



# Oregon

Kate Brown, Governor

Department of Land Conservation and Development

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[www.oregon.gov/LCD](http://www.oregon.gov/LCD)



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

Date: December 16, 2015

Jurisdiction: Benton County

Local file no.: LU-15-052

DLCD file no.: 004-15

The Department of Land Conservation and Development (DLCD) received the attached notice of adopted amendment to a comprehensive plan or land use regulation on 12/15/2015. 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 49 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](mailto:plan.amendments@state.or.us)



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

**FOR DLCD USE**  
File No.: 004-15 {23964}  
Received: 12/15/2015

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: Benton County

Local file no.: **LU-15-052**

Date of adoption: 12/24/2015

Date sent: 12/15/2015

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): 08/18/2015

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:

Local contact (name and title): Greg Verreet, Planning Official

Phone: 541-766-6819

E-mail: [greg.j.verret@co.benton.or.us](mailto:greg.j.verret@co.benton.or.us)

Street address: 360 SW Avery Ave

City: Corvallis

Zip: 97333-

## 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:

### 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:

Benton County Development Code Chapters 51, 55, 66, 70, 72, 74, 75, 76, 78, and 91.

**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):

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List affected state or federal agencies, local governments and special districts: Oregon Liquor Control Commission, Cities of Corvallis, Philomath, Monroe and Adair Village.

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.

Please see attached Ordinances 2015-0270 and 2015-0271 for staff report and adopted code amendments.

**BEFORE THE BOARD OF COMMISSIONERS OF BENTON COUNTY  
STATE OF OREGON**

**In the Matter of Amending the Benton )  
County Development Code Chapters 51 )  
& 55. )  
)**

**ORDINANCE No. 2015-0270**

**WHEREAS**, Oregon Ballot Measure 91 (2014) as modified by Oregon House Bill 3400 (2015) decriminalizes recreational marijuana and establishes procedures by which persons may obtain state licenses to produce, process, wholesale or retail marijuana; and

**WHEREAS**, certain provisions of House Bill 3400 are mandatory with regard to marijuana-related land uses in exclusive farm use zones; and

**WHEREAS**, the proposed amendment will clarify, correct, and/or increase consistency with other sections of Benton County Development Code and with statute and administrative rules of the State of Oregon; and

**WHEREAS**, the proposed amendment will improve efficiency and promote sound land use decisions; and

**WHEREAS**, the Benton County Planning Commission held a duly advertised public hearing on October 6, 2015, and voted to recommend that the Board of Commissioners approve the attached Development Code amendment; and

**WHEREAS**, the Benton County Board of Commissioners held a duly advertised public hearing on November 3, 2015, to receive testimony from the public and to consider the request; and

**WHEREAS**, the Benton County Board of Commissioners finds that the proposed Development Code amendment complies with the criteria of Benton County Development Code; and

**WHEREAS**, the Benton County Board of Commissioners has considered the staff report, the recommendation of the Benton County Planning Commission, and the record as a whole. The Board of Commissioners deliberated and approved the proposed amendment to the Development Code and conducted the First Reading of the proposed Ordinance on November 3, 2015; and

**WHEREAS**, the Benton County Board of Commissioners conducted the Second Reading of the proposed Ordinance on November 24, 2015.

NOW THEREFORE, THE BOARD OF COUNTY COMMISSIONERS OF BENTON COUNTY ORDAINS AS FOLLOWS:

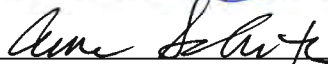
- PART I:** Short Title. Amendment to the Benton County Development Code Chapters 51 & 55.
- PART II:** Authority. The Board of County Commissioners of Benton County has authority to amend the Development Code pursuant to ORS Chapter 215 and the Benton County Charter.
- PART III:** The Development Code amendment proposed in Planning File No. LU-15-052 is hereby approved, based on the Findings of Fact and Conclusions of Law contained in the attached "Exhibit 1" and hereby adopted and incorporated herein.
- PART IV:** Benton County Development Code is hereby amended as shown in "Exhibit 2."
- PART V:** The effective date for this amendment to the Benton County Development Code will be:

First Reading: November 3, 2015  
Second Reading: November 24, 2015  
Effective Date: December 24, 2015

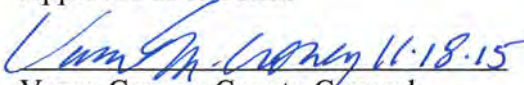
**BENTON COUNTY BOARD OF COMMISSIONERS**

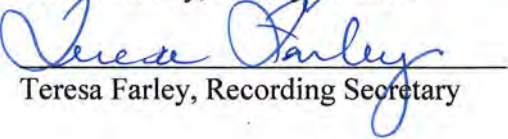
  
\_\_\_\_\_  
Jay Dixon, Chair

  
\_\_\_\_\_  
Annabelle Jaramillo, Commissioner

  
\_\_\_\_\_  
Anne Schuster, Commissioner

Approved as to Form:

  
\_\_\_\_\_  
Vance Croney, County Counsel

  
\_\_\_\_\_  
Teresa Farley, Recording Secretary

**Exhibit 1**  
**Findings of Fact and Conclusions of Law**  
**Amendments to Chapters 51 & 55; File # LU-15-052**

**A. FINDINGS APPLYING DEVELOPMENT CODE CRITERIA**

**Benton County Development Code Provisions for Text Amendment**

**BCC 53.605** On occasion, it may be appropriate to amend sections of the Comprehensive Plan or Development Code to respond to changing policies and conditions, or to clarify the text.

**Findings:** The proposed code amendments prompted by changes to state law are in response to “changing policies and conditions.” Other amendments are to correct or clarify text.

**Conclusion:** The proposed amendments meet the general criteria for consideration.

**BCC 53.610(1)** The Board of [County] Commissioners may initiate an amendment to this code. The Board shall direct the Planning Official to prepare a background report discussing the justification for the proposed text amendment.

**Findings:** The Board of Commissioners directed the Planning Official to initiate these code amendments on August 18, 2015. This staff report and the annotations within the attached code amendments, Attachment A, constitute a background report discussing the justifications for the proposed amendments.

**Conclusion:** The proposed amendments were properly initiated.

**BCC 53.620** The Planning Commission shall conduct a public hearing to review a proposed text amendment. Following the hearing, the Commission shall make a recommendation to the Board to approve, deny, or modify the proposed text amendment.

**Findings:** The Planning Commission conducted a public hearing on October 6, 2015, and forwarded a recommendation that the Board of Commissioners approve the proposed text amendment.

**Conclusion:** The conduct of the hearing complied with the stipulated procedure.

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

**Findings:** The Board of Commissioners held a public hearing on November 3, 2015. The Board accepted the proposed text amendment with one modification. The incorporation of the text amendment proceeded pursuant to the appropriate provisions of the Benton County Charter.

**Conclusion:** The conduct of the public hearing and ordinance adoption process has complied with the procedure stipulated here.

## B. SUMMARY AND CONCLUSION

### **The Board of Commissioners findings and conclusions are:**

The proposed amendment is consistent with the applicable provisions of the Benton County Development Code. The Planning Commission has recommended that the Board of Commissioners adopt the proposed code amendment attached. **The Board of Commissioners concludes that all criteria have been met and approves the Development Code text amendment.**

**Exhibit 2**  
**Development Code Text Amendment**  
**Amendments to Chapters 51 & 55; File # LU-15-052**

Added text is **underlined**.  
Deleted text is **~~struck through~~**.

