

# TITLE 9

## COMMUNITY DEVELOPMENT

### Subtitle 2 — Land Development Code Division 1 — Administrative Provisions

#### CHAPTER 920

#### DEVELOPMENT CODE; GENERAL PROVISIONS

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**920.010 Title; short titles**

(A) LCC 920.010 to 939.999 shall be known as the “Linn County Land Development Code.” LCC 920.010 to 939.999 may also be referred to and cited as the “Land Development Code” or the “Development Code.”

(B) The Development Code consists of text and map(s), entitled the “Linn County Zoning Map,” or “Zoning Map.” The Zoning Map is found in Appendix 1 following this Development Code. If a conflict arises between the Zoning Map and the text of the Development Code, the text shall govern.

(C) Wherever the term “Linn County Land Development Code,” “Land Development Code” or “Development Code” is used, the term includes all amendments to the Development Code.

[Adopted 98-002 §3 eff 3/4/98; amd 98-432 §2 eff 10/21/98]

**920.030 Development Code organization**

(A) Organization of chapters within the Land Development Code shall be as follows:

- (1) Chapters may be divided into sections.
- (2) Sections may be divided into subsections.
- (3) Subsections may be divided into paragraphs.
- (4) Paragraphs may be divided into subparagraphs.
- (5) Subparagraphs may be divided into sub-subparagraphs.
- (6) Sub-paragraphs may be divided into sub-sub-paragraphs.

(B) Citations to the organization required in subsection (A) shall be as follows:

LCC NNN.nnn (SS) (P) (SP) (SSP) (SSSP)
An example is: LCC 924.134 (B) (1) (a) (i) (II)

where those abbreviations have the meanings of:

- (1) LCC ..... Linn County Code
- (2) NNN ..... Chapter
- (3) nnn ..... Section
- (4) SS ..... Subsection

- (5) P ..... Paragraph
- (6) SP ..... Subparagraph
- (7) SSP ..... Sub-subparagraph
- (8) SSSP ..... Sub-sub-subparagraph

(C) A long chapter, or more than one chapter, that treats a variety of subjects may be divided into subchapters. A subchapter usually has an uppercase title preceded by an uppercase roman numeral. A subchapter may be referred to in the text by its title.

[Adopted 98-002 §3 eff 3/4/98; amd 98-432 §2 eff 10/21/98]

**920.040 Purpose**

(A) The text and zoning map(s) in this Land Development Code shall prescribe procedures and standards for the use and development of land in the unincorporated areas of Linn County.

(B) The Development Code shall implement the *Comprehensive Plan* and shall protect and promote the public health, safety, and welfare; provide the economic and social advantages which result from an orderly, planned use of land; and regulate the partitioning and subdividing of land. The provisions of this Development Code are designed:

- (1) To ensure the protection, conservation and proper use of land in Linn County by providing uniform procedures and standards for land use, division and development in unincorporated areas of the county;
- (2) To aid in the implementation of the *Comprehensive Plan* for Linn County;
- (3) To provide for desirable, appropriately-located residential areas for a variety of dwelling types at suitable population densities with adequate provisions for usable open space;
- (4) To protect agriculture, timber, residential, commercial, industrial and publicly-owned areas from the intrusions of incompatible uses and to provide opportunities for compatible establishments to concentrate for efficient operation in mutually-beneficial relationship to each other and share services;
- (5) To ensure preservation of adequate space for agricultural, forest, commercial, industrial and other activities necessary for a healthy economy;

(6) To preserve and enhance the use of agricultural and forest resource lands through the adoption of development limitations and to provide for the orderly and efficient transition of such resource lands to other land uses based on a showing of public need;

(7) To promote safe, fast and efficient movement of people and goods without sacrificing the quality of Linn County’s environment or undermining the public investment in roads; and to provide off-road parking;

(8) To pursue excellence and originality of design in all future developments and to preserve the natural beauty of Linn County;

(9) To stabilize expectations regarding future development of Linn County, thereby providing a basis for wise decisions with respect to such development;

(10) To preserve and enhance the quality of Linn County’s environment;

(11) To emphasize the conservation of energy and the use of renewable energy resources;

(12) To ensure that lots and parcels are created at sufficient size and shape to prevent congestion and overcrowding;

(13) To establish reasonable standards for lot and parcel design to further the orderly development and use of land and to ensure that proper descriptions and monumentation of land divisions occur;

(14) To ensure the establishment and protection of adequate provisions for water supply, waste disposal, surface drainage, access, utilities and other public facilities and services needed for public health, safety and convenience;

(15) To minimize, through property design and layout, the dangers to life and property generated by the hazards of fire, floods, landslides, soil erosion and other natural dangers; and

(16) To provide for an adequate road system designed to handle anticipated usage and to minimize safety hazards and adverse impacts on the neighboring areas and the environment.

[Adopted 98-002 §3 eff 3/4/98]

## 920.050 Interpretation

(A) For the purpose of this Development Code, words used in the present tense include the future; masculine gender includes the feminine; the word “shall” is mandatory; the word “may” is permissive; the words “may not” are prohibitory.

(B) For purposes of the Land Development Code, use of the term “a dwelling” is a limitation meaning only one dwelling of the kind being proposed or authorized.

(C) The word “to” means “to and including”

(1) when used in a reference to a

(a) series of

(i) Code chapters, sections, subsections, paragraphs, subparagraphs, or subparagraphs, or

(ii) any such similar series in the Oregon Revised Statutes, or

(b) range of numbers or letters.

(2) For example,

(a) LCC 921.100 to 921.325 includes both LCC 921.100 and LCC 921.325 and all intervening sections, and

(b) 10 to 12, or A to G includes both 10 and A, respectively, and 12 and G, respectively, and all intervening numbers or letters.

(D) When a provision of this Development Code is less restrictive or is superseded by provisions established under other laws, rules, ordinances or regulations, the more restrictive laws, rules, ordinances or regulations shall apply.

[Adopted 98-002 §3 eff 3/4/98]

## 920.100 Definitions

(A) A term not defined in this Development Code shall have its ordinary accepted meaning within the context in which it has been used. The most current edition of *Webster’s New Collegiate Dictionary* shall be considered the source of accepted meanings.

(B) As used in 920.010 to 939.999:

(1) “**Abut**” means to border another unit of land for greater than point contact.

(2) “**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.

(3) “**Accepted forest practice**”

(a) Means cultivation, management, protection and harvest of forest crops including activities such as growing, spraying, thinning, pruning, protecting, harvesting through cutting, and transporting of deciduous and coniferous trees.

(b) The term also includes the development of forest access roads and the extraction and processing of aggregate resources necessary for construction and maintenance of such roads, and include facilities necessary for protection of the forest resource from wildfire.

(4) “**Access**” means the place, means or way by which pedestrians or vehicles shall have adequate and usable ingress and egress to a property, a use of land, or a parking space (see **access roads**).

(5) “**Accessory buildings**” means any building, the use of which is incidental, appropriate, and subordinate to that of a principal building or use.

(6) “**Accessory farm dwelling**” means a dwelling that meets the requirements of OAR 660-033-0130 (24).

(7) “**Accessory structure**” means any structure, the use of which is incidental, appropriate and subordinate to that of the principal buildings or uses.

(8) “**Accessory transportation improvements**” means transportation improvements that are incidental to a land use to provide safe and efficient access to that use (see **transportation improvements**).

(9) “**Accessory use**” means a use incidental and subordinate to either:

(a) the principal use of the authorized unit of land; or

(b) to a building located on the same authorized unit of land.

(10) “**Access roads**,” as that term is defined and used in OAR 660-012-0065, means low volume public roads that principally provide

access to property or as specified in the *Comprehensive Plan* (see **access**).

(11) “**Administrative unit of land**”

(a) means a unit of land established for the purpose of governmental administration such as taxing, security, and interment:

(b) The term includes such units as:

(a) tax-lots,

(ii) mortgage-lots (when considered separately from the entire unit of land in which the mortgage-lot is located), and

(iii) cemetery-lots.

(c) The term does not include authorized units of land.

(12) “**Advertising sign**” means a sign consisting solely of the name of the establishment, advertising activities conducted on the premises, or identifying the establishment’s principal product or services offered on the premises.

(13) “**Aggregate resources**” means naturally occurring concentrations of stone, rock, sand and gravel, decomposed granite, lime, pumice, cinders, and other naturally occurring solid materials commonly used in construction and road building. The term usually means aggregate that has not been removed from its location for use as an aggregate material.

(14) “**Aggregate materials**” means aggregate resources that have been extracted from the resource site and are capable of being bound together or used individually as a construction material.

(15) “**Agriculture area**” or “**ag area**” has the same meaning given the term in LCC 928.607.

(16) “**Airport**” includes public and personal-use airports (see **personal use airport** and **public use airport**).

(17) “**Alley**” means a public way not over 30 feet wide providing a secondary means of access to private property.

(18) “**Alter**” means to make any change, addition or modification in construction or occupancy of a building or structure. “**Alteration**” means any such change, addition, or modification.

(19) “**Alternative forestland dwelling**” means a single-family dwelling permitted on an authorized unit of land in the forest area of the F/F zoning district that complies with ORS 215.750 (formerly referred to by the Department as a template dwelling, see **template dwelling** in LCC 920.200).

(20) “**Amendment**” means a change in wording adopted by the hearing authority that alters the context or substance of this Development Code, or a change in zoning district boundaries or sub-district boundaries on the zoning map.

(21) “**Appear**” or “**appearance**” means the submission of testimony or evidence in a proceeding involving a land use decision, whether oral or written. Appearance does not include the act of placing a name or address on a petition or having a name or address placed on a petition.

(22) “**Applicant**” means any person who files an application with the Planning and Building Department for review and decision by the Director, Planning Commission or Board of Commissioners.

(23) “**Approach surface**,” in reference to an airport, means a trapezoidal plane, longitudinally centered on the extended runway centerline and extending outward and upward from a point starting 200 feet from each end of the runway.

(24) “**Approved septic system**” means a subsurface sewage disposal system that has been installed in compliance with the rules and regulations of and approved by EHP.

(25) “**Approved septic system site**” means

(a) an initial area sufficient for an on-site, subsurface sewage disposal system approved by EHP, and

(b) a replacement area sufficient for an on-site, subsurface sewage disposal system approved by EHP, often referred to as a repair area.

(26) “**Area**” means an unspecified quantity of land.

(27) “**Arterial** or “**arterial road**” means a state highway or other public road that principally provides service to through traffic between

cities and towns, state highways and major destinations or as specified in the Comprehensive Plan (see OAR 660-012-0065 (2) (c)).

(28) “**Assessor’s Office**” means the Linn County Assessor’s Office.

(29) “**Authorized unit of land**”

(a) Means a unit of land that:

(i) has been lawfully created (see **lawfully created unit of land**), and

(ii) is one of the lots described in subparagraph (b), or one of the parcels described in subparagraph (c), or one of the units-of-record described in subparagraph (d).

(b) A lot:

(i) that was platted before January 4, 1968, and

(I) recorded on an individual deed before March 22, 1972; or

(II) recorded on an individual deed on or after March 22, 1972 but before September 2, 1980, and meeting the requirements of land use regulations in effect between March 22, 1972 and September 2, 1980; or

(ii) that was platted on or after January 4, 1968 but before March 22, 1972; and

(I) recorded on an individual deed before March 22, 1972; or

(II) designated RR or RCT in August 14, 1991; or

(iii) that was platted on or after March 22, 1972 but before September 2, 1980; and

(I) recorded on an individual deed before September 2, 1980; or

(II) designated RR or RCT in August 14, 1991; or

(iv) that was platted after September 2, 1980.

(c) A parcel:

(i) that was approved and recorded on an individual deed between 1980 and 1991 and that conforms to the partition as approved; or

(ii) that was platted after 1991.

(d) A unit-of-record that was:

(i) described by metes and bounds on a deed that was recorded in Linn County:

(I) before March 22, 1972.

The term may include more than one authorized unit of land if each unit was recorded on a deed before March 22, 1972, and if Appendix 2 are met; or

(II) on or after March 22, 1972 but before September 2, 1980 and meeting the requirements of land use regulations in effect between March 22, 1972 and September 2, 1980.

The term may include more than one authorized unit of land if each unit was recorded on a deed on or after March 22, 1972, but before September 2, 1980, and if Appendix 2 are met; or

(ii) created by a judgment of a foreclosure of:

(I) a lien financing the purchase or improvements of real property; or

(II) a recorded contract of sale of real property.

(e) An authorized unit of land may or may not be a developable unit of land. Notwithstanding any provision to the contrary, the determination that a lawfully created unit of land is an authorized unit of land only authorizes the applicant thereof to apply for a development permit under the Land Development Code. That determination does not grant any development rights.

(f) Notwithstanding the definition of **authorized unit of land** in this paragraph, for purposes of units of land located in the Rural Resource, Rural Development, and Urban Growth Management zoning designations, the term also includes a unit of land:

(i) described by metes and bounds on an individual deed that was recorded in Linn County between March 22, 1972 and September 1, 1980; and

(ii) which contain a lawfully established dwelling that was established as of September 1, 1980.

(g) The term, **authorized unit of land**, does not include administrative units of land

(see Appendix 2 entitled “Authorized Units of Land” following this Chapter).

(30) “**Barrier strip**”

(a) Means a strip of land one foot in width which may overlay the outer one foot of any public road right-of-way and over which authority is reserved by Board or the private land owner specifically to control access to adjacent lands.

(b) In reference to Linn County Assessor’s maps, old subdivision maps, and similar records, **barrier strip** has the same meaning as “reserve strip” used thereon. Other names for a barrier strip include “spite strip” and “road plug.”

(31) “**Board**” means the Linn County Board of Commissioners.

(32) “**Building**” means any structure which is built and maintained for the support, shelter or enclosure of persons, motor vehicles, animals or personal property.

(33) “**Building Code**” includes LCC Chapters 810 (Specialty Codes), 820 (Dangerous Building Code), 850 (Fill and Excavation Code), and 870 (Floodplain Management Code).

(34) “**Building height**” or “**height**,” in reference to a building, means the vertical distance from the grade to the highest point of the coping of a flat roof, or to the deck line of a mansard roof or to the average height of the highest gable of a pitch or hip roof.

(35) “**Building line**” means a line on a site map indicating the limit beyond which structures may not be erected and which is the minimum distance prescribed by this Development Code between the property line and the permitted building excluding any permitted protrusions (see LCC 934.205; see **front building line**).

(36) “**Building Official**” means the Linn County Building Official or designate, including a duly-designated assistant or building inspector.

(37) “**Building permit**” includes permits authorized and issued by the Building Official for the development of, but not limited to:

- (a) a structure;
- (b) a manufactured dwelling;

(c) an electrical supply (whether temporary or permanent);

(d) a grading permit.

(38) “**Calendar year**” means 12 calendar months commencing on January 1 and ending on December 31 following.

(39) “**Campground**” means an area devoted to overnight, temporary use for vacation, recreational or emergency purposes but not for residential purposes and which may be occupied by tents or recreational vehicles. The term does not include intensively-developed recreational uses such as swimming pools, tennis courts, retail stores or gas stations.

(40) “**Cemetery**”

(a) Means land

(i) used or intended to be used for the interment of human remains, and

(ii) dedicated and approved for cemetery purposes.

(b) The term includes columbaria, crematoriums, mausoleums and mortuaries when operated in conjunction with and within the boundaries of a dedicated cemetery.

(41) “**Cemetery-lot**” means an administrative unit of land in a cemetery wherein a person is interred.

(42) “**Clerk’s Office**” means the records section of the Linn County Clerk’s Office.

(43) “**Class-IV or worse dwelling**” means a single-family residential dwelling not provided in conjunction with a farm use established on an authorized unit of land that complies with ORS 215.284 (1).

(44) “**Class-VI or worse dwelling**” means a single-family residential dwelling not provided in conjunction with a farm use established on an authorized unit of land that complies with ORS 215.284 (4).

(45) “**Clustering**,” in the areas of major and peripheral habitat, means:

(a) to locate dwellings and structures near each other and existing roads; and

(b) to locate dwellings and structures to avoid habitat conflicts and utilize least valuable habitat areas; and

(c) to minimize road development to that necessary to support the residential use.

(46) “**Collector**” or “**collector road**” means a public road that provides access to property and that collects and distributes traffic between access roads and arterials or as specified in the *Comprehensive Plan* (see OAR 660-012-0065 (2) (b)).

(47) “**Commercial**” means any use or activity conducted, made, done or operated primarily for obtaining a profit in money.

(48) “**Commercial activities in conjunction with a farm use**”

(a) Means any commercial activities that

- (i) provide products and services, particularly processing services,
- (ii) are essential to agriculture as practiced in the region, and
- (iii) are not defined as a farm use.

(b) The principal distinction between commercial farm uses reviewed as conditional uses and farm uses allowed outright, relate to whether or not the farm product or service is grown or provided by the farmer on land owned or operated by the producer (see **farm use**).

(c) Examples of commercial activities in conjunction with a farm use include but are not limited to:

- (i) Hop, nut, and fruit drying, for crops not wholly grown on land owned or operated by the dryer;
- (ii) Feed mixing and storage facilities, when the component grains are not wholly grown on land owned or operated by the mixer;
- (iii) Hullers, when the crop is not wholly grown on land owned or operated by the huller;
- (iv) Structures for the storage or packing of agricultural products, when the products are not wholly grown on land owned or operated by the owner of the structures;

(v) Seed processing, packing, shipping and storage, for crops not wholly grown on land owned or operated by the seed processor;

(vi) Mint distilleries, for mint not wholly grown on land owned or operated by the distiller;

(vii) Alcohol distilleries, for grains and other agricultural products not wholly grown on land owned or operated by the distiller;

(viii) Feedlots for livestock, when the livestock is not wholly grown on land owned or operated by the feedlot operator; or

(ix) Any other similar processing or allied commercial farm activities associated with regional farm uses.

(49) “**Commercial agriculture**” means farm units that either contribute in a substantial way to the existing agricultural economy and help maintain agricultural processors and established farm markets or diversify agricultural processing and create farm markets through the production of agricultural goods currently not part of the agricultural economy. While the propagation or harvesting of a forest product is allowed in a farm zone, only trees defined by ORS 215.203 qualify as a farm use for producing farm income.

(50) “**Commercial dairy farm**” means 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 (5) (a) or (7) (a), whichever is applicable, from the sale of fluid milk.

(51) “**Commercial forestry**” consists of forest operations which will contribute in a substantial way to the area’s existing forest economy and help maintain forest processors and established forest markets.

(52) “**Commercial tree species**” means trees recognized under rules adopted under ORS 527.715 for commercial production (see ORS 215.720 (2)).

(53) “**Commission**” means the Linn County Planning Commission.

(54) “**Comprehensive plan**” or “**Plan**”

(a) when in italics, means the plan adopted by the Board to serve as a guide to the

orderly growth, development and improvement of Linn County consistent with the statewide planning goals.

(b) The term includes the written text with goals and policies, the diagrammatic map or maps of desired land use allocations and any amendments to such text and map(s).

(55) “**Comprehensive plan**” or “**plan**,” when in regular font, means a plan, similar to the *Comprehensive Plan* in scope and intent, adopted by a governing body to so serve other communities in the county.

(56) “**Condition**” means a limitation that must be satisfied or avoided as a basis for issuing a development permit. A condition includes:

(a) a limitation, referred to in the Land Development Code as a condition of approval, that must be satisfied or avoided. A condition of approval is mandatory and is not subject to appeal; and

(b) a limitation imposed on a development permit to insure conformance with a standard. This is referred to as a permit condition. A permit condition is discretionary and subject to appeal. A permit condition is not subject to a variance.

(57) “**Conditional use**” means a use that may be permitted, permitted with conditions or denied at the discretion of the decision maker based upon findings of fact as required by the Land Development Code and the Linn County *Comprehensive Plan*.

(58) “**Conflict of interest**”

(a) “**Actual conflict of interest**” has the meaning given the term in ORS 244.020 (1).

(b) “**Potential conflict of interest**” has the meaning given the term in ORS 244.020 (7).

(59) “**Corner property**,” in reference to a unit of land,

(a) means a property which has

(i) at least two adjacent sides each of which abuts a road or roads other than alleys (see Examples A, C, and D, Appendix 1, Figure 3 following this chapter), or

(ii) a front property line that is a common boundary with a right-of-way that is a curve (see Example B, Appendix 1, Figure 3 following this chapter).

(b) The determination of how much of the property fronts on a road or roads is used to determine where to apply a front property line setback. If the road is curved, the front property line is based on the nature of that curvature as determined by the County.

(60) “**County road**”

(a) means a public road under the jurisdiction of Linn County that has been designated as a county road under ORS 368.016, for which Linn County is responsible for improvement and maintenance.

(b) The following road designations illustrated in this subparagraph are used in the *Comprehensive Plan* and in the Land Development Code. The designations may or may not be a county road.

(i) Arterial, major arterial, county arterial;

(ii) Collector, collector road, county feeder road;

(iii) Minor road, including frontage road and some cul-de-sacs;

(iv) Stubbed road;

(v) Half road; and

(vi) Industrial road.

(61) “**Coverage**” (of property), in reference to a unit of land,

(a) Means that portion of a unit of land which, when viewed directly from above, would be covered by buildings and other structures, excluding such structures as fences (see Appendix 1, Figure 1 following this chapter).

(b) The factors to be considered in determining coverage include the adequacy of:

(i) setbacks;

(ii) storm water absorption;

(iii) approved septic system;

(iv) open space and neighborhood livability preservation;



(v) nonstructural amenities such as areas for parking, loading, traffic circulation and landscaping; and

(vi) productivity of resource land preservation.

(62) “**Create**” or “**creation**,” in reference to a unit of land, means the act of recording a deed, land sale contract or plat in the Clerk’s Office. The date of creation is the date on which the deed, land sale contract, or plat was recorded.

(63) “**Criterion**,” or “**decision criterion**” means a decision standard in the Land Development Code that is applicable to a proposed use and which is used by a decision maker to make a determination whether the proposed use should be approved or denied. Decision standards are labeled as “criteria” or “decision criteria” in the code to distinguish them from other standards. A land use proposal must be approved or denied based on decision criteria and only by one of three types of procedure: legislative, ministerial or discretionary. No variance may be taken to a decision standard or criterion.

(64) “**Cul-de-sac**,”

(a) Means means a turn-around at the end of a stubbed road farthest from the intersection onto a public road.

(b) If a cul-de-sac is classified as a county road in the *Comprehensive Plan*, then the cul-de-sac is a minor road and where so classified means the equivalent of a stubbed road terminating in a cul-de-sac.

(65) “**Cultured Christmas trees**” means trees:

(a) grown on lands exclusively for that purpose, capable of preparation by intensive cultivation methods such as plowing the soil;

(b) of a species for which the Department of Revenue requires a “Report of Christmas Trees Harvested” for purposes of ad valorem taxation;

(c) 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 State Department of Agriculture; and

(d) 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 and irrigation.

(66) “**Currently employed for farm use**,” or “**current employment of land**” includes the uses given the term “‘current employment’ for farm use” in ORS 215.203 (2) (b) which includes:

(a) Farmland, the operation or use of which is subject to any farm-related government program;

(b) Land lying fallow for one year as a normal and regular requirement of good agricultural husbandry;

(c) Land planted in orchards or other perennials prior to maturity, other than land specified in subparagraph (d);

(d) Land not in an exclusive farm use zoning district 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;

(e) Wasteland, in an exclusive farm use zoning district, dry or covered with water, neither economically tillable nor grazeable, lying in or adjacent to and in common ownership with farm land which is not currently being used for any economic farm use;

(f) Land under buildings supporting accepted farm practices;

(g) Water impoundments lying in or adjacent to and in common ownership with farm use land;

(h) Land constituting a woodlot, not to exceed 20 acres, contiguous to and owned by the owner of land specially valued at true cash value for farm use even if the land constituting the woodlot is not utilized in conjunction with farm use;

(i) 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;

(j) Land described under ORS 321.267 (1) (e) or 321.415 (5); and

(k) Land in an exclusive farm use zoning district used for the storage of agricultural products that would otherwise be disposed of through open field burning or propane flaming.

(67) **“Day care facility”**

(a) Means a facility that provides day care, as that term is defined by statute, to children.

(b) The term includes a day nursery, nursery school home of a family day care provider or similar unit operating under any name.

(c) The term does not include a:

(i) Facility providing care that is primarily educational, unless the care is provided to a preschool child for more than four hours a day;

(ii) Facility providing care that is primarily supervised training in a specific subject, including but not limited to dancing, drama, music or religion;

(iii) Facility providing care that is primarily for group athletic or social activities sponsored by or sponsored under the supervision of an organized club or hobby group;

(iv) Facility operated by a school district, political subdivision of this state or a governmental agency;

(v) Residential facility licensed under ORS 443.400 to 443.455; and

(vi) Babysitting, as that term is defined in ORS 657A.250.

(68) **“Day care nursery”** means any institution, establishment or place which customarily accepts for purpose of being given board, care or training apart from their parents or guardians, for compensation or reward under all the following circumstances:

(a) not less than three children at any one time;

(b) such children are

(i) not of common parentage,

and

(ii) under the age of six years,

and (c) for a period not exceeding 12 hours per day.

(69) **“Day care provider”** (see **family day care provider**).

(70) **“Decision maker”** has the same meaning given the hearing authority and, where the context requires, the term includes the Director.

(71) **“Depth”** (of property), in reference to a unit of land, means the horizontal length of a straight line connecting the midpoints of the front and rear property lines (see Appendix 1, Figure 2 following this chapter).

(72) **“De novo,”**

(a) In reference to an appeal, means a completely new hearing for a second or more times, identical in procedure to the initial proceedings, with an opportunity for all parties to present all testimony and evidence previously accepted and any new evidence or testimony.

(b) A de novo hearing (literally translated means “from new”) is in contrast to a “on-the-record” review during which a decision on a land use case is based solely upon the record previously established at the initial hearing. Typically these terms are associated with reviews brought about by an appeal.

(73) **“Department”** means the Linn County Planning and Building Department.

(74) **“DEQ”** means the Oregon Department of Environmental Quality.

(75) **“Develop”** or **“developing”** means

(a) the act, process, or result of erecting, reconstructing, structurally altering, enlarging, partly or wholly demolishing, or moving a building or certain structures; or

(b) to use, develop, adjust property lines, partition or subdivide land or create a road necessary to permit the division of land in any manner not in compliance with the procedures and regulations established in this Development Code.

(76) **“Developable unit of land”** or **“developable property”** means a unit of land upon which development is authorized because

the unit of land meets the requirements of this Land Development Code for development. A developable unit of land is an authorized unit of land.

(77) “**Development**” means the act, process or result of developing a unit of land.

(78) “**Development permit**” means a written authorization by Linn County to develop an authorized unit of land in the unincorporated areas of Linn County. A development permit may or may not be a land use decision.

(a) The term includes permits that are not land use decisions such as building and EHP permits (see **building permits** and **EHP permits**).

(b) The term also includes planning permits that may be land use decisions (see **planning permits**).

(c) Notwithstanding the requirement herein that a development permit be in writing, a permit resulting from a Type IA process, as set forth in LCC Chapter 921 (Land Development Administration Code), does not have to be in writing.

(79) “**Director**” means the Director of the Linn County Planning and Building Department.

(80) “**Display surface,**” in reference to a sign,

(a) Means the overall dimensions of all panels capable of displaying messages excluding the area of supports and frames unless the support or frame is designed to be part of the display area.

(b) If both sides of the sign are visible and could be used for display, the display surface shall include both sides of the sign (see **sign**).

(81) “**District**” or “**zoning district**” means an area of land identified by Linn County for the purpose of preserving a class of uses determined to be appropriate for preservation, continuation, or establishment in that area and for which Linn County has adopted provisions in the *Comprehensive Plan* and the Land Development

Code to allow for or permit, after review, such uses within the zoning district.

(82) “**Division of State Lands or DSL**” means the Oregon Division of State Lands.

(83) “**DOGAMI**” means the Oregon Department of Geology and Mineral Industries.

(84) “**Double-frontage**” (property) in reference to a unit of land, means a property other than a corner property with frontage on more than one road.

(85) “**Driveway**” means that part of a direct vehicular access other than an easement that is on a unit of land to serve a development. The term includes dedicated service drives.

(86) “**Dwelling unit**”

(a) Means one or more habitable rooms used, intended, or designed to be built, used, rented, leased, let or hired out to be, occupied, or which are occupied for living purposes providing complete, independent, separate living quarters for one or more persons including provisions for living, sleeping, eating, sanitary facilities, and a separate, permanent cooking facility.

(b) One or more habitable rooms with any roof, wall or floor in common with any other dwelling unit may constitute a separate dwelling unit.

(87) “**Easement**” means:

(a) a right of use over the property of another,

(b) in writing and recorded, and

(c) which is for a specific purpose, such as an easement across a unit of land for road access or for utility services (see **right-of-way** and **utility easement**).

(88) “**Easement of record for road access**” means an easement:

(a) granted for the specific purpose of providing functional road access from one authorized unit of land across another authorized unit or units of land to a public road;

(b) which conveyed perpetual access to the authorized unit of land under review;

(c) not requiring review under an easement recognition process;

(d) recorded before March 22, 1972; and

(e) is still in effect as originally recorded (see **right-of-way** and **road-related easement**).

(89) “**Easement of road access**” means an easement:

(a) granted for the specific purpose of providing functional road access from one authorized unit of land across another authorized unit or units of land to a public road;

(b) which conveyed perpetual access to the authorized unit of land under review;

(c) recognized by the Board, Commission or Director under an easement recognition process in effect at that time;

(d) recorded on or after March 22, 1972; and

(e) is still in effect as originally recorded ((see **right-of-way** and **road-related easement**)).

(90) “**EHP permit**” means a permit authorized and issued by the Environmental Health Program for the installation, repair or alteration of or authorization for an approved septic system.

(91) “**Environmental Health Program** or “**EHP**” means the Linn County Environmental Health Program. The EHP is a division of the Linn County Health Department.

(92) “**Ex parte contact**” means contact outside of the formal hearing process between interested parties and a decision-maker without notice to, or opportunity to participate in the contact, by any person adversely interested. Ex parte contact does not include contacts between the hearing authority and employees of the Board.

(93) “**Facility for the primary processing of forest products,**” means a facility used for the primary processing of forest products, provided that such facility is found to not seriously interfere with accepted farming practices and is compatible with farm uses described in ORS 215.203 (2). Such a facility may be approved for a one-year period which is renewable. These

facilities are intended to be only portable or temporary in nature.

(94) “**Family**” means one or more persons occupying a single dwelling unit and using common housekeeping facilities, provided that, unless all members are related by blood or marriage, no such family shall contain over five persons.

(95) “**Family day care provider**” means a person who regularly provides day care for fewer than 13 children in that person’s home or in accessory buildings to the home.

(96) “**Farm area**” has the same meaning given the term in LCC 928.607.

(97) “**Farmland,**” in reference to land in an EFU, F/F, or FCM zoning district in Linn County, means land that is classified, based on its soil composition, as:

(a) high-value farmland (type 1) as described in ORS 215.710 (1). Such land may be referred to as HVFL-1;

(b) high-value farmland (type 2 as described in ORS 215.710 (3). Such land may be referred to as HVFL-2; or

(c) non-high-value farmland. Such land may be referred to as NHVFL.

(98) “**Farm operator**” means 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.

(99) “**Farm or ranch operation**” means all units of land in the same ownership that are used by the farm or ranch operator for farm use as defined in ORS 215.203.

(100) “**Farmed property**” means a unit of land on which the predominant active use is farming.

(101) “**Farm-related,**” in reference to a dwelling, means a dwelling customarily provided in conjunction with farm use.

(102) “**Farm-relative dwelling**” means a dwelling on real property that is described in ORS 215.283 (1) (e).

(103) “**Farm unit**” means the contiguous and noncontiguous tracts in common ownership

used by the farm operator for farm use as defined in ORS 215.203.

(104) **“Farm use”**

(a) Means:

(i) the on-site establishment or maintenance of farming equipment and facilities, and

(ii) the current employment of land for the primary purpose of obtaining a profit in money by:

(I) raising, harvesting and selling crops;

(II) feeding, breeding, managing, selling, or producing livestock, poultry, raptures (emu, ostrich, kiwi, moa), psittacines (parrots), fur-bearing animals or honeybees;

(III) dairying and selling dairy products;

(IV) any other agricultural or horticultural uses;

(V) animal husbandry;

(vi) animal grazing; or

(VII) any combination of

(I) to (V) (see **currently employed for farm use** or **current employment of land**)

(b) The term includes:

(i) The preparation, storage and disposal by marketing or otherwise of the products or by-products raised or produced for human or animal use on land owned or operated by the producer.

(ii) The current employment of land for the primary purpose of obtaining a profit in money by stabling, breeding or training equines including but not limited to providing riding lessons, training clinics and schooling shows.

(iii) The propagation, cultivation, maintenance and harvest of aquatic species and bird and animal species to the extent allowed by the rules adopted by the State Fish and Wildlife Commission.

(iv) The production of hardwood timber, including but not limited to hybrid cottonwood subject to ORS 321.267 (1) (e) or 321.415 (5).

(v) The on-site construction and maintenance of equipment and facilities used for the activities described in subparagraphs (a) and (b) of this paragraph.

(c) The term does not include the use of land for growing trees that is subject to the taxation requirements of ORS Chapter 321, except for the use of land to grow cultured

(i) Christmas trees as defined in ORS 215.203 (3);

(ii) trees described in ORS 321.267 (1) (e) or 321.415 (5).

(105) **“Farmworker”** means any person who, for an agreed remuneration or rate of pay, performs temporary or permanent labor for another in the production of farm products or in the planting, cultivating or harvesting of seasonal agricultural crops or in the forestation or reforestation of lands, including but not limited to the planting, transplanting, tubing, precommercial thinning and thinning of trees and seedlings, the clearing, piling and disposal of brush and slash and other related activities.

(106) **“Farmworker housing”** means housing:

(a) Limited to occupancy by farmworkers and their immediate families; and

(b) No dwelling unit of which is occupied by a relative of the owner or operator of the farmworker housing.

(107) **“Farm-zoned property”** means a unit of land located in an EFU or F/F zoning district that is farmed. The term may include farmed property.

(108) **“Final decision”** or **“final determination”** means a written action of the director or hearing authority that disposes of a matter decided or determined by the director or hearing authority. If the written action is appealable and a timely appeal is made in compliance with the Land Development Code, a final decision is the order made by the appropriate hearing authority.

(109) **“Firearms training facility”** means an indoor or outdoor facility that provides training courses and issues certification required for law enforcement personnel; the State Depart-

ment of Fish and Wildlife; or nationally recognized programs that promote shooting matches, target shooting and safety.

(110) “**Fish bearing Type F streams**” means a fish-bearing stream as classified by the Oregon Board of Forestry pursuant to OAR 629-635-0200 (4) (a) for fish use or for both fish use and domestic water use. Type F streams were formerly designated as fish bearing Class I waters.

(111) “**Flag-lot**” means a unit of land excluding the area of the flag strip that

(a) except for its flag strip, is separated from a road by other units of land; and

(b) has a long, narrow flag strip, that reaches to the road (see Appendix 1, Figure 4 following this chapter).

(112) “**Flag strip**” means the long, narrow extension of a unit of land connecting a property to a road when the property is mostly separated from the road by other units of land and which provides an access way from a public road to a site located behind other properties which have frontage upon that road (see Appendix 1, Figure 4 following this chapter).

(113) “**Flooding**” means the rise of a natural stream or other water body to the level at or above the Intermediate Regional Flood, otherwise known as the 100-year flood, which periodically covers an area of land that is not under water at other times.

(114) “**Flood way**” means the channel of a river and the area adjacent to a river identified by FEMA that must be reserved in order to discharge the base flood as that term is used in LCC chapter 950.

(115) “**Floodplain**” means a land area susceptible to flooding from any source, as delineated on the *Flood Insurance Rate Maps* applicable to Linn County.

(116) “**Forest crop**” means unprocessed forest materials such as trees, cones, and mosses (see **forest product**).

(117) “**Forest area**” has the same meaning given the term in LCC 928.607.

(118) “**Forested property**” means a unit of land on which the predominant active use is forestry.

(119) “**Forest homestead**” means a parcel smaller than the minimum parcel size required in the forest area of an F/F or in the FCM zoning district that may be permitted if the proposal meets the criteria in LCC 924.720.

(120) “**Forest homestead dwelling**” means a single-family dwelling that may be permitted on a small forest homestead pursuant to a partitioning under LCC 924.728.

(121) “**Forest labor camp**” means any building or facility, which is permitted on a temporary basis which is intended to house residents during management or cultivation activities in conjunction with a forest resource use, and which has included within such building or facility a minimum of one set of kitchen and bathroom facilities.

(122) “**Forestland**” or “**FL**” means land which is used for the growing and harvesting of forest tree species, as that term is defined in ORS 527.620 (10), regardless of how the land is zoned or taxed or how any state or local statutes, ordinances, rules, or regulations are applied.

(123) “**Forest product**” means a forest crop grown upon the unit of land contiguous to the location of a primary processing facility (see **forest crop**).

(124) “**Forest-related,**”

(a) In reference to a use or dwelling generally, means a use or dwelling used in conjunction with the management of forested property.

(b) In reference to dwellings in a forest area of an F/F zoning district means:

(i) a forest-resource dwelling;

(ii) an alternative forestland dwelling;

(iii) a large tract forestland dwelling; or

(iv) a pre-85 forestland dwelling.

(125) “**Forest-resource dwelling**” means a dwelling that existed prior to a partitioning

under LCC 924.729 and that, by that partitioning, becomes known as a forest-resource dwelling. This dwelling is a type of forest-related dwelling.

(126) “**Forest tree species**” has the definition given the term in ORS 527.620 (10).

(127) “**Forest use**” means a use of land for such purposes as:

(a) The production of trees and the processing of forest products and uses accessory to forest operations;

(b) Open space, buffers from noise and visual separation of conflicting uses;

(c) Watershed protection and protection of wildlife and fisheries habitat;

(d) Soil protection from wind and water;

(e) Maintenance of clean air and water; or

(f) Outdoor recreational activities and related support services and wilderness values compatible with these uses.

(128) “**Frontage**” (property) in reference to a unit of land, means that portion of the unit abutting a public road. The term does not include that portion of a unit of land that abuts an alley.

(129) “**Frontage road**” means a minor road which is parallel to and adjacent to a public road and which provides access to abutting properties while relieving them of the effects of through-traffic.

(130) “**Front building line**” means a line on a site map which is, parallel to the road right-of-way, indicating the limit beyond which buildings or structures may not be erected. The front building line is the minimum distance between the front property line and a permitted building, excluding any permitted protrusions (see LCC 934.205).

(131) “**Front property line**,” in reference to a unit of land,

(a) means:

(i) A line that is the common boundary between the property and any abutting public road. A front property line does not include the line that is the common boundary between the property and any abutting alley.

(ii) In reference to an interior property, the line of the interior property lying closest to and parallel with the road, other than an alley. A front property line does not include the line of the interior property lying closest to and parallel with any abutting alley.

(b) The determination of how much of the property fronts on a road or roads is used to determine where to apply a front property line setback. If the road is curved, the front property line is based on the nature of that curvature as determined by the County (see Appendix 1, Figure 2 following this chapter).

(132) “**Front yard**” means the unoccupied and unobstructed space extending the full width of the property between a building and the front property line, and measured perpendicular to the building line and the closest point of the front property line (see Appendix 1, Figure 6 following this chapter).

(133) “**Functional road access**” means the route by which a resident of a dwelling or an occupant of a structure gains vehicular access to a public road from a given property on a day-to-day basis.

(134) “**Geothermal resources**” has the meaning given that term in ORS 522.005. The term includes the placement and operation of compressors, separators and other customary production equipment for an individual well adjacent to the wellhead.

(135) “**Golf course**” means an area of land with highly-maintained, natural turf laid out for the game of golf with a series of 9, but not more than 36 holes, each including a tee, a fairway, a putting green and often one or more natural or artificial hazards consistent with the following:

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

(b) A regulation 9-hole golf course, generally characterized by a site of about 65 to 90 acres of land, having a playable distance of 2,500 to 3,600 yards and a par of 32 to 36 strokes, or

(c) A combination of a 9- and an 18-hole regulation golf course (see **non-regulation golf course** and OAR 660-033-0130 (20)).

(136) “**Governing body**” means the Linn County Board of Commissioners or its designee.

(137) “**Habitable**,” in reference to a lawfully-established dwelling, means a dwelling that:

(a) Has intact exterior walls and roof structure;

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

(c) Has interior wiring for interior lights; and

(d) Has a heating system.

(138) “**Half road**” means a road having only a portion of its width provided in one subdivision, with the remainder of its width to be provided through the subdivision of adjacent property.

(139) “**Hearing authority**” means the Commission, the Board, or hearings board.

(140) “**Hearings board**” means a body appointed by the Board for the purpose of making land use decisions between September 2, 1980 and on or about December 1985.

(141) “**High-value farmland**” or “**HVFL**”

(a) means farmland in an EFU or F/F zoning district in Linn County consisting predominantly of

(i) one of two of the soil groupings; or

(ii) a combination of soils from both groups.

(b) The term includes:

(i) high-value farmland (type 1),

and

(ii) high-value farmland (type

2).

(142) “**High-value farmland (type 1)**” or “**HVFL-1**,” has the meaning given the term in ORS 215.710 (1) and OAR 660-033-0020 (8) (a), i.e., land in a Willamette Valley tract composed predominantly of soils that are irrigated or non-

irrigated and inventoried in the *Soil Survey of Linn County Area Oregon* as prime, unique, Class I, or II. In Linn County, these soils include:

Abiqua . . . . . (1A)	Abiqua . . . . . (1B)
Amity . . . . . (3)	Bellpine . . . . . (9C)
Briedwell . . . . . (16B)	Chapman . . . . . (19)
Chehalis . . . . . (21)	Clackamas . . . (23)*
Clackamas var. . . . (24)	Cloquato . . . . . (25)
Coburg . . . . . (26)	Holcomb . . . . . (46)*
Jory . . . . . (51C)	Malabon . . . . . (63)
Malabon var. . . . . (64)	McAlpin . . . . . (66B)
McBee . . . . . (67)	Nekia . . . . . (72C)
Newberg . . . . . (73)	Pengra . . . . . (77A)*
Salem . . . . . (87)	Salkum . . . . . (88B)
Santiam . . . . . (89B)	Saturn var. . . . . (91)
Silverton . . . . . (93C)	Wapato . . . . . (99)*
Willakenzie . . . (101C)	Willamette . . . (102)
Woodburn . . . . . (106A)	Woodburn . . . (106C)
*High value only when drained as defined in NRCs memo to DLCD dated March 17, 1997.	

(143) “**High-value farmland (type 2)**” or “**HVFL-2**,” has the meaning given the term in ORS 215.710 (3) and OAR 660-033-0020 (8) (c), i.e., land in a Willamette Valley tract composed predominantly of soils that are inventoried in the *Soil Survey of Linn County Area Oregon* as Class III or IV or composed predominantly of a combination of type-1 high-value soils and the following soils. In Linn County, these soils include:

Awbrig (7)	Bashaw (8)
Bellpine (9D)	Bellpine (9E)
Chehalem (20C)	Concord (27)
Conser (28)	Courtney (29)
Dayton (33)	Jory (51D)
Jory (51E)	Nekia (72D)
Salkum (88C)	Whiteson (100)
Willakenzie (101D)	Willakenzie (101E)

(144) “**Historic property**” or **historic resource**” means property

(a) currently listed in the *National Register of Historic Places* or if the *National Register* ceases accepting nominations, the property is approved for listing on an Oregon register of historic places (see ORS 358.480); or

(b) listed on the *Linn County Register of Historic Resources* and therefore subject to



the historic resource alteration or demolition review provisions of this Development Code.

(145) “**Holiday**” includes the legal holidays listed in ORS 187.010 and Saturday.

(146) “**Home occupation**” means a small-scale business activity operated in conjunction with a residence subject to the home occupation decision criteria and performance standards contained in this Development Code.

(147) “**Industrial road**” means a road designed to carry large volumes of truck traffic and to provide truck access to abutting commercial or industrial properties.

(148) “**Initiate**,” in reference to development or an authorized use, means at a minimum:

(a) Purchasing a permit from the Linn County Environmental Health Program, installing an approved septic system and receiving a certificate of satisfactory completion. The purchase and installation must be completed and the certificate obtained before the expiration of the land use permit; or

(b) Purchasing a permit from the Linn County Environmental Health Program for an approved septic system and purchasing a permit for and satisfactorily completing at least the foundation of the authorized principal use; or

(c) When neither a new septic permit nor a construction permit is required for the authorized use, the use shall be deemed to have been initiated when the use has actually commenced. For example, a conditional use permit to operate a home occupation has been initiated when the authorized business is operating within the allowed limits at the approved location; or

(d) as may be otherwise determined by the Director or hearing authority.

(149) “**Insect species**” shall not include any species under quarantine by the State Department of Agriculture or the United States Department of Agriculture.

(150) “**Instrument airport**” means an airport which has an approach using electronic aids designed for the purpose of conducting

aircraft operations in instrument meteorological conditions.

(151) “**Interior**” (property), in reference to a unit of land, means a property with frontage on only one road.

(152) “**Intervisible turnout**” means an area alongside a road designed to allow vehicles to pass and so spaced to provide visibility between the turnouts to users of the road.

(153) “**Irrigated**” means 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. For purposes of LCC 928.300 to 928.636, an area of tract within a water irrigation district that was once irrigated shall continue to be considered “irrigated” even if the irrigation water was removed or transferred to another tract.

(154) “**Junk**” has the meaning as that term is defined in LCC 532.450.

(155) “**Junkyard**” means any place where there is an accumulation of junk.

(156) “**Kennel**” means any premises on which five or more dogs that are six months or older are kept, whether by owners of the dogs or by persons providing facilities and care, whether or not for compensation.

(a) The term may include the boarding of cats.

(b) The term does not include the sites or facilities licensed as kennels under the Linn County Dog Kennel Code (see LCC Chapter 564 (Dog Kennel Code))

(157) “**Land Conservation And Development Commission**” or “**LCDC**” means the agency of the State of Oregon responsible for the administration of the statewide land use planning program.

(158) “**Land Evaluation and Site Assessment**” or “**LESA**” means the treatise by Huddleston, Pease *et al*, 1984, applicable to Linn County, Oregon.

(159) “**Land division**” or “**division of land**” means a dividing of an authorized unit of land pursuant to LCC Chapter 924 (Partitioning Code) or LCC Chapter 926 (Subdividing Code).

(160) “**Land-locked**” (property) in reference to a unit of land, means a unit of land,

(a) Without frontage onto a road, and

(b) For which an easement of road access has not been recognized by the Director or Hearing Authority (see Appendix 1, Figure 5 following this chapter).

(161) “**Land reclamation**” means the restoration of the land to its final use or use recognized by the Development Code.

(162) “**Land Use Board of Appeals**” or “**LUBA**” means the administrative body which has the authority to hear appeals of land use decisions made by the Board.

(163) “**Land use decision**”

(a) means a discretionary action that (i) is made by the Board, Commission or Director,

(ii) is a final decision or a final determination,

(iii) is appealable, except as otherwise provided in ORS Chapter 197, and

(iv) concerns the adoption, amendment or application of:

(I) A statewide land use planning goal;

(II) A *Comprehensive Plan* provision; or

(III) A land use regulation.

(b) The term does not include a ministerial decision (see **legislative land use decision, ministerial decision and quasi-judicial land use decision**).

(164) “**Large tract forestland dwelling**” means a single-family dwelling established in the forest area of the F/F or in the FCM zoning district pursuant to ORS 215.740.

(165) “**Lawfully created unit of land**”

(a) means a unit of land created pursuant to a lawful:

(i) partitioning process;

(ii) subdividing process; or

(iii) process creating a unit-of-record, whether by recording a metes and bounds description on a recorded deed prior to land use regulations being adopted by Linn County or by judicial foreclosure.

(b) The term is used in this Land Development Code for the sole purpose of determining whether the unit is an authorized unit of land or a developable unit of land. A declaration by the County that a unit of land is a lawfully created unit of land for this purpose without any further determination does not mean that the unit is a developable unit of land. Whether or not a unit of land is a lawfully created unit of land for purposes other than determining whether the unit is a developable unit of land (for example, whether the unit may be lawfully sold or conveyed) will not be made by the Director (see **developable unit of land and authorized unit of land**).

(166) “**Lawfully established dwelling**” means a dwelling that was established prior to any building codes that would apply to the establishment of the dwelling or a dwelling that was established pursuant to then existing building codes and land use regulations.

(167) “**Legislative land use decision**” means

(a) a land use decision adopted as an ordinance by the Board which

(i) creates policy and which has broad application to an entire community or class of individuals, and

(ii) prescribes criteria and standards by which cases arising under the policy will be decided.

(b) Examples include the adoption of or amendment to the *Comprehensive Plan* or Land Development Code; simply put, legislative land use decisions make law.

(168) “**Limited farm use**” includes:

(a) the cultivation and harvesting of (i) Vines, shrubs, berries, vegetables, nursery stock, hay, grains, seed or similar food or fiber products; or

(ii) Trees, including those that qualify as farm use or the propagation or harvest of forest products.

(b) the marketing of farm products grown under the limited farm use provisions is limited to those farm products grown on-site.

(c) The following animal husbandry:

(i) On a property of any size, the hatching and raising of poultry, rabbits, fowl, raptures (emu, ostrich, kiwi, moa), psittacines (parrots) and similar small animals.

(ii) On a property of any size, one farm animal which is pastured, bred, fed, or raised for competition purposes.

(iii) On a property one acre or larger,

(I) the raising of honey bees, and

(II) the pasturing, feeding, breeding, or raising of equines, sheep, cattle, goats or llamas.

(d) The term does not include on-site processing of farm products, except as otherwise provided by the Land Development Code.

(169) “**Livestock**” means

(a) equine (horse, pony, mule, donkey or hinny),

(b) cattle, llama, sheep, goat, and

(c) swine,

(d) domestic fowl, rapture (emu, ostrich, kiwi, moa), psittacine (parrot), and

(e) any fur-bearing animal bred and maintained, commercially or otherwise, within pens, cages or hutches.

(170) “**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.

(171) “**Local access road**” means a public road that is not a county road, state highway or federal road. Local access roads are dedicated to the public, the ownership of which is formally accepted by Linn County for access purposes only, without any responsibility, obliga-

tion or agreement for improvement or maintenance by the County except as otherwise specified in the formal acceptance by the County.

(172) “**Local distribution line**” means that portion of the distribution of a service (such as electricity, telephone, natural gas, oil, or geothermal resources) that makes available that service from the common transmission or distribution line to the end user. The term includes tap lines and service hookups.

(173) “**Local historical society**” means the local historical society recognized by the county governing body and organized under ORS chapter 65.

(174) “**Lot**” means a unit of land that was created by a subdivision process pursuant to then existing subdivision laws. A lot may or may not be a developable unit of land (see **authorized unit of land, developable unit of land**, and Appendix 2 following this Chapter).

(175) “**Lot- or parcel-of-record dwelling**” or “**lot-of-record**” or “**parcel-of-record**”

(a) As those terms are used in ORS 215.700 to 215.730 or in the rules promulgated to implement those provisions, means, as the case may be, one of the following single family residences or the unit of land upon which one of the following dwellings may be established:

(i) Pre-85 HVFL-1 dwelling.

(ii) Pre-85 HVFL-2 dwelling.

(iii) Pre-85 non-HVFL dwelling.

(iv) Pre-85 FL dwelling.

(b) For a dwelling to be approved

on a lot-of-record or parcel-of-record, the lot-of-record or parcel-of-record must also meet the definition of an authorized unit of land and developable unit of land.

(176) “**Manufactured dwelling**” means

(a) a **residential trailer**,

(b) a **mobile home**, and

(c) a **manufactured home**.

(177) “**Manufactured dwelling park**” means any place where four or more manufactured dwellings are located within 500 feet of one another on a unit of land, or on a tract of land

under the same ownership, the primary purpose of which is to rent space or keep space for rent to any person for a charge or fee paid or to be paid for the rental or use of facilities or to offer space free in connection with securing the trade or patronage of such person. A manufactured dwelling park does not include a lot located within a subdivision or a parcel within a partition being rented or leased for occupancy with no more than one manufactured dwelling authorized unit of land.

(178) “**Manufactured home**” means a structure with a Department of Housing and Urban Development (HUD) label certifying that the structure is constructed in accordance with the National Manufactured Housing Construction and Safety Standards Act of 1974 (42 U.S.C. subsection 5401 *et seq.*), as amended, and was constructed for movement on public roads that has sleeping, cooking and plumbing facilities, that is intended for human occupancy, and is being used for residential purposes.

(179) “**Manufactured structure**” means **recreational vehicle, manufactured dwelling, and recreational structure.** (ORS 446.003 (28))

(180) “**Map**”

(a) Means a representation of the whole or part of an area.

(b) In reference to partitioning or subdividing land, map means the final plat.

(181) “**Medical hardship dwelling**” means a manufactured dwelling or a conversion of an existing building pursuant to the Land Development Code.

(182) “**Minerals**” has the meaning given that term in ORS 517.750.

(183) “**Mining**” means all or any part of the process of mining by the removal of overburden and the extraction of natural mineral deposits thereby exposed.

(a) Mining includes open-pit mining operations, auger mining operations, processing, surface impacts of underground mining, production of surface mining refuse and the construction of adjacent or off-site borrow pits except those created for the construction of access roads.

(b) Mining does not include:

(i) underground mining; or

(ii) excavations of sand, gravel, clay, rock or other similar materials conducted by a landowner or authorized tenant on the landowner’s property for the primary purpose of reconstruction or maintenance of access roads and excavation or grading operations conducted in the process of farming or cemetery operations, on-site road construction or other on-site construction or non-surface impacts of underground mines.

(184) “**Ministerial decision**” means a decision made using clear and objective land use standards, the application of which does not require interpretation or the exercise of policy or legal judgment.

(a) An example of a ministerial decision is the issuance or denial of a building permit under clear and objective land use standards. Such decision is made without providing an opportunity for a hearing.

(185) “**Minor road**” means a road which is used, or is intended to be used, primarily for providing access to abutting properties. The *Comprehensive Plan* classifies some cul-de-sacs and frontage roads as minor roads.

(186) “**Mobile home**” means a structure constructed for movement on public roads that has sleeping, cooking and plumbing facilities, that is intended for human occupancy, is being used for residential purposes and was constructed between January 1, 1962, and June 15, 1976, and met the construction requirements of Oregon mobile home law in effect at the time of construction.

(187) “**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.

(188) “**Mortgage-lot**” means an administrative unit of land, approved by the Department, for use as collateral to secure financing for a structure, typically, but not necessarily, a dwelling and which is treated only for that purpose as if it were separated from the balance of the property. Mortgage-lot, when considered separately from the entire unit of land in which it is located, is an

administrative unit of land. A mortgage-lot, together with the entire unit in which it located, is an authorized unit of land.

(189) “**Natural vegetative fringe**” means the naturally-vegetated area that provides a transition between the water of a river, lake or naturally-occurring wetland and the most landward edge of this naturally-vegetated area as determined by aerial photographs on file in the Department (see Appendix 1, Figure 8 following this Chapter).

(190) “**Neighborhood or community organizations**,” as that term is used in ORS 197.763 and 215.416, means an organization recognized by order of the Board following consideration of at least the following factors: nature of the organization; date organization formed; by-laws, if any; officers of the organization, if any; frequency of meetings; date of last meeting; membership qualifications; method of conducting meetings and making minutes of such meetings. Such recognition by the Board is discretionary and is subject to the continued existence of the organization.

(191) “**Non-conforming use**” means a lawful use of land which

(a) existed on the effective date of the ordinance which rendered the use non-conforming and continues to exist, or

(b) has existed for a period of 20 years immediately preceding the date of an application for a nonconforming use review, and

(c) does not conform to the applicable regulations specified by that ordinance (see LCC Chapter 936 (Non-conforming Uses and Pre-existing Uses Code)).

(192) “**Non-farm related dwelling**” means a dwelling that is a:

(a) Class-IV or worse single-family

(b) Class-VI or worse single-family dwelling.

(193) “**Non-mineral subsurface resources**” includes water.

(194) “**Non-public water system**” means a water system supplying potable water to less than four dwellings.

(195) “**Non-regulation golf course**” means a golf course-like development that does not meet the definition of golf course, including but not limited to executive golf courses, Par 3 golf courses, pitch and putt golf courses, miniature golf courses and driving ranges.

(196) “**Non-resource-related**,” in reference to a dwelling, means a dwelling not customarily provided in conjunction with farm use, or not provided in conjunction with forest management.

(197) “**Nursing home**” means any home, place or institution which operates and maintains facilities providing convalescent or chronic care for more than 24 hours for two or more ill or infirm patients not related to the nursing home administrator or owner by blood or marriage.

(198) “**Oil or gas**” has the meaning given those terms in ORS 520.005. The term includes the placement and operation of compressors, separators and other customary production equipment for an individual well adjacent to the well-head.

(199) “**On-site filming and activities accessory to on-site filming**”

(a) Includes:

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

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

(b) The term does not include:

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

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

(200) “**Order**” means the written action of the Board to implement a quasi-judicial land use decision.

(201) “**Ordinance**” means the written action of the Board to adopt an amendment to the Land Development Code or *Comprehensive Plan*.

(202) “**Ordinary high water line**” means the level to which waters ordinarily annually rise, usually represented by the line of permanent vegetation. In areas without vegetation, this line may be determined with nearby permanent vegetation either upstream or downstream, by the visible collection of woody debris, or by the location of a high bank extending out of the floodplain (see Appendix 1, Figure 8 following this chapter).

(203) “**Oregon agricultural land use policy**” means open land used for agricultural use is an efficient means of conserving natural resources that constitute an important physical, social, aesthetic and economic asset to all the people of this state, whether living in rural, urban or metropolitan areas of the state.

(204) “**Overburden**” means the soil, rock and similar materials that lie above natural deposits of minerals.

(205) “**Owner**”

(a) Means the person who has ownership of land.

(b) For purposes of initiating land use actions or giving notice of land use decisions, the term also means the contract purchaser of record of real property.

(206) “**Ownership**” means the existence of legal or equitable title to land.

(207) “**Parcel**” means a unit of land that was created by a partitioning process pursuant to partitioning laws in existence at the time the parcel was created. A parcel may or may not be a developable unit of land (see **authorized unit of land, developable unit of land**, and Appendix 2 following this Chapter).

(208) “**Park**” means an area on which one or more of the following uses may be authorized:

(a) campgrounds: recreational vehicle sites; tent sites; camper cabins; yurts; teepees; covered wagons; group shelters; campfire program areas; camp stores;

(b) day use areas: picnic shelters, barbecue areas, swimming areas, open play fields, play structures;

(c) recreational trails: walking, hiking, biking, horse, or motorized off-road vehicle trails; trail staging areas;

(d) boating and fishing facilities: launch ramps and landings, docks, moorage facilities, small boat storage, boating fuel stations, fish cleaning stations, boat sewage pumpout stations;

(e) amenities related to park use intended only for park visitors and employees: laundry facilities; recreation shops; snack;

(f) support facilities serving only the park lands wherein the facility is located: water supply facilities, sewage collection and treatment facilities, storm water management facilities, electrical and communication facilities, restrooms and showers, recycling and trash collection facilities, registration buildings, roads and bridges, parking areas and walkways;

(g) park maintenance and management facilities located within a park: maintenance shops and yards, fuel stations for park vehicles, storage for park equipment and supplies, administrative offices, staff lodging.

(209) “**Park-and-ride area**” has the meaning as that term is used in Goal 12.

(210) “**Parking area, public**” (see **public parking area**)

(211) “**Parking space**” means a permanently maintained space with proper access for one, standard-sized automobile as indicated in the Development Code.

(212) “**Park trailer**” means a recreational vehicle built on a single chassis, mounted on wheels, designed to provide recreational, seasonal, or temporary living quarters which may be connected to utilities for operation of installed fixtures and appliances, and with a gross trailer area not exceeding 400 square feet when in the set-up mode. Such a vehicle shall be referred to as and identified by the manufacturer or converter as a recreational vehicle (see OAR 918-525-0005 (23) and **recreational vehicle**).

(213) “**Partition**” means

(a) the act of partitioning land or

(b) the unit of land which has been so partitioned.

(214) **“Partition land”**

(a) Means to divide land into two or three parcels of land within a calendar year,

(b) The term does not include:

(i) A division of land resulting from judicial foreclosure of

(I) a lien financing the purchase or improvement of real property,

(II) a recorded contact for the sale of real property, or

(III) the creation of cemetery-lots; or

(ii) An adjustment of a property line by the relocation of a common boundary where

(I) an additional unit of land is not created, and

(II) the existing unit of land being reduced in size by the adjustment complies with applicable Development Code provisions; or

(iii) A sale or grant by a person to a public agency or public body for use as a public road or other right-of-way purposes provided that such road or right-of-way complies with the applicable *Plan* and Development Code requirements. Any property divided by the sale or grant of property described in this sub-subparagraph shall continue to be considered a single unit of land until such time as the property is subdivided or partitioned;

(iv) A sale or grant by a public agency or public body of excess property resulting from the acquisition of land by the state, a political subdivision or special district for use as a public road or other right of way purposes when the sale or grant is part of a property line adjustment incorporating the excess right of way into adjacent property; or

(v) The creation of a mortgage-lot consistent with this Development Code.

(215) **“Partition plat”** means a final map and other writing containing all the exterior

boundary descriptions, locations, specifications, provisions and information concerning a partition.

(216) **“Party,”** in a proceeding involving a land use decision, means

(a) the applicant,

(b) all owners or contract purchasers-of-record of the property subject to the application, and

(c) any person who makes an appearance in a proceeding for a land use decision (see **appearance**).

(217) **“Pedestrian way”** A right-of-way for pedestrian traffic.

(218) **“Person”** means an individual, including heirs, executors, administrators or assigns; a firm, partnership, association, domestic or foreign corporation, its heirs, successors or assigns; or any political subdivision, agency, board or bureau of the state or federal government; or the authorized agent of any of the above.

(219) **“Personal-use airport”**

(a) 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. It is a private as opposed to a public airport.

(b) The term includes helicopter pads, including associated hangar, maintenance and service facilities.

(c) Exceptions to the activities permitted under this definition may be granted through waiver action by the Department of Transportation in specific instances (see ORS 215.283 (2) (g)).

(220) **“Planning permit”** include permits authorized and issued by the Director or hearing authority for, but not limited to the following property developments:

(a) conditional use permit;

(b) variance;

(c) easement recognition;

(d) partition without recognized road access;

(e) subdivision; or

(f) property line adjustments requiring discretion.

(221) “**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.

(222) “**Plat**” means the map, diagram, replat and other writing containing the description, location, specifications, dedications, provisions and all other requirements pursuant to the Development Code regulating subdivisions or partitions within the unincorporated areas of Linn County.

(223) “**Pre-85 forestland dwelling**” or “**pre-85 FL dwelling**” means a single-family dwelling established pursuant to ORS 215.705 (1) (a) to (c), and (e) to (g), and 215.720.

(224) “**Pre-85 high-value farmland (type 1) dwelling**” or “**pre-85 HVFL-1 dwelling**” means a single-family dwelling established pursuant to ORS 215.705 (1) (a) to (d), (f) and (g), and (2).

(225) “**Pre-85 high-value farmland (type 2) dwelling**” or “**pre-85 HVFL-2 dwelling**” means a single-family dwelling established pursuant to ORS 215.705 (1) (a) to (d), (f) and (g), and (3).

(226) “**Pre-85 non-high-value farmland dwelling**” or “**pre-85 non-HVFL dwelling**” or “**pre-85-NHVFL dwelling**” means a single-family dwelling established pursuant to ORS 215.705 (1) (a) to (d), (f) and (g).

(227) “**Pre-85 single-family dwelling**”

(a) means a single family dwelling proposed on an authorized unit of land in the Rural Resource Zone that complies with

(i) ORS 215.705 (1) (a) to (d), (f) and (g) [in EFU or the farm area of the F/F zoning district], or

(ii) ORS 215.705 (1) (a) to (c) and (e) to (g) [in forest area of the F/F zoning district].

(b) The term includes the following pre-85 single-family residences in the farm area of the F/F or in the EFU zoning district:

(i) a pre-85 non-high-value farmland single-family dwelling;

(ii) a pre-85 high-value farmland (type 1) single-family dwelling; and

(iii) a pre-85 high-value farmland (type 2) single-family dwelling.

(c) The term includes the following pre-85 single-family residence in the forest area of the F/F: a pre-85 forestland dwelling.

(d) The term includes terms formerly used in this Development Code such as “lot of record dwelling,” “lot or parcel of record dwelling,” and certain statutory terms used in, for example, ORS 215.705.

(228) “**Predominantly**” means

(a) more than 50%. when comparing two variables, or

(b) the greatest quantity if more than two variables are compared.

(229) “**Pre-existing use**” means

(a) any lawful use of land, and

(b) which existed prior to that use becoming a conditional use by county land use regulation, and

(c) which is now a conditional use under the current zoning district, and

(d) which has not been reviewed and approved (see LCC Chapter 936 (Non-conforming Uses and Pre-existing Uses Code)).

(230) “**Primary timber processing**” means the placement of portable barkers, portable chippers, portable stud mills, or other similar methods for initial treatment of a forest product in order to enable its shipment to market (see **forest product**).

(231) “**Principal building**” means a building within which is conducted the principal use permitted on the property as provided by this Development Code.

(232) “**Principal farm dwelling**” means a dwelling that meets one of the requirements of OAR 660-033-0135.

(233) “**Principal sign**” means the sign that is the only sign on the premises or if there is more than one sign on the premises then the determination of the principal sign is based on the following factors: size, illumination, visibility, cost, and content.



(234) **“Principal use”** means

(a) the use for which the zoning district is intended, i.e., farming in a farm zoning district, or a residence in a residential zoning district, or a forest operation or practice in the forest area of the F/F or of the FCM zoning district.

(b) the use allowed or permitted in the zoning district.

(235) **“Private airport”** (see **personal use airport**).

(236) **“Property,”** when used in the Land Development Code, where criteria or standards are set forth and where such criteria and standards are required to be met, has the same meaning given **authorized unit of land**.

(237) **“Property line adjustment”** means the adjustment of a property line by the relocation of a common boundary where an additional unit of land is not created and where the existing unit of land being reduced in size by the adjustment complies with applicable Development Code provisions.

(238) **“Protected mineral or aggregate site”** or **“protected mineral site”** or **“protected aggregate site”**

(a) Means a mineral or aggregate resource that has been placed on one of the following *Comprehensive Plan* inventories: Appendices 3, 5, 6, and 8.

(b) The term also includes sites on Appendices 4 and 10 for which a development permit has been issued pursuant to LCC 932.200 to 932.299.

(239) **“Public and semi-public buildings and uses”** means a building or use owned or operated by a government agency or a public utility. Such buildings and uses include: meeting halls, fire stations, utility substations, parks, playgrounds or community centers.

(240) **“Public parking area”** means

(a) Privately-owned or publicly-owned property, other than roads or alleys, on which parking spaces are defined, designated or otherwise identified for use by the general public, either free or for remuneration.

(b) Public parking areas may include parking areas which may be required by this Development Code for customers, patrons and clients and those park-and-ride areas permitted by accessory transportation improvements.

(241) **“Public road”** means a road over which the public has a right of use that is a matter of public record.

(242) **“Public service”** means a service that is made available to the general public with or without cost to the recipient.

(243) **“Public use airport”** means a public airport open to use by the flying public.

(244) **“Public water system”** means a water system supplying potable water to four or more dwellings.

(245) **“Quasi-judicial land use decision”** means

(a) a discretionary land use decision, subject to appeal, involving the application of specified criteria, including the exercise of policy or legal judgment to a specific individual or property or to a small, identifiable group of individuals or properties (see **land use decision**).

(b) Examples include zoning district changes, conditional uses and variances; simply put, it is to apply law.

(246) **“Rear property line,”** in reference to a unit of land,

(a) Means the property line most distant from the front property line.

(b) In the case of triangular, trapezoidal or other irregularly-shaped property, the term, qualified by the word “artificial,” means a line at least 10 feet long which is drawn more or less parallel to the front property line (see Appendix 1, Figure 2 following this chapter).

(247) **“Rear yard”** means the unoccupied and unobstructed space

(a) from the ground upward, except as otherwise provided, and

(b) extending the full width of the property between a building and the rear property line, and measured perpendicular to the building line and the closest point of the rear property line (see Appendix 1, Figure 6 following this chapter).

(248) “**Record,**”

(a) As a verb means

(i) submitting a document to, and having that document accepted by the Clerk’s Office for the purpose of placing that document, or copies thereof, in official public evidence, or

(ii) submitting an instrument conveying or contracting to convey interest in real property to, and having that document accepted by the Clerk’s Office for the purpose of placing that document, or copies thereof, in the land records. Such recording before August 1, 1970, is indexed by book and page; after that date, by microfilm number.

(b) As a noun, means all of the information, evidence and exhibits presented in writing or orally to and accepted by the hearing authority at a land use hearing.

(249) “**Recreational facilities**” or “**recreation uses**” means buildings, structures and uses owned or operated by a semi-public or private organization and includes fishing camps, hunting preserves, parks, recreational vehicle parks, playgrounds or similar activities.

(250) “**Recreational structure**” means a campground structure with or without plumbing, heating, or cooking facilities intended to be used by any particular occupant on a limited-time basis for recreational, seasonal, emergency, or transitional housing purposes and may include yurts, cabins, fabric structures, or similar structures as further defined, by rule, by the director.

(251) “**Recreational vehicle**” means a vehicle with or without motive power, which is designed for human occupancy and to be used temporarily for recreational, seasonal or emergency purposes and specifically includes camping trailers, camping vehicles, motor homes, park trailers, bus conversions, van conversions, tent trailers, travel trailers, truck campers, combination vehicles which include a recreational vehicle use and any vehicle converted for use or partial use as a recreational vehicle (see ORS 446.003 (36), OAR 918-525-0005 (29), and **park trailer**).

(252) “**Recycling facility**”

(a) means equipment used by a trade or business solely for recycling: and includes:

(i) Equipment used solely for hauling and refining used oil;

(ii) New vehicles or modifications to existing vehicles used solely to transport used recyclable materials that cannot be used further in their present form or location such as glass, metal, paper, aluminum, rubber and plastic;

(iii) Trailers, racks or bins that are used for hauling used recyclable materials and are added to or attached to existing waste collection vehicles; and

(iv) Any equipment used solely for processing recyclable materials such as bailers, flatteners, crushers, separators and scales.

(b) But not including equipment used for transporting or processing scrap materials that are recycled as a part of the normal operation of a trade or business as defined by the administrator.

(253) “**Replat**” includes a final map, diagram, drawing of the reconfiguration of lots, parcels, and easements of a recorded subdivision or partition plat, and other writings containing all the descriptions, location, specifications, dedications, and provisions and information concerning a recorded subdivision or partition.

(254) “**Requirement**” means

(a) if, in reference to a limitation imposed on a permit that is not subject to appeal, that limitation. A requirement may be a property development standard or a performance standard. A requirement may be a prerequisite to other requirements each of which must be satisfied as and in the order imposed by the permit before the principal use will be allowed (see **standard**), or

(b) if, in reference to a provision of the Linn County Code or other law requiring satisfaction or compliance, that provision.

(255) “**Residential home**” means

(a) One of the following establishments licensed or registered by the appropriate authority pursuant to state statute, that depending upon its license or registration, may provide

residential care alone or in conjunction with treatment or training or a combination thereof for five or fewer individuals who need not be related.

(i) A residential treatment home under ORS 443.400 to 443.825;

(ii) A residential training home under ORS 443.400 to 443.825;

(iii) An adult foster home under ORS 443.705 to 443.825; or

(iv) A residential facility under ORS 443.480 to 443.500.

(b) Staff persons required to meet 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.

(256) **“Residential trailer”** means a structure constructed for movement on public roads, that has sleeping, cooking and plumbing facilities, that is intended for human occupancy, is being used for residential purposes and was constructed before January 1, 1962.

(257) **“Resource-related,”** in reference to a property or a dwelling,

(a) Means a unit of land or a dwelling located in an EFU, F/F, or FCM zoning district that is principally related to a farm or forest use.

(b) The term includes:

(i) farm-related property and dwellings, or

(ii) forest-related property and dwellings.

(258) **“Right-of-way”**

(a) Means the area between boundary lines of a road or other easement of road access. Right-of-way is not limited to the surfaced width of the road.

(b) The term includes:

(i) a reservation by the developer for a road right-of-way not yet dedicated;

(ii) an easement for road access, easement of record for road access, a service, utility, pedestrian, or conservation easement (see **easement of record road access, road-related easement, and utility easement**)

(iii) Road dedications.

(iv) Rights-of way held in fee title by or dedications to a governmental body.

(259) **“Riparian habitat”** means the bank and natural vegetative fringe adjacent to any perennial or intermittent stream, lake, or naturally-occurring pond, or wetland. Sensitive riparian habitats that require setback standards are inventoried in the *Comprehensive Plan* (see Appendix 1, Figure 8 following this chapter).

(260) **“Road”**

(a) Means the entire right-of-way of any public or private way that provides ingress to or egress from property by means of vehicles or other means or that provides travel between places by means of vehicles.

(b) Road includes but is not limited to:

(i) Ways described as streets, roads, drives, highways, throughways or alleys;

(ii) Road-related structures that are in the right-of-way such as tunnels, culverts or similar structures; and

(iii) Structures that provide for continuity of the right-of-way such as bridges.

(c) The term does not include a private way created to provide ingress or egress to land used solely in conjunction with forestry, non-commercial mining, or agricultural purposes or any combination thereof when such land does not contain a dwelling.

(261) **“Roadway”** means that portion of the road right-of-way that is designed for vehicular travel.

(262) **“Road-related easement”** includes both easements of record of road access and easements of road access.

(263) **“Room and board”** means the provision of lodging, with or without meals, for compensation for five or fewer unrelated persons in an existing dwelling. The term does not include homes for the aged, nursing homes or group-care homes.

(264) **“Rural development-zoned,”** in reference to property, means property that is located in one of the nine zoning districts (AB,

FIC, HI, LI, RCM, RCT, RR, UD-I, or UD-II) in the Rural Development Zone.

(265) “**Rural resource-zoned,**” in reference to property, means property that is located in one of the four zoning districts (EFU, F/F, or FCM) in the Rural Resource Zone.

(266) “**Salvage yard**” has the meaning given the term **recycling facility**.

(267) “**School**” means

(a) a building established primarily for private or public education intended to provide instruction, or training on a regular basis, or

(b) a building in which such education is primarily conducted which may include classrooms, laboratories, day-care, or other similar facilities.

(268) “**Secondary use**” (see **accessory use**).

(269) “**Septic system**” (see **approved septic system**).

(270) “**Series partition**” means a series of partitions of land resulting in the creation of four or more parcels over a period of more than one calendar year.

(271) “**Service station**” means a place selling motor fuel and oil for motor vehicles, servicing batteries, furnishing repair and service, excluding painting, body work, steam cleaning, tire recapping and mechanical car washing, which necessitates equipment to wash more than one car at a time.

(272) “**Side property line,**” in reference to a unit of land means one or more property lines which are not a front or rear property line (see Appendix 1, Figure 2 following this chapter).

(273) “**Sidewalk**” means a pedestrian way with concrete surfacing or similar permanent surfacing. (see **pedestrian way**).

(274) “**Side yard**” means the unoccupied and unobstructed space

(a) from the ground upward, except as otherwise permitted,

(b) extending from the front yard to the rear yard between the building and the side property line measured perpendicular to the building line and the closest point of the side

property line (see Appendix 1, Figure 6 following this chapter).

(275) “**Sign**”

(a) Means any visual presentation designed, used or intended for advertising purposes or to inform or attract the attention of the public.

(b) The term includes the sign’s structure, display surface and all other component parts of a sign (see **display surface**), such things as a display, message, emblem, device, figure, painting, drawing, placard, poster, billboard or other object.

(c) The term shall not include the flag or emblem of a nation or government unit, except that such emblems shall conform to illumination standards set forth in this Development Code.

(276) “**Single-family dwelling**” means a building containing only one dwelling unit having one roof, one front door, one power meter and one address. The term includes, but is not limited to, a manufactured dwelling or site-built home. For purposes of LCC 932.860 to 932.895 (Medical Hardship Manufactured Dwellings) only, the term includes a **park trailer** (see LCC 920.100).

(277) “**Single ownership**” means a person or group of persons who either singularly or jointly own one or more contiguous units of land.

(278) “**Size**” (of property), in reference to a unit of land,

(a) Means the total horizontal area within the property lines of the unit, exclusive of any public roads and of the area within a flag strip providing access to the unit.

(b) When an authorized unit of land has been reduced in size because the right-of-way of an existing public road has been widened or because a new public road has been created, the area lost may continue to be included in the size of the unit of land for purposes of meeting minimum size standards.

(c) A description of a unit of land that includes a right-of way for a public road where no grant under subparagraph (b) of this

paragraph has been made, the area of the property shall not include the right-of-way of that road.

(279) *Soil Survey of Linn County Area Oregon*, about 1987, GPO #82427, United States Department of Agriculture, Natural Resource Conservation Service (NRCS) (formerly Soil Conservation Service (SCS) (hereafter referred to as the *Soil Survey*). The term also includes all maps prepared by the SCS and used by the Planning and Building Department prior to the publication date.

(280) “**Solid waste**”

(a) Means all organic and inorganic wastes, including but not limited to garbage, rubbish, refuse, ashes, waste paper and cardboard; sewage sludge, septic tank and cesspool pumpings or other sludge; commercial, industrial, demolition and construction wastes; discarded or abandoned vehicles or their parts; discarded home and industrial appliances; manure, vegetable or animal solid and semi-solid wastes, dead animals and other wastes;

(b) The term does not include:

(i) Hazardous wastes as defined in state statute; or

(ii) Materials used for fertilizer or for other productive purposes when such materials are applied to land in farm use and when the Department of Environmental Quality designates the application to be a beneficial use.

(281) “**Solid waste disposal site**” means land and facilities used for the disposal of, handling or transfer of, or resource recovery from solid wastes.

(a) The term includes, but is not limited to dumps, landfills, sludge lagoons, sludge treatment facilities, disposal sites for septic tank pumping or cesspool cleaning service, transfer stations, resource-recovery facilities, incinerators for solid waste delivered by the public or by a solid waste collection service, and composting plants.

(b) The term does not include

(i) a waste treatment facility subject to the permit requirements of ORS 468B.050;

(ii) a landfill site which is used by the owner or person in control of the premises to dispose of soil, rock, concrete or other similar nondecomposable material, unless the site is used by the public either directly or through a solid waste collection service; or

(iii) a site licensed to buy, sell or deal in the wrecking, dismantling, disassembling and offering for sale of used components of vehicles required to be licensed in Oregon.

(282) “**Split-zoned**,” in reference to property, means that the property is bisected by a boundary that is common to two or more zoning districts. For example an authorized unit of land having one part in a zoning district designated EFU and the remainder in a zoning district designated RR, is a split-zoned property.

(283) “**Staging area**” means the temporary use of land for the crushing, stockpiling, or processing of aggregate products used in the maintenance or construction of public roads.

(284) “**Standard**,” means a level or degree of quality or quantity that is proper and sufficient for some specific purpose, and

(a) In reference to a land use decision, the term means a prerequisite to a decision. Decision standards are used in deciding both ministerial and discretionary land use proposals.

(i) Ministerial decisions are not subject to appeal.

(ii) Discretionary decisions are subject to appeal.

(b) A decision standard is referred to as a decision criterion in the Land Development Code (see **criterion**); or

(c) In reference to property development, the term means a limitation, imposed on a permit, relating to the development of the proposal that has been approved. That part of a decision that is based on a property development standard is ministerial and is not subject to appeal. A condition may also be imposed on a development permit to insure conformance with such standards. Any deviation from a property development standard must be first approved by the Director or hearing authority (see **requirement**);

(d) In reference to performance, the term means a requirement of operation and maintenance of an approved use. That part of a decision that is based on a performance standard is ministerial and is not subject to appeal. Variances from a performance standard may be allowed, except for the following uses: a home occupation, a medical hardship manufactured dwelling, and a kennel (see **requirement**).

(285) “**Standing**” means appearing in a land use proceeding for which an appeal may be made pursuant to the Development Code.

(286) “**Stream**” includes reservoirs formed by the damming of a stream.

(287) “**Street**” means a public road that is usually under municipal jurisdiction. A street may lie within an urban growth area in which case it may be a county road or local access road.

(288) “**Stubbed road**” means a road having only one outlet for vehicular traffic and which may be extended or continued to serve future subdivisions or development on adjacent lands and, in the interim, may require that the stubbed road be terminated in a cul-de-sac.

(289) “**Structure**” means anything built or erected above or below ground.

(290) “**Subdivide land**” means to divide land into four or more lots within a calendar year.

(291) “**Subdivider**” means any person who undertakes the subdivision of land for the purpose of transferring ownership or development at any time, whether immediate or future.

(292) “**Subdivision**” means either

(a) an act of subdividing land or

(b) an area of land which has been subdivided.

(293) “**Subdivision plat**” means a final map and other writing containing all the exterior boundary descriptions, locations, specifications, dedications, provisions and information concerning a subdivision.

(294) “**Surface mining refuse**” means all waste materials, soil, rock, mineral, liquid, vegetation and other materials resulting from or displaced by surface mining operations within the operating permit area, including all

waste materials deposited in or upon lands within such operating permit area.

(295) “**Surface impacts of underground mining**” means all waste materials produced by underground mining and placed upon the surface including, but not limited to, waste dumps, mill tailings, washing plant fines, and all surface subsidence related to underground mining.

(296) “**Surveyor**” means a land surveyor who is registered in Oregon and holds a valid certificate to practice land surveying as provided by Oregon statute.

(297) “**Tax-lot**”

(a) Means an area of land mapped by the County Assessor as a unit for taxing purposes;

(b) A tax-lot is an administrative unit of land. The boundaries of a tax-lot are not necessarily identical to the boundaries of an authorized unit of land.

(298) “**Temporary**” unless otherwise specified, means a period not to exceed six months.

(299) “**Tract**” means one or more contiguous authorized units of land under a single ownership. The definition provided in ORS 215.010 (2) is interpreted to mean the same thing as the definition of the term given in this paragraph.

(300) “**Transportation facility**” means any physical facility that moves or assists in the movement of people or goods including facilities identified in OAR 660-012-0020 but excluding electricity, sewage and water systems.

(301) “**Transportation improvements**”

(a) Mean transportation improvements on rural lands that provide safe and efficient access to the use for which it is related.

(b) The term includes:

(i) accessory transportation improvements that are allowed or conditionally permitted in the EFU, F/F, or FCM zoning districts;

(ii) transportation improvements that are allowed or conditionally permitted in the EFU, F/F, or FCM zoning districts;

(iii) Channelization (as that term is defined in OAR 660-012-0065 (2) (e);

(iv) Realignment (as that term is defined in OAR 660-012-0065 (2) (f) of existing roads;

(v) Replacement of an intersection with an interchange;

(vi) Continuous median turn lane;

(vii) New access roads and collectors (as those two terms are defined in OAR 660-012-0065 (2) and (b)) within a built or committed exception area, or in other areas where the function of the road is to reduce local access to or local traffic on a state highway. These roads shall be limited to two travel lanes. Private access and intersections shall be limited to rural needs or to provide adequate emergency access.

(viii) Bikeways, footpaths and recreation trails not otherwise allowed as a modification or part of an existing road;

(ix) Park-and-ride areas;

(x) Railroad mainlines and branchlines;

(xi) Pipelines;

(xii) Navigation channels;

(xiii) Replacement of docks and other facilities without significantly increasing the capacity of those facilities;

(xiv) Expansions or alterations of public use airports that do not permit service to a larger class of airplanes; and

(xv) Transportation facilities, services and improvements other than those listed in the Land Development Code that serve local travel needs. The travel capacity and level of service of facilities and improvements serving local travel needs shall be limited to that necessary to support rural land uses identified in the *Comprehensive Plan* or to provide adequate emergency access.

(302) “**Transportation service**” means a service for moving people and goods, such as intercity bus service and passenger rail service.

(303) “**Travel trailer**” (see **recreational vehicle**).

(304) “**Underground mining**” means all human-made excavations below the surface of the ground through shafts or adits for the purpose of exploring for, developing or producing valuable minerals.

(305) “**Unit of land**” means an area of land, the boundaries of which determines ownership or some administrative division and is either an

- (a) authorized unit of land;
- (b) administrative unit of land, or
- (c) unit of land created by a process not approved by this Development Code.

(306) “**Unit-of-record**”

(a) Means a unit of land:

- (i) described by metes and bounds on a deed recorded in the land records of Linn County prior to September 2, 1980; or
- (ii) a unit of land created by a judicial judgment.

(b) A unit-of-record may or may not be a developable unit of land (see **authorized unit of land, developable unit of land**, and Appendix 2 following this Chapter).

(c) The term does not include a lot or parcel.

(307) “**Use**,” as a noun, means the purpose for which land is occupied or employed. The term includes structures that support the use of the land.

(308) “**Utility easement**” means an easement granted for the purpose of providing access to or across the property of another for utility services. The term does not include road-related easements.

(309) “**Utility facility**”

(a) means any major structures:

- (i) owned or operated by
- (ii) a public, private, or cooperative electric, fuel, communications, sewage, or water company
- (iii) for the
  - (I) generation, transmission, distribution, or processing of its products, or
  - (II) disposal of cooling water, waste, or by-products.

(b) The term includes power transmission lines, major trunk pipelines, power substations, fire substations, water towers, sewage lagoons, and similar facilities.

(c) The term excludes hydroelectric facilities, local sewer, water, gas, telephone, and power distribution lines, and similar minor facilities allowed in any zone.

(310) “**Vehicles**” means any device in, upon, or by which any person or property is or may be transported, or drawn upon a public road, and includes vehicles that are propelled or powered by any means excluding human power.

(311) “**Veterinarian**” means a veterinarian licensed by the Oregon State Veterinary Medical Examining Board pursuant to OAR 333, Divisions 100 through 120.

(312) “**Veterinary clinic**” means a business establishment including any separate boarding facilities in which veterinary services are rendered by a veterinarian to small domestic pets, equine or farm animals on either an out-patient basis or through overnight boarding.

(313) “**Vision clearance area**” means a three dimensional area (usually triangular) at a road corner or intersection the purpose of which is to provide an unobstructed vision to traffic and pedestrians that

(a) is located at the corner of a corner property nearest the road corner or intersection, and

(b) is defined by a line drawn across the corner of the corner property, referred to as the base line, whose ends terminate

(i) on a property that has a road forming an angle, at the road rights-of-way and having two sides which are the portions of the two front property lines that meet at the corner. These two lines shall be referred to as the vision clearance lines. The vision clearance lines shall be located on the right-of-way boundary at an equal and specified distance from the corner, or

(ii) on a property that has a road forming a curve, at the road right-of-way and having two sides which are the portions of the two front property lines that meet at the corner. These

two lines shall be referred to as the vision clearance lines. The vision clearance lines shall be located on the right-of-way boundary at an equal and specified distance from the corner (see Appendix 1, Figure 7 following this chapter).

(314) “**Visual airport**” means an airport intended solely for the operation of aircraft using a visual approach procedure.

(315) “**Water-dependent**” means a use or facility which can be carried out only on, in, or adjacent to water areas because the use requires access to the water body for waterborne transportation, recreation, energy production or source of water.

(316) “**Water-related**”

(a) Means a use or facility which is not dependent upon direct access to a water body but which provides goods or services that are directly associated with water-dependent or waterway uses, and which, if not located adjacent to water, would result in a loss of quality in the goods or services offered.

(b) Except as necessary for water-dependent or water-related uses or facilities, residences, parking areas, spoil and dump sites, roads, restaurants, businesses, and factories are not generally considered dependent on or related to water location needs.

(317) “**Water system**” means a supply of potable water to a development. The term includes a public water system and a non-public water system.

(318) “**Width**” (of property), in reference to a unit of land, means the horizontal distance between the side property lines, measured perpendicular to the depth line at a point midway along the property depth line (see Appendix 1, Figure 2 following this chapter).

(319) “**Willamette Valley**,” in reference to high-value and non-high-value farmlands, means Linn County.

(320) “**Wrecking yard**” means any place used for the storage, dismantling or sale of either used motor vehicles, trailers, machinery, or building materials, or parts thereof.



(321) “**Yard**” (see **front yard, rear yard, and side yard**).

(322) “**Youth camp**” means a facility either owned or leased, and operated by a state or local government, or a nonprofit corporation as defined under ORS 65.001, to provide an outdoor recreational and educational experience primarily for the benefit of persons twenty-one (21) years of age and younger. Youth camps do not include any manner of juvenile detention center or juvenile detention facility.

(323) “**Yurt**” means a round, domed shelter of cloth or canvas on a collapsible frame with no plumbing, sewage disposal hookup or internal cooking appliance.

(324) “**Zone**” means an area of land identified by Linn County for the purpose of preserving a class of uses determined to be appropriate for preservation, continuation, or establishment in that area and for which Linn County has adopted provisions in the *Comprehensive Plan* and the Land Development Code to allow for or permit, after review, such uses within the zoning district. The term also means a group of related zoning districts, such as the Rural Resource Zone and the Rural Development Zone.

[Adopted 98-002 §3 eff 3/4/98; amd 98-432 §2 eff 10/21/98; amd 99-121 §1 eff 6/30/99; amd 99-156 §2 eff 6/30/99; amd 02-313 §1 eff 8/21/02; amd 02-433 §1 eff 11/2/02; amd 04-050 §1 eff 02/25/04

## **920.200 Terms having legal meaning for purposes of administering the Land Development Code but which may not be used in the Code**

(A) The terms set forth in subsection (B) of this section have a legal meaning and significance for purposes of administering the Land Development Code but may not be used in the Development Code. The Director may rely on the use and application of such terms in the administration and application of the Development Code.

(B) *Administrative terms.*

(1) “**Abandoned well**” means a well that has been properly plugged and sealed under the regulations, and to the satisfaction of, the Department of Geology and Mineral Industry (DOGAMI).

(2) “**Bed and breakfast**” means a business offering temporary, commercial lodging with or without meals in the residence of the owner of the business, after having met the criteria and been approved for a home occupation. To keep the scale and intensity of the use consistent with that intended for home occupations, the number of bedrooms available for the business shall not exceed six.

(3) “**Boarding house**” or “**rooming house**” means a building where lodging, with or without meals, is provided for compensation but shall not include homes for the aged, nursing homes or group-care homes.

(4) “**Cellar**” means that portion of a building between floor and ceiling, which is wholly or partly below grade and located so that the vertical distance from grade to the floor below is equal to or greater than the vertical distance from grade to ceiling.

(5) “**Daylight basement**” means that portion of a building between floor and ceiling, which is partly below and partly above grade, located so that the vertical distance from grade to the floor below is less than the vertical distance from grade to ceiling.

(6) “**Department of Land Conservation and Development**” or “**DLCD**” means the staff of the Land Conservation and Development Commission of the State of Oregon.

(7) “**Disabled person**” means an individual who has a physical or mental impairment which for the individual constitutes or results in a functional limitation of self-care, ambulation, communication, transportation, education, socialization, employment or the ability to acquire and maintain adequate, safe and decent shelter.

(8) “**Duplex**” (see **two-family dwelling**).

(9) “**Dwelling**” (see **two-family dwelling and multiple-family dwelling**).

(10) “**Gross floor area**” means the floor area of a building.

(a) The term does not include, areas used exclusively for the service of the building, such as:

(i) Mechanical equipment spaces and shafts;

(ii) Elevators, stairways, escalators, and ramps; or

(iii) Public restrooms, loading docks, and ramps.

(11) “**Hotel**” or “**motel**” means any building or group of buildings used for motor-transient, residential purposes containing guest rooms which are intended or designed to be used, or which are rented, by guests.

(12) “**Loading space**” means a space

(a) that is on the same unit of land as, and contiguous with, a principal building or group of buildings for the temporary parking of commercial vehicles while loading or unloading, and

(b) that abuts a road, or other appropriate way of ingress and egress.

(13) “**Motel**” (see **hotel**).

(14) “**Multiple-family dwelling**” means a building having three or more dwelling units.

(15) “**Notice area**” means that area composed of one or more units of land the owners of which are entitled to receive notice as provided in LCC Chapter 921 (Land Development Administration Code).

(16) “**Property subject to notice**”

(a) means all properties within the notice boundary of the exterior property lines of all authorized units of land involved in a land use review.

(b) The term includes, in addition to the subject property, all properties within the notice boundary along an existing or proposed easement of road access to the subject property.

(17) “**Story**” means that portion of a building included between the upper surface of any floor and the lower surface of the ceiling above, but shall not include a basement or cellar.

(18) “**Skydiving facility**” means the use of any land for the training, the taking off and the landing of skydivers, exclusive of any buildings, structures or airport facilities in conjunction with such use.

(19) “**Template dwelling**” has the meaning given the term “**alternative forestland dwelling**.”

(20) “**Two-family dwelling (duplex)**” means a building having two dwelling units.

(21) “**Veterinarian hospital**” has the meaning given to **veterinarian clinic**.

[Adopted 98-002 §3 eff 3/4/98; amd 02-313 §1 eff 8/21/02]

### 920.300 Interpretations of zoning map boundaries

Where uncertainty exists as to the boundaries of zoning districts as shown on the official zoning map, the following rules shall apply:

(A) Boundaries indicated as approximately following the centerlines of roads or alleys shall be construed to follow the centerlines of the rights-of-way of such roads or alleys;

(B) Boundaries indicated as approximately following the property line of a unit of land shall be construed as following the property line of such unit.

(C) Boundaries indicated as approximately following county boundaries shall be construed as following county boundaries;

(D) Boundaries indicated as following railroad lines shall be construed to be midway between the main tracks;

(E) Boundaries indicated as approximately following the centerlines of streams, rivers, canals, lakes or other bodies of water shall be construed to follow such centerlines;

(F) Boundaries indicated as parallel to, or extensions of, features indicated above shall be so construed. Distances not specifically indicated on the official zoning map shall be determined by the scale of the map; and

(G) The Director may interpret the zoning boundaries

(1) where physical or cultural features existing on the ground would indicate boundaries different from those shown on the official zoning map;

(2) when other boundary-related circumstances are not covered by this subsection; or

(3) when a property is split-zoned. If necessary, the Director may refer the matter to the Board for interpretation pursuant to LCC 921.600 to 921.670.

[Adopted 98-002 §3 eff 3/4/98]

#### **920.400 Expired practices, interpretations, and policies**

(A) The purpose of this section is to put the public on notice that the practices, interpretations, and policies set forth in subsection (B) are no longer applicable:

(B) *Expired practices, interpretations, policies.*

(1) Land use application approvals granted by the Director or the Hearing Authority permitting development are null and void unless

(a) the authorized development has been initiated within 2 years of the date of the final land use decision permitting the development, or

(b) an extension has been authorized pursuant to the Development Code.

(2) *Policy.* The purpose of time limitations on land development permits is that decision criteria used to approve a land use application often change or provisions in state law change after the original approval which either restrict the use or no longer allow the use.

(3) Planned Unit Developments (PUDs) are no longer allowed by this Development Code. A PUD previously authorized by Linn County and specified in the *Comprehensive Plan* is recognized as a lawful development option for the property affected by the PUD.

[Adopted 98-002 §3 eff 3/4/98]

#### **920.500 Current practices, interpretations, and policies**

(A) The current practices, interpretations, and policies in applying the Land Development Code are set forth in subsection (B) of this section.

(B) *Current practices, interpretations, and policies.*

(1) When a dwelling has been authorized on a property through a review or is authorized as

an outright use, accessory structures may be established on the property prior to establishment of the principal use.

(2) Although the review and creation of a mortgage-lot is exempt from partitioning, the development of the mortgage-lot is subject to the setback standards and access requirements of this Development Code.

(3) Based on zoning district and the uses permitted, an applicant seeking approval for a partitioning of land must at the same time file an application in which the applicant seeks approval for a proposed use that is allowed or permitted on such property in the zoning district.

(a) Approval of an application for a partition does not grant approval for any use.

(b) Approval of any proposed use permitted on the parcel must be sought in an independent application at the same time as the application for partitioning.

(4) Beginning July 1, 1997, land use applications shall have file numbers that reflect the calendar year in which the application is submitted, e.g., CU-1-98. In years prior to July 1, 1997, the applications had been numbered reflecting the fiscal year in which they were submitted, e.g., CU-1-97/98.

(5) Unless an exception set forth in subsection (7) applies, a development permit issued by the Director is valid indefinitely if development has been timely initiated, even if, the use approved by the permit has been in any manner discontinued.

(6) Exceptions to the indefinite validity of a development permit of subsection (6) are:

(a) paragraph (8) of this subsection;

(b) paragraph (9) of this subsection;

(c) LCC 921.960;

(d) 921.990 (D); or

(e) if the development permit expressly states otherwise.

(7) The following permits issued pursuant to the Land Development Code are temporary, and unless continued or renewed in compliance with the Development Code, expire on the date imposed by the Development Code:

- (a) manufactured dwellings,
  - (i) approved for medical hardships, or
  - (ii) approved for storage,
- (b) home occupations, and
- (c) recreational vehicle on-site uses.

(8) A surface mining use shall not be deemed to be interrupted or abandoned for any period after July 1, 1972, provided:

(a) The owner or operator was issued and continuously renewed a state or local surface mining permit, or received and maintained a state or local exemption from surface mining regulation; and

(b) The surface mining use was not inactive for a period of 12 consecutive years or more.

(9) For purposes of paragraph (8) of this subsection, “inactive” means no aggregate materials were excavated, crushed, removed, stockpiled or sold by the owner or operator of the surface mine.

(C) A permit issued under the Land Development Code is transferable unless the permit limits its transferability.

[Adopted 98-002 §3 eff 3/4/98; amd 98-432 §2 eff 10/21/98; amd 02-313 §1 eff 8/21/02]

**920.600 New uses and existing uses**

(A) Notwithstanding subsection (C) of this section, where a use is listed as an allowed use in the Land Development Code, the creation, expansion, maintenance or enhancement of that use is also allowed if the establishment of that use did not violate then existing land use regulations adopted by Linn County, if any.

(B) Notwithstanding subsection (C) of this section, where a use is listed as a permitted use in the Land Development Code, the creation, expansion, maintenance or enhancement of that use is also permitted if the establishment of that use did not violate then existing land use regulations adopted by Linn County, if any.

(C) A non-conforming use is subject to expansion pursuant to LCC Chapter 936 (Non-conforming Uses and Pre-existing Uses Code).

(D) If the expansion, maintenance and enhancement of an existing use is provided for in a list of uses, that use as a new use may be set forth in a different list of uses.

