the underlying zoning district; and
- B. A greater setback may be required to comply with applicable fire or life safety requirements.

[Amended by Ord. ZDO-230, 9/26/11]

707 HISTORIC LANDMARK (HL), HISTORIC DISTRICT (HD), AND HISTORIC CORRIDOR (HC)

707.01 PURPOSE

~~Section 707 is adopted. The intent and purpose of this overlay district is to:~~

~~A. Implement the goals and policies of the Comprehensive Plan for Historic Landmarks, Districts, and Corridors; and~~

~~B. Promote the public health, safety, and general welfare by safeguarding the County's heritage as embodied and reflected in its historic resources; The provisions of this section are intended to:~~

~~A. C. Provide for the identification, protection, enhancement, and use of sites, structures, corridors, objects, and buildings within the County that reflect special elements of the County's architectural, archeological, artistic, cultural, engineering, aesthetic, historical, political, social, and other heritage;~~

~~B. D. Facilitate restoration and upkeep of historic buildings, structures or other physical objects or geographical areas;~~

~~C. E. Encourage public knowledge, understanding and appreciation of the County's history and culture;~~

~~E. F. Foster community and neighborhood pride and sense of identity based on recognition and use of cultural resources;~~

~~F. G. Promote the enjoyment and use of historic and cultural resources appropriate for the education and recreation of the people of the County;~~

~~G. H. Preserve diverse architectural styles reflecting phases of the County's history; and encourage complimentary design and construction impacting cultural resources;~~

~~H. I. Enhance property values and increase economic and financial benefits to the County and its inhabitants;~~

~~I. J. Identify and resolve conflicts between the preservation of cultural resources and alternative land uses; and~~

~~J. K. Integrate the management of cultural resources and relevant data into public and private land management and development processes.~~

707.02 ~~APPLICABILITY AREA OF APPLICATION~~

A. Section 707 ~~applies~~ shall apply to all designated Historic Landmarks, Historic Districts, and Historic Corridors ~~within the County.~~

B. Historic Landmark: A site, structure, or object may be zoned Historic Landmark if it is listed on the National Register of Historic Places, or if it is rated as "significant" under the County's procedure for evaluating historic resources under the specific architectural, environmental, and historic association criteria. A site or structure must receive a minimum of 40 ~~or more~~ points under the following criteria to be considered for Historic Landmark status:

1. Architectural Significance

~~1.~~a. It is an early (50 years or older), or exceptional, example of a particular architectural style, building type, or convention. (up to 10 points)

~~2.~~b. It possesses a high quality of composition, detailing, and craftsmanship. (up to 4 points)

~~3.~~c. It is a good, or early, example of a particular material or method of construction. (up to 4 points)

~~4.~~d. It retains, with little or no change, its original design features, materials, and character. (up to 7 points)

~~5.~~e. It is the only remaining, or one of the few remaining, properties of a particular style, building type, design, material, or method of construction. (up to 10 points)

2. Environmental Significance

~~6.~~a. It is a conspicuous visual landmark in the neighborhood or community. (up to 10 points)

~~7.~~b. It is well-located considering the current land use surrounding the property, which contributes to the integrity of the pertinent historic period. (up to 4 points)

~~8.~~c. It consists of a grouping of interrelated elements including historic structures, plant materials and landscapes, viewsheds and natural features. (up to 10 points)

~~9.~~d. It is an important or critical element in establishing or contributing to the continuity or character of the street, neighborhood, or community. (up to 7 points)

3. Historical Significance

~~10~~-a. It is associated with the life or activities of a person, group, organization, or institution that has made a significant contribution to the community, state, or nation. (up to 10 points)

~~11~~-b. It is associated with an event that has made a significant contribution to the community, state, or nation. (up to 10 points)

~~12~~-c. It is associated with, and illustrative of, broad patterns of cultural, social, political, economic, or industrial history in the community, state, or nation. (up to 10 points)

~~13~~-d. It possesses the potential for providing information of a prehistoric or historic nature. (up to 10 points)

C. Historic District: ~~Designation of a Historic District on the County zoning and Comprehensive Plan maps may be initiated by the Historic Review Board, the Board of County Commissioners, or by petition of at least 60 percent of the property owners within the geographically defined area.~~ Criteria for designation of a Historic District on the County zoning and Comprehensive Plan maps are as follows:

1. The area is listed as a National Register Historic District; or
2. The area includes a significant concentration or linkage of sites, buildings, structures, objects or landscapes which are unified visually by style, plan, or physical development and distinguished by association with historic periods, events, people, or cultural trends; and
3. The area is of sufficient size and scope, and the component parts are cohesive enough to adequately represent, demonstrate, or commemorate the significant historic period, event, people, or trend; and
4. A substantial number of the component parts within the area are exceptionally well preserved.

D. Historic Corridor: ~~Designation of a Historic Corridor on the County zoning and Comprehensive Plan maps may be initiated by the Historic Review Board, the Board of County Commissioners, or by petition of at least 60 percent of the owners of property within a historic trail, roadway, or rail corridor.~~ Property designated as a Historic Corridor on the County zoning and Comprehensive Plan maps shall satisfy one or both of the following criteria:

1. The property, site, trail, roadway, or rail corridor is associated with events that have made a significant contribution to the broad patterns of our history or are likely to yield additional information in the future, categorized under one or more of the following theme areas:

- a. archeology and prehistory;
 - b. exploration;
 - c. western migration;
 - d. settlement;
 - e. agriculture;
 - f. commerce and industry;
 - g. transportation technology;
 - h. government, politics, and military activities; and
 - i. culture.
2. The property or site is necessary to provide for the continuity of, or future use of, the historic trail, roadway, or rail corridor.

E. Contributing Resource:

1. ~~Criteria for designation of~~In order to designate a site, object, structure, or landscape features as a contributing resource; are as follows~~the Board shall find that:~~
 - a. The resource is or, at the time the designation becomes effective, will be within a Historic District or Historic Corridor; and
 - b. The resource is 50 years old or older, may have received alterations, but retains its overall physical integrity, or is of special architectural or environmental or cultural significance; and
 - c. The resource contributes to the integrity of the Historic District or Historic Corridor; and
 - d. The resource does not merit landmark designation; and
 - e. The resource is compatible with landmarks in the district or corridor considering overall proportions, scale, architectural detail and materials.
2. Contributing resources shall be identified upon the creation of a Historic District or Historic Corridor and a list shall be created containing the same information for each resource as is required for landmarks.

- A. ~~Intent: Subsection 707.03~~~~This Ordinance provision~~ is intended to provide for the preservation and protection of the Barlow Road Historic Corridor. The intent ~~of this Ordinance~~ is to preserve the privacy of private property owners along the Barlow Road Historic Corridor. There is no intent by ~~the Clackamas~~ County to condemn private property now or in the future.
- B. ~~The~~ Barlow Road Historic Corridor is defined by the Barlow Road Background Report and Management Plan maps and shown ~~on in Chapter 3 of the~~ Comprehensive Plan, Map ~~3-2III-2~~. Within the corridor, the following provisions shall apply:
1. The Barlow Road Historic Corridor is defined as a ~~40--foot--wide~~ historic corridor as shown on the Clackamas County assessor maps, identified through the Barlow Road Survey Project 1991-1992, and adopted through the historic corridor designation process within the provisions of ~~Section 707~~~~this Ordinance~~. In the Government Camp area, north of Highway 26, the historic corridor width is 20 ~~feet~~~~foot-wide~~.
 2. Third priority property segments shall be allowed to develop for primary uses allowed in the underlying ~~zoning district~~~~zone~~. Significant development shall be reviewed as described in ~~Subsection 707.03(B)~~(3). Where physical evidence of the Barlow Road exists, property owners are encouraged to preserve the evidence.
 3. The Historic Review Board shall review and make recommendations pertaining to proposed ~~"significant development,"~~ within the historic corridor. ~~"Significant development"~~ shall include: zone change, conditional use, and subdivision applications; commercial, industrial, and multifamily development applications; and mining and gravel extraction. ~~The recommendation shall be made to the review authority, identified pursuant to Table 1307-1, for the significant development.~~ A site analysis shall be submitted for any ~~"significant development"~~ by the applicant indicating potential impacts to the historic corridor. To the maximum practicable extent, the historic corridor shall be protected as open space. Where physical evidence of the Barlow Road exists, such as wagon ruts, such evidence shall not be disturbed by development unless it is shown that the property ~~cannot~~~~can not~~ be developed if the historic corridor is preserved.
 4. Where road segments include portions of a County road, the Historic Review Board shall review and make recommendations to the County about any proposed ~~right-of-way~~~~right-of-way~~ expansion or realignment to ~~ensure~~~~insure~~ that original features of the Barlow Road are retained where possible.
 5. Where State Highways are aligned with the Barlow Road Historic Corridor, proposed ~~right-of-way~~~~right-of-way~~ expansion or realignment will be reviewed

as outlined under Subsection 707.07, when historic resource sites identified in the Clackamas County Cultural Resources Inventory, Barlow Road Survey Project or other identified potential sites may be impacted.

6. Within the Highest and Secondary Priority Barlow Road Historic Corridor as defined on the Clackamas County assessor maps, the following activities are prohibited: structural development, mining, highway or road building, cultivation, utility line/pipeline development, vehicular use, and other uses which would cause major surface disturbance to the road remains. Limited disturbance to the corridor shall be allowed when necessary to service the underlying use, such as sewer and utility lines.

Where the corridor has been used by vehicles, continued use is allowed. Maintaining driveways by repairing the driving surface is allowed. All attempts to preserve the historic road contour should be made when undergoing maintenance activities.

Where Highest and Secondary priority road segments include portions of a County or State road, the Historic Review Board shall review any proposed ~~right-of-way~~ right-of-way expansion or realignment. To the maximum practicable extent, the Barlow Road alignment and historic landscape should be retained.

A variance application can be made to allow development in rare cases under Subsection 1205.02.

Normal maintenance activities are allowed such as clearing brush and fallen trees from the ~~h~~HHistoric ~~c~~CCorridor and removing other objects foreign to the route.

707.04 INTERIM PROTECTION MEASURES FOR STRUCTURES LISTED ON THE CLACKAMAS COUNTY CULTURAL RESOURCES INVENTORY

- A. Intent: ~~Subsection 707.04This Ordinance provision~~ is intended to provide interim ~~protection~~protective measures for structures listed on the Clackamas County Cultural Resources Inventory. After a complete survey and evaluation of significance and upon designation of significant properties as Historic Landmarks within each study area or Inventoried Book, the ~~i~~Interim ~~p~~Protection ~~m~~Measures will cease to apply.
- B. Cultural Resource Inventory Properties: Review of "significant development," ~~as defined below~~, shall occur for any property listed on the Clackamas County Cultural Resources Inventory as per provisions set forth in Section 707~~this Ordinance~~. "Significant development" ~~shall~~ includes: zone change, conditional use, and subdivision applications; commercial, industrial, and multifamily development applications; and demolition permit

applications.

707.05 USES PERMITTED

A. Primary Uses: A Historic Landmark or properties within a Historic District or Historic Corridor may be used for any use which is allowed in the underlying zoning district, including home occupations, provided such use is not detrimental to the preservation of the historic resource, subject to the specific requirements for the use, and all other requirements of ~~this~~ Section 707.

B. Conditional Uses ~~Findings~~: In urban and rural zoning districts, uses listed in Subsection 707.05 ~~(B)(2)(C)~~, which are not otherwise allowed in the underlying zoning district, ~~are conditional uses, approval of which is subject to may be allowed, subject to the specified review procedure. Approval shall not be granted unless the proposal satisfies the criteria under~~ Section 1203, Conditional Use ~~and the applicable provisions under Section 800, and the applicant demonstrates that the use, if allowed:~~

1. In addition, the following criteria apply:

~~1. a.~~ The use wWill preserve or improve a resource which would probably not be preserved or improved otherwise;

~~2. b.~~ The use wWill not require the extension or development of urban services in rural areas;

~~3. c.~~ The use wWill not adversely affect surrounding natural resource uses; and

~~4. d.~~ The use wWill utilize existing structures rather than new structures, except where new structures are determined by the Historic Review Board to be in the best interest of preserving the historic resource.

~~5.~~ All structures of any form or size, including new structures, shall satisfy Subsection 707.07.

~~C. 2. Public Hearing Review:~~ The following conditional uses may be permitted ~~by the Hearings Officer after a public hearing conducted pursuant to Section 1300 when the proposal satisfies the requirements under Subsection 707.05(B), above:~~ In addition, uses similar to one or more of the listed uses may be authorized pursuant to Section 106, Authorization of Similar Uses.

1. Art and music studios;
2. Galleries;
3. Offices;
4. Craft shops;

5. Bed and ~~b~~Breakfast ~~residences and inn~~establishments, subject to Section ~~832~~;
6. Gift shops;
7. Museums;
8. Catering ~~s~~Services;
9. Book stores;
10. Boutiques;
11. Restaurants;
12. Antique shops;
13. Community ~~c~~Centers for civic or cultural events; ~~and~~
14. Replacement of a historic landmark dwelling with an additional dwelling on the same site and continued use of the existing dwelling for Rural Residential purposes, provided:

~~a.1)~~ ~~T~~he existing dwelling is listed individually on the National Register of Historic Places or on state and local registers as a Historic Landmark;

~~b.2)~~ ~~T~~he existing dwelling is maintained under an approved plan for rehabilitation (e.g. Secretary of Interior guidelines); and

~~c.3)~~ ~~T~~here is a recorded deed recognition statement with the County that the additional dwelling is authorized only for the duration of the historic resource and to inform subsequent purchasers. A lot with an additional dwelling approved subject to this provision may not be divided pursuant to Subsection 902.01(B)(3).

~~15. Any use that the Hearings Officer finds to be similar to one or more of those specified in Subsections 707.05(C)(1) through (14). However, in a zoning district listed in Subsection 106.01, Section 106 shall apply in lieu of Subsection 707.05(C)(15).~~

707.06 HISTORIC REVIEW BOARD

~~A Historic Review Board shall be established pursuant to Subsection 1307.03 and shall have the following responsibilities:~~

~~A. Appointment and Composition: The Board of County Commissioners shall appoint a minimum of five individuals who have demonstrated an interest in historic preservation and have experience and/or special expertise or knowledge in the field of historic preservation.~~

~~Three positions shall be filled under the following designations: (1) Architect, with knowledge in historic restoration, (2) Contractor, with expertise in construction techniques applied to historic structures, (3) Representative from a historic group in the County.~~

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~~Individuals from a city within the County may be appointed by the city to join the Historic Review Board to review permit applications within the city.~~

~~B. Terms of Service: Except for initial appointment periods specified herein, all members of the Historic Review Board shall be appointed for three years, and may be reappointed or removed at the discretion of the Board of County Commissioners.~~

~~C. Duties and Responsibilities: It is the responsibility of the Historic Review Board to insure that the purposes of this Section are implemented and to perform the following duties:~~

~~1. Adopt rules to govern its deliberations and decisions, including a method of recording its proceedings.~~

~~2. A. Carry out the duties described for it in Section 707~~this Ordinance~~ and otherwise assist the Board of County Commissioners on historic preservation matters~~;~~~~

~~3. B. Review and make recommendations~~render decisions~~ on proposals to alter the exterior of a Historic Landmark or primary, secondary, or contributing structure within a Historic District or Historic Corridor, subject to ~~the procedures and criteria set forth in~~ Subsection 707.07~~;~~~~

~~4. C. Review and make recommendations~~render decisions~~ on all proposed new construction within a Historic District or Corridor, or on property on which a Historic Landmark is located, subject to ~~the procedures and criteria set forth in~~ Subsection 707.07~~;~~~~

~~5. D. Review and make recommendations on all applications referred by the Board of County Commissioners, Hearings Officer, Planning Commission, or Design Review Committee~~;~~~~

~~6. E. Review and make recommendations on all applications for zoning of a Historic Landmark, a Historic District, or a Historic Corridor, ~~as provided under~~subject to Subsections 707.02 and 707.07~~707.06~~~~;~~~~

~~7. F. Review and make recommendations on all requests for moving or demolition ~~or removal~~ of a Historic Landmark, ~~as provided under~~subject to Subsection 707.07~~707.09~~~~;~~~~

~~8. G. Review and make recommendations to the Hearings Officer on all Conditional Use applications under Subsection 707.05(B)~~;~~~~

~~9. H. Review and make recommendations on all partitions and subdivisions of designated properties, subject to Subsection 707.07~~;~~~~

- 10.I. Disseminate information to educate the public as to ~~s~~State and ~~f~~Federal laws protecting antiquities and historic places~~;~~
- 11.J. Act as a coordinator for local preservation groups, educational workshops, signing and monumentation projects, and other similar programs~~;~~
- 12.K. Advise interest groups, agencies, boards, commissions, and citizens on matters relating to historic preservation within the County~~;~~
- 13.L. ~~Ensure~~~~Insure~~ that information on inventoried historic properties is updated and maintained~~;~~ and
- 14.M. Continue to add to the Clackamas County Cultural Resources Inventory when appropriate.

707.07 THE REVIEW PROCESS

~~Subsection 707.07 applies~~~~This section shall apply~~ to all Historic Landmarks, properties within Historic Districts and Historic Corridors, and contributing resources therein.

A. ~~Designation and Zoning of a Historic Landmark, Historic District or Historic Corridor:~~ Comprehensive Plan designation and zoning of a Historic Landmark, Historic District, or Historic Corridor shall be subject to the procedures identified in Section 1307 for Comprehensive Plan amendments and zone changes, respectively. In addition:

~~1. County Initiated Action: The Historic Review Board or Board of County Commissioners may initiate the process for designation of a Historic Landmark or Historic District or Historic Corridor. If the Historic Review Board or Board of County Commissioners initiates the process, notice shall be provided pursuant to Section 1302.~~

~~2. Quasi-Judicial Application: The owner(s) of property, or properties, may request the zoning of their property, or properties, as a Historic Landmark(s), Historic District, or Historic Corridor by making application at the Planning Division. Notice shall be provided pursuant to Section 1302.~~

~~3.1. Historic Review Board Evaluation:~~ The Historic Review Board shall evaluate the proposed designation and zoning of a Historic Landmark, Historic District, or Historic Corridor~~action~~ and shall ~~enter findings and~~ make a ~~written~~ recommendation to the Board of County Commissioners.

~~4. Board of County Commissioners Public Hearing: The Board of County~~

~~Commissioners shall conduct a public hearing to consider the proposed zoning action and shall either approve or deny the request. The Board shall enter written findings supporting its decision.~~

~~5.2. Pending Permits:~~ No building permit for altering or moving any proposed Historic Landmark or any building within an area proposed for designation as a Historic Landmark, Historic District, or Historic Corridor, shall be issued while any advertised public hearing or any appeal affecting the proposed designation of the area or building is pending. In addition, demolition of a building affected by a pending public hearing or appeal under Subsection 707.07(A)~~this Section~~ shall be a violation of this Ordinance.

B. Application Requirements:

~~1. Prior to formal application submission, a preapplication conference between the applicant and Planning Director or Historic Review Board shall occur.~~

~~2. Standard Requirements:~~ All In addition to the submittal requirements identified in Subsection 1307.07(C), applications for alteration and development ~~made pursuant to this Section~~ shall include:

~~a. The applicant's name and address.~~

~~b. The owner's name(s) and address(s);~~

~~e. An explanation of what review process the applicant wishes to initiate and why.~~

~~d.1.~~ A written description of the boundaries of the proposed Historic District, if applicable, or the location of the site;

~~e.2.~~ A map illustrating the boundaries of the proposed Historic District, if applicable, or the location of the site;

~~f.3.~~ A list of exterior materials pertinent to the application request;

~~g.4.~~ Drawings of elevations of affected structure(s):

~~1. Side elevation for each side of any affected structure.~~

~~2. a.~~ Drawings shall indicate dimensions and be to scale.

~~3. b.~~ Photographs may be used in lieu of drawings for small projects.

~~h.5.~~ Floor plans of affected structure(s); and

~~i.6.~~ Site plan showing relationship of structure(s) to roadways, parking areas, access drives, landscape features, plant materials, fences, and other pertinent elements, drawn to scale.

C. Alteration and Development:

~~1. Purpose: It is the intent of this subsection to provide for the appropriate level of review for proposed alterations and development affecting properties within Historic Districts or Historic Corridors, or those affecting Historic Landmarks, and to provide criteria for review.~~

~~2.1.~~ Maintenance: The normal responsibilities of the property owner to care, repair, and replace with like materials shall be reviewed as a Type I application pursuant to Section 1307 ~~can be done without formal review.~~ Normal maintenance may include but not be limited to:

- a. Painting and related preparation of the structure. Original paint colors or colors appropriate to the historic period should be used on Historic Landmark buildings; ~~:-~~
- b. Repair and/or replacement of roofing materials with the same kind of roof materials existing; ~~:-~~
- c. Grounds care and maintenance required or the permitted use on the property; ~~:-~~
- d. Replacement of fences, shrubs, or other yard fixtures or landscaping with like type and/or style; ~~:-~~
- e. Existing materials may be replaced in kind for a small portion of either building or grounds because of damage or decay of materials; ~~:-~~ and
- f. Installation and maintenance of irrigation systems.

~~3.2.~~ Minor Alterations: ~~The Planning Director shall determine the status of a proposed alteration.~~ Minor alterations shall be reviewed as Type II applications pursuant to Section 1307 ~~and approved by the Planning Director.~~ In addition, the review authority ~~who~~ may consult with the Historic Review Board, or any member thereof, in applying the provisions of Subsection 707.07(C)(2) ~~this Section~~. An alteration shall be considered "minor" when the result of the proposed action is to restore portions of the exterior to the original historic appearance while performing repairs, such as:

- a. Addition of gutters and downspouts;
- b. Repairing or providing a compatible new foundation that does not result in raising or lowering the building elevation;
- c. Change in material to match original type of material on the structure or grounds;
- d. Change in type of roof material in character with the original roofing material; and
- e. Replacement of storm windows or doors.

~~4.3. Major Alterations Criteria: Major alterations shall be reviewed as Type II applications pursuant to Section 1307. The Historic Review Board shall review all proposed alterations which exceed a "minor" status under Subsection 707.07(C)(3). A request for an alteration permit under this provision shall be made on the appropriate application form provided by the Planning Division. Review and Approval of an application for a major alteration shall be subject based on findings of adherence to the following criteria standards for rehabilitation:~~

- a. A property shall be used for its historic purpose or be placed in a new use that requires minimal change to the defining characteristics of the building and its site and environment.
- b. The historic character of a property shall be retained and preserved. The removal of historic materials or alteration of features and spaces that characterize a property shall be avoided.
- c. Each property shall be recognized as a physical record of its time, place, and use. Changes that create a false sense of historical development, such as adding conjectural features or architectural elements from other buildings, shall not be undertaken.
- d. Most properties change over time; those changes that have acquired historic significance in their own right shall be retained and preserved.
- e. Distinctive features, finished, and construction techniques or examples of craftsmanship that characterize a historic property shall be preserved.
- f. Deteriorated historic features shall be repaired rather than replaced. Where the severity of deterioration requires replacement of a distinctive feature, the new feature shall match the old in design, color,

texture, and other visual qualities and, where possible, materials. Replacement of missing features shall be substantiated by documentary, physical, or pictorial evidence.

- g. Chemical or physical treatments, such as sandblasting, that cause damage to historic materials shall not be used. The surface cleaning of structures, if appropriate, shall be undertaken using the least damaging or gentlest means possible.
- h. Significant archeological resources affected by a project shall be protected and preserved. If such resources must be disturbed, mitigation measures shall be undertaken.
- i. New additions, exterior alterations, or related new construction shall not destroy historic materials that characterize the property. The new work shall be differentiated from the old and shall be compatible with the massing, size, scale, and architectural features to protect the historic integrity of the property and its environment.
- j. New additions and adjacent or related new construction shall be undertaken in such a manner that if removed in the future, the essential form and integrity of the historic property, including historic plant materials, and its environment would be unimpaired.

5.4. New Construction: ~~The Historic Review Board shall review all building permits-Applications~~ for proposed structures on a Historic Landmark site, or within a Historic District or Historic Corridor shall be reviewed as Type II applications pursuant to Section 1307. ~~Review and A~~approval of an application shall be subject to~~based on~~ the following criteria:

- a. The design of the proposed structure is compatible with the design of the landmark building(s) on the site or in the district or corridor considering scale, style, height, and architectural detail, materials, and colors.
- b. The location and orientation of the new structure on the site is consistent with the typical location and orientation of similar structures on the site or within the district or corridor, considering setbacks, distances between structures, location of entrances, and similar siting considerations.
- c. Changes to yard areas including planters, fences, ponds, walkways and landscape materials should be compatible with the overall historic setting.
- d. Scale of commercial use: Individual permitted uses shall be of a scale

appropriate to serve properties surrounding the historic overlay.

6.5. Maximum Building Floor Area:

- a. For a commercial use within an unincorporated community, the maximum building floor area per use shall be 4,000 square feet. However, a lawfully established use that existed on December 20, 2001, and serves the community or the travel needs of people passing through the area, may expand to occupy a maximum of 4,000 square feet of building floor area or 50 percent more building floor area than was occupied by the use on December 20, 2001, whichever is greater.
- b. For a commercial use in a non-urban area outside an unincorporated community, the maximum building floor area per use shall be 3,000 square feet. However, a lawfully established use that existed on December 20, 2001, may expand to occupy a maximum of 3,000 square feet of building floor area or 25 percent more building floor area than was occupied by the use on December 20, 2001, whichever is greater.
- c. Preexisting Commercial Uses: Lawfully established commercial uses that are located on land with a Comprehensive Plan designation of Unincorporated Community Residential or Rural, existed on December 20, 2001, and are not otherwise provided for in the underlying zoning district or this overlay zone shall not be nonconforming uses and are allowed outright.

7.6. Partitions and Subdivisions: The Historic Review Board shall review and make recommendations on ~~all~~ proposed partitions or subdivisions of sites designated as a Historic Landmark site or located within a Historic District or Historic Corridor. The recommendation shall be made to the review authority, identified pursuant to Table 1307-1, for the partition or subdivision application. Review of proposed subdivisions or partitions shall be subject to~~based on~~ the following criteria:

- a. The partition or subdivision does not allow a significant feature of the original site, as identified in the designation action and ~~i~~nventory, to be located on a separate site from the landmark.
- b. The partition or subdivision allows adequate setbacks from landmark improvements to provide for buffering and mitigation of impacts associated with development of the new parcels.
- c. Yard and landscaped areas including large trees and shrubs associated with the Historic Landmark structure shall be retained with the structure whenever possible.

~~8. Appeals:~~

- ~~a. Any person may appeal a decision of the Planning Director to the Historic Review Board. The appeal must be in writing and must be filed within 12 days of the date of mailing of the written decision of the Planning Director, or if the 12th day falls on a day on which the County is not open for business, by the next day on which the County is open for business.~~
- ~~b. Any person may appeal a decision of the Historic Review Board to the Hearings Officer. The appeal must be in writing and must be filed within 12 days of the date of mailing of the written decision of the Historic Review Board, or if the 12th day falls on a day on which the County is not open for business, by the next day on which the County is open for business. The appeal will be heard by the Hearings Officer pursuant to Section 1300.~~

~~9. Building Code Requirements:~~

- ~~a. Permits Required: Any alteration or relocation of a Historic Landmark shall be subject to the applicable regulations under the Uniform Building Code.~~
- ~~b. Waivers: As provided in Section 104(f) of the Uniform Building Code, repairs, alterations, and additions necessary for the preservation, restoration, rehabilitation, or continued use of a Historic Landmark, or building within a Historic District or Historic Corridor, may be made without conformance to all the requirements of the Uniform Building Code when authorized by the building official, provided:
 - ~~1. Any unsafe conditions as described in the Uniform Building Code are corrected;~~
 - ~~2. The restored building or structure will be no more hazardous, based on life safety, fire safety, and sanitation, than the existing building; and~~
 - ~~3. The building official seeks the advice of the Oregon State Historic Preservation Officer, or designee.~~~~

- ~~e. 8. Modifications to Ceertain Rregulations: The Historic Review Board may modify regulations Regulations pertaining to signs, fence and wall provisions, general provisions regarding height, yards, area, lot width, frontage, depth, coverage, number of off-street parking spaces required, and regulations prescribing setbacks may be modified, if the~~

modifications:

~~1. a.~~ Are necessary to preserve the historic character, appearance or integrity of the proposed Historic Landmark, Historic District or Historic Corridor; and

~~2. b.~~ Are in accordance with the purposes of the zoning and sign regulations.

~~d. Appeals: In the case of appeals related to the application of the Uniform Building Code to a Historic Landmark, or building within a Historic District or Historic Corridor, the County appeals board or the appropriate State appeals board shall seek the advice of the State historic preservation officer.~~

D. Moving or Demolition of a Historic Landmark or Contributing Resource: No building identified as a primary, secondary, or contributing structure within a Historic District or Corridor, or designated as a Historic Landmark, shall be intentionally moved or demolished, unless approval is granted pursuant to Subsection 707.07(D). Moving or demolition of a Historic Landmark or Contributing Resource shall be reviewed as a Type III application pursuant to Section 1307. In addition:

~~1. Purpose: The intent of this Subsection is to protect Historic Landmarks and Historic Districts and Corridors from destructive acts and to provide the citizens of the County time to review the significance of a Historic Landmark or building within a Historic District or Corridor, and to pursue options to preserve such building(s) if historic preservation is deemed in the best interest of the community.~~

~~2.1. Preapplication Preservation Plan Required:~~

~~a. Preapplication preservation plan to be submitted: If an applicant requests to move or to demolish a Historic Landmark, the applicant shall prepare and submit a plan for preservation of the Historic Landmark prior to filing said application for moving or demolition.~~

~~A preapplication conference shall be scheduled to allow the applicant and staff to discuss the proposal, the preservation plan requirements and the applicable criteria.~~

~~The preservation plan may be submitted to the County after the preapplication conference and shall be reviewed and approved by staff or the Historic Review Board.~~

~~b.a.~~ The preservation plan shall include a narrative describing how the

applicant will accomplish ~~all of~~ the following:

~~1. i.~~ The applicant or applicant's agent shall ~~A~~ advertise the resource in local, regional, and historic preservation newspapers of general circulation in the area once per week during the pre-application period and shall provide evidence of such advertising;

~~2.~~ ii. Give public notice by placing a sign on the subject property informing the public of intended action which will remove or demolish the structure and including the County department and telephone number to call for further information. The sign shall remain on the subject property until a permit is issued. ~~It should also state the County department and telephone number to call for further information;~~

~~3.~~ iii. Prepare and make available information related to the history and sale of the subject property to all who inquire;

~~4.~~ iv. Provide information regarding the proposed use for the Historic Landmark site; and

~~5.~~ v. Keep a record of the parties who have expressed an interest in purchasing and/or relocating the structure. To ensure that an adequate effort has been made to secure a relocation site, the applicant shall provide a list of property locations and owners who were contacted regarding purchase of a relocation site.

~~e.~~ b. Following receipt of the preservation plan, the Planning Director shall issue a media release to local and state newspapers of general circulation in the County. The media release shall include, but not be limited to, a description of the significance of the Historic Landmark, the reasons for the proposed moving or demolition ~~or removal~~, and the possible options for preserving the Historic Landmark.

~~3. — Review Required: No building identified as a primary, secondary, or contributing structure within a Historic District or Corridor, or building designated as a Historic Landmark, shall be intentionally moved, or demolished unless such action is approved by the Historic Review Board. Application for permit to move or demolish such building shall be made to the Planning Division, and to the Building Services Division when applicable.~~

~~4. — Public Hearing Review: The Historic Review Board shall hold a public hearing, under the provisions and procedures in Subsections 1302.01(A) and (B) and Section 1303, to review the request to move, demolish or destroy a Historic Landmark, or building within a Historic District or~~

~~Corridor, and shall make written findings supporting its decision to approve or suspend the request.~~

~~5.2. Moving a Historic Landmark or Contributing Resource: Approval of an application to move a Historic Landmark or contributing resource shall be subject to the following criteria:~~

~~a. In order to allow the moving of a Historic Landmark or contributing resource, the Historic Review Board shall consider the following:~~

~~1.a. Relocation is the only alternative for preservation of the Historic Landmark or contributing resource; ~~and,~~~~

~~2.b. The proposed relocation site will not greatly reduce the historical and/or architectural significance of the Historic Landmark or contributing resource; the site is a contextually appropriate setting; it is within the County and preferably within the neighborhood within which it is currently located; ~~and~~~~

~~3.c. The designated resource cannot reasonably be used in conjunction with the proposed use; ~~and,~~~~

~~4.d. The continued location of the landmark or contributing resource on the proposed development site precludes development on the site which would provide a greater community benefit; ~~and,~~~~

~~5.e. The designated landmark or contributing resource is structurally capable of relocation; ~~and~~~~

~~6.f. If the landmark or contributing resource is relocated within the County, the owner of the relocation site agrees, as a condition of the purchase agreement, to apply within 90 days of relocation to the County for designation as a Historic Landmark, to be protected under the provisions of Section 707 ~~this Ordinance;~~~~

~~g. The loss of the landmark or contributing resource will not affect the integrity of the Historic District or Historic Corridor; and~~

~~7.h. Adequate effort has been made to seek a relocation site within the Historic District or Corridor.~~

~~6.3. Demolition of a Historic Landmark or Contributing Resource: The review authority for an application to demolish a Historic Landmark or contributing resource within a Historic District or Historic Corridor shall ~~In order to allow the demolition of a landmark or contributing resource within a Historic District or Corridor, the Historic Review Board shall~~~~

consider the following:

- a. All plans, drawings, and photographs submitted by the applicant; ~~and,~~
- b. Information presented at the public hearing concerning the proposed work; proposal; ~~and,~~
- c. The ~~Clackamas County~~ Comprehensive Plan; ~~and,~~
- d. The purposes of ~~this Ordinance~~ Section 707 as set forth in Subsection 707.01; ~~and,~~
- e. The criteria used in the original designation of the Historic Landmark, ~~or~~ Historic District, or Historic Corridor in which the property under consideration is situated; ~~and,~~
- f. The historical and architectural style, the general design, arrangement, materials of the structure in question, or its appurtenant fixtures; the relationship of such features to the other buildings within the district or corridor; and the position of the building in relation to public rights-of-way and to other buildings and structures in the area; ~~and,~~
- g. The effects of the proposed work upon the protection, enhancement, perpetuation, and use of the district or corridor which cause it to possess a special character or special historical or aesthetic interest or value; ~~and,~~
- h. Whether suspension of the proposed demolition permit will involve substantial hardship to the applicant, and whether approval of the request would act to the substantial detriment of the public welfare and would be contrary to the intent and purposes of Section 707 ~~this Ordinance~~; and,
- i. When applicable, the findings of the building official in determining the status of the subject building as a "dangerous building" under County Code Chapter 9.01, the most recent Uniform Code for the Abatement of Dangerous Buildings, and the feasibility of correcting the deficiencies to meet the requirements of the building official rather than demolishing the building.

~~7.4. Approval of Moving or Demolition Request/Appeals: The application ~~Historic Review Board~~ may be approved ~~the moving or demolition request~~ in consideration of ~~the provisions under~~ Subsections 707.07(D)(~~25~~) and (~~36~~). ~~The action of the Historic Review Board shall be transmitted to the applicant in writing within 10 days of the decision on the request, and shall be final after a period of 12 days from the date of the~~~~

~~letter and findings approving the request, or if the 12th day falls on a day on which the County is not open for business, on the next day on which the County is open for business, unless a notice of appeal is filed by any aggrieved party, pursuant to Section 1304.~~

8. ~~5. Suspension of Moving or Demolition Permit Request: The Historic Review Board may suspend the request for moving or demolition of an Historic Landmark or contributing resource building within a Historic District or Historic Corridor. The application may be suspended, if, it determines that in the interest of preserving historic values for public benefit, the building should not be moved or demolished. ~~Written findings supporting the suspension of the request shall be transmitted to the applicant within seven days of the final public hearing on the request.~~~~
9. ~~6. Stay of Moving or Demolition: If the moving or demolition request application is suspended by the Historic Review Board, the written decision finding supporting the action to suspend the request shall be transmitted to the building official along with a request that the enforcement of any applicable Notice and Order of the building official be stayed during the pendency of an appeal, or for a period of not more than 60 days from the date of the suspension letter and findings decision supporting the suspension. During this stay of moving or demolition period, the following actions may be taken:~~
- a. The building official may require the owner or other party responsible for the subject building to take appropriate actions, other than demolition, to protect the public from hazardous conditions associated with the building.
 - b. The applicant may be required to continue to carry out the pre-application plan activities through the entire stay of moving or demolition.
 - c. The Historic Review Board may research programs or projects underway which could result in public or private acquisition of the subject building and site, and assess the potential for the success of these programs or projects.
4. ~~i. _____ If the Historic Review Board determines that there are is reasonable grounds to believe that such program or project may be successful, it may extend the suspension period up to 30 additional days per extension, not to exceed more than a total of 120 days from the date of the letter and finding decision suspending the application request.~~
- ~~2.ii. _____ If the Historic Review Board determines that all such~~

programs or projects are unlikely to be successful, and the applicant has not withdrawn his application ~~for a demolition permit~~ or taken appropriate alternative action to correct the hazards associated with the subject building as provided in a Notice and Order of the building official, then, at the end of the ~~stay of demolitionsuspension~~ period, the Planning Director ~~and building official~~ may issue ~~a such~~ permit for moving or demolition, subject to all other applicable ~~regulationseodes and ordinances~~.

~~10. Appeal of Stay of Demolition: Action of the Historic Review Board in suspending issuance of the permit for demolition may be appealed by the applicant to the Board of County Commissioners, within 15 days of the date of the written findings suspending the demolition permit, or if the 15th day falls on a day on which the County is not open for business, by the next day on which the County is open for business, by filing a notice of appeal as provided in Section 1304.~~

~~11.7. Documentation Required: When moving or demolition is imminent, whether by direct approval or if efforts during the pre-application preservation plan and suspension period~~Stay of Demolition~~ are unsuccessful, the following complete documentation of the structure(s) is required to be submitted to the County by the applicant:~~

- ~~a. Floor plans to scale of the structure(s) and related structures;:-~~
- ~~b. Site plan to scale showing surrounding roadways, landscaping, natural features, structure(s), and related structures;:-~~
- ~~c. Drawings to scale or photographs of all exterior elevations;:-~~
- ~~d. Photographs of architectural detail not shown in elevation photographs;:- and~~
- ~~e. The Historic Preservation League of Oregon or local preservation group to be given opportunity to salvage and record the resource.~~

~~12.8. Moving or Demolition Permit Issuance: A moving or demolition permit for a landmark found to comply with all provisions set forth in Subsection ~~707.07(D)~~707.09 shall not be issued until all development permit applications for the new use or development have been approved by the County.~~

[Amended by Ord. ZDO-235, 5/14/12]

708 MINERAL AND AGGREGATE OVERLAY DISTRICT (MAO)

708.01 PURPOSE

The Mineral and Aggregate Overlay District (MAO) carries out the decisions and policies of the Comprehensive Plan for significant mineral and aggregate resources. The overlay assures protection of mineral and aggregate resource sites and regulates the mining of these sites to assure compatibility with nearby land uses.

708.02 DEFINITIONS

A. Aggregate: Sand, gravel, rock, stone or similar minerals commonly used in construction.

B. Conflicting Use: A use allowed, either outright or through a discretionary permit, in the underlying zone and in the impact area that could adversely affect protection of a resource site or mining a protected site.

C. ESEE Analysis: The analysis of the economic, social, environmental and energy consequences of (1) allowing mining on a significant site, and (2) allowing the conflicting uses to displace mining on a significant site. Based on the results of the ESEE analysis, the County shall determine a level of protection for the resource, and implement a program to achieve the designated level of protection.

D. Extraction Area: The area of an identified significant resource in which mining and processing may occur.

E. Goal 5 Planning Process: The full planning process for a Goal 5 resource, including the identification of resource sites, the determination of significant sites, the identification of conflicting uses, the analysis of ESEE consequences, the determination of the level of protection to be afforded a resource site, and the development of a program to achieve the Goal.

F. Impact Area: The area surrounding the Extraction Area where conflicting uses are regulated to assure that the resource site is protected to some extent. The County determines the Impact Area for each resource site.

G. Mining:- The extraction of sand, gravel, soil, rock or other similar mineral deposits. Mining does not include excavation or grading conducted during construction, reconstruction or maintenance of public roads. Mining does not include excavation or grading conducted in the process of farming, forestry or cemetery operations or other onsite construction when no more than 5,000 cubic yards of such minerals are removed from the property for compensation. Mining also does not include removal of more than 5,000 cubic yards of such minerals from the property for compensation when the construction activities are authorized by a building permit.

H. Noise or Dust Sensitive Use: A conflicting use which is primarily used for year-round habitation. Residential structures, churches, hospitals, schools, public libraries, and campgrounds are considered noise or dust sensitive uses during their period of use. Forest uses and farm uses are not noise or dust sensitive uses unless so determined based on analysis and findings adopted through the Goal 5 planning process to the effect that they satisfy this definition in more than an incidental manner.

I. Processing:- The washing, crushing, milling, screening, handling, and conveying of mineral and aggregate resources, and the batching and blending of such resources into asphalt concrete or Portland Cement Concrete.

~~Aggregate. Sand, gravel, rock, stone or similar minerals commonly used in construction.~~

J. Restrictive Covenant: An enforceable promise, given by the owner of a parcel whose use and enjoyment of that parcel will be restricted in some fashion by mining activities occurring on another parcel, not to object to the lawful conduct of mining or processing. The restrictive covenant shall be recorded in the real property records of the County, shall run with the land and shall be binding upon the heirs and successors of the parties. The restrictive covenant shall state that the obligations imposed by the restrictive covenant shall be released when the mining and reclamation has been completed.

K. Screened Uses: Noise sensitive uses or other uses determined to be conflicting uses through the Goal 5 planning process or scenic viewpoints or other areas designated as significant Goal 5 scenic resources.

L. Significant Site:- A site listed on the Comprehensive Plan inventory as a significant site.

~~Extraction Area. The area of an identified significant resource in which mining and processing may occur.~~

~~Impact Area. The area surrounding the Extraction Area where conflicting uses are regulated to assure that the resource site is protected to some extent. The County determines the Impact Area for each resource site.~~

~~Conflicting use. A use allowed, either outright or through a discretionary permit, in the underlying zone and in the Impact Area that could adversely affect protection of a resource site or mining a protected site.~~

~~ESEE Analysis. The analysis of the economic, social, environmental and energy consequences of (1) allowing mining on a significant site, and (2) allowing the conflicting uses to displace mining on a significant site. Based on the results of the ESEE analysis, the County shall determine a level of protection for the resource, and implement a program to achieve the designated level of protection.~~

~~Noise or dust sensitive use. A conflicting use which is primarily used for year-round habitation. Residential structures, churches, hospitals, schools, public libraries, and campgrounds are considered noise or dust sensitive uses during their period of use. Forest uses and farm uses are not noise or dust sensitive uses unless so determined based on analysis and findings adopted through the Goal 5 planning process to the effect that they satisfy this definition in more than an incidental manner.~~

~~Restrictive covenant. An enforceable promise, given by the owner of a parcel whose use and enjoyment of that parcel will be restricted in some fashion by mining activities occurring on another parcel, not to object to the lawful conduct of mining or processing. The restrictive covenant shall be recorded in the real property records of the County, shall run with the land and shall be binding upon the heirs and successors of the parties. The restrictive covenant shall state that the obligations imposed by the restrictive covenant shall be released when the mining and reclamation has been completed.~~

~~Goal 5 planning process. The full planning process for a Goal 5 resource, including the identification of resource sites, the determination of significant sites, the identification of conflicting uses, the analysis of ESEE consequences, the determination of the level of protection to be afforded a resource site, and the development of a program to achieve the Goal.~~

M. Site Plan: A County permit either (1) to commence mining and processing in the Extraction Area pursuant to ~~this~~ Section 708, or (2) to commence a use permitted outright or through a discretionary permit in the underlying zone in the Impact Area. The site plan shall include such maps, diagrams, narratives, and other writings to describe the placement of and use of all improvements, equipment, fixtures, mitigation measures, landscaping, and vehicles on site.

~~Screened uses. Noise sensitive uses or other uses determined to be conflicting uses through the Goal 5 planning process or scenic viewpoints or other areas designated as significant Goal 5 scenic resources.~~

708.03

APPLICABILITY MINERAL AND AGGREGATE OVERLAY DISTRICT

The ~~Mineral and Aggregate Overlay~~ MAO District contains two elements, the Extraction Area and the Impact Area. ~~The County shall not apply either element of the overlay to land in a city or another county.~~

~~The Mineral and Aggregate Overlay District may be applied through the initial legislative planning process, the plan update process or through an individual application for a comprehensive plan amendment and zone change. The boundary of the MAO District shall include be all property within the mineral and aggregate resources Extraction and Impact Areas. Individual applications shall be initiated by the petition of the owner, contract purchaser, or option holder of property comprising the Extraction Area.~~

708.04 EXTRACTION AREA USES

- A. The County may allow the following uses, subject to ~~standards of ZDO~~ Subsection 708.05; and any requirements adopted as part of the Comprehensive Plan.
1. Mining;
 2. Processing, except the batching or blending of mineral and aggregate materials into asphalt concrete within two miles of a planted commercial vineyard existing on the date the application was received for the asphalt batch plant;
 3. Stockpiling of mineral and aggregate materials extracted and processed onsite;
 4. Temporary offices, shops or other accessory structures used for the management and maintenance of onsite mining and processing equipment;
 5. Sale of mining products extracted and processed onsite;
 6. Storage of transportation equipment or machinery used in conjunction with onsite mining or processing; and
 7. Other activities including buildings and structures necessary and accessory to development or reclamation of the onsite mineral or aggregate resource.
- B. The County may permit other uses allowed by the underlying zoning districtzone, subject to requirements of the underlying zoning districtzone and requirements of ~~this Section 708~~ for protection of significant mineral and aggregate sites.

708.05 EXTRACTION AREA DEVELOPMENT STANDARDS

The following standards are the basis for regulating mining and processing activities in the ~~MAO Mineral and Aggregate Overlay~~ District. Requirements adopted as part of the Comprehensive Plan also apply to mining and processing activities in the overlay. Before beginning any mining or processing activity, the applicant shall show compliance with these standards and requirements adopted as part of the Comprehensive Plan program.

- A. Access:- Onsite roads used in mining and processing, and access roads from the Extraction Area to a public road shall meet the following standards:
1. All access roads within 100 feet of a paved county road or state highway shall be paved, oiled, or watered.:-

2. All roads in the Extraction Area shall be constructed and maintained to ensure compliance with applicable state standards for noise control and ambient air quality.
3. All roads in the Extraction Area shall be paved at all points within 250 feet of a noise or dust sensitive use existing on February 22, 1996.

B. Screening:

1. The mining activities listed in Subsection 708.05(B)(2) ~~of this Section~~ shall be obscured from the view of screened uses, unless one of the exceptions in Subsection 708.05(B)(4) applies. Screening shall be accomplished in a manner consistent with Subsection 708.05(B)(3).
2. Mining activities to be screened:
 - a. All excavated areas, except: areas where reclamation activity is being performed, internal onsite roads existing on the date of Ceounty adoption, new roads approved as part of the Site Plan Review, material excavated to create berms, and material excavated to change the level of the mine site to an elevation that provides natural screening~~;~~
 - b. All processing equipment~~;~~ and
 - c. All equipment stored on the site.
3. Types of screening:
 - a. Natural screening is existing vegetation or other landscape features within the boundaries of the Extraction Area that obscure mining activities from screened uses. Natural screening shall be preserved and maintained except where removed according to a mining or reclamation plan approved by DOGAMI.
 - b. Supplied screening is either vegetative or earthen screening. Supplied vegetative screening is screening that does not exist at the time of the Site Plan Review. Plantings used in supplied vegetative screening shall be evergreen shrubs and trees, and shall not be required to exceed six feet in height when planted. Supplied earthen screening shall consist of berms covered with earth stabilized with ground cover.
4. Exceptions. Supplied screening shall not be required if any of the following circumstances exist:
 - a. The natural topography of the site obscures mining and processing from screened uses.

- b. Supplied screening cannot obscure mining and processing from screened uses because of local topography.
- c. Supplied vegetative screening cannot reliably be established or cannot survive due to soil, water or climatic conditions.

C. Air and Water Quality:- The discharge of contaminants and dust created by mining and processing shall comply with applicable state air quality and emissions standards and applicable state and federal water quality standards.

D. Streams and Drainage:- Mining and processing shall not occur within 100 feet of mean high water of any lake, river, perennial water body or wetland not constructed as part of a reclamation plan approved by DOGAMI unless allowed by specific provisions adopted in the Comprehensive Plan.

E. Noise:- Mining and processing shall comply with state noise control standards. Operators may show compliance with noise standards through the report of a certified engineer that identifies mitigation methods to control noise. Examples of noise mitigation measures are siting mining and processing using existing topography, using supplied berms, or modifying mining and processing equipment.

F. Hours of Operation:-

1. Mining and processing is restricted to the hours of 7:00 a.m.AM to 6:00 p.m.PM Monday through Friday, and 8:00 a.m.AM to 5:00 p.m.PM Saturday. Hauling and other activities may operate without restriction provided that state noise control standards are met.
2. No operations shall take place on Sundays or the following legal holidays: New Year's Day, Memorial Day, the Fourth of July, Labor Day, Thanksgiving Day, and Christmas Day.

G. Drilling and Blasting:-

1. Drilling and blasting is restricted to the hours of 9:00 a.m.AM to 4:00 p.m.PM Monday through Friday. No drilling or blasting shall occur on Saturdays, Sundays, or the following legal holidays: New Year's Day, Memorial Day, the Fourth of July, Labor Day, Thanksgiving Day, and Christmas Day.
2. Notice of blasting events shall be posted at the Extraction Area in a manner calculated to be seen by landowners, tenants, and the public at least 48 hours prior to the blasting event. In the case of ongoing blasting activities, notice shall be provided once each month for the period of blasting activities, and specify the days and hours when the blasting event is expected to occur.

- H. Surface and Ground Water: Surface and ground water shall be managed in a manner that meets all applicable state water quality standards and DOGAMI requirements. The applicant shall demonstrate that all water necessary for the proposed operation has been appropriated to the site and is legally available.
- I. Compliance with Special Conditions: The County may impose additional, special conditions to resolve issues specific to an individual site. The conditions shall be specified in the site-specific program to achieve the Goal adopted as part of the Comprehensive Plan.
- J. Security: The permittee shall fence the Extraction Area boundary between the mining site and any parcel where dwellings are a principal use. Fencing shall be a cyclone type fence a minimum of six feet high.
- K. Performance requirements:
 - 1. The mining operator shall maintain DOGAMI and other state agency permits.
 - 2. The mining operator shall carry a comprehensive general liability policy covering mining, and incidental activities during the term of operation and reclamation, with an occurrence limit of at least \$500,000. A certificate of insurance for a term of one year shall be deposited with the County prior to the commencement of mining and a current certificate of insurance shall be kept on file with the County during the term of operation and reclamation.

708.06 RECLAMATION

- A. No mining shall begin until the permittee provides the County with a copy of an Oregon Department of Geology and Mineral Industries (DOGAMI) Operating Permit or exemption in accordance with Oregon Revised Statutes (ORS) 517.750 through 517.900 and the rules adopted thereunder.
- B. The County's jurisdiction over mined land reclamation is limited to determining the subsequent beneficial use of mined areas, ensuring that the subsequent beneficial use is compatible with the Comprehensive Plan and Zoning and Development~~this~~ Ordinance, and ensuring that mine operations and reclamation activities are consistent with the program to achieve the Goal adopted as part of the Comprehensive Plan.
- C. The County shall coordinate with DOGAMI to ensure compatibility between DOGAMI and the County in the following manner.
 - 1. When notified by DOGAMI that an operator has applied for reclamation plan and an Operating Permit, the County shall inform DOGAMI whether Site Plan Review approval by the County is required.

- a. If Site Plan Review approval is required, the County shall request that DOGAMI delay final action on the application for approval of the reclamation plan and issuance of the Operating Permit until after Site Plan Review approval has been granted.
 - b. If Site Plan Review approval is not required, the County shall so notify DOGAMI and the County shall review the proposed reclamation plan and Operating Permit during DOGAMI's notice and comment period.
2. When reviewing a proposed reclamation plan and Operating Permit application circulated by DOGAMI, the County shall review the plan against the following criteria:
- a. The plan provides for rehabilitation of mined land for a use specified in the Comprehensive Plan, including subsequent beneficial uses identified through the Goal 5 planning process.
 - b. The reclamation plan and surface mining and reclamation techniques employed to carry out the plan comply with the standards of ~~Subsection~~Section 708.05.
 - c. Measures are included which will ensure that other significant Goal 5 resources determined to conflict with mining will be protected in a manner consistent with the Comprehensive Plan.

708.07 EXTRACTION AREA PERMIT~~SITE PLAN REVIEW~~

- A. ~~An Extraction Area Permit~~Site Plan Review under the Mineral and Aggregate Overlay District shall require review as a Type I application pursuant to Section 1307~~is a Planning Director administrative action. An application for a permit shall be processed pursuant to Subsections 1305.02(A), (E) and (G) through (I), to the extent that Section 1307~~these Subsections are is consistent with the requirements of ORS 197.195 and 215.425~~and 197.195~~.
- B. ~~An Extraction Area Permit shall be subject to~~The County shall approve, approve with conditions, or deny the application for the permit based on the conformance of the site plan with the standards of ZDO Sections 708, 1006, and 1010, and the requirements of the site-specific program to achieve Goal 5 adopted as part of the Comprehensive Plan.

708.08 IMPACT AREA USES AND PERMITS~~DEVELOPMENT STANDARDS~~

- A. Uses Permitted Outright: Outright permitted uses and discretionary uses in the underlying zoning district~~zone~~, except noise or dust sensitive uses or conflicting uses, shall be permitted subject to the standards and criteria of the underlying zoning district~~zone~~.

- B. Uses Allowed Conditionally:- Noise or dust sensitive uses and conflicting uses shall be reviewed subject to the standards and criteria of the underlying zoning districtzone and the approval criteria of ~~this~~ Section 708.
- C. Prohibited Uses:- The Ceounty shall not allow uses in the Impact Area which it identified in the Goal 5 planning process as incompatible in all instances with protection of the resource site or mining and processing.
- D. Review Procedures and Approval Criteria:- ~~Applicants for uses~~Uses allowed conditionally in the Impact Area shall require an Impact Area Permit, which shall require review as a Type I application pursuant to Section 1307, and shall be subject to~~shall show how their proposal meets~~ the following standards and criteria:
1. The proposed use meets the standards of the underlying zoning districtzone.
 2. The proposed use meets the clear and objective conditions imposed on noise or dust sensitive uses and conflicting uses by the Goal 5 planning process and ~~this~~ Section 708.
 3. The proposed use will not cause the mining operation that is otherwise lawfully operating to violate any applicable standards of ~~this~~ Section 708 or the requirements of a site-specific program to achieve Goal 5.
 4. Approval of any new noise or dust sensitive use or conflicting use in the Impact Area shall be conditioned upon execution of a restrictive covenant in favor of the mining use to the effect that the use will not cause the mining operation to violate any applicable standards of ~~this~~ Section 708 or requirements of a site-specific program to achieve Goal 5.

~~E. Procedure. The review of uses allowed conditionally shall be a Planning Director administrative action subject to Subsections 1305.02(A), (E) and (G) through (I). Such uses shall be subject to the discretionary criteria otherwise provided for in the underlying zone and the provisions of Subsection 708.08(D).~~

708.09 TERMINATION OF THE MINERAL AND AGGREGATE OVERLAY DISTRICT

When a significant site has been fully mined and reclamation has been completed, the County shall remove the site from the Comprehensive Plan inventory and rezone the property to remove the MAO~~Mineral and Aggregate Overlay~~ District. The Ceomprehensive Plan amendment and zone change shall be initiated by the County or the owner or contract purchaser of the property comprising the Extraction Area. If a restrictive covenant is imposed within the MAO~~Mineral and Aggregate Overlay~~ District, it shall state that the obligations imposed expire upon the termination of the MAO~~Mineral and Aggregate Overlay~~ District.

709 WATER QUALITY RESOURCE AREA DISTRICT (WQRAD)

709.01 PURPOSE

Section 709 is adopted to implement the policies of the Comprehensive Plan for Water Quality Resource Areas.

709.02 AREA OF APPLICATION

- A. Section 709 applies in the Water Quality Resource Area District (WQRAD). The WQRAD applies to all parcels containing a Water Quality Resource Area (WQRA), provided that such parcels are inside the Metropolitan Service District Boundary or the Portland Metropolitan Urban Growth Boundary and outside the boundaries of both Clackamas County Service District No. 1 and Surface Water Management Agency of Clackamas County. WQRAs are protected water resources and adjacent vegetated corridors as established by Section 709. Protected water resources are classified as primary or secondary.
- B. A wetland shall be a primary protected water resource if the wetland meets any one of the following criteria and is not a constructed wetland:
 - 1. The wetland is fed by surface flows, sheet flows, or precipitation, has evidence of flooding during the growing season, has 60 percent or greater vegetative cover, and is over one-half acre in size;
 - 2. The wetland qualifies as having “intact water quality function” under the 1996 Oregon Freshwater Wetland Assessment Methodology;
 - 3. The wetland is in the Flood Management District, has evidence of flooding during the growing season, is five acres or more in size, and has a restricted outlet or no outlet;
 - 4. The wetland qualifies as having “intact hydrologic control function” under the 1996 Oregon Freshwater Wetland Assessment Methodology; or
 - 5. The wetland or a portion of it is within a horizontal distance of less than one-fourth mile from a water body that meets the Oregon Department of Environmental Quality’s definition of a “water quality limited water body.”
- C. Rivers, perennial streams, intermittent streams draining more than 100 acres, natural lakes, and springs that feed streams and wetlands and have year-round flow are primary protected water resources.
- D. Intermittent streams draining 100 acres or less are secondary protected water resources.

- E. The width of the vegetated corridor included within a WQRA is specified in Table 709-1. However, if an improved, public road right-of-way runs parallel to and—based on Table 709-1—would be included within a WQRA, the WQRA shall not extend beyond the improved, public road right-of-way.

Table 709-1: Width of WQRA Vegetated Corridor

Protected Water Resource Type	Slope Adjacent to Protected Water Resource¹	Starting Point for Measurements from Water Resource	Width of Vegetated Corridor²
Primary Protected Water Resource	<25 percent	<ul style="list-style-type: none"> •Edge of bankfull stage •Delineated edge of protected wetland 	50 feet
Primary Protected Water Resource	≥25 percent for 150 feet or more	<ul style="list-style-type: none"> •Edge of bankfull stage •Delineated edge of protected wetland 	200 feet ³
Primary Protected Water Resource	≥25 percent for less than 150 feet	<ul style="list-style-type: none"> •Edge of bankfull stage •Delineated edge of protected wetland 	Distance from starting point of measurement to break in 25 percent slope plus 50 feet ^{3,4}
Secondary Protected Water Resource	<25 percent	<ul style="list-style-type: none"> •Edge of bankfull stage 	15 feet
Secondary Protected Water Resource	≥25 percent	<ul style="list-style-type: none"> •Edge of bankfull stage 	50 feet ³

¹ At least three slope measurements along the water resource, at no more than 100-foot increments, shall be made for each property for which development is proposed. Depending on the slope measurements, the width of the vegetated corridor may vary. Slope shall be measured in 25-foot increments away from the water resource until slope is less than 25 percent or a point 150 feet from the starting point of measurement is reached, whichever occurs first. The 25-foot increments shall be measured horizontally. Where the protected water resource is confined by a ravine or gully, the top of ravine is the break in the greater-than-25-percent slope.

² The width of the vegetated corridor shall be measured horizontally.

³ Vegetated corridors in excess of 50 feet for primary protected resources, or in excess of 15 feet for secondary protected resources, apply on steep slopes only in the uphill direction from the protected water resource.

⁴ A maximum reduction of 25 feet may be permitted in the width of the vegetated corridor beyond the slope break if a geotechnical report demonstrates that the slope is stable.

- F. The text of Section 709 shall determine the boundaries of a WQRA.
1. Certain protected water resources are identified on maps adopted by reference in Chapter 3 of the Comprehensive Plan (hereinafter referred to as the WQRA Map). The WQRA Map shall be a reference for identifying areas likely to be regulated by Section 709, but the WQRA Map is not intended to provide field-verified locations of the protected resources or delineate the edge of the vegetated corridors.

2. In addition, there may be WQRAs not shown on the WQRA Map. If credible evidence (e.g. aerial photographs, topographic maps, expert studies) indicates that the subject property may contain a WQRA that is not identified on the WQRA map, the provisions of Section 709 shall apply.

709.03 DEFINITIONS

Unless specifically defined in Subsection 709.03, words or phrases used in Section 709 shall be interpreted to give them the same meaning as they have in common usage and to give Section 709 its most reasonable application.

- A. Bankfull Stage: The stage or elevation at which water overflows the natural banks of streams or other waters of the state and begins to inundate the upland. The bankfull stage may be approximated using either the two-year recurrence interval flood elevation or one foot measured vertically above the ordinary mean high water line.
- B. Created Wetlands: Wetlands developed in an area previously identified as a non-wetland to replace, or mitigate, wetland destruction or displacement. A created wetland shall be regulated and managed the same as an existing wetland.
- C. Constructed Wetlands: Wetlands developed as a water quality or quantity facility, subject to change and maintenance as such. These areas must be clearly defined and separated from naturally occurring or created wetlands.
- D. Debris: Discarded manmade objects that would not occur in an undeveloped stream corridor or wetland. Debris includes, but is not limited to, tires, vehicles, litter, scrap metal, construction waste, lumber, plastic, or Styrofoam. Debris does not include objects necessary to a use allowed by Section 709, or ornamental and recreational structures. Debris does not include existing natural plant materials or natural plant materials that are left after flooding, downed or standing dead trees, or trees that have fallen into protected water resources.
- E. Development: Any manmade change defined as structures, roads, utilities, mining, dredging, paving, vegetation removal, filling, or grading in amounts greater than 10 cubic yards. In addition, “development” is any other activity that results in the removal of more than 10 percent of the Water Quality Resource Area vegetation on a lot of record. The calculation of the amount of vegetative cover removed shall be done separately for each lot of record and shall include all vegetative cover removed after January 5, 2009, regardless of whether the removal is done as one project or a series of projects. When individual trees are removed, the area contained within the tree’s drip line shall be the basis for calculating the square footage of vegetation removed.