**Chapter 51**  
**Development Code Administration**

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

...

(13) "Farm use" means the following:

- (a) In only the Exclusive Farm Use, Forest Conservation, and Multi-Purpose Agriculture zones, "farm use" means the current employment of land for the primary purpose of obtaining a profit in money by raising, harvesting and selling crops or the feeding, breeding, management and sale of, or produce of, livestock, poultry, fur-bearing animals, or honeybees, or for dairying and the sale of dairy products or any other agricultural or horticultural use or animal husbandry or any combination thereof. Marijuana, grown commercially pursuant to a license issued by the State of Oregon, is a crop. "Farm Use" includes the preparation, storage and disposal by marketing or otherwise of the products or by-products raised on such land for human or animal use. "Farm use" also includes the current employment of land for the primary purpose of obtaining a profit in money by stabling or training equines including but not limited to providing riding lessons, training clinics and schooling shows. "Farm Use" also includes the propagation, cultivation, maintenance and harvesting of aquatic, bird and other animal species that are under the jurisdiction of the State Fish and Wildlife Commission, to the extent allowed by the rules adopted by the Commission. "Farm use" includes the on-site construction and maintenance of equipment and facilities used for the activities described in this subsection. "Farm use" does not include the use of land subject to the provisions of ORS Chapter 321, except land used exclusively for growing cultured Christmas trees defined in ORS 215.203 (3) or land described in ORS 321.267 (3) or 321.824. A wholesale or retail plant nursery is considered horticultural use and therefore is allowed under this definition.
- (b) In zones other than Exclusive Farm Use, Forest Conservation and Multi-Purpose Agriculture, "farm use" means the current employment of land for the primary purpose of obtaining a profit in money by raising, harvesting and selling crops, or by the feeding, breeding, management and sale of livestock, poultry, fur-bearing animals, or honeybees, or for dairying and the sale of dairy products or any other agricultural or horticultural use or animal husbandry, or any combination thereof.



"Farm Use" includes the preparation and storage of the products raised on such land for human and animal use and disposal by marketing or otherwise. "Farm Use" also includes the propagation, cultivation, maintenance and harvesting of aquatic species to the extent allowed by the rules adopted by the State Fish and Wildlife Commission. It does not include the use of land subject to the provisions of ORS Chapter 321, except land used exclusively for growing cultured Christmas trees or for hardwood species marketable as fiber for manufacturing paper products as described in ORS 321.267(3) or 321.824. Farm use shall be appropriate for the continuation of existing, or the promotion of new, commercial agriculture enterprise in the area.

"Farm use" in zones other than Exclusive Farm Use, Forest Conservation and Multi-Purpose Agriculture nonresource zones is distinguished from the 51.020(13)(a) definition ~~applying to resource zones~~ by the exclusion of:

- (A) "stabling or training equines";
- (B) "bird and other animal species that are under the jurisdiction of the State Fish and Wildlife Commission"; ~~and~~
- ~~(C)~~ "on-site construction and maintenance of equipment and facilities" used for farm use; ~~and~~
- ~~(C)~~(D) "marijuana, grown commercially pursuant to a license issued by the State of Oregon," as a farm crop.

(c) As used in the definition of "farm use",

(A) "Current employment" of land for farm use includes:

- (i) Farmland, the operation or use of which is subject to any farm-related government program;
- (ii) Land lying fallow for one year as a normal and regular requirement of good agricultural husbandry;
- (iii) Land planted in orchards or other perennials, other than land specified in subparagraph ~~(D)~~ of this paragraph, prior to maturity;
- (iv) Land not in an exclusive farm use zone which has not been eligible for assessment at special farm use value in the year prior to planting the current crop and has been planted in orchards, cultured Christmas trees or vineyards for at least three years;
- (v) Wasteland, in an exclusive farm use zone, dry or covered with water, neither economically tillable nor grazeable, lying in or adjacent to and in common ownership with a farm use land and which is not currently being used for any economic farm use;

- (vi) Except for land under a single family dwelling, land under buildings supporting accepted farm practices, including the processing facilities allowed by ORS 215.213 (1)(u) and 215.283 (1)(r) and the processing of farm crops into biofuel as commercial activities in conjunction with farm use under ORS 215.213 (2)(c) and 215.283 (2)(a);
  - (vii) Water impoundments lying in or adjacent to and in common ownership with farm use land;
  - (viii) Any land constituting a woodlot, not to exceed 20 acres, contiguous to and owned by the owner of land specially valued for farm use even if the land constituting the woodlot is not utilized in conjunction with farm use;
  - (ix) Land lying idle for no more than one year where the absence of farming activity is due to the illness of the farmer or member of the farmer's immediate family. For purposes of this paragraph, illness includes injury or infirmity whether or not such illness results in death;
  - (x) Any land described under ORS 321.267 (3) or 321.824 (3); and
  - (xi) Land used for the processing of farm crops into biofuel, as defined in ORS 315.141, if:
    - 1. Only the crops of the landowner are being processed;
    - 2. The biofuel from all of the crops purchased for processing into biofuel is used on the farm of the landowner; or
    - 3. The landowner is custom processing crops into biofuel from other landowners in the area for their use or sale.
- (B) “Accepted farming practice” means a mode of operation that is common to farms of a similar nature, necessary for the operation of such farms to obtain a profit in money, and customarily utilized in conjunction with farm use.
- (C) “Cultured Christmas trees” means trees:
- (i) Grown on lands used exclusively for that purpose, capable of preparation by intensive cultivation methods such as plowing or turning over the soil;
  - (ii) Of a marketable species;
  - (iii) Managed to produce trees meeting U.S. No. 2 or better standards for Christmas trees as specified by the Agriculture Marketing Services of the United States Department of Agriculture; and
  - (iv) Evidencing periodic maintenance practices of shearing for Douglas fir and pine species, weed and brush control and one or more of the

following practices: Basal pruning, fertilizing, insect and disease control, stump culture, soil cultivation, irrigation. {ORS 215.203}

(A)(D) "Preparation" of products or by-products includes but is not limited to the cleaning, treatment, sorting, or packaging of the products or by-products; and

(B)(E) "Products or by-products raised on such land" means that those products or byproducts are raised on the farm operation where the preparation occurs or on other farm land provided the preparation is occurring only on land being used for the primary purpose of obtaining a profit in money from the farm use of the land.

[Ord. 2001-0174, Ord 2006-0214]

\* \* \*

(36) "Marijuana" means the plant Cannabis family Cannabaceae, any part of the plant Cannabis family Cannabaceae and the seeds of the plant Cannabis family Cannabaceae.

"Marijuana" does not include industrial hemp, as defined in ORS 571.300.

(37) "Marijuana crop" means marijuana grown commercially pursuant to a license issued by the State of Oregon.

\* \* \*

~~(564)~~ "Residential facility" means a facility licensed by or under the authority of the Oregon Department of Human Services under ORS 443.400 to 443.460 which provides residential care alone or in conjunction with treatment or training or a combination thereof for six to fifteen individuals who need not be related. Staff persons required to meet Oregon Department of Human ~~Resources Services~~ licensing requirements shall not be counted in the number of facility residents, and need not be related to each other or to any resident of the residential facility.