[Adopted 99-121 §1 eff 6/30/99]

**Statutory References and Other Authorities:**  
 ORS 197; 203; 215; 244; 321; 368; 446; 468B; 469; 526; OAR 333, Divs. 100 to 120; 629, Div. 135; 660, Divs. 012 and 033

**Legislative History of Chapter 920:**  
 Adopted 98-002 eff 3/4/98

Amendments to 98-002

- #1 98-432 eff 10/21/98
- #2 99-121 §1 eff 6/30/99
- #3 99-156 §2 eff 6/30/99
- #4 02-313 §1 eff 8/21/02
- #5 02-433 §1 eff 11/2/02
- #6 04-051 §1 eff 2/18/04
- #7 04-050 §1 eff 2/25/04

*Appendix 1 to Chapter 920 - Figures 1 to 8*

**[Figures 1 to 8 illustrate certain of the preceding definitions regarding the configuration of certain units of land. The dimensions used in the figures do not necessarily coincide with the dimensions required by this Development Code.]**

FIG. 1. PROPERTY COVERAGE

LEGEND  :

EXAMPLES OF AREAS USED TO COMPUTE COVERAGE

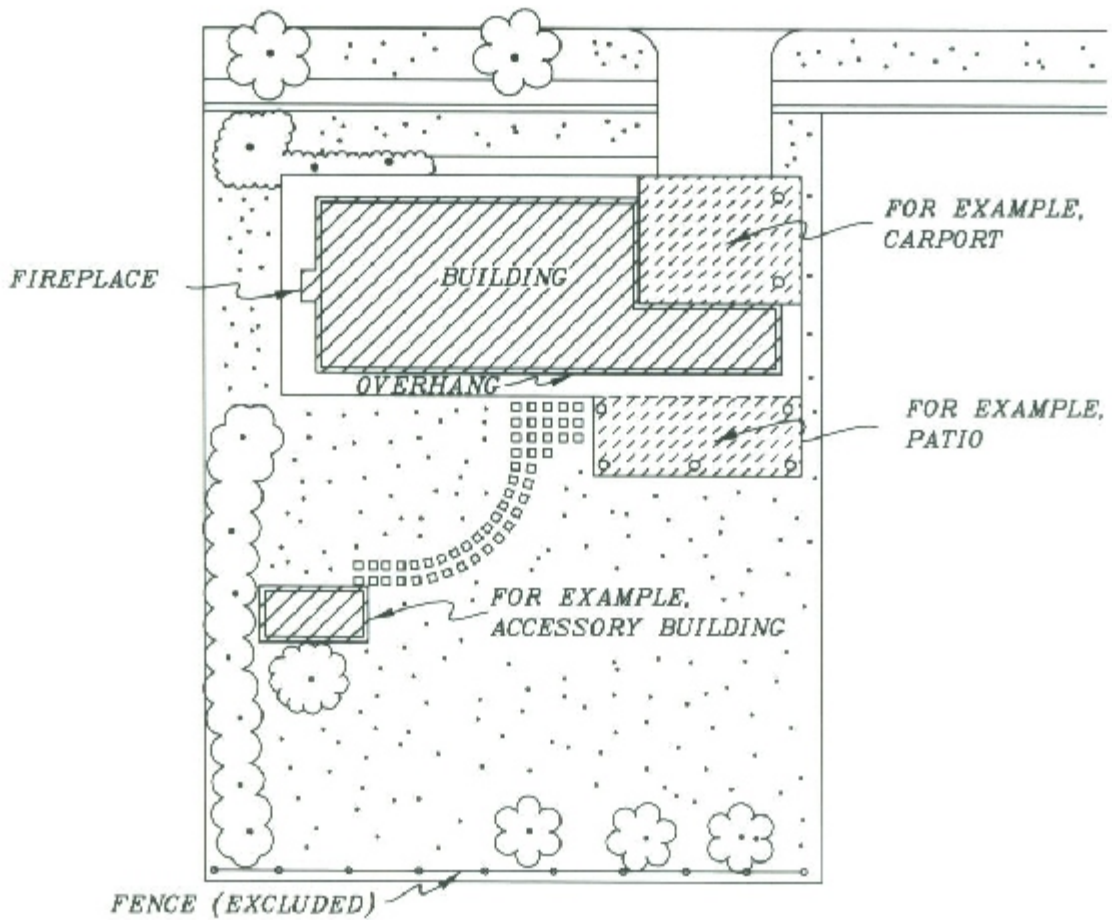
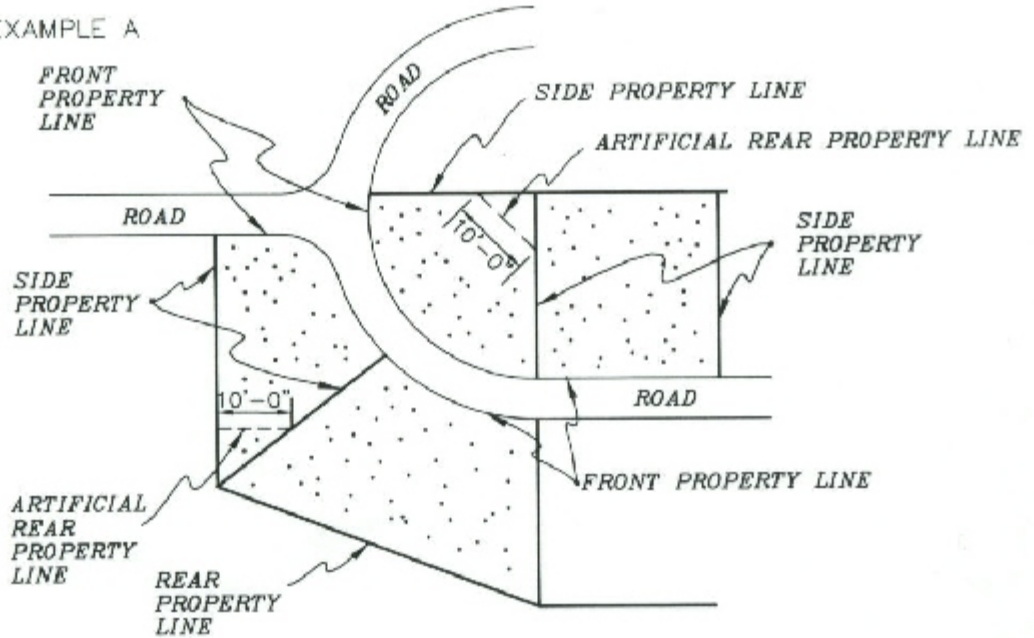
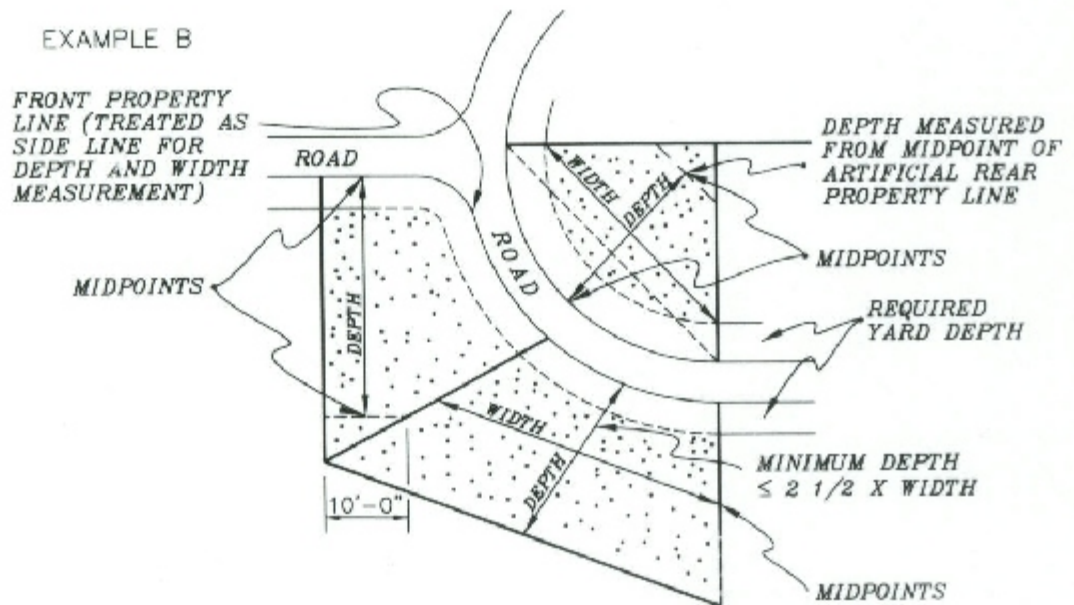


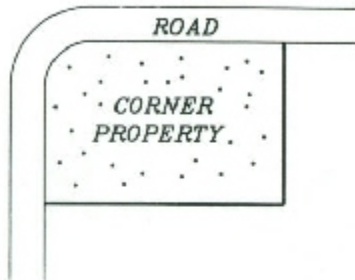
FIG. 2. PROPERTY LINES, DEPTH & WIDTH

EXAMPLE A

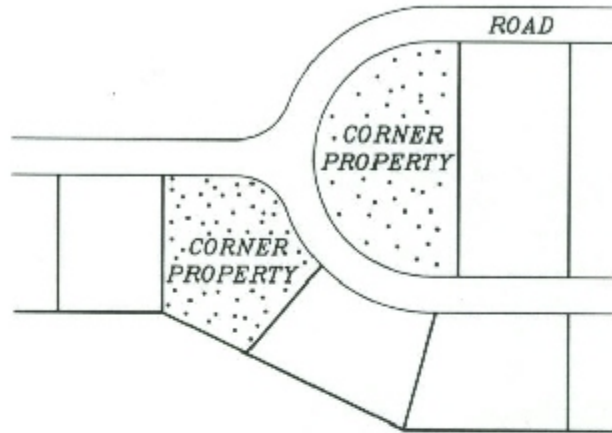


EXAMPLE B

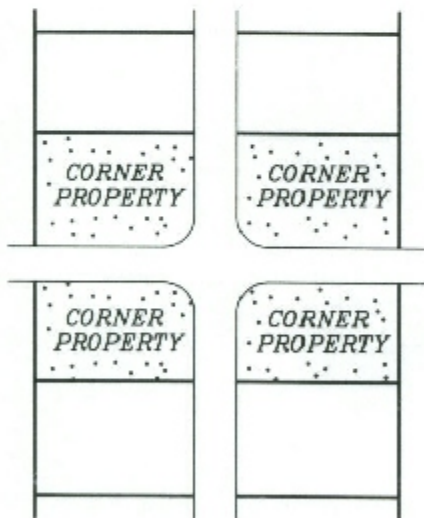




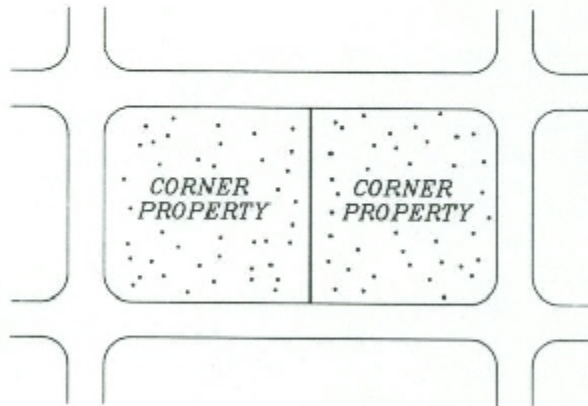
EXAMPLE A



EXAMPLE B



EXAMPLE C



EXAMPLE D



FIG. 4. FLAG-LOT (PROPERTIES A & B)

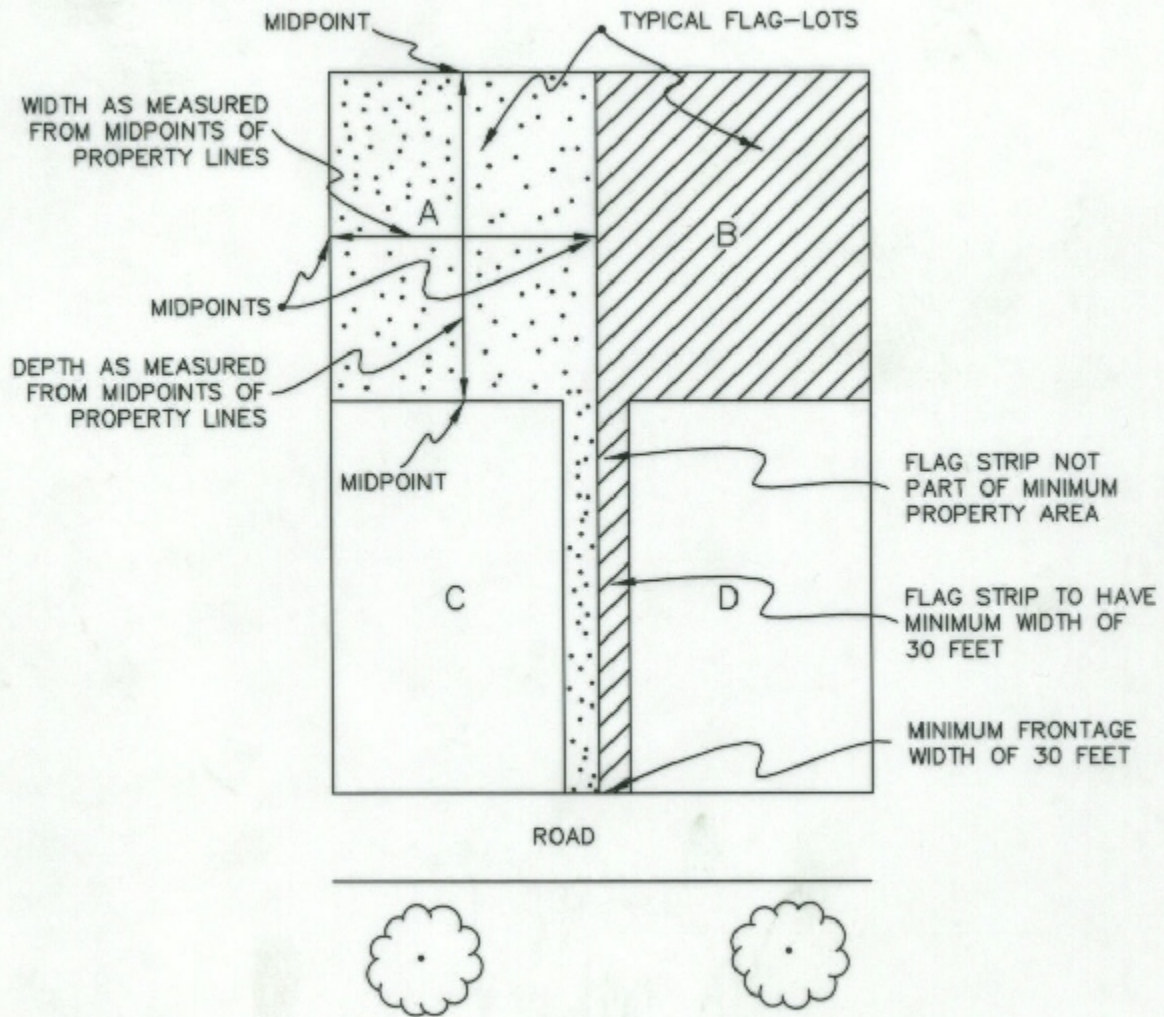


FIG. 5. LANDLOCKED PROPERTY

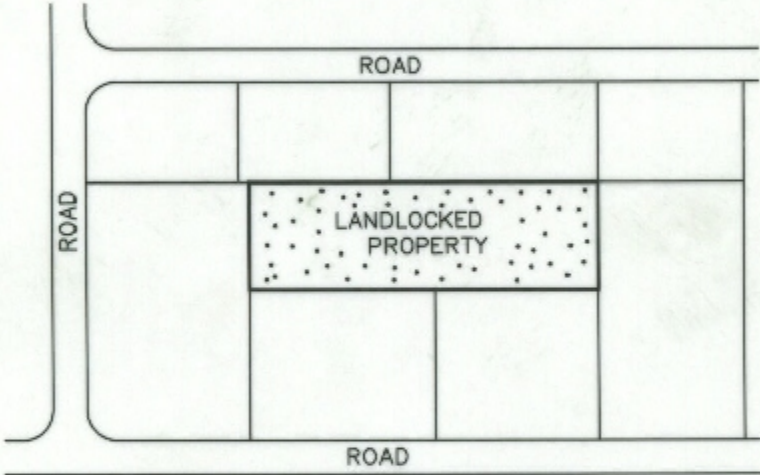
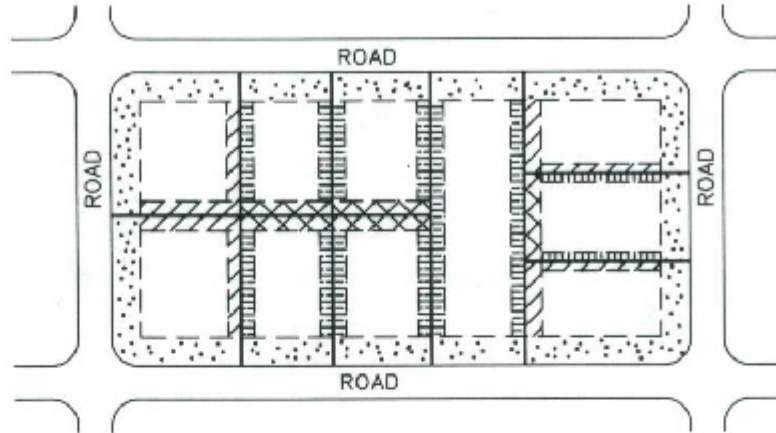
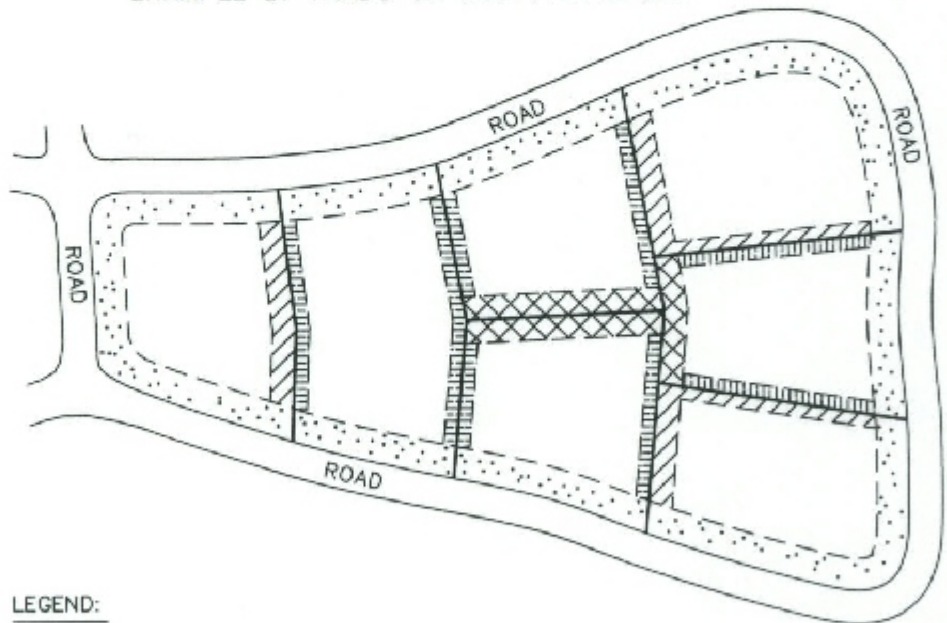


FIG. 6. YARDS

EXAMPLE A. YARDS ON RECTANGULAR PROPERTIES



EXAMPLE B. YARDS ON NON PROPERTIES



LEGEND:



-  = YARDS
-  = FRONT
-  = SIDE
-  = REAR
-  = REAR OR SIDE STATUS DEPENDS ON FACTORS NOT ILLUSTRATED

FIG. 7. VISION CLEARANCE AREA

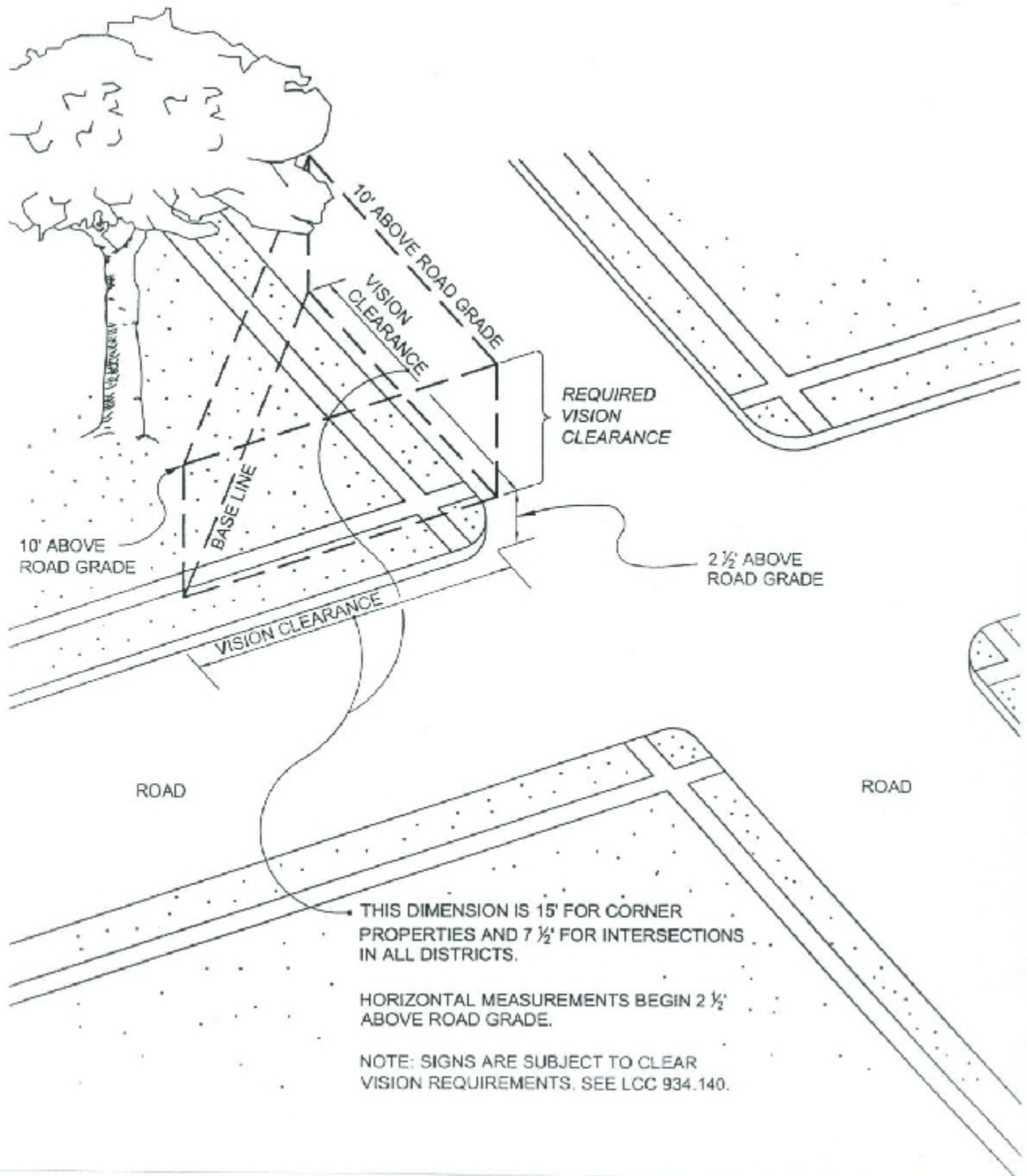
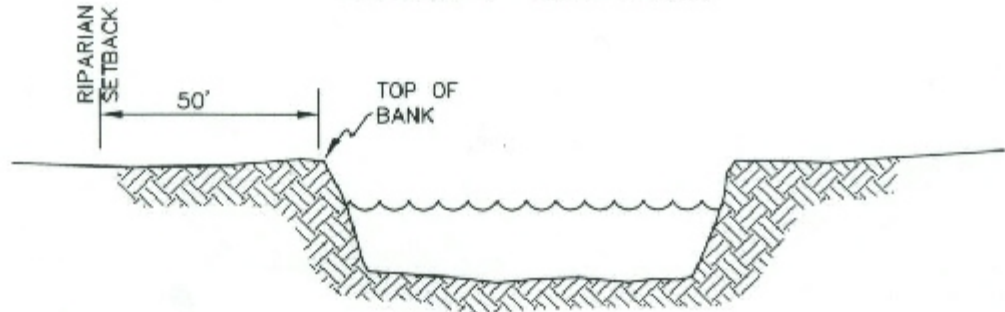
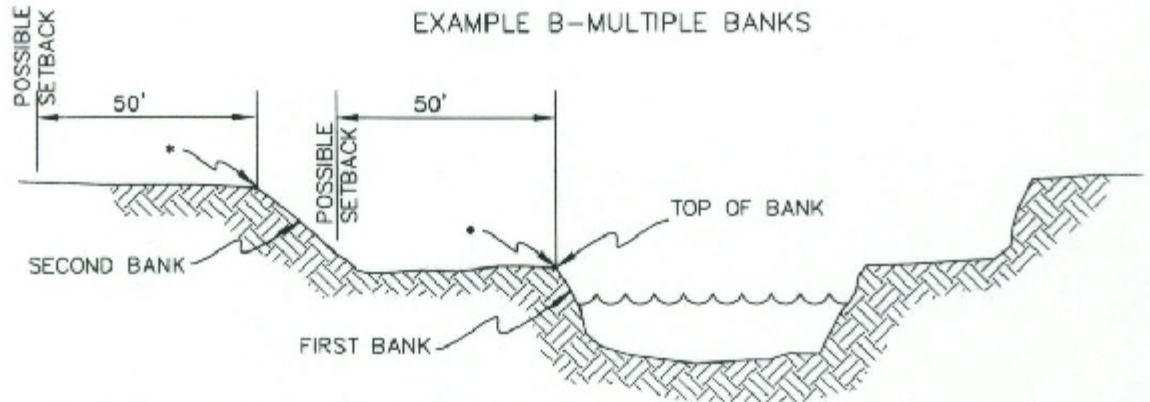


FIG. 8. RIPARIAN HABITAT SETBACK

EXAMPLE A - SINGLE BANK

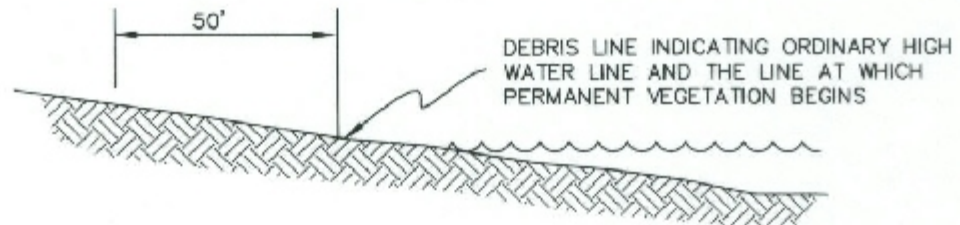


EXAMPLE B - MULTIPLE BANKS



\* IN NO CASE SHALL THE SETBACK MEASUREMENT COMMENCE BELOW THE ORDINARY HIGH WATER LINE

EXAMPLE C - FLAT BANK



**Appendix 2 to Chapter 920 — Authorized Units of Land**

Authorized unit of land												
Parcel (created)		Unit-of-record				Lot (platted)						
		metes & bounds (created)		land divisions resulting from judgments of foreclo- sure on		before 68		between 68-72		between 72-80		after 80
between 80-91	after 91	before 72	between 72-80	liens financ- ing the pur- chase of real property	recorded contracts for the sale of real property							
(1)	(2)	(1)	(2)	(3)	(4)	(1)	(2)	(3)	(4)	(5)	(7)	(8)
and conforms to the ap- proved parti- tion	all	recorded on a deed before 72, and more than one if the test below is met	recorded on a deed in compliance with land use regula- tions then in force, and more than one if the test below is met	all	all	recorded on an individual deed before 72	recorded on an individual deed between 72-80 in compliance with land use regulations in force between 72 -80	recorded on an individual deed before 72	designated RR/RCT in 91	recorded on an individual deed before 80	designated RR/RCT in 91	all
Each unit of land is an authorized units of land if each unit is contiguous to another unit of land that is described on the same instrument and each unit has been kept as a separate tax-lot and described as a separate entry on the instrument (i.e., either as Tract 1 and Tract 2, etc., or as Parcel 1 and Parcel 2, etc.) " <i>Rae Test</i> "												

**NOTES:** The dates shown in this table reflect only the last two digits of the year. The actual dates are as follows:

72 = March 22, 1972

80 = September 2, 1980

91 = August 14, 1991

See LCC 920.100 for the provisions governing the application of the dates.

[Adopted 98-002 eff 3/4/98; amd 99-121 §1 eff 6/30/99; amd 04-050 §1 eff 2/18/04]

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# TITLE 9

## COMMUNITY DEVELOPMENT

### Subtitle 2 — Land Development Code Division 1 — Administrative Provisions

#### CHAPTER 921

#### LAND DEVELOPMENT ADMINISTRATION CODE

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## I. DEVELOPMENT CODE; GENERALLY

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### A. GENERAL ADMINISTRATIVE PROVISIONS

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#### 921.002 Title; and short titles

This Chapter, LCC 921.002 to 921.999, shall be known and cited as the “Linn County Land Development Administration Code.” This Chapter may also be referred to and cited as the “Land Development Administration Code,” or the “Administration Code.”

[Adopted 98-002 §3 eff 3/4/98; amd 99-121 §2 eff 6/30/99]

#### 921.005 Application of this Chapter and exceptions

(A) Procedures for delayed annexations are governed by the provisions in LCC 921.002 to 921.499 (Development Code; Generally) and LCC 931.200 to 931.260.

(B) Land development permits authorized and issued by the Director or hearing authority are governed by the provisions in LCC 921.002 to 921.499 (Development Code; Generally) and LCC 921.500 to 921.599 (Land Development Permits).

(C) Interpretations of the Land Development Code are governed by the provisions in LCC 921.002 to 921.499 (Development Code; Generally) and LCC 921.600 to 921.699 (Development Code Interpretations).

(D) Amendments to the *Comprehensive Plan* and the Land Development Code are governed by the provisions in LCC 921.002 to 921.499 (Development Code; Generally) and LCC 921.800 to 921.899 (Amendment Procedures).

(E) If a use is not set forth in this Development Code or is determined to be inconsistent with the purposes of this Development Code, the use is unlawful.

[Adopted 98-002 §3 eff 3/4/98]

#### 921.007 Authority

(A) The Director and Commission are hereby granted all authority and duties allowed them by law, including ORS Chapters 92, 197 and 215, and the Linn County Code, and any applicable

rules promulgated by the State, to carry out the purposes and duties of those laws.

(B) Those purposes and duties include but are not limited to the review of applications for and issuance of permits, orders, or ordinance amendments authorizing:

(1) Land use development;  
(2) Land Development Code interpretations;

(3) Recommendations on amendments to the *Comprehensive Plan* and the Land Development Code;

(4) Monitoring compliance with the Development Code and enforcement of violations thereof.

(C) The Director or Commission shall not accept for review an application not meeting the requirements of LCC 921.040.

(D) The Director or Commission shall not authorize any action not provided by, or not in compliance with, this Development Code.

[Adopted 98-002 §3 eff 3/4/98]

#### 921.010 Actions requiring an application

(A) The land use actions set forth in this section require review and approval by the decision maker pursuant to this Chapter.

(B) Development permits authorized by and set forth in LCC 921.510.

(C) Development Code interpretations authorized by and set forth in LCC 921.620.

(D) Failures to render a decision required by the Development Code and appeals authorized by and set forth in LCC 921.200 and 921.210.

[Adopted 98-002 §3 eff 3/4/98]

#### 921.015 Definitions

As used in this Chapter or as otherwise indicated:

(A) “**Application**” means

(1) the completed application form including any documents and evidence submitted by an applicant. The application is an evidentiary document and is used by the Director for the purpose of making a determination whether the information as submitted by the applicant may be deemed complete. The term does not include

documents or evidence provided to the applicant by the Department.

(2) in the case of an appeal and when consistent with the context and the appeal the term means the notice of intent to appeal.

(B) “**Substantially changes**,” in reference to an application deemed complete, means a change made by the applicant that differs from the proposal as described in the notice to such a degree that the notice of the proposed action did not reasonably describe the County’s final action.

(C) “**Applicant**” means the appellant in the case of an appeal and when consistent with the context and the appeal process.

(D) “**Argument**” means assertions and analysis regarding the satisfaction or violation of legal standards or policy believed relevant by the proponent to a decision. “Argument” does not include facts.

(E) “**Evidence**” means facts, documents, data or other information offered to demonstrate compliance or noncompliance with the standards believed by the proponent to be relevant to the decision.

[Adopted 98-002 §3 eff 3/4/98

### **921.020 Applications; generally**

(A) The burden of proof is upon the applicant. The greater the impact of the proposal in the area, the greater the burden of proof. The proposal must be supported by proof that it conforms to the applicable provisions of the Land Development Code, especially to specific decision criteria. Unless the applicant or the applicant’s authorized representative waives appearance in writing with the Director, the applicant or the applicant’s authorized representative must appear at a hearing on the application. For an application that requires a public hearing, the presence of the applicant or the applicant’s authorized representative at the hearing provides the applicant a greater opportunity to meet the burden of proof.

(B) The Director shall not accept an application that on the face is incomplete, except as provided in LCC 921.082, or violates federal, state, or local law, or where the Director deter-

mines that there is a violation or alleged violation of the Land Development Code.

(C) If, in the determination of the Director, an applicant submits any evidence that substantially changes the proposal between the time of giving notice and a decision being made on that proposal, the Director must so notify the applicant in writing and the hearing authority. The notice of the Director’s determination must be included in the record of that application.

(D) An issue which may be the basis for an appeal to the Land Use Board of Appeals (LUBA) shall be raised not later than the close of the record at or following the final evidentiary hearing on the proposal before the Board. Such issues shall be raised and accompanied by statements or evidence sufficient to afford the Board and the parties an adequate opportunity to respond to each issue.

(E) All documents or evidence relied upon by the applicant shall be submitted to the Director and shall be made available to the public for inspection and copying. The person requesting any copies shall bear the expenses for copying as set by the Board in the most recent fee order.

(F) Any staff report used at a hearing shall be available at least 7 calendar days prior to the hearing. If additional documents or evidence are provided by any party, the decision maker 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 215.428.

(G) Irrelevant or repetitive evidence may not be received without the express permission of the hearing authority.

(H) Except as allowed in LCC 932.860 to 932.895, age, gender or physical disability shall not be considered in making a land development decision.

(I) The application shall be made available to public inspection at the time notice is given in accordance with the provisions of LCC 921.300 to 921.370.

(J) The appellant may not submit a recording of an evidentiary hearing on appeal unless the appellant submits along with the recording a transcript of that recording certified to be a true and accurate reproduction of the recording.

(K) A video recording may be submitted and received as evidence in an evidentiary hearing.

[Adopted 98-002 §3 eff 3/4/98]

### **921.025 Conflict of interest and ex parte contacts**

(a) *Conflict of interest.* The Director or any member of the hearing authority shall not participate in any proceeding or action required by this Chapter except as allowed in ORS Chapter 244.

(B) *Ex parte contact.* No decision or action of the Commission or Board shall be invalid due to ex parte contact or bias resulting from ex parte contact with a member of the decision-making body, if the member of the decision-making body receiving the contact:

(1) Places on the record the substance of any written or oral ex parte communications concerning the decision or action; and

(2) Has a public announcement of the content of the communication and of the parties' right to rebut the substance of the communication made at the first hearing following the communication where action will be considered or taken on the subject to which the communication related.

(C) A communication between county staff, including County Counsel, and the Commission or Board shall not be considered an ex parte contact.

(D) Subsection (B) of this section does not apply to ex parte contact with a hearings officer approved under ORS 215.406 (1).

[Adopted 98-002 §3 eff 3/4/98; amd 99-121 §2 eff 6/30/99]

### **921.030 Pre-application conference**

(A) Definition. For purposes of this section, “pre-application conference” means an informal discussion between the applicant and the Director, or the Director’s staff, that takes place before an application is filed under LCC 921.040.

(B) The Director may require and schedule a pre-application conference.

(C) The applicant shall attend a pre-application conference scheduled by the Director.

(D) The Director shall grant a pre-application conference requested by an applicant.

(E) The Director may request the attendance of any other county official whose attendance is deemed necessary by the Director.

[Adopted 98-002 §3 eff 3/4/98]

### **921.035 County Clerk maintains official record of final decisions made by the Board**

The County Clerk is the office that maintains the written record of Board hearings. All written evidence received by the Board and a tape recording of the hearing, if any, will be maintained by the County Clerk.

[Adopted 98-002 §3 eff 3/4/98]

### **921.040 Application; submission requirements**

(A) An application for an action set forth in this subsection is subject to this section.

(1) Development permit,

(2) Development Code interpretation,

(3) Amendment to the *Comprehensive Plan* or Land Development Code, or

(4) Any other proposal for which Linn County has authority to determine under this Development Code, and any additional requirements for an application imposed by the Chapter or section under which the application is filed or governed.

(B) The application must conform to the requirements of this section before the application may be deemed complete and scheduled for review and decision.

(C) Except for a Type IIB (code interpretation) and Type IIIA (legislative) application, an application required by this section is an evidentiary document on which a final decision is made.

(D) Linn County shall not take jurisdiction of an application unless the applicant complies with all the requirements of this section.

(E) Only an application complying with all the requirements of this section may be deemed complete under LCC 921.060.

(F) The application form required by this section is a form prescribed by the Director.

(G) The applicant must file with the Director an application that satisfies all the requirements of subsection (H) of this section.

(H) *Contents of the application.*

(1) A completed application form.

(2) A statement from the Linn County Environmental Health Program showing that the applicant's proposed or existing uses can be supported by an approved septic system which meets the requirements imposed by LCC 933.140.

(3) Any statements needed to show compliance with requirements imposed by any technical information provided to the applicant by the Director under LCC 921.400.

(4) A detailed site development plan, drawn to scale.

(5) A truck haul plan, if a haul route plan is required by the Chapter or section under which the application is filed or governed.

(6) A copy of any document referenced by the application or by any other document. A document may not be incorporated into the application by reference only.

(7) All documents and evidence relied upon by the applicant to demonstrate compliance with the applicable decision criteria. All such documents and evidence shall be submitted to the Director before the application is deemed complete.

(8) Any information the Director requires the applicant to submit which the Director deems necessary to address applicable decision criteria.

(9) Any information required by the Chapter or section under which the application is filed or governed.

(10) Unless waived by the Director under this section, a fee applicable to that application in the amount specified by the most current edition of the Linn County Fee Order. Linn County will not take jurisdiction of an application if the fee is:

- (a) paid late;
- (b) paid in an incorrect amount; or

(c) paid with a check that is returned for insufficient funds.

(I) The Director may waive the application fee required by subsection (H) if the applicant is a unit or agency of local government.

(J) The fee required in subsection (H) shall not apply to an appeal made by neighborhood or community organizations recognized by an order of the Board and whose boundaries include the site under review when such appeal is made of a Director determination made pursuant to the Land Development Code.

(K) The fee required by subsection (H) may have additional requirements imposed by the Chapter or section under which the application is filed or governed.

(L) The applicant shall attend any pre-application conference scheduled by the Director pursuant to LCC 921.030.

(M) The fee required by this section may be paid by cash, check, money order, or, if a unit of government, a purchase order, or in any other manner approved by the Director.

[Adopted 98-002 §3 eff 3/4/98; amd 98-432 §2 eff 10/21/98; amd 99-121 §2 eff 6/30/99]

#### **921.045 Multiple applications**

(A) The Director, or other decision maker, may require that multiple applications relating to the same tract or authorized unit of land be combined and reviewed concurrently as a single application.

(B) The Director may consolidate the public hearing processes when appropriate.

(C) Whenever combined, the applications shall be processed in accordance with the highest level assigned to the applications.

(D) Approval or denial by the decision maker of one portion of a combined application does not require that the decision maker approve or deny any other portion of the application.

(E) The applicant shall set forth on separate applications each proposal when:

- (1) different decision criteria are applicable;
- (2) more than one zoning district is proposed; or

(3) the affected properties are not contiguous.

[Adopted 98-002 §3 eff 3/4/98]

### **921.060 Reviewing an application for completeness**

(A) *Application classified.* The Director shall initially classify each application according to the appropriate level of review: Type IA, Type IB, Type IIA, Type IIB, Type IIIA, or Type IIIB application. Review by the Director may include submission of the application to other county officials for their review and approval.

(B) *Application reviewed for completeness.* Within 30 calendar days of receiving an original application or any subsequently provided information, the Director will review the original application or any subsequently provided information and determine if the application complies with LCC 921.040.

(C) *Deemed complete.* The Director shall deem an application complete if the Director determines that the application complies with all the provisions of LCC 921.040.

(D) *Notice application is deemed complete.* If the application is deemed complete, the Director shall provide written proof to the applicant that the application is deemed complete. This notice shall contain at least:

(1) a statement that the application has been deemed complete;

(2) the date it was deemed complete;

(3) the date scheduled for a public hearing or decision on the application;

(4) a list of any applicable criteria under which proposal was reviewed;

(5) the level of review that the Director has determined under subsection (A) of this section;

(6) a statement that 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 if:

(a) The application was deemed complete when first submitted, or

(b) The applicant submits the requested information within 180 calendar days of the date the application was first submitted;

(7) a statement that a final action will be made by the Director, or hearing authority, consistent with the time limitations set forth in LCC 921.140; and

(8) a statement that if the applicant submits any evidence or testimony after notice has been given on an application deemed complete and the new evidence or testimony substantially changes the proposal, then the decision maker shall not consider such evidence and shall not receive such new evidence into the record, and that the applicant, if the applicant desires that the new evidence be received, must withdraw the application and submit a new application including fees.

(E) *Not Deemed Complete.* If the application is not deemed complete, the Director shall notify the applicant in writing what information is missing and allow the applicant, subject to the time limit specified in paragraph (2) of this subsection, 30 calendar days to submit the needed information.

(1) *Missing information submitted.* If the applicant, within 30 calendar days of receiving the notice specified in paragraph (3) of subsection (B) of this section, submits any additional information, the application first received and the missing information shall be again reviewed under this section.

(2) *Dismissal of incomplete application.* If the Director, by the end of the 180<sup>th</sup> calendar day after first receiving the application, is still unable to deem complete the application first received and all additionally-provided information, the application shall be dismissed.

(3) *Incomplete application deemed complete.* If the applicant, by the end of the 30<sup>th</sup> calendar day after the application was first received, refuses to submit the needed information, the application shall be deemed complete on the 31<sup>st</sup> calendar day after the application was first received. The Director shall document the nature of the refusal.

(F) *Date for review scheduled.* After the application is deemed complete, the Director shall schedule a date for a rendering a decision. The date and time may be for a hearing before the Commission or Board.

[Adopted 98-002 §3 eff 3/4/98; amd 99-121 §2 eff 6/30/99]

### **921.065 Law applicable to the application**

(A) 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 if:

(1) The application was deemed complete when first submitted, or

(2) The applicant submits the requested information within 180 calendar days of the date the application was first submitted.

(B) If an application has not been deemed complete by the 181<sup>st</sup> calendar day after it was first submitted, the applicant must resubmit the proposal in a new application. Such resubmitted application shall be subject to the review process of LCC 921.060 as a new application.

[Adopted 98-002 §3 eff 3/4/98]

### **921.070 Classes of review; applications, procedures and decisions**

(A) *Classes of reviews; applications, levels of review, and decision.* There are three classes of review. Each class consists of an application, its corresponding level of review procedure, and final decision. Each class is identified by a type unique to that class. The three classes of review are:

- (1) Type IA and Type IB classes;
- (2) Type IIA and Type IIB classes;
- (3) Type IIIA and Type IIIB classes.

(B) *Type IA and Type IB classes.* An application that is classified by the Director as Type I shall be reviewed pursuant to a Type I procedure. The decision is a ministerial decision made by the Director.

(C) *Type II classes.*

(1) A Type IIA classification is for an application for a development permit authorized and issued by the Director. An application that is classified by the Director as Type IIA shall be reviewed pursuant to a Type IIA procedure. The

decision is a discretionary decision made by the Director. A Type IIA application may be reclassified as a Type IIIB application and referred by the Director to the Commission. If the application is so referred, the application shall be reviewed and decided by the Commission pursuant to the Type IIIB level of review.

(2) A Type IIB classification is for an application seeking an interpretation of the Land Development Code. The decision is made by the Director pursuant to a Type IIB procedure.

(D) *Type III classes.*

(1) An application that is classified by the Director as Type IIIA shall be reviewed pursuant to a Type IIIA procedure. An action on an application that is classified by the Director as Type IIIA includes:

- (a) a recommendation on a legislative matter made by the Commission; and
- (b) a final decision on a legislative matter made by the Board.

(2) An application that is classified by the Director as Type IIIB shall be reviewed pursuant to a Type IIIB procedure. An action on an application that is classified by the Director as Type IIIB includes:

- (a) a quasi-judicial amendment to the *Comprehensive Plan* or the Land Development Code;
- (b) a development permit authorized by the Commission and issued by the Director; and
- (c) a Type IIA application that is reclassified by the Director as Type IIIB application.

[Adopted 98-002 §3 eff 3/4/98; amd 98-432 §2 eff 10/21/98]

### **921.075 Type I classes**

(A) The Director shall classify an action set forth in subsections (B) and (C) of this section as a Type IA or Type IB application.

(B) *Examples of Type IA applications.* The actions set forth in this subsection shall be classified as Type IA.

(1) Development being permitted where no discretion is involved and which does not

result in the issuance of a permit by the Department, such as planning approval of an irrigation diversion permit issued by the State Water Resources Department.

(C) *Examples of Type IB applications.* The actions set forth in this subsection shall be classified as Type IB.

(1) Development permit where no discretion is involved which result in the issuance of a building permit or an EHP permit.

(2) Use of a recreational vehicle as a temporary dwelling.

(3) Alteration, restoration, or replacement of a lawfully established dwelling, for which a decision may be made solely on information in the development permit application.

(4) Temporary manufactured dwelling storage permit.

(5) Partition not requiring the creation of a road, flag-lot, or recognition of an easement.

(6) Property line adjustment meeting clear and objective standards.

(7) Final partition review.

(8) Final subdivision plat review.

(9) Road approach (access to a public road).

(10) Step-one review, as that term is described in LCC 921.082, of a conditional use permit application for a dwelling in an EFU or F/F zoning district.

(11) Creation of a mortgage-lot.

(12) Any other action which is determined by the Director to require review and approval pursuant to this Chapter or ORS Chapters 92, 197, or 215.

[Adopted 98-002 §3 eff 3/4/98; amd 99-121 §2 eff 6/30/99]

### **921.080 Type II classes**

(A) The Director shall classify an action set forth in subsections (B) and (C) of this section as a Type II application.

(B) Type IIA applications include but are not limited to:

(1) Conditional use permit for which the Director is authorized to make a decision, including,

(a) step-two review, as that term is described in LCC 921.082, of a conditional use permit application for a dwelling in an EFU or F/F zoning district, and

(b) Greenway conditional use permits.

(2) Easement recognition.

(3) Partition authorized under LCC 924.500 to 924.800.

(4) Non-conforming use review.

(5) Parking of seven log trucks on land in an EFU zoning district.

(6) Partition requiring the creation of a road, flag-lot or an easement.

(7) Property line adjustment requiring discretion.

(8) Development review within a Sensitive Bird Habitat Overlay.

(9) Subdivisions.

(10) Variance.

(11) Any other action which is determined by the Director to require review and approval pursuant to this Chapter or ORS Chapters 92, 197 or 215.

(12) Alteration, restoration, or replacement of a lawfully established dwelling requiring that the Director make a decision based on a review of information not limited to the development permit application.

(C) A Type IIB application is limited to an interpretation of the Land Development Code.

[Adopted 98-002 §3 eff 3/4/98; amd 99-121 §2 eff 6/30/99]

### **921.082 Step-one and step-two reviews**

(A) A step-one review of a conditional use application is a Type IB action conducted by the Director using clear and objective criteria.

(B) A step-two review of a conditional use application is a Type IIA action conducted by the Director and involves discretion.

[Adopted 98-002 §3 eff 3/4/98]

### **921.085 Type IIIA classes; legislative**

(A) The Director shall classify an action set forth in subsection (B) of this section as a Type IIIA application.



(B) A Type IIIA application includes but is not limited to:

(1) Legislative amendment to the *Comprehensive Plan*.

(2) Legislative amendment to the Land Development Code.

(3) Any other action which is determined by the Director to require review and approval pursuant to this Chapter or ORS Chapters 92, 197 or 215.

[Adopted 98-002 §3 eff 3/4/98]

#### **921.090 Type IIIB classes; quasi-judicial**

(A) The Director shall classify an action set forth in subsection (B) of this section as a Type IIIB application.

(B) A Type IIIB application includes but is not limited to:

(1) Conditional use permit in EFU, F/F, and FCM zoning district for which the Commission is authorized to make a decision.

(2) Quasi-judicial amendment to the *Comprehensive Plan*.

(3) Quasi-judicial amendment to the Land Development Code.

(4) An application:

(a) to alter or demolish an historic resource on the Linn County Register of Historic Resources; or

(b) to remove a resource from the Historic Resource Overlay (HRO); or

(c) to apply the Historic Resource Overlay (HRO) to a resource.

(5) A hearing to consider the revocation of a permit pursuant to LCC 921.965.

(6) Any other action which is determined by the Director to require review and approval pursuant to this Chapter or ORS Chapters 92, 197 or 215.

[Adopted 98-002 §3 eff 3/4/98; amd 99-121 §2 eff 6/30/99]

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## **B. EVIDENTIARY AND APPELLATE PROCEDURES**

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#### **921.110 Type IA procedure**

(A) A Type IA application shall be reviewed and decided in compliance with the procedure provided in this section.

(B) A decision of a Type IA application shall be made by ministerial action of the Director.

(C) The Director is not required to provide notice or a public hearing before making a decision on a Type IA application.

(D) The Director shall make a decision on a Type IA application based only on the evidence and testimony in the record and on any information that is customarily received by judicial notice.

(E) The Director shall, within 150 calendar days of deeming an application complete:

(1) approve the application if the findings and conclusions satisfy all the criteria or can be made to satisfy the criteria with conditions; or

(2) deny the application, if the findings of fact do not satisfy all the criteria.

(F) The Director may issue a decision on a Type IA application in writing. If the decision is in writing, the decision shall comply with the provisions of LCC 921.115 (G).

[Adopted 98-002 §3 eff 3/4/98]

#### **921.115 Type IB procedure**

(A) A Type IB application shall be reviewed and decided in compliance with the procedure provided in this section.

(B) A decision of a Type IB application shall be made by ministerial action of the Director.

(C) The Director is not required to provide notice or a public hearing before making a decision on a Type IB application.

(D) The Director shall make a decision on the application based only on the evidence and testimony in the record and on any information that is customarily received by judicial notice.

(E) The Director shall, within 150 calendar days of deeming an application complete:

(1) deny the application, if the findings of fact do not satisfy all the criteria.

(2) approve the application if the findings and conclusions satisfy all the criteria or can be made to satisfy the criteria with conditions; or

(F) The Director may reclassify a Type IB application as a Type IIA application.

(G) The Director shall issue a decision on a Type IB application in writing and signed by the Director. The decision shall be based on and include findings of fact, applicable Land Development Code criteria, and conclusions to support the decision. The signature may appear on a final decision, a final plat, a building or other non-planning permit, or in spaces provided on the appropriate form.

(H) The Director shall comply with the provisions of LCC 921.120 and 921.180.

[Adopted 98-002 §3 eff 3/4/98]

### **921.120 Type IIA procedure**

(A) A Type IIA application shall be reviewed and decided in compliance with the procedure provided in this section. A decision of a Type IIA application involves application of discretion and shall be made by the Director.

(B) The Director shall:

(1) provide initial application notice as may be required for Type IIA applications by LCC 921.300 to 921.370;

(2) make a decision on the application conforming to the requirements of LCC 921.140; and

(3) give notice of the decision as required by LCC 921.180.

(C) A Type IIA application may be reclassified, at the Director's discretion, as Type IIIB and referred to the Commission for a public hearing. If a Type II application is so referred by the Director to the Commission for its review, the Commission shall review the application under LCC 921.135 (Type IIIB).

(D) If the Director has not made a decision on a Type IIA application or has not referred it to the Commission within 14 calendar days of the date scheduled for decision, the applicant may request that the application be heard by the Commission

under the procedure authorized in LCC 921.135 (Type IIIB, by the Commission).

[Adopted 98-002 §3 eff 3/4/98]

### **921.125 Type IIB procedure**

The procedure for a Type IIB application is set forth in LCC 921.600 to 921.670.

[Adopted 98-002 §3 eff 3/4/98]

### **921.130 Type IIIA legislative procedure**

(A) A Type IIIA action shall be reviewed and decided in compliance with the procedure provided in this section.

(B) A Type IIIA action requires a legislative public hearing conducted by a hearing authority.

(C) A legislative hearing is a public hearing during which opportunity for the presentation of testimony. The hearing is not an evidentiary hearing. A legislative hearing is less formal than a quasi-judicial hearing.

(D) Except for written materials submitted to the Director prior to the hearing, the Director shall not present documents or testimony on behalf of any person at any time. Each person is responsible to submit any document, evidence or testimony which that person wishes to have included in the record. This limitation does not apply when the County is the applicant.

(E) The Director shall provide initial application notice as may be required for Type IIIA action by LCC 921.300 to 921.370;

(F) The hearing authority shall:

(1) conduct at least one public hearing in accordance with subsection (H) of this section no sooner than 42 calendar days from the date the application is deemed complete; and

(2) make a decision on the application conforming to the requirements of LCC 921.140.

(G) The Director shall give notice of the decision as required by LCC 921.190.

(H) *Conduct of a legislative hearing.* The hearing authority shall include, at a minimum, and as closely as possible in the order indicated, the elements set forth in this subsection in the conduct of such hearing:

(1) *Statements by the presiding chair.* At the commencement of a hearing the chairperson of

the hearing authority shall make a statement on the record to those in attendance that:

(a) States the nature and purpose of the matter being considered;

(b) States that testimony and arguments must be directed toward the matter described in subparagraph (a) of this paragraph or other criteria in the *Plan* or the Land Development Code which the person believes to apply to the decision;

(c) States 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 LUBA based on that issue; and

(d) Declares any *ex parte* contacts that result in bias or impartiality or any conflicts of interest by members of the hearing authority.

(2) *Order of testimony and evidence.* The hearing authority shall provide opportunity for the presentation of argument and testimony as closely as possible to the following order.

(a) The Director shall, at a minimum, submit:

(i) a staff report

(ii) any agency comments the Director has received; and,

(iii) in the case of appeal, the notice of intent to appeal and the record on appeal in compliance with LCC 921.250.

(b) The proponents, if any, followed by other people in support of the proposal.

(c) The opponents, if any.

(d) Those who do not support or oppose the proposal.

(e) The hearing authority may ask questions of any person who has testified or of staff at any point during the hearing.

(3) *Hearing continued.* If the hearing is continued or tabled, the chairperson of the hearing authority shall state on the record the date and time for which the hearing is rescheduled and the place where the hearing will be conducted and what limitations exist on further comment or submissions of written materials;

(4) *Hearing and record closed.* Unless a decision is tabled or hearing continued, the chairperson of the hearing authority shall close the record to public input and begin deliberations on a decision or announce the time, date and place when the decision will be made.

(5) *Final decision.* The hearing authority shall make a decision on the application conforming to the requirements of LCC 921.140 not more than 42 calendar days from the close of the public hearing.

(I) A Type IIIA decision on a legislative matter made by the Commission is a recommendation only. It is not a final decision. The Director shall schedule a date for final decision on the matter with the Board.

[Adopted 98-002 §3 eff 3/4/98; amd 99-121 §2 eff 6/30/99]

### **921.135 Type IIIB quasi-judicial procedure; evidentiary and appellate**

(A) *Generally.*

(1) A Type IIIB action shall be reviewed and decided in compliance with the procedure provided in this section.

(2) This section applies to the evidentiary and appellate process for a Type IIIB application and for an appeal of a Type IIIB decision.

(3) A Type IIIB action requires at least one quasi-judicial public hearing conducted by a hearing authority.

(4) A quasi-judicial hearing is a public hearing during which opportunity for the presentation of evidence and testimony is provided. The hearing is an evidentiary hearing. A quasi-judicial hearing is more formal than a legislative hearing.

(5) Except for written materials submitted to the Director prior to the hearing, the Director shall not present documents or testimony on behalf of any person at any time. Each person is responsible to submit any document, evidence or testimony which that person wishes to have included in the record. This limitation does not apply when the County is the applicant.

(6) The Director shall provide initial application notice as may be required for Type IIIB action by LCC 921.300 to 921.370.

(7) The hearing authority shall:

(a) conduct at least one public hearing in accordance with subsection (B) of this section no sooner than 42 calendar days from the date the application is deemed complete; and

(b) make a decision on the application conforming to the requirements of LCC 921.140.

(8) The Director shall give notice of the decision as required by LCC 921.195.

(9) Notwithstanding any provision in this Code to the contrary, the Board may elect to hear any Type IIIB matter in the place of the Commission.

(B) *Conduct of a quasi-judicial hearing.* The hearing authority shall include, at a minimum, and as closely as possible in the order indicated, the elements set forth in this subsection in the conduct of such hearing.

(1) *Statements of presiding chair.* At the commencement of a hearing the chairperson of the hearing authority shall make a statement on the record to those in attendance that:

(a) Lists the applicable substantive criteria;

(b) Explains the nature and purpose of the matter being considered;

(c) States that testimony, arguments, and evidence must be directed toward the criteria described in subparagraph (a) of this paragraph or other criteria in the *Plan* or the Land Development Code which the person believes to apply to the decision;

(d) States 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 LUBA based on that issue;

(2) The chairperson shall provide an opportunity to the members of the hearing authority to declare any ex parte contacts in compliance with LCC 921.025.

(3) The chairperson shall provide an opportunity to the members of the hearing authority to declare any conflicts of interest.

(4) Announces the time and date that the hearing authority plans for a site visit, if a site visit is planned.

(5) *Order of testimony and evidence.* The hearing authority shall provide opportunity for the presentation of argument and testimony as closely as possible to the following order.

(a) The Director.

(b) The proponents, if any, followed by other people in support of the proposal.

(c) The opponents, if any.

(d) Those who do not support or oppose the proposal.

(e) The proponent shall be allowed an opportunity to rebut opposing evidence and testimony. The rebuttal is the applicant's opportunity to address concerns raised by others providing testimony.

(f) The hearing authority may ask questions of any person who has testified or of staff at any point during the hearing.

(6) *Evidence, argument, and testimony.* The hearing authority shall provide opportunity for the presentation of evidence, argument, and testimony from the persons listed in paragraph (5) of this subsection.

(a) The Director shall, at a minimum, submit:

(a) a staff report

(ii) any agency comments the Director has received; and,

(iii) in the case of appeal, the notice of intent to appeal and the record on appeal in compliance with LCC 921.250.

(b) The proponent of the application, followed by other people in support of the proposal.

(c) The opponents to the proposal, if any.

(d) Those who do not support or oppose the proposal.

(e) If any party, at any time before the record is closed, offers written evidence to the hearing authority, the submitting party shall provide copies of such evidence to all other parties. If the written evidence is too large or too

voluminous for reproduction, then the person submitting the written evidence must make it or a reasonable copy thereof available for inspection in a reasonable manner to any person requesting to see it.

(f) Any evidence or testimony presented in video or still-slide format shall be part of the record made by the hearing authority.

(g) The hearing authority may consider all or any portion of any proceeding conducted below, subject to:

(i) approval by the hearing authority;

(ii) no objections to its admission by any party, or the resolution of any objections to the satisfaction of the parties;

(iii) the moving party bearing all expenses for the production and distribution of copies as provided in this paragraph;

(iv) the moving party providing three copies to the hearing authority and one copy to each party of record; and

(v) the transcripts being prepared by a duly certified, official transcriber or reporter and each transcript bearing a certification identifying the name and business address transcriber or reporter and information identifying the tapes used in making the transcription.

(7) *Hearing and record closed.* The chairperson shall close the public hearing and record unless one of the actions is requested and granted as set forth in subsections (C) and (D).

(C) *Request for continuation or holding record open.* Prior to the conclusion of the initial evidentiary hearing, any participant may request an opportunity to present additional evidence or testimony regarding the application.

(1) The hearing authority shall grant such request by:

(a) continuing the public hearing pursuant to subsection (E), or

(b) leaving the record open for additional written evidence, arguments, or testimony pursuant to subsection (F).

(2) If additional documents or evidence are provided by any party as allowed for in sub-

section (C) of this section, the hearing authority may allow a continuance or leave the record open to allow the parties a reasonable opportunity to respond to the additional documents or evidence. Any continuance or extension of the record requested by an applicant shall result in a corresponding extension of the time limitations of ORS 215.428.

(D) *Hearing tabled.* On its own motion, the hearing authority may table a decision for up to 35 calendar days for such reasons as bad weather, failure to appear by the applicant, failure to get or maintain a quorum, or for submission of supplemental information from the Director pertaining to the application or decision criteria, when such submission is deemed pertinent by the hearing authority for purposes of rendering a decision.

(E) *Hearing continued.* If the hearing authority grants a continuance, the hearing shall be continued to a date, time, and place certain at least 7 calendar 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 7 calendar days to submit additional written evidence, arguments or testimony for the purpose of responding to the new written evidence.

(F) *Holding record open.* If the hearing authority leaves the record open for additional written evidence, arguments, or testimony, the record shall be left open for at least 7 calendar days. Any participant may file a written request with the Director for an opportunity to respond to new evidence submitted during the period the record was left open. If such a request is filed, the hearing authority shall reopen the record pursuant to subsection (G) of this section.

(G) *Submit additional evidence if record reopened.* When the hearing authority reopens a record as authorized in subsection (F) to admit new evidence, arguments, or testimony, any person may raise new issues which related to the

new evidence, arguments, testimony, or criteria for decision-making which apply to the matter at issue.

(1) *Date and limitations.* The chairperson shall state on the record the date and time at which the hearing is rescheduled and the place where the hearing will be conducted.

(2) *Additional evidence and testimony.* The parties may present additional evidence or testimony and respond to any additional evidence and testimony presented under subsection (C) of this section. If additional written evidence is submitted at the continued hearing, any party may request, prior to the close of the continued hearing, and the hearing authority may grant, that the record be left open, in full or in part, for at least 7 more calendar days to submit written evidence responding to the additional written evidence.

(H) *Final written arguments.* Unless waived by the applicant, the applicant shall have at least 7 calendar days after the record is closed to all other parties to submit final written arguments in support of the application. The applicant's final submittal shall be considered part of the record, but shall not include any new evidence. The 7-day period shall not be subject to the limitations of ORS 215.428.

(I) A continuance or extension granted pursuant to this section shall be subject to the limitations of ORS 215.428, unless the continuance is requested or agreed to by the applicant.

(J) If an applicant submits evidence after notice has been given but prior to a decision being made and that evidence would substantially change the proposal, then the Director shall bring that evidence to attention of the decision maker.

(K) *Final decision* The hearing authority shall render a final decision on the application conforming to the requirements of LCC 921.140.

(L) The failure of a property owner to receive notice as provided in LCC 921.335 shall not invalidate a proceeding conducted under this section if the Director can demonstrate by affidavit that such notice was given. The notice provisions of LCC 921.335 shall not restrict the giving

of notice by other means, including posting, newspaper publication, radio, and television.

(M) *Failure to make a decision.* If the Commission has not made a decision within 60 calendar days of the close of a hearing plus any extensions made on the record or the close of the record, the applicant may request that the application be heard by the Board under this section and a decision rendered under LCC 921.140.

[Adopted 98-002 §3 eff 3/4/98; amd 98-432 §2 eff 10/21/98; amd 99-121 §2 eff 6/30/99]

### **921.140 Final action; time limitations**

(A) A Type IA and Type IB decision shall be made by the Director within 150 calendar days of deeming the application complete.

(B) Except as provided in LCC 921.065 (A) and subsection (D),

(1) For all Type II and Type III applications for land within an urban growth area or for an application for a development permit for mining of mineral or aggregate, final action shall be taken on an application for a development permit or zone change, including resolution of all appeals under ORS 215.422, within 120 calendar days after the application is deemed complete.

(2) For all Type II and Type III applications for a development permit or zone change not set forth in subsection (B), including resolution of all appeals under ORS 215.422, final action shall be taken within 150 calendar days after the application is deemed complete.

(C) If an application for a permit or zone change is incomplete, the Director shall comply with LCC 921.060 (E).

(D) The period set in subsection (B) of this section may be extended for a reasonable period of time at the request of the applicant.

(E) The period set in subsection (B) of this section applies:

(1) only to decisions wholly within the authority and control of the Board; and

(2) unless the parties have agreed to mediation as described in ORS 197.318 (2) (b).

(F) Notwithstanding subsection (E) of this section, the period set in subsection (B) of this section does not apply to an amendment to the

*Comprehensive Plan* or the Land Development Code or adoption of a new provision to the Land Development Code that was forwarded to the Director of DLCD under ORS 197.610 (1).

(G) Except when an applicant requests an extension under subsection (D) of this section, if the decision maker does not take final action or an application for a development permit or zone change within 120 calendar days or 150 calendar days, as applicable, after the application was deemed complete:

(1) the county shall refund to the applicant either the unexpended portion of any application fees or deposits previously paid or 50 percent of the total amount of such fees or deposits whichever is greater. The applicant is not liable for additional governmental fees incurred subsequent to the payment of such fees or deposits. However, the applicant is responsible for the costs of providing sufficient additional information to address relevant issues identified in the consideration of the application.

(2) The applicant may apply in the circuit court of Linn County for a writ of mandamus to compel the county to issue the approval. The writ shall be issued unless the decision maker shows that the approval would violate a substantive provision of the *Comprehensive Plan* or Land Development Code. The writ may specify conditions of approval that would otherwise be allowed by the *Comprehensive Plan* or Land Development Code.

(H) The decision maker may not compel an applicant to waive the time periods set in subsection (B) of this section or to waive the provisions of subsection (G) of this section as a condition for taking any action on an application for a development permit or zone change except when such applications are filed concurrently and considered jointly with a *Plan* amendment.

(I) Except when requested or agreed to by the applicant, the extension (s) shall be subject to the time limitations of subsection (B), as applicable.

(J) Any request by the applicant for an extension of time must be in writing and shall

result in a corresponding extension of the time limitations of subsection (B), as applicable.

[Adopted 98-002 §3 eff 3/4/98; amd 98-432 §2 eff 10/21/98; amd 99-156 §3 eff 6/30/99]

#### **921.150 Final decisions; effective date**

A decision is final, for purposes of appeal, on the date the decision is signed by the Director.

[Adopted 98-002 §3 eff 3/4/98]

#### **921.160 Final decisions; effect**

(A) The final decision on a Type I, Type IIA, or Type IIIB application, if approved, is the land development permit sought by the applicant.

(B) The decision maker shall make a decision based only on the application as deemed complete, the evidence and testimony in the record, and on any information that is customarily received by judicial notice.

(C) The decision maker may not receive into the record or consider any evidence, argument, or testimony that would substantially change the application as deemed complete when rendering a decision on the application. The decision maker must so inform the applicant and allow the applicant an opportunity to withdraw the application. If the applicant does not voluntarily withdraw the application then the decision maker shall render a decision on the application as deemed complete.

(D) The decision maker shall:

(1) approve the application if the findings and conclusions

(a) satisfy all the criteria, or

(b) can be made to satisfy the criteria with conditions; or

(2) deny the application if the findings of fact do not satisfy all the criteria.

(E) Following an appeal of a Type IIA or a Type IIIB application, the hearing authority shall make a decision based only on the evidence and testimony in the record made during the hearing *de novo* and on any information that is customarily received by judicial notice.

(1) The hearing authority shall:

(a) approve the application and deny the appeal if the findings and conclusions

(i) satisfy all the criteria, or

(ii) can be made to satisfy the criteria with conditions; or

(b) deny the application and affirm the appeal, if the findings of fact do not satisfy all the criteria.

(F) Failure of any person to receive a final decision or notice of decision shall not invalidate the decision.

(G) The application shall not be approved if the proposed use of land is found to be in conflict with the *Comprehensive Plan* and other applicable Land Development Code or Linn County Code or ordinance provisions. The approval may include such conditions as are authorized by statute or county legislation.

(8) Approval or denial of a permit application shall be based on standards and criteria which shall be set forth in the Land Development Code which shall relate approval or denial of a permit application to the Land Development Code and *Comprehensive Plan* for the area in which the proposed use of land would occur and to the Land Development Code and *Comprehensive Plan* for the county as a whole.

(9) 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.

(H) The Director shall indicate on a distribution list the persons to whom the final decision and notice of decision were mailed. The Director shall maintain the list in the Department's file for that application. If a party is given a notice of decision by means other than mail, the provision of that notice shall be indicated on the list.

(I) If the hearing authority approves an application for an amendment to the *Comprehensive Plan* map or an amendment to the Zoning Map the Director shall make all appropriate changes to the *Comprehensive Plan* map or Zoning Map.

(J) A decision described in ORS 215.402 (4) (b) shall:

(1) Be entered in a registry available to the public setting forth:

(a) The street address or other easily understood geographic reference to the subject property;

(b) The date of the decision; and

(c) A description of the decision made.

(2) Be subject to the jurisdiction of the Land Use Board of Appeals in the same manner as a limited land use decision.

(3) Be subject to the appeal period described in ORS 197.830 (4) (b).

(K) At the option of the applicant, the Director shall provide notice of the decision described in ORS 215.402 (4) (b) in the manner required by ORS 197.763 (2), in which case an appeal to the LUBA shall be filed within 21 calendar days of the decision. The notice shall include an explanation of appeal rights.

[Adopted 98-002 §3 eff 3/4/98]

#### **921.170 Final decisions; form**

(A) *Type IB final decision.* The Director shall prepare a final decision for a Type IB application on a form approved by the Director.

(B) *Type II final decision.* The Director shall prepare a final decision for a Type II application on a form approved by the Director.

(C) *Type IIIA final decision.* The Director shall prepare for the hearing authority's consideration and approval a final decision on a Type IIIA application in the form of an ordinance ready for adoption.

(D) *Type IIIB final decision.* The Director shall prepare for the hearing authority's consideration and approval a final decision based on the submitted evidence and testimony and on the applicable criteria. The form of a final decision shall be as follows. The form of the decision shall be set forth in and adopted as an order conforming to the requirements of subsection (E).

(E) *Orders.* All orders setting forth the final decision on a Type IIIB application shall contain:



(1) the decision to approve, to approve with conditions and requirements, or to deny the application;

(2) finding of facts relevant to the application,

(3) the applicable decision criteria and any applicable conditions or requirements of the Land Development Code; and

(4) the conclusion that obtains from applying the facts to the criteria and requirements. and

(5) if the application is approved,

(a) a statement that the final decision is the land development permit sought by the applicant, and

(b) one of the following two statements:

(i) if there are no conditions or requirements imposed on the permit, a statement that development may be initiated pursuant to the permit, or

(ii) if there are conditions or requirements imposed on the permit, a statement that the development permit has only preliminary planning approval and that all conditions and requirements must be fulfilled before development may be initiated. Proof that a condition or requirement has been fulfilled shall be indicated by a dated signature of the Director on the face of the development permit. Notwithstanding the imposition of conditions or requirements on a development permit, the signature of the Director, pursuant to LCC 921.150, subjects the decision to issue the permit to an appeal if filed in compliance with this Chapter.

[Adopted 98-002 §3 eff 3/4/98]

### **921.180 Notice of decision (Type IB); content and distribution**

(A) The Director shall prepare, sign and give notice of decision of a Type IB action in accordance with this section.

(B) *Contents of notice of decision.* The notice of decision on a Type IB action shall contain at least the following elements:

(1) the name of the applicant;

(2) the Department's case file number;

(3) the location of the property;

(4) the Director's decision on the matter;

(5) the date the decision was made;

(6) information on how and where to inspect and to obtain a copy of the decision; and

(7) a statement that the decision may not be appealed.

(C) *Distribution of Type IB notice of decision.* Within 35 calendar days of a Type IB decision, the Director shall give notice of decision which for a Type IB decision contains the final decision to all parties to the decision.

[Adopted 98-002 §3 eff 3/4/98]

### **921.185 Notice of decision (Type IIA); content and distribution**

(A) The Director shall prepare, sign and give notice of decision of a Type IIA action in accordance with this section.

(B) *Contents of the notice of decision.* The notice of decision shall contain:

(1) the name of the applicant;

(2) the Department's case file number;

(3) the location of the property;

(4) the Director's decision on the matter;

(5) the date the decision was made;

(6) information on how and where to inspect and to obtain a copy of the decision;

(7) a statement that the decision may be appealed by a party with standing within 14 calendar days of the date of the decision letter by filing a notice of intent to appeal with the Director;

(8) a statement that the notice of intent to appeal shall:

(a) be in writing;

(b) identify with particular specificity the inadequacies, omissions or errors made by the decision maker; and

(c) be accompanied by the appropriate appeal fee; and

(9) a statement that, unless the decision is appealed in compliance with this Chapter, the decision is a final land use decision.

(C) *Distribution.*

(1) Within 5 working days of the decision, the Director shall give notice of decision to:

- (a) the applicant or the land owner
- (s) if different from the applicant; and
- (b) all parties with standing who have provided correct mailing addresses.

(2) The Director shall give the final decision to the applicant, or land owner if different from the applicant.

[Adopted 98-002 §3 eff 3/4/98]

### **921.190 Notice of decision (Type IIIA); content and distribution**

(A) The Director shall prepare, sign and give notice of decision of a Type III action in accordance with this subsection.

(B) *Contents of the notice of decision.* The notice of a Type IIIA decision shall contain:

- (1) the name of the applicant;
- (2) the Department's case file number;
- (3) the location of the property;
- (4) the Board's decision on the matter;
- (5) the date the decision was made;
- (6) information on how and where to inspect and to obtain a copy of the decision;
- (7) a statement that the decision, if approved, may be appealed by a party with standing within 21 calendar days of the date of the decision letter by filing a notice of intent to appeal with the County Clerk.

(8) a statement that the notice of intent to appeal shall:

- (a) be in writing;
- (b) identify with particular specificity the inadequacies, omissions or errors made by the decision maker; and

(9) a statement that, unless the decision, if approved, is appealed in compliance with this Chapter, the decision is a final land use decision.

(C) *Distribution.*

(1) Within 5 working days of the decision, the Director shall give the notice of decision to:

- (a) the applicant or the land owner
- (s) if different from the applicant;

(b) all parties with standing who have provided correct mailing addresses; and

(c) DLCD, if required. If a notice of decision is required;

(i) it shall include a certificate of mailing containing a statement signed by the person mailing it indicating the date the notice was deposited in the mail, if the notice is mailed, and

(ii) the notice of decision shall be mailed or delivered to all parties on the same day.

(2) The Director shall give a notice of decision conforming to this section along with a copy of the final decision to the applicant, or land owner if different from the applicant.

[Adopted 98-002 §3 eff 3/4/98; amd 02-313 §2 eff 8/21/02]

### **921.195 Notice of decision (Type IIIB); content and distribution**

(A) The Director shall prepare, sign and give notice of decision of a Type IIIB action in accordance with this subsection.

(B) *Contents of notice of decision.* The notice of decision shall contain:

- (1) the name of the applicant;
- (2) the Department's file number;
- (3) the location of the property;
- (4) the Commission or Board's decision on the matter;
- (5) the date the decision was made;
- (6) the number of the order and ordinance, if any;
- (7) information on how and where to inspect and to obtain a copy of the decision;
- (8) a statement that the decision may be appealed by a party with standing:

(a) within 14 calendar days of the date of the decision letter by filing a notice of intent to appeal with the Director, if the appeal is of a Commission decision; or

(b) within 21 calendar days of the date of the decision letter by filing a notice of intent to appeal with the County Clerk, if the appeal is of a Board decision.

(C) *Distribution.*

(1) Within 5 working days of the decision, the Director shall give the notice of decision to:

- (a) the applicant or the land owner (s) if different from the applicant;
- (b) the appellant, if any; and
- (c) all parties with standing who have provided correct mailing addresses; and
- (d) DLCDD, if required. If a notice of decision is required;

(i) it shall include a certificate of mailing containing a statement signed by the person mailing it indicating the date the notice was deposited in the mail, if the notice is mailed, and

(ii) the notice of decision shall be mailed or delivered to all parties on the same day.

(2) The Director shall give the applicant, or land owner if different from the applicant, a final decision on a development permit and a copy of a final decision, if any, on an amendment to the *Plan* or Land Development Code.

[Adopted 98-002 §3 eff 3/4/98; amd 02-313 §2 eff 8/21/02]

**C. APPEALS; FAILURES TO RENDER A DECISION**

**921.200 Failure of the decision maker to render a decision**

(A) If the decision maker fails to make a decision on an application that has been deemed complete under this Chapter, the applicant may file an application pursuant to this section.

(B) An applicant may file an application requesting the Commission to render a decision if the application not decided was:

- (1) Type IA, or,
- (2) Type IB.

(C) An applicant may file an application requesting the Board to make a decision if the application not decided was:

- (1) Type IIA,
- (2) Type IIB,

(3) Type IIIA, not decided by the Commission,

(4) Type IIIB, not decided by the Commission. or

(5) one of the applications filed pursuant to subsection (B) of this section not decided by the Commission.

[Adopted 98-002 §3 eff 3/4/98]

**921.210 Appeals**

(A) Unless otherwise stated, a decision set forth in this section is subject to appeal pursuant to the applicable sections in the Development Code.

(B) A Type IA decision is not appealable.

(C) A Type IB decision is not appealable.

(D) A Type IIA decision may be appealed to the Commission.

(E) A Type IIB decision may be appealed to the Board.

(F) A Type IIIA decision by the Board adopting an amendment to the *Plan* or Land Development Code may be appealed to LUBA.

(G) A Type IIIB decision by the Board adopting an amendment to the *Plan* or Land Development Code may be appealed to LUBA.

(H) A Type IIIB development permit decision made by the Commission may be appealed to the Board.

(I) A Type IIIB code interpretation made by the Board may be appealed to LUBA.

[Adopted 98-002 §3 eff 3/4/98; amd 99-121 §2 eff 6/30/99]

**921.220 Appeal procedures; generally**

(A) *General Provisions.*

(1) *Purpose.* This section establishes appeal procedures for reviewing a final decision, or the failure to make a decision, when such decision is required by the Land Development Code and an appeal thereof is provided by the Development Code.

(2) *Who may file.* A person who has standing in a land development procedure conducted pursuant to LCC 921.120 to 921.135 may file a notice of intent to appeal for a Type II or Type III decision. The notice of intent to appeal must comply with this section and LCC 921.230.

(3) *Where filed.* A notice of intent to appeal must be filed with:

- (a) the Director, if the appeal is of a Director or a Commission decision, or
- (b) the County Clerk, if the appeal is of a Board decision.

(4) Once a written notice of intent to appeal is determined to be complete pursuant to LCC 921.230 (D), The Director shall provide to the appellant, and applicant, if different than the appellant notice that the notice of intent to appeal is complete and that the appeal has been accepted for purposes of setting the appeal before the hearing authority.

(5) The Director shall then schedule the appeal with the hearing authority. The hearing on appeal shall occur not less than 42 calendar days after the appeal is deemed to be complete, taking into consideration the availability of the parties.

(B) *Stay of proceedings.* An appeal accepted by the Director shall stay all proceedings and advancement of the action appealed, unless the Director certifies to the Board, after the notice of intent to appeal has been filed, that a stay would cause imminent peril to life or property. In such cases, the action shall not be stayed except by order of the Board or of a court of competent jurisdiction.

(C) Notwithstanding any provision in this Code to the contrary, if a time limitation is about to expire and a final decision has not been made, or if the Commission has made a decision and a time limit is about to expire, the Board may enter an order affirming the findings and conclusion of the Commission without conducting any further hearings.

[Adopted 98-002 §3 eff 3/4/98; amd 99-121 §2 eff 6/30/99]

### **921.230 Appellant's notice of intent to appeal**

(A) A written notice of intent to appeal of a Type II or a Type III Commission decision must be filed by the appellant with the Director and shall comply with this section and LCC 921.200 to 921.220.

(B) *Type II or Type III Commission decision.* A written notice of intent to appeal of a Type II or

Type III Commission decision must be received not later than 5:00 p.m. of the 14<sup>th</sup> calendar day after the date of the notice of decision. If the 14<sup>th</sup> calendar day of the appeal period falls on a holiday or weekend, the notice of intent to appeal shall be submitted not later than 5:00 p.m. on the first working day following the 14<sup>th</sup> calendar day.

(C) The written notice of intent to appeal must be in writing and contain at a minimum:

- (1) the Department's case file number,
- (2) the appellant's name, address and telephone number, and
- (3) identify with particular specificity the inadequacies, omissions or errors made by the decision maker; and

(4) an appeal fee. The applicant must pay to the County within the appeal period the full amount of the appeal fee specified in the notice of decision if the appeal is not of a Commission decision. An appeal is not complete without the appeal fee, and the hearing authority shall not take jurisdiction of an appeal unless the fee is timely paid in full. Appeal fees must comply with LCC 921.040.

(D) *Completeness of notice of intent to appeal.* The Director shall evaluate the written notice of intent to appeal of a Director or Commission decision to determine if it is complete. If a written notice of intent to appeal is deficient, an appellant shall be given written notice of the deficiencies and shall be provided 7 additional calendar days to correct the deficiencies. If at the end of the 7 calendar days the written notice of intent to appeal remains deficient, the Director shall not accept the appeal and so notify the appellant in writing.

(E) *Type III Board decision.* A written notice of intent to appeal of a Type III Board decision must be filed by the appellant with the Clerk.

- (1) The Clerk shall —
  - (a) send, not later than the next working day, a copy of the notice of intent to appeal to the Director and to County Counsel, and
  - (b) make, as soon as practicable, a certified copy of the record made before the Board and submit it to the Director.

(2) The Director shall arrange the certified copy of the record of the Clerk into the form required by LUBA.

(3) The Director or Clerk may ask County Counsel to assist in preparing the certified copy of the record.

(4) County Counsel shall prepare any legal forms required by the rules of LUBA to represent the County's case and transmit the record and legal forms as required by LUBA.

[Adopted 98-002 §3 eff 3/4/98]

#### **921.240 Staff report on appeal**

*Contents of the staff reports.* All staff reports submitted by the Department concerning an application on appeal to the hearing authority shall contain:

(A) all written comments received prior to the Commission hearing, for applications reviewed by the Commission that were previously reviewed by the Director.

(B) the record on appeal as described in LCC 921.250, for applications that are reviewed by the Board.

[Adopted 98-002 §3 eff 3/4/98]

#### **921.250 Record on appeal to the Board**

(A) The record of a Commission hearing for purposes of appellate review by the Board shall include only the documents described in subsection (C) of this section.

(B) The Director shall submit the documents set forth in subsection C of this section to the Board as part of the staff report.

(C) *Contents of the Commission record.*

(1) the application in the form in which it was deemed complete;

(2) written correspondence between the Director and the applicant dated before initial application notice was given under the applicable provisions of LCC 921.300 to 921.370;

(3) notices published and mailed for Director and Commission reviews;

(4) notices of the Board hearing;

(5) statements of mailing and affidavits of publication;

(6) the staff report prepared by the Director and submitted to and accepted by the Commission as part of the record;

(7) any agency comments the Director has received and submitted to and accepted by the Commission as part of the record;

(8) the written notice of decision by the Commission; and

(9) the notice of intent to appeal.

[Adopted 98-002 §3 eff 3/4/98; amd 99-121 §2 eff 6/30/99]

#### **921.260 Record on appeal to the LUBA**

The record of the Board hearing for purposes of appellate review by LUBA shall include only:

(A) the final decision of the Board including any findings of fact and conclusions of law;

(B) All written testimony and all exhibits, maps, documents or other written materials placed before, and not rejected by, the Board during the course of the Board's proceeding;

(C) Minutes and tape recordings of the meetings conducted by the Board as required by law;

(D) Notices of the proposed action, public hearing and adoption of a final decision, if any, published, posted or mailed during the course of the proceeding, including *statements or affidavits* of publication, posting and mailing. Such notices shall include any notices concerning amendments to acknowledged *Comprehensive Plan* or Land Development Code given pursuant to ORS 197.610 (1) and (2).

[Adopted 98-002 §3 eff 3/4/98]

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### **D. INITIAL APPLICATION NOTICE**

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#### **921.300 Initial application notice; generally**

(A) The Director shall give notice as provided in LCC 921.300 to 921.370.

(B) The Director shall prepare statements indicating that the notice required by this section has been mailed and published. The statements shall be retained in the Department's file for the application.

(C) The Director shall document and retain in the Department's file for the application state-

ments indicating that notice required by this section was prepared and given as required.

(D) A failure to receive the notice required by this section, LCC 921.360 or 921.370 shall not invalidate the land development proceedings or land development decision, provided the Director can demonstrate by statements in the Director's files that such notice was given or published.

(E) The provisions of this subsection do not limit the County's authority to provide notice in addition to this section and LCC 921.360 and 921.370.

(F) For easement recognition applications under LCC Chapter 935 (Access Improvement Standards Code), the Director shall give notice as required in LCC 921.305, and also to all land owners within the specified distance along the entire length of the easement.

(G) If the Director determines that a Land Development Code interpretation, while not specific to a particular property, could have an impact on other properties in the area, notice will be provided to those land owners.

(H) No mailed notice to land owners is required for legislative amendments to the Land Development Code text or *Comprehensive Plan* text.

(I) If land subject to a land use application is within an urban growth area and the urban growth boundary management agreement between the affected municipality and Linn County requires notice to the municipality, then the Director shall provide notice of the action to the affected municipality within 14 calendar days of deeming the application complete.

(J) Proof of publication required by this Chapter shall be by affidavit.

[Adopted 98-002 §3 eff 3/4/98; amd 99-121 §2 eff 6/30/99]

### **921.305 Initial application notice; landowner**

(A) Initial application notice of Type IIA actions and hearings for Type IIIB actions governed by LCC 921.135 shall be provided to the applicant and to owners of record of property on the most recent property tax assessment roll where such property is located:

(B) Within 100 feet of the property which is the subject of the notice where the subject property is wholly or in part within an urban growth boundary;

(C) Within 250 feet of the property which is the subject of the notice where the subject property is outside an urban growth boundary and not within an FCM, EFU or F/F zoning district; or

(D) Within 1000 feet of the property which is the subject of the notice where the subject property is outside an urban growth boundary and within an FCM, EFU or F/F zoning district.

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

[Adopted 98-002 §3 eff 3/4/98; amd 02-313 §2 eff 8/21/02]

### **921.307 Initial application notice; owner of an airport**

(A) Initial application notice of Type IIA actions and hearings for Type IIIB actions governed by LCC 921.135 shall be provided to the owner of an airport defined by the Department of Transportation as a "public use airport" if:

(1) The name and address of the airport owner has been provided by the Department of Transportation to the county planning authority; and

(2) The property subject to the land use hearing is:

(a) Within 5,000 feet of the side or end of a runway of an airport determined by the Department of Transportation to be a "visual airport"; or

(b) Within 10,000 feet of the side or end of the runway of an airport determined by the Department of Transportation to be an "instrument airport."

(B) Notwithstanding the provisions of subsection (A) of this section, notice of a land use hearing need not be provided as set forth in subsection (A) of this section if the zoning permit would only allow a structure less than 35 feet in height and the property is located outside the

runway “approach surface” as defined by the Department of Transportation.

[Adopted 98-002 §3 eff 3/4/98]

### **921.310 Type I initial application notice**

The Director is not required to give notice for a Type I procedure.

[Adopted 98-002 §3 eff 3/4/98]

### **921.320 Type IIA initial application notice**

(A) The Director shall give notice of a Type IIA procedure in accordance with this section.

(B) The Director is not required to provide newspaper notice.

(C) Within 14 calendar days after an application is deemed complete and not less than 20 calendar days prior to making the decision, the Director shall provide written notice meeting the requirements of LCC 921.350 to surrounding land owners as specified in LCC 921.305 and 921.307, and to agencies, districts and cities determined by the Director to be affected by or to have an interest in the application.

[Adopted 98-002 §3 eff 3/4/98]

### **921.330 Type IIIA initial application notice**

(A) Not less than 20 calendar days prior to the first hearing on a Type III application set before the Commission or the Board, the Director may, if determined expedient by the Director, provide written notice meeting the requirements of LCC 921.350 to surrounding land owners as specified in LCC 921.305 and 921.307 and to agencies, districts and cities determined by the Director to be affected by or to have an interest in the application.

(B) Notice meeting the requirements of LCC 921.355 shall be published in a newspaper of general circulation not less than 20 calendar days prior to the date of the public hearing.

[Adopted 98-002 §3 eff 3/4/98]

### **921.335 Type IIIB initial application notice**

(A) Not less than 20 calendar days prior to the first evidentiary hearing on a Type IIIB application, the Director shall provide written notice meeting the requirements of LCC 921.350 to surrounding land owners as specified in LCC

921.305 and 921.307 and to agencies, districts and cities determined by the Director to be affected by or to have an interest in the application.

(B) Notice meeting the requirements of LCC 921.350 shall be published in a newspaper of general circulation not less than 20 calendar days prior to the date of the public hearing.

[Adopted 98-002 §3 eff 3/4/98]

### **921.340 Rescheduled hearings; notice**

In the event a public hearing must be rescheduled, sufficient notice shall be deemed to exist:

(A) if notice is posted on the door of the scheduled meeting room advertising the cancellation and the date, time, and place for the rescheduled meeting; and

(B) if reasonable attempts are made prior to the scheduled hearing to announce the cancellation and rescheduling to applicants and known interested parties by direct communication and to the general public through available news media.

[Adopted 98-002 §3 eff 3/4/98]

### **921.350 Content of initial application notice**

(A) Initial application notice required under LCC 921.300 to 921.370 shall comply with this section.

(B) *Content of the Notice.* One of the purposes of the initial application notice is to provide the information required by ORS 197.763 (5). Toward that end, a copy of the notice shall also be made available to those in attendance at the commencement of any hearing under the *Comprehensive Plan* or Land Development Code. The notice provided shall:

(1) Explain the nature of the application and the proposed use or uses which could be authorized;

(2) List the applicable criteria from the ordinance and the plan that apply to the application at issue;

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

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

(e) State 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 decision maker an opportunity to respond to the issue precludes appeal to the board based on that issue;

(5) Be mailed at least:

(a) Twenty calendar days before the evidentiary hearing; or

(b) If two or more evidentiary hearings are allowed, 10 calendar days before the first evidentiary hearing;

(6) Include the name of a local government representative to contact and the telephone number where additional information may be obtained;

(7) State 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 reasonable cost;

(8) State that a copy of the staff report will be available for inspection at no cost at least seven calendar days prior to the hearing and will be provided at reasonable cost; and

(9) Include a general explanation of the requirements for submission of testimony and the procedure for conduct of hearings.

(10) the applicant's name and the land owner if different from the applicant;

(11) the applicable decision criteria;

(12) the Department's file number;

(13) a statement that written evidence and testimony may be presented at the public hearing or written comments may be submitted to the Director prior to the hearing;

(14) a reference to the Linn County Assessment map and tax-lot number (s), and a map identifying the property;

(15) a statement that all testimony and evidence submitted by a party must be directed toward the specified criteria or other criteria in the *Comprehensive Plan*, the Land Development Code, or other criteria in the Oregon Administrative Rules (OAR's) which a party believes apply to the decision;

(16) A statement that a party may request and the hearing authority shall grant a continuance of any public hearing;

(17) a statement that a case on appeal to the Commission or to the Board shall be heard *de novo* and

(18) a statement that in an appeal hearing, any information previously submitted by any party must be resubmitted by that party in order for that information be considered on appeal.

[Adopted 98-002 §3 eff 3/4/98]

### **921.355 Content of initial application notice by publication**

(A) Initial application notice by publication shall comply with this section.

(B) *Content of the Notice.* The notice provided shall:

(1) Explain the nature of the application and the proposed use or uses which could be authorized;

(2) List the applicable criteria from the ordinance and the plan that apply to the application at issue;

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

(4) State the date, time and location of the hearing

(5) the Department's file number; and

(6) a statement that written evidence and testimony may be presented at the public hearing or written comments may be submitted to the Director prior to the hearing.

[Adopted 98-002 §3 eff 3/4/98]

### **921.360 Additional required notice**

(A) The Director shall give additional notice in accordance with the provisions of the appropriate sections of this Development Code. Additional notice includes but is not limited to the uses and entities described in subsection (B).

(B) *Additional notice.*

(1) *Subdivision replats.* The Director shall give to affected utility companies or public agencies notice when a utility easement is proposed to be realigned, reduced in width or omitted by



the replat. If a replat is proposed in an undeveloped subdivision described in ORS 92.225, notice shall be provided at least 30 calendar days before the date of decision or public hearing date. Notice of a subdivision replat shall also be published in a newspaper of general circulation in Linn County.

(2) *Greenway compatibility.* The Director shall give to the Oregon State Parks Division notice for all proposed Willamette River Greenway Compatibility Reviews via certified mail, return receipt requested. The Director shall give notice of decision to the Oregon State Parks Division via certified mail return receipt requested for all Greenway compatibility reviews.

(3) *Historic resource.* The Director shall give to the Oregon State Historic Preservation Office and to persons who have specifically requested notice, notice of any demolition or alteration of an historic resource.

(4) *Applications within the resource zoning districts.* The Director shall give to the Department of Land Conservation and Development (DLCDD) notice of applications on land within the resource zoning districts.

(5) *Comprehensive Plan map and text changes, zoning map and text changes.* The Director shall give to the Department of Land Conservation and Development (DLCDD) notice of *Comprehensive Plan* map and text changes and zoning map and Land Development Code text changes at least 45 calendar days prior to the first evidentiary hearing on the proposal on requisite forms. The notice shall include the date set for the first evidentiary hearing.

(6) *Flood hazard.* The Director shall give to the Linn County Building Official notice of applications on land affected by potential flooding as identified on the *Flood Insurance Rate Maps* (FIRM) for Linn County.

(7) *Notice to public agencies.* The Director shall give notice to public agencies, consistent with LCC 921.370.

(8) *Requested notice.* The Director shall give to those who have requested notice in writ-

ing. The person so requesting notice is subject to a notification fee covering costs of notification.

[Adopted 98-002 §3 eff 3/4/98; amd 02-313 §2 eff 8/21/02]

### **921.370 Intergovernmental notice**

(A) The Director shall give additional notice in accordance with the provisions of the appropriate sections of this Development Code. Additional notice, includes but is not limited to the uses and entities described in this section.

(B) *Additional intergovernmental notice.*

(1) *DLCD.* The Director shall give to DLCD notice of adoption or rejection of proposed Land Development Code text, zoning map, *Comprehensive Plan* text and *Comprehensive Plan* map amendments, on forms prescribed by DLCD, within 5 calendar days of the Board's decision.

(2) *Division of State Lands.* The Director shall give to the Division of State Lands (DSL) notice of

(a) land development applications and development permits, including the installation of roadways, within 5 working days of receiving a complete application proposing development in or on a potential jurisdictional wetland as indicated on the *National Wetlands Inventory (NWI) Maps*.

(b) *Comprehensive Plan* map or Zoning Map amendment applications for properties that contain a potential jurisdictional wetland.

(c) proposed land development applications to mine land located within the beds and banks of waters owned by the State of Oregon shall be provided.

(3) *ODFW.* The Director shall give to Oregon Department of Fish and Wildlife notice of proposed land development applications when the land involved in a proposal is located within an identified big game habitat area, contains sensitive fish or riparian habitat or is located wholly or partially within a Sensitive Bird Habitat Overlay (see LCC 931.500 to 931.540 for additional notice requirements).

(4) *DOGAMI.* The Director shall give to the Oregon Department of Geology and Mineral Industries (DOGAMI) notice of proposed land

development applications involving mining, including the application of an Aggregate Resource Overlay to property within any zoning district. The Director shall also give to DOGAMI a copy of the staff report and the final land development decision.

(5) *ODOA*. The Director shall give to the Oregon Department of Agriculture (ODOA) notice of proposed land development applications for pre-85 dwellings when an applicant has challenged the soils data for the property as determined in the *Soil Survey of Linn County Area Oregon*, July, 1987. The ODOA shall review a report submitted by an applicant and determine if the report was prepared by a soil scientist whose credentials are acceptable to the ODOA and determine if the analysis in the report is soundly and scientifically based (see LCC 928.300 to 928.599).

(6) *ODOT*. The Director shall give to the Oregon Department of Transportation (ODOT), Highway Division, notice of proposed land development applications that would be adjacent to, would access from or would have potential impact upon a state highway or the interstate freeway.

(7) *ODOA*. The Director shall provide notice of all applications under LCC 928.320 (B) (9) and 928.620 (B) (22) to the State Department of Agriculture.

[Adopted 98-002 §3 eff 3/4/98; amd 99-121 §2 eff 6/30/99; amd 99-156 §3 eff 6/30/99]

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## E. MISCELLANEOUS PROCEDURES

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### 921.400 Technical information provided by the Director

(A) The Director shall provide to the applicant any technical information known by the Director to be in the Department files at the time of the application, that bears on the application set forth in subsections (B) and (C). The applicant is entitled to rely on that information in any decision rendered.

(B) Such technical information includes, but is not limited to, the following: mass movement,

flood hazard, wildlife habitat, wetlands and sanitation.

(C) The Director shall make available to the public any technical information provided to the applicant under this section not later than 7 calendar days prior to the first hearing on the application or the final decision whichever is earlier.

[Adopted 98-002 §3 eff 3/4/98]

### 921.430 Limitations of Re-filing of Application

No new application for the same or similar land development shall be filed within one year of the date of an earlier denial unless it is determined by the Director that circumstances warrant a new application.

[Adopted 98-002 §3 eff 3/4/98]

### 921.450 Interagency Reviews

(A) If an agency requests information on the compatibility of a proposed use with the *Comprehensive Plan* or Land Development Code, the Director shall comply with this section.

(B) When presented with an application, the Director shall review the request and respond.

(C) The Director may charge a fee for the review as specified in the latest Linn County order establishing a fee therefor.

(D) The list of agencies and land development activities includes, but is not limited to:

(1) *Department of Environmental Quality (DEQ) / Linn County Environmental Health.*

(a) The Director shall review land development compatibility statements for Environmental Health Program and DEQ. Compatibility statements for site evaluations can be signed as “inconsistent” prior to land development approvals. Until land development approval is granted, only repair permits may be issued.

(b) For properties that require the use of a holding tank or require a Water Pollution Control Facilities (WPCF) permit from DEQ, the Director shall coordinate the issuance of building permits with DEQ. Building permits shall not be issued by the Director until DEQ is able to issue the holding tank permit or the WPCF permit.

(2) *Division of State Lands (DSL)*. The Director shall review applications from DSL and

the U.S. Army Corps of Engineers for proposed mining or bank stabilization within the beds and banks of waters owned by the State of Oregon. The compatibility statement is marked as appropriate and returned to the agency.

(3) *Oregon Water Resources Department (OWRD)*. The Director shall review applications from the OWRD for new water rights or the transference of water rights. The review provides the opportunity for coordination of proposed land developments which typically are farm-related and allowed outright.

(4) *Department of Geology and Mineral Industries (DOGAMI)*. The Director shall review applications from DOGAMI that involve the mining of land. The compatibility statement is marked as appropriate and returned to the agency.

(5) *Department of Motor Vehicles (DMV)*.

(a) The Director shall review new and renewal applications from the DMV for dealers and rebuilders of vehicles. The DMV application shall be submitted to the Director along with the appropriate fee as specified in the Fee Order. A site visit may be made. A decision on the application shall be made within 30 calendar days of receiving the application.

(b) In reviewing the application, the Director shall determine if the use complies with the site development standards for such a use, any conditions of approval previously included on the use, or if the use is a recognized nonconforming use, that the use has not expanded. If the Director determines the site is not in compliance, the application shall not be signed and the applicant shall be notified. If it is determined that the site is in compliance, the Director shall sign the DMV application and either telephone the applicant or mail the signed application to the applicant.

(c) The Director shall review new and renewal applications for the Board from the DMV for a wrecker of motor vehicles or a salvage pool operator. The Director shall determine if the use complies with the site development standards for such a use, any conditions of approval previously included on the use, or if the use is a recog-

nized nonconforming use, that the use has not expanded. A site visit is made and the Director makes a written recommendation on the application by the date established by Board.

(6) *Oregon Liquor Control Commission (OLCC)*. The Director shall review applications for the Board from the OLCC for liquor licenses outside incorporated cities to determine if the use will occur on land appropriately zoned for such a use and if the property is in compliance with the applicable zoning district standards. The Director shall make a recommendation to the Board on OLCC license applications. Restaurants outside incorporated city limits are subject to this review. Grocery stores are not subject to this review.

(7) *County Clerk*. The Director shall review applications from the County Clerk for second hand and junk dealers. If the land is appropriately zoned for the use and has land development approval or if the land is not zoned to allow the use but the use is a lawful, nonconforming use, the Director shall recommend approval.

(8) *Delayed Annexations*. Development of land covered by a delayed annexation agreement shall be coordinated with the appropriate city. Development permits shall not be authorized by the Director unless the city determines that the land is in compliance with the conditions and requirements in the delayed annexation agreement. The Director shall maintain an inventory of properties affected by a delayed annexation agreement.

[Adopted 98-002 §3 eff 3/4/98]

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## II. LAND DEVELOPMENT PERMITS

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### A. DEVELOPMENT PERMIT APPLICATIONS

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#### **921.500 Applications for land development permits; requirements; generally**

(A) The Department shall not accept an application for a development permit or issue a permit authorizing development on any land that is not an authorized unit of land.

(B) The Director or Hearing Authority may issue a development permit only for an authorized unit of land and only for uses or structures permitted through the provisions of this Development Code.

(C) The Director or Hearing Authority shall not issue any development permits for any unit of land determined to be part of an existing violation of any provision of this Development Code or any other provision of the Linn County Code, whether accidental or intentional, regardless of the time and conditions of the violation, unless the violation will be remedied by the review process.

(D) Any unit of land which is a part of an original larger unit of land or tract which is in violation of the Land Development Code shall also be subject to that violation, regardless of the time and conditions of the creation and conveyance of such unit of land.

(E) Except as authorized in subsection (F) of this section, no development permits shall be authorized until such time as the alleged violation has been verified, and either found to be without merit or the violation has been remedied.

(F) A development permit may be authorized if:

(1) the Building Official determines that an imminent hazard to the public health, safety or welfare exists and then only for those building permits needed to resolve the hazardous situation; or

(2) when the Director or Hearing Authority determines that issuing a permit would remedy the violation.

(G) No person shall develop land in a manner not prescribed by the Land Development Code.

(H) No person shall initiate any land development proposal that is subject to review under this Chapter unless that person first makes application and obtains approval for that development in compliance with the provisions of this Chapter.

(I) Applicants shall meet or exceed the minimum procedures, criteria and standards of this Development Code in order to meet the land use planning provisions controlling partitions,

subdivisions, development, land use, and property line adjustments.

(J) No person may in any manner not in compliance with the procedures and regulations established in this Development Code:

(1) locate, construct, maintain, repair, alter or use a building or other structure; or

(2) use, develop, adjust property lines, partition or subdivide land or create a road necessary to permit the division of land.

[Adopted 98-002 §3 eff 3/4/98]

### **921.510 Development permits requiring an application**

(A) The actions set forth in subsection (B) require a development permit approved pursuant to this Chapter.

(B) *Development requiring a permit.*

(1) Type IA and Type IB development permits where no discretion is involved resulting in the issuance of a building or an EHP permit;

(2) Use of a recreational vehicle as a temporary dwelling;

(3) Alteration, restoration, or replacement of lawfully established dwellings;

(4) Temporary storage of a manufactured dwelling;

(5) Road approach (access to a public road);

(6) Development of a residential site;

(7) Development of a commercial or industrial site;

(8) Variance from property development standards;

(9) Land divisions:

(a) Partitions:

(i) which require the creation of a road, flag-lot or an easement;

(ii) which do not require the creation of a road, flag-lot, or recognition of an easement;

(iii) requiring prior authorization granted under LCC 924.500 to 924.800;

(b) Subdivisions

(i) preliminary plat approval, and

- (ii) final plat approval;
- (10) Property line adjustments;
  - (a) requiring discretion
  - (b) meeting objective standards;
- (11) Nonconforming use, including an alteration of a nonconforming use;
- (12) Conditional use permits;
- (13) Creation of a mortgage-lot;
- (14) Recognition of an easement;
- (15) Parking of seven log trucks on land in an EFU zoning district;
- (16) Development reviews within a Sensitive Bird Habitat Overlay (SBHO); and
- (17) Any other action which is determined by the Director to require approval of a development permit pursuant to the Land Development Code.

[Adopted 98-002 §3 eff 3/4/98; amd 99-121 §2 eff 6/30/99]

**921.520 Persons authorized to submit development permit applications**

Applications for developments set forth in LCC 921.510 may be submitted only by the following persons:

(A) The owner or contract purchaser of record of any existing authorized unit of land, or a representative of the owner or contract purchaser of record having written authorization which specifically sets forth the land development proposal (s) for which the representative is authorized to apply, and

(B) The Director may initiate on behalf of any public agency applications for proposals intended to be located on property which that public agency owns or intends to own.

[Adopted 98-002 §3 eff 3/4/98]

**921.530 Grading permit required**

A grading permit may be required from the Building Official pursuant to LCC Chapter 850 (Fill and Excavation Code).

[Adopted 98-002 §3 eff 3/4/98; amd 99-121 §2 eff 6/30/99]

**921.530 Permit for development in the EFU, F/F, or FCM; expiration date and extensions**

(A) Except for a partition or a subdivision, a discretionary decision in the EFU, F/F, or FCM zoning districts is void two years from the date of the final decision if the development action is not initiated in that period.

(B) One, 12-month extension may be granted upon written request submitted prior to the expiration of the approval period. The request shall state the reasons that prevented the applicant from beginning or continuing development within the approval period. If the Department determines that the applicant was unable to begin or continue development during the approval period for reasons for which the applicant was not responsible, then an extension shall be granted.

[Adopted 98-002 §3 eff 3/4/98]

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**B. DEVELOPMENT PERMITS FOR MINING;  
GENERALLY**

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**921.540 Definitions**

The definitions set forth in LCC 939.030 apply to LCC 921.541 to 921.569.

[Adopted 99-156 §3 eff 6/30/99]

**921.541 Development permit for mining generally**

(A) *Sites not approved for mining.* The Director shall not issue a development permit under this Subchapter if the site is on Appendix 3 (Possibly Significant Site) in LCC Chapter 905 (Land Use Element Code).

(B) No person may initiate or engage in mining of aggregate without, or in non-compliance with, a development permit issued under LCC 921.552 or 921.562.

(C) A person who initiates or engages in mining without a development permit approving mining is in violation of the Land Development Code.