- F. Disturb: Manmade changes to the existing physical status of the land, which are made in connection with development.
- G. Drip Line: The outermost edge of a tree's canopy; when delineating the drip line on the ground, it will appear as an irregularly shaped circle defining the canopy's perimeter.
- H. Emergency: Any manmade or natural event or circumstance causing or threatening loss of life, injury to person or property, and includes, but is not limited to, fire, explosion, flood, severe weather, drought, earthquake, volcanic activity, spills or releases of oil or hazardous material, contamination, utility or transportation disruptions, and disease.
- I. Enhancement: The process of improving upon the natural functions and/or values of an area or resource that has been degraded by human activity. Enhancement activities may or may not return the site to a pre-disturbance condition, but create/recreate beneficial processes and resources that occur naturally.
- J. Erosion: The movement of soil particles resulting from actions of water or wind.
- K. Fill: Any material such as, but not limited to, sand, soil, rock, or gravel that is placed in a wetland or flood area for the purposes of development.
- L. Invasive Non-Native or Noxious Vegetation: Plant species that are listed in the Oregon Department of Agriculture's Noxious Weed Policy and Classification System.
- M. Mitigation: The reduction of adverse effects of a proposed project by considering, in the following order:
 - 1. Avoiding the impact altogether by not taking a certain action or parts of an action;
 - 2. Minimizing impacts by limiting the degree or magnitude of the action and its implementation;
 - 3. Rectifying the impact by repairing, rehabilitating, or restoring the affected environment;
 - 4. Reducing or eliminating the impact over time by preservation and maintenance operations during the life of the action by monitoring and taking appropriate measures; and
 - 5. Compensating for the impact by replacing or providing comparable substitute Water Quality Resource Areas.

- N. Native Vegetation: Vegetation native to the Portland metropolitan area provided that it is not invasive non-native or noxious vegetation.
- O. Ordinary Mean High Water Line: The line on the bank or shore to which water ordinarily rises in season.
- P. Practicable: Available and capable of being done after taking into consideration cost, existing technology, and logistics in light of overall project purpose.
- Q. Restoration: The process of returning a disturbed or altered area or water resource to a previously existing natural condition. Restoration activities re-establish the structure, function, or diversity to that which existed prior to impacts caused by human activity.
- R. Riparian: Those areas associated with streams, lakes, and wetlands where vegetation communities are predominately influenced by their association with water.
- S. Stormwater: The surface water runoff that results from all natural forms of precipitation.
- T. Stormwater Pretreatment Facility: Any structure or drainage way that is designed, constructed, and maintained to collect and filter, retain, or detain surface water runoff during and after a storm event for the purpose of water quality improvement.
- U. Stream: A body of running water moving over the earth's surface in a channel or bed, such as a creek, rivulet, or river. A stream flows at least part of the year, including perennial and intermittent streams. Streams are dynamic in nature and their structure is maintained through build-up and loss of sediment.
- V. Stream, Intermittent: A stream that flows only part of the year, or seasonally, during years of normal precipitation.
- W. Stream, Perennial: A stream that flows year-round during years of normal precipitation.
- X. Structure: A building or other major improvement that is built, constructed, or installed, not including minor improvements—such as fences, utility poles, flagpoles, or irrigation system components—that are not customarily regulated through zoning codes.
- Y. Utility Facilities: Buildings, structures, or any constructed portion of a system that provides for the production, transmission, conveyance, delivery, or furnishing of services including, but not limited to, heat, light, water, power, natural gas, sanitary sewer, stormwater, telephone, and cable television. Utility facilities do not include stormwater pretreatment facilities.

- Z. Vegetated Corridor: The area between bankfull stage of a protected water resource and the delineated edge of the Water Quality Resource Area as defined in Table [709-1](#).
- AA. Wetlands: Areas that are inundated or saturated by surface water or ground water at a frequency and duration sufficient to support and under normal circumstances do support a prevalence of vegetation typically adapted for life in saturated soil conditions. Wetlands generally include swamps, marshes, bogs, and similar areas. Wetlands are those areas identified and delineated by a qualified wetland specialist as set forth in the 1987 Corps of Engineers Wetland Delineation Manual.

709.04 EXEMPT USES

The following uses and activities are exempt from the requirements of Section 709, except that if the use or activity requires a building or grading permit, a Construction Management Plan shall be required pursuant to Subsection 709.06(A):

- A. Uses and activities that do not constitute development, except if the use or activity is prohibited by Subsection 709.05;
- B. Farming practices, as defined in Oregon Revised Statutes (ORS) 30.930, and farm uses, as defined in ORS 215.203, in zoning districts where agricultural uses are a primary use, except that this exemption does not apply to buildings associated with farm practices or farm uses;
- C. Forest practices, as defined in ORS 30.930, on forestlands, as defined in ORS 30.930, outside the Portland Metropolitan Urban Growth Boundary;
- D. Installation of erosion prevention and sediment control (EPSC) measures pursuant to an EPSC plan approved by the EPSC regulatory authority.
- E. Projects with the sole purpose of restoring or enhancing wetlands, streams, or fish and wildlife habitat areas, provided that the project is part of an approved local, regional, state, or federal restoration or enhancement plan;
- F. Placement of structures that do not require a grading or building permit;
- G. Maintenance of existing structures, roadways, driveways, utility facilities, accessory uses, and other development;
- H. Removal of invasive non-native or noxious vegetation and the planting or propagation of native vegetation, provided that:
 - 1. Handheld tools are used to remove invasive non-native or noxious vegetation; and

2. After such removal, all open soil areas greater than 25 square feet are replanted with native vegetation;
- I. Removal of dead or diseased trees or trees that pose an imminent hazard to persons or property, provided that a consulting arborist's report, or other credible evidence, is provided by the owner of the subject property and verifies the dead, diseased, or hazardous condition of the trees proposed for removal;
- J. Removal of vegetation, except trees of 1.5 inches or greater caliper, provided such removal shall not result in more than 10 percent of the area of the vegetated corridor being devoid of vegetation;
- K. Repair, replacement, or improvement of utility facilities where the disturbed portion of the Water Quality Resource Area (WQRA) is restored and vegetation is replaced with native vegetation;
- L. Additions, alterations, rehabilitation, or replacement of existing structures, roadways, driveways, accessory uses, and other development that do not increase existing structural footprints in the WQRA where the disturbed portion of the WQRA is restored and vegetation is replaced with native vegetation;
- M. Measures to remove or abate nuisances, or any other violation of statute, administrative rule, or ordinance, where such measures are required by government order and the disturbed portion of the WQRA is restored and vegetation is replaced with native vegetation; and
- N. Work necessary to protect, repair, maintain, or replace existing structures, utility facilities, roadways, driveways, accessory uses, and exterior improvements in response to emergencies, provided that after the emergency has passed, adverse impacts are mitigated in accordance with Table [709-2](#).

709.05 PROHIBITED USES

The following uses and activities are prohibited within a Water Quality Resource Area:

- A. The planting of invasive non-native or noxious vegetation; and
- B. Uncontained areas of hazardous materials as defined by the Oregon Department of Environmental Quality.

709.06 DEVELOPMENT REVIEW REQUIREMENTS

The following review requirements are applicable to development in the Water Quality Resource Area District (WQRAD) unless such development is exempt pursuant to Subsection 709.04.

- A. A Construction Management Plan (CMP), consistent with Subsection 709.08, shall be required for development in the WQRAD, regardless of whether development will occur within a Water Quality Resource Area (WQRA). An application for a CMP shall be reviewed pursuant to one of the following processes:
1. The application shall be reviewed as a Type I application pursuant to Section 1307~~Subsection 104.01(C)~~; or
 2. The application shall be filed concurrently with an application for review under Subsection 709.06(B), in which case the applications will be consolidated and reviewed pursuant to the process required by Subsection 709.06(B).
- B. In order to confirm the location of a WQRA, WQRA Boundary Verification, consistent with Subsection 709.09, shall be required or allowed as follows:
1. WQRA Boundary Verification shall be required for:
 - a. Development that is proposed to be in the WQRAD; or
 - b. A parcel that:
 - i. Is in the WQRAD; and
 - ii. Is the subject of a land use application for a partition, subdivision, or any other land use application the approval of which would authorize new development on the subject parcel.
 2. Notwithstanding Subsection 709.06(B)(1)(a), if credible evidence (e.g. aerial photographs, topographic maps, expert studies) indicates that the proposed development is clearly outside a WQRA, the requirement for WQRA Boundary Verification may be waived.
 3. An application for WQRA Boundary Verification may be submitted even if one is not required pursuant to Subsection 709.06(B)(1).
 4. If a parcel is subject to Subsection 709.06(B)(1)(b), an application for WQRA Boundary Verification shall be filed concurrently with the other land use application referenced in Subsection 709.06(B)(1)(b)(ii) unless a previously approved WQRA Boundary Verification for the subject property remains valid.
 5. An application for WQRA Boundary Verification shall be reviewed as a Type II application pursuant to Section 1307~~Subsection 1305.02~~ unless the application is filed concurrently with another land use application that

requires review ~~as a Type III application by the Hearings Officer~~, in which case the applications will be consolidated and reviewed as a Type III application pursuant to ~~the Hearings Officer review provisions of~~ Section ~~13071300~~.

- C. A WQRA Development Permit, consistent with Subsection 709.10, shall be required for development in a WQRA. However, if the proposed development is in a Habitat Conservation Area (HCA) regulated pursuant to Section 706, it shall comply with either Subsection 706.10(B) or 709.10. An application for a WQRA Development Permit shall be reviewed as a Type II application pursuant to ~~Section 1307 Subsection 1305.02~~ unless the application is filed concurrently with another land use application that requires review as a Type III application by the Hearings Officer, in which case the applications will be consolidated and reviewed as a Type III application pursuant to ~~the Hearings Officer review provisions of~~ Section ~~13071300~~.
- D. Property that contains a WQRA and is the subject of a land use application for a partition or subdivision shall comply with Subsection 709.11, except that if the subject parcel contains a WQRA and an HCA, the partition or subdivision shall comply with the requirements of Subsections 706.10 and 709.11, and if the provisions conflict, the most restrictive standard shall apply.
- E. Approval of WQRA Boundary Verification or a WQRA Development Permit shall be valid for four years from the date of the final written decision. If the County's final written decision is appealed, the approval period shall commence on the date of the final appellate decision. During this four-year period, the approval shall be implemented, or the approval will become void.
1. For a WQRA Development Permit directly related to an application for a partition or subdivision, "implemented" means that the final plat of the partition or subdivision shall be recorded with the County Clerk.
 2. For any other WQRA Development Permit, "implemented" means all major development permits shall be obtained and maintained, or if no major development permits are required to complete the development contemplated by the approved WQRA Development Permit, "implemented" means all other necessary County development permits (e.g. grading permit, building permit for an accessory structure) shall be obtained and maintained. A "major development permit" is:
 - a. A building or manufactured dwelling placement permit for a new primary structure that was part of the WQRA Development Permit approval; or
 - b. A permit issued by the County Engineering Division for parking lot or road improvements that were part of the WQRA Development Permit approval.

3. For WQRA Boundary Verification, “implemented” has the meaning set forth in Subsection 709.06(E)(1) and (2), except that under Subsection 709.06(E)(2), if the approval did not contemplate a specific development proposal, “implemented” means at least one County development permit shall be obtained and maintained.
- F. If the approval of WQRA Boundary Verification or a WQRA Development Permit is not implemented within the initial approval period established by Subsection 709.06(E), a two-year time extension may be approved ~~by the Planning Director,~~ pursuant to Section 1310~~Subsection 1305.02, and subject to Subsection 1305.05.~~
- G. WQRA Boundary Verification that was valid on the date when the final plat for a subdivision or partition was recorded with the County Clerk shall remain valid for subsequent development on the lots or parcels created by the subdivision or partition.

709.07 SUBMITTAL REQUIREMENTS

In addition to the submittal requirements identified in Subsection 1307.07(C),
aApplications filed pursuant to Section 709 shall comply with the following submittal requirements.

- A. An application for a Construction Management Plan shall include:
 - ~~1. A completed land use application on a form provided by the Planning Director;~~
 12. A site plan of the subject property, drawn to scale and identifying the following:
 - a. Location and type of existing and proposed development, including but not limited to, building footprints, roads, driveways, parking areas, utilities, onsite sewage disposal systems, wells, landscaping, and filling or grading in an amount greater than 10 cubic yards. Label each element as existing or proposed;
 - b. Location and width of existing adjacent roads and road rights-of-way;
 - c. Location of the Water Quality Resource Area (WQRA) as identified pursuant to Subsection 709.09;
 - d. Drip lines outside the WQRA of trees that are inside the WQRA;
 - e. Distance between the WQRA boundary and proposed development outside the WQRA;
 - f. The site ingress and egress proposed to be used by construction vehicles;
 - g. Proposed equipment and material staging and stockpile areas; and

- h. Proposed orange construction fencing required pursuant to Subsection 709.08(B);
 - 23. An Erosion Prevention and Sediment Control (EPSC) plan. This plan may be included on the site plan if acceptable to the EPSC regulatory authority; and
 - 34. If a modification or waiver of the construction fencing requirement of Subsection 709.08(B) is proposed, a narrative demonstrating compliance with Subsection 709.08(B)(1) or (2).
- B. An application for WQRA Boundary Verification shall include a site plan that complies with the following requirements:
- 1. The site plan shall be drawn at a scale of no less than one inch equaling 20 feet.
 - 2. The site plan shall show the location of the proposed development and the lot lines of the property on which development is proposed.
 - 3. The site plan shall show the location of the protected water resource. If the protected water resource is a wetland, the delineation shall be made by a qualified wetlands specialist pursuant to the Division of State Lands' recommended wetlands delineation process. For all other protected water resources, the location shall be established by a registered professional engineer or surveyor licensed by the State of Oregon.
 - 4. The site plan shall show the location of the WQRA, including slope and drainage information sufficient to classify the protected water resource under Table 709-1.
- C. An application for a WQRA Development Permit shall include the following information in a report stamped by a registered professional engineer or surveyor licensed by the State of Oregon:
- 1. A topographic map of the site at contour intervals of five feet or less showing a delineation of the WQRA;
 - 2. The location of all existing natural features including, but not limited to, all trees of a caliper greater than six inches diameter at a height of four feet, natural or historic drainages on the site, springs, seeps, outcroppings of rocks and boulders within the WQRA;
 - 3. Location of wetlands that qualify as primary protected water resources. Where such wetlands are identified, a delineation shall be made by a qualified wetlands specialist pursuant to the Division of State Lands' recommended wetlands delineation process;

4. An inventory and location of existing debris, nuisance vegetation, and any noxious or hazardous materials;
 5. An assessment of the existing condition of the WQRA in accordance with Table [709-2](#);
 6. An inventory of vegetation, including percentage ground and canopy coverage;
 7. An Impact Evaluation and Alternatives Analysis that addresses the requirements of Subsections 709.09(A) and (B); and
 8. A mitigation plan containing the following information:
 - a. A description of adverse impacts that will be caused as a result of development;
 - b. An explanation of how adverse impacts to resource areas will be avoided, minimized, and/or mitigated in accordance with, but not necessarily limited to, Table [709-2](#);
 - c. A list of all responsible parties including, but not necessarily limited to, the owner, applicant, contractor or other persons responsible for work on the subject property;
 - d. A map showing where the specific mitigation activities will occur; and
 - e. An implementation schedule, including a timeline for construction, mitigation, mitigation maintenance, monitoring, and reporting and a contingency plan. All in-stream work in fish-bearing streams shall be done in accordance with the Oregon Department of Fish and Wildlife in-stream timing schedule; and
- D. Data from sources other than a field-verified delineation of the protected water resource may be used to satisfy the submittal requirements only if the protected water resource is not located on the subject property and access to the water resource is denied for the purposes of supplying the required delineation. In order to use alternate data, an applicant shall submit the following:
1. A copy of a letter addressed to the owner of the property on which the protected water resource exists requesting access to the property for the purpose of completing a delineation of the protected water resource; and
 2. A copy of a return receipt from the US Postal Service verifying that the letter was mailed certified and was received or refused.

709.08 CONSTRUCTION MANAGEMENT PLANS

A Construction Management Plan (CMP) shall comply with the following criteria.

- A. Erosion prevention and sediment control (EPSC) measures shall be required and shall comply with the standards of the EPSC regulatory authority.
- B. Orange construction fencing (i.e. safety fencing, snow fencing, or a comparable product) shall be installed on or outside the boundary of the Water Quality Resource Area (WQRA), except where the drip line of a protected tree extends outside the WQRA, in which case the drip line shall be included inside the fencing. This requirement may be modified or waived if:
 - 1. Disturbance of the WQRA is authorized pursuant to Subsection 709.04 or 709.09, in which case the fencing shall be installed in such a manner as to protect the area of the WQRA not authorized for disturbance; or
 - 2. The WQRA is already lawfully developed, in which case the fencing shall be installed in such a manner as to protect any water resource that is the basis for the WQRA designation and any area of the WQRA where naturalized vegetative cover exists.
- C. Trees in the WQRA shall not be used as anchors for stabilizing construction equipment.
- D. Native soils disturbed during development shall be conserved on the subject property.
- E. Development shall not commence until the EPSC measures and fencing required pursuant to Subsections 709.08(A) and (B) are in place.
- F. Compliance with the CMP shall be maintained until the development is complete.

709.09 WATER QUALITY RESOURCE AREA BOUNDARY VERIFICATION

The standards of Subsection 709.02 shall be applied to an application for Water Quality Resource Area Boundary Verification and shall determine the boundary of any WQRA on the subject property.

709.10 WATER QUALITY RESOURCE AREA DEVELOPMENT PERMITS

A Water Quality Resource Area (WQRA) Development Permit shall be approved if the applicant provides evidence substantiating compliance with the following criteria. However, if the proposed development is in a Habitat Conservation Area (HCA) regulated pursuant to Section 706, it shall comply with either Subsection 706.10(B) or 709.10, except that if the subject parcel contains an HCA and a WQRA and is the subject of a land use application for a partition or subdivision, the partition or subdivision shall comply with the requirements of Subsections 706.10 and 709.10, and if the provisions conflict, the most restrictive standard shall apply.

- A. No practicable alternative locations exist for the requested development that will not disturb the WQRA;
- B. No reasonably practicable alternative design or method of development exists that would have a lesser impact on the WQRA than the one proposed. If no such reasonably practicable alternative design or method of development exists, the development shall be conditioned to:
 - 1. Limit its disturbance and impact on the WQRA to the minimum extent necessary to achieve the proposed development; and
 - 2. Ensure that impacts to the functions and values of the water quality resource area will be mitigated or impacted areas restored to the extent practicable.
- C. The WQRA shall be restored and maintained as required by Table [709-2](#).
- D. To the greatest extent practicable, existing native vegetation shall be retained and protected;
- E. Walkways and bike paths shall be subject to the following standards:
 - 1. Where it is not practicable to maintain a setback of greater than 30 feet from a protected water resource, a maximum of 10 percent of the total area of a gravel, earthen, tree bark product or equivalent walkway or bike path may be within 30 feet of the protected water resource.
 - 2. For any paved walkway or bike path, the width of the water quality resource area on the subject property shall be increased by a distance equal to the width of the paved path. Where it is not practicable to maintain a setback of greater than 30 feet from a protected water resource, a maximum of 10 percent of the total area of the walkway or bike path may be within 30 feet of the protected water resource.
 - 3. A walkway or bike path approved under Subsection 709.09(E)(1) or (2) shall not exceed 10 feet in width, shall not be constructed closer than 10 feet from the boundary of the protected water resource, and shall be constructed so as to minimize disturbance to existing vegetation.
- F. Stormwater pretreatment facilities shall be subject to the following standards:
 - 1. A stormwater pretreatment facility may encroach a maximum of 25 feet into the outside boundary of the WQRA of a primary protected water resource.
 - 2. A stormwater pretreatment facility may encroach a maximum of five feet into the outside boundary of the WQRA of a secondary protected water resource.

3. The area of encroachment shall be replaced by adding an equal area to the WQRA on the subject property.
4. All stormwater shall be collected on-site and passed through a treatment facility, such as a detention/composting facility or filter as approved by the surface water management regulatory authority, prior to being discharged into the WQRA.

Table 709-2: Water Quality Resource Area Mitigation Requirements

Existing Condition of Water Quality Resource Area	Mitigation Requirements
<p><u>Good Existing Corridor:</u></p> <p>Combination of trees, shrubs and groundcover are 80 percent present, and there is more than 50 percent tree canopy coverage in the vegetated corridor.</p>	<p><u>If area is disturbed during construction:</u></p> <ol style="list-style-type: none"> 1. Restore and mitigate according to approved plan using native vegetation. 2. Remove debris. 3. Prior to construction, a qualified professional shall prepare and submit a plan for mitigating water quality impacts related to the development, including: sediments, temperature nutrients, sediment control, temperature control, or any other condition that may have caused the protected water resource to be listed on DEQ's 303(d) list. 4. Re-vegetation must occur during the next planting season following site disturbance. Seeding may be required prior to establishing plants for site stabilization. Annual replacement of plants that do not survive is required until vegetation representative of natural conditions is established on the site. <p><u>If area is undisturbed during construction:</u></p> <ol style="list-style-type: none"> 1. Remove debris.

Table 709-2: Water Quality Resource Area Mitigation Requirements

<p><u>Marginal Existing Corridor:</u></p> <p>Combination of trees, shrubs and groundcover are 80 percent present, and there is 25 to 50 percent tree canopy coverage in the vegetated corridor.</p>	<p><u>If area is disturbed during construction:</u></p> <ol style="list-style-type: none"> 1. Restore and mitigate according to approved mitigation plan using native vegetation that would reasonably represent the vegetative composition that would naturally occur on the site. 2. Remove debris. 3. Re-vegetate during the next planting season following site disturbance. Seeding may be required prior to establishing plants for site stabilization. Annual replacement of plants that do not survive is required until vegetation representative of natural conditions is established on the site. <p><u>If area is undisturbed during construction:</u></p> <ol style="list-style-type: none"> 1. Remove debris.
<p><u>Degraded Existing Corridor:</u></p> <p>Less vegetation and canopy coverage than marginal vegetated corridors, and/or greater than 10-percent surface coverage of any non-native vegetation.</p>	<p><u>If area is disturbed during construction:</u></p> <ol style="list-style-type: none"> 1. Restore and mitigate according to approved mitigation plan using native vegetation that would reasonably represent the vegetative composition that would naturally occur on the site. 2. Remove debris. 3. Re-vegetate during the next planting season following site disturbance. Seeding may be required prior to establishing plants for site stabilization. Annual replacement of plants that do not survive is required until vegetation representative of natural conditions is established on the site.. <p><u>If area is undisturbed during construction:</u></p> <ol style="list-style-type: none"> 1. Vegetate bare areas with native vegetation. 2. Remove non-native vegetation and re-vegetate with native vegetation. 3. Remove debris.

709.11 PARTITIONS AND SUBDIVISIONS

- A. A partition or subdivision of property that contains a WQRA shall require that the WQRA shall be platted as a tract rather than as part of any lot. The tract shall be protected from development by restrictive covenant, conservation easement, or public dedication. However, the tract may be subject to an easement conveying storm and surface water management rights to the surface water management authority. The tract shall be designated as one of the following prior to final plat approval:
1. A private natural area owned by a homeowners association or a private non-profit with the mission of land conservation; or
 2. A public natural area where the tract has been dedicated to a public entity.

[Amended by Ord. ZDO-230, 9/26/11]

710 SENSITIVE BIRD HABITAT DISTRICT (SBH)

710.01 PURPOSE

Section 710 is adopted to:

- A. ~~To~~ Conserve sensitive bird resources by protecting nesting and rearing habitat and providing buffer areas;~~;~~
- B. ~~To~~ Establish standards and procedures for evaluating and permitting developments which affect sensitive bird habitat areas;~~;~~
- C. ~~To~~ Implement the sensitive bird policies of the Natural Resources and Energy Chapter of the Comprehensive Plan;~~;~~ and
- D. ~~To~~ Enhance coordination between County, state, federal, and other jurisdictional agencies regarding development activities in or near sensitive bird sites.

710.02 ~~APPLICABILITY~~ AREA OF APPLICATION/ADOPTION OF REPORTS

- A. The Sensitive Bird Habitat District (SBH) is an overlay district that consists of sensitive bird habitat areas as identified in the ~~Clackamas County~~ Comprehensive Plan policies and Sensitive Bird Inventory completed pursuant to the Goal 5 and Oregon Administrative Rules 660, Division 16 provisions. The sensitive habitat area to be protected pursuant to ~~the provisions of this~~ Section 710 shall be defined as the area necessary to protect the sensitive bird site from impacts adverse to its nesting and rearing activities. The area protected is dependent upon the specific species as described in the Comprehensive Plan Inventory and Economic, Social, Environmental, and Energy (ESEE) findings and conclusions. The standards and procedures of the ~~Sensitive Bird Zoning Overlay District (SBH) District~~ apply to all development, alterations, and vegetation removal within any portion of a sensitive bird site habitat or buffer area. Should the County be notified by the Oregon Department of Fish and Wildlife that a sensitive bird site area no longer exists within an SBH a Sensitive Bird Zoning District, development activities and uses shall not be subject to the provisions of ~~this~~ Section 710.
- B. The sensitive bird habitat areas administered through these provisions are based upon the Comprehensive Plan Inventory and Economic, Social, Environmental and Energy (ESEE) findings and conclusions. The Inventory maps and ESEE reports are hereby adopted by reference and declared to be part of this Ordinance.
- ~~C. The provisions of Subsection 710 are in addition to the requirements of the Oregon Department of Fish and Wildlife and U.S. Department of Fish and Wildlife. In those areas so designated, the requirements of the County shall prevail when they are more restrictive than State and Federal standards.~~

710.03 DEFINITIONS

Unless specifically defined below, words or phrases used in ~~Section 710~~this section shall be interpreted to give them the same meaning as they have in common usage and to give ~~Section 710~~this section its most reasonable application.

A. Alteration: A use which adversely impacts the condition of a sensitive bird habitat site and/or buffer area. Alterations include, but are not limited to, buildings or other structures, grading, filling, dredging, draining, channelizing, mining, paving (including sidewalks, roads and bikepaths), surface water management facilities, or other land uses that adversely impact the existing vegetation, hydrology, wildlife or wildlife habitat.

B. Development: A partition, subdivision, or property line adjustment which may or may not include an alteration.

C. Economic, Social, Environmental and Energy (ESEE) Analysis: The analysis conducted pursuant to Statewide Planning Goal 5 in which the County evaluates the conflicting use economic, social, environmental and energy consequences and the Board of County Commissioners reached a decision of which, if any, conflicting use(s) would be allowed fully or on a limited basis.

D. Rookery: A discrete area ~~that~~which contains one or more Great Blue Heron nests.

E. Sensitive Bird Habitat: The nesting, rearing and roosting area of sensitive birds as identified in the Comprehensive Plan.

F. Sensitive Bird, Buffer: An area around a sensitive bird site, determined to be appropriate for the specific species, that is included on the planned and zoned ~~SBH Sensitive Bird Habitat~~ District overlay maps

G. Sensitive Bird Habitat, Edge or Boundary: The boundary of a sensitive bird habitat area as mapped on the ~~Clackamas County~~ Comprehensive Plan Sensitive Bird Habitat Inventory maps. Generally, the edge or boundary is the line, represented by a horizontal line regardless of elevation between sensitive bird habitat areas and nonsensitive bird habitat areas.

710.04 USES IN SENSITIVE BIRD HABITAT AREAS

A. Alterations and developments consistent with the underlying zoning district located within ~~an SBH Sensitive Bird Habitat~~ District may be granted, subject to review ~~of an SBH District Permit, which shall require review as a Type II application with notice~~ pursuant to ~~Section 1307 Subsection 1305.02, and shall be subject to the following standards and criteria~~when the applicant demonstrates:

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1. The proposal is consistent with Policy 11.0 of the Wildlife Habitats and Distinctive Resource Areas Section of the Natural Resources and Energy Element of the Comprehensive Plan; ~~and;~~
2. A mitigation plan demonstrates the proposed alteration or development will not disrupt the nesting or rearing habitat; ~~and;~~
3. Vegetation and construction management plans demonstrate the alteration or development will be consistent with the provisions ~~of this~~ Section 710.

B. Prohibited Uses:

Vegetation removal within the buffer is prohibited unless the removal is permitted in conjunction with a vegetation and construction management plan described in Subsection 710.04(A)(3).

C. Exempt Uses:

1. Modifications that do not extend beyond the footprint of legally established uses, structures, and facilities are exempt from the provisions of this subsection.
2. Commercial forest practices subject to Oregon Revised Statutes (ORS) Chapter 527 and the Oregon Administrative Rules (OARs) adopted pursuant thereto.
3. Agricultural practices subject to ORS 30.930 through ORS 30.939 and the OARs ~~Oregon Administrative Rules~~ adopted pursuant thereto.

710.05 DEVELOPMENT STANDARDS

The following standards shall apply to alterations or development in sensitive bird habitat areas.

- A. Based on the biology and characteristics of the species and characteristics of the site, the proposed alteration or development shall provide protection that will prevent destruction or abandonment of the subject site.
- B. Alteration activities shall be prohibited during the nesting season unless the Oregon Department of Fish and Wildlife determines in writing the proposed alteration will not be disruptive to the nest or rookery. Alterations necessary to (1) repair or reconstruct septic systems or structures damaged or (2) destroyed by fire or natural causes are exempt from this provision.
- C. New roads, driveways, or public trails shall be located the greatest distance possible from the nest or rookery unless topographic, vegetation, or structural

features will provide greater visual or noise buffer to the nest or rookery.

- D. Existing vegetation buffers the nest or rookery and shall be retained unless removal is granted pursuant to Subsection 710.04(A).
- E. No land divisions or property line adjustments shall be approved which would result in the location of a structure within the designated sensitive habitat area.
- F. Exterior lighting for new uses shall be sited and shielded away from the nest or rookery.
- G. Residential lots of record where lot configuration precludes compliance with these provisions shall be exempt when proposed structures are sited the maximum practical distance from the rookery ~~and reviewed pursuant to Subsection 1305.02.~~
- H. Additions to existing structures which are located closer than the required buffer shall be permitted provided the addition complies with the remaining provisions of this subsection
- I. Sensitive bird habitat areas disturbed by alterations considered pursuant to Subsection 710.04(A) shall be re-vegetated with plants not identified on the Planning Director's Prohibited Plant List at a pre-removal or greater density within ~~ninety (90)~~ days of completion, considering Subsection 710.05(B), or a surety agreement shall be provided pursuant to ~~Section~~ Subsection 1104. The developer shall submit a written contract guaranteeing vegetation survival of at least ~~eighty percent (80%)~~ percent for a minimum one-~~(1)~~-year period.
- J. Prior to commencing alteration or construction activities on parcels containing sensitive bird habitat, the edge of the SBH District and buffer area, as identified on the County maps, shall be clearly marked with stakes connected by flagging. The applicant shall retain this temporary marking until construction is completed and vegetation on the site is reestablished.

710.06 ~~SENSITIVE BIRD HABITAT REVIEW~~-SUBMITTAL REQUIREMENTS

In addition to the submittal requirements identified in Subsection 1307.07(C), an applicationApplications for an SBH District Permit~~proposed alterations or developments~~ in sensitive bird habitat and buffer areas considered pursuant to Subsection 710.04(A) shall ~~be made on forms provided by the Planning Department and~~include the following ~~information~~:

- A. A site plan showing existing natural features and the proposed development on the site(s), including proposed alterations, vegetation removal, surface water sources, tree cutting activity, utilities, easements, and location of the nesting or rookery site and respective buffer;
- B. A written analysis describing how the proposal is consistent with Policy 11.0 of

the Wildlife Habitats and Distinctive Resource Areas Section of the Natural Resources and Energy Element of the Comprehensive Plan;:-

- C. A written construction management plan describing the timing and sequence of construction activities, equipment, surface water management, and erosion control plan;:- and
- D. A vegetation plan that includes the species and quantity to be removed and planted, and any maintenance activities that will be used to ensure survival and growth of the vegetation.

710.07 ISSUANCE OF PERMITS APPROVAL PERIOD AND TIME EXTENSION

A. Approval Period: Approval of an SBH District Permit is valid for four years from the date of the final written decision. If the County’s final written decision is appealed, the approval period shall commence on the date of the final appellate decision. During this four-year period, the approval shall be implemented. “Implemented” means:

1. “Implemented” means all major development permits shall be obtained and maintained, or if no major development permits are required to complete the development contemplated by the approved SBH District Permit. “implemented” means all other necessary County development permits (e.g. grading permit, building permit for an accessory structure) shall be obtained and maintained. A “major development permit” is:

- a. A building or manufactured dwelling placement permit for a new primary structure that was part of the SBH District Permit approval; or
- b. A permit issued by the County Engineering Division for parking lot or road improvements that were part of the WRG permit approval.

B. Time Extension: If the approval of an SBH District Permit is not implemented within the initial approval period established by Subsection 710.07(A), a two-year time extension may be approved, pursuant to Subsection 1310.

~~A. Prior to commencing alteration or construction activities on parcels containing sensitive bird habitat, the edge of the Sensitive Bird Habitat District and buffer area, as identified on the County maps, shall be clearly marked with stakes connected by flagging. The applicant shall retain this temporary marking until construction is completed and vegetation on the site is reestablished.~~

~~B. Approval of an alteration shall expire in the event the approval is not implemented within two (2) years from the date of the final written decision unless a lesser time period is specified as a condition of approval.~~

~~710.08 — AMENDMENTS TO THE OVERLAY ZONE AND COMPREHENSIVE PLAN~~

~~These provisions apply to the planning and zoning of Sensitive Bird Habitat sites:~~

- ~~A. Comprehensive Plan Designation Designating sensitive bird habitat areas, examining conflicting uses, or any other information that fundamentally affects the decisions made for these resources and uses can be reexamined pursuant to the Comprehensive Plan amendment process. This process is described under "Amendments and Implementation", of the Clackamas County Comprehensive Plan. Proposed amendments shall also comply with the Statewide Planning Goals and Guidelines as identified in the Oregon Administrative Rules Chapter 660 Division 16.~~
- ~~B. Zoning of Sensitive Bird Habitat The zoning of Sensitive Bird Habitat sites shall occur simultaneously with the Plan designation process described above pursuant to the provisions of Section 1400.~~

711 GOVERNMENT CAMP OPEN SPACE MANAGEMENT DISTRICT (GCOSM)

711.01 PURPOSE

The intent of the Government Camp Open Space Management District is to preserve and manage the Government Camp Village open space resources for the benefit, health, and welfare of the people. These resources provide the community with recreation, water quality treatment facilities, natural protection areas and pedestrian networks. Management of these resources will help protect, enhance and maintain the quality of living and environmental character of the Government Camp Village.

711.02 AREAS OF APPLICATION

The Government Camp Open Space Management District shall apply to those areas within the Government Camp Village, as described in the Mount Hood Community Plan, and have the following characteristics:

- A. Parks, whether existing, acquired, or dedicated in the future (see Section 1011 for dedication requirements);
- B. Public and private recreation areas, including areas used for skiing, skating, skateboarding, hiking, biking and other similar activities.
- C. Natural and historic areas that are dedicated to the public or preserved through an easement.
- D. Areas that buffer existing residential development for the purpose of providing privacy and maintaining the natural character and quality of living in the community.
- E. Areas necessary for utility facilities, such as sewage treatment plants, public water facilities or water quality treatment facilities.

711.03 PRIMARY USES

- A. Public and private outdoor recreation areas, including hiking and biking trails, and ski transportation facilities such as chairlifts and gondolas.
- B. Nature trails, bird sanctuaries, nature conservancies, and other similar natural areas.
- C. Utility carrier cabinets, subject to Section 830.
- D. Water quality treatment facilities, except those listed as conditional uses in Subsection 711.05.

711.04 ACCESSORY USES

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- A. Accessory uses listed below may be allowed provided landscaping in compliance with Section 1009 is used to obscure visual impacts:
1. Restroom and locker room facilities;
 2. Information and interpretive centers, provided they are not enclosed;
 3. Maintenance buildings and support facilities customarily associated with a primary use;
 4. Rainwater collection facilities;
 5. Solar collection systems; and
 6. Electric vehicle charging stations.

711.05 CONDITIONAL USES

- A. The following ~~are uses may be allowed as~~ conditional uses in the ~~Government Camp Open Space Management GCOSM District (GCOSM), approval of which is subject to upon satisfying the criteria in~~ Section 1203 for conditional uses and Subsection 504.078(J)(B)(8) for commercial development. ~~Consideration of these uses is subject to review by the Hearings Officer pursuant to Section 1300.~~ Approval shall not be granted if the proposed use requires a new access to Highway 26 or additional parking, unless such access and parking receive approval from the Oregon Department of Transportation.
1. Medical clinics, when associated with and incidental to a primary use;~~:-~~
 2. Sport shops, restaurants, and other concession sales uses when associated and incidental to a primary use;~~:-~~ and
 3. Sewage treatment plants.

711.06 PROHIBITED USES

- A. Private outdoor recreation uses that generate vehicular trips, excluding uses for the Summit or Multorpor Ski Bowl Ski Areas that do not exceed the United States Forest Service (USFS) Persons at One Time (PAOT) limits. See the table below for the PAOT limits:

US Forest Service Permitted Recreation Facility	US Forest Service Persons at One Time (PAOT) limits
Summit Ski Area	1500
Multorpor Ski Bowl (Ski Bowl West and Ski Bowl Multorpor Combined)	7800

711.07 BUFFER AREAS

- A. Buffer areas shall be maintained in natural vegetation, except for minor developments such as:
 - 1. Extending and connecting trail systems;
 - 2. Posting directional, interpretative and warning signs not exceeding three square feet for trails;
 - 3. Bridges or constructed walkways;
 - 4. Lift and tram towers; and
 - 5. Development of connecting roads to lands within the Government Camp Urban Unincorporated Community boundary shall be minimized to the fullest possible extent.

711.08 DIMENSIONAL STANDARDS

- A. Purpose: The dimensional standards are intended to:
 - 1. Provide for the protection of the natural environment and the surrounding areas from potentially adverse influences;
 - 2. Provide for and protect the unique character, livability, and scenic quality of the Mt. Hood Community;
 - 3. Provide for fire safety and protection, and adequate snowslide area, between all structures;
 - 4. Protect the privacy and livability of on- and off-site dwellings and yard areas; and
 - 5. Provide for adequate open space within and between developments.
- B. Perimeter Requirements For All Structures:
 - 1. Minimum Front Yard Setback: 30 feet.

2. Minimum Rear Yard Setback: 30 feet.
3. Minimum Side Yard Setback: 10 feet.

711.09 DEVELOPMENT STANDARDS

Development of conditional uses in the Government Camp Open Space Management District is subject to the applicable provisions of Section 1000, and the review procedures set forth in Section 1102. In addition, improvements shall meet the following standards:

- A. Landscape the site to produce a setting appropriate to the area's character and development's function.
- B. Provide an efficient internal circulation system and facilities layout plan. Additionally, provide for both motorized and non-motorized connections to external circulation systems and trails.
- C. Maximize access for pedestrians, bicyclists, transit riders, and the disabled in active recreation areas.
- D. Park facilities shall comply with the classifications and standards in policies 1.1 - 1.3 of the Parks Section of the Comprehensive Plan.
- E. Screening and buffering of adjacent residential zoning districts shall occur pursuant to Section 1009.

[Amended by Ord. ZDO-224, 5/31/11]

712 PRIVATE USE AIRPORT AND SAFETY OVERLAY ZONE

712.01 PURPOSE

Section 712~~This section~~ is adopted to implement Oregon Revised Statutes (ORS) 836.600 through 836.630 and policies of the Comprehensive Plan as they relate to private use airports. When applied, it provides for the continued operation and vitality of private use airports consistent with state law. It also provides for safety standards to promote air navigational safety at these airports, and to reduce the potential for safety hazards for property and for persons living, working or recreating on lands near such airports.

712.02 APPLICATION

This special use zoning district may be applied to private-use airports ~~in Clackamas County~~ that are shown in the records of the Oregon Department of Aviation as the base for three ~~(3)~~ or more aircraft on December 31, 1994.

The boundaries of this special use zoning district are coterminous with airport boundaries as described in Oregon Revised Statutes (ORS) 836.608. The boundaries of safety overlay zones radiate from points at the ends of the airport's primary surface as described in Oregon Administrative Rules (OAR) 660-013-0070(1)(b) and Exhibit 2 that accompanies that rule. The definitions in Subsection 712.03 are consistent with ORS Chapter 836, OAR 660-013, and Exhibit 2 of that ~~r~~Rule.

If an airport that had this special use zoning district applied is removed from the State's list of airports in a manner described in ORS 836.610, the application of this special use zoning district to such airport is automatically terminated.

712.03 DEFINITIONS

- A. Aircraft. Means airplanes and helicopters, but not hot air balloons or ultralights.
- B. Airport. The strip of land used for taking off and landing aircraft, together with all adjacent land used in connection with the aircraft landing or taking off from the strip of land, including but not limited to land used for existing airport uses.
- C. Airport Elevation. The highest point of an airport's usable runway, measured in feet above mean sea level.
- D. Airport Imaginary Surfaces. Imaginary areas in space or on the ground that are established in relation to the airport and its runways. Imaginary

surfaces for private use airports are defined by the primary surface and approach surfaces.

- E. Airport Sponsor. The owner, manager, or other person or entity designated to represent the interests of an airport.
- F. Approach Surface. An imaginary surface longitudinally centered on the extended runway centerline and extending outward and upward from each end of the primary surface. An approach surface is applied to each end of the runway. The inner edge of the approach surface is the same width as the primary surface and it expands uniformly to a width of 450 feet for that end of a private use airport with only visual approaches. The approach surface extends for a horizontal distance of 2,500 feet at a slope of ~~twenty (20)~~ feet outward for each one ~~(1)~~ foot upward.
- ~~G. Department of Aviation. The Oregon Department of Aviation, formerly the Aeronautics Division of the Oregon Department of Transportation.~~
- ~~H.G. Hazard. All hazards within and around airports shall be as determined by the Oregon Department of Aviation or Federal Aviation Administration.~~
- ~~I. Height. The highest point of a structure or tree, plant or other object of natural growth, measured from mean sea level.~~
- ~~J.H. Heliports. A heliport is an area of land, water, or structure designated for the landing and take-off of helicopters or other rotorcraft. The heliport overlay zone applies the following imaginary surfaces. The heliport approach surfaces~~Heliport Approach Surfaces~~ begin at each end of the heliport primary surface and have the same width as the primary surface. They extend outward and upward for a horizontal distance of 4,000 feet where their width is 500 feet. The slope of the approach surfaces is ~~eight~~8 to ~~one~~1 for civilian heliports and 10 to ~~one~~1 for military heliports. The heliport primary~~Heliport Primary~~ surface coincides in size and shape with the designated takeoff and landing area of a heliport. The heliport primary surface is a horizontal plane at the established heliport elevation. The heliport transitional surfaces extend outward and upward from the lateral boundaries of the heliport primary surface and from the approach surfaces at a slope of ~~two~~2 to ~~one~~1 for a distance of 250 feet measured horizontally from the centerline of the primary and approach surfaces.~~
- ~~K. Obstruction. Any structure or tree, plant or other object of natural growth that penetrates an imaginary surface.~~
- ~~L.I. Primary Surface. A surface longitudinally centered on a runway. The primary surface ends at each end of a runway. The elevation of any point on the primary surface is the same as the elevation of the nearest point on~~

the runway centerline. The width of the primary surface for private use airports is 200 feet.

M.J. Runway. A defined area on an airport prepared for landing and takeoff of aircraft along its length.

N.K. Structure. Any constructed or erected object which requires location on the ground or is attached to something located on the ground. Structures include but are not limited to, buildings, decks, fences, signs, towers, cranes, flagpoles, antennas, smokestacks, earthen formations and overhead transmission lines. Structures do not include paved areas.

712.04 CONTINUED OPERATION OF EXISTING USES

Operation of the following uses may be continued at their current levels as of the effective date of [Section 712](#)~~this ordinance~~, upon a demonstration that the use existed at the airport at any time during 1996. A list of those uses for each private use airport classified as having three ~~(3)~~ or more based aircraft is contained in the County's Airport Plan.

- A. Customary and usual aviation-related activities, including but not limited to takeoffs and landings; aircraft hangars and tie-downs; construction and maintenance of airport facilities; fixed-base operator facilities; ~~one+~~ single-family dwelling in conjunction with an airport (if there is not one there already) for an airport manager, caretaker, or security officer; and other activities incidental to the normal operation of an airport. Except as provided in this ordinance, "customary and usual aviation-related activities" do not include residential, commercial, industrial, manufacturing, and other uses.
- B. Air passenger and air freight services and facilities, at levels consistent with the classification and needs identified in the Oregon Department of Aviation Airport System Plan.
- C. Emergency medical flight services, including activities, aircraft, accessory structures, and other facilities necessary to support emergency transportation for medical purposes. Emergency medical flight services include search and rescue operations but do not include hospitals, medical offices, medical labs, medical equipment sales, and other similar uses.
- D. Law enforcement, military, and firefighting activities, including aircraft and ground-based activities, facilities and accessory structures necessary to support federal, state or local law enforcement or land management agencies engaged in law enforcement or firefighting activities. Law enforcement and firefighting activities include transport of personnel,

aerial observation, and transport of equipment, water, fire retardant and supplies.

- E. Search and rescue operations, including aircraft and ground based activities that support the orderly and efficient conduct of search or rescue related activities.
- F. Flight instruction, including activities, facilities, and accessory structures located at airport sites that provide education and training directly related to aeronautical activities. Flight instruction includes ground training and aeronautic skills training, but does not include schools for flight attendants, ticket agents or similar personnel.
- G. Aircraft service, maintenance and training, including activities, facilities and accessory structures provided to teach aircraft service and maintenance skills and to maintain, service, refuel or repair aircraft or aircraft components. "Aircraft service, maintenance and training" includes the construction and assembly of aircraft and aircraft components for personal use, but does not include activities, structures or facilities for the manufacturing of aircraft, aircraft components or aircraft-related products for sale to the public.
- H. Aircraft rental, including activities, facilities and accessory structures that support the provision of aircraft for rent or lease to the public.
- I. Aircraft sales and the sale of aeronautic equipment and supplies, including activities, facilities and accessory structures for the storage, display, demonstration and sales of aircraft and aeronautic equipment and supplies to the public but not including activities, facilities or structures for the manufacturing of aircraft, aircraft components or other aircraft-related products for sale to the public.
- J. Crop dusting activities, including activities, facilities and structures accessory to crop dusting operations. Crop dusting activities include, but are not limited to, aerial application of chemicals, seed, fertilizer, defoliant and other chemicals or products used in a commercial agricultural, forestry or rangeland management setting.
- K. Agricultural and Forestry Activities, including activities, facilities and accessory structures that qualify as a "farm use" as defined in ORS 215.203 or "farming practice" as defined in ORS 30.390.

- L. Aeronautic recreational and sporting activities, including activities, facilities and accessory structures at airports that support recreational usage of aircraft and sporting activities that require the use of aircraft or other devices used and intended for use in flight, are permitted subject to the acceptance of the airport sponsor. Aeronautic recreation and sporting activities include, but are not limited to, fly-ins; glider flights; hot air ballooning; ultralight aircraft flights; displays of aircraft; aeronautic flight skills contests; gyrocopter flights; flights carrying parachutists; and parachute drops onto an airport. As used herein, parachuting and parachute drops include all forms of skydiving.

M. ~~Reserved for future use~~

712.05 EXPANSION OF EXISTING USES

The expansion of uses identified in ~~Subsection~~Section 712.04 ~~and of this special use zoning district~~ that existed at any time during 1996 at an airport is permitted as provided in ~~Subsection 712.05~~this section.

- A. ~~Expansions Permitted~~Allowed Outright:- The following expansions of existing uses are permitted outright:
 - 1. Construction of additional hangars and tie-downs by the owner of the airport:-
 - 2. Basing of additional aircraft at the airport:- and
 - 3. Increases in flight activity.
- B. Other Expansions of Existing Uses:-
 - 1. Growth of existing uses that require building permits, other than those existing uses identified in ~~S~~subsection 712.05(A), shall ~~require~~be review as a Type II application pursuant to Section 1307 and shall be permitted as an administrative decision subject to the provisions of subsection 1305.02 of this Ordinance, unless the growth:
 - a. Cannot be supported by existing public facilities and services and transportation systems authorized by applicable statewide land use planning goals;
 - b. Forces a significant change or significantly increases the costs of conducting existing uses on surrounding lands; or

- c. Exceeds the standards of ORS 215.296(1) if the airport is adjacent to land zoned for exclusive farm use.

712.06 NEW USES

Uses identified in ~~Subsection~~Section 712.04 ~~and of this special use zoning district~~ at an airport shall ~~require~~ be review as a Type III application pursuant to Section 1307 and shall be ~~permitted following a public hearing before the Clackamas County Land Use Hearings Officer as an administrative action as described in Section 1300 upon demonstration of subject to~~ compliance with the following standards ~~and criteria:-~~

- A. The use is or will be supported by adequate types and levels of public facilities, services, and transportation systems authorized by applicable statewide land use planning goals;
- B. The use does not seriously interfere with existing land uses in areas surrounding the airport; and
- C. For airports adjacent to land zoned for exclusive farm use, the use complies with the standards described in ORS 215.296.
- D. An applicant may demonstrate that these standards will be satisfied through the imposition of clear and objective conditions.

Uses not identified in ~~Subsection~~Section 712.04 ~~of this special use zoning district~~, but ~~permitted~~ allowed in the ~~underlying~~base zoning district, may be ~~permitted~~ allowed at an airport if they do not conflict with ~~permitted~~ allowed uses in ~~Subsection~~Section 712.04, safety, or the continued operation and vitality of the airport.

712.07 IMAGINARY SURFACE DELINEATION

The airport elevation and the location and dimensions of the runway, primary surface, and approach surface shall be delineated for each private use airport subject to this safety overlay zone and shall be made part of the ~~zoning maps adopted pursuant to Subsection 103.02~~Official Zoning Map. All lands, waters, and airspace, or portions thereof, that are located within these surfaces shall be subject to the requirements of this safety overlay zone.

~~712.08 NOTICE OF LAND USE AND PERMIT APPLICATIONS WITHIN SAFETY OVERLAY ZONES~~

- ~~A. Written notice of applications for land use or limited land use decisions, including comprehensive plan or zoning amendments involving property located within this safety overlay zone, shall be provided to the airport sponsor and the Oregon Department of Aviation in the~~

~~same manner and within the same timelines as notice is provided to property owners entitled by law to written notice of land use or limited land use applications. Where the application does not involve a public hearing, such notice shall be provided at least twenty (20) days prior to the initial decision on the land use or limited land use application.~~

~~B. Notice of the decision on a land use or limited land use application shall be provided to the airport sponsor and the Oregon Department of Aviation within the same timelines that such notice is provided to parties to a land use or limited land use proceeding.~~

~~712.09 HEIGHT LIMITATIONS ON ALLOWED USES IN UNDERLYING ZONES~~

~~A. Reserved for future use~~

~~B. Reserved for future use~~

~~C. Mediation is available from the County for airport sponsors and owners of obstructions not conforming with height limitations addressed in this Section to resolve disputes about those obstructions.~~

~~D. The traveling of any lawful vehicle or livestock kept on private or public land, road, waterway, or railway shall not be considered an obstruction. Fences to a height necessary for agricultural use, shall not be considered obstructions.~~

~~712.10 VARIANCES TO HEIGHT LIMITATIONS~~

~~Variances to the height limitations may be permitted when supported in writing by the airport sponsor and the Oregon Department of Aviation. Applications for height variances shall be subject to the procedures and standards in Sections 1205 and 1305 of this Ordinance and shall be subject to such conditions and terms as recommended by the Oregon Department of Aviation.~~

~~712.11 PROCEDURES~~

~~An applicant seeking a land use or limited land use approval or a building permit in an area within safety overlay zones enacted by this ordinance shall provide the following information in addition to any other information required in the permit application:~~

~~A. Reserved for future use~~

~~B. Reserved for future use~~

~~C. If a height variance is requested, letters of support from the airport sponsor and the Oregon Department of Aviation shall be submitted with the application.~~

712.0812 NONCONFORMING USES

~~A. Section 712These regulations~~ shall not be construed to require the removal, lowering, or alteration of any existing structure or vegetation not conforming to Section 712these regulations. ~~Section 712These regulations~~ shall not require any change in the construction, or alteration of the intended use of any structure, the construction or alteration of which was begun or completed prior to the effective date of this safety overlay zone.

~~B. Reserved for future use~~

~~C. Reserved for future use~~

713 PUBLIC USE AIRPORT ~~AND~~ SAFETY OVERLAY ZONES

713.01 PURPOSE

~~Section 713~~~~This section~~ is adopted to implement Oregon Revised Statutes~~ORS~~ 836.600 through 836.630 and policies of the Comprehensive Plan as they relate to public use airports. When applied, it provides for their continued operation and vitality consistent with state law by allowing certain compatible airport related commercial and recreational uses. It also provides for safety standards to promote air navigational safety at such public use airports and to reduce the potential for safety hazards for property and for persons living, working, or recreating on lands near such airports.

713.02 APPLICATION

This special use zoning district may be applied to publicly owned airports ~~in Clackamas County~~, that are shown in the records of the Oregon Department of Aviation (ODA) on December 31, 1994. It also may be applied to those privately owned, public use airports ~~in Clackamas County~~ identified pursuant to Oregon Revised Statutes (ORS) 836.610(3) by the ~~ODA Oregon Department of Aviation~~ as providing important links in air traffic in Oregon, providing essential safety or emergency services, or are of economic importance to the County~~where the airport is located~~.

The boundaries of this special use district are coterminous with airport boundaries as described in Oregon Administrative Rules (OAR) 660-013-0040. The boundaries of safety overlay zones radiate from points at the ends of the airport's primary surface as described in ~~Oregon Administrative Rules~~OAR 660-013-0070(1)(a) and Exhibits 1 and 4 that accompany that ~~r~~Rule. The definitions in Subsection 713.03 are consistent with ORS Chapter 836, OAR 660-013, and Exhibits 1 and 4 of that rule.

If an airport that had this special use zoning district applied is removed from the State's list of airports in a manner described in ORS 836.610, the application of this special use zoning district is automatically terminated.

713.03 DEFINITIONS

- A. Aircraft. Means airplanes and helicopters, but not hot air balloons or ultralights.
- B. Airport. The strip of land used for taking off and landing aircraft, together with all adjacent land used in connection with the aircraft landing or taking off from the strip of land, including but not limited to land used for existing airport uses.

- C. Airport Elevation. The highest point of an airport's usable runway, measured in feet above mean sea level.
- D. Airport Imaginary Surfaces. Imaginary areas in space and on the ground that are established in relation to the airport and its runways. Imaginary surfaces are defined by the primary surface, runway protection zone, approach surface, horizontal surface, conical surface and transitional surface.
- E. Airport Noise Impact Boundary. Areas located within 1,500 feet of an airport runway or within established noise contour boundaries exceeding 55 Ldn.
- F. Airport Sponsor. The owner, manager, or other person or entity designated to represent the interests of an airport.
- G. Approach Surface. A surface longitudinally centered on the extended runway centerline and extending outward and upward from each end of the primary surface.
 - 1. The inner edge of the approach surface is the same width as the primary surface and it expands uniformly to a width of:
 - a. 1,250 feet for a utility runway having only visual approaches;
 - b. 1,500 feet for a runway other than a utility runway with only visual approaches;
 - c. 2,000 feet for a runway with a non-precision instrument approach;
 - d. 3,500 feet for a non-precision instrument runway other than utility, having visibility minimums greater than three-fourths statute mile;
 - e. 4,000 feet for a non-precision instrument runway, other than utility, having a non-precision approach with visibility minimums as low as three-fourths statute mile; and
 - f. 16,000 feet for precision instrument runways.
 - 2. The approach surface extends for a horizontal distance of:
 - a. 5,000 feet at a slope of ~~twenty (20)~~ feet outward for each foot upward for all utility and visual runways;

- b. 10,000 feet at a slope of ~~thirty-four (34)~~ feet outward for each foot upward for all non-precision instrument runways, other than utility; and
 - c. 10,000 feet at a slope of ~~fifty (50)~~ feet outward for each one foot upward, with an additional 40,000 feet at a slope of ~~forty (40)~~ feet outward for each one foot upward, for precision instrument runways.
3. The outer width of an approach surface will be that width prescribed in this subsection for the most precise approach existing or planned for that runway end.

H. Conical Surface. A surface extending outward and upward from the periphery of the horizontal surface at a slope of ~~twenty (20)~~ to one ~~(1)~~ for a horizontal distance of 4,000 feet.

~~I. Department of Aviation. The Oregon Department of Aviation, formerly the Aeronautics Division of the Oregon Department of Transportation.~~

~~J. FAA. The Federal Aviation Administration.~~

~~K. Height. The highest point of a structure or tree, plant, or other object of natural growth, measured from mean sea level.~~

~~L. Hazard. All hazards within and around airports shall be as determined by the Oregon Department of Aviation or Federal Aviation Administration (FAA).~~

~~L.J. Heliports. A heliport is an area of land, water, or structure designated for the landing and take-off of helicopters or other rotorcraft. The heliport overlay zone applies the following imaginary surfaces. The heliport approach surfaces~~Heliport Approach Surfaces~~ begin at each end of the heliport primary surface and have the same width as the primary surface. They extend outward and upward for a horizontal distance of 4,000 feet where their width is 500 feet. The slope of the approach surfaces is ~~eight~~8 to ~~one~~1 for civilian heliports and 10 to ~~one~~1 for military heliports. The heliport primary~~Heliport Primary~~ surface coincides in size and shape with the designated takeoff and landing area of a heliport. The heliport primary surface is a horizontal plane at the established heliport elevation. The heliport transitional surfaces extend outward and upward from the lateral boundaries of the heliport primary surface and from the approach surfaces at a slope of ~~two~~2 to ~~one~~1 for a distance of 250 feet measured horizontally from the centerline of the primary and approach surfaces.~~

~~M. Hazard. All hazards within and around airports shall be as determined by the Oregon Department of Aviation or Federal Aviation Administration.~~

~~N.K. Horizontal Surface.~~ A horizontal plane 150 feet above the established airport elevation, the perimeter of which is constructed by swinging arcs of specified radii from the center of each end of the primary surface of each runway of each airport and connecting the adjacent arcs by lines tangent to those arcs. The radius of each arc is:

1. 5,000 feet for all runways designated as utility or visual.
2. 10,000 feet for all other runways.
3. The radius of the arc specified for each end of a runway will have the same arithmetical value. That value will be the highest determined for either end of the runway. When a 5,000 foot arc is encompassed by tangents connecting two adjacent 10,000 foot arcs, the 5,000 foot arc shall be disregarded on the construction of the perimeter of the horizontal surface.

~~O.L. Non-Precision Instrument Runway.~~ A runway having an existing instrument approach procedure utilizing air navigation facilities with only horizontal guidance, or area type navigation equipment, for which a straight-in non-precision instrument approach has been approved, or planned, and for which no precision approach facilities are planned or indicated on an FAA-approved airport layout plan or other FAA planning document.

~~P. Obstruction. Any structure or tree, plant or other object of natural growth that penetrates an imaginary surface.~~

~~Q.M. Other than Utility Runway.~~ A runway that is constructed for and intended to be used by turbine-driven aircraft or by propeller-driven aircraft exceeding 12,500 pounds gross weight.

~~R.N. Precision Instrument Runway.~~ A runway having an existing instrument approach procedure utilizing air navigation facilities that provide both horizontal and vertical guidance, such as an Instrument Landing System (ILS) or Precision Approach Radar (PAR). It also means a runway for which a precision approach system is planned and is so indicated by an FAA-approved airport layout plan or other FAA planning document.

~~S.O. Primary Surface.~~ A surface longitudinally centered on a runway. When a runway has a specially prepared hard surface, the primary surface extends 200 feet beyond each end of that runway. When a runway has no specially prepared hard surface, or planned hard surface, the primary

surface ends at each end of that runway. The elevation of any point on the primary surface is the same as the elevation of the nearest point on the runway centerline. The width of the primary surface is:

1. 250 feet for utility runways having only visual approaches;
2. 500 feet for utility runways having non-precision instrument approaches;
3. For other than utility runways the width is:
 - a. 500 feet for visual runways having only visual approaches;
 - b. 500 feet for non-precision instrument runways having visibility minimums greater than three-fourths statute mile;
 - c. 1,000 feet for a non-precision instrument runway having a non-precision instrument approach with a visibility minimum as low as three-fourths statute mile, and for precision instrument runways.

~~F.P.~~ **Public Assembly Facility.** A permanent or temporary structure or facility, place or activity where concentrations of people gather in reasonably close quarters for purposes such as deliberation, education, worship, shopping, employment, entertainment, recreation, sporting events, or similar activities. Public assembly facilities include, but are not limited to, schools, churches, conference or convention facilities, employment and shopping centers, arenas, athletic fields, stadiums, clubhouses, museums, and similar facilities and places, but do not include parks, golf courses or similar facilities unless used in a manner where people are concentrated in reasonably close quarters. Public assembly facilities also do not include air shows, structures or uses approved by the FAA in an adopted airport master plan, or places where people congregate for short periods of time such as parking lots or bus stops.

~~U.Q.~~ **Runway.** A defined area on an airport prepared for landing and takeoff of aircraft along its length.

~~V.R.~~ Runway Protection Zone (RPZ). An area off the runway end used to enhance the protection of people and property on the ground. The RPZ is trapezoidal in shape and centered about the extended runway centerline. The inner width of the RPZ is the same as the width of the primary surface. The outer width of the RPZ is a function of the type of aircraft and specified approach visibility minimum associated with the runway end. The RPZ extends from each end of the primary surface for a horizontal distance of:

1. 1,000 feet for utility runways.
2. 1,700 feet for other than utility runways having non-precision instrument approaches.
3. 2,500 feet for precision instrument runways.

~~W.S.~~ Structure. Any constructed or erected object which requires location on the ground or is attached to something located on the ground. Structures include but are not limited to buildings, decks, fences, signs, towers, cranes, flagpoles, antennas, smokestacks, earthen formations and overhead transmission lines. Structures do not include paved areas.