~~(575)~~ "Residential home" means a home licensed by or under the authority of the Oregon Department of Human Services under ORS 443.400 to 443.825 which provides residential care alone or in conjunction with treatment or training or a combination thereof for five or fewer individuals who need not be related. Staff persons required to meet Oregon Department of Human ~~Resources Services~~ licensing requirements shall not be counted in the number of facility residents, and need not be related to each other or to any resident of the residential home.

## Chapter 55

### Exclusive Farm Use Zone (EFU)

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

...

(2) **Administrative Review.** The following uses are permitted subject to review by the Planning Official pursuant to BCC 53.160.

(a) Farm Stand. A farm stand may be approved if:

~~(A)~~ The farm stand is not used in conjunction with a marijuana crop;

~~(A)~~~~(B)~~ The structures are designed and used for the sale of farm crops or 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 incidental items and fees from promotional activity do not make up more than 25 percent of the total annual sales of the farm stand; and

~~(B)~~~~(C)~~ The farm stand does not include structures designed for occupancy as a residence or for activity other than the sale of farm crops or livestock and does not include structures for banquets, public gatherings or public entertainment.

~~(C)~~~~(D)~~ As used in this section, "farm crops or livestock" includes both fresh and processed farm crops and livestock grown on the farm operation, or grown on the farm operation and other farm operations in the local agricultural area. As used in this subsection, "processed crops and livestock" includes jams, syrups, apple cider, animal products and other similar farm crops and livestock that have been processed and converted into another product but not prepared food items.

~~(D)~~~~(E)~~ As used in this section, "local agricultural area" includes Oregon.

...

#### FARM-RELATED DWELLINGS

**55.109 Farm Related Dwelling on High Value Farmland (\$80,000 Income Test).**

(1) On land identified as high-value farmland pursuant to BCC 55.015(2), one dwelling considered customarily provided in conjunction with farm use may be allowed subject to administrative review by the Planning Official, pursuant to BCC 53.160, for compliance with the following criteria: (Note: there is an alternative ownership history option available under BCC 55.114.)

(a) The subject tract is currently employed for the farm use, on which the farm operator earned at least \$80,000 in gross annual income from the sale of farm products, not including marijuana, 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) In addition to the subject parcel or lot, other parcels or lots in the same ownership may be used to demonstrate the gross farm income required by subsection (a) of this section. If multiple parcels or lots are used, they shall be subject to BCC 55.113. Parcels or lots noncontiguous to the subject tract may be used provided they are zoned for farm use and are located in Benton, Linn, Lane, Lincoln or Polk Counties;

- (c) Except as permitted for seasonal farm worker housing that has been approved pursuant to ORS 215.283(1)(p) (1999 Edition), there is no other dwelling on lands zoned Exclusive Farm Use or Multi-Purpose Agriculture owned by the farm or ranch operator or on the farm or ranch operation; and
- (d) The dwelling will be occupied by a person or persons who produced the commodities that grossed the income in BCC 55.109(1)(a);
- (e) In determining the gross income required by BCC 55.109(1)(a):
  - (A) Gross income only from land zoned EFU and/or MPA, and owned by the farm or ranch operation, not leased or rented, shall be counted;
  - (B) The cost of purchased livestock shall be deducted from the total gross income; and
  - (C) Gross farm income earned from a lot or parcel that has been used previously to qualify another lot or parcel for the construction or siting of a primary farm dwelling may not be used.
- (f) The subject parcel or lot is lawfully established; and [Ord 94-0108]
- (g) The landowner shall sign a covenant as required by BCC 55.405(6).
- (g)(h) The subject tract is not employed in the growing of a marijuana crop.

[Ord 2001-0174; Ord 2006-0214; Ord 2015-0268] {OAR 660-033-0135(3)}

#### **55.110 Farm Related Dwelling on 160 Acres or More of Non-High-Value Farmland.**

- (1) One farm related dwelling may be permitted on land identified as non-high value pursuant to BCC 55.015(2), subject to administrative review by the Planning Official pursuant to BCC 53.160 for compliance with the following criteria:
  - (a) The parcel or lot on which the dwelling will be located is lawfully established, is at least 160 acres, and not designated as rangeland;
  - (b) The subject property is currently employed in farm use;
  - (c) The dwelling will be occupied by a person or persons who will be principally engaged in the farm use of the land, such as planting, harvesting, marketing or caring for livestock, at a commercial scale; and
  - (d) Except as provided for seasonal farm worker housing approved pursuant to ORS 215.283(1)(p) (1999 Edition), there is no other dwelling on the subject tract. [Ord 94-0108]
  - (e) The landowner shall sign a covenant as required by BCC 55.405(6).
  - (f) The subject tract is not employed in the growing of a marijuana crop.

[Ord 94-0108; Ord 2001-0174; Ord 2006-0214; Ord 2015-0268] {OAR 660-033-0135(1)}

#### **55.111 Commercial Dairy Farm Dwelling.**

- (1) One farm-related dwelling may be permitted on a lawfully established parcel or lot in conjunction with a commercial dairy farm, as defined by subsection (2) of this section, subject to administrative review by the Planning Official pursuant to BCC 53.160 for compliance with the following criteria:
  - (a) The subject tract will be employed as a commercial dairy as defined by subsection (2) of this section;

- (b) The dwelling is sited on the same lot or parcel as the buildings required by the commercial dairy;
  - (c) Except as permitted for seasonal farm worker housing approved pursuant to ORS 215.283(1)(p) (1999 Edition), there is no other dwelling on the subject tract;
  - (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;
  - (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:
    - (A) A permit for a "confined animal feeding operation" under ORS 468B.050 and 468B.200 to 468B.230; and
    - (B) A Producer License for the sale of dairy products under ORS 621.072.
  - (g) The subject tract is not employed in the growing of a marijuana crop.
- (2) "Commercial dairy farm" is a dairy operation that owns a sufficient number of producing dairy animals capable of earning the gross annual income required by BCC 55.109(1)(a) or 55.112(1)(a), whichever is applicable, from the sale of fluid milk.

[Ord 2006-0214; Ord 2015-0268] {OAR 660-033-0135(7)}

**55.112 Farm Related Dwelling on Non-High-Value Farmland (\$40,000 Income Test).**

- (1) One farm related dwelling may be permitted on land identified as non-high value farmland pursuant to BCC 55.015(2), subject to administrative review by the Planning Official pursuant to BCC 53.160 for compliance with the following criteria: (Note: there is an alternative ownership history option available under BCC 55.114.)
  - (a) The subject tract is currently employed for the farm use, on which, 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, the farm operator earned the lower of the following:
    - (A) At least \$40,000 in gross annual income from the sale of farm products, not including marijuana; or
    - (B) Gross annual income of at least the midpoint of the median income range of gross annual sales for farms in the county with gross annual sales of \$10,000 or more according to the 1992 Census of Agriculture, Oregon; and
  - (b) In addition to the subject parcel or lot, other parcels or lots in the same ownership may be used to demonstrate the gross farm income required by subsection (a) of this section. If multiple parcels or lots are used, they shall be subject to BCC 55.113. Parcels or lots noncontiguous to the subject tract may be used provided they are zoned for farm use and are located in Benton, Linn, Lane, Lincoln or Polk Counties;
  - (c) Except as permitted for seasonal farm worker housing approved pursuant to ORS 215.283(1)(p) (1999 Edition), there is no other dwelling on lands zoned Exclusive Farm Use or Multi-Purpose Agriculture owned by the farm or ranch operator or on the farm or ranch operation;
  - (d) The dwelling will be occupied by a person or persons who produced the commodities that grossed the income in BCC 55.112(1)(a);

- (e) In determining the gross income required by BCC 55.112(1)(a):
  - (A) Only gross income from land owned, not leased or rented, shall be counted;
  - (B) The cost of purchased livestock shall be deducted from the total gross income attributed to the farm or ranch operation;
  - (C) Gross farm income earned from a lot or parcel that has been used previously to qualify another lot or parcel for the construction or siting of a primary farm dwelling may not be used. [Ord 94-0108]
- (f) The subject parcel or lot is lawfully established; and
- (g) The landowner shall sign a covenant as required by BCC 55.405(6).
- ~~(g)~~(h) The subject tract is not employed in the growing of a marijuana crop.