(D) A person who initiates or engages in mining in a manner that does not comply with the requirements imposed by the permit, or of any

requirements imposed by LCC Chapter 939 (Mining Permit and Uses Code) or by LCC 921.560 to 921.569 or by the provisions of LCC Chapter 905 (Land Use Element Code) applicable to that site is in violation of the Land Development Code.

(E) The violations described in this section are subject to LCC Chapter 240 (Enforcement Code).

[Adopted 99-156 §3 eff 6/30/99]

#### **921.542 Expansion sites**

(A) The County shall allow a currently approved aggregate processing operation at an existing site to process material from one of the sites set forth in subsection (B) of this section without requiring a re-authorization of the existing processing operation unless limits on such processing were established at the time it was approved.

(B) The sites described in subsection (A) are:

(1) an expansion site; or

(2) a new site:

(a) on the same property on which the existing site is located; or

(b) on an adjacent property which is under the control or ownership of the owner of the existing site.

[Adopted 99-156 §3 eff 6/30/99 (OAR 660-023-0180 (6))]

#### **921.543 Initiation of mining**

(A) The operator shall initiate the mining of aggregate under a development permit issued pursuant to LCC 921.552 or 921.562 within the time period identified in LCC 920.400 (B) (1).<sup>1</sup>

(B) If the owner or operator does not initiate development within the time period set forth in subsection (A) of this section the owner or operator may apply to the Director for an authorization to initiate mining.

(C) If mining is not initiated within the time period set forth in this section, the operator may not initiate or engage in mining at the site unless the operator first obtains a new authorization to initiate mining following the review as described in this section.

(D) For a development permit issued under LCC 921.552 for which mining has not been initiated within the time period set forth in this section, review to re-authorize the initiation of mining shall consider only the factors identified in this subsection.

(1) If the proposed re-authorization does not represent a change in the previous mining permit, the development permit shall comply with the provisions of LCC 921.522 to 921.556.

(2) If the proposed re-authorization represents a change in the previous mining permit, and such change results in a new conflict or greater conflict not previously analyzed under LCC 939.130(B):

(a) The review to authorize the development permit shall consider only new conflicts or greater conflicts not previously analyzed under LCC 939.130(B);

(b) The review to authorize the development permit shall consider only those factors set forth in LCC 939.130(B) (4) pursuant to the process set forth in LCC 939.140; and

(c) The development permit shall comply with the provisions of LCC 921.552 to 921.556.

(E) For a development permit issued under LCC 921.562 for which mining has not been initiated within the time period set forth in this section, no mining may be initiated unless a new development permit has been first applied for and obtained.

[Adopted 99-156 §3 eff 6/30/99; amd 2000-119 §1 eff 3/28/00]

#### **921.544 Performance and development standards**

(A) The minimum standards set forth in LCC 934.350 to 934.359 shall apply to the establishment, maintenance and operation of a mining area

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<sup>1</sup>Currently, aggregate CUPs are treated the same as any other CUP where initiation is concerned (two years to initiate plus a one-year extension upon request). This would continue that precedent and extend the policy to mining permits for aggregate sites within the ARO.

that is subject to a development permit issued under LCC 921.552 or 921.562.

(B) The measures, conditions, and regulations approved under LCC 939.200.

(C) The decision maker may, at its discretion, provide additional performance or development standards on the mining permit and mining operation.

[Adopted 98-002 §3 eff 3/4/98; amd 99-156 §3 eff 6/30/99]

### **921.545 Removal of structures and equipment**

When mining is completed, all equipment, refuse, buildings and structures not related to the final use shall be removed from a mining area that is subject to a permit issued under LCC 921.552 or 921.562. The mining area shall be left free of debris.

[Adopted 98-002 §3 eff 3/4/98; amd 99-156 §3 eff 6/30/99]

### **921.546 Final use**

(A) Each mining area subject to a permit issued pursuant to LCC 921.552 shall be reclaimed to a final use as set forth in LCC 933.190 (C).

(B) Each mining area subject to a permit issued pursuant to LCC 921.562 shall be reclaimed to a final use as set forth in LCC 933.190 (B).

[Adopted 98-002 §3 eff 3/4/98; amd 98-432 §2 10/21/98; amd 99-156 §3 eff 6/30/99]

[921.547 to 921.551 is reserved for future use]

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## **C. DEVELOPMENT PERMITS FOR MINING OF SITES RECEIVING GOAL 5 PROTECTION**

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### **921.552 Development permit for mining of sites receiving Goal 5 protection**

(A) The Director shall issue a development permit authorizing the initiation of mining if a determination was made that the site is a significant site under LCC 939.120 and is a site listed on or after September 1, 1996 on:

(1) Appendix 5 in LCC Chapter 905 (a site without conflicts); or

(2) Appendix 6 in LCC 905 (all conflicts have been minimized); or

(3) Appendix 8 in LCC 905 (based on an ESEE analysis the site is to receive Goal 5 protection and to be approved for mining with or without limitations).

(B) A permit authorizing the initiation of mining of a significant site listed on Appendix 6 or 8 in LCC Chapter 905 shall be subject to:

(1) any required measures, conditions and regulations approved in LCC 939.200; and

(2) a condition that mining may not be initiated or conducted unless in compliance with a site development plan approved by the decision maker; and

(3) a condition that the owner and operator comply with the program adopted to protect the resource.

(C) Any conditions imposed on the permit issued pursuant to this section shall be clear and objective whether imposed by this Code, the *Comprehensive Plan*, the process that leads to minimization of all significant conflicts, or by an ESEE analysis.

[Adopted 99-156 §3 eff 6/30/99 (OAR 660-023-0180 (6))]

### **921.556 Additional land use review**

(A) The decision maker, in making a determination under LCC Chapter 939 pursuant to the Goal 5 process, may consider the additional land use review factors set forth in subsection (B) of this section.

(B) Additional land use review authorized by this section and by LCC 921.544 shall not:

(1) exceed the minimum review necessary to assure compliance with the requirements in LCC 939.200 pertaining to the site under review.

(2) provide opportunities to deny mining for reasons unrelated to these requirements, or to attach additional approval requirements, except with regard to mining activities:

(a) not requested in an application filed under LCC Chapter 939; or

(b) for which the *Plan* amendment application does not provide information sufficient to determine clear and objective measures to resolve identified conflicts; or

(c) for which a significant change to the type, location, or duration of the activity shown on the *Plan* amendment application is proposed by the operator.

[Adopted 99-156 §3 eff 6/30/99 (OAR 660-023-0180 (4) (e))]

[921.557 to 921.559 is reserved for future use]

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## D. DEVELOPMENT PERMITS FOR SITES NOT RECEIVING GOAL 5 PROTECTION

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### 921.560 Statement of purpose

The purpose of LCC 921.560 to 921.569 is to allow for the development and utilization of aggregate resources not protected by Goal 5 while providing guidelines for conditions to be applied to the mining of the aggregate. These conditions are designed:

(A) to provide reasonable protection to neighboring properties,

(B) to minimize undesirable effects, and

(C) to result in the reclamation, rehabilitation and the ultimate beneficial reuse of the property for land uses which will be compatible with the surrounding activities.

[Adopted 98-002 §3 eff 3/4/98; amd 98-432 §2 10/21/98; amd 99-156 §3 eff 6/30/99]

### 921.562 Development permit for mining of sites not receiving Goal 5 protections

(A) The Director may issue a development permit for a site that:

(1) is listed on Appendix 4 (non-significant site) in LCC Chapter 905 (Land Use Element Code) and the decision maker has approved the issuance of a development permit under LCC 921.560 to 921.569, or

(2) is listed on Appendix 10 (significant site but based on an ESEE analysis conducted under LCC 939.150 is not to receive Goal 5 protection) in LCC Chapter 905 and the decision maker has approved the issuance of a development permit under LCC 921.560 to 921.569, or

(3) is listed before September 1, 1996, on Appendix 5 (no conflicts), or Appendix 8 (Goal 5 protections based on ESEE analysis).

(B) A permit issued under this section must comply with LCC 921.560 to 921.569.

[Adopted 98-002 §3 eff 3/4/98; amd 98-432 §2 10/21/98; amd 99-156 §3 eff 6/30/99]

### 921.564 Decision criteria

(A) Approval to issue a permit to mine a site described in LCC 921.562 shall be based on compliance with all the decision criteria described in subsection (B) of this section.

(B) *Decision criteria.*

(1) LCC 933.310.

(2) The site is listed on one of the appendices as described in LCC 921.562.

[Adopted 98-002 §3 eff 3/4/98; amd 98-432 §2 10/21/98; amd 99-156 §3 eff 6/30/99]

### 921.568 Permit issuance and renewal

(A) A permittee holding a development permit issued under LCC 921.562 shall comply with the performance standards of LCC 921.544, in addition to any conditions established by the decision maker.

(B) Except as otherwise provided in LCC 921.960, a development permit issued by the Director to mine under LCC 921.562 pursuant to which mining has been initiated in compliance with LCC 920.400 (B) (1) shall be valid until the DOGAMI or DSL permit expires.

[Adopted 98-002 §3 eff 3/4/98; amd 98-432 §2 10/21/98; amd 99-156 §3 eff 6/30/99]

[921.569 is reserved for future use]

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## III. DEVELOPMENT CODE INTERPRETATIONS

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### A. CODE INTERPRETATION APPLICATIONS

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#### 921.600 Statement of purpose

(A) The purpose of LCC 921.600 to 921.670 is to provide a procedure for interpretation of the Land Development Code. The Board has adopted the *Comprehensive Plan* and the Land Development Code after duly and regularly noticed and advertised public hearings and opportunity for public comment. Respective portions of the Land



Development Code were adopted and amended following duly and regularly noticed and advertised public hearings and opportunity for public comment as the respective legislative and quasi-judicial procedure required. An interpretation is a declaration of what the Board meant at the time of the adoption or amendment.

(B) The Board hereby authorizes the Director to interpret the Land Development Code adopted by the Board. [Adopted 98-002 §3 eff 3/4/98]

### **921.610 Authority for interpretation**

(A) Subject to subsection (B) of this section, the Director shall be responsible for interpreting the Land Development Code if, in its administration, a question of interpretation or its applicability arises.

(B) If the Director refers the application to the Board pursuant to LCC 921.640 (C), the Board shall decide the question of interpretation or applicability of a Land Development Code.

[Adopted 98-002 §3 eff 3/4/98]

### **921.620 Application for a Development Code interpretation**

(A) An application for a code interpretation may be filed with the Director when:

(1) a word, text, or application of the Development Code is determined by the Director to be unclear or ambiguous; or

(2) an application is filed involving a determination described in LCC 921.625.

(B) The person requesting an interpretation shall file an application:

(1) that complies with LCC 921.040, or

(2) on a form approved by the Director.

The person requesting an interpretation shall make the request in writing and submit the appropriate fee.

(C) The Director shall classify an application filed pursuant to this section as a Type IIB application.

[Adopted 98-002 §3 eff 3/4/98]

### **921.622 Person authorized to file an application for a Development Code interpretation**

Any person may file an application seeking an interpretation of the Land Development Code.

[Adopted 98-002 §3 eff 3/4/98]

### **921.625 Review of similar uses**

(A) The Director may permit, in any zoning district, any use not specifically described or listed in any other zoning district if, in the opinion of the Director, the requested use is

(1) of the same general type, and

(2) is similar to uses permitted in the subject zoning district.

(B) The similar use shall be consistent with the statement of purpose of the subject zoning district.

(C) This similar-use review and decision shall be made in the same manner as other interpretations of this Development Code.

[Adopted 98-002 §3 eff 3/4/98]

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## **B. CODE INTERPRETATION NOTICE**

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### **921.630 Type IIB initial application notice**

The Director is not required to give initial application notice for a code interpretation.

[Adopted 98-002 §3 eff 3/4/98]

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## **C. CODE INTERPRETATION PROCEDURE**

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### **921.640 Type IIB Development Code interpretations; procedure**

(A) A Type IIB application shall be reviewed and decided in compliance with the procedure provided in this section.

(B) At the Director's discretion, a Type IIB application requesting an interpretation may be reclassified as a Type IIIB action and referred to the Board. If a Type IIB application is so referred by the Director to the Board for its review, the Board shall review and decide the application under LCC 921.135.

(C) The interpretation of the Director or Board shall not violate the intent or provisions of the *Comprehensive Plan* or the Land Development Code.

(D) *Decision.*

(1) The Director shall, within 90 calendar days of deeming an application complete:

(a) deny the application, if the findings of fact do not satisfy all the criteria, or

(b) approve the application if the findings and conclusions satisfy all the criteria or can be made to satisfy the criteria with conditions.

(2) The Director shall issue a decision on a Type IIB application. The decision shall be based on and include findings of fact, applicable Land Development Code criteria, and conclusions to support the decision.

(3) The Director shall make a decision on the application based only on the evidence and testimony in the record and on any information that is customarily received by judicial notice.

(4) The Director shall make a decision on the application conforming to the requirements of LCC 921.140.

(5) The Director, or Board, shall issue an interpretation in writing and shall base the interpretation on the purpose and intent of the *Comprehensive Plan* and Land Development Code as applied to the particular situation.

(E) *Doubt regarding interpretation.* If the Director determines that there is substantial doubt regarding the proper interpretation, the Director shall:

(1) so state and provide the basis for the doubt in writing;

(2) submit the question and the Director's written basis for substantial doubt to the Board; and

(3) prepare a staff report for the Board and the report will be available at least 7 calendar days prior to the hearing.

(F) *Role of County Counsel.* The Director or Board may refer the application to County Counsel for research and an opinion of the matter.

[Adopted 98-002 §3 eff 3/4/98]

**921.650 Final decisions; form**

The Director shall prepare a Type IIB interpretation on a form approved by the Director.

[Adopted 98-002 §3 eff 3/4/98]

**921.660 Notice of decision (Type IIB); content and distribution**

(A) Within 35 calendar days of a decision by the Director, the Director shall give a notice of the decision to the applicant, or to the land owner if different from the applicant.

(B) The Director shall prepare, sign and give notice of decision of a Type IIB action in accordance with this section.

(C) The Director shall give notice of decision in the following situations:

(1) If the interpretation makes a use an outright use; or

(2) If the interpretation would result in requiring the applicant to file an application that would not be a Type IIA or Type IIIB application.

(D) The Director shall give notice of decision in compliance with LCC 921.300 to 921.350, if an interpretation affects only a specific property or a restricted or limited number of landowners notice shall be given as provided in this subsection.

(E) The Director may give notice of decision in compliance with LCC 921.300 to 921.350, if an interpretation has a general, county-wide impact, rather than an impact only on a specific property or a restricted or limited number of landowners.

(F) Unless required by this section, notice of decision to a surrounding landowner is not required to be provided unless such notice has been specifically requested by that landowner.

(G) *Contents of the notice of decision for an interpretation of the Development Code.* The notice of decision shall contain:

(1) the name of the applicant;

(2) the Department's case file number;

(3) the location of the property, if necessary;

(4) the Director's decision on the matter;

(5) the date the decision was made;

(6) information on how and where to inspect and to obtain a copy of the decision;

(7) a statement that the decision may be appealed to the Board by the applicant, or a party with standing, if any, within 14 calendar days of the date of the decision letter by filing a notice of intent to appeal with the Department;

(8) a statement that the notice of intent to appeal shall:

- (a) be in writing;
- (b) identify with particular specificity the inadequacies, omissions or errors made by the decision maker; and

(c) be accompanied by the appropriate appeal fee; and

(9) a statement that, unless the decision is appealed in compliance with LCC 921.670, the decision is a final land use decision.

(H) *Distribution.*

(1) Within 5 working days of the decision, the Director shall give the notice of decision to:

(a) the applicant or the land owner (s) if different from the applicant; and

(b) all parties with standing, if any, who have provided correct mailing addresses.

(2) The Director shall give the final decision to the applicant, or land owner if different from the applicant.

[Adopted 98-002 §3 eff 3/4/98]

(D) The Board shall hear an appeal of an application for a Director interpretation of Land Development Code pursuant to LCC 921.135.

(E) On appeal, the Board may:

(1) issue a final determination in the matter;

(2) find that the question is of a legislative nature and proceed in an appropriate manner;

(3) find that there is insufficient information to interpret the Land Development Code; or

(4) require the Director to study the issue and provide additional information at a subsequent hearing.

(F) A copy of an interpretation not appealed or one that is rendered by the Board following appeal shall be provided to the Commission and to Department staff for their information and use.

(G) If necessary, Board interpretations shall be incorporated into the Land Development Code during the next appropriate amendment and shall be implemented by the Director and Commission during the interim.

[Adopted 98-002 §3 eff 3/4/98]

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## D. CODE INTERPRETATION APPEALS

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### 921.670 Type IIB Development Code interpretations; appeal procedures

(A) An interpretation of the Land Development Code made by the Director may be appealed to the Board by a party adversely affected by the interpretation.

(B) If the Director has not made a decision on a Type IIB application or has not referred it to the Board within 14 calendar days of the scheduled decision date, the applicant may request that the application be heard by the Board under LCC 921.135.

(C) A notice of intent to appeal of a Type IIB decision must be filed within 14 calendar days after the date of a notice of decision. The notice of intent to appeal shall state with sufficient specificity why the interpretation is thought to be incorrect and shall be accompanied by the appropriate fee.

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## IV. HISTORIC RESOURCES PROCEDURES

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### 921.700 Historic resources; applications

An application complying with LCC 921.040, may be made for the following actions.

(A) An application to remove an Historic Resource Overlay (HRO).

(B) An application to apply an Historic Resource Overlay (HRO).

(C) An application to alter or demolish an historic resource on the Linn County Register of Historic Resources.

[Adopted 98-002 §3 eff 3/4/98]

**921.710 Historic resource; procedures**

An application to remove an Historic Resource Overlay (HRO) shall be reviewed and decided by a Type IIIA process.

(A) An application to apply an Historic Resource Overlay (HRO) shall be reviewed and decided by a Type IIIB process.

(B) An application to alter or demolish an historic resource on the Linn County Register of Historic Resources shall be reviewed and decided by a Type IIIB process.

[Adopted 98-002 §3 eff 3/4/98]

**921.730 HRC review of applications for historic resource properties**

(A) The Director shall review and initially classify an application set forth in subsection (C) of this section for review by the Historic Resource Commission (HRC) as provided in LCC 932.900 to 932.990.

(B) The HRC shall review an application by the level of review set forth in LCC 921.710.

(C) The HRC shall make a recommendation to the Commission approving or denying:

- (1) application or removal of the Historic Resource Overlay (HRO) designation, or
- (2) amending the HRO designation.

(D) The recommendation in subsection (C) shall be based on whether the application or removal of the HRO would serve to retain the integrity of the historic resource or on whether the HRO designation should be amended.

(E) The HRC shall make a decision on an application for alteration or demolition of an historic resource on the Linn County Register of Historic Resources.

(F) When a qualifying historic dwelling is habitable and the authorized unit of land is proposed to apply an HRO, the dwelling does not need a conditional use permit from the Department or the Commission.

(G) When an historic property which is not habitable or which has been used for non-dwelling purposes is proposed to be rehabilitated for or converted to a dwelling, its establishment as a dwelling requires approval under the Land Development Code provisions for the underlying zoning district from either the Department or the Commission.

opment Code provisions for the underlying zoning district from either the Department or the Commission.

(H) The HRC shall determine whether it is appropriate to establish or remove the Historic Resource Overlay (HRO) and to confirm the underlying zoning designation if property is removed from the HR Overlay.

(I) Any proposed changes that would potentially affect the exterior of a qualifying historic dwelling shall be reviewed and approved by the HRC before they are initiated. Such review and approval shall be required as a condition of approval attached to the partitioning decision.

[Adopted 98-002 §3 eff 3/4/98]

**921.740 Board review of applications for historic resource properties**

The Director shall schedule a recommendation made by the HRC for final action by the Board. The Board shall review and decide the recommendation as follows:

(A) A recommendation made by the HRC to remove an Historic Resource Overlay (HRO) shall be reviewed and decided by a Type IIIA process.

(B) A recommendation made by the HRC to apply an Historic Resource Overlay (HRO) shall be reviewed and decided by a Type IIIA process.

(C) An appeal of a decision made on an application to alter or demolish an historic resource on the Linn County Register of Historic Resources shall be reviewed and decided by a Type IIIB process.

[Adopted 98-002 §3 eff 3/4/98]

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**V. AMENDMENT PROCEDURES**

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**921.800 Title; short titles**

LCC 921.800 to 921.899 shall be known and cited as the “Linn County Land Use Amendment Process Code.” LCC 921.800 to 921.899 may also be referred to and cited as the “Land Use Amendment Code” or the “Amendment Code.”

[Adopted 98-002 §3 eff 3/4/98]

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## A. LAND DEVELOPMENT CODE

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### 921.802 Statement of purpose

The purpose of this LCC 921.800 to 921.849 is to provide criteria for decision and the necessary procedures to take action on the Zoning Map or Development Code text amendments that are consistent with the provisions of the *Comprehensive Plan*. These provisions are intended to provide the opportunity to amend or revise the *Linn County Land Development Code* to meet changing land use needs.

[Adopted 98-002 §3 eff 3/4/98]

### 921.805 Authority to amend the Zoning Map

(A) Amending the Zoning Map, e.g., changing boundaries of zoning districts, shall be made only by the Board by ordinance adoption.

(B) The amended map, when so adopted, shall become a part of this Code.

(C) One original Zoning Map shall be maintained in the Department.

(D) A second original Zoning Map shall be maintained in the County Clerk's Office.

(E) Both original Zoning Maps shall be continuously updated with the adopted text that describes the changes to the Zoning Map.

[Adopted 98-002 §3 eff 3/4/98].

### 921.810 Types of amendment applications

(A) Application for amendment of the Land Development Code may be initiated to amend the Zoning Map, text or a combination of the Zoning Map and text.

(B) An amendment to the Development Code may be a legislative Type IIIA action.

(C) An amendment to the Development Code may be a quasi-judicial Type IIIB action.

(D) A separate application to amend the Zoning Map shall be required for each proposed map designation. Approval of one application shall not mandate approval of other applications. The application may be consolidated for public hearing purposes if the applications are interre-

lated and consolidation would expedite their review.

(E) An application to amend the Zoning Map and text shall require at least two separate applications: one or more applications to amend the map and one to amend the text. Approval of one application shall not mandate approval of the other application.

(F) If an application to amend the Zoning Map or text of the Land Development Code necessitates a *Plan* Map or *Plan* text amendment, the two applications may be consolidated into a single public hearing.

[Adopted 98-002 §3 eff 3/4/98].

### 921.812 Persons authorized to submit amendment applications

(A) An application to amend the Land Development Code may be filed only by the persons set forth in subsection (B).

(B) *Persons having authority to file an application.*

(1) The majority of the Board.

(2) A recommendation by a majority of the Commission.

(3) The Director.

(4) A city, if the amendment is requested for land within an adopted urban growth boundary.

(5) A special district or school district if the amendment is requested for land within the district's boundaries.

(6) A land owner, for his or her land.

(7) A group of land owners, for their land.

(8) A County resident for an application to amend the text of the Land Development Code.

[Adopted 98-002 §3 eff 3/4/98]

### 921.815 Application procedure

An application may be filed seeking an amendment to the Land Development Code if the application complies with the applicable requirements of LCC 921.002 to 921.499.

(A) The Department shall not accept an application for amendment of the Land Develop-

ment Code if incomplete or incorrect information has been submitted or if the applicant has failed to attend a pre-application conference with the planning staff.

(B) A public hearing on an application to amend the Land Development Code shall be set no sooner than 42 calendar days following the deeming of that application complete.

[Adopted 98-002 §3 eff 3/4/98]

### **921.817 Pre-application conference**

Prior to filing an application to amend the Land Development Code, the applicant shall attend a pre-application conference with the planning staff pursuant to LCC 921.030.

[Adopted 98-002 §3 eff 3/4/98]

### **921.820 Review procedure**

An application seeking an amendment to the Land Development Code shall be reviewed under a Type IIIA procedure if the application is legislative, or a Type IIIB procedure if the application is quasi-judicial.

[Adopted 98-002 §3 eff 3/4/98]

### **921.822 Decision criteria for Zoning Map amendments**

(A) When a Zoning Map or Land Development Code text amendment is necessary due to a proposed *Comprehensive Plan* amendment, only findings and conclusions responding to the *Comprehensive Plan* amendment criteria for decision are necessary to amend the Zoning Map or Code text provisions.

(B) Except as stated in subsection (A) and LCC 921.824, a Zoning Map amendment from one zoning district to another may be granted if on the basis of the application, investigation, testimony and evidence submitted, findings and conclusions show that all of the following conditions exist:

(1) The presence of development limitations including but not limited to geologic hazards, natural hazards, water quality and quantity and septic suitability, do not significantly adversely affect development permitted in the proposed zoning district;

(2) The amendment will result in a development pattern having no significant adverse impact upon transportation facilities, police and fire protection, storm drainage facilities or the provision of other regional public facilities;

(3) The amendment will result in a development pattern compatible with uses on nearby lands and will have no significant adverse impact on the overall land use pattern in the area;

(4) The amendment is consistent with the intent and purpose statement of the proposed zoning district;

(5) The amendment is consistent with the existing *Comprehensive Plan* map designation;

(6) The amendment will not have a significant adverse impact on a sensitive fish or wildlife habitat; and

(7) The amendment, if within an adopted urban growth boundary, is consistent with the *Comprehensive Plan* and implementing ordinances of the affected city.

[Adopted 98-002 §3 eff 3/4/98]

### **921.824 Decision criteria for Development Code text amendments**

(A) A Land Development Code text amendment may be granted if on the basis of the application, investigation, testimony and evidence submitted, findings and conclusions show that:

(1) The amendment is consistent with the intent and purpose statement of the affected Chapter or subchapter of the Land Development Code; and

(2) The amendment is consistent with the intent of the policies within the applicable section (s) of the *Comprehensive Plan*.

[Adopted 98-002 §3 eff 3/4/98]

### **921.830 Intent to Re-zone**

(A) An order of intent to re-zone shall be adopted by the Board only when the criteria for decision have been met.

(B) If it is determined that a Zoning Map amendment application would comply with the general purpose of the Land Development Code should the land in question be developed as

proposed, the Board shall indicate general approval in the form of an order entitled “Order of Intent to Re-zone.”

(C) The order of intent shall include any conditions, stipulations or limitations which are necessary to safeguard the public interest and to insure consistency with the intent, purposes and criteria of the Land Development Code.

(D) Approved site plans for land covered by an “Order of Intent to Re-zone” may be amended or abandoned with the approval of the Board. No other changes constituting a departure from the approved site plan shall be made, except by amendment as herein provided unless the property has been released from the site plan requirement.

(E) The applicant must meet all conditions, stipulations and limitations stated in the order within 12 months of the effective date of decision unless a different approval period is prescribed. If not completed within the approval period, the order shall become null and void unless, prior to the expiration of the approval period, an application to extend the approval period has been submitted and approved.

(F) The Director may grant one extension for up to 12 months. Any conditions deemed necessary for the implementation of this Land Development Code may be established as part of the extension. All extension requests exceeding 12 months in length and extension requests that are in addition to an extension granted by the Director shall be reviewed by the Board. Any conditions deemed necessary for the implementation of the Land Development Code may be established as part of the extension.

(G) Upon fulfillment of all conditions, stipulations and limitations contained in the Order of Intent to Re-zone, the order shall become binding for final approval. An ordinance adopting the map amendment shall be signed completing the re-zone.

[Adopted 98-002 §3 eff 3/4/98]

## **921.840 Appeal procedures**

An appeal of an approval of amendment to the *Comprehensive Plan* shall comply with LCC 921.200 to 921.260.

[Adopted 98-002 §3 eff 3/4/98]

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## **B. COMPREHENSIVE PLAN**

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### **921.850 Statement of purpose**

The purpose of LCC 921.850 to 921.899 is to provide procedures and criteria for the amendment of the *Comprehensive Plan*. These provisions are intended to provide the opportunity to amend the plan to meet changing land use needs.

[Adopted 98-002 §3 eff 3/4/98]

### **921.855 Authority to amend the *Comprehensive Plan* Map**

(A) Amending the *Comprehensive Plan* map, e.g., changing boundaries of map designations, shall be made only by the Board by ordinance adoption. The amended map, when so adopted, shall become a part of this Development Code.

(B) One original *Comprehensive Plan* map as amended shall be maintained in the Department.

(C) A second original *Comprehensive Plan* map shall be maintained in the Clerk’s Office.

(D) Both original *Comprehensive Plan* maps shall be continuously updated with the adopted text that describes the changes to the *Comprehensive Plan* map.

[Adopted 98-002 §3 eff 3/4/98].

### **921.860 Persons authorized to submit amendment applications**

(A) An application to amend the *Comprehensive Plan* may be filed only by the persons set forth in subsection (B).

(B) *Persons having authority to file an application.*

(1) The majority of Board.

(2) A recommendation of a majority of the Commission.

(3) The Director.

(4) A city, if the amendment is request for land within an adopted urban growth bound-ary.

(5) A special district or school district, if the amendment is requested for land within the district's boundaries.

(6) A landowner for the landowner's property.

(7) A group of landowners for their property.

(8) County resident for *Plan* text amend-ment only.

[Adopted 98-002 §3 eff 3/4/98]

### **921.862 Types of amendment applications**

(A) Application for amendment of the *Comprehensive Plan* may be initiated to amend the *Plan* map, *Plan* text, or a combination of the *Plan* map and text.

(B) An amendment to the *Comprehensive Plan* may be a legislative Type IIIA action.

(C) An amendment to the *Comprehensive Plan* may be a quasi-judicial Type IIIB action.

(D) A separate application to amend the *Plan* map shall be required for each proposed map designation. Approval of one application shall not mandate approval of other applications. The application may be consolidated for public hearing purposes if the applications are interrelated and consolidation would expedite their review.

(E) An application to amend the *Plan* map and text shall require at least two separate applica-tions: one or more applications to amend the map and one to amend the text. Approval of one appli-cation shall not mandate approval of the other application.

(F) If an application to amend the *Plan* map or text necessitates a Zoning Map or Land Devel-opment Code text amendment, the two applica-tions may be consolidated into a single public hearing.

[Adopted 98-002 §3 eff 3/4/98]

### **921.864 Application procedure**

(A) An application may be filed seeking an amendment to the *Comprehensive Plan* if the application complies with the applicable require-

ments of LCC 921.002 to 921.499. The Depart-ment shall not accept an application for amend-ment of the *Comprehensive Plan* if incomplete or incorrect information has been submitted or if the applicant has failed to attend a pre-application conference with the planning staff.

(B) A public hearing on an application to amend the *Comprehensive Plan* shall be set no sooner than 45 calendar days following the deem-ing of that application complete.

[Adopted 98-002 §3 eff 3/4/98]

### **921.866 Fees**

(A) In addition to the requirements of LCC 921.040, a fee shall be assessed in compliance with subsection (B) for each application filed with the Department to amend the *Comprehensive Plan*.

(B) *Fees for amendments.*

(1) If a *Comprehensive Plan* amendment necessitates a Zoning Map amendment, only the *Comprehensive Plan* amendment fee shall be charged;

(2) In addition to the filing fee, the applicant shall be assessed the cost of research, duplication and mailing of public notices to affected persons at a rate of \$1.50 per required notice

(3) The filing fee shall apply to an applicant listed under LCC 921.860 (B) (4) to (8).

(C) The following provisions shall apply to refunding of fees assessed for public hearing on a *Comprehensive Plan* amendment:

(1) If an application is withdrawn prior to publication or mailing of public hearing notice, the applicant's full fee shall be refunded, less a \$50 non-refundable fee.

(2) If an application is withdrawn after publication or mailing of public hearing notice, the applicant shall forfeit all fees.

(3) If the date of public hearing is re-scheduled at request of the applicant after publica-tion or mailing of public hearing notice, the applicant shall be assessed a \$100.00 rescheduling fee.

[Adopted 98-002 §3 eff 3/4/98]



**921.868 Pre-application conference**

Prior to filing an application to amend the *Comprehensive Plan*, the applicant shall attend a pre-application conference with the planning staff.

[Adopted 98-002 §3 eff 3/4/98]

**921.870 Review procedures**

An application seeking an amendment to the *Comprehensive Plan* shall be reviewed under a Type IIIA procedure if the application is legislative, or a Type IIIB procedure if the application is quasi-judicial.

[Adopted 98-002 §3 eff 3/4/98]

**921.872 Decision criteria for *Plan* text amendments**

To approve a plan text amendment, the following criteria shall be met:

(A) The amendment is consistent with the intent of the applicable section (s) of the *Comprehensive Plan*; and

(B) The amendment is consistent with the statewide planning goals.

[Adopted 98-002 §3 eff 3/4/98; amd 98-432 §2 eff 10/21/98]

**921.874 Decision criteria for *Plan* map amendments**

(A) To approve a plan map amendment, findings shall be made that:

(1) The amendment is consistent with and does not alter the intent of applicable section (s) of the *Comprehensive Plan*;

(2) The amendment will be compatible with adjacent uses and will not adversely impact the overall land use pattern in the area;

(3) The amendment, if within an adopted urban growth boundary, is in substantial conformity with the *Comprehensive Plan* and implementing ordinances of an affected city;

(4) The amendment will not have a significant adverse impact on a sensitive fish or wildlife habitat;

(5) The amendment will not have a significant adverse impact upon the provision of public facilities including police and fire protection, sanitary facilities and storm drainage facilities;

(6) The amendment will not have a significant adverse impact upon the transportation facilities;

(7) The presence of any development limitations including geologic hazards, flood hazards or water quality or quantity will not have a significant adverse affect on land uses permitted through the amendment;

(8) An exception to the statewide planning goals is not required. If required, then findings have been prepared to meet the exception criteria; and

(9) The amendment is consistent with the statewide planning goals.

[Adopted 98-002 §3 eff 3/4/98]

**921.876 Decision criteria for combined *Comprehensive Plan* and Land Development Code amendments**

When an application involves an amendment to the *Comprehensive Plan* and to the Land Development Code, each amendment shall be subject to the respective criteria. When a criterion is addressed under one amendment, that criterion need not be addressed again under the other amendment.

[Adopted 98-002 §3 eff 3/4/98]

**921.890 Appeal procedures**

An appeal of an approval of amendment to the *Comprehensive Plan* shall comply with LCC 921.200 to 921.250.

[Adopted 98-002 §3 eff 3/4/98]

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**VI. ENFORCEMENT PROCEDURES**

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**921.900 Acts of the director or the hearing authority**

For purposes of this Land Development Code, a requirement that the Director or the Hearing Authority do or refrain from doing an act includes the Director or the Hearing Authority causing that act to be done or not done.

[Adopted 98-002 §3 eff 3/4/98]

**921.910 Administration of development code**

(A) The Director shall be responsible for the administration and interpretation of the Land Development Code.

(B) The Building Official, prior to issuing any permit pertaining to the use of land or structures or the erection or alteration of any structure, shall ascertain that the proposed use or structure shall, in all ways, conform to the requirements of this Development Code.

(C) A planning review fee shall be imposed at the time of issuance of a building permit unless the land use review associated with the pending building permit has already occurred under separate fee. The planning review fee shall be established by the fee order.

[Adopted 98-002 §3 eff 3/4/98]

**921.920 Initiating or Starting Development**

(A) No person may initiate development within 14 calendar days of a Director, Commission or HRC decision date. The exception to the 14-day period is when there is no party in a land development review with standing to appeal a decision. In that case, development may be initiated within the 14-day period, provided all applicable conditions and requirements of Land Development Code have been met.

(B) Unless a different period has been prescribed, the construction or alterations authorized by a land development decision must be initiated within 24 months, or, when a land development decision does not involve any construction or alteration, the authorized activity must be started within 24 months of the effective date of decision.

(C) Unless otherwise specified,

(1) Land development decisions shall be void 2 years from the date of the final decision if the development action is not initiated in that period.

(2) One, 12-month extension may be granted upon written request submitted prior to the expiration of the approval period. The request shall state the reasons that prevented the applicant from beginning or continuing development within the approval period. If the Director determines

that the applicant was unable to begin or continue development during the approval period for reasons for which the applicant was not responsible, then an extension shall be granted. The extension of a conditional use permit is not a land use decision.

(3) If a permit is approved for a proposed residential development on agricultural or forest land outside of an urban growth boundary, the permit shall be valid for four years.

(a) An extension of a permit described in paragraph (3) shall be valid for two years.

(b) For purposes of this paragraph, “residential development” includes only the dwellings allowed under LCC 928.315 (B) (1), 928.325 (B) (7), 928.326 (B) (3), (4), (5), and (6), 928.336 (B) (1), 928.615 (B) (1), 928.617 (B) (2) and (3), 928.625 (B) (7), 928.626 (B) (3), (4), (5), and (6), 928.627 (B) (8), 928.628 (B) (1) and (2), 928.636 (B) and 928.915 (B) (2).

(D) Ministerial decisions made with respect to applications set forth in this subsection shall remain valid for the times specified:

Action	Valid for:
Partitions with recognized access	180 calendar days
Property line adjustments meeting objective standards	180 calendar days
Step-one reviews of conditional use permit applications for dwellings in the EFU and FF zoning districts	30 calendar days

(E) No person may initiate development of a property authorized by a development permit issued under the Land Development Code unless that person fulfills all conditions and requirements imposed on a permit. A person may only initiate development of a property authorized by a development permit issued under the Land Development Code if that person first fulfills all conditions and requirements imposed on a permit, or if the development permit authorizing development was issued without any conditions or requirements imposed on the permit.

(F) The satisfactory completion of all conditions and requirements shall be so noted on the

face of the permit by signature of the Director and date of approval.

[Adopted 98-002 §3 eff 3/4/98; amd 02-313 §2 eff 8/21/02]

**921.930 Compliance with the Development Code provisions; generally**

Applications, interpretations and decisions made under this Development Code shall comply with:

(A) The minimum requirements of this Development Code;

(B) The goals, policies and land use allocations of the *Comprehensive Plan*; and

(C) Oregon Revised Statutes, Chapter 92 regulating land division, description, surveying and sale; Chapter 197 regulating development and implementation of comprehensive plans; Chapter 215 regulating county land use planning policies and standards; and the applicable Oregon Administrative Rules.

[Adopted 98-002 §3 eff 3/4/98]

**921.950 Compliance with state and other local regulations**

(A) Development subject to this Development Code shall also require coordination and compliance with the following regulations, as applicable. Another Linn County ordinance cannot allow a land use that is inconsistent with this Development Code unless that use is specifically exempted by the other ordinance.

(B) The Linn County Ordinances set forth in this subsection may have bearing on an application filed under the Land Development Code:

(1) Citizen Involvement Element of the Linn County Comprehensive Plan,

(2) LCC Chapter 940 (Floodplain Management Code),

(3) Urban Growth Management Agreements,

(4) Historic Resource Protection Element of the Linn County Comprehensive Plan,

(5) LCC Chapter 850 (Fill and Excavation Code )

(6) LCC 532.400 to 532.900 (Nuisance Code,

(7) LCC Chapters 560 to 564 (Dog Control Code),

(8) LCC Chapter 240 (Code Enforcement Code),

(9) LCC Chapter 960 (Road Naming and Addressing), and

(10) All other applicable local ordinances and Development Codes.

(C) The Director coordinates land use decisions with, among others, Environmental Health, the Road Department and the Building Official.

(D) The Linn County Agency Involvement Program, which provides opportunity for comment to all federal, state or local agencies potentially affected by a proposed land use decision.

(E) All other requirements and provisions reasonably necessary to accomplish the purposes of this Development Code.

(F) All partitions, subdivisions and use of land shall conform to all applicable development standards specified in the pertinent zoning district and to all applicable state and county regulations regarding health, safety and sanitation.

[Adopted 98-002 §3 eff 3/4/98]

**921.960 Revocation of development authorization**

A permit or other approval granted pursuant to the Land Development Code may be revoked if the hearing authority finds that the permittee has:

(A) materially misrepresented the intended land development on the application or in testimony or evidence that was relied upon by the decision maker to make a determination approving the application; or

(B) failed to establish, maintain, or otherwise comply with the use or the development in accordance with:

(1) a condition of approval, or

(2) a material provision of the authorized plans or permit conditions.

[Adopted 98-002 §3 eff 3/4/98; amd 99-121 §2 eff 6/20/99]

**921.965 Development permit revocation procedure**

(A) The decision to revoke a land development approval is subject to this section

(B) If the Director receives sufficient information to indicate that the permittee has met any of the conditions described in LCC 921.960, the Director may, in addition to any process authorized under LCC Chapter 240 (Enforcement Code):

(1) Schedule a public hearing before the Board to determine whether a permit should be revoked for any condition described in LCC 921.960;

(2) Notify the following persons of the time and place of the hearing pursuant to LCC 921.335:

(a) the permittee;  
(b) any person entitled to notice under LCC 921.305, 921.307, 921.360 and 921.370; and

(c) any person not entitled to receive notice under paragraph (2) of this subsection but who received a notice of decision on the conditional permit being reviewed at the last known address as shown in the Department's files;

(3) Prepare a staff report for the Board setting forth the basis for the Director's determination made under subsection (B) of this section and any evidence or testimony which the Director has received or is aware that rebuts the failure.

(C) A review to determine whether a permit should be revoked shall be conducted in accordance with LCC 921.135.

(D) The Board may elect to have the matter heard by the Commission. If the Board elects to have the matter heard by the Commission, the Board so instruct the Director, and the Director shall schedule the matter before the Commission.

(E) The review under this section is in addition to any action authorized to be taken in LCC Chapter 240 (Enforcement Code).

(F) A decision under this section shall:

- (1) affirm the permit as issued; or
- (2) revoke the permit.

(G) The decision maker shall provide findings of fact to support whatever decision is made by the Board or Commission regarding the revocation review.

(H) No person shall continue or resume a use that has been revoked. Continuing or resuming the use is a violation of this Land Development Code.

(I) Once a land development has been revoked, it may only be re-established by obtaining land development approval using the current land development provisions.

(J) *Appeals.* A decision made by the Board pursuant to this section is subject to appeal pursuant to LCC 921.210 (H). A decision made by the Commission pursuant to this section is subject to appeal pursuant to LCC 921.210 (G)

[Adopted 98-002 §3 eff 3/4/98; amd 99-121 §2 eff 6/30/99]

### **921.970 Stop work order**

Whenever any activity is being done contrary to or without the necessary authorization provided through the provisions of this Development Code, the Director may order the activity stopped by written notice posted on the property or served on any persons engaged in the activity. Such activity shall cease until the Director authorizes the activity.

[Adopted 98-002 §3 eff 3/4/98]

### **921.980 Development constraints and violations of development code**

(A) No person shall develop land in the unincorporated areas of Linn County in violation of this Development Code.

(B) No person shall initiate any land development proposal that is subject to review under LCC Chapter 921 (Land Development Administration Code) unless that person first makes application and obtains approval for that development in compliance with the provisions of LCC Chapter 921 (Land Development Administration Code).

(C) No person may develop access to an authorized unit of land unless that access is in compliance with LCC Chapter 935 (Access Improvement Standards Code).

(D) No person may develop land within any of the hazard areas except as allowed in paragraphs (1), (2), or (3) of this subsection.

(1) *Flooding.* In an area subject to flooding identified on flood hazard maps created

by the Federal Emergency Management Administration (FEMA), no person may develop land unless that person has first applied for and obtained approval for that development under the provisions in LCC Chapter 950 (Floodplain Management Code).

(2) *Mass movement.* In an area containing mass movement topography as indicated in the *Bulletin 84, Environmental Geology of Western Linn County, Oregon*, no person may develop land unless the applicant provides a report from an Oregon Engineering Geologist to the Director before development permits may be issued. The report shall state that the land can be safely developed. If the report provides recommendations for development, those recommendations shall be incorporated into the site development.

(3) *Wetlands.* Development of land containing potential jurisdictional wetlands as inventoried on the National Wetlands Inventory (NWI) maps may be subject to additional development standards imposed by the Division of State Lands (DSL).

(E) No person shall continue any activity for which a stop work order on the property has been issued

(F) Unless in compliance with the procedures and regulations established in this Development Code, no person may in any manner:

(1) locate, construct, reconstruct, structurally alter, enlarge, partly or wholly demolish, move, repair, or use a building or other structure;

(2) use, develop, adjust property lines, partition or subdivide land, or

(3) create a road necessary to permit the division of land.

(G) No person having received a development permit shall fail to continuously maintain the applicable property development standards, performance and operation standards, and conditions of approval imposed on a development permit pursuant to this Development Code.

(H) No person shall fail to comply with LCC 932.815 (D) if a permit is revoked and the removal of a caretaker residence is required.

(I) No person shall fail to comply with LCC 932.895 (B) (5) and (6) if a permit is revoked or the hardship ceases and the removal of a manufactured dwelling is required.

(J) No person may at any time negotiate to sell a lot until the preliminary plat has been approved.

(K) No person shall sell or convey any interest in a lot:

(1) Until the plat has been signed by the Director and recorded with the County Clerk.

(2) By reference to, or exhibition or other use of, a plat until that plat has been recorded.

(L) No person may at any time negotiate to sell a parcel until the preliminary plat has been approved.

(M) No person shall sell or convey any interest in a parcel:

(1) Until the plat has been signed by the Director and recorded with the County Clerk.

(2) By reference to, or exhibition or other use of, a plat until that plat has been recorded

(N) No person may sell any portion of real property that is composed of a mortgage-lot permitted under LCC Chapter 922 (Mortgage-lot Code) unless the seller first complies with LCC 922.500 (C).

(O) No person may create a mortgage-lot unless the purpose for its creation is to finance improvements or the development of improvements on the real property on which the mortgage-lot is located.

(P) No person may create a mortgage-lot unless that person first files an application meeting the requirements of LCC 921.040 and obtains approval pursuant to LCC 921.115.

(Q) No person may sell any portion of real property that has a mortgage-lot unless the seller first

(1) files a satisfaction of the mortgage has been recorded and otherwise complies with LCC 922.500, and

(2) applies for and obtains approval for a partition under LCC Chapter 924 (Partitioning Code), or

(3) a division of land has resulted from a judicial foreclosure of

(I) a lien financing the purchase or improvement of the real property, or

(II) a recorded contract for the sale of the real property.

[Adopted 98-002 §3 eff 3/4/98; amd 99-121 §2 eff 6/30/99]

### **921.990 Penalties**

(A) County Counsel, upon request of the Board, shall institute any necessary legal proceedings to enforce the provisions of this Development Code, including but not limited to, injunctive relief, abatement proceedings, actions at law, suits in equity and criminal actions.

(B) Any person violating any provision of this Development Code shall be subject to action under LCC Chapter 240 (Code Enforcement Code) for a Class “A” infraction.

(C) Each person found guilty of a violation shall be deemed guilty of a separate offense for every day during any portion of which any violation of any provision of this Development Code is committed, continued or permitted by such person and shall be punishable therefore as provided in the Linn County Enforcement Ordinance.

(D) If, after the issuance of a permit, the Director or Hearing Authority determines that a violation existed on a unit of land prior to permit issuance, the permit, may be recalled and voided by the Director, hearing authority, Building Official, or other official of Linn County.

[Adopted 98-002 §3 eff 3/4/98]

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### **Statutory References and Other Authorities:**

ORS 203; 197; 215

### **Legislative History of Chapter 921:**

Adopted 98-002 eff 3/4/98

#### **Amendments to 98-002**

#1 98-432 §? eff 10/21/98

#2 99-121 §2 eff 6/30/99

#3 99-156 §3 eff 6/30/99

#4 2000-119 §1 eff 3/28/00

#5 02-313 §2 eff 8/21/02

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# TITLE 9

## COMMUNITY DEVELOPMENT

### Subtitle 2 — Land Development Code Division 2 — Changes to Property Lines

#### CHAPTER 922

#### MORTGAGE-LOT CODE

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#### Statutory References and Other Authorities

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#### 922.005 Title; short title

This Chapter, LCC 922.005 to 922.999, shall be known and cited as the “Linn County Mortgage-lot Code.” This Chapter may also be referred to and cited as the “Mortgage-lot Code.”  
[Adopted 98-002 §3 eff 3/4/98; amd 99-121 §3 eff 6/30/99]

#### 922.010 Description; status

(A) A mortgage-lot together with the remaining portion of the property is an authorized unit of land. Neither a mortgage-lot nor the remaining portion of the property is an authorized

unit of land. A mortgage-lot and the remaining portion of the property, when considered individually, are administrative units of land.

(B) A decision on a development application involving a mortgage-lot or proposed mortgage-lot will consider the property that is subject to the application as the mortgage-lot together with the remaining portion of property.

(C) The residential development related to a mortgage shall be located on the mortgage-lot.

(D) Structures accessory to the residential development in subsection (C) shall be located on the mortgage-lot.

(E) If otherwise allowed by the applicable zoning district, existing development may be subject to a mortgage in order to finance additional, non-residential development on the remaining portion of the property. In this instance, the Director may authorize the new development to be located within the remaining portion of the property.

(F) When recombined upon satisfaction of the mortgage, the mortgage-lot and the remaining portion of property lose their status as administrative units of land but continue their status as one, unified authorized unit of land.

[Adopted 98-002 §3 eff 3/4/98]

#### 922.100 Applications

(A) A mortgage-lot application may be submitted only for land in any zoning district that is an authorized unit of land. The application shall comply with the requirements of LCC Chapter 921 (Administration of the Land Development Code).

(B) A mortgage-lot application is a Type IB review.



**922.200 Decisions on applications**

(A) Decisions on applications under this Chapter shall comply with LCC Chapter 921 (Administration of the Land Development Code).

(B) A proposed mortgage-lot that conforms to the provisions of this Chapter and other applicable provision of the Land Development Code shall be approved. A mortgage-lot that does not meet those provisions shall not be approved.

[Adopted 98-002 §3 eff 3/4/98]

**922.300 Standards**

(A) The land proposed for the mortgage-lot shall be at least one acre in size and shall be large enough to contain:

- (1) the structure subject to the mortgage;
- (2) an approved septic system;
- (3) the well; and
- (4) the road access.

(B) Unless an existing, lawfully-established structure is already closer to a property line than is required by the applicable zoning district, all structures shall maintain the appropriate setbacks from property lines as specified in the applicable zoning district. A proposed mortgage-lot line is not a property line, but for purposes of setbacks, the mortgage-lot lines are treated as property lines. A variance to the setback standards shall not be granted.

[Adopted 98-002 §3 eff 3/4/98]

**922.350 Survey map requirements**

(A) If the access road to the mortgage-lot is longer than 1320 feet, it may be described with a metes and bounds description, rather than by monumentation.

(B) Once an application has been approved, the mortgage-lot shall be surveyed and a copy of the filed survey of the land area and the metes and bounds description, if necessary for the road access, shall be provided to the Director within 120 calendar days of the date of approval.

(C) The survey map shall:

- (1) have a signature line for the Director;

and

(2) carry the disclosure that the mortgage-lot and the remaining property are authorized for mortgage purposes only and that neither the mortgage-lot nor the remaining property is considered a separate authorized unit of land; and

(3) contain the following statements: “The tax-lots of the mortgage-lot and the remainder of the property shall be consolidated into one tax-lot at the time the mortgage is satisfied,” and “The satisfaction of mortgage shall be recorded in the Clerk’s Office.”

[Adopted 98-002 §3 eff 3/4/98]

**922.360 Deed covenant**

(A) The applicant shall sign and record in the Clerk’s Office a deed covenant containing the following statement:

“The Owner(s) or Contract Purchaser(s) agree that the land described herein [county survey number] is a single unit, notwithstanding the fact that portions may be given separate tax account numbers. Sale of any portion of this property without prior approval for a land partition by the Linn County Planning and Building Department or without a prior adjudication following a lien foreclosure is a violation of the Linn County Land Development Code. The Owner(s) or Contract Purchaser(s) shall consolidate the tax-lots consisting of the mortgage-lot and the remainder of the property into one tax-lot at the time the mortgage is satisfied. The Owner(s)/Contract Purchaser(s) shall record the satisfaction of mortgage in the Clerk’s Office and provide proof thereof to the Department.”

(B) The statement in subsection (A) of this section shall be recorded at the time of escrow closing but no later than 180 calendar days of application approval by the Director. A copy of the recorded covenant shall be provided to the Director.

[Adopted 98-002 §3 eff 3/4/98]

**922.400 Development**

(A) A mortgage-lot, on which development has not been initiated, shall not be considered buildable for at least 5 years after the date the foreclosure becomes final.

(B) Foreclosure of a mortgage-lot shall not create a development option on the unenclosed

land for at least 5 years after the date the foreclosure becomes final.

(C) Units of land resulting from foreclosures, although exempt from partitioning review and certain land development standards, are not exempt from access requirements of LCC Chapter 935 (Access Improvement Standards Code).

[Adopted 98-002 §3 eff 3/4/98]

### **922.500 Separate property status**

(A) The mortgage-lot and the balance of the land gain separate status only following a completed foreclosure. A mortgage-lot and the balance of the land do not gain separate status by a deed in lieu of foreclosure.

(B) A mortgage-lot is not a separate authorized unit of land and shall not be sold separately from the land from which it was created, unless, as specified in ORS 92.010 (7), a court of competent jurisdiction enters a judgment of foreclosure on a lien financing the purchase or improvement of real property having as security a mortgage-lot authorized in compliance with this Chapter and the judgment divides the mortgage-lot from the remaining property and authorizes transfer of title to the mortgage-lot to the financing party.

(C) Once the mortgage is satisfied, the landowner shall

(1) consolidate the mortgage-lot and the balance of the land into one tax-lot, and

(2) record with the Clerk a deed whereon the mortgage-lot and the balance of the land are described as one unit of land as shown on the deed prior to the creation of a mortgage-lot, and

(3) provide proof to the Director of the recording of the new deed described in paragraph (2) of this subsection. Such proof may consist of a photocopy of the new deed bearing a recording stamp on its face.

[Adopted 98-002 §3 eff 3/4/98]

### **922.900 Prohibitions**

(A) No person may create a mortgage-lot unless the purpose for its creation is to finance improvements or the development of improve-

ments on the real property on which the mortgage-lot is located.

(B) No person may create a mortgage-lot unless that person first files an application meeting the requirements of LCC Chapter 921 (Administration of the Land Development Code) and obtains approval for a Type IB action pursuant to that Chapter.

(C) No person may sell or convey any portion of real property that has a mortgage-lot unless

(1) the seller first

(a) files a satisfaction of the mortgage which has been recorded and otherwise complies with LCC 922.500, and

(b) applies for and obtains approval for a partition under LCC Chapter 924 (Partitioning Code), or

(2) a division of land has resulted from a judicial foreclosure of

(i) a lien financing the purchase or improvement of the real property, or

(ii) a recorded contract for the sale of the real property.

[Adopted 98-002 §3 eff 3/4/98]

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### **Statutory References and Other Authorities:**

ORS 92; 203; 197; 215

### **Legislative History of Chapter 922:**

Adopted 98-002 eff 3/4/98

Amendments to 98-002

#1 99-121 §3 eff 6/30/99

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# TITLE 9

## COMMUNITY DEVELOPMENT

### Subtitle 2 — Land Development Code Division 2 — Changes to Property Lines

#### CHAPTER 923

#### NEW LOT AND PARCEL DESIGN STANDARDS CODE

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##### Statutory References and Other Authorities

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#### 923.010 Title; short title

This Chapter, LCC 923.010 to 923.999, shall be known and cited as the “Linn County New Lot and Parcel Design Standards Code.” This Chapter may also be referred to and cited as the “New Lot and Parcel Design Standards Code.”

[Adopted 98-002 §3 eff 3/4/98; amd 99-121 §4 eff 6/30/99]

#### 923.020 Definition

For purposes of this Chapter, unless the context requires otherwise, “**property**” has the meaning given the words “**lots,**” “**parcels,**” or “**lots or parcels**” or any other combinations of those terms.

[Adopted 98-002 §3 eff 3/4/98]

#### 923.050 Statement of purpose

(A) The purpose of this Chapter shall be to prescribe the design and standards to be used when dividing an authorized unit of land into lots or parcels within the unincorporated areas of Linn County.

(B) Unless otherwise noted in this Chapter, all divisions of land shall conform to the requirements and objectives of the *Comprehensive Plan*, the Development Code and all other applicable County and State laws.

[Adopted 98-002 §3 eff 3/4/98]

#### 923.100 Lots and parcels

(A) *Access.* Each lot or parcel abutting a road other than an alley shall abut that road for a distance equal to the minimum frontage standard for the applicable zoning district in which the property is located, except cul-de-sac lots or parcels in which case the minimum frontage standard shall be 45 feet.

(B) *Double Frontage Property.* Double frontage property shall be avoided except where such frontage is essential to provide separation of residential development from major arterials or adjacent non-residential activities or to overcome specific disadvantages of topography and orientation. A planting screen easement at least 10 feet wide, across which there shall be no rights of access, may be required along the line of property abutting such a major arterial or other incompatible use.

(C) *Property Grading.* Property grading shall conform to the standards in this subsection unless physical conditions demonstrate the appropriateness of other standards:

(1) Cut or fill slopes shall not be steeper than one foot vertically to two feet horizontally (2:1).

(2) The character of soil for fill and the characteristics of property made usable by fill shall be suitable for the purpose intended and conform to *Uniform Building Code Grading and Fill Standards* and LCC Chapter 850 (Linn County Fill and Excavation Code).

(D) *Property Lines*. The side lines of property, as far as practical, shall run at right angles to the road upon which the property fronts.

(E) *Size and shape*.

(1) Property size, width and shape shall conform with the property development standards of the zoning district in which the property is located unless a variance under LCC 938.300 and 938.340 has been approved. The area within an easement granted under LCC Chapter 935 (Access Improvement Standards Code) shall be included in the calculation of the property area over which the easement lies.

(2) Lots held in common or by the public and created under LCC 926.200 for lots described in LCC 926.170 (E) and (F) are exempt from the standards imposed by paragraph (1) of this subsection but the size, depth, and width standards shall be adequate to provide for standard setbacks for service structures and to furnish off-road parking facilities required by the kind of use contemplated.

(3) The depth of any property shall not exceed 2½ times the minimum width. In no case shall the width or depth be less than that prescribed by the zoning district in which the property is located, unless a variance under LCC 938.300 and 938.340 has been granted

(4) When dealing with the division of land into lots or parcels, the Director may place such restrictions on the size and shape of the lot or parcel and limitations on building sites as will provide for future extension of roads. Such restrictions shall be added in such a manner as to allow the subsequent division of any parcel or lot into smaller units of land, subject to LCC Chapter 924 (Partitioning Code) and LCC Chapter 926 (Subdi-

viding Code), if each smaller unit meets the minimum size standards of the applicable zoning district.

(5) Any person who divides property into lots or parcels, which at some future time could be further divided and still meet the minimum property size requirement of the zoning district in which the property is located, shall provide for suitable road access to each property so that the future development of each created lot or parcel will have the required road frontage. This paragraph does not apply to partitions of land which will be used exclusively for farming, mining or forestry without any residential use.

(F) Within partitions and subdivisions, any islands, strips or other property unsuited for development and not accepted by the county for public use shall be included as a part of another lot or parcel meeting the provisions of the Development Code.

[Adopted 98-002 §3 eff 3/4/98; amd 99-121 §3 eff 6/30/99]

### **923.200 Easements other than for road access**

(A) *Pedestrian Ways*. When the Director determines that it is in the best interests of the public, pedestrian ways not less than 15 feet wide may be required to connect cul-de-sacs or to pass through unusually long or oddly-shaped property. Such pedestrian ways shall be hard-surfaced curb-to-curb in order to provide easy access to schools, parks or other community services. If a pedestrian way is required, the applicant must show the pedestrian way on the plat.

(B) *Utility Easements*. Easements for public utility facilities, whenever determined necessary by the Director, shall be dedicated. The easements may vary according to the need of various utilities but shall not be less than five feet wide unless immediately adjacent to a public right-of-way.

(C) *Waterways*. If a lot or parcel is traversed by a waterway, such as a drainage way, channel, or stream, then a surface-water easement or drainage right-of-way shall be required. If a surface-water easement or drainage right-of-way is required, the applicant must show the easement or right-of-way on the plat. The easement shall

conform substantially with the lines of the waterway plus any additional width necessary to serve the purpose. In all land divisions, adequate provisions shall be made to carry surface water through the development into established drainage ways in a manner acceptable to the county engineer. Roads or parkways parallel to major waterways may be required.

[Adopted 98-002 §3 eff 3/4/98]

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**Statutory References and Other Authorities:**  
ORS 197; 203; 215

**Legislative History of Chapter 923:**

Adopted 98-002 eff 3/4/98

Amendments to 98-200

#1 99-121 §4 eff 6/30/99

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# TITLE 9

## COMMUNITY DEVELOPMENT

### Subtitle 2 — Land Development Code Division 2 — Changes to Property Lines

#### CHAPTER 924 PARTITIONING CODE

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#### Statutory References and Other Authorities

#### Legislative History of Chapter 924

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## **I. GENERAL PARTITIONING PROCESS**

### **924.005 Title; short title**

This Chapter, LCC 924.005 to 924.999, shall be known and cited as the “Linn County Partitioning Code.” This Chapter may be referred to and cited as the “Partitioning Code.”

[Adopted 98-002 §3 eff 3/4/98; amd 99-121 §5 eff 6/30/99]

### **924.010 Statement of purpose**

The purpose of this Chapter shall be to provide the Director the basis to review all partitions within the unincorporated areas of Linn County to insure compliance with the *Comprehensive Plan* and all applicable provisions of the Linn County Code.

[Adopted 98-002 §3 eff 3/4/98]

### **924.020 Adverse effects of approval**

An application to partition land, if approved, will eliminate the non-farm dwelling option and the pre-85 single-family dwelling option for the affected property in a Rural Resource Zone (RRZ).

[Adopted 98-002 §3 eff 3/4/98; amd 99-121 §5 eff 6/30/99]

### **924.040 Prohibitions against sales of parcels**

(A) No person may at any time negotiate to sell a parcel until the preliminary plat has been approved.

(B) No person shall sell or convey any interest in a parcel:

(1) Until the plat has been signed by the Director and recorded with the County Clerk.

(2) By reference to, or exhibition or other use of, a plat until that plat has been recorded.

[Adopted 98-002 §3 eff 3/4/98]

### **924.100 Applications; generally**

(A) An application for the actions set forth in subsections (B) and (C) may be filed with the Department.

(B) *Without recognized access.*

(1) The partition requires a specific application form, fee and additional review if:

(a) a road must be created in order to provide ingress and egress to parcels of land in a partition;

(b) a private easement of road access must be created; or

(c) a flag strip must be created.

(2) The creation of access to land solely for forestry, mining or agricultural uses allowed outright shall be exempt from planning review but may be subject to review and approval by the Roadmaster.

(3) Partition applications without recognized access are subject to the decision criteria set forth in LCC 924.200 and 924.250 but may not need a road-approach permit.

(C) *With recognized access.* Partition applications with recognized access are subject to the decision criteria set forth in LCC 924.200 and 924.210.

[Adopted 98-002 §3 eff 3/4/98]

### **924.110 Contents of partitioning application**

(A) In addition to the requirements of LCC 921.040, the applicant shall submit a tentative plan conforming to the requirements of subsection (B) with the application form.

(B) The tentative plan shall include, but not be limited to, the following information:

(1) North arrow, scale and date of the completed drawing, approximate acreage and boundary lines;

(2) Location of property by section, township, range, tax-lot, and donation land claim are sufficient to define the location and boundaries of the partition;

(3) Names, addresses, phone numbers and zip codes of all owners and surveyors responsible for designing the partition;

(4) Location, acreage and dimensions of all parcels and the proposed parcel numbers;

(5) Location, acreage and dimensions of any sites allocated for a purpose other than single-family residences;

(6) Existing uses on the property including location of all existing structures;

(7) Existing locations, width and names of both opened and unopened roads within or adjacent to the partition, together with easements of road access right-of-way and other important features such as section lines, corners, monuments, city boundary lines, urban growth boundaries and zoning district boundary lines;

(8) Location and width of all proposed roads and the relationship of such roads to any projected or existing roads adjoining the partition;

(9) Notations indicating any barrier strips or limitations on right-of-way access between existing roads and the authorized units of land being proposed by the developer;

(10) Location of significant natural features such as rock outcroppings, marshes and wooded areas;

(11) Location and direction of all water-courses, wetlands or water bodies;

(12) An acceptable and approved septic system for each of the proposed parcels;

(13) Description of water rights, if any that are appurtenant to the land proposed for partitioning;

(14) Name of irrigation district, drainage district, water control district, water improvement district or district improvement company within which the authorized unit of land proposed for partitioning is located;

(15) Additional information, if required, including but not limited to:

(a) Contour lines as follows:

For Slopes	Contour Intervals
≤ 10%	2-foot intervals
> 10%	5-foot intervals

(b) Approximate grade and radii of curves of all proposed roads.

[Adopted 98-002 §3 eff 3/4/98]

**924.120 Initial notice procedure**

(A) Initial notice of a Type IIA partitioning applications that include the creation of roads, flag strips or easements shall be given pursuant to LCC 921.320.

(B) When appropriate, a copy of the tentative plan to partition shall be provided to the County

Surveyor, Road Department, Environmental Health Program and other agencies and special districts for review and comment.

[Adopted 98-002 §3 eff 3/4/98]

**924.150 Review process**

Review of a partitioning application shall be made pursuant to Type IIA process LCC 921.120.

[Adopted 98-002 §3 eff 3/4/98]

**924.160 Notice of decision**

Following a final decision made under this Chapter, the Director shall provide a notice of decision pursuant to LCC 921.185.

[Adopted 98-002 §3 eff 3/4/98]

**924.190 Appeal**

The applicant or a party to the decision may appeal the Director’s decision pursuant to LCC 921.200 to 921.260.

[Adopted 98-002 §3 eff 3/4/98]

**924.200 Decision criteria for partitions; generally**

(A) An application to partition an authorized unit of land filed under this Chapter may be approved if the decision criteria set forth in subsection (B) are met.

(B) *Decision criteria.*

(1) Absent a variance, the partitioning of land must meet established minimum parcel sizes, established setbacks and other applicable property development standards in the Development Code.

(2) If the proposal complies with all of the applicable criteria specified in this section and in LCC 924.210 or 924.250, the Director shall grant tentative approval to the partition.

(3) If the size of a parcel was the basis for a dwelling having been allowed outright, the parcel shall not be reduced in size below the qualifying minimum for that dwelling unless that dwelling is subsequently authorized under a different dwelling test.

(4) If the size of a parcel and the farm use of that parcel were the justification for a dwelling allowed conditionally, any reduction of the parcel size shall be allowed only if the resulting farm use continues to meet a current farm

dwelling test. Such is an action is Type IIA. For example, the conditional use for a dwelling once justified by a 200-acre cow-calf operation, may or may not be justified if the parcel is allowed to be partitioned or adjusted downward to an 80-acre parcel.

(5) If the property is split-zoned and the split-zoning was not initiated by the landowner, the property may be partitioned in accordance with this Chapter along the zoning district or jurisdictional boundary if:

(a) A property is transected by an urban growth boundary, city limits, county line or a boundary between a non-resource zone and a zoning district in the RRZ;

(b) The property is transected by a boundary between two resource zoning districts and the resulting parcels would either conform to the minimum parcel size in the applicable zoning districts or have otherwise been authorized under the provisions of LCC 924.500 to LCC 924.800;

(c) The resulting parcels have sufficient on-site area to provide an approved septic system; and

(d) The proposed development on the resulting parcels can either meet the property-line and riparian setbacks or has been approved for a variance.

(6) The proposed parcels meet the minimum size, width and depth standards of the zoning district in which they are located and conform to the standards of LCC Chapter 923 (Lot and Parcel Design Standards Code). In the RR and RCT zoning districts, properties containing more than one lawfully-established, habitable dwelling may be partitioned into substandard-sized parcels if consistent with Plan Policy 14 or 9, respectively. Where more than one dwelling exists, no parcel may be created that does not contain a dwelling and the size of each parcel shall be balanced as much as practical, given the location of dwellings, outbuildings, septic systems, setbacks and driveways.

(7) The partition of land will not create more than three authorized units of land within one calendar year.

(8) Except as provided in paragraph (9) of this subsection, each proposed parcel shall have an approved septic system located within the boundaries of the proposed parcels.

(9) *Within the Rural Resource Zone.*

(a) For a parcel in the RRZ created solely for resource management purposes, such parcel may not be required to have an approved septic system.

(b) For a parcel in the RRZ not created solely for resource management purposes, such parcel is required to have an approved septic system unless the use does not require such system.

(c) For a parcel in the RRZ created for a non-resource management purpose, such parcel is required to have an approved septic system unless the use does not require such system. Written certification from an irrigation district, drainage district, water control district, water improvement district or district improvement company within whose boundaries the proposed partition is located as to whether or not the property is within the district and is subject to district fees. (See ORS 92.090)

(10) When property proposed for partitioning is within a city's urban growth area (UGA), appropriate time shall be given for a city's review and comment pursuant to the urban growth boundary management agreement. Partitions within an urban growth area may require an urban conversion plan approved by the city.

[Adopted 98-002 §3 eff 3/4/98; amd 98-432 §2 eff 10/21/98; amd 99-121 §5 eff 6/30/99]

#### **924.210 Decision criteria for partitions with recognized access**

(A) A partition plan having recognized access may be tentatively approved if, on the basis of the application, investigation, testimony and evidence submitted, findings and conclusions show that all of the criteria in LCC 924.200 and subsection (B) of this section have been met.

(B) All parcels created shall have an existing, recognized, vehicular access pursuant to LCC 935.015 and other applicable provisions of LCC

Chapter 935 (Access Improvement Standards Code).

[Adopted 98-002 §3 eff 3/4/98; amd 98-432 §2 eff 10/21/98]

#### **924.250 Decision criteria for partitions without recognized access**

(A) A partition plan for a partition having no recognized access may be tentatively approved if, on the basis of the application, investigation, testimony and evidence submitted, findings and conclusions show that all of the criteria in LCC 924.200 and subsection (B) are met.

##### *(B) Decision criteria.*

(1) The land partition complies with the *Comprehensive Plan* and all other applicable provisions of the Linn County Code.

(2) Any access being created has received approval pursuant to LCC Chapter 935 (Access Improvement Standards Code) from the Director and the Roadmaster and if a performance security is required, pursuant to LCC 924.460, the developer has agreed, in writing, to provide such security.

[Adopted 98-002 §3 eff 3/4/98]

#### **924.400 Platting and survey requirements**

##### *(A) Platting Requirements.*

(1) All partitions must be platted and recorded once the land use decision has been favorably decided and the appeal period has expired.

(2) Any parcels to be created that are larger than 10 acres need not be surveyed or monumented but must include adequate descriptive information to identify the specific parcels being created. The approximate acreage of each unsurveyed parcel must be shown and the words “unsurveyed” shall be placed in bold letters adjacent to the parcel number.

(3) The land owner shall secure two final partition plats to be prepared by a surveyor. The plats shall each include the information required by the applicable sections of ORS 92.050 to 92.080 and ORS 209.250 pertinent to the partition. Unsurveyed parcels need not comply with ORS 92.050 (5), and (7) to (9).

(4) A surveyor’s statement on the plats shall indicate whether or not the lands described have been surveyed.

(5) The surveyor’s stamp and the notarized signature of the owner(s) of the land proposed for partitioning shall be required on the plats.

(6) The final partition plats shall bear

(a) the Department’s case file number, and

(b) a signature line under which the following words shall appear: Director, Linn County Planning and Building Department.

(7) Any road dedications and barrier strips shall be conveyed to Linn County by separate document other than on the final partition plat. The separate conveying document for dedicated roads and barrier strips shall be recorded concurrently and its recordation number shall be referenced on the final partition plat.

##### *(B) Survey Requirements.*

(1) For those parcels 10 acres or smaller, a survey with monumentation by a surveyor is required. A certificate on the plats shall indicate whether or not the lands described have been surveyed and shall indicate that the survey complies with ORS 92.050 to 92.080 and ORS 209.250. It shall include a notation of any monuments which could not be set and for which a reference monument was set.

(2) A partition plat report containing the following information shall accompany the final plat:

(a) name of current owner;

(b) any easements of record; and

(c) any other encumbrances on the subject property.

(3) The partitioner shall provide traverse data to the County Surveyor showing the closure of the exterior boundary of the partition and the boundary of each parcel within the partition. This data shall also provide the acreage of each parcel.

[Adopted 98-002 §3 eff 3/4/98]

**924.410 County Surveyor approval of plat required**

Except when the County Surveyor performed the survey, the County Surveyor shall review and approve or disapprove the plat, noting the completion of monumentation, if any. Securing the County Surveyor’s approval for the final plat is subject to the requisite fees.

[Adopted 98-002 §3 eff 3/4/98]

**924.420 Final approval process**

(A) A set of final plats consisting of two originals shall be presented to the Director for final approval within 180 calendar days of the date of tentative approval.

(B) *Director’s approval.*

(1) Subject to the requirements of this paragraph, the Director shall approve the final partition plats if the Director determines that the final plats conform to the approved tentative plat, including any conditions of approval that were imposed.

(a) A minor deviation in parcel dimensions may occur as a result of having the field survey information available. In such case the Director shall not withhold approval.

(b) The Director will request that the Environmental Health Program review any substantial deviation from the approved tentative plat for compatibility with approved septic system requirements. The EHP will determine whether the deviation would adversely affect the viability of

(i) an approved septic system,  
or

(ii) a drain field area and a replacement area of record.

(c) If the EHP determines that the deviation is not a substantial deviation from the tentative plan, the Director shall not withhold approval.

(iv) If the EHP determines that the deviation is a substantial deviation from the final plats, the Director shall not approve the final plats.

(2) The Director shall indicate that approval has been given under paragraph (1) of subsection (B) by signing the appropriate signature lines on each of the two original final plats.

(C) The Director shall render a decision within 30 calendar days of receiving the final plats, unless waived by the applicant.

(D) If the final partition plats are approved, the applicant and the landowner, if different from the applicant, shall be notified.

(E) The final plats shall be recorded with the County Clerk within 30 calendar days of final approval.

(1) One of the final plats is to be permanently stored with the County Clerk.

(2) The other final plat is to be returned to the County Surveyor after recordation. The plat returned to the County Surveyor shall be used for the purpose of making copies.

[Adopted 98-002 §3 eff 3/4/98]

**924.430 County Clerk’s responsibility**

The County Clerk shall not accept for filing a partition plat without the signature of the Director, and the County Surveyor on the plat.

[Adopted 98-002 §3 eff 3/4/98]

**924.440 Partition plat revisions**

(A) An affidavit of correction may be prepared and recorded to correct errors and omissions in plats previously filed and recorded.

(B) If an affidavit of correction is prepared, the affidavit shall be prepared by the surveyor who made the original plat, certified by the County Surveyor, and recorded with the County Clerk.

(C) The County Clerk shall provide a copy of the recorded affidavit to the County Surveyor. The County Surveyor shall note the corrections with permanent ink upon the two original plats approved and recorded pursuant to LCC 924.420 (E). Any copies of a corrected original plat shall show the corrections.

[Adopted 98-002 §3 eff 3/4/98]

### **924.450 Agreement for improvements**

(A) The developer shall improve or agree to improve lands dedicated for roads, alleys, pedestrian ways, drainage channels, easements of road access, and other rights-of-way as a condition preceding the acceptance and approval of the partition.

(B) Prior to approval of the partition, the developer shall either install all required improvements and repair existing roads and other public facilities damaged in the development of the partition or the developer shall execute and file with the Board an agreement between the developer and the county specifying the period within which all the required improvements and repairs shall be completed. The agreement shall provide that if all of the required work is not completed within the time frame specified, the county may complete the work and recover the full cost and expense thereof from the developer. The developer shall also comply with the requirements of LCC 924.210 or 924.250.

(C) Extensions of time for the required improvements may be granted only if the developer requests the extension prior to the required time period elapsing. If the specified time for the improvements has elapsed, provisions to complete the improvements as provided by LCC 933.110 shall be allowed.

[Adopted 98-002 §3 eff 3/4/98; amd 98-432 §2 eff 10/21/98]

### **924.460 Performance security**

The applicant shall provide a performance security complying with the provisions of LCC 933.110 with the agreement required by LCC 921.450.

[Adopted 98-002 §3 eff 3/4/98; amd 98-432 §2 eff 10/21/98]

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## **II. EXPANDED RESOURCE PARTITIONING PROCESS**

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### **924.500 Expanded partitioning process for certain uses in the Rural Resource Zone; generally**

(A) Applications for a partitioning involving a use described in LCC 924.600, 924.610, 924.700, or 924.710 shall comply with LCC 924.550.

(B) Except as provided by LCC 924.500 to 924.729, the minimum parcel size is 80 acres.

(C) Authorization to partition an authorized unit of land into parcels at least one of which will be less than the minimum parcel size may be permitted in the EFU, F/F, and FCM zoning districts if one of the uses set forth in LCC 924.600, 924.610, 924.700, or 924.710, is currently on the parent parcel, or at least one of the uses is being proposed at the time of the partition application for at least one of the parcels.

[Adopted 98-002 §3 eff 3/4/98; amd 98-432 §2 eff 10/21/98; amd 99-156 §4 eff 6/30/99]

### **924.550 Application of expanded criteria in resource land**

(A) An application filed under LCC 924.100 to partition land in a resource zoning district for the uses described in LCC 924.600, 924.610, 924.700, or 924.710, shall be reviewed and decided in the following order:

(1) under the provisions of LCC 924.500 to 924.800, and

(2) under the provisions of LCC 924.005 to 924.499.

(B) When a criterion has been addressed in LCC 924.500 to 924.800, that criterion need not be addressed again under LCC 924.005 to 924.450.

(C) When a criterion required by LCC 924.500 to 924.800 has been satisfactorily addressed in the conditional use process, that criterion need not be addressed again under LCC 924.500 to 924.800.

(D) Applications for a partitioning of a resource parcel are subject to the application review provision of LCC 924.100 and 924.110.

(E) An application filed pursuant to LCC 924.500 to 924.800 may require review and approval of a road access permit by the Roadmaster.

[Adopted 98-002 §3 eff 3/4/98; amd 98-432 §2 eff 10/21/98]

**924.600 Non-dwelling uses eligible for partitioning less than 80 acres in the EFU or a farm area of the F/F zoning district**

(A) A new partition containing less than 80 acres may be permitted in an EFU or in a farm area of the F/F zoning district only for the non-farm uses set forth in this section.

(B) No parcel created by the partitioning under this section may contain a dwelling.

(C) *On HVFL or non-HVFL.* The non-farm, non-residential uses set forth in LCC 928.320, 928.321, 928.330, 928.331, 928.610, 928.611, 928.620, 928.621, 928.630, and 928.631 are permitted conditionally regardless of soil classification.

(1) Aggregate materials.

(a) Mining, crushing, processing, or stockpiling aggregate materials, subject to ORS 215.298.

(b) Batching aggregate materials.

(i) Processing, as defined by ORS 517.750, of aggregate into asphalt or portland cement.

(ii) New uses that batch and blend mineral and aggregate into asphalt cement may not be authorized within two miles of a planted vineyard.

(2) Non-aggregate minerals and non-mineral subsurface resources. Mining, crushing, processing, or stockpiling subject to ORS 215.298.

(3) Parks and playgrounds.

(4) Firearms training facility.

(a) New facilities.

(b) Existing facilities. Expansion of a lawfully existing firearms training facility or a change of use of a lawfully existing firearms training facility shall require review and approval either through provisions of Code regulating

nonconforming uses or through provisions regulating conditional uses, whichever is applicable.

(5) Mining and processing of geothermal resources.

(6) Mining and processing of oil and gas.

(7) Utility facilities necessary for public service, except commercial facilities for the purpose of generating power for public use by sale

(8) Commercial utility facilities for the purpose of generating power for public use by sale. Unless an exception is taken pursuant to OAR 660, Division 4, such facilities shall not preclude the use of commercial agricultural enterprise

(a) of more than 20 acres on non-HVFL; or

(b) of more than 12 acres on HVFL.

(9) Transmissions towers.

(10) Transportation improvements including roads and airports.

(a) Personal-use airports. (See **personal-use airports** in LCC 920.100 for exceptions)

(b) Transportation facilities, services and improvements other than those listed in the Land Development Code that serve local travel needs. The travel capacity and level of service of facilities and improvements serving local travel needs shall be limited to that necessary to support rural land uses identified in the *Comprehensive Plan* or to provide adequate emergency access.

(11) Commercial activities in conjunction with farm use.

(12) Community centers owned by a governmental agency or a nonprofit community organization and operated primarily by and for residents of the local rural community.

(D) *On non-HVFL.* The non-residential uses set forth in this subsection are permitted conditionally in LCC 928.320, 928.321, 928.330, 928.331, 928.610, 928.611, 928.620, 928.621, 928.630, and 928.631 on non-HVFL.

(1) Public or private schools including all buildings essential to the operation of a school. The use shall not be approved within three miles of an urban growth boundary unless an exception

is approved pursuant to ORS 197.732 and OAR 660 Division 4.

(2) Churches and cemeteries in conjunction with churches. The use shall not be approved within three miles of an urban growth boundary unless an exception is approved pursuant to ORS 197.732 and OAR 660 Division 4.

(3) The following private uses: parks, playgrounds, fishing and hunting preserves, and campgrounds may be located on non-HVFL.

(4) A site for the disposal of solid waste has been granted a permit by the Environmental Quality Commission under ORS 459.049, together with equipment, facilities, or building necessary for its operation.

(5) Destination resorts.

(6) Golf courses, and

(E) *Existing uses wholly within HVFL or on non-HVFL.* The following non-residential existing uses, permitted conditionally in LCC 928.320, 928.321, 928.330, 928.331, 928.610, 928.611, 928.620, 928.621, 928.630, and 928.631, may be maintained, enhanced, or expanded if on HFVL and if wholly within the EFU zoning district, or if on non-HVFL.

(1) Destination resorts,

(2) Solid waste disposal sites,

(3) Public or private schools,

(4) Churches and cemeteries in conjunction with churches,

(5) Private parks, playgrounds, hunting and fishing preserves, and campgrounds, and

(6) Golf courses.

(F) Non-resource-related historic property, other than dwellings.

[Adopted 98-002 §3 eff 3/4/98; amd 98-432 §2 eff 10/21/98; amd 99-121 §5 eff 6/30/99; amd 02-313 §3 eff 8/21/02]

#### **924.610 Dwelling uses eligible for partitioning less than 80 acres in the EFU and in an farm area of the F/F zoning districts**

A new partition in the EFU and the a farm area of the F/F zoning districts containing less than 80 acres may be permitted for the following non-resource-related residential uses that are permitted conditionally in LCC 928.325, 928.326, 928.625, and 928.626.

(A) Historic dwellings.

(B) Class-VI or worse single-family dwelling if not a farm-relative dwelling.

[Adopted 98-002 §3 eff 3/4/98; amd 98-432 §2 eff 10/21/98]

#### **924.620 Decision criteria for creating new non-farm parcels in the EFU or in the farm area of the F/F zoning district; generally**

(A) The decision criteria set forth in subsection (B) shall apply as required by this subsection to the creation of a non-farm parcel in an EFU or in the a farm area of an F/F zoning district on which a use identified in LCC 924.600 exists or is proposed. If the proposed non-farm parcel contains an existing dwelling, the decision criteria in subsection (B) must be met.

(B) *Decision criteria for partitions; generally.*

(1) The proposal shall not involve an authorized unit of land containing a farm-relative dwelling, previously authorized under the Development Code or previous ordinance.

(2) The proposal shall not involve an authorized unit of land containing a non-farm dwelling except as otherwise provided in LCC 924.624.

(3) The parcel shall not be larger than the minimum size necessary for the use, taking into consideration septic system, septic repair area, water source and accessory buildings. Authorization under this section to seek a partition of land, the use of which requires a septic system, shall not be permitted if the land does not have adequate area within the property boundaries for an approved septic system.

(4) The decision criteria in LCC 924.005 to 924.499.

[Adopted 98-002 §3 eff 3/4/98; amd 98-432 §2 eff 10/21/98]

#### **924.622 Decision criteria for new non-farm partitions on which an historic property exists in the EFU or in the farm area of the F/F zoning districts**

(A) The creation of a new non-farm parcel may be permitted through the Type II review process in the EFU or in a farm area of the F/F



zoning districts containing an existing historic property, including a dwelling, that is listed in the *National Register of Historic Places* and the Linn County Register of Historic Resources, subject to satisfying the decision criteria set forth in subsection (B).

(B) *Decision criteria.*

- (1) The parcel must be at least one acre.
- (2) LCC 933.310.
- (3) LCC 924.620 (C) must be met.

(C) Any proposed changes that would potentially affect the exterior of a qualifying historic property, including a dwelling, shall be reviewed and approved by the HRC before they are initiated. Such review and approval shall be required as a condition of approval attached to the partitioning decision.

[Adopted 98-002 §3 eff 3/4/98; amd 98-432 §2 eff 10/21/98]

**924.624 Decision criteria for new non-farm partitions creating a Class-VI or worse parcel on which a non-farm dwelling is proposed in the EFU or in the farm area of the F/F zoning districts**

(A) Except as provided in subsection (B), the creation of a new non-farm parcel may be permitted through the Type IIA review process in the EFU or in farm area of the F/F zoning districts.

(B) *Decision criteria.* The creation of a new non-farm parcel may be permitted on which a dwelling already exists (such dwelling will become by the partitioning a non-farm dwelling), subject to satisfying the decision criteria in

- (1) LCC 933.510.
- (2) LCC 933.310.
- (3) LCC 924.620 (C).
- (4) LCC 924.010 to 924.450.

[Adopted 98-002 §3 eff 3/4/98; amd 98-432 §2 eff 10/21/98]

**924.700 Non-dwelling uses eligible for partitioning less than 80 acres in the FCM or in a forest area of the F/F zoning district**

(A) A new partition containing less than 80 acres may be permitted in the FCM or in a forest area of the F/F zoning district only for the uses set forth in this section.

(B) *Uses allowed outright in LCC 928.610, 928.611, and 928.910.*

(1) Exploration for and production of geothermal resources.

(2) Exploration for and production of oil and gas.

(3) A site for the disposal of solid waste if the site were ordered to be established by the Environmental Quality Commission under ORS 459.049, together with equipment, facilities, or building necessary for its operation.

(C) *Uses permitted conditionally in LCC 928.620, 928.621, 928.630, 928.631, and 928.920.*

(1) Permanent facility for the primary processing of forest products.

(2) Permanent logging equipment repair and storage.

(3) Log scaling and weigh stations.

(4) A site for the disposal of solid waste, together with equipment, facilities or buildings necessary for its operation for which the Department of Environmental Quality has granted a permit under ORS 459.245.

(5) Parks and campgrounds.

(6) Minerals, including aggregate.

(a) Mining, crushing, processing, or stockpiling of minerals, including aggregate, subject to ORS 215.298.

(b) Batching aggregate materials.

(i) Temporary asphalt and concrete batch plants as accessory uses to specific public road projects.

(ii) New uses that batch and blend mineral and aggregate into asphalt cement may not be authorized within two miles of a planted vineyard.

(7) Mining or processing of geothermal resources.

(8) Mining or processing of oil and gas.

(9) Utility facilities for the purpose of generating power. Unless an exception is taken pursuant to OAR 660, Division 4. Such facilities shall not preclude the use of commercial forest operation on more than 10 acres.

(10) Television, microwave and radio communication facilities, and transmission towers.

(11) Water intake facilities, related treatment facilities, pumping stations and distribution lines.

(12) Reservoirs and water impoundments.

(13) Establishment of a firearms training facility.

(a) A firearms training facility lawfully existing on September 9, 1995 shall be allowed to continue operating without a conditional use permit until the facility is no longer used as a firearms training facility.

(b) Expansion of a lawfully existing firearms training facility or a change of use of a lawfully existing firearms training facility shall require review and approval either through provisions of Code regulating nonconforming uses or through provisions regulating conditional uses, whichever is applicable.

(14) Cemeteries.

(15) Fire stations for rural fire protection.

(16) Aids to navigation and aviation.

[Adopted 98-002 §3 eff 3/4/98; amd 98-432 §2 eff 10/21/98]

**924.710 Dwelling uses eligible for partitioning less than 80 acres in the FCM or in a forest area of the F/F zoning district**

(A) *Non-resource residential uses.* A new partition in the FCM or a forest area of the F/F zoning district containing less than 80 acres may be permitted for the following non-resource-related residential uses that are permitted conditionally in LCC 928.627 .

(1) Historic dwellings.

(2) Small forest-homestead dwelling permitted in LCC 924.722.

(3) More than one dwelling on an authorized unit of land.

(B) *Resource-related residential use.* A new partition in the FCM or a forest area of the F/F zoning district containing less than 80 acres may be permitted for a forest resource single-family dwelling that is permitted conditionally in LCC 924.729.

[Adopted 93-002 §3 eff 3/4/98; amd 98-432 §2 eff 10/21/98; amd 02-313 §3 eff 8/21/02]

**924.720 Decision criteria for partitions for uses authorized in LCC 924.700 in the FCM or in a forest area of the F/F zoning district**

(A) Authorization to partition an authorized unit of land into parcels at least one of which will be less than the minimum parcel size may be permitted in the FCM or in a forest area of the F/F zoning district, if:

(1) one of the uses set forth in LCC 924.700 is currently on the parent parcel; or

(2) at least one of the uses is being proposed at the time of the partition application for at least one of the parcels.

(B) To partition a parent parcel having a use set forth in LCC 924.700 that is already in existence, the criteria set forth in LCC 924.620 (C) must be met.

(C) The parcel shall not be larger than the minimum size necessary for the use, taking into consideration septic system, septic repair area, water source and accessory buildings. Authorization under this section to seek a partition of land, the use of which requires a septic system, shall not be permitted if the land does not have adequate area within the property boundaries for an approved septic system

[Adopted 93-002 §3 eff 3/4/98; amd 98-432 §2 eff 10/21/98]

**924.722 Decision criteria for new non-resource partitions on which an historic property exists in the FCM or in a forest area of the F/F zoning district**

(A) The creation of a new non-resource parcel may be permitted through the Type II review process in the FCM or in a forest area of

the F/F zoning districts containing an existing historic property, including a dwelling, that is listed in the *National Register of Historic Places* and the Linn County Register of Historic Resources, subject to satisfying the decision criteria set forth in subsection (B) of this section.

(B) *Decision criteria.*

- (1) The parcel must be at least one acre.
- (2) LCC 933.310.
- (3) LCC 924.620 (C).
- (4) LCC 924.005 to 924.499.

(C) Any proposed changes that would potentially affect the exterior of a qualifying historic property, including a dwelling, shall be reviewed and approved by the HRC before they are initiated. Such review and approval shall be required as a condition of approval attached to the partitioning decision.

[Adopted 98-002 §3 eff 3/4/98; amd 98-432 §2 eff 10/21/98]

**924.724 Decision criteria for a new non-resource partition creating a Class-VI or worse parcel on which a non-resource dwelling is proposed in the FCM or in a forest area of the F/F zoning district**

(A) Except as provided in subsection (B), the creation of a new, non-resource parcel may be permitted through the Type IIA review process in the FCM or in a forest area of the F/F zoning districts, subject to the decision criteria in subsection (B) of this section.

(B) *Decision criteria.* The creation of a new, non-resource parcel may be permitted on which a dwelling already exists (such dwelling will become a non-resource dwelling by the partitioning), subject to satisfying the decision criteria in:

- (1) LCC 933.510.
- (2) LCC 933.310.
- (3) LCC 924.620 (C).
- (4) LCC 924.010 to 924.450.

[Adopted 98-002 §3 eff 3/4/98; amd 98-432 §2 eff 10/21/98]

**924.728 Decision criteria for a partition allowing a small forest homestead dwelling in the FCM or in a forest area of the F/F zoning district**

(A) A new parcel in the FCM or in a forest area of the F/F zoning district may be permitted smaller than 80 acres to allow a small forest-homestead dwelling if the criteria and requirements in subsection (B) are met through the Type IIA review process.

(B) *Decision criteria.*

(1) The originating authorized unit of land is in the FCM or in a forest area of the F/F zoning district.

(2) The originating authorized unit of land at the time of application qualified for special assessment under ORS Chapter 321.

(3) The proposed parcel containing the dwelling shall be no larger than 5 acres except as necessary to recognize physical factors such as roads or streams. In such cases, the parcel shall be no larger than 10 acres.

(4) The dwelling legally existed prior to June 1, 1995.

(5) The remaining parcel, not containing the dwelling,

(a) shall meet the 80-acre minimum parcel size of the FCM or of a forest area in the F/F zoning district; or

(b) shall be consolidated with another authorized unit of land which together meet the 80-acre minimum size of the zoning district.

(6) The remaining parcel, not containing the dwelling, shall not be entitled to a dwelling unless the law subsequently changes.

(7) The creation of the new parcels must also satisfy LCC 924.005 to 924.499.

(8) The criterion set forth in LCC 933.310 (B) (4).

(9) The remaining parcel, not containing the dwelling, shall not qualify for any uses allowed under ORS 215.283 that are not allowed in the FCM or in a forest area of the F/F zoning districts.

(C) The dwelling on the originating parcel becomes, by the partitioning, a small forest home-  
stead dwelling.

[Adopted 98-002 §3 eff 3/4/98; amd 98-432 §2 eff 10/21/98; amd 99-121 §5 eff 6/30/99]

**924.729 Decision criteria for forest practice partitions in the FCM or in a forest area of the F/F zoning district**

(A) A new parcel in the FCM or in a forest area of the F/F zoning district containing less than 80 acres may be permitted to facilitate a forest practice, as that term is defined in ORS 527.620, if the criteria and requirements in subsection (B) are met through the Type IIA review process.

(B) *Decision criteria.* The parcel shall:

(1) not be eligible for siting of a new dwelling;

(2) not serve as the justification for the siting of a future dwelling on other parcels;

(3) As a result of the authority granted by this section, not be used to justify the redesignation or rezoning of resource lands;

(4) not result in a parcel of less than 35 acres, except:

(a) Where the purpose of the authority to partition is to facilitate an exchange of lands involving a governmental agency; or

(b) Where the purpose of the authority to partition is to allow transactions in which at least one participant has a cumulative ownership of at least 2,000 acres of forest land; and

(5) not result in a parcel smaller than 80 acres, if associated with the creation of a parcel where a dwelling is involved.

(6) have unique property-specific characteristics present in the proposed parcel that require an amount of land smaller than the 80-acre minimum property size in order to conduct the forest practice.

(7) meet the criterion set forth in LCC 933.310 (B) (4).

(C) The dwelling on the originating parcel becomes, by the partitioning, a forest-resource dwelling.

[Adopted 98-002 §3 eff 3/4/98; amd 98-432 §2 eff 10/21/98; amd 99-121 §5 eff 6/30/99]

**924.730 Decision criteria for a partition for a provider of public parks or open space, or a not-for-profit land conservation organization to purchase land in EFU or F/F zoning district**

(A) A new parcel in the EFU or in the F/F zoning district may be permitted smaller than 80 acres to allow a provider of public parks or open space, or a not-for-profit land conservation organization to acquire land if the criteria and requirements in subsection (B) are met through the Type IIA review process.

(B) *Decision criteria.*

(1) The land division is for the purpose of allowing a provider of public parks or open space, or a not-for-profit land conservation organization, to purchase at least one of the resulting parcels;

(2) A parcel created by the land division that contains a dwelling is large enough to support continued residential use of the parcel;

(3) A parcel created pursuant to this subsection that does not contain a dwelling:

(a) Is not eligible for siting a dwelling, except as may be authorized under ORS 195.120;

(b) May not be considered in approving or denying an application for siting any other dwelling;

(c) May not be considered in approving a redesignation or rezoning of forestlands except for a redesignation or rezoning to allow a public park, open space or other natural resource use; and

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

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

(ii) To allow a transaction in which at least one party is a public park or open space provider, or a not-for-profit land conservation organization, that has cumulative ownership of at least 2,000 acres of open space or park property.

(4) As a condition of the approval, the owner of any parcel not containing a dwelling shall sign and record with the Clerk, an irrevocable deed restriction prohibiting the owner and the owner's successors in interest from pursuing a cause of action or claim of relief alleging an injury from farming or forest practices for which no claim or action is allowed under ORS 30.936 or 30.937.

[Adopted 02-313 §3 eff 8/21/02]

**924.731 Decision criteria for partitions to separate homesites on land zoned FCM or in a forest area of the F/F zoning district**

(A) A new parcel in the FCM or in a forest area of the F/F zoning district may be permitted smaller than 80 acres if the criteria and requirements in subsection (B) are met through the Type IIA review process.

(B) Decision criteria.

(1) The originating authorized unit of land is in the FCM or in a forest area of the F/F zoning district.

(2) The originating authorized unit of land at the time of application qualified for special assessment under ORS Chapter 321.

(3) At least two dwellings lawfully existed on the authorized unit of land prior to November 4, 1993.

(4) Each dwelling complies with the criteria for a replacement dwelling in LCC 933.180.

(5) Except for one parcel, each parcel created under this provision is between two and five acres in size.

(6) At least one dwelling is located on each parcel created under this provision.

(7) The creation of the new parcels must also satisfy LCC 924.005 to 924.499.

(8) The landowner(s) of the parcels created under this provision provide evidence that a restriction prohibiting the landowner and the landowner's successors in interest from further dividing the parcel has been recorded with the Clerk. The restriction shall be irrevocable unless

a statement of release is signed by the Director indicating that the *Comprehensive Plan* or land use regulations applicable to the parcel have been changed so that the parcel is no longer subject to statewide planning goals protecting forestland or unless the land division is subsequently authorized by law or by a change in a statewide planning goal for land zoned for forest use or mixed farm and forest use.

(9) A parcel may not be divided under this provision if an existing dwelling on the unit of land was approved under:

(a) a statute, an administrative rule or a land use regulation as defined in ORS 197.015 that required removal of the dwelling or that prohibited subsequent division of the parcel; or

(b) a farm use zone provision that allowed both farm and forest uses in a mixed farm and forest use zone under a statewide planning goal protecting forestland.

(C) The Director shall maintain a record of parcels that do not qualify for division under the restrictions imposed in subsection (B) of this section. The record shall be readily available to the public.

(D) A landowner allowed a land division under this section shall sign a statement that shall be recorded with the 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.

[Adopted 02-313 §3 eff 8/13/02]

**924.800 Deed restrictions**

(A) *Deed restriction.* An applicant seeking authorization to create a parcel in compliance with the criteria in LCC 924.720 or LCC 924.728 shall provide evidence that a restriction on the remaining parcel not containing the dwelling has been recorded with the County Clerk. The restriction shall meet the requirements of subsection (B).

(B) *Deed restriction requirements.*

(1) The restriction shall prohibit dwellings on land in a forest area of the F/F or in the FCM zoning district.

(2) The restriction shall be irrevocable unless a statement of release is signed by the Director indicating that the *Comprehensive Plan* or land use regulations applicable to the property have been changed in such a manner that the parcel is no longer subject to the Statewide Planning Goal 4.

(C) The Director shall maintain a record of parcels that do not qualify for the siting of a new dwelling under restrictions imposed by this section. The record shall be readily available to the public.

[Adopted 98-002 §3 eff 3/4/98]

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**Statutory References and Other Authorities:**

ORS 197; 203; 215

**Legislative History of Chapter 924:**

Adopted 98-002 eff 3/4/98

Amendments to 98-002

#1 98-432 eff 10/21/98

#2 99-121 §5 eff 6/30/99

#3 99-156 §4 eff 6/30/99

#4 02-313 §3 eff 8/21/02

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# TITLE 9

## COMMUNITY DEVELOPMENT

### Subtitle 2 — Land Development Code Division 2 — Changes to Property Lines

#### CHAPTER 925

#### PROPERTY LINE ADJUSTMENT CODE

Line Adjustment Code.” This Chapter may also be referred to and cited as the “Property Line Adjustment Code.”

[Adopted 98-002 §3 eff 3/4/98; amd 99-121 §6 eff 6/30/99]

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#### Statutory References and Other Authorities

#### Legislative History of Chapter 925

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#### 925.005 Title; short title

This Chapter, LCC 925.005 to 925.999, shall be known and cited as the “Linn County Property

#### 925.010 Statement of purpose

The purpose of this Chapter shall be to provide the Director the basis to review all property line adjustments within the unincorporated areas of Linn County in order:

(A) to ensure that the proposals are rightfully being exempted from the partitioning process, and  
(B) to determine if a property line adjustment is:

(1) A ministerial property line adjustment process which, through the application of clear and objective criteria, is intended to be a problem-solving strategy employed only once to solve a specific problem, or

(2) A property line adjustment which requires a discretionary judgment to determine whether property standards will continue to have the physical characteristics needed to support the use.

(C) A consolidation that is not described in LCC 925.030 is a property line adjustment which shall comply with the requirements of this Chapter.

[Adopted 98-002 §3 eff 3/4/98]

#### 925.015 Situations not requiring a property line adjustment

(A) When ownership differences would prevent the County Assessor from consolidating newly-acquired property into an existing ownership, the property line adjustment process shall not be employed. An example would be when a mortgage exists for one, but not both, properties needing to be consolidated and the applicant or the



mortgage holder is unwilling to modify the mortgage to include the new acquisition.

(B) If a consolidation described in subsection (A) is not possible, the property line adjustment option is not available.

[Adopted 98-002 §3 eff 3/4/98]

### **925.020 Statement of potential adverse impact**

An application for a property line adjustment (PLA) to adjust a common property line in an EFU or an F/F zoning district, if approved, will eliminate the non-farm dwelling option and the pre-85 dwelling option for the affected properties.

[Adopted 98-002 §3 eff 3/4/98]

### **925.030 Consolidations not requiring property line adjustments**

(A) A consolidation described in this subsection is not a property line adjustment and the approval thereof is made by the County Assessor.

(1) The consolidation of property which was previously omitted by obvious error in legal description, into a single, contiguous authorized unit of land.

(2) The reversion of a vacated right-of-way into one or more contiguous authorized units of land.

(3) The consolidation of a tract consisting of only one authorized unit of land into a single, contiguous tract.

(B) Actions under this section do not require a survey to be made pursuant to LCC 925.500.

[Adopted 98-002 §3 eff 3/4/98]

### **925.040 Consolidations requiring a property line adjustment**

(A) The consolidation of an authorized unit of land of a tract having more than one authorized unit into a different tract may be a Type IIA property line adjustment procedure.

(B) If the consolidation of properties described in subsection (A) is not a Type IIA procedure, then the decision whether to approve the application is a Type IB property line adjustment procedure and is subject to the exceptions and requirements set forth in subsection (C) of this section.

(C) *Exceptions and requirements.* A Type IB consolidation described in subsection (B) of this section into a single, contiguous authorized unit of land of the same zoning district shall be treated as a property line adjustment, except that

(1) no survey is required; and

(2) no plat is required; and

(3) the consolidation shall comply with LCC 925.500 (B) and (C).

(D) A consolidation described in this section that results in a split-zoned property shall comply with LCC 925.324 and 925.500.

[Adopted 98-002 §3 eff 3/4/98]

### **925.100 Application types**

(A) The Director shall determine pursuant to this section whether an application filed under this Chapter is a Type IB or a Type IIA application.