~~X.T.~~ Transitional Surface. Those surfaces that extend upward and outward at 90 degree angles to the runway centerline and the runway centerline extended at a slope of seven (~~7~~) feet horizontally for each foot vertically from the sides of the primary and approach surfaces to the point of intersection with the horizontal and conical surfaces. Transitional surfaces for those portions of the precision approach surfaces which project through and beyond the limits of the conical surface, extend a distance of 5,000 feet measured horizontally from the edge of the approach surface and at a 90 degree angle to the extended runway centerline.

~~Y.U.~~ Utility Runway. A runway that is constructed for and intended to be used by propeller driven aircraft of 12,500 pounds maximum gross weight or less.

~~Z.V.~~ Visual Runway. A runway intended solely for the operation of aircraft using visual approach procedures, where no straight-in instrument approach procedures or instrument designations have been approved or planned, or are indicated on an FAA-approved airport layout plan or any other FAA planning document.

~~AA-W~~. Water Impoundment. Includes wastewater treatment settling ponds, surface mining ponds, detention and retention ponds, artificial lakes and ponds, and similar water features. A new water impoundment includes an expansion of an existing water impoundment except where such expansion was previously authorized by land use action approved prior to the effective date of Section 713~~this ordinance~~.

713.04 USES PERMITTED OUTRIGHT

The following uses and activities are permitted outright in the Public Use Airport special use zoning district:

- A. Customary and usual aviation-related activities, including but not limited to takeoffs and landings; aircraft hangars and tie-downs; construction and maintenance of airport facilities; fixed-base operator facilities; ~~one+~~ single-family dwelling in conjunction with an airport (if there is not one there already) for an airport manager, caretaker, or security officer; and other activities incidental to the normal operation of an airport. Except as provided in this ordinance, "customary and usual aviation-related activities" do not include residential, commercial, industrial, manufacturing, and other uses.
- B. Air passenger and air freight services and facilities, at levels consistent with the classification and needs identified in the Oregon Department of Aviation Airport System Plan.
- C. Emergency medical flight services, including activities, aircraft, accessory structures, and other facilities necessary to support emergency transportation for medical purposes. Emergency medical flight services do not include hospitals, medical offices, medical labs, medical equipment sales, and other similar uses.
- D. Law enforcement, military, and firefighting activities, including aircraft and ground-based activities, facilities and accessory structures necessary to support federal, state or local law enforcement or land management agencies engaged in law enforcement or firefighting activities. Law enforcement and firefighting activities include transport of personnel, aerial observation, and transport of equipment, water, fire retardant and supplies.
- E. Search and rescue operations, including aircraft and ground based activities that support the orderly and efficient conduct of search or rescue related activities.
- F. Flight instruction, including activities, facilities, and accessory structures located at airport sites that provide education and training directly related

to aeronautical activities. Flight instruction includes ground training and aeronautic skills training, but does not include schools for flight attendants, ticket agents or similar personnel.

- G. Aircraft service, maintenance and training, including activities, facilities and accessory structures provided to teach aircraft service and maintenance skills and to maintain, service, refuel or repair aircraft and aircraft components. "Aircraft service, maintenance and training" includes the construction and assembly of aircraft and aircraft components for personal use, but does not include activities, structures or facilities for the manufacturing of aircraft, aircraft components or other aircraft-related products for sale to the public.
- H. Aircraft rental, including activities, facilities and accessory structures that support the provision of aircraft for rent or lease to the public.
- I. Aircraft sales and the sale of aeronautic equipment and supplies, including activities, facilities and accessory structures for the storage, display, demonstration and sales of aircraft and aeronautic equipment and supplies to the public but not including activities, facilities or structures for the manufacturing of aircraft, aircraft components or other aircraft-related products for sale to the public.
- J. Crop dusting activities, including activities, facilities and structures accessory to crop dusting operations. Crop dusting activities include, but are not limited to, aerial application of chemicals, seed, fertilizer, defoliant and other chemicals or products used in a commercial agricultural, forestry or rangeland management setting.
- K. Agricultural and Forestry Activities, including activities, facilities and accessory structures that qualify as a "farm use" as defined in ORS 215.203 or "farming practice" as defined in ORS 30.930.
- L. Aeronautic recreational and sporting activities, including activities, facilities and accessory structures at airports that support recreational usage of aircraft and sporting activities that require the use of aircraft or other devices used and intended for use in flight. Aeronautic recreation and sporting activities authorized under this paragraph include, but are not limited to, fly-ins; glider flights; hot air ballooning; ultralight aircraft flights; displays of aircraft; aeronautic flight skills contests; and gyrocopter flights, but do not include flights carrying parachutists or parachute drops (including all forms of skydiving).
- M. Flights carrying parachutists, and parachute drops (including all forms of skydiving) onto an airport, but only upon demonstration that the parachutist business has secured approval to use a drop zone that is at least

~~ten (10)~~ contiguous acres in size. The configuration of the drop zone shall roughly approximate a square or a circle and may contain structures, trees, or other obstacles only if the remainder of the drop zone provides adequate areas for parachutists to land safely.

- N. Uses not identified in ~~Subsection~~Section 713.04 ~~of this special use zoning district~~, but ~~permitted~~allowed in the ~~underlying zoning district~~base zone, may be ~~permitted~~allowed if they do not conflict with ~~permitted~~allowed uses in ~~Subsection~~Section 713.04, safety, or the continued operation and vitality of the airport.

~~O. — Reserved for future use~~

713.05 USES PERMITTED SUBJECT TO ~~HEARINGS OFFICER~~-REVIEW

Uses not identified in ~~Subsection~~section 713.04 and contained in an Airport Expansion Plan approved by the County as part of the Comprehensive Plan shall ~~require review as a Type III application pursuant to Section 1307 and shall be permitted following a public hearing before the Clackamas County Land Use Hearings Officer as an administrative action pursuant to the procedures specified in Section 1300 of this Ordinance and upon demonstration of compliance with subject to~~ the following standards and criteria:-

- A. The use is, or will be, supported by adequate types and levels of public facilities, services, and transportation systems authorized by applicable statewide land use planning goals;
- B. The use does not seriously interfere with existing land uses in areas surrounding the airport; and
- C. For airports where the underlying ~~zoning district~~zone is ~~EFU~~exclusive farm use, the use shall comply with the standards described in ORS 215.296.
- D. The development standards in Section 1000 ~~of this ordinance~~ shall be applied appropriate to the type of use permitted.
- E. An applicant may demonstrate that these standards will be satisfied through the imposition of clear and objective conditions.

713.06 IMAGINARY SURFACE AND NOISE IMPACT BOUNDARY
DELINEATION

The airport elevation, the airport noise impact boundary, and the location and dimensions of the runway, primary surface, runway protection zone, approach surface, horizontal surface, conical surface and transitional surface, direct and secondary impact boundaries shall be delineated for each public use airport where this district is applied and shall be made part of the zoning maps adopted pursuant to Subsection 103.02 Official Zoning Map. All lands, waters, and airspace, or portions thereof, that are located within these boundaries or surfaces shall be subject to the requirements of this zone.

~~713.07 NOTICE OF LAND USE AND PERMIT APPLICATIONS WITHIN SAFETY
OVERLAY ZONES~~

~~Except as otherwise provided herein, written notice of applications for land use or limited land use decisions, including comprehensive plan or zoning amendments, in an area within the largest of these safety zones, shall be provided to the airport sponsor and the Department of Aviation in the same manner as notice is provided to property owners entitled by law to written notice of land use or limited land use applications.~~

~~A. Notice shall be provided to the airport sponsor and the Department of Aviation when the property, or a portion thereof, that is subject to the land use or limited land use application is located within 5,000 feet of the sides or ends of a visual runway and within 10,000 feet of the sides or ends of a runway with an instrument approach.~~

~~B. Notice of land use and limited land use applications shall be provided within the following timelines.~~

~~1. Notice of land use or limited land use applications involving public hearings shall be provided prior to the public hearing at the same time that written notice of such applications is provided to property owners entitled to such notice.~~

~~2. Notice of land use or limited land use applications not involving public hearings shall be provided at least twenty (20) days prior to the initial decision on the land use or limited land use application.~~

~~C. Notice of the decision on the land use or limited land use application shall be provided to the airport sponsor within the same timelines that notice is provided to parties to the proceeding.~~

~~D. Notices required under Paragraphs A-C of this Section need not be provided to the airport sponsor or the Department of Aviation where the land use or limited land use application meets all of the following criteria:~~

- ~~1. Would allow only structures of less than thirty five (35) feet in height;~~
- ~~2. Involves property located entirely outside the approach surface;~~
- ~~3. Does not involve industrial uses, mining or similar uses that emit smoke, dust or steam; sanitary landfills or water impoundments; or radio, radiotelephone, television or similar transmission facilities or electrical transmission lines; and~~
- ~~4. Does not involve wetland mitigation, creation, enhancement or restoration.~~

~~713.08 HEIGHT LIMITATIONS ON ALLOWED USES WITHIN SAFETY OVERLAY ZONES~~

~~A. Reserved for future use~~

~~B. Reserved for future use~~

~~C. Mediation is available from the County for airport sponsors and owners of obstructions not conforming with height limitations addressed in this Section to resolve disputes about those obstructions.~~

~~D. The traveling of any lawful vehicle or livestock kept on private or public land, road, waterway, or railway shall not be considered an obstruction. Fences to a height necessary for agricultural use, shall not be considered obstructions.~~

~~E. Reserved for future use~~

~~F. Other height exceptions or variances may be permitted when supported in writing by the airport sponsor, the Department of Aviation and the FAA. Applications for height variances shall be subject to the procedures and standards in Section 1205 and 1305 of this Ordinance and shall be subject to such conditions and terms as recommended by the Department of Aviation and the FAA.~~

~~713.09~~ PROCEDURES

~~An applicant seeking a land use or limited land use approval or a building permit in an area within safety overlay zones enacted by this ordinance shall provide the following information in addition to any other information required in the permit application:~~

~~A. Reserved for future use~~

~~B. Reserved for future use~~

~~C. If a height variance is requested, letters of support from the airport sponsor, the Department of Aviation, and the FAA shall be submitted with the application.~~

713.07+0 LAND USE COMPATIBILITY REQUIREMENTS

Applications for land use or building permits for properties within the boundaries of these safety overlay zones shall comply with the requirements of this Section as provided herein.

~~A. Reserved for future use~~

~~B. Reserved for future use~~

~~C. Reserved for future use~~

~~D. Reserved for future use~~

~~E. Rerserved for future use~~

~~F. Reserved for future use~~

~~G. Reserved for future use~~

713.08+1 WATER IMPOUNDMENTS WITHIN SAFETY OVERLAY ZONES

Any use or activity that would result in the establishment or expansion of a water impoundment shall comply with the requirements of this section.

~~A. Reserved for future use~~

713.~~09+2~~ NONCONFORMING USES

A. Section 713~~These regulations~~ shall not be construed to require the removal, lowering, or alteration of any existing structure or vegetation not conforming to Section 713~~these regulations~~. Section 713~~These regulations~~ shall not require any change in the construction, or alteration of the intended use of any structure, the construction or alteration of which was begun or completed prior to the effective date of this safety overlay zone.

~~B. Reserved for future use~~

~~C. Reserved for future use~~

813 SERVICE AND RECREATIONAL USES

813.01 ALLOWED USES

The following are sService and recreational uses. ~~include the following:~~ In addition, uses similar to one or more of the listed uses may be authorized pursuant to Section 106, Authorization of Similar Uses.

- A. Private commercial, noncommercial, or nonprofit recreational areas, uses, and facilities, including country clubs, lodges, fraternal organizations, swimming pools, gymnastics facilities, golf courses, boarding or riding stables, boat moorages, parks, and concessions;
- B. City, county, state, federal, service district, and municipal corporation uses or buildings. These do not include uses or buildings otherwise specifically listed as conditional uses in individual zoning districts or identified in Subsections 813.01(C) or (D);
- C. Telephone exchanges, railroad rights-of-way, and public utility structures without shops, garages, or general administrative offices. Radio and television transmission and receiving towers and earth stations, provided that the base of such towers shall not be closer to the property line than a distance equal to the height of the tower. Wireless telecommunication facilities, amateur (Ham) radio towers, citizen band transmitters and antennas, and essential public communication services are excluded from this subsection; and
- D. Recreational vehicle camping facilities, subject to the following standards:
 - 1. Locational Standards:
 - a. Within an urban area, recreational vehicle camping facilities shall be located on a road with a functional classification of minor arterial or higher, and shall be no more than 1/2 mile from a major arterial or freeway/expressway.
 - b. Outside an urban area, recreational vehicle camping facilities shall be located no more than 1 mile from a major arterial or freeway/expressway.
 - 2. Campsite/Area Requirements:
 - a. In areas served by public sewer, the maximum number of campsites shall not exceed 1 per 1,500 square feet of net site area.
 - b. In areas not served by public sewer, the maximum number of

campsites allowed shall be subject to review and approval by the Soils Section of Water Environment Services.

- c. Each campsite shall be at least 1,000 square feet, exclusive of roadways.
3. Improvements: Each recreational vehicle campsite shall include the following:
 - a. Electrical service hookup;
 - b. Potable water hookup;
 - c. Sewage disposal service; and
 - d. Landscaping in areas that are not intended to be occupied by the recreational vehicle or used for a parking space.
 4. Parking Requirements:
 - a. Each recreational vehicle campsite shall include 1 recreational vehicle parking space with minimum dimensions of 12 feet by 20 feet.
 - b. Parking spaces shall be provided for the manager and employees of the camping facility.
 - c. A minimum of 1 parking space per campsite shall be provided in addition to the space required for parking of a recreational vehicle. The additional space need not be located on the same site as the recreational vehicle space.
 - d. Within an urban area, parking spaces shall be hard-surfaced. Outside an urban area, a graveled surface with a minimum base of 3 inches of crushed rock or better may be substituted for hard surfacing.
 5. Dimensional Standards: The dimensional standards shall be the same as those required in the zoning district in which the subject property is located.
 6. Accessory Uses: The following accessory uses and structures may be provided at a scale intended to serve the tenants of the recreational vehicle camping facility:
 - a. A caretaker's/manager's dwelling or office;
 - b. Recreational areas and equipment;

- c. Clubhouses;
- d. Tourist information centers;
- e. Laundry, restroom and shower facilities;
- f. Storage and/or maintenance buildings; and
- g. ~~Uses Any use that the Hearings Officer finds to be~~ similar to one or more of those specified in Subsection 813.01(D)(6). ~~Where a recreational vehicle camping facility is a primary use, this determination shall be made by the Planning Director and shall be processed as an Interpretation pursuant to Subsection 1305.03.~~

7. Access and Circulation:

- a. The location of access driveways shall be subject to approval by the Department of Transportation and Development.
- b. Any driveway, or portion thereof, which does not provide for continuous circulation shall not exceed 600 feet in length and shall terminate with a turnaround having a minimum diameter of 60 feet.
- c. The minimum driveway width for two-way traffic shall be 24 feet, except that if parking is permitted on the margins of the driveway, the minimum driveway width shall be 32 feet. The minimum driveway width for one-way traffic shall be 16 feet, except that if parking is permitted on the margins of the driveway, the minimum driveway width shall be 24 feet.
- d. Driveways shall be hard-surfaced.

8. Screening: Except as necessary to accommodate access driveways and corner vision requirements, the facility shall be screened on all sides by sight-obscuring plant materials or fencing, or a combination thereof, with a minimum height of 6 feet.

9. Maintenance: Storage of materials or equipment shall be within enclosed structures. Trash receptacles shall be provided in convenient locations for use by guests of the camping facility and in such number and of such capacity that there is no uncovered accumulation of trash at any time.

10. Other Regulations: Recreational vehicle camping facilities shall comply with all applicable rules and regulations of the Public Health Department and state agencies governing such facilities.

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~~E. Any use that the Hearings Officer finds to be similar to one or more of those specified above. However, in a zoning district listed in Subsection 106.01, Section 106 shall apply in lieu of Subsection 813.01(E).~~

[Amended by Ord. ZDO-235, 5/14/12]

818 SURFACE MINING

818.01 PURPOSE

Section 818 is adopted to

A. Provide that the usefulness, productivity and scenic values of all lands and water resources affected by surface mining operations within this County shall receive the greatest practical degree of protection during mining and through reclamation necessary for their intended subsequent use in cooperation with State programs; and

B. ~~To~~ Assure that land affected by surface mining and reclaimed in a plan, approved by the State Department of Geology and Mineral Industries or Oregon Division of State Lands, in consultation with the County, minimizes any adverse impact on mined land on the livability, value and appropriate development of the affected land and adjacent property.

818.02 ~~APPLICABILITY~~ APPLICATION OF THIS ORDINANCE

A. ~~Section 818~~ This section applies to surface mining regulated by this ~~Zoning and Development~~ Ordinance. A technical mining and reclamation permit may also be required from the Oregon Department of Geology and Mineral Industries or Oregon Division of State Lands, in consultation with the County.

B. ~~Section 818~~ This section does not apply to operations within a road right-of-way or other easement for the purpose of construction, reconstruction, or maintenance.

C. ~~Section 818~~ This section does not apply to excavations of sand, gravel, clay, rock, or other similar materials by a landowner or tenant for the purpose of construction, reconstruction, or maintenance of access roads, excavation or grading in the process of farming, forestry or cemetery operations, or other onsite construction unless more than 5,000 cubic yards of such materials are removed from the property for compensation. More than 5,000 cubic yards of such materials may be removed from the property for compensation when the construction activities are authorized by a building permit.

818.03 GENERAL APPLICATION REQUIREMENTS

An application for a permit for surface mining shall contain the following information and whatever additional information necessary to adequately describe and evaluate the proposed operation. Where required information is already available on an Oregon Department of Geology and Mineral Industries mined land reclamation permit application, a duplicate copy may be submitted to satisfy these general application requirements.

A Name and address of the applicant, and the name and address of the

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landowner, the owner of the surface estate, the operator and any parent corporation of the operator. If the applicant does not own the land on which the mining is to take place, the following shall be required:

1. Written consent of the owner of that land for the mining to take place there;
 2. Written acknowledgment of the owner's obligation to see that the land is reclaimed after the mining ceases;
- B. Legal description of the property to be mined.
- C. Vertical aerial photograph of the property, to a scale of at least one ~~(1)~~ inch to ~~four hundred (400)~~ feet, accurately representing the condition of the property at the time the application is made.
- D. Site plan drawn at a scale no smaller than one~~+~~ inch to 600 feet showing:
1. Property boundaries;
 2. Location of all bodies of water, wetlands, roads, railroads, and utility facilities within or adjacent to the property;
 3. Contour intervals;
 4. Locations of buildings and other structures;
 5. Location of all access roads, parking;
 6. The boundaries of the mining site;
 7. Areas for excavation;
 8. Areas for processing and stockpiling;
 9. Areas for settling ponds and washing plants; and
- E. The present use of the property and the planned subsequent beneficial use.
- F. The starting date of the mining and expected life of the mining operation.
- G. A description of each mineral to be mined and the estimated quantity to be extracted.
- H. A description of the mining methods and types of equipment to be used.
- I. The characterization of the ground and surface water based on available wells, drill logs, springs, and surface drainages within one mile of the proposed mining operation.

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- J. A surface water management plan to provide protection against contamination of ground water and discharge of sediments into adjacent waterways. This plan must include provisions for settling ponds, diversion dikes, and channels, or other facilities as may be required.
- K. An erosion control plan detailing ground cover plantings and other methods of controlling erosion of surfaces affected by the mining.
- L. The procedures to control the discharge of contaminants and the disposal of mining refuse.
- M. Applications for non-aggregate mining shall include the following additional information if applicable:
 - 1. Details of measures taken to conserve the quantity and quality of affected aquifers.
 - 2. A description of any toxic or radioactive materials known to be present in the ore, spoil, tailings, overburden or any other material involved in the mining operation, and their approximate concentrations.
 - 3. A description of how the toxic or radioactive materials described above will be handled during mining and reclamation.
 - 4. Environmental baseline information as may be required by the County. A copy of any such information prepared for any other agency shall be furnished the county.
- N. Identification of the backfilling techniques, recontouring, topsoil replacement, seedbed preparation, mulching, fertilizing, selection of plant species, seeding, or planting rates and schedules.
- O. The procedures for the salvage, storage, and replacement of topsoil or acceptable replacement.
- P. Identification of the procedures for the stable storage of overburden which includes a description of the pre-mine topography, method of emplacement, height of lifts, final height, slope configuration, and vegetative cover.

818.04 GENERAL OPERATION REQUIREMENTS AND STANDARDS

All surface mining shall meet the following operational requirements and standards:

- A. Access: An onsite access or service road used for mining shall be dust free at all points within 300 feet of a public road or dwelling off the property being mined. If the mining is the primary cause of traffic on an unpaved public road, that road shall be dust free at all points within 300 feet of dwellings off the property being mined.

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- B. Screening: Screening of the mining site may be required to obscure the view or minimize dust or other annoyance from adjoining property and adjacent public roads. Unless otherwise approved, the screening shall be along the boundary of the property on which the site is located and may be accomplished by one or more of the following:
1. A sight-obscuring fence or wall;
 2. A landscaped berm or preservation of natural slope;
 3. Use of native vegetation, or plants and trees with demonstrated ability to thrive under the anticipated conditions.
- C. Noise: Sound created by a mining operation which is audible off the site shall not exceed the maximum permitted by the State Department of Environmental Quality. Various methods of sound control may be required such as installation of earth berms, strategic location of stockpiles and limiting hours of operation.
- D. Air Quality: The discharge of contaminants created by the mining operation shall not exceed the air quality standards for the State Department of Environmental Quality.
- E. Erosion Control: Sedimentation or erosion resulting from the mining operation shall not adversely affect the quality of any body of water, as determined on the basis of standards established by the State Department of Environmental Quality and the State Department of Geology and Mineral Industries. Erosion resulting from the mining operation shall be contained within the permit area.
- F. Toxic Materials: Toxic materials shall be handled in a manner which prevents environmental degradation and insures the safety and health of persons involved in the mining and reclamation operations and the general public, and complies with the requirements of affected state and federal agencies.
- G. Setbacks: Excavation shall be away from the property line a distance adequate to maintain a fence on the property line and such additional distance as is necessary to allow a normal safe angle of repose during operations, assure lateral support of adjacent property, and provide the slopes identified in the reclamation plan for the depth of final excavation. Other provisions to assure protection of public and adjacent property from steep banks, deep holes, or other hazards during the mining and reclamation phases shall be required as necessary.

In addition, setbacks from rivers, streams, lakes, and other bodies of water shall be adequate to maintain bank integrity and streamside vegetation. These setbacks shall be identified in the ~~r~~Reclamation ~~p~~Plan.

- H. Parking: Vehicular parking off public roads shall be available for employees, customers and visitors at the mining site.
- I. Reclamation Plan: Reclamation shall be effected in accordance with a reclamation plan approved by the State Department of Geology and Mineral Industries and or the Oregon Division of State Lands under Subsection 818.05 ~~of this Ordinance~~.
- J. Inspection/Violations: If the County has reason to believe that a surface mining permit is being violated or that a surface mining operation is being conducted without a valid permit, it may inspect such surface mining areas without prior notice.

818.05 RECLAMATION PLAN REQUIREMENTS AND STANDARDS

A plan for reclaiming land affected by surface mining, approved by the State Department of Geology and Mineral Industries or Oregon Division of State Lands, in consultation with the County, shall minimize any adverse impact of mined land on the livability, value, and appropriate development of the affected land and adjacent property. This plan shall include the reclamation information required in processing applications before State agencies.

~~818.06 INITIAL PERMIT EVALUATION~~

~~The Department of Transportation and Development shall review each permit application and its accompanying plans, and shall evaluate each application for a surface mining on the basis of all available information provided by private individuals, county, state and federal agencies under the criteria and requirements specified in this Section. All applications and supporting documents shall be circulated for review by appropriate natural resource public agencies and the State Department of Geology and Mineral Industries or Oregon Division of State Lands. The Department of Transportation and Development may require additional information and changes in the plans before making a recommendation to the Hearings Officer. The Hearings Officer shall consider the application, and the Department's recommendation, under the provisions of Subsections 1301-1304 of this Ordinance.~~

822 HOME OCCUPATIONS

822.01 PURPOSE

Section 822 is adopted to:

- A. Encourage economic development in the County by promoting home occupations;
- B. Reduce vehicle miles traveled by providing opportunities for people to work from their homes;
- C. Recognize the differences between residential communities, and provide standards for home occupations consistent with these differences;
- D. Ensure the compatibility of home occupations with other uses permitted in the underlying zoning district;
- E. Maintain and preserve the character of the community and residential neighborhoods; and
- F. Mitigate noise, traffic, and other possible negative effects of home occupations.

822.02 DEFINITIONS

Unless specifically defined in Subsection 822.02, words or phrases used in Section 822 shall be interpreted to give them the same meaning as they have in common usage and to give Section 822 its most reasonable application.

- A. Abutting Properties: Properties that are contiguous to the property on which the home occupation is proposed, as well as properties directly across any access drive, or private, public, or county road, provided the functional classification of the road is below that of a collector.
- B. Accessory Space: Any building space, other than the dwelling unit, that is used for the home occupation, including, but not limited to, an attached garage, detached garage, or pole building. Accessory space does not include manufactured dwellings, residential trailers, or recreational vehicles.
- C. Employee: Any on-site person, whether they work full-time or part-time in the home occupation, including, but not limited to, the operator, partners, assistants, and any other persons participating in the operation of the home occupation.
- D. Home Occupation: An occupation or business activity which results in a product or service; is conducted, in whole or in part, in a dwelling unit and/or

an accessory building normally associated with primary uses allowed in the underlying zoning district; is conducted by at least one resident of the dwelling unit; and is clearly subordinate to the residential use of the subject property. Home occupations do not include garage sales, yard sales, holiday bazaars, or home parties which are held for the purpose of the sale or distribution of goods or services unless such sales and/or parties are held more than six times in a calendar year or operate in excess of 24 total days in a calendar year.

- E. Incidental Use: The use of no more than 25 percent of the floor area of a structure or 500 square feet, whichever is less.
- F. Operator: The person who conducts the home occupation, has majority ownership interest in the home occupation, lives full-time in a dwelling unit on the subject property, and is responsible for strategic decisions and day-to-day operations of the home occupation.
- G. Property: A lot of record.
- H. Vehicle: Any motorized or non-motorized transportation equipment intended for use on public roads and associated with the home occupation, including, but not limited to, a car, van, pickup, motorcycle, truck, detached trailer, or a truck tractor with no more than one trailer. An exception may be made for a detached trailer or trailers, which may be categorized as equipment if stored within an enclosed building approved for this use through a home occupation permit. Accessory space utilized for storage of a trailer shall be included in the calculation of total accessory space approved for the home occupation.
- I. Vehicle Trip: A vehicular movement either to or from the subject property by any vehicle used in the home occupation, any delivery vehicle associated with the home occupation, or any customer or client vehicle.

822.03 LEVEL ONE MINOR HOME OCCUPATION

No land use permit is required for a Level 1 Minor Home Occupation, which shall comply with the following standards:

- A. Employees: No persons other than residents of the dwelling unit in which the home occupation is located shall be employees of the home occupation.
- B. Building Space: The home occupation shall be conducted in a dwelling unit, but is limited to incidental use thereof. In addition, incidental use of accessory space is allowed for storage purposes only.
- C. Noise, Vibration, Glare, Fumes, and Odors: The home occupation shall not create noise, vibration, glare, fumes, or odors detectable to normal sensory

perception off the subject property. Vehicles entering or exiting the subject property shall be exempt from this standard, but idling vehicles shall not.

- D. Electrical Interference: The home occupation shall not create visual or audible electrical interference in any radio, television, or other electronic device off the subject property, or cause fluctuations in line voltage off the subject property.
- E. Storage and Display: No outside storage, display of goods or merchandise visible from outside an enclosed building space, or other external evidence of the home occupation shall occur, except as specifically allowed by Subsection 822.03. Notwithstanding this provision, business logos flush-mounted on vehicles used in the daily operations of the home occupation are allowed.
- F. Signs: Signs shall be permitted pursuant to Section 1010.
- G. Traffic: The home occupation shall not generate more than 10 vehicle trips per day.
- H. Parking: Parking associated with the home occupation shall be regulated as follows:
 - 1. Vehicles associated with the home occupation shall not be stored, parked, or repaired on public rights-of-way.
 - 2. The maximum number of customer or client vehicles that are associated with the home occupation and located on the subject property shall not exceed two at any time.
 - 3. The home occupation shall not involve the use, parking, storage, or repair of any vehicle exceeding a gross vehicle weight of 11,000 pounds, except deliveries by parcel post, United Parcel Service, or similar in-town delivery service trucks. Parcel post, United Parcel Service, or similar in-town delivery services shall be limited to no more than one delivery per day.
 - 4. Two parking spaces for customers/clients shall be provided in defined areas of the subject property. Such areas shall be accessible, usable, designed, and surfaced for parking. The minimum parking space requirement for the home occupation shall be in addition to the parking required for other permitted uses on the subject property.

822.04 LEVEL TWO MAJOR HOME OCCUPATION

~~The Planning Director may approve a~~ A Level Two Major Home Occupation requires review as a Type II application; pursuant to Section 1307~~Subsection 1305.02~~, and

~~shall be subject to if the applicant provides evidence substantiating compliance with~~
the following standards and criteria:

- A. Location: The home occupation shall be located on a property where the majority of abutting properties are equal to or less than two acres. A renewal application shall be evaluated on the basis of the parcel size analysis first applied to the home occupation.
- B. Operator: The operator of the home occupation shall reside in a dwelling unit on the subject property.
- C. Employees: The home occupation shall have no more than five employees.
- D. Building Space: The home occupation may be conducted in a dwelling unit, but—except in the case of a bed and breakfast homestay—is limited to incidental use thereof. A maximum of 500 square feet of accessory space may be used for the home occupation. If only a portion of an accessory building is authorized for use in the home occupation, a partition wall at least seven feet in height, or a height as required by the County Building Codes Division, whichever is greater, shall separate the home occupation space from the remainder of the building. A partition wall may include a door, capable of being closed, for ingress and egress between the home occupation space and the remainder of the building.
- E. Noise: Noise shall be regulated as follows:
 - 1. From 8:00 a.m. until 6:00 p.m., the average peak sound pressure level, when measured off the subject property, of noise created by the home occupation shall not exceed the greater of 60 dB(A) or the ambient noise level. During all other hours, the home occupation shall not create noise detectable to normal sensory perception off the subject property.
 - a. Noise generated by vehicles entering or exiting the subject property, but not by idling vehicles, shall be exempt from Subsection 822.04(E)(1).
 - b. Subsection 822.04(E)(1) shall not apply to noise detectable on public rights-of-way and railroad rights-of-way.
 - 2. A noise study may be required to demonstrate compliance with Subsection 822.04(E)(1). If a noise study is required, measurements shall be made with a sound level meter. The sound level meter shall be an instrument in good operating condition, meeting the requirements of a Type I or Type II meter, as specified in ANSI Standard 1.4-1971. The sound level meter shall contain at least an A-weighted scale, and both fast and slow meter response capability. Personnel making measurements shall have completed training in the use of the sound level meter, and measurement procedures consistent with that training shall be followed.

- F. Vibration, Glare, Fumes, and Odors: The home occupation shall not create vibration, glare, fumes, or odors detectable to normal sensory perception off the subject property. Vehicles entering or exiting the subject property shall be exempt from this standard, but idling vehicles shall not.
- G. Electrical Interference: The home occupation shall not create visual or audible electrical interference in any radio, television, or other electronic device off the subject property, or cause fluctuations in line voltage off the subject property.
- H. Storage and Display: No outside storage, display of goods or merchandise visible from outside an enclosed building space, or external evidence of the home occupation shall occur, except as specifically allowed by Subsection 822.04. Notwithstanding this provision, business logos flush-mounted on vehicles used in the daily operations of the home occupation are allowed.
- I. Signs: Signs shall be permitted pursuant to Section 1010.
- J. Traffic: The home occupation shall not generate more than 20 vehicle trips per day.
- K. Parking: Parking associated with the home occupation shall be regulated as follows:
1. Vehicles associated with the home occupation shall not be stored, parked, or repaired on public rights-of-way.
 2. The maximum number of vehicles that are associated with the home occupation and located on the subject property shall not exceed four at any time, including, but not limited to, employee vehicles and customer/client vehicles.
 3. The home occupation shall not involve the use, parking, storage, or repair of any vehicle exceeding a gross vehicle weight of 11,000 pounds, except deliveries by parcel post, United Parcel Service, or similar in-town delivery service trucks.
 4. Parking spaces needed for employees or customers/clients of the home occupation shall be provided in defined areas of the subject property. Such areas shall be accessible, usable, designed, and surfaced for parking. Parking for the home occupation may be required to comply with Americans with Disabilities Act requirements, as determined by the County Building Codes Division.
- L. Change of Occupancy Classification: If the home occupation will alter the occupancy classification of an existing structure as determined by the County Building Codes Division, then the structure shall be made to conform with the current edition of the Oregon Structural Specialty Code or the Oregon

Residential Specialty Code and the requirements of the State Fire Marshal or the local fire district.

- M. Prohibited Uses: The following uses shall be prohibited as a home occupation:
1. Repair of motorized vehicles and equipment, including the painting or repair of automobiles, trucks, trailers, or boats;
 2. Towing and vehicle storage business;
 3. Any other use that requires a structure to be upgraded to a more restrictive use, under the current edition of the Oregon Structural Specialty Code, than an automobile repair shop with open flame; and
 4. Hazardous materials on the subject property in quantities greater than those normally associated with the primary uses allowed in the underlying zoning district, or in quantities greater than those exempt amounts allowed by the current edition of the Oregon Structural Specialty Code, whichever is less.
- N. Access: The subject property shall have frontage on, and direct access from, a constructed public, county, or state road, or take access on an exclusive road or easement serving only the subject property. If property takes access via a private road or easement which also serves other properties, evidence must be provided by the applicant, in the form of a petition, that all other property owners who have access rights to the private road or easement agree to allow the specific home occupation described in the application. Such evidence shall include any conditions stipulated in the agreement. A new petition shall not be required for a renewal application.
- O. If the subject property is located in an EFU, TBR, or AG/F zoning district, only structures otherwise allowed in the zoning district shall be used in the operation of the home occupation.

822.05 LEVEL THREE MAJOR HOME OCCUPATION

~~The Planning Director may approve a~~ A Level Three Major Home Occupation, ~~requires review as a Type II application pursuant to Section 1307 Subsection 1305.02, and shall be subject to if the applicant provides evidence substantiating compliance with~~ the following standards and criteria:

- A. Location: The home occupation shall be located on a property where a minimum of 50 percent of abutting properties are greater than two acres. A renewal application shall be evaluated on the basis of the parcel size analysis first applied to the home occupation.

- B. Operator: The operator of the home occupation shall reside in a dwelling unit on the subject property.
- C. Employees: The home occupation shall have no more than five employees.
- D. Building Space: The home occupation may be conducted in a dwelling unit, but—except in the case of a bed and breakfast homestay—is limited to incidental use thereof. A maximum of 1,500 square feet of accessory space may be used for the home occupation. If only a portion of an accessory building is authorized for use in the home occupation, a partition wall at least seven feet in height, or a height as required by the County Building Codes Division, whichever is greater, shall separate the home occupation space from the remainder of the building. A partition wall may include a door, capable of being closed, for ingress and egress between the home occupation space and the remainder of the building.
- E. Noise: Noise shall be regulated as follows:
1. From 8:00 a.m. until 6:00 p.m., the average peak sound pressure level, when measured off the subject property, of noise created by the home occupation shall not exceed the greater of 60 dB(A) or the ambient noise level. During all other hours, the home occupation shall not create noise that is detectable to normal sensory perception off the subject property.
 - a. Noise generated by vehicles entering or exiting the subject property, but not by idling vehicles, shall be exempt from Subsection 822.05(E)(1).
 - b. Subsection 822.05(E)(1) shall not apply to noise detectable on public rights-of-way and railroad rights-of-way.
 2. A noise study may be required to demonstrate compliance with the noise standards. If a noise study is required, measurements shall be made with a sound level meter. The sound level meter shall be an instrument in good operating condition, meeting the requirements of a Type I or Type II meter, as specified in ANSI Standard 1.4-1971. The sound level meter shall contain at least an A-weighted scale, and both fast and slow meter response capability. Personnel making measurements shall have completed training in the use of the sound level meter, and measurement procedures consistent with that training shall be followed.
- F. Vibration, Glare, Fumes, and Odors: The home occupation shall not create vibration, glare, fumes, or odors detectable to normal sensory perception off the subject property. Vehicles entering or exiting the subject property shall be exempt from this standard, but idling vehicles shall not.
- G. Electrical Interference: The home occupation shall not create visual or audible electrical interference in any radio, television, or other electronic

device off the subject property, or cause fluctuations in line voltage off the subject property.

- H. Storage and Display: No outside storage, display of goods or merchandise visible from outside an enclosed building space, or external evidence of the home occupation shall occur, except as specifically allowed by Subsection 822.05. Notwithstanding this provision, business logos flush-mounted on vehicles used in the daily operations of the home occupation are allowed.
- I. Signs: Signs shall be permitted pursuant to Section 1010.
- J. Traffic: The home occupation shall not generate more than 30 vehicle trips per day.
- K. Parking: Parking associated with the home occupation shall be regulated as follows:
 - 1. Vehicles associated with the home occupation shall not be stored, parked, or repaired on public rights-of-way.
 - 2. The maximum number of vehicles that are associated with the home occupation and located on the subject property shall not exceed five at any time, including, but not limited to, employee vehicles, customer/client vehicles, and vehicles to be repaired. Vehicles to be repaired shall be located within an enclosed building or in an area not visible from off the subject property.
 - 3. No more than one of the five vehicles permitted to be located on the subject property at one time shall exceed a gross vehicle weight of 11,000 pounds.
 - 4. Parking spaces needed for employees or customers/clients of the home occupation shall be provided in defined areas of the subject property. Such areas shall be accessible, usable, designed, and surfaced for parking. Parking for the home occupation may be required to comply with Americans with Disabilities Act requirements, as determined by the County Building Codes Division.
- L. Change of Occupancy Classification: If the home occupation will alter the occupancy classification of an existing structure as determined by the County Building Codes Division, then the structure shall be made to conform with the current edition of the Oregon Structural Specialty Code or the Oregon Residential Specialty Code and the requirements of the State Fire Marshal or the local fire district.
- M. Prohibited Uses: The following uses shall be prohibited as a home occupation:

1. Any use that requires a structure to be upgraded to a more restrictive use, under the current edition of the Oregon Structural Specialty Code, than aircraft engine repair; and
 2. Hazardous materials on the subject property in quantities greater than those normally associated with the primary uses allowed in the underlying zoning district, or in quantities greater than those exempt amounts allowed by the current edition of the Oregon Structural Specialty Code, whichever is less.
- N. Access: The subject property shall have frontage on, and direct access from, a constructed public, county, or state road, or take access on an exclusive road or easement serving only the subject property. If property takes access via a private road or easement which also serves other properties, evidence must be provided by the applicant, in the form of a petition, that all other property owners who have access rights to the private road or easement agree to allow the specific home occupation described in the application. Such evidence shall include any conditions stipulated in the agreement. A new petition shall not be required for a renewal application.
- O. If the subject property is located in an EFU, TBR, or AG/F zoning district, only structures otherwise allowed in the zoning district shall be used in the operation of the home occupation.

822.06 EXCEPTIONS

- A. ~~The Hearings Officer may approve a Level Two or Level Three Major Home Occupation that includes A~~ an exception to any of the standards identified in Subsections 822.04(C) through (M) or 822.05(C) through (M) requires review as a Type III application; pursuant to Section ~~1307+300~~, and shall be subject to if the applicant provides evidence substantiating the following standards and criteria:
1. The subject property shall ~~takes~~ direct vehicular access to a road with a functional classification of collector, minor or major arterial, or freeway/expressway as identified on Comprehensive Plan Map 5-4a, *Road Functional Classification, Urban*, or 5-4b, *Road Functional Classification, Rural*.
 2. The use shall ~~remains~~ compatible with the area. The following factors shall be considered when determining if a use is compatible with the area:
 - a. The number of standards identified in Subsections 822.04(C) through (M) or 822.05(C) through (M) that will be exceeded; it is presumed that the more standards exceeded, the more difficult it will be to demonstrate compatibility;

- b. The character of the neighborhood, including such factors as the presence of other similar uses, proximity of other dwellings, the level of surrounding traffic, the size of accessory buildings, background noise levels, and other outside storage uses;
 - c. The ability to mitigate impacts by screening, landscaping, building location, building design, and other property improvements (for example, driveway or road improvements);
 - d. Potential environmental impacts, including effects on air and water quality; and
 - e. Provision of adequate and safe access to public, County, or state roads.
3. Services adequate to serve the proposed use ~~shall be~~ available, including transportation, public facilities, and other services existing or planned for the area affected by the use. At a minimum, compliance with Subsections 1006.02(F), 1006.06(B), and 1006.08(C) (except as set forth in Subsection 1006.09), and 1007.09 is required.
- B. Notwithstanding Subsection 822.06(A):
- 1. Maximum accessory space for the home occupation shall not exceed 3,000 square feet; and
 - 2. If the subject property is in an EFU, TBR, or AG/F zoning district, the number of employees shall not exceed five.
- ~~C. A preapplication conference is required, pursuant to Subsection 1301.04, prior to the filing of an application for a home occupation under Subsection 822.06.~~

822.07 PREEXISTING HOME OCCUPATIONS

Home occupations legally established prior to April 22, 2010, which complied with all provisions of this Ordinance then in effect, including appropriate permits if required, are exempt from the requirements of Section 822. Those preexisting home occupations that were subject to annual permit review shall be reviewed for compliance with the standards in effect at the time of their establishment, on the same schedule as home occupations established under the current provisions of Section 822. Home occupations established prior to the requirement for permit application and review are not subject to automatic review, but must continue to comply with the standards in effect at the time of their establishment. Preexisting home occupations may not be transferred to another operator or be enlarged without satisfying all the requirements of Section 822.

822.08 APPROVAL PERIOD AND RENEWALS

- A. A major home occupation permit is valid for three years from the date of the final written decision. If the County's final written decision is appealed, the approval period shall commence on the date of the final appellate decision.
- B. A major home occupation permit may be renewed an unlimited number of times. Renewals also shall be valid for three years from the date of the final written decision. If the County's final written decision is appealed, the approval period shall commence on the date of the final appellate decision.
- C. A renewal~~Renewals~~ of a major home occupation permit, including one for a home occupation with one or more previously approved exceptions under Subsection 822.06, ~~requires~~shall be review as a Type II application reviewed by the Planning Director pursuant to Section 1307~~Subsection 1305.02~~. However, if the renewal application includes a request for an exception not approved under the prior home occupation permit, the renewal ~~requires~~shall be review as a Type III application reviewed by the Hearings Officer pursuant to Section 1307~~1300~~.

[Amended by Ord. ZDO-224, 5/31/11; Amended by Ord. ZDO-230, 9/26/11; Amended by Ord. ZDO-246, 3/1/14]

829 HYDROELECTRIC FACILITIES

829.01 PURPOSE

~~This~~ Section 829 is adopted to provide for the production of electricity by hydroelectric facilities in a manner which is consistent with the preservation and protection of the natural resources, recreational resources, natural features, and water quality in the river and stream corridors of the County.

829.02 ~~APPLICABILITY AREA OF APPLICATION~~

~~Section 829 applies to All hydroelectric facilities shall be subject to the provisions of this Section.~~

~~A. Over 25,000 Kilowatts: Facilities with a nominal electric generating capacity of more than 25,000 kilowatts shall be subject to Hearings Officer review under the provisions of Section 1300, unless this process is superseded by a joint State and County Public Hearing.~~

~~B. 25,000 or less Kilowatts: Facilities with a nominal electric generating capacity over 100 theoretical horsepower, (See Administrative rules, Water Resources Dept.), up to 25,000 kilowatts, shall be subject to Hearings Officer review under the provisions of Section 1300.~~

~~C. 100 theoretical horsepower or less: All facilities with a nominal electric generating capacity of 100 theoretical horsepower or less shall be subject to staff review with notice given pursuant to provisions of subsection 1305.02, and to any person or group that requests such notices and, if requested, pays a reasonable fee therefore.~~

829.03 OTHER COUNTY PERMITS REQUIRED

A. Flood Hazard Permit: All facilities proposed within a floodplain area shall be subject to ~~the provisions and review procedures under~~ Section 703.

B. Principal River Conservation Area: All facilities located on, or within a quarter mile of, the Clackamas, Sandy/Salmon, Molalla/Pudding, and Tualatin River corridors as identified on Comprehensive Plan Maps III-1a, *Principal River Conservation Area Clackamas River Design Plan*, III-1b, *Principal River Conservation Area Sandy-Salmon River Design Plan*, III-1c, *Principal River Conservation Area Molalla River Design Plan*, and III-1d, *Principal River Conservation Area Tualatin River Design Plan*, shall be subject to ~~the provisions of~~ Section 704.

C. Willamette River Greenway: All facilities located within the Willamette River Greenway shall be subject to ~~the provisions of~~ Section 705.

829.04 CONDITIONAL STANDARDS

A. Oregon Administrative Rules:

1. All facilities over 25,000 kilowatts shall be reviewed under Oregon Administrative Rules (OAR) 690-74-005 through 690-74-095 adopted to achieve the purposes set out in Oregon Revised Statutes 536.220 and 536.310, and adopted basin programs.
2. All other facilities shall satisfy the provisions under those sections of the rules covering environmental and socioeconomic impacts (OAR 690-74-020 through 690-74-075). However, if the applicant can prove that the interests protected by requiring a certain finding are not present in the circumstances involved in the application, that finding need not be made.

B. Development Standards: All facilities, and associated construction and installation procedures, shall be subject to the applicable provisions of this Ordinance for:

1. Protection of natural features, under Section 1002;
2. Hazards under Section 1003;
3. Historic protection under Section 1004;
4. Utility lines and facilities, under Section 1006;
5. Storm drainage, under Section 1008;
6. Erosion control, revegetation, and screening, under Subsections 1009.05 and 1009.027; and
7. Open Space protection, under Section 1011, except that no hydroelectric facility development shall occur in, nor shall any such development be allowed where it may produce significant adverse impacts on, Significant Natural Areas or Wetlands, as identified in the Comprehensive Plan and supporting inventories and documents.

C. Stream Flows: At all times during the operation of the project the use of water, or diversion thereof, shall not interfere with the maintenance of pre-project fish population levels in the stream or river utilized by the project. Minimum stream flow standards to satisfy this provision shall be established as follows:

1. If the State or Federal agency licensing the particular facility establishes, as a condition of approval, minimum stream flow for the project, maintenance of such flow shall be a condition of the County permit.
2. If no minimum stream flow requirements are established under Subsection 829.04(C)(1), the County shall:

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- a. Establish minimum stream flow requirements based upon the best available information from the State Departments of Fish and Wildlife, and Water Resources, or County, State, or Federal agencies, or other sources, with expertise to evaluate the stream flow requirements; and
 - b. Require maintenance thereof as a condition of approval.
- D. Noise: All noise standards of the Department of Environmental Quality shall be satisfied.
- E. Bonding: The County may require the posting of a bond to assure compliance with the provisions of this Ordinance and any conditions of approval imposed by the County.

~~829.05 SUBMITTAL REQUIREMENTS~~

~~Applications for hydroelectric facilities shall include all information necessary to demonstrate that the applicable conditional standards are satisfied, including a description of required measures to mitigate anticipated negative impacts.~~

[Amended by Ord. ZDO-224, 5/31/11]

830 UTILITY CARRIER CABINETS

830.01 STANDARDS FOR OFFSITE SERVICE FACILITIES

A. Size Limits:

1. Within the Urban Growth Boundary - The combined volume of all utility carrier cabinet equipment located on a lot shall not exceed 40 cubic feet. The combined volume for the urban commercial and industrial areas shall not exceed 200 cubic feet.
2. Outside the Urban Growth Boundary - The combined volume of all utility carrier cabinet equipment located on a lot shall not exceed 250 cubic feet.
3. Additional cubic feet of equipment on a lot shall be subject to a Conditional Use permit review under Section 1203-~~and 1300~~.

B. Height Limits: The maximum height limit shall be ~~five~~5 feet.

C. Utility carrier cabinets may be located in the right-of-way or within the required setback area of the underlying district.

D. Utility companies shall clearly identify their carrier cabinets and provide an emergency telephone number where accidents or public safety concerns may be reported.

E. Within the Urban Growth Boundary, carrier cabinets shall be designed, screened, or landscaped to blend with the development on the same or adjacent lot.

[Amended by Ord. ZDO-224, 5/31/11]

835 WIRELESS TELECOMMUNICATION FACILITIES

835.01 PURPOSE

- A. This section is intended to bring this ordinance into compliance with the Federal Telecommunications Act of 1996;
- B. Enhance the provision of communication services to county residents, businesses and visitors;
- C. Protect the visual character of the county from the potential adverse effects of wireless communications facilities development;
- D. Encourage collocation of facilities to minimize the number of new facilities; and
- E. Ensure structural safety.

835.02 APPLICABILITY

All wireless telecommunication facilities are subject to the standards of this section, with the following exceptions:

- A. Existing wireless telecommunication facilities. Collocation on existing wireless telecommunication facilities is subject to the provisions of this section;
- B. Amateur (Ham) radio towers, citizen band transmitters and antennas;
- C. Wireless telecommunication facilities located in the Exclusive Farm Use District when the wireless telecommunication tower is less than or equal to 200 feet tall; and
- D. Towers located on lands wholly owned by any branch of the United States government.

835.03 DEFINITIONS

- A. Abandonment: Wireless telecommunication facilities will be considered abandoned when there has not been a carrier licensed or recognized by the Federal Communications Commission operating on the facility for a period of one year (365 consecutive days).
- B. Antenna: A transmitting or receiving device used in telecommunications that radiates or captures electromagnetic waves, including, but not limited to, directional antennas, such as panel and microwave dish antennas, and omni-directional antennas, such as whips.

- C. Collocation: The use of a single support structure by more than one wireless telecommunications provider.
- D. Essential Public Communication Services: Police, fire and other emergency communications networks.
- E. Equipment Shelter: A structure that houses power lines, cable, connectors and other equipment ancillary to the transmission and reception of telecommunications.
- F. Existing Wireless Telecommunication Facility: A wireless telecommunications tower, or other supporting structure, antenna and equipment structures that received land use approval prior to 3/14/02.
- G. Support Structure: A wireless telecommunication tower, building, or other structure that supports an antenna used for wireless telecommunications.
- H. Wireless Telecommunication Facility: An unmanned facility for the transmission of radio frequency (RF) signals, consisting of an equipment shelter, cabinet or other enclosed structure containing electronic equipment, a support structure, antennas or other transmission and reception devices.

Freestanding point-to-point microwave dishes, high power television and FM transmission facilities and AM facilities are not wireless telecommunication facilities.

- I. Wireless Telecommunication Tower: A freestanding support structure, including monopole and lattice tower, designed and constructed primarily to support antennas and transmitting and receiving equipment. Wireless telecommunication towers include:
 - 1. Lattice tower: A tower characterized by an open framework of lateral cross members which stabilize the tower; and
 - 2. Monopole: A single upright pole, engineered to be self-supporting, that does not require guy wires or lateral cross supports.
- J. Wireless Telecommunication Tower Height: The distance from the finished grade at the antenna tower base to the highest point of the tower, including the base pad, mounting structures and panel antennas, but not including lightning rods and whip antennas.

835.04 PRIMARY USES

- A. Collocation of antennas on a previously approved wireless telecommunication facility, provided:

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1. Collocation proposals involving an existing wireless telecommunication facility must have an approved and implemented landscaping plan that is in compliance with Subsection 835.08(G);
 2. No increase in the height of the existing wireless telecommunication support structure is proposed;
 3. The proposed collocated antennas are no more than 20 feet higher than the existing support structure;
 4. All aspects of the collocation improvements must be located within the previously approved fenced (lease) area;
 5. The collocation improvements must satisfy the development standards for the underlying zone;
 6. The collocation may not involve the removal of any previously approved landscaping/buffering;
 7. The collocation does not propose the location of antennas on a wireless telecommunication tower within an urban residential zoning district, to include the Future Urbanizable (FU-10) 10 Acre District; and
 8. Collocations in commercial and industrial zones are not subject to Section 1102 (Design Review).
- B. Use of existing utility poles (electric, cable, telephone, etc.), within a public right-of-way, for the placement of wireless telecommunication facilities, provided the following requirements are satisfied:
1. If it is necessary to replace the existing pole with a pole that is suitable for wireless communication, the new pole shall be no taller than the pole that is being replaced; and
 2. Equipment shelters shall be consistent with Section 830, located on the pole and within the public right-of-way.
- C. Essential Public Communication Services. When these facilities are proposed in commercial, industrial, or multifamily zoning districts, they are subject to ~~the~~ Section 1102, *(Design Review)*.

835.05 USES SUBJECT TO TYPE II REVIEW ~~BY THE PLANNING DIRECTOR~~

- A. ~~Each of the~~The following uses shall require review as a Type II application may be approved by the Planning Director pursuant to Section 1307 Subsection 1305.02. These uses shall be subject to when the applicant demonstrates compliance with Subsections 835.08 and 835.09 and Section

1000. Uses authorized under Subsection 835.05(A)(1) are also subject to Subsection 835.07.

1. Wireless telecommunication facilities on lands located within commercial and industrial zoning districts, except the Neighborhood Commercial zone;
2. Collocation of facilities that exceed the limitations identified in Subsection 835.04(A). Collocations in commercial or industrial zones are not subject to Section 1102, ~~(Design Review)~~; and
3. The use of a replacement utility pole (electric, cable, telephone, etc.), within a public right-of-way, for the placement of wireless telecommunication facilities when the height of the replacement pole exceeds the height of the pole being replaced by no more than 20 feet.

835.06 CONDITIONAL USES

- A. The following are conditional uses, approval of which is subject to ~~may be approved by the Hearings Officer when the applicant demonstrates compliance with~~ Subsections 835.07, 835.08, and 835.09 and Sections 1000 and 1203:
 1. Wireless telecommunication facilities proposed in the Village Community Service District or on sites with a Comprehensive Plan designation of Residential, Unincorporated Community Residential, Rural, or Forest; and
 2. Wireless telecommunication facilities in the Exclusive Farm Use District that include a tower over 200 feet in height.
- B. ~~The Hearings Officer may require~~ The applicant may be required to provide information about possible alternate locations on the tract. ~~The Hearings Officer may require~~ Placement of the tower in an alternate location on the tract may be required, if the Hearings Officer finds that the alternate location would result in greater compliance with the criteria in Section 1203 than the proposed site. In order to avoid relocating the proposed facility, the applicant must demonstrate that the necessary service cannot reasonably be provided from the alternate location.

835.07 COLLOCATION

No new tower will be permitted under the provisions of Subsections 835.05(A)(1) or 835.06 unless the applicant demonstrates ~~to the satisfaction of the Planning Director or Hearings Officer, as applicable,~~ that no existing tower or support structure can accommodate the applicant's proposed antenna. All proposals for new wireless telecommunication facilities must be accompanied by a statement from a qualified person, ~~as determined by the Planning Director or Hearings Officer,~~ that the

necessary service cannot be provided by collocation for one or more of the following reasons:

- A. No existing towers or support structures, or approved but not yet constructed towers or support structures, are located within the geographic area required to meet the applicant's engineering requirements;
- B. Existing towers or support structures are not of sufficient height to meet the applicant's engineering requirements;
- C. Existing towers or support structures do not have sufficient structural strength to support the applicant's proposed antenna and related equipment;
- D. The applicant's proposed antenna would cause electromagnetic interference with the antenna on the existing tower or support structure, or the existing antenna would cause interference with the applicant's proposed antenna; or
- E. The applicant demonstrates that there are other limiting factors that render existing towers and support structures unsuitable.

835.08 CONDITIONAL STANDARDS

- A. All wireless telecommunication towers proposed for location within the Portland metropolitan area urban growth boundary shall be of monopole type construction.
- B. All new wireless telecommunication towers shall be designed and built to accommodate collocation or additional loading. For the purposes of this provision, this means that the tower shall be designed specifically to accommodate no less than the following equipment, in addition to the applicant's proposed equipment:
 - 1. Twelve antennas with a float plate wind-loading of not less than four square feet per antenna;
 - 2. A standard mounting structure, standoff arms, platform or other similar structure designed to hold the antennas;
 - 3. Cable ports at the base and antenna levels of the tower; and
 - 4. Sufficient room within or on the tower for 12 runs of 7/8" coaxial cable from the base of the tower to the antennas.
- C. Wireless telecommunication towers shall be painted or coated in a manner that blends with the surrounding area. The finished coloring shall result in a non-reflective surface that makes the tower as visually unobtrusive as possible, unless state or federal regulations require different colors. Colors will be determined through the Design Review process.

- D. Equipment shelters may be painted or coated with a finish that best suits the operational needs of the facility, including the ability to reflect heat and to resist accumulations of dirt. Colors will be determined through the Design Review process. If, through the Design Review process, it is determined that there is a conflict between acceptable colors and the operational needs of the facility, Design Review may require the use of architectural screen panels.
- E. No lighting shall be permitted on a tower, except as required by state or federal regulations. If required, the light shall be shielded or deflected from the ground and other properties, to the extent practicable.
- F. The wireless telecommunication facility shall be located within an area that is enclosed on all sides. The enclosure must be at least six feet tall and sight obscuring.
- G. Landscaping shall be placed outside of the enclosed area and shall consist of the following:
 - 1. A combination of landscaping materials that includes ground cover, shrubs and trees that are reflective of the natural surrounding vegetation in the area, as determined through the Design Review process;
 - 2. Existing landscaping/vegetation may be used to satisfy the above requirements;
 - 3. Through the Design Review process, applications shall be reviewed for consistency with Subsection 1009.08; and
 - 4. In cases where a portion of the wireless telecommunication facility is screened from points off-site by a building that is at least eight feet tall, the landscaping requirements of this subsection will not be required for the screened area.
- H. Applications reviewed under Subsections 835.05(A)(1) and (3) and 835.06 are subject to Section 1102, ~~(Design Review)~~.
- I. Equipment shelters shall be entirely enclosed. Equipment shelter exterior materials shall be those approved through the Design Review process.
- J. Noise generated by the wireless telecommunication facility shall not exceed the levels established by the State of Oregon, Department of Environmental Quality (DEQ). If properties adjacent to the property upon which the wireless telecommunication facility is proposed have a lower DEQ standard than the proposed site, the lower standard shall be applicable.
- K. Maintenance of the lease area is the responsibility of the owner/operator of the wireless telecommunication facility. The owner operator shall prevent the facility from entering into a state of disrepair due to negligence, vandalism,

natural hazard, or any other source. This requirement places the responsibility for maintenance on the owner/operator and is, otherwise, consistent with the requirements of Subsection 1102.06.

835.09 DIMENSIONAL STANDARDS.

- A. Lands within the Portland metropolitan area urban growth boundary and lands zoned HR, RR, MRR and RTC:
 - 1. Wireless telecommunication tower maximum height: 100 feet.
 - 2. Minimum tower separation: 1000 feet.
 - 3. Setbacks: Must satisfy setbacks of the zone. Additionally, the wireless telecommunication tower shall be set back a distance not less than its height from all property lines.
- B. Lands with a Comprehensive Plan designation of Unincorporated Community Residential, Rural Commercial, Rural Industrial, or Rural (except lands zoned RR):
 - 1. Wireless telecommunication tower maximum height: 150 feet.
 - 2. Minimum tower separation: 2000 feet.
 - 3. Setbacks: Same as 835.09(A)(3).
- C. Lands with a Comprehensive Plan designation of Forest or Agriculture:
 - 1. Wireless telecommunication tower maximum height: 250 feet.
 - 2. Minimum tower separation: 2640 feet.
 - 3. Setbacks: Same as 835.09(A)(3).

835.10 SUBMITTAL REQUIREMENTS

- A. Uses authorized under Subsection 835.04 ~~(Primary Uses)~~:
 - 1. Building permit application accompanied by information demonstrating compliance with Subsections 835.04(A)(1) through (6) or (B)(1) and (2).
- B. Uses reviewed under Subsection 835.05 ~~(Uses Subject to Review by the Planning Director)~~:
 - 1. The submittal requirements identified in Subsection 1307.07(C) Planning Division land use application form;
 - 2. ~~Planning Division supplemental application form;~~

~~3.2.~~A site plan, drawn to scale, that includes:

- a. existing and proposed improvements;
- b. adjacent roads;
- c. parking, circulation and access;
- d. areas of existing and proposed vegetation to be added, retained, replaced, or removed; and
- e. setbacks from property lines of all existing and proposed structures. If an adjustment is requested, the plan must identify the distance from the wireless telecommunication tower to dwellings and other structures off-site that are within a distance not less than the height of the tower from the proposed location of the tower.

Plans that have been reduced, but have not had their scale adjusted, will not be accepted as satisfying this submittal requirement;

~~4.3.~~A vicinity map showing adjacent properties, land uses, zoning and roadways within 500 feet of the proposed antenna site;

~~5.4.~~Elevations showing antennas, towers, equipment shelters, area enclosure and other improvements related to the facility;

~~6.5.~~Color simulations of the site after construction of the antenna for all new antennas;

~~7.6.~~An accurate graphic (map) inventory of existing wireless telecommunication facilities within one mile of the property under consideration; and

~~8.7.~~An alternatives analysis demonstrating compliance with Subsection 835.07.

- C. Uses subject to review under Subsection 835.06 ~~(Conditional Uses)~~:
1. Requirements listed under Subsections 835.10(B)(1) through ~~(78)~~; and
 2. Requirements listed in Subsection 1203.0~~34~~.

835.11 ADJUSTMENTS

- A. Adjustments to the standards of this section may be ~~approved by the Hearings Officer. The Hearings Officer may granted~~ approved by the Hearings Officer under either of the following circumstances:

1. ~~The Hearings Officer may grant an adjustment when~~ A gap in the applicant's service exists, and that gap can only be alleviated through the adjustment of one or more of the standards of this section. If an adjustment is to be approved, the applicant must demonstrate the following:
 - a. A gap in coverage or capacity exists in the wireless telecommunication provider's service network that results in network users being regularly unable to connect with the provider's network, or maintain connection;
 - b. The proposed facility will fill the existing service gap. The gap would be filled if the proposed facility would substantially reduce the frequency with which users of the network are unable to connect, or maintain connection, with the provider's network; and
 - c. The gap cannot be filled through collocation on existing facilities, or establishment of facilities that are consistent with the standards of this section on properties other than the proposed site or on the proposed site in a manner which does not require an adjustment under this subsection.