[Ord 2001-0174; Ord 2006-0214; Ord 2015-0268] {OAR 660-033-0135(4) and (5)}

...

## ACCESSORY FARM DWELLINGS

### 55.115 Accessory Farm–Related Dwellings for Year-Round and Seasonal Farmworkers.

- (1) Accessory farm-related dwellings may be permitted on a legally established parcel or lot, subject to administrative review by the Planning Official pursuant to BCC 53.160, if each accessory dwelling meets all the following requirements:
  - (a) The subject property and contiguous property in the same ownership are in farm use;
  - (b) The accessory dwelling will be occupied by a person or persons who will be principally engaged in the farm use of the land and whose 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 primary farm operator; [Ord 2009-0232]
  - (c) The accessory dwelling will be located:
    - (A) On the same lot or parcel as the dwelling of the primary farm operator; or
    - (B) On the same tract as the primary farm dwelling if the lot or parcel on which the accessory farm dwelling will be sited is consolidated with the other lots and parcels in the tract into a single parcel or lot when the dwelling is allowed; or
    - (C) On a lot or parcel on which the primary farm dwelling is not located, when the accessory farm dwelling is limited to a manufactured dwelling with a deed restriction. The deed restriction shall be filed in the Benton County Deed Records and shall require the manufactured dwelling to be removed when the lot or parcel is conveyed to another party. The manufactured dwelling may remain if it is reapproved under these rules; or
    - (D) On any lot or parcel, 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 farm or ranch operations 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 this subparagraph shall be removed, demolished or converted to a nonresidential use when farmworker housing is no longer required. “Farmworker housing” means housing limited to occupancy by farmworkers and their immediate families; no dwelling unit may be occupied by a relative of the owner or operator of the farmworker

housing. Housing for a relative of the farm operator may be approved pursuant to BCC 55.120. "Relative" means a spouse of the owner or operator or an ancestor, lineal descendant or whole or half sibling of the owner or operator or the spouse of the owner or operator. Or,

- (E) On a lot or parcel on which the primary farm dwelling is not located, when the accessory farm dwelling is located on a lot or parcel at least the size of the applicable minimum lot size under ORS 215.780 and the lot or parcel complies with the gross farm income requirements in BCC 55.109(1)(a) or 55.112(1)(a), whichever is applicable.
- (d) There is no other dwelling on the lands designated for exclusive farm use owned by the farm operator that is vacant or currently occupied by persons not working on the subject farm or ranch and that could reasonably be used as an accessory farm dwelling;
- (e) The principal farm dwelling to which the proposed dwelling would be accessory meets one of the following:
  - (A) On land not identified as high-value farmland, the primary farm dwelling is located on a tract that is currently employed for farm use, as defined in ORS 215.203, on which, 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, the farm operator earned the lower of the following:
    - (i) At least \$40,000 in gross annual income from the sale of farm products, not including marijuana. In determining the gross income, the cost of purchased livestock shall be deducted from the total gross income attributed to the tract; or
    - (ii) Gross annual income of at least the midpoint of the median income range of gross annual sales for farms in the county with gross annual sales of \$10,000 or more according to the 1992 Census of Agriculture, Oregon. In determining the gross income, the income from the sale of marijuana and the cost of purchased livestock shall be deducted from the total gross income attributed to the tract; or
  - (B) On land identified as high-value farmland, the primary farm dwelling is located on a tract 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, not including marijuana, 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. In determining the gross income, the cost of purchased livestock shall be deducted from the total gross income attributed to the tract; or
  - (C) It is located on a commercial dairy farm as defined by BCC 55.111(2); and
    - (i) The building permits, if required, have been issued and construction has begun or been completed for the buildings and animal waste facilities required for a commercial dairy farm; and
    - (ii) The Oregon Department of Agriculture has approved a permit for a "confined animal feeding operation" under ORS 468B.050 and 468B.200 to 468B.230; and
    - (iii) A Producer License for the sale of dairy products under ORS 621.072.
  - (f) The landowner shall sign a covenant as required by BCC 55.405(6), and, if applicable, BCC 55.113.



(f)(g) The subject tract is not employed in the growing of a marijuana crop.

- (2) The governing body shall not approve a division of land that would separate the accessory farm dwelling approved pursuant to BCC 55.115 from the parcel or lot on which the dwelling of the farm operator is located, unless the dwelling meets the criteria for a principal farm related dwelling.
- (3) An accessory farm dwelling approved pursuant to this section cannot later be used to satisfy the requirements for a dwelling not provided in conjunction with farm use pursuant to BCC 55.220.
- (4) For the purposes of OAR 660-033-0130(24), "accessory farm dwelling" includes all types of residential structures allowed by the applicable state building code."

[Ord 26, Ord 90-0069; Ord 94-0108; Ord 2001-0174; Ord 2006-0214; Ord 2009-0232; Ord 2015-0268] {OAR 660-033-0130(24)}

### **55.120 Farm-Help Dwelling for a Relative of the Farm Operator.**

- (1) One farm-related dwelling may be permitted on a lawfully established parcel or lot, subject to administrative review by the Planning Official pursuant to BCC 53.160 for compliance with the following criteria:
  - (a) The dwelling will be located on property used for farm use;
  - (b) The dwelling will be located on the same lot or parcel as the dwelling of the farm operator, and occupied by a 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 of the existing commercial farming operation (not including marijuana) is required by the farm operator;
  - (c) The farm operator shall continue to play the predominant role in the management and farm use of the farm. For purposes of this section, a farm operator is a person who operates a farm, doing the work and making the day-to-day decisions about such things as planting, harvesting, feeding and marketing.
  - (d) Notwithstanding ORS 92.010 to 92.192 or the minimum lot or parcel requirements of the zone, if the owner of a dwelling described in this section obtains construction financing or other financing secured by the dwelling and the secured party forecloses on the dwelling, the secured party may also foreclose on the "homesite," as defined in ORS 308A.250, and the foreclosure shall operate as a partition of the homesite to create a new parcel. Prior conditions of approval for the subject land and dwelling remain in effect. For the purpose of this section, "foreclosure" means only those foreclosures that are exempt from partition under ORS 92.010(7)(a).
  - (e) The landowner shall sign a covenant as required by BCC 55.405(6).
  - (f) For the purpose of BCC 55.120(d), "foreclosure" means only those foreclosures that are exempt from partition under ORS 92.010(9)(a).
  - (g) The subject tract is not employed in the growing of a marijuana crop.