(B) *Type IB.* An application filed under this Chapter is a Type IB (ministerial) property line adjustment if, based on criteria that are clear and objective, the decision on the application involves at least one of the following:

(1) an adjustment that is being made for the first time;

(2) no reduction in property size;

(3) an adjustment that, if granted, would not reduce the property in size, if the application was preceded by a permit allowing a reduction in the property size of the same property;

(4) A Type IB split-zoned property; or

(5) a prior land use approval for a use was not based on a requirement that the property be a certain size.

(C) *Type IIA.* An application filed under this Chapter is a Type IIA discretionary property line adjustment if the application is for an adjustment not described in subsection (B).

[Adopted 98-002 §3 eff 3/4/98; amd 98-432 §2 eff 10/21/98]

### **925.120 Application procedure**

(A) In addition to the requirements of 921.040, applications filed under this Chapter shall contain a site plan which shows all of the property line dimensions and location of improvements and the area and dimensions to be added or reduced from each property.

(B) Before the application is deemed complete, a property line adjustment that, if approved, would result in properties of 2½ acres or less:

(1) in zoning districts other than those in the Rural Development Zone, may require review and approval by the Environmental Health Program as part of the planning review and approval process; or

(2) in zoning districts in the Rural Development Zone, require review and approval by the Environmental Health Program as part of the planning review and approval process.

[Adopted 98-002 §3 eff 3/4/98]

### 925.130 Application classification

(A) Within 21 days of the Director's receipt of a completed property line adjustment application, the Director shall determine whether the application is a Type IB (ministerial) or a Type IIA (discretionary) land use decision.

(B) When a property line adjustment involves no exercise of discretion, it is subject to the Type IB procedure. A property line adjustment subject to a Type IB procedure will receive tentative approval if the applicable criteria in LCC 925.320, 925.330 and 925.345 are met.

(C) When a property line adjustment involves the exercise of discretion, it is a Type IIA action and will receive tentative approval if the applicable criteria in 925.320, 925.350 and 925.355 are met.

(D) An authorized unit of land which is a commercial farm or is part of a commercial farm shall remain a commercial farm after its property lines are adjusted.

(E) If a non-resource land designation or a non-resource dwelling designation has been applied to the subject property through a previous Director or Commission land use decision, the unit of land is no longer considered a commercial farm is not subject to subsection (A) of this section.

(F) An authorized unit of land which is a commercial forest or is part of a commercial forest unit shall remain a commercial forest unit after the property lines are adjusted.

(G) If a non-forest property or a non-forest dwelling designation has been applied to the subject property through a previous Director or Commission land use decision, the property is no longer considered a commercial forest property nor subject to subsection (A) of this section.

(H) *LESA typical field size.* The Director shall use the typical commercial farm field size set forth in this subsection and applicable landform as determined by the Director using the *Land Evaluation and Site Assessment (LESA)*. *LESA* shall be used to determine applicable landform based upon the property's predominant soil mapping units identified by the *Soil Survey of Linn County Area Oregon*.

Typical commercial farm field sizes are:	
Bottom lands	30 acres
Terraces	40 acres
Hills	20 acres

(I) The applications set forth in this subsection shall be initially classified as Type IB.

(1) If the subject property, to be reduced in size, is already smaller than the typical commercial farm field size designated by *LESA* for the applicable land form, the property shall not be considered a commercial farm field.

(2) If a reduction does not exceed 10% of the existing acreage of an authorized unit of land less than 80 acres in size in a forest area of the F/F or in the FCM zoning district.

(J) The applications set forth in this subsection shall be initially classified as Type IIA.

(1) A proposed reduction a forest area of the F/F or in the FCM zoning district is not consistent with the clear and objective standard set forth in subsection (D) (2).

(2) A proposed reduction of a property's size, if the property line adjustment would reduce a property below the *LESA* typical field size; in this case judgment is required to determine if a commercial farm would or would not remain.

(3) A proposed reduction of a property's size, if the size of a resource-zoned property or tract was the basis for a resource-related dwelling having been allowed in the past; the property or

tract cannot be reduced in size below that qualifying acreage unless the dwelling is otherwise justified through a Type IIA process. For example, a property containing a dwelling allowed outright or conditionally on 160 acres cannot be adjusted in size below 160 acres without a different conditional use permit first having been justified for the dwelling.

(4) A proposed reduction of a property's size, if the size and the farm use of a resource-related property were the justification for a resource-related dwelling previously allowed conditionally. For example, the conditional use permit for a dwelling once justified by a 200-head, cow-calf operation, may or may not remain justified if the size of the property is allowed to be reduced through a property line adjustment.

[Adopted 98-002 §3 eff 3/4/98; amd 98-432 §2 eff 10/21/98]

### 925.200 Review procedures

(A) In addition to the review procedures set forth in LCC Chapter 921 (Administration of the Land Development Code), the requirements of this section must be satisfied

(B) If the application complies with all of the applicable criteria in LCC 925.300 or 925.400, the Director shall grant tentative approval.

(C) Any conditions of approval or requirements of the Development Code shall be listed in the decision letter and shall be satisfied within the stated time of 90 calendar days. An extension of time is available upon written request. No additional decision letter is issued by the Director when the conditions and requirements have been met.

[Adopted 98-002 §3 eff 3/4/98]

### 925.320 Decision criteria; generally

(A) All of the criteria in this section shall be satisfied prior to the Director approving a property line adjustment.

(B) *Decision criteria.*

(1) The property line adjustment, if approved, shall not create any additional units of land.

(2) Except as otherwise authorized in paragraph (3), a property which meets or exceeds

the minimum property size required by the zoning district shall not be reduced below the minimum property size.

(3) A property which meets or exceeds the minimum property size in the UGA-UGM zoning district may be reduced below the minimum property size through a variance approved under this Development Code.

(4) Subject to subsections (5) and (6), an authorized unit of land in non-resource zoning districts which does not meet the size standard of the zoning district may be further reduced in size by a property line adjustment.

(5) The property line adjustment shall not

(a) reduce the property below the area and configuration needed to maintain water supply and an approved septic system.

(b) eliminate vehicular access for any of the properties unless an alternative access has been provided and approved.

(c) create building encroachments into specified setback areas. Where there is an existing encroachment, the adjustment shall not result in any greater setback encroachment unless a variance has been granted.

(d) cause an undeveloped property to become ineligible for an approved septic system.

(e) encroach the location of an existing or approved septic system unless:

(i) A repair area for an existing, off-site septic system can be identified by Environmental Health Program (EHP) and secured by the applicant through an easement;

(ii) The location of the off-site repair area is surveyed; and

(iii) An easement, together with the surveyed description of the off-site repair area, is recorded in the County Clerk's office with a copy of the recorded documents provided to EHP.

(6) No width, depth, or frontage standard of any property that meets the standards required by the zoning district may, by a property line adjustment, fail to continue to meet the applicable standard unless a variance has been granted.

[Adopted 98-002 §3 eff 3/4/98]

**925.330 Decision criteria; Type IB property line adjustments**

(A) The decision criteria set forth in subsection (B) shall be applied to all Type IB property line adjustments in the EFU, F/F, and FCM zoning districts.

(B) *Decision criteria.*

(1) In the EFU and in the farm area of the F/F zoning district,

(a) No property less than 80 acres in size shall be reduced below the typical commercial farm field size set forth in LCC 925.130 (H).

(b) If the subject property, to be reduced in size, is already smaller than the typical commercial farm field size set forth in LCC 925.130 (H) the property shall not be reduced below five acres. This limitation is necessary to retain an adequate buffer to protect the occupants of any existing or potential dwelling on the property from the normal practices associated with farm or forest uses of the surrounding and nearby properties.

(2) In a forest area of the F/F or in the FCM zoning district, adjustments that would reduce the size of a less-than-80-acre property shall not reduce the property more than 10% of the existing acreage.

[Adopted 98-002 §3 eff 3/4/98]

**925.345 Decision criteria; Type IB property line adjustments; split-zoned property**

(A) Type IB property line adjustments may be permitted across a zoning district boundary to create a split-zoned property if:

(1) The adjusted properties lie entirely outside of an urban growth boundary and outside of an incorporated city; and

(2) The owner of the split-zoned property shall record a deed covenant that states that the split-zoning of the property was initiated by the owner and acknowledges that no parcels may be created by partitioning along the zoning district line unless each parcel is consistent with the minimum parcel size of the applicable zoning districts.

(B) A copy of the recorded deed covenant described in subsection (A) (2) shall be provided to the Director before the adjustment may become final.

[Adopted 98-002 §3 eff 3/4/98]

**925.350 Decision criteria; Type IIA property line adjustments**

(A) The criteria set forth in subsection (B) shall be applied, as appropriate, to a Type IIA property line adjustment.

(B) *Decision criteria.*

(1) The decision criteria set forth in LCC 925.320.

(2) No property may be reduced below one acre. This limitation is based on the smallest unit of land considered to be adequate for a rural home site.

(3) A reduction of an authorized unit of land in an EFU, F/F or FCM zoning district may be approved for less than five acres but not less than one acre only if it meets one of the tests in this subsection. The objective of the tests is to assure compatibility with surrounding land uses and existing land development patterns. To further that objective, the following tests shall only include resource-zoned lands:

(a) The authorized unit of land as it currently exists, is bordered on at least 67 percent of its perimeter by other authorized units of land that are:

- (i) resource-zoned, and
- (ii) smaller than 5 acres, and
- (iii) at least two such properties

had dwellings on them on January 1, 1993; or

(b) The authorized unit of land, as it currently exists, is bordered on at least 25 percent of its perimeter by other authorized units of land that are

- (i) resource-zoned, and
- (ii) smaller than 5 acres, and
- (iii) at least four dwellings

existed on January 1, 1993 within one-quarter mile of the center of the subject property; or

(c) The authorized unit of land as it currently exists, is determined to be within an area

of significant impact regardless of impact directly on its perimeter. The impact area is measured outward one-quarter mile from the center of the subject property. The impacted area must contain

(i) all or part of at least 11 other authorized units of land that are resource-zoned, and

(ii) at least three dwellings, all of which must have existed on or before January 1, 1993; or

(d) The proposed adjustment to a property line is not adjacent to an area which may be subjected to off-site farm or forest-related impacts. Any decrease in the size of the property shall not reduce the buffer between farm or forest activities on nearby or adjacent tracts and the subject property.

(4) If the applicant fails all of the tests set forth in subparagraphs (a) to (d) of paragraph (3) of this subsection, the failure to have met a structural setback standards may nonetheless be resolved by reducing a property by one acre or less, with the actual reduction being no more than is necessary to alleviate the actual encroachment plus the required setback.

(5) If a single authorized unit of land being reduced in size consists of more than one contiguous tax-lot, the tax-lots shall be consolidated into a single tax-lot if the application is approved.

(6) For all properties being reduced in size below the typical field size set forth by *LESA* or below the 10% allowed ministerially for forested property, a terrain feature must exist or a management practice must be in place or proposed that makes the adjustment advantageous to the point that it mitigates the reduction.

(7) A property proposed to be reduced in size below the typical field size set forth by *LESA* or below the 10% allowed ministerially for forested property shall not result in a property size which would alter the stability of the land use pattern of the area.

[Adopted 98-002 §3 eff 3/4/98]

### **925.355 Decision criteria; Type IIA property line adjustments; split-zoned property**

A Type IIB property line adjustment may be permitted across a zoning district boundary to create a split-zoned property if:

(1) Any adjusted properties lie inside an urban growth boundary or inside an incorporated city; and

(2) The owner of the split-zoned property shall record a deed covenant that states that the split-zoning of the property was initiated by the owner and acknowledges that no parcels may be created by partitioning along the zoning district line unless each parcel is consistent with the minimum parcel size of the applicable zoning districts.

(B) A copy of the recorded deed covenant described in subsection (A) (2) shall be provided to the Director before the adjustment may become final.

[Adopted 98-002 §3 eff 3/4/98]

### **925.500 Final approval process**

(A) Except for those boundary changes processed solely through the Assessor's Office and identified in LCC 925.015, an adjusted property line created by the relocation of the common boundary between properties shall be surveyed, monumented and filed in the County Surveyor's Office. The survey shall meet the requirements of ORS 209.250. The survey plat shall reflect the Department's case file number and shall provide signature blanks for the Director, and the County Surveyor. A survey is not required:

(1) When all affected properties are larger than 10 acres; or

(2) For the relocation of a common boundary between lots in a platted subdivision or parcels in a partition when the adjusted property line is a distance of even width along the common boundary.

(B) Whether or not a survey is required to be filed with the County Surveyor, a separate metes and bounds description of the area being conveyed shall be recorded with the County Clerk in a manner acceptable to that office. A copy of the re-

corded description shall be provided to the Director.

(C) *Final deed requirements.*

(1) After the description of the area being conveyed has been recorded, a new description of each of the adjusted authorized units of land that complies with this paragraph shall be provided to the Director.

(a) The description shall not be approved if it could be misconstrued as separate authorized units of land recorded on one deed.

(b) For the description, one option is to use the original property description, followed by the words “together with” or “and also” and then insert the legal description of the acquired property.

(c) Another option is to record a new metes and bounds description for the consolidated property.

(2) The owner of a property being reduced in size shall record a deed restriction waiving the right to remonstrate against normal practices associated with farm or forest uses of the surrounding properties. A copy of the recorded deed covenant shall be provided to the Director before the adjustment is considered final.

(3) If a deed conforms to this subsection and is approved by the Director, the landowner shall record the new deed for each adjusted authorized unit of land with the County Clerk. A deed that is titled “To Consolidate Legal Descriptions” or “Property Line Adjustment” is exempted from certain recording fees in the Clerk’s Office. The applicant should consult with the Records Section of the Clerk’s Office for recording information. No development permits will be issued nor will the property line adjustment become final until the new deeds and descriptions are recorded and a copy of each has been provided to the Director.

(D) A final property line adjustment plat that is a substantial change from the proposal that was advertised is subject to LCC 921.020 (C) and 921.160 (C) proposed in the application.

(E) Before the Director will sign the survey plat, a demonstration shall be made on the plat, either graphically or in narrative form, that no new

unit of land has been created and that compliance with all conditions of approval and requirements of Code has occurred.

(F) The Director shall make a decision to sign or to not sign the plat within 30 days of receiving the final property line adjustment plat.

[Adopted 98-002 §3 eff 3/4/98]

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**Statutory References and Other Authorities:**

ORS 197; 203; 209; 215

**Legislative History of Chapter 925:**

Adopted 98-002 eff 3/4/98

Amendments to 98-002

#1 98-432 eff 10/21/98

#2 99-121 §6 eff 6/30/99

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# TITLE 9

## COMMUNITY DEVELOPMENT

### Subtitle 2 — Land Development Code Division 2 — Changes in Property Lines

#### CHAPTER 926 SUBDIVIDING CODE

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#### Statutory References and Other Authorities

#### Legislative History of Chapter 926

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### I. GENERAL PROVISIONS

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#### 926.005 Title; short title

This Chapter, LCC 926.005 to 926.999, shall be known and cited as the “Linn County Subdividing Code.” This Chapter may also be referred to and cited as the “Subdividing Code.”

[Adopted 98-002 §3 eff 3/4/98; amd 99-121 §7 eff 6/30/99]

#### 926.010 Definitions

(A) For purposes of this Chapter, the following definitions apply.

(1) “**Preliminary plat**” means a tentative plan map that has met the requirements of this Chapter and has been approved by the Director.

(2) “**Tentative plan**” includes tentative plan map as described in LCC 926.120, and, as required by LCC 926.130 and 926.140, improvement plans, and any other documents and information. The tentative plan shall clearly indicate the design and objectives of the subdivision.

(3) “**Tentative plan map**” means a map that complies with LCC 926.120 but that has not yet met other requirements of this Chapter and has



not yet been approved as a preliminary plat by the Director.

[Adopted 98-002 §3 eff 3/4/98]

### **926.010 Statement of purpose**

The purpose of this Chapter is to set forth the requirements and standards regulating the preliminary and final platting procedures for subdivisions.

[Adopted 98-002 §3 eff 3/4/98]

### **926.020 Prohibition against sales of lots**

(A) No person may at any time negotiate to sell a lot until the preliminary plat has been approved.

(B) No person shall sell or convey any interest in a lot:

(1) Until the plat has been signed by the Director and recorded with the County Clerk.

(2) By reference to, or exhibition or other use of, a plat until that plat has been recorded.

[Adopted 98-002 §3 eff 3/4/98]

policies and guidelines, applicable Development Code standards and any other applicable Linn County Codes.

(D) Within the letter of intent the applicant shall indicate:

(1) The location of the proposed subdivision by township, range, section number(s), and tax-lot number(s);

(2) The proposed land uses in the subdivision and the proposed lot dimensions and acreages; and

(3) Any other information relevant to the proposal.

(E) If the applicant fails to file a tentative plan with the Department within one year from the date of the conference, an additional review will be required prior to the filing of the tentative plan. The purpose of this review is to insure that the regulations under which the original review was conducted have not changed or that new regulations which may have been enacted do not affect the proposal.

[Adopted 98-002 §3 eff 3/4/98]

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## **II. TENTATIVE PLAN**

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### **926.100 Pre-application conference**

(A) Any person proposing to subdivide land within the unincorporated areas of Linn County shall file a letter of intent and four copies of a tentative plan map of the proposal with the Department.

(B) Within 21 calendar days of the receipt of the information required by subsection (A), the Director shall call a conference at which representatives from the Environmental Health Program, the County Road Department, the County Surveyor's Office, and a member of the Department shall be present to review and discuss the proposal with the applicant or the authorized representative of the applicant.

(C) The purpose of this conference is to inform all parties of the proposal, discuss existing and potential problems, coordinate actions and evaluations, and in general, to determine if the proposal conforms to the *Comprehensive Plan*

### **926.110 Application procedure**

(A) In addition to the requirements of LCC 921.120 the applicant shall file an application in compliance with the requirements of this section.

(B) The applicant shall include with the application filed in subsection (A) a tentative plan including

(1) eight copies of the tentative plan map meeting the requirements of LCC 926.120; and

(2) the information required by LCC 926.130 and 926.140.

[Adopted 98-002 §3 eff 3/4/98]

### **926.120 Tentative plan map; contents**

(A) The applicant shall provide the Director with all the information set forth in subsection (B).

(B) *Contents of tentative plan map.* The tentative plan map shall be in sufficient detail to illustrate the proposed development and shall include, but not be limited to, the following information:

(1) Proposed name of subdivision.

(a) The subdivision name shall be approved by the county surveyor.

(b) This name shall not be the same as, similar to or pronounced the same as the name of any other subdivision in Linn County, unless the land platted is contiguous to and platted by the same party that platted the contiguous subdivision bearing the name.

(c) All subdivision plats must continue the lot numbers of the subdivision plat of the same name last filed.

(2) The tentative plan map shall

(a) be clearly and legibly drawn.

(b) show all pertinent information and

(c) be drawn at a scale of

(i) one inch equals 100 feet  
(1" = 100'),

(ii) one inch equals 50 feet  
(1" = 50'), or

(iii) other scale appropriate to the size of the area involved but consistent with common engineering scales.

(3) North arrow, scale and date of the completed drawing, and boundary lines.

(4) The boundaries of the proposed subdivision and each of the proposed lots.

(5) The total acreage involved in the request.

(6) The layout of the proposed road system and the location of existing and proposed easements of road access.

(7) Appropriate identification clearly stating the map is a tentative plan.

(8) Location of the subdivision by township, range, section, tax-lot(s), and donation land claim is sufficient to define the location and boundaries of the proposed subdivision.

(9) Location of at least one temporary bench mark within the plat boundaries.

(10) Contour lines related to the temporary bench mark or other datum approved by the county surveyor and having contour intervals as follows:

(a) For slopes not in excess of 10 percent: two-foot contours.

(b) For slopes over 10 percent: five-foot contours.

(11) Location, acreage and dimensions of all lots and the proposed lot numbers.

(12) Location, acreage and dimensions of areas proposed for public use.

(13) Sites, if any, allocated for a purpose other than single-family dwellings.

(14) Existing uses on the property, including location of all existing structures.

(15) Lots not intended for sale shall be designated by an alphabetic symbol and the intended usage of the lot shall be noted.

(16) Existing locations, widths and names of both opened and unopened roads within or adjacent to the subdivision, together with easements of road access or rights-of-way and other important features such as section lines, corners, monuments, city boundary lines, urban growth boundaries and zoning district boundaries.

(17) Location, width, name, approximate grade and radii of curves of all proposed roads and the relationship of such roads to any projected or existing roads adjoining the proposed subdivision.

(18) Location, width and purpose of proposed easements of road access and private roads for private use, where permitted, and all reservations or restrictions relating to such easements of road access and private roads.

(19) Notations indicating any existing barrier strips or limitations on rights of access to or from roads or to or from other authorized units of land proposed by the developer.

(20) Location of significant natural features such as rock outcroppings, marshes and wooded areas.

(21) Location and direction of all water-courses, wetlands and bodies of water and the location of all areas in the floodplain.

(22) Location of all existing or proposed below-grade or above-grade utility lines or utility easements.

(23) The location of any approved septic system sites for each of the proposed lots which meets the rules and regulations of the Environmental Quality Commission of the State of Ore-

gon as administered by the Department of Environmental Quality or its contract agent.

(24) Additional information as the Director deems appropriate.

[Adopted 98-002 §3 eff 3/4/98]

**926.130 Tentative plan; supplemental contents**

(A) The applicant shall, in addition to the information required in LCC 926.120, include the information set forth in subsection (B) where appropriate at the time the tentative plan map is filed with the Director.

(B) *Supplemental information.*

(1) Names, addresses, phone numbers and zip codes of all owners, subdividers or surveyors responsible for designing the subdivision.

(2) A vicinity map showing the relationship of the proposed subdivision to surrounding development, roads and any sewer and water services within ¼ mile of the exterior boundaries of the proposed development.

(3) Name of irrigation district, drainage district, water control district, water improvement district or district improvement company within which the property proposed for the subdivision is located.

(4) An applicant may propose a subdivision plat in not more than three phases.

(5) *Road design.* The applicant shall submit a letter documenting tentative plan map approval from the Roadmaster of the proposed road design.

(6) *Water system.* The subdivider shall demonstrate that an adequate supply of potable water is available to the proposed lots.

(a) In order to maintain a rural scale of development, a public water system (i.e., serving more than three residences) is not permitted unless:

(a) a public health hazard for lands within the proposed subdivision has been declared by the county; or

(ii) the subdivision lots are entitled to service from an existing public water system through a previously recorded agreement.

(b) *Public Water Systems.* Public water systems are regulated by the Linn County Environmental Health Program.

(c) *Non-public water systems.* When a subdivision is to be served by a non-public water system, sufficient evidence shall be submitted to show that each lot will have available at time of development an adequate supply of potable water that meets minimum state microbiological and chemical standards for drinking water. A 4-hour or longer pump test which demonstrates 5 gallons per minute or more of flow or storage capacity equaling or exceeding that level shall be considered adequate water. Such evidence may include, but is not limited to, test wells, existing well logs, pump tests, chemical analysis and geologist's reports for the subject property and the surrounding area.

(i) Production test wells shall be completed prior to approval of subdivision preliminary plat. The wells shall be in sufficient number and distribution pattern to represent the total area of the subdivision. The minimum number of test wells shall be the total number of lots divided by six (round all fractions to next highest number).

(ii) A preliminary plat may be considered for conditional approval prior to the actual construction or testing of the required wells so that the location or possible need for the wells may be better determined. Prior to drilling, the subdivider shall submit a map drawn to scale showing the location of all proposed test wells and obtain a report of the site-evaluation review conducted by the EHP. The EHP shall review the proposed well locations for compatibility of the proposed test well locations with the locations of existing septic systems and approved drain field and replacement areas of record.

(iii) No construction or development work shall be started following conditional approval of preliminary plat until all required water tests are completed and approved.

(7) The nature and type of improvements proposed for the subdivision and a timetable for their installation.

(8) A description of community facilities which would serve the subdivision and a timetable for the completion or installation of the facilities.

(9) If the Director has determined that all of or a portion of a proposed subdivision may be subject to unstable subsurface geology, geologic faults or other problems related to local geology, then the applicant shall submit a complete geologic study of the area done by an independent geologist. The applicant shall submit the independent geologist's report prior to any review of the tentative plan. The fee for such study and report shall be paid by the subdivider.

(10) If the Department of Environmental Quality has determined that a surface or subsurface water-quality problem exists then the applicant shall submit a complete report by an independent, qualified hydrologist or hydrogeologist or other qualified specialist. The applicant shall submit the report prior to any review of the tentative plan. The fee for such study and report shall be paid by the subdivider.

(11) If the Water Resources Department has determined that a water-quantity problem exists, then the applicant shall submit a complete report by an independent, qualified hydrologist or hydrogeologist or other qualified specialist. The applicant shall submit the report prior to any review of the tentative plan. The fee for such study and report shall be paid by the subdivider.

(12) Subdividers shall provide a list of any restrictive covenants which are to be recorded.

(13) Proposed plan for draining surface water, including the location and type of drainage ways to carry surface water from the development without adversely affecting adjacent properties. If any filling or excavation is proposed, the drainage plan must demonstrate that adequate provisions have been made for the prevention of back-up or ponding of surface water on adjacent properties as well as within the proposed development. Any filling and excavation activities require a permit consistent with LCC Chapter 850 (Linn County Fill and Excavation Code).

(14) Except as otherwise provided in paragraph (16) of this subsection, all proposed

tentative plans located within the boundaries of an irrigation district, drainage district, water control district, fire district, or district improvement company or other special district shall be submitted to the board of directors of the district or company and its approval obtained before submission of the tentative plan.

(15) If the subdivider is unable to obtain action or approval of any district or company within 45 calendar days, the subdivider shall notify the Director in writing and thereafter the Department shall serve notice on that district or company by certified mail advising that any objection must be filed in writing with the Department within 20 calendar days. Failure to respond shall be considered as approval of the proposed plan. The Director shall endorse a finding upon the proposed plan that the district or company failed to act and may approve the proposed plan without the approval of such district or company.

(16) In addition to the special district notice and approval requirement of paragraph (14) of this subsection, the subdivider shall contact each school district in which the proposed subdivision is located and obtain a written statement from the school district of the impact of the proposed subdivision on the school district.

(17) If a proposed subdivision is located within an urban growth area or planning area of any city, the subdivider shall supply to the city a copy of all materials given to the county.

(18) The Director, in conducting the technical review, shall contact the city and request a written report of the city's review of the proposed subdivision and any recommendation(s) made by the city.

[Adopted 98-002 §3 eff 3/4/98]

### **926.140 Subdivision phasing**

The applicant shall provide in the tentative plan all phases proposed. Each phase proposed shall be subject to the time limitations described in subsections (A) to (C).

(A) Phase 1 shall be recorded within 12 months of preliminary approval.

(B) Phase 2 shall be recorded within 36 months of preliminary approval.

(C) Phase 3 shall be recorded within 60 months of preliminary approval.

[Adopted 98-002 §3 eff 3/4/98]

### 926.150 Public notice

The Director shall mail notice to all agencies, special districts and property owners entitled to notice in accordance with LCC Chapter 921 (Administration of the Land Development Code).

[Adopted 98-002 §3 eff 3/4/98]

### 926.160 Review and decision

(A) The Director shall review the tentative plan and reports of other reviewing agencies and comments from the general public before making a decision.

(B) Approval of a tentative plan map by the Director changes the status of the map to a preliminary plat.

(C) The Director shall base the decision to approve or deny the tentative plan on the criteria in LCC 926.170.

(D) If it is the Director's determination that a deviation is a minor deviation in lot dimensions, occurring as a result of field survey information, the Director may not withhold approval of the tentative plan. If the Director determines that substantial changes not mandated by the Director are made, the Director shall require a new application. The Director shall have the authority to revoke approval of the tentative plan.

(E) The Director shall have the authority to impose conditions of approval on the tentative plan.

(F) The Director may approve, conditionally approve, or deny the tentative plan.

[Adopted 98-002 §3 eff 3/4/98]

### 926.170 Decision criteria

(A) The Director may give tentative approval for a subdivision plan if, on the basis of the application, investigation, testimony and evidence submitted, findings and conclusions, all of the decision criteria set forth in subsection (B) are met.

(B) *Decision criteria.*

(1) All the information required by LCC 926.110;

(2) All the proposed lots conform to the minimum standards set forth in LCC Chapter 923 (Lot and Parcel Design Standards Code);

(3) The tentative plan conforms to the *Comprehensive Plan*;

(4) The tentative plan complies with the Land Development Code;

(5) An adequate supply of potable water has been demonstrated to be available for the entire proposal; and

(6) Each lot has an approved septic system site in accordance with state requirements;

(7) The road design and location have received approval from the Roadmaster. Appendix A following LCC Chapter 935 (Access Improvement Standards Code), provides a summary of the text regarding road design standards. Drawings and details are available from the Road Department.

(8) If a performance security is required under LCC 926.340 to be posted, the subdivider has agreed in writing to post the security;

(9) Written approval from a fire district has been given or if the area proposed for development is outside a fire district, the entire development shall be annexed to a fire district or form their own district prior to the filing of the final plat.

(10) Unless excepted by LCC 926.130 (B) (14), written certification from an irrigation district, drainage district, water control district, water improvement district or district improvement company within whose boundaries the proposed partition is located as to whether or not the property is within the district and is subject to district fees (ORS 92.090).

(11) The non-resource part of a resource/non-resource (split-zoned) property may be divided from the resource part through the subdivision process without first being partitioned if the non-resource part meets the minimum lot size for the subdivision.

[Adopted 98-002 §3 eff 3/4/98]

### **926.180 Appeal**

Appeal of a decision may be made pursuant to LCC Chapter 921 (Administration of the Development Code).

[Adopted 98-002 §3 eff 3/4/98]

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## **III. PRELIMINARY PLAT**

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### **926.200 Preliminary plat**

(A) Following approval of the tentative plan, the preliminary plat shall be binding upon the county provided that the preliminary plat is not substantially changed after the approval unless the Director approval requires such changes.

(B) The subdivider may rely on the preliminary plat as approved for the purpose of preparing the final plat.

(C) The preliminary plat shall be valid for 24 months from the date of approval. Unless an extension is granted for the filing of a final plat, approval of the preliminary plat shall be voided 24 months after the date of approval.

[Adopted 98-002 §3 eff 3/4/98]

### **926.210 Extensions**

(A) The Director shall have the authority to grant an extension to the 24-month limitation in LCC 926.200 (C).

(B) The Director shall have the authority to grant an extension to any of the time limitations imposed by LCC 926.140 on a phase of a subdivision being developed in phases.

(C) The extension authorized by subsection (A) and to each of the phases in subsection (B) is limited to 12 months.

(D) Any subdivider may request an extension authorized by this section by filing a written request setting forth the reasons why an extension should be granted by the Director. After receiving the written request from the subdivider, the Director shall review the facts presented and based on those facts may grant an. The Director may also establish any conditions necessary for the implementation of the Land Development Code. Any extension granted for a request under subsection

(B) of this section shall not affect any other phases not under development.

(E) The grant of an extension authorized by this section shall be noted on two copies of the preliminary plat. Any conditions imposed shall also be noted on the copies of the preliminary plat. One signed copy shall be given to the subdivider. The other copy shall be retained by the Director.

[Adopted 98-002 §3 eff 3/4/98]

### **926.220 Limitations on renewal or re-filing of applications**

Where a tentative plan has been denied, no new application for the same purpose shall be filed within one year of the date of the previous denial unless the Director, for good cause, shall grant permission to do so.

[Adopted 98-002 §3 eff 3/4/98]

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## **IV. FINAL PLAT**

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### **926.300 Survey requirements**

(A) Within 24 months after the date of the tentative plan approval or within any extension of time approved by the Director pursuant to LCC 926.210, the subdivider shall cause the subdivision to be surveyed and a duplicate set of final subdivision plats to be prepared by a surveyor pursuant to the requirements of ORS 92.050 to 92.080, ORS 209.250, and LCC 926.320 and 926.320. The final plat shall conform to the approved preliminary plat and any mandated changes.

(B) A complete and accurate survey of the land to be subdivided shall be made by a surveyor in accordance with standard practices and principles of land surveying.

(C) The County Surveyor shall approve all subdivision surveys to be recorded in Linn County subject to the requisite fees.

(D) The surveyor's stamp and the notarized signature of the owner of the land proposed for subdivision shall be required on the plats.

(E) The final subdivision plats shall bear a signature line under which the following words

shall appear: Director, Linn County Planning and Building Department.

(F) A signature line on the plat shall be provided for the County Sanitarian whenever the subdivision is located within the unincorporated areas of Linn County, including urban growth areas of incorporated cities within Linn County.

(G) The plat may be placed on as many sheets as necessary, but a face sheet and index page shall be included for subdivision documents placed upon three or more sheets.

(H) One of the final plats offered for approval and recording shall be permanently stored with the county recording officer. The other is to be returned to the County Surveyor after recording and it is this plat from which copies will be made.

[Adopted 98-002 §3 eff 3/4/98]

### **926.310 Final plat information**

(A) The following information shall be shown on the final plat:

(1) The name of the subdivision, the date the plat was prepared, the scale, north arrow and legend;

(2) Legal description of the subdivision boundary;

(3) Reference by distance and bearings to adjoining recorded surveys, if any, and referenced to a field book or maps as follows:

(a) Stakes, monuments or other evidence found on the ground and used to determine the boundary of the subdivision.

(b) Adjoining corners of adjoining subdivision.

(c) Other monuments found or established in making the survey of the subdivision, or required to be installed by provisions of the Land Development Code.

(4) Numbering of lots as follows: lot number beginning with the number "1" and numbered consecutively. (See ORS 92.090)

(5) All dimensions shall be in feet and decimal fractions of a foot, to the nearest hundredth (.01 or 1/100) of a foot;

(6) Location of all permanent monuments within the proposed subdivision;

(7) In addition to locational information required in LCC 926.050 (B), city limits, county lines or an adjacent subdivision's boundary line shall be referenced when appropriate.

(8) Acreages of each lot to the nearest hundredth (.01 or 1/100) of an acre and total acreage of the subdivision;

(9) All sites to be utilized for public purposes shall be clearly noted on the plat;

(10) Exact location and width of roads and easements of road access intersecting the boundary of the subdivision;

(11) Subdivision lot lines and road right-of-way and center lines, bearings, arc length, chord length, chord bearings, radius and central angle, distances and tangent bearings with dimensions to the nearest hundredth (.01 or 1/100) of a foot. Subdivision boundary, lot lines and road bearings shall be shown with a basis of bearing.

(12) Names and width of the portion of roads being dedicated, the width of any existing right-of-way, and the width on each side of the centerline. For roads on curvature, curve data shall be based on the road centerline. In addition to the centerline dimensions, the radius and central angle shall be indicated;

(13) Easements of road access denoted by fine dotted lines, clearly identified and, if already of record, their recorded reference. If an easement of road access is not of record, there shall be written statement of the easement. The width of the easement, its length and bearing, and sufficient ties to locate the easement with respect to the subdivision must be shown. If the easement is being dedicated by the map, it shall be properly referenced in the owner's certificates of dedication;

(14) Locations and widths of drainage channels, railroad rights-of-way, barrier strips at the end of stubbed roads or along the edge of partial-width roads on the boundary of the subdivision;

(15) The location of all utility easements within the subdivision; and

(16) Any conditions specified by the Director upon granting preliminary approval.

(17) The Department's case file number.  
[Adopted 98-002 §3 eff 3/4/98]

### **926.320 Supplemental information with final plat**

The subdivider shall supply the county with the following information at the time the final plat is recorded:

(A) A subdivision guarantee report containing the following information shall accompany the final plat: name of current owner; any easements of record; and any other encumbrances on the subject property.

(B) A copy of any restrictive covenant(s) shall be filed with the final plat. Restrictive covenants are optional with the subdivider unless the final plat indicates area(s) of common ownership. These final plats having areas jointly owned or used by the various owners in the subdivision shall be governed by a covenant document which shall be filed with the county.

(C) The subdivider shall provide traverse data to the county surveyor on form worksheets or complete computer printouts showing the closure of the exterior boundary of the subdivision and of each lot in the subdivision.

(D) Improvement plans shall be submitted for various facilities that are to be constructed by the subdivider including drainage plans, subsurface septic system plans, water plans, curb and gutter, sidewalk, and road plans and any other construction plans that may be required. These plans shall indicate design criteria, assumptions and computations for property analysis in accordance with sound engineering practice. Where such plans are the same as those included in the county's standard specifications, they may be submitted by reference to such standard specifications.

(E) All land shown on the final plat as being dedicated to the public for public use shall be offered for dedication at the time the final plat is filed and must be expressly accepted by the Board prior to the final plat being accepted for recording.

Land dedicated for public use, other than roads, shall be established as public by the Board with the acceptance of a deed and by no other means. The deed shall be properly recorded with the clerk's office.

(1) Land for property dedicated for public purposes may be provided to the county by any of the following methods:

(a) By dedication on the land subdivision plat; or

(b) By a separate dedication or donation document on the form provided by the county.

(2) Notwithstanding paragraph (1) of subsection (E) of this section, easements in subdivision may be granted for public utility purposes without an acceptance from the governing body.

(F) All roads, pedestrian ways, easements of road access, other rights-of-way, drainage channels, barrier strips and easements other than for roadway purposes shown on the final plat intended for public use shall be offered for dedication for public use at the time the final plat is filed. A statement signed by the subdivider shall be affixed on the final plat offering the above-described rights-of-way for dedication to the public.

(G) Rights of access to and from roads and to and from authorized units of land, shown on the final plat shall not have final approval until such time as the Roadmaster is satisfied that the required road improvements are completed in accordance with applicable standards and specifications. The subdivider must petition separately to the Board for acceptance of any dedicated land, access rights or facilities. Acceptance of the final plat shall not be construed as approval of dedicated land rights, easements or other facilities.

(H) One-foot (1') barrier strips shall be provided across the end of stubbed roads adjoining unsubdivided land or along roads or half roads adjoining subdivided land and shall be designated as a barrier strip on the plat. The barrier strip shall be included in the dedication, granting title to the Board for the purpose of controlling access over the barrier strip to assure road management. This



barrier strip shall overlay the dedicated road right-of-way. The Board may require a barrier strip in other areas of the subdivision in order to control access.

(I) Any road and barrier strip dedications shall be conveyed to Linn County by separate document other than on the final partition plat. The separate conveying document for dedicated roads and barrier strips shall be recorded concurrently and its recordation number shall be referenced on the final partition plat.

(J) The final plat shall be accompanied by a drainage plan showing road grades, curbs, natural drainage ways and other drainage works in sufficient detail to enable the engineer to determine the adequacy of provisions for drainage and the disposal of surface and storm waters within the subdivision and other adjoining areas. Subsequent changes to the drainage plan may be approved by separate action by the Board after receiving the recommendation by the Roadmaster.

(K) The final plat shall be accompanied by a fill and excavation plan that conforms to LCC Chapter 850 (Linn County Fill and Excavation Code).

(L) A statement signed by the subdivider which holds Linn County harmless and in which the subdivider agrees to defend Linn County and pay any judgment against Linn County arising from any action, suit or other legal or quasi-legal proceeding arising out of the approval granted by Linn County concerning the water supply of the subdivision as a result of information submitted by the subdivider as required in LCC 926.130 (B). The statement shall be affixed to the final plat.

(M) A quotation from the Linn County Assessor on taxes to be paid on a proposed subdivision before final platting shall take place, in accordance with ORS 92.095.

[Adopted 98-002 §3 eff 3/4/98]

### **926.330 Agreement for improvements**

(A) The subdivider shall improve or agree to improve lands dedicated for roads, alleys, pedestrian ways, drainage channels, easements of road access and other rights-of-way as a condition

preceding the acceptance and approval of the final plat. The road improvements within subdivisions set forth in LCC 926.600 are subject to LCC 926.610 and Appendix A of LCC Chapter 935 (Access Improvement Standards Code, including related diagrams available at the Road Department.

(B) Prior to certifying approval on the final plat by the Director, the subdivider shall either install all required improvements and repair existing roads and other public facilities damaged in the development of the subdivision or they shall execute and file with the Board an agreement between the subdivider and the county specifying the period within which all the required improvements and repairs shall be completed. The agreement shall provide that if all of the work is not completed within the time frame specified, the county may complete the work and recover the full cost and expense thereof from the subdivider. The subdivider shall also comply with the requirements for performance security under LCC 926.340.

(C) Provisions for the construction of the improvements in phases under specified conditions may be made upon prior agreement with the Department.

(D) Extensions of time for the required improvements may be granted only if the subdivider requests the extension prior to the required time period elapsing. If the specified time for the improvements has elapsed, provisions to complete the improvements as provided in LCC 926.330 (B) shall be followed.

[Adopted 98-002 §3 eff 3/4/98]

### **926.340 Performance security**

A performance security shall be required with the agreements as provided in LCC 926.330. To assure full faith and faithful performance of the agreement, the subdivider shall file a performance complying with LCC 933.110.

[Adopted 98-002 §3 eff 3/4/98]

### **926.350 Final plat approval**

(A) Prior to any county official signing approval of the final plat, all persons who own

land in the subdivision and the mortgagee, if any, shall sign approval on the final plat.

(B) The signature and seal of the surveyor who is responsible for preparing the subdivision plat shall also be affixed to the final plat prior to approval by any county official. All signatures must be with permanent, black, India-type ink.

(C) Within 21 calendar days of the submission of the final plat and all supplemental information required by LCC 926.310 to 926.340, the Director shall determine if the subdivider has complied with all of the requirements of this Chapter. The Director shall also determine if the final plat conforms to the preliminary plat and any mandated changes.

(D) If the Director determines that the final plat does not conform to the above-mentioned requirements, the subdivider shall be so notified and afforded an opportunity to make the necessary corrections.

(E) Upon receipt of the final plat consisting of the exact transparent copy thereof, prints, and supplementary information, the Director shall review the final plat and accompanying documents to determine that the plat conforms with the approved preliminary plat, conditions of approval and the requirements of the Land Development Code.

(F) The Director shall not approve the final plat if it does not conform to the approved preliminary plat, conditions of approval, and the requirements of the Land Development Code. The Director shall either return the plat to the subdivider to have the required information included or review the changes as an amended tentative plan.

(G) The Director shall approve a final subdivision plat if the Director determines that the final plat conforms to the approved preliminary plat, including any conditions of approval that were imposed. The Director shall approve the final plat by signing the appropriate signature line on the final plat.

(H) Following the Director's approval of the final plat, the following county officials shall also approve and so indicate by affixing their signatures on the final plat. When all of the signatures

of all the following county officials have been placed upon the final plat, it shall be considered final by Linn County:

- (1) Surveyor;
- (2) Engineer;
- (3) Sanitarian;
- (4) Assessor/Tax Collector;
- (5) No fewer than two members of the Board; and
- (6) Clerk.

(I) Pursuant to ORS 92.100 (2), the Linn County Surveyor shall check the subdivision site and the plat and shall take such measurements and make such computations as are necessary to determine that the subdivision plat complies with the requirements of the Land Development Code and with ORS 92.050 prior to signing approval on the final plat.

(J) A fee, as prescribed by ORS 92.100 (2), shall be paid by the subdivider to the County Surveyor prior to the County Surveyor undertaking these computations.

(K) *Dedication acceptance.* Approval of a final plat by Linn County shall constitute an acceptance by the public of the dedication of any road shown on the plat. Acceptance of a road by approval of the final plat shall not constitute an acceptance to maintain the road. Acceptance of the maintenance of any road accepted by approval of a final plat shall be by a separate process of petitioning the Board for acceptance of road maintenance. Approval of the final plat shall not act as an acceptance by the Board of any other land for public purposes.

[Adopted 98-002 §3 eff 3/4/98]

### **926.360 Time limits for recording final plat**

The subdivider shall record the final plat within 30 calendar days of the date that the last signature of approval, as required in LCC 926.350, has been obtained. In the event the final plat is not recorded within the time frame herein provided, it shall be resubmitted to the Department which may require changes or alterations deemed necessary due to potential changes within the area of the subdivision.

**V. MISCELLANEOUS PROVISIONS**

**926.400 Approved phasing; requirements**

(A) If a subdivider has proposed a subdivision that is phased as described in LCC 926.140, and the phasing was approved by the Director, the phasing must comply with this section.

(B) All sections of any subdivision which have an approved phasing plan under preliminary plat approval, shall fall under control of the various ordinances in effect at the time of preliminary approval, unless state or local law shall determine that the revised ordinance or laws are to be followed.

(C) The Director shall review each phase prior to the recording of that particular section to determine that the phase is in accord with the preliminary approval.

(D) Amendments not consistent with the original approval will require that

(1) the applicant submit a new application, or

(2) conform the preliminary plat proposed to be recorded with the preliminary plat as approved.

(E) If any of the time limitations as set forth in LCC 926.210 are exceeded, the Director shall void the preliminary approval issued for the subdivision or any phase of the subdivision not yet recorded.

[Adopted 98-002 §3 eff 3/4/98]

**926.500 Replatting procedures**

Once a final plat has been recorded with the county, the property shall be developed as platted.

(A) A single property line adjustment or a series of adjustments that are so minor as not to constitute a reconfiguration of the platted subdivision shall not require a replat. Such property line adjustments are filed in the Department.

(B) The act of replatting shall allow the vacation and reconfiguration of lots and public easements within a recorded plat. The replatting shall not vacate any public road.

(C) The Director shall review the replat to determine conformance with the *Comprehensive Plan* and all other applicable provisions of Linn County Code including the purpose and intent of this Development Code.

(D) If the Director finds that the replat does not conform to all of the applicable provisions of Linn County Code, the subdivider shall be given the opportunity to make the changes necessary to bring the replat into conformance. The Director shall have the authority to approve, conditionally approve or disapprove the proposed replat.

(E) The developer shall make all corrections deemed appropriate by the Director and file the replat which the director shall review pursuant to LCC 926.350.

(F) This section shall apply to all subdivision for which final plats have been recorded, both prior to and after the effective date of the Land Development Code.

(G) Replats of subdivisions are not subject to the review authority of irrigation districts, drainage, water control, fire or other special districts.

[Adopted 98-002 §3 eff 3/4/98]

**926.600 Subdivision road improvements**

(A) Work shall not commence until plans have been reviewed for adequacy and approved by the Roadmaster. To the extent necessary for evaluation of a subdivision proposal, the access plans will be required before approval of the preliminary plat pursuant to this Chapter. All plans shall be prepared in accordance with requirements of the Roadmaster. If work is discontinued, for any reason, for a period of more than 90 days as determined by the Roadmaster, it shall not be resumed until the Roadmaster has been notified.

(B) Road improvements shall not have final approval until such time as the Roadmaster is satisfied that the required road improvements are completed in accordance with the specifications and standards set forth in this Chapter and any further specifications deemed appropriate by the Roadmaster. Once roads have been completed to county standards and are approved by the Road-

master, they may be accepted by the Board for maintenance purposes. However, acceptance for maintenance purposes must be requested from the Board in addition to normal procedures for subdivision and such acceptance cannot be construed from approval of the plat. Acceptance of the completed work as part of the county road system shall be done only by the Board, upon the recommendation of the Roadmaster. The petitioning process, separate from approval of the final plat, must be initiated by the subdivider.

(C) Once the final subdivision or road improvement project plans have been approved, subsequent approvals of plans, specifications and construction shall be under control of the Roadmaster and the appropriate provisions of Appendix A of LCC Chapter 935 (Access Improvement Standards Code), including related diagrams available at the Road Department.

(D) Improvements of roads shall be made on the following basis:

(1) All new county roads in Linn County are required to be paved prior to approval by the Board or acceptance into the county road system and assumption of maintenance by the county (see ORS 368.546).

(2) At the request of a city, the requirement to have curbs and gutters within a stated distance of city boundaries may be waived.

(3) Sidewalks may be required where the Director determines these are necessary.

(4) Bicycle paths or lanes may be required on arterials or collectors when it has been determined by the Director and the Roadmaster that a hazard may exist to pedestrians and cyclists as a result of traffic volume and the combination of pedestrians, non-motorized and motorized traffic moving within the same undifferentiated traffic route and flow. (See the Transportation Element of the *Comprehensive Plan* for identification of arterials and collectors.)

(E) Roads shall be completed as follows:

(1) Clearing and full right-of-way limits.

(2) Surface drainage facilities both within and outside of right-of-way limits.

(3) Underground facilities, sanitary sewer and storm drains installed in roads by the subdivider prior to the surfacing of the roads. Service laterals for underground utilities and sanitary sewer placed to lengths that will avoid the need to disturb road improvements when service connections are made.

(4) Base and pavement for roadways in place and compacted.

(5) Concrete curbs, sidewalks and/or bicycle paths in place where required.

[Adopted 98-002 §3 eff 3/4/98]

### **926.610 Subdivision road improvement specifications**

(A) The location, width and grade of roads shall be considered in their relation to existing and planned roads, topographical conditions, public convenience and safety and to the proposed use of the land to be served by the road. Where location is not shown in the *Comprehensive Plan*, the arrangement of roads in a subdivision shall either:

(1) Provide for the continuation or appropriate projection of existing principal roads in surrounding areas; or

(2) Conform to a plan for the neighborhood, approved or adopted by the Director, to meet a particular situation where topographical or other conditions make continuance or conformance to existing roads impractical.

(B) *Alignment*. As far as practical, roads other than minor roads shall be in alignment with existing roads by continuations of right-of-way center lines. Staggered road alignment resulting in "T" intersections shall, whenever practical, leave a minimum distance of 250 feet between the center lines of roads having approximately the same direction.

(C) *Alleys*. Shall be provided in commercial and industrial zoning districts when requested by the Director for access to off-road parking and loading facilities. The corner of alley intersections shall have a radius of not less than 12 feet.

(D) *Bicycle Paths*. When determined by the Director to be desirable or necessary as a result of existing or anticipated traffic volumes or other

factors, bicycle paths shall be constructed to specifications set forth by the Roadmaster, either within the dedicated right-of-way for roads or within a separately dedicated right-of-way. Any design for such paths shall have approval of the Roadmaster prior to commencing construction.

(E) *Curbs and Sidewalks.* When required, concrete curbs and concrete sidewalks and their location and width shall be determined by the Director. In making such determination, the Director shall take into consideration topography of the land, the presence of improvements, trees or other plantings, the type of road and the location of the sidewalks, if any, on adjacent properties. When required, sidewalks shall be placed within the dedicated right-of-way one foot from the property line

(F) *Existing Roads.* Whenever existing roads adjacent to or within a tract are of substandard width, additional right-of-way shall be required at the time of subdivision.

(G) *Frontage Roads and Reversed Frontage lots.* Where a residential subdivision abuts or contains an existing or proposed arterial road or railroad right-of-way, the Director may require frontage roads or reversed frontage lots. The lots shall be designed with adequate depth for screen planting and fencing and may, where desirable or necessary, include reservations restricting access to adequately protect residential properties and to afford separation of through and local traffic.

(H) *Future Extension of Roads.* Where necessary to give access to or permit a satisfactory future subdivision of adjoining land, roads shall be extended to the boundary of the subdivision. The resulting dead-end roads may be approved without a turnaround. A barrier strip, or a barrier strip and a physical barrier, meeting the approval of the Roadmaster may be required to preserve the objectives of road extensions.

(I) *Grades and Curves.* Grades and curves of roads shall meet the minimum standards and specifications shown in Appendix A of LCC Chapter 935 (Access Improvement Standards Code), including related diagrams available at the Road for the particular type of road. Where exist-

ing conditions, particularly topography, make it impractical to provide buildable lots, the Director may accept steeper grades and sharper curves provided that favorable recommendation of the Roadmaster has been secured in advance.

(J) *Half Roads.* Half roads, while generally not acceptable, may be approved where essential to the reasonable development of the subdivision, when in conformance with the other requirements of these regulations and when the Director finds it will be practical to require the dedication of the other half when the adjoining property is subdivided. Whenever half of the road is to be platted within such tract, a barrier strip, or a barrier strip and a physical barrier, meeting the approval of the Roadmaster may be required to preserve the objective of half roads. No development is permitted on a half road.

(K) *Intersection Angles.* Roads shall be laid out to intersect at angles as near to right angles as practical except where topography requires a lesser angle. In no case shall the angle be less than 75 degrees unless there is a special intersection design. The intersection of arterial or collector roads with other arterial or collector roads shall have at least 100 feet of tangent adjacent to the intersection unless otherwise required due to the topography. In this case, approval by the Roadmaster shall be required. Other roads shall have at least 100 feet of tangent adjacent to the intersection unless topography requires a lesser distance. Intersections which are not at right angles shall have a minimum corner radius of 20 feet along the right-of-way lines of the acute angle. Right-of-way lines at intersections with arterial roads shall have a corner radius of not less than 20 feet.

(L) *Road Names.* Except for extensions of existing roads, no road name shall be used which will duplicate or be confused with the names of existing roads. Road names and house numbers shall conform to LCC Chapter 960 (Rural Addressing Code) and if near a city, to the pattern in the city. Road names shall be subject to the approval of the Board.

(M) *Surfacing.* Subdivision roads shall be improved to full county standards shown in

Appendix A of LCC Chapter 935 (Access Improvement Standards Code), and related diagrams available at the Road Department. Subdivision roadways shall be constructed to approved grade including ditches, culverts, bank slopes and other standards as the Roadmaster shall require.

[Adopted 98-002 §3 eff 3/4/98]

### **926.620 Adjustment of road specifications**

At the Roadmaster's discretion, the Roadmaster may adjust any of the above mentioned specifications and standards in order to provide flexibility and to cover situations which differ from one site to another.

[Adopted 98-002 §3 eff 3/4/98]

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### **Statutory References and Other Authorities:**

ORS 92; 197; 203; 209; 215; 368

### **Legislative History of Chapter 926:**

Adopted 98-002 eff 3/4/98

Amendments to 98-002

#1 99-121 §7 eff 6/30/99

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# TITLE 9

## COMMUNITY DEVELOPMENT

### Subtitle 2 — Land Development Code Division 3 — Zoning Districts

#### CHAPTER 927

#### ZONING DISTRICT ESTABLISHMENT CODE

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#### 927.005 Title; short title

This Chapter, LCC 927.005 to 927.999, shall be known and cited as the “Linn County Zoning District Establishment Code.” This Chapter may

also be referred to and cited as the “Zoning District Establishment Code.”

[Adopted 98-200 §3 eff 3/4/98; amd 99-121 §8 eff 6/30/99]

#### 927.010 Statement of purpose

The purpose of this Chapter is to create certain land use zoning districts in order

(A) to classify, regulate, restrict and segregate the uses of land and buildings;

(B) to regulate and restrict the height and size of buildings;

(C) to regulate the area of yards and other open spaces around buildings; and

(D) to regulate the density of population.

[Adopted 98-200 §3 eff 3/4/98]

#### 927.100 Establishing and designating land use zoning districts

(A) In order to carry out the purposes set forth in LCC 927.010, there are hereby established:

(1) rural resource zoning districts to be known collectively as the Rural Resource Zone,

(2) rural development zoning districts, to be known collectively as the Rural Development Zone,

(3) urban growth area zoning districts to be known collectively as the Urban Growth Area Zone, and

(4) Overlays.

(B) The zoning districts established in subsection (A) are set forth in the tables found in Appendix 1 following this Chapter. The tables are organized into three columns of rows containing the following information:

(1) the chapter number of the Linn County Code treating each zoning district,



(2) the abbreviation of the name of each zoning district, and

(3) the name of each zoning district.

[Adopted 98-200 §3 eff 3/4/98]

### 927.200 Rural Resource Zone

(A) There is hereby established a class of zoning districts referred to as the Rural Resource Zone (RRZ).

(B) The Rural Resource Zone is comprised of the following zoning districts.

(1) Exclusive Farm Use (EFU),

(2) Farm/Forest (F/F), and

(3) Forest Conservation and Management (FCM).

(C) The land use zoning districts of the Rural Resource Zone are set forth in Appendix 1, Table 1, following this Chapter.

(D) A zoning district, formerly referred to as the Aggregate Extraction and Processing (AXP) zoning district has been eliminated. All properties formerly carrying that designation now bear, without other change, an overlay called Aggregate Resource Overlay (ARO).

[Adopted 98-200 §3 eff 3/4/98; amd 99-121 §8 eff 6/30/99; amd 99-156 §5 eff 6/30/99]

### 927.300 Rural Development Zone

(A) There is hereby established a class of zoning districts referred to as the Rural Development Zone (RDZ).

(B) The Rural Development Zone is comprised of the following zoning districts.

(1) Agribusiness (AB),

(2) Freeway Interchange Commercial (FIC),

(3) Heavy Industry (HI),

(4) Limited Industry (LI),

(5) Non-Resource – 5 acre minimum (NR-5),

(6) Non-Resource – 10 acre minimum (NR-10),

(7) Rural Commercial (RCM),

(8) Rural Center–5 acre minimum (RCT–5),

(9) Rural Center–2½ acre minimum (RCT–2½),

(10) Rural Center–1 acre minimum (RCT–1),

(11) Rural Residential–10 acre minimum (RR–10),

(12) Rural Residential–5 acre minimum (RR–5),

(13) Rural Residential–2½ acre minimum (RR–2½),

(14) Rural Residential–1 acre minimum (RR–1),

(15) Urban Development (UD–I), and

(16) Urban Development (UD–II).

(C) The land use zoning districts of the Rural Development Zone are set forth in Appendix 1, Table 2, following this Chapter.

[Adopted 98-200 §3 eff 3/4/98; amd 99-121 §8 eff 6/30/99; 04-043 §1 eff 4/28/04]

### 927.400 Urban Growth Area Zone

(A) There is hereby established a class of zoning districts referred to as the Urban Growth Area Zone (UGAZ).

(B) The Urban Growth Area Zone is comprised of the following zoning districts.

(1) Urban Growth Area–Exclusive Farm Use–80 (UGA–EFU–80),

(2) Urban Growth Area–Heavy Industry (UGA–HI),

(3) Urban Growth Area–Limited Industry (UGA–LI),

(4) Urban Growth Area–Urban Growth Management–20 acres minimum (UGM–20),

(5) Urban Growth Area–Urban Growth Management–10 acres minimum (UGM–10),

(6) Urban Growth Area–Urban Growth Management–5 acres minimum (UGM–5),

(7) Urban Growth Area–Urban Growth Management–2½ acres minimum (UGM–2½),

(8) Urban Growth Area–Rural Commercial (UGA–RCM),

(9) Urban Growth Area–Rural Residential–5 acre minimum (UGA–RR–5)

(10) Urban Growth Area–Rural Residential–2½ acre minimum (UGA–RR–2½)

(11) Urban Growth Area–Rural Residential–1 acre minimum (UGA–RR–1).

(C) The land use zoning districts of the Urban Growth Area Zone are set forth in Appendix 1, Table 3, following this Chapter.

[Adopted 98-200 §3 eff 3/4/98; amd 99-121 §8 eff 6/30/99]

### **927.500 Overlays**

(A) There is hereby established a class of land use areas referred to as overlays.

(B) The overlays are:

- (1) Airport Overlay (AO),
- (2) Aggregate Resource Overlay (ARO);
- (3) Delayed Annexation Overlay (DAO),
- (4) Historic Resource Overlay (HRO),
- (5) Limited Use Overlay (LUO),
- (6) Sensitive Bird Habitat Overlay (SBHO), and
- (7) Willamette River Greenway Overlay (WRGO).

(C) The overlays are set forth in Appendix 1, Table 4, following this Chapter.

[Adopted 98-200 §3 eff 3/4/98; amd 99-156 §5 eff 6/30/99]

### **927.500 Industrial zoning districts**

(A) The following zoning districts are referred to as industrial zoning districts:

- (1) Agribusiness (AB),
- (2) Heavy Industry (HI),
- (3) Limited Industry (LI),
- (4) Urban Development (UD-I), and
- (5) Urban Development (UD-II),
- (6) Urban Growth Area-Heavy Industrial (UGA-HI),
- (7) Urban Growth Area-Limited Industrial (UGA-LI).

(B) The title “industrial zoning district” is for reference only.

[Adopted 98-200 §3 eff 3/4/98; amd 99-121 §8 eff 6/30/99]

### **927.510 Commercial zoning districts**

(A) The following zoning districts are referred to as commercial zoning districts:

- (1) Freeway Interchange Commercial (FIC),
- (2) Rural Commercial (RCM),
- (3) Urban Growth Area-Rural Commercial (UGA-RCM).

(B) The title “commercial zoning district” is for reference only.

[Adopted 98-200 §3 eff 3/4/98]

### **927.600 Residential zoning districts**

(A) The following zoning districts are referred to as residential zoning districts:

- (1) Rural Residential (RR),
- (2) Urban Growth Area-Rural Residential (UGA-RR).

(B) The title “residential zoning district” is for reference only.

[Adopted 98-200 §3 eff 3/4/98]

### **927.700 Division of zoning maps**

(A) The Zoning Map, may, for convenience of use and for purposes of more readily identifying locations within such Zoning Map, be produced at different scales by methods such as computer software or GIS. Such maps may be employed for purposes of identifying specific properties and the zoning of such properties.

(B) The Assessor’s maps having zoning district designations shown thereon may also be used for land use planning purposes to determine the location of property.

(C) If a conflict exists between the Zoning Map and the maps produced at different scales or between the Zoning Map and the Assessor’s maps, the Zoning Map shall govern.

[Adopted 98-200 §3 eff 3/4/98]

### **927.800 Relation of land use designations in the *Comprehensive Plan* and zoning districts in the Development Code**

The relationship between the designations in the *Comprehensive Plan* and the zoning districts of the Land Development Code are set forth in Appendix 2 following this Chapter.

[Adopted 98-200 §3 eff 3/4/98]

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**Statutory References and Other Authorities:**

ORS 197; 203; 215; 517

**Legislative History of Chapter 927:**

Adopted 98-002 eff 3/4/98

Amendments to 98-002

#1 99-121 §8 eff 6/30/99

#2 99-156 §5 eff 6/30/99

#3 04-043 §3 eff 4/28/04

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## Appendix 1 — Tables of Zoning Districts and Overlays

<b>Table 1 — Rural Resource Zone</b>		
LCC	Abbrev.	Description
929	EFU	Exclusive Farm Use
	F/F	Farm/Forest
	FCM	Forest Conservation and Management

<b>Table 2 — Rural Development Zone</b>			
LCC	Abbrev.	Description	
929	AB	Agribusiness	
	FIC	Freeway Interchange Commercial	
	HI	Heavy Industrial (including HI uses by Urban Exception)	
	LI	Limited Industrial (including LI uses by Urban Exception)	
	NR	- 5	Non-resource, 5-ac. minimum
		- 10	Non-resource, 10-ac. minimum
	RCM	Rural Commercial	
	RCT	-5	Rural Center, 5-ac. minimum
		-2½	Rural Center, 2½-ac. minimum
		-1	Rural Center, 2½-ac. minimum
	RR	-10	Rural Residential, 10-ac. minimum
		-5	Rural Residential, 5-ac. minimum
		-2½	Rural Residential, 2½-ac. minimum
		-1	Rural Residential, 1-ac. minimum
	UD	-I	Urban Development – Eastgate Exception Site
-II		Urban Development – Highway 34 Exception Sites	

<b>Table 3 — Urban Growth Area Zone</b>				
LCC	Abbrev.		Description	
930	UGA	-EFU -80	Urban Growth Area-Exclusive Farm Use-80 (Lebanon)	
		- F/F	Urban Growth Area-Farm/Forest (Lyons)	
		-HI	Urban Growth Area-Heavy Industrial	
		-LI	Urban Growth Area-Limited Industrial	
		-RCM	Urban Growth Area-Rural Commercial (Lebanon)	
		-RR	-5	Urban Growth Area-Rural Residential, 5-ac. minimum
			-2½	Urban Growth Area-Rural Residential, 2½ ac. minimum
			-1	Urban Growth Area-Rural Residential, 1-ac. minimum
		-UGM	-20	Urban Growth Management, 20-ac. minimum
		-UGM	-10	Urban Growth Management, 10-ac. minimum
-UGM	-5	Urban Growth Management, 5-ac. minimum		
-UGM	-2½	Urban Growth Management; Halsey only; no written text		

<b>Table 4 — Overlays</b>		
LCC	Abbrev.	Description
931	AO	Airport Overlay
	ARO	Aggregate Resource Overlay
	DAO	Delayed Annexation Overlay
	HRO	Historic Resource Overlay
	LUO	Limited Use Overlay
	SBHO	Sensitive Bird Habitat Overlay
	WRGO	Willamette River Greenway Overlay

[Adopted 98-002 eff 3/4/98; amd 99-156 §5 eff 6/30/99; 04-043 §1 eff 4/28/04]

**APPENDIX 2 – IMPLEMENTATION MATRIX**

**Zoning Districts (columns) Allowed Within Each *Comprehensive Plan* Map Designation (rows)**

	RRZ			RDZ										UGAZ			
	EFU	FCM	F/F	RR <sup>1</sup>	RCT	RCM	FIC	AB	NR	LI	HI	UD-I	UD-II	UGA-LI	UGA-HI	UGA <sup>2,3</sup>	UGM <sup>4</sup>
Agriculture Resource	X		X					X									
Farm/Forest	X		X					X									
Forest Resource		X															
Rural Residential				X													
Rural Residential Reserve	X		X														
Rural Center					X			X		X	X						
Commercial						X	X	X									
Industrial										X	X	X	X	CITY	CITY	CITY	CITY
Industrial Reserve	X	X	X														
Urban Growth Area	X		X	X		X	X	X		X	X			X	X	X	X
Non-resource Lands									X								

**Zoning districts**

- EFU** Exclusive Farm Use
- F/F** Farm/Forest
- FCM** Forest Conservation and Management
- AB** Agribusiness
- RR<sup>1</sup>** Rural Residential (RR-10; RR-5; RR-2½; RR-1)
- RCT** Rural Center (RCT-5; RCT-2½; RCT-1)
- RCM** Rural Commercial
- FIC** Freeway Interchange Commercial
- LI** Limited Industrial
- HI** Heavy Industrial
- NR** Non-resource (NR-5; NR-10)
- UD – I** Urban Development – Eastgate

- UD – II** Urban Development – Highway 34
- UGA<sup>2</sup>**
- UGA-RR<sup>3</sup>** Urban Growth Area – Residential (UGA-RR-5; UGA-RR-2½; UGA-RR-1)
- UGA-LI** Urban Growth Area – Limited Industrial
- UGA-HI** Urban Growth Area – Heavy Industrial
- UGA-EFU-80** Lebanon Urban Growth Area; treat as EFU
- UGA-FF** Lyons Urban Growth Area; treat as FF
- UGA-RCM** Lebanon Urban Growth Area; treat as RCM

- UGA-UGM<sup>4</sup>** Urban Growth Management (UGM-20; UGM-10; UGM-5; UGM-2½ – Halsey)

**Overlays**

- AO** Airport Overlay
  - ARO** Aggregate Resource Overlay
  - DAO** Delayed Annexation Overlay
  - HRO** Historic Resource Overlay
  - LUO** Limited Use Overlay
  - SBHO** Sensitive Bird Habitat Overlay
  - WRGO** Willamette River Greenway Overlay
- [Adopted 80-335 eff 9/2/80; amd 99-156 §1 eff 6/30/99; 04-043 §1 eff 4/28/04]

<sup>2</sup>including those UGA districts not shown on the matrix.

<sup>1</sup>all densities.

<sup>3</sup>all densities.

<sup>4</sup>all densities.

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# TITLE 9

## COMMUNITY DEVELOPMENT

### Subtitle 2 — Land Development Code Division 3 — Zoning Districts

#### CHAPTER 928

#### RURAL RESOURCE ZONE CODE

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**Statutory References and Other Authorities**

**Legislative History of Chapter 928**

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**I. GENERAL PROVISIONS**

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**928.005 Title; short title**

This Chapter, LCC 928.005 to 928.999, shall be known and cited as the “Linn County Rural Resource Zone Code.” This Chapter may also be referred to and cited as the “Rural Resource Zone Code.”

[Adopted 97-200 98-002 §3 eff 3/4/98; amd 99-121 §9 eff 6/30/99]

**928.010 Compliance requirements**

(A) Notwithstanding the presence or absence of any conditions, requirements, standards, or criteria with any use mentioned in this Chapter, all uses remain subject to any applicable conditions, requirements, standards, or criteria that may be set forth in other Chapters of the Land Development Code.

(B) The conditions, requirements, standards, and criteria are set forth generally in the following Chapters:

- (1) Decision criteria . . . . . Chapters 932, 933
- (2) Conditions . . . . . Chapter 933
- (3) Requirements . . . . . Chapter 933
- (4) Standards
  - (a) Property . . . . . Chapter 934
  - (b) Access . . . . . Chapter 935

(C) The conditional uses set forth in LCC 928.320 to 928.335, 928.620 to 928.635, and 928.920 to 928.930 are subject to approval pursuant to meeting the applicable requirements and

decision criteria in LCC Chapter 933 (Conditions, Requirements, and Decision Criteria Code).

(D) Development of all properties in the Rural Resource Zone must comply with:

- (1) the development standards set forth in LCC Chapter 934 (Development Standards Code);
- (2) the access improvement standards set forth in LCC Chapter 935 (Access Improvement Standards Code) for all principal and accessory uses permitted in the EFU zoning district, except as provided in LCC 924.100 (B); and
- (3) the siting standards in LCC 934.590 for all new buildings and structures sited in the forest area of the F/F or in the FCM zoning districts.

(E) Development of any property in the RRZ may have one or more conditions imposed on the permit.

[Adopted 98-002 §3 eff 3/4/98]

**[928.006 to 928.299 are reserved for future use.]**

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**II. EXCLUSIVE FARM USE (EFU) ZONING DISTRICT**

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**928.300 Statement of purpose**

(A) The purpose of the Exclusive Farm Use (EFU) zoning district is:

- (1) to preserve land suitable for agricultural production, whether in large or small blocks, for agricultural use as declared in the Oregon Agricultural Land Use Policy (ORS 215.243);
- (2) to provide for farm taxation consistent with provisions of ORS Chapter 308;
- (3) to allow only those uses consistent with agricultural practices as provided in ORS Chapter 215; to allow for public and private outdoor recreational uses; and
- (4) to provide for the protection of open space, fish and wildlife habitat, watersheds, scenic resources, and air, water and land resource quality.

(B) The Oregon Agricultural Land Use Policy.



(1) Means open land used for agricultural use is an efficient means of conserving natural resources that constitute an important physical, social, aesthetic and economic asset to all the people of this state, whether living in rural, urban or metropolitan areas of the state.

(2) The policy includes the preservation of a maximum amount of the limited supply of agricultural land is necessary to the conservation of the state's economic resources and the preservation of such land in large blocks is necessary in maintaining the agricultural economy of the state and for the assurance of adequate, healthful and nutritious food for the people of this state and nation. Expansion of urban development into rural areas is a matter of public concern because of the unnecessary increases in costs of community service, conflicts between farm and urban activities and the loss of open space and natural beauty around urban centers occurring as the result of such expansion. Exclusive farm use zoning, as provided by law, substantially limits alternatives to the use of rural land and, with the importance of rural lands to the public, justifies incentives and privileges offered to encourage owners of rural lands to hold such lands in exclusive farm use zoning districts.

[Adopted 98-002 §3 eff 3/4/98]

**928.310 Non-dwelling, non-soil-dependent uses allowed outright in the EFU zoning district**

(A) The uses, set forth in subsection (B), including principal and accessory buildings are allowed outright in the EFU zoning district regardless of soil classification.

(B) *Uses allowed outright.*

(1) Farm use.

(2) Buildings, other than dwellings, customarily provided in conjunction with farm use.

(3) Propagation or harvesting of a forest crop.

(4) Creation of, restoration of, or enhancement of wetlands.

(5) A winery as described in ORS 215.452.

(6) Exploration for and production of geothermal resources.

(7) Exploration for and production of oil and gas.

(8) Exploration for minerals.

(9) Transportation improvements including roads and airports.

(a) Climbing and passing lanes within the right-of-way existing as of July 1, 1987.

(b) Reconstruction or modification of public roads, including the placement of utility facilities overhead and in the subsurface of public roads 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 unit of land would result.

(c) Temporary public road detours that will be abandoned and restored to original condition or use at such time as no longer needed.

(d) Minor betterment of existing public road-related facilities such as maintenance yards, weigh stations and rest areas, within a right-of-way existing as of July 1, 1987, and contiguous publicly-owned property utilized to support the operation and maintenance of public roads.

(e) Roads and other transportation facilities, and improvements not otherwise allowed in this zoning district. The uses shall be subject to the adoption of an exception to State-wide Planning Goal 3 (Agricultural Lands) and to any other applicable goal with which the facility or improvement does not comply.

(f) Channelization (as that term is defined in OAR 660-012-0065 (2) (e));

(g) Bikeways, footpaths and recreation trails not otherwise allowed as a modification or part of an existing road;

(h) Park-and-ride areas;

(i) Railroad mainlines and branch-lines;

(j) Pipelines;

(k) Navigation channels;

(l) Replacement of docks and other facilities without significantly increasing the capacity of those facilities; and

(m) Expansions or alterations of public use airports that do not permit service to a larger class of airplanes.

(10) Farm stands if:

(a) 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) 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.

(11) On-site filming and activities accessory to on-site filming subject to ORS 30.930 to 30.947 if such filming and activities do not exceed 45 days on any site within a one-year period or involve erection of sets that would remain in place for longer than 45 days.

(i) On-site filming and activities accessory to on-site filming may include office administrative functions such as payroll and scheduling, and the use of campers, truck trailers or similar temporary facilities.

(ii) Temporary facilities may be used as temporary housing for security personnel.

(iii) A decision of the Director to issue any permits necessary for activities under this paragraph is not a land use decision.

(12) A facility for the processing of farm crops located on a farm operation that provides at least one-quarter of the farm crops processed at the facility.

(a) The building established for the processing facility shall not exceed 10,000 square

feet of floor area exclusive of the floor area designated for preparation, storage or other farm use or devote more than 10,000 square feet to the processing activities within another building supporting farm uses.

(b) A processing facility shall comply with all applicable siting standards but the standards shall not be applied in a manner that prohibits the siting of the processing facility.

(13) Irrigation canals, delivery lines and those structures and accessory operational facilities associated with a district as defined in ORS 540.505.

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

(a) A public right-of-way;

(b) Land immediately adjacent to a public right-of-way, provided the written consent of all adjacent property owners has been obtained; or

(c) The property to be served by the utility.

(15) Land application of reclaimed water, agricultural or industrial process water or biosolids for agricultural, horticultural or silvicultural production, or for irrigation in connection with a use allowed in an exclusive farm use zone subject to the issuance of a license, permit or other approval by the Department of Environmental Quality under ORS 454.695, 459.205, 468B.050, 468B.053 or 468B.055, or in compliance with rules adopted under ORS 468B.095 and with the requirements of ORS 215.246, 215.247, 215.249 and 215.251.

(16) An outdoor gathering subject to the applicable provisions of LCC Chapter 580 (Outdoor Assembly Peace, Heath, Safety, and Welfare Code).

[Adopted 98-002 §3 eff 3/4/98; amd 99-121 §9 eff 6/30/99; amd 02-313 §4 eff 8/21/02]

**928.311 Non-dwelling, soil-dependent uses allowed outright in the EFU zoning district**

(A) The uses, set forth in subsection (B), including principal and accessory buildings are allowed outright in the EFU zoning district based on soil classification.

(B) *Uses allowed outright.*

(1) A site for the disposal of solid waste, together with equipment, facilities, or building necessary for its operation, if the site:

- (a) is located on non-HVFL, and
- (b) has been ordered to be established by the Environmental Quality Commission under ORS 459.049.

[Adopted 98-002 §3 eff 3/4/98; amd 99-121 §9 eff 6/30/99]

**928.315 Dwellings, not soil dependent, allowed outright in the EFU zoning district**

(A) The uses, set forth in subsection (B), including principal and accessory buildings are allowed outright in the EFU zoning district regardless of soil classification.

(B) *Uses allowed outright.*

(1) Alteration, restoration, or replacement of a lawfully established dwelling meeting the requirements in LCC 933.180.

[Adopted 98-002 §3 eff 3/4/98]

**928.320 Non-dwelling, non-soil-dependent uses permitted in the EFU zoning district through Type IIA conditional use review**

(A) The uses set forth in subsection (B), including principal and accessory buildings, may be permitted in the EFU zoning district regardless of soil classification, subject to a Type IIA conditional use permit review process, if the decision criteria applicable to the use and other requirements of law are met.

(B) *Uses permitted conditionally.*

(1) Parking of no more than seven log trucks subject only to the criteria set forth in this subparagraph.

(a) The use is subject to applicable laws relating to health and safety;

(b) The use is subject to LCC 933.310 (B) (4).

(2) Primary processing of forest products for a one year period of time. The permit is renewable and is intended to permit the initial treatment of a forest product in order to enable its shipment to market.

(3) Mining and processing of geothermal resources.

(4) Mining and processing of oil and gas.

(5) Utility facilities necessary for public service, including wetland waste treatment systems but not including commercial facilities for the purpose of generating power for public use by sale or transmission towers over 200 feet in height.

(a) The approval criterion for this use is limited to a finding that the utility is necessary for public service and the approval is not subject to LCC 933.310.

(b) **“Necessary for public service,”** as that term is used in this paragraph, means that a utility facility must be situated in the EFU zoning district in order to provide the public service. To demonstrate that a utility facility is necessary, an applicant must show that reasonable alternatives have been considered and that the facility must be sited in an exclusive farm use zone due to one or more of the following factors:

(i) Technical and engineering feasibility;

(ii) The proposed facility is locationally dependent. A utility facility is locationally dependent if it must cross land in one or more areas zoned for exclusive farm use in order to achieve a reasonably direct route or to meet unique geographical needs that cannot be satisfied on other lands;

(iii) Lack of available urban and nonresource lands;

(iv) Availability of existing rights of way;

(v) Public health and safety; and

(vi) Other requirements of state and federal agencies.

(c) Costs associated with any of the factors listed in subparagraph (b) of this paragraph may be considered, but cost alone may not be the only consideration in determining that a utility facility is necessary for public service. Land costs shall not be included when considering alternative locations for substantially similar utility facilities and the siting of utility facilities that are not substantially similar.

(d) The owner of a utility facility approved under this section shall be responsible for restoring, as nearly as possible, to its former condition any agricultural land and associated improvements that are damaged or otherwise disturbed by the siting, maintenance, repair or reconstruction of the facility. Nothing in this subsection shall prevent the owner of the utility facility from requiring a bond or other security from a contractor or otherwise imposing on a contractor the responsibility for restoration.

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

(f) In addition to the provisions in subparagraphs (b) through (e) of this paragraph, the establishment or extension of a sewer system as defined by OAR 660-011-0060 (1) (f) in an exclusive farm use zone shall be subject to the provisions of OAR 660-011-0060.

(g) The provisions of subparagraphs (b) through (e) of this paragraph do not apply to interstate natural gas pipelines and associated facilities authorized by and subject to regulation by the Federal Energy regulatory Commission.

(6) Transmissions towers over 200 feet in height.

(7) Home occupations and the parking of associated vehicles pursuant to LCC 933.200, 933.220, and 932.830 to 932.845.

(8) Transportation improvements including roads and airports.

(a) *Transportation improvements subject to LCC 933.310.* The uses set forth in this sub-subparagraph are subject to LCC 933.310.

(a) Construction of additional passing and travel lanes requiring the acquisition of right-of-way but not resulting in the creation of new units of land.

(ii) Reconstruction or modification of public roads involving the removal or displacement of buildings but not resulting in the creation of a new unit of land.

(iii) Improvement of public road-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 a new unit of land.

(iv) Personal-use airports. (See **personal-use airports** in LCC 920.010 for exceptions)

(b) *Transportation improvements subject to LCC 933.310 and 933.900.* The uses set forth in this sub-subparagraph are subject to LCC 933.310 and 933.900.

(i) Realignment (as that term is defined in OAR 660-012-0065(2) (f)) of existing roads;

(ii) Replacement of an intersection with an interchange; and

(iii) Continuous median turn lane.

(iv) New access roads and collectors (as those two term are defined in OAR 660-012-0065(2) (a) and (b)) within a built or committed exception area, or in other areas where the function of the road is to reduce local access to or local traffic on a state highway. These roads shall be limited to two travel lanes. Private access and intersections shall be limited to rural needs or to provide adequate emergency access.

(v) Transportation facilities, services and improvements other than those listed in the Land Development Code that serve local travel needs. The travel capacity and level of service of facilities and improvements serving

local travel needs shall be limited to that necessary to support rural land uses identified in the *Comprehensive Plan* or to provide adequate emergency access.

(9) The propagation, cultivation, maintenance and harvesting of insect species.

(10) Commercial activities in conjunction with farm use.

(11) On-site filming and activities accessory to on-site filming conducted in excess of 45 days on any site within a one-year period or involve erection of sets that would remain in place for longer than 45 days subject to ORS 215.296.

(a) On-site filming and activities accessory to on-site filming may include office administrative functions such as payroll and scheduling, and the use of campers, truck trailers or similar temporary facilities.

(b) Temporary facilities may be used as temporary housing for security personnel.

(c) A decision of the Director to issue any permits other than the approval of this use that are necessary for activities under this paragraph is not a land use decision.

(12) A site for the takeoff and landing of model aircraft, including such buildings or facilities as may reasonably be necessary.

(a) Buildings or facilities shall not be more than 500 square feet in floor area or placed on a permanent foundation unless the building or facility preexisted the approval of the model aircraft use.

(b) The site shall not include an aggregate or hard surface area unless the surface preexisted the approval of the model aircraft use.

(13) Operations for the extraction and bottling of water.

(14) Expansion of existing county fairgrounds and activities directly relating to county fairgrounds governed by county fair boards established pursuant to ORS 565.210.

(15) Fire service facilities providing rural fire protection services.

(16) A living history museum related to resource based activities owned and operated by a governmental agency or a local historical society,

together with limited commercial activities and facilities that are directly related to the use and enjoyment of the museum and located within authentic buildings of the depicted historic period or the museum administration building, if areas other than 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.

[Adopted 98-002 §3 eff 3/4/98; amd 99-121 §9 eff 6/30/99; amd 02-313 §4 eff 8/21/02]

### **928.321 Non-dwelling, soil-dependent uses permitted in the EFU zoning district through Type IIA conditional use review**

(A) The uses set forth in subsections (B) and (C), including principal and accessory buildings, may be permitted in the EFU zoning district based on soil classification, subject to a Type IIA conditional use permit review process, if the decision criteria applicable to the use and other requirements of law are met.

(B) *Uses permitted conditionally on HVFL.* The uses set forth in this subsection may be permitted if on HVFL .

(1) Commercial utility facilities for the purpose of generating power for public use by sale. Unless an exception is taken pursuant to OAR 660, Division 4, such facilities shall not preclude the use of commercial agricultural enterprise of more than 12 acres on HVFL.

(2) The following existing uses may be maintained, enhanced, or expanded if on the same tract and if wholly within the EFU zoning district.

(a) Kennels, subject to LCC 932.400 to 932.440.

(b) Breeding, kenneling, and training of greyhounds for racing.

(c) Destination resorts.

(d) Solid waste disposal sites, subject to LCC 932.500 to 932.580.

(e) Public or private schools.

(f) Churches and cemeteries in conjunction with churches.

(g) Private parks, playgrounds, and hunting and fishing preserves.

(h) Golf courses.

(C) *Uses permitted conditionally on non-HVFL.* The uses set forth in this subsection may be permitted if on non-HVFL.

(1) Commercial utility facilities for the purpose of generating power for public use by sale. Unless an exception is taken pursuant to OAR 660, Division 4, such facilities shall not preclude the use of commercial agricultural enterprise of more than 20 acres on non-HVFL.

(2) Public or private schools including all buildings essential to the operation of a school. The use shall not be approved within three miles of an urban growth boundary unless an exception is approved pursuant to ORS 197.732 and OAR 660 Division 4.

(3) Churches and cemeteries in conjunction with churches consistent with LCC 933.195. The use shall not be approved within three miles of an urban growth boundary unless an exception is approved pursuant to ORS 197.732 and OAR 660 Division 4.

(4) Breeding, kenneling, and training of greyhounds for racing.

(5) Composting facilities limited to composting operations and facilities defined by the Environmental Quality Commission under ORS 459.245 and OAR 340-096-0024 (1), (2) or (3).

(a) Building and facilities used in conjunction with the composting operation shall only be those required for the operation of the subject facility.

(b) Onsite sales shall be limited to bulk loads of at least one unit (7.5 cubic yards) in size that are transported in one vehicle.

[Adopted 98-002 §3 eff 3/4/98; amd 99-121 §9 eff 6/30/99]

**928.325 Dwellings, not soil dependent, permitted in the EFU zoning district through Type IIA conditional use review**

(A) The uses, set forth in subsection (B), including principal and accessory buildings may be permitted in the EFU zoning district regardless

of soil classification, subject to a Type IIA conditional use permit review process, if the decision criteria applicable to the use and other requirements of law are met.

(B) *Uses permitted conditionally.*

(1) A farm-relative dwelling, subject to LCC 933.420.

(2) One medical hardship dwelling, subject to LCC 932.860 to 932.895.

(3) A replacement dwelling to be used in conjunction with farm use if the existing dwelling has been listed in the county inventory as historic property.

(4) A residential home in an existing dwelling, subject to ORS 197.660.

(5) Room and board arrangements for a maximum of five unrelated persons in existing dwelling.

(6) Alteration, restoration, or replacement of a lawfully established dwelling requiring that the Director make a decision based on a review of information not limited to the development permit application.

[Adopted 98-002 §3 eff 3/4/98; amd 98-432 §2 eff 10/21/98; amd 99-121 §9 eff 6/30/99; amd 02-313 §4 eff 8/21/02]

**928.326 Dwellings, soil dependent, permitted in the EFU zoning district through Type IIA conditional use review**

(A) The uses, set forth in subsection (B), including principal and accessory buildings may be permitted in the EFU zoning district based on soil classification, subject to a Type IIA conditional use permit review process, if the decision criteria applicable to the use and other requirements of law are met.

(B) *Uses permitted conditionally.*

(1) A dwelling customarily provided in conjunction with farm use, subject to LCC 933.400.

(2) An accessory farm dwelling, subject to LCC 933.410.

(3) A Class-IV or worse non-farm single-family dwelling, subject to LCC 933.500.

(4) A Class-VI or worse non-farm single-family dwelling, subject to LCC 933.510.

(5) A pre-85 non-HVFL dwelling, subject to LCC 933.706.

(6) A pre-85 HVFL-2 dwelling, subject to LCC 933.707.

(7) A wildlife management dwelling, subject to LCC 933.790.

[Adopted 98-002 §3 eff 3/4/98; amd 99-121 §9 eff 6/30/99; amd 02-313 §4 eff 8/21/02]

**928.330 Non-dwelling, non-soil-dependent uses permitted in the EFU zoning district through Type IIIB conditional use review**

(A) The uses, including principal and accessory buildings, set forth in subsection (B) may be permitted in the EFU zoning district, regardless of soil classification, upon conditional use approval by the Commission provided the decision criteria applicable to the use and other requirements of law are met.

(B) *Uses permitted conditionally*

(1) Aggregate materials, subject to LCC 921.540 to 921.568.

(a) Mining, crushing, processing, or stockpiling aggregate materials, subject to ORS 215.298.

(b) Batching aggregate materials.

(i) Processing, as defined by ORS 517.750, of aggregate into asphalt or portland cement.

(ii) New uses that batch and blend mineral and aggregate into asphalt cement may not be authorized within two miles of a planted vineyard.

(2) Non-aggregate minerals and non-mineral subsurface resources. Mining, crushing, processing, or stockpiling subject to ORS 215.298.

(3) Parks and playgrounds A public park may be established consistent with the provisions of ORS 195.120.

(4) Community centers owned by a governmental agency or a nonprofit community organization and operated primarily by and for residents of the local rural community.

(5) Firearms training facility.

(a) New facilities.

(b) Existing facilities. Expansion of a lawfully existing firearms training facility or a change of use of a lawfully existing firearms training facility shall require review and approval either through provisions of Code regulating nonconforming uses or through provisions regulating conditional uses, whichever is applicable.

[Adopted 98-002 §3 eff 3/4/98; amd 98-432 §2 eff 10/21/98; amd 2000-119 §2 eff 3/28/00; amd 02-313 §4 eff 8/21/02]

**928.331 Non-dwelling, soil-dependent uses permitted in the EFU zoning district through Type IIIB conditional use review**

(A) The uses, set forth in subsection (B), including principal and accessory buildings may be permitted in the EFU zoning district based on soil classification, upon conditional use approval by the Commission provided the decision criteria applicable to the use and other requirements of law are met.

(B) *Uses permitted conditionally.* The following uses may be located on non-HFVL:

(1) Kennels subject to LCC 932.400 to 932.440.

(2) Destination resorts.

(3) A site for the disposal of solid waste has been granted a permit by the Environmental Quality Commission under ORS 459.049, together with equipment, facilities, or building necessary for its operation, subject to LCC 932.500 to 932.580.

(4) Private parks, playgrounds, and fishing and hunting preserves. 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.

(5) Golf courses.

[Adopted 98-002 §3 eff 3/4/98; amd 99-121 §9 eff 6/30/99; amd 02-313 §4 eff 8/21/02]

**928.336 Dwellings, soil dependent, permitted in the EFU zoning district through Type IIIB conditional use review**

(A) The uses set forth in subsection (B) including principal and accessory buildings may be permitted in the EFU zoning district based on soil classification, subject to a Type IIIB conditional use review, if the decision criteria found applicable to the use and other requirements of law are met.

(B) *Uses permitted conditionally.*

(1) Pre-85 HVFL-1 single-family dwelling, subject to LCC 933.708.

[Adopted 98-002 §3 eff 3/4/98; amd 99-121 §9 eff 6/30/99]

[928.391 to 928.599 are reserved for future use.]

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**III. FARM/FOREST (F/F) ZONING DISTRICT**

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**928.600 Statement of purpose**

The purpose of the Farm/Forest (F/F) zoning district is:

(A) to preserve land suitable for agricultural and forest uses;

(B) to allow the establishment of uses consistent with the predominant use of land for agricultural and forest use;

(C) to allow for public and private outdoor recreational uses; and

(D) to provide for the protection of open space, fish and wildlife habitat, watersheds, scenic resources, air, water, and land resource quality and to permit the location of dwellings when applicable criteria are met.

[Adopted 98-002 §3 eff 3/4/98]

**928.605 Uses authorized in the Farm/Forest zoning district; generally**

(A) The Board has established a Farm/Forest zoning district in accordance with both Goals 3 and 4, and OAR Chapter 660, Divisions 6 and 33.

(B) *Uses generally.* Uses authorized in the EFU zoning district in LCC 928.310 to 928.336, and in LCC 928.610 to 928.636, subject to the

requirements of the applicable section, may be allowed in the Farm/Forest zoning district.

(C) *Dwellings.* The decision maker shall apply either the applicable farm or forest standards for siting a dwelling in the Farm/Forest zoning district based on the predominant use of the tract on January 1, 1993. Dwellings and related structures authorized under subsection (B), where the predominant use is forestry, shall be subject to the requirements of LCC 934.590.

[Adopted 98-002 §3 eff 3/4/98]

**928.607 Definitions for the F/F zoning district**

For purposes of LCC 928.600 to 928.899 the following definitions apply:

(A) “**Auxiliary**” means a use or alteration of a structure or land which provides help or is directly associated with the conduct of a particular forest practice or operation.

(B) “**Auxiliary structure**” means a structure that is located on site, temporary in nature, and is not designed to remain for the forest’s entire growth cycle from planting to harvesting.

(C) “**Farm area,**” for purposes of siting a dwelling, means that tract of land in an F/F zoning district on which the predominant use on January 1, 1993, was not forest use.

(D) “**Forest area,**” for purposes of siting a dwelling, means a tract of land in an F/F zoning district on which the predominant use on January 1, 1993, was forest use.

(E) “**Forest practices**” means any operation conducted on or pertaining to forestland, including but not limited to:

- (1) Reforestation of forestland;
- (2) Road construction and maintenance;
- (3) Harvesting of forest tree species;
- (4) Application of chemicals; and
- (5) Disposal of slash.

(F) “**Operation,**” in reference to forestry, means any commercial activity relating to the growing or harvesting of forest tree species. The term includes such activities as the growing, cultivating, spraying, thinning, pruning, protecting, harvesting through cutting, and transporting of such species.



### 928.609 Auxiliary uses

An auxiliary use, including an auxiliary structure:

(A) may be used only during the term of a particular forest operation; and

(B) shall be removed when the particular forest practice has concluded.

[Adopted 99-121 §9 eff 6/30/99]

### 928.610 Non-dwelling, non-soil-dependent uses allowed outright in the F/F zoning district

(A) The uses, set forth in subsection (B), including principal and accessory buildings, are allowed outright in the F/F zoning district regardless of soil classification.

(B) *Uses allowed outright.*

(1) Forest operations or forest practices.

(2) Auxiliary structures.

(3) Physical alterations to the land auxiliary to forest practices including, but not limited to, those made for purposes of:

(a) exploration, mining, commercial gravel extraction and processing,

(b) solid waste disposal sites,

(c) dams,

(d) reservoirs,

(e) road construction, or

(f) recreational facilities.

(4) Uses to conserve soil, air, and water quality and to provide for wildlife and fisheries resources.

(5) Farm use.

(6) Local distribution lines (including but not limited to electric, telephone and natural gas facilities) and accessory equipment (such as electric, telephone and natural gas lines, electric distribution transformers, poles, meter cabinets, terminal boxes, and pedestals), or equipment which provides service hookups, including water service hookups.

(7) Temporary portable facility for the primary processing of forest products.

(8) Exploration for and production of geothermal resources.

(9) Exploration for and production of oil and gas.

(10) Exploration for minerals.

(11) Private hunting and fishing operations without any lodging accommodations.

(12) Towers and fire stations for forest fire protection.

(13) The following transportation improvements including roads and airports:

(a) Climbing and passing lanes within the right-of-way existing as of July 1, 1987.

(b) Reconstruction or modification of public roads not including the addition of travel lanes, where no removal or displacement of buildings would occur or no new units of land would result.

(c) Temporary public road detours that will be abandoned and restored to original condition or use at such time as no longer needed.

(d) Minor betterment of existing public road-related facilities such as maintenance yards, weigh stations and rest areas, within the right-of-way existing as of July 1, 1987, and contiguous, publically owned property utilized to support the operation and maintenance of public roads.

(e) Roads, other transportation facilities, and improvements not otherwise allowed under this zoning district subject to the adoption of an exception to Statewide Planning Goal 3 (Agricultural Lands) and to any other applicable goal with which the facility or improvement does not comply.

(f) Channelization (as that term is defined in OAR 660-12-065(2) (e));

(g) Bikeways, footpaths and recreation trails not otherwise allowed as a modification or part of an existing road;

(h) Park-and-ride areas;

(i) Railroad mainlines and branch-lines;

(j) Pipelines;

(k) Navigation channels;

(l) Replacement of docks and other facilities without significantly increasing the capacity of those facilities; and

(m) Expansions or alterations of public use airports that do not permit service to a larger class of airplanes.

(14) Farm-related water-intake facilities, canals and distribution lines for farm irrigation and ponds.

(15) Structures not intended for habitation which are accessory to fish and wildlife enhancement.

(16) Buildings customarily provided in conjunction with farm use.

(17) Creation of, restoration of, or enhancement of wetlands.

(18) A winery as described in ORS 215.452.

(19) Farm stands if:

(a) 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) 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.

(20) On-site filming and activities accessory to on-site filming may be conducted in any farm area of the F/F zoning district without prior approval of local government but subject to ORS 30.930 to 30.947 if such filming and activities do not exceed 45 days on any site within a one-year period or involve erection of sets that would remain in place for longer than 45 days.

(a) On-site filming and activities accessory to on-site filming may include office

administrative functions such as payroll and scheduling, and the use of campers, truck trailers or similar temporary facilities.

(b) Temporary facilities may be used as temporary housing for security personnel.

(c) A decision of the Director to issue any permits necessary for activities under this paragraph is not a land use decision.

(21) A facility for the processing of farm crops located on a farm operation that provides at least one-quarter of the farm crops processed at the facility.

(a) The building established for the processing facility shall not exceed 10,000 square feet of floor area exclusive of the floor area designated for preparation, storage or other farm use or devote more than 10,000 square feet to the processing activities within another building supporting farm uses.

(b) A processing facility shall comply with all applicable siting standards but the standards shall not be applied in a manner that prohibits the siting of the processing facility.

(22) Irrigation canals, delivery lines and those structures and accessory operational facilities associated with a district as defined in ORS 540.505.

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

(a) A public right-of-way;

(b) Land immediately adjacent to a public right-of-way, provided the written consent of all adjacent property owners has been obtained; or

(c) The property to be served by the utility.

(24) Land application of reclaimed water, agricultural or industrial process water or biosolids for agricultural, horticultural or silvicultural production, or for irrigation in connection with a use allowed in an exclusive farm use zone subject to the issuance of a license, permit or other approval by the Department of Environmental

Quality under ORS 454.695, 459.205, 468B.050, 468B.053 or 468B.055, or in compliance with rules adopted under ORS 468B.095 and with the requirements of ORs 215.246, 215.247, 215.249, and 215.251.

(25) An outdoor gathering subject to the applicable provisions of LCC Chapter 580 (Outdoor Assembly Peace, Health, Safety, and Welfare Code).

[Adopted 98-002 §3 eff 3/4/98; amd 99-121 §9 eff 6/30/99;; amd 02-313 §4 eff 8/21/02]

**928.611 Non-dwelling, soil-dependent uses allowed outright in the F/F zoning district**

(A) The uses set forth in subsection (B), including principal and accessory buildings, are allowed outright in the F/F zoning district based on the soil classification.

(B) *Uses allowed outright.*

(1) A site for the disposal of solid waste if the site:

- (a) is located on non-HVFL, and
- (b) has been ordered to be established by the Environmental Quality Commission under ORS 459.049, together with equipment, facilities, or building necessary for its operation.

[Adopted 98-002 §3 eff 3/4/98; amd 99-121 §9 eff 6/30/99]

**928.615 Dwellings, not soil-dependent, allowed outright in the farm area of the F/F zoning district**

(A) The uses set forth in subsection (B), including principal and accessory buildings, are allowed outright in the Farm area of the F/F zoning district regardless of soil classification.

(B) *Uses allowed outright.*

(1) Alteration, restoration, or replacement of a lawfully established dwelling meeting the requirements in LCC 933.180.

[Adopted 98-002 §3 eff 3/4/98]

**928.617 Dwellings, not soil-dependent, allowed outright in the forest area of the F/F zoning district**

(A) The uses set forth in subsection (B), including principal and accessory buildings, are

allowed outright in the forest area of the F/F zoning district regardless of soil classification.

(B) *Uses allowed outright.*

(1) Temporary forest labor camps.

(2) Alteration, restoration, or replacement of a lawfully established dwelling meeting the requirements in LCC 933.180.

(3) One large tract forestland dwelling, as described in LCC 933.740.

[Adopted 98-002 §3 eff 3/4/98]

**928.620 Non-dwelling, non-soil-dependent uses permitted in the F/F zoning district through Type IIA conditional use review**

(A) The uses set forth in subsection (B) including principal and accessory buildings may be permitted in the F/F zoning district regardless of soil classification, subject to a Type IIA conditional use permit review process, if the decision criteria applicable to the use and other requirements of law are met.

(B) *Uses permitted conditionally.*

(1) A facility for the primary processing of forest products.

(2) Permanent logging equipment repair and storage.

(3) Log scaling.

(4) Parking of no more than seven log trucks subject only to the conditions set forth in this subparagraph.

(a) The use is subject to applicable laws relating to health and safety; and

(b) The use is subject to LCC 933.310 (B) (4)

(5) Batching aggregate materials.

(a) Temporary asphalt and concrete batch plants as accessory uses to specific public road projects.

(b) New uses that batch and blend mineral and aggregate into asphalt cement may not be authorized within two miles of a planted vineyard.

(6) Mining and processing of geothermal resources.

(7) Mining and processing of oil, gas, or other non-mineral subsurface resources.

(8) Fire stations for rural fire protection.

(9) Utility facilities necessary for public service, except commercial facilities for the purpose of generating power for public use by sale.

(a) The approval criterion for this use is limited to a finding that the utility is necessary for public service and the approval is not subject to LCC 933.310.

(b) “**Necessary for public service,**” as that term is used in this paragraph, means that a utility facility must be situated in a Farm area of the F/F zoning district in order for a public service to be provided.

(10) Commercial utility facilities for the purpose of generating power for public use by sale. Unless an exception is taken pursuant to OAR 660, Division 4, such facilities shall not preclude the use of commercial forest operation on more than 10 acres.

(11) Television, microwave and radio communication facilities, and transmission towers.

(12) Non-farm-related water intake facilities, related treatment facilities, pumping stations and distribution lines.

(13) Reservoirs and water impoundments.

(14) Cemeteries.

(15) New electric transmission lines with right-of-way widths of up to 100 feet as specified in ORS 772.210.

(16) New distribution lines (e.g., electrical, gas, oil, geothermal) with rights-of-way 50 feet or less in width. This use does not include local distribution lines.

(17) Home occupations and the parking of associated vehicles as described in LCC 932.830 to 932.845.

(18) Transportation improvements including roads and airports.

(a) *Transportation improvements subject to LCC 933.310.* The uses set forth in this sub-subparagraph are subject to LCC 933.310.

(i) Construction of additional passing and travel lanes requiring the acquisition of right-of-way but not resulting in the creation of new units of land.

(ii) Reconstruction or modification of public roads involving the removal or displacement of buildings but not resulting in the creation of new units of land.

(iii) Improvement of public road-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 units of land.

(iv) Airports.

(I) Expansion of existing airports not otherwise allowed in LCC 928.610.

(II) Personal-use airports (See **personal-use airports** in LCC 920.100 for exceptions)

(v) Aids to navigation and aviation.

(b) *Transportation improvements subject to LCC 933.310 and 933.900.* The uses set forth in this sub-subparagraph are subject to LCC 933.310 and 933.900.

(i) Realignment (as that term is defined in OAR 660-012-0065(2) (f)) of existing roads;

(ii) Replacement of an intersection with an interchange; and

(iii) Continuous median turn lane.

(iv) New access roads and collectors (as those terms are defined in OAR 660-012-0065 (2) (a) and (b)) within a built or committed exception area, or in other areas where the function of the road is to reduce local access to or local traffic on a state highway. These roads shall be limited to two travel lanes. Private access and intersections shall be limited to rural needs or to provide adequate emergency access.

(v) Transportation facilities, services and improvements other than those listed in the Land Development Code that serve local travel needs. The travel capacity and level of service of facilities and improvements serving

local travel needs shall be limited to that necessary to support rural land uses identified in the *Comprehensive Plan* or to provide adequate emergency access.