2. ~~The Hearings Officer may grant an adjustment to a standard when~~ The proposed adjustment would utilize existing site characteristics to minimize demonstrated or potential impacts on the use of surrounding properties. For the purposes of this subsection, site characteristics shall include, but need not be limited to, those identified in Subsection 1203.01(B). Applicants for an adjustment under this provision must demonstrate that the adjustment will result in a lower level of impact on surrounding properties than would be generated if the standard were not adjusted. In considering the requested adjustment, the ~~Hearings Officer may consider~~ the following may be considered:
 - a. Visual impacts;
 - b. Impacts on view;
 - c. Impacts on property values; and
 - d. Other impacts that ~~the Hearings Officer finds~~ can be mitigated by an adjustment so that greater compliance with Subsection 1203.01(D) occurs.

- B. Requests for adjustment under this subsection shall be considered part of the application to establish a wireless telecommunication facility, not a separate application. All applications that propose an adjustment ~~shall~~ must be processed as Type III applications reviewed by the Hearings Officer pursuant to Section ~~1307+300~~.

835.12 ABANDONMENT

- A. Determination of abandonment will be made by the Planning Director, who shall have the right to demand documentation from the facility owner regarding the tower or antenna use.
- B. Upon determination of abandonment, the facility owner shall have 60 calendar days to:
 - 1. Reuse the facility or transfer the facility to another owner who will reuse it within 60 calendar days of the determination of abandonment; or
 - 2. Remove the facility.
- C. If the facility is not reused within 60 calendar days of the determination of abandonment, county authorization for the use shall expire. Once authorization for the use has expired, the facility operator shall remove the facility from the property within 90 calendar days. If the facility operator does not remove the facility within 90 calendar days, the county may remove the facility at the expense of the facility operator, or, in the alternative, at the property owner's expense.

[Amended by Ord. ZDO-224, 5/31/11]

837 MOBILE VENDING UNITS

837.01 APPLICABILITY

Section 837 shall apply to mobile vending units, except mobile vending units that are part of a farmer's market. Except as set forth in Section 837, mobile vending units are exempt from Sections 1000 and 1102.

837.02 LEVEL ONE MOBILE VENDING UNITS

Except as established by Subsection 837.02, level one mobile vending units are exempt from regulation under this Ordinance. No permit to operate a level one mobile vending unit is required under this Ordinance. A level one mobile vending unit is one that complies with the following standards:

- A. The mobile vending unit shall operate on a designated route and not stop at a fixed location for more than two hours during the workday. Storage of such a unit during hours outside the workday is not regulated by Section 837, but remains subject to any other applicable provisions of this Ordinance, which may include compliance with Sections 1000 and 1102.
- B. The mobile vending unit shall be entirely self-contained with no connections to onsite utilities; no outdoor seating; and no storage outside the unit. Attachments to the mobile vending unit, such as awnings or canopies, are permitted only if they are supported entirely by the unit and do not touch the ground.

837.03 LEVEL TWO MOBILE VENDING UNITS

~~Approval of a~~ level two mobile vending unit shall require review as a Type I application pursuant to Section 1307 ~~is a ministerial action and is not subject to review as set forth in Subsection 104.01. A level two mobile vending unit permit~~ and shall be ~~approved,~~ subject to the following standards and criteria:

- A. Qualifying Site: The mobile vending unit shall be located on a developed site. A developed site is one that has previously received design review approval and where that approval has been implemented. Alternatively, if not located on a developed site, the mobile vending unit shall remain on the subject property for no more than 120 days in a calendar year. For the purpose of this standard:
 - 1. If a mobile vending unit is replaced by another, the number of days shall be calculated by adding the days spent onsite by each unit.
 - 2. If a mobile vending unit spends any portion of a day on the subject property, it shall count as one day.

- B. Maximum Number: Except as allowed under Subsection 837.02, no more than two mobile vending units may be located on a single lot of record, or on two or more lots of record that are part of a single development.
- C. Accessory Items and Structures: Portable accessory items, such as picnic tables and trash cans, are permitted. Attachments to the mobile vending unit, such as awnings or canopies, are permitted only if they are supported entirely by the unit and do not touch the ground. Neither the mobile vending unit nor any item relating to the unit shall lean against or hang from any structure or utility pole. No structure shall be attached to the mobile vending unit. New structures, such as restroom buildings, trash enclosures, and gazebos, are prohibited, except that a fence may be constructed pursuant to Subsection 837.03(Q).
- D. Accessory Storage: Except as specifically allowed by Section 837, items relating to the mobile vending unit shall be stored in, on, or under the unit.
- E. Interior Seating or Vending: Customer seating or vending inside the mobile vending unit is prohibited.
- F. Maximum Size: The mobile vending unit shall not exceed 200 square feet, measured by the outside dimensions of the unit. Attachments to the mobile vending unit, such as awnings or canopies, shall be excluded when calculating the square footage.
- G. Minimum Setbacks and Separation Distance: The mobile vending unit shall be located a minimum of:
1. Five feet from any structure or mobile vending unit;
 2. Ten feet from any front lot line, except in the Rural Tourist Commercial District in Government Camp Village, as identified on Comprehensive Plan Map X-MH-4, *Government Camp Village Plan, Land Use Plan & Boundary*, where the minimum front yard setback from a property line abutting Government Camp Loop shall be four feet, and a corner lot with frontage on Government Camp Loop shall comply with a minimum front yard setback of 10 feet from the property line abutting the other road; and
 3. Five feet from any side or rear lot line, except if such lot line abuts one of the following zoning districts, in which case the minimum shall be 15 feet: any urban or rural residential zoning district regulated by Section 300, Village Standard Lot Residential District (VR-5/7), Village Small Lot Residential District (VR-4/5), Village Townhouse District (VTH), and Village Apartment District (VA).
- H. Utilities: To the extent that utilities are desired by the applicant or required by applicable regulations, the mobile vending unit shall have self-contained utilities, or if onsite utility connections are proposed, such utilities shall be

installed underground, except where prohibited by the utility district or company. Notwithstanding this requirement:

1. If allowed by the utility district or company and any applicable Oregon Specialty Code, aboveground utility connections are permitted, when a mobile vending unit will remain on the subject property for no more than 120 days in a calendar year. For the purpose of this exception:
 - a. If a mobile vending unit is replaced by another, the number of days shall be calculated by adding the days spent onsite by each unit.
 - b. If a mobile vending unit spends any portion of a day on the subject property, it shall count as one day.
 2. If allowed by the utility district or company and the Oregon Electrical Specialty Code, aboveground power cords are permitted to connect the mobile vending unit to an approved electricity source.
 3. If allowed by the utility district or company and the Oregon Plumbing Specialty Code, aboveground hoses are permitted to connect the mobile vending unit to an approved water source.
- I. Portable Sanitation Facilities: Portable toilets are prohibited. Portable hand-washing facilities are permitted but may not drain to the surface.
- J. Sewage Disposal: Inside the Portland Metropolitan Urban Growth Boundary (UGB) and the Mount Hood urban area, subsurface sewage disposal is prohibited unless allowed by Subsection 1006.07(B).
- K. Obstruction of Vehicular and Pedestrian Use Areas: Neither the mobile vending unit nor any elements associated with the mobile vending unit, such as aboveground power cords, seating areas, trash receptacles, signs, and customer queuing areas, shall occupy bicycle parking spaces, loading areas, driveways, onsite circulation drives, parking lot aisles, or walkways. However, occupying existing onsite automobile parking spaces is permitted, provided that such spaces are not simultaneously used for parking.
- L. Setback from Vehicular and Pedestrian Use Areas: Windows and doors used for service to customers shall be located a minimum of 10 feet from loading areas, driveways, onsite circulation drives, and parking lot aisles, and a minimum of five feet from bicycle parking spaces and walkways.
- M. Driveway Access: No new or modified driveway access is permitted.
- N. Intersection Sight Distance and Roadside Clear Zones: The mobile vending unit and any attachments or accessory items shall comply with the intersection sight distance and roadside clear zone standards of the Clackamas County Roadway Standards.

- O. Surfacing: Inside the UGB, the mobile vending unit shall be placed on an existing hard-surfaced area, and any associated parking, loading, and maneuvering areas for vehicles shall be on existing hard-surfaced areas, unless a permeable parking, loading, or maneuvering area surface was authorized as part of a previously implemented design review approval for the site. Outside the UGB, the mobile vending unit shall be placed on an area surfaced with screened gravel or better, and any associated parking, loading, and maneuvering areas for vehicles shall be surfaced with screened gravel or better.
- P. Drive-thru Service: Drive-thru service is prohibited.
- Q. Screening: If the mobile vending unit is located less than 20 feet from one of the following zoning districts, the unit shall be screened from the lot line abutting that zoning district: any zoning district regulated by Section 300, VR-5/7, VR-4/5, VTH, and VA. Required screening:
 - 1. May be provided by an existing structure, a fence, or a hedge;
 - 2. Shall be sight-obscuring; and
 - 3. Shall have a minimum height of six feet.
- R. Obstruction of Existing Landscaping: The mobile vending unit shall not occupy landscaping areas approved as part of a prior design review or other land use application. Other elements associated with the mobile vending unit, such as seating areas, also shall not occupy such landscaping areas, unless such elements are permitted as pedestrian amenities under Subsection 1009.03(G).
- S. Signs: Signs are permitted pursuant to Section 1010.
- T. Trash Receptacle: A trash receptacle for customer use shall be maintained no more than 10 feet from the mobile vending unit.
- U. Skirting: Skirting shall be placed around the perimeter of the mobile vending unit.

837.04 LEVEL THREE MOBILE VENDING UNITS

~~The Planning Director may approve~~ A a level three mobile vending unit shall require review as a Type II application, pursuant to Section 1307~~Subsection 1305.02~~, if the applicant provides evidence substantiating and shall be subject to the following standards and criteria:

- A. Maximum Number: Except as allowed under Subsection 837.02, no more than four mobile vending units may be located on a single lot of record, or on two or more lots of record that are part of a single development.

- B. Accessory Items and Structures: Portable accessory items, such as picnic tables and trash cans, are permitted. Attachments to the mobile vending unit, such as awnings or canopies, are permitted only if they are supported entirely by the unit and do not touch the ground. Neither the mobile vending unit nor any item relating to the unit shall lean against or hang from any structure or utility pole. No structure shall be attached to the mobile vending unit. New accessory structures may be constructed, as follows:
1. A maximum of two restroom structures, provided that the combined square footage does not exceed 200;
 2. A maximum of two storage buildings, provided that the combined square footage does not exceed 200;
 3. One trash enclosure; and
 4. Outdoor seating areas, which may have roofs, floors, and railings, but no walls (e.g. decks, picnic shelters), provided that the combined square footage does not exceed 200 square feet per mobile vending unit and that no single structure exceeds 200 square feet.
- C. Accessory Storage: Except as specifically allowed by Section 837, items relating to the mobile vending unit shall be stored in, on, or under the unit.
- D. Interior Seating or Vending: Customer seating or vending inside the mobile vending unit is prohibited.
- E. Maximum Size: The mobile vending unit shall not exceed 200 square feet, measured by the outside dimensions of the unit. Attachments to the mobile vending unit that are supported entirely by the unit and do not touch the ground shall be excluded when calculating the square footage.
- F. Minimum Setbacks and Separation Distance: The mobile vending unit shall be located a minimum of:
1. Five feet from any structure or another mobile vending unit;
 2. Ten feet from any front lot line, except in the Rural Tourist Commercial District in Government Camp Village, as identified on Comprehensive Plan Map X-MH-4, *Government Camp Village Plan, Land Use Plan & Boundary*, where the minimum front yard setback from a property line abutting Government Camp Loop shall be four feet, and a corner lot with frontage on Government Camp Loop shall comply with a minimum front yard setback of 10 feet from the property line abutting the other road; and
 3. Five feet from any side or rear lot line, except if such lot line abuts one of the following zoning districts, in which case the minimum shall be 15 feet: any zoning district regulated by Section 300, Village Standard Lot

Residential District (VR-5/7), Village Small Lot Residential District (VR-4/5), Village Townhouse District (VTH), and Village Apartment District (VA).

- G. Structure Setbacks: Structures allowed under Subsection 837.04(B) shall comply with the setback standards of the zoning district in which the subject property is located.
- H. Hillsides, Significant Trees or Wooded Areas, and Mass Movement Hazard Areas: The development shall be subject to Subsections 1002.02, 1002.04 and 1003.02, as applicable.
- I. Utilities: To the extent that utilities are desired by the applicant or required by applicable regulations, the mobile vending unit shall have self-contained utilities, or if onsite utility connections are proposed, such utilities shall be installed underground, except where prohibited by the utility district or company. Notwithstanding this requirement:
 - 1. If allowed by the utility district or company and any applicable Oregon Specialty Code, aboveground utility connections are permitted, when a mobile vending unit will remain on the subject property for no more than 120 days in a calendar year. For the purpose of this exception:
 - a. If a mobile vending unit is replaced by another, the number of days shall be calculated by adding the days spent onsite by each unit.
 - b. If a mobile vending unit spends any portion of a day on the subject property, it shall count as one day.
 - 2. If allowed by the utility district or company and the Oregon Electrical Specialty Code, aboveground power cords are permitted to connect the mobile vending unit to an approved electricity source.
 - 3. If allowed by the utility district or company and the Oregon Plumbing Specialty Code, aboveground hoses are permitted to connect the mobile vending unit to an approved water source.
- J. Portable Sanitation Facilities: Portable toilets are prohibited, unless they are connected to a sanitary sewer system or a subsurface sewage disposal system. Portable hand-washing facilities are permitted but may not drain to the surface.
- K. Sewage Disposal: Inside the Portland Metropolitan Urban Growth Boundary (UGB) and the Mount Hood urban area, subsurface sewage disposal is prohibited unless allowed by Subsection 1006.07(B).
- L. Lighting: Outdoor lighting shall be subject to Subsection 1005.05.

- M. Obstruction of Vehicular and Pedestrian Use Areas: Neither the mobile vending unit nor any elements associated with the mobile vending unit, such as aboveground power cords, seating areas, trash receptacles, signs, and customer queuing areas, shall occupy bicycle parking spaces, loading areas, driveways, onsite circulation drives, parking lot aisles, or walkways.
- N. Setback from Vehicular and Pedestrian Use Areas: Windows and doors used for service to customers shall be located a minimum of 10 feet from loading areas, driveways, onsite circulation drives, and parking lot aisles, and a minimum of five feet from bicycle parking spaces and walkways.
- O. Driveway Access: Approval of driveway access shall be subject to the Clackamas County Roadway Standards.
- P. Intersection Sight Distance and Roadside Clear Zones: The mobile vending unit and any attachments or accessory items or structures shall comply with the intersection sight distance and roadside clear zone standards of the Clackamas County Roadway Standards.
- Q. Surfacing: Inside the UGB, the mobile vending unit shall be placed on a hard-surfaced area, and any associated parking, loading, and maneuvering areas for vehicles shall be on hard-surfaced areas, unless a permeable parking, loading, or maneuvering area surface unless a permeable surface is required to reduce surface runoff, as determined by the Department of Transportation and Development. Outside the UGB, the mobile vending unit shall be placed on an area surfaced with screened gravel or better, and any associated parking, loading, and maneuvering areas for vehicles shall be surfaced with screened gravel or better, and shall provide for suitable drainage.
- R. Drive-thru Service: A mobile vending unit may include drive-thru service only if drive-thru service is allowed as a primary or accessory use in the zoning district in which the subject property is located. Drive-thru service shall be subject to Section 827 and if applicable, Section 1700.
- S. Screening and Buffering: The proposed development shall be subject to the screening and buffering provisions of Subsection 1009.05.
- T. Obstruction of Existing Landscaping: The mobile vending unit shall not occupy landscaping areas approved as part of a prior design review or other land use application. Other elements associated with the mobile vending unit, such as seating areas, also shall not occupy such landscaping areas, unless such elements are permitted as pedestrian amenities under Subsection 1009.03(G).
- U. Landscaping Requirements: If the subject property does not have a previously approved landscape plan, compliance with Subsections 1009.02 (A) through (E), 1009.04(B), and 1009.08 shall be required.

- V. Signs: Signs are permitted pursuant to Section 1010.
- W. Off-street Automobile Parking Spaces on a Developed Site: On a developed site, the mobile vending unit, attachments to the mobile vending unit, customer queuing areas, and portable accessory items may occupy existing off-street automobile parking spaces, provided that such spaces are not simultaneously used for parking. A developed site is one that has previously received design review approval and where that approval has been implemented. In addition, no new off-street parking spaces are required. However, new structures may be located in existing off-street automobile parking spaces only if such spaces are in excess of the minimum number required for existing development.
- X. Off-street Automobile Parking Spaces on an Undeveloped Site: On an undeveloped site, a minimum of two off-street parking spaces per mobile vending unit is required. An undeveloped site is one that does not have an implemented design review approval.
- Y. Automobile Parking Area Requirements: The development of new automobile parking areas shall comply with Section 1015.
- Z. Refuse and Recycling Standards: A trash receptacle for customer use shall be maintained no more than 10 feet from the mobile vending unit. In addition, compliance with Section 1021 shall be required.
- AA. Skirting: Skirting shall be placed around the perimeter of the mobile vending unit.

837.05 LEVEL FOUR MOBILE VENDING UNITS

If a proposed mobile vending unit exceeds the standards of both a level two and a level three mobile vending unit, it may be approved as a level four mobile vending unit, subject to Sections 1000 and 1102, as well as the standards applicable to the zoning district in which the subject property is located. In addition, compliance with Subsection 837.04 shall be required, except where a more restrictive standard is applicable pursuant to other provisions of this Ordinance.

837.06 SUBMITTAL REQUIREMENTS

The following submittal requirements shall apply to applications for level two and three mobile vending units:

- A. In addition to the submittal requirements identified in Subsection 1307.07(C), an application for a level two mobile vending unit permit shall include ~~the following:~~
 - ~~1. A completed level two mobile vending unit application form on a form provided by the Planning Director;~~

~~2. Information sufficient to address the approval criteria in Subsection 837.03; and~~

3. ~~a~~A site plan of the subject property drawn to scale and including:

~~1a.~~ The lot lines;

~~2b.~~ The location of existing structures and mobile vending units on the development site;

~~3e.~~ The proposed location of the mobile vending unit and any portable accessory items, such as picnic tables and trash cans;

~~4d.~~ The dimensions of the proposed mobile vending unit;

~~5e.~~ The proposed distance between the mobile vending unit and adjacent lot lines, as well as the proposed separation distance between the unit and other onsite structures or mobile vending units;

~~6f.~~ The type and location of any proposed onsite utility connections for the mobile vending unit;

~~7g.~~ The location of existing loading areas, driveways, onsite circulation drives, parking lot aisles, bicycle and automobile parking spaces, and walkways;

~~8h.~~ The location of windows and doors on the mobile vending unit that are proposed to be used for service to customers;

~~9i.~~ The location of existing landscaping; and

~~10j.~~ The dimensions, height, location, and lighting (if any) of proposed signs.

B. In addition to the submittal requirements identified in Subsection 1307.07(C), an~~A~~ application for a level three mobile vending unit permit shall include:

~~1. A completed level three mobile vending unit application form on a form provided by the Planning Director; and~~

~~2. t~~The applicable items identified in Subsection 1102.05.

~~837.07~~ ~~PREAPPLICATION CONFERENCE~~

~~A preapplication conference is required, pursuant to Subsection 1301.04, prior to the filing of an application for a level three or four mobile vending unit.~~

837.07~~8~~ APPROVAL PERIOD AND TIME EXTENSION

A. A level two or three mobile vending unit approval is valid for four years from the date of the final written decision. If the County's final written decision is appealed, the approval period shall commence on the date of the final appellate decision. During this four-year period, the approval shall be implemented, or the approval will become void. "Implemented" means all necessary County development permits shall be obtained and maintained for

the approved development.

- B. If a level three mobile vending unit approval is not implemented within the initial approval period established by Subsection 837.078(A), a two-year time extension may be approved ~~by the Planning Director,~~ pursuant to [Section 1310](#)~~Subsection 1305.02, and subject to Subsection 1305.05.~~
- C. A level four mobile vending unit approval is subject to the approval period and time extension provisions of Subsections [1102.02\(G\) and \(H\)](#).

[Added by Ord. ZDO-231, 1/31/12; Amended by Ord. ZDO-245, 7/1/13]

1002 PROTECTION OF NATURAL FEATURES

1002.01 PURPOSE

Section 1002 is adopted to implement the policies of the Comprehensive Plan for the protection of natural features.

1002.02 HILLSIDES

~~A. All development proposed~~ Development on slopes greater than or equal to of 20 percent and less than or equal to 35 percent ~~or greater—except that for residential development in the RR, MRR, and HR Districts, the upper limit is 25 percent—~~ shall require review of a Type I application pursuant to Section 1307 and shall be subject to the following standards:

~~A. 1.~~ 1. No partition or subdivision shall create any new lot or parcel which cannot be developed under the provisions of Subsection 1002.02.

~~B. Development on land over 35 percent slope—and residential development on land over 25 percent slope in the RR, MRR, and HR zoning districts—shall be subject to Planning Director review pursuant to Subsection 1305.02.~~

~~1. Approval shall not be granted unless the following conditions are satisfied:~~

~~a. An engineering geologic study approved by the County establishes that the site is stable for the proposed development, and any conditions and recommendations based on the study are incorporated into the plans and construction of the development. The study shall include the items listed in Subsection 1003.02(B)(2).~~

~~b. Access to the site is approved by the County and the affected fire district pursuant to the engineering geologic study and associated conditions. Design review shall be required if construction of such access requires cut and fill, blasting, tree cutting, retaining walls, or other terrain alterations which detract from the natural scenic quality of the site.~~

~~c. Design review of the proposed design of structures and re-vegetation plans shall be required to ensure preservation or rapid reestablishment of the scenic quality of the site.~~

~~d. A plan for storm drainage and erosion control is approved by the County pursuant to Subsection 1008.02.~~

~~e. Other provisions of Subsection 1002.02 are addressed and satisfied by the proposal.~~

- ~~f. When a building is proposed, the applicant shall, in addition to satisfying the above conditions, demonstrate that at least one of the following conditions applies:
 - ~~i. It is not feasible to either transfer the density (in the case of residential development) or to develop on a portion of the site which is less sloped; or~~
 - ~~ii. Unique characteristics of the site, such as, but not limited to, vistas or solar exposure, could be better utilized by the proposed siting of structures with less or equal overall disturbance of the property than would occur otherwise under the provisions of this Ordinance.~~~~
- ~~2. Approval of a permit under Subsection 1002.02(B) is valid for four years from the date of the final written decision. If the County's final written decision is appealed, the approval period shall commence on the date of the final appellate decision. During this four year period, the approval shall be implemented, or the approval will become void.
 - ~~a. "Implemented" means all major development permits shall be obtained and maintained for the approved development, or if no major development permits are required to complete the development contemplated by the approved permit, "implemented" means all other necessary County development permits (e.g. grading permit, building permit for an accessory structure) shall be obtained and maintained. A "major development permit" is:
 - ~~i. A building or manufactured dwelling placement permit for a new primary structure that was part of the approved development; or~~
 - ~~ii. A permit issued by the County Engineering Division for parking lot or road improvements required by the approved development.~~~~~~
- ~~3. If the approval of a permit is not implemented within the initial approval period established by Subsection 1002.02(B)(2), a two year time extension may be approved by the Planning Director, pursuant to Subsection 1305.02, and subject to Subsection 1305.05.~~
- ~~€. 2. _____~~ Grading, stripping of vegetation, and lot coverage by structures and impervious surfaces shall be limited to no more than 30 percent of slopes 20 percent or greater. Variances to this standard may be granted pursuant to Section 1205, Variances. A variance shall not be granted unless the proposed development satisfies the following conditions:
 - ~~1. a. _____~~ The proposed lot coverage shall not exceed the maximum lot coverage standard of the zoning district;

- ~~2.~~ b. The additional lot coverage, grading, or stripping shall not:
 - a. i. Decrease the stability of the slope;
 - b. ii. Appreciably increase erosion, sedimentation, or drainage flow from the property; or
 - e. iii. Adversely impact high priority open space as defined in Section 1011, *Open Space and Parks*.
- ~~3.~~ c. Measures shall be employed to minimize grading or filling to accomplish the development.
- ~~4.~~d. Disturbed areas shall be compacted if necessary and re-vegetated as soon as practical and before the annual wet season.
- ~~D.~~ 3. Buildings shall be clustered to reduce alteration of terrain and provide for preservation of natural features.
- ~~E.~~4. Creation of building sites through mass pad grading and successive padding or terracing of building sites shall be avoided.
- ~~F.~~ 5. Roads shall be of minimum width, with grades consistent with County specifications. One-way streets may be allowed.
- ~~G.~~6. Re-vegetation of all graded areas shall be the responsibility of the developer and shall occur as soon as feasible following the final grading. Maintenance of the slopes shall be the responsibility of the developer until the property ownership is transferred.

B. Development on slopes greater than 35 percent—and residential development on slopes greater than 25 percent in the RR, MRR, and HR Districts—shall require review of a Type II application pursuant to Section 1307 and shall be subject to the following standards:

- 1. Compliance with Subsections 1002.02(A)(1) through 6) shall be required.
- 2. An engineering geologic study approved by the County shall establish that the site is stable for the proposed development, and any conditions and recommendations based on the study shall be incorporated into the plans and construction of the development. The study shall include the items listed in Subsection 1003.02(B)(2).
- 3. Access to the site shall be approved by the County and the affected fire district, pursuant to the engineering geologic study and associated conditions. Review shall be required, if construction of such access requires cut and fill, blasting, tree cutting, retaining walls, or other terrain alterations which detract from the natural scenic quality of the site.

4. The design of structures and re-vegetation plans shall ensure preservation or rapid reestablishment of the scenic quality of the site.
5. A plan for storm drainage and erosion control shall be approved pursuant to Subsection 1008.02.
6. When a building is proposed, at least one of the following conditions shall apply:
 - i. It is not feasible to either transfer the density (in the case of residential development) or to develop on a portion of the subject property that is less sloped; or
 - ii. Unique characteristics of the subject property, such as, but not limited to, vistas or solar exposure, could be better utilized by the proposed siting of structures with less or equal overall disturbance of the subject property than would occur otherwise under the provisions of this Ordinance.

C. Approval of a permit under Subsection 1002.02(A) or (B) is valid for four years from the date of the final written decision. If the County's final written decision is appealed, the approval period shall commence on the date of the final appellate decision. During this four-year period, the approval shall be implemented, or the approval will become void.

1. "Implemented" means all major development permits shall be obtained and maintained for the approved development, or if no major development permits are required to complete the development contemplated by the approved permit, "implemented" means all other necessary County development permits (e.g. grading permit, building permit for an accessory structure) shall be obtained and maintained. A "major development permit" is:

- a. A building or manufactured dwelling placement permit for a new primary structure that was part of the approved development; or
- b. A permit issued by the County Engineering Division for parking lot or road improvements required by the approved development.

D. If the approval of a permit under Subsection 1002.02(B) is not implemented within the initial approval period established by Subsection 1002.02(C), a two-year time extension may be approved pursuant to Section 1310.

1002.03 DEVELOPMENT RESTRICTION FOLLOWING EXCESSIVE TREE REMOVAL

Subsection 1002.03 applies to land inside the Portland Metropolitan Urban Growth Boundary, except land specially assessed as forestland on September 28, 2010.

- A. Definitions: Unless specifically defined in Subsection 1002.03(A), words or phrases used in Subsection 1002.03 shall be interpreted to have the same meaning as they have in common usage and to give Subsection 1002.03 its most reasonable application.
1. Christmas Tree: A tree of a marketable species and evidencing periodic maintenance practices of shearing for Douglas fir, fir, and pine species, weed and brush control, and one or more of the following practices: basal pruning, fertilizing, insect and disease control, and soil cultivation.
 2. Diameter Breast Height (d.b.h.): A tree's diameter measured by diameter tape at four and one-half feet above grade on the uphill side. On multi-stem trees, the stem with the largest diameter shall be measured.
 3. Hazardous Tree: A tree that, by reason of disease, infestation, age, or other condition, presents a known or immediate hazard to people or property.
 4. Nuisance Tree: Any tree of the following species: tree of heaven (*Alianthus altissima*), single seed hawthorn (*Crataegus monogyna*), English holly (*Ilex aquifolium*), plums (*Prunus* hybrids, which are not commercial nursery species), sweet cherry (*Prunus avium*), English laurel (*Prunus laurocerasus*), Portuguese laurel (*Prunus lusitanica*), black locust (*Robinia pseudoacacia*), European mountain ash (*Sorbus aucuparia*), and any listed in the Oregon Department of Agriculture's Noxious Weed Policy and Classification System.
 5. Orchard Tree: A tree maintained for the production of fruit or nuts for human consumption.
 6. Tree: Any woody plant with at least one well-defined stem.
 7. Tree Removal: The act of removing a tree by digging up or cutting down, or the effective removal through damage to a tree or its root system. Effective removal shall include any procedure the natural result of which is to cause the death or substantial destruction of a tree, including, but not limited to: topping and severe cutting back of limbs to such a degree as to destroy or adversely affect the normal growth pattern of the tree, girdling, and placing fill in excess of six inches deep over the root zone. Tree removal does not include routine pruning or trimming.
- B. Excessive Tree Removal: Excessive tree removal is the removal of more than three trees—excluding those identified as exempt in Subsection 1002.03(E)—on a lot of record in a calendar year.
- C. Development Restriction: If excessive tree removal occurred in the five years immediately preceding the date that a complete application is filed for design

review, a subdivision, a partition, or a conditional use, the application will be denied. (This restriction applies to a conditional use under Section 1203, but not to a greenway conditional use under Section 705.)

D. Exception to Development Restriction: Notwithstanding Subsection 1002.03(C), a ~~minor~~-modification of a previous design review, subdivision, partition, or conditional use approval may be approved pursuant to Section 1309~~Subsection 1305.01(L)~~.

E. Exempt Trees: Removal of the following exempt trees is not excessive tree removal, regardless of the number of such trees removed. However, removal of the listed trees may be regulated under other provisions of this Ordinance, such as Section 705, *Willamette River Greenway*, Section 706, *Habitat Conservation Area District*, and Section 709, *Water Quality Resource Area District*, or by conditions of approval on a previous land use decision.

1. Trees with a d.b.h. of less than six inches;
2. Trees required to be removed by local, state or federal law or regulation, or by a fire official;
3. Trees removed by a public utility—or required by a public utility to be removed—in order to maintain, repair, or replace an existing utility line;
4. Trees removed by a public utility—or required by a public utility to be removed—in order to construct a new utility line, unless the purpose of the new line is to serve future development of the subject property;
5. Orchard trees;
6. Christmas trees;
7. Trees planted on the site of a commercial nursery and grown for commercial purposes;
8. Nuisance trees;
9. Dead trees, where death resulted from an accident or non-human cause;
10. Diseased or hazardous trees, where the condition resulted from an accident or non-human cause;
11. Trees, the removal of which is authorized by approval of an administrative action under this Ordinance; and
12. Trees removed prior to September 28, 2010.

1002.04 TREES AND WOODED AREAS

- A. Existing wooded areas, significant clumps or groves of trees and vegetation, consisting of conifers, oaks and large deciduous trees, shall be incorporated in the development plan wherever feasible. The preservation of these natural features shall be balanced with the needs of the development, but shall not preclude development of the subject property, or require a reduction in the number of lots or dwelling units that would otherwise be permitted. Site planning and design techniques which address incorporation of trees and wooded areas in the development plan include, but are not limited to, the following:
1. Siting of roadways and utility easements to avoid substantial disturbance of significant clumps or groves of trees;
 2. Preservation of existing trees within rights-of-way and easements when such trees are suitably located, healthy, and when approved grading allows;
 3. Use of flexible road standards as provided in Subsection 1007.04(B)(3), including one-way roads or split-level roads, to preserve significant trees and avoid unnecessary disturbance of terrain;
 4. Retention of specimen trees or clumps of trees in parking area islands or future landscape areas of the site as provided for in Section 1009.
 5. Use of wooded areas of the site for recreation, or other low-intensity uses, or structures, not requiring extensive clearing of large trees, grading, or filling activity which substantially alters the stability or character of the wooded area;
 6. Retention of trees which are necessary to ensure the stability of clumps or groves of trees considering the type of trees, soil and terrain conditions, exposure to prevailing winds, and other site-specific considerations;
 7. Use of trees and wooded areas to buffer, screen, or provide transitions between different or conflicting uses on and off the site;
 8. Use of flexible-lot-size and planned unit development designs to minimize disturbance of wooded areas;
 9. Siting of uses and structures to utilize the natural microclimates created by wooded areas and trees to reduce extremes in temperature, provide wind protection, filter pollutants, and replenish oxygen and moisture to the air; and
 10. Use of other development techniques described in Subsection 1011.03(C).
- B. Trees and wooded areas to be retained shall be protected during site

preparation and construction according to County design and specifications by:

1. Avoiding disturbance of the roots by grading and filling activity;
2. Providing for water and air filtration to the roots of trees which will be covered with impermeable surfaces;
3. Pruning or topping of trees which will be in parking areas or near buildings, as necessary, to maintain proper balance between top growth and roots, reduce windfall potential, and provide adequate vision clearances for safe vehicular circulation; and
4. Requiring, if necessary, the advisory expertise of a qualified consulting arborist or horticulturist both during and after site preparation, and a special maintenance/management program to provide protection of specified wooded areas or specimen trees, as recommended by the arborist or horticulturist.

1002.05 RIVER AND STREAM CORRIDORS

The following standards shall apply to land that is outside both the Metropolitan Service District Boundary and the Portland Metropolitan Urban Growth Boundary.

- A. Developments shall be planned, designed, constructed, and maintained so that:
 1. River and stream corridors are preserved to the maximum extent feasible and water quality is protected through adequate drainage and erosion control practices; and
 2. Buffers or filter strips of natural vegetation are retained along all river and stream banks.
- B. Except in the case of a river or stream subject to Section 704 or 705, the minimum structure setback from a river or perennial streambed shall be equal to the distance necessary to maintain or improve upon existing water quality. This distance shall be determined by a site investigation, but will not exceed 150 feet. Investigation shall consider:
 1. Soil types;
 2. Types and amount of vegetative cover;
 3. Bank stability;
 4. Slope of the land abutting the river or stream;
 5. Hazards of flooding;

6. River or stream character; and
 7. Any special Comprehensive Plan designation or management program.
- C. For water impoundments, diversions, and hydropower facilities, reasonable mitigation of adverse impacts to fisheries, wildlife, water quality, and flow shall be required commensurate with the intensity of the proposed use and resulting generating capacity.

1002.06 DEER AND ELK WINTER RANGE

Development in deer and elk winter range below 3,000 feet in elevation, as identified on Comprehensive Plan Map III-2, *Scenic and Distinctive Resource Areas*, shall be designed to minimize adverse wildlife impacts.

1002.07 MOUNT HOOD RESOURCE PROTECTION OPEN SPACE

Development in areas shown as Resource Protection Open Space on Comprehensive Plan Maps X-MH-1 through X-MH-3, *Resource Protection Open Space*, proposed in or within 100 feet of natural wetlands shall be designed to:

- A. Preserve functions of groundwater recharge, water storage, turbidity reduction, nutrient filtration, biologic or botanical production, and protective habitat cover;
- B. Provide compatibility with the continued performance of wetland functions, such as:
 1. Conservation of soil, vegetation, water, fish, and wildlife;
 2. Low-intensity, dispersed outdoor recreation, such as hiking and nature study; and
 3. Utility easements, but only on peripheral areas and where alternative alignments are impractical;
- C. Eliminate the need for filling, dumping, and/or excavating in the wetland proper, unless approved pursuant to Subsection 1011.04; and
- D. Maintain the runoff coefficient and erosion equilibrium for lands bordering the wetland substantially the same as if such lands were undeveloped. Pier construction, elevated pedestrian boardwalks, semi-impervious surfacing, bridging of natural drainageways, and retention of vegetation in areas not intended for buildings or roads are recommended design methods.

1002.08 SIGNIFICANT NATURAL AREAS

Five significant natural areas are identified as unique/natural features on

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Comprehensive Plan Map III-2, *Scenic & Distinctive Resource Areas*. These areas are more specifically referred to as Williams Lake Bog, the land at Marmot, Multorpor Bog, Delphridge, and Wilhoit Springs.

In these significant natural areas, the following shall be restricted, to the extent necessary to protect the unique or fragile character or features that are the basis for the unique/natural feature designation: building and road construction, filling and excavation, paving, and tree removal. Restrictions may be modified pursuant to Subsection 1011.04.

[Amended by Ord. ZDO-224, 5/31/11; Amended by Ord. ZDO-230, 9/26/11; Amended by Ord. ZDO-245, 7/1/13]

1011 OPEN SPACE AND PARKS

1011.01 PURPOSE

Section 1011 is adopted to:

- A. Preserve a network of open space resources within the urban area;
- B. Protect sensitive or hazardous open space resources from incompatible development; and
- C. Provide land that meets the open space and recreation needs of the people.

1011.02 AREA OF APPLICATION

- A. Section 1011 applies to areas generally indicated as Open Space on Comprehensive Plan Map IV-6, *North Urban Area Land Use Plan Map*, or on the Mt. Hood Community Plan Map when one or more of the following open space resources is present:
 - 1. Willamette River Greenway;
 - 2. Distinctive urban forests;
 - 3. Hillsides of more than 20 percent slope;
 - 4. Areas of confirmed land movement hazard;
 - 5. Areas of severe erosion or unstable soil;
 - 6. Areas of high visual sensitivity;
 - 7. Significant natural areas; and
 - 8. Other distinctive or unique natural areas, or areas of serious natural hazard.
- B. Section 1011 also applies to areas generally indicated as Open Space on the Mt. Hood Community Plan Map when one or more of the following open space resources is present:
 - 1. Bodies of water, such as rivers, lakes, or lagoons;
 - 2. Special flood hazard areas, as defined in Section 703;
 - 3. Land within 100 feet of mean low water of all major rivers and 50 feet of other perennial streams; and

4. Wetlands, including recharge areas.
- C. Open space regulated pursuant to Subsection 1011.02(A) or (B) shall be categorized as follows:
1. "High priority" open space shall be the following:
 - a. Land or water necessary to assure a continuous network of open space (e.g., stream corridor, forested hillside);
 - b. Land over 35 percent slope;
 - c. Confirmed land movement hazard areas;
 - d. Areas judged to have severe erosion potential due to soil type, geologic structure, and vegetation;
 - e. Bodies of water such as rivers, lakes, or lagoons;
 - f. Wetlands; and
 - g. Significant natural areas.
 2. "Second priority" open space shall be the following:
 - a. Land greater than 20 percent slope and less than 35 percent slope;
 - b. Distinctive urban forests;
 - c. Land within a special flood hazard area, as defined in Section 703, or within 25-year flood limits where special flood hazard areas have not been designated;
 - d. Land used as a recharge area for wetlands; and
 - e. Areas of high visual sensitivity.
- D. In addition, Subsection 1011.06 applies in Sunnyside Village, as identified on Comprehensive Plan Map X-SV-1, *Sunnyside Village Plan, Land Use Plan Map*, hereinafter referred to as Sunnyside Village.

1011.03 DEVELOPMENT STANDARDS AND LIMITATIONS

- A. Site planning and development shall avoid disturbance of identified open space resources, except as provided in Subsections 1011.03(B) and (C). Full use should be made of density transfers pursuant to Section 1012, siting of structures and roads, and other appropriate means of designing the development around the open space.

- B. "High priority" open space shall be preserved outright, except:
 - 1. Development on hillsides over 35 percent slope shall be subject to Subsection 1002.02(B).
 - 2. Commercial or industrial developments affecting wetlands or significant natural areas may be allowed, subject to Subsection 1011.04 and when permitted by the U.S. Army Corps of Engineers and the Oregon Division of State Lands.

- C. "Second priority" open space shall be preserved to the maximum extent possible making full use, as necessary, of techniques which reduce the need for land coverage, and disturbance of open space features. Various site plan and development options shall be identified and applied on a case-by-case basis pursuant to the open space review process under Section 1103. Site plan and development techniques may include but are not limited to:
 - 1. Multistory construction;
 - 2. Elevated pole structures;
 - 3. Understructure parking;
 - 4. Reduction of parking requirements as provided under Subsection 1015.04(F)(2)(a) and (b);
 - 5. Clustering of buildings;
 - 6. Minimized driveway areas, use of shared driveways and loading areas;
 - 7. Reduction of road widths or use of one-way roads to accommodate terrain or other features; and
 - 8. Siting of buildings to maximize transit and pedestrian orientation.

- D. Satisfying the requirement for open space in commercial and industrial developments may count for up to 60 percent of the landscape requirement. Satisfying the open space requirement in residential developments may count for all of the 20-percent open space requirement in planned unit developments and up to 80 percent of the multifamily landscape requirements, including outdoor recreation space. (See Subsection 1009.03 for landscape requirements.)

- E. All open space requirements of Section 1011 shall be met using one or more of the following options:
 - 1. Dedication to the public;

2. Placement under a legally responsible group, such as a homeowner's association;
3. Preservation through conservation easements but maintained by individual land owners; or
4. Some other suitable mechanism acceptable to the County.

1011.04 CONFLICT RESOLUTION FOR WETLANDS AND SIGNIFICANT NATURAL AREAS

High priority open space wetlands and significant natural areas shall not be disturbed unless approved ~~through review as a Type II application by the Planning Director,~~ pursuant to ~~Section 1307 Subsection 1305.02,~~ for a specific commercial or industrial development plan. Approval shall not be granted unless ~~the applicant demonstrates that~~ the following social, economic, energy, and appropriate environmental considerations are addressed and satisfied:

- A. Social: The proposed development would not result in the loss of a rare, irretrievable, or irreplaceable natural feature or scientific opportunity, or the disturbance of a substantially unaltered natural feature or area in or adjacent to the proposed site, unless the benefit to the public from the proposed use clearly outweighs the public good from retaining the feature or area.
- B. Economic:
 1. The wetland or significant natural area must be disturbed for reasonable use of the site and, if not disturbed, the applicant would be substantially damaged.
 2. The use proposed is a benefit to the community and meets a substantial public need or provides for a public good which clearly outweighs retention of the wetland or significant natural area.
- C. Energy:
 1. Disturbance of the open space will not require public costs, including maintenance, due to secondary impacts, or exacerbate existing conditions.
 2. The development, as proposed, supports the Comprehensive Plan policies for energy efficient land use considering such things as transportation costs, efficient utilization of urban services, area self-sufficiency, and retention of natural features which create microclimates conducive to energy efficiency.
- D. Environmental: Disturbance of the wetland or significant natural area is minimized, as provided under Subsection 1011.03(C) and the review process and conditions of development pursuant to Section 1103, and the following

specific conditions are satisfied:

1. Wetlands:
 - a. The wetland can be altered without substantial adverse impact upon the character of the area, and function of the wetland.
 - b. The wetland does not support rare or endangered species.
 - c. Elimination, alteration, or relocation does not significantly alter water movement, including normal levels or rates of runoff into and from wetlands.
 - d. The proposed use or alteration of the wetland is approved by the U.S. Army Corps of Engineers and the Oregon Division of State Lands.
2. Significant Natural Areas: A study conducted by a person or persons with expertise related to the natural features of the site identified by the County shall be required. The study shall include:
 - a. An evaluation of the sensitivity or fragility of the elements of the natural area to be affected, including types of activity, development, or alteration which is likely and unlikely to disturb or destroy those elements;
 - b. An evaluation of the preservation value of the natural area, or portion thereof, to be disturbed or destroyed by the proposed development, addressing status, need for representation, diversity, naturalness, viability, defensibility, and security;
 - c. An evaluation of the proposed development, and alternative development proposals, as they relate to the fragility and/or preservation value of the natural area identified under Subsection 1011.04(D)(2)(a) and (b); and
 - d. Findings to support the following:
 - i. The proposed development will not disturb the significant feature(s) of the site identified by the County; or
 - ii. The proposed development will disturb or destroy only an area or areas of low preservation value, and will not significantly alter or disturb other portions of the natural area on or adjacent to the site; and
 - iii. The site is suitable for the type of development proposed from a geologic standpoint. This may require an engineering geologic study.

1011.05 PARK AND EASEMENT DEDICATIONS

- A. The standards and requirements of Section 1011 shall be applied whenever land is to be dedicated for a park, recreation area, or easement.
- B. The park classifications and standards of Policies 1.1 through 1.5 in the Parks and Recreation section of Chapter 9 of the Comprehensive Plan shall be followed in the dedication and development of parks and recreation areas.

1011.06 SUNNYSIDE VILLAGE PARK PROVISIONS

A. Purpose and Applicability

- 1. Subsection 1011.06 applies to the development of property in Sunnyside Village.
- 2. The purpose of Subsection 1011.06 is to provide a minimum level of public parks to adequately serve the demands of the Sunnyside Village community. It will ensure that future growth contributes its fair share to the cost of new parks. This cost is for park acquisition and park road frontage construction only and does not include park development, operations, or maintenance costs.
- 3. The park dedication or fee in lieu of dedication is incurred upon the application for a building permit or land use permit.
- 4. The existence of public parks has substantial benefits to proximate development. These benefits include aesthetic, recreational, and environmental benefits to the neighborhood. Actual use of these parks will be by residents and employees of businesses.
- 5. The park dedication or fee in lieu of dedication is not intended to be a tax on property as a direct consequence of ownership of property within the meaning of Section 11b, Article XI of the Oregon Constitution or the legislation implementing that section.

B. General Provisions

- 1. The public interest, convenience, health, welfare, and safety require that a minimum of two and one-half acres for each 1,000 persons residing or employed within Sunnyside Village be devoted to local parks as identified in Comprehensive Plan Table IX-1.
- 2. An applicant for a land use permit shall dedicate land for park purposes, if the site has been identified as a park site on Comprehensive Plan Map X-SV-4, *Sunnyside Village Plan, Park Locations & Sizes*. Park sizes represented on Map X-SV-4 are minimum park sizes.

3. Modifying park location shall occur only when it can be shown that access, topographic conditions, or extreme engineering costs make the depicted location impractical to develop as a park.
4. Land dedications shall be conveyed by plat and deed to the North Clackamas Parks and Recreation District (NCPRD). All dedications shall be platted with the final plat adjacent to the designated park site or by alternate arrangement specified in a recordable agreement as determined by the Planning Director.
5. The development and maintenance of these parks will be the responsibility of NCPRD. NCPRD also will be responsible for maintaining the landscaped center island of the traffic circle north of the village green.
6. Prior to issuance of a residential building permit, the applicant shall pay a fee in lieu of dedication for park acquisition. The fee shall be calculated pursuant to Subsection 1011.06(C)(2)(a).
7. Prior to issuance of a residential building permit, the applicant shall pay a fee for park road frontage construction. This fee shall be used for the construction of the connector roads and local roads adjacent to parks 3, 4, and 5 as depicted on Comprehensive Plan Map X-SV-4. The fee shall be calculated pursuant to Subsection 1011.06(C)(3).
8. Prior to issuance of a nonresidential building permit, the applicant shall pay a fee in lieu of dedication for park acquisition. The fee shall be calculated pursuant to Subsection 1011.06(C)(2)(b).

C. Park Dedication or Fees in Lieu of Dedication

1. Parkland Dedication per Dwelling Unit: The amount of parkland to be dedicated shall be calculated by the following formula.

Net Acres of Required Parkland	(=)	Number of Dwelling Units	(X)	Persons per Dwelling Unit	(X)	.0025 Net Acre Per Person
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- a. The number of dwelling units shall be the number of units reflected on the final plat.
- b. The number of persons per dwelling unit shall be based on the latest United States Census data.

Table 1011-1: Persons Per Dwelling Unit By Dwelling Unit Type

Dwelling Unit Type	Detached Single-Family Dwelling	Attached Single-Family Dwelling	Multifamily Dwelling Unit	Accessory Dwelling Unit
Persons Per Dwelling Unit	3.04	2.27	2.03	1

Source: Metro, computed from the 1980 United States Census

- c. Ownership of identified parkland, which is located on property under review for a development permit, shall be transferred to NCPRD. Compensation will be provided at the time of transfer based upon an appraisal representing fair market value.

2. Fee in Lieu of Dedication

- a. Residential Development: Parkland value per acre shall be based upon the average appraised value of all designated park sites. The parkland fee in lieu of dedication shall be calculated by the following formula. Persons per dwelling unit shall be calculated pursuant to Subsection 1011.06(C)(1)(b).

$$\frac{\text{Parkland Fee per Dwelling Unit} (=)}{\text{Parkland Value per Acre} (X)} = \frac{\text{Persons per Dwelling Unit} (X)}{.0025 \text{ Acre per Person}}$$

- b. Nonresidential Development: Parkland value per acre shall be based upon the average appraised value of all designated park sites. Nonresidential development shall be required to pay a fee in lieu of dedication. The fee shall be calculated by the following formula. The number of employees per nonresidential use shall be determined by the “study of employment density” completed by Metro in 1990 or any updated version of this study. If from the information provided in this study an employee figure cannot be obtained, then the Planning Director shall determine the number of employees based upon similar uses in the County to the extent possible.

$$\frac{\text{Parkland Fee per Employee} (=)}{\text{Parkland Value per Acre} (X)} = \frac{\text{Number of Employees} (X)}{.0025 \text{ Acre per Employee}}$$

- 3. Park Road Frontage and Utilities Construction Fee: The park road frontage construction fee shall be calculated by the following formula:

$$X = ([A / B] / C) \times D$$

- a. As used in the formula:
 - i. X = Park road frontage construction fee per dwelling unit.
 - ii. A = Cost of all connector and local roads adjacent to all parks, as well as the utilities in these park roads.
 - iii. $B = 2$ (i.e. half-street improvement).
 - iv. C = Estimated population of Sunnyside Village at build-out.
 - v. D = Persons per dwelling unit (from most recent United States Census) calculated pursuant to Subsection 1011.06(C)(1)(b).
 - b. Reimbursement to Developers for Half-Street Improvements Adjacent to Parks: When a developer completes construction of roads and utilities adjacent to a park as per County requirements, the developer shall be reimbursed according to the fee schedule for local and connector roads. This rate may be changed at a rate commensurate with a change in construction costs.
4. All fees shall be rounded to the nearest dollar.
- D. Refund of Fees Paid: If a residential building permit encompassing fee-paying development expires or is revoked, the fee payer shall be entitled to a refund of the fee.
- E. Exemptions: The following shall be exempt from park dedication and fee in lieu of dedication:
1. Remodeling, expansion, or replacement of an existing dwelling, provided that the number of dwelling units is not increased.
 2. Construction of accessory buildings and structures not creating additional dwelling units.
 3. The issuance of a temporary permit for a manufactured dwelling.
 4. Any land use permit that does not result in the creation of a new lot, excluding design review approvals pursuant to Section 1102.
- F. Records:
1. Fees Collected: The County shall maintain accurate records of each park fee

imposed, including the following:

- a. Name, address, and telephone number of applicant or fee payer;
 - b. Amount and method of payment;
 - c. Date of payment; and
 - d. Building permit number.
2. Fee Account Funds Expended: The County shall maintain accurate records of all fee funds expended, including the following:
1. Name and location of park;
 2. Legal description, area, and sketch of parent tract; and the number and type of dwelling units;
 3. Amount and date of each fee for sub-parcels of the parent tract together with the legal description, area, and sketch of said sub-parcel;
 4. Development application file number for which contributions have been approved; and
 5. Amount and date of refunds paid by the County.

G. Fee Accounts

1. To ensure that fees collected will benefit fee-paying developments, all park acquisition fees described in Subsections 1011.06(B)(6) and (8) shall be deposited in the Park Acquisition Fund of Sunnyside Village. This fund shall be maintained by the County Finance Department and with fees accountable by the County Finance Department, NCPRD, and the County Planning and Zoning Division.
2. To ensure that fees collected will benefit fee-paying developments, all park road frontage construction fees described in Subsection 1011.06(B)(7) shall be deposited in the Park Road Frontage Construction Fund of Sunnyside Village. This fund shall be maintained by the County Finance Department and with fees accountable by the County Finance Department and the County Planning and Zoning Division.
3. All fees collected by the County shall be promptly deposited into the accounts identified in Subsections 1011.06(G)(1) and (2).
4. Fees, including any accrued interest, not encumbered in any fiscal period,

shall be retained in the funds into the next fiscal period except as provided by the refund provisions of Subsection 1011.06.

5. Fees may be used only for parkland acquisition and park road frontage construction in Sunnyside Village.
6. The provisions of Subsection 1011.06 will sunset at the time all designated parkland has been acquired and all park acquisition and road frontage fees for all building permits in Sunnyside Village have been collected. Any residual money will be transferred to the NCPRD park development account. This residual may be utilized only for park development in Sunnyside Village.

[Amended by Ord. ZDO-224, 5/31/11; Amended by Ord. ZDO-245, 7/1/13]

1013 PLANNED UNIT DEVELOPMENTS

1013.01 PURPOSE

Section 1013~~This section~~ is adopted to:

- A. Encourage a creative approach in the development of land and an efficient, aesthetic, and desirable use of open area, while maintaining the same population density permitted in the zoning district in which the project is located;
- B. Allow flexibility in design, placement of buildings, use of open space, circulation facilities, and off-street parking areas;
- C. Utilize the potential of sites characterized by special features of geography, topography, size, and shape; and
- D. Allow a mixture of densities between zoning districts when more than one district is included in the development.

1013.02 APPLICABILITY~~AREA OF APPLICATION~~

- A. Planned unit developments may be established in urban and rural residential, commercial, or industrial districts on parcels of land which are suitable for and of sufficient size to be planned and developed in a manner consistent with the purpose of Section 1013~~this section~~.
- B. Developments on property in an Urban Low Density Residential, MRR~~Mountain Recreational Resort~~, or HR~~Hoodland Residential~~ District shall be developed as planned unit developments when at least one of the following criteria applies:
 - 1. The site is larger than one~~+~~ acre and 10 percent or more of the site is designated Open Space on Comprehensive Plan Map IV-6, North Urban Area Land Use Plan Map; X-MH-1, Resource Protection Open Space; X-MH-2, Resource Protection Open Space; X-MH-3, Resource Protection Open Space; or X-MH-5, Government Camp Village Plan Resource Protection Open Space of the Comprehensive Plan; or
 - 2. The proposed development includes attached single-family dwellings on more than 20 percent of the proposed lots. Developments in the R-2.5 zoning~~D~~istrict are exempt.

1013.03 PRIMARY USES

- A. Uses listed as primary uses in the zoning district in which the development is located.

1013.04 ACCESSORY USES

~~A1~~. Recreational facilities, including, but not limited to, tennis courts, swimming pools, and playgrounds;

~~B2~~. Open space uses, including, but not limited to, nature trails, bird sanctuaries, and nature conservatories;

~~C3~~. Offices, buildings, and facilities required for the operation, administration, and maintenance of any planned unit development and for recreation purposes, such as golf courses, recreation rooms, and vehicle storage areas; and

~~D4~~. Bus shelters, subject to Section 823.

1013.05 CONDITIONAL USES

A. ~~In a residential zoning district, the following are conditional uses, approval of which is may be allowed in a residential zoning district subject to review by the Hearings Officer pursuant to Section 1300. Approval shall not be granted unless the proposal complies with~~ Section 1203 ~~and any applicable provisions of Section 800.~~

1. Churches, subject to Section 804;
2. Schools, subject to Section 805;
3. Libraries;
4. Community halls;
5. Convenience establishments of a commercial and service nature, including stores, laundry and dry-cleaning agencies and establishments, beauty shops, barber shops, and convenience grocery stores (but specifically excluding gas stations, repair garages, and drive-through eating and drinking establishments) provided:
 - a. Such convenience establishments shall be an integral part of the general plan of development for the planned unit development and provide facilities related to the needs of the prospective residents.
 - b. Such convenience establishments and their parking, loading, and maneuvering areas shall occupy an area not exceeding a ratio of one-half acre per 100 dwelling units.
 - c. Such convenience establishments shall be located, designed, and operated to efficiently serve frequent trade and service needs of persons residing in

the planned unit development and not persons residing elsewhere.

- d. Such convenience establishments shall not, by reason of their location, construction, manner or hour of operation, signs, lighting, parking arrangements, or other characteristics, have adverse effects on residential uses within or adjoining the zoning district or create traffic congestion or hazards to vehicular or pedestrian traffic.
- e. Such convenience establishments are prohibited unless existing as a part of a planned unit development of a minimum of 100 dwelling units. No building permit for any convenience establishment shall be issued until a minimum of 100 dwelling units are constructed within a development.

1013.06 DIMENSIONAL AND DEVELOPMENT STANDARDS

- A. General: Development shall be subject to the applicable provisions of Sections 1000 and 1100. If there is a conflict between ~~Section 1013this section~~ and the other provisions of Section 1000, ~~Section 1013this section~~ shall govern.
- B. Site Adaptation: To the maximum extent possible, the plan and design of the development shall assure that natural or unique features of the land and environment are preserved.
- C. Lot Arrangement: All lots within the development shall have reasonable access to open space or recreation areas.
- D. Minimum Lot Size:
 - 1. Designated nonresidential tracts are exempt from the specified minimum lot size.
 - 2. The maximum density permitted under Section 1012 shall not be exceeded.
 - 3. Minimum lot sizes for each zoning district apply as follows. There is no minimum lot size where none is specified.
 - a. VTH District: 2,000 square feet
 - b. VR-4/5 District: 2,000 square feet
 - c. VR-5/7 District: 4,000 square feet
 - d. RR, RA-2, RRF-5, and FF-10 Districts: ~~Two~~2 acres
- E. Maximum Number of Lots: In an RA-2, RRF-5, or FF-10 ~~zoning-D~~istrict, the number of residential lots in a planned unit development shall not exceed 10.

F. Open Space:

1. A minimum of 20 percent of the gross site area shall be open space.
2. Open space tracts may include bicycle or pedestrian trails; natural or landscaped buffer areas; covered bus stops; significant natural vegetation or landscape features; and community recreation facilities, such as tennis courts, recreation buildings, or swimming pools.
3. Open space shall not include parking areas, except those areas in conjunction with recreation facilities, or roadways.
4. Filling or placement of debris within the open space area is prohibited, unless specifically authorized by the Planning Director.
5. Private vehicle access easements serving neighboring properties are prohibited within the open space area.
6. Developments shall be designed so that no dwelling unit is located more than 1000 feet from an open space area.
7. Individual open space areas should be large enough to be usable unless the open space is intended to protect significant natural features from impacts associated with use or development. As a guideline, a minimum of 5,000 square feet is suggested.
8. Prior to final plat approval, all improvements associated with the open space, such as recreation centers, swimming pools, and tennis courts, shall be constructed or a surety shall be provided to the County pursuant to Section 1104, *Completion of Improvements and Bonding*.

G. Community Services:

1. The County may request the dedication of proposed open space land which is reasonably suited for use as a County or North Clackamas Parks and Recreation District (NCPRD) park or for recreation purposes, taking into consideration such factors as size, shape, topography, geology, access, location, and applicable Comprehensive Plan policies, when such dedication is consistent with the ability of the County or NCPRD to maintain such parks.
2. Planned unit developments of 250 lots or dwelling units shall be required to dedicate land for school uses when determined necessary to meet the needs of the school district. This dedicated land may be calculated as part of the required open space.

H. Minimum Yard Requirements:

1. Perimeter Yard Setbacks: Yard setbacks from lot lines on the perimeter of the plat shall be the same as are required in the underlying zoning district.
2. Minimum Side Yard Setbacks: None.
3. Minimum Front Yard Setback: 20 feet.
4. Minimum Rear Yard Setback: None.

I. Maximum Lot Coverage: In the Urban Low Density Residential Districts zones, the maximum lot coverage shall be 65 percent.

J. Parking:

1. A minimum of two off-street parking spaces per dwelling unit shall be provided.
2. Off-street parking may be provided on each lot or in parking areas in proximity to the dwelling units they serve.
3. Guest parking may be required after consideration of street type, width, traffic volume, transit amenities, and pedestrian circulation.
4. Sufficient parking space may be required for storage of residents' recreational vehicles. If required, recreational vehicle parking shall be located so as to be compatible with the surrounding development. If located on the perimeter of the development, it shall be screened from adjacent properties.

K. Homeowners Association:

1. A nonprofit incorporated homeowners association, or an alternative acceptable to the Office of County Counsel, shall be required if other satisfactory arrangements, such as a County service district, have not been made for ownership of, improving, operating, and maintaining common facilities, including open space, roads, drives, service and parking areas, and recreation areas, and for snow removal and storage. The following principles shall be observed in the formation of any homeowners association and shall be reviewed by the Office of County Counsel:
 - a. A homeowners association shall be incorporated prior to approval and recording of the final plat, or any portion thereof.
 - b. Membership shall be mandatory for each home buyer and any successive buyer.

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- c. The open space restrictions and homeowners association shall continue in perpetuity, unless the planned unit development approval is modified pursuant to Section 1309, or a new application provided for by this Ordinance is filed and approved.
 - d. The homeowners association shall be responsible for liability insurance, local taxes, and the maintenance of recreational and other facilities.
 - e. Homeowners shall pay their pro rata share of the cost, or the assessment levied by the association shall become a lien on the property.
 - f. The homeowners association shall be able to adjust the assessment to meet changes needed.
 - ~~g. No change in open space use or dissolution of the homeowners association shall occur without a public hearing before the Hearings Officer and approval of the County.~~
2. An alternative to a homeowners association may include deed restrictions or conservation easements when the County determines such will protect the purpose of this Ordinance and be in the public's interest.

1013.07 REVIEW PROCEDURE

- A. Planned unit developments are subject to review pursuant to Section 1105 or 1106.

1016 MULTI-USE DEVELOPMENT

1016.01 PURPOSE

Section 1016 is adopted to:

- A. Implement the goals and policies of the Comprehensive Plan for multi-use developments;
- B. Accommodate and encourage innovation and design excellence in the development of multi-use centers containing a mixture of different uses in close proximity;
- C. Ensure functionally coordinated, aesthetically pleasing, and cohesive site planning and design that maximizes the benefits of multi-use to all individual components of the development;
- D. Ensure compatibility of multi-use developments with the surrounding area and minimize off-site impacts associated with the development;
- E. Provide for the development of sites that, because of their strategic location, can be developed to a higher and better land use development pattern than would otherwise be allowed in the zoning districts in which the sites are located;
- F. Provide focal points for various levels of transportation service (roads, transit, etc.) that can better serve areas of mixed uses and higher concentrations of development;
- G. Recognize the need for a higher level of economic activity, development and employment that multi-use developments generally provide in a community;
- H. Accommodate the changing land use and economic dynamics of the region, including the decentralization of many businesses and services into subregional centers to better serve their clients;
- I. Recognize and accommodate the need to provide for cultural, social, and entertainment interests of the larger community;
- J. Recognize the increasing importance of tourism on the economy of the County, and provide for a variety of attractions and tourist-related services to increase the County's share of this market; and
- K. Facilitate the economic objectives of the Comprehensive Plan, and other adopted County plans.