...

### **CONDITIONAL USES**

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

...

(2) Commercial activity in conjunction with farm use, subject to the following:

(a) A commercial activity shall not be permitted when carried on in conjunction with a marijuana crop; and

(a)(b) A commercial activity may includeing, but is not limited to:

- (A) The processing of farm crops into biofuel not permitted under BCC 55.106(1)(b); or
- (B) A winery, if the winery:
  - (i) Does not qualify for siting under BCC 55.150(1) or ORS 215.453; or
  - (ii) Seeks to carry out uses or activities that are not authorized by BCC 55.150 or ORS 215.453.
  - (iii) For a winery authorized pursuant to this section after June 28, 2013, the gross income of the winery from any activity other than the production or sale of wine may not exceed 25 percent of the gross income from the on-site retail sale of wine produced in conjunction with the winery. The gross income of a winery does not include income received by third parties unaffiliated with the winery. [Ord 2001-0174; 2006-0214; 2009-0232; 2015-0268]

...

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

\* \* \*

**BEFORE THE BOARD OF COMMISSIONERS OF BENTON COUNTY  
STATE OF OREGON**

**In the Matter of Amending the Benton )  
County Development Code Chapters 66, )  
70, 72, 74, 75, 76, 78, & 91. )**

**ORDINANCE No. 2015-0271**

**WHEREAS**, Oregon Ballot Measure 91 (2014) as modified by Oregon House Bill 3400 (2015) decriminalizes recreational marijuana and establishes procedures by which persons may obtain state licenses to produce, process, wholesale or retail marijuana; and

**WHEREAS**, determination of appropriate zones and standards for land uses related to the commercial production, processing, wholesaling or retailing of marijuana will requires a thoughtful and deliberate consideration of the issues and public input, which is not possible prior to the effective date of House Bill 3400; and

**WHEREAS**, the proposed amendment will allow commercial marijuana land uses to proceed in the most appropriate zones while prohibiting such uses in other zones until the County is able to adequately research the issues and gather public input; and

**WHEREAS**, the proposed amendment will clarify, correct, and/or increase consistency with other sections of Benton County Development Code and with statute and administrative rules of the State of Oregon; and

**WHEREAS**, the proposed amendment will improve efficiency and promote sound land use decisions; and

**WHEREAS**, the Benton County Planning Commission held a duly advertised public hearing on October 6, 2015, and voted to recommend that the Board of Commissioners approve the attached Development Code amendment; and

**WHEREAS**, the Benton County Board of Commissioners held a duly advertised public hearing on November 3, 2015, to receive testimony from the public and to consider the request; and

**WHEREAS**, the Benton County Board of Commissioners finds that the proposed Development Code amendment complies with the criteria of Benton County Development Code; and

**WHEREAS**, the Benton County Board of Commissioners has considered the staff report, the recommendation of the Benton County Planning Commission, and the record as a whole. The Board of Commissioners deliberated and approved the proposed amendment to the Development Code and conducted the First Reading of the proposed Ordinance on November 3, 2015; and

**WHEREAS**, the Benton County Board of Commissioners conducted the Second Reading of the proposed Ordinance on November 24, 2015.

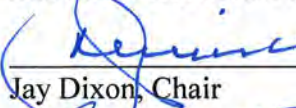
NOW THEREFORE, THE BOARD OF COUNTY COMMISSIONERS OF BENTON COUNTY ORDAINS AS FOLLOWS:

- PART I:** Short Title. Amendment to the Benton County Development Code Chapters 66, 70, 72, 74, 75, 76, 78, & 91.
- PART II:** Authority. The Board of County Commissioners of Benton County has authority to amend the Development Code pursuant to ORS Chapter 215 and the Benton County Charter.
- PART III:** The Development Code amendment proposed in Planning File No. LU-15-052 is hereby approved, based on the Findings of Fact and Conclusions of Law contained in the attached "Exhibit 1" and hereby adopted and incorporated herein.
- PART IV:** Benton County Development Code is hereby amended as shown in "Exhibit 2."
- PART V:** The effective date for this amendment to the Benton County Development Code will be:

First Reading: November 3, 2015  
Second Reading: November 24, 2015  
Effective Date: December, 2015

**PART VI:** These amendments shall be reviewed by the Board of Commissioners not later than December 31, 2017.

**BENTON COUNTY BOARD OF COMMISSIONERS**

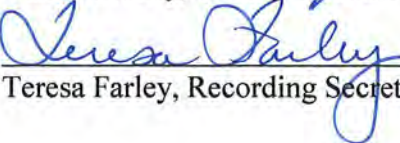
  
\_\_\_\_\_  
Jay Dixon, Chair

  
\_\_\_\_\_  
Annabelle Jaramillo, Commissioner

  
\_\_\_\_\_  
Anne Schuster, Commissioner

Approved as to Form:

  
\_\_\_\_\_  
Vance Croney, County Counsel

  
\_\_\_\_\_  
Teresa Farley, Recording Secretary

**Exhibit 1**  
**Findings of Fact and Conclusions of Law**  
**Amendments to Chapters 66, 70, 72, 74, 75, 76, 78, & 91; File # LU-15-052**

**A. FINDINGS APPLYING DEVELOPMENT CODE CRITERIA**

**Benton County Development Code Provisions for Text Amendment**

**BCC 53.605** On occasion, it may be appropriate to amend sections of the Comprehensive Plan or Development Code to respond to changing policies and conditions, or to clarify the text.

**Findings:** The proposed code amendments prompted by changes to state law are in response to “changing policies and conditions.” Other amendments are to correct or clarify text.

**Conclusion:** The proposed amendments meet the general criteria for consideration.

**BCC 53.610(1)** The Board of [County] Commissioners may initiate an amendment to this code. The Board shall direct the Planning Official to prepare a background report discussing the justification for the proposed text amendment.

**Findings:** The Board of Commissioners directed the Planning Official to initiate these code amendments on August 18, 2015. This staff report and the annotations within the attached code amendments, Attachment A, constitute a background report discussing the justifications for the proposed amendments.

**Conclusion:** The proposed amendments were properly initiated.

**BCC 53.620** The Planning Commission shall conduct a public hearing to review a proposed text amendment. Following the hearing, the Commission shall make a recommendation to the Board to approve, deny, or modify the proposed text amendment.

**Findings:** The Planning Commission conducted a public hearing on October 6, 2015, and forwarded a recommendation that the Board of Commissioners approve the proposed text amendment.

**Conclusion:** The conduct of the hearing complied with the stipulated procedure.

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

**Findings:** The Board of Commissioners held a public hearing on November 3, 2015. The Board accepted the proposed text amendment with one modification. The incorporation of the text amendment proceeded pursuant to the appropriate provisions of the Benton County Charter.

**Conclusion:** The conduct of the public hearing and ordinance adoption process has complied with the procedure stipulated here.