(19) Private accommodations for fishing occupied on a temporary basis may be permitted on an authorized unit of land if the accommodations are:

(a) limited to no more than 15 guest rooms as that term is defined in the *Oregon Structural Specialty Code*; and

(b) limited to only minor, incidental and accessory retail sales; and

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

(d) located within ¼ mile of fish bearing Type F waters; and

(e) if within a forest area, the siting standards in LCC 934.590 are met.

(20) Private seasonal accommodations for fee hunting operations may be allowed on an authorized unit of land if the accommodations are:

(a) limited to no more than 15 guest rooms as that term is defined in the *Oregon Structural Specialty Code*; and

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

(c) occupied temporarily for the purpose of hunting during game bird and big game hunting seasons authorized by the Oregon Fish and Wildlife Commission; and

(d) if within a forest area, the siting standards in LCC 934.590 are met.

(21) Forest management research and experimentation facilities as defined by ORS 526.215 or where accessory to forest operations.

(22) The propagation, cultivation, maintenance and harvesting of insect species.

(23) Commercial activities in conjunction with farm use.

(24) On-site filming and activities accessory to on-site filming conducted in excess of 45 days on any site within a one-year period or

involve erection of sets that would remain in place for longer than 45 days subject to ORS 215.296.

(a) On-site filming and activities accessory to on-site filming may include office administrative functions such as payroll and scheduling, and the use of campers, truck trailers or similar temporary facilities.

(b) Temporary facilities may be used as temporary housing for security personnel.

(c) A decision of the Director to issue any permits other than the approval of this use that are necessary for activities under this paragraph is not a land use decision.

(25) A site for the takeoff and landing of model aircraft, including such buildings or facilities as may reasonably be necessary.

(a) Buildings or facilities shall not be more than 500 square feet in floor area or placed on a permanent foundation unless the building or facility preexisted the approval of the model aircraft use.

(b) The site shall not include an aggregate or hard surface area unless the surface preexisted the approval of the model aircraft use.

(26) The breeding, kenneling and training of greyhounds for racing.

(27) Operations for the extraction and bottling of water.

(28) Expansion of existing county fairgrounds and activities directly relating to county fairgrounds governed by county fair boards established pursuant to ORS 565.210.

(29) A living history museum related to resource based activities owned and operated by a governmental agency or a local historical society, together with limited commercial activities and facilities that are directly related to the use and enjoyment of the museum and located within authentic buildings of the depicted historic period or the museum administration building, if areas other than 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.

[Adopted 98-002 §3 eff 3/4/98; amd 98-432 §2 eff 10/21/98; amd 99-121 §9 eff 6/30/99; amd 02-313 §4 eff 8/21/02]

**928.621 Non-dwelling, soil-dependent uses permitted in the F/F zoning district through Type IIA conditional use review**

(A) The uses set forth in subsections (B) and (C), including principal and accessory buildings, may be permitted in the F/F zoning district based on soil classification, subject to a Type IIA conditional use permit review process, if the decision criteria applicable to the use and other requirements of law are met.

(B) *Uses permitted conditionally on HVFL.* The uses set forth in this subsection may be permitted if on HVFL .

(1) Commercial utility facilities for the purpose of generating power for public use by sale. Unless an exception is taken pursuant to OAR 660, Division 4, such facilities shall not preclude the use of commercial agricultural enterprise of more than 12 acres on HVFL.

(2) The following existing uses may be maintained, enhanced, or expanded if on the same tract and if wholly within the F/F zoning district.

(a) Kennels, subject to LCC 932.400 to 932.440.

(b) Breeding, kenneling, and training of greyhounds for racing.

(c) Destination resorts.

(d) Solid waste disposal sites, subject to LCC 932.500 to 932.580.

(e) Public or private schools.

(f) Churches and cemeteries in conjunction with churches.

(g) Private parks, playgrounds, and hunting and fishing preserves.

(h) Golf courses. An existing golf course may be maintained, enhanced, or expanded to no more than 36 holes.

(C) *Uses permitted conditionally on non-HVFL.* The uses set forth in this subsection may be permitted if on non-HVFL.

(1) Commercial utility facilities for the purpose of generating power for public use by sale. Unless an exception is taken pursuant to OAR 660, Division 4, such facilities shall not

preclude the use of commercial agricultural enterprise of more than 20 acres on non-HVFL.

(2) Public or private schools including all buildings essential to the operation of a school. The use shall not be approved within three miles of an urban growth boundary unless an exception is approved pursuant to ORS 197.732 and OAR 660 Division 4.

(3) Churches and cemeteries in conjunction with churches consistent with LCC 933.195. The use shall not be approved within three miles of an urban growth boundary unless an exception is approved pursuant to ORS 197.732 and OAR 660 Division 4.

(4) Breeding, kenneling, and training of greyhounds for racing.

(5) Composting facilities limited to composting operations and facilities defined by the Environmental Quality Commission under ORS 459.245 and OAR 340-096-0024 (1), (2) or (3).

(a) Building and facilities used in conjunction with the composting operation shall only be those required for the operation of the subject facility.

(b) Onsite sales shall be limited to bulk loads of at least one unit (7.5 cubic yards) in size that are transported in one vehicle.

[Adopted 98-002 §3 eff 3/4/98; amd 99-121 §9 eff 6/30/99; amd 02-313 §4 eff 8/21/02]

**928.625 Dwellings, not soil-dependent, permitted in the farm area of the F/F zoning district through Type IIA conditional use review**

(A) The uses set forth in subsection (C), including principal and accessory buildings, may be permitted in the Farm area of the F/F zoning district regardless of soil classification, subject to a Type IIA conditional use permit review process, if the decision criteria applicable to the use and other requirements of law are met.

(B) *Dwellings permitted conditionally.*

(1) A farm-relative dwelling, subject to LCC 933.420.

(2) One medical hardship dwelling, subject to LCC 932.860 to 932.895.

(3) Residential home in an existing dwelling, subject to ORS 197.660.

(4) Room and board arrangements for a maximum of five unrelated persons in existing dwelling.

(5) A replacement dwelling to be used in conjunction with farm use if the existing dwelling has been listed in the county inventory as historic property.

(6) Alteration, restoration, or replacement of a lawfully established dwelling requiring that the Director make a decision based on a review of information not limited to the development permit application

[Adopted 98-002 §3 eff 3/4/98; amd 98-432 §2 eff 10/21/98; amd 99-121 §9 eff 6/30/99; amd 02-313 §4 eff 8/21/02]

**928.626 Dwellings, soil-dependent, permitted in the farm area of the F/F zoning district through Type IIA conditional use review**

(A) The uses set forth in subsection (C), including principal and accessory buildings, may be permitted in the farm area of the F/F zoning district based on soil classification, subject to a Type IIA conditional use permit review process, if the decision criteria applicable to the use and other requirements of law are met.

(B) *Dwellings permitted conditionally.*

(1) A dwelling customarily provided in conjunction with farm use, subject to LCC 933.400.

(2) An accessory farm dwelling, subject to LCC 933.410.

(3) A Class-IV or worse non-farm single-family dwelling, subject to LCC 933.500.

(4) A Class-VI or worse non-farm single-family dwelling, subject to LCC 933.510.

(5) A pre-85 non-HVFL dwelling, subject to LCC 933.706.

(6) A pre-85 HVFL-2 dwelling, subject to LCC 933.707.

(7) Caretaker residence for public parks and fish hatcheries.

(8) A wildlife management dwelling, subject to LCC 933.790.

[Adopted 98-002 §3 eff 3/4/98; amd 98-432 §2 eff 10/21/98; amd 99-121 §9 eff 6/30/99; amd 02-313 §4 eff 8/21/02]

**928.627 Dwellings, not soil-dependent, permitted in the forest area of the F/F zoning district through Type IIA conditional use review**

(A) The uses set forth in subsection (D), including principal and accessory buildings, may be permitted in the forest area of the F/F zoning district regardless of soil classification, subject to a Type IIA conditional use permit review process, if the decision criteria applicable to the use and other requirements of law are met.

(B) *Dwellings permitted conditionally.*

(1) One medical hardship dwelling, subject to LCC 932.860 to 932.895.

(2) Residential home in an existing dwelling, subject to ORS 197.660.

(3) Room and board arrangements for a maximum of five unrelated persons in existing dwelling.

(4) A replacement dwelling to be used in conjunction with farm use if the existing dwelling has been listed in the county inventory as historic property.

(5) A forest homestead dwelling on a partition established under LCC 924.728.

(6) A forest-resource dwelling on a partition established under LCC 924.729.

(7) Caretaker residence for public parks and fish hatcheries.

(8) Alteration, restoration, or replacement of a lawfully established dwelling requiring that the Director make a decision based on a review of information not limited to the development permit application.

[Adopted 98-002 §3 eff 3/4/98; amd 98-432 §2 eff 10/21/98; amd 99-121 §9 eff 6/30/99]

**928.628 Dwellings, soil dependent, permitted in the forest area of the F/F zoning district through Type IIA conditional use review**

(A) The uses set forth in subsection (B) , including principal and accessory buildings, may be permitted in the forest area of the F/F zoning district based on soil classification, subject to a Type IIA conditional use permit review process, if

the decision criteria applicable to the use and other requirements of law are met.

(B) *Dwellings permitted conditionally.*

(1) Pre-85 forestland dwelling, subject to the additional criteria in LCC 933.720.

(2) One single-family alternative forestland dwelling, subject to the additional criteria in LCC 933.750.

(3) A wildlife management dwelling, subject to LCC 933.790.

[Adopted 98-002 §3 eff 3/4/98; amd 98-432 §2 eff 10/21/98]

**928.630 Non-dwelling, non-soil-dependent uses permitted in the F/F zoning district through Type IIIB conditional use review**

(A) The uses set forth in subsection (B) including principal and accessory buildings may be permitted in the F/F zoning district regardless of soil classification, subject to a Type IIIB conditional use review, if the decision criteria applicable to the use and other requirements of law are met.

(B) *Uses permitted conditionally on any soil types.*

(1) Parks, playgrounds or community centers owned and operated by a governmental agency or a nonprofit community organization.

(2) Firearms training facility.

(a) New facilities.

(b) Existing facilities. Expansion of a lawfully existing firearms training facility or a change of use of a lawfully existing firearms training facility shall require review and approval either through provisions of Code regulating nonconforming uses or through provisions regulating conditional uses, whichever is applicable.

(3) Aggregate materials, subject to LCC 921.540 to 921.568.

(a) Mining, crushing, processing, or stockpiling aggregate materials, subject to ORS 215.298.

(b) Batching aggregate materials.

(i) Processing, as defined by ORS 517.750, of aggregate into asphalt or portland cement.

(ii) New uses that batch and blend mineral and aggregate into asphalt cement may not be authorized within two miles of a planted vineyard.

(4) Non-aggregate minerals and non-mineral subsurface resources. Mining, crushing, processing, or stockpiling subject to ORS 215.298.

(5) Youth camps.

[Adopted 98-002 §3 eff 3/4/98; amd 98-432 §2 eff 10/21/98; amd 2000-119 §2 eff 3/28/00; amd 02-313 §4 eff 8/21/02]

**928.631 Non-dwelling, soil-dependent uses permitted in the F/F zoning district through Type IIIB conditional use review**

(A) The uses set forth in subsection (B) including principal and accessory buildings may be permitted in the F/F zoning district based on soil classification, subject to a Type IIIB conditional use review, if the decision criteria applicable to the use and other requirements of law are met.

(B) *Uses permitted conditionally on non-HVFL.* The uses set forth in this subsection may be permitted if on non-HVFL.

(1) Private parks, playgrounds, and fishing and hunting preserves. 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.

(2) Kennels subject to LCC 932.400 to 932.440;

(3) A site for the disposal of solid waste has been granted a permit by the Environmental Quality Commission under ORS 459.049, together with equipment, facilities, or building necessary for its operation subject to LCC 932.500 to 932.580;

(4) Destination resorts; and

(5) Golf courses.

[Adopted 98-002 §3 eff 3/4/98; amd 99-121 §9 eff 6/30/99; amd 02-313 §4 eff 8/21/02]



**928.636 Dwellings, soil-dependent, permitted in the farm area of the F/F zoning district through Type IIIB conditional use review**

(A) The uses set forth in subsection (B) including principal and accessory buildings may be permitted in the farm area of the F/F zoning district based on the predominant use on January 1, 1993, and based on soil classification, subject to a Type IIIB conditional use review, if the decision criteria applicable to the use and other requirements of law are met.

(B) *Uses permitted conditionally.* Pre-85 HVFL-1 single-family dwelling, subject to LCC 933.708.

[Adopted 98-002 §3 eff 3/4/98; amd 98-432 §2 eff 10/21/98]

[928.686 to 928.899 are reserved for future use.]

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**IV. FOREST CONSERVATION AND MANAGEMENT (FCM) ZONING DISTRICT**

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**928.900 Statement of purpose**

The purpose of the FCM zoning district is:

(A) to retain forest lands for commercial cultivation, management, protection and harvest of forest crops;

(B) to provide for the protection of fish and wildlife habitats, watersheds, scenic resources and air, water and land resource quality;

(C) to allow for public and private outdoor recreational uses; and

(D) to provide for land uses compatible with forest practices.

[Adopted 98-002 §3 eff 3/4/98]

**928.907 Definitions**

For purposes of LCC 928.900 to 928.999:

(A) “**Auxiliary**” means a use or alteration of a structure or land which provides help or is directly associated with the conduct of a particular forest practice or operation.

(B) “**Auxiliary structure**” means a structure that is located on site, temporary in nature, and is not designed to remain for the forest’s entire growth cycle from planting to harvesting.

(C) “**Forest practices**” means any operation conducted on or pertaining to forestland, including but not limited to:

- (1) Reforestation of forestland;
- (2) Road construction and maintenance;
- (3) Harvesting of forest tree species;
- (4) Application of chemicals; and
- (5) Disposal of slash.

(D) “**Operation**,” in reference to forestry, means any commercial activity relating to the growing or harvesting of forest tree species. The term includes such activities as the growing, cultivating, spraying, thinning, pruning, protecting, harvesting through cutting, and transporting of such species.

[Adopted 98-002 §3 eff 3/4/98; formerly at LCC 928.910; amd 99-121 §9 eff 6/30/99 (see ORS 527.620 and OAR Chapter 629)]

**928.909 Auxiliary uses**

An auxiliary use, including an auxiliary structure:

(A) may be used only during the term of a particular forest operation; and

(B) shall be removed when the particular forest practice has concluded.

[Adopted 99-121 §9 eff 6/30/99]

**928.910 Non-dwelling uses allowed outright in the FCM zoning district**

(A) The uses, set forth in subsection (B), including principal and accessory buildings are allowed outright in the FCM zoning district.

(B) *Uses allowed outright.*

(1) Forest operations or forest practices.

(2) Auxiliary structures.

(3) Physical alterations to the land auxiliary to forest practices including, but not limited to, those made for purposes of:

(a) exploration, mining, commercial gravel extraction and processing,

(b) solid waste disposal sites,

(c) dams,

(d) reservoirs,

(e) road construction, or

(f) recreational facilities.

(4) Uses to conserve soil, air, and water quality and to provide for wildlife and fisheries resources.

(5) Farm use.

(6) Local distribution lines (including but not limited to electric, telephone and natural gas facilities) and accessory equipment (such as electric, telephone and natural gas lines, electric distribution transformers, meter cabinets, terminal boxes, and pedestals), or equipment which provides service hookups, including water service hookups.

(7) Temporary portable facility for the primary processing of forest products.

(8) Exploration for and production of geothermal resources.

(9) Exploration for and production of oil and gas.

(10) Exploration for minerals.

(11) Private hunting and fishing operations without any lodging accommodations.

(12) Towers and fire stations for forest fire protection.

(13) The following transportation improvements including roads and airports:

(a) Climbing and passing lanes within the right-of-way existing as of July 1, 1987.

(b) Reconstruction or modification of public roads not including the addition of travel lanes, where no removal or displacement of buildings would occur or no new units of land would result.

(c) Temporary public road detours that will be abandoned and restored to original condition or use at such time as no longer needed.

(d) Minor betterment of existing public road-related facilities such as maintenance yards, weigh stations and rest areas, within the right-of-way existing as of July 1, 1987, and contiguous, publicly-owned property utilized to support the operation and maintenance of public roads.

(e) Channelization (as that term is defined in OAR 660-012-0065(e));

(f) Bikeways, footpaths and recreation trails not otherwise allowed as a modification or part of an existing road;

(g) Park-and-ride areas;

(h) Railroad mainlines and branchlines;

(i) Pipelines;

(j) Navigation channels;

(k) Replacement of docks and other facilities without significantly increasing the capacity of those facilities; and

(l) Expansions or alterations of public use airports that do not permit service to a larger class of airplanes.

(14) Water intake facilities, canals and distribution lines for farm irrigation and ponds.

(15) Structures not intended for habitation which are accessory to fish and wildlife enhancement.

(16) A site for the disposal of solid waste, together with equipment, facilities, or building necessary for its operation that has been ordered to be established by the Environmental Quality Commission under ORS 459.049.

[Adopted 98-002 §3 eff 3/4/98; amd 99-121 §9 eff 6/30/99]

#### **928.915 Dwellings allowed outright in the FCM zoning district**

(A) The uses, including principal and accessory buildings, set forth in subsection (B) are allowed outright in the FCM zoning district.

(B) *Uses allowed outright.*

(1) Temporary forest labor camps.

(2) Alteration, restoration, or replacement of a lawfully established dwelling meeting the criteria in LCC 928.020.

[Adopted 98-002 §3 eff 3/4/98]

#### **928.920 Non-dwelling uses permitted in the FCM zoning district through Type IIA conditional use review**

(A) The uses set forth subsection (B), including principal and accessory buildings, may be permitted in the FCM district subject to a Type IIA conditional use permit review, if the decision criteria in LCC 928.920, any additional criteria

that may be specified in this section, and other requirements of law are met.

(B) *Uses permitted conditionally.*

(1) Permanent facility for the primary processing of forest products.

(2) Permanent logging equipment repair and storage.

(3) Log scaling and weigh stations.

(4) A site for the disposal of solid waste, together with equipment, facilities or buildings necessary for its operation for which the Department of Environmental Quality has granted a permit under ORS 459.245.

(5) Parks.

(6) Minerals, including aggregate.

(a) Mining, crushing, processing, and stockpiling, subject to ORS 215.298.

(b) Batching aggregate materials.

(i) Temporary asphalt and concrete batch plants as accessory uses to specific public road projects.

(ii) New uses that batch and blend mineral and aggregate into asphalt cement may not be authorized within two miles of a planted vineyard.

(7) Mining and processing of geothermal resources.

(8) Mining and processing of oil and gas.

(9) Utility facilities for the purpose of generating power. Unless an exception is taken pursuant to OAR 660, Division 4., such facilities shall not preclude the use of commercial forest operation on more than 10 acres.

(10) Television, microwave and radio communication facilities, and transmission towers.

(11) New electric transmission lines with right-of-way widths of up to 100 feet as specified in ORS 772.210.

(12) New distribution lines (e.g., electrical, gas, oil, geothermal resources) with rights-of-way 50 feet or less in width.

(13) Water intake facilities, related treatment facilities, pumping stations and distribution lines.

(14) Reservoirs and water impoundments.

(15) Establishment of a firearms training facility.

(a) A firearms training facility lawfully existing on September 9, 1995 shall be allowed to continue operating without a conditional use permit until the facility is no longer used as a firearms training facility.

(b) Expansion of a lawfully existing firearms training facility or a change of use of a lawfully existing firearms training facility shall require review and approval either through provisions of Code regulating nonconforming uses or through provisions regulating conditional uses, whichever is applicable.

(16) Cemeteries.

(17) Fire stations for rural fire protection.

(18) Home occupations and the parking of associated vehicles pursuant to LCC 932.510 to 932.540.

(19) Transportation improvements including roads and airports.

(a) *Transportation improvements subject to LCC 933.310.* The uses set forth in this subparagraph are subject to LCC 933.310.

(i) Construction of additional passing and travel lanes requiring the acquisition of right-of-way but not resulting in the creation of new units of land.

(ii) Reconstruction or modification of public roads involving the removal or displacement of buildings but not resulting in the creation of new units of land.

(iii) Improvement of public road-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 units of land.

(iv) Expansion of existing airports.

(v) Aids to navigation and aviation.

(b) *Transportation improvements subject to LCC 933.310 and 933.900.* The uses set

forth in this subparagraph are subject to LCC 933.310 and 933.900.

(i) Realignment (as that term is defined in OAR 660-012-0065(2) (f) of existing roads;

(ii) Replacement of an intersection with an interchange; and

(iii) Continuous median turn lane.

(iv) New access roads and collectors (as those terms are defined in OAR 660-012-0065 (2) (a) and (b)) within a built or committed exception area, or in other areas where the function of the road is to reduce local access to or local traffic on a state highway. These roads shall be limited to two travel lanes. Private access and intersections shall be limited to rural needs or to provide adequate emergency access.

(v) Transportation facilities, services and improvements other than those listed in the Land Development Code that serve local travel needs. The travel capacity and level of service of facilities and improvements serving local travel needs shall be limited to that necessary to support rural land uses identified in the *Comprehensive Plan* or to provide adequate emergency access.

(20) Private accommodations for fishing occupied on a temporary basis may be allowed if the accommodations are:

(a) limited to no more than 15 guest rooms as that term is defined in the *Oregon Structural Specialty Code*;

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

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

(d) located within ¼ mile of fish bearing Type F waters; and

(e) in compliance with the siting standards in LCC 934.590.

(21) Private seasonal accommodations for fee hunting operations may be allowed if the accommodations are:

(a) limited to no more than 15 guest rooms as that term is defined in the *Oregon Structural Specialty Code*;

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

(c) occupied temporarily for the purpose of hunting during game bird and big game hunting seasons authorized by the Oregon Fish and Wildlife Commission; and

(d) in compliance with the siting standards in LCC 934.590.

(22) Forest management research and experimentation facilities as defined by ORS 526.215 or where accessory to forest operations.

(23) Destination resorts reviewed and approved pursuant to ORS 197.435 to 197.465 and Goal 8.

(24) Youth camps.

[Adopted 98-002 §3 eff 3/4/98; amd 98-432 §2 eff 10/21/98; amd 99-121 §9 eff 6/30/99; amd 02-313 §4 eff 8/21/02]

### **928.935 Dwellings permitted in the FCM zoning district through Type IIA conditional use review**

(A) The uses set forth subsection (B), including principal and accessory buildings, may be permitted in the FCM district subject to a Type IIA conditional use permit review, if the decision criteria in LCC 928.920, any additional criteria that may be specified in this section, and other requirements of law are met.

(B) *Uses permitted conditionally.*

(1) One medical hardship dwelling, subject to LCC 932.860 to 932.895.

(2) An existing authorized dwelling that by a partitioning under LCC 924.622 becomes a forest homestead.

(3) Alteration, restoration, or replacement of a lawfully established dwelling requiring that the Director make a decision based on a review of information not limited to the development permit application.

[Adopted 98-002 §3 eff 3/4/98; amd 99-121 §9 eff 6/30/99]

[928.931 to 928.999 are reserved for future use.]

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**Statutory References and Other Authorities:**  
ORS 197; 203; 215; 308; 321; 368; 459; 517; 520;  
522; 526; 527; 537; 722; 772; OAR 660 Divs. 04,  
012, 033, and 035.

**Legislative History of Chapter 928:**

Adopted 98-002 eff 3/4/98

Amendments to 98-002

- #1 98-432 eff 10/21/98
  - #2 99-121 §9 eff 6/30/99
  - #3 2000-119 §2 eff 3/28/00
  - #4 02-313 §4 eff 8/21/02
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# TITLE 9

## COMMUNITY DEVELOPMENT

### Subtitle 2 — Land Development Code Division 3 — Zoning Districts

#### CHAPTER 929

#### RURAL DEVELOPMENT ZONE CODE

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#### 929.005 Title; short title

This Chapter, LCC 929.005 to 929.999, shall be known and cited as the “Linn County Rural Development Zone Code.” This Chapter may also

be referred to and cited as the “Rural Development Zone Code.”

[Adopted 98-002 §3 eff 3/4/98; amd 99-121 §10 eff 6/30/99]

**929.010 Compliance requirements**

(A) Notwithstanding the presence or absence of any conditions, requirements, standards, or criteria with any use mentioned in this Chapter, all uses remain subject to any applicable conditions, requirements, standards, or criteria that may be set forth in other Chapters of the Land Development Code.

(B) The conditions, requirements, standards, and criteria are set forth generally in the following Chapters:

- (1) Decision criteria . . . Chaps. 932, 933
- (2) Conditions . . . . . Chapter 933
- (3) Requirements . . . . . Chapter 933
- (4) Standards
  - (a) Property . . . . . Chapter 934
  - (b) Access . . . . . Chapter 935

(C) The conditional uses set forth in this Chapter are subject to approval pursuant to meeting the applicable requirements and decision criteria in LCC 932.200 to 220 and LCC Chapter 933 (Conditions, Requirements, and Decision Criteria Code).

(D) Development of all properties in the Rural Development Zone must comply with:

(1) the development standards set forth in LCC Chapter 934 (Development Standards Code), specifically 934.610 to 934.680; and

(2) Except as provided in LCC 924.100 (B), the access improvement standards set forth in LCC Chapter 935 are applicable to all principal and accessory uses permitted in the RDZ.

(E) Development of any property in the RDZ may have one or more conditions imposed on the permit.

[Adopted 98-002 §3 eff 3/4/98]

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**I. AGRIBUSINESS (AB) ZONING DISTRICT**

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**929.010 Statement of purpose**

(A) The purposes of the Agribusiness (AB) zoning district shall be:

- (1) to provide for development of a limited variety of industrial and commercial facilities or establishments necessary for and directly serving agricultural or forestry uses; and
- (2) to allow those uses consistent with agricultural practices as provided in ORS Chapter 215.

(B) The establishment of this zoning district is not intended as an extension of an industrial zoning district surrounding a city.

(C) The uses permitted in this zoning district are intended for isolated rural areas.

[Adopted 98-002 §3 eff 3/4/98]

**929.020 AB uses allowed outright**

(A) All principle uses set forth in subsection (B) of this section and uses accessory to those principle uses are allowed outright in the AB zoning district.

(B) *Uses allowed outright.*

- (1) Farm uses.
- (2) Cultivation, management, protection and harvest of forest crops.
- (3) Storage, distribution, and sale of feed, fertilizer, seed, chemicals and other products used for commercial agricultural or timber production.
- (4) Farm product receiving plants including processing, packaging, reshipment facilities and wineries except for canneries and frozen food processing plants.
- (5) Livestock sales yards.
- (6) Horticultural specialties such as greenhouses and nursery products.
- (7) Alteration, expansion, or replacement of a dwelling or manufactured dwelling lawfully established on an authorized unit of land.
- (8) One single-family dwelling or manufactured dwelling in conjunction with a farm or forest use on an authorized unit of land of at least the minimum required area.



(9) Expansion of a church, public or private school or community center owned or operated by a governmental agency or private, nonprofit, community organization which has been lawfully established on an authorized unit of land, provided such expansion does not exceed 50 percent of the gross floor area of the structure or 2,000 square feet, whichever is greater.

(10) Transportation improvements.

[Adopted 98-002 §3 eff 3/4/98]

### **929.030 AB uses permitted through a Type IIA conditional use review**

(A) All principle uses set forth in subsection (B) of this section and uses accessory to those principle uses are permitted in the AB zoning district through a Type IIA procedure subject to the decision criteria in LCC 933.200 and 933.220.

(B) *Uses permitted through conditional use review.*

(1) Home occupations, subject to LCC 932.830 to 932.845.

(2) Seasonal farmworker housing or forest labor camps.

(3) Temporary facilities for the primary processing of forest products.

(4) Commercial activities in conjunction with a farm use.

(5) One medical hardship dwelling, subject to LCC 932.860 to 932.895.

(6) Oil, natural gas and geothermal exploration and extraction.

(7) One caretaker dwelling for a use permitted in LCC 929.020 and 929.030, subject to LCC 932.800 to 932.815.

(8) Kennels, subject to LCC 932.400 to 932.440.

(9) Cemeteries.

(10) Storage, repair, or sale of fencing, irrigation pipe, pumps and other commercial farm or forest-related or farm-related equipment and implements.

(11) Farm or forest equipment storage and repair facilities.

(12) Bulk storage and distribution facilities for fuels, pesticides and fertilizers.

(13) Veterinarian clinic.

(14) Public or private schools.

(15) Churches.

(16) Private parks, playgrounds, hunting and fishing preserves.

(17) Parks, playgrounds, or community centers owned and operated by a governmental agency or a nonprofit community organization.

(18) Utility facilities necessary for public service.

(19) Personal-use airports. (See **personal-use airports** in LCC 920.100 for exceptions)

(20) Public and semi-public buildings and uses.

(21) Energy generating facilities not requiring review by the Oregon Energy Facilities Siting Council.

(22) Slaughtering of animals, including attendant retail and wholesale sales, which may be conducted outside an enclosed building.

(23) Livestock feedlots.

(24) Firearm training facility.

(25) Staging area subject to LCC 932.700 to 932.770.

[Adopted 98-002 §3 eff 3/4/98; amd 99-121 §10 eff 6/30/99]

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## **II. FREEWAY INTERCHANGE COMMERCIAL (FIC) ZONING DISTRICT**

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### **929.110 Statement of purpose**

(A) The purpose of the Freeway Interchange Commercial (FIC) zoning district shall be to permit the use of freeway interchange property to fill the immediate needs of motorists and commerce.

(B) The uses permitted in this zoning district are intended to serve the rural and traveling population.

[Adopted 98-002 §3 eff 3/4/98]

### **929.120 FIC uses allowed outright**

(A) All principle uses set forth in subsection (B) of this section and uses accessory to those principle uses are allowed outright in the FIC zoning district.

(B) *Uses allowed outright.*

(1) Automobile and truck services set forth in this subsection located within a building or buildings with a total size not to exceed 3,750 square feet.

(a) Service station.

(b) Repair, including the sale of parts as a secondary use.

(2) Food and beverage facilities located within a building or buildings with a total size not to exceed 3,750 square feet including:

(a) Restaurant.

(b) Convenience grocery store.

(3) Alteration, expansion or replacement of a dwelling lawfully established on a property prior to the establishment of the FIC zoning district.

(4) Expansion of a church, public or private school or community center owned or operated by a governmental agency or private nonprofit community organization which has been lawfully established on a property provided such expansion does not exceed 50% of the gross floor area of the structure of 5,000 square feet, whichever is greater.

(5) Limited farm use.

(6) Cultivation, management, protection and harvest of forest crops, but excluding timber processing operations, maintenance and repair facilities for timber vehicles or equipment.

(7) Residential home in an existing dwelling.

(8) Transportation improvements.

[Adopted 98-002 §3 eff 3/4/98]

**929.130 FIC uses permitted through conditional use review**

(A) All principle uses set forth in subsection (B) of this section and uses accessory to those principle uses may be permitted in the FIC zoning district through the procedure established in LCC Chapter 921 (Land Development Administration Code) for a conditional use review subject to the decision criteria in LCC Chapter 933.200 and 933.220.

(B) *Uses permitted through conditional use review.*

(1) Parks. Office and customer retail support services must be located within a building or buildings with a total size not to exceed 3,750 square feet. Guests may not camp for more than 120 days per calendar year, nor may guest's recreational vehicles be on the property for more than 120 days per calendar year. Recreational vehicles may not be rented or stored on the site.

(2) Accessory structures for uses permitted conditionally, subject to applicable building size limitations.

(3) Utility facilities necessary for public service.

(4) One caretaker dwelling for a use permitted in this section, subject to LCC 932.800 to 932.815.

(5) Public and semi-public buildings and uses to be located within a building or buildings with a total size not to exceed 3,750 square feet. The size limitation does not apply to fire stations, utility substations, schools or churches.

(6) Staging area subject to LCC 932.700 to 932.770.

(7) Alteration, restoration, or replacement of a lawfully established dwelling requiring that the Director make a decision based on a review of information not limited to the development permit application.

[Adopted 98-002 §3 eff 3/4/98; amd 99-121 §10 eff 6/30/99]

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**III. HEAVY INDUSTRIAL (HI) ZONING DISTRICT**

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**929.210 Statement of purpose**

(A) The purpose of the Heavy Industrial (HI) zoning district is to permit the continuation and expansion of existing industrial land uses; to provide the opportunity for new, resource-related and rural-scale industrial uses; and to provide economic development opportunities on qualifying abandoned or diminished mill sites consistent with applicable *Plan* policies.

[Amd 04-056 §1 eff 3/31/04]

(B) The Heavy Industrial zoning district is intended for manufacturing activities which are dependent upon close proximity to natural resources or raw materials; or which need a relatively isolated location because of operational characteristics.

(C) The HI zoning district provides for land uses which have potential for conflicts with other uses. Small-scale, rural-dependent businesses are permitted as outlined below.

(D) The expansion or replacement of certain existing urban industrial uses LCC 929.220 to 929.240 are permitted and described in detail in the *Comprehensive Plan*.

[Adopted 98-002 §3 eff 3/4/98]

### 929.220 HI uses allowed outright

(A) All principle uses set forth in subsection (B) of this section and uses accessory to those principle uses are allowed outright in the HI zoning district.

(B) *Uses allowed outright.*

(1) Agricultural uses.

- (a) Equipment repair and storage.
- (b) Warehouses for agricultural

products.

- (c) Receiving station.
- (d) Nursery.
- (e) Commercial activity in

conjunction with a farm use.

(2) Small-scale, rural-dependent businesses performing maintenance, repair or other structural or site improvements or fabrication of parts principally for rural residents or rural industrial activities. The development is limited to no more than three uses per exception site or one use per property in an exception area, whichever is greater. No use shall have a building or combined building size totaling more than 5,000 square feet and a site size not to exceed three acres.

(3) Automotive and truck services set forth in this subsection located within a building or buildings with a total size not to exceed 3,750 square feet.

- (a) Service station.

(b) Repair, including the sale of parts as a secondary use.

(4) Fuel distribution and storage, including the processing, distribution and sale of firewood.

(5) Forest products.

(a) Equipment repair and storage.

(b) Manufacturing of lumber, plywood, strandboard, paper and shakes

(6) Existing uses identified in LCC 929.220 to 929.240 (only existing use is permitted at identified site).

(7) Utility facility necessary for public service.

(8) Alteration, expansion or replacement of a dwelling lawfully established on an authorized unit of land prior to the establishment of the HI zoning district.

(9) Limited farm use.

(10) Transportation improvements.

[Adopted 98-002 §3 eff 3/4/98]

### 929.230 HI uses permitted through a Type IIA conditional use review

(A) All principle uses set forth in subsection (B) of this section and uses accessory to those principle uses are permitted in the HI zoning district through a Type IIA procedure subject to the decision criteria in LCC 933.200 to 933.220.

(B) *Uses permitted through conditional use review.*

(1) Slaughter house.

(2) Rendering plant.

(3) Cannery.

(4) Energy generating facilities producing power for public sale.

(5) Personal use airports. (See **personal-use airports** in LCC 920.100 for exceptions)

(6) Public-use airports

(7) Uses permitted conditionally in the LI zoning district, excluding public and private schools.

(8) Wrecking yard or junkyard limited to an area not to exceed five acres.

(9) Recycling of metals, glass, paper and other similar material limited to an area not to exceed five acres.

(10) One caretaker dwelling for a use permitted in LCC 929.220 to 929.240, subject to LCC 932.800 to 932.815.

(11) Staging area, subject to LCC 932.700 to 932.770.

(12) Manufacture or storage of highly combustible materials or explosives.

(13) Alteration, restoration, or replacement of a lawfully established dwelling requiring that the Director make a decision based on a review of information not limited to the development permit application.

(14) Industrial development on an abandoned or diminished mill site not otherwise allowed under LCC 929.220 or permitted under LCC 929.230, subject to the criteria and procedures in LCC 932.200 through 932.299. The development is subject to the qualification and delineation of the mill site pursuant to the criteria and procedures identified in LCC 932.220.

[Adopted 98-002 §3 eff 3/4/98; amd 99-121 §10 eff 6/30/99; amd 04-056 §1 eff 3/31/04]

**929.240 HI uses permitted through an urban exception**

All principle uses set forth in this section, including expansion and replacement, and uses accessory to those principle uses are permitted at the locations set forth in the table in this section and any subsequent changes of these tax-lot numbers from remapping. Expansion of an existing use is permitted on the area shown on the urban exception map.

Site	Use	Location
I-1	Contractor office, shop and storage yard	T9, R1W, S14, TL 1801.
I-7	Manufacture of metal products	T11, R3W, S33, TL 502 & 503
I-12		T12, R4W, S3, TL 202 & 205.
I-33	Manufacture of concrete products	T12, 2W, S2, TL 2002

[Adopted 98-002 §3 eff 3/4/98]

**IV. LIMITED INDUSTRIAL (LI) ZONING DISTRICT**

**929.310 Statement of purpose**

(A) The purpose of the Limited Industrial (LI) zoning district is to permit the continuation and expansion of existing industrial land uses; to provide the opportunity for new resource-related and rural-scale industrial uses; and to provide economic development opportunities on qualifying abandoned or diminished mill sites consistent with applicable *Plan* policies.

[Amd 04-056 §1 eff 3/31/04]

(B) The Limited Industrial zoning district is intended for land uses which are dependent upon close proximity to natural resources or raw materials or which need a relatively isolated location because of operational characteristics.

(C) Small-scale, rural-dependent businesses are permitted as set forth in LCC 929.320 to 929.340.

(D) The expansion and replacement of certain existing urban industrial uses listed below is permitted and described in detail in the *Comprehensive Plan*.

[Adopted 98-002 §3 eff 3/4/98]

**929.320 LI uses allowed outright**

(A) All principle uses set forth in subsection (B) of this section and uses accessory to those principle uses are allowed outright in the LI zoning district provided all such uses, other than off-road parking and other activities which by necessity must be conducted in the open, are to be conducted entirely within an enclosed building.

(B) *Uses allowed outright.*

(1) Agricultural uses.

- (a) Equipment repair and storage.
- (b) Warehouses for agricultural products.
- (c) Receiving station.
- (d) Nursery.
- (e) Commercial activity in conjunction with a farm use.

(2) Forest products uses.

- (a) Equipment repair and storage.

(b) Processing of milled lumber into building materials.

(3) Small-scale, rural-dependent businesses performing maintenance, repair or other structural or site improvements or fabrication of parts principally for rural residents or rural industrial activities, limited to no more than three uses per exception site or one use per property in an exception area, whichever is greater. No use shall have a building or combined building size totaling more than 5,000 square feet and a site size not to exceed three acres.

(4) Automotive and truck services set forth in this paragraph located within a building or buildings with a total size not to exceed 3,750 square feet.

(a) Service station.

(b) Repair, including the sale of parts as a secondary use.

(5) Existing uses identified in LCC 929.340 (only existing use is permitted at identified site).

(6) Alteration, expansion or replacement of a dwelling lawfully established on a authorized unit of land prior to the establishment of the LI zoning district.

(7) Utility facilities necessary for public service.

(8) Transportation improvements.

(9) Limited farm use.

[Adopted 98-002 §3 eff 3/4/98]

### **929.330 LI uses permitted through a Type IIA conditional use review**

(A) All principle uses set forth in subsection (B) of this section and uses accessory to those principle uses are permitted in the LI zoning district through a Type IIA procedure and the decision criteria in LCC 933.200 and 933.220.

(B) *Uses permitted through conditional use review.*

(1) Wrecking yard or junkyard limited to an area not to exceed five acres.

(2) Recycling of metals, glass, paper and other similar material limited to an area not to exceed five acres.

(3) Storage of highly combustible materials or explosives.

(4) Fuel distribution and storage, including the processing, distribution and sale of firewood.

(5) One medical hardship dwelling, subject to LCC 932.860 to 932.895.

(6) Airports. (See **personal-use airports** in LCC 920.100 for exceptions).

(7) Public and private schools up to a maximum of 15,000 square feet of building area.

(8) Accessory structures for uses permitted conditionally.

(9) One caretaker residence for a use permitted in LCC 929.320 and 929.330 subject to LCC 932.800 to 932.815.

(10) Kennel, subject to LCC 932.400 to 932.440.

(11) Staging area, subject to LCC 932.700 to 932.770.

(12) Alteration, restoration, or replacement of a lawfully established dwelling requiring that the Director make a decision based on a review of information not limited to the development permit application.

(13) Industrial development on an abandoned or diminished mill site not otherwise allowed under LCC 929.220 or permitted under LCC 929.230, subject to the criteria and procedures in LCC 932.200 through 932.299. The development is subject to the qualification and delineation of the mill site pursuant to the criteria and procedures identified in LCC 932.220.

[Adopted 98-002 §3 eff 3/4/98; amd 98-432 §2 eff 10/21/98; amd 99-121 §10 eff 6/30/99; amd 04-056 §1 eff 3/31/04]

### **929.340 LI uses permitted outright through an urban exception**

(A) Definitions. For purposes of this section “**replacement**” means that a use identified in this section may be replaced only by a use that is specified in this section or is determined by the Director to be closely similar in nature to a use identified in this section.

(B) Expansion and replacement of the principle uses set forth in this section and uses accessory to those principle uses are permitted

outright at the locations identified on the “Urban Exceptions” map of the *Comprehensive Plan*. Those locations are also set forth in the table in this section.

(C) The tax-lot numbers set forth in the table in this section are subject to change by the County Assessor at any time. A change in the tax-lot number does not affect the authority recognized and granted by this section.

Site	Use	Location
I-6	Sale and repair of appliances	T11, R4W, S 32, TL 1104
	Sale and repair of cars and trucks	T11, R4W, S 32 TL 1103
	Sale and manufacture of furniture	T11, R4W, S32, TL 1100 and 1102
	Self-service storage facility	T11, R4W, S32, TL 1301
	Sale and repair of recreational vehicles and trailers	T11, R4W, S 32, TL 1201
	Sale and repair of boats	T11, R4W, S 32, TL 1105
	Manufacture of ornamental iron	T11, R4W, S 32, TL 1105
I-13	Sale and repair of manufactured homes	T12, R3W, S5, TL 501
	Contractor office, shop and storage yard	T12, R3W, S5, TL 600
I-20	Self-service storage facility	T13, R1W, S4, TL 909
I-24	Manufacture of metal detectors	T13, R1E, S30C, TL 500 (2.43 ac.) & 801; TL13, R1E, S31BB, TL 100, 101, 200 & 201
I-32	Manufacture of pumps and meters	T12, R3W, S1, TL 1200
I-44	Manufacturing and repair facilities	T12, R3W, S6, TL 900 & 1000
I-46	Contractor office, shop and storage yard	T12, R1W, S32, TL 1400

[Adopted 98-002 §3 eff 3/4/98]

## V. RURAL COMMERCIAL (RCM) ZONING DISTRICT

### 929.410 Statement of purpose

(A) The purpose of the Rural Commercial (RCM) zoning district shall be to provide for a restricted scale of commercial development in rural areas.

(B) The zoning district permits uses which are intended to provide a convenient location for rural residents to obtain household commodities or to operate small-scale, service businesses.

(C) It is the intent of this zoning district to allow commercial activities which will be used primarily by rural residents.

[Adopted 98-002 §3 eff 3/4/98]

### 929.420 RCM uses allowed outright

(A) All principle uses set forth in subsection (B) of this section and uses accessory to those principle uses are allowed outright in the RCM zoning district.

(B) *Uses allowed outright.*

(1) Retail uses listed below located within a building or buildings with a total size not to exceed 3,750 square feet.

- (a) Antique store.
- (b) General store.
- (c) Barber or beauty shop.
- (d) Restaurant.
- (e) Bar, tavern.
- (f) Arts and crafts sales and production.

(g) Grocery store.

(h) Garden center, nursery (greenhouses not included in building size standard).

(2) Automotive and truck services listed below located within a building or buildings with a total size not to exceed 3,750 square feet.

- (a) Service station.
- (b) Repair, including the sale of parts as a secondary use.

(3) Professional and business offices located in a building or buildings with a total size not to exceed 2,500 square feet.

(4) One caretaker residence for a use allowed in this section, subject to LCC 932.800 to 932.815.

(5) Alteration, expansion or replacement of a dwelling lawfully established on an authorized unit of land prior to the establishment of the RCM zoning district.

(6) Limited farm use.

(7) Cultivation, management, protection and harvest of forest crops, but excluding timber-processing operations or maintenance and repair facilities for timber vehicles or equipment.

(8) Residential home in an existing dwelling.

(9) Expansion of a church, public or private school or community center owned or operated by a governmental agency or private, nonprofit, community organization which has been lawfully established on a authorized unit of land, provided such expansion does not exceed 50% of the gross floor area of the structure of 5,000 square feet, whichever is greater.

(10) Commercial activities in conjunction with farm use.

(11) Transportation improvements.

[Adopted 98-002 §3 eff 3/4/98]

### **929.430 RCM uses permitted through a Type IIA conditional use review**

(A) All principle uses set forth in subsection (B) of this section and uses accessory to those principle uses may be permitted in the RCM zoning district through a Type IIA and decision criteria in LCC 933.200 and 933.220.

(B) *Uses permitted through conditional use review.*

(1) Veterinarian clinic.

(2) Kennel to be located within a building or buildings with a total size not to exceed 3,750 square feet, subject to LCC 932.400 to 932.40.

(3) Sign painting and repair to be located within a building or buildings with a total size not to exceed 3,750 square feet.

(4) Utility facilities necessary for public service.

(5) Public and semi-public buildings and uses to be located within a building or buildings with a total size not to exceed 3,750 square feet. The size limitation does not apply to fire stations, utility substations, schools or churches.

(6) Staging area, subject to LCC 932.700 to 932.770.

(7) Accessory structures for uses permitted conditionally, subject to applicable building size limitations.

(8) Radio and transmission facility to be located within a building or buildings with a total size not to exceed 3,750 square feet.

(9) Parks. Office and customer retail support services must be located within a building or buildings with a total size not to exceed 3,750 square feet.

(10) Alteration, restoration, or replacement of a lawfully established dwelling requiring that the Director make a decision based on a review of information not limited to the development permit application.

[Adopted 98-002 §3 eff 3/4/98; amd 99-121 §10 eff 6/30/99]

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## **VI. RURAL CENTER (RCT) ZONING DISTRICT**

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### **929.510 Statement of purpose**

(A) The purpose of the Rural Center (RCT) zoning district shall be to recognize existing development in unincorporated rural communities identified as rural centers in the *Comprehensive Plan* and to provide for orderly development of rural centers.

(B) The RCT zoning district is intended to ensure development at densities that will not require urban services.

(C) The RCT zoning district is composed of three zoning districts (RCT-1, RCT-2½, and RCT-5) which are distinguished only by property size standards.

[Adopted 98-002 §3 eff 3/4/98]

### **929.520 RCT uses allowed outright**

(A) All principle uses set forth in subsection (B) of this section, excluding manufactured dwellings used as storage buildings, and uses

accessory to those principle uses are allowed outright in the RCT zoning district.

(B) *Uses allowed outright.*

(1) One single-family dwelling or one manufactured dwelling per authorized unit of land.

(2) Limited farm use.

(3) Cultivation, management, protection, and harvest of forest crops but excluding timber processing operations or maintenance and repair facilities for timber vehicles or equipment.

(4) Buildings not to exceed 300 square feet in gross sales area for the sale of agricultural products grown or raised on the premises.

(5) Expansion of a church, public or private school, or community center owned or operated by a governmental agency or private nonprofit community organization which has been lawfully established on an authorized unit of land, provided such expansion does not exceed 50 percent of the gross floor area of the structure or 2,000 square feet, whichever is greater.

(6) Residential home.

(7) Family day care provider.

(8) Transportation improvements.

[Adopted 98-002 §3 eff 3/4/98]

**929.530 RCT uses permitted through a Type IIA conditional use review**

(A) All principle uses set forth in subsection (B) of this section, excluding manufactured dwellings used as storage buildings, and uses accessory to those principle uses may be permitted in the RCT zoning district through a Type IIA procedure subject to the decision criteria in LCC 933.200 and 933.220.

(B) *Uses permitted through conditional use review.*

(1) One medical hardship dwelling, subject to LCC 932.860 to 932.895.

(2) Accessory structures for uses permitted conditionally.

(3) Home occupations, subject to LCC 932.830 to 932.845.

(4) Expanded animal husbandry including the raising, tending, pasturing or

breeding of pigs or fur bearing animals provided that such activities are not a part of, or conducted in conjunction with any livestock sales yard, slaughter house or animal by-products business.

(5) Temporary facilities for the primary processing of forest products.

(6) The breeding, boarding and training of horses for profit.

(7) Radio or television stations, transmitters, receivers, and towers.

(8) Utility facilities necessary for public service.

(9) Public and semi-public buildings and uses.

(10) Farm product receiving plants, including wineries but excluding canneries and frozen food processing.

(11) Storage, distribution, or sale of feed, fertilizer, seed, chemicals or other products used for commercial agricultural or timber production.

(12) Infilling an existing manufactured dwelling park subject to LCC 932.600 to 932.680.

(13) Staging areas.

(14) The following are small-scale commercial uses not to exceed 2,000 square feet in total floor area allowed in RCT zoning districts.

(a) Grocery store.

(b) Laundromat.

(c) Barber or beauty shop.

(d) Garden center, nursery (greenhouses not included in building size standard).

(e) Arts and crafts sales and production.

(f) Restaurant.

(g) Bar, tavern.

(h) General store.

(15) Public or private schools.

(16) Churches.

(17) Parks, playgrounds, hunting and fishing preserves, and community centers.

(18) Golf course.

[Adopted 98-002 §3 eff 3/4/98; amd 99-121 §10 eff 6/30/99]



## VII. RURAL RESIDENTIAL (RR) ZONING DISTRICT

### 929.610 Statement of purpose

(A) The purpose of the Rural Residential (RR) zoning district shall be:

(1) to provide areas suitable for rural residential development thus preserving land of higher productivity for agricultural and forest resource use;

(2) to provide for limited agricultural and forest uses where appropriate; and

(3) to preserve and maintain the rural character of areas designated for such acreage homesites.

(B) The RR zoning district is also intended to ensure development at densities that will not require urban services.

(C) The RR zoning district is composed of four zoning districts which are distinguished only by minimum property size standards.

(D) One residential zoning district is not interchangeable with another residential zoning district without approval through the procedural processes described in LCC 921.800 to 921.840 and the rural residential land policies in the *Comprehensive Plan*.

[Adopted 98-002 §3 eff 3/4/98]

### 929.620 RR uses allowed outright

(A) All principle uses set forth in subsection (B) of this section, excluding manufactured dwellings used as storage buildings, and uses accessory to those principle uses are allowed outright in the RR zoning district.

(B) *Uses allowed outright.*

(1) One single-family dwelling or one manufactured dwelling per authorized units of land.

(2) Limited farm use.

(3) Cultivation, management, protection or harvest of forest crops but excluding timber processing operations or maintenance and repair facilities for timber vehicles or equipment.

(4) A building for the sale of agricultural products grown or raised on the premises. The

building is not to exceed 300 square feet in gross sales area.

(5) Expansion of a church, public or private school or community center owned or operated by a governmental agency or private, nonprofit, community organization which has been lawfully established on a authorized units of land, provided such expansion does not exceed 50 percent of the gross floor area of the structure or 2,000 square feet, whichever is greater.

(6) Residential home.

(7) Family day care provider.

(8) Transportation improvements.

[Adopted 98-002 §3 eff 3/4/98]

### 929.630 RR uses permitted through a Type IIA conditional use review

(A) All principle uses set forth in subsection (B) of this section, excluding manufactured dwellings used as storage buildings, and uses accessory to those principle uses may be permitted in the RR zoning district through a Type IIA procedure and the decision criteria in LCC 933.200 and 933.220.

(B) *Uses permitted through conditional use review.*

(1) One medical hardship dwelling, subject to LCC 932.860 to 932.895.

(2) Accessory structures and uses for uses permitted conditionally.

(3) Home occupations, subject to LCC 932.830 to 932.845.

(4) Temporary facilities for the primary processing of forest products.

(5) The breeding, boarding and training of horses for profit.

(6) Cemeteries.

(7) Expanded animal husbandry including the raising, tending, pasturing or breeding of pigs or fur-bearing animals provided that such activities are not a part of, or conducted in conjunction with, any livestock sales yard, slaughter house or animal by-products business.

(8) Public and semi-public buildings and uses.

(9) Utility facilities necessary for public service.

(10) Radio, television or telephone transmission or receiving facilities, but excluding transmission stations.

(11) Small-scale, commercial uses not to exceed 2,000 square feet in total floor area including, but not limited to, grocery stores, laundromats, general stores, retail nurseries and agricultural product sales buildings, excluding livestock sales and auction yards.

(12) Infilling an existing manufactured dwelling park subject to LCC 932.600 to 932.680.

(13) Public or private schools.

(14) Churches.

(15) Parks, playgrounds, hunting and fishing preserves.

(16) Community centers owned and operated by a governmental agency or a nonprofit, community organization.

(17) Golf courses.

(18) Personal-use airports. (See **personal-use airports** in LCC 920.100 for exceptions).

[Adopted 98-002 §3 eff 3/4/98; amd 99-121 §10 eff 6/30/99]

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## VIII. URBAN DEVELOPMENT (UD-I) ZONING DISTRICT

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### 929.710 Statement of purpose

(A) The purpose of the Urban Development (UD-I) zoning district is to recognize sites which are developed with urban types of commercial/industrial uses.

(B) The Urban Development-I (UD-I) zoning district may only be applied to those Highway 34 sites which have been approved through a Goal 14 developed or committed exception.

(C) It is the intent of the UD-I zoning district to permit the continuation and expansion of existing uses and their replacement with similar uses.

(D) The UD-I zoning district is applied to specific sites identified in the *Comprehensive Plan*.

(E) The UD-I zoning district and the UD-II zoning districts are not interchangeable; the respective UD zoning district can only be applied to an urban exception which is developed with the uses described in that zoning district.

[Adopted 98-002 §3 eff 3/4/98]

### 929.720 UD-I uses allowed outright

(A) All principle uses set forth in subsection (B) of this section and uses accessory to those principle uses are allowed outright in the UD-I zoning district provided all such uses, other than off-road parking and other activities which by necessity must be conducted in the open, are to be conducted entirely within an enclosed building.

(B) *Uses allowed outright.*

(1) Professional and business offices.

(2) Agricultural related uses such as:

(a) Agricultural supply store.

(b) Warehouses for agricultural products.

(c) Wholesale distribution or sales facilities.

(d) Commercial activity in conjunction with a farm use.

(3) Warehousing and distribution of durable and non-durable goods.

(4) Manufacturing or repair involving.

(a) Metal.

(b) Wood.

(c) Plastic.

(5) Research laboratories.

(6) Manufacture or repair of scientific, precision or electronic instruments.

(7) Automotive repair, including the sales of parts as a secondary use.

(8) Commercial sales and services integral to a use allowed in this section.

(9) Utility facility necessary for public service.

(10) Alteration, expansion or replacement of a lawfully established dwelling on

an authorized unit of land prior to the establishment of the UD-1 zoning district.

(11) Transportation improvements

[Adopted 98-002 §3 eff 3/4/98; amd 99-121 §10 eff 6/30/99]

**929.730 UD-I uses permitted through a Type IIA conditional use review**

(A) All principle uses set forth in subsection (B) of this section and uses accessory to those principle uses are permitted in the UD-I zoning district through a Type IIA procedure and the decision criteria in LCC 933.200 and 933.220.

(B) *Uses permitted through conditional use review.*

(1) One caretaker residence for a use permitted in LCC 929.720, subject to LCC 932.800 to 932.815

(2) Accessory structures for uses permitted conditionally.

(3) Public and semi-public buildings and uses.

(4) Staging area, subject to LCC 932.700 to 932.770.

(5) Alteration, restoration, or replacement of a lawfully established dwelling requiring that the Director make a decision based on a review of information not limited to the development permit application.

[Adopted 98-002 §3 eff 3/4/98; amd 99-121 §10 eff 6/30/99]

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**IX. URBAN DEVELOPMENT (UD-II) ZONING DISTRICT**

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**929.810 Statement of purpose**

(A) The purpose of the Urban Development (UD-II) zoning district is to recognize sites which are developed with urban types of commercial/industrial uses.

(B) The Urban Development-II (UD-II) zoning district may only be applied to those Highway 34 sites which have been approved through a Goal 14 developed or committed exception.

(C) The UD-II zoning district is applied to larger developed and committed areas which have several urban uses.

(D) It is the intent of the UD-II zoning district to permit the continuation and expansion of existing uses and their replacement with similar uses.

(E) The UD-II zoning district is applied to specific sites identified in the *Comprehensive Plan*.

(F) The UD-I zoning district and the UD-II zoning district s are not interchangeable; the respective UD zoning district can only be applied to an urban exception which is developed with the uses described in that zoning district.

[Adopted 98-002 §3 eff 3/4/98]

**929.820 UD-II uses allowed outright**

(A) All principle uses set forth in subsection (B) of this section and uses accessory to those principle uses are allowed outright in the UD-II zoning district provided all such uses, other than off-road parking and other activities which by necessity must be conducted in the open, are to be conducted entirely within an enclosed building.

(B) *Uses allowed outright.*

(1) Agricultural related uses such as:

- (a) Implement dealer.
- (b) Equipment storage and repair.
- (c) Agricultural supply store.
- (d) Warehouses for agricultural

products.

(e) Wholesale distribution or sales facilities.

(f) Receiving station.

(g) Commercial activity in conjunction with a farm use.

(2) Uses related to the forest industry such as:

- (a) Equipment repair and storage.
- (b) Processing of milled lumber into building materials.

(c) Logging and wood manufacturing supply store.

(d) Lumber and building material sales.

(3) Construction and contractor uses such as:

(a) Construction or contractor equipment storage yard.

(b) Welding, sheet metal or machine shop.

(c) Cabinet shop.

(d) Sign painting, sale, repair or manufacture.

(e) Equipment repair.

(4) Transportation, storage and distribution uses such as:

(a) Fuel distribution and storage.

(b) Self-service storage facility.

(5) Sales, service and repair of manufactured dwellings, recreational vehicles, campers, trailers and boats.

(6) Automobile and truck services such as:

(a) Repair.

(b) Painting.

(7) Commercial retail sales and services integral to a use allowed in this section.

(8) Utility facility necessary for public service.

(9) Alteration, expansion or replacement of a lawfully established dwelling on a authorized unit of land prior to the establishment of the UD-II zoning district.

(10) Garden shop, retail nursery.

(11) Limited farm use.

(12) Transportation improvements.

[Adopted 98-002 §3 eff 3/4/98; amd 99-121 §10 eff 6/30/99]

### **929.830 UD-II uses permitted through a Type IIA conditional use review**

(A) All principle uses set forth in subsection (B) of this section and uses accessory to those principle uses are permitted in the UD-II zoning district through a Type IIA procedure and the decision criteria in LCC 933.200 and 933.220.

(B) *Uses permitted through conditional use review.*

(1) One caretaker residence for a use permitted in LCC 929.820, subject to LCC 932.800 to 932.815.

(2) Accessory structures for uses permitted conditionally.

(3) Public and semi-public buildings and uses.

(4) Staging area, subject to LCC 932.700 to 932.770.

(5) Alteration, restoration, or replacement of a lawfully established dwelling requiring that the Director make a decision based on a review of information not limited to the development permit application.

[Adopted 98-002 §3 eff 3/4/98; amd 99-121 §10 eff 6/30/99]

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## **X. NON-RESOURCE (NR) ZONING DISTRICT**

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### **929.910 Statement of purpose**

(A) The purpose of the Non-resource (NR) zoning district shall be:

(1) To implement the Non-resource Plan designation.

(2) To permit low-density residential development in suitable locations while reducing potential conflicts with agriculture and forestry.

(B) The NR zoning district is composed of two zoning districts which are distinguished only by minimum property size standards.

(C) One non-resource zoning district is not interchangeable with another non-resource zoning district without approval through the procedural processes described in LCC 921.800 to 921.840 and the non-resource land policies in the *Comprehensive Plan*.

[Adopted04-043 §2 eff 4/28/04]

### **929.920 Non-resource uses allowed outright**

(A) All principle uses set forth in subsection (B) of this section, excluding manufactured dwellings used as storage buildings, and uses accessory to those principle uses are allowed outright in the NR zoning district.

(B) *Uses allowed outright*

(1) One single-family dwelling or one manufactured dwelling per authorized unit of land.

(2) Family day care provider.

(3) Residential home.

(4) Farm use.

(5) A building for the sale of agricultural products grown or raised on the premises. The

building shall not exceed 300 square feet in gross sales area.

#3 04-056 §1 eff 3/31/04

#4 04-043 §2 eff 4/28/04

(6) Cultivation, management, protection or harvest of forest crops but excluding timber processing operations or maintenance and repair facilities for timber vehicles or equipment.

(7) Transportation improvements.

[Adopted04-043 §2 eff 4/28/04]

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**929.930 Non-resource uses permitted through a Type IIA conditional use review**

(A) All principle uses set forth in subsection (B) of this section, excluding manufactured dwellings used as storage buildings, and uses accessory to those principle uses may be permitted in the NR zoning district through a Type IIA procedure and the decision criteria in LCC 933.200 and 933.220.

(B) *Uses permitted through conditional use review.*

(1) One medical hardship dwelling, subject to LCC 932.860 to 932.895.

(2) Accessory structures and uses for uses permitted conditionally.

(3) Home occupations, subject to LCC 932.830 to 932.845.

(4) Temporary facilities for the primary processing of forest products.

(5) Cemeteries.

(6) Public and semi-public buildings and uses.

(7) Utility facilities necessary for public service.

(8) Radio, television or telephone transmission or receiving facilities, but excluding transmission stations.

[Adopted04-043 §2 eff 4/28/04]

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**Statutory References and Authorities:**

ORS 197; 203; 215

**Legislative History of Chapter 929:**

Adopted 98-002 eff 3/4/98

Amendments to 98-002

#1 98-432 eff 10/21/98

#2 99-121 §10 eff 6/30/99

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# TITLE 9

## COMMUNITY DEVELOPMENT

### Subtitle 2 — Land Development Code Division 3 — Zoning Districts

#### CHAPTER 930

#### URBAN GROWTH AREA ZONE CODE

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#### Statutory References and Other Authorities

#### Legislative History of Chapter 930

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#### 930.005 Title; short title

This Chapter, LCC 930.005 to 930.000, shall be known and cited as the “Linn County Urban Growth Area Zone Code.” This Chapter may also be referred to and cited as the “Urban Growth Area Zone Code.”

[Adopted 98-002 §3 eff 3/4/98; amd 99-121 §11 eff 6/30/99]

#### 930.010 Compliance requirements

(A) Notwithstanding the presence or absence of any conditions, requirements, standards, or criteria with any use mentioned in this Chapter, all uses remain subject to any applicable conditions, requirements, standards, or criteria that may be set forth in other Chapters of the Land Development Code.

(B) The conditions, requirements, standards, and criteria are set forth generally in the following Chapters:

- (1) Decision criteria . . . . . Chaps 932, 933
- (2) Conditions . . . . . Chapter 933
- (3) Requirements . . . . . Chapter 933
- (4) Standards
  - (a) Property . . . . . Chapter 934
  - (b) Access . . . . . Chapter 935

(C) The conditional uses set forth in this Chapter are subject to approval pursuant to meeting the applicable requirements and decision criteria in LCC Chapter 933 (Conditions, Requirements, and Decision Criteria Code).

(D) Development of all properties in the Urban Growth Area Zone must comply with:

(1) the development standards set forth in LCC Chapter 934 (Development Standards Code), specifically 934.710 to 934.790; and

(2) Except as provided in LCC 924.100 (B), the access improvement standards set forth in LCC Chapter 935 are applicable to all principal and accessory uses permitted in the UGAZ.

(E) Development of any property in the UGAZ may have one or more conditions imposed on the permit.

[Adopted 98-002 §3 eff 3/4/98]

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**I. URBAN GROWTH AREA-EXCLUSIVE FARM USE-80 (UGA-EFU-80) ZONING DISTRICT**

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**930.100 Statement of purpose**

The 80-acre minimum parcel size of the Urban Growth Area-Exclusive Farm Use-80 (UGA-EFU-80) zoning district, is designed to protect areas adjacent to urban centers from the type and intensity of land division or development that would impede future urbanization of the area.

[Adopted 98-002 §3 eff 3/4/98]

**930.120 UGA-EFU-80 uses**

(A) The uses allowed outright in the EFU zoning district, excluding primary dwellings, are allowed outright in the UGA-EFU-80 zoning district.

(B) The uses permitted conditionally in the EFU, excluding primary dwellings, are permitted conditionally in the UGA-EFU-80 zoning district.

[Adopted 98-002 §3 eff 3/4/98]

**930.130 Decision criteria**

(A) Until annexation, the uses, minimum parcel size and development of land within an UGA-EFU-80 zoning district shall be consistent with the *Comprehensive Plan* designation of the affected city.

(B) All conditional uses in LCC 930.110 (B), will be subject to the review procedures established by LCC Chapter 921 (Administration of the Development Code), pursuant to decision criteria in LCC 933.250 to 933.260 and to review by the affected city to ensure compliance and compatibility with the city’s comprehensive plan, future city zoning designations and future city plans for provision of urban services to the area.

(c) Compliance with the city comprehensive plans is vital due to the importance of the UGA-EFU-80 zoning district to future city expansion and urbanization.

(D) Additional conditions or restrictions may be applied in accordance with County/City urban growth management agreement between the affected city and the County.

[Adopted 98-002 §3 eff 3/4/98]

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**II. URBAN GROWTH AREA-FARM/FOREST (UGA-F/F)**

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**930.200 Statement of purpose**

The Urban Growth Area Farm/Forest zoning district (UGA-F/F) is designed to protect areas adjacent to urban centers from the type and intensity of land division or development that would impede future urbanization of the area.

[Adopted 98-002 §3 eff 3/4/98]

**930.210 UGA-F/F uses**

(A) The uses allowed outright in the UGA-F/F zoning district are allowed outright in the UGA-EFU-80 zoning district.



(B) The uses permitted conditionally in the UGA–F/F are permitted conditionally in the UGA–EFU–80 zoning district.

[Adopted 98-002 §3 eff 3/4/98]

### 930.220 Decision criteria

(A) Until annexation by the city, the uses, minimum parcel size and development of land with an UGA–F/F zoning district shall be consistent with the *Comprehensive Plan* designation of the affected city.

(B) All conditional uses will be subject to the review procedures established in LCC Chapter 921 (Administration of the Development Code), pursuant to the decision criteria in LCC 933.250 to 933.260 and to review by the affected city to ensure compliance and compatibility with the city’s comprehensive plan, future city zoning designations and future city plans for provision of urban services to the area.

(C) Compliance with the city comprehensive plans is vital due to the importance of the UGA–F/F zoning district to future city expansion and urbanization.

(D) Additional conditions or restrictions may be applied in accordance with County/City urban growth management agreement between the affected city and the County.

[Adopted 98-002 §3 eff 3/4/98]

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## III. URBAN GROWTH AREA–HEAVY INDUSTRIAL (UGA–HI) ZONING DISTRICT

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### 930.300 Statement of purpose

(A) The purpose of the Urban Growth Area–Heavy Industrial (UGA–HI) zoning district is to provide areas appropriate for heavy industrial development which does not require full urban services.

(B) The designation allows manufacturing and related businesses which have the potential for conflicts with surrounding land uses.

[Adopted 98-002 §3 eff 3/4/98]

### 930.310 UGA–HI uses allowed outright

Any use allowed in LCC 930.410.

[Adopted 98-002 §3 eff 3/4/98; amd 98-432 §2 eff 10/21/98]

### 930.320 UGA–HI uses permitted through an Type IIA conditional use review

(a) The uses set forth in this section, including principal and accessory buildings, may be permitted in the UGA–HI zoning district subject to a Type IIA conditional use permit review process, if the decision criteria in LCC 933.250 to 933.260 are met.

(B) Additional conditions or restrictions may be applied in accordance with the County/City urban growth management agreement between the affected city and the County.

(C) *Uses permitted through conditional review.*

(1) Any use permitted in LCC 930.420.

(2) The manufacturing, compounding, processing, assembling, packaging, treatment or fabrication of products conducted fully or partially outside.

(3) Commercial retail sales/services integral to a use permitted in paragraph (1) of this subsection.

(4) One caretaker residence for a use permitted in LCC 930.430, subject to LCC 932.800 to 932.815.

(5) Slaughterhouses or rendering plants.

(6) Solid waste disposal sites, subject to LCC 932.500 to 932.580.

(7) Utility or energy-generating facilities.

(8) Fuel distribution facility.

(9) Storage of highly combustible, corrosive, toxic or explosive materials.

(10) Wrecking yard or junkyard.

(11) Staging areas, subject to LCC 932.700 to 932.770.

(12) Public-use airports.

[Adopted 98-002 §3 eff 3/4/98; amd 98-432 §2 eff 10/21/98]

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## IV. URBAN GROWTH AREA–LIMITED INDUSTRIAL (UGA–LI) ZONING DISTRICT

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### 930.400 Statement of purpose

(A) The purpose of the Urban Growth Area–Limited Industrial (UGA–LI) zoning district is to provide areas appropriate for limited industrial development which do not require full urban services.

(B) The designation allows manufacturing and related businesses with limited external impacts and limited potential for conflicts with surrounding land uses.

[Adopted 98-002 §3 eff 3/4/98]

### 930.410 UGA–LI uses allowed outright

(A) The uses set forth in subsection (B) are allowed outright in the UGA–LI zoning district.

(B) *Uses allowed outright.*

(1) Limited farm use.

(2) The managing and harvesting of forest resources but excluding primary timber processing.

(3) An existing site-built dwelling lawfully established on an authorized unit of land may be altered, expanded, or replaced with

(a) another site-built, or

(b) a manufactured home subject to LCC 934.790.

(4) An existing manufactured dwelling lawfully established on an authorized unit of land may be altered, expanded, or replaced with a manufactured home subject to LCC 934.790.

(5) Sales stand not to exceed 300 square feet in sales area for agricultural products cultivated or raised on the premises.

(6) Accessory structures and uses.

[Adopted 98-002 §3 eff 3/4/98]

### 930.420 UGA–LI uses permitted through Type IIA conditional use review

(A) The uses set forth in subsection (D), including principal and accessory buildings, may be permitted in the UGA–LI zoning district

subject to a Type IIA conditional use permit review process, if the decision criteria in LCC 933.260 are met.

(B) The operations of all uses permitted by this section are to be conducted entirely within an enclosed building except for storage of inventory and temporary activities which by necessity must be conducted in the open.

(C) The uses permitted by subsection (D) are subject to conditions or restrictions that may be applied in accordance with County/City urban growth management agreements.

(D) *Uses permitted through conditional review.*

(1) The manufacturing, compounding, processing, assembling, packaging, treatment or fabrication of products conducted wholly indoors and excluding slaughterhouses, rendering plants and canneries.

(2) General laboratories or research facilities.

(3) Retail sales or services integral to uses permitted in paragraphs (1) or (2) of this subsection.

(4) Warehousing or storage buildings including “mini-storage” facilities.

(5) Wholesale distribution facilities.

(6) Gas stations.

(7) Sales, rental, storage or repair (including paint and body shops) of motorized vehicles or boats.

(8) Sales, rental, storage or repair of agricultural equipment or heavy equipment.

(9) Lumber or other building material sales yard, either wholesale or retail.

(10) Nurseries, either wholesale or retail.

(11) Offices, shops or storage associated with contracting or professional services.

(12) One caretaker residence for a use permitted in this section, subject to LCC 932.800 to 932.815.

(13) Truck, train, bus or freight terminals.

(14) Communication or utility facilities except facilities for power generation and transmission towers.

(15) Public and semi-public buildings and uses.

(16) Auction houses and flea markets.

(17) Veterinarian clinics.

(18) Personal use airports. (See **personal-use airports** in LCC 920.100 for exceptions)

(19) Public-use airports.

[Adopted 98-002 §3 eff 3/4/98; amd 98-432 §2 eff 10/21/98]

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## V. URBAN GROWTH AREA–RURAL COMMERCIAL (UGA–RCM) ZONING DISTRICT

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### 930.500 Statement of purpose and implementation

(A) The Urban Growth Area–Rural Commercial (UGA–RCM) zoning district is designed to protect areas adjacent to urban centers from the type and intensity of land division or development that would impede future urbanization of the area.

(B) Until annexation, the uses, minimum property size and development of land within an UGA–RCM zoning district shall be consistent with the *Comprehensive Plan* designation of the affected city.

### 930.510 UGA–RCM uses

(A) The uses set forth in LCC 929.420 are allowed outright in the UGA–RCM.

(B) The uses permitted in LCC 929.430 are permitted in the UGA–RCM.

[Adopted 98-002 §3 eff 3/4/98]

### 930.520 Decision criteria

(A) All conditional uses set forth in LCC 930.510 (B) will be subject to the review procedures established in LCC Chapter 921 (Administration of the Development Code) pursuant to decision criteria in LCC 933.250 to 933.260.

(B) The use will also be reviewed by the affected city to ensure compliance and compatibility with the city’s comprehensive plan, future city zoning designations and future city plans for provision of urban services to the area.

(C) Compliance with the city comprehensive plans is vital due to the importance of the UGA–RCM zoning district to future city expansion and urbanization.

(D) Additional conditions or restrictions may be applied in accordance with the County/City urban growth management agreement between the affected city and the County.

[Adopted 98-002 §3 eff 3/4/98]

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## VI. URBAN GROWTH AREA–RURAL RESIDENTIAL (UGA–RR) ZONING DISTRICT

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### 930.600 Statement of purpose

(A) The purpose of the Urban Growth Area–Rural Residential (UGA–RR) zoning district shall be to provide for residential development within adopted urban growth boundaries and to allow for limited agricultural and forest uses where appropriate.

(B) The UGA–RR zoning district is composed of three zoning districts (UGA–RR–1, UGA–RR–2½ and UGA–RR–5) which are distinguished only by property size standards.

(C) One density UGA–RR zoning district is not interchangeable with another density UGA–RR zoning district without prior review and approval by the affected city and Linn County.

[Adopted 98-002 §3 eff 3/4/98]

### 930.610 UGA–RR uses allowed outright

(A) The uses set forth in subsection (B) and their accessory buildings and uses, excluding manufactured structures used as storage buildings, are allowed outright in the UGA–RR zoning district.

(B) *Use allowed outright.*

(1) One single-family dwelling or one manufactured home per authorized unit of land, subject to LCC 934.790.

(2) Limited farm use.

(3) Cultivation, management, protection, and harvest of forest crops but excluding timber processing operations or maintenance and repair facilities for timber vehicles or equipment.

(4) Buildings not to exceed 300 square feet in gross sales area for the sale of agricultural products grown or raised on the premises.

(5) Expansion of a church, public or private school, or community center owned or operated by a governmental agency or private nonprofit community organization which has been lawfully established on an authorized unit of land, provided such expansion does not exceed 50 percent of the gross floor area of the structure or 2,000 square feet, whichever is greater.

(6) Residential home.

(7) Family day care provider.

[Adopted 98-002 §3 eff 3/4/98]

### **930.620 UGA-RR uses permitted through a Type IIA conditional use review**

(A) The uses set forth in subsection (B) and their accessory buildings and uses, excluding manufactured structures used as storage buildings, may be permitted in the UGA-RR through a Type IIA procedure, if the decision criteria in LCC 933.250 to 933.260 for a conditional use review, and other provisions, as appropriate, are met.

(B) Uses *permitted through conditional review*.

(1) One medical hardship dwelling, subject to LCC 932.860 to 932.895.

(2) Home occupations, subject to LCC 932.800 to 932.815.

(3) Temporary facilities for the primary processing of forest products.

(4) The breeding, boarding and training of horses for profit.

(5) Cemeteries.

(6) Public and semi-public buildings and uses.

(7) Utility facilities necessary for public service.

(8) Radio, television or telephone transmission or receiving facilities, but excluding transmission stations.

(9) Infilling an existing manufactured dwelling park subject to LCC 932.600 to 932.680.

(10) Public or private schools.

(11) Churches.

(12) Parks, playgrounds, hunting and fishing preserves.

(13) Community centers owned and operated by a governmental agency or a nonprofit community organization.

[Adopted 98-002 §3 eff 3/4/98; amd 99-121 §11 eff 6/30/99]

### **930.630 Decision criteria**

(A) All conditional uses will be subject to the review by the affected city to ensure compliance and compatibility with the city's comprehensive plan, future city zoning designations and future city plans for provision of urban services to the area.

(B) Compliance with the city comprehensive plans is vital due to the importance of the UGA-RR zoning district to future city expansion and urbanization.

(C) Additional conditions or restrictions may be applied in accordance with the County/City urban growth management agreement between the affected city and the County.

[Adopted 98-002 §3 eff 3/4/98]

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**VII. URBAN GROWTH AREA—URBAN  
GROWTH MANAGEMENT (UGA—UGM)  
ZONING DISTRICTS**

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**930.700 Statement of purpose**

(A) The Urban Growth Area—Urban Growth Management (UGA—UGM) zoning districts are designated zoning district within an urban growth area (UGA).

(B) The intention of the zoning district is to protect the UGA land for future urban density development.

(C) UGA—UGM zoning allows limited low-density and moderate-scale uses until more intensive urban-scale land use activity occurs in conjunction with city annexation or delayed annexation.

(D) The UGA—UGM zoning district is composed of four zoning districts (UGM—2½, UGM—5, UGM—10, and UGM—20) which are distinguished only by their property size standards.

(E) The density of one UGA—UGM zoning district is not interchangeable with the density of another UGA—UGM zoning district without prior review and approval by the affected city and Linn County.

[Adopted 98-002 §3 eff 3/4/98]

**930.710 UGA—UGM uses allowed outright**

(A) The uses set forth in subsection (B), excluding manufactured structures used as storage buildings, are allowed outright in the UGA—UGM zoning district.

(B) *Uses allowed outright.*

(1) Limited farm use.

(2) The managing and harvesting of forest resources but excluding primary timber processing.

(3) An existing site-built dwelling lawfully established on an authorized unit of land may be altered, expanded, or replaced with

(a) another site-built, or

(b) a manufactured home subject to LCC 934.790.

(4) An existing manufactured dwelling lawfully established on an authorized unit of land may be altered, expanded, or replaced with a manufactured home subject to LCC 934.790.

(5) Sales stand not to exceed 300 square feet in sales area for agricultural products cultivated or raised on the premises.

(6) Accessory structures and uses, except for manufactured dwellings used as storage buildings.

(7) Family day care provider.

[Adopted 98-002 §3 eff 3/4/98]

**930.720 UGA—UGM uses permitted through a Type IIA conditional use review**

(A) The uses set forth in this section, including principal and accessory buildings, may be permitted in the UGA—UGM zoning district subject through a Type IIA conditional use permit review process, if the decision criteria in LCC 933.250 to 933.260, and other provisions, as appropriate, are met.

(B) *Uses permitted through conditional review.*

(1) One, single-family site-built dwelling or manufactured home, subject to LCC 934.790, located on an authorized unit of land and within an area designated for future residential development in the city's comprehensive plan.

(2) One medical hardship dwelling, subject to LCC 932.860 to 932.895.

(3) Public and semi-public buildings and uses.

(4) Expansion of lawfully established public or semi-public buildings or uses, provided the expansion does not exceed 50 percent of the gross floor area of the structure or 2,000 square feet, whichever is greater.

(5) Residential home provided that the residence will be located within an area desig-

nated for future residential or commercial development in the city's comprehensive plan

(6) Home occupations, subject to LCC 932.800 to 932.815.

(7) Communication or utility facilities except facilities for power generation and transmission towers.

(8) Alteration, restoration, or replacement of a lawfully established dwelling requiring that the Director make a decision based on a review of information not limited to the development permit application.

[Adopted 98-002 §3 eff 3/4/98; amd 99-121 §11 eff 6/30/99]

### **930.730 Decision criteria**

(A) Additional conditions or restrictions may be applied in accordance with County/City urban growth management agreements between the cities and the County.

(B) All conditional uses will be subject to review by the affected city to ensure compliance and compatibility with the affected city's comprehensive plan, future city zoning designations and future city plans for provision of urban services to the area.

(C) Compliance with the city comprehensive plan is vital due to the importance of the UGA-UGM zoning district to future city expansion and urbanization.

[Adopted 98-002 §3 eff 3/4/98]

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### **Statutory References and Other Authorities:**

ORS 197; 203; 215

### **Legislative History of Chapter 930:**

Adopted 98-002 eff 3/4/98

Amendments to 98-002

#1 98-432 eff 10/21/98

#2 99-121 §11 eff 6/30/99

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# TITLE 9

## COMMUNITY DEVELOPMENT

### Subtitle 2 — Land Development Code Division 3 — Zoning Districts

#### CHAPTER 931 OVERLAY CODE

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**Statutory References and Other Authorities**

**Legislative History of Chapter 931**

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**931.005 Title; short title**

This Chapter, LCC 931.005 to 931.999, shall be known and cited as the “Linn County Overlay Code.” This Chapter may also be referred to and cited as the “Overlay Code.”

[Adopted 98-002 §3 eff 3/4/98; amd 99-121 §12 eff 6/30/99]

**931.010 Compliance requirements**

(A) Notwithstanding the presence or absence of any conditions, requirements, standards, or criteria with any use mentioned in this Chapter, all uses remain subject to any applicable conditions, requirements, standards, or criteria that may be set forth in other Chapters of the Land Development Code.

(B) The conditions, requirements, standards, and criteria are set forth generally in the following Chapters:

- (1) Decision criteria Chapters 932, 933
- (2) Conditions . . . . . Chapter 933
- (3) Requirements . . . . . Chapter 933
- (4) Standards
  - (a) Property . . . . . Chapter 934
  - (b) Access . . . . . Chapter 935

(C) The conditional uses set forth in this Chapter are subject to approval pursuant to meeting the applicable requirements and decision criteria in LCC Chapter 933 (Conditions, Requirements, and Decision Criteria Code).

(D) Development of a property within an Overlay must comply with:

- (1) any specific development standards of the underlying zoning district;

(2) the development standards set forth in LCC Chapter 934 (Development Standards Code); and

(3) except as provided in LCC 924.100 (B), the access improvement standards set forth in LCC Chapter 935 are applicable to all principal and accessory uses permitted in the Overlay.

(4) Development of any property in the Overlay may have one or more conditions imposed on the permit.

[Adopted 98-002 §3 eff 3/4/98]

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**I. AIRPORT OVERLAY (AO)**

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**931.100 Subchapter title**

This Subchapter, LCC 931.100 to 931.199, shall be known and may be cited as the “Linn County Airport Overlay Code” or simply as the “Airport Overlay Code.”

[Adopted 99-121 §12 eff 6/30/99]

**931.105 Statement of purpose**

The purpose of this Subchapter is:

(A) to prevent the establishment of air space obstructions near public use airports set forth in LCC 931.020, and

(B) to assure compatibility between the use of the airport and surrounding land uses.

[Adopted 98-002 §3 eff 3/4/98; amd 99-121 §12 eff 6/30/99]

**931.110 AO; application of overlay**

(A) The AO shall apply to boundaries of the airports set forth in subsection (B), except for areas within a city limit, as shown in the figures accompanying this Chapter.

(B) *AO airports.*

- (1) Albany Airport,
- (2) Lebanon Airport,
- (3) Davis Airport,
- (4) Daniels Field Airport,
- (5) Santiam Junction Airport, and
- (6) Green Trees Ranch Airport.

(C) The AO shall also apply to any future public use airports.

[Adopted 98-002 §3 eff 3/4/98]



### **931.130 AO; permit approval procedures**

(A) Approval of an Airport Overlay shall comply with the decision criteria set forth in subsection (B) of this section.

#### **(B) Decision criteria.**

(1) Any development within the AO shall be reviewed by the Director for conformance to prescribed height and use standards. If conformance is not shown, then zoning and building approval shall not be given.

(2) The applicant shall provide proof that the proposed use is built and designed to minimize noise impacts.

(3) The applicant shall provide proof that the proposed use is not in violation of any easement established by the Oregon Aeronautics Division.

(4) A land use denial from the Director may be appealed through provisions in LCC Chapter 921 (Administration of the Land Development Code).

(5) A variance to the standards of LCC 931.100 to 931.140 may be sought through provisions in LCC Chapter 938 (Variance Procedure Code). In addition to others entitled to notice, the airport owner and Oregon Aeronautics Division shall be asked to comment on the variance application.

(6) Any land use allowed under any other zoning district which will be located in an approach zone shall be considered a conditional use and reviewed under provisions of LCC 933.200 to 933.220 or 933.250 to 933.260. In addition to others entitled to notice, the airport owner and Oregon Aeronautics Division shall be asked to comment on the proposal.

(7) As a condition of approval for a variance or conditional use, a hold-harmless agreement, noise easement, and/or aviation and hazard easement may be required.

(8) *Regulations Not Retroactive.* The regulations prescribed by LCC 931.100 to 931.140 shall not be construed to require the removal, lowering or other change or alteration of any structure or tree not conforming to the regulations as of the effective date of LCC 931.100 to

931.140 or otherwise interfere with the continuance of non-conforming use. Nothing contained herein shall require any change in the construction, alteration or intended use of any structure, the construction or alteration of which was begun prior to the effective date of LCC 931.100 to 931.140, and which is being diligently performed.

[Adopted 98-002 §3 eff 3/4/98]

### **931.140 AO; property development standards**

Development of all properties in the AO must comply with the development standards set forth in LCC Chapter 934 (Development Standards Code) and specifically 934.800, and also to any specific standards applicable to the underlying zoning district.

[Adopted 98-002 §3 eff 3/4/98]

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## **II. DELAYED ANNEXATION OVERLAY (DAO)**

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### **931.200 Subchapter title**

This Subchapter, LCC 931.200 to 931.299, shall be known and may be cited as the “Linn County Delayed Annexation Overlay Code” or simply as the “Delayed Annexation Overlay Code.”

[Adopted 99-121 §12 eff 6/30/99]

### **931.205 Statement of purpose**

The purpose of this Subchapter shall be to provide for the orderly and logical development of specific commercial and industrial projects within an urban growth area when such projects have been authorized as a part of a jointly-adopted Urban Growth Management Agreement between the affected city and Linn County.

[Adopted 98-002 §3 eff 3/4/98; amd 99-121 §12 eff 6/30/99]

### **931.220 DAO; application of overlay**

(A) *Establishment of Zoning Map Overlay Designations.* Upon establishment or amendment of an Urban Growth Management Agreement between a city and the county which provides for delayed annexations, an overlay map shall be adopted indicating county zoning with the applicable city zone designations as a suffix.

(B) All overlay map designations shall be consistent with the adopted *Comprehensive Plan* designations for the area.

[Adopted 98-002 §3 eff 3/4/98]

### **931.230 DAO; uses permitted**

(A) *Permitted Uses.* Any commercial or industrial use allowed within the applicable city zoning designation shall be permitted subject to:

(1) the procedures set forth in LCC 931.260, and

(2) further restrictions and standards which are consistent with the city comprehensive plan and city and county ordinance provisions may be established jointly by the county and city.

[Adopted 98-002 §3 eff 3/4/98]

### **931.240 DAO; property development standards**

(A) *Property Development Standards.* Property development standards shall be determined by both the city and county as part of the review process described in LCC 931.260. The city implementing ordinances shall be used except when both the city and county agree to the use of other standards prior to annexation and where the applicant has provided assurances of meeting city standards upon annexation.

(B) Development of all properties in the DAO must comply with the development standards set forth in LCC Chapter 934 (Development Standards Code) and also to any specific standards applicable to the underlying zoning district.

[Adopted 98-002 §3 eff 3/4/98]

### **931.250 DAO; annexation agreement**

(A) *Provision of Services.* Except as otherwise or further stipulated in an Urban Growth Boundary Management Agreement, each delayed annexation agreement shall include resolution of the following additional considerations:

(1) *Maintenance of site improvements.* The city shall maintain all public improvements (such as sanitary sewer trunk lines and storm drainage improvement and maintenance) and require that provisions for maintenance of private

improvements (such as landscaping) are included in the delayed annexation agreement;

(2) *Roads (new construction).* All roads to be constructed shall be designed to meet city standards and shall be accepted into the city road system upon annexation unless otherwise agreed to by the city and county. Maintenance of such roads by the city shall commence upon completion of such roads unless otherwise agreed to by the city and county;

(3) *Other services.* The need for any additional services or special improvements (for example, security, installation of signals, railroad crossings) shall be considered during the review process described in LCC 931.260 and shall be negotiated between the city, county and the applicant; and

(4) *Site inspection, fees and plans .* All fees and inspections shall go to the agency providing the primary service unless otherwise stipulated in the delayed annexation agreement.

[Adopted 98-002 §3 eff 3/4/98]

### **931.260 DAO; review procedure**

(A) *Delayed Annexation Development Review.* Proposals for commercial and industrial developments within an urban growth area where the city and county have agreed to a delayed annexation procedure shall be subject to the application procedures specified in this section.

(B) *Time Limits.* Except as modified in this subsection, final action on a Delayed Annexation Overlay map designation application shall be taken within 120 calendar days after the application is deemed complete.

(1) If an application is incomplete, city. notify the applicant of exactly what information is missing and shall give the applicant 30 days from the time the application was first received to submit the missing information.

(2) The 120-day time period specified in this section may be extended by the city and county for a reasonable period of time at the request of the applicant.

(C) *Filing of Applications.* Applications for delayed annexations shall be filed with the af-

affected city in a manner prescribed by the city. Plans for development of the property as may be required by the city shall be submitted for review. The city shall next process the application in accordance with applicable city standards and procedures.

(D) *Review of Applications by City and County.*

(1) Within 7 calendar days of receipt of a delayed annexation application, the city shall transmit a copy of the application and all attachments to the Linn County Planning and Building Department.

(2) Within 14 calendar days of receipt of the application, the city shall hold a meeting of representatives of the city, county and applicant to review the application.

(3) The proposal shall be subject to further review by the city and the county using applicable city plan policies and ordinance standards as the basis for review.

(E) *Action by City and County Planning Directors.* The city and county planning directors may take any of the following actions on a delayed annexation application:

(1) The application may be approved when it is consistent with applicable city comprehensive plan policies and ordinance provisions.

(2) The application may be denied when the proposal is not consistent with applicable city comprehensive plan policies and ordinance provisions.

(3) The application may be referred to a public hearing to be conducted jointly by the city council and Board. The decision to refer the matter to public hearing shall be based upon one of the following: disagreement between city and county staff as to the proper action to be taken on the proposal; a determination that there are major policy issues related to the proposal; or a determination that the scope of the proposal has significant large-scale impacts affecting the city, the urbanizing area or the county.

(F) *Public Notice of Director Decision to Approve or Deny the Application.* If the city and county planning directors either approve or deny

the request, notice of the staff decision shall be mailed to the applicant and to all owners of property according to procedures as required by the city for conventional annexations. The notice shall afford these parties an opportunity to appeal within 14 calendar days of the date of the decision.

(G) *Notice of Director Decision to Governing Bodies.* Determination of Need for Hearing. Notice of the planning director's decision to approve or deny the application shall be sent to the city council and to the Board. Within 21 calendar days of the date the staff decision was made, either governing body may make a determination that a joint city-county hearing is necessary and take the necessary steps to initiate the hearing.

(H) *Circumstances Under Which Director Decision is Final.* If a joint city-county public hearing is not called for through an appeal or a staff or governing body determination, the decision of city and county planning directors to approve or deny the application shall be final 21 calendar days following the decision date.

(I) *Joint Public Hearing by City and County Governing Bodies.*

(1) Appeal of a planning director decision or determination by either the planning directors or one of the governing bodies that such a hearing is necessary shall result in a public hearing on the delayed annexation proposal to be conducted jointly by the city council and Board.

(2) Notice of the joint public hearing shall be mailed to the applicant and to all nearby owners of property according to procedures as established by the city for conventional annexations. Notice shall also be published in a newspaper of general circulation in the affected city.

(J) *Decision by City and County Governing Bodies.*

(1) At the conclusion of the joint city-county public hearing, the city council and the Board shall render a decision.

(2) If the request for delayed annexation is approved by both jurisdictions, the city shall develop a delayed annexation contract which shall

become effective upon signing by the applicant, the landowner, the city council and the Board.

(3) If the decision of the two governing bodies is not the same, the delayed annexation request shall not be approved.

[Adopted 98-002 §3 eff 3/4/98]

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### III. HISTORIC RESOURCE OVERLAY (HRO)

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#### 931.300 Subchapter title

This Subchapter, LCC 931.300 to 931.399, shall be known and may be cited as the “Linn County Historic Resource Overlay Code” or simply as the “Historic Resource Overlay Code.”

[Adopted 99-121 §12 eff 6/30/99]

#### 931.305 Purpose

The purpose of this Subchapter LCC is to encourage continued use, rehabilitation and preservation of significant historic properties by allowing flexibility in zoning regulations which affect significant historic properties.

[Adopted 98-002 §3 eff 3/4/98; amd 99-121 §12 eff 6/30/99]

#### 931.320 HRO; relationship between Commission and Historic Resource Commission

An application for a land use action involving an historic property as defined in ORS 358.480, will be reviewed and decided in the order and manner set forth in LCC 921.700 to 921.750.

[Adopted 98-002 §3 eff 3/4/98]

#### 931.330 HRO; application of overlay

(A) The Historic Resource Overlay may apply to any authorized unit of land where an historic property listed in the National Register of Historic Places is located.

(B) The application of the HRO to an underlying zoning district shall be subject to the applicable provisions of LCC 921.700 to 921.750.

[Adopted 98-002 §3 eff 3/4/98]

#### 931.340 HRO; uses allowed outright

The uses set forth in this section are allowed outright in the HRO.

(A) Farm uses.

(B) Cultivation, management, protection and harvest of forest crops but excluding primary timber processing operations or maintenance and repair facilities for timber vehicles or equipment.

[Adopted 98-002 §3 eff 3/4/98]

#### 931.350 HRO; uses permitted through a Type IIB conditional use review

Any use not set forth in LCC 931.340 is a Type IIA conditional use in the HRO and may be permitted subject to the applicable provisions of LCC Chapter 921 (Administration of the Land Development Code) and decision criteria contained in LCC 933.200 to 933.220 or 931.250 to 931.260.

[Adopted 98-002 §3 eff 3/4/98]

#### 931.360 HRO; decision criteria for uses permitted conditionally

(A) A conditional use permit must first be reviewed and approved by the Planning Commission and made subject to review and approval by the HRC that the decision criteria set forth in subsection (B) and, if applicable, the conditions set forth in subsection (C) are met.

(B) *Decision criteria.*

(1) The use will be consistent with the purpose statement of the HRO; and

(2) The use will not destroy or detract from the distinguishing character or qualities of the property and will be compatible with its historic and architectural integrity.

(C) *Conditions.* When an historic property which is not habitable or which has been used for non-dwelling purposes is proposed to be rehabilitated for or converted to a dwelling, its establishment as a dwelling will require as a condition of approval by the hearing authority that any exterior alteration shall be reviewed and approved by the HRC before they are initiated.

[Adopted 98-002 §3 eff 3/4/98]

#### 931.370 HRO; alteration of property

(A) Proposed alterations of properties located in the HRO and listed in the *National Register of Historic Resources* shall be reviewed by the Historic Resource Commission according to the

procedures of LCC Chapter 921 (Administration of the Land Development Code).

(B) This section also applies to properties previously designated HRO.

(C) The Historic Resource Commission shall approve, approve with conditions or deny such proposed alterations according to a determination based on the standards of LCC 932.900 to 932.990 as to whether the alterations will destroy or detract from the distinguishing architectural and historic character and qualities of the property.

[Adopted 98-002 §3 eff 3/4/98]

### **931.380 HRO; property development standards**

Development of all properties in the HRO must comply with the development standards set forth in LCC Chapter 934 (Development Standards Code) and also to any specific standards applicable to the underlying zoning district.

[Adopted 98-002 §3 eff 3/4/98]

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## **IV. LIMITED USE OVERLAY (LUO)**

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### **931.400 Subchapter title**

This Subchapter, LCC 931.400 to 931.499, shall be known and may be cited as the “Linn County Limited Use Overlay Code” or simply as the “Limited Use Overlay Code.”

[Adopted 99-121 §12 eff 6/30/99]

### **931.405 Statement of purpose**

(A) The purpose of this Subchapter is to identify property which has been approved for development through a *Comprehensive Plan* amendment and reasons exception (through provisions in ORS 197.732 and OAR 660-004-020 and 022).

(B) The LUO is intended to permit land uses which have been approved through an amendment and exception and to limit the site to the specific uses which have been approved.

(C) The LUO shall apply to the property until the overlay is removed through the plan amendment process.

[Adopted 98-002 §3 eff 3/4/98; amd 99-121 §12 eff 6/30/99]

### **931.410 LUO; application of overlay**

(A) The following uses are allowed or permitted in the LUO:

(1) Those land uses allowed outright within the Freeway Interchange Commercial (FIC) zoning district; and

(2) Those land uses permitted conditionally within the Freeway Interchange Commercial (FIC) zoning district if approved.

(B) The Limited Use Overlay has been applied to the property more specifically described as follows or as remapped by the Assessor’s Office:

(1) T15S, R3W, Section 9, Tax-lots 200, 203, 206, 207, 209, and 210 (Sherman Brothers Heavy Trucking).

(2) T14S, R3W, Section 4, Tax-lot 200 (Pioneer Villa).

(3) T11S, R4W, Section 33D, Tax Lot 1500 (Cushman Road).

[Adopted 98-002 §3 eff 3/4/98; amd 98-432 §2 eff 10/21/98; amd 00-311 §2 eff 6/28/00; amd 00-525 §2 eff 9/20/00]

### **931.420 LUO; additional uses permitted outright on specific LUO properties**

(A) The following structures and uses and their accessory buildings and accessory uses are allowed outright on the properties set forth in LCC 931.410 (B) (1):

(1) An office building limited to the use by Sherman Brothers Heavy Trucking.

(2) A shop building.

(3) A truck fueling facility.

(4) Truck and trailer parking bays.

(5) An employee parking area.

(6) The provision of auto or truck repair or fueling services to autos and trucks owned or leased by Sherman Brothers Heavy Trucking.

(B) The following structures and uses and their accessory buildings and accessory uses are allowed outright on the properties set forth in LCC 931.410 (B) (2):

(1) Motel;

(2) Restaurant;

(3) Mini-market;

- (4) Gas and diesel fueling stations;
- (5) Vehicle repair shop;
- (6) Vehicle and truck parking;
- (7) Caretaker dwellings; and
- (8) Accessory uses to paragraphs (1) to (7) of this subsection.

(C) Notwithstanding the uses identified in LCC 931.410 (A), the following uses and their accessory buildings and accessory uses are allowed outright or permitted conditionally on the properties set forth in LCC 931.410 (B) (3):

- (1) Those land uses allowed outright within the Limited Industrial (LI) zone;
- (2) Those land uses permitted conditionally within the Limited Industrial (LI) zone if approved; and
- (3) A manufactured home sales lot.

[Adopted 98-002 §3 eff 3/4/98; amd 98-432 §2 eff 10/21/09; amd 00-311 §3 eff 6/28/00; amd 00-525 §3 eff 9/20/00]

**931.430 LUO; property development standards**

Development of all properties in the LUO must comply with the development standards set forth in LCC Chapter 934 (Development Standards Code) and also to any specific standards applicable to the underlying zoning district.

[Adopted 98-002 §3 eff 3/4/98]

**931.440 LUO; uses permitted in the LUO by an approved exception; generally**

(A) The land uses set forth in subsection (B) of this section are permitted in the LUO.

(B) *Use permitted.*

- (1) The land use or uses which have been approved through the goal exception process.
- (2) Farm use.
- (3) Cultivation, management, protection and harvest of forest crops, excluding location of structures.

(4) Those uses allowed outright or permitted conditionally within the Freeway Interchange Commercial (FIC) zoning district.

[Adopted 98-002 §3 eff 3/4/98]

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**V. SENSITIVE BIRD HABITAT OVERLAY  
(SBHO)**

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**931.500 Subchapter title**

This Subchapter, LCC 931.500 to 931.599, shall be known and may be cited as the “Linn County Sensitive Bird Habitat Overlay Code” or simply as the “Sensitive Bird Habitat Overlay Code.”

[Adopted 99-121 §12 eff 6/30/99]

**931.505 Statement of purpose**

(A) The purpose of this Subchapter is to protect sensitive habitats in addition to those protected by other programs such as the Willamette River Greenway program or the cooperative agreement between the Oregon Fish and Wildlife Commission and the Oregon Board of Forestry.

(B) The protected habitats are identified as critical for the survival of the Northern Bald Eagle, Osprey, Great Blue Heron and Band-tailed Pigeon.

(C) Habitat protection shall be achieved through the use of site-specific management plans that insure proposed uses and activities will neither destroy nor result in the abandonment of sensitive bird habitat areas.

[Adopted 98-002 §3 eff 3/4/98]

**931.520 Sensitive bird habitat defined**

(A) The habitats set forth in subsection (B) of this section are defined as sensitive bird habitats and are identified as resource sites in the Goal 5 Inventory Element of the *Comprehensive Plan* background report entitled *Open Spaces, Scenic and Historic Areas and Natural Resources*

(B) *Sensitive bird habitats.*

- (1) Northern Bald Eagle nests and roosts,
- (2) Osprey nests,
- (3) Great Blue Heron rookeries, and
- (4) Band-tailed Pigeon mineral springs.

(C) Unless alternatively identified by using cultural boundaries, waterways or topography, an established Sensitive Bird Habitat Overlay shall include land within:

- (1) ¼ mile of a Bald Eagle nest or roosting site;

- (2) ¼ mile of an Osprey nest;
- (3) 600 feet of a Great Blue Heron rookery; or
- (4) 600 feet of a Band-tailed Pigeon mineral spring.

[Adopted 98-002 §3 eff 3/4/98]

**931.530 SBHO; development permit review required**

All development permit requests submitted for land within a designated Sensitive Bird Habitat Overlay shall be considered as having a potential impact on the habitat. Such a request shall be subject to the requirements established in LCC 931.540.

[Adopted 98-002 §3 eff 3/4/98]

**931.540 SBHO; review procedure and protection requirements**

(A) A development permit in an area protected with a Sensitive Bird Habitat Overlay shall initiate the review process set forth in subsection (B).

(B) *SBHO review procedure.*

(1) Linn County shall notify the Oregon Department of Fish and Wildlife (ODFW) of the proposal within seven days of the permit request. ODFW shall review the request and submit a determination of impact report to Linn County within 14 days. The report shall include ODFW’s perceived consequences of allowing the proposed development to occur. No response during that period will be taken as a determination of no impact. If a submitted report identifies an impact, no development permit will be issued for at least 21 days.

(2) ODFW’s submission of a report establishing an impact shall be based upon either:

(a) Findings showing the development proposal would be located within 660 feet of a Northern Bald Eagle nest or roosting site or an Osprey nest; or within 300 feet of a Great Blue Heron rookery or a Band-tailed Pigeon mineral spring; or

(b) Findings showing, due to unique site conditions such as topography, that a development proposal outside the area established in (1)

above but within the overlay will impact the habitat. ODFW shall provide the basis for such a finding in its determination of impact report.