1016.02 ~~APPLICABILITY AREA OF APPLICATION~~

~~Section 1016 applies to multi-use developments may be applied to sites within the Portland Metropolitan Urban Growth Boundary, or the Hoodland Residential or Mountain Recreational Resort zoning districts, when the sites satisfy the following conditions, and the specific development plan satisfies the criteria under Subsection 1016.03: Multi-use developments are conditional uses in the zoning districts where they are permitted. The provisions of Section 1016 shall be applied as part of the conditional use review process under Section 1203 and, if required, the design review process under Section 1102.~~

1016.03 APPROVAL CRITERIA

Approval of a multi-use development shall be subject to the following criteria:

- ~~A.~~ Multi-use developments are listed as a conditional use in tThe zoning district in which the site is located ~~allows multi-use developments as a conditional use.~~
- ~~B.~~ The ownerships or parcels are large enough to satisfy the dimensional requirements under Subsection 1016.08(B).
- ~~C.~~ B. The subject property and affected area is presently provided with adequate public facilities, services, and transportation networks to support the use, or such facilities, services, and transportation networks are planned to be provided to accommodate the development of the subject property.
- ~~D.~~ C. The site is suited to and desirable for a mix of different categories of use, one or more of which is not allowed outright in the subject zoning district, considering location, size, shape, access, topography, transportation networks existing or planned for the area, visibility, natural features, and existence of improvements and uses which support the higher intensity use of the subject property site associated with multi-use developments.
- ~~E.~~ D. The use of the site for a multi-use development will not substantially limit, impair, or preclude the use of surrounding properties for uses allowed in the zoning district(s) in which the surrounding properties are located.

~~1016.03 PROCEDURE FOR REVIEW OF A MULTI-USE DEVELOPMENT~~

- ~~A.~~ Conditional Use: A Multi-Use Development shall be a conditional use, subject to public hearing review under the provisions of Section 1300. Approval shall be granted when the applicant demonstrates that the site and master plan satisfy the requirements of this Section.
- ~~B.~~ Conceptual Approval/Master Plan: Application for a Multi-Use Development shall include a master plan for the entire property for which the conditional use is requested. The master plan shall address the standards and

~~requirements of Section 1016, and shall be reviewed by the Design Review Committee pursuant to Section 1102.~~

~~The recommendation of the Design Review Committee shall be incorporated into the staff report and recommendation to the Hearings Officer. The application and master plan shall include:~~

- ~~1. Identification of proposed use categories, square footage of building area included in each category, and percentage of total building/land area to be used for each category of use, satisfying the provisions of Subsection 1016.04.~~
- ~~2. Identification of major uses—those uses within the development most likely to generate the most traffic, or otherwise impact public services and facilities—and those uses for which special use provisions have been adopted under Section 800.~~
- ~~3. A site analysis including the requirements under Subsections 1102.05(A)(7) and (8).~~
- ~~4. A preliminary site plan including the requirements under Subsections 1102.05(A)(9) through (12), and addressing the purposes under Subsection 1016.01, the site planning and design objectives under Subsection 1016.09(A), and dimensional requirements under Subsection 1016.08.~~
- ~~5. Proposed phasing of the development, if applicable to satisfy the requirements of Subsection 1016.04(G).~~
- ~~6. Other information and plans necessary to address the special use provisions of Section 800 for affected uses within the proposed development.~~

~~C. Approval Period: Conditional use approval of a multi-use development is valid for four years from the date of the final written decision. If the County's final written decision is appealed, the approval period shall commence on the date of the final appellate decision. During this four-year period, the approval shall be implemented, or the approval will become void. "Implemented" means:~~

- ~~1. Plans, as required under Subsections 1102.05(A)(7) through (12), are submitted, reviewed, and approved by the Design Review Committee; and~~
- ~~2. All major development permits shall be obtained and maintained for the approved multi-use development. A "major development permit" is:
 - ~~a. A building permit for a new primary structure that was part of the multi-use development approval; or~~~~

- ~~b. A permit issued by the County Engineering Division for parking lot or road improvements required by the multi-use development approval.~~
- ~~3. In the case of phased developments, the initial application shall specify a timetable for each phase. This proposed timetable shall be subject to review, modification, and/or approval by the Hearings Officer.~~
- ~~D. Time Extension: If the conditional use approval of a multi-use development is not implemented within the initial approval period established by Subsection 1016.03(C), a two-year time extension may be approved by the Planning Director, pursuant to Subsection 1305.02, and subject to Subsection 1305.05.~~
- ~~E. Modification of Approved Plans: Minor modifications shall be subject to review and approval by the Design Review Committee. All other modifications shall be subject to the same procedure as the original application.~~
 - ~~1. The Planning Director shall determine the status of a proposed modification. A modification shall be considered minor only if the portion of the Master Plan being proposed for change:~~
 - ~~a. Is consistent with the conditions of the prior approval;~~
 - ~~b. Complies with the provisions of Section 1016 which are in effect at the time of the modification request;~~
 - ~~c. Does not involve a change in use which results in any of the following:~~
 - ~~i. The addition of a new category of use not included in the original application;~~
 - ~~ii. The deletion of a category of use approved in the original application;~~
 - ~~iii. An increase in the square footage of land area (la) or floor area (fa) exceeding five percent of the "limited" uses, or 10 percent of the "permitted" and/or "required" uses approved in the Master Plan; or~~
 - ~~iv. The addition of a major use, such as a large commercial amusement, public use, entertainment, or educational facility, which will generate more traffic or use more public facility capacity than anticipated in the findings or record supporting the original application approval;~~
 - ~~d. Will not result in an increase in traffic or use of public facilities which exceed those capacities on which the original approval was based;~~

- ~~e. Will not cause a disturbance to an open space feature, as defined in Subsection 1011.02, and identified and preserved in the Master Plan approval; and~~
- ~~f. Does not result in a reduction in required pavement widths or a change in major access locations or major circulation patterns which force more traffic maneuvers onto public, County, or State roads.~~
- ~~2. A modification that satisfies the criteria under Subsection 1016.03(E)(1) shall be reviewed by the Design Review Committee. The Committee may approve, deny, or approve with conditions the proposed modification, in consideration of the following:~~
 - ~~a. The Ordinance provisions in effect at the time of the original approval of the Master Plan for the development; and~~
 - ~~b. The consistency of the proposed modification with the design approved in the Master Plan, including site layout, architectural design, vehicle and pedestrian circulation, transit amenities, parking areas, scale of structures and treatment of open spaces, plazas, and landscaping.~~

1016.04 DETERMINATION OF USES

The following provisions shall determine the uses allowed in a multi-use development. ~~See Table 1016-1 for specific information about what categories of use may be allowed in each district.~~

- A. Use Selection: Uses shall be selected from those categories (or subcategories) of uses which are required, permitted, or limited ~~Required, "Permitted" or "Limited"~~ in the subject zoning underlying district, as specified in Table 1016-1, Determination of Use Chart.
- B. "Required" Uses: ~~Those uses which are "required"~~ Required uses shall be included at the minimum percent of floor area or land area specified in Table 1016-1.
- C. "Limited" Uses: The total area occupied by "limited" uses shall not exceed the maximum percent of floor area or land area specified in Table 1016-1.
- D. "Permitted" Uses: ~~Uses which are "permitted"~~ Permitted uses may occupy ~~whatever~~ the floor area or land area that remains after ~~subtracting~~ satisfying the minimum ~~"required" use area~~ and ~~subtracting the amount of "limited" use area proposed in the development.~~

~~Total area - ("required" + "limited" areas) = "Permitted" area.~~

- E. Residential District/"Limited" Uses: In low density residential zoning districts, at least one-half of the proposed residential units shall be constructed prior to the introduction of "limited" uses into the development. In multifamily zoning districts, limited uses located within the same building as dwelling units may be developed concurrently provided the maximum allowed percent of developed floor area for limited uses is not exceeded at any time.
- F. Residential Districts/"Required" Uses: In residential zoning districts, the total land area may be used to calculate the base density, as provided under Section 1012, for the underlying zoning district. At least 80 percent of the base density in the ~~MR-1 Medium Density Residential~~ and ~~HDR High Density Residential zoning~~ districts, and 50 percent of the base density in the ~~SHD Special High Density Residential zoning~~ district shall be provided in the development. Residential units may be clustered to provide for limited uses and preserve natural features or protect restricted areas. However, the density on any acre of land shall not exceed that allowed in the next highest residential Comprehensive Plan category.
- G. Commercial/Industrial Phased Developments: In commercial or industrial zoning district phased developments, the floor area/land area developed for "limited" uses in each phase shall not exceed the floor area/land area developed for other uses in that phase. An increase in the ratio of "limited" to other uses may be proposed and approved for any phase when other protection measures are used, such as binding development agreements, bonding, or other suitable controls over the total development percentages.
- H. Minimum Mix: In commercial and industrial zoning districts, the ~~multi-use development~~ Master Plan shall include uses from at least three of the primary use categories under Subsection 1016.05.

1016.05 USE CATEGORIES

Uses listed under the following use categories may be included in a ~~m~~Multi-u~~s~~e~~d~~e~~v~~e~~l~~o~~p~~m~~e~~n~~t when allowed in the subject zoning district pursuant to Table 1016-1, Determination of Use Chart, subject to ~~the requirements under~~ Subsection 1016.04.~~

- A. Office/Manufacturing:
 - 1. Business and professional offices, including legal, financial, architectural, engineering, governmental, manufacturers' representatives, corporate facilities; medical and dental, chiropractic, counseling, and other similar services and clinics; insurance, real estate, travel agencies and membership organization headquarters; studios for artists, photographers, writers, radio and television broadcasting (but not transmission towers).
 - 2. Research and development operations and testing laboratories; manufacturing and assembly of medical equipment, communications

equipment, electronic components, measuring and analyzing instruments; printing, publishing, bookbinding, graphic or photographic reproduction, blueprinting and photo finishing; and similar uses, except those prohibited under Subsection 1016.07, provided that no operation shall be conducted or equipment or chemicals used which would create a hazard or offensive noise, odor, vibration, smoke, dust, or other similar condition.

B. Hospitality/Public Use:

1. Hotels, motels, guest lodges and associated convention facilities; gift shops, newsstands and eating and drinking establishments located within the same building with a motel, hotel, or public use facility; tourist facilities and information services.
2. Health, recreation and exercise facilities, including health clubs, swimming pools, spas, tennis, racquetball, handball courts, golf courses and driving ranges and similar uses.
3. Large scale public use facilities such as auditoriums for live entertainment, operas, concerts and plays; convention facilities not part of a hotel or motel; indoor or outdoor stadia and arenas, spectator sport and multi-use facilities, such as coliseums or domes; exhibition halls, galleries and museums; movie theaters; other public use gathering places of similar nature.
4. A "destination restaurant" may be allowed as a "hospitality" use in the ~~CI Campus Industrial~~ and ~~OC Office Commercial zoning Dd~~ districts. A "destination restaurant," for purposes of this Ordinance, is a "full menu establishment" (as defined by the U.S. Census Bureau) with no drive-through service, which satisfies five of the criteria listed below. On sites 40 acres or larger, up to two restaurants meeting four of the seven criteria listed below may be allowed as a "hospitality" use.
 - a. Has a minimum seating capacity of 75;
 - b. Specializes in gourmet, ethnic, or specialty cuisine;
 - c. Includes banquet facilities and services;
 - d. Provides live entertainment at least two nights a week;
 - e. Utilizes custom architectural design and/or collections of artistic, cultural, or historic items to produce a distinctive thematic decor or atmosphere;
 - f. Has an OLCC license to serve beer and wine;

- g. Employs only chefs who have graduated from a recognized culinary institute, or who have outstanding qualifications or reputations for their culinary skills.

C. Commercial:

1. The following neighborhood retail and service commercial uses which primarily serve the tenants and/or residents of the mMulti-uUse dDevelopment and the immediate surrounding area:
 - a. Apparel stores and dressmaking shops;
 - b. Bakery shops;
 - c. Catering establishments;
 - d. Confectionery stores;
 - e. Delicatessen shops and restaurants, but not drive-in restaurants or drive-thru service;
 - f. Drug stores;
 - g. Fabric and dry goods stores;
 - h. Florist and gift shops;
 - i. Grocery and produce stores;
 - j. Hardware and garden supplies;
 - k. Meat and fish markets;
 - l. Barber and beauty shops;
 - m. Clothes pressing, alterations, and tailoring shops;
 - n. Daycare facilities and other adult or child care facilities, operated during the daytime, subject to Section 807, Daycare Facilities;
 - o. Dry cleaners; laundry agencies; self-service laundromats and dry cleaning facilities;
 - p. Exercise and tanning studios;
 - q. Offices for doctors, dentists, chiropractors, naturopathic treatment personnel, and other health service personnel; small clinics or community health care programs;

- r. Photo finishing;
 - s. Shoe repair;
 - t. Veterinarian services and pet supplies;
 - u. Video rental stores;
 - v. Bed and breakfast residences and inns, subject to Section 832, *Bed and Breakfast Residences and Inns*;
 - w. Wireless telecommunication facilities listed in Subsection 835.04, subject to Section 835, *Wireless Telecommunication Facilities*;
 - x. Preexisting retail or service commercial uses; and
 - y. Mobile vending units, subject to Section 837, *Mobile Vending Units*.
- 2. Commercial amusement uses such as bowling alleys, game rooms, billiard and pool halls, miniature golf, roller or ice skating rinks, and similar uses, but not those included in Category B, or prohibited under Subsection 1016.07.
 - 3. All retail and service commercial uses except those included under Subsection 1016.05(C)(4); eating and drinking establishments except those qualifying as "hospitality" uses under Subsection 1016.05(B); banks, credit unions, and financial institutions.
 - 4. Sales lots and repair services for automobiles, trucks, boats, motorcycles, recreational vehicles, trailers, manufactured dwellings, farm or construction equipment and other heavy machinery; lumber yards, fuel yards, carpentry or sheet metal shops; mini-storage and vehicle storage facilities, moving equipment rental; funeral parlors; gasoline service stations.
- D. Residential:
- 1. Low density residential zoning district primary uses, as specified in the underlying zoning district (i.e., R-7 through R-30 Districts and Hoodland Residential District).
 - 2. ~~MR-1 Medium Density Residential zoning D~~istrict primary uses, subject to Section 315.
 - 3. ~~HDR High Density Residential zoning D~~istrict primary uses, subject to Section 315.

4. ~~SHD Special High Density Residential zoning District~~ primary uses, subject to Section 315.
 5. ~~MRR Mountain Recreational Resort zoning District~~ primary uses, subject to Section 306.
- E. Educational: Colleges, universities or graduate centers; business, trade and craft schools; specialty schools in the arts, music, counseling, etc.; and rehabilitation and worker training/retraining centers and facilities.

1016.06 ACCESSORY USES

The following uses may be provided in conjunction with any category of use, or uses, approved ~~for the multi-use development under Subsection 1016.03~~.

- A. Temporary buildings for uses incidental to construction work, which buildings shall be removed upon completion or abandonment of the construction work.
- B. Transit stations, bus shelters, bike racks, pedestrian amenities, and transit amenities.
- C. Parking structures.
- D. Utility carrier cabinets.
- E. Solar energy systems.
- F. Cogeneration facilities.
- G. Radio and television earth stations and dishes.
- H. Daycare facilities associated with a principal use.
- I. Cafeterias, delicatessens, and other such facilities provided for employees of a principal use.
- J. Recycling collection containers, provided all materials are presorted, no processing occurs on-site, and all materials are stored within an enclosed structure or area between pickup days.
- K. Private recreational facilities as part of a multifamily residential complex.
- L. Helistops.
- M. Rainwater collection systems.
- N. Electric vehicle charging stations.

- O. Other uses and structures customarily accessory and incidental to a primary use, ~~as determined by the Design Review Committee.~~

1016.07 PROHIBITED USES

The following uses shall be prohibited in a multi-use development.

~~A. Any category of use, or major use not included on the approved site plan for a multi-use development shall be prohibited in that development. A modification of the approved plan, as provided under Subsection 1016.03(E), shall be required prior to the addition of a new category of use or major use.~~

- A. New dwellings, manufactured dwellings, and manufactured dwelling parks, except as permitted within low density or medium density residential districts;
- B. Outdoor storage of materials or products;
- C. Drive-thru window service, except those associated with a bank, credit union, or other financial institution, subject to Section 827, Drive-Thru Window Service; and
- D. Industrial uses listed in Table 602-1, Permitted Uses in the BP, LI, and GI Districts, as ~~c~~Conditional ~~u~~Uses in the GI District, except as specifically allowed under Subsection 1016.05.

1016.08 DIMENSIONAL STANDARDS

- A. The dimensional standards are intended to:
 - 1. Provide for and encourage coordinated development and the most efficient use of property within a multi-use development.
 - 2. Ensure adequate structure separation for light, air, fire safety and protection of all uses and structures within the development, and between the development and uses and structures on adjacent properties.
 - 3. Protect adjacent properties and uses from incompatible uses, and provide adequate buffering and transitioning between different uses within the development.
 - 4. Ensure an attractive appearance through the use of open spaces, setbacks, landscaping and pedestrian amenities, plazas, buffering, and retention of significant natural features.
 - 5. Ensure adequate access to property and minimum traffic conflicts and impacts.

- B. A multi-use development shall comply with the following dimensional requirements:
1. Minimum Site Area: For purposes of this section, "site area" shall be as defined in Note 2 to Table 315-5, *Dimensional Standards in the PMD, MR-1, MR-2, HDR, VA, SHD, and RCHDR Districts*.
 - a. ~~Low Density Residential (R-7 through R-30) Districts~~: 30 acres
 - b. ~~Hoodland Residential (HR) District~~: 30 acres
 - c. ~~Medium Density Residential (MR-1) District~~: 10 acres
 - d. ~~Mountain Recreational Resort (MRR) District~~: 10 acres
 - e. ~~High Density Residential (HDR) District~~: ~~Five~~5 acres
 - f. ~~Special High Density Residential (SHD) District~~: ~~Five~~5 acres
 - g. ~~General Commercial (C-3) District~~: ~~One~~1 acre
 - h. ~~Office Commercial (OC) District~~: 10 acres
 - i. ~~Campus Industrial (CI) District~~: 20 acres
 - j. ~~Open Space Management (OSM) District~~: 20 acres
 - k. A site area less than the above requirements may be allowed when such site is physically separated from all other undeveloped or underdeveloped properties in the ~~subject zoning~~underlying district.
 2. Minimum front yard setbacks:
 - a. From major periphery roads: 25 feet.
 - b. From interior access driveways and circulation roads: 10 feet.
 3. Minimum side and rear setbacks: 15 feet.
 4. Minimum building separation: The minimum separation between a multifamily residential use located in a separate building on the same site, or on an adjacent site, and any building housing another category of use shall be 50 feet. However, this shall not preclude the mixing of multifamily residential with other categories of use within one building.
 5. Minimum site area street frontage: 200 feet, except in the C-3 ~~zoning~~District, the minimum street frontage shall be 100 feet.
 6. Maximum building height: Same as ~~subject~~underlying zoning district.

7. Minimum landscaping/open space area requirements: The minimum landscaped area standards under Table 1009-1, Minimum Landscaped Area, shall be modified as follows:
 - a. In the C-3 ~~zoning-D~~istrict, a minimum of 20 percent of the net site area shall be utilized for landscaping and open space. In phased developments, landscaped areas may be reduced to a minimum of 15 percent for any phase when the applicant demonstrates how the minimum 20-percent requirement will be satisfied.
 - b. In the R-7 through R-30, MR-1, HDR, SHD, MRR, HR, OSM, CI, and OC ~~zoning-D~~istricts, a minimum of 25 percent of the net site area shall be utilized for landscaping and open space. In phased developments, landscaped areas may be reduced to a minimum of 20 percent for any phase when the applicant demonstrates how the minimum 25-percent requirement will be satisfied.
- C. Exceptions to Dimensional Requirements: The requirements of this subsection are not subject to modification pursuant to ~~the provisions of~~ Section 900. However, except for minimum landscape provisions, these requirements may be reduced up to 20 percent through design review pursuant to Section 1102~~by the Design Review Committee during the review process~~ when such modification is consistent with the purposes under Subsections 1016.01 and 1016.08(A). The effect of the proposed modification on the natural features of the site and on the use and preservation of solar access shall be considered when applicable. Proposed modifications ~~that~~which exceed 20 percent of the requirement shall be subject to Section 1205, Variance.

1016.09 DEVELOPMENT STANDARDS

A multi-use development shall comply with ~~the development standards in~~ Section 1000, Development Standards. In addition, the following standards and objectives shall apply:

- A. Site Planning and Design: The ~~overall sitemaster~~ plan and siting of individual uses and buildings within a multi-use development shall address the following objectives:
 1. Identity: To create a stimulating environment through the siting of various uses, the use and articulation of open spaces, structure scale, design and texture, and the provision of pedestrian level amenities to produce a strong "sense of place."
 2. Pedestrian Circulation: To provide pedestrian access and movement through the site in a manner that maximizes foot traffic exposure to goods and services, and minimizes conflicts with vehicle circulation areas.

3. Transit: To maximize the use of mass transit services through the provision of transit and pedestrian facilities and amenities in cooperation with the regional transit provider.
 4. Parking: To minimize the visual impact of parking areas. This may be accomplished through the use of: landscaping techniques; the incorporation of parking structures, as provided under Subsection 1016.09(D); the siting of uses to maximize the "shared parking" provisions of Section 1015; or a combination of these methods.
 5. Access/Circulation: To minimize the number of access points onto the site from adjacent roads and provide for traffic circulation between on-site uses, as appropriate.
 6. Visual Access/Traffic Impacts: To maximize visibility and access for uses most dependent upon impulse shopping, or off-the-street business while minimizing traffic impacts on other uses within the development.
 7. Natural Features: To protect the aesthetic and location advantages provided by the terrain and natural features of the site and minimize the alteration thereof as far as practicable.
 8. Impacts: To minimize negative impacts of proposed uses on adjacent properties and uses and ensure the livability of residential areas of the site, when applicable.
- B. Building Design: In addition to the provisions of Section 1005, *Sustainable Site and Building Design*, a multi-use development shall require:
1. Buildings and structures to be designed using materials, architectural styling and features, pedestrian plazas and amenities, and color, texture and scale of architectural elements to produce a mix of complimentary styles which are in scale with each other and demonstrate comparable excellence in design and implementation.
 2. Buildings housing retail commercial uses shall provide ample window area oriented toward pedestrian walkways or plazas, and, when single-story construction is used, shall incorporate design techniques and elements to enhance the scale of the building(s).
- C. Landscaping/Open Space: The minimum percent of landscaping/open space required shall be as specified under Subsection 1016.08(B)(7). In addition to the requirements under Section 1009, *Landscaping*, the design and development of open space and landscaping in a multi-use development shall:
1. Include street trees and parking area trees which are in scale with the development.

2. Provide a cohesive open space and pedestrian network within the development, with appropriate connections to surrounding properties and uses.
 3. Provide pleasing transitions between uses, soften and buffer utility and loading areas, visually break up parking areas into identifiable subareas, and provide pleasing textures and variety, particularly next to buildings, along walkways, and within plazas.
 4. Include open spaces and plazas which are in scale with the development, invite activity appropriate to adjoining uses, and incorporate plant materials, seating, waste receptacles, lighting, and a focal element such as a fountain, sculpture, mural, or other visual art object.
- D. Parking and Circulation: In addition to the standards of Section 1015, Parking and Loading, the County may require parking structures to serve intensive uses. Factors to be considered include:
1. Topography and other physical characteristics of the site;
 2. Effects on distinctive natural features of the site;
 3. Effects on surface drainage and associated facilities;
 4. Effect on the capacity of the site to absorb the parking and traffic impacts of the intensive use(s);
 5. Effects on the quality of the overall site design in addressing the objectives under Subsection 1016.09(A); and
 6. The benefits associated with structure parking, such as the increase in development intensity and provision of open space amenities, and the ability or inability of such benefits to recoup the added expense associated with such facilities.
- E. Identification/Signing: The provisions of Section 1010, Signs, shall be modified as follows:
1. Signing Master Plan: Applications for mMulti-uUse dDevelopments shall include a comprehensive sSigning pPlan which shall include:
 - a. Eelevations illustrating the major sign and sign types;
 - b. Mmaps and drawings indicating location of all proposed signs;
 - c. Ddescriptions of sizes and heights of signs; and

- d. ~~De~~escription of how the proposed signing plan satisfies the criteria set forth in this ~~O~~rdinance pertaining to size, design, placement, height, and number of signs.
2. Standards: The ~~Design Review Committee shall review the s~~Signing ~~m~~Master ~~p~~lan ~~shall be reviewed~~ under ~~the provisions of~~ Section 1010, except as specifically provided below:
 - a. Freestanding Signs: One freestanding identification sign may be provided on each public, County or State road from which the development takes access. One additional freestanding sign may be allowed on a public, County or State road when the frontage on that road exceeds 1,000 feet, and two or more major access points are provided. In no case shall the number of freestanding signs exceed four for any ~~m~~Multi-~~u~~se ~~d~~Development. The maximum size and height for each freestanding sign shall be determined ~~by the Design Review Committee underpursuant to~~ Subsection 1010.05(A)(3).
 - b. On-Building Signs: Individual on-building tenant identification signs shall be allowed under the provisions of Subsection 1010.05(B).
 - c. Ground-Mounted Signs: Ground-mounted signs may be used to identify an individual building within a multi-use development provided that:
 - i. ~~N~~o on-building sign with the same message is facing in the same direction;
 - ii. ~~T~~he sign area does not exceed 30 square feet;
 - iii. ~~T~~he sign does not exceed five feet in height; and
 - iv. ~~A~~rchitectural features may be added to the sign structure provided the total sign size and height are not increased by more than one-third of the above requirements.
 3. Addresses/Road Signs: Street addresses shall be clearly displayed on or in front of each separate building or commercial tenant space. ~~The Planning Division may require that I~~interior circulation roads may be required to be named. Such names shall be subject to County Planning Division approval. Signs identifying roads within the development shall be installed and maintained by the developer or management association. Directional signs to various uses within the development may be included on the road signs.
- F. Management Association/Easements: The County may require the formation of a management association or other suitable mechanism approved by the

County to assure that the following maintenance and liability duties are adequately addressed:

1. To improve, operate, and maintain common facilities, including open space, landscaping, parking and service areas, streets, recreation areas, signing, and lighting.
2. To provide and maintain cross-easements between uses and parcels within the development for parking, circulation, drainage facilities, utilities, and similar elements shared in common.
3. To adopt and enforce restrictions on the use of open space, landscaping, plazas, and service areas, malls, and other public access areas of the site.
4. To maintain liability insurance and pay local taxes, unless other legally binding mechanism is provided.
5. To assess and collect from members their pro rata share of the cost associated with the responsibilities herein described. The association shall be able to adjust the assessment to meet changes as needed.
6. To make revisions to the bylaws as necessary, subject to County review and approval, when the County determines that such changes protect the intent and purpose of this ordinance and are in the public's interest.

Table 1016-1: Determination of Use Chart ~~DETERMINATION OF USE CHART (DUC)~~

DISTRICTS	RESIDENTIAL					COMMERCIAL		INDUSTRIAL	
	LDR	MR-1	HDR	SHD	MRR	C-3	OC	CI	OSM
Minimum Site Area*	30 ac	10 ac	5 ac	5 ac	10 ac	1 ac	10 ac	20 ac	20 ac
Minimum % <u>R</u> la or fa required	80% la	70% fa	50% fa	50% fa	70% fa	N/A	N/A	60% fa	70% la
Minimum % bd required		80% bd	80% bd	50% fa					
Maximum % (L) la or fa allowed	20% la	15% fa	20% fa	25% fa	20% fa	N/A	35% fa	35% fa	30% la
CATEGORY A									
1. Offices	(L)	P	P	P	P	P	P	<u>R</u>	(L)
2. High Tech	X	X	X	X	X	P	P	<u>R</u>	X
CATEGORY B									
1. Hospitality	X	P	P	P	P	P	P	P	(L)
2. Health/Recreation	(L)	P	P	P	P	P	P	P	<u>R</u>
3. Public Use/Cultural	X	P	P	P	P	P	P	P	(L)
CATEGORY C									
1. Neighborhood Commercial	(L)	(L)	(L)	(L)	(L)	P	(L)	(L)	(L)
2. Commercial Amusement	X	X	(L)	(L)	(L)	P	(L)	(L)	(L)
3. Retail/Service	X	X	X	(L)	X	P	(L)	(L)	X
4. Strip/Auto	X	X	X	X	X	P	X	X	X
CATEGORY D									
1. Residential (District Density)	<u>R</u>	<u>R</u>	<u>R</u>	<u>R</u>	<u>R</u>	MR-1 to HDR	HDR	HDR	X
CATEGORY E									
1. Education	(L)	P	P	P	P	P	P	P	(L)

SYMBOL KEY:

P	Permitted Use
<u>R</u>	Required Use (See minimum % required)

Table 1016-1: Determination of Use Chart~~DETERMINATION OF USE CHART (DUC)~~

la	Land Area
bd	Base Density
(L)	Limited Use (See maximum % allowed)
X	Prohibited Use
fa	Floor Area
*	See Subsections 1016.08(B)(1)(k) and 1016.08(C) for exceptions

[Amended by Ord. ZDO-224, 5/31/11; Amended by Ord. ZDO-230, 9/26/11; Amended by Ord. ZDO-243, 9/9/13]

1018 SOLAR BALANCE POINT/INFILL-ORDINANCE

1018.01 PURPOSE

~~Section 1018 is adopted~~~~The purposes of this ordinance are~~ to promote the use of solar energy, to minimize the shading of structures by structures and accessory structures, and, where applicable, to minimize the shading of structures by trees. ~~Decisions related to this ordinance are intended to be ministerial.~~

1018.02 APPLICABILITY~~APPLICATION OF SECTION~~

~~Section 1018~~~~This section shall apply~~ applies to an application for a building permit for all structures in VR-4/5, VR-5/7, R-7, R-8.5, R-10, R-15, R-20, and R-30 ~~Districts~~zones and all detached single-family dwellings in any zoning district~~zone~~, except to the extent ~~the Planning Director finds the applicant has shown~~ that one or more of the conditions listed in Subsections 1018.06 and 1018.07 exists, and exemptions or adjustments provided for therein are warranted. In addition, nonexempt vegetation planted on lots subject to Subsection 1017.07 shall comply with the shade point height standards as provided in Subsections 1018.05 and 1018.06. In addition, Subsection 1018.1~~12~~ shall apply to development in the HDR, SHD, and RCHDR Districts.

1018.03 DEFINITIONS

Words and terms used in ~~this section~~Section 1018 shall be as defined under Subsection 1017.03.

1018.04 SOLAR SITE PLAN REQUIRED

An applicant for a building permit for a structure subject to Section 1018~~this ordinance~~ shall submit a site plan that shows the maximum shade point height allowed under Subsection 1018.05 and the allowed shade on the proposed structure's solar features as provided in Subsection 1018.08. If applicable, the site plan also shall show the solar balance point for the structure as provided in Subsection 1018.09.

1018.05 MAXIMUM SHADE POINT HEIGHT STANDARD

The height of the shade point shall comply with either A or B below.

- A. Basic Requirement: The height of the shade point shall be less than or equal to the height specified in Table 1018-1A or computed using the following formula. If necessary, interpolate between the five~~5~~-foot dimensions listed in Table 1018-1A.

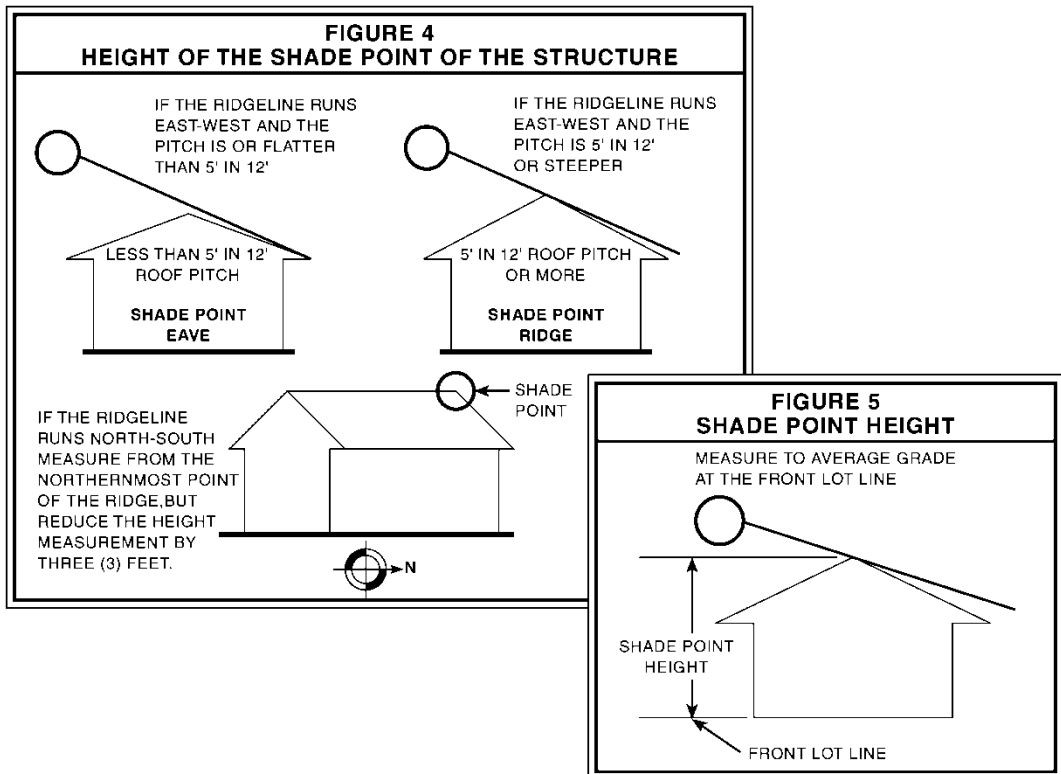
$$H = \frac{(2 \times \text{SRL}) - N + 150}{5}$$

Where: H = the maximum allowed height of the shade point (see Figures 4 and 5);

SRL = shade reduction line (the distance between the shade point and the northern lot line, see Figure 6); and

N = the north-south lot dimension, provided that a north-south lot dimension of more than 90 feet shall use a value of 90 feet for this section.

Adjustment to shade point height on sloped lots: The maximum allowed height of the shade point may be increased one foot above the amount calculated using the formula or Table 1018-1A for each foot that the average grade at the north property line exceeds the average grade at the south property line.



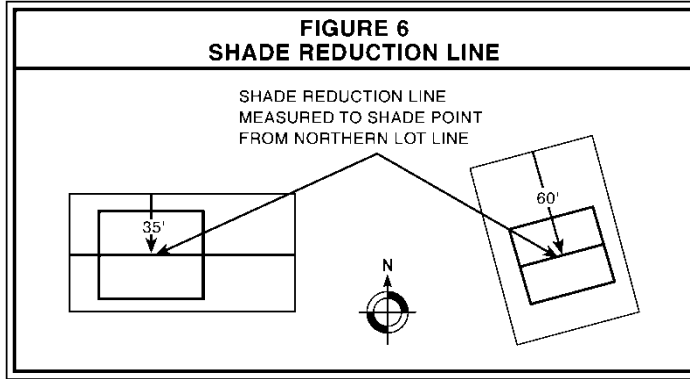


Table **1018-1A**: Maximum Permitted Shade Point Height (in feet)

Length of Shade Reduction Line	North-South Lot Dimension (in feet)										
	90+	85	80	75	70	65	60	55	50	45	40
70	40	41	42	43	44						
65	38	39	40	41	42	43					
60	36	37	38	39	40	41	42				
55	34	35	36	37	38	39	40	41			
50	32	33	34	35	36	37	38	39	40		
45	30	31	32	33	34	35	36	37	38	39	
40	28	29	30	31	32	33	34	35	36	37	38
35	26	27	28	29	30	31	32	33	34	35	36
30	24	25	26	27	28	29	30	31	32	33	34
25	22	23	24	25	26	27	28	29	30	31	32
20	20	21	22	23	24	25	26	27	28	29	30
15	18	19	20	21	22	23	24	25	26	27	28
10	16	17	18	19	20	21	22	23	24	25	26
5	14	15	16	17	18	19	20	21	22	23	24

B. Performance Option: The proposed structure or applicable nonexempt vegetation will shade not more than 20 percent of the south-facing glazing of an existing habitable structure(s), or, where applicable, the proposed structure or nonexempt vegetation will comply with Subsections [1017.04\(B\)](#) or [1017.04\(C\)](#) of the [Solar Access Ordinance for New Development](#). If Subsection [1017.04\(B\)](#), [Protected Solar Building Line](#), is used, nonexempt trees and the shade point of structures shall be set back from the protected solar building line [two and one-half](#) feet for every [one](#) foot of height of the structure or of the mature height of nonexempt vegetation over [two](#) feet.

1018.06 EXEMPTIONS FROM THE MAXIMUM SHADE POINT HEIGHT STANDARD

[The Planning Director shall exempt a](#) proposed structure or nonexempt vegetation

~~shall be exempt~~ from Subsections 1018.04 and 1018.05, ~~of this ordinance~~ if ~~the applicant shows that~~ one or more of the following conditions ~~in this section~~ exist, based on plot plans or plats, corner elevations or other topographical data, shadow patterns, suncharts or photographs, or other substantial evidence submitted by the applicant.

A. Exempt Lot: When created, the lot was subject to Section 1017, ~~the Solar Access Ordinance for New Development~~, and was not subject to ~~the provisions of~~ Subsection 1017.07 ~~of that ordinance~~.

B. Preexisting Shade: The structure or affected nonexempt vegetation will shade an area that is shaded by one or more of the following:

1. An existing or approved building or structure;
2. A topographic feature;
3. A nonexempt tree that will remain after development of the site. It is assumed a tree will remain after development if it: is situated in a building setback required by local law; is part of a developed area or landscaping required by local law, a public park or landscape strip, or legally reserved open space; is in or separated from the developable remainder of a parcel by an undevelopable area or feature; or is on the applicant's property and not affected by the development. A duly executed covenant also can be used to preserve trees causing such shade.

C. Slope: The site has an average slope that exceeds 20 percent in a direction greater than 45 degrees east or west of true south, based on a topographic survey by a licensed professional land surveyor.

D. Insignificant Benefit: The proposed structure or nonexempt vegetation shades one or more of the following:

1. An undevelopable area; or
2. The wall of an unheated space, such as a typical garage; or
3. Less than 20 square feet of south-facing glazing.

E. Public Improvement: The proposed structure is a publicly owned improvement.

1018.07 ADJUSTMENTS TO THE MAXIMUM SHADE POINT HEIGHT STANDARD

The ~~Planning Director shall increase the~~ maximum permitted height of the shade point determined using Subsection 1018.05 shall be increased to the extent that he/she finds the applicant has shown one or more of the following conditions exists, based on plot plans or plats, corner elevations or other topographical data, shadow patterns, suncharts or photographs, or other substantial evidence submitted by the applicant.

- A. Physical Conditions: Physical conditions preclude development of the site in a manner that complies with Subsection 1018.05, due to such things as a lot size less than 3,000 square feet, unstable or wet soils, a drainageway, public or private easement, or a right-of-way.
- B. Conflict Between Maximum Shade Point Height and Allowed Shade on Solar Feature Standards: A proposed structure may be sited to meet the solar balance point standard described in Subsection 1018.09 or be sited as near to the solar balance point as allowed by Subsection 1018.09 if:
1. When the proposed structure is sited to meet the maximum shade point height standard determined using Subsection 1018.05, its solar feature will potentially be shaded as determined using Subsection 1018.08; and
 2. The application includes a form provided by the County that:
 - a. Releases the applicant from complying with Subsection 1018.05 and agrees that the proposed structure may shade an area otherwise protected by Subsection 1018.05;
 - b. Releases the County from liability for damages resulting from the adjustment; and
 - c. Is signed by the owner(s) of the property(ies) that would be shaded by the proposed structure more than allowed by the provisions of Subsection 1018.05.

Before the County issues a permit for a proposed structure for which an adjustment has been granted pursuant to Subsection 1018.07(B), the applicant shall file the form provided for in Subsection 1018.07(B)(2), ~~above~~, in the office of the County Recorder with the deeds to the affected properties.

1018.08 ANALYSIS OF ALLOWED SHADE ON SOLAR FEATURE

- A. The applicant is exempt from Subsection 1018.08 if the lot(s) south of and adjoining the applicant's property is exempt from Subsection 1018.05 ~~of this ordinance~~.
- B. Applicants shall be encouraged to design and site a proposed habitable structure so that the lowest height of the solar feature(s) will not be shaded by buildings or nonexempt trees on the lot(s) to the south. The applicant shall complete the following calculation procedure to determine if the solar feature(s) of the proposed structure will be shaded. To start, the applicant shall choose which of the following sources of shade originating from the adjacent lot(s) to the south to use in calculating the maximum shade height at the north property line:

1. Existing structure(s) or nonexempt trees; or
2. The maximum shade that can be cast from future buildings or nonexempt trees, based on Table [1018-2C](#). If the lot(s) to the south can be further divided, the north-south dimension shall be assumed to be the minimum lot width required for a new lot in that [zoning district](#).

Table [1018-2C](#)

North-South Lot Dimension of Adjacent Lot(s) to the South	100	95	90	85	80	75	70	65	60	55	50	45	40
Allowed Shade Height at the North Property Line of Adjacent Lot(s) to the South	12	12	12	13	14	15	16	17	18	19	20	21	22

- C. The height of the lowest point of any solar feature of the proposed structure shall be calculated with respect to either the average elevation or the elevation at the midpoint of the front lot line of the lot to the south.
- D. The applicant shall determine the height of the shadow that may be cast upon the applicant's solar feature by the source of shade selected in Subsection 1018.08(B) by using the following formula or Table [1018-3B](#).

$$SFSH = SH(SGL/2.5)$$

Where: SFSH = The allowed shadow height on the solar feature (see Figure 8)

SH = The height of the shade at the northern lot line of the lot(s) to the south as determined in Subsection 1018.08(B)

SGL = The solar gain line (the distance from the solar feature to the northern lot line of the adjacent lot(s) to the south)

Table [1018-2C](#) may be used to determine (SH) in the above formula.

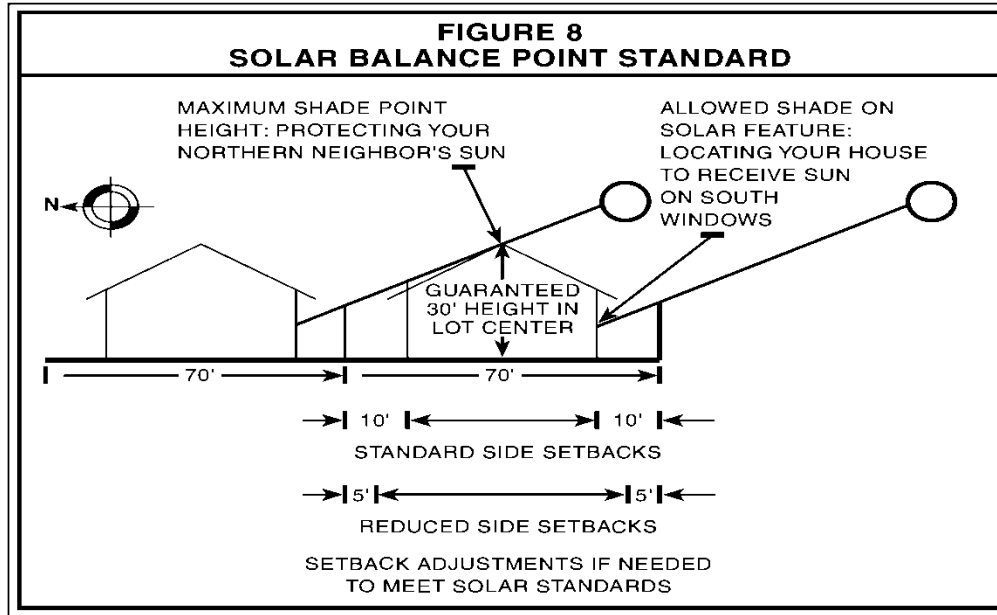
Table 1018-3B: Maximum Permitted Height of Shadow at Solar Feature (in feet)

Distance from Solar Gain Line to Lot Line (in feet)	Allowed Shade Height at Northern Lot Line of Adjacent Lot(s) to the South (in feet)										
	22	21	20	19	18	17	16	15	14	13	12
50	2	1									
45	4	3	2	1							
40	6	5	4	3	2	1					
35	8	7	6	5	4	3	2	1			
30	10	9	8	7	6	5	4	3	2	1	
25	12	11	10	9	8	7	6	5	4	3	2
20	14	13	12	11	10	9	8	7	6	5	4
15	16	15	14	13	12	11	10	9	8	7	6
10	18	17	16	15	14	13	12	11	10	9	8
5	20	19	18	17	16	15	14	13	12	11	10

E. If the allowed shade height on the solar feature calculated in Subsection 1018.08(D) is higher than the lowest height of the solar feature calculated in Subsection 1018.08(C), the applicant shall be encouraged to consider any changes to the structure design or location which would make it practical to locate the solar feature so that it will not be shaded in the future.

1018.09 SOLAR BALANCE POINT

If a structure does not comply with the maximum shade point height standard in Subsection 1018.05 and the allowed shade on a solar feature standard in Subsection 1018.08, the solar balance point of the lot shall be calculated (see Figure 8). The solar balance point is the point on the lot where the location of a structure would be the same for complying with both of these standards.



1018.10 YARD SETBACK ADJUSTMENT

The County shall grant an adjustment to the side, front and/or rear yard setback requirement(s) by up to 50 percent, if necessary to build a proposed structure so it complies with either the shade point height standard in Subsection 1018.05, the allowed shade on a solar feature standard in Subsection 1018.08, or the solar balance point standard in Subsection 1018.09 as provided herein (see Figure 8). This adjustment is not intended to encourage reductions in available solar access or unnecessary modification of setback requirements, and shall apply only if necessary for a structure to comply with the applicable provisions of [Section 1018](#) of this ordinance. The following are permitted yard setback adjustments:

A. In R-7 and R-8.5 [Districts/zones](#):

1. A front yard setback may be reduced to not less than 10 feet.
2. A rear yard setback may be reduced to not less than 10 feet.
3. A side yard setback may be reduced to not less than ~~three~~3 feet.

B. In R-10, R-15, and R-20 [Districts/zones](#):

1. A front yard setback may be reduced to not less than 15 feet.
2. A rear yard setback may be reduced to not less than 15 feet.
3. A side yard setback may be reduced to not less than ~~five~~5 feet.

~~1018.11~~ [REVIEW PROCESS](#)

~~The provisions of this Section, except for Subsection 1018.12, shall be administered by the Planning staff at the time of building permit application. Appeals of staff actions under this section shall be to the Hearings Officer as stated in Section 1305.01K.~~

~~Subsection 1018.12 shall be administered as part of design review, pursuant to Section 1102, Design Review.~~

1018.1~~2~~ MINIMUM AND MAXIMUM SEPARATION DISTANCE IN THE HDR, SHD, AND RCHDR DISTRICTS

The following standards apply in the HDR, SDH, and RCHDR Districts:

A. Minimum North-South Separation: The minimum distance on a north-south axis between any building and a site area line north of said building shall be the horizontal distance calculated by drawing a 60-degree angle line from the top of the structure to the natural ground elevation north of the structure. For purposes of this provision, the "top of the structure" shall be that part of projection of the structure which first intersects a 60-degree angle line projecting toward the ground north of the building. (See Figure 1018-1.) This provision shall be modified as follows:

1. Intervening streets and 15 feet of setback into the property on the north side of said street may be included in the required separation distance.
2. If an area on the adjacent site north of a proposed structure is developed or committed for use as a circulation drive or parking structure or lot, that area may be included in the required separation distance, provided no existing or proposed primary use structure on the adjacent site shall fall within the required separation distance.
3. If the owner of the site area to the north grants a north-south separation easement, as provided under Subsection 1018.1~~2~~(B), that area may be included in the required separation distance.

B. North-South Separation Easements: An owner, or owners, of a site area may grant a north-south separation easement to the owner, or owners, of a site area to the south provided that:

1. Documentation and a map of the easement is submitted with the development plans for the site areas in question;
2. The development plans for the two or more site areas in question are coordinated to the maximum extent possible; and
3. Buildings are sited to minimize the loss of solar access to primary use structures. However, this provision shall not preclude or restrict the use or development of any north-south separation easement area.

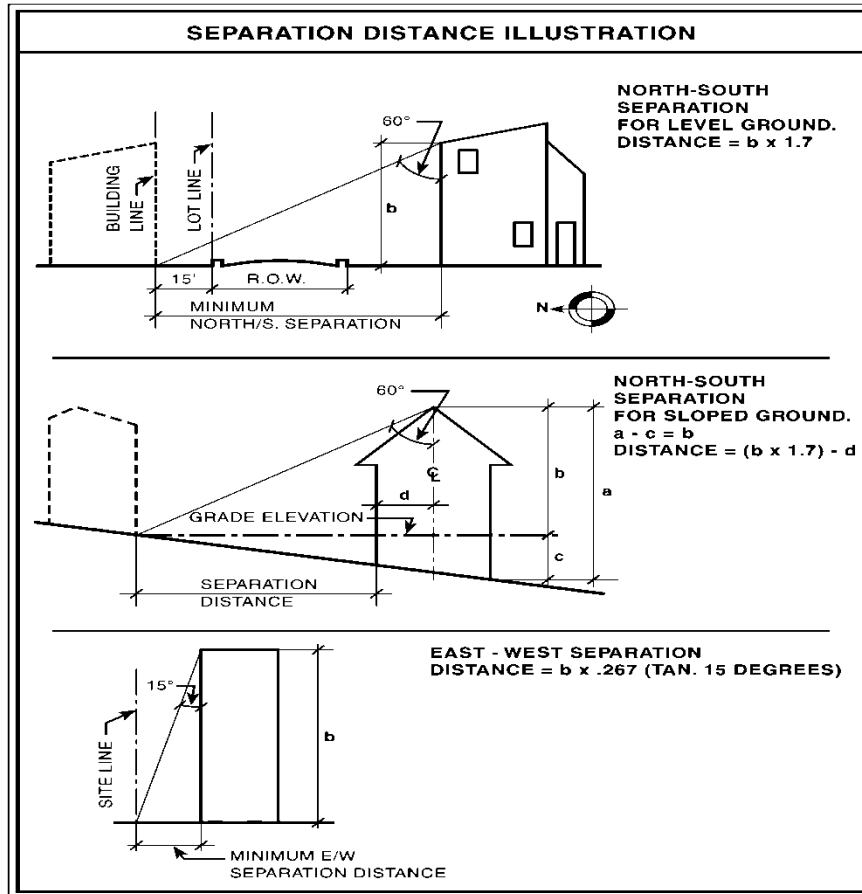
C. Minimum East-West Separation: The minimum distance on an east-west axis between any building and a site area line, except when abutting a public, County or state road, shall be the horizontal distance calculated by drawing a 15-degree

angle line from the top of the structure to the natural ground elevation east and west of the structure. (See Figure 1018-1.)

Formula: Separation = $b \times .267$ (tan 15 degrees)

- D. Separation Exception: The north-south and east-west separation distance requirements shall not preclude structurally connecting two or more buildings on separate site areas provided that the proposed connection is approved as part of the development plans for the affected site areas.

Figure 1018-1: Separation Distance Illustration



- E. Exceptions: The standards of Subsection 1018.1~~12~~ are not subject to modification pursuant to Sections 903, *Setback Exceptions*, and 904, *Other Exceptions*. However, these standards may be modified through design review pursuant to Section 1102, *Design Review*. Approval shall not be granted unless the modification requested is necessary to allow development of primary uses at densities allowed for the site area.

1102 DESIGN REVIEW

1102.01 APPLICABILITY

Section 1102 applies to all development, redevelopment, expansions, and improvements in all commercial, industrial, and multifamily zoning districts and to other uses as required by the Planning Director, the Hearings Officer, or the Board of County Commissioners. For purposes of this provision, the Medium Density Residential District and the Medium High Density Residential District shall be considered “multifamily zoning districts,” even though attached single-family dwellings are a primary use. In addition, in the Urban Low Density Residential Districts, Section 1102 applies to attached single-family dwellings, two-family dwellings, three-family dwellings, and condominiums.

1102.02 CRITERIA AND PROCEDURE

- A. ~~Except as set forth in Subsection 1102.02(F), design review shall require a Type II application may be approved pursuant to Section 1307 Subsection 1305.02 if the applicant provides evidence substantiating that. T~~he proposed development ~~shall be subject to~~ complies with Section 1000, Development Standards, the standards of the zoning district in which the subject property is located, and all other applicable provisions of this Ordinance.
- B. Where master plan approval is required, application for such approval shall be processed pursuant to Section 1102. Master plan approval shall be required as follows:
1. In the RTL District, a master plan shall be required for phased development and shall be submitted for design review with the application for the first phase of development.
 2. In the PMU District, a master plan shall be required for the entire property for which development is proposed and shall address the standards and requirements of this Ordinance. The master plan shall include:
 - a. Estimated square feet or number of units of required uses, and density (floor area ratio or units per acre);
 - b. General location of buildings, density (floor area ratio or units per acre), number of stories;
 - c. Proposed phasing of the development. Each phase shall demonstrate compliance with the requirements of the PMU District;
 - d. A traffic impact study;
 - e. Proposed transportation improvements, consistent with the Clackamas Regional Center Area Design Plan, including:

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- i. Traffic impacts of development on the overall street system based on the traffic impact study;
 - ii. Private streets, as to be use to meet building orientation requirements; and
 - iii. Phasing of streets in coordination with phased development;
 - f. Parking ratios for surface parking, total number of parking spaces, type; if structured, location and feasibility (dimensions);
 - g. Open space and significant natural features to be protected, including designated greenways, wetlands, creeks and streams, riparian habitat, and wooded areas;
 - h. Existing or proposed parks; and
 - i. A development narrative that demonstrates compliance with the requirements of the PMU District and with the traffic impact study.
3. Upon application for development of any portion of the OA District, the applicant shall submit a master plan pursuant to Sections 1000 and 1100 for the site area consisting of all contiguous tax lots designated Office Apartment, to ensure compliance with this Ordinance.
 4. Upon application for development of any portion of the VCS District, the applicant shall submit a master plan for the entire site, to ensure compliance with this Ordinance.
 5. Upon application for development of any portion of the VO District, the applicant shall submit a master plan for the entire district, to ensure compliance with this Ordinance.
 6. In the Clackamas Regional Center Area, as shown on Comprehensive Plan Map X-CRC-1, *Clackamas Regional Center Area Design Plan Regional Center, Corridors, and Station Community*, a master plan for sites capable of future development shall be submitted for design review with the application for the first phase of development. However, in the RCO District, this requirement is limited to sites larger than two and one-half acres that are capable of future development. The master plan shall address the standards and requirements of this Ordinance, and should include:
 - a. General location of all proposed uses and improvements;
 - b. General building dimensions, number of stories, square footage of commercial uses, and number of dwelling units of residential uses;

- c. Internal circulation, including that for auto, transit, pedestrian, and freight service;
 - d. Transportation connections to the external street system, including off-site circulation and site access;
 - e. Open space and natural features to be protected;
 - f. Urban design elements shown on Comprehensive Plan Map X-CRC-3, *Clackamas Regional Center Area Design Plan, Urban Design Elements*, that are required on the subject property;
 - g. A demonstration that proposed street layout will accommodate future growth; and
 - h. General location of public facilities and private utilities.
- C. The Planning Director may review and render a decision on an application for design review or forward the application to the Design Review Committee for review and recommendation prior to rendering a decision. In deciding whether to forward an application to the Design Review Committee, the Planning Director shall consider:
- 1. The size of the project, including mass of buildings, site area, landscaping, and parking requirements;
 - 2. The presence of natural features, such as wetlands, steep slopes, treed area, and riparian corridors;
 - 3. Visual significance; and
 - 4. Impact on neighboring properties, particularly where a project is adjacent to a residential area.
- D. An application shall be forwarded to the Design Review Committee for review and recommendation~~decision~~ if requested by the applicant or required by the Hearings Officer or the Board of County Commissioners.
- E. The Planning Director may consult with individual members of the Design Review Committee at any point during the evaluation of a design review application or in determining compliance with conditions of design review approval.
- F. Subsections 1102.02(C) through (E) do not apply to master plan review in the PMU District, which shall instead require a Type III application pursuant to Section 1307~~be subject to Hearings Officer review pursuant to Section 1300~~.

- G. Design review approval is valid for four years from the date of the final written decision. If the County’s final written decision is appealed, the approval period shall commence on the date of the final appellate decision. During this four-year period, the approval shall be implemented, or the approval will become void.
1. “Implemented” means all major development permits shall be obtained and maintained for the approved development, or if no major development permits are required to complete the development contemplated by the design review approval, “implemented” means all other necessary County development permits (e.g. grading permit, building permit for an accessory structure) shall be obtained and maintained. A “major development permit” is:
 - i. A building permit for a new primary structure that was part of the design review approval; or
 - ii. A permit issued by the County Engineering Division for parking lot or road improvements required by the design review approval.
- H. If the design review approval is not implemented within the initial approval period established by Subsection 1102.02(G), a two-year time extension may be approved ~~by the Planning Director,~~ pursuant to Section 1310 Subsection 1305.02, and subject to Subsection 1305.05.
- I. Notwithstanding Subsections 1102.02(G) and (H), approval of a master plan in the PMU District is valid for 10 years from the date of the final written decision. If the County’s final written decision is appealed, the approval period shall commence on the date of the final appellate decision. During this ten-year period, the approval shall be implemented, or the approval will become void. “Implemented” means all necessary County development permits shall be obtained and maintained for the development contemplated by the approved master plan.
- J. If the approval of a master plan in the PMU District is not implemented within the initial approval period established by Subsection 1102.02(I), a five-year time extension may be approved ~~by the Planning Director,~~ pursuant to Section 1310 Subsection 1305.02, and subject to Subsection 1305.05.

1102.03 DESIGN REVIEW COMMITTEE

A Design Review Committee shall be established pursuant to Subsection 1307.03 and shall have the responsibilities assigned to it by Section 1102.

~~A. —The Board of County Commissioners shall appoint a Design Review Committee and may remove members of the Committee.~~

- ~~B. Members of the Design Review Committee shall be appointed for a term of four years and may, at the discretion of the Board of County Commissioners, serve more than one term.~~
- ~~C. The Design Review Committee shall consist of a minimum of seven members and shall include the following:
 - ~~1. One landscape architect;~~
 - ~~2. One architect;~~
 - ~~3. One registered engineer;~~
 - ~~4. One graphic design representative;~~
 - ~~5. One representative from the field of finance or the construction and development industry; and~~
 - ~~6. Two members from the general public, who may be from any discipline or group, including any of the above.~~~~
- ~~D. The Design Review Committee shall adopt rules to govern its deliberations and decisions and shall keep a record of its proceedings.~~

~~1102.04 PREAPPLICATION CONFERENCE~~

- ~~A. A preapplication conference between the applicant and the Planning Director shall be required prior to submission of an application for design review.~~
- ~~B. The following subjects shall be reviewed at the preapplication conference:
 - ~~1. Description of existing site conditions, including:
 - ~~a. Property location and size;~~
 - ~~b. Adjacent land uses and potential cooperation or conflict in land use (e.g., shared parking or need for buffers);~~
 - ~~c. Access to the site for different modes of transportation, including mass transit, trucks, passenger vehicles, bicycles, and pedestrians;~~
 - ~~d. Designated Open Space or zoning overlays (e.g. Floodplain Management District; River and Stream Conservation Area; Historic Landmarks, Districts, and Corridors);~~
 - ~~e. Natural features on the site (e.g., land forms, drainage, wooded areas, large trees, wetlands);~~
 - ~~f. Existing and potential noise sources; and~~~~~~

~~g. Existing uses, structures, circulation, parking, landscaping, and setbacks;~~

~~2. Development concepts and requirements, including:~~

~~a. Proposed uses, structures, circulation, parking, landscaping, and setbacks;~~

~~a. Applicable provisions of this Ordinance, the Comprehensive Plan, and other development regulations administered by the County or other service providers. Emphasis will be on identifying and, if possible, resolving conflicts between regulations; and~~

~~b. Conditions placed on previous development approvals.~~

1102.045 SUBMITTAL REQUIREMENTS

~~A. In addition to the submittal requirements identified in Subsection 1307.07(C),~~
aAn application for design review shall include ~~the following:~~

~~1. A completed design review application on a form provided by the County Planning Division;~~

A2. A narrative describing the proposed use;

B3. Calculations demonstrating compliance with the density standards of Section 1012, if applicable;

C4. An engineering geologic study, if required pursuant to Section 1002 or 1003;

D5. Preliminary statements of feasibility, if required pursuant to Sections ~~1006 and 1007;~~

E6. A transportation impact study, if required pursuant to Section 1007;

F7. A vicinity map showing the location of the subject property in relation to adjacent properties, roads, bikeways, pedestrian access, utility access, and manmade or natural site features that cross the boundaries of the subject property;

G8. An existing conditions map of the subject property showing:

1a. Contour lines at two-foot intervals for slopes of 20 percent or less within an urban growth boundary; contour lines at five-foot intervals for slopes exceeding 20 percent within an urban growth boundary; contour lines at 10-foot intervals outside an urban growth boundary; source of contour information.