## **B. SUMMARY AND CONCLUSION**

### **The Board of Commissioners findings and conclusions are:**

The proposed amendment is consistent with the applicable provisions of the Benton County Development Code. The Planning Commission has recommended that the Board of Commissioners adopt the proposed code amendment attached. **The Board of Commissioners concludes that all criteria have been met and approves the Development Code text amendment.**

**Exhibit 2**  
**Development Code Text Amendment**  
**Amendments to Chapters 66, 70, 72, 74, 75, 76, 78, & 91; File # LU-15-052**

Added text is **underlined**.  
Deleted text is **~~struck through~~**.

**Chapter 66**

**Village Residential Zone (VR)**

**66.005 Purpose.** The Village Residential Zone shall provide areas within Benton County where rural village lifestyles can occur within recognized and planned Rural Unincorporated Communities (RUCs). This zone shall recognize the rural village character of RUCs, and the need for greater flexibility to allow these communities to maintain their viability. [Ord 2008-0226]

**66.010 Application.** The Village Residential Zone shall apply to areas outside urban areas on land that is within the boundaries of recognized and planned ~~Rural Unincorporated Communities~~RUCs.

...

**66.105 Permitted Uses.** The following uses are allowed in the Village Residential Zone, after notification of the Community Development Department:

- (1) Farm or forest use.
- (2) One dwelling per parcel. For the purposes of this section, “dwelling” includes a manufactured dwelling that complies with the manufactured dwelling standards in BCC 91.505 to 91.510, as well as all other applicable requirements of BCC Chapter 91.
- (3) Residential home.
- (4) Day care for fewer than thirteen children.
- (6) Home occupation.
- (5) One manufactured dwelling in conjunction with an existing dwelling as a temporary use for the term of a hardship suffered by the existing resident or a relative of the resident, subject to the terms and conditions set forth in BCC 91.545 and 91.550. The hardship manufactured dwelling shall comply with all other applicable requirements of BCC Chapter 91, except the additional placement standards of BCC 91.510 shall not apply.
- (7) Accessory use or structure without a legally established primary structure or use. .
- (8) Undeveloped open space.

- (9) Bed and Breakfast establishments or inns limited to 35 rooms or less.
- (10) Roadside stands for produce or nursery products grown on the premises, and/or foods prepared on the premises.
- (11) Art or craft gallery in a building or buildings not exceeding 4,000 square feet.
- (1412) Cottage Industry, not including the commercial growing, processing, wholesaling or retailing of marijuana.

(DEFINITION: COTTAGE INDUSTRY: A business or business-related activity that is carried on within either a dwelling or a building accessory to that dwelling, which employs no more than two people in addition to those residing in the dwelling, and which has limited impacts on the surrounding properties. Deliveries and customer visitations are limited to the hours between 8:00 a.m. and 6:00 p.m. Outdoor storage is allowed if it is similar to what legally occurs in the neighborhood, and accessory structures conform to the character of the neighborhood. Signs up to six (6) square feet are allowed.)

**CONDITIONAL USES**

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

*[66.205(1) through (9) will remain unchanged and have not been included]*

- (10) Any use -not listed here, but similar to the uses listed above, if it can be determined by the Planning Official to meet the Conditional Use criteria, not including the commercial growing, processing, wholesaling or retailing of marijuana.
- (11) Any use listed in section 75.105, and 75.110, Village Commercial permitted uses, not including the commercial growing, processing, wholesaling or retailing of marijuana.

**MINIMUM PARCEL OR LOT SIZES**

**66.305 Minimum Parcel or Lot Size.** The minimum parcel or lot size shall be 5000 square feet.

- (1) A planned unit development (PUD) may be approved in the Village Residential zone, pursuant to the provisions of BCC Chapter 98 as modified by this subsection:
  - (a) None of the new lots or parcels shall be smaller than 5000 square feet;
  - (b) The development shall be served by the community water and sewer system; and-
  - (c) For any open space or common area provided as a part of the PUD under this subsection, the owner shall submit proof of irrevocable deed restrictions recorded in the deed records. The deed restrictions shall preclude all future rights to construct a



dwelling on the lot, parcel, or tract designated as open space or common area for as long as the lot, parcel, or tract remains outside an urban growth boundary.

\* \* \*

## Chapter 70

### Rural Commercial Zone (RC)

...

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

- (a) Lakepark Entertainment Center [~~Ord 2003-0185~~; Ord 2003-0184, Ord 2007-0222]

**70.105 Permitted Uses.** The following uses are allowed in the Rural Commercial Zone:

- (1) Farm use or forest use.
- (2) Sale of farm products produced in the surrounding rural area.
- (3) One dwelling required for the employer or employee for management or safeguarding of the commercial use.
- (4) Residential home.
- (5) One manufactured dwelling in conjunction with an existing dwelling as a temporary use for the term of a hardship suffered by the existing resident or a relative of the resident.
- (6) Accessory use or structure. [Ord 2007-0222]

#### 110. Permitted Uses – Limited Scale.

- (1) The following uses are allowed in the Rural Commercial Zone, provided the use meets the standards of subsection (2) of this section:
  - (b) Professional office, clinics and personal service outlet.
  - (c) Restaurant, tavern, motel, hotel, and membership clubs.
  - (d) Service station.
  - (e) Sale of goods.
  - (f) Stand-alone vehicle parking lot (limited to 4,000 square feet).
  - (g) Day care for fewer than thirteen children.
- (2) A use allowed pursuant to this section shall be limited to the following square footage of floor space within one or more buildings:
  - (a) 4,000 square feet within an unincorporated community as designated in the Comprehensive Plan; or

(b) 3,500 square feet outside unincorporated communities.

[Ord 26, Ord 90-0069, Ord 2007-0222]

...

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

- (1) Public or private school.
- (2) One dwelling.
- (3) Radio or communication tower and accessory facilities, consistent with the size limits of BCC 70.110(2).
- (4) On land in the Rural Commercial zone located inside a designated unincorporated community, any use allowed outright, with limited scale, or conditionally, pursuant to BCC Chapter 74 (Rural Industrial zone) may be authorized as a conditional use-, not including the commercial growing or processing of marijuana.

[Ord 26, Ord 90-0069, Ord 2007-0222]

\* \* \*

## Chapter 72

### Urban Industrial Zone (UI)

...

**72.105 Permitted Uses.** The following uses are allowed in the Urban Industrial Zone:

- (1) Research facility, testing laboratory and facility for the manufacturing, processing and/or assembling of products, provided a permit is not required from the Oregon Department of Environmental Quality.
- (2) Vehicle and manufactured dwelling sales and/or repair.
- (3) Transportation terminals and warehouses.
- (4) Vocational school.
- (5) Aggregate processing, and concrete and asphalt batch plants.
- (6) Outside storage of materials, except junkyards as defined in BCC 51.020.
- (7) One dwelling required for the employer or employee for management or safeguarding of the industrial use.
- (8) Farm use and forest use.
- (9) Accessory use or structure.

(10) Commercial growing, processing, or wholesaling of marijuana pursuant to a license issued by the State of Oregon. Processing that requires a permit from the Oregon Department of Environmental Quality shall be reviewed as a conditional use pursuant to BCC 72.205(1).