(3) A site-specific habitat management plan shall be submitted to the Department by ODFW within 14 days of the determination-of-impact report. The plan shall consider nesting trees, critical nesting periods, roosting sites and buffer areas. It shall also identify measures that would specifically limit the proposed use in a manner consistent with LCC 931.500. ODFW may consult with the permit applicant, site land-owners and other persons and agencies while developing the management plan.

(4) The Department shall review the applicant’s development plan, ODFW’s habitat management plan, and other relevant information. The Department shall either establish conditions of permit issuance assuring that the proposed use will neither destroy nor result in bird abandonment of the habitat area or shall deny permit issuance.

[Adopted 98-002 §3 eff 3/4/98]

**931.550 SBHO; property development standards**

Development of all properties in the SBHO must comply with the development standards set forth in LCC Chapter 934 (Development Standards Code) and also to any specific standards applicable to the underlying zoning district.

[Adopted 98-002 §3 eff 3/4/98]

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**VI. WILLAMETTE RIVER GREENWAY OVERLAY (WRGO)**

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**931.600 Subchapter title**

This Subchapter, LCC 931.600 to 931.699, shall be known and may be cited as the “Linn County Willamette River Greenway Overlay Code” or simply as the “Willamette River Greenway Overlay Code.”

[Adopted 99-121 §12 eff 6/30/99]

**931.605 Statement of purpose**

(A) The purpose of this Subchapter is:

(1) to protect the natural, agricultural, recreational and economic qualities of lands along the Willamette River in Linn County;

(2) to provide for the preservation, restoration and enhancement of historical sites, structures and facilities and areas of archaeological, ecological or scientific significance along the Willamette River through site-specific review of any intensification of use, change of use or development on properties located within the Willamette River Greenway in Linn County;

(3) to establish standards and requirements for the use of lands within the Willamette River Greenway in Linn County; and

(4) to implement the goals and policies of the *Comprehensive Plan* and the State of Oregon's Willamette River Greenway Program.

[Adopted 98-002 §3 eff 3/4/98]

### **931.620 WRGO; application of overlay**

(A) The provisions of LCC 931.600 to 931.680 shall apply to all lands within the Willamette River Greenway boundaries of Linn County as shown on the Zoning Map. The boundary is shown in detail on aerial photo maps on file with the Department. Interpretation of the exact location of the boundary shall be made by the Director from these photo maps.

(B) The provisions of LCC 931.600 to 931.680 shall apply to lands within the Willamette River Greenway boundary of Linn County in addition to any standards and requirements of the Development Code. Nothing in LCC 931.600 to 931.680 shall be construed to constitute a waiver or suspension of the provisions of any zoning district. In the case of any conflict between the provisions of LCC 931.600 to 931.680 and the provisions of any other chapter of the Development Code, the more restrictive provisions shall apply.

[Adopted 98-002 §3 eff 3/4/98]

### **931.630 Definitions for WRGO**

The following definitions shall apply only to lands lying within the Willamette River Greenway Overlay boundaries:

(A) “**Change of use**” means making a different use of the land or water than that which existed on December 6, 1975.

(1) The term includes a change which requires construction, alterations of the land, water or other areas outside of the existing buildings or structures and which substantially alters or affects the land or water.

(2) The term does not include

(a) a change of use of a building, or

(b) other structure which does not substantially alter or affect the land or water upon which it is situated,

(c) the completion of a structure for which a valid permit had been issued as of December 6, 1975 and under which permit substantial construction had been undertaken by July 1, 1976.

(d) The sale of property is not, in itself, considered to be a change of use.

(e) Landscaping, construction of driveways, modifications of existing structures or the construction or placement of such subsidiary structures or facilities as are usual and necessary to the use and enjoyment of existing improvements.

(B) “**Develop**” means 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 lots or parcels or to create or terminate rights of access.

(C) “**Intensification**”

(1) Means any additions which increase or expand the area or amount of an existing use or the level of activity. Remodeling of the exterior of a structure not excluded below is an intensification when it will substantially alter the appearance of the structure.

(2) The term shall not include the completion of a structure for which a valid permit was issued as of December 6, 1975 and under which permit substantial construction has been undertaken by July 1, 1976. Maintenance and repair usual and necessary for the continuance of an existing use is not an intensification of use. Rea-



sonable emergency procedures necessary for the safety or the protection of property are not an intensification of use.

(D) **“Residential use of lands within the Greenway”** includes the practices and activities customarily related to the use and enjoyment of one’s home. Landscaping, construction of drive-ways, modification of existing structures or construction or placement of such subsidiary structures or facilities adjacent to the residence as are usual and necessary to such use and enjoyment shall not be considered an intensification.

[Adopted 98-002 §3 eff 3/4/98]

### **931.650 WRGO; uses allowed outright**

(A) The uses set forth in subsection (B) shall not require a Greenway conditional use permit. Any other proposed change of use, development or intensification shall only be permitted following approval of a Greenway conditional use permit.

(B) *Uses allowed outright.*

(1) Customary dredging and channel maintenance conducted under permit from the State of Oregon.

(2) Seasonal increases in gravel operations as provided under permit from the State of Oregon.

(3) The placing by a public agency of signs, markers and aids to serve the public.

(4) Activities to protect, conserve, enhance and maintain public recreational, scenic, historical and natural uses of public lands, except that a substantial increase in the level of development of existing public recreational, scenic, historical or natural uses on public lands shall require review as provided by LCC 931.600 to 931.680.

(5) Erosion-control operations not requiring a permit from the Division of State Lands.

(6) Farm uses.

(7) Reasonable emergency procedures necessary for the safety or protection of property.

(8) Maintenance and repair usual and necessary for the continuance of an existing use.

(9) Landscaping, construction of drive-ways, repair or maintenance of existing structures and the construction or placement of accessory structures other than guest houses, provided that such activities are conducted in conjunction with uses already existing on the same property and that they are accomplished in a manner compatible with the purpose of LCC 931.600 to 931.680.

(10) The propagation of timber or the cutting of timber which is done for public safety or personal, noncommercial use or which does not require a permit in accordance with the Oregon Forest Practices Act (OFPA). The regulations of OFPA shall govern commercial timber activities within the Willamette Greenway.

(11) Water intakes and utilities in conjunction with an agricultural use and single-family residences.

(12) Private docks and wharves not more than two feet above water level, less than 100 square feet in area, not located on the main channel, not including any plumbing or electrical services and not more than one such facility per property ownership.

(13) On scenic easements acquired under ORS 390.332 (2) (a), the maintenance authorized by the statute and ORS 390.368.

[Adopted 98-002 §3 eff 3/4/98]

### **931.660 WRGO; decision criteria for conditional uses**

(A) A Greenway conditional use permit may be granted, if on the basis of the application, investigation, testimony and evidence submitted, findings and conclusions show that all the criteria set forth in subsection (B) are met.

(B) *Decision criteria.*

(1) The proposal is consistent with the protection of land in the Exclusive Farm Use zoning district.

(2) The proposal is consistent with the protection of sensitive fish and wildlife habitat areas identified by the Oregon Department of Fish and Wildlife. Consideration of habitats shall include, but not be limited to fish spawning sites, fresh water marshes, and great blue heron, osprey,

and eagle nest trees and trees adjacent to the nest trees.

(3) The proposal is consistent with the preservation of significant natural and scenic areas, viewpoints and vistas.

(4) The proposal is consistent with the enhancement and protection of the natural vegetative fringe to the maximum extent practicable.

(5) The protection, preservation, restoration and enhancement of areas having ecological, scientific, historical or archaeological significance are not significantly impaired by the proposal.

(6) The quality of the air, water and land resources in and adjacent to the Greenway shall not be significantly impaired by the proposal.

(7) The proposal is consistent with the retention, in their natural state, of identified areas of annual flooding, flood plains and wetlands to the maximum extent practicable.

(8) The proposal shall not have a significant effect upon potentially erodible areas.

(9) The proposal is compatible with existing uses in the surrounding area.

(10) The proposal has been directed away from the Willamette River to the greatest extent possible.

(11) The maximum possible landscaping area, open space and vegetation will be provided between the Willamette River and the proposal.

[Adopted 98-002 §3 eff 3/4/98]

**931.670 WRGO; aggregate extraction**

(A) The extraction of aggregate resources shall be consistent with the criteria for review established in LCC 931.660.

(B) Extraction activities shall minimize adverse effects on water quality, fish and wildlife habitat, the natural vegetative fringe, stream bank stabilization efforts, stream flow, scenic quality, noise and safety.

[Adopted 98-002 §3 eff 3/4/98]

**931.680 WRGO; property development standards**

Development of all properties in the WRGO must comply with the development standards set forth in LCC Chapter 934 (Development Stan-

dards Code) and specifically to LCC 934.850, and also to any specific standards applicable to the underlying zoning district.

[Adopted 98-002 §3 eff 3/4/98]

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**VII. AGGREGATE RESOURCE OVERLAY (ARO)**

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**A. GENERAL PROVISIONS**

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**931.700 Subchapter title**

This Subchapter, LCC 931.700 to 931.755, shall be known and may be cited as the “Linn County Aggregate Resource Overlay Code” or simply as the “Aggregate Resource Overlay Code.”

[Adopted 99-156 §7 eff 6/30/99]

**931.701 Statement of purpose**

The purpose of this Subchapter is:

(A) to protect significant sand, gravel, rock, stone and related aggregate resources to ensure the continued availability of aggregates at reasonable costs for the overall development of Linn County;

(B) to coordinate the development and utilization of significant aggregate resources with other land uses to minimize conflicts;

(C) to establish standards of development and operation for significant aggregate resource extraction and processing sites;

(D) to prohibit the use of land in the Aggregate Resource Overlay (ARO) for uses incompatible with the extraction and processing of significant aggregate resources;

(E) to provide for the agricultural and forest use of land in the ARO prior to the development of extraction and processing activities; and

(F) to provide for the reclamation, rehabilitation and beneficial final use of aggregate resource sites in a manner compatible with the surrounding land use pattern.

[Adopted 99-156 §7 eff 6/30/99]

**931.702 Definitions**

The definitions set forth in LCC 939.030 apply to this Subchapter.

[Adopted 99-156 §7 eff 6/30/99 (OAR 660-023-010 and 660-023-0180 (1))]

### **931.704 Aggregate Resource Overlay; content and application**

(A) *Contents.* The Aggregate Resource Overlay (ARO) comprises two areas, the mining area and the impact area.

(B) *Application of the ARO.*

(1) The ARO may be applied to significant aggregate resource sites following:

(a) a Type IIIA legislative *Plan* amendment process, if the application is initiated by Linn County; or

(b) a Type IIIB application for a post-acknowledgment *Plan* amendment, if the application is not initiated by Linn County.

(2) Before applying an ARO to the underlying zoning district, the decision maker shall:

(a) comply with the process identified in LCC Chapter 939 (Mining Permit and Uses Code); and

(b) implement the ARO by amendments to the *Comprehensive Plan* text and the Land Development Code Zoning Map; and

(c) include within the boundary of the ARO all property as determined to be within the mining area and the impact area.

(3) The decision maker shall not apply either a mining area or an impact area to land within another county without that county's consent, or to land within a city or its urban growth boundary without that city's consent.

(C) Sites formerly designated as an Aggregate Extraction and Processing (AXP) zoning district are re-designated with the ARO classification. The re-designation shall not alter the mining of aggregate except as authorized in OAR 660, Division 23.

[Adopted 99-156 §7 eff 6/30/99]

### **931.706 Application for an ARO**

A person may apply for the application of an Aggregate Resource Overlay as provided in LCC Chapter 939 (Mining Permit and Uses Code) and

Chapter 921 (Land Development Administration Code).

[Adopted 99-156 §7 eff 6/30/99 (OAR 660-023-0180 (6))]

### **931.710 ARO; mining area property development standards**

Development of all properties in the ARO must comply with the development standards set forth in LCC Chapter 934 (Development Standards Code) and specifically to LCC 934.350 to 934.359, and also to any specific standards applicable to the underlying zoning district.

[Adopted 99-156 §7 eff 6/30/99]

### **931.715 ARO; mining area final use and site reclamation**

Each extraction site shall be reclaimed to a final use as set forth in LCC 933.190.

[Adopted 99-156 §7 eff 6/30/99]

### **931.720 ARO; termination of Aggregate Resource Overlay**

When a significant site has been fully mined and reclamation has been completed, the affected property within the mining area and the impact area shall be rezoned to remove the ARO designation.

(A) The zone change shall be initiated by the County, the owner or contract purchaser of the property comprising the mining area.

(B) If a restrictive covenant is imposed within the ARO, it shall state that the obligations imposed expire upon the termination of the ARO.

(C) Removal of the ARO shall not relieve requirements on the part of the owner or operator to reclaim the site in accordance with the DOGAMI reclamation plan, ORS 517.750 through 517.900, and the rules adopted thereunder.

[Adopted 99-156 §7 eff 6/30/99]

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## **B. USES ALLOWED OR PERMITTED IN THE ARO**

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### **931.730 ARO; mining area uses allowed outright**

(A) The uses set forth in subsection (B) through subsection (C) are allowed outright in the mining area subject to compliance with the development standards in LCC 934.350 to 934.359, any requirements adopted as part of the *Comprehensive Plan* for the protection of significant mineral and aggregate sites, and an approved site development plan.

(B) *Non-dwelling uses allowed outright.*

(1) *Aggregate materials.*

(a) Operations that entail extraction and stockpiling of mineral and aggregate materials mined and processed onsite.

(b) Processing, including but not limited to crushing, washing, milling and screening.

(c) The batching and blending of mineral aggregate into asphaltic and portland cement products located within the operating permit area, 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 batch plant.

(2) *Existing processing operations.* A currently approved aggregate processing operation at an existing site may process material from a new or expansion site without obtaining a reauthorization of the existing processing operation unless limits on such processing were established at the time it was permitted by the County.

(3) Equipment storage yard, offices, maintenance and storage buildings, and other accessory structures, when used in conjunction with on-site mining operations.

(4) Retail and wholesale sales of aggregate products produced on-site.

(5) Farm and forest uses.

(6) Signs, subject to the development standards in LCC 934.210 to 934.217.

(7) Transportation improvements.

(8) Other activities including buildings and structures necessary and accessory to development or reclamation of the onsite mineral or aggregate resource.

(C) *Dwellings allowed outright.* Alteration, restoration, or replacement of a lawfully established dwelling meeting the requirements in LCC 933.180.

[Adopted 99-156 §7 eff 6/30/99]

**931.735 ARO; mining area uses permitted through Type IIA conditional use review**

(A) The uses, including principal and accessory buildings, set forth in subsection (B) may be permitted in the mining area pursuant to a Type IIA review process. Permitted uses shall comply with any requirements adopted as part of the *Comprehensive Plan* for the protection of significant aggregate sites, and an approved site development plan.

(B) *Dwellings.* One on-site manufactured dwelling, including accessory buildings, for a caretaker or watchman for each authorized land use, subject to LCC 932.800 to 932.815.

[Adopted 99-156 §7 eff 6/30/99]

**931.740 ARO; mining area uses permitted through Type IIIB conditional use review**

(A) The uses, including principal and accessory buildings, set forth in subsection (B) may be permitted in the mining area pursuant to a Type IIIB review process. Permitted uses shall comply with any requirements adopted as part of the *Comprehensive Plan* for the protection of significant aggregate sites, and an approved site development plan.

(B) *Uses permitted conditionally.*

(1) Operations for exploration and extraction of minerals other than aggregate materials.

(2) Exploration for and production of geothermal resources, subject to LCC 932.100 to 932.160.

(3) Exploration and production of oil and gas, subject to LCC 932.100 to 932.160.

(4) Utility facilities necessary for public service, including commercial, thermal, electrical-generating facilities producing power for public sale from resources obtained on-site.

(5) Hunting or fishing preserves.

(6) A site for the disposal of solid waste together with equipment, facilities, or buildings necessary for its operation subject to:

(a) LCC 932.500 to 932.580; and

(b) a permit, if required, by the Department of Environmental Quality.

(c) the site is operated only as an interim subsequent use in accordance with an approved final use and reclamation plan.

(7) Facilities for the primary processing of forest resources.

(8) Private airports.

[Adopted 99-156 §7 eff 6/30/99]

**931.745 ARO; impact area uses allowed outright**

(A) The uses, including principal and accessory buildings, set forth in subsection (B) through subsection (C) are allowed outright in the impact area. Allowed uses shall comply with the requirements of the underlying zone and any requirements in the *Comprehensive Plan* for the protection of significant aggregate sites.

(B) *Non-dwelling uses*. The non-dwelling uses allowed outright by the underlying zone subject to the requirements of the underlying zone and any requirements in the *Comprehensive Plan* for the protection of significant aggregate sites.

(C) *Dwellings*. The Alteration, restoration, or replacement of a lawfully established dwelling meeting the requirements in LCC 933.180.

**931.750 ARO; impact area uses permitted through Type IIA conditional use review**

(A) The uses, including principal and accessory buildings, set forth in subsection (B) through subsection (C) may be permitted in the impact area pursuant to a Type IIA review process. Permitted uses shall comply with the requirements of the underlying zone and any requirements in the *Comprehensive Plan* for the protection of significant aggregate sites.

(B) *Non-dwelling uses*. The non-dwelling uses permitted through a Type IIA conditional use

review by the underlying zone, subject to the requirements of the underlying zone and any requirements in the *Comprehensive Plan* for the protection of significant aggregate sites.

(C) *Dwellings*. The dwellings permitted through a Type IIA conditional use review by the underlying zone, subject to the requirements of the underlying zone and any requirements in the *Comprehensive Plan* for the protection of significant aggregate sites.

(D) No use in the impact area that is a noise- or dust-sensitive use may be approved unless a finding is first made that the sensitive use has been protected by the imposition of conditions or unless the owner of the sensitive use has recorded a waiver of remonstrance in the land records of the County.

[Adopted 99-156 §7 eff 6/30/99]

**931.755 ARO; impact area uses permitted through Type IIIB conditional use review**

The uses, including principal and accessory buildings, permitted by the underlying zoning district through a Type IIIB conditional use review may be permitted in the impact area pursuant to a Type IIIB review process. Permitted uses shall comply with the requirements of the underlying zone and any requirements in the *Comprehensive Plan* for the protection of significant aggregate sites.

[Adopted 99-156 §7 eff 6/30/99]

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**Statutory References and Other Authorities:**  
ORS 197; 203; 215; 517; OAR 660, Div. 023

**Legislative History of Chapter 931:**

Adopted 98-002 eff 3/4/98

Amendments to 98-002

#1 98-432 eff 10/21/98

#2 99-156 §7 eff 6/30/99

#3 00-311 §§2-3 eff 6/28/00

#4 00-525 §§2-3 eff 9/20/00

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# TITLE 9

## COMMUNITY DEVELOPMENT

### Subtitle 2 — Land Development Code Division 4 — Conditional Uses

#### CHAPTER 932

#### SPECIFIC CONDITIONAL USES CODE

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**932.005 Title; short title**

This Chapter, LCC 932.005 to 932.999, shall be known and cited as the “Linn County Conditional Uses Code.” This Chapter may also be referred to and cited as the “Conditional Uses Code.”

[Adopted 98-200 §3 eff 3/4/98; 99-121 §13 eff 6/30/99]

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**I. OIL, NATURAL GAS, GEOTHERMAL EXPLORATION AND EXTRACTION**

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**932.100 Statement of purpose**

The purpose of LCC 932.100 to 932.160 shall be

(A) to provide for the exploration and extraction of oil, natural gas, or geothermal resources, and

(B) to establish criteria and procedures necessary to assure that such operations have a minimal impact on land use activities permitted under this Development Code.

[Adopted 98-002 §3 eff 3/4/98]

**932.110 Persons authorized to submit development permit applications**

An application for the siting of oil, natural gas or geothermal exploration and extraction operations shall be made by:

(A) The land owner; or

(B) The lessee of the property, if the application bears the signature of either the land owner or his authorized representative.

**932.120 Application procedure**

(A) In addition to the requirements of LCC Chapter 921 (Land Development Administration Code), an applicant for the siting of oil, natural gas or geothermal exploration and extraction operations shall also submit the information required in subsection (B) at the time of application:

(B) *Other application requirements.*

(1) A development plan showing the entire property, its dimensions and the specific siting of all structures, including the proposed drilling facility and the various setback and locational measurements. At the discretion of the Director, a more detailed drawing of the site may be required;

(2) Evidence of application to the Department of Geology and Mineral Industries for the siting and operation of an oil, natural gas or geothermal exploration and extraction facility;

(3) A reclamation plan which complies with the minimum standards established and administered by the Department of Geology and Mineral Industries and complying with provisions of LCC 932.160 and 934.340.

(4) The mineral property owner or authorized agent of the owner shall file a truck route plan with the Roadmaster indicating the proposed haul route for any equipment used in the preparation, exploration, extraction, operation or abandonment of the site. The truck route plan shall also include a proposal for the rehabilitation and restoration of any county roads, or any local access roads, which may be damaged or diminished in quality due to the conducting of such exploration or extraction activities.

(5) Evidence that:

(a) the Roadmaster has made a finding that the development will not have significant adverse impacts on the quality of county roads, or local access roads in the area, or

(b) verification that a performance security meeting the requirements of LCC 933.110 has been filed; and

(6) Any additional information required by the Director.

(C) If the Director determines that the information supplied in the application is either incomplete, incorrect or inappropriate, the application shall not be accepted for review. Opportunity for completing the application shall be provided in accordance with LCC Chapter 921 (Land Development Administration Code).

[Adopted 98-002 §3 eff 3/4/98]

### **932.130 Decision criteria for Oil, Natural Gas, Geothermal Exploration and Extraction**

(A) When reviewing the application, the Director shall determine whether a conditional use permit may be granted to permit the exploration and extraction of oil, natural gas, or geothermal resources. In making that determination the Director shall apply the criteria set forth in subsection (B).

(B) *Decision criteria.*

(1) The unit of land is an authorized unit of land;

(2) The authorized unit of land lies within an appropriate zoning district;

(3) The applicant has received tentative approval from the Oregon Department of Geology and Mineral Industries for the siting and operation of an oil, natural gas or geothermal exploration and extraction facility and a reclamation plan for the site;

(4) The applicant has received approval from the Roadmaster for the routing, paving, truck route plan, and access to the development site;

(5) The applicant has posted a performance security as required in LCC 932.150;

(6) Substantial public comment in opposition to the request has not been filed with the Department; and

(7) The applicant has complied with the application procedures of LCC 932.120.

(C) If the Director determines that the applicant has satisfied the criteria in subsection (A), the Director shall approve the application and may establish any additional conditions of approval deemed appropriate by the Director to carry out the intent of this Development Code.

(D) If the Director determines that the applicant failed to satisfy the criteria or if the Director determines that false or inaccurate information was submitted with the application, the Director shall deny the application.

[Adopted 98-002 §3 eff 3/4/98]

### **932.140 Appeals**

Appeals of a determination made by the Director are subject to LCC Chapter 921 (Land Development Administration Code).

[Adopted 98-002 §3 eff 3/4/98]

### **932.150 Performance security required for oil, natural gas, geothermal exploration and extraction**

To assure full faith and performance with the truck route and reclamation plans, the mineral property owner or authorized agent of the owner



shall file a performance security meeting the requirements of LCC 933.110.

[Adopted 98-002 §3 eff 3/4/98; amd 98-432 §2 eff 10/21/98]

### **932.160 Standards for rehabilitation and restoration of sites**

Rehabilitation and restoration of oil, natural gas, geothermal exploration and extraction sites and subject to the standards set forth in LCC 934.340.

[Adopted 98-002 §3 eff 3/4/98]

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## **II. INDUSTRIAL DEVELOPMENT ON AN ABANDONED OR DIMINISHED MILL SITE**

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### **932.200 Statement of purpose**

The purpose of LCC 932.200 through 932.299 shall be:

(A) To facilitate the identification of industrial land where industrial development permits may be obtained without requiring exceptions to statewide planning goals relating to agricultural lands, forestlands, public facilities or urbanization.

(B) To facilitate the development of identified abandoned or diminished wood products mill sites for new industrial uses consistent with the provisions of this section.

[Adopted 04-056 §2 eff 3/31/04]

### **932.210 Application procedures**

(A) A mill site subject to LCC 932.200 through 932.299 must be identified and delineated pursuant to LCC 932.220 before a proposed use allowed under LCC 932.230 or permitted under LCC 932.240 may be approved.

(B) The qualification and delineation of an abandoned or diminished mill site under LCC 932.220 may be determined independently of a specific development permit application or in conjunction with a development permit application for a proposed industrial land use.

(C) An application to identify and delineate an abandoned or diminished mill site shall comply with the applicable provisions of LCC Chapter 921 (Land Development Administration Code)

and shall include the following information together with the application form:

(1) The information and documents required by LCC 921.040; and

(2) Evidence that the site meets the criteria in LCC 932.220.

(D) In addition to the applicable requirements of LCC Chapter 921 (Land Development Administration Code), an applicant for the development of an abandoned or diminished mill site shall submit the following information together with the application form:

(1) The information and documents required by LCC 921.040;

(2) Evidence that the county has identified and delineated the proposed development site pursuant to the criteria and procedures in LCC 932.220.

(3) A detailed site development plan, drawn to scale, showing the property boundaries; the abandoned or diminished mill site boundaries; its dimensions; and the location of all proposed development and structures, including the property line setbacks;

(4) A detailed site plan complying with the applicable provisions of LCC Chapter 934 (Development Standards Code) showing the location of all proposed screening and material storage, signs, required landscaping, and required access and parking spaces; and

(5) A description of the nature and operational characteristics of the proposed use including equipment to be used, operating hours, and any other information necessary to determine compliance with the applicable decision criteria.

[Adopted 04-056 §2 eff 3/31/04]

### **932.220 Qualification and delineation of an abandoned or diminished mill site**

(A) The qualification and delineation of an abandoned or diminished mill site shall be subject to a Type IIA development permit review process.

(B) The qualification and delineation of an abandoned or diminished mill site shall satisfy all of the following decision criteria before a devel-

opment permit can be issued for the site under LCC 932.230 or LCC 932.240:

(1) The site is 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:

(a) Is located outside of urban growth boundaries;

(b) Was closed after January 1, 1980, or has been operating at less than 25 percent of capacity since January 1, 2003; and

(c) Contains or contained permanent buildings used in the production or manufacturing of wood products.

(2) The county shall determine the boundary of an abandoned or diminished mill site before a development permit may be issued for the site under this section. For an abandoned or diminished mill site that is approved for industrial use under this section, land within the boundary of the mill site may include only those areas that were improved for the processing or manufacturing of wood products.

[Adopted 04-056 §2 eff 3/31/04]

### **932.230 Sewer facilities allowed outright on an abandoned or diminished mill site**

(A) The facilities set forth in subsection (B) including principal and accessory buildings may be allowed outright on an abandoned or diminished mill site that is approved for industrial use under this section subject to a Type IA review process.

(B) *Facilities allowed outright on an abandoned or diminished mill site*

(1) The extension of sewer facilities to lands that on June 10, 2003 were zoned for industrial use and that contain an abandoned or diminished mill site. The sewer facilities may serve only industrial uses authorized for the mill site and contiguous lands zoned for industrial use.

(2) The extension of sewer facilities to an abandoned or diminished mill site that is approved for industrial use under this section only as neces-

sary to serve industrial uses authorized for the mill site.

(3) The establishment of on-site sewer facilities to serve an area that contains an abandoned or diminished mill site. The sewer facilities may serve only industrial uses authorized for the mill site and contiguous lands zoned for industrial use.

(C) The county may not authorize a connection to any portion of a sewer facility located between an urban growth boundary, or the boundary of an unincorporated community, and the boundary of an abandoned or diminished mill site, or the industrial zone containing the mill site, unless a goal exception is approved as provided under a statewide land use planning goal relating to public facilities and services or under ORS 197.732.

(D) Sewer facilities approved under this section shall be limited in size to meet the needs of authorized industrial uses and may not provide service to retail, commercial or residential development, except as provided under a statewide land use planning goal relating to public facilities and services or under ORS 197.732.

[Adopted 04-056 §2 eff 3/31/04]

### **932.240 Uses permitted on an abandoned or diminished mill site through a Type IIA conditional use review**

(A) The uses set forth in subsection (B), including principal and accessory buildings, may be permitted on an abandoned or diminished mill site meeting the criteria in LCC 932.220, subject to a Type IIA conditional use permit review process, if the decision criteria in LCC 932.250 and other requirements of law are met.

(B) *Uses permitted conditionally*

(1) Any level of industrial use, pursuant to compliance with any applicable provisions of county code or Oregon Administrative Rules.

(2) For an abandoned or diminished mill site approved under this section, the county may approve a permit only for industrial development and accessory uses subordinate to such development on the mill site. The county may not approve

a permit for retail, commercial or residential development on the mill site.

[Adopted 04-056 §2 eff 3/31/04]

**932.230 Decision criteria**

(A) For an abandoned or diminished mill site identified and delineated under LCC 932.220, a conditional use permit for industrial development permitted on the site under LCC 932.240 shall meet the following criteria.

(1) The criteria in LCC 933.200 through 933.220.

(2) The use is limited to industrial development and accessory uses subordinate to such development on the mill site. The county may not approve a permit for retail, commercial or residential development on the mill site.

(B) The county may not authorize a connection to any portion of a sewer facility located between an urban growth boundary, or the boundary of an unincorporated community, and the boundary of an abandoned or diminished mill site, or the industrial zone containing the mill site, unless a goal exception is approved as provided under a statewide land use planning goal relating to public facilities and services or under ORS 197.732.

(C) Sewer facilities approved under this section shall be limited in size to meet the needs of authorized industrial uses and may not provide service to retail, commercial or residential development, except as provided under a statewide land use planning goal relating to public facilities and services or under ORS 197.732.

[Adopted 04-056 §2 eff 3/31/04]

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**III. PRIMARY PROCESSING OF FOREST RESOURCES**

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**932.300 Statement of purpose**

The purpose of LCC 932.300 to 932.330 is to provide for the primary processing of forest resources in selected zoning districts and to establish criteria and procedures necessary to assure

(A) that such operations have a minimal impact on land use activities permitted under this Development Code, and

(B) compatibility with surrounding land uses.

[Adopted 98-002 §3 eff 3/4/98]

**932.310 Persons authorized to submit development permit applications**

Notwithstanding the requirement of LCC 921.020, a lessee of the property may file an application, if the application bears the signature of either the land owner or the landowner’s authorized representative.

[Adopted 98-002 §3 eff 3/4/98]

**932.320 Decision criteria for primary processing of forest resources**

(A) The Director shall apply the criteria set forth in subsection (B) to determine whether a conditional use for primary processing of forest resources shall be issued.

(B) *Decision criteria.*

(1) The facility will not seriously interfere with accepted farming practices in EFU and F/F zoning districts;

(2) The facility is compatible with farm uses in the EFU and F/F zoning districts; and

(3) The decision criteria LCC 933.220 for conditional uses in are met.

[Adopted 98-002 §3 eff 3/4/98; amd 98-432 §2 eff 10/21/98]

**932.330 Permit renewal**

(A) The permit shall be valid for one year from the date of issuance. The permit may be renewed on a yearly basis if:

(1) any permit conditions for the previous year have been met; and

(2) the criteria for decision are met.

(B) A permit may be renewed for one year at a time until timber specified in the site plan has been processed. The timber to be processed shall originate on the same authorized unit of land as the site proposed for the primary processing of that timber.

(C) The permit renewal fee, if any, established by order the Board shall be submitted with the renewal request.

(D) If the Director determines that the conditions have not been met or the criteria for decision can no longer be met, then renewal of the permit shall be denied.

[Adopted 98-002 §3 eff 3/4/98]

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#### IV. KENNELS

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##### **932.400 Statement of purpose**

The purpose of LCC 932.400 to 932.440 is to provide performance and property development standards by which kennels are regulated in all zoning districts where kennels are permitted.

[Adopted 98-002 §3 eff 3/4/98]

##### **932.410 Application procedure**

(A) In addition to other requirements of LCC 921.040, the information and materials set forth in subsection (B) shall also be submitted together with the application form.

(B) *Application requirements.*

(C) A development plan setting forth the following:

(1) The perimeter of the kennel building, outdoor runs and the parking area.

(2) The location, construction materials, drainage, of the kennel building

(3) The method of waste disposal.

(4) Proposed indoor and outdoor lighting

(5) Proposed ventilation.

(6) A proposed waste collection and drainage plan approved by the EHP.

(7) Whether the kennel is proposed to be operated in conjunction with the purchase or sale of animals.

(8) Proof of the notifications shall be provided to the Department that the Department Linn County Dog Control Department, the Oregon Department of Agriculture and the United States Department of Agriculture has been notified that the kennel is in operation.

(9) Hours of operation.

(10) Whether there is a dwelling on the property.

(11) A proposed access and parking plan.

(12) Proposed number of dogs and cats to be boarded.

(13) Whether animal training and grooming is to be provided.

(14) A site plan which includes information to address the following property development standards.

(a) proposed location of the kennel building in reference to

(i) property lines, and

(ii) the dwelling for which the kennel is proposed.

(b) proposed location of the runs in reference to the property lines. [Adopted 98-002 §3 eff 3/4/98]

##### **932.420 Decision criteria**

The application shall be reviewed and decided pursuant to the procedures established in LCC Chapter 921 (Land Development Administration Code) and to applicable decision criteria of:

(A) the zoning district, and

(B) LCC 933.220 or in 933.260.

[Adopted 98-002 §3 eff 3/4/98; amd 98-432 §2 eff 10/21/98]

##### **932.430 Performance standards**

The minimum standards set forth in LCC 934.370 shall apply to all kennels.

[Adopted 98-002 §3 eff 3/4/98]

##### **932.440 Property development standards**

The proposal is subject to the property development standards set forth in LCC 934.375.

[Adopted 98-002 §3 eff 3/4/98]

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#### V. SOLID WASTE DISPOSAL SITES

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##### **932.500 Statement of purpose**

The purpose of LCC 932.500 to 932.580 is:

(A) to allow for the development and utilization of necessary solid waste disposal sites;

(B) to provide guidelines for conditions to be applied that will reasonably protect neighboring properties;

(C) to minimize undesirable effects of the site

(D) to require the ultimate reclamation, rehabilitation; and

(E) to promote the ultimate beneficial reuse of the premises for land uses compatible with the surrounding activities.

[Adopted 98-002 §3 eff 3/4/98; amd 98-432 §2 eff 10/21/98]

### **932.510 Persons authorized to make application**

Application shall be made by the property owner or his authorized agent to the Department on a form approved pursuant to LCC Chapter 921 (Administration of the Land Development Code).

[Adopted 98-002 §3 eff 3/4/98]

### **932.520 Application procedure**

(A) In addition to other requirements of LCC Chapter 921 (Administration of the Land Development Code), the following information and materials shall also be submitted with the application form:

(1) Franchise holder and operator's name and address.

(2) Location (township, range, section, and tax-lot[s]) and size of land area to be affected.

(3) Aerial photograph taken less than 12 months prior to submission of the application. The aerial photo must be at a scale of four inches to one mile, or larger, of any proposed solid waste disposal site that was photographed. Photographs older than 12 months may be submitted if accompanied by a signed declaration by the applicant stating that no substantial changes have occurred since the taking of the photograph.

(4) Provisions for public safety as required under LCC 934.390 and measures, if any, required by the Environmental Protection Agency (EPA), Oregon Department of Environmental Quality (DEQ), or any other federal, state, or local agency having jurisdiction over such facilities to comply with applicable environmental quality standards.

(5) Proposed final use as permitted in LCC 932.550.

(6) A reclamation plan for disposal sites approved by DEQ that results in the proposed final use.

(7) A surface water management plan as required by DEQ.

(8) Types of vegetative or other forms of screening to be used.

(9) Types and sizes of equipment to be used.

(10) A reproducible map at a scale of one inch equals 400 feet that depicts the general land area within a one mile radius and identifies:

(a) The property under the applicant's control.

(b) The land areas proposed for disposal and resource recovery and areas for storage of topsoil and other cover materials on the site.

(c) Location of residential, commercial or industrial structures within 500 feet of the property boundary.

(d) Location of on-site haul roads and proposed access point(s).

(e) Location and names of all structures, roads, railroads and utility facilities.

(f) Required setback areas on the authorized unit of land.

(g) Identification of soil types at the proposed extraction site, if available; if not, identification of the soil types adjoining the proposed extraction site.

(11) Proposed hours and days of operation.

(12) The solid waste owner or authorized agent of the owner shall file a truck route plan with the Roadmaster indicating the proposed haul route for any equipment used in the preparation, operation, or abandonment of the site. The truck route plan shall also include a proposal for the rehabilitation and restoration of any county roads, *or any local access roads*, which may be damaged or diminished in quality due to the conducting of such exploration or extraction activities.

(13) Evidence that:

(a) the Roadmaster has made a finding that the development will not have significant adverse impacts on the quality of county roads, *or local access roads* in the area, or

(b) verification that a performance security meeting the requirements of LCC 933.110 has been filed.

(14) Any additional information required by the Director.

(B) If the Director determines that the information supplied in the application is either incomplete, incorrect or inappropriate, the application shall not be accepted for review. The applicant shall, however, be afforded an opportunity to amend the application in accordance with LCC Chapter 921 (Administration of the Land Development Code).

[Adopted 98-002 §3 eff 3/4/98]

### **932.530 Decision criteria**

The application shall be reviewed and decided pursuant to the criteria found in the applicable zoning district and LCC 933.220 or 933.260. The applicant must have received approval from the Roadmaster for the routing, paving and access to the development site.

[Adopted 98-002 §3 eff 3/4/98; amd 98-432 §2 eff 10/21/98]

### **932.540 Performance standards and site development**

The minimum standards set forth in LCC 934.390 shall apply to the establishment, maintenance and operation of a solid waste disposal system through the conditional use procedure. The Commission may, at their discretion, provide additional conditions on operation.

[Adopted 98-002 §3 eff 3/4/98]

### **932.550 Final use**

(A) Each solid waste disposal site shall be reclaimed to a final use as specified in a DEQ-approved reclamation plan or in compliance with an Oregon Department of Geology and Mineral Industries (DOGAMI) approved reclamation plan when the solid waste disposal site was authorized as a subsequent beneficial use of a quarry site.

(B) *Permitted final uses.*

(1) Farm, forest and recreational uses as defined in this Development Code shall be a permitted final use for solid waste disposal sites in

the Agricultural Resource, Farm/Forest and Forest Resource *Comprehensive Plan* designations.

(2) Other uses permitted under the resource designations of the *Plan* may be approved as a final use by the Commission.

(C) When the use of a site for solid waste disposal is completed and reclamation activities are scheduled to begin, the operator may submit a new, proposed final use and reclamation plan for review by the Commission. When the Commission finds that the new proposal is more suitable, the new final use and reclamation plan may supplant the original proposal provided the operator, landowner, DOGAMI, DEQ, and EPA and the Commission all approve.

(D) Due to problems resulting from differential settling, methane gas and other possible hazards, the reclaimed use of any solid waste disposal site shall be subject to proper monitoring by the owner and DEQ.

(E) Any structures placed on a reclaimed solid waste disposal site shall be temporary or movable and shall not require foundations or footings for a period of at least 20 years after rehabilitation of the disposal site. This provision shall apply only to those areas affected by disposal activity and shall not apply to areas of the authorized unit of land not disturbed by such activity.

[Adopted 98-002 §3 eff 3/4/98]

### **932.560 Performance security**

A performance security shall be required to assure full faith and faithful performance of the agreement for final use. The performance security shall comply with LCC 933.110.

[Adopted 98-002 §3 eff 3/4/98]

### **932.570 Permit issuance and revocation**

(A) Conditional use permits for solid waste disposal sites shall be issued based upon compliance with the criteria in LCC 933.220, the minimum criteria and standards established in LCC 934.390, and any additional requirements established by the Commission. Permits shall be issued for a period of operation that is to be proposed by the operator, subject to the approval of the Commission.

(B) Upon issuance of a conditional use permit for a solid waste disposal site, the Director shall enter on the current Zoning Map of the county a notation for each property to be used as a solid waste disposal site and that the site may be subject to certain natural and man-made development limitations due to the nature of disposal activities. This notation shall be maintained on both current and future zoning maps so that a public record shall be maintained of all past and present solid waste disposal sites.

[Adopted 98-002 §3 eff 3/4/98; amd 98-432 §2 eff 10/21/98]

### **932.580 Hearing to review operator’s performance**

(A) If the Director receives sufficient information to suggest that the permit holder has not complied with the conditions of approval adopted by the Commission, the Director shall notify the permit holder that a public hearing will be scheduled before the Commission to review the operator’s performance under the conditions of approval.

(B) The review authorized in subsection (A) shall be in accordance with provisions for revocation of a conditional use permit as specified under LCC Chapter 921 (Administration of the Land Development Code).

[Adopted 98-002 §3 eff 3/4/98]

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## **VI. EXISTING MANUFACTURED DWELLING PARK; INFILLING**

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### **932.600 Statement of purpose**

The purpose of LCC 932.600 to 932.690 is:

(A) to establish criteria and procedures for the infilling of an existing manufactured dwelling park permitted in the Rural Residential (RR), Rural Center (RCT), and Urban Growth Area–Rural Residential (UGB–RR) zoning districts in such a way as to protect existing facilities and neighboring properties;

(B) to minimize undesirable effects which may arise from the location, arrangement and density of such parks; and

(C) to retain the rural nature of areas designated for residential development.

[Adopted 98-002 §3 eff 3/4/98]

### **932.610 Definitions**

For purposes of LCC 932.600 to 932.690, “infill” or “infilling” means to expand the manufactured dwelling park use within the boundary of the existing manufactured dwelling park. Infilling includes:

(1) Construction of community recreational facilities, including swimming pools, for the use of residents and guests of the manufactured dwelling park only.

(2) Construction of one single-family dwelling for the use of a caretaker or manager responsible for maintaining and operating the manufactured dwelling park on a permanent basis. Such residence shall not exceed the permitted density allowed through any approval of an application filed pursuant to provisions of this Chapter.

[Adopted 98-002 §3 eff 3/4/98]

### **932.630 Use permitted through Type IIA conditional use review**

(A) The use set forth in subsection (B) may be permitted in the Rural Residential (RR), Rural Center (RCT), and Urban Growth Area–Rural Residential (UGA–RR) zoning districts through a Type IIA conditional review.

(B) Infilling of an existing manufactured dwelling park and the accessory buildings.

[Adopted 98-002 §3 eff 3/4/98]

### **932.640 Pre-application conference**

(A) Prior to acceptance of an application by the Director, the developer shall attend, pursuant to LCC 921.040, a pre-application conference with the Department, Environmental Health Program staff, County Engineer, or Roadmaster.

(B) During that conference, the applicant shall be required to submit the following information:

(1) The location of the existing manufactured dwelling park by township, range, section and tax-lot number;

(2) The size of each existing tax-lot;

- (3) A preliminary map indicating:
- (a) the boundary of the park and proposed infilling area;
  - (b) north arrow and a scale drawing;
  - (c) total acreage involved in the proposal;
  - (d) the layout of the existing and proposed road system, including the existing road surface characteristics and location of any existing or proposed easements of road access;
  - (e) the location, size and number of proposed manufactured dwelling spaces;
  - (f) the water supply and subsurface sewage disposal systems for any existing or proposed facilities when expansion of these facilities is required for any approval of an application; and
- (4) Any other relevant information deemed necessary by the reviewing staff to review the proposed development.

[Adopted 98-002 §3 eff 3/4/98]

**932.650 Application procedure**

(A) An application may be submitted not later than 6 months following the date of the pre-application conference required by LCC 932.640.

(B) In addition to the information required by LCC 921.040, the applicant shall include in the application:

- (1) A detailed site development plan with all necessary information required by the Building Official.
- (2) Approval from the Department of Environmental Quality or its authorized agent for the proposed location of sewage disposal systems adequate to provide services for existing and proposed development.
- (3) Any request for an exception from the development standards set forth in LCC 932.680, other than the standards of OAR Chapter 814 that allow an exception.

[Adopted 98-002 §3 eff 3/4/98]

**932.670 Decision criteria for infilling a manufactured dwelling park**

(A) In addition to the conditional use permit decision criteria in LCC 933.220, the criteria set forth in subsection (B) shall be met.

(B) *Decision criteria.*

(1) The overall density of the authorized unit of land including both the existing and proposed manufactured dwelling park spaces and facilities, shall not exceed 4 spaces per acre after the infilling is completed.

(2) The manufactured dwelling park must have been lawfully established on or before September 2, 1980.

(3) The site development plan complies with provisions governing the construction of manufactured dwelling parks as established and administered by the Building Codes Division.

(4) Adequate provision is made for construction of any necessary water facilities pursuant to standards of the State Health Division.

(5) Any request for an exception is consistent with OAR Chapter 814.

[Adopted 98-002 §3 eff 3/4/98; amd 98-432 §2 eff 10/21/98]

**932.680 Access standards**

Infilling a manufactured dwelling park must comply with the access standards set forth in LCC Chapter 935 (Access Improvement Standards Code).

[Adopted 98-002 §3 eff 3/4/98]

**932.680 Development standards**

All development which occurs while infilling a manufactured dwelling park shall comply with LCC 934.330.

[Adopted 98-002 §3 eff 3/4/98]

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**VII. STAGING AREAS**

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**932.700 Statement of purpose**

The purpose of LCC 932.700 to 932.770 is to provide a procedure to review applications for the temporary development of staging areas in conjunction with road maintenance and improvement projects for county, state and federal highways.



### 932.710 Application procedure

(A) In addition to the requirements of LCC 921.040, the applicant shall submit the information set forth in subsection (B).

(B) *Application requirements.*

(1) A site plan showing the entire property and its dimensions, the specific siting of all structures, the location of proposed equipment, internal roadways and stockpiles, the applicable setback and locational measurements and any other information necessary to accurately describe the proposed site development plan; and

(2) A proposed plan for the transportation of raw aggregate materials from the mining area to the temporary staging area.

[Adopted 98-002 §3 eff 3/4/98; 99-156 §8 eff 6/30/99]

### 932.720 Decision criteria

The application shall be reviewed and decided pursuant to the criteria found in

(A) the applicable zoning district, and

(B) LCC 933.220 or 933.260.

[Adopted 98-002 §3 eff 3/4/98; amd 98-432 §2 eff 10/21/98]

### 932.730 Performance standards and site development

The minimum standards set forth in LCC 934.400 and 933.410 shall apply to the temporary development of staging areas in conjunction with road maintenance and improvement projects for county, state and federal highways. The Commission may, at its discretion, provide additional conditions on operation.

[Adopted 98-002 §3 eff 3/4/98]

### 932.740 Agreement for reclamation

(A) As used in this section “agreement” means a final reclamation plan including, rehabilitation, or restoration substantially conforming to the reclamation plan submitted with the permit application.

(B) The terms of the agreement must include the following:

(1) A condition that the landowner shall be responsible for the eventual rehabilitation and

restoration of the site as described in the agreement.

(2) A condition that failure of the landowner to perform the agreement to restore or rehabilitate the site shall result in forfeiture of the bond required under LCC 932.770.

(3) Except for buildings or structures which are permitted uses in the zoning district in which the site is located, all buildings, equipment, apparatus and appurtenances accessory to the exploration and extraction operation shall be removed from the site upon termination of the staging area development.

(4) Upon termination of the staging area development, the site shall be restored as follows:

(a) All excavations shall be back filled with comparable soils to the original contour of the site;

(b) All fill material shall be removed from the site down to the original topsoil; and

(c) The existing fill or excavation may be allowed to remain or may be altered if such site is intended to be utilized as a use permitted with the zoning district.

(5) The operator shall improve or agree to improve lands dedicated for roads, alleys, pedestrian ways, drainage channels, easements of road access and other rights-of-way as a condition preceding the acceptance and approval of a partition involving the creation of access.

(6) Prior to approval of the partition, the operator shall

(a) install all required improvements and repair existing roads and other public facilities damaged in the development of the partition, or

(b) execute and file with the Board an agreement between the developer and the county specifying the period within which all the required improvements and repairs shall be completed.

(i) The agreement shall require a performance security for the improvements and repairs meeting the requirements of LCC 933.110.

(ii) The agreement shall provide that if all of the required work is not completed within the time frame specified, or within any mutually approved extensions, the county may complete the work and recover the full cost and expense thereof from the developer pursuant to LCC 933.110. If a written request for a reasonable time extension is requested by the developer 30 calendar days prior to the expiration of the agreement, the Board may approve the request. Absent an approved extension, the Board may collect costs as provided in LCC 933.110.

[Adopted 97-200 §3 eff 6/30/97; 99-156 §8 eff 6/30/99]

### **932.760 Standards for rehabilitation and restoration**

Rehabilitation and restoration of the staging site shall comply with LCC 934.410.

[Adopted 98-002 §3 eff 3/4/98]

### **932.770 Performance security**

The property owner or his authorized agent thereof shall file with the Director a reclamation plan in compliance with LCC 932.740 and to assure full faith and performance thereof, the property owner shall file prior to development being initiated a performance security in compliance with LCC 933.110.

[Adopted 98-002 §3 eff 3/4/98; 99-156 §8 eff 6/30/99]

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## **VIII-A. CARETAKER RESIDENCES**

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### **932.800 Statement of purpose**

The purpose of LCC 932.800 to 932.815 is to establish criteria permitting the location of a manufactured dwelling for properties within the RCM, FIC, AB, LI and HI zoning districts, if the purpose of the manufactured dwelling is to serve as:

(A) a caretaker residence for a commercial or industrial use, and

(B) additional security.

[Adopted 98-002 §3 eff 3/4/98; 99-156 §8 eff 6/30/99]

### **932.810 Decision criteria**

(A) A manufactured dwelling may be approved as a caretaker residence provided the criteria in subsection (B) of this section are met.

(B) Decision criteria.

(1) The proposed caretaker residence is a manufactured dwelling.

(2) The dwelling is for the owner, manager, or operator of an activity allowed or permitted.

(3) The occupant of the proposed manufactured dwelling is the owner, manager or operator of an allowed commercial or industrial use.

(4) No other caretaker residence is located on the tract.

(5) Verification by the Sheriff's Office or the business owner's insurance carrier or agent that an on-site residence is needed to provide additional security from criminal activity; and

(6) Written approval has been provided by the Environmental Health Program authorizing use of a subsurface sewage disposal system for the proposed caretaker residence.

[Adopted 98-002 §3 eff 3/4/98]

### **932.815 Issuance, renewal and cessation of permit**

(A) The provisions in subsection (B) shall apply to all conditional use permits issued for caretaker residences.

(B) *Applicable provisions.*

(1) The caretaker residence shall be subject to the property development standards of the applicable zoning district.

(2) The conditional use permit shall remain valid until December 31 of each subsequent year following approval.

(3) A permit may be renewed provided that the applicant can demonstrate that none of the following circumstances has occurred:

(a) The applicant has failed to comply with the conditions of issuance of the permit.

(b) The applicant has failed to comply with applicable state and county building

or manufactured dwelling siting codes and regulations.

(c) A significant change has occurred in the conditions upon which the permit was approved.

(d) A sale, transfer or change in the lease of the property.

(e) A change of ownership of the property. The permit renewal fee, if any, established by order the Board shall be submitted with the renewal request.

(C) If the applicant is unable to demonstrate that the circumstances set forth in subsection (D) has not occurred, the Director shall make a determination pursuant to LCC Chapter 921 (Land Development Administration Code) whether to revoke the permit.

(D) If the permit is revoked, the conditional use permit holder shall remove the residence within 70 days of the effective date of determination. Failure to remove the residence shall constitute a violation of the Land Development Code.

[Adopted 98-002 §3 eff 3/4/98]

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## VIII-B. HOME OCCUPATIONS

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### 932.830 Statement of purpose

(A) The purpose of LCC 932.830 to 932.845 shall be to establish the circumstances whereby small-scale businesses may be permitted to operate substantially in a dwelling or other buildings normally associated with uses permitted in the zone.

(B) The purpose of LCC 932.830 to 932.845 shall not be interpreted to permit activities that are detrimental and incompatible with neighboring land uses.

[Adopted 98-002 §3 eff 3/4/98]

### 932.835 Decision criteria

(A) A home occupation requires a conditional use permit subject to the procedures of LCC Chapter 921 (Land Development Administration Code) and the decision criteria contained within:

(1) LCC 933.310, if located in the EFU, F/F or FCM zoning district; and

(2) LCC 933.220; or

(3) if the property is within an urban growth area, the decision criteria set forth in LCC 933.260.

(B) The home occupation shall not unreasonably interfere with other uses permitted in the zone.

(C) Nothing in this section may be used to permit construction of any structure that would not otherwise be allowed in the zone.

(D) The existence of home occupations shall not be used as justification for a zoning district change.

[Adopted 98-002 §3 eff 3/4/98; amd 98-432 §2 eff 10/21/98]

### 932.840 Performance standards

All home occupations shall be conducted in a manner that complies with the standards of operation set forth in LCC 934.360.

[Adopted 98-002 §3 eff 3/4/98]

### 932.845 Permit issuance and renewal

(A) Home occupation conditional use permits shall be issued for a period of one year and shall be subject to annual review

(B) The permit renewal fee, if any, established by order the Board shall be submitted with the renewal request.

(C) The conditional use permit shall remain valid until December 31 of each subsequent year following approval.

(D) The permit shall be renewed provided the home occupation is being conducted in a manner that complies with the standards of operation established in LCC 934.360.

(E) A permit issued under LCC 932.830 to 932.845 may not be transferred.

[Adopted 98-002 §3 eff 3/4/98]

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## VIII-C. MEDICAL HARDSHIP DWELLINGS

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### 932.860 Statement of purpose

The purpose of LCC 932.860 to 932.895 is:

(A) to provide for the temporary placement of a manufactured dwelling or the temporary conversion of an existing building under verified

medical hardship circumstances or for reason of age,

(B) to assure the temporary nature of such a placement or conversion, and

(C) to ascertain the continued validity of the medical hardship.

[Adopted 98-002 §3 eff 3/4/98; amd 98-432 §2 eff 10/21/98; 99-121 §13 eff 6/30/99]

### 932.870 Definitions

For purposes of LCC 932.830 to 932.845:

(A) “**Qualifying person**” means the person who lives on an authorized unit of land and receives daily supervision and care of another living on the same authorized unit of land.

(B) “**Care giver**” means the person who lives on an authorized unit of land and provides daily supervision and care to another person living on the same authorized unit of land.

(C) “**Existing building**” means a building other than a dwelling.

(D) “**Manufactured dwelling**” for purposes of LCC 932.860 to 932.895, the term includes a park trailer.

[Adopted 98-002 §3 eff 3/4/98; 99-121 §13 eff 6/30/99]

### 932.875 Connection to existing approved septic system required

(A) All medical hardship dwellings shall be connected to an approved septic system serving the existing dwelling.

(B) Existing approved septic systems shall be used except when the Environmental Health Program determines that connection to the existing system is not feasible.

(C) The intent of this section is to require the use of existing facilities to the maximum extent practicable.

[Adopted 98-002 §3 eff 3/4/98; 99-121 §13 eff 6/30/99]

### 932.880 Application content

(A) In addition to the application requirements stated LCC 921.040, the applicant shall also address the matters set forth in subsection (B).

(B) *Application requirements.*

(1) Approval from the EHP for connection of the medical hardship dwelling to the

sewage treatment system serving the existing residence or a statement from the EHP saying that such connection is not feasible and recommending a possible alternative; and

(2) A written statement from a licensed, Oregon physician on that physician’s letterhead that a medical condition exists and that the afflicted person needs daily supervision, care or assistance. The physician’s statement shall be an original, not a copy, and shall give the medical reasons for the need; a mere preference or desire is insufficient justification; or

(3) Documentation satisfactory to the Director that the qualifying person is 65 years of age or older.

(4) Whether the proposed use is for a manufactured dwelling or for the conversion of an existing building.

[Adopted 98-002 §3 eff 3/4/98; amd 98-432 §2 10/21/98; 99-121 §13 eff 6/30/99]

### 932.885 Decision criteria

The applicant shall meet the decision criteria of LCC 933.800.

[Adopted 99-121 §13 eff 6/30/99]

### 932.890 Standards for siting a medical hardship dwelling

(A) The applicant for a medical hardship dwelling shall comply with LCC 934.380.

(B) The applicant seeking placement of a manufactured dwelling in the UGAZ shall comply with all of the standards set forth in LCC 934.790.

[Adopted 98-002 §3 eff 3/4/98; amd 98-432 §2 10/21/98; 99-121 §13 eff 6/30/99]

### 932.895 Issuance, renewal and termination of permit

(A) The provisions set forth in subsection (B) shall apply to all conditional use permits issued for medical hardship dwellings.

(B) *Mandatory provisions.*

(1) The conditional use permit shall be reviewed within two years following approval. Odd-numbered permits will be reviewed by July 1 in odd-numbered years and even-numbered permits will be reviewed by July 1 in even-numbered years. A permit issued after April 1 but

before July 1 shall remain valid until the next scheduled review period.

(2) A permit may be renewed provided:

(a) There is not a change of ownership of the property;

(b) A statement is submitted to the Department verifying that the recipient of the conditional use permit continues to reside on the property and, if less than 65 years of age, verification from a licensed Oregon physician affirming that the hardship condition continues to exist;

(c) The applicant has complied with the conditions of issuance of the permit; and

(d) No change has occurred which invalidates the original decision to authorize the permit.

(3) The permit renewal fee, if any, established by order the Board shall be submitted with the renewal request.

(4) Whenever a violation of the circumstances stated in paragraph (2) of subsection (B) has occurred, the Department shall follow the procedures specified in LCC Chapter 921 (Administration of the Land Development Code) to revoke the permit.

(5) If the permit is revoked, or the hardship ceases, the conditional use permit holder shall:

(a) remove the manufactured dwelling within 70 days, or

(b) remove, demolish, or return the existing building to an allowed non-residential use within 3 months.

(6) Failure to comply with paragraph (5) of this subsection shall constitute a violation of this Development Code.

(7) This permit is not transferable to other persons or property.

[Adopted 98-002 §3 eff 3/4/98; 99-121 §13 eff 6/30/99]

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## IX. HISTORIC RESOURCES

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### 932.900 Statement of Purpose

The purpose of LCC 932.900 to 932.950 is to encourage preservation of significant historic

properties through a process of review of proposed alterations and demolitions of these properties.

[Adopted 98-002 §3 eff 3/4/98; 99-121 §13 eff 6/30/99]

### 932.905 Definitions

As used in LCC 932.900 to 932.950, “**alteration to an historic building, structure or object**” means any addition to, removal of, or change in the exterior part of a property. The term includes modification of the surface texture, material or architectural detail of the exterior part of a building, structure or object. The term does not include altering the color of the paint.

[Adopted 98-002 §3 eff 3/4/98; 99-121 §13 eff 6/30/99]

### 932.910 Application

In addition to the requirements of LCC 921.040, the provisions of LCC 932.900 to 932.950 apply to all properties listed in the *National Register* or the Linn County Register of Historic Resources which is maintained by the Historic Resource Commission (HRC).

[Adopted 98-002 §3 eff 3/4/98; 99-121 §13 eff 6/30/99]

### 932.915 Alteration or demolition permit not required

A permit is not required for the alteration or demolition of a historic resource.

[Adopted 98-002 §3 eff 3/4/98]

### 932.920 Removal from Linn County Historical Register

(A) An applicant may request that the applicant’s historical resource be removed from the Linn County Historical Register. The HRC shall grant the request.

(B) If the historic resource removed from the Linn County Historical Register is in the HRO, then the resource shall revert to a use allowed, or permitted in the zoning district. If the Overlay is removed only the regulations of the underlying zoning district remain.

[Adopted 98-002 §3 eff 3/4/98]

**932.925 Alteration or demolition certification required**

(A) *Policy requiring certificate.*

(1) Instead of an alteration or demolition permit, an alteration or a demolition certificate by the landowner meeting the requirements of subsection (B) is required to help establish the time-frame and locational information needed for the replacement of certain structures and to notify the County Assessor of the removal of taxable improvements.

(2) This certificate will also be used to bring proposed demolition activities to the attention of the Historic Resource Coordinator or the Historic Resource Commission.

(B) *Certificate.*

(1) A certificate is required for alteration or demolition of any property listed in the National Register of Historic Places at the time that LCC 932.900 to 932.950 is adopted and for any property listed in the Linn County Register of Historic Resources.

(2) *Exception.* A certificate is not required under LCC 932.900 to 932.950 for alteration of a property when review of the proposed alteration is required by an agency of the state or federal government.

(3) Alteration to an historic site means any change of the terrain within the site boundary which would diminish the information potential or associative value of the site.

(4) Nothing in LCC 932.900 to 932.950 shall be construed to prevent the ordinary maintenance or repair of any exterior architectural feature on any property covered by this section that does not involve a change in design, material or external appearance. Nor does this prevent the construction, reconstruction, alteration, restoration, demolition or removal of any such feature when the building official determines that such emergency action is required for the public safety due to an unsafe or dangerous condition. Prior to such emergency action, notification shall be provided to the Historic Resource Commission.

(5) Any proposed changes that would potentially affect the exterior of a qualifying

historic dwelling shall be reviewed and approved by the HRC before they are initiated. Such review and approval shall be required as a condition of approval attached to the land use decision.

[Adopted 98-002 §3 eff 3/4/98; amd 98-432 §2 eff 10/21/98; 99-121 §13 eff 6/30/99]

**932.930 Review procedure**

The Historic Resource Commission shall review applications for certificates for alteration and demolition according to the applicable provisions of LCC 933.930 and 921.700 to 921.740.

[Adopted 98-002 §3 eff 3/4/98]

**932.935 Historic Resource Commission action**

(A) *Alteration.* In the case of a request for a certificate for alteration of an historic property listed in the Linn County Register of Historic Resources, the Historic Resource Commission shall either:

- (1) Approve the request as submitted.
- (2) Approve the request with modifications.
- (3) Delay final decision on the request for up to 60 days to allow time for an alternative to the alteration being requested. At the end of the 60 day delay period, the Historic Resource Commission shall approve the request, approve the request with modifications or deny the request.
- (4) Deny the request.

(B) *Demolition.* In the case of an application for demolition of properties listed in the Linn County Register of Historic Resources, the Historic Resource Commission shall order either:

- (1) Immediate issuance of the certificate;
- or
- (2) Delay of issuance of the certificate for up to 180 calendar days.

(C) During this period, the Historic Resource Commission shall attempt to determine if public or private acquisition and preservation is feasible or if other alternatives are possible which could prevent demolition of the site or property.

[Adopted 98-002 §3 eff 3/4/98]

**932.940 Decision criteria**

(A) To preserve the historic architectural integrity and provide for building safety of historic

properties, recommendations concerning alterations shall be based on the following:

(1) The standards in LCC 932.945 ; and

(2) Applicable state and local codes and ordinances related to building, fire and life safety.

(B) The Historic Resource Commission shall order immediate issuance of a demolition certificate if it finds all of the following:

(1) The property cannot be economically rehabilitated;

(2) A program or project does not exist which may result in preservation of the property;

(3) Delay of the certificate would result in unnecessary and substantial hardship to the applicant;

(4) Issuance of the certificate will not act to the substantial detriment of the public welfare considering the significance of the property and the economic, cultural and energy consequences of demolishing the property; or

(5) No other reasonable alternative to demolition exists.

[Adopted 98-002 §3 eff 3/4/98; 99-121 §13 eff 6/30/99]

### **932.945 Historic property alteration review standards**

The standards set forth in LCC 934.430 shall apply to the alteration of historic property.

[Adopted 98-002 §3 eff 3/4/98]

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**Statutory References and Other Authorities:**  
ORS 197; 203; 215; *Fence v. Jackson County*, 135 Or App 574, 900 P2d 524 (1995)

### **Legislative History of Chapter 932:**

Adopted 98-002 eff 3/4/98

Amendments to 98-002

1# 98-432 eff 10/21/98

#2 99-121 §13 eff 6/30/99

#3 99-156 §8 eff 6/30/99

#4 04-056 §2 eff 3/31/04

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# TITLE 9

## COMMUNITY DEVELOPMENT

### Subtitle 2 — Land Development Code

#### Division 5 — Conditions, Requirements, Development Standards & Criteria

#### CHAPTER 933

#### CONDITIONS OF APPROVAL AND DECISION CRITERIA CODE

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#### 933.005 Title; short title

This Chapter, LCC 933.005 to 933.999, shall be known and cited as the “Linn County Conditions, Requirements, and Decision Criteria Code.” This Chapter may also be referred to and cited as the “Conditions, Requirements, and Decision Criteria Code.”

[Adopted 98-002 §3 eff 3/4/98; 99-121 §14 eff 6/30/99]

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#### I. PERMIT CONDITIONS

#### 933.100 Conditions; generally

(A) *Additional conditions.* Any land development decision resulting from a review required by the Land Development Code, may be subject to the imposition of permit conditions. These permit conditions are those determined to be reasonably necessary to ensure compliance with the intent of the Land Development Code and the *Comprehen-*

sive Plan and to aid in achieving compatibility with the applicable decision criteria. The permit conditions may include, but are not limited to:

(1) Limiting the manner in which the use is conducted, including restricting the time a certain activity may take place and restraints to minimize such environmental effects including, but not limited to noise, vibration, air pollution, glare and odor;

(2) Establishing a special yard or other open space or land area or dimension;

(3) Limiting the height, size or location of a building or other structure;

(4) Designating the size, number, location and nature of vehicle access points;

(5) Increasing the amount of road dedication, roadway width or improvements within the road right-of-way, including bonding for improvements;

(6) Designating the size, location, screening, drainage, surfacing or other improvements of a parking area, truck loading area and vehicle circulation area;

(7) Limiting or otherwise designating the number, size, location, height and lighting of signs;

(8) Limiting the location and intensity of outdoor lighting and requiring its shielding;

(9) Requiring diking, screening, landscaping or other improvement to protect adjacent or nearby property and designating standards for the installation and maintenance of the required improvement;

(10) Imposing the time period within which the proposed use shall be developed;

(11) Establishing the duration of uses permitted, except for uses permitted outright;

(12) Designating the size, height, location and materials for a fence;

(13) Protecting and preserving existing trees, vegetation, water resources, wildlife habitat, or other significant natural resources;

(14) Requiring that public facilities are adequate to serve the proposed use;

(15) Requiring the recording of deed covenants;

(16) Attaching applicable city development standards, including deed covenants for annexation, development to minimum site design standards and other requirements necessary to implement urbanization policies;

(17) Such other conditions as will make possible the development of the county in an orderly and efficient manner conforming with the intent and purposes set forth in this Land Development Code and the *Comprehensive Plan*.

(B) *Permit conditions are final*. Permit conditions established as part of any decision are final and binding.

[Adopted 98-002 §3 eff 3/4/98; amd 98-432 §2 eff 10/21/98]

### **933.110 Performance security**

(A) A performance security required by the Land Development Code shall comply with this section.

(B) *Performance security requirements*.

(1) The performance security shall be for a sum determined by the County Engineer.

(2) The security required by paragraph (1) of this subsection must be sufficient to cover the cost the improvement for which the security is required. The costs may include such as but not limited to:

(a) creating, completing, repairing, restoring or rehabilitating roads.

(b) lagoons, public parks, playgrounds, community wells.

(c) truck route and reclamation plans.

(d) any repairs that may be required for diminished quality of existing public improvements.

(e) an additional percentage as determined by the Engineer to cover any inflationary costs which may be incurred during the period of performance.

(3) The form of the performance security may be a surety bond, cash deposit, or letter of credit.

(a) *A surety bond*. The applicant shall file the bond with the County Treasurer. The bond must be executed by a surety company

authorized to transact business in the State of Oregon on a form approved by County Counsel.

(b) *A cash deposit.* The applicant shall deposit the amount determined by the County Engineer with the County Treasurer.

(c) *Other security.* A security deposit other than a bond or cash deposit shall be of a kind and filed in a manner approved by the Board.

(C) If the Board determines that the applicant has satisfied the conditions requiring the performance security, the security shall be released subject to written authorization of the County Engineer.

(D) If the Board determines that the applicant has failed to satisfy the conditions requiring the performance security, and if the county has unreimbursed costs or expenses resulting from such failure, the Board shall collect the costs created by the failure to perform as follows:

(1) if the applicant posted a bond, the Board shall collect on the bond.

(2) If the applicant made a cash deposit, not later than the 10th calendar day after the determination by the Board that the applicant has failed to perform, the County Treasurer shall pay into the general fund that portion of the deposit needed to reimburse the county for the costs. If any portion remains after the costs have been paid, the Treasurer shall refund the portion to the applicant. If the costs exceed the amount of the deposit, the applicant shall pay to the Treasurer the amount of the excess costs.

(3) If the applicant made a security deposit other than a bond or cash then, not later than the 10th day after the failure to perform, the Board shall negotiate or otherwise collect on as much of the security deposit as necessary to reimburse the County for the costs and shall pay the proceeds into the general fund of the County.

(E) If the amount of security exceeds the cost and expenses, the Board shall release the remainder of the security. If the amount of the security is less than the cost and expense incurred, the applicant shall be liable to the County for the difference.

[Adopted 98-002 §3 eff 3/4/98]

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## II. CONDITIONS OF APPROVAL; REQUIREMENTS

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### 933.140 Approved septic system standards

(A) Except as provided in subsection (B) of this section, an approved septic system shall be located within the property boundaries of each proposed authorized unit of land and be located within the zoning district that allows the use being proposed.

(B) *Exceptions.*

(1) Existing off-site sewage lagoons, regulated by the Department of Environmental Quality (DEQ), may be used for development on land in commercial or industrial zoning districts.

(2) Holding tanks, regulated by DEQ, on land that cannot support an approved septic system authorized by the Environmental Health Program. A holding tank must nonetheless be located on the subject property.

(3) In the Rural Resource Zone, approval for a septic system may not be required if there is no existing development on the property and if no development is proposed for the property or if the proposed development would not contain any plumbing.

(4) Drainfield repairs for lawful, pre-existing uses may be made off-site, if the Environmental Health Program determines that repairs cannot be made on-site.

[Adopted 98-002 98-002 §3 eff 3/4/98; amd 98-432 eff 10/21/98]

### 933.150 Waiver of remonstrance

(A) The Director shall require as a condition of approval of a single-family dwelling, including the replacement of a lawfully established dwelling, under the Land Development Code in a farm or forest zone, that the landowner for the dwelling sign and record in the deed records for the county a document binding the landowner, and the landowner's successors in interest, prohibiting them from pursuing a claim for relief or cause of action alleging injury from farming or forest practices for

which no action or claim is allowed under ORS 30.936 or 30.937.

(B) The Director shall require as a condition of approval of a use limited or prohibited within an ARO, that the owner of property seeking approval of that use first 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 mining within the ARO.

[Adopted 97-200 98-002 §3 eff 3/4/98; amd 98-432 eff 10/21/98; 99-121 §14 eff 6/30/99; amd 99-156 §9 eff 6/30/99]

### 933.160 Compliance with CABO and the UBC

(a) Review and decision on a single-family dwelling must comply with the *Oregon One and Two Family Dwelling Code* (CABO) and the *Uniform Building Code*.

(B) For purposes of determining a single-family dwelling, the following factors shall be considered when determining the existence of a dwelling unit. A single dwelling unit exists when there is:

(1) a single collection of one or more habitable rooms with:

- (a) cooking,
- (b) sleeping, and
- (c) sanitary facilities;

(2) designed and occupied, or is capable of being occupied; and

(3) capable of maintaining one household as a separate living quarter for the exclusive use of a single family.

(C) When considering whether more than one dwelling unit is present in a structure or on a unit of land, the following factors may be considered, such as, whether:

(1) there is any reasonable combination of rooms and facilities present that could support more than one household as separate living quarters;

(2) one or more of the rooms described in (C) (1) are shared by both areas because of the absence of those rooms in one of the areas; and

(3) there is one roof, one front door, one potable water source, one septic system, one power meter and one address.

(D) If a habitable structure, or a portion thereof, has a roof, wall or floor in common with any other portion of that structure, and both portions have a cooking facility each dwelling may constitute separate living quarters.

[Adopted 98-002 §3 eff 3/4/98]

### 933.170 Stocking survey reports

The decision maker shall require as a condition of approval of a single-family dwelling allowed under LCC 933.720, 933.740, or 933.750 on lands zoned forestland that, if the authorized unit of land is more than 10 acres, the property owner submit a stocking survey report to the County Assessor and the Assessor verifies that the minimum stocking requirements adopted under ORS 527.610 to 527.770 have been met.

[Adopted 98-002 §3 eff 3/4/98; amd 98-432 eff 10/21/98]

### 933.180 Lawfully established dwellings

(A) As used in the Land Development Code, the alteration, restoration, or replacement of a lawfully established dwelling must meet the criteria in subsection (B).

(B) *Decision criteria*. The dwelling must have:

(1) intact exterior walls and roof structure;

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

(3) interior wiring for interior lights; and

(4) a heating system;

(C) In the case of replacement, the original dwelling shall be removed, demolished or converted to an allowable nonresidential use within three months of the construction or the placement of the replacing single-family dwelling.

(D) A replacement dwelling may be sited on any part of the same authorized unit of land.

(E) The replacement dwelling shall comply with all applicable siting standards. However, the standards shall not be applied in a manner that prohibits the siting of the dwelling.

(F) If the dwelling to be replaced is located on a portion of the authorized unit of land not zoned for exclusive farm use, the applicant, as a condition of approval, shall execute and record in the deed records for the county where the property is located a deed restriction prohibiting the siting of a dwelling on that portion of the authorized unit of land in the EFU zoning district. The restriction imposed shall be irrevocable unless a statement of release is placed in the deed records for the county. The release shall be signed by the Director and state that the provisions of this subsection regarding replacement dwellings have changed to allow the siting of another dwelling.

(G) The Director shall maintain a record of the authorized units of land that do not qualify for the siting of a new dwelling under the provisions of this subsection, including a copy of the deed restrictions and release statements filed under this subsection.

[Adopted 97-200 98-002 §3 eff 3/4/98; amd 98-432 eff 10/21/98; 99-121 §14 eff 6/30/99]

### **933.190 Final use requirements**

(A) The definitions set forth in LCC 939.030 apply to this section.

(B) *Final uses in areas not under an ARO.*

(1) Each mining area in an area not under an ARO shall be reclaimed to a final use set forth in paragraph (2) of this subsection and shall be accomplished:

(a) as specified in a reclamation plan approved by DOGAMI; or

(b) in compliance with conditions of operation imposed by DSL.

(2) Final uses authorized in areas not under an ARO are:

(a) The uses allowed outright in the zoning district.

(b) The uses permitted in the zoning district if approved.

(c) Recreational uses permitted in the Exclusive Farm Use (EFU), Farm/Forest (F/F) or Forest Conservation and Management (FCM) zoning districts;

(d) Fish or wildlife habitat or management facilities; or

(e) Public and private hunting or fishing preserves.

(3) When mining is completed on property not under an ARO and reclamation activities are scheduled to begin, the operator may submit a new, proposed final use and reclamation plan for review by the decision maker. When the decision maker finds that the new proposal is more suitable, the new final use and reclamation plan may substitute for the original proposal provided the landowner, permittee, DOGAMI, DSL, and the County approve.

(C) *Final uses in areas under an ARO.*

(1) Each mining area under an ARO, shall be reclaimed to a final use as set forth in paragraph (2) of this subsection and be accomplished as specified in a DOGAMI approved reclamation plan or in compliance with the DSL conditions of operation.

(2) The uses set forth in this subsection are authorized within an ARO as a final use subject to any limitations set forth in this subsection:

(a) The uses allowed outright in the parent zoning district.

(b) The uses permitted in the parent zoning district if approved pursuant to the procedure for permitting such uses in the underlying zoning district.

(c) Recreational use permitted in the EFU, F/F and FCM zoning districts;

(d) Fish or wildlife habitat including habitat management facilities; or

(e) Public or private hunting or fishing preserves as permitted in the EFU, F/F and FCM zoning districts.

[Adopted 98-002 §3 eff 3/4/98; amd 98-432 eff 10/21/98; 99-156 §9 eff 6/30/99]

### **933.195 Property used for religious purposes**

(A) If a church, synagogue, temple, mosque, chapel, meeting house or other nonresidential place of worship is allowed in a zoning district, the reasonable use of the property for activities customarily associated with the practices of the religious activity, including worship services, religion classes, weddings, funerals, child care and

meal programs shall be allowed. However, this does not include private or parochial school education for pre-kindergarten through grade 12 or higher education.

(B) The decision maker may:

(1) subject the property described in subsection (A) to reasonable regulations, including site review or design review, concerning the physical characteristics of the uses authorized under subsection (A); or

(2) prohibit or restrict the use of property by a place of worship described in subsection (A) if it finds that the level of service of public facilities, including transportation, water supply, sewer and storm drain systems is not adequate to serve the place of worship.

(C) Notwithstanding any other provision of this Code, the decision maker may allow a private or parochial school for pre-kindergarten through grade 12 or higher education to be sited under applicable Code requirements.

[Adopted 02-313 §5 eff 8/21/02]

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### III. GENERAL CONDITIONAL USES DECISION CRITERIA

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#### 933.200 Statement of purpose

(a) All uses permitted conditionally are declared to be possessing such unique and special characteristics as to make impractical their being included as outright uses in any of the various zoning districts. Therefore the location and operation of conditional uses are subject to review and the issuance of a conditional use permit.

(B) The purpose of review shall be to determine:

(1) whether the proposed use is consistent with the purpose of this Development Code, and is compatible with the types of uses existing or proposed in the surrounding area or can be made compatible through the imposition of conditions or requirements, and

(2) what conditions may reasonably be required for a proposed use.

[Adopted 98-002 §3 eff 3/4/98]

#### 933.220 Decision criteria

(A) Whenever a provision of this Land Development Code provides separate review criteria, the decision criteria set forth in subsection (C) shall not be applicable unless the decision criteria are included by reference.

(B) A conditional use permit, except as provided in (A) above, shall be granted if on the basis of the application, investigation, testimony, and evidence submitted, findings and conclusions show that all of the criteria set forth in subsection (C) have been met.

(C) *Decision criteria.*

(1) The use will be consistent with the affected zoning district's statement of purpose;

(2) The location, size, design and operating characteristics of the proposed development will be made reasonably compatible with and have minimal impact on the livability and appropriate development of abutting properties and the surrounding neighborhood, with consideration given to

(a) scale, bulk, coverage and density;

(b) availability of public facilities and utilities;

(c) traffic generation and the capacity of the surrounding road network; and

(d) other related impacts of the development.

(3) The proposed development site has the physical characteristics needed to support the use such as, but not limited to the following:

(a) access;

(b) suitability for on-site, subsurface sewage treatment system;

(c) an adequate supply of potable water;

(d) location outside of a mapped geologic hazard area or of a 100-year flood plain unless it is demonstrated that the use can be designed and engineered to comply with accepted hazard-mitigation requirements; and

(4) The use will not have a significant adverse impact on sensitive fish or wildlife habitat.

[Adopted 98-002 §3 eff 3/4/98]

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#### **IV. URBAN GROWTH AREA ZONE (UGAZ) CONDITIONAL USES CRITERIA**

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##### **933.250 Statement of purpose**

(A) The purpose of LCC 933.250 to 933.260 is to protect lands within urban growth areas. These lands are available for future annexation and urban development and incompatible interim uses are not allowed.

(B) LCC 933.250 to 933.260 establishes the decision criteria under which conditionally uses may be permitted.

[Adopted 98-002 §3 eff 3/4/98; amd 98-432 eff 10/21/98]

##### **933.260 UGAZ decision criteria**

(A) The location of any use described as a conditional use within the UGAZ may be permitted if, on the basis of the application, investigation, testimony and evidence submitted, findings and conclusions show that all the criteria in subsection (B) have been met.

(B) *Decision criteria.*

(1) The proposed development is permitted and is consistent with the affected city's comprehensive plan map designations and the future city zoning.

(2) The location, size, design and operating characteristics of the proposed development are compatible with future development allowed by the affected city's comprehensive plan map designation.

(3) The affected city has reviewed the proposal and has not identified any substantial conflicts with its *Comprehensive Plan*, Facilities Plans or development standards.

(4) The location, design and site planning of the proposed development does not:

(a) preclude future urban development on the subject property or adjacent properties; or

(b) conflict with future location and placement of streets and services.

(5) If the proposed development has the potential to generate conflicts which have been determined to be detrimental to the public health, safety and general welfare or to the overall livability of the neighborhood, then the development shall not be permitted without mitigations. The mitigations will be determined by the decision-maker. Potential conflicts include, but are not limited to noise, vibration, smoke, dust, odor, fumes, heat, glare or electromagnetic interference.

(6) The proposed site

(a) can support an on-site, subsurface sewage disposal system, and

(b) has an adequate supply of potable water.

(7) Traffic generated from the site can be adequately served by the road system servicing the site.

(8) Road access meets County standards as found in section 3.2 of the Linn County Transportation Element of the *Comprehensive Plan*.

(9) The proposed development site is located outside of a mapped geologic hazard area or of a 100-year flood plain unless it is demonstrated that the use can be designed and engineered to comply with accepted hazard-mitigation requirements.

[Adopted 98-002 §3 eff 3/4/98; 99-121 §14 eff 6/30/99]

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#### **V. RRZ CONDITIONAL USES DECISION CRITERIA**

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##### **933.300 Statement of purpose**

The purpose of LCC 933.300 to 933.999 is to establish decision criteria to carry out the policies in LCC Chapter 928 (Rural Resource Zone Code).

[Adopted 98-002 §3 eff 3/4/98]

##### **933.310 RRZ conditional uses; generally**

(A) Conditional uses permitted in LCC 928.320 to 928.336, 928.620 to 928.636 and 928.920 to 928.936, or a partition authorized under LCC 924.500 to 924.800, may be permitted in the Rural Resource Zone, provided the decision

criteria in subsection (B), any additional criteria that may be specified in this section, and other requirements of law are met.

(B) *Decision criteria.*

(1) The development site has physical characteristics needed to support the use. Those characteristics include, but are not limited to, suitability for a sewage treatment system and an adequate supply of potable water.

(2) The development will not be located within a mapped geologic hazard area or within a 100-year floodplain unless it is demonstrated that the proposal can be designed and engineered to comply with accepted hazard mitigation requirements.

(3) The proposal will not have a significant adverse impact on sensitive fish or wildlife habitat.

(4) The proposed use will not force a significant change in, or significantly increase the cost of, accepted farm or forest practices on surrounding lands devoted to farm or forest use.

(5) If in the forest area of the F/F or in the FCM zoning districts, the proposed use will not significantly increase fire hazard or significantly increase fire suppression costs or significantly increase risks to fire suppression personnel.

(6) The location, size, design and operating characteristics of the proposed development will be made reasonably compatible with and have minimal impact on the livability and appropriate development of nearby property. The proposed use will be reviewed with respect to scale, bulk, coverage, density, the availability of necessary public facilities and utilities, traffic generation, road capacity and safety and to other related impacts of the proposal.

(7) If in the forest area of the F/F or in the FCM zoning districts, a written statement recorded with the deed or written contract with the county is obtained from the land owner which recognizes the rights of adjacent and nearby land owners to conduct forest operations consistent with the Forest Practices Act and Rules for the following uses.

- (a) parks and campgrounds;

- (b) reservoirs and impoundments;
- (c) medical hardship dwellings;
- (d) home occupations; and
- (e) private accommodations for fishing.

[Adopted 98-002 §3 eff 3/4/98; amd 98-432 eff 10/21/98]

**933.400 Dwellings in conjunction with farm use**

A dwelling may be considered customarily provided in conjunction with farm use in the EFU or in a farm area of the F/F zoning district if it meets the criteria set out in this section and the criteria found in LCC 933.310 (B) (1) to (3).

(A) *Property Size Test.* On land identified as non-HVFL, a dwelling may be considered customarily provided in conjunction with farm use if the criteria and requirements for the size test in this subsection are met.

(1) The authorized unit of land on which the dwelling will be located is at least 160 acres;

(2) The tract is currently employed for farm use as defined in ORS 215.203;

(3) 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

(4) Except as permitted in ORS 215.283 (1) (p) (1999 edition), there is no other dwelling on the subject tract.

(B) *Median Income and Size Test.* On land identified as non-HVFL pursuant to OAR 660-33-020 (8), a dwelling may be considered customarily provided in conjunction with farm use if the criteria and requirements for the median test in this subsection is satisfied.

(1) 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;

(2) 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 OAR 660-33-135 (2) (a);

(3) The subject tract is currently employed for a farm use, as defined in ORS 215.203, at a level capable of producing the annual gross sales required in OAR 660-33-135 (2) (b);

(4) The subject authorized unit of land on which the dwelling is proposed is not less than 10 acres;

(5) Except as permitted in ORS 215.283 (1) (p) (1999 edition), there is no other dwelling on the subject tract;

(6) 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;

(7) 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 OAR 660-33-135 (2) (c).

(a) In order to identify the commercial farm or ranch tracts to be used in OAR 660-33-135 (2), the gross sales capability of each tract in the study area including the subject tract must be determined, using the gross sales figures provided by the LCDC or equivalent figures provided by another source.

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

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

(d) Determine the potential earning capability for each tract by multiplying the number of acres in each land class by the gross sales per acre for each land class provided by the Commission pursuant to OAR 660-33-135 (4). Add these to obtain the potential earning capability for each tract;

(e) Identify those tracts capable of grossing at least \$10,000 dollars based on the data generated in OAR 660-33-135 (3) (c); and

(f) Determine the median size and median gross sales capability for those tracts capable of generating at least \$10,000 dollars in annual gross sales to use in OAR 660-33-135 (2) (a) and (b).

(C) *Income test for non-HVFL.* On land identified as non-HVFL, a dwelling may be considered customarily provided in conjunction with farm use if the criteria set forth in this subsection are met.

(1) The subject tract is currently employed for the farm use, as defined in ORS 215.203, and the tract has produced in each of the last two years, or three of the last five years, the lower of subparagraph (a) or (b).

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

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

(2) Except as permitted in ORS 215.283 (1) (p) (1999 edition), there is no other dwelling on lands zoned for farm or forest use owned by the farm or ranch operator or on the farm or ranch operation.

(3) The dwelling will be occupied by a person or persons who produced the commodities which grossed the income in this subsection (OAR 660-33-135 (5) (a)).

(4) In determining the gross income required in paragraph (1) of this subsection;

(a) The cost of purchased livestock shall be deducted from the total gross income attributed to the farm or ranch operation;

(b) Only gross income from land owned, not leased or rented, shall be counted; and

(c) Gross farm income earned from a unit of land which has been used previously to qualify another unit of land for the construction or siting of a primary farm dwelling may not be used.

(D) *Income Test for HVFL.* On land identified as HVFL, a dwelling may be considered customarily provided in conjunction with farm use if the criteria set forth in this subsection are satisfied.

(1) The subject tract is currently employed for the farm use, as defined in ORS 215.203, and the tract has produced 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.

(2) In determining the gross income in paragraph (1) of this subsection:

(a) the cost of purchased livestock shall be deducted from the total gross income attributed to the farm or ranch operation.

(b) Only gross income from land owned, not leased or rented, shall be counted; and

(c) Gross farm income earned from a unit of land which has been used previously to qualify another unit of land for the construction or siting of a primary farm dwelling may not be used.

(3) Except as permitted in ORS 215.283 (1) (p) (1999 edition), there is no other dwelling on lands zoned for farm or forest use owned by the farm or ranch operator or on the farm or ranch operation.

(4) The dwelling will be occupied by a person or persons who produced the commodities which grossed the income in this subsection (OAR 660-33-135 (6) (a)).

(E) A dwelling may be considered customarily provided in conjunction with a commercial dairy farm if:

(1) The subject tract will be employed as a commercial dairy as defined in this Code; and

(2) The dwelling is sited on the same authorized unit of land as the buildings required by the commercial dairy; and

(3) Except as permitted by ORS 215.283 (1) (p) (1999 edition), there is no other dwelling on the subject tract; and

(4) 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

(5) 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

(6) The Oregon Department of Agriculture has approved the following:

(a) A permit for a “confined animal feeding operation” under ORS 468B.050 and ORS 468B.200 to 468B.230; and

(b) A Producer License for the sale of dairy products under ORS 621.072.

(F) A dwelling may be considered customarily provided in conjunction with farm use if:

(1) Within the previous two years, the applicant owned and operated a farm or ranch operation that earned the gross farm income in the last five years or four of the last seven years as required by LCC 933.400 (C) (1) (a) or (b), or 933.400 (D) (1), whichever is applicable;

(2) The authorized unit of land on which the dwelling will be located is:

(a) Currently employed for the farm use, as defined in this Code, that produced in the last two years or three of the last five years, the gross farm income required by LCC 933.400 (C) (1) (a) or (b), or 933.400 (D) (1), whichever is applicable; and

(b) At least 80 acres in size.

(3) Except as permitted in ORS 215.283 (1) (p) (1999 edition), there is no other dwelling on the subject tract; and

(4) The dwelling will be occupied by a person or persons who produced the commodities which grossed the income required in paragraph (1) of this subsection;

(5) In determining the gross income required in paragraphs (1) and (2) of this subsection:

(a) The cost of purchased livestock shall be deducted from the total gross income attributed to the tract; and

(b) Only gross income from land owned, not leased or rented, shall be counted.

### 933.410 Accessory farm dwellings

(A) An accessory farm dwelling may be considered customarily provided in conjunction with farm use in the EFU and in the farm area of the F/F zoning districts if it meets all of the requirements set forth in subsection (B) and LCC 933.310 (B) (1) to (3).

#### (B) *Decision criteria.*

(1) An accessory farm dwelling approved pursuant to this section 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 farm operator.

(2) The accessory farm dwelling will be located:

(a) On the same authorized unit of land as the primary farm dwelling; or

(b) On the same tract as the primary farm dwelling when the authorized unit of land on which the accessory farm dwelling will be sited is consolidated into a single authorized unit of land with all other contiguous authorized units of land in the tract; or

(c) On an authorized unit of land on which the primary farm dwelling is not located, when the accessory farm dwelling is limited to only 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 authorized unit of land is conveyed to another party. The manufactured dwelling does not have to be removed if it is reappraised under the applicable rules; or

(d) On an authorized unit of land on which the primary farm dwelling is not located, when the accessory farm dwelling is limited to only attached multi-unit residential structures allowed by the applicable state building code or similar types of farm labor housing as existing farm labor housing on the farm or ranch 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 this section shall be removed, demolished or converted to a nonresidential use when farm worker housing is no longer required; or

(e) On an authorized unit of land on which the primary farm dwelling is not located, when the accessory farm dwelling is located on an authorized unit of land at least 80 acres in size and the authorized unit of land complies with the gross farm income requirements in LCC 933.400 (C) (1) (a) or (b), or 933.400 (D) (1), whichever is applicable; and

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

(4) *Income Test.* The primary farm dwelling to which the proposed dwelling would be accessory meets one of the following.

(a) *Non-HVFL.* On land identified as non-HVFL, the principal farm dwelling is located on a farm or ranch operation that is currently employed for farm use, as defined in ORS 215.203, and produced in each of the last two years or three of the last five years the lower of subparagraphs (a) or (b).

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

(b) *HVFL.* On land identified as HVFL, the principal farm dwelling is located on a farm or ranch operation that is currently em-

ployed for farm use, as defined in ORS 215.203 which produced 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.

(c) It is located on a commercial dairy farm as defined in this Code; and

(i) The building permits, if required, have been issued and construction has begun or been completed for the buildings and animal waste facilities required for a commercial dairy farm; and

(ii) The Oregon Department of Agriculture has approved a permit for a “confined animal feeding operation” under ORS 468B.050 and ORS 468B.200 to 468B.230; and

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

(5) The County shall not approve any proposed partition under LCC Chapter 924 (Partitioning Code) for an accessory farm dwelling unless that dwelling has been requalified as a dwelling in conjunction with farm use and the proposed parcels meet the minimum property size requirement of LCC 924.500 (B) (OAR 660-033-0100).

(6) An accessory farm dwelling cannot later be used to satisfy the requirements for a non-farm dwelling pursuant to OAR 660-33-130 (4).

(7) For purposes of this section, “**accessory farm dwelling**” includes all types of residential structures allowed by the applicable state building code.

[Adopted 98-002 §3 eff 3/4/98; amd 98-432 §2 eff 10/21/98 (ref. OAR 660-033-0130 (24)); amd 02-313 §5 eff 8/21/02]

### 933.420 Farm-relative dwellings

(A) *Farm-relative dwelling.* A farm-relative dwelling may be permitted on an authorized unit of land in the EFU and in the farm area of the F/F zoning districts if the criteria and requirements of subsection (B) are met through a Type IIA review.

(B) The dwelling shall be:

(1) for the relative of a farm operator,

(2) on property used for farm use;

(3) located on the same authorized unit of land as the dwelling of the farm operator,.

(4) 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;

(5) be occupied by 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 and farm use of the farm.

(6) The criteria in LCC 933.310 (B) (1) to (3); and

(7) *Requirement.* No land division shall be permitted until the farm-relative dwelling is removed or otherwise authorized through another land use action.

(8) 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.

(9) For purposes of this section, “**foreclosure**” means only those foreclosures that do not meet the definition of partition under ORS 92.010 (7) (a).

[Adopted 98-002 §3 eff 3/4/98; amd 98-432 §2 eff 10/21/98; amd 02-313 §5 eff 8/21/02 (ref. ORS 215.283 (1) (e))]

### 933.500 Class-IV or worse dwellings

(A) *Class IV-or worse non-farm dwelling.* A single-family, Class-IV or worse dwelling not provided in conjunction with farm use may be permitted on an authorized unit of land in the EFU and in the farm area of the F/F zoning districts, if the criteria and requirements of subsection (B) are met through a Type IIA review.

(B) *Decision criteria.*

(1) 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.

(2) The dwelling will be sited on an authorized unit of land 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 as determined in the *Soil Survey* or as determined by an acceptable soils report submitted in accordance with OAR 603-080-0040 by a soil scientist with acceptable credentials as identified in OAR 603-080-0030.

(3) The dwelling will be sited on an authorized unit of land created before January 1, 1993.

(4) The dwelling will not materially alter the stability of the overall land use pattern of the area.

(a) In determining whether a proposed non-farm dwelling will alter the stability of the land use pattern in the area, the hearing authority shall consider the cumulative impact of possible new non-farm dwellings and parcels on other authorized units of land in the area similarly situated.

(b) To address this standard, the hearing authority shall:

(a) Identify a study area for the cumulative impacts analysis.

(I) The study area shall include at least 2000 acres or a smaller area not less than 1000 acres, if the smaller area is a distinct agricultural area based on topography, soil types, land use pattern, or the type of farm or ranch operations or practices that distinguish it from other, adjacent agricultural areas.

(II) Lands zoned for rural residential or other urban or non-resource uses shall not be included in the study area.

(ii) Identify within the study area the broad types of farm uses (irrigated or nonirrigated crops, pasture or grazing lands), the number, location and type of existing dwellings (farm, non-farm, hardship, etc.), and the dwelling development trends since 1993, and determine the potential number of non-farm dwellings and pre-85 dwellings that could be approved under LCC 933.706 and 933.707 and LCC 933.500, including

identification of predominant soil classifications, the authorized units of land created prior to January 1, 1993 and the units larger than the minimum property size that may be divided to create new units for non-farm dwellings under LCC 933.510.

(iii) Make findings that describe:

(I) the study area;  
(II) its boundaries;  
(III) the location of the subject authorized unit of land within this area;

(IV) why the selected area is representative of the land use pattern surrounding the subject unit and is adequate to conduct the analysis required by this standard;

(V) the existing land use pattern of the study area including the distribution and arrangement of existing uses and the land use pattern that could result from approval of the possible non-farm dwellings under this subparagraph; and

(VI) whether approval of the proposed non-farm dwellings and pre-85 dwellings together with existing non-farm dwellings will materially alter the stability of the land use pattern in the area. The stability of the land use pattern will be materially altered if the cumulative effect of existing and potential non-farm dwellings will make it more difficult for the existing types of farms in the area to continue operation due to diminished opportunities to expand, purchase 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.

(5) The dwelling complies with such other conditions as the governing body or its designate considers necessary.

(6) If a single-family dwelling is established on an authorized unit of land as set forth in LCC 933.705 to 933.750, no additional dwelling may later be sited under this section.

(7) The property meets decision criteria in LCC 933.310 (B) (1) to (4).

(8) *Requirement.* The property shall be disqualified from special assessment pursuant to ORS 215.236.

[Adopted 98-002 §3 eff 3/4/98; amd 98-432 §2 eff 10/21/98; 99-121 §14 eff 6/30/99 (ref. ORS 215.284 (1), OAR 660-033-0139=0 (4)); 00-498 §1 eff 9/6/00]

### 933.510 Class-VI or worse dwellings

(A) *Class-VI or worse non-farm dwelling.* A new parcel for a single-family Class-VI or worse dwelling not provided in conjunction with farm use may be permitted on an authorized unit of land the EFU and in the F/F zoning districts, if the criteria and requirements of this subsection are met through a Type II review.

(B) *Decision criteria.*

(1) The originating parcel must have been created before January 1, 1993.

(2) The originating authorized unit of land is:

(a) Equal to or larger than 100 acres; and

(b) Is not stocked with trees to the requirements under ORS 527.610 to 527.770; and

(c) Is composed of at least 95 percent Class VI through Class VIII soils as determined in the *Soil Survey* or as determined by an acceptable soils report submitted in accordance with OAR 603-080-0040 by a soil scientist with acceptable credentials as identified in OAR 603-080-0030; and

(d) Is composed of at least 95 percent soils not capable or producing 50 cubic feet per acre per year of wood fiber.

(3) Any parcel to be created for a dwelling from the originating authorized unit of land described in paragraph (1) of this subsection will not be smaller than 20 acres.

(4) The dwelling or activities associated with the dwelling allowed under this subsection 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.

(5) The dwelling will not materially alter the stability of the overall land use pattern of the area.

(a) In determining whether a proposed non-farm dwelling will alter the stability of the land use pattern in the area, the hearing authority shall consider the cumulative impact of possible new non-farm dwellings and parcels on other authorized units of land in the area similarly situated.

(b) To address this standard, the hearing authority shall:

(i) Identify a study area for the cumulative impacts analysis.

(I) The study area shall include at least 2000 acres or a smaller area not less than 1000 acres, if the smaller area is a distinct agricultural area based on topography, soil types, land use pattern, or the type of farm or ranch operations or practices that distinguish it from other, adjacent agricultural areas.

(II) Lands zoned for rural residential or other urban or non-resource uses shall not be included in the study area;

(ii) Identify within the study area the broad types of farm uses (irrigated or nonirrigated crops, pasture or grazing lands), the number, location and type of existing dwellings (farm, non-farm, hardship, etc.), and the dwelling development trends since 1993, and determine the potential number of non-farm dwellings and pre-85 dwellings that could be approved under LCC 933.706 and 933.707 and LCC 933.500, including identification of predominant soil classifications, the authorized units of land created prior to January 1, 1993 and the units larger than the minimum property size that may be divided to create new units for non-farm dwellings under LCC 933.510.

(iii) make findings that describe:

(I) the study area;

(II) its boundaries;

(III) the location of the subject authorized unit of land within this area;

(IV) why the selected area is representative of the land use pattern surrounding the subject unit and is adequate to conduct the analysis required by this standard;

(V) the existing land use pattern of the study area including the distribution and arrangement of existing uses and the land use pattern that could result from approval of the possible non-farm dwellings under this subparagraph; and

(VI) whether approval of the proposed non-farm dwellings and pre-85 dwellings together with existing non-farm dwellings will materially alter the stability of the land use pattern in the area. The stability of the land use pattern will be materially altered if the cumulative effect of existing and potential non-farm dwellings will make it more difficult for the existing types of farms in the area to continue operation due to diminished opportunities to expand, purchase 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

(6) The dwelling allowed under this subsection complies with such other conditions as the governing body or its designate considers necessary.

(7) No final approval of a non-farm use under this section shall be given unless any additional taxes imposed upon the change in use have been paid.

(8) If a single-family dwelling is established on an authorized unit of land as set forth in LCC 933.705 to 933.750, no additional dwelling may later be sited under this section.

(9) The criteria and requirements in LCC 933.310 (B) (1) to (4) are met.

(10) The partitioning criteria in LCC 924.005 to 928.460 (General Partitioning) are met.

(11) The Director shall not approve a subdivision or series partition for a dwelling under this section. The provisions of this paragraph regarding a series partition apply only to applications for a land division submitted after July 1, 1997. For purposes of this paragraph, "series partition" shall have the meaning given that term in ORS 92.305.

(12) *Requirement.* The property shall be disqualified from special assessment pursuant to ORS 215.236.

[Adopted 98-002 §3 eff 3/4/98; amd 98-432 §2 eff 10/21/98; 99-121 §14 eff 6/30/99 (ref. ORS 215.284 (4), OAR 660-033-0100 (11)); 00-498 §1 eff 9/6/00]

### **933.705 Pre-85 single-family dwellings; generally**

#### **(A) Definitions.**

(1) For purposes of LCC 933.705 to 933.708, the following definitions apply.

(a) "**Owner**" includes the wife, husband, son, daughter, mother, father, brother, brother-in-law, sister, sister-in-law, son-in-law, daughter-in-law, mother-in-law, father-in-law, aunt, uncle, niece, nephew, stepparent, stepchild, grandparent or grandchild of the owner or a business entity owned by any one or combination of these family members.

(b) "**Tract**," means only those units of land and parts of any unit of land of a tract, as that term is defined in LCC 920.100, that lie within the Rural Resource Zone when:

(i) the tract, as that term is defined in LCC 920.100, is split-zoned into resource-zoned and non-resource zoned property, and

(ii) at least one authorized unit of land is wholly within the Rural Resource Zone.

(B) *General decision criteria for dwellings authorized under LCC 933.705 to 933.720.* The criteria in this subsection apply to the establishment of a single-family dwelling authorized under the provisions of LCC 933.705 to 933.720.

(1) The authorized unit of land on which the dwelling will be sited was lawfully created and was acquired and was owned continuously by the present owner:

(a) Since prior to January 1, 1985; or

(b) By devise or by intestate succession from a person who acquired and had owned continuously the authorized unit of land since prior to January 1, 1985.

(2) The tract on which the dwelling will be sited, as the tract existed on November 4, 1993, does not include a dwelling.

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

(4) The authorized unit of land on which the dwelling will be sited, if in the EFU or in the farm area of the F/F zoning district, is on:

(a) non-HVFL as described in LCC 933.706; or

(b) HVFL-2 as described in LCC 933.707; or

(c) HVFL-1 as described in LCC 933.708.

(5) The authorized unit of land on which the dwelling will be sited, if in the forest area of the F/F zoning district, is sited as described in LCC 933.720.

(6) When the authorized unit of land on which the dwelling will be sited lies within an area designated in the *Comprehensive Plan* as habitat of big game, the siting of the dwelling is consistent with the limitations on density upon which the *Comprehensive Plan* and the Land Development Code intended to protect the habitat are based.