2b. Slope analysis designating portions of the site according to the following slope ranges and identifying the total land area in each category: zero to 20 percent, greater than 20 percent to 35 percent, greater than 35 percent to 50 percent, and greater than 50 percent;

3e. Drainage;

4d. Potential hazards to safety, including areas identified as mass movement, flood, soil, or fire hazards pursuant to Section 1003;

5e. Marsh or wetland areas, underground springs, wildlife habitat areas, and surface features such as earth mounds and large rock outcroppings;

6f. Location of wooded areas, significant clumps or groves of trees, and specimen conifers, oaks, and other large deciduous trees. Where the site is heavily wooded, an aerial photograph, of a scale not to exceed 1":400', may be submitted and only those trees that will be affected by the proposed development need be sited accurately;

7g. Location of any overlay zones regulated by Section 700 (e.g. Floodplain Management District, Willamette River Greenway, Historic Landmark);

8h. Noise sources;

9i. Sun and wind exposure;

10j. Significant views; and

11k. Existing structures, impervious surfaces, utilities, landscaping, and easements;

H9. A proposed site plan showing:

1a. The subject property, including contiguous property under the same ownership as the subject property, and adjacent properties;

2b. Property lines and dimensions for the subject property. Indicate any proposed changes to these;

3e. Natural features to be retained;

4d. Location, dimensions, and names of all existing or platted roads or other public ways, easements, and railroad rights-of-way on or adjacent to the subject property;

5e. The location of at least one temporary benchmark and spot elevations;

6f. Location and dimensions of structures, impervious surfaces, and utilities, whether proposed or existing and intended to be retained. For phased developments, include future buildings;

7g. Approximate location and size of storm drainage facilities;

8h. Relation to transit; location and dimensions of parking and loading areas, including dimensions of individual parking spaces and drive aisles; bikeways and bicycle racks, sidewalks and pedestrian crossings;

9i. Orientation of structures showing windows and doors;

10j. Location and type of lighting;

11k. Service areas for waste disposal, recycling, loading, and delivery;

12l. Location of mail boxes; and

13m. Freestanding signs;

J10. A grading plan showing location and extent of proposed grading, general contour lines, slope ratios, slope stabilization proposals, and natural resources protection consistent with Sections 1002 and 1003;

J11. Architectural drawings, including:

1a. Building elevations, including any building signs. Identify the dimensions, area, color, materials, and means of illumination of such signs;

2b. Building sections;

3e. Floor plans;

4d. Color and type of building materials; and

5e. Elevation of freestanding sign(s). Identify the dimensions—including total height and height between bottom of sign and ground, area, color, materials, and means of illumination;

K12. A general landscape development plan, which shall include the elements required on the proposed site plan and:

1a. Existing plants and groups of plants proposed;

2b. Description of soil conditions; plans for soil treatment such as stockpiling of topsoil or addition of soil amendments; and plant selection requirements relating to soil conditions;

3e. Erosion controls, including plant materials and soil stabilization, if any;

4d. Irrigation system (i.e. underground sprinklers or hose bibs);

5e. Landscape-related structures such as fences, terraces, decks, patios, shelters and play areas; and

6f. Open space or recreation areas, if applicable.

LB. In addition to the requirements of Subsection 1102.045(~~HA~~)(~~9~~), the proposed site plan submitted with an application for design review in the PMU District shall include the following:

1. The specific location (footprints) of buildings, orientation, setbacks; and pedestrian amenities provided with buildings;
2. Specific square feet or number of units for each use, floor area ratios or site coverage, as required in Table 510-3, *Site-Specific Requirements for the PMU District*;
3. Transportation improvements necessary to meet the conditions of the approved master plan for the subject property;
4. Parking areas, parking ratios, number of spaces, dimensions, and circulation for structure parking;
5. Location of public amenities, including the urban design elements required on Comprehensive Plan Map X-CRC-3, *Clackamas Regional Center Area Design Plan Urban Design Elements*;
6. Specific internal traffic circulation improvements for all modes of transportation to accommodate projected traffic needs based on the traffic impact study; and
7. Public facilities and private utilities needs and location.

ME. An application for design review in the PMU District shall include a development narrative that demonstrates compliance with the requirements of the PMU District and with the traffic impact study.

1102.056 MAINTENANCE

All approved onsite improvements shall be the ongoing responsibility of the property owner or occupant.

1102.067 COMPLIANCE

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The development shall be completed pursuant to the approved final plans prior to issuance of a certificate of occupancy, except as provided under Section 1104.

[Amended by Ord. ZDO-224, 5/31/11; Amended by Ord. ZDO-230, 9/26/11]

1103 OPEN SPACE REVIEW

1103.01 APPLICABILITY

Section 1103 applies to development that affects an open space resource described in Section 1011, and shown generally on Comprehensive Plan Map IV-6, *North Urban Area Land Use Plan Map*, as Resource Protection, Major Hazards, or Public and Community Use Open Space.

1103.02 PROCEDURE

Open space review shall require a Type II application pursuant to Section 1307 and shall be subject to the following:

A. ~~County staff shall review the~~The required site analysis and development plans shall be reviewed to ensure that all Comprehensive Plan policies, Ordinance, and development standards relevant to the open space resource designation are being satisfied.

B. ~~A staff review team shall be formed from the appropriate divisions within the County Department of Transportation and Development to evaluate the material required in Subsection 1103.03. It shall also:~~

~~1. Evaluate the~~The probable impact of the proposed development on relevant natural systems or features, in particular on resources of area-wide significance, shall be evaluated.;

~~C2. Evaluate the~~The potential for conservation easements, public acquisition, dedication, or any other available means of securing parts of the site as a parkpart, trail, or other open space resource shall be evaluated.; ~~and~~

~~D3. Identify alternative~~Alternative development proposals that better protect the open space resources through the appropriate use of such techniques as density transfers, commonwall structures, multistory buildings, parking structures, ~~or~~ under-structure parking, and reduced parking requirements near transit lines, ~~ete.~~ shall be identified. The intent of this is to assist the applicant in using the various provisions of the Comprehensive Plan, Ordinance, and development standards to achieve the best possible balance of development and open space protection.

1103.03 APPROVAL PERIOD AND TIME EXTENSION

A.C.—Open space review approval is valid for four years from the date of the final written decision. If the County’s final written decision is appealed, the approval period shall commence on the date of the final appellate decision. During this four-year period, the approval shall be implemented, or the approval will become void.

1. “Implemented” means all major development permits shall be obtained and maintained for the approved development, or if no major development permits are required to complete the development contemplated by the open space review approval, “implemented” means all other necessary County development permits (e.g. grading permit, building permit for an accessory structure) shall be obtained and maintained. A “major development permit” is:
 - ai. A building or manufactured dwelling placement permit for a new primary structure that was part of the open space review approval; or
 - bii. A permit issued by the County Engineering Division for parking lot or road improvements required by the open space review approval.
- ~~DB.~~ If the open spacedesign review approval is not implemented within the initial approval period established by Subsection 1103.03(A)+103.02(C), a two-year time extension may be approved ~~by the Planning Director~~, pursuant to Section 1310Subsection 1305.02, and subject to Subsection 1305.05.

1103.043 SUBMITTAL REQUIREMENTS

In addition to the submittal requirements identified in Subsection 1307.07(C), anAn application for open space review shall include ~~the following~~:

- A. Building or manufactured dwelling placement permit submittal requirements for single-family dwellings on lots of record created prior to January 31, 1980, shall include any materials reasonably necessary for adequate review of the project's impact on the open space resource. Examples are:
 1. A site plan showing existing natural features of the subject property and existing development, as well as proposed development, tree cutting activity, or other modification of open space resources; and
 2. Cross-section of any area within the open space resource where terrain modifications will occur.
- B. Submittal requirements for partitions shall be those identified in Section 1106.
- C. Submittal requirements for planned unit developments shall include a vicinity map and an existing conditions map as required by Subsections 1102.04(F) and (G)+102.05(A)(7) and (8), in addition to the other requirements set forth in this Ordinance.
- D. Submittal requirements for commercial, industrial, and multifamily developments shall be those identified in Section 1102.

[Amended by Ord. ZDO-230, 9/26/11]

1105 SUBDIVISIONS

1105.01 APPLICABILITY

Except as may be otherwise required by Section 808, Oregon Revised Statutes Chapter 97, or other applicable regulations, Section 1105 applies to subdivisions, including subdivisions for cemetery purposes.

1105.02 GENERAL PROVISIONS

- A. Subdivisions shall comply with this Ordinance and Oregon Revised Statutes Chapter 92.
- B. Subdivisions are subject to Section 1000.
- ~~C. A preapplication conference is required, pursuant to Subsection 1301.04, prior to the filing of an application for a subdivision.~~

1105.03 SUBMITTAL REQUIREMENTS

In addition to the submittal requirements identified in Subsection 1307.07(C), an application for a subdivision shall include:

- ~~A. Applications for subdivisions shall be submitted to the Planning Division on forms provided by the Planning Division.~~
- ~~B.~~A. Applications shall include 20 copies of the preliminary plat prepared by an Oregon registered professional engineer or professional land surveyor, drawn to a scale of not less than one inch equals 50 feet nor more than one inch equals 200 feet. If the preliminary plat drawings are larger than 11 inches" by 17 inches", a minimum of five reduced-sized, legible copies of the preliminary plat shall be submitted on ~~eight-and-one-half-inch~~8-1/2" by 14-inch" or 11-inch" by 17-inch" paper. The following information shall be provided on the preliminary plat or by separate cover:
 - 1. Complete names, addresses and phone numbers of all property owners, applicants, engineers and land surveyors;
 - 2. Source of domestic water;
 - 3. Method of sewage disposal;
 - 4. Existing zoning;
 - 5. Proposed utilities;

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6. Calculations justifying the proposed density pursuant to Section 1012, or for zoning districts not subject to Section 1012, demonstrating compliance with the minimum lot size in the applicable zoning district;
7. Subdivision name that has been approved pursuant to Subsection 1105.05(D);
8. Date the drawing of the preliminary plat was made;
9. Property description of the proposed subdivision by Tax Lot Numbers, Quarter Section, Section, Range and Township and if available, addresses;
10. North arrow;
11. Vicinity map showing the location of the subdivision relative to well-known landmarks in all directions, at a scale of one inch equals 2,000 feet or some other scale that better depicts the area, and at least four inches by four inches in size;
12. Identification of each lot and block by number;
13. Gross acreage of property being subdivided;
14. Locations, dimensions and area of each lot and tract;
15. Locations and widths of all roads abutting the subdivision site, and their legal and common names and numbers, direction of drainage and approximate grades;
16. Locations and widths of all proposed roads and their proposed names, approximate grades, and radii of curves and note whether public or private;
17. Location and width of legal access to the subdivision, other than public or county roads, if applicable;
18. Contour lines at two-foot intervals if 10 percent slope or less, five-foot intervals if exceeding 10 percent slope within an urban growth boundary; contour lines at 10-foot intervals outside an urban growth boundary; source of contour information;
19. Locations of all seasonal and perennial drainage channels, including their name if known, width, depth and direction of flow;
20. Locations and widths of all existing and proposed easements, to whom they are conveyed and for what purpose(s);

21. Locations and dimensions of all driveways, pedestrian walkways and existing structures on the subject property;
22. Locations and dimensions of all areas to be offered for public dedication and the intended use of such areas;
23. Contiguous property under the same ownership as the subject property, including property descriptions;
24. Boundaries and type of restricted areas identified in Subsection 1012.05 or 1012.07, as applicable; and
25. Locations of all significant vegetative areas, including, but not limited to, major wooded areas, specimen trees, and bearing trees.

~~C.B.~~ Any application involving property designated Open Space by the Comprehensive Plan shall also satisfy the submittal requirements of Subsections 1102.04(F) and (G)~~1102.05(A)(7) and (8)~~ and Section 1103. The analysis required under these provisions may be incorporated in the subdivision application review process.

~~D.C.~~ Except for applications submitted pursuant to Subsection 1105.10, each application shall be accompanied by a boundary survey map of the property being platted. The survey map shall be prepared by an Oregon registered professional land surveyor and shall have been accepted for filing with the County Surveyor.

~~E.D.~~ An application shall be accompanied by preliminary statements of feasibility required pursuant to Sections ~~1006 and 1007~~.

1105.04 PRELIMINARY PLAT REVIEW

~~A.~~ ~~Upon receipt of an application satisfying the submittal requirements of Subsection 1105.03, the Planning Division shall provide notice of the application to the following:~~

- ~~1. The recognized and active community planning organization(s), if the subject property lies wholly or partially within the boundaries of such organization(s);~~
- ~~2. Any city or other entity whose dual interest or urban growth management agreement involves the subject property and requires such notice;~~
- ~~3. County Assessor;~~
- ~~4. County Surveyor;~~

- ~~5. Sewer district serving, or which could serve, the property;~~
- ~~6. Water district serving the property;~~
- ~~7. Surface water management regulatory authority;~~
- ~~8. Fire district serving the property;~~
- ~~9. Divisions of the Department of Transportation and Development; and~~
- ~~10. Others deemed by the Planning Director to have an interest in the application.~~

~~B. Those parties provided notice pursuant to Subsection 1105.04(A) shall be given a minimum of 15 calendar days from the date of mailing to reply, unless otherwise prescribed in a dual interest or urban growth management agreement.~~

~~C.A. Major subdivisions are all divisions of property creating 11 or more lots in the same calendar year and require review as a Type III application pursuant to Section 1307are subject to review by the Hearings Officer, pursuant to Section 1300.~~

~~D.B. Minor subdivisions are all divisions of property creating four to 10 lots in the same calendar year and require review as a Type II application pursuant to Section 1307are subject to review by the Planning Director, pursuant to Subsection 1305.02.~~

1105.05 FORM OF FINAL PLAT

- A. The final plat shall be prepared in a form and with information consistent with the relevant provisions of Oregon Revised Statutes (ORS) Chapter 92 and ORS 209.250.
- B. The final plat shall contain, at a minimum, the following information:
 - 1. The lines and names of all streets and other public ways, parks, playgrounds, and easements dedicated to the public or granted for the use of the owners within the subdivision and to whom the easement will be conveyed;
 - 2. The length and bearings of all straight lines, curves, radii, arcs and the semi-tangents of all curves;
 - 3. All dimensions along the lot lines of each lot, in feet and decimals of a foot to the nearest hundredth, with the true bearings and any other data necessary for the location of any lot line in the field;

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4. Suitable primary control points, approved by the County Surveyor and description and ties to these control points, to which all dimensions, angles, bearings and similar data given on the plat map shall be referred;
 5. The location and complete physical descriptions of all permanent monuments found or set, including full physical descriptions of Public Land Survey Corners (monument and accessories) shown on the plat. Record references for the found monuments shall be cited;
 6. The plat numbers and, if applicable, names of all platted subdivisions, partitions, condominiums and cemeteries, and the legal numbers and names of all roads adjacent to the subdivision;
 7. The date(s) monuments were set (so identified), the date(s) the final plat was prepared (so identified), a north arrow and a graphical and an engineering scales;
 8. The boundary of the divided tract, with the bearings, curves and distances marked, as determined by a field survey made by an Oregon registered professional land surveyor, and to close with a linear error of closure of not more than one foot in 10,000 feet. In addition, the survey shall be performed with the reference to the Federal Geodetic Control Committee guidelines for third order class II;
 9. Any easements or notes required by the County Department of Transportation and Development, County Department of Water Environment Services, other public service providers, or the County Surveyor and the locations, widths, and purposes of all existing easements of record, including instrument numbers; and
 10. Open space and common ownerships within the plat shall be labeled as tracts and their use and ownership identified. Labeling of tracts shall be alphabetical beginning with the letter "A" and no missing letters shall be allowed.
- C. All Homeowners Association Agreements, Articles, and Bylaws, and other similar items required or proposed shall be submitted with the final plat for review by the Planning Director, Office of County Counsel, and if requested, by the County Surveyor.
1. The final plat shall not be approved by the Planning Director until the Homeowners Association Agreement, Articles, and Bylaws are approved.
 2. The Homeowners Association Agreement, Articles, and Bylaws shall be consistent with ORS Chapter 92 and ORS Chapter 94, if appropriate.

3. A certificate of formation of a nonprofit corporation, with a state seal, for the Homeowners Association shall be submitted with the final plat for review by the Planning Director.
 4. After Planning Director approval, signed and notarized original documents of the Homeowners Association Agreement, Articles, and Bylaws and the certificate of formation described in Subsection 1105.05(C)(3) shall be submitted for recording at the same time as the final plat is submitted to the County Clerk. The final plat shall contain references to such documents.
- D. Proposed plat names shall be subject to approval by the County Surveyor, pursuant to ORS 92.090. An applicant shall obtain plat name approval prior to submittal of the preliminary plat.

1105.06 APPROVAL PERIOD AND TIME EXTENSION

- A. Except as provided under Subsection 1105.07, approval of a preliminary plat is valid for four years from the date of the final written decision. If the County's final written decision is appealed, the approval period shall commence on the date of the final appellate decision. During this four-year period, the final plat shall be recorded with the County Clerk, or the approval will become void.
- B. If a final plat is not recorded within the initial approval period established by Subsection 1105.06(A), a two-year time extension may be approved ~~by the Planning Director,~~ pursuant to [Section 1310](#) ~~Subsection 1305.02, and subject to Subsection 1305.05.~~

1105.07 PHASING OF A SUBDIVISION

- A. As part of preliminary plat approval, ~~the Planning Director or Hearings Officer may authorize~~ a phasing plan and schedule to allow final plat review to occur in two or more phases, each of which includes a portion of the subject property, may be authorized. Approval of a phasing plan and schedule may be granted in consideration of such factors as the size of the proposed development, complexity of development issues, required improvements, and other factors deemed relevant ~~by the Planning Director or Hearings Officer~~.
- B. Approval Periods and Time Extensions:
 1. The phasing schedule may provide a preliminary plat approval period for the first phase not to exceed four years from the date of the final written decision. If the County's final written decision is appealed, the approval period shall commence on the date of the final appellate decision.

2. The phasing schedule may provide a preliminary plat approval period for each subsequent phase not to exceed two years from the end of the prior phase approval period.
 3. Each phase shall be recorded with the County Clerk within the applicable approval period, or the approval of that phase and all subsequent phases will become void.
 4. Except if prohibited by Subsection 1105.07(B)(5), if a final plat for any phase is not recorded within the initial approval period for that phase, a two-year time extension for that phase and all subsequent phases may be approved ~~by the Planning Director~~, pursuant to [Section 1310 Subsection 1305.02](#), and subject to ~~Subsection 1305.05~~.
 5. In no case shall a phasing schedule or any time extensions be granted permitting the recording of any phase more than 10 years after the date of preliminary plat approval.
- C. The total number of lots in all recorded phases of a subdivision shall not exceed the maximum density allowed under Section 1012 for the gross site area included in all such phases.
- D. If one or more open space tracts are required as a condition of approval, the first phase shall include all required open space tracts for the entire subdivision.
- E. Future phases shall be shown upon the initial and subsequent plats as a “Tract Reserved for Future Development”.
- F. As deemed necessary by the Planning Director, County Engineering Division, or special districts; dedication of rights-of-way or easements into or through future phases may be required with the initial or subsequent phases, prior to platting of the final phase.

1105.08 FINAL PLAT REVIEW

- A. The final plat shall be submitted to the Planning Director for review. If the plat is consistent with the approved preliminary plat and the conditions of approval have been completed, or guaranteed pursuant to Section 1104, the Planning Director shall signify approval by signing the plat.
- B. After Planning Director approval, the final plat shall be submitted to the following officials for review and approval. Each official shall sign the final plat when satisfied that it meets their individual requirements.
 1. County Assessor;

2. County Surveyor;
 3. Board of County Commissioners; and
 4. County Road Official
- C. After all officials have signed the final plat, it shall be submitted to the County Clerk for recording. When the County Clerk is satisfied with the final plat, it shall be signed, assigned a permanent file number, and placed in the permanent file records of the County Clerk.

1105.09 REPLATS OF RECORDED SUBDIVISION PLATS

- A. If a subdivision plat, or any portion thereof, is replatted, the number of lots in the replatted area shall not exceed the number previously approved for the area, unless all of the following provisions are satisfied:
1. The gross site area of the affected subdivision plat is increased, or is of sufficient size to allow additional lots, or the zoning on the property has been changed since the previous approval, permitting a greater density on all, or part, of the original platted area.
 2. The allowed density is recalculated under Section 1012 on the basis of the gross site area of the original platted area of the subdivision and any additions to the gross site area, and, if applicable, on the basis of the new zoning.
 3. All existing lots within the subdivision plat which are not affected by the replat, including additional parcels or lots which may be created by partition or subdivision under existing zoning, shall be subtracted from the base density of the original plat area in determining allowed density for the replatted portion.
 4. All open space requirements of the original subdivision, if applicable, shall be satisfied by the replatted subdivision, or portion thereof.
 5. The replat application shall be signed by all owners of the property within the portion of the plat being replatted.
 6. The replatted subdivision, or portion thereof, including any additional site area, shall be reviewed and approved under the same standards and procedures as a new land division of the same size.
 - ~~7. Notice of the Planning Director decision or public hearing on the proposed replat shall be sent to all owners of lots within the original plat.~~

1105.10 VACATION OF RECORDED PLATS OR PORTIONS THEREOF

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- A. The County may initiate proceedings to vacate public property pursuant to Oregon Revised Statutes (ORS) 92.205 through 92.245, ORS 368.326 through 368.366, or other applicable statutes. The property owner may initiate vacation proceedings of public or private property by filing with the Planning Director an application that includes the following:
1. A description of the property proposed to be vacated, including any recorded legal descriptions or recorded plat;
 2. A recent title report on each property proposed to be vacated that was prepared under the criteria of the County Surveyor;
 3. A statement of the reasons for requesting that the plat, or portions thereof, be vacated;
 4. The complete names, addresses, and phone numbers of all persons holding any recorded right, title, or interest in or to each property proposed to be vacated;
 5. The complete names, addresses and phone numbers of all persons owning any improvements being constructed on any public property proposed to be vacated;
 6. The complete names, addresses, and phone numbers of all persons owning any real property abutting any public property proposed to be vacated; and
 7. If the petition is for vacation of property that will be redivided in any manner, a preliminary subdivision or partition plat showing the proposed redivision.
- B. Approval of a plat vacation request shall be granted only if the vacation is in the public interest. The determination of whether a vacation is in the public interest shall include, but not necessarily be limited to, the following findings:
1. Will not result in the vacation of public roads necessary to serve the area or adjacent properties;
 2. Will not interfere with the need to provide public facilities such as sewer and water; and
 3. Will not jeopardize the potential for development of other properties pursuant to the Comprehensive Plan designation for the area.
- C. Plat vacations shall be reviewed by the Planning Director if the proceedings for vacation were initiated by a petition that contains the notarized signatures of owners and contract purchasers of 100 percent of property proposed to be vacated and abutting any public property proposed to be vacated. The petition

must indicate the owners' and contract purchasers' approval of the proposed vacation.

- D. Except as provided in Subsection 1105.10(C), plat vacations shall be reviewed by the Hearings Officer at a hearing conducted pursuant to Section ~~1307.1300~~.
- E. After considering vacation proceedings pursuant to Subsection 1105.10(C) or 1105.10(D), the ~~Hearings Officer or~~ Planning Director ~~or Hearings Officer~~ shall issue a report and recommendation to the Board of County Commissioners for ~~approving~~ granting or denying the vacation of property. The report shall include an assessment of whether the vacation is in the public interest as required by Subsection 1105.10(B). Notice of the ~~Planning Director's or~~ Hearings Officer's ~~or Planning Director's~~ recommendation shall be provided pursuant to ~~Subsection 1307.09(A)(1) or 1307.10(E)~~ ~~Section 1300 or Subsection 1305.02~~, respectively.
- F. The Board of County Commissioners shall consider the ~~Planning Director's or~~ Hearings Officer's ~~or Planning Director's~~ recommendation to approve or deny the proposed vacation. If the Board of County Commissioners approves the proposed vacation, the Board Order shall:
1. State that the plat, or portion thereof, is vacated;
 2. Describe the exact location of each property to be vacated using a description prepared by and bearing the seal and original signature of an Oregon registered professional land surveyor or other appropriate means of description; and
 3. Authorize the County Surveyor to mark the vacation on the plat officially recorded with the County Clerk and on the exact copy filed with the County Surveyor.
- G. The Board Order vacating a plat, or portion thereof, shall be recorded with the County Clerk and certified copies of the recorded order shall be filed with the County Surveyor and the County Assessor. The order shall become effective upon recording.

[Amended by Ord. ZDO-224, 5/31/11; Amended by Ord. ZDO-230, 9/26/11]

1106 PARTITIONS

1106.01 APPLICABILITY

Section 1106 applies to partitions, except as follows:

- A. Land divisions in the Exclusive Farm Use, Timber, and Ag/Forest zoning districts shall comply with the requirements for land divisions specified in Sections 401, 406, and 407, respectively, and are not subject to the partitioning process described in Section 1106. However, final plats are required pursuant to Subsection 1106.06 and Oregon Revised Statutes (ORS) Chapter 92, except as noted therein or in Subsection 1106.01(B).
- B. Parcels larger than 10 acres (based on the best available records) within a partition plat need not be surveyed; however, all partitions containing parcels smaller than 80 acres (based on the best available records) shall have a final plat that conforms to ORS Chapter 92 and Subsection 1106.06. The plat shall be prepared by an Oregon registered professional land surveyor.

1106.02 GENERAL PROVISIONS

- A. Partitions shall comply with this Ordinance and Oregon Revised Statutes Chapter 92.
- B. Partitions are subject to Section 1000.
- C. Development on a parcel in a recorded partition plat is subject to the requirements of the zoning district in which the parcel is located at the time of development.
- D. For partitions creating three parcels, none of the parcels within an approved partition may be redivided within the same calendar year the final partition plat is recorded, except through the subdivision process identified in Section 1105. Additionally, a partition must be recorded prior to submittal of an application for redivision of any parcel.

~~E. A preapplication conference is required, pursuant to Subsection 1301.04, prior to the filing of an application for a partition.~~

1106.03 SUBMITTAL REQUIREMENTS FOR PRELIMINARY PLAT REVIEW

In addition to the submittal requirements identified in Subsection 1307.07(C), an application for a partition shall include:

- ~~A. Applications for partitions shall be submitted to the Planning Director on forms provided by the Planning Director.~~

B.A. Applications shall include a preliminary plat drawn to scale of not less than one inch equals 20 feet nor more than one inch equals 200 feet. The following information shall be provided on the preliminary plat or by separate cover:

1. Complete names, addresses and phone numbers of the owners of the property to be divided;
2. Property description of the proposed partition by Tax Lot Numbers, Quarter Section, Section, Range and Township and if available, addresses;
3. Dimensions and size in square feet or acres of all proposed parcels;
4. Individual parcel designation, e.g. Parcel 1, Parcel 2;
5. Contiguous property under the same ownership as the subject property, including property descriptions;
6. North arrow;
7. All adjacent roads (noting whether public or private), including name and road width;
8. Location of well(s) or name of water district;
9. Type of sewage disposal and name of sewer district if applicable;
10. Zoning;
11. All existing structures on the property and their setbacks from existing and proposed property lines. Note whether property lines referred to are existing or proposed;
12. Location of any septic tank(s) and drainfield(s);
13. Boundaries and type of restricted areas identified in Subsection 1012.05 or 1012.07, as applicable;
14. Locations of all seasonal and perennial drainage channels, including their name if known, width, depth and direction of flow;
15. Other pending applications, including building permits, on the subject property;
16. All easements, including widths, labeled as existing or proposed; and
17. Contour lines at two-foot intervals if 10 percent slope or less, five-foot intervals if exceeding 10 percent slope within an urban growth boundary;

contour lines at 10-foot intervals outside an urban growth boundary;
source of contour information.

~~C.B.~~ Any application involving property designated Open Space by the Comprehensive Plan shall also satisfy the submittal requirements of Subsections ~~1102.04(F) and (G)~~~~1102.05(A)(7) and (8)~~ and Section 1103. The analysis required under these provisions may be incorporated in the partition application review process.

~~D.C.~~ An application shall be accompanied by preliminary statements of feasibility required pursuant to Sections ~~1006 and 1007~~.

1106.04 PRELIMINARY PLAT REVIEW

~~A. Upon receipt of an application which satisfies all submittal requirements of Subsection 1106.03, the Planning Director shall provide notice of the application to the following:~~

- ~~1. The recognized and active community planning organization(s), if the subject property lies wholly or partially within the boundaries of such organization(s);~~
- ~~2. Any city or other entity whose dual interest or urban growth management agreement involves the subject property and requires such notice;~~
- ~~3. Sewer district serving, or which could serve, the property;~~
- ~~4. Water district serving the property;~~
- ~~5. Surface water management regulatory authority;~~
- ~~6. Fire district serving the property;~~
- ~~7. County Assessor;~~
- ~~8. Divisions of the Department of Transportation and Development; and~~
- ~~9.1. Others deemed by the Planning Director to have an interest in the application.~~

~~B. Those parties provided notice pursuant to Subsection 1106.04(A) shall be given a minimum of 15 calendar days from the date of mailing to reply unless otherwise prescribed in a dual interest or urban growth management agreement.~~

~~C. A partition requires review as a Type II application pursuant to Section 1307. Partitions shall be processed as Planning Director decisions pursuant to Subsection 1305.02.~~

1106.05 APPROVAL PERIOD AND TIME EXTENSION

- A. Approval of a preliminary plat is valid for four years from the date of the final written decision. If the County's final written decision is appealed, the approval period shall commence on the date of the final appellate decision. During this four-year period, the final plat shall be recorded with the County Clerk, or the approval will become void.
- B. If a final plat is not recorded within the initial approval period established by Subsection 1106.05(A), a two-year time extension may be approved ~~by the Planning Director~~, pursuant to ~~Section 1310~~ Subsection 1305.02, and ~~subject to Subsection 1305.05~~.

1106.06 FINAL PLAT REVIEW

- A. The final plat shall be submitted to the Planning Director for review. If the final plat is consistent with the approved preliminary plat, and if all conditions of approval have been completed, or guaranteed pursuant to Section 1104, the Planning Director shall signify approval by signing the plat and shall transmit the approved plat to the County Surveyor for inspection.
- B. No building or manufactured home placement permit shall be issued, or parcel sold, transferred, or assigned until the final plat has been approved by the County Surveyor and recorded with the County Clerk.

1106.07 REPLATS OF PARTITIONS

- A. If a partition, or any portion thereof, is replatted, the number of parcels in the replatted area shall not exceed the number previously approved for the area, unless all of the following provisions are satisfied:
 - 1. The gross site area of the affected partition is increased, or is of sufficient size to allow additional parcels, or the zoning on the property has been changed since the previous approval, permitting a greater density on all, or part, of the original partition.
 - 2. The allowed density is recalculated under Section 1012, Density, on the basis of the gross site area of the original partition and any additions to the gross site area, and, if applicable, on the basis of the new zoning.
 - 3. All existing parcels within the partition which are not affected by the replat, including additional parcels which may be created by partition

under existing zoning, shall be subtracted from the base density of the original partition area in determining allowed density for the replatted portion.

4. All open space requirements of the original partition, if applicable, shall be satisfied by the replatted partition, or portion thereof.
5. The replat application shall be signed by all owners of the property within the portion of the partition being replatted.
6. The replatted partition, or portion thereof, including any additional site area, shall be reviewed and approved under the same standards and procedures as a new partition.
- ~~7. Notice of the Planning Director decision or public hearing on the proposed replat shall be sent to all owners of lots within the original partition.~~

1106.08 VACATION

All, or a portion of, a recorded partition plat may be vacated pursuant to Subsection 1105.10.

[Amended by Ord. ZDO-224, 5/31/11; Amended by Ord. ZDO-230, 9/26/11]

1107 PROPERTY LINE ADJUSTMENTS

1107.01 APPLICABILITY

Section 1107 applies to property line adjustments.

1107.02 DEFINITIONS

- A. Property Line Adjustment: A relocation of a common property line between two abutting lots of record, where an additional lot of record is not created, and any existing lot of record reduced in size by the adjustment complies with the provisions of this Ordinance.
- B. Lot of Record: See definition in Section 202. As used in this section, the words “lot” and “parcel” are synonymous with the term “lot of record”.
- C. Lot: A single unit of land created by the subdivision of land including the recording of an approved subdivision plat under the provisions of Oregon Revised Statutes (ORS) Chapter 92 and Section 1105.
- D. Parcel: A single unit of land created by the partitioning of land including the recording of an approved partition plat under the provisions of ORS Chapter 92 and Section 1106.
- E. Plat: A final recorded subdivision plat, replat or partition plat consistent with ORS Chapter 92 and this Ordinance.
- F. Property Line: The division line(s) between two abutting lots of record.
- G. Replat: The act of platting the lots, parcels, tracts and/or easements in a recorded subdivision or partition plat to achieve a reconfiguration of the existing subdivision or partition plat, or to increase or decrease the number of lots in the subdivision or partition.
- H. Undersized Lot or Parcel: A lot of record that does not satisfy the district land area requirement established in Subsection 1012.04 or the minimum lot size established in the underlying zoning district. A lot or parcel of land that is less than the district land area requirement or the minimum lot size and approved pursuant to the flexible-lot-size development provisions of Subsection 1014.04(B) shall not be considered an undersized lot or parcel.

1107.03 GENERAL PROVISIONS

Property line adjustments shall be consistent with the following provisions:

- A. Property line adjustments involving lots or parcels of land shall satisfy the setback and lot size provisions of the underlying zoning district except, when located within an urban or rural zoning district, an adjustment between undersized lots or parcels may be granted when the adjustment is consistent with all remaining provisions of this subsection. A lot or parcel exceeding the minimum lot or parcel size of the underlying zoning district shall not be reduced to less than the minimum lot or parcel size of the underlying zoning district. An existing lot or parcel containing at least 3,000 square feet of area shall not be reduced in size such that the resulting size of the lot or parcel is less than 3,000 square feet.
- B. Property line adjustments involving lots or parcels of land with nonconforming setbacks shall be granted provided the adjustment does not further reduce the setback and the adjustment satisfies the remaining provisions Section 1107. Setbacks for all existing structures shall be verified by a stamped site plan, or a stamped letter stating that no structures exist, prepared by a registered professional land surveyor prior to final Planning Director approval of the required plat or property line adjustment “Record of Survey” map.
- C. A property line adjustment shall be prohibited between lots or parcels of land separated by Urban, Rural, Forest, or Agriculture Plan boundaries, as identified on Comprehensive Plan Map IV-3, *Lake Oswego Land Use Plan Map*, IV-4, *West Linn Land Use Plan Map*, IV-5, *Oregon City Land Use Plan Map*, IV-6, *North Urban Area Land Use Plan Map*, or IV-7, *Non-Urban Area Land Use Plan*, and *Mt. Hood Corridor Land Use Plan*, except an adjustment may be granted when it results in an increase in the size of a lot or parcel of land within a natural resource zoning district. Approval of such an adjustment shall not result in the property qualifying for a rural/natural resource land division pursuant to Subsection 902.01.
- D. A property line adjustment shall not be permitted between lots or parcels of land separated by the Portland Metropolitan Urban Growth Boundary or a Mount Hood urban area village boundary.
- E. A property line adjustment shall not be used to exceed the base density in the underlying zoning district(s).
- F. A property line adjustment application shall not be used to replat duly recorded subdivision or partition plats. For purposes of this section, any proposal to reconfigure property lines within a plat that effectively vacates lots, parcels, tracts, easements, or roads; or increases or decreases the number

of lots or parcels; or results in a significant reconfiguration of the plat, as determined by the Planning Director, shall be considered a replat and reviewed pursuant to the subdivision or partition provisions of this Ordinance.

- G. Property line adjustments shall satisfy the requirements of Oregon Revised Statutes Chapter 92.

1107.04 AGRICULTURAL LANDS ZONING DISTRICTS

- A. A property line adjustment shall not be used to reconfigure a lot, parcel, or tract of land, the effect of which is to qualify a lot, parcel, or tract for the siting of a dwelling.
- B. A property line adjustment for a lot, parcel, or tract of land in areas designated Agriculture on Comprehensive Plan Map IV-7, *Non-Urban Area Land Use Plan*, and *Mt. Hood Corridor Land Use Plan*, without an approved homestead, nonfarm use, or farm or forest management plan may be permitted pursuant to the following provisions:
 - 1. A property line adjustment for a lot, parcel, or tract of land exceeding 80 acres may be approved when the adjustment does not reduce any lot, parcel, or tract of land to less than 80 acres.
 - 2. A property line adjustment for a lot, parcel, or tract of land less than 80 acres may be approved pursuant to the following provisions:
 - a. The property line adjustment will:
 - i. Not reduce an undersized lot, parcel, or tract of land more than five percent; and
 - ii. Only one reduction is approved pursuant to this provision; or
 - b. The resulting configuration (size) is determined to be at least as appropriate for the continuation of the existing commercial agricultural enterprise on each property, as compared to the original configuration, provided:
 - i. It is consistent with applicable provisions of this Ordinance and state regulations; and
 - ii. Previous land use decisions, if any, are modified consistent with applicable provisions of this Ordinance; orand
 - iii. ~~The application is reviewed pursuant to Subsection 1305.02; or~~

- c. The undersized lot, parcel, or tract of land satisfies the provisions for siting a dwelling not in conjunction with a farm use as required by Oregon Administrative Rules (OAR) 660-33-100(11) and the underlying zoning district, ~~and the application is reviewed pursuant to Subsection 1305.02.~~
- C. A property line adjustment for a lot, parcel, or tract of land in areas designated Agriculture on Comprehensive Plan Map IV-7, with an approved homestead or nonfarm use may be approved pursuant to the following:
1. Both properties have an approved homestead or nonfarm use; or
 2. The adjustment affects only one property line and does not result in an increase in the size of the homestead or nonfarm use property; or
 3. The adjustment satisfies the provisions for siting a dwelling not in conjunction with a farm use as required by OAR 660-33-100(11) and the underlying zoning district, ~~and the application is reviewed pursuant to Subsection 1305.02.~~

1107.05 FOREST LANDS ZONING DISTRICTS

- A. A property line adjustment shall not be used to reconfigure a lot, parcel, or tract of land, the effect of which is to qualify a lot, parcel, or tract for the siting of a dwelling.
- B. Property line adjustments for a lot, parcel, or tract of land without an approved homestead, nonforest use, or farm/forest management plan in areas designated Forest on Comprehensive Plan Map IV-7, *Non-Urban Area Land Use Plan*, and *Mt. Hood Corridor Land Use Plan*, may be permitted when the adjustment is consistent with these provisions:
1. Property line adjustments for lots, parcels, or tracts of land exceeding 80 acres may be approved when the adjustment does not reduce any lot, parcel, or tract of land to less than 80 acres.
 2. Property line adjustments for lots, parcels, or tracts of land less than 80 acres may be approved pursuant to the following provisions:
 - a. The property line adjustment will:
 - i. Not reduce an undersized lot, parcel, or tract of land more than five percent; and
 - ii. Only one reduction is approved pursuant to this provision.

- C. A property line adjustment for a lot, parcel, or tract of land with an approved homestead or nonforest use in areas designated Forest on Comprehensive Plan Map IV-7 may be approved pursuant to the following:
1. Both properties have an approved homestead or nonforest use; or
 2. The adjustment affects only one property line and does not result in an increase in the size of the homestead or nonfarm use property.

1107.06 SUBMITTAL REQUIREMENTS

In addition to the submittal requirements identified in Subsection 1307.07(C), an application for a property line adjustment shall include
~~Applications for property line adjustments shall be submitted to the Planning Division on forms provided by the Planning Director.~~

~~B. Each application shall be accompanied by~~ a tentative plan drawn to scale of not less than one inch equals 20 feet nor more than one inch equals 200 feet, and containing at a minimum, the following:

- ~~A~~1. Complete names, addresses, and phone numbers of the owners of the tracts to be adjusted;
- ~~B~~2. Description of the subject properties by Tax Lot Numbers, Quarter Section, Section, Township, and Range and if available, addresses;
- ~~C~~3. Dimensions and size in square feet or acres of all proposed tracts to be adjusted;
- ~~D~~4. Identification arrows showing the property proposed to be transferred;
- ~~E~~5. Adjacent tracts under the same ownership as the subject properties, including description by Tax Lot Numbers, Quarter Section, Section, Township, and Range and, if available, addresses;
- ~~F~~6. North arrow;
- ~~G~~7. Adjacent roads (noting whether public or private), including name and road width;
- ~~H~~8. Location of wells or name of water district, if applicable;
- ~~I~~9. Type of sewage disposal or name of sewer district, if applicable;
- ~~J~~10. Zoning;

- ~~K11~~. All existing structures on the tracts and their setbacks to property lines. Note whether property lines referred to are existing or proposed;
- ~~L12~~. Location of any septic tanks and drainfields;
- ~~M13~~. Natural drainage ways, streams, wetlands, or other significant natural features of the tracts;
- ~~N14~~. Other pending applications, including building permits, on the subject tracts; and
- ~~O15~~. All easements, including widths and types, labeled as existing or proposed, specifically noting the use and whom they serve.

1107.07 REVIEW PROCESS

- A. ~~Procedures~~Procedural Criteria: An application for a property line adjustment shall be processed as a Type I application pursuant to Section 1307 Subsection 104.01(C), except that an application filed pursuant to Subsection 1107.04(B)(2)(b), 1107.04(B)(2)(c), or 1107.04(C)(3) shall be processed as a Type II application pursuant to Section 1307~~when processing pursuant to Subsection 1305.02 is specifically required by Section 1107.~~
- B. Approval Period: Approval of a property line adjustment application is valid for two years from the date of the final written decision. If the County's final written decision is appealed, the approval period shall commence on the date of the final appellate decision. During this two-year period, the requirements of Subsection 1107.07(E) shall be satisfied, or the approval will become void.
- C. Draft Record of Survey or Plat: Prior to filing of the final property line adjustment "Record of Survey" map (record of survey) or recordation of the final plat, a copy of a draft record of survey or plat shall be submitted to the Planning Director for review.
- D. Final Planning Director Approval of the Record of Survey or Plat: If the record of survey or plat is consistent with the approved tentative plan, and if all conditions of planning approval have been satisfied, the Planning Director shall sign the record of survey or plat.
- E. Filing and Recording of the Record of Survey and Deed(s), or Recordation of the Plat: The record of survey shall be filed with the County Surveyor's Office pursuant to the standards and procedures of that office, the County Code and the relevant provisions of Oregon Revised Statutes (ORS) Chapters 92 and 209. Additionally, revised legal descriptions of the properties affected by the adjustment shall be prepared by a registered professional land surveyor, refer to the record of survey that is filed at the County Surveyor's Office, and

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be recorded with the County Clerk. Alternatively, if required, a plat consistent with the County Surveyor's standards and procedures, County Code, and the relevant provisions of ORS Chapters 92 and 209 shall be recorded with the County Clerk.

- F. Deed Requirements: A property line adjustment deed shall contain the names of the parties, the description of the adjusted line, references to the original recorded documents, and signatures of all parties with proper acknowledgement.
- G. Building Permits: No building permits shall be issued for a tract that is dependent upon a property line adjustment until the record of survey and the revised legal descriptions of the subject properties have been submitted to the County Surveyor's Office and recorded with the County Clerk, or until the plat is recorded with the County Clerk.

[Amended by Ord. ZDO-230, 9/26/11]

1201 — **GENERAL PROVISIONS**

- ~~1201.01 — All applications for zone changes, conditional uses, temporary permits, variances, and restoration, replacement or alteration of a nonconforming use shall be evaluated under the specific criteria listed within this Ordinance. Unless otherwise specified in the district, all such applications shall be subject to the procedures under Section 1300.~~
- ~~1201.02 — Findings justifying a decision regarding a discretionary permit shall be made in writing, and shall be provided to the applicant.~~
- ~~1201.03 — The granting of a discretionary permit may be subject to such conditions as are reasonably necessary to protect the public health, safety or general welfare from potentially deleterious effects resultant from approval of the permit, or to fulfill the public need for public service demands created by approval of the request.~~

1202 ZONE CHANGE

1202.01 GENERAL APPROVAL CRITERIA

~~The Hearings Officer may approve Aa~~ zone change requires review as a Type III or IV application; pursuant to Section ~~1307-1300~~, and shall be subject to if the applicant provides evidence substantiating the following standards and criteria:

- A. Approval of the zone change is consistent with the Comprehensive Plan;
- B. If development under the new zoning district designation has a need for public sanitary sewer, surface water management, and/or water service, it can be accommodated with the implementation of service providers' existing capital improvement plans. The cumulative impact of the proposed zone change and development of other properties under existing zoning designations shall be considered.
- C. The transportation system is adequate, as defined in Subsection 1007.09(D), and will remain adequate with approval of the zone change. Transportation facilities that are under the jurisdiction of the State of Oregon are exempt from Subsection 1202.01(C). For the purpose of this criterion:
 - 1. The evaluation of transportation system adequacy shall include both the impact of the proposed zone change and growth in background traffic for a 20-year period beginning with the year that a complete land use application is submitted.
 - 2. It shall be assumed that all improvements identified in Comprehensive Plan Table 5-3a, *20-Year Capital Projects*; the Statewide Transportation Improvement Plan; and the capital improvement plans of other local jurisdictions are constructed.
 - 3. It shall be assumed that the subject property is developed with the primary use, allowed in the proposed zoning district, with the highest motor vehicle trip generation rate.
 - 4. Transportation facility capacity shall be calculated pursuant to Subsection 1007.09(E).
 - 5. A determination regarding whether submittal of a transportation impact study is required shall be made based on the Clackamas County Roadway Standards, which also establish the minimum standards to which a transportation impact study shall adhere.
- D. The proposal, as it relates to transportation facilities under the jurisdiction of the State of Oregon, complies with the Oregon Highway Plan.

- E. Safety of the transportation system is adequate to serve the level of development anticipated by the zone change.

1202.02 ZONE CHANGE TO NC DISTRICT

If the application requests a zone change to NC District, approval of the zone change shall include approval of a specific use for the subject property, including a specific site development plan.

A. The applicant shall provide evidence substantiating the following:

1. The characteristics of the subject property are suitable for the proposed use considering size, shape, location, topography, existence of improvements, and natural features.
2. The proposed use will not alter the character of the surrounding area in a manner that substantially limits, impairs, or precludes the use of surrounding properties for the primary uses allowed in the zoning district(s) in which surrounding properties are located.
3. The proposed use complies with any applicable requirements of the NC District and any overlay zoning district(s) in which the subject property is located, Section 800, and Section 1000.

B. Application submittal requirements include the following:

1. The requirements listed in Subsection 1102.04~~5~~;
2. A vicinity map, drawn to scale, showing the following:
 - a. Uses and location of improvements on adjacent properties and properties across any road;
 - b. Location of all commercial uses within 2000 feet, identifying the uses; and
3. A site plan, drawn to scale, showing the following:
 - a. Property dimensions and area of property;
 - b. Access to property;
 - c. Location and size of existing and proposed improvements showing distance from property lines and distance between improvements;
 - d. Location of existing and proposed parking; and

- e. Location of existing and proposed pedestrian and bicycle facilities, including pedestrian rest and gathering areas.
- C. Design review pursuant to Section 1102 is not required for a use approved through a zone change to NC District. Minor modifications to the approved use, including the approved site development plan, shall be processed pursuant to Subsection 1305.04. Modifications that exceed the approval criteria for a minor modification are subject to Hearings Officer review pursuant to Section 1300 and require compliance with Subsections 1202.02(A) and (B).

1202.03 ALTERNATE ZONING DISTRICT DESIGNATION

An applicant may request ~~that the Hearings Officer approval~~approve of an alternate zoning district designation if ~~it is found~~the Hearings Officer finds that the applicant's preferred designation does not comply with the approval criteria but the alternate designation does. An alternate designation may be substituted only if the ~~public~~public notice of application and hearing, required pursuant to Section ~~1307~~1302, includes all requested designations in its description of the applicant's proposal.

~~1202.04 PREAPPLICATION CONFERENCE~~

~~A preapplication conference is required, pursuant to Subsection 1301.04, prior to the filing of an application for a zone change.~~

1202.0~~4~~5 FINAL APPROVAL

Approval of a zone change is final on the date of the County's final written decision. If the County's final written decision is appealed, approval of a zone change is final on the date of the final appellate decision.

[Amended by Ord. ZDO-224, 5/31/11; Amended by Ord. ZDO-230, 9/26/11; Amended by Ord. ZDO-246, 3/1/14]

1203 CONDITIONAL USE

1203.01 GENERAL APPROVAL CRITERIA

~~The Hearings Officer may approve a~~ conditional use requires review as a Type III application; pursuant to Section ~~13071300~~, and shall be subject to if the applicant provides evidence substantiating the following standards and criteria:

- A. The use is listed as a conditional use in the zoning district in which the subject property is located.
- B. The characteristics of the subject property are suitable for the proposed use considering size, shape, location, topography, existence of improvements, and natural features.
- C. The proposed use is consistent with Subsection 1007.09, and safety of the transportation system is adequate to serve the proposed use.
- D. The proposed use will not alter the character of the surrounding area in a manner that substantially limits, impairs or precludes the use of surrounding properties for the primary uses allowed in the zoning district(s) in which surrounding properties are located.
- E. The proposal satisfies the goals and policies of the Comprehensive Plan that apply to the proposed use.
- F. The proposed use complies with any applicable requirements of the zoning district and overlay zoning district(s) in which the subject property is located, Section 800, and Section 1000.

1203.02 ZONE-SPECIFIC APPROVAL CRITERIA

Additional conditional use approval criteria apply in specific zoning districts, as follows:

- A. In the HDR and SHD Districts, the following criteria apply, except to wireless telecommunication facilities and multi-use developments:
 - 1. The proposed use shall have minimal adverse impact on the livability, value, and appropriate development on abutting properties and the surrounding area, considering location, size, design, and operating characteristics of the use;
 - 2. The proposed use shall be located in a structure occupied by a primary, accessory, or limited use, or if detached, in a structure which is compatible with the character and scale of such structures in the vicinity, and on a site no larger than necessary for the use and the operational requirements of the use; and

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3. The proposed use shall not create offensive odor, dust, smoke, fumes, noise, glare, heat, or vibration which can be detected outside the premises of the use.
- B. In the RCHDR District, the following criteria apply, except to wireless telecommunication facilities:
1. The proposed use shall have minimal adverse impact on the livability, value, and appropriate development in the surrounding area, considering location, size, design, and operating characteristics of the use;
 2. The proposed use shall be located in a structure occupied by a primary, accessory, or limited use, or if detached, in a structure which is compatible with the character and scale of such structures on the premises and surrounding area; and
 3. The proposed use shall not create offensive odor, dust, smoke, fumes, noise, glare, heat, or vibration that can be detected off the premises of the use.
- C. In the NC District, the following criteria apply:
1. The proposed use shall be needed to serve primarily the convenience commercial needs of the neighborhood, considering accessibility of similar uses.
 2. The proposed use shall not substantially increase traffic through the neighborhood.
 3. The proposed use shall not diminish the amenities of the neighborhood.
- D. In the RCC District, the proposed use shall not interfere with, or intrude into or between, pedestrian-oriented uses or developments.
- E. In the RTL District, the following criteria apply, except to hydroelectric facilities:
1. The proposed use shall not interfere with, or intrude into or between, pedestrian-oriented uses or developments.
 2. The proposed use shall not require, or result in a demand for, additional traffic signals or street improvements beyond those planned for the area without the proposed use.
- F. In the VCS District, the following criteria apply, except to wireless telecommunication facilities:
1. The proposed use shall provide community facilities, including meeting rooms, recreation rooms (gymnasiums), performance facilities, or similar space.

2. Community facilities shall be made available on an ongoing basis to the whole community for little or no cost.
3. Community facilities shall be a minimum of 3,000 square feet or one-third of the usable floor area built, whichever is greater.

G. In the VO District, the following criteria apply:

1. The proposed use shall address an existing neighborhood need, considering proximity of similar uses.
2. The proposed use shall not substantially increase traffic through the neighborhood, require an additional curb cut, or create greater noise or congestion than a permitted use.
3. The use shall not diminish the amenities of the neighborhood.
4. The use shall be compatible in size, scale, general appearance, and building materials with surrounding buildings.

~~1203.03 PREAPPLICATION CONFERENCE~~

~~A preapplication conference is required, pursuant to Subsection 1301.04, prior to the filing of an application for a conditional use.~~

1203.0~~3~~⁴ APPROVAL PERIOD AND TIME EXTENSIONS~~S~~

A. Except as set forth in Subsection 1203.0~~3~~⁴(B), approval of a conditional use is valid for four years from the date of the final written decision. If the County's final written decision is appealed, the approval period shall commence on the date of the final appellate decision. During this four-year period, the approval shall be implemented, or the approval will become void.

1. "Implemented" means all major development permits shall be obtained and maintained for the approved conditional use, or if no major development permits are required to complete the development contemplated by the approved conditional use, "implemented" means all other necessary County development permits (e.g. grading permit, building permit for an accessory structure) shall be obtained and maintained. A "major development permit" is:
 - a. A building permit for a new primary structure that was part of the conditional use approval; or
 - b. A permit issued by the County Engineering Division for parking lot or road improvements required by the conditional use approval.

- B. Approval of a conditional use for the following uses is valid for 10 years from the date of the final written decision. With the exception of the length of the approval period, Subsection 1203.034(A) applies to these uses. Conditional use approval of these uses shall not have the effect of reserving vehicle trips for purposes of evaluating transportation concurrency for other developments. Instead, the vehicle trips these facilities are expected to generate shall be reserved upon design review approval.
1. Public roads;
 2. Public schools, including colleges and universities;
 3. Public parks;
 4. Public safety facilities, including fire and police facilities;
 5. Public libraries;
 6. Public sanitary sewer facilities;
 7. Public surface water management facilities;
 8. Public water supply facilities; and
 9. Hospitals.
- C. If the approval of a conditional use is not implemented within the initial approval period established by Subsection 1203.034(A), a two-year time extension may be approved ~~by the Planning Director,~~ pursuant to Section 1310 Subsection 1305.02, and subject to Subsection 1305.05.
- D. If the approval of a conditional use is not implemented within the initial approval period established by Subsection 1203.034(B), a five-year time extension may be approved ~~by the Planning Director,~~ pursuant to Section 1310 Subsection 1305.02, and subject to Subsection 1305.05.

1203.045 SUBMITTAL REQUIREMENTS

In addition to the submittal requirements identified in Subsection 1307.07(C), a n application for a conditional use shall include ~~the following:~~

~~A. A completed land use application on a form provided by the Planning Director;~~

~~B. A completed conditional use supplemental application on a form provided by the Planning Director;~~

AC. Preliminary statements of feasibility required pursuant to Sections 1006 and 1007;

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~~D. A description of the proposed use and specific reason(s) for the request;~~

~~BE.~~ A vicinity map showing the relationship of the proposed use to the surrounding area;

~~CE.~~ A site plan of the subject property, including existing and proposed improvements and other information necessary to address the requirements and conditions associated with the use; and

~~DG.~~ Building profiles of proposed new and remodeled structures.;

~~H. Information addressing the approval criteria in Subsections 1203.01 and 1203.02; and~~

~~I. Any applicable submittal requirements established by Section 800.~~

[Amended by Ord. ZDO-224, 5/31/11; Amended by Ord. ZDO-230, 9/26/11]

1204 TEMPORARY PERMITS

1204.01 TEMPORARY USE OTHERWISE PROHIBITED

A temporary permit for a use otherwise prohibited may be permitted in any zoning district except the EFU, TBR, and AG/F Districts.

A. ~~A The Planning Director may approve a~~ temporary permit for a use otherwise prohibited requires review as a Type II application, pursuant to Section 1307 Subsection 1305.02, and shall be subject to ~~for a period not to exceed one year, when the applicant provides evidence substantiating~~ the following standards and criteria:

1. The use for which a temporary permit is requested is not listed as a permitted, accessory, limited, or conditional use in the underlying zoning district; ~~and~~
2. There is no reasonable alternative to the temporary use; ~~and~~
3. The permit will be necessary for a limited time; ~~and~~
4. The temporary use will not include the construction of a substantial structure or require a permanent commitment of the land; and
5. The temporary use will not have a materially adverse effect on the surrounding area.

~~B. A permit shall not be approved pursuant to this Subsection in an Exclusive Farm Use, Timber or Ag/Forest zoning district except as provided in Subsections 406.04 and 406.05.~~

~~C.B.~~ A temporary permit for a use otherwise prohibited may be approved for a period not to exceed one year. TheA permit ~~approved pursuant to Subsection 1204.01~~ may be renewed, subject to review as a Type II application pursuant to Section 1307 Subsection 1305.02, for a period not to exceed one year. A renewal shall be subject to the same approval criteria as an initial permit. A temporary permit for a use otherwise prohibited may be renewed an unlimited number of times.

1204.02 TEMPORARY DWELLING WHILE BUILDING

A temporary permit for a dwelling while building may be permitted in any zoning district.

A. A temporary permit for a dwelling while building shall require review as a Type I application~~The Planning Staff may approve a temporary permit in any zoning district,~~ pursuant to Section 1307 and shall be subject to ~~Subsection 104.01(A), for a period not to exceed two years for the use of a manufactured dwelling, residential trailer, or recreational vehicle for residential purposes while a~~

~~permanent dwelling is being constructed, when the applicant provides evidence substantiating~~ the following ~~standards and criteria~~:

~~1. The temporary dwelling will be a manufactured dwelling, residential trailer, or recreational vehicle.~~

~~1.2.~~A building permit to construct a permanent dwelling has been issued for the lot, parcel, or tract on which the temporary dwelling will be located; and

~~2.3.~~The temporary dwelling will be occupied by the owner of the subject lot, parcel, or tract.

B. If a valid building permit for a permanent dwelling on the subject lot, parcel, or tract is not maintained, the temporary permit shall become void on the day the building permit lapses.

C. A ~~temporary~~ permit ~~for a dwelling while building approved pursuant to Subsection 1204.02~~ shall be subject to the following conditions of approval:

1. The temporary dwelling shall be connected to a sanitary sewer system or to an on-site sewage disposal system approved by the Soils Section of the County Department of Water Environment Services.

2. The temporary dwelling shall comply with the primary structure setback standards of the underlying zoning district.

3. ~~If the temporary dwelling is a~~ manufactured dwelling or residential trailer, ~~approved pursuant to Subsection 1204.02~~ it shall be removed from the subject lot, parcel, or tract when the permit expires or the permanent dwelling is occupied, whichever first occurs. ~~If the temporary dwelling is a~~ recreational vehicle, ~~approved pursuant to Subsection 1204.02~~ it shall be removed from the subject lot, parcel, or tract or placed in a stored condition when the permit expires or the permanent dwelling is occupied, whichever first occurs. For the purposes of this provision, a recreational vehicle shall be deemed to be placed in a stored condition when it ceases to be used for residential purposes and is disconnected from any on-site sewage disposal system and all utilities other than temporary electrical connections for heating necessary to avoid physical deterioration. Storage of a recreational vehicle shall comply with all other applicable requirements of this Ordinance.

~~4.—Other conditions may be applied as authorized by Subsection 1201.03.~~

D. ~~A temporary permit for a dwelling while building may be approved for a period not to exceed two years. The~~A permit ~~approved pursuant to Subsection 1204.02~~ may not be renewed. For the purposes of this provision, a renewal shall be the same or any substantially similar application filed within two years of the date a

previous ~~temporary permit for a dwelling while building approved pursuant to Subsection 1204.02~~ expired.

- E. If the proposed temporary dwelling is a manufactured dwelling that complies with all requirements for a permanent dwelling in the underlying zoning district, a temporary permit shall not be required. Instead the manufactured dwelling may be approved as a permanent dwelling to be replaced by the new permanent dwelling upon completion of construction.

1204.03 TEMPORARY DWELLING FOR CARE

A temporary permit for a dwelling for care may be permitted in any zoning district.

- A. ~~The Planning Director may approve a~~ A temporary permit, for a dwelling for care requires review as a Type II application pursuant to Section 1307-Subsection 1305.02, and shall be subject to for a period not to exceed two years in an Exclusive Farm Use, Timber, or Ag/Forest zoning district or three years in any other zoning district, for the use of a manufactured dwelling, residential trailer or recreational vehicle for residential purposes, when the applicant provides evidence substantiating the following standards and criteria:

1. The temporary dwelling will be a manufactured dwelling, residential trailer, or recreational vehicle.

~~1.2.~~ The temporary dwelling will be occupied by a person or persons who require(s) care or who will provide care. This provision shall not prevent persons in addition to the care recipient(s) or the care provider(s) from occupying the temporary dwelling provided such occupancy is consistent with the remaining provisions of Subsection 1204.03 ~~;~~ and

~~2.3.~~ The temporary dwelling will be located on the same lot, parcel, or tract as a lawfully legally established permanent dwelling. The permanent dwelling will be occupied by the person(s) receiving care from the occupant(s) of the temporary dwelling or by the person(s) providing care to the occupant(s) of the temporary dwelling. This provision shall not prevent persons in addition to the care recipient(s) or the care provider(s) from occupying the permanent dwelling, provided such occupancy is consistent with the remaining provisions of Subsection 1204.03 ~~;~~ and

~~3.4.~~ There exists a need for care. The need shall be documented by a signed statement from a licensed healthcare provider. The statement shall be dated within 90 days preceding the date the application is submitted and shall identify the care recipient, generally indicate that an age-related and/or medical condition results in a need for care, and substantiate that the type of assistance required by the patient is consistent with the type of assistance identified in the definition of “care” in Subsection 1204.03(B) ~~;~~ and

~~4.5.~~ There exists no reasonable housing alternative in the form of adequate housing on the subject lot, parcel, or tract. A determination regarding the reasonableness of the care recipient and the care provider occupying the permanent dwelling together shall be made based on the size and floor plan of the permanent dwelling with consideration for maintaining a degree of privacy and independence for both the care recipient and the care provider; and

~~5.6.~~ There exists no reasonable alternative care provider. Alternative care providers ~~who~~ that shall be considered include:

- a. Other adults who live with the care recipient; and
- b. Other relatives of the care recipient who live nearby. This alternative shall only be considered in cases where the care recipient currently resides on the subject lot, parcel, or tract; and

~~6.7.~~ There is no other temporary dwelling for care on the subject lot, parcel, or tract.

B. As used in Subsection 1204.03, “care” means assistance, required as a result of age and/or poor health, that is given to a specific person in the activities of daily living, which may include, but are not necessarily limited to, bathing, grooming, eating, medication management, ambulation, and transportation, and/or “care” means daily supervision of a specific person when such supervision is required due to cognitive impairment. As used in Subsection 1204.03, “care” does not include assistance with improvement or maintenance of property in the absence of a documented need for assistance with personal activities or a need for personal supervision due to cognitive impairment. “Care” does not include financial hardship alone.