[Ord 26, Ord 90-0069, Ord 2001-0172, Ord 2007-0222]

**72.205 Conditional Uses.**

(1) A research facility, correctional and law enforcement facilities, junkyard, or testing laboratory or facility for the manufacturing, fabrication, processing or assembly of products which requires a permit from the Oregon Department of Environmental Quality may be allowed in the Industrial Zone by conditional use permit approved by the Planning Official. The decision to approve a conditional use permit shall be based on findings that the public health and safety will not be substantially affected by the proposed use when considering smoke, dust, odor, gas, fumes, glare, vibration, noise, water pollution, radiation hazard or other noxious impacts.

...

(10) Off-street parking and loading comply with BCC 91.605 to 91.6650.

\* \* \*

**Chapter 74**  
**Rural Industrial Zone (RI)**

...

**74.105 Permitted Uses.** The following uses are allowed in the Rural Industrial Zone:

- (1) Farm use and forest use.
- (2) Primary processing of farm or forest products produced in the surrounding rural area.
- (3) Outside storage of materials related to resource use in the surrounding rural area. Junkyards shall not be allowed.
- (4) One dwelling required for the employer or employee for management or safeguarding of the industrial use.
- (5) Aggregate processing, and concrete and asphalt batch plants, provided the material processed is mined in the local area. Note that mining in the RI zone is a conditional use.
- (5)(6) Commercial growing, processing, or wholesaling of marijuana pursuant to a license issued by the State of Oregon. Processing that requires a permit from the Oregon Department of Environmental Quality shall be reviewed as a conditional use pursuant to BCC 74.205(1).

[Ord 2007-0222]

**74.110 Permitted Uses – Limited Scale.**

- (1) The following uses are allowed in the Rural Industrial Zone, provided the use meets the standards of subsection (2) of this section:
  - (a) Research facility, testing laboratory and facility for the manufacturing, processing and/or assembling of products, provided a permit is not required from the Oregon Department of Environmental Quality.
  - (b) Vehicle and manufactured dwelling sales and/or repair.
  - (c) Transportation terminals and warehouses.
  - (d) Vocational school.
  - (e) Aggregate processing, and concrete and asphalt batch plants not authorized under BCC 74.105(5).
  - (f) Accessory use or structure.
  - (g) Outside storage of materials. Junkyards, as defined in BCC 51.020, shall not be allowed.
  - (g)(h) Commercial processing not permitted by 74.105(2), and wholesaling of marijuana pursuant to a license issued by the State of Oregon.

[Ord 26, Ord 90-0069, Ord 2001-0172]

- (2) Uses allowed pursuant to this section shall be limited to the following square footage of floor space within one or more buildings (including outside storage of materials):

(h)(i) 40,000 square feet within an unincorporated community as designated in the Comprehensive Plan;

(i)(i) 35,000 square feet outside unincorporated communities.

- (3) A larger use may be permitted through a conditional use permit approved by the Planning Official pursuant to BCC 53.205 through 53.235 and 55.215. Additional findings shall demonstrate that the site can safely accommodate the on-site sewage disposal needs and provide adequate water supply for the proposed use.

[Ord 2007-0222]

...

**74.205 Conditional Uses.** The following uses are allowed pursuant to BCC ~~55~~53.205 through ~~55~~53.235, and are subject to the size limitations of BCC 74.110(2) and (3).

(1) A research facility, correctional and law enforcement facilities, junkyard, or testing laboratory or facility for the manufacturing, fabrication, processing or assembly of products which requires a permit from the Oregon Department of Environmental Quality may be allowed in the Rural Industrial Zone by conditional use permit approved by the Planning Official. The decision to approve a conditional use permit shall be based on findings that the public health and safety will not be substantially affected by the proposed use when considering smoke, dust, odor, gas, fumes, glare, vibration, noise water pollution, radiation hazard or other noxious impacts.

(2) Mining of aggregate or mineral resources may be allowed in the Rural Industrial Zone by conditional use permit approved by the Planning Commission, pursuant to BCC 53.215 through 53.235. In addition to the conditional use criteria of BCC 53.215, approval requires the Planning Commission make the following findings:

- (a) Mining will not significantly diminish the ability of the land to be used for other industrial uses in the future; and
- (b) The mined land will be reclaimed to a topographic character and stability comparable to, or more conducive to general, non-mining industrial uses than, the characteristics existing prior to mining.

(3) Radio or communication tower and accessory facilities.

(4) On land in the Rural Industrial ~~zone~~Zone located inside a designated unincorporated community, any use allowed outright, with limited scale, or conditionally, pursuant to BCC Chapter 70 (Rural Commercial ~~zone~~Zone) may be authorized as a conditional use.

[Ord 26, Ord 90-0069, Ord 99-0146, Ord 2001-0172, Ord 2007-0222]

\* \* \*

## Chapter 75

### Village Commercial Zone (VC)

**75.005 Purpose.** The Village ~~Residential-Commercial~~ Zone shall provide areas within Benton County where commercial activities that support the local and traveling public can occur within recognized and planned Rural Unincorporated Communities (RUC). This zone shall recognize the rural village character of RUCs, the existing patterns of development, and the need for greater flexibility to allow these communities to maintain their viability. [Ord 2008-0226]

...

#### **75.110 Permitted Uses – Limited Scale.**

(1) The following uses are allowed in the Village Commercial Zone, provided the use does not exceed 4,000 square feet of floor space within one or more buildings:

...

(d) General and specialty retail trade establishments, except for the retail of marijuana.

...

#### **75.120 Existing Uses.**

(1) A lawfully established commercial use existing as of July 10, 2008 in the ~~VC zone~~Village Commercial Zone shall be —considered an outright permitted use and shall not be classified as a nonconforming use. The total —square footage, in one or more buildings, devoted to such an existing lawfully established —commercial use may be expanded to a maximum of 4,000 square feet or an additional 25% of the floor area occupied on July 10, 2008, whichever is greater. The nonconforming use provisions of —BCC 53.305 through 53.335 shall not apply.

...

(3) All other lawfully established uses existing as of July 24, 2008 0, 2008 in the ~~VC zone~~Village Commercial Zone shall be —considered nonconforming uses subject to the provisions of BCC 53.305 through 53.335.

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

(1) Public or private school.

(2) Hospital, sanitarium, rest home, and nursing home.

(3) Light industry, not including the commercial growing, ~~or processing,~~ or wholesaling of marijuana.

(Definition: LIGHT INDUSTRY: A business having noise, dust, odor, light, traffic, and hazard impacts that are similar to those experienced in general business areas. Outdoor storage is screened with sight-obscuring fences.)

- (4) Multi-Family Dwelling.
- (5) Tower for utility, communications, wind energy, or structures having similar impacts.
- (6) Recreational facility such as campground, stable, or skating rink.
- (7) Mixed-use development providing a combination of residential and commercial uses, in which each commercial use meets the size limitations of BCC 75.110.
- (8) Any use listed in section 66.105, Village Residential Zone permitted uses.

\* \* \*



## Chapter 76

### Agricultural Industrial Zone (AI)

...

**76.105 Permitted Uses.** The following uses are allowed in the Agricultural Industrial Zone:

- (1) Agriculture related warehousing, packing, processing, or cold storage.
- (2) Sales, service, and storage of agriculture related vehicles and accessories and products required for farm use.
- (3) Winery.
- (4) One dwelling required for the employer or employee for management or safeguarding of the industrial use.
- (5) Farm use.
- (6) Forest use.
- (7) Accessory use or structure.