(7) When the authorized unit of land on which the dwelling will be sited is part of a tract, the remaining portions of the tract are consolidated into a single authorized unit of land when the dwelling is allowed.

(C) When the decision maker approves an application for a single-family dwelling under the provisions of this section, the application may be transferred by a person who has qualified under this section to any other person after the effective date of the land use decision.

[Adopted 98-002 §3 eff 3/4/98; amd 98-432 §2 eff 10/21/98; 99-121 §14 eff 6/30/99 (ref. ORS 215.705), OAR 660-033-0130 (3)]

### 933.706 Pre-85 non-HVFL dwellings

(A) A dwelling may be sited in the EFU or in the farm area of the F/F zoning district when the authorized unit of land on which the dwelling will be sited meets the criteria in subsection (B) and the requirement in subsection (C).

(B) *Decision criteria.*

(1) The authorized unit of land is non-HVFL.

(2) The criteria of LCC 933.705 are met.

(3) The criteria of LCC 933.310 (B) (1) to (3).

(C) *Requirement.* The decision maker shall notify the County Assessor that it intends to allow the dwelling.

[Adopted 98-002 §3 eff 3/4/98; amd 98-432 §2 eff 10/21/98 (ref. ORS 215.705 (1)(d), OAR 660-033-0130 (3))]

### 933.707 Pre-85 HVFL-2 dwellings

(A) A single-family dwelling not in conjunction with farm use may be sited on HVFL-2 in the EFU or in the farm area of the F/F zoning district if it meets the criteria of subsection (B) and the requirement in subsection (C) of this section.

(B) *Decision criteria.*

(1) The criteria of LCC 933.705 are met.

(2) The tract on which the dwelling will be sited is:

(a) Identified as HVFL-2;

(b) Not protected as HVFL-1; and

(c) Twenty-one acres or less in size.

(3) The tract:

(a) 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 them on January 1, 1993; or

(b) is not a flaglot and is bordered on at least 25 percent of its perimeter by tracts that are smaller than 21 acres, and at least four dwellings existed on January 1, 1993, within one-quarter mile of the center of the subject tract. Up to two of the four dwellings may lie within the urban growth boundary, but only if the subject tract abuts an urban growth boundary; or

(c) is a flaglot and is bordered on at least 25 percent of its perimeter by tracts that are smaller than 21 acres, and at least four dwellings existed on January 1, 1993, within one-quarter mile of the center of the subject tract and on the same side of the public road that provides access to the subject tract. The director must interpret the center of the subject tract as the geographic center of the flaglot if the applicant makes a written request for that interpretation and that interpreta-



tion does not cause the center to be located outside the flaglot. Up to two of the four dwellings may lie within the urban growth boundary, but only if the subject tract abuts an urban growth boundary.

(4) As used in paragraph (3) of this subsection:

(a) “**Flaglot**” means a tract containing a narrow strip or panhandle of land providing access from the public road to the rest of the tract.

(b) “**Geographic center of the flaglot**” means the point of intersection of two perpendicular lines of which the first line crosses the midpoint of the longest side of the flaglot, at a 90-degree angle to that side, and the second line crosses the midpoint of the longest adjacent side of the flaglot.

(5) The criteria of LCC 933.310 (B) (1) to (3).

(C) *Requirement.* The decision maker shall notify the County Assessor that it intends to allow the dwelling.

[Adopted 98-002 §3 eff 3/4/98; amd 98-432 §2 eff 10/21/98 (ref. ORS 215.705 (2), OAR 660-033-0130 (3)); amd 02-313 §5 eff 8/21/02]

### 933.708 Pre-85 HVFL-1 dwellings

(A) A single-family dwelling not in conjunction with farm use may be sited on HVFL-1 in the EFU or in the farm area of the F/F zoning district if it meets the criteria of subsection (B) and the requirement of subsection (D) of this section.

(B) *Decision criteria.*

(1) The criteria of LCC 933.705 are met;

(2) The authorized unit of land is protected as HVFL-1 as described under ORS 215.710 (1); and

(3) The Commission determines that:

(a) The authorized unit of land cannot practicably be managed for farm use, by itself or in conjunction with other land, due to extraordinary circumstances inherent in the land or its physical setting that do not apply generally to other land in the vicinity. For the purposes of this section, this criterion asks whether the subject unit of land can be physically put to farm use without undue hardship or difficulty because of extraordinary circumstances inherent in the land

or its physical setting. Neither size alone nor a unit of land’s limited economic potential demonstrate that a unit of land cannot be practicably managed for farm use. Examples of “extraordinary circumstances inherent in the land or its physical setting” include very steep slopes, deep ravines, rivers, streams, roads, railroad or utility lines or other similar natural or physical barriers that by themselves or in combination separate the subject unit of land from adjacent agricultural land and prevent it from being practicably managed for farm use by itself or together with adjacent or nearby farms. A unit of land that has been put to farm use despite the proximity of a natural barrier or since the placement of a physical barrier shall be presumed manageable for farm use.

(b) The dwelling will comply with the provisions of LCC 933.310 (B) (1).

(c) The dwelling will not materially alter the stability of the overall land use pattern in the area.

(i) In determining whether a proposed non-farm dwelling will alter the stability of the land use pattern in the area, the hearing authority shall consider the cumulative impact of possible new non-farm dwellings and parcels on other authorized units of land in the area similarly situated.

(ii) To address this standard, the hearing authority shall:

(I) Identify a study area for the cumulative impacts analysis.

1) The study area shall include at least 2000 acres or a smaller area not less than 1000 acres, if the smaller area is a distinct agricultural area based on topography, soil types, land use pattern, or the type of farm or ranch operations or practices that distinguish it from other, adjacent agricultural areas.

2) Lands zoned for rural residential or other urban or non-resource uses shall not be included in the study area.

(II) Identify within the study area the broad types of farm uses (irrigated or nonirrigated crops, pasture or grazing lands), the number, location and type of existing dwell-

ings (farm, non-farm, hardship, etc.), and the dwelling development trends since 1993, and determine the potential number of non-farm dwellings and pre-85 dwellings that could be approved under LCC 933.706 and 933.707 and LCC 933.500, including identification of predominant soil classifications, the authorized units of land created prior to January 1, 1993 and the units larger than the minimum property size that may be divided to create new units for non-farm dwellings under LCC 933.510.

(III) Make findings that describe:

- 1) the study area;
- 2) its boundaries;
- 3) the location of the subject authorized unit of land within this area;
- 4) why the selected area is representative of the land use pattern surrounding the subject unit and is adequate to conduct the analysis required by this standard;
- 5) the existing land use pattern of the study area including the distribution and arrangement of existing uses and the land use pattern that could result from approval of the possible non-farm dwellings under this subparagraph; and
- 6) whether approval of the proposed non-farm dwellings and pre-85 dwellings together with existing non-farm dwellings will materially alter the stability of the land use pattern in the area. The stability of the land use pattern will be materially altered if the cumulative effect of existing and potential non-farm dwellings will make it more difficult for the existing types of farms in the area to continue operation due to diminished opportunities to expand, purchase 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.

(4) The criteria of LCC 933.310 (B) (1) to (4).

(C) The Director shall provide notice of all applications for dwellings allowed under this section to the State Department of Agriculture.

Notice shall be provided in accordance with LCC 921.370 but shall be mailed at least 20 calendar days prior to the public hearing before the Commission under this section.

(D) *Requirement.* The decision maker shall notify the County Assessor that it intends to allow the dwelling.

[Adopted 98-002 §3 eff 3/4/98; amd 98-432 §2 eff 10/21/98; 99-121 §14 eff 6/30/99; amd 02-313 §5 eff 8/21/02 (ref. ORS 215.705 (3), OAR 660-033-0130 (3))]

### 933.720 Pre-85 forestland dwelling

(A) A dwelling authorized under LCC 928.628 (B) (1) may be permitted in the forest area of the F/F zoning district only if the decision criteria set forth in subsection (B) are met.

(B) *Decision criteria.*

(1) The predominate use of the land was forestry on January 1, 1993.

(2) The criteria of LCC 933.705 are met;

(3) The criteria of LCC 933.310 (B) (1) to (3) and (5) are met;

(4) The tract on which the dwelling will be sited is

(a) composed of soils not capable of producing 5,000 cubic feet per year of commercial tree species, and

(b) 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:

(i) a United States Bureau of Land Management road; or

(ii) a United States Forest Service road unless:

(I) the road is paved to a minimum width of 18 feet,

(II) there is at least one defined lane in each direction, and

(III) a maintenance agreement exists between the United States Forest Service and landowners adjacent to the road, a local government, or a state agency.

(C) A new dwelling authorized under this section must satisfy the requirements of LCC 933.170 and 934.590.

(D) If the authorized unit of land is more than 10 acres, the property owner shall comply with LCC 933.170.

[Adopted 98-002 §3 eff 3/4/98; amd 98-432 §2 eff 10/21/98; 99-121 §14 eff 6/30/99 (ref. ORS 215.720), OAR 660-006-0027)]

### 933.740 Large tract forestland dwelling

(A) A dwelling authorized under LCC 928.617 (B) (3) may be permitted in the forest area of the F/F zoning district if it complies with other provisions of law and is sited on a tract of at least 160 contiguous acres of forest tree species.

(B) A new dwelling authorized under this section must satisfy the requirements of LCC 933.170 and 934.590.

(C) If the authorized unit of land is more than 10 acres, the property owner shall comply with LCC 933.170.

[Adopted 98-002 §3 eff 3/4/98; amd 98-432 §2 eff 10/21/98 (ref. ORS 215.740), OAR 660-006-0027)]

### 933.750 Alternative forestland dwellings

(A) **Definitions.** For purposes of this section the following definitions apply

(1) “**Tract,**” means only those units of land and parts of any unit of land of a tract, as that term is defined in LCC 920.100, that lie within the Rural Resource Zone when:

(a) the tract, as that term is defined in LCC 920.100, is split-zoned into resource-zoned and non-resource zoned property, and

(b) at least one authorized unit of land is wholly within the Rural Resource Zone.

(B) One single-family dwelling authorized under LCC 928.628 (B) (2) may be permitted on an authorized unit of land containing less than 160 acres in the forest area of the F/F zoning district subject to the requirements and criteria in subsections (C) to (J).

(C) *Decision criteria.*

(1) The authorized unit of land is predominantly composed of soils that are:

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

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

(ii) At least three dwellings existed on January 1, 1993, and continue to exist, on the other authorized units of land;

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

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

(ii) At least three dwellings existed on January 1, 1993, and continue to exist, on the other authorized units of land; or

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

(i) All or part of at least 11 other authorized units of land that existed on January 1, 1993, are within a 160-acre square centered on the center of the subject tract; and

(ii) At least three dwellings existed on January 1, 1993, and continue to exist, on the other authorized units of land.

(2) The criteria of LCC 933.310 (B) (1) to (3) and (5).

(D) Authorized units of land within urban growth boundaries shall not be used to satisfy the eligibility requirements under paragraph (1) of subsection (C) of this section.

(E) A proposed dwelling under this section is not allowed:

(1) If it is prohibited by or will not comply with the requirements of an acknowledged comprehensive plan or acknowledged land use regulations or other provisions of law.

(2) Unless it complies with the requirements of LCC 933.170 and 934.590.

(3) If the tract on which the dwelling will be sited includes a dwelling.

(F) Except as described in subsections (G) and (H) of this section, if the tract under this section abuts a road that existed on January 1, 1993, the measurement may be made by creating a 160-acre rectangle that is one mile long and one-fourth mile wide centered on the center of the subject tract and that is to the maximum extent possible, aligned with the road.

(G) If a tract 60 acres or larger described under this section abuts a road or perennial stream, the measurement shall be made in accordance with subsection (F) of this section. However, one of the three required dwellings shall be on the same side of the road or stream as the tract and:

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

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

(H) If a road crosses the tract on which the dwelling will be located, at least one of the three required dwellings shall be on the same side of the road as the proposed dwelling.

(I) If the authorized unit of land is more than 10 acres, the property owner shall comply with LCC 933.170.

(J) The alternative forestland dwelling is subject to siting standards described in LCC 934.590.

[Adopted 98-002 §3 eff 3/4/98; amd 98-432 §2 eff 10/21/98; 99-121 §14 eff 6/30/99 (ref. ORS 215.750, OAR 660-006-0027)]

### 933.760 Small forest homestead dwellings

(A) When permitted in the forest area of the F/F or FCM zoning district, a small forest homestead must be created pursuant to LCC 924.728.

(B) The decision criteria in LCC 933.310 (B) (4) must be met.

(C) The existing dwelling on the originating parcel becomes, by a partitioning authorized under LCC 924.728, a small forest homestead dwelling.

[Adopted 98-002 §3 eff 3/4/98; amd 98-432 eff 10/21/98 (ref. ORS 215.780 (2) (b) and (c))]

### 933.770 Forest resource dwellings

(A) When permitted in the forest area of the F/F or FCM zoning district, a forest resource dwelling must be created pursuant to LCC 924.729.

(B) The decision criteria in LCC 933.310 (B) (4) must be met.

(C) The existing dwelling on the originating parcel becomes, by a partitioning authorized under LCC 924.729, a forest-resource dwelling.

[Adopted 98-002 §3 eff 3/4/98; amd 98-432 eff 10/21/98 (ref. ORS 215.780 (2) (d))]

### 933.780 Caretaker residences in the F/F

(A) A caretaker residence is permitted in the forest area of the F/F zoning district for the following purposes, subject to meeting the decision criteria in subsection (B) of this section:

(1) Public parks.

(2) Public fish hatcheries.

(B) The decision criteria in LCC 933.310 (B) (1) to (5) must be met.

[Adopted 98-432 §2 eff 10/21/98 (ref. ORS 215.755 (3))]

### 933.790 Wildlife management dwelling

(A) One single-family residential dwelling in conjunction with a wildlife habitat conservation and management plan may be established upon findings:

(1) that the management plan has been approved by the State Department of Fish and Wildlife; and

(2) that the proposed dwelling:

(a) Is not situated on HVFL-1 soil;

(b) Is situated on an authorized unit of land existing on November 4, 1993, that qualifies for a farm or non-farm dwelling under LCC 933.400 or 933.500;

(c) Complies with LCC 933.500 (B)

(1); and

(d) Is the only dwelling situated on the affected unit of land.

[Adopted 99-121 §14 eff 6/30/99]

### 933.800 Medical hardship dwellings

(A) An application for a medical hardship dwelling shall be reviewed and decided pursuant to the procedures established in LCC Chapter 921 (Land Development Administration Code) and to the applicable decision criteria of subsections (A) to (D) of this section.

(1) Approval from the EHP for connection of the medical hardship dwelling to the sewage treatment system serving the existing residence or a statement from the EHP saying that

such connection is not feasible and recommending a possible alternative.

(2) A written statement required by LCC 932.880 (B) (2); or

(3) The documentation required in LCC 932.880 (B) (3).

(4) Where a zoning district permits, one medical hardship dwelling may be established on an authorized unit of land, if the criteria and requirements of this subsection and the applicable provisions of subsections (B) to (D) are met through a Type IIA review.

(a) the medical hardship dwelling must be:

(i) used in conjunction with an existing dwelling;

(ii) used as a temporary use for the term of a hardship suffered by the existing resident or a relative of the resident; and

(iii) the provisions of LCC 932.860 to 932.895 are met.

(5) In the RRZ: the requirements and decision criteria set forth in LCC 933.310 are met.

(6) In the RDZ, the decision criteria set forth in LCC 933.220 are met.

(7) In the UGAZ, the decision criteria of LCC 933.260 are met.

(B) *Park trailer.* If the applicant is seeking approval of a park trailer as the medical hardship dwelling, the application must meet the criteria in subsection (A) and in this subsection.

(1) Park trailers unlike other recreational vehicles, are required by the *Specialty Code* to be leveled, blocked and connected to services.

(2) Placement permits and other development permits for park trailers will be issued only for authorized units of land for which a single-family residence is authorized and for which a medical hardship dwelling conditional use permit exists and for which a septic system permit has been issued.

(3) Placement of a park trailer shall conform to the development standards of the applicable zoning district.

[Adopted 98-002 §3 eff 3/4/98; amd 98-432 §2 eff 10/21/98; 99-121 §14 eff 6/30/99 (ORS 215.283 (2) (k))]

### **933.900 Transportation improvements**

(A) For transportation uses listed in LCC 928.320 (B) (8) (b); 928.620 (B) (18) (b); 928.920 (B) (19) (b), in addition to the decision criteria in LCC 933.310, the decision criteria set forth in subsection (B) of this section are also applicable in the Rural Resource Zone.

(B) *Decision criteria.*

(1) Identify reasonable build design alternatives, such as alternative alignments, that are safe and can be constructed at a reasonable cost, not considering raw land costs, with available technology.

(2) Assess the effects of the identified alternatives on farm and forest practices, considering impacts to farm and forest lands, structures and facilities, considering the effects of traffic on the movement of farm and forest vehicles and equipment and considering the effects of access to authorized units of land created on farm and forest lands; and

(3) Select from the identified alternatives, the one, or combination of identified alternatives that has the least impact on lands in the immediate vicinity devoted to farm or forest use.

[Adopted 98-002 §3 eff 3/4/98]

### **933.910 Soil classifications; changing**

(A) The soil classifications or other soil designations used in this Chapter are those identified in *Soil Survey of Linn County Area Oregon*.

(B) For purposes of approving a land use application in the EFU or in the farm area of the F/F zoning district under LCC 928.326 (B) (5) and (6) 928.336 (B), 928.626 (B) (5) and (6), or 928.636 (B), the soil classification or other soil designation of a specific authorized unit of land may be changed if:

(1) The property owner submits a statement of agreement from the Natural Resources Conservation Service (formerly SCS) of the United States Department of Agriculture that the soil classification or other soil designation should be adjusted based on new information; or

(2) The property owner:

(a) Submits a report from a soils scientist whose credentials are acceptable to the State Department of Agriculture that the soil class, soil rating or other soil designation should be changed, and

(b) Submits a statement from the State Department of Agriculture that the Director of Agriculture or the Director's designee has reviewed the report described above and finds the analysis in the report to be soundly and scientifically based.

(C) For purposes of approving a land use application in the EFU or in the farm area of the F/F zoning district under LCC 928.326 (B) (3) and (4) or 928.626 (B) (3) and (4) the soil classification or other soil designation of a specific authorized unit of land may be changed if:

(1) The property owner submits a statement of agreement from the Natural Resources Conservation Service (formerly SCS) of the United States Department of Agriculture that the soil classification or other soil designation should be adjusted based on new information; or

(2) The property owner:

(a) Submits an acceptable soils report as identified in OAR 603-080-0040 from a soils scientist with acceptable credentials as identified in OAR 603-080-0030 that the soil class, soil rating or other soil designation should be changed.

[Adopted 98-002 §3 eff 3/4/98; amd 98-432 §2 eff 10/21/98 (ref. ORS 215.710 (5); 00-498 §1 eff 9/6/00)]

### 933.920 Soil classifications; NRCS edition

Soils information for reviewing pre-85 dwellings must be from the most recent Natural Resource Conservation Service (NRCS) publication prior to November 4, 1993. For other non-farm uses, the most recent NRCS soils information may be used. excluding dwellings, the most recent NRCS soils information may be used. For non-farm dwellings, the most recent NRCS soils information or an acceptable soils report from a soil scientist having acceptable credentials as identified in LCC 933.910 (C) may be used.

[Adopted 99-121 §14 eff 6/30/99; 00-498 §1 eff 9/6/00]

### 933.930 Decision criteria for parks

(A) The criteria set forth in this subsection shall be met for the approval of an application for a private park.

(1) For a private park:

(a) if in an RRZ, meet the decision criteria set forth in LCC 933.310 and is located only on non-HVFL;

(b) if in an RDZ, meet the decision criteria set forth in LCC 933.220;

(c) if in an UGAZ, meet the decision criteria set forth in LCC 933.260.

(2) For a private campground in a private park, the campground shall meet, in addition to the criteria set forth in paragraph (1) of this subsection, the following criteria:

(a) in any zoning district,

(i) the campground shall be an area devoted to overnight temporary use for vacation, recreational or emergency purposes;

(ii) the campground shall not be used for residential purposes.

(b) only in the RRZ,

(i) Except on an authorized unit of land contiguous to a lake or reservoir, the campground 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;

(ii) the campground shall be 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.

(B) The criteria set forth in this subsection shall be met for the approval of an application for a public park.

(1) For a public park:

(a) if in an RRZ, meet the decision criteria set forth in LCC 933.310;

(b) if in an RDZ, meet the decision criteria set forth in LCC 933.220;

(c) if in an UGAZ, meet the decision criteria set forth in LCC 933.260;

(d) the park shall be owned and operated by a governmental agency or a nonprofit community organization.

(e) if a State park, such criteria as may be adopted by statute or rule;

(f) if a local public park, such criteria as may be made applicable in a local park master plan.

(2) For a public campground in a public park, the campground shall meet, in addition to the criteria set forth in paragraph (1) of this subsection, the following criteria:

(a) in any zoning district,

(i) the campground shall be an area devoted to overnight temporary use for vacation, recreational or emergency purposes;

(ii) the campground shall not be used for residential purposes.

(iii) the park shall be owned and operated by a governmental agency or a nonprofit community organization.

(b) only in the RRZ, the campground shall be 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.

[Adopted 99-121 §14 eff 6/30/99]

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**Statutory References and Other Authorities:**

ORS 197; 203; 215

**Legislative History of Chapter 933:**

Adopted 98-002 eff 3/4/98

Amendments to 98-002

#1 98-432 eff 10/21/98

#2 99-121 §14 eff 6/30/99

#3 99-156 §9 eff 6/30/99

#4 00-498 §1 eff 9/6/00

#5 02-313 §5 eff 8/21/02

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# TITLE 9

## COMMUNITY DEVELOPMENT

### Subtitle 2 — Land Development Code Division 5 — Conditions, Requirements, Development Standards & Criteria

#### CHAPTER 934

#### DEVELOPMENT STANDARDS CODE

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**Table 1 — Parking Space Required by Use**

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**I. GENERAL PROVISIONS**

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**934.005 Title; short title**

This Chapter, LCC 934.005 to 934.999, shall be known and cited as the “Linn County Development Standards Code.” This Chapter may also be referred to and cited as the “Development Standards Code.”

[Adopted 98-002 §3 eff 3/4/98; 99-121 §15 eff 6/30/99]

**934.010 Statement of purpose**

(A) The purpose of LCC 934.100 to 934.499 is to provide general provisions and exceptions to general provisions for building height, yard area, frontage conditions, landscaping, screening, materials storage, parking and sign standards for the uses described, in order to promote vehicle safety, enhance the appearance of the community and provide for greater compatibility between adjoining land uses and zoning districts.

(B) The purpose of LCC 934.500 to 934.999 is to provide specific development and performance standards to which uses permitted and

approved pursuant to this Development Code must comply in specific zoning districts  
[Adopted 98-002 §3 eff 3/4/98]

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## II. GENERAL DEVELOPMENT STANDARDS

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### A. STANDARDS; GENERALLY

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#### 934.100 Relationship between development standards

(A) Where conflict arises between a standard established in the zoning district and this Chapter, the more restrictive standard shall govern.

(B) Except where specifically limited or prohibited, a variance application to a development standard may be filed pursuant to LCC Chapter 921 (Administration of the Development Code). Approval or denial of a variance application shall be based upon the decision criteria in LCC Chapter 938 (Variance Procedure Code).

[Adopted 98-002 §3 eff 3/4/98]

#### 934.110 Building height, exemptions

(A) The roof structures and architectural features set forth in subsection (B) of this section are exempt from the standard 35-foot height limitation on buildings within a zoning district.

(B) *Exemptions.*

(1) roof structures for the housing of elevators, stairways, tanks, ventilating fans and similar equipment required to operate and maintain the building;

(2) fire or parapet walls;

(3) skylights;

(4) towers;

(5) flagpoles;

(6) chimneys and smokestacks;

(7) wireless masts and television antennae.

(C) The structures and features set forth in subsection (B) of this section and similar structures and features may be erected above the height limits prescribed in this Chapter, provided that no

roof structure, feature or any other device above the prescribed height limit shall be allowed or used for the purpose of providing additional habitable or storage floor space, and provided that an exemption does not allow a violation of the height restriction limitation with in Airport Overlay.

[Adopted 98-002 §3 eff 3/4/98]

#### 934.120 Riparian habitat setback

In each zoning district, the property development standards include a setback from protected riparian habitats (see Appendix 1, Figure 8 following LCC Chapter 920 (General Provisions), illustrating this riparian habitat setback).

[Adopted 98-002 §3 eff 3/4/98]

#### 934.130 Screening and materials storage

(A) *Undeveloped sites.* Except for dwellings, manufactured dwellings and associated accessory structures, farm uses, and forest uses, development of any undeveloped sites within zoning districts set forth in this subsection shall comply with subsections (C) and (D) of this section.

- Rural Center (RCT),
- Rural Commercial (RCM),
- Freeway Interchange Commercial (FIC),
- Urban Growth Area—Limited Industrial (UGA—LI),
- Urban Growth Area—Heavy Industrial (UGA—HI),
- Urban Development I (UD—I),
- Urban Development II (UD—II),
- Agribusiness (AB),
- Limited Industrial (LI), or
- Heavy Industrial (HI).

(B) *Partially developed sites.* Partially developed sites within the districts set forth in subsection (A) of this section shall

(1) comply with subsections (C) and (D), or,

(2) submit to the Department an alternative plan based upon the existing conditions. The Director shall determine whether the alternative plan complies with the purpose of this section.

(C) *Screening.* An earthen berm, hedge, masonry walls, wood fence, woven-wire fence with view-obscuring slats, or any combination thereof shall be placed on the property line as follows:

(1) where a side or rear property line adjoins a residential zoning district; or

(2) where an existing residence is within 100 feet of the side or rear yard. Such screening shall be at least six feet high.

(D) *Materials storage.* Storage of materials, equipment or refuse shall be confined, contained and conducted entirely within an enclosed building or an enclosure consisting of an earthen berm, masonry wall, wood fence, woven-wire fence with view-obscuring slats, or any combination thereof. Such an enclosure must be at least six feet high.

[Adopted 98-002 §3 eff 3/4/98]

### 934.140 Vision clearance area required

(A) On all corner properties, including those located at the intersection of road-related easements and roads, including alleys, a vision clearance area shall be required which shall comply with this section (See Figure 7 in the Appendix 1 to LCC Chapter 920 (Development Code; General Provisions).

(B) The clear vision area required by this section shall contain no plants, walls, fences, signs, or other structures or obstructions, either temporary or permanent, between the 2½-foot and 10-foot vertical marks, as measured from the grade of the road.

(C) In all zoning districts the vision clearance lines of a vision clearance area shall be:

(1) not less than 15 feet for corner properties, or

(2) not less than 7½ feet for road intersections.

[Adopted 98-002 §3 eff 3/4/98; amd 04-051 §1 eff 2/18/04]

[934.160 renumbered LCC 933.140 98-432 §2 eff 10/21/98]

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## B. YARD STANDARDS

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### 934.200 Yard requirements

(A) Yard requirements for property abutting a partial or future public road right-of-way:

(1) Except as provided in paragraph (2) of this subsection, no building shall be erected on

property which abuts a public road having only a portion of its required width dedicated unless the yards provided and maintained in connection with such building have a width or depth needed to complete the public road width, plus the width or depth of the yards required for the property by this section ; and

(2) Where the *Transportation Element* of the *Comprehensive Plan* includes provisions for the actions listed in subparagraphs (a) to (c) of this paragraph, the placement of buildings and the establishment of yards, shall relate to the future right-of-way boundaries as proposed in the *Comprehensive Plan*.

(a) The widening of existing public roads,

(b) The connecting of existing public roads, or

(c) The establishment of new public roads

(d) Any yard setback required by paragraph (2) of this subsection may be increased pursuant to provisions of that transportation element.

(B) No yard provided around one building for the purpose of complying with the regulations of a zoning district shall be considered as providing the required yard for another building.

(C) No yard on adjoining property shall be considered as providing the required yard for another authorized unit of land or development site.

(D) No front yards provided around any building for the purpose of complying with the regulations of a zoning district shall be used for public or private parking areas or garages or other accessory buildings, except as specifically provided in this Chapter.

(E) The *Uniform Building Code* does not allow a building to be constructed across a property line, even if both properties are owned by the same owner.

(1) When a common property line separating two or more contiguous properties is affected by one building permit or when the placement of a building would not fully conform to the

required yard space along a common property line, the affected line shall be removed or moved through either:

- (a) a consolidation approved by the Assessor's Office pursuant to LCC 925.030;
- (b) a property line adjustment; or
- (c) the yard standard shall be adjusted through a variance.

(2) If the required adjustment is not granted, the building permit cannot be issued. See LCC Chapter 925 (Property Line Adjustment Code) and LCC Chapter 938 (Variance Procedure Code).

[Adopted 98-002 §3 eff 3/4/98]

### **934.205 Yard exceptions and permitted intrusions into required yards**

(A) The intrusions set forth in subsection (B) may project into required yards to the extent and under the conditions and limitations indicated.

(B) *Permitted intrusions.*

(1) *Depressed areas.* In any zoning district, open-work fences, hedges, guard railings or other landscaping or architectural devices for safety protection around depressed ramps, stairs or retaining walls may be located in required yards provided that such devices are not more than 3½ feet high.

(2) *Projecting building features.* The following building features may project into the required front yard no more than five feet and into the required interior yards no more than two feet provided that such projections are not less than three feet from any interior property line:

- (a) Eaves, cornices, belt course, sills, awnings, buttresses or other similar features;
- (b) Chimneys and fireplaces provided they do not exceed eight feet in width;
- (c) Porches, platforms or landings which do not extend above the level of the first floor of the building; and

(d) Signs conforming to all other applicable provisions of LCC 934.210 to 934.217.

(3) *Fences and walls.*

(a) In any residential zoning district, a fence or wall not to exceed six feet in height

may be located or maintained within the required yards except where the requirements of vision clearance area apply.

(b) In any commercial or industrial zoning district, fences or walls not to exceed eight feet in height may be located or maintained within the required yards except where the requirements of vision clearance area apply.

(c) Fences or walls exceeding 6 feet in height shall comply with the Building Code as that term is defined in LCC 920.100.

(4) *Parking and driveways.*

(a) In any zoning district, driveways or access ways providing ingress and egress to or from private parking areas or garages, public parking areas or garages, and parking spaces shall be permitted subject to riparian habitat setback, together with any appropriate traffic control devices in any required yard;

(b) In any residential zoning district, public or private parking areas and parking spaces shall not be permitted in any required yard except as follows: Public or private parking areas, service drives, parking structures or spaces which are developed or maintained in conjunction with any building or use permitted in a residential zoning district shall be permitted and shall be permitted in any interior yard that abuts an alley, provided said parking areas, drives, structures or spaces comply with the property development standards of the zoning district and the detailed parking regulations of LCC 934.260.

(c) In any commercial or industrial zoning district, public or private parking areas, drives, structures or parking spaces shall be permitted in any interior yard provided the property development standards of the zoning district and detailed parking regulations of LCC 934.260 are met.

[Adopted 98-002 §3 eff 3/4/98; amd 04-051 §1 eff 2/18/04]

### **934.207 Flag-lot or flag strip**

(A) A flag-lot or flag strip, fronting on a public road, shall constitute a deeded area of land not less than 30 feet wide nor more than 60 feet wide which is intended to provide private road

access to an authorized unit of land in the same ownership as the strip, not otherwise having frontage on a public road. A property thus connected to a public road by a flag strip is defined as a flag-lot, and is illustrated in Figure 4 of LCC Chapter 920 (Development Code; General Provisions).

(B) The flag strips of no more than two flag-lots shall be allowed to locate adjacent to one another in any zoning district. Otherwise, at least 100 feet shall separate additional flag strips.

(C) The area within the flag strip shall not be included in the minimum area required in the applicable zoning district for the creation of a new parcel or lot, or for the computation of the size of an existing authorized unit of land.

[Adopted 98-002 §3 eff 3/4/98]

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## C. SIGN STANDARDS

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### 934.210 Statement of purpose

The purpose of LCC 934.210 to 934.217 shall be to establish standards for the construction, erection, maintenance, electrification, illumination, type, size, number and location of advertising signs and directional signs in order to promote traffic safety and enhance the appearance of the community.

[Adopted 98-002 §3 eff 3/4/98]

### 934.211 Signs; prohibitions

(A) A sign set forth in subsection (B) is prohibited, unless exempted under LCC 934.212.

(B) *Prohibited signs*

(1) A sign that interferes with or resembles traffic signs or signals or obstructs the view of traffic signs or signals or of traffic;

(2) A sign that flashes, revolves, rotates or moves; unless the sign advertises activities conducted on the business premises and:

(a) displays time, temperature, or weather, or

(b) is controlled by electronic process or remote control);

(3) A sign that has unshielded or glaring lights;

(4) A sign that is located on a tree, rock, or other natural feature;

(5) A sign that is on a property on which a business, commodity or service is no longer available on the premises;

(6) A sign that is portable or temporary (such as an A-frame sign) unless affixed to the premises or a merchandise display;

(7) A sign that encroaches upon or overhangs a road right-of-way;

(8) A sign that violates any state or federal law or regulation; or

(9) A sign that cannot withstand wind pressure of 20 pounds per square foot of exposed surface or is not maintained in good repair and neat, clean and attractive condition.

[Adopted 98-002 §3 eff 3/4/98; amd 98-432 §2 eff 10/21/98]

### 934.212 Signs, exempted

(A) The provisions of LCC 934.200 shall not apply to the any sign set forth in subsection (B).

(B) *Exempted signs.*

(1) Official traffic signs and signals.

(2) Directional signs erected by public authority.

(3) Warning signs erected on private property and outside vision clearance areas to warn the public of a danger on or prohibiting or limiting access to the premises.

(4) Permanent building plaques, corner stones, name plates, and similar building identifications.

(5) House and building numbers.

(6) Historical markers erected or maintained by public authority or on private property outside vision clearance areas by a recognized historical society or organization identifying sites, buildings, or structures of recognized historical value.

(7) Signs erected by a public officer performing official duty pursuant to law, administrative order, or a court order.

(8) One sign, limited to 1½ square feet, denoting the name or occupation or both of the occupant of the building.

(9) Signs located within a building.

(10) Holiday decorations.

(11) Political signs meeting the requirements of this subsection and advertising only candidates seeking public office or promoting the passage or defeat of a measure on the ballot.

(C) For a political sign in subsection (B) to be exempted, the sign shall be:

(a) Erected and maintained entirely on private property;

(b) Erected only with consent of the property owner;

(c) Limited to an area of 32 square feet;

(d) Removed within 35 days after the election; and

(e) Not erected or maintained on trees, rocks, or other natural features.

[Adopted 98-002 §3 eff 3/4/98]

### **934.213 Advertising signs along a state highway**

(A) Subject to LCC 934.211, signs may be allowed on properties abutting state highways in certain development zoning districts, that bring rental income to the property owner, or that advertise goods, products, or service not sold, manufactured or distributed on or from the premises or facilities upon which the sign is located.

(B) Notwithstanding the prohibition in LCC 934.211 (B) (5), a sign advertising a business, commodity or service no longer available on property abutting a state highway may be permitted on that property; however, no other free standing sign may be permitted on that property.

[Adopted 98-002 §3 eff 3/4/98]

### **934.214 Sign standards in an ARO mining area**

Signs permitted in an ARO mining area are subject to this section.

(A) One, on-premise, principal sign for each enterprise is permitted in an ARO mining area not to exceed 1½ square feet in area for each linear foot of building frontage paralleling a road or 150 square feet, whichever is lesser. Such signs shall be placed flat against the wall of the building and

may be illuminated but shall have no flashing lights or moving parts;

(B) One, unlighted, on-premise, temporary sign not to exceed 12 square feet in area pertaining to the sale or lease of a building or the property upon which it is displayed; or

(C) One on-premise or off-premise directional or regulatory sign not to exceed 16 square feet in area.

[Adopted 98-002 §3 eff 3/4/98; 99-156 §10 eff 6/30/99]

### **934.215 Signs standards for EFU, F/F, FCM, §2 NR, RR, UGA-UGM, and UGA-RR zoning districts**

Signs permitted in the EFU, F/F, FCM, §2NR, RR, UGA-UGM, and UGA-RR zoning districts are subject to this section.

(A) One sign not to exceed 1½ square feet indicating the name and occupation of the occupant of the residence.

(B) In the §2NR, RR, UGA-UGM and UGA-RR zoning districts, one sign not to exceed 32 square feet in display surface indicating the name of an enterprise, product produced or identifying uses other than a single-family residence or pertaining to the sale or lease of property. Such signs shall not be illuminated nor shall they have moving parts or flashing lights.

(C) In the EFU, F/F and FCM zoning districts, one sign not to exceed 64 square feet in display surface indicating the name of an enterprise, product produced or identifying uses other than a single family residence or pertaining to the sale or lease of property. Such signs shall not be illuminated nor shall they have moving parts or flashing lights.

(D) One sign not to exceed 16 square feet in display surface indicating the name and general direction to an enterprise or use other than a single-family residence.

[Adopted 98-002 §3 eff 3/4/98; 99-121 §15 eff 6/30/99; amd 02-313 §6 eff 8/13/02; 04-043 §3 eff 4/28/04]

### **934.216 Signs standards for home occupations**

(A) No more than two, on-site signs not to exceed 16 square feet in total sign area shall be permitted for a home occupation. Such signs shall

only indicate the name of the home occupation or the product produced; no product or service not associated with the home occupation shall be displayed. Such a sign shall not be illuminated nor have moving parts or flashing lights.

(B) No more than one, off-premise directional sign, not to exceed eight square feet in area, shall be permitted. Such a sign shall only indicate the name or product produced and the general direction to the home occupation.

[Adopted 98-002 §3 eff 3/4/98]

### **934.217 Sign standards; area, height and number permitted**

(A) Signs conforming to the standards set forth in subsection (B) shall be permitted for each use in the following commercial or industrial zoning districts:

- Agribusiness (AB),
- Freeway Interchange Commercial (FIC),
- Heavy Industrial I (HI)
- Limited Industrial (LI),
- Rural Commercial (RCM),
- Rural Center (RCT),
- Urban Development I (UD-I),
- Urban Development II (UD-II),
- Urban Growth Area-Rural Commercial (UGA-RCM),
- Urban Growth Area-Heavy Industrial (UGA-HI), and
- Urban Growth Area-Limited Industrial (UGA-LI).

(B) *Permitted signs.*

(1) One principal, freestanding sign, roof sign or building wall sign.

(a) Except as authorized in paragraph (2) (b) (iii) of this subsection, such a sign shall not exceed 35 feet in height, measured from the roadway grade or grade of the sign premises, whichever is higher, to the top of the sign.

(b) The sign shall not exceed:

- (i) 125 square feet in sign area on properties with frontage, other than by a flag strip, on a county road or local access road; or
- (ii) 250 square feet in sign area on properties with frontage on a state highway; or
- (iii) 825 square feet in sign area on properties adjoining Interstate Highway 5. The height shall not exceed 65 feet.

(c) Such sign may be illuminated.

(2) The following secondary and directional signs are permitted for each enterprise:

(a) One illuminated, secondary sign attached to the building but not above the eave; and

(b) One illuminated, directional sign at each motor vehicle entrance or exit. Such signs shall not exceed six feet in height.

(3) In addition to the standards and requirements of this section, a sign along state highways is subject to Oregon State Highway Division placement standards as specified in ORS 377.750 and ORS 377.767.

(4) Except for a sign advertising the sale or lease of an authorized unit of land located on the unit of land being advertised for sale, a sign is not permitted on an undeveloped authorized unit of land.

(5) One unlighted sign per frontage onto a local access road or county road not to exceed 12 square feet in area or six feet in height pertaining to the sale or lease of a vacant building or the land upon which it is displayed.

(C) The content of a sign permitted in this section shall not conflict with LCC 934.211 (B) (5) and (8).

(D) The total area of all secondary or directional sign faces permitted for a business under paragraph (2) of subsection (B) of this section shall not exceed a total sign area of 125 square feet.

[Adopted 98-002 §3 eff 3/4/98; amd 98-432 §2 eff 10/21/98; 99-121 §15 eff 6/30/99]

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## **D. LANDSCAPING STANDARDS**

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### **934.220 Landscaping required**

Landscaping materials shall be provided, as follows, for all uses described in LCC 934.225:

(A) All required landscaping materials shall be located in the required front yard area.

(B) A landscaping plan shall be submitted for review by the Director before building permits are issued for construction. The landscaping plan shall indicate the materials to be used, their location on the site and a schedule for planting.

(C) Development of the site shall adhere to the landscaping plan approved by the Director. Landscaping shall be planted in accordance with the schedule of planting.

(D) All uses requiring landscaping, whether presently undeveloped or partially developed, shall either provide landscaping materials in compliance with the standards in LCC 934.228 or submit to the Department an alternative based upon the native vegetation, existing landscaping or substitute plan. The Director shall determine whether the alternative complies with the purpose of this LCC 934.220 to 934.228.

[Adopted 98-002 §3 eff 3/4/98]

### **934.225 Uses requiring landscaping**

(A) All uses allowed outright or permitted through a conditional use review in the following commercial and industrial zoning districts:

- Agribusiness (AB),
- Freeway Interchange Commercial (FIC),
- Heavy Industrial I (HI)
- Limited Industrial (LI),
- Rural Commercial (RCM),
- Rural Center (RCT),
- Urban Development–I (UD–I),
- Urban Development–II (UD–II),
- Urban Growth Area–Rural Commercial (UGA–RCM),
- Urban Growth Area–Heavy Industrial (UGA–HI), and
- Urban Growth Area–Limited Industrial (UGA–LI).

(B) The uses authorized in subsection (A) of this section shall provide the landscaping required in LCC 934.220 except for:

- (1) Dwellings, manufactured dwellings and associated accessory structures;
- (2) Farm uses; and
- (3) Forest uses.

(C) The following uses shall provide the landscaping required in LCC 934.220 unless the Director determines that the site complies with the intent of LCC 934.220 to 934.228:

- (1) Public utility facilities;
- (2) Energy generating facilities;
- (3) Public and semi-public buildings and uses;
- (4) Small-scale commercial uses;

(5) Infilling a manufactured dwelling park;

(6) Kennels;

(7) Cemeteries; and

(8) Publicly- or privately-operated parks, including, but not limited to recreational vehicle parks, picnic areas, playgrounds, campgrounds, golf courses and community centers.

[Adopted 98-002 §3 eff 3/4/98; amd 98-432 §2 eff 10/21/98]

### **934.228 Landscaping standards**

(A) A mixture of trees, shrubs and ground cover shall be provided in all landscaped areas and in the following quantities:

(1) At least one tree shall be provided for each 50 linear feet of frontage along a public road;

(2) At least five shrubs shall be provided for each 50 linear feet of frontage onto a public road; and

(3) Ground cover shall be either sodded lawn, hydromulch or seeded lawn or other living materials. The lawn or ground cover shall be planted in such a manner as to cover the landscaping area within one year.

(B) All required landscaping materials shall be not less than the following sizes:

(1) *Trees*. All trees planted to comply with the minimum landscaping standards shall be at least six feet in height;

(2) *Shrubs*. All shrubs planted to comply with the minimum landscaping standards shall be at least a five-gallon size;

(3) *Ground cover*. All ground cover species shall be evergreen perennials.

(C) The Director may approve substitutions for the landscaping material requirements to incorporate existing native and planted vegetation or other circumstances.

(D) Landscaped areas may also include decorative rock, sculpture, walkways, patios, fountains or similar features. These features shall not be used as replacements for the required trees and shrubs.

(E) Landscaping areas shall be maintained in a neat, orderly condition free of weeds and litter.



Landscaping specimens shall be maintained in a healthy condition and replaced as necessary.

[Adopted 98-002 §3 eff 3/4/98]

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## E. PARKING STANDARDS

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### 934.250 Parking, off-road required

(A) Off-road parking shall be provided on the development site in all zoning districts for all uses specified under LCC 934.252, 934.253 and 934.260.

(B) All required parking must be under the same ownership as the development site served, except through special covenant agreements which bind the parking to the development site as may be approved by the hearing authority or the Director.

[Adopted 98-002 §3 eff 3/4/98]

### 934.251 Parking area design

(A) All public or private parking areas or garages, except those required in conjunction with a single-family dwelling on a single authorized unit of land shall be designed and constructed in accordance with the provisions of LCC 934.250 to 934.260.

(B) All public or private parking areas and parking spaces, except those required in conjunction with a single-family dwelling shall be designed and constructed to conform to the minimum standards as set forth in this LCC 934.250 to 934.260 and to the applicable property development standards of the zoning district in which such parking area is located.

(C) Groups of three or more parking spaces, except those in conjunction with single-family dwellings on a single authorized unit of land shall be served by a service drive so that no backward movement or other maneuvering of a vehicle within a public road other than an alley, will be required. Service drives shall be designed and constructed to facilitate the flow of traffic, provide maximum safety from traffic ingress and egress and maximum safety for pedestrians and vehicular traffic on the site. In no case shall two-way and

one-way driveways be less than 30 feet and 16 feet, respectively.

[Adopted 98-002 §3 eff 3/4/98]

### 934.252 Parking requirements for uses not specified

The parking space requirements for buildings and uses not set forth shall be determined by the Director and shall be based upon the requirements for the most comparable building or use specified. The decision of the Director may be appealed in the manner provided under LCC Chapter 921 (Land Development Administration Code).

[Adopted 98-002 §3 eff 3/4/98]

### 934.253 Parking, common facilities for mixed uses

(A) In the case of mixed uses, the total requirements for off-road parking spaces shall be the sum of the requirements for the various uses. Off-road parking facilities for one use shall not be considered as providing parking facilities for any other use except as provided below.

(B) *Joint use of parking facilities.* The Director may, upon application, authorize the joint use of parking facilities required by said uses and any other parking facility provided that:

(1) The applicant shows that there is no substantial conflict in the operating hours of the building or use for which the joint use of parking facilities is proposed;

(2) The parking facility for which joint use is proposed is no farther than 400 feet from the building or use required to provide parking; and

(3) The parties concerned in the joint use of off-road parking facilities shall sign an agreement for such joint use, using a legal instrument approved by County Counsel as to form and content. Such instrument, when approved as conforming to the provisions of the Land Development Code, shall be recorded in the office of the County Clerk with a copy provided to the Director.

[Adopted 98-002 §3 eff 3/4/98]

### **934.254 Parking, paving required**

All public or private parking areas which contain three or more parking spaces and outdoor vehicles sales areas shall be improved pursuant to the following minimum standards:

(A) All parking areas and sales areas shall have a durable, dust-free surfacing of asphaltic concrete, portland cement concrete or other approved materials. All parking areas and sales areas, except those in conjunction with a single-family dwelling, shall be graded so as not to drain storm water over the public sidewalk or onto any abutting public or private property.

(B) All parking areas and sales areas, except those required in conjunction with a single-family dwelling, shall provide a substantial bumper which will prevent cars from encroachment on abutting private or public property.

(C) All parking areas and sales areas, including service drives, except those required in conjunction with single-family dwellings which abut a §2Non-Resource (NR), Rural Residential (RR) or Rural Center (RCT) zoning district, shall be enclosed along all interior property lines which abut such district by an ornamental wood fence or masonry wall not less than four feet nor more than six feet in height.

(1) Such wood fence or masonry wall shall adhere to the visual clearance and front and interior yard requirements established for the zoning district in which it is located;

(2) If the fence, wall or hedge is not located on the property line, the area between the fence, wall or hedge and the property line shall be landscaped with lawn or low-growing evergreen ground cover or vegetation or rock mulch;

(3) All plants in this area shall be adequately maintained by a permanent irrigation system and said fence, wall or hedge shall be maintained in good condition; and

(4) Adequate provisions shall be maintained to protect walls, fences or plants from being damaged by vehicles using the parking area.

(D) Any lights provided to illuminate any public or private parking area or vehicle sales area shall be so arranged as to reflect the light away

from any abutting or adjacent residential zoning district or residence.

(E) All parking spaces shall be substantially marked to comply with the diagram set forth in Table 1 at the end of this Chapter.

[Adopted 98-002 §3 eff 3/4/98; 04-043 §3 eff 4/28/04]

### **934.255 Parking, off-road relationship to loading areas**

All loading spaces for commercial and industrial buildings and uses shall be in excess of required parking spaces.

[Adopted 98-002 §3 eff 3/4/98]

### **934.260 Parking spaces required**

The number of off-road parking spaces required shall be no less than set forth in Table 1 at the end of this Chapter.

[Adopted 98-002 §3 eff 3/4/98]

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## **F. FARMSTAND STANDARDS**

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### **934.300 Farm stands; development standards**

(A) The development standards set forth in subsection (B) shall apply to farm stands in zoning districts allowing limited farm use.

(B) *Development standards.*

(1) A farm stand shall be less than 120 square feet.

(2) A permanent farm stand shall meet building code and setback standards.

(3) A temporary farm stand, exempt from building code and setback standards, shall be removed at the conclusion of each harvest season.

(4) Temporary farm stands are not exempt from the clear vision area standards.

[Adopted 98-002 §3 eff 3/4/98]

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## **G. PERSONAL USE AIRPORT STANDARDS**

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### **934.310 Personal use airports; development standards**

(A) Personal use airports are permitted in the following zoning districts:

- Exclusive Farm Use (EFU),

- Urban Growth Area–Exclusive Farm Use (UGA–EFU–80);
- Farm/Forest (F/F),
- Urban Growth Area–Farm/Forest (UGA–F/F);
- Agribusiness (AB),
- Heavy Industria 1 (HI),
- Limited Industrial (LI),
- §2 • Non-resource (NR),
- Rural Residential (RR),
- Urban Growth Area–Heavy Industrial (UGA–HI),
- Urban Growth Area–Limited Industrial (UGA–LI).

(B) Personal use airports are subject to the following limitations.

(1) Only aircraft owned or controlled by the owner of the airstrip may be based on the personal use airport.

(2) Skydiving activities may be allowed as a separate use in conjunction with a personal use airport.

[Adopted 98-002 §3 eff 3/4/98; 04-043 §3 eff 4/28/04]

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**H. MANUFACTURED DWELLING PARKS STANDARDS**

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**934.330 Manufactured dwelling parks; development standards**

(A) Any infilling of a manufactured dwelling park shall comply with the minimum development standards of the Linn County Code in addition to standards regulating manufactured dwelling parks as promulgated and administered by the Building Codes Division of the State Department of Commerce and Business Services under provisions of OAR Chapter 814.

(B) In the event that standards of the Land Development Code conflict with the standards of OAR Chapter 814, OAR Chapter 814 shall govern.

(C) All development which occurs while infilling a manufactured dwelling park shall comply with the minimum development standards set forth in LCC Chapter 934 (General Development Standards Code).

(D) The Director may approve an exception the standards set forth in this section that are not otherwise disallowed by the OAR Chapter 814 if the applicant can demonstrate that:

(1) Topographic or site characteristics limit implementation of these standards;

(2) Approval of this exception will not undermine the intent of this Development Code; and

(3) The granting of this exception will not be injurious to the public health, safety or welfare nor materially injurious to properties or improvements in the vicinity.

[Adopted 98-002 §3 eff 3/4/98]

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**I. OIL, GAS, GEOTHERMAL RESOURCES EXPLORATION AND EXTRACTION STANDARDS**

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**934.340 Oil, natural gas, geothermal exploration and extraction; standards for rehabilitation and restoration of sites**

(A) The mineral property owner having an approved reclamation plan by the Oregon Department of Geology and Mineral Industries shall be responsible for the eventual rehabilitation and restoration of the site as described in the plan submitted with the application.

(B) Except for buildings and structures which are permitted uses in the zone in which the site is located, all buildings, equipment, apparatus and appurtenances accessory to the exploration and extraction operation shall be removed from the site upon abandonment of the exploration or extraction operation.

(C) Upon abandonment of the exploration or extraction operation, the site shall be restored as follows:

(1) All excavations shall be back-filled with comparable soils to the original contour of the site;

(2) All fill material not used for back-filling in paragraph (1) shall be removed from the site down to the original topsoil; and

(3) The existing fill or excavation may be allowed to remain, or may be altered, if the site as contoured upon abandonment

(a) is to be utilized as a use permitted within the zoning district, and

(b) is a benefit to the development of that proposed use.

[Adopted 98-002 §3 eff 3/4/98]

**J. PROTECTED MINERAL OR AGGREGATE SITE STANDARDS**

**934.350 Environmental quality standards**

All activities within a protected mineral or aggregate site shall meet any applicable environmental quality standards of the Oregon Department of Environmental Quality, the Oregon Department of Geology and Mineral Industries, or Oregon Division of State Lands, and any other applicable standards as administered by any other governmental agency.

[Adopted 98-002 §3 eff 3/4/98]

**934.351 Access standard**

Each property used shall have at least a 60 foot frontage onto a public road or have an easement of access to a public road that has been approved by the Roadmaster.

[Adopted 99-156 §10 eff 6/30/99]

**934.352 Setback standards**

(A) For purposes of this section, “**on-site haul road**” means a private road that is constructed or used to haul aggregate to a public road.

(B) Protected mineral and aggregate sites are subject to the setback standards set forth in the following table:

SUBJECT	SETBACK	FROM:
Access to or from the property shall be developed over an existing access point or	100 feet	any existing property access point or adjoining property access point
Excavation	75 feet	any property line
storage of topsoil for later use in reclamation and all materials stored for sale	30 feet	any property line
building, locating, and operating processing equipment	30 feet	any property line

construct or use an on-site haul road	30 feet	any property boundary or public road <sup>2</sup>
<sup>1</sup> The Director may approve a different setback for a flag-lot provided that the haul road on the flag-lot is a minimum of 10 feet from any property boundary.		
<sup>2</sup> The setback limitations imposed by this section shall not apply at an access point to a public road right-of-way.		

(C) No operator may haul aggregate over a route not specified in a truck haul plan approved by the Roadmaster.

(D) No operator may at any time allow excavation to undermine or threaten to undermine any property not under the control of the extraction operator.

[Adopted 99-156 §10 eff 6/30/99]

**934.353 Waiver of setbacks**

Notwithstanding the setback limitations imposed by LCC 934.352, the setbacks described therein do not apply to the boundary that crosses a protected mineral or aggregate site.

[Adopted 98-002 §3 eff 3/4/98]

**934.354 Variance standards**

(A) If a variance to the standards set forth in LCC 934.352 is approved, the additional standards set forth in this section shall be imposed on the development permit.

(B) The standards set forth in this section apply to a protected mineral or aggregate site.

(C) Where the protected mineral or aggregate site adjoins a residential, commercial or industrial zoning district and extraction is to occur within 75 feet of a property boundary adjoining such zoning district, a safety fence at least four feet in height shall be erected along the property boundary.

[Adopted 99-156 §10 eff 6/30/99]

**934.356 Off-site parking**

(A) All parking facilities for visitors, customers and employees shall be located within the boundary of the property under the control of the operator and adjoining the extraction and processing site.

(B) Where a boundary of a residential, commercial or industrial zoning district, or where a residential, commercial or industrial structure is

within 30 feet of a property boundary, parking may occur at a minimum distance of 10 feet from the property boundary.

(C) All off-road parking shall comply with provisions of this Chapter.

[Adopted 98-002 §3 eff 3/4/98]

**934.357 Hours of operation**

All operations in a protected mineral or aggregate site other than office activities and machinery and equipment maintenance and repair shall be limited to operating months, days and hours specified on the development permit.

[Adopted 98-002 §3 eff 3/4/98]

**934.359 Vegetative screening**

(A) A vegetative screen 10 feet in width shall be planted along any adjoining public roadway or residential, commercial or industrial zoning district before extraction activities may commence.

(B) The screen shall consist of native plants and trees or plants and trees with a demonstrated ability to thrive under these site conditions. The vegetative screen shall consist of species capable of growing to a height of at least 10 feet.

(C) The screening standards along boundaries of a protected mineral or aggregate site are as set forth in the following table:

FOR A NEW OR EXPANDED ARO MINING AREA OR USE	FROM ADJACENT ZONING DISTRICT OR EXISTING LAND USE	SCREENING STANDARDS ALONG BOUNDARIES OF A PROTECTED MINERAL OR AGGREGATE SITE		
		Vegetative Screen <sup>1</sup>		Sight-obscuring Fence
		Height	Width	
ARO mining area	Residential, Commercial, Industrial, or Resource Use	n/a	n/a	n/a
	Public Roadway; Residential, Commercial, Industrial Zoning District	10 feet	10 feet	n/a
Aggregate permit issued under LCC 921.562	Residential, Commercial, Industrial, or Resource Use	n/a	n/a	n/a
	Public Roadway; Residential, Commercial, Industrial Zoning District	10 feet	10 feet	n/a

<sup>1</sup>A vegetative screen shall consist of native plants and trees or plants and trees with a demonstrated ability to thrive under the site conditions. A vegetative screen shall consist of species capable of growing to a height of at least 10 feet.

<sup>2</sup>Property shall have either a 1-foot-high vegetative screen or a 6-foot-high sight-obscuring fence.

[Adopted 98-002 §3 eff 3/4/98; amd 98-432 §2 eff 10/21/98; 99-156 §10 eff 6/30/99]

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**K. HOME OCCUPATION PERFORMANCE STANDARDS**

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**934.360 Home occupations; performance standards**

(A) All home occupations shall be conducted in a manner that complies with the standards of operation set forth in subsection (B).

(B) *Performance standards.*

(1) The home occupation will be owned and operated by a resident of the property on which the business is located. An employee may operate the business during the temporary absence of the owner of the home occupation.

(2) The home occupation shall employ, on site, no more than five full or part-time persons, including residents of the dwelling.

(3) The home occupation will be operated substantially in the dwelling or other buildings normally associated with uses permitted in the zoning district in which the property is located.

(4) No modification to a dwelling shall be made that would cause it to resemble anything other than a dwelling.

(5) Home occupations shall be limited to the numbers and types of vehicles for use in the operation as set forth in this paragraph. The home occupation is limited to two motor vehicles selected from subparagraph (a), two vehicles from subparagraph (b), and an unlimited number of equipment from subparagraph (c).

(a) Motorized vehicles that are designed for travel on public roads or heavy motorized vehicle equipment such as a tractor, caterpillar, or backhoe.

(b) Non-motorized vehicles that are drawn by a motorized vehicle that is designed to travel on a public road.

(c) Motorized and non-motorized equipment such as lawnmowers, concrete mixers, wheelbarrows.

(6) No more than two vehicles at any one time may be repaired, serviced, modified, assembled, or stored on-site for such purpose.

(7) The storage of equipment or parts shall be limited to those required for the maintenance, manufacture or repair of products sold, manufactured or repaired by the home occupation. Such storage shall comply with the materials storage requirements listed in LCC 934.130 (D).

(8) On-premise sales of merchandise shall be limited to goods manufactured, processed, finished or repaired by the home occupation.

(9) On-premise parking areas shall be of sufficient area to accommodate all vehicles associated with the home occupation.

(10) The operation or use of equipment or processes resulting in offense or irritation to neighboring residents shall not be permitted.

(11) Signs are subject to LCC 934.210 to 934.217.

[Adopted 98-002 §3 eff 3/4/98; amd 98-432 §2 eff 10/21/98]

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**L. KENNELS PERFORMANCE AND DEVELOPMENT STANDARDS**

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**934.370 Kennels; performance standards**

The following minimum standards shall apply to all kennels. Except where specifically stated otherwise, all of the following information shall be provided at the time the application for a kennel conditional use permit is submitted. The development plan shall include the following:

(A) The perimeter of the kennel building, outdoor runs and the parking area shall be completely fenced with either chain link fencing or other non-climbable fencing. All fencing shall be anchored soundly to the ground and be of sufficient height to prevent animals from escaping by digging under the fence or climbing over the fence.

(B) The kennel building shall be enclosed and insulated to maintain a temperature-controlled environment and provide a noise barrier.

(C) Adequate lighting and ventilation shall be provided in the kennel building for the health and comfort of the animals at all times.

(D) The kennel building shall have concrete floors and be equipped with a drainage system to

facilitate cleaning and an adequate method of waste disposal approved by the Environmental Health Program (EHP). A waste collection and drainage plan shall be submitted to and approved by the EHP before a kennel may operate.

(E) Kennels are not permitted to be operated in conjunction with the purchase or sale of animals.

(F) The kennel operator shall notify the Linn County Dog Control Department, the Oregon Department of Agriculture and the United States Department of Agriculture that a kennel is in operation. Proof of the notifications shall be provided to the Department.

(G) Dogs shall be kept inside the enclosed kennel building, at a minimum, between the hours of 9:00 p.m. and 7:00 a.m. Except for an emergency, the kennel shall not be open to the public between the hours of 9:00 p.m. and 7:00 a.m.

(H) A kennel may only be located on a authorized unit of land that contains a dwelling. The dwelling shall be occupied by the kennel owner, operator, manager, caretaker or other individual responsible for the kennel.

(I) Any outdoor lighting shall be directed away from neighboring residences.

(J) An access and parking plan is required to demonstrate adequate access and parking for the kennel facility. Parking requirements shall comply with the provisions of LCC 934.250 to 934.260.

(K) A kennel facility shall board no more than 100 dogs and 50 cats based on locational, operational and site characteristics. The minimum size of the authorized unit of land on which a kennel may be approved is one acre.

(L) Unless specifically requested by the animals' owner(s), no more than one dog or one cat may be permitted per individual kennel run or cage.

(M) Animal training and grooming may be permitted as accessory uses to a kennel.

[Adopted 98-002 §3 eff 3/4/98]

### **934.375 Kennels; property development standards**

(A) The proposal is subject to the property development standards set forth in subsection (B).

(B) *Development standards.*

(1) A kennel building shall be located not less than 50 feet from a property line and the outdoor runs shall be located not less than 75 feet from a property line.

(2) A kennel building shall be located within 200 feet of the dwelling on the property for which the kennel is proposed.

[Adopted 98-002 §3 eff 3/4/98]

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### **M. MEDICAL HARDSHIP DWELLING STANDARDS**

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### **934.380 Medical hardship dwelling; siting standards**

A medical hardship dwelling may be temporarily sited when all of the following standards are met:

(A) A licensed Oregon physician has certified that a medical hardship exists and the afflicted person requires close supervision and care, or proof satisfactory to the Director that the person is 65 years of age or older.

(B) The Environmental Health Program has authorized the medical hardship dwelling to connect to the existing subsurface sewage disposal system or has authorized an alternative means of sewage disposal.

(C) The residence of the qualifying person must be sited within 200 feet of, and on the same authorized unit of land as, the residence of the care giver.

(D) The placement of the manufactured dwelling is temporary in nature and the landowner, lessee, qualifying person, and care giver shall acknowledge that the medical hardship dwelling is temporary in nature and shall agree:

(1) in the case of a manufactured dwelling,

(a) in the RDZ other than in the AB, HI, or LI zoning districts, to remove the manufac-

tured dwelling within 70 days of when the term of hardship ceases, or

(b) in any other zoning district, to remove the manufactured dwelling or to convert the dwelling to a non-residential use allowed or permitted in the zoning district within 70 days of when the term of hardship ceases; or

(2) in the case of the conversion of an existing building, to remove, demolish, or return the existing building to an allowed non-residential use within 3 months.

(E) The applicant shall place the manufactured dwelling on the property in a manner that will comply with all applicable property development standards unless an appropriate variance has been obtained.

(F) The applicant shall apply for and obtain from the Department a placement permit before locating a manufactured dwelling on any property.

(G) The applicant shall apply for and obtain from the Department any other permits required by law.

(H) The applicant shall apply for and obtain a permit authorizing the conversion of a medical hardship dwelling to a non-residential use.

[Adopted 98-002 §3 eff 3/4/98; 99-121 §15 eff 6/30/99]

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## N. SOLID WASTE PERFORMANCE AND DEVELOPMENT STANDARDS

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### 934.390 Solid waste disposal sites; performance standards and site development

(A) The following minimum standards shall apply to the establishment, maintenance and operation of a solid waste disposal system through the conditional use procedure. The Commission may, at their discretion, provide additional conditions on operation:

(1) *Access*: Each property used shall have a minimum of 60 feet of road frontage onto a public road or easement of access to a public road, unless the Director authorizes a setback pursuant to the requirements of paragraph (4) of this subsection. The Director may approve a different setback for a flag-lot provided that the

haul road over the flag is a minimum of 10 feet from the property boundary. Any access point to or from the property shall be developed over an existing access point or at least 100 feet from any existing property access point or adjoining property access point. All access to the site shall be by a route or routes approved by the county engineer and the Commission.

(2) *Buffering and screening*: The site shall be screened from adjoining developed properties, public right-of-ways, and navigable streams by leaving natural vegetation, the planting of a hedge or other landscaping, a fence, wall, landscaped berm or some combination of the above. This screening, whether on the same or other property, shall continuously obscure the view of the site. The landowner or franchise holder shall be responsible for the maintenance of this screening. A buffer area to provide for the mitigation of environmental and visual impacts may be established in addition to or in lieu of any screening if required by DEQ.

(3) *Excavation*:

(a) Excavation is not allowed under any circumstances if the excavation undermines or threatens to undermine the property of another.

(b) Excavation may only occur 75 feet or more from any public road right-of-way.

(c) Excavation may only occur 75 feet or more from a property boundary, other than a public road right-of-way, unless the Director authorizes a setback pursuant to the requirements of sub-subparagraph (I) or (ii).

(i) A setback of not less than 30 feet from the property boundary may be granted after approval from DEQ where the site property boundary adjoins a zoning district boundary or a property on which a structure is located, when such zoning district or structure is residential, commercial or industrial; or

(ii) 10 feet from the property boundary may be granted after approval from DEQ where the a property boundary does not adjoin a zoning district boundary or a property on which a structure is located, when such zoning



district or structure is residential, commercial or industrial.

(4) *Non-excavation setbacks:*

(a) Solid waste disposal and resource-recovery activities, other than excavation, may only take place 30 feet or more from any public road right-of-way.

(b) Solid waste disposal and resource-recovery activities, other than excavation, may only take place 30 feet or more from any property boundary, unless the Director authorizes a setback less than 30 feet. The Director may authorize a setback not less than 10 feet from the property boundary if

(i) the property boundary does not adjoin a zoning district boundary or a property on which a structure is located, when such zoning district or structure is residential, commercial or industrial, and

(ii) DEQ approves the setback.

(5) *Public safety:* A safety fence not less than 6 feet in height shall be erected at the property boundary, if

(a) the property boundary adjoins a zoning district boundary or a property on which a structure is located, when such zoning district or structure is residential, commercial or industrial, and

(b) the solid waste disposal operations are conducted less than 75 feet, but not less than 30 feet if authorized by the Director under an excavation setback or non-excavation setback and 75 feet of the property boundary on which it is located.

(c) and where the solid waste disposal operations are conducted between 30 and 75 feet of the property boundary on which it is located, authorized by paragraphs (3 or (4) or this subsection,

(6) *Off-road parking:* All parking facilities for visitors, customers and employees shall be located within the boundary of the property under the control of the operator and adjoining the solid waste disposal site. Where a property boundary adjoins a boundary of a residential, commercial or industrial zoning district, or a property on which

there is a residential, commercial or industrial structure, is within 30 feet of a property boundary, parking may occur to a minimum distance of 10 feet from the property boundary.

(7) *Environmental quality:* All activities permitted shall meet the applicable environmental quality standards of the DEQ and the EPA.

(8) *Hours of operation:* All operations, other than office activities and machinery and equipment maintenance and repair, shall be limited to hours and days specified by the Commission.

(B) The requirements of paragraphs (2) and (5) of subsection (A) may be satisfied by a safety fence or visual screen that meets the requirements of both paragraphs.

[Adopted 98-002 §3 eff 3/4/98]

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## O. STAGING PERFORMANCE AND DEVELOPMENT STANDARDS

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### 934.400 Staging; performance development standards

(A) The minimum standards set forth in subsection (B) shall apply to the temporary development of staging areas in conjunction with road maintenance and improvement projects for county, state and federal highways. The Commission may, at their discretion, provide additional conditions on operation.

(B) *Site development and performance standards.*

(1) The operation of a staging area shall be a temporary use limited to 12 months duration. Extensions for a total period of time not exceeding 24 months may be granted by the Director provided that no single extension may be granted for more than 12 months.

(2) All activities shall meet applicable environmental quality standards of the Oregon Department of Environmental Quality (DEQ) which regulates impacts from noise, dust, smoke or other such negative impacts.

(3) The Commission shall establish minimum operational standards for the following:

- (a) Types and quantity of equipment;
- (b) Hours and days of operation;
- and
- (c) Other conditions necessary to conform to the decision criteria in LCC 933.200 and 933.220 or 933.250 to 933.260.

(4) Setbacks for materials storage. Materials may be stored to a minimum distance of 10 feet from any property boundary except where a residential, commercial or industrial zoning district or structure is within 30 feet of a property boundary. In any of those cases, the materials storage setback shall be 30 feet from that property boundary.

(5) Setbacks for on-site haul roads. On-site haul roads may occur to a minimum distance of 30 feet from any property boundary or public road right-of-way. A variance to the property setback requirements may be granted in the following circumstance: Where no residential, commercial or industrial zoning district or structure is within 30 feet of the property boundary; on-site haul roads may occur to a minimum distance of 10 feet from that property boundary.

The on-site haul road setback requirement shall not apply at an access point to a public road right-of-way.

(6) Setbacks for processing equipment and operations. All equipment for processing operations may be built, located and operated to a minimum distance of 30 feet from any public road right-of-way or property boundary. A variance to the property boundary setback requirements may be granted in the following circumstance: Where no residential, commercial or industrial zoning district or structure is within 30 feet of the property boundary, processing equipment and operations may be located to a minimum distance of 10 feet from that property boundary.

[Adopted 98-002 §3 eff 3/4/98]

**934.410 Staging; standards for rehabilitation and restoration**

(A) The landowner shall be responsible for the eventual rehabilitation and restoration of the

site as described in the plan submitted with the permit application. Failure of the property owner to restore or rehabilitate the site shall result in forfeiture of the security required under LCC 934.420.

(B) Except for buildings or structures which are permitted uses in the zone in which the site is located, all buildings, equipment, apparatus and appurtenances accessory to the exploration and extraction operation shall be removed from the site upon termination of the staging area development.

(C) Upon termination of the staging area development, the site shall be restored as follows:

(1) All excavations shall be back filled with comparable soils to the original contour of the site;

(2) All fill material shall be removed from the site down to the original topsoil; and

(3) The existing fill or excavation may be allowed to remain or may be altered if such site is intended to be utilized as a use permitted with the zoning district.

[Adopted 98-002 §3 eff 3/4/98]

**934.420 Staging; performance security**

The landowner shall be responsible for obtaining a performance security in compliance with LCC 933.110.

[Adopted 98-002 §3 eff 3/4/98]

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**P. HISTORIC PROPERTY STANDARDS**

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**934.430 Historic property alteration review standards**

(A) The standards set forth in subsection (B) shall apply to the alteration of historic property.

(B) *Alteration review standards.*

(1) The distinguishing original qualities or characteristics of a building, property or site and its environment shall not be destroyed. The removal or alteration of any historic material or distinctive architectural features should be avoided when possible.

(2) All buildings, properties and sites shall be recognized as products of their own time.

Alterations that have no historical basis or that seek to create a different style shall be discouraged.

(3) Changes which may have taken place in the course of time are evidence of the history and development of a building, property or site and its environment. These changes may have acquired significance in their own right and this significance shall be recognized and respected.

(4) Distinctive stylistic features or examples of skilled craftsmanship which characterize a building, property or site shall be treated with sensitivity.

(5) Deteriorated architectural features shall be repaired rather than replaced, whenever possible. In the event replacement is necessary, the new material should match the material being replaced in composition, design, color, texture and other visual qualities. Repair or replacement of missing architectural features should be based on accurate duplications of features, substantiated by historic, physical or pictorial evidence rather than on conjectural designs or the availability of different architectural elements from other buildings or properties.

(6) Every reasonable effort shall be made to protect and preserve archaeological resources affected by or adjacent to any project.

(7) Contemporary design for alterations and additions to existing properties shall not be discouraged when such alterations and additions do not destroy significant historical, architectural or cultural material and such design is compatible with the size, scale, color, material and characteristics of the property, neighborhood or environment.

(8) Wherever possible, new additions or alterations to properties shall be done in such a manner that if such additions or alterations were to be removed in the future, the essential form and integrity of the property would be unimpaired.

[Adopted 98-002 §3 eff 3/4/98]

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## Q. PARKS

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### 934.440 Development standards for state parks

(A) *Generally.* For a park, the standards applicable to or imposed on the approved development.

(B) *State parks.* State parks are subject to OAR 660-034-0000 to 66-034-0035 and any standards set forth therein.

[Adopted 99-121 §15 eff 6/30/99]

### 934.441 Development standards for local public parks

(A) *Generally.* For a local public park, the standards applicable to or imposed on the approved development

(B) *Local public parks.* Local public parks are subject to OAR 660-034-0040 and to any standards adopted pursuant to that rule.

[Adopted 99-121 §15 eff 6/30/99]

### 934.442 Development standards for private parks

(A) *Generally.* For a private park, the standards applicable to or imposed on the approved development.

(B) *Private campground in a private park.* For a private campground in a private park, the campground shall additionally comply with the following standards:

(1) 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.

(2) Campsites may be occupied by a tent, camper cabin, yurt, teepee, travel trailer, or recreational vehicle. 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.

(3) Separate sewer, water or electric service hook-ups shall not be provided to individual camp sites in the RRZ.

(4) Campgrounds in the RRZ shall not include intensively developed recreational uses such as swimming pools, tennis courts, retail stores or gas stations.

(5) Overnight temporary use in the same campground by a camper or camper's vehicle shall not exceed a total of 30 days during any consecutive 6 month period.

(C) Snack shops shall not exceed:

(1) 1500 square feet of floor area in a public or private park in an RRZ; or

(2) the limitations on floor area authorized for a public or private park in the RDZ or UGAZ.

(D) The term, when in the context of private park in an RRZ, does not include:

(1) camper cabins, yurts, teepees, covered wagons, group shelters, campfire program areas, camp stores;

(2) motorized off-road vehicle trails;

(3) amenities related to park use intended only for park visitors and employees: laundry facilities; recreation shops; snack shops not exceeding 1500 square feet of floor area;

(4) support facilities serving only the park lands wherein the facility is located: water supply facilities, sewage collection and treatment facilities, storm water management facilities, electrical and communication facilities, restrooms and showers, recycling and trash collection facilities, registration buildings, roads and bridges, parking areas and walkways;

(5) park maintenance and management facilities located within a park: maintenance shops and yards, fuel stations for park vehicles, storage for park equipment and supplies, administrative offices, staff lodging.

[Adopted 99-121 §15 eff 6/30/99; amd 02-313 §6 eff 8/13/02]

### III. SPECIFIC ZONING DISTRICT STANDARDS

#### A. RURAL RESOURCE ZONE STANDARDS

##### 934.500 RRZ development standards; generally

(A) In an EFU, F/F, or FCM zoning district. Except for development which is exempted through the provisions of LCC Chapter 936 (Non-conforming Uses and Pre-existing Uses Code) and properties exempted by LCC 924.500 to 924.800, the standards set forth in LCC 934.500 to 934.590 applies to the development and creation of all properties in an EFU, F/F, or FCM zoning district.

(B) In an EFU zoning district. A new lot or parcel of less than 80 acres created in an EFU zoning district under LCC 924.500 to 924.800 is exempt from the standards required by LCC 934.510.

[Adopted 98-002 §3 eff 3/4/98; 99-121 §15 eff 6/30/99]

##### 934.510 RRZ area, width and depth development standards

(A) *Minimum property size.* Except as provided by LCC 924.500 to 924.800, the minimum parcel size in an EFU, F/F, or FCM zoning district is set forth in subsection (C).

(B) *Minimum property widths and depths.* The minimum property widths and depths in an EFU, F/F, or FCM zoning district are set forth in subsection (C).

(C) The minimum property sizes, widths, and depths are:

Zoning District	Minimums		
	Size	Width	Depth
EFU	80 acres	800 feet	800 feet
F/F	80 acres	800 feet	800 feet
FCM	80 acres	800 feet	800 feet

[Adopted 98-002 §3 eff 3/4/98; 99-156 §10 eff 6/30/99]

**934.520 RRZ frontage standards**

(A) All new lots or parcels in the EFU, F/F, and FCM zoning districts shall have access to a public road.

(B) If a property in an EFU, F/F, and FCM zoning district has frontage on a public road, that frontage shall be at least 30 feet in width.

[Adopted 98-002 §3 eff 3/4/98; 99-121 §15 eff 6/30/99]

**934.525 RRZ property coverage standards**

In the EFU, F/F, and FCM zoning districts, the maximum coverage for the principle building and all accessory buildings and structures shall not exceed 20 percent of the total property area.

[Adopted 98-002 §3 eff 3/4/98; 99-156 §10 eff 6/30/99]

**934.530 RRZ structural setbacks**

(A) The minimum structural and dwelling setbacks are:

Zoning district	Minimum structural set back in feet from		
	Any property line	Protected Mineral or Aggregate Site*	FCM zoning district
EFU	50	100	200
F/F	50	100	200
FCM	50	100	n/a

\*Applies to a residential dwelling in an EFU, F/F, and FCM zoning district

(B) The minimum yard setbacks for all structures are:

Zoning district	Minimum set back in feet from		
	Front yard	Side yard	Rear yard
EFU	30 or 60*	50	50
F/F	30 or 60*	50	50
FCM	30 or 60*	100	100

\*30 feet from the front line, or 60 feet from the center of the road, whichever is greater.

[Adopted 98-002 §3 eff 3/4/98; 99-156 §10 eff 6/30/99]

**934.535 RRZ riparian habitat setback**

The minimum setbacks from a riparian habitat are:

Zoning district	Minimum riparian habitat set back in feet from*		
	Structures	New road	Protected Mineral or Aggregate Site
EFU	50	50	50
F/F	50	50	50
FCM	50	50	50

\*(1) from the top of a bank of a sensitive riparian habitat as described in the *Comprehensive Plan* and shown in Appendix 1, Figure 8 following LCC Chapter 920 (Development Code; General Provisions), or  
(2) from the top of a bank, or as otherwise shown for a lake or wetland identified in the *Comprehensive Plan* and shown in Appendix 1, Figure 8 following LCC Chapter 920 (Development Code; General Provisions).  
The setback does not apply to water-dependent uses.

[Adopted 98-002 §3 eff 3/4/98; 99-156 §10 eff 6/30/99]

**934.540 RRZ maximum heights**

(A) For properties within the RRZ not having an Airport Overlay, there is no maximum height limitation.

(B) For properties within the RRZ having an Airport Overlay, the maximum height limitations are subject to LCC 931.030.

Zoning District	Maximum height limitation in feet	
	With an Airport Overlay	Without an Airport Overlay
EFU	LCC 931.030	none
F/F	LCC 931.030	none
FCM	LCC 931.030	none

[Adopted 98-002 §3 eff 3/4/98; 99-156 §10 eff 6/30/99]

**934.545 RRZ landscaping standards**

In the EFU, F/F, and FCM zoning districts, landscaping shall be provided for uses set forth in LCC 934.100 to 934.260 in accordance with LCC 934.500 to 934.590.

[Adopted 98-002 §3 eff 3/4/98; 99-156 §10 eff 6/30/99]

**934.550 RRZ sign standards**

(A) In the EFU, F/F, and FCM zoning districts, signs are subject to the development standards in LCC 934.215.

(B) In an ARO mining area, signs are subject to the development standards in LCC 934.214.  
[Adopted 98-002 §3 eff 3/4/98; 99-156 §10 eff 6/30/99]

**934.555 RRZ off-road parking standards**

(A) In the EFU, F/F, and FCM zoning districts, the minimum standards for off-road parking shall comply with LCC 934.250 to 934.260.  
[Adopted 98-002 §3 eff 3/4/98; 99-156 §10 eff 6/30/99]

**934.560 RRZ screening standards**

(A) The minimum screening standards set forth in this section apply to a new residential use on RRZ property adjoining an existing aggregate site.

(B) New residential development on properties adjoining an aggregate site shall incorporate a sight-obscuring vegetative screen or a sight-obscuring fence along the property line adjoining the aggregate site meeting the standards set forth in the table in subsection (E).

(C) The screening standards along boundaries of an aggregate site are as follows:

SCREENING STANDARDS ALONG BOUNDARIES OF AN AGGREGATE SITE				
New Use	Adjacent Land Use	Vegetative Screen <sup>1</sup>		Sight-obscuring Fence
		Height	Width	
Residential	Protected Mineral or Aggregate Site	10 feet <sup>2</sup>	n/a	6 feet <sup>2</sup>
<sup>1</sup> A vegetative screen shall consist of native plants and trees or plants and trees with a demonstrated ability to thrive under the site conditions. A vegetative screen shall consist of species capable of growing to a height of at least 10 feet.				
<sup>2</sup> Property shall have either a 10-foot-high vegetative screen or a 6-foot-high sight-obscuring fence.				

[Adopted 98-002 §3 eff 3/4/98; amd 98-432 §2 eff 10/21/98; 99-156 §10 eff 6/30/99]

**934.565 RRZ big game habitat density standards**

In the EFU, F/F, and FCM the big game habitat density standards are:

Habitat Clustering	Major habitat	Peripheral habitat
with clustering	16 units/section	32 units/section
without clustering	8 units/section	16 units/section

[Adopted 98-002 §3 eff 3/4/98]

**934.570 RRZ access standards**

In an EFU, F/F, or FCM zoning district, access shall be designed to cause a minimum interference with traffic and shall be subject to the review and approval of the County Engineer. Upon recommendation of the County Engineer or state highway department, the dedication of additional right-of-way and improvements constructed by the applicant may be required in order to facilitate adequate traffic circulation.

[Adopted 98-002 §3 eff 3/4/98]

**934.590 F/F (forest area) and FCM zoning district structural siting standards**

(A) The siting standards set forth in subsection (B) of this section, or their equivalent shall apply to all new dwellings and structures in the forest area of the F/F or in the FCM zoning districts. These standards are designed to make such uses compatible with forest operations and agriculture, to minimize wildfire hazards and risks and to conserve values found on forest lands. A governing body shall consider the criteria in this rule together with the requirements OAR 660-06-035 to identify the building site.

(B) *Siting standards.*

(1) Dwellings and structures shall be sited on the 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, the dwelling and structures is minimized; and

(d) The risks associated with wild-fire are minimized.

(2) Siting criteria satisfying section (1) of this rule may include setbacks from adjoining properties, clustering near or among existing structures, siting close to existing roads and siting on that portion of the parcel least suited for growing trees.

(3) The applicant shall provide evidence to the governing body that the domestic water supply is from a source authorized in accordance with the Water Resources Department's administrative rules for the appropriation of ground water or surface water and not from a Class II stream as defined by the State Board of Forestry in the Forest Practices rules (OAR Chapter 629). For purposes of this section, 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; or

(b) A water use permit issued by the Water Resources Department for the use described in the application; or

(c) Verification from the Water Resources Department 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.

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

(5) Approval of a dwelling on a property containing more than 10 acres approved under LCC 933.720 to 933.750 shall be subject to the following requirements:

(a) Approval of a structure requires the owner of the tract to plant a sufficient number of trees on the tract to demonstrate that the tract is reasonably expected to meet Department of Forestry stocking requirements at the time specified in Department of Forestry administrative rules;

(b) The Director shall notify the County Assessor of the condition described in subparagraph (a) of this paragraph at the time the dwelling is approved;

(c) The property owner shall submit a stocking survey report to the County Assessor and the Assessor shall verify that the minimum stocking requirements have been met by the time required by Department of Forestry rules. The Assessor shall inform the Department of Forestry in cases where the property owner has not submitted a stocking survey report or where the survey report indicates that minimum stocking requirements have not been met;

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

(6) A structure or dwelling in the forest area of an F/F zoning district shall be located on an authorized unit of land within a fire protection district or shall be provided with structural fire protection by contract.

(a) If the structure or 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.

(b) If the Director determines that inclusion within a fire protection district or contracting for structural fire protection is impracticable, the Director may provide an alternative means for protecting the structure from fire hazards.

(I) The means selected may include a fire sprinkling system, on-site equipment and water storage or other methods that are reasonable, given the site conditions. (See also the applicable, current sections of the [CABO, *One and Two-family Dwelling Specialty Code*, F/F] *National Fire Protection Association standards* and the *Uniform Fire Code* as adopted by the State of Oregon).

(II) If a water supply is required, it shall be a swimming pool, pond, stream, lake or similar body of water that at all times contains at least 4,000 gallons or a stream that has a minimum flow of at least one cubic foot per second.

(III) The applicant shall provide verification from the Water Resources Department that any permits or registrations required for water diversion or storage have been obtained or that permits or registrations are not required for the use.

(IV) Road access shall be provided to within 15 feet of the water's edge for fire-fighting pumping units. The road access shall accommodate the turnaround of fire fighting equipment during the fire season. Permanent signs shall be posted along the access route to indicate the location of the emergency water source.

(7) Road access to the structure shall meet the road design standards described in LCC 934.670 and 935.200.

(8) The owner provides and maintains a 30-foot wide primary fuel-free break around structures and a 100-foot wide secondary fuel break around the primary fuel break (see *Recommended Fire Siting Standards for Dwellings and Structures*, ODOF, 1991). The fuel-free fire breaks required by this paragraph are required only around a dwelling on land surrounding the

dwelling that is owned or controlled by the dwelling owner.

(9) The dwelling has a fire-retarding roof.

(10) The dwelling will not be sited on a slope of greater than 40 percent.

(11) If the dwelling has a chimney or chimneys, each chimney has a spark arrester.

[Adopted 98-002 §3 eff 3/4/98; amd 98-432 §2 eff 10/21/98; 99-121 §15 eff 6/30/99]

### **934.595 Development standards for youth camps**

(A) A youth camp may be established in compliance with the provisions of these standards. The purpose of these standards is to provide for the establishment of a youth camp that is generally self-contained and located on an authorized unit of land that is suitable to limit potential impacts on nearby and adjacent land and to be compatible with the forest environment.

(B) These standards shall not apply to youth camps established prior to August 21, 2002.

(C) A “**youth camp**” is a facility either owned or leased, and operated by a state or local government, or a nonprofit corporation as defined under ORS 65.001, to provide an outdoor recreational and educational experience primarily for the benefit of persons twenty-one (21) years of age and younger. Youth camps do not include any manner of juvenile detention center or juvenile detention facility.

(D) An application for a proposed youth camp shall comply with the following:

(1) The number of overnight camp participants that may be accommodated shall be determined by the hearing authority, based on the size, topography, geographic features and any other characteristics of the proposed site for the youth camp. Except as provided by paragraph (2) of this subsection, a youth camp shall not provide overnight accommodations for more than 350 youth camp participants, including staff.

(2) The hearing authority may allow up to eight (8) nights during the calendar year when the number of overnight participants may exceed



the total number of overnight participants allowed under paragraph (1) of this subsection.

(3) Overnight stays for adult programs primarily for individuals over twenty-one years of age, not including staff, shall not exceed 10% of the total camper nights offered by the youth camp.

(4) A campground as described in LCC 928.631 (B) (1) shall not be established in conjunction with a youth camp.

(5) A youth camp shall not be allowed in conjunction with an existing golf course.

(6) A youth camp shall not interfere with the exercise of legally established water rights on adjacent properties.

(E) The youth camp shall be located on an authorized unit of land that is:

(1) Suitable to provide a forested setting needed to ensure a primarily outdoor experience without depending upon the use or natural characteristics of adjacent and nearby public and private land. This determination shall be based on the size, topography, geographic features and any other characteristics of the proposed site for the youth camp, as well as, the number of overnight participants and type and number of proposed facilities. A youth camp shall be located on an authorized unit of land of at least 40 acres.

(2) Suitable to provide a protective buffer to separate the visual and audible aspects of youth camp activities from other nearby and adjacent lands. The buffers shall consist of forest vegetation, topographic or other natural features as well as structural setbacks from adjacent public and private lands, roads, and riparian areas. The structural setback from roads and adjacent public and private property shall be 250 feet unless the hearing authority sets a different setback based upon the following criteria that may be applied on a case-by-case basis:

(a) The proposed setback will prevent conflicts with commercial resource management practices;

(b) The proposed setback will prevent a significant increase in safety hazards associated with vehicular traffic; and

(c) The proposed setback will provide an appropriate buffer from visual and audible aspects of youth camp activities from other nearby and adjacent resource lands.

(3) Suitable to provide for the establishment of on-site sewage disposal facilities without requiring a sewer system

(4) Predominantly forestland if within the Farm/Forest (F/F) zone.

(F) A youth camp may provide for the following facilities:

(1) Recreational facilities limited to passive improvements, such as open areas suitable for ball fields, volleyball courts, soccer fields, archery or shooting ranges, hiking and biking trails, horse back riding or swimming that can be provided in conjunction with the site's natural environment. Intensively developed facilities such as tennis courts, gymnasiums, and golf courses shall not be allowed. One swimming pool may be allowed if no lake or other water feature suitable for aquatic recreation is located on the subject property or immediately available for youth camp use.

(2) Primary cooking and eating facilities shall be included in a single building. Except in sleeping quarters, the hearing authority may allow secondary cooking and eating facilities in one or more buildings designed to accommodate other youth camp activities. Food services shall be limited to the operation of the youth camp and shall be provided only for youth camp participants. The sale of individual meals may be offered only to family members or guardians of youth camp participants.

(3) Bathing and laundry facilities except that they shall not be provided in the same building as sleeping quarters.

(4) Up to three camp activity buildings, not including primary cooking and eating facilities.

(5) Sleeping quarters including cabins, tents or other structures. Sleeping quarters may include toilets, but, except for the caretaker's dwelling, shall not include kitchen facilities.

Sleeping quarters shall be provided only for youth camp participants and shall not be offered as overnight accommodations for persons not participating in youth camp activities or as individual rentals.

(6) Covered areas that are not fully enclosed.

(7) Administrative, maintenance and storage buildings; permanent structure for administrative services, first aid, equipment and supply storage, and for use as an infirmary if necessary or requested by the applicant.

(8) An infirmary may provide sleeping quarters for the medical care provider, (e.g. Doctor, Registered Nurse, Emergency Medical Technician, etc.).

(9) A caretaker's residence may be established in conjunction with a youth camp if no other dwelling exists on the subject property.

(G) A proposed youth camp shall comply with the following fire safety requirements:

(1) The fire siting standards in LCC 934.590 (B) (6) to (11);

(2) A fire safety protection plan shall be developed for each youth camp that includes the following;

- (a) Fire prevention measures;
- (b) On site pre-suppression and suppression measures; and

(c) The establishment and maintenance of fire safe area(s) in which camp participants can gather in the event of a fire.

(3) Except as determined under paragraph (4) of this subsection, a youth camp's on-site fire suppression capability shall at least include:

(a) A 1,000-gallon mobile water supply that can access all areas of the camp; and

(b) A 30-gallon-per-minute water pump and an adequate amount of hose and nozzles; and

(c) A sufficient number of fire fighting hand tools; and

(d) Trained personnel capable of operating all fire suppression equipment at the camp during designated periods of fire danger.

(4) An equivalent level of fire suppression facilities may be determined by the hearing authority. The equivalent capability shall be based on the Oregon Department of Forestry's (ODF) Wildfire Hazard Zone rating system, the response time of the effective wildfire suppression agencies, and consultation with ODF personnel if the camp is within an area protected by the Oregon Department of Forestry and not served by a local structural fire protection provider.

(5) The provisions of paragraph (4) of this subsection may be waived by the hearing authority if the youth camp is located in an area served by a structural fire protection provider and that provider informs the hearing authority in writing that on-site fire suppression at the camp is not needed.

(H) The hearing authority shall require as a condition of approval of a youth camp, that the land owner of the youth camp sign and record in the deed records for the county a document binding the land owner, or operator of the youth camp if different from the owner, and the land owner's or operator'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.

(I) Nothing in these standards relieves the hearing authority from complying with other requirements contained in the *Comprehensive Plan* or implementing land use regulations such as the requirements addressing other resource values (e.g. Goal 5) which exist on forest lands.

[Adopted 02-313 §6 eff 8/21/02]

**B. RURAL DEVELOPMENT ZONE STANDARDS**

**934.610 RDZ property size, width, and depth standards**

(A) The property size, width and depth standards in this subsection shall regulate development of all properties in an AB, FIC, HI, LI, RCM, UD-I, and UD-II zoning district.

Minimum property size, width, and depth standards		
Parameter	FIC, RCM	AB, HI, LI, UD-I, UD-II
Size	½ acre	1 acres
Width	100	100 feet
Depth	100 feet	100 feet
Width (adjoining an FCM zoning district)	500 feet	500 feet
Depth (adjoining an FCM zoning district)	500 feet	500 feet

(B) The following size, width and depth standards shall regulate the development of all properties in the RCT zoning district.

(C) Size, width and depth.

Minimum property size, width, and depth standards			
Parameter	RCT-1	RCT-2½	RCT-5
Size	1 acre	2½ acres	5 acres
Width	130 feet	200 feet	290 feet
Depth	130 feet	200 feet	290 feet
Width (adjoining an FCM zoning district)	500 feet	500 feet	500 feet
Depth (adjoining an FCM zoning district)	500 feet	500 feet	500 feet

(D) The following size, width and depth standards shall regulate development of all properties in the RR zoning district.

Minimum property size, width, and depth standards				
Parameter	RR-10	RR-5	RR-2½	RR-1
Size	10 acres	5 acres	2½ acres	1 acre
Width	400 feet	290 feet	200 feet	130 feet

Depth	400 feet	290 feet	200 feet	130 feet
Width (adjoining an FCM zoning district)	500 feet	500 feet	500 feet	500 feet
Depth (adjoining an FCM zoning district)	500 feet	500 feet	500 feet	500 feet

§2 (E) The following size, width, and depth standards shall regulate development of all properties in the NR zoning district.

Minimum property size, width, and depth standards		
Parameter	NR-5	NR-10
Size	5 acres	10 acres
Width	290	400 feet
Depth	290 feet	400 feet
Width (adjoining an FCM zoning district)	500 feet	500 feet
Depth (adjoining an FCM zoning district)	500 feet	500 feet

[Adopted 98-002 §3 eff 3/4/98; 04-043 §3 eff 4/28/04]

**934.620 RDZ access standards**

(A) All new lots or parcels in the Rural Development Zone shall have access to a public road.

(B) All new lots or parcels in an AB, FIC, HI, LI, RCM, UD-I, or UD-II zoning district shall have frontage onto a public road.

(C) The frontage required by subsection (B) shall be at least 100 feet in an AB, FIC, HI, LI, RCM, UD-I, or UD-II zoning district.

(D) If a property in an RCT§2, RR§2, or NR zoning district has frontage on a public road, that frontage shall be at least 30 feet in width.

(E) The access required by subsection (A) of this section shall be at least 30 feet in width.

[Adopted 98-002 §3 eff 3/4/98; 99-121 §15 eff 6/30/99; 04-043 §3 eff 4/28/04]

**934.625 RDZ property coverage standards**

In the RDZ, the maximum coverage for the principle building and all accessory buildings and structures shall not exceed:

(A) 30 percent of the total property area an AB, FIC, HI, LI, RCM, RCT, UD–I, or UD–II zoning district; or

(B) 20 percent of the total property area in an §2NR or RR zoning district.

[Adopted 98-002 §3 eff 3/4/98; 04-043 §3 eff 4/28/04]

### 934.630 RDZ structural setbacks

(A) The minimum structural and dwelling setbacks are:

Zoning district	Minimum structural and building setbacks in feet	
	Protected Mineral or Aggregate Site <sup>1</sup>	FCM zoning district
AB	30 <sup>3</sup>	300 <sup>2</sup>
FIC	30 <sup>3</sup>	300 <sup>2</sup>
HI	30 <sup>3</sup>	300 <sup>2</sup>
LI	30 <sup>3</sup>	300 <sup>2</sup>
§2NR	30 <sup>3</sup>	300 <sup>2</sup>
RCM	30 <sup>3</sup>	300 <sup>2</sup>
RCT	30 <sup>3</sup>	300 <sup>2</sup>
RR	30 <sup>3</sup>	300 <sup>2</sup>
UD–I	30 <sup>3</sup>	300 <sup>2</sup>
UD–II	30 <sup>3</sup>	300 <sup>2</sup>
<sup>1</sup> Applies to a residential dwelling in an zoning district Applies to a residential structure in an AB, zoning district		
<sup>2</sup> From land in the Forest Conservation and Management (FCM) zoning district whenever the property's width or depth dimension from the FCM zoning district is at least 500 feet. Residential structures on properties not having 500 feet in the affected dimension shall be set back at least 100 feet from land in the FCM zoning district.		
<sup>3</sup> From the property line adjoining the site.		

(B) The minimum yard setbacks for all structures are:

Zoning district	Minimum set back in feet		
	Front yard	Side yard	Rear yard
AB	30 or 60 <sup>1</sup>	10 <sup>2</sup>	10 <sup>2</sup>
FIC	30 or 60 <sup>1</sup>	10	10
HI	30 or 60 <sup>1</sup>	10 <sup>2</sup>	10 <sup>2</sup>
LI	30 or 60 <sup>1</sup>	10 <sup>2</sup>	10 <sup>2</sup>
§2NR	30 or 60 <sup>1</sup>	10 <sup>2</sup>	10 <sup>2</sup>
RCM	30 or 60 <sup>1</sup>	10	10
RCT	30 or 60 <sup>1</sup>	10	10

RR	30 or 60 <sup>1</sup>	10	10
UD–I	30 or 60 <sup>1</sup>	10 <sup>2</sup>	10 <sup>2</sup>
UD–II	30 or 60 <sup>1</sup>	10 <sup>2</sup>	10 <sup>2</sup>
<sup>1</sup> 30 feet from the front line, or 60 feet from the center of the road, whichever is greater.			
<sup>2</sup> If an authorized unit of land abuts a residential zoning district or is within 100 feet of an existing residence.			

[Adopted 98-002 §3 eff 3/4/98; 99-156 §10 eff 6/30/99; 04-043 §3 eff 4/28/04]

### 934.635 RDZ riparian habitat setback

The minimum setbacks from a riparian habitat are:

Zoning district	Minimum riparian habitat set back for structures in feet from
AB	50 <sup>2</sup>
FIC	50 <sup>2</sup>
HI	50 <sup>2</sup>
LI	50 <sup>2</sup>
§2NR	50 <sup>2</sup>
RCM	50 <sup>2</sup>
RCT	50 <sup>2</sup>
RR	50 <sup>2</sup>
UD–I	50 <sup>2</sup>
UD–II	50 <sup>2</sup>
<sup>(1)</sup> from the top of a bank of a sensitive riparian habitat as described in the <i>Comprehensive Plan</i> and shown in Appendix 1, Figure 8 following LCC Chapter 920 (Development Code; General Provisions), or	
<sup>(2)</sup> from the top of a bank, or as otherwise shown for a lake or wetland identified in the <i>Comprehensive Plan</i> and shown in Appendix 1, Figure 8 following LCC Chapter 920 (Development Code; General Provisions). The setback does not apply to water-dependent uses.	

[Adopted 98-002 §3 eff 3/4/98; 04-043 §3 eff 4/28/04]

### 934.640 RDZ maximum heights

(A) For properties within an AB, FIC, HI, LI, §2NR, RCM, RCT, RR, UD–I, or UD–II zoning district, the maximum height limitations are subject to the following table.

Zoning District	Maximum height limitation in feet	
	With an Airport Overlay	Without an Airport Overlay
AB	LCC 934.810	none

<b>FIC</b>	LCC 934.810	35, or 2 stories, excluding daylight basements, whichever is greater
<b>HI</b>	LCC 934.810	none
<b>LI</b>	LCC 934.810	none
<b>§2NR</b>	LCC 934.810	35, or 2 stories, excluding daylight basements, whichever is greater
<b>RCM</b>	LCC 934.810	35, or 2 stories, excluding daylight basements, whichever is greater
<b>RCT</b>	LCC 934.810	35, or 2 stories, excluding daylight basements, whichever is greater
<b>RR</b>	LCC 934.810	35, or 2 stories, excluding daylight basements, whichever is greater
<b>UD-I</b>	LCC 934.810	none
<b>UD-II</b>	LCC 934.810	none

[Adopted 98-002 §3 eff 3/4/98; amd 98-432 §2 eff 10/21/98; 04-043 §3 eff 4/28/04]

**934.645 RDZ landscaping standards**

In an AB, FIC, HI, LI, RCM, RCT, UD-I, or UD-II zoning district, landscaping shall be provided for uses set forth in LCC 934.220 to 934.228.

[Adopted 98-002 §3 eff 3/4/98]

**934.650 RDZ sign standards**

(A) In the AB, FIC, HI, LI, RCM, RCT, UD-I, or UD-II zoning districts, advertising signs and directional signs shall only be developed as provided in LCC 934.217.

(B) In an §2NR or RR zoning district, signs are subject to the development standards in LCC 934.215.

[Adopted 98-002 §3 eff 3/4/98; 99-121 §15 eff 6/30/99; 04-043 §3 eff 4/28/04]

**934.652 RDZ artificial lighting standards**

In the RDZ, artificial lighting, including illuminated signs and parking area lights, shall be so arranged as not to produce glare on adjacent properties.

[Adopted 98-002 §3 eff 3/4/98]

**934.655 RDZ off-road parking standards**

In an AB, FIC, HI, LI, §2NR, RCM, RCT, RR, UD-I, or UD-II zoning district, the minimum standards shall comply with LCC 934.250 to 934.260.

[Adopted 98-002 §3 eff 3/4/98; 04-043 §3 eff 4/28/04]

**934.660 RDZ screening and material storage standards**

(A) In an AB, RCT, UD-I, or UD-II zoning district, site screening and outdoor material storage, when permitted, shall comply with LCC 934.130.

(B) In an HI, LI, RCM, RCT, UD-I, or UD-II zoning district, site screening and outdoor material storage, when permitted in LCC 929.220 (B) (1) or (2) shall comply with LCC 934.130.

(C) In an AB, FIC, HI, LI, RCM, RCT, UD-I, or UD-II zoning district, new residential development on properties adjoining a protected mineral or aggregate site shall incorporate a sight-obscuring, vegetative screen or a sight-obscuring fence along each side or rear property line adjoining the aggregate site.