C. A temporary permit for a dwelling for care ~~approved pursuant to Subsection 1204.03~~ shall be subject to the following conditions of approval:

1. Sewage disposal: The temporary dwelling shall be connected to a sanitary sewer system or to an on-site sewage disposal system approved by the Soils Section of the County Department of Water Environment Services. The temporary dwelling shall use the same on-site sewage disposal system used by the permanent dwelling, if that disposal system is adequate to accommodate the additional dwelling as determined by the Soils Section of the County Department of Water Environment Services. An exception may also be granted if more than one ~~lawfully~~ legally established on-site sewage disposal system exists on the subject lot, parcel, or tract.
2. Setbacks: The temporary dwelling shall comply with the primary structure setback standards of the underlying zoning district.

3. Utilities/services: All water, electricity, natural gas, and sanitary sewer service for the temporary dwelling shall be extended from the permanent dwelling services. No separate meters for the temporary dwelling shall be allowed. An exception may be granted if the utility provider substantiates that separate service is required or if more than one legally established service exists on the subject lot, parcel, or tract.
4. Driveway entrance: The temporary dwelling shall use the same driveway entrance as the permanent dwelling, although the driveway may be extended. An exception may be granted if more than one ~~lawfully~~legally established driveway entrance to the subject lot, parcel, or tract exists.
5. Separation distance: The temporary dwelling shall be located within 100 feet of the permanent dwelling. This distance shall be measured from the closest portion of each structure. This distance may be increased if the applicant provides evidence substantiating that steep slopes, significant natural features, significant existing landscaping, existing structures, other physical improvements, or other similar constraints prevent compliance with the separation distance standard. The increase shall be the minimum necessary to avoid the constraint. An exception may also be granted if the temporary dwelling will be sited in the same or substantially similar location as a previous, ~~lawfully~~legally established temporary dwelling for care.
6. Deed statement: A written statement shall be recorded in the County deed records recognizing that a dwelling approved pursuant to Subsection 1204.03 is temporary and that the temporary permit is not transferable when the property is conveyed to another party.
7. Rental income: The temporary dwelling shall not be a source of rental income.
8. Removal/storage: ~~If the temporary dwelling is a~~ manufactured dwelling or residential trailer, ~~it approved pursuant to Subsection 1204.03~~ shall be removed from the subject lot, parcel, or tract when the permit expires or the need for care ceases, whichever first occurs. An exception to this provision may be granted if a temporary manufactured dwelling is converted to a permanent dwelling. Such a conversion shall only be allowed if the temporary dwelling complies with all applicable requirements for a permanent dwelling, and if the conversion will not result in the subject lot, parcel, or tract's violating the density standards of the underlying zoning district. ~~If the temporary dwelling is a~~ recreational vehicle, ~~it approved pursuant to Subsection 1204.03~~ shall be removed from the subject lot, parcel, or tract or placed in a stored condition when the permit expires or the need for care ceases, whichever first occurs. For the purposes of this provision, a recreational vehicle shall be deemed to be placed in a stored condition when it ceases to be used for residential purposes and is disconnected from any on-site sewage disposal system and all utilities other than temporary electrical

connections for heating necessary to avoid physical deterioration. Storage of a recreational vehicle shall comply with all other applicable requirements of this Ordinance.

~~9. Other: Other conditions may be applied as authorized by Subsection 1201.03.~~

D. ~~A temporary permit for a dwelling for care may be approved for a period not to exceed two years in the EFU, TBR, and AG/F Districts and for a period not to exceed three years in any other zoning district. The A permit approved pursuant to Subsection 1204.03 may be renewed, subject to review as a Type II application pursuant to Section 1307 the provisions of Subsection 1305.02, for a period not to exceed two years in the EFU, TBR, and AG/F Districts zoning district or and three years in any other zoning district. A temporary permit for a dwelling for care may be renewed an unlimited number of times when the applicant provides evidence substantiating the following:~~

E. In lieu of Subsections 1204.03(A) and (B), a renewal application shall be subject to the following standards and criteria:

1. The circumstances that provided the basis on which the previous permit was granted remain substantially similar.
2. A renewal application shall be accompanied by a signed statement from a licensed healthcare provider. The statement shall be dated within 90 days preceding the date the application is submitted and shall identify the care recipient and substantiate that the level of assistance required is substantially similar to, or greater than, the level required when the previous permit was granted.

~~E. F. An application shall be evaluated under the approval criterion for a renewal application rather than the criteria for a new application if the permit is requested for the same lot, parcel, or tract and the same care recipient as the previous permit. A temporary permit for care may be renewed an unlimited number of times subject to Subsection 1204.03(D). However, an application received after the expiration of the previous permit shall be charged the same fee as a new application.~~

1204.04 TEMPORARY STRUCTURE FOR EMERGENCY SHELTER

A temporary permit for a structure for emergency shelter may be permitted in any zoning district.

~~A. The Planning Director may approve A~~ A temporary permit for a structure for emergency shelter in any zoning district shall require review as a Type I application, pursuant to Section 1307 and shall be subject to the following standards and criteria: Subsection 104.01(A), for the use of a manufactured dwelling, residential trailer, or recreational vehicle for residential purposes, or

~~a commercial office trailer for business purposes, when the applicant provides evidence substantiating that~~

1. ~~A~~ lawfully established dwelling or business located on the subject lot, parcel, or tract has been destroyed, substantially damaged, or rendered unsafe to occupy due to fire or natural disaster.
2. The temporary structure shall be a manufactured dwelling, residential trailer, or recreational vehicle for residential purposes, or a commercial office trailer for business purposes.

~~A.B.~~ A temporary permit for a structure for emergency shelter~~approved pursuant to Subsection 1204.04~~ shall be initially approved for 60 days. If replacement or repair of the dwelling or business is lawfully commenced within 60 days of the date the permit is initially approved, the approval shall automatically be extended for two years from the date of initial approval. For the purposes of this provision, “lawfully commenced” shall mean the filing of a complete application for a land use, building, septic, grading, manufactured home placement and installation, plumbing, electrical, or other development permit required by the County or other appropriate permitting agency that is necessary to begin replacement or repair of the destroyed or damaged structure. If replacement or repair is not lawfully commenced within 60 days of the date the temporary permit is initially approved, the temporary permit shall become void on the sixty-first day.

~~B.C.~~ A temporary permit for a structure for emergency shelter~~approved pursuant to Subsection 1204.04~~ shall be subject to the following conditions of approval:

1. The temporary dwelling or commercial structure shall be connected to a sanitary sewer system or to an on-site sewage disposal system approved by the Soils Section of the County Department of Water Environment Services.
2. The temporary dwelling or commercial structure shall comply with the primary structure setback standards of the underlying zoning district.
3. If the temporary structure is a~~A~~ manufactured dwelling, residential trailer, or commercial office trailer, it approved pursuant to Subsection 1204.04 shall be removed from the subject lot, parcel, or tract when the permit expires or the permanent structure is occupied, whichever first occurs. If the temporary structure is a~~A~~ recreational vehicle, it approved pursuant to Subsection 1204.04 shall be removed from the subject lot, parcel, or tract or placed in a stored condition when the permit expires or the permanent structure is occupied, whichever first occurs. For the purposes of this provision, a recreational vehicle shall be deemed to be placed in a stored condition when it ceases to be used for residential purposes and is disconnected from any on-site sewage disposal system and all utilities

other than temporary electrical connections for heating necessary to avoid physical deterioration. Storage of a recreational vehicle shall comply with all other applicable requirements of this Ordinance.

~~4. Other conditions may be applied as authorized by Subsection 1201.03.~~

~~C.D. A temporary permit for a structure for emergency shelter approved pursuant to Subsection 1204.04 may not be renewed. For the purposes of this provision, a renewal shall be the same or any substantially similar application filed within two years of the date a previous temporary permit for a structure for emergency shelter approved pursuant to Subsection 1204.04 expired.~~

1204.05 TEMPORARY FARMERS' MARKET

A temporary permit for a farmers' market may be permitted.

A. A temporary permit for a farmers' market shall require review as a Type II application pursuant to Section 1307 and shall be subject to the following standards and criteria:

~~A. The Planning Director may approve a temporary permit for a Farmers' Market, pursuant to Subsection 1305.02, for a period not to exceed one year, when the applicant provides evidence substantiating the following:~~

1. Location: The farmers' market will be located:

a. On a site in an ~~RTC, RC, NC, C-2, RCC, RTL, CC, C-3, PMU, SCMU, OA, OC, RCO, VCS, VO, CI, BP, LI, GI, or RI~~ Neighborhood Commercial, Community Commercial, General Commercial, Rural Tourist Commercial, Rural Commercial, Office Commercial, Retail Commercial, Office Apartment, Village Community Service, Village Office, Regional Center Office, Regional Center Commercial, Planned Mixed Use, Corridor Commercial, Station Community Mixed Use, Campus Industrial, Light Industrial, General Industrial, Rural Industrial, or Business Park zoning District; or

b. At an institutional use in any zoning district, provided that the institutional use has different days and times of operation than the proposed market.

~~2. A permit approved pursuant to Subsection 1204.05 shall be subject to the following conditions:~~

a. 2. Parking: If the market is proposed under Subsection 1204.05(A)(1)(a) to operate when regular business operations are being conducted, the applicant must demonstrate that adequate parking is provided pursuant to Section 1015, Parking and Loading.

- ~~ai.~~ Fifty percent of the total area occupied by market stalls shall be calculated as developed area for the purpose of determining minimum required parking spaces.
- ~~bii.~~ Parking spaces occupied by market stalls shall not be counted as available spaces during market operation.
- ~~b.~~ 3. Hours of Operation:

 - ~~i.~~ a. The market may be conducted on a maximum of two days each week.
 - ~~ii.~~ b. If the market is to be located in an RR, MRR, RA-1, RA-2, RRFF-5, FF-10, HR, FU-10, Urban Low Density Residential, VR-4/5, VR-5/7, VTH, PMD, MR-1, MR-2, HDR, SHD, VA, or RCHDR~~Medium Density Residential, High Density Residential, Special High Density Residential, Recreational Residential, Mountain Recreational Resort, Rural Area Residential 1-Acre, Rural Area Residential 2-Acre, Rural Residential Farm Forest 5-Acre, Farm Forest 10-Acre, Planned Medium Density Residential, Hoodland Residential, Medium High Density Residential, Future Urban 10-Acre, Village Standard Lot Residential, Village Small Lot Residential, Village Townhouse, Village Apartment, or Regional Center High Density Residential~~ zoning District, the market may only be operated (including setup and dismantling) between the hours of 8 a.m. and 8 p.m.
- ~~e.~~ 3. Signage:

 - ~~i.~~ a. The market may display 20 square feet of signage on each street frontage of the site on which the market is held.
 - ~~ii.~~ b. Each farmers' market stall may display 10 square feet of signage at the stall.
 - ~~iii.~~ c. Signage shall be subject to Subsection 1010.13(A)(5).
 - ~~iv.~~ d. Signage may be displayed only during the hours of market operation.

[Amended by Ord. ZDO-224, 5/31/11; Amended by Ord. ZDO-234, 6/7/12]

1205 VARIANCE

1205.01 APPLICABILITY

~~The applicant may propose a~~ variance from a standard or requirement of this Ordinance may be approved, except when one or more of the following applies:

- A. The proposed variance would allow a use which is not permitted in the zoning district in which the subject property is located;
- B. Another procedure and/or criteria is specified in this Ordinance for modifying or waiving the particular requirement or standard;
- C. Modification of the requirement or standard is prohibited within the zoning district in which the subject property is located;
- D. An exception from the requirement or standard is allowed in the zoning district in which the subject property is located;
- E. The proposed variance is to the minimum lot size standard or, in the case of a flexible-lot-size or planned unit development, the minimum average lot size standard and would result in reducing the minimum by more than 10 percent. Subsection 1205.01(E) is not applicable to partitions of lots that are divided by a public road and located in a residential zoning district; or
- F. The request is for a variance to the minimum lot size standard in the ~~RR~~Recreational Residential, ~~RA-2~~Rural Area Residential 2-Acre, ~~FU-10~~Future Urban 10-Acre, ~~EFU~~Exclusive Farm Use, ~~TBR~~Timber, or ~~AG/FAg/Forest zoning D~~istrict.

1205.02 APPROVAL CRITERIA

~~The Planning Director may approve a~~ variance from a requirement or standard of this Ordinance requires review as a Type II application; pursuant to Section 1307~~Subsection 1305.02~~, if the applicant provides evidence substantiating and shall be subject to the following standards and criteria:

- A. Compliance with the applicable requirement or standard of this Ordinance would create a hardship due to one or more of the following conditions:
 - 1. The physical characteristics of the land, improvements, or uses are not typical of the area. When the requested variance is needed to correct an existing violation, that violation shall not be considered as a condition "not typical of the area".
 - 2. The property cannot be developed to an extent comparable with other

similar properties in the area if the requirement or standard is satisfied.

3. Compliance with the requirement or standard would eliminate a significant natural feature of the property.
 4. Compliance with the requirement or standard would reduce or impair the use of solar potential on the subject property or adjacent properties.
- B. Strict adherence to the requirement or standard is unnecessary because the proposed variance from the standard or requirement will reasonably satisfy all the following objectives:
1. Will not adversely affect the function or appearance of the development and use on the subject property;
 2. Will not impose limitations on other properties and uses in the area, including uses that would be allowed on vacant or underdeveloped properties; and
 3. Will accomplish the purpose(s) for the standard as set forth in this Ordinance.
- C. Approval of the application will allow the property to be used only for purposes authorized by this Ordinance; and
- D. Approval of the application complies with the Comprehensive Plan.

1205.03 APPROVAL PERIOD AND TIME EXTENSION

- A. Approval of a variance is valid for four years from the date of the final written decision. If the County's final written decision is appealed, the approval period shall commence on the date of the final appellate decision. During this four-year period, the approval shall be implemented, or the approval will become void.
1. For a variance directly related to an application for a partition or subdivision, "implemented" means that the final plat of the partition or subdivision shall be recorded with the County Clerk.
 2. For any other variance, "implemented" means all major development permits shall be obtained and maintained, or if no major development permits are required to complete the development contemplated by the approved variance, "implemented" means all other necessary County development permits (e.g. grading permit, building permit for an accessory structure) shall be obtained and maintained. A "major development permit" is:

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- a. A building or manufactured dwelling placement permit for a new primary structure that was part of the variance approval; or
 - b. A permit issued by the County Engineering Division for parking lot or road improvements that were part of the variance approval.
- B. If the approval of a variance is not implemented within the initial approval period established by Subsection 1205.03(A), a two-year time extension may be approved ~~by the Planning Director~~, pursuant to [Section 1310](#)~~Subsection 1305.02, and subject to Subsection 1305.05.~~

[Amended by Ord. ZDO-230, 9/26/11]

1206 NONCONFORMING USE

1206.01 STATUS

A nonconforming use may be continued although not in conformity with the regulations for the zoning district in which the use is located. Nonconforming use status applies to the lot(s) or parcel(s) upon which the nonconforming use is located and may not be expanded onto another lot or parcel, except as provided under Subsection 1206.05. A change in ownership of, or a change of operator of, a nonconforming use shall be permitted.

1206.02 DISCONTINUATION OF USE

If a nonconforming use is discontinued for a period of more than 12 consecutive months, the use shall not be resumed unless the resumed use conforms with the requirements of this Ordinance and other regulations applicable at the time of the proposed resumption.

1206.03 RESTORATION OR REPLACEMENT

If a nonconforming use is damaged or destroyed by fire, other casualty, or natural disaster, such use may be restored, replaced, and/or re-established consistent with the nature and extent of the use or structure lawfully established at the time of loss, subject to the following conditions:

- A. Alterations or changes to the nature and extent of the nonconforming use as lawfully established prior to the fire, other casualty, or natural disaster shall not be permitted under Subsection 1206.03, but may be permitted pursuant to Subsection 1206.05.
- B. Physical restoration, replacement, or re-establishment of the nonconforming use shall be lawfully commenced within one year of the occurrence of the damage or destruction. For the purposes of this provision, “lawfully commenced” shall mean the lawful resumption of the nonconforming use and/or the filing of an application for a land use, building, septic, grading, manufactured dwelling or residential trailer placement, plumbing, electrical, or other development permit required by the County or other appropriate permitting agency that is necessary to begin restoration or replacement of the nonconforming use and/or structures.
- C. The nonconforming use status of the use to be restored, replaced, or re-established, and the nature and extent of the nonconforming use, shall be verified pursuant to Subsection 1206.06.

1206.04 MAINTENANCE

Normal maintenance of a nonconforming use necessary to maintain a nonconforming use in good repair is permitted provided there are not significant use or structural alterations ~~as determined by the Planning Director~~. Normal maintenance may include painting, roofing, siding, interior remodeling, re-paving of access roads and parking/loading areas, replacement of landscaping elements, etc.

1206.05 ALTERATIONS AND CHANGES

- A. Alterations Required by Law: ~~The Planning Director shall permit~~ the alteration of any nonconforming use shall be permitted when necessary to comply with any lawful requirement for alteration of the use or structure, subject to building, plumbing, sanitation, and other specialty code permit requirements in effect at the time the alteration is commenced. ~~The Planning Director shall not impose~~ Additional conditions shall not be imposed upon the continuation of a nonconforming use when an alteration is required to comply with local or state health or safety requirements, except as provided in Oregon Revised Statutes 215.215 pertaining to the re-establishment of nonfarm uses in an Exclusive Farm Use zoning district.

- B. Alterations Not Required by Law: ~~The Planning Director shall approve~~ An alteration of a nonconforming structure and/or other physical improvements, or a change in the use, shall require review as a Type II application pursuant to Section 1307 ~~Subsection 1305.02, if the applicant provides evidence substantiating and shall be subject to~~ the following standards and criteria:
 - 1. The alteration in the structure and/or other physical improvements, or change in the use, will, after the imposition of conditions as authorized below, have no greater adverse impact on the neighborhood than the existing use, structure(s), and/or physical improvements; and
 - 2. The nonconforming use status of the existing use, structure(s), and/or physical improvements is verified pursuant to Subsection 1206.06. The verification and alteration/change requests may be combined as a single application.
 - 3. ~~The Planning Director may impose~~ Conditions of approval may be imposed on any alteration of a nonconforming use, structure(s), or other physical improvements permitted under Subsection 1206.05(B), when deemed necessary to ensure the mitigation of any adverse impacts.

- C. Dwellings: A dwelling classified as a nonconforming use may be remodeled, expanded, or replaced without review under Subsection 1206.05(B), provided that the use is not altered from that of a dwelling and that the number of dwelling units is not increased.

- D. Change in Use of a Dwelling:

1. In the RCC, RTL, CC, C-3, SCMU, and OA Districts, a dwelling classified as a nonconforming use may be converted to house any use permitted in the respective zoning district, subject to all requirements of this Ordinance for new development.
 2. In the OC, RCO, and VO Districts, a dwelling classified as a nonconforming use may be converted to house any primary use permitted in the respective zoning district, subject to all requirements of this Ordinance for new development.
 3. In the LI, GI, and BP Districts, any change in the use of a dwelling classified as a nonconforming use shall be subject to all requirements for new developments in the zoning district, except as approved pursuant to a temporary permit under Subsection 1204.01.
- E. HDR, SHD, and RCHDR Districts: In the HDR, SHD, and RCHDR Districts, commercial uses classified as nonconforming uses may be remodeled or expanded subject to the following criteria:
1. The remodeled or expanded use and operational characteristics of the use will not be detrimental to the surrounding area;
 2. The remodeled or expanded use or structure will not require an expansion of the site area occupied by the preexisting use; and
 3. The remodeled or expanded use or structure and associated operational requirements are integrated into residential development on surrounding properties through building design, exterior materials and colors, landscaping, orientation of building entrances and service areas, vehicle and pedestrian circulation, and signing.
- F. OC and RCO Districts: In the OC and RCO Districts, commercial or industrial uses classified as nonconforming uses may remodel or upgrade the premises, subject to design review approval pursuant to Section 1102, *Design Review*. However, any change of use or alteration which expands the use shall be subject to Subsection 1206.05(A) or (B), whichever is applicable.
- G. LI and GI Districts: In the LI and GI Districts, expansion, alteration, or change of use of a lawfully established industrial or business use which does not conform to the physical and operational requirements of the zoning district shall require that the use be brought into conformance with those requirements to the extent possible.

1206.06 VERIFICATION OF A NONCONFORMING USE

- A. ~~The Planning Director may approve a request for V~~erification of nonconforming use status; shall require review as a Type II application pursuant to Section 1307~~Subsection 1305-02~~; and may be approved if the applicant:

1. Proves that the nonconforming use lawfully existed at the time of the adoption of zoning regulations, or a change in zoning regulations, which prohibited or restricted the use; and, the nonconforming use has not been subsequently abandoned or discontinued; or
2. Proves the existence, continuity, nature, and extent of the nonconforming use for the 10-year period immediately preceding the date of the application. Such evidence shall create a rebuttable presumption that the nonconforming use, as proven, lawfully existed at the time of, and has continued uninterrupted since, the adoption of restrictive zoning regulations, or a change in the zoning or zoning regulations, that have the effect of prohibiting the nonconforming use under the current provisions of this Ordinance.

1206.07 APPROVAL PERIOD AND TIME EXTENSION

A. Approval Period: Approval of an alteration of a nonconforming use, pursuant to Subsection 1206.05(B), is valid for a period of four years from the date of the final written decision. If the County's final written decision is appealed, the approval period shall commence on the date of the final appellate decision. During this four-year period, the approval shall be implemented, or the approval will become void.

1. "Implemented" means all major development permits shall be obtained and maintained for the approved alteration of a nonconforming use, or if no major development permits are required to complete the development contemplated by the approved alteration of a nonconforming use, "implemented" means all other necessary County development permits (e.g. grading permit, building permit for an accessory structure) shall be obtained and maintained.

a. A "major development permit" is:

- i. A building or manufactured dwelling placement permit for a new primary structure that was part of the alteration of a nonconforming use approval; or
- ii. A permit issued by the County Engineering Division for parking lot or road improvements required by the alteration of a nonconforming use approval.

B. Time Extension: If the approval of an alteration of a nonconforming use is not implemented within the initial approval period established by Subsection 1206.07(A), a two-year time extension may be approved ~~by the Planning Director, pursuant to Section 1310 Subsection 1305.02, and subject to Subsection 1305.05.~~

1206.08 VESTED RIGHT DETERMINATION

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~~The Planning Director may approve a request for a~~ vested right determination; shall require review as a Type II application pursuant to Section 1307~~Subsection 1305.02,~~ and shall be approved if the applicant proves that the requested use was vested under common law.

[Amended by Ord. ZDO-230, 9/26/11; Amended by Ord. ZDO-243, 9/9/13]

~~1301 — GENERAL PROVISIONS~~

~~The review of all administrative actions under this Ordinance shall be subject to Section 1300.~~

~~1301.01 — DEFINITION AND REVIEW PROCEDURE~~

~~A. — An administrative action is a proceeding:~~

- ~~1. In which the legal rights, duties, or privileges of specific parties under general rules or policies provided under ORS 215.010 to 215.233 and 215.402 to 215.422 or any ordinance, rule, or regulation adopted pursuant thereto, are required to be determined only after a hearing at which specific parties are entitled to appear and be heard; or~~
- ~~2. Identified as a Planning Director decision by this Ordinance.~~

~~B. — Hearings Officer, Planning Commission, and Board of County Commissioners responsibilities shall be as follows:~~

- ~~1. The Hearings Officer shall hear all administrative actions identified under Subsection 1301.01(A)(1) and appeals of decisions issued pursuant to Subsection 1301.01(A)(2), except as set forth in Subsections 1301.01(B)(2) and (3).~~
- ~~2. The Planning Commission shall hear applications for Comprehensive Plan amendments; applications filed concurrently with an application for a Comprehensive Plan amendment on the same property; and appeals of Planning Director Interpretations of the Comprehensive Plan.
 - ~~a. On Comprehensive Plan amendments and concurrent applications on the same property, the Planning Commission shall not render a decision but may forward a recommendation to the Board of County Commissioners.~~
 - ~~b. On appeals of Planning Director Interpretations of the Comprehensive Plan, the Planning Commission shall make a decision, which shall be final unless appealed to the Board of County Commissioners. An appeal must be in writing and must be received by the Planning Director within 12 days of the date of mailing of the final written decision of the Planning Commission, or if the 12th day falls on a day on which the County is not open for business, by the next day on which the County is open for business.~~~~
- ~~3. The Board of County Commissioners shall hear applications for Comprehensive Plan amendments; applications filed concurrently with an~~

~~application for a Comprehensive Plan amendment on the same property; and appeals of Planning Commission decisions on interpretations of the Comprehensive Plan. In addition, the Board of County Commissioners may decide to hear an appeal of a Hearings Officer decision on an interpretation of this Ordinance pursuant to Subsection 1304.01. Board of County Commissioners consideration of Comprehensive Plan amendments and concurrent applications on the same property shall follow Planning Commission consideration of these applications.~~

~~C. Public Hearing Review Procedures:~~

- ~~1. Planning Commission: An administrative action requiring review by the Planning Commission shall be conducted in accordance with the bylaws adopted by the Planning Commission and the provisions of Section 1300 and Subsection 1402.01(A) and (B).~~
- ~~2. Hearings Officer/Board of County Commissioners: An administrative action requiring review by the Hearings Officer or Board of County Commissioners shall be conducted in accordance with the rules of procedure adopted by the Hearings Officer or Board of County Commissioners and the provisions of Section 1300. This subsection authorizes the Hearings Officer and Board of County Commissioners to adopt rules of procedure for the conduct of hearings.~~
- ~~3. At least seven days prior to the hearing, a copy of the staff report for the hearing shall be available for inspection at the County Planning and Zoning Division and copies shall be provided at reasonable cost.~~
- ~~4. Ex Parte Contact; Hearings Officer: The Hearings Officer shall not:
 - ~~a. Communicate, directly or indirectly, with any party or their representatives in connection with any issue involved, except upon notice and opportunity for all parties to participate;~~
 - ~~b. Take notice of any communications, reports, staff memoranda, or other materials prepared in connection with a particular case, unless the parties are afforded an opportunity to contest the material so noted; nor~~
 - ~~c. Inspect the site with any party or his representatives unless all parties are given an opportunity to be present. The Hearings Officer may inspect the site alone but must put the circumstances of the inspection on record.~~~~
- ~~5. Ex Parte Contact; Planning Commission and Board of County Commissioners: While every effort must be made to avoid ex parte contact, no decision of the Planning Commission or Board of County~~

~~Commissioners shall be invalid due to ex parte contact or bias resulting from ex parte contact, as described under Subsection 1301.01(C)(4), if the member of the Planning Commission or Board of County Commissioners receiving the contact:~~

~~a. Places on the record the substance of any written or oral ex parte communication concerning the decision or action; and~~

~~b. Has a public announcement made of the content of the communication, and of the parties' right to rebut the substance of the communication, at the first hearing following the communication where action will be considered or taken on the subject to which the communication related.~~

~~6. A communication between County staff and the Hearings Officer, Planning Commission, or Board of County Commissioners shall not be considered an ex parte contact for purposes of Subsections 1301.01(C)(4) and (5).~~

~~1301.02 — APPOINTMENT OF HEARINGS OFFICER~~

~~The Hearings Officer shall be appointed by the Board of County Commissioners to serve at the pleasure of and at a salary fixed by the Board of County Commissioners. When the Board of County Commissioners serves as the Hearings Officer, it may be referred to as the "Board of County Commissioners" rather than the "Hearings Officer".~~

~~1301.03 — INITIATION OF ADMINISTRATIVE ACTION~~

~~A. An administrative action, unless otherwise specifically provided for by this Ordinance, may only be initiated by order of the Board of County Commissioners, or a majority of the whole Planning Commission, or by the petition of the owner, contract purchaser, option holder, or agent of the owner, of the property in question.~~

~~B. A property owner, contract purchaser, option holder, or agent of the owner shall initiate an administrative action by filing a complete application with the Planning Director on forms provided by the Planning Director, and accompanied by the applicable fee.~~

~~1301.04 PREAPPLICATION CONFERENCE~~

- ~~A. When an administrative action is to be initiated by a property owner, contract purchaser, option holder, or agent of an owner, the applicant or authorized representative shall meet and confer with the Planning Director in a preapplication conference for those actions requiring a conference, as specified elsewhere in this Ordinance.~~
- ~~B. For an administrative action not requiring a preapplication conference, the applicant or authorized representative has the option to request a preapplication conference.~~
- ~~C. A request for a preapplication conference shall be filed with the Planning Director on forms provided by the Planning Director, and accompanied by the applicable fee.~~
- ~~D. The Planning Director will identify County and outside agency staff with a potential interest in the proposed development, based on the regulations administered by such staff. The Planning Director will notify the identified staff of the preapplication request and invite them to attend the conference or provide comments on the development proposal, as deemed necessary by the Planning Director.~~
- ~~E. During a preapplication conference, views may be exchanged as to the requisites for formal application and the feasibility of approval may be discussed.~~

~~1302 — NOTICE REQUIREMENTS AND PROCEDURES~~

~~1302.01 — PUBLIC NOTICE REQUIREMENTS~~

~~The following notification requirements shall apply to all administrative actions to be considered at a public hearing:~~

- ~~A. — At least 35 days before the first evidentiary hearing, a copy of the submitted application shall be sent to the recognized and active community planning organization(s), if the subject property lies wholly or partially within the boundaries of such organization(s).~~
- ~~B. — Written notice of the public hearing shall be sent by mail at least 20 days prior to the first evidentiary hearing to the following:
 - ~~1. — The applicant;~~
 - ~~2. — All property owners of record, pursuant to Subsection 1302.03, within:
 - ~~a. — 300 feet of the subject property and contiguous properties under the same ownership if the property is located within an urban growth boundary; or~~
 - ~~b. — 500 feet of the subject property and contiguous properties under the same ownership if the property is located outside an urban growth boundary and outside an EFU, TBR or AG/F zoning district; or~~
 - ~~c. — 750 feet of the subject property and contiguous properties under the same ownership if the property is located within an EFU, TBR or AG/F zoning district.~~~~
 - ~~3. — The recognized and active community planning organization(s), if the property which is the subject of the application lies wholly or partially within the boundaries of such organization(s);~~
 - ~~4. — Tenants within a manufactured dwelling park when such manufactured dwelling park is the subject of a zone change request; and~~~~
- ~~C. — The airport sponsor and the Oregon Department of Aviation when required by Subsection 712.08 or 713.07. Written notice of the public hearing shall be sent by mail to cities or other entities as prescribed in an applicable dual-interest or urban growth management agreement.~~
- ~~D. — Notice shall be given by publication in a newspaper of general circulation in the affected area at least 10 days prior to the date of a hearing.~~

~~1302.02 — CONTENTS OF WRITTEN NOTICE~~

~~Notices of hearings shall contain the following information:~~

- ~~A. — The date, time and place of the hearing; the application file number; staff representative and telephone number where additional information may be obtained;~~
- ~~B. — Identification of the property owner and applicant; a description of the subject property by tax map designation of the County Assessor, the address of the property if available and approximate location on county roads;~~
- ~~C. — An explanation of the nature of the proposed action and the proposed use or uses which could be authorized by the decision; a list of the criteria from this ordinance and the Comprehensive Plan that apply to the application and decision;~~
- ~~D. — A statement that interested parties may appear and be heard and that failure to raise an issue by the close of the record at or following the final evidentiary hearing, in person or by letter, or failure to provide sufficient specificity to afford the Hearings Officer an opportunity to respond to an issue precludes appeal to the Land Use Board of Appeals based on that issue;~~
- ~~E. — A general explanation of the requirements for submission of testimony and the procedure for conduct of hearings;~~
- ~~F. — A statement that the application, all documents and evidence relied upon by the applicant, and the applicable criteria are available for inspection at the Planning Division at no cost and copies will be provided at a cost established by the Board of County Commissioners; and~~
- ~~G. — A statement that at least 7 days prior to the hearing a copy of the staff report for the hearing will be available for inspection at the Planning Division and copies will be provided at a cost established by the Board of County Commissioners.~~

~~1302.03 — PERSONAL NOTICE~~

~~For the purpose of personal notification, the records of the Clackamas County Assessor shall be used and persons whose names and addresses are not on file at the time of the filing of the application need not be notified of the action. If a property within the notification area is located outside Clackamas County, the records of the applicable County Assessor shall be used. The failure of a property owner to receive notice shall not invalidate the decision if a good faith attempt was made to comply with Subsection 1302.01(B).~~

~~1303 — PUBLIC HEARING REQUIREMENTS AND PROCEDURES~~

~~1303.01 — NATURE OF DECISION~~

~~The decision on an administrative action may be to approve the application as submitted, to deny the application or to approve the application with such conditions as may be necessary to carry out the Comprehensive Plan and as provided for in Subsection 1303.09. Approval or denial of a permit shall be based upon and accompanied by a brief statement that explains the criteria and standards considered relevant to the decision, states the facts relied upon in rendering the decision and explains the justification for the decision based on the criteria, standards and facts set forth.~~

~~1303.02 — RIGHTS OF AFFECTED PARTIES~~

~~A. — Right to Participate: Parties entitled to participate in a public hearing on an administrative action include:~~

- ~~1. — Those persons entitled to personal notice pursuant to Subsection 1302.01(B);~~
- ~~2. — A recognized and active community planning organization; and~~
- ~~3. — Any interested person or agency.~~

~~B. — Right to Notice of Decision: Notice of the final decision shall be mailed to all interested parties. For purposes of this subsection, an interested party is:~~

- ~~1. — The applicant;~~
- ~~2. — The appellant;~~
- ~~3. — Anyone providing oral testimony at the Hearings Officer or Board of County Commissioners hearing;~~
- ~~4. — Anyone who makes a written request for such notice;~~
- ~~5. — The airport sponsor and the Oregon Department of Aviation when required by Subsection 712.08 or 713.07; and~~

- ~~6. The recognized and active community planning organization(s), if the property which is the subject of the application lies wholly or partially within the boundaries of such organization(s).~~

~~1303.03 EVIDENCE~~

- ~~A. Any documents or evidence relied upon by the applicant in addition to the initial complete application shall be submitted to the Planning Division and made available to the public at least 20 days prior to the first evidentiary hearing.~~
- ~~B. All evidence may be received unless excluded by the Hearings Officer on his own motion. Evidence received at any hearing shall be of the quality that reasonable persons rely upon in the conduct of their everyday affairs. Evidence may be received subject to a later ruling regarding its admissibility.~~
- ~~C. The Hearings Officer may exclude irrelevant, unduly repetitious, immaterial or cumulative evidence; but erroneous admission of evidence by the Hearings Officer shall not preclude action by the Hearings Officer or cause reversal on appeal unless shown to have substantially prejudiced the rights of a party. When a hearing will be expedited, any part of the evidence may be received in written form.~~
- ~~D. All evidence shall be offered and made a part of the record in the case; and, except for matters stipulated to and except as provided in Subsection 1303.03(E), no other factual information or evidence shall be considered in the determination of the case. Documentary evidence may be received in the form of copies of excerpts or by incorporation by reference.~~
- ~~E. The Hearings Officer may take notice of judicially cognizable facts, and may take notice of general, technical or scientific facts within specialized knowledge. Interested parties shall be notified at any time during the proceeding, but in any event prior to the final decision, of the material so noticed, and they shall be afforded an opportunity to contest the facts so noticed. The Hearings Officer may utilize experience, technical competence and specialized knowledge in evaluation of the evidence presented.~~
- ~~F. Every party is entitled to an opportunity to be heard and present and rebut evidence.~~

~~1303.04 EXHIBITS~~

~~All exhibits received shall be marked so as to provide identification upon review. Such exhibits may be returned when the period for review has expired, but shall otherwise be preserved by the Planning Director.~~

~~1303.05 — RECORD OF HEARING~~

~~A verbatim record of the proceeding shall be made by written, mechanical or electronic means, which record need not be transcribed except upon review on the record.~~

~~1303.06 — LIMITS ON ORAL TESTIMONY~~

~~The Hearings Officer may set consistent, reasonable time limits for oral presentations to the end that parties are encouraged to submit as much evidence as possible in writing prior to the hearing.~~

~~1303.07 — CHALLENGE TO HEARINGS OFFICER~~

~~A party may challenge the Hearings Officer on the grounds of Subsection 1301.01(C)(4), or that such Hearings Officer has a legal conflict of interest. A written challenge must be delivered by personal service to the Planning Director and the Hearings Officer not less than 3 days preceding the time set for public hearing. A challenge and the decision thereon by the Hearings Officer shall be entered in the record of the action.~~

~~1303.08 — POSTPONEMENTS, CONTINUANCES AND OPEN RECORD PERIODS (6/6/02)~~

- ~~A. — A postponement is a request by the applicant to have county processing of an administrative action suspended, either indefinitely or to a date certain. Where a date certain for an additional hearing is established during a hearing, the request shall be considered a continuance rather than a postponement.~~
- ~~B. — The applicant may request a postponement of an administrative action at or prior to the hearing. Any request for a postponement shall be submitted in writing. A postponement may be granted by the Planning Director if such request is received prior to the hearing, or by the Hearings Officer if requested during the hearing. The applicant may request a continuance of an administrative action during the hearing. A postponement or continuance shall not be granted exceeding 273 days from the date of the first scheduled public hearing or, if a hearing has not been scheduled, from the date a complete application was submitted.~~
- ~~C. — A hearing on an application may be continued and no additional notice need be given by the Hearings Officer if the hearing is adjourned to a date certain, unless so ordered. Unless there is a continuance, the record shall be kept open for not less than 7 days following the hearing if so requested at the hearing. Any party may request during the hearing that the record be left open for longer than 7 days. However, the record shall not be left open for more than 273 days from the date of the first scheduled hearing.~~

~~D. — Only one postponement shall be granted.~~

~~E. — A request by an applicant to resume county processing of a postponed application shall be made in writing. If such a request is not received within the time period established by Subsection 1303.08(B), the application shall be considered withdrawn.~~

~~1303.09 — CONDITIONS OF APPROVAL~~

~~Approval of any administrative action may be granted subject to conditions. The following limitations shall be applicable to conditional approvals:~~

~~A. — Conditions shall be fulfilled within the time limitations set forth in the approval thereof, or, if no time is set forth, within a reasonable time.~~

~~B. — Such conditions shall be reasonably calculated to fulfill public needs emanating from the proposed land uses as set forth in the application, in the following respects:~~

~~1. — Protection of the public from the potentially deleterious effects of the proposed use; or~~

~~2. — Fulfillment of the need for public service demands created by the proposed use.~~

~~C. — Except as provided for in Subsection 1305.01(L), changes or alterations of conditions shall be processed as a new administrative action. A change or alteration will be considered only if the applicant demonstrates:~~

~~1. — A change in circumstances substantially material to the application, or~~

~~2. — A change in the zoning of the property, or adjacent property, that substantially affects the merits of the application.~~

~~D. — Such conditions may be set forth in a contract executed between the Board of County Commissioners, acting by and through its Chairman, and the property owner and any contract purchasers. If a contract is required, no building permits for the use applied for shall be issued, nor shall the use applied for be deemed approved, until the properly executed contract is filed with the County Clerk. Such contract shall be properly signed and executed within 30 days after approval with conditions, provided, however, that the Board of County Commissioners may grant reasonable extensions in cases of practical difficulty. Such contract shall not restrict the power of subsequent administrative actions with or without conditions. In return for the granting of the application, the property owner, contract purchasers and their heirs, successors and assigns shall perform those conditions set forth therein. Said~~

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~~contract shall be enforceable against the signing parties, their heirs, successors and assigns by Clackamas County by appropriate action of law or suit in equity.~~

~~E. Failure to fulfill any condition within the time limitations provided shall be grounds for initiation of an administrative action by the Planning Director to rescind the permit or approval pursuant to Subsection 1305.01(M).~~

~~F. A bond, in a form acceptable to the Planning Director, or a cash deposit from the property owners or contract purchasers in such an amount as will assure compliance with the conditions may be required. Such bond shall be posted at the same time the contract containing the condition(s) is filed with the County Clerk.~~

~~1303.10 REFILING APPLICATION~~

~~If an application for an administrative action is denied, an applicant may refile pursuant to Subsection 1305.02(H).~~

~~1304 — FINAL DECISION AND APPEAL PROCEDURES~~

~~1304.01 — FINAL DECISION~~

~~The decision of the Hearings Officer shall be the final decision of the county, except, in the case of an application for an Interpretation, the Board of County Commissioners (BCC) may review the decision of the Hearings Officer on appeal. The appeal must be in writing and must be received by the Planning Director within 12 days of the date of mailing of the final written order of the Hearings Officer, or if the 12th day falls on a day on which the County is not open for business, by the next day on which the County is open for business. If the BCC determines that it will hear an appeal of an Interpretation, notice of the hearing shall be given pursuant to Subsection 1302.01.~~

~~1304.02 — APPEAL PERIOD~~

~~The county's final decision on an administrative action may be appealed to the Land Use Board of Appeals (LUBA) within 21 days of the date of mailing of the final written order. If a request for a review of an interpretation by the Hearings Officer is filed with the Board of County Commissioners (BCC), the 21-day LUBA appeal period shall commence on mailing of the final written order of the BCC, if the BCC accepts review, or mailing of a denial of the request for review.~~

~~1305 ADMINISTRATIVE RESPONSIBILITY OF THE PLANNING DIRECTOR~~

~~1305.01 DUTIES~~

~~The Planning Director, subject to the direction of the Board of County Commissioners, shall perform the following duties:~~

- ~~A. Schedule and assign cases for initial hearing and review;~~
- ~~B. Conduct all correspondence of the Hearings Officer;~~
- ~~C. Give notice as required by this Ordinance;~~
- ~~D. Maintain dockets and minutes of all initial hearings;~~
- ~~E. Compile and maintain all necessary records, files, and indexes;~~
- ~~F. Maintain a filing system for docket control of all matters scheduled for hearing or review;~~
- ~~G. Enter into the record all continuances, postponements, dates of giving notice, and a summary of all actions taken by the Hearings Officer or other persons pursuant to this Ordinance;~~
- ~~H. Enter into the minutes the decision upon each matter initially heard and the reasons for the decision;~~
- ~~I. Serve copies of orders reduced to writing by mail upon any party requesting the same at a fee established by the Board of County Commissioners. There will be no fee charged for such requests by recognized and active community planning organizations;~~
- ~~J. Reduce orders of the Hearings Officer to writing and file same within a reasonable time; and~~
- ~~K. Decide all questions of interpretation or applicability to specific properties of any provision of the Comprehensive Plan or this Ordinance. An application for an interpretation shall be processed pursuant to Subsection 1305.03;~~
- ~~L. Initiate a public hearing before the Hearings Officer for revocation of a prior approval of an administrative action when there is a violation of conditions attached to the previous approval sufficient to merit such revocation. Revocation requests shall be processed pursuant to Section 1300; and~~
- ~~M. Conduct preapplication conferences prior to filing of an administrative action for application types requiring a conference and, for other application types, when requested by the applicant.~~

~~1305.02 — PLANNING DIRECTOR REVIEW~~

~~Administrative actions that require Planning Director review shall be subject to the following provisions. However, an applicant for an administrative action that is subject to Planning Director review may request that such administrative action be heard directly by the Hearings Officer pursuant to Sections 1301 through 1304.~~

~~A. — Notice of Application: Prior to the issuance of a decision by the Planning Director~~

- ~~1. — A copy of the application shall be sent to the recognized and active community planning organization(s), if the subject property lies wholly or partially within the boundaries of such organization(s).~~
- ~~2. — Written notice of the application shall be provided to cities or other entities as prescribed in an applicable dual interest or urban growth management agreement.~~
- ~~3. — A minimum of 20 days prior to the issuance of a decision, written notice of the application shall be provided to the airport sponsor and the Oregon Department of Aviation when required by Subsection 712.08 or 713.07.~~

~~B. — Decision: The Planning Director may approve the application as submitted, approve the application with conditions, or deny the application. The Planning Director shall prepare written findings justifying the decision.~~

~~C. — Notice of Decision: The Planning Director shall provide notice of the written decision to:~~

- ~~1. — The recognized and active community planning organization(s), if the subject property lies wholly or partially within the boundaries of such organization(s);~~
- ~~2. — The applicant;~~
- ~~3. — Property owners of record pursuant to Subsections 1302.01(B)(2) and 1302.03;~~
- ~~4. — The airport sponsor and the Oregon Department of Aviation when required by Subsection 712.08 or 713.07; and~~
- ~~5. — Cities or other entities as prescribed in an applicable dual interest or urban growth management agreement.~~

~~D. — Appeals: The decision of the Planning Director shall become final unless appealed in writing.~~

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- ~~1. The appeal must be received by the Planning Director within 12 days of the date of mailing of the notice of decision, or if the 12th day falls on a day on which the County is not open for business, by the next day on which the County is open for business.~~
 - ~~2. If appealed, the application shall be reviewed by the Hearings Officer pursuant to Section 1300.~~
 - ~~3. An appeal to the Hearings Officer stays proceedings in the matter appealed until the determination of the appeal.~~
- ~~E. Refiling: If an application for an administrative action is denied, or a land use permit is revoked pursuant to Subsection 1305.01(L), an applicant may refile for consideration of the same or substantially similar application only if:~~
- ~~1. The Planning Director finds that one of the following circumstances renders inapplicable all of the specific reasons for denial:
 - ~~a. A change has occurred in this ordinance, the Comprehensive Plan, or other applicable law which is material to the application; for the purposes of this provision, “change” includes amendment to the applicable provisions or a modification in accepted meaning or application caused by an interpretation filed pursuant to Subsection 1305.01(K);~~
 - ~~b. A mistake in facts was considered by the hearings authority which was material to the application;~~
 - ~~c. There have been changes in circumstances resulting in new facts material to the application;~~
 - ~~d. A change has occurred in the zoning of the property, or adjacent property, that substantially affects the merits of the application; or~~
 - ~~e. There have been substantial changes in the surrounding area, or on the subject property, such as availability of services or improvements to public facilities, that affect the merits of the application.~~~~
 - ~~2. Except as provided in Subsection 1305.02(E)(1) a new application cannot be filed until two years after either final denial of an application by the County or revocation of a land use permit.~~
- ~~F. Postponements: The applicant may request a postponement pursuant to Subsection 1303.08.~~
- ~~G. Reissuing a Decision: The Planning Director may reissue a Planning Director decision as a result of a clerical error, a misstatement of facts or the erroneous imposition or omission of conditions of approval. A decision may not be reissued~~

~~after the expiration of the appeal period. Notice of the reissued decision shall be given in the same manner as notice of the original decision.~~

~~1305.03 — INTERPRETATIONS~~

~~An application for an Interpretation shall be subject to the following provisions:~~

~~A. — The Planning Director has the authority to interpret the Comprehensive Plan and this Ordinance and their applicability to specific properties, except where such authority is specifically granted by this Ordinance to the Hearings Officer.~~

~~B. — Anyone may initiate an application for an Interpretation, except that an application for an Interpretation of the applicability of this Ordinance to a specific property may only be initiated by those parties identified in Subsection 1301.03(A).~~

~~C. — A complete application shall include:~~

~~1. — A completed land use application on a form provided by the Planning Director;~~

~~2. — Identification of the provision(s) for which an Interpretation is requested;~~

~~3. — Identification by tax map designation of the County Assessor of the specific property, if any, to which an Interpretation relates; and~~

~~4. — A detailed description of any proposed use, specific circumstances, or other factors necessary to allow the Planning Director to make an Interpretation.~~

~~D. — A minimum of 15 days prior to the issuance of the Planning Director's decision, a copy of the submitted application shall be sent to all recognized and active community planning organizations whose boundaries contain property to which an Interpretation could be applicable.~~

~~E. — The Planning Director shall provide notice of the written decision to the applicant, all recognized and active community planning organizations whose boundaries contain property to which an Interpretation could be applicable, and cities or other entities as prescribed in an applicable dual interest or urban growth management agreement. In addition, if an Interpretation relates to the applicability of this Ordinance to a specific property, notice of the written decision shall be provided to property owners of record pursuant to Subsections 1302.01(B)(2) and 1302.03.~~

~~F. — The decision of the Planning Director shall become final unless appealed in writing. The appeal must be received by the Planning Director within 12 days of the date of mailing of the notice of decision, or if the 12th day falls on a day on which the County is not open for business, by the next day on which the County is open for business. Anyone may appeal the decision. If appealed, an application~~

~~for an interpretation of this Ordinance shall be reviewed by the Hearings Officer pursuant to Section 1300. If appealed, an application for an interpretation of the Comprehensive Plan shall be reviewed by the Planning Commission pursuant to Section 1300. An appeal stays the proceedings in the matter appealed until the determination of the appeal by the Hearings Officer or Planning Commission, as applicable.~~

~~G. Interpretations shall be subject to Subsections 1305.02(E) through (G).~~

~~H. An application may not be filed for an Interpretation when the specific question raised in the application has already been decided through another administrative action. A question shall not be deemed to have been decided if the fact circumstances in the previous administrative action differ from those presented in an Interpretation application.~~

1305.04 — MINOR MODIFICATIONS

~~The Planning Director shall review minor modifications to approved administrative actions, or conditions thereto, subject to the following provisions:~~

~~A. A minor modification shall be approved if it:~~

~~1. Is consistent with the prior approval;~~

~~2. Is consistent with all Ordinance provisions in effect on the date the modification request is submitted; and~~

~~3. Does not result in any of the following:~~

~~a. A change in the type of use (e.g. commercial, industrial, institutional);~~

~~b. An increase of greater than 25 percent of the original approved building floor area;~~

~~c. An increase of greater than 25 percent of the original approved lot coverage;~~

~~d. An increase in the density of development (residential or recreational uses), or intensity of use, as demonstrated by a change in occupancy rating requiring substantial modifications to structures;~~

~~e. An increase in traffic congestion or use of public facilities;~~

~~f. A reduction in approved open space;~~

~~g. A reduction of off-street parking spaces or loading berths, except as provided under Section 1015; or~~

~~h. A reduction in required pavement widths or a change in major access locations, except as required by the County.~~

~~B. Approval Period and Time Extension: Approval of a minor modification is subject to the same approval period and time extension provisions as the application type modified by the approval.~~

~~1305.05 TIME EXTENSION~~

~~A. When permitted elsewhere in this Ordinance for specific administrative action types, a time extension is subject to the following criteria:~~

- ~~1. A time extension shall be requested in writing, on a form provided by the Planning Director.~~
- ~~2. A time extension shall be filed with the Planning Director prior to the expiration of the initial approval period for the administrative action.~~
- ~~3. The proposed development as originally approved shall be consistent with the relevant provisions of this Ordinance in effect on the date a complete application for a time extension is submitted; and~~
- ~~4. There shall have been no changes on the subject property or in the surrounding area that would be cause for reconsideration of the original decision.~~

~~B. If more than one administrative action (e.g. a partition and a variance) was approved for the same, or substantially similar, proposed development, time extension requests for these administrative actions may be consolidated as one application, at the applicant's discretion.~~

1307 PROCEDURES

1307.01 PURPOSE

Section 1307 is adopted to:

- A. Implement the goals and policies of the Comprehensive Plan for citizen involvement and the planning process;
- B. Establish uniform procedures for the review of land use applications and legislative land use proposals;
- C. Facilitate timely review of land use applications by the County;
- D. Clarify the land use application review process for applicants; and
- E. Enable the public to effectively participate in the County's land use permit decision-making process.

1307.02 APPLICABILITY

Section 1307 applies to all land use permit applications and all legislative land use proposals under this Ordinance.

- A. No person shall engage in or cause development to occur without first obtaining the necessary land use permit approvals required by, and according to the procedures in, Section 1307.
- B. Where the provisions of Section 1307 conflict with other provisions of this Ordinance, the more specific provisions shall control.

1307.03 REVIEW AUTHORITIES

A. Review Authorities, Generally: Review authorities are those who are designated to make recommendations or decisions regarding land use permit applications and legislative land use proposals. Table 1307-1 lists the land use permits and legislative land use proposals that are provided for by this Ordinance and establishes:

1. The review authority charged with making the initial decision;
2. The review authority charged with making the decision on the initial County-level appeal, if any;
3. The review authority charged with making the decision on the second County-level appeal, if any; and
4. Those circumstances where an additional review authority is charged with

making a recommendation on the application or proposal to the decision maker.

- B. Planning Director: Pursuant to Oregon Revised Statutes 215.042, the Planning Director is the County official designated to administer land use planning in the County. In this role, the Planning Director administers the Comprehensive Plan and this Ordinance, issues decisions on certain land use permit applications, and provides administrative support to other review authorities. As used in this Ordinance, the term Planning Director includes any County staff member authorized by the Planning Director to fulfill the responsibilities assigned to the Planning Director by this Ordinance.
- C. Hearings Officer: Pursuant to ORS 215.406, the Hearings Officer is appointed by the Board of County Commissioners to conduct public hearings and issue decisions on certain land use permit applications.
- D. Historic Review Board: The Historic Review Board is designated as an advisory body on matters pertaining to the Historic Landmark, Historic District, and Historic Corridor overlay zoning district and has the powers and duties described in Sections 707 and 1307.
1. The Historic Review Board shall be composed of seven members, appointed by and serving at the pleasure of the Board of County Commissioners.
 2. Historic Review Board members shall have demonstrated an interest in historic preservation and have experience or special expertise or knowledge in the field of historic preservation. Three positions on the Historic Review Board shall be filled as follows:
 - a. One architect, with knowledge in historic restoration;
 - b. One contractor, with expertise in construction techniques applied to historic structures; and
 - c. One representative from a historic group in the County.
 3. Unless otherwise provided for, members of the Historic Review Board shall serve four-year terms, beginning on May 1st of the year in which they are appointed. Terms may be renewed by the Board of County Commissioners.
 4. If a member of the Historic Review Board does not complete his or her term, the Board of County Commissioners shall appoint a replacement to serve the remainder of that term.
 5. A member whose term has ended may continue to serve on the Historic Review Board until the Board of County Commissioners renews that term or

appoints a new member. The new term shall be considered to have begun on the date it would have under Subsection 1307.03(D)(3).

6. The Historic Review Board shall adopt bylaws governing its proceedings and appoint a chair and vice chair to manage those proceedings according to those bylaws, and County, state, and federal law.

7. In the event of a conflict between the bylaws and any provision of this Ordinance, this Ordinance shall govern. In the event of a conflict between the bylaws and a non-mandatory provision of state law, the bylaws shall govern.

E. Design Review Committee: The Design Review Committee is designated as an advisory body on matters pertaining to the design review process and has the powers and duties described in Sections 1102 and 1307.

1. The Design Review Committee shall be composed of seven members, appointed by and serving at the pleasure of the Board of County Commissioners.

2. Five positions on the Design Review Committee shall be filled as follows:

a. One landscape architect;

b. One architect;

c. One registered engineer;

d. One graphic design representative; and

e. One representative from the field of finance or the construction and development industry.

3. Unless otherwise provided for, members of the Design Review Committee shall serve four-year terms, beginning on May 1st of the year in which they are appointed. Terms may be renewed by the Board of County Commissioners.

4. If a member of the Design Review Committee does not complete his or her term, the Board of County Commissioners shall appoint a replacement to serve the remainder of that term.

5. A member whose term has ended may continue to serve on the Design Review Committee until the Board of County Commissioners renews that term or appoints a new member. The new term shall be considered to have begun on the date it would have under Subsection 1307.03(E)(3).

6. The Design Review Committee shall adopt bylaws governing its proceedings and appoint a chair and vice chair to manage those proceedings according to

those bylaws, and County, state, and federal law.

7. In the event of a conflict between the bylaws and any provision of this Ordinance, this Ordinance shall govern. In the event of a conflict between the bylaws and a non-mandatory provision of state law, the bylaws shall govern.

F. Planning Commission: The Planning Commission is designated as the land use planning advisory body to the Board of County Commissioners and acts as the decision maker on an initial appeal of the Planning Director's interpretation of the Comprehensive Plan. The Planning Commission shall have the powers and duties described in Section 1307 and such other powers and duties as may be imposed on it by County, state, or federal law.

1. The Planning Commission shall be composed of nine members, designated in positions labeled 1 through 9, appointed by and serving at the pleasure of the Board of County Commissioners.
2. Members of the Planning Commission shall be residents of the various geographic areas of the County. 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 employees of any corporation that is engaged principally in the buying, selling, or developing of real estate for profit. No more than two voting members shall be engaged in the same kind of occupation, business, trade, or profession.
3. Unless otherwise provided for, members of the Planning Commission shall serve four-year terms, beginning on May 1st of the year in which they are appointed. Terms may be renewed by the Board of County Commissioners.
4. If a member of the Planning Commission does not complete his or her term, the Board of County Commissioners shall appoint a replacement to serve the remainder of that term.
5. A member whose term has ended may continue to serve on the Planning Commission until the Board of County Commissioners renews that term or appoints a new member. The new term shall be considered to have begun on the date it would have under Subsection 1307.03(F)(3).
6. The Planning Commission shall adopt bylaws governing its proceedings and appoint a chair and vice chair to manage those proceedings according to those bylaws, and County, state, and federal law.
7. In the event of a conflict between the bylaws and any provision of this Ordinance, this Ordinance shall govern. In the event of a conflict between the bylaws and a non-mandatory provision of state law, the bylaws shall govern.

G. Board of County Commissioners: The Board of County Commissioners is the governing body of the County and is the final County decision maker on legislative land use proposals and certain land use permit applications.

1307.04 REVIEW PROCEDURE TYPES

A. Land use permits and legislative land use proposals provided for under this Ordinance are classified as one of four types, each of which is subject to a corresponding review procedure. The four types are described as follows:

1. Type I permits are ministerial in nature and involve land use actions governed by non-discretionary standards and clear and objective approval criteria. Approval of a Type I permit may require imposition of conditions of approval to ensure compliance with this Ordinance. The Type I procedure is an administrative review process, where the review authority reviews the application for conformance with the applicable standards and approval criteria and issues a decision.
2. Type II permits are administrative in nature and involve land use actions governed by standards and approval criteria that generally require the exercise of limited discretion. Impacts associated with the land use action may require imposition of conditions of approval to minimize those impacts and to ensure compliance with this Ordinance. The Type II procedure is an administrative review process, where the review authority reviews the application for conformance with the applicable standards and approval criteria and issues a decision.
3. Type III permits are quasi-judicial in nature, and involve land use actions governed by standards and approval criteria that require the use of discretion and judgment. The issues associated with the land use action may be complex and the impacts significant, and conditions of approval may be imposed to mitigate the impacts and ensure compliance with this Ordinance and the Comprehensive Plan. The Type III procedure is a quasi-judicial review process where the review authority receives testimony, reviews the application for conformance with the applicable standards and approval criteria, and issues a decision.
4. Type IV proposals are legislative in nature, and involve the creation, broad-scale implementation, or revision of public policy. These include amendments to the text of the Comprehensive Plan or this Ordinance. Large-scale changes in the Comprehensive Plan Land Use Plan maps and zoning maps also may be characterized as legislative where a larger number of property owners are directly affected.

B. Table 1307-1 lists the land use permits and legislative land use proposals that are provided for by this Ordinance and assigns a procedure type to each. In the event that the procedure type for a land use permit application is not identified in Table

1307-1, specified elsewhere in this Ordinance, or otherwise required by law, the Planning Director shall determine the applicable procedure based on the guidelines in Subsection 1307.04(A). Questions as to the appropriate procedure shall be resolved in favor of the procedure type providing the greatest notice and opportunity to participate by the public.

1. As used in Table 1307-1:

a. “PD” means Planning Director.

b. “HO” means Hearings Officer.

c. “BCC” means Board of County Commissioners

d. Numbers in superscript correspond to the notes that follow Table 1307-1.