(8) Commercial growing, processing, or wholesaling of marijuana pursuant to a license issued by the State of Oregon. [Ord 26, Ord 90-0069]

**76.205 Conditional Uses.** The following industrial uses may be allowed in the Agricultural Industrial Zone by conditional use permit approved by the Planning Official. [Ord 90-077]

- (1) Other agricultural related industrial uses which are not permitted pursuant to BCC 76.105.
- (2) The primary processing of forestry products including but not limited to the production of wood chips, veneer, or dimensional lumber. [Ord 90-0077]
- (3) The warehousing of forest products including but not limited to the storage of saw logs, dimensional lumber, other primary wood products or wood by-products. [Ord 26, Ord 90-0069, Ord 90-0077]

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## Chapter 78

### Public Zone (P)

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**78.105 Permitted Uses.** The following uses are allowed in the Public Zone:

- (1) Farm use.
- (2) Forest use.
- (3) Public school, including a college or university and associated research facilities.
- (4) Public park, natural area, open space or acquisition of greenway corridor.
- (5) Fairgrounds.
- (6) Water supply, water treatment facility, wastewater treatment facility, reservoir and other related facilities.
- (7) Biological research facility.
- (8) Airport and related facilities.
- (9) Accessory use or structure.
- (10) Caretaker dwellings in conjunction with a permitted use. [Ord 26, Ord 90-0069, Ord 2005-0209, Ord 2005-0210]

**78.205 Conditional Uses.** Any use, not including the commercial growing, processing, wholesaling or retailing of marijuana, which is not permitted within the Public Zone is allowed by conditional use permit approved by the Planning Official. [Ord 26, Ord 90-0069]

**78.305 Minimum Parcel or Lot Size.**

- (1) The minimum parcel or lot size for any parcel or lot designated "P-50" on the Official Zoning Map shall be fifty (50) acres.
- (2) The minimum parcel or lot size for all other land in the Public Zone within the Corvallis Urban Growth Boundary shall be five (5) acres. [Ord 90-0069, Ord 96-0118]

**78.405 Siting Standards.** All structures allowed in the Public Zone shall be sited in compliance with the applicable provisions of BCC Chapters 83, BCC Chapter 88 (when located within the Corvallis Urban Fringe), BCC Chapter 99, and the following additional standards in instances when they are more restrictive than the provisions of BCC Chapters 83, 88, and 99, as applicable:

- (1) A primary structure shall be placed at least thirty (30) feet from a property line and at least forty-five (45) feet from the edge of an existing roadway, whichever is greater. Architectural features shall not project more than two (2) feet into a required setback.
- (2) An accessory structure shall not be placed closer than twenty (20) feet from any property line. No setback is required for an accessory structure of 120 square feet or less. A side or rear setback for an accessory structure may be reduced to three (3) feet if the structure:

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

- (3) A structure shall not exceed forty (40) feet in height. Structures such as chimneys, spires, domes, elevator shaft housings, towers, aeriels, flagpoles, agricultural buildings, and other similar objects not used for human occupancy are not subject to the building height limitations of this code.
- (4) A structure which is not a water dependent use shall be placed at least fifty (50) feet from the ordinary high water line of any river or major stream. In the case of a creek or minor stream, a structure which is not a water dependent use shall be placed at least twenty-five (25) feet from the ordinary high water line. [Ord 26, Ord 90-0069, Ord 92-0092, Ord 2005-0209, Ord 2005-0210]

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## Chapter 91

### Specific Use Standards

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#### HOME OCCUPATIONS

##### 91.200 General Provisions.

(1) In addition to the requirements of BCC 55.205, 60.205, or 89.400, every home occupation shall conform to the applicable standards of BCC 91.205, 91.210, or 91.215 as determined by parcel or lot size. [Ord 96-0119]

(2) Home occupations in all zones shall not be approved for the commercial growing, processing wholesaling or retailing of marijuana.

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**91.210 Home Occupation on a Parcel or Lot of One to Five Acres.** Every home occupation shall conform to the following:

(1) Occupy no more than twenty-five percent (25%) of the total floor area of the residence or 750 square feet of gross floor area of an accessory structure;

(2) Limit activities to the extent that traffic generated by the occupation shall not exceed ten (10) trips per day;

(3) Produce no noise or obnoxious odors, vibrations, glare, or fumes detectable to normal sensory perception outside the structure;

(4) Employ no more than one person in addition to those who reside in the household;

(5) Home occupations with outside storage of materials, goods, supplies, or equipment are allowed provided it is screened from view of adjacent lands and rights-of-way; and

(6) Home occupations conducted outside the home require a permit that shall be renewed every two years. [Ord 96-0119]

**91.215 Home Occupation on a Parcel or Lot Greater Than Five Acres.** Every home occupation shall conform to the following:

(1) Occupy no more than twenty-five percent (25%) of the total floor area of the residence or 2000 square feet of gross floor area of an accessory structure;

(2) Limit activities to the extent that traffic generated by the occupation shall not exceed ten (10) trips per day;

(3) Produce no noise or obnoxious odors, vibrations, glare, or fumes detectable to normal sensory perception outside the structure;

(4) Employ no more than two persons in addition to those who reside in the household;

(5) Home occupations with outside storage of materials, goods, supplies, or equipment is allowed provided it is screened from view of adjacent lands and rights-of-way; and

(6) Home occupations conducted outside the home require a permit that shall be renewed every two years. [Ord 96-0119]

...

**91.540 Temporary Manufactured Dwelling Permit During Construction.** The Planning Official may grant a permit for temporary placement of a manufactured dwelling in any zone for occupancy during the construction of a permitted dwelling. Such permits shall be issued concurrently with the dwelling building permits. Any manufactured dwelling used under these provisions shall be placed pursuant to the provisions of BCC 91.505(4) through (56), and shall be removed upon occupancy of the new dwelling, or within one year of issuance of such permits, whichever is sooner. [Ord 26, Ord 90-0069]

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**91.550 Conditions of Approval for Hardship Dwellings.** (1) A temporary manufactured dwelling for hardship purposes shall be valid only for the owner(s) of the property. The manufactured dwelling shall be removed when the need to relieve a family hardship no longer exists, or upon sale, transfer or disposal of the property.

(2) Approval of a temporary manufactured dwelling for hardship purposes shall be renewed annually by the applicant. To renew the hardship approval, the applicant shall submit to the Community Development & Parks Department a notarized statement attesting that either the hardship for which the manufactured dwelling was granted is still in existence; or the hardship no longer exists and the manufactured dwelling has been removed.

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**91.555 Mobile Home or Manufactured Dwelling Park Standards.** Every mobile home or manufactured dwelling park shall:

(1) Require all manufactured dwellings to be placed in accordance with BCC 91.505;

(2) Have the following space sizes: At least seventy-five percent (75%) of the spaces will be 5,000 square feet or larger; up to twenty-five percent (25%) of the spaces may be as small as 3,500 square feet. Only 5,000 square foot space or larger spaces will be allowed around the perimeter of the park;

(3) Have all improvements set back a minimum of twenty-five (25) feet from a roadway, or fifteen (15) feet from a public right-of-way and eight (8) feet from rear and side setbacks;

(4) Have two off-street parking spaces per manufactured dwelling space, or community parking for second vehicles;

(5) Be developed in accordance with ORS Chapter 446 and OAR Chapter ~~814-918~~ Division 28600;

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