Table 1307-1: Land Use Permits by Procedure Type

<u>Land Use Permit</u>	<u>Procedure Type</u>	<u>Pre-Application Conference Required</u>	<u>Initial Decision Review Authority</u>	<u>Appeal Review Authority</u>
<u>AG/F District, Land Division, 80-acre Minimum Lot Size [pursuant to Subsection 401.09(A)]</u>	<u>I</u>	<u>No</u>	<u>PD</u>	<u>No County-Level Appeal</u>
<u>AG/F District, Lot of Record Dwelling on High Value Farmland [pursuant to Subsection 401.05(C)(4)]</u>	<u>III</u>	<u>No</u>	<u>HO</u>	<u>No County-Level Appeal</u>
<u>AG/F District, Permits not Otherwise Listed in Table 1307-1 but Identified as Type II in Table 407-1</u>	<u>II</u>	<u>No</u>	<u>PD</u>	<u>HO</u>
<u>Comprehensive Plan Map Amendment¹</u>	<u>III or IV</u>	<u>Type III Only</u>	<u>BCC</u>	<u>No County-Level Appeal</u>
<u>Comprehensive Plan Text Amendment</u>	<u>IV</u>	<u>No</u>	<u>BCC</u>	<u>No County-Level Appeal</u>

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<u>Land Use Permit</u>	<u>Procedure Type</u>	<u>Pre-Application Conference Required</u>	<u>Initial Decision Review Authority</u>	<u>Appeal Review Authority</u>
<u>Conditional Use</u>	<u>III</u>	<u>Yes</u>	<u>HO</u>	<u>No County-Level Appeal</u>
<u>Design Review²</u>	<u>II</u>	<u>Yes</u>	<u>PD</u>	<u>HO</u>
<u>EFU District, Land Division, 80-acre Minimum Lot Size [pursuant to Subsection 401.09(A)]</u>	<u>I</u>	<u>No</u>	<u>PD</u>	<u>No County-Level Appeal</u>
<u>EFU District, Lot of Record Dwelling on High Value Farmland [pursuant to Subsection 401.05(C)(4)]</u>	<u>III</u>	<u>No</u>	<u>HO</u>	<u>No County-Level Appeal</u>
<u>EFU District, Permits not Otherwise Listed in Table 1307-1 but Identified as Type II in Table 401-1</u>	<u>II</u>	<u>No</u>	<u>PD</u>	<u>HO</u>
<u>Floodplain Development</u>	<u>II</u>	<u>No</u>	<u>PD</u>	<u>HO</u>
<u>Floodway, Fish Enhancement Project [pursuant to Subsection 703.07(F)]</u>	<u>I</u>	<u>No</u>	<u>PD</u>	<u>No County-Level Appeal</u>
<u>Habitat Conservation Area District</u>	<u>See Subsection 706.06</u>	<u>No</u>	<u>See Subsection 706.06</u>	<u>See Subsection 706.06</u>
<u>Historic Landmark, Historic District, and Historic Corridor, Maintenance</u>	<u>I</u>	<u>No</u>	<u>PD</u>	<u>No County-Level Appeal</u>
<u>Historic Landmark, Historic District, and Historic Corridor, Major Alteration³</u>	<u>II</u>	<u>Yes</u>	<u>PD</u>	<u>HO</u>
<u>Historic Landmark, Historic District, and Historic Corridor, Minor Alteration</u>	<u>II</u>	<u>Yes</u>	<u>PD</u>	<u>HO</u>

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<u>Land Use Permit</u>	<u>Procedure Type</u>	<u>Pre-Application Conference Required</u>	<u>Initial Decision Review Authority</u>	<u>Appeal Review Authority</u>
<u>Historic Landmark, Historic District, and Historic Corridor, Moving or Demolition³</u>	<u>II³</u>	<u>Yes</u>	<u>PD</u>	<u>HO</u>
<u>Historic Landmark, Historic District, and Historic Corridor, New Construction³</u>	<u>II³</u>	<u>Yes</u>	<u>PD</u>	<u>HO</u>
<u>Home Occupation, Major, New, with an Exception</u>	<u>III</u>	<u>Yes</u>	<u>HO</u>	<u>No County-Level Appeal</u>
<u>Home Occupation, Major, New, without an Exception</u>	<u>II</u>	<u>No</u>	<u>PD</u>	<u>HO</u>
<u>Home Occupation, Major, Renewal, with a New Exception</u>	<u>III</u>	<u>Yes</u>	<u>HO</u>	<u>No County-Level Appeal</u>
<u>Home Occupation, Major, Renewal, without a New Exception</u>	<u>II</u>	<u>No</u>	<u>PD</u>	<u>HO</u>
<u>Interpretation, Comprehensive Plan⁴</u>	<u>II</u>	<u>No</u>	<u>PD</u>	<u>PC</u>
<u>Interpretation, Zoning and Development Ordinance⁵</u>	<u>II</u>	<u>No</u>	<u>PD</u>	<u>HO</u>
<u>Mineral and Aggregate Overlay District, Extraction Area Permit</u>	<u>I</u>	<u>No</u>	<u>PD</u>	<u>No County-Level Appeal</u>
<u>Mineral and Aggregate Overlay District, Impact Area Permit</u>	<u>I</u>	<u>No</u>	<u>PD</u>	<u>No County-Level Appeal</u>
<u>Mobile Vending Unit, Level Two</u>	<u>I</u>	<u>No</u>	<u>PD</u>	<u>No County-Level Appeal</u>

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<u>Land Use Permit</u>	<u>Procedure Type</u>	<u>Pre-Application Conference Required</u>	<u>Initial Decision Review Authority</u>	<u>Appeal Review Authority</u>
<u>Mobile Vending Unit, Level Three</u>	<u>II</u>	<u>Yes</u>	<u>PD</u>	<u>HO</u>
<u>Modification</u>	<u>II</u>	<u>No</u>	<u>PD</u>	<u>HO</u>
<u>Nonconforming Use, Alteration not Required by Law</u>	<u>II</u>	<u>No</u>	<u>PD</u>	<u>HO</u>
<u>Nonconforming Use, Verification</u>	<u>II</u>	<u>No</u>	<u>PD</u>	<u>HO</u>
<u>Open Space, Conflict Resolution for Wetlands and Significant Natural Areas</u>	<u>II</u>	<u>No</u>	<u>PD</u>	<u>HO</u>
<u>Open Space Review</u>	<u>II</u>	<u>No</u>	<u>PD</u>	<u>HO</u>
<u>Partition</u>	<u>II</u>	<u>Yes</u>	<u>PD</u>	<u>HO</u>
<u>Principal River Conservation Area</u>	<u>II</u>	<u>No</u>	<u>PD</u>	<u>HO</u>
<u>Private Use Airport and Safety Overlay Zone, Expansion of Existing Use [pursuant to Subsection 712.05(B)]</u>	<u>II</u>	<u>No</u>	<u>PD</u>	<u>HO</u>
<u>Private Use Airport and Safety Overlay Zone, New Use [pursuant to Subsection 712.06]</u>	<u>III</u>	<u>No</u>	<u>HO</u>	<u>No County-Level Appeal</u>
<u>Public Use Airport and Safety Overlay Zones, Use Permitted Subject to Review [pursuant to Subsection 713.05]</u>	<u>III</u>	<u>No</u>	<u>HO</u>	<u>No County-Level Appeal</u>
<u>Property Line Adjustment [except pursuant to Subsection 1107.04(B)(2)(b), 1107.04(B)(2)(c), or 1107.04(C)(3)]</u>	<u>I</u>	<u>No</u>	<u>PD</u>	<u>No County-Level Appeal</u>
<u>Property Line Adjustment [pursuant to Subsection 1107.04(B)(2)(b), 1107.04(B)(2)(c), or 1107.04(C)(3)]</u>	<u>II</u>	<u>No</u>	<u>PD</u>	<u>HO</u>

CLACKAMAS COUNTY ZONING AND DEVELOPMENT ORDINANCE

<u>Land Use Permit</u>	<u>Procedure Type</u>	<u>Pre-Application Conference Required</u>	<u>Initial Decision Review Authority</u>	<u>Appeal Review Authority</u>
<u>Sensitive Bird Habitat District, Alteration or Development</u>	<u>II</u>	<u>No</u>	<u>PD</u>	<u>HO</u>
<u>Sign Permit</u>	<u>I</u>	<u>No</u>	<u>PD</u>	<u>No County-Level Appeal</u>
<u>Slopes, Development [pursuant to Subsection 1002.02(A)]</u>	<u>I</u>	<u>No</u>	<u>PD</u>	<u>No County-Level Appeal</u>
<u>Slopes, Development [pursuant to Subsection 1002.02(B)]</u>	<u>II</u>	<u>No</u>	<u>PD</u>	<u>HO</u>
<u>Stream Conservation Area</u>	<u>II</u>	<u>No</u>	<u>PD</u>	<u>HO</u>
<u>Subdivision, Major</u>	<u>III</u>	<u>Yes</u>	<u>HO</u>	<u>No County-Level Appeal</u>
<u>Subdivision, Minor</u>	<u>II</u>	<u>Yes</u>	<u>PD</u>	<u>HO</u>
<u>TBR District, Land Division, 80-acre Minimum Lot Size [pursuant to Subsection 406.09(A)]</u>	<u>I</u>	<u>No</u>	<u>PD</u>	<u>No County-Level Appeal</u>
<u>TBR District, Permits not Otherwise Listed in Table 1307-1 but Identified as Type II in Table 406-1</u>	<u>II</u>	<u>No</u>	<u>PD</u>	<u>HO</u>
<u>Temporary Dwelling for Care</u>	<u>II</u>	<u>No</u>	<u>PD</u>	<u>HO</u>
<u>Temporary Dwelling while Building</u>	<u>I</u>	<u>No</u>	<u>PD</u>	<u>No County-Level Appeal</u>
<u>Temporary Farmers' Market</u>	<u>II</u>	<u>No</u>	<u>PD</u>	<u>HO</u>

CLACKAMAS COUNTY ZONING AND DEVELOPMENT ORDINANCE

<u>Land Use Permit</u>	<u>Procedure Type</u>	<u>Pre-Application Conference Required</u>	<u>Initial Decision Review Authority</u>	<u>Appeal Review Authority</u>
<u>Temporary Structure for Emergency Shelter</u>	<u>I</u>	<u>No</u>	<u>PD</u>	<u>No County-Level Appeal</u>
<u>Temporary Use Otherwise Prohibited</u>	<u>II</u>	<u>No</u>	<u>PD</u>	<u>HO</u>
<u>Time Extension</u>	<u>II</u>	<u>No</u>	<u>PD</u>	<u>HO</u>
<u>Variance</u>	<u>II</u>	<u>No</u>	<u>PD</u>	<u>HO</u>
<u>Vested Right Determination</u>	<u>II</u>	<u>No</u>	<u>PD</u>	<u>HO</u>
<u>Water Quality Resource Area District</u>	<u>See Subsection 709.06</u>	<u>No</u>	<u>See Subsection 709.06</u>	<u>See Subsection 709.06</u>
<u>Willamette River Greenway</u>	<u>II</u>	<u>No</u>	<u>PD</u>	<u>HO</u>
<u>Willamette River Greenway, Timber Harvest [pursuant to Subsection 705.03(I)]</u>	<u>II</u>	<u>No</u>	<u>PD</u>	<u>HO</u>
<u>Wireless Telecommunication Facility [pursuant to Subsection 835.04]</u>	<u>I</u>	<u>No</u>	<u>PD</u>	<u>No County-Level Appeal</u>
<u>Wireless Telecommunication Facility, with an Adjustment [pursuant to Subsection 835.05]</u>	<u>III</u>	<u>No</u>	<u>HO</u>	<u>No County-Level Appeal</u>
<u>Wireless Telecommunication Facility, without an Adjustment [pursuant to Subsection 835.05]</u>	<u>II</u>	<u>No</u>	<u>PD</u>	<u>HO</u>
<u>Zone Change⁶</u>	<u>III or IV</u>	<u>Type III Only</u>	<u>HO, Type III BCC, Type IV</u>	<u>No County-Level Appeal</u>

CLACKAMAS COUNTY ZONING AND DEVELOPMENT ORDINANCE

<u>Land Use Permit</u>	<u>Procedure Type</u>	<u>Pre-Application Conference Required</u>	<u>Initial Decision Review Authority</u>	<u>Appeal Review Authority</u>
<u>Zoning and Development Ordinance Text Amendment</u>	<u>IV</u>	<u>No</u>	<u>BCC</u>	<u>No County-Level Appeal</u>

Notes to Table 1307-1:

- ¹ The Type III process shall be modified to include Planning Commission public hearing and recommendation to the Board of County Commissioners prior to the initial Board of County Commissioners public hearing. In the case of a Comprehensive Plan amendment related to the designation of a Historic Landmark, Historic District, or Historic Corridor, both the Type III and Type IV processes shall be modified to replace the Planning Commission public hearing and recommendation to the Board of County Commissioners with Historic Review Board review and recommendation to the Board of County Commissioners.
- ² The Type II process may be modified, pursuant to Subsection 1102.02(B) or (C), to include Design Review Committee review and recommendation to the Planning Director prior to issuance of the Planning Director’s decision.
- ³ The Type II process shall be modified to include Historic Review Board review and recommendation to the Planning Director prior to issuance of the Planning Director’s decision.
- ⁴ The Type II process shall be modified to allow the Planning Commission’s decision on initial appeal to be further appealed to the Board of County Commissioners, pursuant to Subsection 1307.13(E)(1).
- ⁵ The Type II process shall be modified to allow the Hearings Officer’s decision on initial appeal to be further appealed to the Board of County Commissioners, pursuant to Subsection 1307.13(E)(2).
- ⁶ In the case of a zone change related to the Historic Landmark, Historic District, and Historic Corridor overlay zoning district, the Type III process shall be modified to designate the Board of County Commissioners as the initial decision review authority and to include Historic Review Board review and recommendation to the Board of County Commissioners prior to the initial Board of County Commissioners public hearing, and the Type IV process shall be modified to replace the Planning Commission public hearing and recommendation to the Board of County Commissioners with Historic

Review Board review and recommendation to the Board of County Commissioners.

C. Notwithstanding any other provision in Section 1307, except for an application for an interpretation of the Comprehensive Plan, an applicant may choose to process a Type II land use permit application using the Type III procedure, and the Hearings Officer shall be the review authority for the initial decision. The decision of the Hearings Officer shall be the final decision of the County, except for an application for an interpretation of this Ordinance, in which case appeal to the Board of County Commissioners is allowed pursuant to Subsection 1307.13(E)(2).

1307.05 PRE-APPLICATION CONFERENCE

A. Purpose: Pre-application conferences are intended to familiarize applicants with the requirements of this Ordinance; to provide applicants with an opportunity to meet with County staff to discuss proposed projects in detail; and to identify standards, approval criteria, and procedures prior to filing a land use permit application. The pre-application conference is intended to be a tool to orient applicants and assist them in navigating the land use review process, but is not intended to be an exhaustive review that identifies or resolves all potential issues, and does not bind or preclude the County from enforcing all applicable regulations or from applying regulations in a manner differently than may have been indicated at the time of the pre-application conference.

B. Applicability: Table 1307-1 identifies the land use permit applications for which pre-application conferences are mandatory. Pre-application conferences are voluntary for all other land use permit applications.

C. Submittal Requirements: Pre-application conference requests shall include:

1. A completed application form, such form to be prescribed by the Planning Director, and containing, at a minimum, the following information:

- a. The names, mailing addresses, and telephone numbers of the applicant(s);
- b. The address of the subject property, if any, and its assessor's map and tax lot number;
- c. The size of the subject property;
- d. The Comprehensive Plan designation and zoning district of the subject property;
- e. The type of application for which the pre-application conference is requested;

interpretation of this Ordinance are excluded from this consolidation provision; or

C. The applicant elects to process multiple applications through a consolidated procedure, if such consolidation is consistent with Subsection 1307.04(C).

1307.07 APPLICATION SUBMITTAL AND COMPLETENESS REVIEW

A. Initiation of Applications: Type I, II, and III land use permit applications may be initiated by:

1. The owner of the subject property;
2. The contract purchaser of the subject property, if the application is accompanied by proof of the purchaser's status as such;
3. The agent of the owner or contract purchaser of the subject property, if the application is duly authorized in writing by the owner or the contract purchaser, and accompanied by proof of the agent's authority; or
4. If the application is for Comprehensive Plan designation or zoning of a Historic District or Historic Corridor, the owners or contract purchasers of at least 60 percent of the property within the area to be so designated or zoned.

B. Initiation of Legislative Proposals: Type IV legislative land use proposals may be initiated by the Board of County Commissioners, the Planning Commission, or the Planning Director. However, initiation of a legislative proposal does not obligate the County to further processing of the proposal pursuant to Subsection 1307.11, or prevent the County from discontinuing the processing of the proposal at any point prior to decision.

C. Application Submittal: Type I, II, and III land use permit applications are subject to the following submittal requirements:

1. The following shall be submitted for an application to be complete:
 - a. A completed application form, such form to be prescribed by the Planning Director, and containing, at a minimum, the following information:
 - i. The names, mailing addresses, and telephone numbers of the applicant(s), the owner(s) of the subject property, and any authorized representative(s) thereof;
 - ii. The address of the subject property, if any, and its assessor's map and tax lot number;
 - iii. The size of the subject property;
 - iv. The Comprehensive Plan designation and zoning district of the subject

property;

v. The type of application being submitted;

vi. A brief description of the proposal; and

vii. Signature(s) of the applicant(s) and all owners or all contract purchasers of the subject property, or the duly authorized representative(s) thereof, authorizing the filing of the application.

b. A completed supplemental application form, such form to be prescribed by the Planning Director, or a written statement addressing each applicable approval criterion and standard and each item on the supplemental application form;

c. Any additional information required under this Ordinance for the specific land use permit sought; and

d. Payment of the applicable fee, pursuant to Subsection 1307.15.

2. Each application, when received by the Planning Director, shall be date-stamped with the date the application was received.

D. Completeness of a Type I Application: If a Type I application is not complete when submitted, and the applicant does not make it complete within 30 days of submittal, the application is void.

E. Completeness Review for Type II and III Applications: After it is submitted, a Type II or III land use permit application shall be reviewed for completeness, as follows:

1. Except as otherwise provided under Oregon Revised Statutes 215.427, the Planning Director shall review an application for completeness within 30 days of its receipt.

2. Determination of completeness shall be based upon the submittal requirements of Subsection 1307.07(C)(1) and shall not be based on opinions as to quality or accuracy. A determination that an application is complete indicates only that the application is ready for review on its merits, not that the County will make a favorable decision on the application.

3. If an application is determined to be complete, review of the application shall commence.

4. If an application is determined to be incomplete, written notice shall be provided to the applicant within 30 days of receipt of the application, identifying the specific information that is missing and allowing the applicant the opportunity to submit the missing information. The application shall be

deemed complete upon receipt by the Planning Director of:

- a. All of the missing information;
- b. Some of the missing information and written notice from the applicant that no other information will be provided; or
- c. Written notice from the applicant that none of the missing information will be provided.

5. If the application was complete when first submitted, or the applicant submits additional information, as described in Subsection 1307.07(E)(4), within 180 days of the date the application was first submitted, approval or denial of the application shall be based upon the standards and criteria that were applicable at the time the application was first submitted.

6. On the 181st day after first being submitted, the application is void, if the applicant has been notified of the missing information as required under Subsection 1307.07(E)(4) and has not submitted the missing information or otherwise responded, as provided in Subsection 1307.07(E)(4).

1307.08 TYPE I MINISTERIAL PROCEDURES

Type I land use permit applications are subject to the following procedure:

A. Notice of Application: Notice of application is not provided.

B. Decision: The review authority shall approve, approve with conditions, or deny the application based on the applicable standards and criteria. The review authority shall issue a written decision.

C. Notice of Decision: A copy of the decision shall be mailed to the applicant(s), the owner(s) of the subject property, and any authorized representative(s) thereof.

D. Appeal: The review authority's decision is the final decision of the County.

1307.09 TYPE II ADMINISTRATIVE PROCEDURES

Type II land use permit applications are subject to the following procedures:

A. Notice of Application: Notice of application shall be provided as follows:

1. A minimum of 20 days prior to the issuance of a decision, written notice of application shall be mailed to:

a. The applicant(s), the owner(s) of the subject property, and any authorized representative(s) thereof;

b. All property owners of record, pursuant to Subsection 1307.16(C), within:

- i. 300 feet of the subject property, and contiguous properties under the same ownership, if the subject property is located inside an urban growth boundary or in an MRR, HR, or RTC District;
 - ii. 500 feet of the subject property, and contiguous properties under the same ownership, if the subject property is located outside an urban growth boundary and outside an MRR, HR, RTC, EFU, TBR, or AG/F zoning district; or
 - iii. 750 feet of the subject property, and contiguous properties under the same ownership, if the subject property is located outside an urban growth boundary and in an EFU, TBR, or AG/F zoning district;
 - c. If the application is for a replat of a recorded plat, all owners of lots or parcels in the original plat.
 - d. Any active community planning organization, hamlet, or village that is recognized by the County, if the subject property lies wholly or partially inside the boundaries of such organization, hamlet, or village;
 - e. Cities, as prescribed in applicable urban growth management agreements;
 - f. Those special districts and government agencies deemed by the Planning Director to have an interest in the application;
 - g. The Oregon Department of Agriculture, if the subject property is in the EFU or AG/F District and the application is for the propagation, cultivation, maintenance, and harvesting of aquatic species that are not under the jurisdiction of the Oregon Fish and Wildlife Commission;
 - h. Metro and any watershed council recognized by the Oregon Watershed Enhancement Board and whose boundaries include the subject property, if the application is for Habitat Conservation Area map verification; and
 - i. The airport owner and the Oregon Department of Aviation, if required by Oregon Revised Statutes (ORS) 197.183, 215.223, or 215.416.
2. At a minimum, notice of application shall include:
 - a. An explanation of the nature of the application and the proposed use or uses that could be authorized;
 - b. A list of the applicable criteria from this Ordinance and the Comprehensive Plan that apply to the application;
 - c. The street address or other easily understood geographical reference to the subject property;

entitled to written notice under Subsection 1307.09(C) may appeal the decision by filing a written appeal, and including the date and time by which an appeal must be filed, the location for filing, a brief statement explaining how to file an appeal, the appeal fee, and where further information may be obtained concerning the appeal process; and

9. A statement that a person who is mailed written notice of the decision cannot appeal the decision directly to the Land Use Board of Appeals under ORS 197.830.

C. Notice of Decision: A copy of the decision shall be mailed to those identified in Subsection 1307.09(A)(1).

D. Appeal: The review authority's decision is the final decision of the County, unless an appeal is filed pursuant to Subsection 1307.13.

1307.10 TYPE III QUASI-JUDICIAL PROCEDURES

Type III land use permit applications are subject to the following procedures:

A. Notice of Application and Public Hearing: Notice of application and public hearing shall be provided as follows:

1. Notice shall be provided to the Oregon Department of Land Conservation and Development (DLCD), if required pursuant to ORS 197.610. Procedures for the giving of the required notice shall be those established by ORS 197.610 and Oregon Administrative Rules Chapter 660, Division 18.
2. A minimum of 35 days prior to the first evidentiary hearing on the application, a copy of the submitted application shall be mailed to:
 - a. Any active community planning organization, hamlet, or village that is recognized by the County, if the subject property lies wholly or partially inside the boundaries of such organization, hamlet, or village;
 - b. Cities, as prescribed in applicable urban growth management agreements;
 - c. Those special districts and government agencies deemed by the Planning Director to have an interest in the application;
 - d. The Oregon Department of Agriculture, if the subject property is in the EFU or AG/F District and the application is for the propagation, cultivation, maintenance, and harvesting of aquatic species that are not under the jurisdiction of the Oregon Fish and Wildlife Commission;
 - e. Metro and any watershed council recognized by the Oregon Watershed Enhancement Board and whose boundaries include the subject property, if the application is for Habitat Conservation Area map verification; and

f. The airport owner and the Oregon Department of Aviation, if required by Oregon Revised Statutes (ORS) 197.183, 215.223, or 215.416.

3. A minimum of 20 days prior to the first evidentiary hearing of each review authority on the application, written notice of the application and hearing shall be mailed to:

a. The applicant(s), the owner(s) of the subject property, and any authorized representative(s) thereof;

b. All property owners of record, pursuant to Subsection 1307.16(C), within:

i. 300 feet of the subject property, and contiguous properties under the same ownership, if the subject property is located inside an urban growth boundary or in an MRR, HR, or RTC District;

ii. 500 feet of the subject property, and contiguous properties under the same ownership, if the subject property is located outside an urban growth boundary and outside an MRR, HR, RTC, EFU, TBR, or AG/F zoning district; or

iii. 750 feet of the subject property, and contiguous properties under the same ownership, if the subject property is located outside an urban growth boundary and in an EFU, TBR, or AG/F zoning district.

iv. If the application is for a zone change to apply the MAO District, the distances set forth in Subsections 1307.10(A)(3)(b)(i) through (iii) shall be increased to 1,000 feet from the outer boundary of the proposed impact area under Section 708;

c. If the application is for a replat of a recorded plat, all owners of lots or parcels in the original plat.

d. Any active community planning organization, hamlet, or village that is recognized by the County, if the subject property lies wholly or partially inside the boundaries of such organization, hamlet, or village;

e. Cities, as prescribed in applicable urban growth management agreements;

f. Those special districts and government agencies deemed by the Planning Director to have an interest in the application;

g. The Oregon Department of Agriculture, if the subject property is in the EFU or AG/F District and the application is for the propagation, cultivation, maintenance, and harvesting of aquatic species that are not under the jurisdiction of the Oregon Fish and Wildlife Commission;

h. Metro and any watershed council recognized by the Oregon Watershed

Enhancement Board and whose boundaries include the subject property, if the application is for Habitat Conservation Area map verification;

- i. The airport owner and the Oregon Department of Aviation, if required by Oregon Revised Statutes (ORS) 197.183, 215.223, or 215.416; and
- j. Tenants of a mobile home or manufactured dwelling park, as defined in ORS 446.003, when property that includes all or part of such mobile home or manufactured dwelling park is the subject of an application for a Comprehensive Plan map amendment, zone change, or both. Notice to such tenants shall be mailed no more than 40 days before the first evidentiary hearing.

4. At a minimum, notice of application and hearing shall include:

- a. An explanation of the nature of the application and the proposed use or uses that could be authorized;
- b. A list of the applicable criteria from this Ordinance and the Comprehensive Plan that apply to the application;
- c. The street address or other easily understood geographical reference to the subject property;
- e. Date, time, and location of the hearing;
- f. A statement that failure of an issue to be raised in a hearing, in person or by letter, or failure to provide statements or evidence sufficient to afford the review authority an opportunity to respond to the issue precludes appeal to the Oregon Land Use Board of Appeals on that issue;
- g. The name and telephone number of the County staff member to contact where additional information may be obtained;
- h. A statement that a copy of the application, all documents and evidence submitted by or on behalf of the applicant and applicable criteria are available for inspection at no cost and will be provided at a cost established by the Board of County Commissioners;
- i. A statement that a copy of the staff report will be available for inspection at no cost at least seven days prior to the hearing and will be provided at a cost established by the Board of County Commissioners;
- j. A general explanation of the requirements for submission of testimony and the procedure for conduct of hearings; and
- k. A statement that subsequent to the close of the public hearing, a decision will be issued and mailed as required by Subsection 1307.10(E).

5. If the application is for a Comprehensive Plan amendment, notice of the date, time, location, and purpose of the Planning Commission’s hearing and the Board of County Commissioner’s hearing shall be given a minimum of 10 days prior to the date of each review authority’s first evidentiary hearing, by publication in a newspaper of general circulation in the County. However, if the application applies to only a part of the County, the notice may instead be published in a newspaper of general circulation in that part of the County.
- B. Application Review and Staff Report: The Planning Director shall review the application, written comments, and evidence submitted prior to the public hearing; prepare a staff report summarizing the application, comments received to-date, and relevant issues associated with the application; and make a recommendation to the review authority. The staff report shall be made available to the public for review a minimum of seven days prior to the first evidentiary hearing.
- C. Public Hearing: A public hearing shall be held before the review authority, for the purpose of receiving testimony regarding the application.
- D. Decision: The review authority shall consider the record and approve, approve with conditions, or deny the application based on the applicable standards and criteria. The review authority shall issue a written decision that explains the standards and criteria considered relevant to the decision, states the facts relied upon in rendering the decision, and explains the justification for the decision based on the standards, criteria, and facts set forth. The decision also shall include:
1. An explanation of the nature of the application and the use or uses that were proposed and, if applicable, are authorized by the decision;
 2. The conditions of approval, if any;
 3. The street address or other easily understood geographical reference to the subject property;
 4. The date the review authority’s decision becomes effective, unless appealed; and
 5. A statement that any person who presented evidence, argument, or testimony as part of the record may appeal the decision by filing a written appeal; the date by which an appeal must be filed, the location for filing, a brief statement explaining how to file an appeal, and where further information may be obtained concerning the appeal process;
- E. Notice of Decision: A copy of the decision shall be mailed to:
1. Those identified in Subsections 1307.10(A)(3)(a) and (d) through (i);

2. Anyone who provided evidence, argument, or testimony as part of the record;
3. Anyone who made a written request for notice of decision; and
4. DLCD, if required pursuant to ORS 197.615. Procedures for the giving of the required notice to DLCD shall be those established by ORS 197.615 and Oregon Administrative Rules Chapter 660, Division 18.

F. Appeal: The review authority's decision is the final decision of the County, except as may be provided for interpretation applications pursuant to Subsection 1307.13(E). Appeal of the County's final decision is to the Oregon Land Use Board of Appeals.

1307.11 TYPE IV LEGISLATIVE PROCEDURES

Type IV legislative land use proposals are subject to the following procedures:

A. Notice of Proposal and Public Hearing: Notice of proposal and hearing shall be provided as follows:

1. Notice shall be provided to the Oregon Department of Land Conservation and Development, if required pursuant to ORS 197.610. Procedures for the giving of the required notice shall be those established by ORS 197.610 and Oregon Administrative Rules Chapter 660, Division 18.
2. For proposed amendments to the text of the Comprehensive Plan or this Ordinance, a minimum of 35 days prior to the first public hearing, a copy of the text, showing proposed additions and deletions, shall be made available to the public for review. All active community planning organizations, hamlets, and villages that are recognized by the County shall be notified when it becomes available.
3. A minimum of 20 days prior to the first public hearing of each review authority on the proposal, written notice of the proposal and hearing shall be mailed to:
 - a. For proposed amendments to the text of the Comprehensive Plan or this Ordinance, all active community planning organizations, hamlets, and villages that are recognized by the County;
 - b. For proposed Comprehensive Plan Land Use Plan map amendments and zone changes, any active community planning organization, hamlet, or village that is recognized by the County, if the subject property lies wholly or partially inside the boundaries of such organization, hamlet, or village;
 - c. Cities, as prescribed in applicable urban growth management agreements; and

- d. Those special districts and government agencies deemed by the Planning Director to have an interest in the proposal.
- 4. At a minimum, notice of proposal and hearing shall include:
 - a. An explanation of the nature of the proposal;
 - b. Date, time, and location of the hearing;
 - c. The name and telephone number of the County staff member to contact where additional information may be obtained; and
 - d. For Comprehensive Plan Land Use Plan map amendments and zone changes, a copy of the proposed map change(s).
- 5. Notice of the date, time, location, and purpose of the Planning Commission's hearing and the Board of County Commissioner's hearing shall be given a minimum of 10 days prior to the date of each review authority's first public hearing, by publication in a newspaper of general circulation in the County. However, if the legislative land use proposal applies to only a part of the County, the notice may instead be published in a newspaper of general circulation in that part of the County.
- B. Proposal Review and Staff Report: The Planning Director shall consider the proposal, written comments, and evidence submitted prior to each public hearing and prepare staff reports summarizing the proposal, comments received to-date, and the relevant issues associated with the proposal. Each staff report shall make a recommendation to the review authority.
- C. Planning Commission Public Hearing: A public hearing shall be held before the Planning Commission, for the purpose of receiving testimony regarding the proposal.
- D. Planning Commission Recommendation: The Planning Commission shall consider the record and may make a recommendation to the Board of County Commissioners to adopt, adopt with modifications, or decline to adopt the proposal. If no recommendation is made by the Planning Commission and no extension is granted by the Board of County Commissioners, the Board of County Commissioners may act upon the proposal notwithstanding the lack of a recommendation.
- E. Board of County Commissioners Public Hearing: A public hearing shall be held before the Board of County Commissioners, for the purpose of receiving testimony regarding the proposal.
- F. Decision: The Board of County Commissioners shall consider the record and may adopt, adopt with modifications, or decline to adopt the proposal; remand the

matter back to the Planning Commission for further consideration; or table the matter. The decision of the Board of County Commissioners to adopt or adopt with modifications shall be by ordinance.

G. Notice of Decision: Notice of decision shall be provided as follows:

1. A maximum of 20 days after the decision is made it shall be submitted to the Oregon Department of Land Conservation and Development (DLCDD). Procedures for the giving of the required notice shall be those established by ORS 197.615 and Oregon Administrative Rules Chapter 660, Division 18.
2. On the same day the decision is submitted to DLCDD, the County shall mail, or otherwise deliver, notice to persons who both participated in the County proceedings that led to the decision to adopt the change to the Comprehensive Plan or this Ordinance and requested in writing that the County give notice of the change. The notice shall:
 - a. State how and where the materials described in Subsection 1307.11(G)(1)(a) through (d) may be obtained;
 - b. Include a statement by the individual delivering the notice that identifies the date on which the notice was delivered and the individual delivering the notice;
 - c. List the locations and times at which the public may review the decision and findings; and
 - d. Explain the requirements for appealing the land use decision under ORS 197.830 to 197.845.

H. Appeal: The Board of County Commissioners' decision is the final decision of the County. Appeal of the County's final decision is to the Oregon Land Use Board of Appeals or the Oregon Land Conservation and Development Commission, as determined by state law.

1307.12 PUBLIC HEARINGS

Subsection 1307.12 applies to public hearings held pursuant to Section 1307, except that only Subsections 1307.12(A), (B), (E) through (H), and (J) apply to public hearings in a Type IV proceeding.

A. Procedure, Generally: Public hearings shall be conducted in accordance with Oregon Revised Statutes (ORS) 197.763, Subsection 1307.12, and any bylaws or rules of procedure adopted by the review authority. Subsection 1307.12 authorizes the Hearings Officer, Planning Commission, and Board of County Commissioners to adopt rules of procedure for the conduct of hearings.

B. Parties: Any interested party shall be entitled to participate in a public hearing.

C. Order of Proceeding: The order of proceeding for a hearing will depend in part on the nature of the hearing. The following shall be supplemented by the adopted bylaws or rules of procedure of the review authority, as appropriate.

1. Jurisdictional Objections: Before receiving the staff report or testimony on the application, any objections on jurisdictional grounds shall be noted in the record and if there is objection, the review authority has the discretion to proceed or terminate the hearing.
2. Disclosure Statement: The review authority (or individual member thereof), or its designee, shall read the land use disclosure statement, which shall include:
 - a. A list of the applicable substantive criteria, or a reference to the staff report, where a list of the criteria can be found;
 - b. A statement that testimony, argument, and evidence must be directed toward the criteria described in Subsection 1307.12(C)(2)(a) or other criteria in the Comprehensive Plan or land use regulation which the person believes to apply to the decision;
 - c. A statement that failure to raise an issue accompanied by statements or evidence sufficient to afford the decision maker and the parties an opportunity to respond to the issue precludes appeal to the Oregon Land Use Board of Appeals (LUBA) based on that issue; and
 - d. If applicable, a statement that a failure to raise constitutional issues relating to proposed conditions of approval precludes an action for damages in circuit court.
3. Call for Ex Parte Contacts: If the review authority is the Planning Commission or the Board of County Commissioners, the presiding officer, or designee, shall inquire whether any member has had ex parte contacts. Any member announcing an ex parte contact shall state for the record the nature and content of the contact. If the review authority is the Hearings Officer, he or she shall declare any ex parte contacts and state for the record the nature and content of the contact.
4. Call for Abstentions: If the review authority is the Planning Commission or the Board of County Commissioners, the presiding officer, or designee, shall inquire whether any member must abstain from participation in the hearing due to conflicts of interest. Any member announcing a conflict of interest shall state the nature of the conflict, and shall not participate in the proceeding, unless the vote is necessary to meet a requirement of a minimum number of votes necessary to take official action; provided, however, that the member shall not participate in any discussion or debate on the issue out of which the conflict arises. If the review authority is the Hearings Officer, he or she shall declare any potential conflicts of interest. The Hearings Officer shall

state the nature of the conflict, and if the nature of the conflict is such that the Hearings Officer cannot fulfill his or her duty to be a fair and impartial decision maker, the Hearings Officer shall recuse himself or herself from hearing the matter.

5. Staff Report: The Planning Director shall present a report and recommendation concerning the proposal.
6. Presentation of the Application:
 - a. Applicant's case;
 - b. Community planning organizations, hamlets, and villages. Appearance by a representative from any active community planning organization, hamlet, or village that is recognized by the County, if the subject property lies wholly or partially inside the boundaries of such organization, hamlet, or village, to present the organization's position on the proposal;
 - c. Public testimony; and
 - d. Rebuttal. Rebuttal may be presented by the applicant. The scope of rebuttal is limited to matters that were introduced during the hearing.
7. Close of Hearing: No additional testimony, evidence, or argument shall be accepted after the close of the hearing unless the record is held open by the review authority.
8. Reopened Hearing: The hearing may be reopened by the review authority, prior to decision, to receive additional testimony, evidence, or argument. Notice shall be provided to the same persons who received notice of the original hearing and to anyone who provided evidence, argument, or testimony as part of the record.
9. Deliberations: If the review authority is the Planning Commission or Board of County Commissioners, deliberations shall immediately follow the hearing, except that deliberations may be delayed to a subsequent date and time certain. If the review authority is the Hearings Officer, deliberations will not occur, and the Hearings Officer will instead take the matter under advisement.
10. Remand: The Board of County Commissioners may remand any matter previously considered by the Planning Commission back to the Planning Commission for further review.
11. Recommendation or Decision: When the review authority is the Planning Commission or Board of County Commissioners, the recommendation or decision, as applicable, will be voted on and announced during a public meeting.

D. Ex Parte Contact:

1. The review authority shall not do any of the following:
 - a. Communicate, directly or indirectly, with any party or their representatives in connection with any issue involved, except upon notice and opportunity for all parties to participate;
 - b. Take notice of any communications, reports, staff memoranda, or other materials prepared in connection with a particular application, unless the parties are afforded an opportunity to contest the material so noted; or
 - c. Inspect the site with any party or his representatives unless all parties are given an opportunity to be present. Individuals representing the review authority may inspect the site alone but must put the circumstances of the inspection on record.
2. A party may challenge the review authority, or individual member thereof, on the grounds of Subsection 1307.12(D)(1), or that such individual has a legal conflict of interest as defined by ORS 244.020(1) or ORS 244.120. A challenge and the decision thereon by the review authority shall be entered in the record of the application.
3. While every effort must be made to avoid ex parte contact, no decision of the review authority shall be invalid due to ex parte contact or bias resulting from ex parte contact, as described under Subsection 1307.12(D)(1), if the review authority (or individual member thereof) receiving the contact:
 - a. Places on the record the substance of any written or oral ex parte communication concerning the decision or action; and
 - b. Has a public announcement made of the content of the communication, and of the parties' right to rebut the substance of the communication, at the first hearing following the communication where action will be considered or taken on the subject to which the communication related.
4. A communication between County staff and the review authority (or individual member thereof) shall not be considered an ex parte contact for purposes of Subsection 1307.12(D)(1).

E. Evidence and Exhibits:

1. All evidence may be received unless excluded by the review authority on its own motion. Evidence received at any hearing shall be of the quality that reasonable persons rely upon in the conduct of their everyday affairs. Relevant evidence is any evidence having a tendency to make the existence or non-existence of a fact that is of consequence to the approval of the land use

permit or legislative land use proposal more or less probable than it would without the evidence. Evidence may be received subject to a later ruling regarding its admissibility.

2. The review authority may exclude cumulative, repetitious, or immaterial evidence, but erroneous admission of evidence by the review authority shall not preclude action by the review authority or cause reversal on appeal unless shown to have substantially prejudiced the rights of a party.
3. All evidence shall be offered and made a part of the record in the application or legislative proceeding; and, except for matters stipulated to and except as provided in Subsection 1307.12(E)(4), no other factual information or evidence shall be considered in the recommendation or decision.
4. The review authority may take notice of judicially cognizable facts, and may take notice of general, technical, or scientific facts within specialized knowledge. Except in a Type IV proceeding, interested parties shall be notified at any time during the proceeding, but in any event prior to the final decision, of the material so noticed, and they shall be afforded an opportunity to contest the facts so noticed. The review authority may utilize experience, technical competence, and specialized knowledge in evaluation of the evidence presented.
5. All exhibits received shall be marked so as to provide identification upon review. Such exhibits may be returned when the period for review has expired, but shall otherwise be preserved by the Planning Director.

F. Time Limits: The review authority may set consistent, reasonable time limits for oral presentations to the end that parties are encouraged to submit as much evidence as possible in writing prior to the hearing. No person may speak more than once without obtaining permission from the review authority.

G. Questioning: The review authority (or individual member thereof) or County staff may question any person who testifies. The applicant and other parties to the proceeding shall not have the right to question or cross-examine any person who testifies.

H. Scope of Testimony: Except in a Type IV proceeding, testimony shall be directed towards the applicable standards and criteria that apply to the proposal. The review authority may exclude or limit cumulative, repetitious, or immaterial testimony. To expedite hearings, the review authority may call for those in favor and those in opposition to rise, and the review authority shall note the numbers of such persons for the record.

I. Continuances and Open Record Periods:

1. All documents or evidence relied upon by the applicant shall be submitted to the County and be made available to the public. Any staff report used at the hearing shall be available at least seven days prior to the hearing. If additional documents or evidence are provided by any party, the review authority may allow a continuance or leave the record open to allow the parties a reasonable opportunity to respond. Any continuance or extension of the record requested by the applicant shall result in a corresponding extension of the time limitations of ORS 215.427 and ORS 215.429.
2. Prior to the conclusion of the initial evidentiary hearing, any participant may request an opportunity to present additional evidence, argument, or testimony regarding the application. The review authority shall either continue the public hearing, pursuant to Subsection 1307.12(I)(2)(a), or leave the record open for additional written evidence, argument, or testimony, pursuant to Subsection 1307.12(I)(2)(b).
 - a. If the review authority grants a continuance, the hearing shall be continued to a date, time, and place certain at least seven days from the date of the initial evidentiary hearing. An opportunity shall be provided at the continued hearing for persons to present and rebut new evidence, argument, 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, argument, or testimony for the purpose of responding to the new written evidence. Only one continuance is available of right under Subsection 1307.12(I)(2)(a); provided, however, nothing in Subsection 1307.12(I)(2)(a) shall restrict the review authority, in its discretion, from granting additional continuances.
 - b. If the review authority leaves the record open for additional written evidence, argument, or testimony, the record shall be left open for at least seven days. The review authority may leave the record open for an additional period of at least seven days for any participant to respond to new evidence submitted during the prior open-record period. However, if the review authority has not provided for this additional open-record period, any participant may file a written request with the Planning Director for an opportunity to respond to new evidence submitted during the period the record was left open. Any such request shall be filed no later than the end of the last business day the record is left open. If such a request is filed, the review authority may reopen the record pursuant to Subsection 1307.12(I)(4).
 - c. A continuance or extension granted pursuant to Subsection 1307.12(I)(2) shall be subject to the limitations of ORS 215.427 and ORS 215.429, unless the continuance or extension is requested or agreed to by the applicant.

3. Additional notice of a continued hearing is not required, unless the hearing is continued without announcing a date, time, and place certain, in which case notice of the continued hearing shall be given as though it were the initial hearing.
4. If the record is reopened to admit new evidence, argument, or testimony, any person may raise new issues which relate to the new evidence, argument, testimony, or criteria for decision-making which apply to the matter at issue. Notice of the reopened record shall be provided to any person who presented evidence, argument, or testimony as part of the record prior to the date the record was reopened.
5. Unless waived by the applicant, the review authority shall allow the applicant at least seven days after the record is closed to all other parties to submit final written argument 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 limitations of ORS 215.427 and ORS 215.429.

J. Record of Hearing:

1. A verbatim record of the proceeding shall be made by written, mechanical, or electronic means, which record need not be transcribed except upon review on the record.
2. The record of proceedings is comprised of:
 - a. The Comprehensive Plan and this Ordinance, all of which shall be automatically incorporated into the record;
 - b. The application or legislative proposal that initiated the proceeding;
 - c. All testimony, argument, evidence, and exhibits submitted prior to the close of the record of the proceeding;
 - d. Any staff reports submitted prior to the close of the record of the proceeding;
 - e. Any electronic presentation used by either staff, applicant, or other participant in the proceeding;
 - f. The verbatim record, as provided in Subsection 1307.12(J)(1);
 - g. Minutes, if any, of the hearing;
 - h. A verbatim record, as provided in Subsection 1307.12(J)(1), of any public meeting after the close of the hearing at which the proceeding is discussed by or acted upon by the review authority;

- i. Minutes, if any, of any public meeting after the close of the hearing at which the proceeding is discussed by or acted upon by the review authority; and
- j. The written decision.

1307.13 APPEALS

Subsection 1307.13 applies to all appeals processed by the County of decisions issued under Section 1307. Table 1307-1 identifies those land use permit decisions that may be appealed at the County level and the applicable review authority for those appeals.

A. Filing an Appeal: An appeal shall be in writing and must be received by the Planning Director within 12 days of the date of mailing of the notice of decision, or if the 12th day falls on a day on which the County is not open for business, by the next day on which the County is open for business.

B. Notice of Appeal: Notice of appeal shall be made on a form prescribed by the Planning Director and shall be accompanied by the appeal fee. The notice of appeal shall contain:

1. Identification of the decision sought to be appealed, including its assigned file number, the name of the applicant, and the decision date;
2. The name, mailing address, and telephone number of the appellant;
3. The nature of the decision being appealed and the grounds for appeal; and
4. Signature(s) of the appellant(s), or the duly authorized representative(s) thereof, authorizing the filing of the appeal.

C. Proper Filing of Notice of Appeal: The failure to file a timely and complete notice of appeal is a jurisdictional defect, and the Planning Director shall not accept a notice of appeal that does not comply with Subsections 1307.13(A) and (B). The Planning Director's determination that an appellant has failed to comply with Subsections 1307.13(A) and (B) shall be final.

D. Appeal Procedures; Scope: Appeals are subject to the following procedures:

1. De Novo Review: Appeals shall be de novo. In a de novo review, all issues of law and fact are heard anew, and no issue of law or fact decided by the lower-level review authority is binding on the parties in the hearing. New parties may participate, and any party may present new evidence and legal argument by written or oral testimony. The record of the initial proceeding shall be made a part of the record of the appeal. For purposes of Subsection 1307.13(D)(1), the record of the initial proceeding consists of
 - a. Those items listed in Subsections 1307.12(J)(2)(a) through (d) and (j);

and

b. Those items listed in Subsections 1307.12(J)(2)(e) through (i), to the extent that any prior hearing(s) or public meeting(s) were conducted in reaching the decision that is being appealed.

2. Notice of Public Hearing: Notice of public hearing shall be provided as follows:

a. A minimum of 20 days prior to the first evidentiary hearing on the appeal, written notice of the appeal and hearing shall be mailed to:

i. Those who were entitled to notice pursuant to Subsection 1307.09(A)(1);

ii. The appellant; and

iii. Anyone who previously provided evidence, argument, or testimony as part of the record.

b. At a minimum, notice of hearing shall include those elements identified in Subsection 1307.10(A)(4), except that 1307.10(A)(4)(i) will reference the appealed decision, rather than the staff report.

3. Public Hearing: A public hearing shall be held before the appeal review authority, for the purpose of receiving testimony regarding the application.

4. Decision: The appeal review authority shall consider the record and affirm the decision, affirm the decision with additional conditions or modifications, or reverse the decision. The appeal review authority shall issue a written decision in the form of an order, which shall be signed and dated, that explains the standards and criteria considered relevant to the decision, states the facts relied upon in rendering the decision, and explains the justification for the decision based on the standards, criteria, and facts set forth. The decision also shall include the elements identified in Subsection 1307.10(D)(1) through (5).

5. Notice of Decision: A copy of the written order shall be mailed to:

a. Those identified in Subsection 1307.10(E); and

b. The appellant.

6. Appeal: Except where an additional County-level appeal is provided pursuant to Subsection 1307.13(E), the appeal review authority's decision is the final decision of the County. Appeal of the County's final decision is to the Oregon Land Use Board of Appeals.

E. Review of an Interpretation by the Board of County Commissioners:

1. A second County-level appeal is provided for applications for an interpretation of the Comprehensive Plan, where the Board of County Commissioners shall review the decision of the Planning Commission on appeal. Processing of the appeal shall comply with Subsections 1307.13(A) through (D), except that notice of the public hearing shall be given to:
 - a. Those identified in Subsections 1307.09(A)(1)(a), (d) through (f), and (i);
 - b. The appellant;
 - c. Anyone who provided evidence, argument, or testimony as part of the record; and
 - d. Anyone who made a written request for notice of decision.

2. A second County-level appeal is provided for applications for an interpretation of this Ordinance, where the Board of County Commissioners may choose to review the decision of the Hearings Officer on appeal but is not required to do so.
 - a. If the Board of County Commissioners accepts the appeal, processing of the appeal shall comply with Subsections 1307.13(A) through (D), except that notice of the public hearing shall be given pursuant to Subsection 1307.13(E)(1).
 - b. If the Board of County Commissioners denies a request for review, it shall do so in writing. Notice of the denial shall be given pursuant to Subsection 1307.13(E)(1). If the Board of County Commissioners denies a request for review, the decision of the Hearings Officer stands as the final decision of the County. The period for appeal to the Oregon Land Use Board of Appeals commences on the date of mailing of the Board of County Commissioners' denial of review.

- F. Effect of Judicial or Administrative Review: Except as provided by law or order of a court or administrative tribunal having jurisdiction, a decision of the County shall remain valid and effective notwithstanding the initiation of judicial or administrative review of such decision; provided, however, that any development permit dependent upon such decision shall be issued only with the applicant's written acknowledgement in a form approved by County Counsel, that such review has been initiated and may result in the reversal of the decision, in which event the permit shall be revoked, as well as any temporary occupancy permit, and the premises shall thereafter be brought into conformity with the applicable standards and criteria by appropriate means. No permanent occupancy certificate shall be issued by the building official until such review has concluded through the adoption of a decision making such occupancy in all respects lawful.

- G. Remand from the Land Use Board of Appeals: The County shall take final action

on decisions remanded by the Oregon Land Use Board of Appeals (LUBA) within one year of the effective date of LUBA's final order, unless the applicant requests in writing that the County proceed with the application pursuant to Oregon Revised Statutes (ORS) 215.435(2)(a), in which case the provisions of ORS 215.435 shall apply. The effective date of LUBA's final order shall be determined pursuant to ORS 215.435(1).

1307.14 CONDITIONS OF APPROVAL

Approval of a Type I, II, or III land use permit may be granted subject to conditions. The following limitations shall be applicable to conditional approvals:

A. Conditions shall be fulfilled within the time limitations set forth in the approval thereof, or, if no time is set forth, within a reasonable time. Failure to fulfill any conditions within the time limitations provided shall be grounds for the Planning Director to initiate revocation of the approved land use permit pursuant to Subsection 1307.16(L).

B. Conditions shall be imposed to ensure compliance with the standards and approval criteria applicable to the land use permit, or shall be reasonably calculated to fulfill public needs emanating from the proposed land uses as set forth in the application, in the following respects:

1. Protection of the public from the potentially deleterious effects of the proposed use; or

2. Fulfillment of the need for public services created by the proposed use.

C. The review authority may find compliance with an applicable approval criterion by imposing conditions necessary to ensure compliance and finding that it is feasible for the conditions to be satisfied. Notwithstanding this provision, where conditions require state agency permits to be obtained, the review authority need only find substantial evidence to demonstrate that the applicant is not precluded from obtaining such state agency permits as a matter of law.

D. A bond, cash deposit, or other security, in a form to be prescribed by the Planning Director, may be required from the applicant, in an amount sufficient to ensure compliance with one or more conditions of approval.

1307.15 FEES

Fees are for the purposes of defraying administrative costs and are subject to the following:

A. Fees payable at the time of application or appeal are established by separate order of the Board of County Commissioners.

B. The failure to submit the required fee with an application or appeal, including

return of checks unpaid or other failure of consideration, shall be a jurisdictional defect.

C. An active community planning organization that is recognized by the County may file appeals without fee, provided the decision to file an appeal is made at a public meeting held in compliance with Oregon Revised Statutes 192.610 to 192.690.

D. Appeal fees shall be refunded if the appellant prevails. Any other fee refund policy shall be established by separate order of the Board of County Commissioners.

E. The County Administrator or designee may reduce or waive fees upon showing of just cause to do so.

1307.16 GENERAL PROVISIONS

A. Calculation of Time: For the purposes of this Ordinance, unless otherwise specifically provided, days mean calendar days. In calculating a specific time period, the day on which the period begins to run shall not be included; and the day on which the period ends shall be included. In the event the last day falls on a day on which the County is not open for business, the period of time shall end on the next day on which the County is open for business.

B. Property Owner's Signature: When any person signs as the owner of property or as an officer of a public or private corporation owning the property, or as an attorney in fact or agent of any owner, or when any person states that he or she is buying the property under contract, the Planning Director and the review authority, if other than the Planning Director, may accept these statements to be true, unless the contrary be proved, and except where otherwise in this Ordinance more definite and complete proof is required. Nothing herein shall prevent the Planning Director or the review authority, if other than the Planning Director, from demanding proof that the signer is the owner, officer, attorney in fact, or agent.

C. Property Owner Notice: Where notice to property owners of record is required by Section 1307, the records of the County Assessor shall be used to identify the owners and their mailing addresses. Persons whose names and addresses are not on file at the time of the filing of the applicable land use permit application or appeal need not be notified of the application, decision, or hearing. If a property within the notification area is located outside the County, the records of the applicable County Assessor shall be used. The failure of a property owner to receive notice as provided in Section 1307 shall not invalidate the proceedings, if the County can demonstrate by affidavit that such notice was given.

D. Method of Mailing: When mailing is required by Section 1307, first-class mail shall be used, except that for mailing to any of the following, either first-class mail or electronic mail may be used: community planning organizations, hamlets, villages, cities, special districts, and government agencies.

E. Burden of Proof: Except in a Type IV proceeding, the proponent has the burden of proof on all elements of the proposal. The proposal must be supported by a preponderance of evidence that it conforms to all applicable standards and criteria. The preponderance of evidence standard is often described as enough evidence to make the proponent's point more likely than not.

F. Argument and Evidence: For the purposes of Section 1307:

1. Argument means assertions and analysis regarding the satisfaction or violation of legal standards or policy believed relevant by any party. Argument does not include facts.

2. Evidence means facts, documents, data, or other information offered to demonstrate compliance or noncompliance with the standards and criteria believed by any party to be relevant to the proposal.

G. Withdrawal: Prior to the issuance of the written decision, the applicant may submit a written notice of withdrawal of the application. Upon receipt of a written notice of withdrawal, the application shall be deemed dismissed without further action by the review authority. A withdrawal shall not bar filing a new application; withdrawal shall not be deemed a final decision for any purpose. A withdrawal cannot be appealed. If an application is withdrawn after the mailing of notice of application or public hearing, the Planning Director shall mail written notice stating the application has been withdrawn to all persons who were provided mailed notice of the application or public hearing.

H. Final Action Deadline: Except as modified by ORS 197.763, the County shall take final action on a land use permit application that is subject to Oregon Revised Statutes (ORS) 215.427, including resolution of all County appeals, within the time period specified by ORS 215.427, unless the applicant provides written request for an extension of such period pursuant to ORS 215.427(5).

I. Effective Date of Decision: The County's final decision on a Type I, II, or III land use permit application becomes effective on:

1. The day the final decision is issued, if no appeal at the County level is allowed;

2. The day after the appeal period expires, if an appeal at the County level is allowed, but no notice of appeal is timely filed;

3. The day the decision is issued by the final County appeal body, if an appeal is allowed and notice of appeal is timely filed. However, if the appeal is withdrawn prior to decision, the effective date of the County's final decision shall revert to the day after the appeal period would have expired had an appeal not been timely filed; or

4. The date of mailing of the Board of County Commissioners' denial of review, pursuant to Subsection 1307.13(E)(2)(b).

J. Reissuing a Decision: The review authority may reissue a Type I, II, or III decision as a result of a clerical error, a misstatement of facts, or the erroneous imposition or omission of conditions of approval. A decision may not be reissued after the expiration of the appeal period, if any, or after the filing of an appeal. Notice of the reissued decision shall be given in the same manner as notice of the original decision. A new appeal period equal to that of the original decision shall be provided from the date of mailing of the amended decision.

K. Re-filing an Application: If a Type II or III land use permit application is denied, or a Type II or III land use permit is revoked pursuant to Subsection 1307.16(L), an applicant may re-file for consideration of the same or substantially similar application only if:

1. At least two years have passed after either final denial of an application by the County or revocation of a permit; or

2. The review authority finds that one or more of the following circumstances render inapplicable all of the specific reasons for the denial:

a. A change, which is material to the application, has occurred in this Ordinance, the Comprehensive Plan, or other applicable law; for the purposes of this provision, "change" includes amendment to the applicable provisions or a modification in accepted meaning or application caused by an interpretation filed pursuant to Section 1308;

b. A mistake in facts, which was material to the application, was considered by the review authority;

c. There have been changes in circumstances resulting in new facts material to the application;

d. A change has occurred in the zoning of the subject property, or adjacent property, that substantially affects the merits of the application; or

e. There have been substantial changes in the surrounding area, or on the subject property, such as availability of services or improvements to public facilities, that affect the merits of the application.

L. Revocation of Approval: An approval of a Type II or III land use permit may be revoked, as follows:

1. The Planning Director may initiate a public hearing for revocation of a prior approval of a land use permit when there is a violation of conditions attached to the previous approval sufficient to merit such revocation.

2. Revocation of approval shall be reviewed using the Type III procedure. The Hearings Officer shall be the review authority, and the decision of the Hearings Officer shall be the final decision of the County.
3. Revocation is in addition to, and not in lieu of, any other remedy provided by law or equity, and is not a condition precedent to any such remedy.

M. Modifications: Except as permitted pursuant to Section 1309:

1. A modification to an approved Type I, II, or III land use permit, or conditions thereto, shall be processed as a new application; and
2. A modification to conditions of approval for a Type II or III land use permit shall be considered only if one or more of the circumstances identified in Subsection 1307.16(K)(2) apply.

1308 INTERPRETATION

1308.01 APPLICABILITY

The Planning Director has the authority to interpret the Comprehensive Plan and this Ordinance and their applicability to specific properties, except where such authority is specifically granted by this Ordinance to the Hearings Officer, or to the Planning Commission or Board of County Commissioners on appeal.

1308.02 PROCEDURE

An interpretation requires review through a Type II application pursuant to Section 1307 and Subsection 1308.02. Where the provisions of Subsection 1308.02 conflict with Section 1307, Subsection 1308.02 shall control.

A. Anyone may initiate an application for an interpretation, except that an application for an interpretation of the applicability of the Comprehensive Plan or this Ordinance to a specific property may only be initiated by those parties identified in Subsection 1307.07(A).

B. An application for an interpretation shall include:

1. The submittal requirements identified in Subsection 1307.07(C), except those that are inapplicable because the application is not for an interpretation of the applicability of the Comprehensive Plan or this Ordinance to a specific property;
2. Identification of the provision(s) for which an interpretation is requested; and
3. A detailed description of any proposed use, specific circumstances, or other factors necessary to allow an interpretation to be made.

C. Where Section 1307 requires mailing of notices, applications, or decisions, such mailing shall include all active community planning organizations, hamlets, and villages that are recognized by the County, if property to which an interpretation could be applicable lies wholly or partially inside the boundaries of such organization, hamlet, or village.

D. Only if an interpretation relates to the applicability of the Comprehensive Plan or this Ordinance to a specific property, shall mailing of notices, applications, and decisions required by Section 1307 include property owners of record pursuant to Subsection 1307.09(A)(1)(b) or 1307.10(A)(3)(b).

E. Filing an application for an interpretation shall be precluded if the specific question raised in the application has already been decided through another land use permit application. A question shall not be deemed to have been decided, if the fact circumstances in the previous land use permit application differ from those presented in the interpretation application.

1309 MODIFICATION

1309.01 APPROVAL CRITERIA

A modification to an approved Type II or III land use permit, or conditions thereto, requires review as a Type II application, pursuant to Section 1307, and shall be subject to the following standards and criteria:

- A. A modification shall be consistent with the prior approval;
- B. A modification shall be consistent with all Ordinance provisions in effect on the date the modification request is submitted; and
- C. A modification shall not result in any of the following:
 - 1. A change in the type of use (e.g. commercial, industrial, institutional);
 - 2. An increase of greater than 25 percent of the original approved building floor area;
 - 3. An increase of greater than 25 percent of the original approved lot coverage;
 - 4. An increase in the density of development (residential or recreational uses), or intensity of use, as demonstrated by a change in occupancy rating requiring substantial modifications to structures;
 - 5. An increase in traffic congestion or use of public facilities;
 - 6. A reduction in approved open space;
 - 7. A reduction of off-street parking spaces or loading berths, except as provided under Section 1015; or
 - 8. A reduction in required pavement widths or a change in major access locations, except as required by the County.

1309.02 APPROVAL PERIOD AND TIME EXTENSION

Approval of a modification shall be subject to the same approval period and time extension provisions as the application type modified by the approval.

1310 TIME EXTENSION

1310.01 APPROVAL CRITERIA

A time extension may be permitted only when specified elsewhere in this Ordinance for specific land use permit types. A time extension requires review as a Type II application, pursuant to Section 1307, and shall be subject to the following standards and criteria:

- A. A time extension application shall be submitted to the Planning Director prior to the expiration of the initial approval period for the land use permit.
- B. The proposed development as originally approved, or as modified pursuant to Section 1309, shall be consistent with the relevant provisions of this Ordinance in effect on the date the application for a time extension is submitted, provided that the application is complete when submitted or is made complete pursuant to Subsection 1307.07(E)(4); and
- C. There shall have been no changes on the subject property or in the surrounding area that would be cause for reconsideration of the original decision.

1310.02 PROCEDURE

If more than one land use permit (e.g. a partition and a variance) was approved for the same, or substantially similar, proposed development, time extension requests for these administrative actions may be consolidated as one application, at the applicant's discretion.

SECTION 1400

LEGISLATIVE CHANGES

~~1401~~ INITIATION

~~1401.01~~ Legislative amendments may be initiated by:

- ~~A.~~ Order of the Board of County Commissioners;
- ~~B.~~ Resolution by a majority of the whole Planning Commission; or
- ~~C.~~ The request of the Planning Director.

~~1402~~ PROCEDURE FOR LEGISLATIVE AMENDMENTS OF TEXT

~~1402.01~~ A public hearing shall be held by a majority of the whole Planning Commission on all proposed amendments to this Ordinance and on all legislative amendments to the zoning maps.

- ~~A.~~ The Planning Commission may continue any hearing in order to make a reasonable decision.
- ~~B.~~ Amendments shall be considered and acted upon by the Planning Commission within a reasonable time. If no recommendation is made by the Planning Commission and no extension granted by the Board of County Commissioners, the Board of County Commissioners may act upon the same.

~~1402.02~~ Notice of the time, place and purpose of the Planning Commission's hearing shall be given in the following manner:

- ~~A.~~ By publication of a notice in a newspaper of general circulation in Clackamas County not less than ten (10) days prior to the date of hearing;
- ~~B.~~ Written notice and a copy of the text showing amendments and new sections added shall be sent to all recognized neighborhood organizations thirty-five (35) days prior to the date of the hearing; and
- ~~C.~~ For legislative amendments of the zoning maps, written notice of the proposed changes, including a copy of the proposed map changes, shall be sent thirty-five (35) days prior to the date of the hearing to all recognized neighborhood groups whose jurisdiction includes an area proposed for change.

SECTION 1500

FEES

~~1501 PURPOSE~~

~~Fees are for the purpose of defraying administrative costs.~~

~~1502 GENERAL PROVISIONS~~

~~1502.01 Fees payable at the time of application shall be established by the Board of County Commissioners, unless initiated by the Planning Director, the Planning Commission, or Board of County Commissioners, for which action there shall be no fee. Recognized community planning organizations may file appeals without fee, provided the decision to file an appeal is made at a public meeting held in compliance with Oregon Revised Statutes 192.610 to 192.690. A good faith effort shall be made to notify the applicant of any such meeting.~~

~~1502.02 The fee for a permit for surface mining shall be set by separate order of the Board of County Commissioners and shall not be more than the fee prescribed by state statute or administrative regulation.~~

~~1502.03 The failure to submit the required fee with an application or notice of appeal, including return of checks unpaid or other failure of consideration, shall be a jurisdictional defect.~~

~~1502.04 Fees are refundable if the application is withdrawn prior to the notification of the hearing.~~

~~1502.05 Appeal fees shall be refunded if the appellant prevails.~~

~~1502.06 The County Administrator or designee may reduce or waive fees upon showing of just cause to do so.~~