Zoning district	Screening standards <sup>1</sup> for property adjoining			
	A public roadway or residential, commercial or industrial zoning district. The property shall have either		A Protected Mineral or Aggregate Site. The property shall have either	
	A vegetative screen	A sight-obscuring fence	A vegetative screen	A sight-obscuring fence
<b>AB</b>	n/a	n/a	10 foot high <sup>2</sup>	6 foot high <sup>2</sup>
<b>FIC</b>	n/a	n/a	10 foot high <sup>2</sup>	6 foot high <sup>2</sup>
<b>HI</b>	n/a	n/a	10 foot high <sup>2</sup>	6 foot high <sup>2</sup>
<b>LI</b>	n/a	n/a	10 foot high <sup>3</sup>	6 foot high <sup>2</sup>
<b>§2NR</b>	n/a	n/a	10 foot high <sup>2</sup>	6 foot high <sup>2</sup>
<b>RCM</b>	n/a	n/a	10 foot high <sup>2</sup>	6 foot high <sup>2</sup>
<b>RCT</b>	n/a	n/a	10 foot high <sup>2</sup>	6 foot high <sup>2</sup>
<b>RR</b>	n/a	n/a	10 foot high <sup>2</sup>	6 foot high <sup>2</sup>
<b>UD-I</b>	n/a	n/a	10 foot high <sup>2</sup>	6 foot high <sup>2</sup>
<b>UD-II</b>	n/a	n/a	10 foot high <sup>2</sup>	6 foot high <sup>2</sup>

<sup>1</sup>A vegetative screen shall consist of native plants and trees or plants and trees with a demonstrated ability to thrive under the site conditions. A vegetative screen shall consist of species capable of growing to a height of at least 10 feet.

<sup>2</sup> along the property line adjoining the aggregate site

[Adopted 98-002 §3 eff 3/4/98; amd 98-432 §2 eff 10/21/98; 99-156 §10 eff 6/30/99; 04-043 §3 eff 4/28/04]

**934.670 RDZ access standards**

In the RDZ, access shall be designed to cause a minimum interference with traffic and shall be subject to the review and approval of the County Engineer. Upon recommendation of the County Engineer or state highway department, the dedication of additional right-of-way and improvements constructed by the applicant may be required in order to facilitate adequate traffic circulation.

[Adopted 98-002 §3 eff 3/4/98]

**934.675 RDZ building expansion standards**

Buildings lawfully existing as of the establishment of an FIC, RCM zoning district which are:

- (1) 2,500 square feet or less in size, may expand up to 3,750 square feet, and
- (2) larger than 2,500 square feet in size may expand up to 50 percent of the existing floor area.

[Adopted 98-002 §3 eff 3/4/98]

**934.680 RDZ approved septic system standards**

In the RDZ, an approved septic system shall be provided on-site.

[Adopted 98-002 §3 eff 3/4/98]

**934.685 RCT density standards**

(A) The minimum parcel or lot size standards established in LCC 929.550 are for areas designated Rural Center on the *Comprehensive Plan* map.

(B) The RCT-1 zoning district may only be applied upon approval of a Statewide Planning Goal 14 (Urbanization) exception.

(C) A zone amendment and exception to Goal 14 is required before a RCT-5 acre designation is changed to a RCT-2½ acre designation.

(D) The RCT zoning districts established in LCC 929.550 have been applied to the rural centers in accordance with the *Comprehensive Plan*.

Rural Center Minimum Property Size Standards	
Rural Center	Minimum Size
Cascadia	5 acres
Crabtree	1 acre
Crawfordsville	2½ acres
Holley	2.5 acres
Lacomb	2.5 acres
Peoria	1 acre
Shedd	1 acre
West Scio	2.5 acres

[Adopted 98-002 §3 eff 3/4/98]

**934.680 RR density standards**

(A) The minimum lot or parcel size standards established in LCC 929.650 are for areas designated Rural Residential on the *Comprehensive Plan* map.

(B) The RR-1 zone may only be applied upon approval of a Statewide Planning Goal 14 (Urbanization) exception.

(C) The RR-1 and RR-2½ zones may be applied in identified urban influence areas (see “Exception Statement” of the *Comprehensive Plan*) upon approval of a Goal 14 exception.

[Adopted 98-002 §3 eff 3/4/98]

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**C. URBAN GROWTH AREA ZONE STANDARDS**

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**934.710 UGAZ property size, width, and depth development standards**

(A) The size, width, or depth standards in a zoning district in the UGAZ shall comply with the standards set forth in the respective zoning district.

(B) The size, width, and depth standards set forth in this subsection apply to the creation of new lots or parcels in the UGA–HI, and UGA–LI zoning districts.

Minimum	UGA–HI, UGA–LI
Size	1 acre
Width	100 feet
Depth	100 feet
Width (adjoining an FCM zoning district)	500 feet
Depth (adjoining an FCM zoning district)	500 feet

(C) The size, width, and depth standards set forth in this subsection apply to the creation of new lots or parcels in the UGA–RR zoning districts.

Minimum	UGA–RR–5	UGA–RR–2½	UGA–RR–1
Size	5 acres	2½ acres	1 acre
Width	290 feet	200 feet	130 feet
Depth	290 feet	200 feet	130 feet
Width (adjoining FCM zoning district)	500 feet	500 feet	500 feet
Depth (adjoining FCM zoning district)	500 feet	500 feet	500 feet

(D) The size, width, and depth standards set forth in this subsection apply to the creation of new lots or parcels in the UGA–UGM zoning districts.

Minimum	UGA–UGM–20	UGA–UGM–10	UGA–UGM–5	UGA–UGM–2½
Size	20 acres	10 acres	5 acres	2½ acres
Width	500 feet	300 feet	290 feet	200 feet
Depth	500 feet	300 feet	290 feet	200 feet
Width (adjoining FCM zoning district)	500 feet	500 feet	500 feet	500 feet
Depth (adjoining FCM zoning district)	500 feet	500 feet	500 feet	500 feet

[Adopted 98-002 §3 eff 3/4/98]

### 934.720 UGAZ property frontage standards

(A) The frontage standards in a zoning district in the UGAZ shall comply with the standards set forth in the respective zoning district.

(B) All new lots or parcels in the UGA–RR shall have frontage onto a public road.

(C) The frontage required by subsection (B) shall be at least 30 feet in a UGA–RR zoning district.

[Adopted 98-002 §3 eff 3/4/98]

### 934.725 UGAZ property coverage standards

The maximum coverage for the principle building and all accessory buildings and structures shall not exceed:

(A) 30 percent of the total property area in a UGA–HI or UGM–LI zoning district; or

(B) 20 percent of the total property area in a UGA–RR or UGA–UGM zoning district.

(C) Development of property in the UGA–F/F or UGA–RCM zoning districts shall comply with the standards set forth in the respective zoning district.

[Adopted 98-002 §3 eff 3/4/98]

### 934.730 UGAZ structural standards

(A) Development of property in the UGA–EFU–80, UGA–F/F, UGA–HI, UGA–LI, UGA–RCM, or UGA–UGM zoning districts shall comply with the standards set forth in the respective zoning district.

(B) The minimum yard setbacks for all structures in a UGAZ are:

Zoning district	Minimum set back in feet		
	Front yard	Side yard	Rear yard
UGA–EFU–80	30 or 60 <sup>1</sup>	50	50
UGA–F/F	30 or 60 <sup>1</sup>	50	50
UGA–HI	30 or 60 <sup>1</sup>	10 <sup>2</sup>	10 <sup>2</sup>
UGA–LI	30 or 60 <sup>1</sup>	10 <sup>2</sup>	10 <sup>2</sup>
UGA–RCM	30 or 60 <sup>1</sup>	10	10
UGA–RR	30 or 60 <sup>1</sup>	10	10
UGA–UGM	30 or 60 <sup>1</sup>	10	10

<sup>1</sup> 30 feet from the front line, or 60 feet from the center of the road, whichever is greater.
<sup>2</sup> If an authorized unit of land abuts a residential zoning district or is within 100 feet of an existing residence.

(C) The minimum structural and dwelling setbacks are:

Zoning district	Minimum structural and building setbacks in feet	
	Protected Mineral or Aggregate Site <sup>1</sup>	FCM zoning district
UGA-EFU-80	100	200 <sup>2</sup>
UGA-F/F	100	200 <sup>2</sup>
UGA-HI	30	300 <sup>2</sup>
UGA-LI	30	300 <sup>2</sup>
UGA-RCM	30	300 <sup>2</sup>
UGA-RR	30	300 <sup>2</sup>
UGA-UGM	30	300 <sup>2</sup>

<sup>1</sup> Applies to a residential dwelling in an zoning district  
Applies to a residential structure in an AB, zoning district

<sup>2</sup> From land in the Forest Conservation and Management (FCM) zoning district whenever the property's width or depth dimension from the FCM zoning district is at least 500 feet. Residential structures on properties not having 500 feet in the affected dimension shall be set back at least 100 feet from land in the FCM zoning district.

[Adopted 98-002 §3 eff 3/4/98; 99-156 §10 eff 6/30/99]

### 934.735 UGAZ riparian habitat setback

The minimum setbacks from a riparian habitat are:

Zoning district	Minimum riparian habitat set back in feet from	
	Structures	Protected Mineral or Aggregate Site
UGA-EFU-80	50 <sup>1</sup>	50
UGA-F/F	50 <sup>1</sup>	50
UGA-HI	50 <sup>1</sup>	50
UGA-LI	50 <sup>1</sup>	50
UGA-RCM	50 <sup>1</sup>	50
UGA-RR	50 <sup>1</sup>	50

UGA-UGM	50 <sup>1</sup>	50
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<sup>1</sup> (1) from the top of a bank of a sensitive riparian habitat as described in the *Comprehensive Plan* and shown in Appendix 1, Figure 8 following LCC Chapter 920 (Development Code; General Provisions), or  
(2) from the top of a bank, or as otherwise shown for a lake or wetland identified in the *Comprehensive Plan* and shown in Appendix 1, Figure 8 following LCC Chapter 920 (Development Code; General Provisions).  
The setback does not apply to water-dependent uses.

[Adopted 98-002 §3 eff 3/4/98; 99-156 §10 eff 6/30/99]

### 934.740 UGAZ maximum heights

(A) For properties within the UGAZ, the maximum height limitations are subject to the following table.

Zoning District	Maximum height limitation in feet	
	With an Airport Overlay	Without an Airport Overlay
UGA-EFU-80	LCC 934.810	none
UGA-F/F	LCC 934.810	none
UGA-HI	LCC 934.810	none
UGA-LI	LCC 934.810	none
UGA-RCM	LCC 934.810	35, or 2 stories, excluding daylight basements, whichever is greater
UGA-RR	LCC 934.810	35, or 2 stories, excluding daylight basements, whichever is greater
UGA-UGM	LCC 934.810	35, or 2 stories, excluding daylight basements, whichever is greater

[Adopted 98-002 §3 eff 3/4/98; amd 98-432 §2 eff 10/21/98]

### 934.745 UGAZ landscaping standards

(A) Development of property in the UGA-EFU-80, UGA-F/F zoning districts shall comply with the standards set forth in the respective zoning district.

(B) Development of property in the UGA-HI, UGA-LI, UGA-RCM, UGA-RR, and UGA-UGM zoning districts shall comply with the standards set forth in the respective zoning district and LCC 934.220 to 934.228.

[Adopted 98-002 §3 eff 3/4/98; amd 98-432 §2 eff 10/21/98]



### **934.750 UGAZ sign standards**

(A) Development of property in the UGA–EFU–80, UGA–F/F zoning districts shall comply with the sign standards set forth in the respective zoning district.

(B) Development of property in the UGA–HI, UGA–LI, UGA–RCM, UGA–RR, and UGA–UGM zoning districts shall comply with the advertising signs and directional signs standards set forth in the respective zoning district and LCC 934.210 to 934.217.

[Adopted 98-002 §3 eff 3/4/98; amd 98-432 §2 eff 10/21/98]

### **934.755 UGAZ off-road parking standards**

(A) Development of property in the UGA–EFU–80, UGA–F/F zoning districts shall comply with the off-road parking standards set forth in the respective zoning district.

(B) Development of property in the UGA–HI, UGA–LI, UGA–RCM, UGA–RR, and UGA–UGM zoning districts shall comply with the advertising signs and directional signs standards set forth in the respective zoning district and LCC 934.250 to 934.260.

[Adopted 98-002 §3 eff 3/4/98]

### **934.760 UGAZ screening and material storage standards**

(A) Development of property in the UGA–EFU–80, UGA–F/F zoning districts shall comply with the screening or material storage standards set forth in the respective zoning district.

(B) Development of property in the UGA–HI, UGA–LI, UGA–RCM, and UGA–UGM zoning districts shall comply with the screening or material storage standards set forth in the respective zoning district and LCC 934.130.

(C) Residential development on properties in a UGA–RR and UGA–UGM zoning districts adjoining a protected mineral or aggregate site shall incorporate a sight-obscuring, vegetative screen or a sight-obscuring fence along each side or rear property line adjoining the aggregate site. Any vegetative screen shall consist of species capable of growing to a height of at least 10 feet.

Any sight-obscuring fence shall be at least six feet in height.

[Adopted 98-002 §3 eff 3/4/98; amd 98-432 §2 eff 10/21/98; 99-156 §10 eff 6/30/99]

### **934.770 UGAZ access standards**

In a zoning district in the UGAZ, access shall be designed to cause a minimum interference with traffic and shall be subject to the review and approval of the County Engineer. Upon recommendation of the County Engineer or state highway department, the dedication of additional right-of-way and improvements constructed by the applicant may be required in order to facilitate adequate traffic circulation.

[Adopted 98-002 §3 eff 3/4/98]

### **934.790 UGAZ manufactured home standards for placement on individual authorized units of land**

(A) The manufactured home shall be:

(1) Multi-sectional and enclose a space of not less than 1,000 square feet.

(2) Placed on an excavated and back-filled foundation and enclosed at the perimeter such that the manufactured home is located not more than 18 inches above grade.

(3) Certified by the manufacturer to have an exterior thermal envelope meeting performance standards which reduce infiltration and exfiltration levels equivalent to the performance standards required of single-family dwellings constructed under the state building code as defined in ORS 455.010. This standard applies to new manufactured homes ordered from the manufactured home dealer. All other manufactured homes shall be certified to have been constructed with an exterior thermal envelope that met the manufactured home performance standards in place at the time the particular home was manufactured.

(4) Provided with gutters and down spouts to direct storm water away from the placement site.

(B) The manufactured home shall have:

(1) A pitched roof, except that no standard shall require a slope of greater than 3 feet in height for each 12 feet in width.

(2) Exterior siding and roofing which in color, material and appearance is similar to the exterior siding and roofing material commonly used on residential dwellings within the community or which is comparable to the predominant materials used on surrounding dwellings as determined by the Department.

(3) Base enclosed continuously at the perimeter with either concrete, concrete block, brick, stone, or combination thereof.

(4) A garage or carport constructed of like materials.

[Adopted 98-002 §3 eff 3/4/98]

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## D. OVERLAY STANDARDS

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### 934.800 Overlay standards generally

There are no development standards in the DAO, HRO or SBHO.

[Adopted 98-002 §3 eff 3/4/98]

### 934.810 AO development standards

(A) The applicant must comply with the standards set forth in this section for all development in an AO.

(B) *Height Limitations.*

(1) All structures or trees shall meet all applicable standards of the Oregon Aeronautics Division and the Federal Aviation Administration.

(2) No structure, mast, antenna or wire shall be erected or altered and no tree shall exceed or be allowed to exceed the height limit within each of the imaginary surfaces set forth in subsection (C) of this section.

(C) *Imaginary surfaces.*

(1) *Clear Zone.* The ground area under the approach surface which extends from the primary surface to a point where the approach surface is 50 feet above the runway elevation. Land within the clear zone should be left open wherever possible. Agricultural uses are compati-

ble unless they include structures or attract birds. The clear zone shall be 250 feet wide at the end of the runway and 450 feet wide at the beginning of the approach zone. The length of the clear zone is 1,000 feet.

(2) *Approach Surface.* The surface longitudinally centered on the extended runway centerline and extending upward and outward from each end of the runway. The slope of the height restriction in this surface is 20:1. For every 20 feet from each end of the runway, the height limitation is increased by one foot to a maximum distance of 5,000 feet.

(3) *Transitional Surface.* The surface that extends upward and outward at right angles to the runway centerline. This surface extends at a slope of 7:1 from the sides of the primary and approach surfaces to where they intersect the horizontal surface.

(4) *Horizontal Surface.* A horizontal plane which surrounds the airport 150 feet above the airport elevation.

(5) *Conical Surface.* A surface extending outward and upward from the periphery of the horizontal surface at a slope of 20:1 for a horizontal distance of 4,000 feet.

(D) *Roadways, parking areas and storage yards.* Roadways, parking areas and storage yards shall be located in such a manner that vehicle lights shall not result in glare in the eyes of the pilots or in any other way impair visibility in the vicinity of the runway approach.

(E) *Other Interference Prohibited.* Notwithstanding any other provisions of the Land Development Code, no use may be made of land or water within any zoning district established by the Land Development Code in such a manner as to create electrical interference with navigational signals or radio communication between the airport and aircraft; make it difficult for pilots to distinguish between airport lights and other lights; result in glare in the eyes of pilots using the airport; impair visibility in the vicinity of the airport; create bird strike hazards; or otherwise in any way endanger or interfere with the landing,

takeoff or maneuvering of aircraft intending to use the airport.

(F) *Noise Sensitive Limitations.* Within the applicable airport noise contours of the Albany and Lebanon airports, which are indicated on Figures 1 and 2 following this Chapter, the following regulations shall apply:

(1) In the 55 to 60 Ldn range day-night sound level area (Ldn), a declaration of anticipated noise levels shall be attached to any building permit and land division approval.

(2) In the 60 to 65 Ldn area, in addition to (1) above, prior to issuance of a building permit for construction of noise-sensitive land use (such as real property normally used for sleeping or normally used as schools, churches, hospitals or public libraries), the permit applicant shall be required to demonstrate that a noise-abatement strategy will be incorporated into the building design which will achieve an indoor noise level equal to or less than that of noise-sensitive property within the Ldn 55 area. The Director will review building permits for noise-sensitive developments.

[Adopted 98-002 §3 eff 3/4/98]

**934.830 LUO property development standards**

The following standards shall regulate development of all properties.

Minimum	LUO
Size	1 acre
Width	100 feet
Depth	100 feet
Width (adjoining FCM zoning district)	500 feet
Depth (adjoining FCM zoning district)	500 feet

(A) *Frontage:* All new authorized units of land shall have frontage onto a public road. The frontage shall be at least 100 feet.

(B) *Coverage:* The principle structure and accessory structures shall not cover in excess of 30 percent of the total property size.

(C) Minimum setback standards for all structures are set forth in the following table:

Front yard	(1) 30 feet from the front property line, or (2) 60 feet from the centerline of the road, whichever is greater
Side yard*	10 feet
Rear yard*	10 feet
Riparian habitat as described in the <i>Comprehensive Plan</i>	* (1) from the top of a bank of a sensitive riparian habitat as described in the <i>Comprehensive Plan</i> and shown in Appendix 1, Figure 8 following LCC Chapter 920 (Development Code; General Provisions), or (2) from the top of a bank, or as otherwise shown for a lake or wetland identified in the <i>Comprehensive Plan</i> and shown in Appendix 1, Figure 8 following LCC Chapter 920 (Development Code; General Provisions). The setback does not apply to water-dependent uses.
* Where an authorized unit of land abuts a residential zoning district or is within 100 feet of an existing residence, the setback shall be a minimum of 30 feet.	

(D) *Additional setbacks for residential structures:*

(1) Residential structures shall be set back from property lines at least 300 feet from land in the Forest Conservation and Management (FCM) zoning district whenever the property's width or depth dimension from the FCM zoning district is at least 500 feet. Residential structures on properties not having 500 feet in the affected dimension shall be set back at least 100 feet from land in the FCM zoning district.

(2) Residential structures shall be set back at least 30 feet from the side and rear property line adjoining an aggregate extraction site.

(E) *Maximum height:* No height limitation except within an Airport Overlay .

(F) *Landscaping:* Landscaping shall be provided for uses listed in LCC 934.210 to 934.217 in accordance with the standards in LCC 934.210 to 934.217.

(G) *Signs:* On-premise advertising signs and directional signs shall only be developed as provided in LCC 934.210 to 934.217.

(H) *Screening and materials storage*: Site screening and outdoor materials storage, when required by LCC 934.210 to 934.217, shall be provided in accordance with the requirements of LCC 934.210 to 934.217.

(I) *Off-road parking*: The minimum standards for off-road parking shall be provided as specified in LCC 934.210 to 934.217.

(J) Access shall be designed to cause a minimum interference with traffic and shall be subject to the review and approval of the County Engineer. Upon recommendation of the County Engineer or state highway department, the dedication of additional right-of-way and improvements constructed by the applicant may be required in order to facilitate adequate traffic circulation.

(K) Artificial lighting, including illuminated signs and parking area lights, shall be so arranged as not to produce glare on adjacent properties.

(L) *Screening*: Residential development on properties adjoining an aggregate extraction site shall incorporate a sight-obscuring, vegetative screen or a sight-obscuring fence along each side or rear property line adjoining the aggregate site. Any vegetative screen shall consist of species capable of growing to a height of at least 10 feet. Any sight-obscuring fence shall be at least six feet in height.

[Adopted 98-002 §3 eff 3/4/98; 99-121 §150 eff 6/30/99]

### **934.850 WRGO property development standards**

The standards in this section shall regulate changes of use, development or intensifications of all properties.

(A) Structures not water-related or water-dependent shall be set back 100 feet from the ordinary high water line of the Willamette River.

(B) Private docks, wharves and covered storage shall be limited to one per property ownership and shall not extend more than 10 feet above water level nor be more than 300 square feet in area. Walkways to such docks, wharves or covered storage shall not exceed five feet in width.

(C) Public access to and along the Willamette River, when deemed appropriate, shall be provided. It shall be designed and developed in a manner that minimizes the opportunity for trespass, vandalism and other adverse effects on adjoining properties. The provision of public access may be deemed appropriate and required as part of the proposal, especially when commercial, industrial, residential subdivision or privately or publicly-developed recreational facilities are proposed.

[Adopted 98-002 §3 eff 3/4/98]

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### **Statutory References and Other Authorities:**

ORS 197; 203; 215; OAR 660, Div. 34

### **Legislative History of Chapter 934:**

Adopted 98-002 eff 3/4/98

Amendments to 98-002

#1 98-432 eff 10/21/98

#2 99-121 §15 eff 6/30/99

#3 99-156 §10 eff 6/30/99

#4 02-313 §6 eff 8/21/02

#5 04-051 §1 eff 2/18/04

#6 04-043 §3 eff 4/28/04

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**TABLE 1 — PARKING SPACE REQUIRED BY USE**

USE		PARKING SPACE REQUIRED		
(A) RESIDENTIAL TYPES	(1) Dwelling, single-family	Two for every dwelling unit on a single authorized unit of land		
	(2) Hotels, motels, motor hotels, etc	One for every guest room		
	(3) Rooming or boarding houses	One for every guest room		
	(4) Fraternities, sororities, cooperatives and dormitories	One for every three occupants for which sleeping facilities are provided		
(B) INSTITUTIONAL TYPES	(1) Hospitals	1½ for every bed; where a fraction, next higher full unit		
	(2) Churches, clubs, lodges	One for every four fixed seats or every eight feet of bench length or every 28 square feet where no permanent seats or benches are maintained in main auditorium, sanctuary or place of worship		
	(3) Libraries, museums, art galleries	One for every 500 square feet of gross floor area		
	(4) Nursing homes, homes for aged, group care homes, asylums, etc.	One for every three beds		
	(5) Welfare or correctional institution	One for every five beds		
	(6) Schools	Elementary or Junior High	1½ for every teaching station plus one for every eight fixed seats or where there are no fixed seats in an auditorium or assembly area, 1½ for every 100 square feet of seating area	
		High Schools	1 ½ for every teaching station plus one for every four fixed seats or for every 50 square feet of seating area, where there are no fixed seats in an auditorium	
		Colleges	“Commuter” type	One for every two full-time equivalent students
			“Resident” type	One for every four full-time equivalent students
		Commercial or business	One for every three classroom seats	
(C) COMMERCIAL TYPES	(1) Retail establishments, except as otherwise specified	One for every 300 square feet of gross floor area		

	(2) Barber and beauty shops	One for every 75 square feet of gross floor area
	(3) Bowling alleys	Six for every bowling lane
	(4) Pharmacies	One for every 150 square feet of gross floor area
	(5) Retail stores handling bulky merchandise, house-hold furniture or appliance repair shops	One for every 600 square feet or gross floor area
	(6) Office buildings, business or professional offices	One for every 400 square feet of gross floor area
	(7) Establishments or enterprises of a recreational or an entertainment nature:	(a) Spectator type, e.g., auditorium, assembly hall, theater, stadium, place of public assembly
		(b) Participating type, e.g., skating rinks, dance halls
		(c) Establishments for the sale and consumption on the premises of food and beverages
		(8) Other unspecified commercial uses
(D) INDUSTRIAL TYPES	(1) Except as specifically mentioned herein, industrial uses listed as permitted in the LI or HI zoning districts	One for every 500 square feet of gross floor area
	(2) Wholesale and storage operations	One for every 700 square feet of gross floor area
	(3) Laboratories and research facilities	One for every 300 square feet of gross floor area
	(4) Machinery or equipment sales	One for every 400 square feet of gross floor area
	(5) Other unspecified industrial uses	One for every 400 square feet of gross floor area

[Adopted 98-002 §3 eff 3/4/98]

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# TITLE 9

## COMMUNITY DEVELOPMENT

### Subtitle 2 — Land Development Code

### Division 5 — Conditions, Requirements, Development Standards & Criteria

#### CHAPTER 935

#### ACCESS IMPROVEMENT STANDARDS CODE

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#### I. GENERAL ACCESS REQUIREMENTS

#### 935.005 Title; short title

This Chapter, LCC 935.005 to 935.999, shall be known and cited as the “Linn County Access Improvement Standards Code.” This Chapter may also be referred to and cited as the “Access Improvement Standards Code.”

[Adopted 98-002 §3 eff 3/4/98; amd 99-121 §16 eff 6/30/99]

#### 935.010 Statement of purpose

(A) The purpose of this Chapter shall be to provide the specifications and standards which are required when constructing or improving access as part of developing a property.

(B) All road improvements, including but not limited to pavement, curbs, sidewalks and surface drainage, shall also be governed by the standards and specifications as set forth by the Board and by the Roadmaster. (Appendix A at the end of this Chapter contains a summary of information regarding road improvements, the detailed drawings of which are available from the Road Department.)

(C) This Chapter includes provisions on county roads created outside of the subdivision



process, easements of road access, local access roads, private driveways, and private roads.

[Adopted 98-002 §3 eff 3/4/98]

### 935.015 General access requirements

(A) A use involving change to an existing use shall be reviewed by the Roadmaster. When reviewing a use and an existing access is subject to change, the Roadmaster may approve or deny the access change.

(B) The applicant for development on a property that has been benefitted by an easement recognized by the Department shall provide proof satisfactory to the Department that the benefitting easement has not been rescinded or otherwise abandoned.

(C) The applicant for development on a property that has been benefitted by a temporary easement granted pursuant to LCC 935.150 (E) shall provide proof satisfactory to the Department that the current access complies with LCC 935.150 (D) or subsection (G) of this section.

(D) All authorized units of land shall have functional road access to a public road by one of the following means:

(1) Frontage abutting a public road, at least 30 feet wide, or the minimum frontage standard specified in the applicable zoning district, whichever is greater; or

(2) An easement of record for road access, or an easement of road access.

(E) If the easement of road access required by subsection (G) of this section cannot be recorded because contiguous units of land created by the land division are under single ownership and at least one unit is landlocked, then the applicant may delay recording the easement. Prior to the issuance of any development permits, the applicant shall file with the Director a letter of intent promising to record the easement simultaneously with the conveyance of ownership of either unit.

(F) Unless otherwise provided in subsection (G) of this section, no person shall construct or install any principal use on any authorized unit of

land unless access is first provided in a manner consistent with this Development Code.

(G) A person may obtain development permits to authorized unit of land for which road access has not been provided in the manner described in this Development Code if one of the following conditions is found to exist:

(1) The proposal is only for repairs, enlargements, remodeling, modifications or the replacement of a lawfully existing residence (see the variance, set-back and non-conforming use provisions of this Development Code for related topics); or

(2) The proposal is only for the construction, placement or establishment of an accessory building, structure or use. The existing principal use shall have been lawfully located on the authorized units of land on or before the effective date of this Development Code.

(3) Among other uses which are included as accessory building, structure or uses, are medical hardship mobile homes, farm-relative dwellings, or accessory farm dwellings. Accessory building, structures, or uses are not principal buildings, structures, or uses and shall not necessarily require access improvements.

(H) Except as otherwise provided in this section, no person may obtain an access permit when the use for which the access is needed, requires, but has not yet received, a separate land use review or permit.

(I) The creation of access to land solely for those forestry, mining or agricultural uses allowed outright shall be exempt from planning review. However such access is governed by the Road Department and an access permit must be first obtained from the Road Department before access development is initiated.

[Adopted 98-002 §3 eff 3/4/98; amd 98-432 §2 eff 10/21/98]

### 935.020 Access requirements; level of use

(A) The creation of private roads, local access roads, easements of road access, flag-lots, and private driveways are subject to the minimum access requirements set forth in subsection (B).

(B) *Minimum access requirements.*

(1) One, two or three current or potential homesites shall be served by at least a 30-foot wide, recorded easement of road access, if required, with a minimum 12-foot wide travelway;

(2) Four or five current homesites shall be served by at least a 50-foot to 60-foot wide, reserved right-of-way with at least a 20-foot wide travelway. The width shall be determined by the County Engineer. Applicants having the potential for more than five parcels will be advised of the need for additional right-of-way and access improvements when that potential is exercised; and

(3) Six or more current homesites shall be served by at least a 50-foot or 60-foot wide, dedicated right-of-way with at least a 22-foot paved roadway having four-foot shoulders. The width shall be determined by the County Engineer.

(4) Local access roads shall be constructed to the highest level of improvement as set forth in subsection (B).

(5) A reduction in right-of-way width and roadway condition may be warranted when new residences are proposed to be served by a pre-existing access.

(6) If a reduction in right-of-way width and roadway condition is warranted under paragraph (5) of this subsection, the Director and the Roadmaster shall retain the authority to establish minimum access requirements according to the following criteria:

(a) The road or driveway was established and provided access to more than one residence prior to July 1, 1991.

(b) The access improvements proposed represent an incremental improvement over the existing circumstances.

(c) The proposed access is feasible and equitable, given the circumstances involved.

(d) The applicant shall provide the County a written waiver of liability for an access approved under the provisions of this section.

[Adopted 98-002 §3 eff 3/4/98; amd 98-432 §2 eff 10/21/98]

## II. EASEMENTS

### 935.100 Easements of road access; requirements

(A) The applicant shall record an easement of road access for an authorized unit of land if the unit of land:

(1) does not having frontage on a public road; or

(2) has frontage on one of the above roads but to which access is provided by means other than road frontage.

(B) The deeds of the authorized unit of land encumbered by granting the easement and the deed of the authorized unit to which the access easement is granted shall reflect the existence of the easement described in subsection (A).

[Adopted 98-002 §3 eff 3/4/98; amd 98-432 §2 eff 10/21/98]

### 935.110 Easement of road access; limitations

(A) Not more than seven easements of road access shall be allowed over the same easement line by the procedure described in this section.

(B) Easements of road access shall be a minimum of 30 feet in width.

(C) The easement alignment shall coincide with the functional road access serving the development site.

[Adopted 98-002 §3 eff 3/4/98]

### 935.120 Road-related easements; setbacks

Minimum yard setbacks for development of structures along a road-related easement shall be a distance that is not less than 75% of the width of the road-related easement, but not greater than 30 feet, and in no case less than 15 feet. For example:

Easement width	Setback
10 ft.	15 ft.
20 ft.	15 ft.
30 ft.	22½ ft.
40 ft.	30 ft.
50 ft.	30 ft.

[Adopted 98-002 §3 eff 3/4/98]

**935.130 Easement of road access; application procedure**

(A) Applications for easements of road access shall be filed with the Department on an approved form and shall be complete and accurate to the best of the applicant’s knowledge.

(B) A site plan detailing the route of the easement of road access and the property to be served by the easement shall accompany the application.

(C) A copy of the proposed easement of road access shall accompany the application along with evidence from the Linn County Environmental Health Program that a method of sewage disposal has been approved for the property served by the easement.

(D) The applicant shall provide any supplemental information as required by the Director.

(E) If the application is not complete, the Director shall not accept the application until such time as the required information is submitted by the applicant. If the application is complete, the Director shall accept the request for review purposes. See LCC Chapter 921 (Administration of the Land Development Code).

[Adopted 98-002 §3 eff 3/4/98]

**935.140 Easement of road access, notice**

Notice of the application shall be mailed to all agencies, special districts and property owners as specified by LCC Chapter 921 (Administration of the Land Development Code).

[Adopted 98-002 §3 eff 3/4/98]

**935.150 Decision criteria; easement of road access**

(A) A request for easement of road access recognition may be approved if, on the basis of the application, investigation, testimony and evidence submitted, findings and conclusions show that all of the following decision criteria can be met:

(1) The proposed placement of the easement of road access shall not pose a traffic hazard, taking into consideration the number of nearby access points and geographic conditions of the property; and

(2) The easement of road access is the only reasonable method of providing access to the parcel;

(B) An exception to LCC 935.110 (B) may be taken if, on the basis of the application, investigation, testimony and evidence submitted, findings and conclusions show that all of the following exist:

(1) That exceptional and extraordinary circumstances or conditions exist;

(2) That an unnecessary and severe hardship would result from a strict interpretation and enforcement of the specified regulations if the easement of road access is not recognized and;

(3) That recognition of the easement of road access, at the substandard width, would not be detrimental to the public health, safety or welfare nor materially injurious to properties or improvements in the vicinity.

(C) If findings can be made based upon all of the criteria, recognition of the easement of road access may be granted. If findings cannot be made based upon all the criteria, recognition of the easement of road access shall not be granted.

(D) Except as provided in subsection (E) of this section, easements granted pursuant to this Chapter shall be perpetual and non-exclusive.

(E) An easement may be granted for temporary access.

[Adopted 98-002 §3 eff 3/4/98; amd 98-432 §2 eff 10/21/98]

**935.160 Deed covenants**

Deed covenants and conditions shall be incorporated into the chain of title for all properties created by a partition or served by an easement recognition that:

(A) Identify the road as a private road that is not part of the county-maintained road network; and

(B) Assign monetary responsibility for road or bridge maintenance and dust control to land-owners of property served by said access.

(C) A copy of the deed or other document of legal conveyance with the attached covenants and conditions relating to access shall be provided to the Department. The covenants and restrictions,

written in a manner that runs with the title to the land, shall be recorded with the County Clerk before development permits for a primary use of the land involved may be issued.

[Adopted 98-002 §3 eff 3/4/98]

### **935.170 Flag-lot requirements**

(A) In addition to other requirements, the creation of flag-lots are subject to the following requirements:

(B)

(1) Only one flag strip is allowed for each flag-lot;

(2) The flag strip must be not less than 30 feet in width and not more than 60 feet in width (See LCC Chapter 920, Appendix 1, Figure 4);

(3) The flag-lot must be at least the minimum acreage of the applicable zone, excluding the flag strip; and

(4) Not more than two flag strips serving respective flag-lots may abut each other.

(5) Not more than two flag strips may abut each other at any point;

(6) The minimum distance between non-abutting flag strips is 100 feet.

[Adopted 98-002 §3 eff 3/4/98]

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## **III. CONSTRUCTION STANDARDS**

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### **935.200 Minimum construction standards for access**

(A) Construction of the access must comply with the minimum improvement standards set forth in subsection (B) before development permits for a primary use of the land may be issued. Additional improvements are required for an access serving more than three development sites. Any variance to these standards is subject to review and written approval by the appropriate Rural Fire District and the Roadmaster.

(B) *Minimum improvement standards.*

(1) The all-weather access must be built and maintained to the minimum access requirements of LCC 935.020 and shall be at least 12 feet in width and consist of a minimum of six inches of crushed rock or crushed gravel. An acceptable

alternative base for the roadbed is six inches of quarry-run rock topped with minimum of four inches of 1" minus crushed rock or 1" minus crushed gravel. The access route, including any culverts and bridges, must be capable of supporting gross vehicle weights (GVW) of 50,000 pounds. The County reserves the right to require written verification of compliance with the GVW standard from an Oregon registered professional engineer.

(2) The access will be provided with an unobstructed vertical clearance of at least 13 feet six inches and an unobstructed horizontal clearance of 20 feet and a minimum curve radius of 48 feet.

(3) At least one intervisible turnout every 500 feet, or as otherwise determined by the County Engineer, shall be provided in any access way less than 20 feet wide. The turnout shall provide passage space at least 20 feet wide and 40 feet long.

(4) Roadside ditches shall be provided if deemed appropriate by the County Engineer.

(5) Dead-end access ways over 150 feet in length shall provide and maintain a cleared turnaround, with a turning radius of at least 40 feet. When a dead-end access serves four or more dwellings, a turnaround with a turning radius of 48 feet shall be provided and maintained.

(6) Grades shall not exceed 12 percent.

(7) Driveways shall be marked with the resident's rural address unless the residence is visible from the roadway and the address is clearly visible on the residence. Letters or numbers shall be a minimum of three inches in height and constructed of reflective material.

[Adopted 98-002 §3 eff 3/4/98; amd 98-432 §2 eff 10/21/98]

### **935.250 Local access road improvements**

(A) Applications for recognition of an easement to connect to a local access road, or for a partition in which a local access road is being created, shall be subject to the minimum road improvement standards in LCC 935.200.

(B) The County Engineer will inspect the local access road and determine what improve-

ments are needed to accommodate the proposed development.

(C) The County Engineer shall determine the area (length and width) of the road right-of-way which will be improved.

(D) An easement to connect to and extend a local access road shall be subject to the local access road minimum improvement standards in LCC 935.200 (B) or (C).

(E) When a local access road is being proposed, the applicant shall deed the road right-of-way within the development to Linn County for road purposes. The executed deed shall be submitted to the county road department.

(F) Upon receipt of the executed deed, the Board, together with the Roadmaster, shall decide whether or not to accept the road as a local access road into the Linn County road records.

[Adopted 98-002 §3 eff 3/4/98]

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#### **IV. SPECIAL ACCESS REQUIREMENTS**

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##### **935.300 Barrier strips**

(A) Public barrier strips.

(1) Access on or across a public barrier strip is prohibited unless

(a) an easement is granted by the Board,

(b) a plan for development of adjacent lands is approved by the county, or

(c) adjacent right-of-way is accepted by the County for the continuation or widening of the road.

(2) In processing an application dependent upon crossing a barrier strip, the Director shall first receive an indication from the Board that an easement would be granted.

(B) Private barrier strips. Barrier strips in private ownership shall require similar treatment except that the easement agreement shall be secured from the private landowner.

[Adopted 98-002 §3 eff 3/4/98]

##### **935.310 Stubbed roads with a cul-de-sac; standards**

The creation of a stubbed road terminating in a cul-de-sac must meet all the following standards.

(A) The stubbed road shall

(1) not be more than 1,320 feet in length, and

(2) have only one outlet for vehicular traffic.

(B) The terminating cul-de-sac shall

(1) have an end radius of not less than 45 feet, and

(2) not be extended to access future subdivisions or development on adjacent lands without first being reviewed and approved by the County.

[Adopted 98-002 §3 eff 3/4/98]

##### **935.320 Grading permit; access**

A grading permit granted pursuant to LCC 921.530 may be required for actions under this Chapter.

[Adopted 98-002 §3 eff 3/4/98]

##### **935.330 Rural Resource Zone access improvement standards**

(A) Except as provided in LCC 935.015 (I), the access improvement standards in LCC 935.020 are applicable to all principal uses permitted in the RRZ.

[Adopted §3 eff 6/30/97; amd 98-432 §2 eff 10/21/98]

##### **935.340 County road creation, not through subdividing**

(A) The creation of a county road shall conform to the requirements set forth in LCC Chapter 926 (Subdividing Code).

(B) Notwithstanding subsection (A), the Department may approve the creation of a road to be established by deed without full compliance with the applicable regulations, provided that the establishment of the road is initiated by the Board and that one of the following conditions exists:

(1) The Board finds the creation of the road is essential for the purpose of general traffic circulation; or

(2) The Board finds the creation of the road is necessary for access to existing authorized units of land created prior to March 4, 1998.

(3) Roads, not in a subdivision, but established by dedication, shall be improved to the standards in LCC 935.200 as a condition of being accepted for public use.

(C) Exceptions for road improvements may be made in situations where roadways have existed by usage or by easement (whether conforming or not) which served properties that have been created and recorded with Linn County prior to March 22, 1972.

[Adopted 98-002 §3 eff 3/4/98]

### **935.350 Agreement for improvements**

(A) The developer shall improve or agree to improve lands dedicated for roads, alleys, pedestrian ways, drainage channels, easements of road access and other rights-of-way as a condition preceding the acceptance and approval of a partition plat involving the creation of access.

(B) Prior to approval of the partition plat, the developer shall

(1) install all required improvements and repair existing roads and other public facilities damaged in the development of the partition, or

(2) execute and file with the Board an agreement between the developer and the county specifying the period within which all the required improvements and repairs shall be completed.

(a) The agreement shall require a performance security for the improvements and repairs meeting the requirements of LCC 933.110.

(b) The agreement shall provide that if all of the required work is not completed within the time frame specified, or within any mutually approved extensions, the county may complete the work and recover the full cost and expense thereof from the developer pursuant to LCC 921.920. If a written request for a reasonable time extension is requested by the developer and is received by the Board 30 calendar days prior to the expiration of the agreement, the Board may approve the request. Absent an approved exten-

sion, the Board may collect costs as provided in LCC 933.110.

[Adopted 98-002 §3 eff 3/4/98; amd 98-432 §2 eff 10/21/98]

### **935.360 Performance security**

To assure full and faithful performance of the agreement required by LCC 935.350 (B) (2), the developer shall comply with LCC 933.110.

[Adopted 98-002 §3 eff 3/4/98; amd 98-432 §2 eff 10/21/98]

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### **Statutory References and Other Authorities:**

ORS 197; 203; 215

### **Legislative History of Chapter 935:**

Adopted 98-002 §3 eff 3/4/98

Amendments to 98-002

#1 98-432 eff 10/21/98

#2 99-121 §16 eff 6/30/99

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**APPENDIX A TO LCC CHAPTER 935**

**REQUIREMENTS FOR ROAD IMPROVEMENTS WITHIN SUBDIVISIONS  
AND OTHER ROADS PROPOSED AS PART OF PARTITIONING TO BECOME PART OF THE COUNTY-  
MAINTAINED ROAD SYSTEM**

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**Summary of Primary Points**

**935.900 GENERAL PROVISIONS**

- (A) Plats, plans and specifications to be reviewed and approved by the road department.
- (B) Advising road department prior to start of actual construction and road department option to call a pre-construction conference.
- (C) Technical specifications.
- (D) Liability.
- (E) Acceptance of the project by the road department and acceptance as a county road by the Board of Commissioners.
- (F) Road department's inspection.
- (G) Changes approved by the road department.
- (H) Responsibilities of applicant.

**935.910 ENGINEERING**

- (A) Plans and specifications.
- (B) Right-of-way monumentation.
- (C) Construction control staking.

**935.920 DESIGN STANDARDS**

- (A) Traffic Projections.
  - (B) Roadway Design Features.
  - (C) Drainage Structures.
    - (1) Roadway culverts.
    - (2) Driveway culverts.
    - (3) Bridges.
  - (D) Intersection Design.
  - (E) Roadway Cross Section.
    - (1) Grading.
      - (a) Slopes.
      - (b) Surface tolerance.
      - (c) Fills.
      - (d) Clearing and grubbing.
    - (2) Gravel base and finish course.
      - (a) Compaction.
      - (b) Placement.
    - (3) Pavement.
      - (a) Asphaltic concrete placement.
      - (b) Shoulders.
    - (4) Materials and workmanship.
  - (F) Signing and Striping Design.
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**935.900 General provisions**

(A) Approval of Partition Plats, Subdivision Plats and Road Improvement Plans:

(1) Partition plats requiring access review and preliminary subdivision plats shall have road department approval for road and drainage features prior to consideration by the Department.

(2) Final subdivision plats shall be signed by the road department prior to approval by the Department.

(3) Plans and specifications for partition and subdivision roads and road improvement projects shall be approved by the road department under the provisions of these requirements and the road standards and related drawings which are available at the Linn County Road Department.

(B) Construction:

(1) The road department shall be advised by the developer or the developer's agent a minimum of five days prior to start of actual construction work.

(2) The road department may call a pre-construction conference, if in their opinion, it is in the public interest to do so. This meeting shall be attended by the developer or the developer's agent, the contractor, and the contractor's superintendent.

(C) Technical Specifications:

(1) The technical specifications which are applicable are:

(a) *Oregon State Highway Division Standard Specifications for Highway Construction* (current edition).

(b) *Manual on Uniform Traffic Control Devices for Streets and Highways* (current edition).

(2) It is understood that when the terms “State of Oregon,” “State Transportation Commission,” “Division,” and “Engineer” are used in such specifications they shall refer to the County of Linn, the Linn County Road Department and the Linn County Engineer, respectively.

(D) Laws to be Observed:

(1) The developer and the contractor, or contractors, shall at all times observe and comply with all federal, state and local laws, ordinance and regulations.

(2) The developer shall be responsible for the acts of his employees and contractors.

(3) The developer and/or owner or owners shall indemnify and save harmless Linn County, its officers, employees and agents against any claims or liability arising from any and all construction activities.

(E) Acceptance of Projects:

(1) Acceptance of the construction shall be by the road department after completion of all phases of the work, in substantial conformity to governing plans and specifications.

(2) Acceptance of the completed work as part of the county road system may be by the Board of Commissioners upon recommendation of the road department.

(F) Inspection of Work:

(1) Requests to the road department for inspection of individual phases or final acceptance of the work shall be given a minimum of 24 hours in advance of the scheduled inspection.

(2) The road department may, at any time, inspect phases of the work to verify compliance with plans and specifications.

(G) Changes:

(1) Changes in plans shall be submitted to the road department for approval prior to proceeding with work under the change.

(2) Verbal requests for approval by the developer or the developer’s agent and/or approvals by the road department shall be confirmed in writing within three working days.

(H) Any supervision or control exercised by Linn County, the Linn County Board of Commissioners, the Linn County Road Department or other county officers, agents, contractors or em-

ployees shall in no way relieve the developer of any duty or responsibility to the general public nor shall such supervision or control relieve the developer of any liability for any loss, damage or injury to persons or property sustained by reason of construction, maintenance repair, operation or use of the facility or in the reconstruction, relocation or removal of same.

[Adopted 98-002 §3 eff 3/4/98]

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### 935.910 Engineering

(A) Plans and Specifications:

(1) After partition or preliminary subdivision plat approval by the Department and a minimum of 14 days prior to advertising for bids, detailed construction plans and specifications shall be submitted for approval to the road department.

(2) Before final approval and acceptance of the project is granted, a set of as-built plans shall be submitted signed by an engineer registered in the State of Oregon.

(3) All plans shall be on plan-profile transparency paper, sheet size 24" x 36."

(4) The scale shall be 1" = 50' or 1" = 100'.

(5) All plans shall show details of construction, including but not necessarily limited to:

- (a) Culvert size and location.
- (b) Width of right-of-way.
- (c) Width of roadway.
- (d) Location of underground utilities.
- (e) Right-of-way monuments.
- (f) Bearing of tangents.
- (g) Profile of finish grade with grades and points of vertical curvature.
- (h) Horizontal curve data.
- (i) Centerline stationing.
- (j) Initial and terminal points of road.

(k) Ties to Donation Land Claim (DLC) or section corners. Location and dimension of all structures within the right-of-way.

(B) Right-Of-Way Monumentation:



(1) Monuments shall be placed on the right-of-way lines on both sides of the road.

(2) Monuments shall be iron rods, ½" minimum diameter and 30" long.

(3) Monuments shall be placed at the following places:

(a) Initial and terminal points of the road.

(b) Points of horizontal curvature, tangency and angle points.

(c) On tangents at a maximum distance of 1,320 feet.

(d) At the intersection of the rights-of-way of public roads, state highways, railroads and private roads.

(C) Construction Control Staking:

(1) Construction control stakes shall be placed to control the following phases of work:

(2) Subgrade and ditch line.

(3) Base course, if required.

(4) Leveling course.

(D) Staking shall be performed in such a manner that the stakes will be easily understood by construction personnel and stakes shall be preserved until completion of that stage of the work which they control.

[Adopted 98-002 §3 eff 3/4/98]

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### 935.920 Design standards

(A) Design year — traffic design year shall be 10 years in the future.

(B) Design features for roadways shall be in accordance with standards developed and maintained by the County Road Department and available through that office.

(C) Drainage Structures:

(1) *Roadway culverts.*

(a) Design size shall be based on a ten-year flood frequency for minor structures of less than 48" or equivalent. Design size for major structures (48" diameter or larger) shall be based on a 25-year flood frequency.

(b) Design and specifications shall assure the following practices:

(i) Pipe shall be fully and uniformly supported.

(ii) All pipe sections shall be firmly jointed together.

(iii) Pipe shall be laid true to line and grade with the bell, groove and socket ends upstream.

(iv) Culvert shall extend a minimum of one foot past the toe of the embankment slope on each side.

(v) Where necessary, slope protection shall be provided to prevent scour and erosion of the embankment.

(c) A permanent easement onto private property shall be provided where necessary to provide for drainage and prevent damage.

(d) Where a culvert is high in a large fill, a down drain installation shall be used to conduct the water down the face of the fill and eliminate erosion.

(e) Cross-culvert shall have a 18-inch minimum inside diameter and support H20 S16 loading.

(i) *Driveway culverts.*

Design features:

(I) 12-inch minimum diameter.

(II) Lengths:

1) Minimum 21 feet.

2) Greater than 30 feet

in length shall require adequate provisions for cleaning.

(III) Flow line of culvert shall be at the elevation of the ditch bottom.

(IV) Driveway elevation at road ditch line shall be 0.2 feet below the elevation of the edge of the pavement.

(ii) *Bridges.*

(I) Hydraulic design based on a 25-year flood frequency.

(II) Structure design criteria:

1) Dead load: 4" thickness of asphaltic concrete (100 p.s.f. min.).

2) Live load — H20 S16 loading.

3) The stream channel shall be cleaned of all debris and obstructions within the limits of the right-of-way.

4) Channel changes when made shall be done in such a manner that scour and erosion shall not occur.

5) Slope protection to be provided as required under “culverts” above.

6) Provisions shall be made to conduct deck surface drainage away from the structure. Deck drains discharging directly into a stream are not allowed.

7) Guardrails, signs and markings shall be provided in conformity with standard practices.

8) Each individual bridge design shall be subject to the approval of the road department.

(D) Intersection Design:

(1) There shall be not less than 200 feet between centerlines on staggered “T” intersections where centerlines have an angle at intersections of less than 45 degrees.

(2) Not less than 125 feet between centerlines on intersections of larger angles.

(3) Access points shall not be closer than 150' from a road intersection unless otherwise approved by the Linn County Road Department.

(E) Roadway Cross Section:

(1) Grading.

(a) Steepness of slopes:

(i) Fill 1½ : 1 maximum.

(ii) Cut 1 to 1 maximum.

(b) Subgrade to be graded to within 0.2 foot of design grade.

(c) Fills:

(i) Compaction. Top three feet, 95 percent of relative maximum density; remainder 90 percent of relative maximum density as set forth in the standard specifications.

(ii) Material containing excessive moisture will be dried to suitable moisture content before placement.

(iii) Rocks in the top two feet of fill are limited to a maximum of eight inches.

(iv) Fills are to be placed in approximately horizontal layers not to exceed eight inches in compacted thickness. Each layer to be compacted to specified density as in (1) above.

(v) Excess or unsuitable material from cuts may be wasted along fills and in low spots along the right-of-way as follows:

(I) Drainage ditches shall not be plugged.

(II) Culverts shall be extended as required to accommodate the enlarged fill.

(III) Waste areas shall be smoothed to provide a neat finished appearance, compacted to a stable condition and shall be designed so as not to collect surface water.

(IV) Clearing and Grubbing:

1) All trees, stumps, brush and other vegetation within the limits of the subgrade and drainage ditches shall be removed.

2) All clearing debris shall be disposed of as follows:

- No stumps, logs or other debris shall be left within the right-of-way.

- Large rocks and stones shall be disposed of outside the roadbed to the satisfaction of the road department.

(2) *Gravel Base and Finish Course.*

(a) Compaction: 95 percent maximum density as called for in the standard specifications.

(b) Placement:

(i) Placement shall be done in such a manner to avoid segregation.

(ii) Placement shall be done so as to avoid mixing subgrade material with base.

(iii) Base to be placed in layers not to exceed a compacted thickness of six inch maximum.

(iv) Base shall be placed to within 0.04 foot, plus or minus of design grade.

(3) *Pavement.*

(a) Asphaltic Concrete Placement:

(i) To be placed within 0.04 foot of design grade.

(ii) Variation of surface not to exceed ¼ inch in 10 feet each way.

(iii) Lifts to be controlled per county standard drawing.

(b) Shoulders:

(i) Major arterials and secondary arterials shall have paved shoulders.

(ii) The shoulders on designated bicycle routes or pedestrian walkways shall be paved.

(iii) Paving of shoulders, when required, shall be paved with asphaltic concrete to a minimum depth of two inches.

(4) *Materials and workmanship* shall conform to requirements of the standard specifications.

(F) Signing and Striping Design:

(1) All signs and striping shall conform to the manual on Uniform Traffic Control Devices (current edition), and shall be a complete installation, including naming on all roads.

(2) The road shall have the necessary signs as required for traffic safety.

(3) The road surface shall be striped as follows:

(a) Centerline.

(b) No passing strips.

(c) Stop bars.

(d) Crosswalks where the volume of pedestrian traffic warrants.

(e) Turning lane markings.

(f) Such other markings as may be deemed necessary by the road department.

(4) A complete plan shall be submitted for approval by the road department.

(5) The requirements of this section may be waived for the developer at the option of the road department.

[Adopted 98-002 §3 eff 3/4/98]

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# TITLE 9

## COMMUNITY DEVELOPMENT

### Subtitle 2 — Land Development Code Division 6 — Miscellaneous Development Code Provisions

#### CHAPTER 936

#### NON-CONFORMING USES AND PRE-EXISTING USES CODE

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#### Statutory References and Other Authorities

#### Legislative History of Chapter 936

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#### I. GENERAL PROVISIONS

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#### 936.005 Title; short title

This Chapter, LCC 936.005 to 936.999, shall be known and cited as the “Linn County Non-conforming Uses and Pre-existing Uses Code.” This Chapter may also be referred to and cited as the “Non-conforming Uses and Pre-existing Uses Code.”

[Adopted 98-002 §3 eff 11/\_\_/97; amd 99-121 §17 eff 6/30/99]

#### 936.010 Statement of purpose

The purpose of this Chapter is to prescribe:

(A) the circumstances under which a legal use of land that has become non-conforming as a result of amendments to the Zoning Map or Development Code may continue;

(B) the distinction between a non-conforming use and a pre-existing use;

(C) the circumstances under which a non-conforming use may be altered, restored or replaced; and

(D) the circumstances under which a pre-existing use may be altered, restored or replaced.

(E) Nothing in this Chapter shall be deemed to require any change in the construction or use of any structure for which a legally-issued building

permit was obtained and the authorized construction was initiated before these Development Code provisions become effective.

[Adopted 98-002 §3 eff 3/4/98]

### 936.070 Definitions

As used in this Chapter, “alter” means to make any change, addition or modification that increases the intensity or capacity or changes use and “alteration” means any such change, addition, or modification.

[Adopted 98-002 §3 eff 3/4/98]

### 936.090 Level of review

An application made under this Chapter is a Type IIA action.

[Adopted 98-002 §3 eff 3/4/98]

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## II. NON-CONFORMING USES

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### 936.100 Non-conforming uses; defined

(A) A non-conforming use is a lawful use which existed, and continues to exist, on the date that the zoning district in which the use is located was established, but which does not conform with the regulations of that district.

(B) A non-conforming use is any use or activity which was lawful prior to the adoption, revision or amendment of a zoning ordinance, but which because of that adoption, revision or amendment, now fails to conform to the present requirements of the applicable zoning district.

(C) A non-conforming use is a use that has continuously existed for a period of 20 years immediately preceding the date of an application for a non-conforming use review.

[Adopted 98-002 §3 eff 3/4/98; amd 02-313 §7eff 8/21/02]

### 936.110 Review of non-conforming uses

(A) The non-conforming use itself is not subject to review.

(B) Alterations of a non-conforming use may be subject to review and approval under the decision criteria governing non-conforming uses.

[Adopted 98-002 §3 eff 3/4/98]

### 936.120 Non-conforming uses; regulations

(A) Alterations of a non-conforming use shall be subject to review and approval under the decision criteria governing non-conforming uses.

(B) The lawful use of any building, structure or land at the time of the enactment or amendment of any zoning ordinance or regulation may be continued as a non-conforming use.

(C) A change of ownership or occupancy shall be permitted.

(D) Alteration of any such use may be permitted in order to reasonably continue the use. Alteration of any non-conforming use shall be permitted when necessary to comply with any lawful requirement for alteration in the use. Other alterations, restoration or replacements of a non-conforming use are regulated by this Chapter.

[Adopted 98-002 §3 eff 3/4/98]

### 936.130 Discontinued non-conforming uses

Any non-conforming use of land that is discontinued for a period exceeding 12 months shall thereafter only be used in ways that conform to the regulations of the applicable zoning district and other applicable Development Code provisions.

[Adopted 98-002 §3 eff 3/4/98]

### 936.140 Decision criteria for the restoration or replacement of non-conforming uses, involuntarily damaged or destroyed

(A) Any non-conforming use involuntarily damaged or destroyed by fire, casualty or other natural disaster may be restored or replaced if all of the criteria set forth in subsection (B) are met.

(B) *Decision criteria.*

(1) The use had not been discontinued or abandoned for a period exceeding 12 months prior to the loss;

(2) Restoration or replacement is proposed and shall commence within 12 months from the occurrence of the fire, casualty or natural disaster; and

(3) The proposed use will not result in an alteration of the non-conforming use.

[Adopted 98-002 §3 eff 3/4/98]

**936.150 Decision criteria for voluntary alteration or restoration of a non-conforming use, not required by law**

(A) An application made under this section is for a voluntary alteration or restoration of non-conforming use not required by law and not governed by LCC 936.140, 936.160, or 936.170.

(B) A voluntary alteration of a non-conforming use, not necessary to comply with a requirement of law, may be permitted if on the basis of the application, investigation, testimony and evidence submitted, findings and conclusions show that the decision criteria set forth in subsection (C) are met.

(C) *Decision criteria.*

(1) The alteration does not change the basic use even though the operational characteristics may change. For example, one type of repair shop may be replaced with a different type of repair shop;

(2) The proposed alteration does not result in any greater adverse impact to the neighborhood; and

(3) The property development standards of the applicable zoning district are met or a variance consistent with LCC Chapter 938 (Variance Procedure Code) is granted.

[Adopted 98-002 §3 eff 3/4/98]

**936.155 Decision criteria for voluntary replacement of a non-conforming use, not required by law**

(A) An application made under this section is for a voluntary replacement of non-conforming use not required by law and not governed by LCC 936.140, 936.160, or 936.170.

(B) The voluntary restoration or replacement of a non-conforming use, not necessary to comply with a requirement of law, may be permitted if all of the criteria set forth in subsection (C) are met.

(1) *Decision criteria.*

(a) The use has not been discontinued for a period exceeding 12 months prior to the date of application;

(b) Restoration or replacement is proposed and shall commence within 12 months of approval;

(c) The proposed restoration or replacement will have no greater adverse impact to the neighborhood; and

(d) The property development standards of the applicable zoning district are met or a variance consistent with LCC Chapter 938 (Variance Procedure Code) is granted.

[Adopted 98-002 §3 eff 3/4/98]

**936.160 Decision criteria, change from one non-conforming use to another**

(A) An application made under this section is for a change from one non-conforming use to another not required by law and not governed by LCC 936.140 or 936.150.

(B) A change from one non-conforming use to another may be granted if, on the basis of the application and investigation, findings and conclusions show that all of the criteria set forth in subsection (C) are met.

(C) *Decision criteria.*

(1) The proposed non-conforming use will have no greater adverse impact to the neighborhood especially regarding noise, air or water pollution, dust, odors, vibrations or vehicular traffic; and

(2) The change of use will result in a use more closely conforming to the statement of purpose and the allowed uses within the applicable zoning district.

[Adopted 98-002 §3 eff 3/4/98]

**936.170 Decision criteria, alterations required by law**

(A) An application made under this section is for an alteration, restoration, or replacement of non-conforming use required by law.

(B) An alteration of a non-conforming use, required by law may be permitted if, on the basis of the application and investigation, findings and conclusions show that the requested alteration is the minimum necessary to comply with legal requirements as verified by the agency requiring the alteration.

**936.180 Non-conforming aggregate sites**

(A) Any non-conforming aggregate extraction and processing site in continual operation since July 1972 may continue to operate without obtaining a conditional use permit, or zoning district amendment, or *Plan* amendment, except in the following instances:

(1) When the Oregon Department of Geology and Mineral Industries (DOGAMI) determines that a permit is needed;

(2) A new removal permit for aggregate extraction is required by the Oregon Division of State Lands (DSL); or

(3) The expansion of the site.

(B) A non-conforming aggregate site that fails to meet the requirements of this section is voluntarily discontinued.

[Adopted 98-002 §3 eff 3/4/98; amd 99-156 §11 eff 6/30/99]

**936.190 Non-conforming use status of firearm training facilities and personal-use airports**

(A) A firearms training facility, lawfully existing on September 9, 1995 shall be allowed to continue operating without a conditional use permit until the facility is no longer used as a firearms training facility. (ORS 197.770)

(B) A personal-use airport lawfully existing as of September 13, 1975, shall continue to be permitted subject to any applicable rules of the Department of Transportation.

[Adopted 98-002 §3 eff 3/4/98]

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**III. PRE-EXISTING USES**

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**936.500 Pre-existing use; defined**

Any lawful use of land which existed on the effective date of this Development Code which is a conditional use under the current zoning district but which has not been reviewed and approved shall be deemed a preexisting use.

[Adopted 98-002 §3 eff 3/4/98]

**936.510 Review of pre-existing uses**

(A) The preexisting use itself is not subject to review.

(B) Alterations of a pre-existing use shall be subject to review pursuant to the applicable procedure in LCC Chapter 921 (Administration of the Development Code) and approval under the applicable decision criteria in the district within which the pre-existing use is located

[Adopted 98-002 §3 eff 3/4/98]

**936.520 Pre-existing use, regulations**

A change of use shall conform to the uses allowed within the applicable zoning district.

[Adopted 98-002 §3 eff 3/4/98]

**936.530 Discontinued pre-existing uses**

(A) Any pre-existing use that is discontinued for a period exceeding 12 months shall thereafter only be used in ways that conform to the regulations of the applicable zoning district and other applicable Development Code provisions.

(B) An aggregate extraction and processing site shall be defined as voluntarily discontinued when the permit issued either by DOGAMI or DSL has lapsed for a period of 12 months or more.

[Adopted 98-002 §3 eff 3/4/98]

**936.540 Decision criteria for the restoration or replacement of pre-existing uses, involuntarily damaged or destroyed**

(A) Any pre-existing use involuntarily damaged or destroyed by fire, casualty or other natural disaster may be restored or replaced if all of the criteria set forth in subsection (B) exist.

(B) *Decision criteria.*

(1) The use had not been discontinued or abandoned for a period exceeding 12 months prior to the loss;

(2) Restoration or replacement is proposed and shall commence within 12 months from the occurrence of the fire, casualty or natural disaster; and

(3) The proposed use will not result in an alteration of the pre-existing use.

[Adopted 98-002 §3 eff 3/4/98]



**936.550 Pre-existing aggregate sites**

(A) Any pre-existing aggregate extraction and processing site in continual operation since July 1972 may continue to operate without obtaining a conditional use permit, or zoning district amendment, or *Plan* amendment, except in the following instances:

(1) When the Oregon Department of Geology and Mineral Industries (DOGAMI) determines that a permit is needed;

(2) A new removal permit for aggregate extraction is required by the Oregon Division of State Lands (DSL); or

(3) The expansion of the site.

(B) A pre-existing aggregate site that fails to meet the requirements of this section is voluntarily discontinued.

[Adopted 98-002 §3 eff 3/4/98; amd 99-156 §11 eff 6/30/99]

**936.560 Pre-existing use status of firearm training facilities and personal-use airports**

(A) A firearms training facility, lawfully existing on September 9, 1995 shall be allowed to continue operating without a conditional use permit until the facility is no longer used as a firearms training facility. (ORS 197.770)

(B) A personal-use airport lawfully existing as of September 13, 1975, shall continue to be permitted subject to any applicable rules of the Department of Transportation.

[Adopted 98-002 §3 eff 3/4/98]

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**Statutory References and Other Authorities:**  
ORS 197; 203; 215

**Legislative History of Chapter 936:**

Adopted 98-002 eff 3/4/98

Amendments to 98-002

#1 99-121 §17 eff 6/30/99

#2 99-156 §11 eff 6/30/99

#7 02-313 §7 eff 8/21/02

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# TITLE 9

## COMMUNITY DEVELOPMENT

### Subtitle 2 — Land Development Code Division 6 — Miscellaneous Development Code Provisions

#### CHAPTER 937

#### TEMPORARY PERMITS AND USES CODE

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*Section Title*

937.005 Title; short title

**I. TEMPORARY MOBILE HOME STORAGE PERMIT**

937.010 Temporary storage permits for a mobile home

**II. TEMPORARY USE OF RECREATIONAL VEHICLES**

937.110 Temporary use of recreational vehicles

**Statutory References and Other Authorities**

**Legislative History of Chapter 937**

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**937.005 Title; short title**

This Chapter, LCC 937.005 to 937.999, shall be known and cited as the “Linn County Temporary Permits and Uses Code.” This Chapter may also be referred to and cited as the “Temporary Permits and Uses Code.”

[Adopted 98-002 §3 eff 3/4/98; amd 99-121 §18 eff 6/30/99]

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#### I. TEMPORARY MOBILE HOME STORAGE PERMIT

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**937.010 Temporary storage permits for a mobile home**

(A) A temporary storage permit may be issued for a mobile home on an authorized unit of land for which a single-family residence is authorized, all discretionary land use decisions have been made and for which no appeal is possible.

(B) The cost of the temporary storage permit for a mobile home shall be established by Fee Order of the Board.

(C) The temporary storage permit for the mobile home is valid for a period not to exceed 90 days during which time other development permits shall be obtained.

(D) Until the permanent placement permit for the mobile home has been issued, the stored mobile home shall not be connected to an approved septic system, power or water and shall not be utilized as a residence. The unit may be leveled and blocked on the authorized unit of land at the location identified on the site map.

(E) Upon conclusion of the 90-day period, the mobile home shall be removed from the property or unless a permanent placement permit has been issued which supersedes and replaces the storage permit.

(F) Failure to perform one of these two options shall constitute a violation of this Chapter and will be subject to enforcement under the provisions of LCC Chapter 921 (Administration of the Development Code and LCC Chapter 240 (Code Enforcement Code).

[Adopted 98-002 §3 eff 3/4/98]

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## II. TEMPORARY USE OF RECREATIONAL VEHICLES

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### 937.110 Temporary use of recreational vehicles

(A) Recreational vehicle shall include any location of a recreational vehicle, motor home, travel trailer, camper, yurt, teepee, tent, lean-to or other such unit which is designed to provide temporary accommodations for recreational, camping or travel use.

(B) A recreational vehicle shall not be occupied in any zoning district for a period exceeding 120 days per calendar year. A recreational vehicle shall not be allowed to be used for a residence except as allowed by LCC 932.887.

(C) No placement permit is required for and will not be issued for the on-site use of recreational vehicles except as allowed by LCC 932.887. No connection to septic, power or water shall be permitted unless the recreational vehicle is serving as shelter to an applicant who has obtained a building permit for an authorized dwelling and is in the process of constructing or making major repairs to that dwelling. The 120-day limit shall, nonetheless, remain in effect.

[Adopted 98-002 §3 eff 3/4/98]

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### Statutory References and Other Authorities:

ORS 197; 203; 215

### Legislative History of Chapter 937:

Adopted 98-002 eff 3/4/98

Amendments to 98-002

#1 99-121 §18 eff 6/30/99

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# TITLE 9

## COMMUNITY DEVELOPMENT

### Subtitle 2 — Land Development Code Division 6 — Miscellaneous Development Code Provisions

#### CHAPTER 938

#### VARIANCE PROCEDURE CODE

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**938.900** Violations; enforcement

**Statutory References and Other Authorities**

**Legislative History of Chapter 938**

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**938.005 Title; short title**

This Chapter, LCC 938.005 to 938.999, shall be known and may be cited as the “Linn County Variance Procedure Code.” This Chapter may also be referred to and cited as the “Variance Procedure Code.”

[Adopted 98-002 §3 eff 3/4/98; amd 99-121 §19 eff 6/30/99]

**938.010 Statement of purpose**

(A) The purpose of this Chapter shall be to establish procedures and criteria that allow the decision maker to approve a variance from the

development standards set forth in LCC 934 (Development Standards Code) as a means to alleviate impractical restrictions on development which would result from an overly strict or literal interpretation and enforcement of those standards.

(B) An application may be submitted for and the decision-maker may approve in accordance with this chapter a variance from certain development standards including setbacks, yards, height of structures, parcel and lot width, depth and ratio, landscaping, screening, coverage, parking standards, certain signs, and frontage.

[Adopted 98-002 §3 eff 3/4/98; amd 02-420 §1 eff 10/30/02]

**938.100 Variances; generally**

(A) Variances from the minimum lot or parcel size requirements of any district shall not be allowed unless authorized by subsections (B) or (C).

(B) A variance from a minimum property size for an authorized unit of land in a Rural Resource Zone may not be approved by the decision maker.

(C) Any authorized unit of land in the Rural Development Zone created prior to March 4, 1998, that can not otherwise be partitioned may be divided if:

(1) the property size of each unit created by that division is not less than 95% of the minimum property size for the respective zoning district; and

(2) the application otherwise meets the requirements of the Land Development Code.

(D) Variances may not be submitted for uses specified within any zoning district.

(E) The Director may not accept an application seeking, nor may the decision maker approve,

a variance from the development standards set forth in:

- (1) LCC 934.211 (Signs; prohibited);
- (2) LCC 934.360 (Home occupations; performance standards);
- (3) LCC 934.370 (Kennels; performance standards);
- (4) LCC 934.442 (Development standards for private parks);
- (5) LCC 934.590 (F/F (forest area) and FCM zoning district structural siting standards); or
- (6) LCC 934.790 (UGAZ manufactured home standards for placement on individual authorized units of land.

[Adopted 98-002 §3 eff 3/4/98; amd 02-420 §1 eff 10/30/02]

**938.200 Application procedure**

An application filed under this Chapter shall comply with the provisions of LCC 921.040.

[Adopted 98-002 §3 eff 3/4/98]

**938.300 Decision criteria**

(A) Except as provided in LCC 938.100, a variance may be granted from the standards regulating property development as set forth in LCC 934 (Development Standards Code) if on the basis of the application, investigation, testimony and evidence submitted, the findings and conclusions show that all of the criteria in subsection (B) have been met.

(B) *Decision criteria.*

(1) A variance from a development standard as set forth in LCC 934 (Development Standards Code) is needed because conditions or circumstances or both exist on the land or structure involved that renders development impractical or impossible;

(2) Granting a variance from a development standard will not have a significant adverse affect on property, improvements, or public health or safety in the vicinity of the subject property; and

(3) Approval of the variance is limited to the minimum necessary to permit otherwise normal development of the property for the proposed use.

[Adopted 98-002 §3 eff 3/4/98; amd 02-420 §1 eff 10/30/02]; amd 02-420 §1 eff 10/30/02

**938.340 Decision criteria for UGA–UGM minimum property size**

The Director may approve a variance to the minimum property size of an authorized unit of land in the UGA–UGM zoning district if:

(A) the criteria of LCC 938.300 (B) (2) and (3) are met;

(B) the proposal is consistent with the affected city’s comprehensive plan; and

(C) the City does not object to the Department’s approval of the variance.

[Adopted 98-002 §3 eff 3/4/98; amd 02-420 §1 eff 10/30/02]

**938.400 Density standards; exceeding dwelling unit density for areas within major and peripheral habitats**

(A) The major and peripheral habitat density standards may be exceeded in the EFU and F/F zoning districts if on the basis of the application, investigation, testimony and evidence submitted, findings and conclusions show that the impact of the dwelling on major or peripheral habitat can be reduced through, but not limited to, the following measures:

(1) Locating dwellings and structures near each other and existing roads;

(2) Locating dwellings and structures to avoid habitat conflicts and utilize least valuable habitat areas; and

(3) Minimize road development to that necessary to support the residential use.

(B) The Director shall notify the Oregon Department of Fish and Wildlife and their comments taken into consideration prior to final action on the proposal.

[Adopted 98-002 §3 eff 3/4/98]

**938.900 Violations; enforcement**

But for a variance approved under this chapter, the development standards apply as mandatory standards, and any development subject to the standards set forth in LCC 934 (Standards Development Code) that does not otherwise comply with the development standards applicable to that property is unauthorized, is a violation of the Land

Development Code, and is subject to enforcement under LCC 240 (Code Enforcement Code).

[Adopted 02-420 §1 eff 10/30/02]

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**Statutory References and Other Authorities:**

ORS 197; 203; 215

**Legislative History of Chapter 938:**

Adopted 98-002 eff 3/4/98

Amendments to 98-002

#1 98-432 eff 10/21/98

#2 99-121 §19 eff 6/30/99

#3 02-420 §1 eff 10/30/02

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# TITLE 9

## COMMUNITY DEVELOPMENT

### Subtitle 2 — Land Development Code Division 6 — Miscellaneous Development Code Provisions

#### CHAPTER 939

#### MINING PERMITS AND USES CODE

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#### Statutory References and Other Authorities

#### Legislative History of Chapter 939

Appendix 1 — Mining Permit Chart (the Goal 5 Process is in Bold)

Appendix 1 to the Land Development Code  
Land Development Code Zoning Map

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#### I. GENERAL PROVISIONS

#### 939.010 Subchapter title

This Chapter, LCC 939.010 to 939.999, shall be known and may be cited as the “Linn County Mining Permit and Uses Code” or simply as the “Mining Permit and Uses Code.”

[Adopted 99-156 §12 eff 6/30/99]

#### 939.020 Statement of purpose

The purpose of this Chapter is:

(A) to identify and protect significant sand, gravel, rock, stone and related aggregate resources to ensure the continued availability of aggregates at reasonable costs for the overall development of Linn County;

(B) to coordinate the development and utilization of significant aggregate resources with other land uses to minimize conflicts;

(C) to establish standards of development and operation for significant aggregate resource extraction and processing sites;

(D) to prohibit the use of land in the Aggregate Resource Overlay (ARO) for uses incompatible with the extraction and processing of significant aggregate resources (see LCC 931.700 to 931.755);

(E) to provide for the agricultural and forest use of land in the ARO prior to the development of extraction and processing activities; and

(F) to provide for the reclamation, rehabilitation and beneficial final use of aggregate resource sites in a manner compatible with the surrounding land use pattern.

[Adopted 99-156 §12 eff 6/30/99]

### 939.030 Definitions

As used in this Chapter:

(A) “**Aggregate resources**” means naturally occurring concentrations of stone, rock, sand and gravel, decomposed granite, lime, pumice, cinders, and other naturally occurring solid materials commonly used in construction and road building.

(B) “**Conflicting use**” means a use or activity that is subject to land use regulations and that would interfere with, or be adversely affected by, mining at a significant mineral or aggregate resource site, as specified in OAR 660-023-0180 (4) (b) and OAR 660-023-0180 (5).

(C) “**Development permit**” means a permit approved by the decision maker and issued by the Director granting authority to the permittee to initiate some or all aspects of mining of aggregate at the site specified in the permit. The term does not include a text amendment to the *Comprehensive Plan* whereby the *Plan* is amended to include the site in any category described in this Chapter. A development permit may be issued pursuant to LCC 921.552 for sites receiving Goal 5 protection, or pursuant to LCC 921.562 for sites not receiving Goal 5 protection.

(D) “**ESEE analysis**” means the consideration and balancing of the positive and negative economic, social, environmental and energy consequences of a decision to allow, limit, or prohibit a conflicting use, following the process in OAR 660-023-0040. Based on the results of the ESEE analysis, the decision maker determines a level of protection for the resource and adopts *Comprehensive Plan* provisions and regulations to achieve the designated level of protection.

(E) “**ESEE consequences**” are the positive and negative economic, social, environmental, and

energy (ESEE) affects that could result from a decision to allow, limit, or prohibit a conflicting use.

(F) “**Existing site**” means a significant aggregate site that is lawfully operating, or is included in the aggregate inventory in the *Comprehensive Plan*, on September 1, 1996.

(G) “**Expansion area**” means a geographic area containing aggregate resource contiguous to an existing site and in which geographic area mining approval is being sought under this Chapter.

(H) “**Future potential use**” means a use that is not adopted or approved at the time an application under this Chapter is deemed complete by the Director.

(I) “**Goal 5 process**” means the planning process for mineral and aggregate resources identified in OAR 660-023-0180. Depending on the circumstances the process may include, but is not limited to, one or more of the following: the identification of resource sites; the determination of site significance; the identification of conflicting uses; the identification of measures to minimize conflicts; analysis of ESEE consequences; and adoption of a program to protect the resource. The term does not include a determination to issue a development permit pursuant to LCC 921.560 to 921.569 even if part of the Goal 5 process as described in this Chapter is considered.

(J) “**Goal 5 protection**” means those conditions and terms imposed on the mining of a site determined to be significant under LCC 939.120 and that has completed the Goal 5 process as set forth in LCC 939.110 to 939.200 and has been added to Appendix 5, 6, or 8 in LCC Chapter 905 (Land Use Element Code).

(K) “**Impact area**” means a geographic area within which conflicting uses could adversely affect a significant Goal 5 aggregate resource.

(L) “**Inventory**” is a survey, map, or description of one or more resource sites that is prepared by a local government, state or federal agency, private citizen, or other organization and that includes information about the resource values and features associated with such sites. As

a verb, “inventory” means to collect, prepare, compile, or refine information about one or more resource sites (see **resource list**).

(M) “**Minimize a conflict**” means to reduce an identified conflict to a level that is no longer significant. For those types of conflicts addressed by local, state, or federal standards (such as the Department of Environmental Quality standards for noise and dust levels) to “minimize a conflict” means to ensure conformance to the applicable standard.

(N) “**Mining**” means the extraction and processing of aggregate resources, in the manner provided under paragraph (1).

(1) The term includes all or any part of the process of mining by the removal of overburden and the extraction of natural mineral deposits thereby exposed by any method including open-pit mining operations, auger mining operations, processing, surface impacts of underground mining, production of surface mining refuse and the construction of adjacent or off-site borrow pits except those constructed for use as access roads.

(2) The term does not include excavations of sand, gravel, clay, rock or other similar materials conducted by a landowner or tenant on the landowner or tenant’s property for the primary purpose of reconstruction or maintenance of access roads and excavation or grading operations conducted in the process of farming or cemetery operations, on-site road construction or other on-site construction or nonsurface impacts of underground mines.

(3) The term includes: stockpiling and movement of aggregate materials, and the operations or activities necessary to abandon a mining area.

(O) “**Mining area**” means the geographic area containing an identified significant aggregate site within which some or all aspects of mining is permitted. The mining area may consist of one or more properties or portions of properties, and may include two or more contiguous properties under different ownership. The mining area does not include undisturbed buffer areas or areas on a property where mining is not authorized.

(P) “**Noise or dust sensitive use**” means a conflicting use that is primarily used for year-round habitation. Residences, churches, hospitals, schools, public libraries, and campgrounds are considered noise or dust sensitive uses during their period of use. A forest use or a farm use is not noise or dust sensitive uses unless the use is so:

- (1) defined in state law, or
- (2) determined based on analysis and findings adopted through the Goal 5 planning process.

(Q) “**Operator**” includes owner.

(R) “**PAPA**” is a “**post-acknowledgment plan amendment**.” The term encompasses actions taken in accordance with ORS 197.610 to 197.625, including amendments to Linn County’s acknowledged *Comprehensive Plan* or Land Development Code and the adoption of any new *Plan* or land use regulation. The term does not include periodic review actions taken in accordance with ORS 197.628 to 197.650.

(S) “**Processing**” means the activities described in ORS 517.750 (11). Processing includes, but is not limited to, crushing, washing, milling and screening, as well as the batching and blending of mineral aggregate into asphalt or portland cement concrete within the operating permit area.

(T) “**Program**” or “**program to achieve the goal**” is a plan or course of proceedings and action either to prohibit, limit, or allow uses that conflict with significant Goal 5 aggregate resources, adopted as part of the *Comprehensive Plan* and Land Development Code (e.g., zoning standards, easements, cluster developments, preferential assessments, or acquisition of land or development rights).

(U) “**Protect**” means to adopt land use regulations for a significant aggregate site in order to authorize mining of the site and to limit or prohibit new conflicting uses within the impact area of the site.

(V) “**Resource site**” or “**site**,” for purposes of completing the Goal 5 process under this Chapter, is a particular area where resources are located. A site may consist of one or more proper-

ties or portions of properties, and may include two or more contiguous properties under different ownership.

(W) “**Resource list**” means a list that includes the description, maps, and other information about significant Goal 5 aggregate resource sites within Linn County and is adopted by the County as a part of its *Comprehensive Plan* or as a land use regulation. The *Plan* inventories following LCC Chapter 905 (Land Use Element Code) are resource lists.

(X) “**Significant site**” means a site listed on one of the *Comprehensive Plan* significant aggregate inventories following LCC Chapter 905 (Land Use Element Code).

(Y) “**Width of aggregate layer**” means the depth of the water-lain deposit of sand, stones, and pebbles of sand-sized fraction or larger, minus the depth of the topsoil and non-aggregate overburden.

[Adopted 99-156 §12 eff 6/30/99 (OAR 660-023-010 and 660-023-0180 (1))]

### **939.050 Application for a development permit authorizing mining of aggregate**

(A) A person may apply for a development permit authorizing mining of aggregate as set forth in this section. The issuance of the development permit authorizing the initiation of mining is subject to LCC 921.540 to 921.569.

(B) *One-step process*. A single application shall be required which shall consist of:

(1) if a site is already on Appendix 5, 6, or 8 of LCC Chapter 905 (Land Use Element Code), a request for a development permit, which if authorized to be issued shall result in an authorization to initiate some or all aspects of mining pursuant to this Chapter; or

(2) if a site is already on Appendix 4 or 10 of LCC Chapter 905, a request for a development permit, which if authorized to be issued shall result in an authorization to initiate some or all aspects of mining pursuant to LCC 921.560 to 921.569.

(3) if the site is not on one of the inventories of LCC Chapter 905, a request for:

(a) an amendment to the *Comprehensive Plan* text, and, if required under this Chapter, an amendment to the Land Development Code Zoning Map; and

(b) a development permit, which if authorized, shall authorize the initiation of some or all aspects of mining pursuant to this Chapter, or to LCC 921.560 to 921.569 based on the findings made in this Chapter.

(C) *Contents*. The application shall contain:  
(1) the information required by LCC 921.040;

(2) Information regarding the location, quality, and quantity of the aggregate resource;

(3) A conceptual site reclamation plan;

(4) A traffic impact assessment within one mile of the entrance to the mining area;

(5) An indication of whether the applicant intends to haul material to another authorized site for processing, and if so, a proposal for hauling;

(6) Proposals to minimize any conflicts with existing uses preliminarily identified by the applicant within a 1,500-foot impact area; and

(7) A site development plan as described in subsection (D) of this section.

(D) *Site development plan*. The applicant shall submit the information and materials set forth in this subsection to the Director as part of the application for a development permit authorizing the mining of aggregate resources.

(1) The name and address of the extraction operator, property owner, and applicant, if different from the mining operator or property owner.

(2) The location (township, range, section, tax-lot[s]) and size of the resource site.

(3) An aerial photograph of the resource site that was photographed less than 12 months prior to submission of the application. Older photographs may be submitted if accompanied by a signed declaration by the applicant stating that no substantial changes have occurred.

(4) Provisions for safety fence as required under LCC 934.354 (C).

(5) Measures, if any, required by federal and state agencies to meet applicable environmental quality standards and minimize impacts on fish and wildlife habitat.

(6) Proposed final use as permitted in LCC 933.190.

(7) A reclamation plan approved by Oregon Department of Geology and Mineral Industries (DOGAMI) that results in the proposed final use or Oregon Division of State Lands (DSL) conditions of operation.

(8) A surface water management plan as required by DOGAMI or DSL.

(9) Past and present use of the land, including agricultural and forest resource uses.

(10) Types and location of vegetative screening to be used.

(11) Types, location, and sizes of equipment to be used.

(12) The full extent and nature of the operation, such as blasting, crushing, or asphaltic compounding.

(13) A reproducible map at a scale of 1 inch equals 400 feet, unless a different scale is approved by the Director, that depicts the general land area within a one-mile radius and identifies:

(a) The property under the applicant's control;

(b) The land areas proposed for extraction, processing and storage of topsoil or aggregate;

(c) Location of all uses within 1500 feet of the resource site boundaries;

(d) Location of on-site haul roads and proposed access point(s);

(e) Location and names of all structures, roads, railroads and utility facilities within 1500 feet of the resource site;

(f) Required setback areas;

(g) Identification of soil types in the resource site, if available; if not available, identification of the soil types adjoining the resource site; and

(h) Phasing of mining activity, if applicable.

(14) Proposed months, days and hours of mining operation.

(15) The resource site owner or authorized agent of the owner shall file a truck route plan with the Roadmaster indicating all proposed haul routes for any equipment used in the preparation, exploration, or mining of the site, including proposals to haul material to another authorized site for processing. The truck route plan shall also include a proposal for the rehabilitation and restoration of any county roads, or any local access roads, which may be damaged or diminished in quality due to the conducting of such preparation, exploration, or mining activities.

(16) Evidence that:

(a) The Roadmaster has approved a truck haul plan including all routing, paving and access to the resource site and to and from any other approved site if material is hauled to the other site for processing; and

(b) the Roadmaster has made a finding that the development will not have significant adverse impacts on the quality of county roads, or local access roads in the area, or

(c) verification that a performance security meeting the requirements of LCC 933.110 has been filed.

(17) Other pertinent information for all proposed mining and associated uses.

[Adopted 99-156 §12 eff 6/30/99 (OAR 660-023-0180 (6); amd 2000-119 §3 eff 3/28/00)]

### **939.060 Goal 5 process; generally**

(A) The Goal 5 process is set forth in LCC 939.110 to 939.200. The process is illustrated generally in Appendix 1 following this Chapter. The process involves following the steps set forth in this section to determine whether and under what conditions aggregate extraction and processing may occur:

(1) STEP 1 — determine adequacy of information provided in the application with regard to the location, quality, and quantity of the aggregate resource (LCC 939.110);

(2) STEP 2 — determine site significance and classification (LCC 939.120);

(3) STEP 3 — identify impact area and all conflicts with existing uses (LCC 939.130);

(4) STEP 4 — determine whether conflicts can be minimized (LCC 939.140);

(5) STEP 5 — analyze ESEE consequences if significant conflicts can not be minimized (LCC 939.150);

(6) STEP 6 — approve the mining of the aggregate resource (LCC 939.160);

(7) STEP 7 — determine the post-mining use (LCC 939.170);

(8) Step 8 — identify conflicts from new conflicting uses (LCC 939.180);

(9) STEP 9 — analyze ESEE consequences and decide whether to allow new conflicting uses (LCC 939.190); and

(10) STEP 10 — adopt final decision and implementing amendments to the *Comprehensive Plan* and Land Development Code (LCC 939.200).

(B) Except as provided in LCC 939.200 (A) (1) (a), the decision maker must complete the Goal 5 process within 180 days after an application filed under this Chapter is deemed complete under LCC 939.110.

(C) The decision maker is not required to follow strictly the order of the process as set forth in LCC 939.130, so long as such review or determination does not significantly adversely affect the outcome of the Goal 5 process.

[Adopted 99-156 §12 eff 6/30/99 (OAR 660, Division 23)]

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## II. GOAL 5 PROCESS

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### **939.110 STEP 1 — determine adequacy of information provided in the application**

(A) *STEP 1* — The first step in the Goal 5 aggregate process requires the Director to determine whether an application filed under this Chapter may be deemed complete under LCC 921.060 and this section.

(B) The Director shall deem an application filed under this Chapter complete if the application contains:

(1) the information required by LCC 939.050;

(2) information regarding location, quality, and quantity of the aggregate resource sufficient to make the determination required in LCC 939.120.

(3) a conceptual site reclamation plan;

(4) a traffic impact assessment within one mile of the entrance to the mining area pursuant to LCC 939.130 (B) (4) (b);

(5) proposals to minimize any conflicts with existing uses preliminarily identified by the applicant within a 1,500-foot impact area; and

(6) a site development plan as described in LCC 939.050.

(C) Information on location, quantity, and quality must be reliable information, such as:

(1) an engineer's or geologist's report; or

(2) drill results, including depth.

(D) *If application is deemed complete* — go to *STEP 2*. If the Director deems the application complete, the Director shall next determine whether the site is significant pursuant to LCC 939.120.

(E) *If application is not deemed complete* — go to *STEP 10*. If the Director determines that the application is not complete for the sole reason that the applicant is unable to provide information adequate to make the determination required by subsection (B) (2) of this section, the Director shall:

(1) return the application to the applicant; and

(2) set the matter before the decision maker to proceed pursuant to LCC 939.200 (A)

(1) (a).

[Adopted 99-156 §12 eff 6/30/99 (OAR 660-023-0180 (6); amd 2000-119 §3 eff 3/28/00)]

### **939.120 STEP 2 — determine site significance and classification**

(A) *STEP 2* — The Director shall determine whether an aggregate resource site is a significant or a non-significant site pursuant to this section.

(B) An aggregate resource site shall be significant if adequate information regarding the

location, quality, and quantity of the resource demonstrates that the site meets the following criteria:

(1) A representative set of samples of aggregate material in the deposit on the site meets Oregon Department of Transportation (ODOT) specifications for base rock for air degradation, abrasion, and sodium sulfate soundness; and

(2) The estimated amount of material is more than 1.5 million cubic yards or 2 million tons; or

(3) The aggregate site was listed on an inventory of significant aggregate sites in the *Comprehensive Plan* on September 1, 1996.

(C) Notwithstanding subsections (1) through (3) of this section, and except for an expansion area of an existing site if the operator of the existing site had an enforceable property interest in the expansion area on March 1, 1996, an aggregate site is not significant if the following criteria apply:

(1) More than 35 percent of the proposed mining area consists of soil classified as Class I on Natural Resource Conservation Service (NRCS) maps on September 1, 1996; or

(2) More than 35 percent of the proposed mining area consists of soil classified as Class II on NRCS maps available on September 1, 1996, and the average width of the aggregate layer within the mining area is less than 17 feet; or

(3) More than 35 percent of the proposed mining area consists of soil classified as a combination of Class II and Class I or Unique soil on NRCS maps available on September 1, 1996, and the average width of the aggregate layer within the mining area is less than 17 feet.

(D) *If non-significant site — go to STEP 10.* If the Director determines that the site is a non-significant site under this section, the Director shall set the matter before the decision maker to proceed pursuant to LCC 939.200 (A) (1) (b).

(E) *If significant site — go to STEP 3.* If the Director determines that the site is a significant site under this section, the Director shall proceed to LCC 939.130.

**939.130 STEP 3 — identify impact area and all conflicts with existing uses**

(A) *STEP 3A — Identify an impact area and known conflicts within it.* The Director shall:

(1) Identify an impact area for the purpose of identifying conflicts with proposed mining.

(a) The impact area shall include the proposed mining area and be large enough to include uses listed in subsection (B) of this section and shall be limited to 1,500 feet from the boundaries of the proposed mining area, except where factual information is adequate to indicate significant potential conflicts beyond this distance.

(b) For a proposed expansion of an existing site, the impact area shall be measured from the perimeter of the proposed expansion area rather than the boundaries of the existing site and shall not include the existing site.

(2) Prepare a map showing the impact area and proposed mining area; and

(3) Identify known conflicting uses.

(4) Prepare a staff report containing the determinations made under LCC 939.110, 939.120, and subsection (A) of this section along with any supporting findings; and

(5) Set the matter before the decision maker to complete the Goal 5 process. The decision maker may approve, modify, or deny any determination of the Director required by LCC 939.120, or this subsection. If the decision maker modifies or denies a determination made by the Director which is required under those provisions, the decision maker shall make a new determination consistent with those provisions before completing the Goal 5 process.

(B) *STEP 3B — Identify all conflicts from existing and approved uses in the impact area.*

(1) The decision maker shall identify all existing or approved land uses within the impact area that will be adversely affected by proposed mining.

(2) The decision maker shall also specify conflicts from existing or approved uses that are able to be reasonably predicted.

(3) For purposes of this subsection, “**approved land uses**” are dwellings allowed by a residential zone on existing platted lots and other uses for which conditional or final approvals have been granted by Linn County.

(4) The consideration of conflicts that could be caused by the mining of a significant aggregate site shall be limited to:

(a) Conflicts due to noise, dust, or other discharges with regard to those existing and approved uses and associated activities (e.g., houses and schools) that are sensitive to such discharges;

(b) Potential conflicts to local roads used for access and egress to the mining site within one mile of the entrance to the mining site, unless a greater distance is necessary to include the intersection with the nearest arterial identified in the Transportation Plan.

(i) Conflicts with local roads shall be determined based on clear and objective standards regarding sight distances, road capacity, cross section elements, horizontal and vertical alignment, and similar items in the Transportation Plan and County Code.

(ii) Standards for trucks associated with the mining operation shall be equivalent to standards for other trucks of equivalent size, weight, and capacity which haul other materials;

(c) Conflicts with other Goal 5 resource sites within the impact area that are shown on an acknowledged list of significant resources and for which the requirements of Goal 5 have been completed at the time the *Plan* amendment is initiated; and

(d) Conflicts with agricultural practices.

(C) *If there are conflicts — go to STEP 4.* If the decision maker identifies conflicts, the decision maker shall proceed as set forth in LCC 939.140.

(D) *If there are no conflicts — go to STEP 6* If the decision maker identifies no conflicts, the decision maker shall proceed as set forth in LCC 939.160.

[Adopted 99-156 §12 eff 6/30/99 (OAR 660-023-0180 (2) (3), (4) (a) and (b))]

#### **939.140 STEP 4 — determine whether conflicts can be minimized**

(A) *STEP 4 — Determine whether conflicts can be minimized.* The decision maker shall determine whether the conflicts identified pursuant to LCC 939.130 can be minimized by reasonable and practicable measures. Such measures shall be clear and objective.

(1) *If conflicts can not be minimized — go to STEP 5.* If the decision maker finds that all the conflicts identified by the decision maker can not be minimized by reasonable and practicable measures, the decision maker shall proceed as set forth in LCC 939.150.

(2) *If conflict can be minimized — go to STEP 6.* If the decision maker finds that all the conflicts identified by the decision maker can be minimized, the decision maker shall identify the reasonable and practicable measures that would minimize the conflicts. The decision maker shall next proceed as set forth in LCC 939.160.

(B) In making the determination whether proposed measures would minimize conflicts with agricultural practices, the decision maker shall consider only the requirements of ORS 215.296.

(C) Recording a waiver of remonstrance in compliance with LCC 933.150 (B), is evidence that a conflict has been minimized under LCC 939.140, or resolved under LCC 939.150 or 939.190.

[Adopted 99-156 §12 eff 6/30/99 (OAR 660-023-0180 (c) and (e))]

#### **939.150 STEP 5 — analyze ESEE consequences if significant conflicts can not be minimized**

(A) *STEP 5 — Identify and resolve conflicts through ESEE analysis.* Based on any conflicts identified in LCC 939.140 that could not be minimized, the decision maker shall determine the ESEE consequences of either protecting the resource by allowing mining without or with



limitations, or not protecting the resource and prohibit mining or permit mining under a permit pursuant to LCC 921.560 to 921.569. The determination shall be based on weighing the identified ESEE consequences, with consideration of the following:

(1) The degree of adverse effect on existing land uses within the impact area;

(2) Reasonable and practicable measures that could be taken to reduce the identified adverse effects; and

(3) The probable duration of the mining operation and the proposed post-mining use of the site.

(B) *If the site should be protected and mining authorized — go to STEP 6.* If, based on the ESEE analysis required under this section, the decision maker determines that the site should be given Goal 5 protections and mining should be approved with or without limitations, the decision maker shall proceed as set forth in LCC 939.160.

(C) *If the site should not be protected by Goal 5 — go to STEP 10.* If, based on the ESEE analysis required under this section, the decision maker determines that the site should not be protected by Goal 5, the decision whether to permit mining or not shall be made by the decision maker as set forth in LCC 939.200 (A) (4).

(D) Recording a waiver of remonstrance in compliance with LCC 933.150 (B), is evidence that a conflict has been minimized under LCC 939.140, or resolved under LCC 939.150 or 939.190.

[Adopted 99-156 §12 eff 6/30/99 (OAR 660-023-0180 (4) (d))]

### **939.160 STEP 6 — approve the mining of the aggregate resource**

(A) *STEP 6 — Approve the mining.* The decision maker shall protect the resource site and approve an application for mining if:

(1) no conflicts were identified under LCC 939.130, or

(2) all identified conflicts with a significant aggregate resource site are minimized pursuant to LCC 939.140, or

(3) based on an ESEE analysis, conducted pursuant to LCC 939.150, mining is permitted with or without limitations.

(B) *Go to STEP 7.* After the decision maker approves an aggregate site for mining of aggregate, the decision maker shall proceed as set forth in LCC 939.170.

[Adopted 99-156 §12 eff 6/30/99 (OAR 660-023-0180 (4))]

### **939.170 STEP 7 — determine the post-mining use of site**

(A) *STEP 7 — Post-mining use and reclamation.* At the time the determination under LCC 939.160 is made, the decision maker shall:

(1) determine the post-mining use of the site.

(2) proceed as set forth in LCC 939.180 (*STEP 8*).

(B) For significant aggregate sites on Class I, II soils and unique farmland, the post-mining use shall be limited to farm uses under ORS 215.203, uses listed under ORS 215.283 (1), and fish and wildlife habitat uses, including wetland mitigation banking.

(C) The County and applicant shall coordinate with DOGAMI regarding the regulation and reclamation of aggregate sites.

[Adopted 99-156 §12 eff 6/30/99 (OAR 660-023-0180 (4) (f))]

### **939.180 STEP 8 — identify conflicts from potential future uses**

(A) *STEP 8 — Determine all conflicts from potential future uses in the impact area.* The decision maker shall:

(1) Identify future potential uses which, if allowed, would conflict with the proposed mining;

(2) Identify predicted conflicts from those future potential uses.

(B) The consideration of future potential uses shall be limited to those land uses that, if approved, would be allowed outright in the underlying zoning district.

(C) *Go to STEP 9.* The decision maker shall next proceed as set forth in LCC 939.190.

[Adopted 99-156 §12 eff 6/30/99 (OAR 660-023-0180 (5))]

**939.190 STEP 9 — analyze ESEE consequences and determine whether to allow a future potential use**

*STEP 9 — Analyze future potential uses and determine whether to allow the use.*

(A) The decision maker shall determine whether to allow, limit, or prevent a future potential use identified in LCC 939.180. To make this determination, the decision maker shall apply the standard ESEE process set forth in OAR 660-023-0040 and 660-023-0050.

(B) Recording a waiver of remonstrance in compliance with LCC 933.150 (B), is evidence that a conflict has been minimized under LCC 939.140, or resolved under LCC 939.150 or 939.190.

(C) *Go to STEP 10.* The decision maker shall next proceed as set forth in the applicable provisions of LCC 939.200.

[Adopted 99-156 §12 eff 6/30/99 (OAR 660-023-0180 (5))]

**939.200 STEP 10 — adopt final decision and implementing amendments**

(A) *STEP 10A — Amend the Comp Plan to carry out the decision.* The decision maker shall implement the determinations made under this Chapter by amending the *Comprehensive Plan* as set forth in paragraphs (1) and (2) of this subsection.

(1) *Inventories.* The decision maker shall amend the appropriate appendices following LCC Chapter 905 (Land Use Element Code) to include the site on an inventory and to include any supporting analyses pursuant to this paragraph.

(a) *Application not complete — sites possibly significant (formerly 1B sites).* If the Director determined that the application is not complete solely because the applicant was unable to provide information adequate to make the determination required by LCC 939.110 (B) (2), the decision maker shall amend Appendix 3, LCC Chapter 905 (Land Use Element Code) and add the site for which information is not adequate to make the determination under LCC 939.110 to the

inventory entitled — “Inventory of Possibly Significant Sites (Formerly “1B” Sites).”<sup>1</sup>

(b) *Non-significant sites (formerly 1A sites).* If the Director, based on location, quality and quantity information determines that an aggregate resource site is not significant, the decision maker shall amend Appendix 4, LCC Chapter 905 (Land Use Element Code) entitled — “Inventory of Non-significant Sites (Formerly “1A” Sites).”<sup>2</sup>

(c) *Significant sites without conflicts (formerly 2A sites).* If the Director, based on location, quality and quantity information determines that an aggregate resource site is significant, and the decision maker has determined that the site is without conflicts, the decision maker shall amend Appendix 5, LCC Chapter 905 (Land Use Element Code) entitled — “Inventory of Significant Sites Without Conflicting Uses (Formerly “2A” Sites).”<sup>3</sup>

(d) *Significant sites with conflicts that have been minimized.* If the decision maker is able to minimize the conflicts under LCC 939.140, the decision maker shall amend Appendix 6, LCC Chapter 905 (Land Use Element Code) and add the site for which all conflicts have been minimized under LCC 939.140 to the inventory entitled — “Inventory of Significant Sites With All Conflicts Minimized.”<sup>4</sup>

(e) *Significant sites with conflicts that can not be minimized but, based on an ESEE analysis, are to be protected by Goal 5 and approved for mining.* If a significant site has conflicts not able to be minimized but pursuant to an ESEE analysis is determined to receive Goal 5 protection for approved for mining, the decision

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<sup>1</sup>Under the original Goal 5 rule these sites were referred to as “1B sites.”

<sup>2</sup>Under the original Goal 5 rule these sites were referred to as “1A sites.”

<sup>3</sup>Under the original Goal 5 rule these sites were referred to collectively as “1C” sites and, following ESEE analysis, each 1C site became classified as a “3A,” “3B,” or “3C” site.

<sup>4</sup>The inventory of these sites is required by the September 1, 1996 amendments to the Goal 5 rule.

maker shall amend LCC Chapter 905 (Land Use Element Code) to:

(i) add the site to Appendix 8 entitled — “Inventory of Significant Sites Protected by Goal 5 and Approved for Mining Pursuant to an ESEE Analysis (Formerly “3A” or “3C” Sites)”<sup>5</sup>; and

(ii) to add the ESEE analysis to the Appendix 9 entitled — “ESEE Analyses Justifying the Protection of an Site by Goal 5 and Granting Mining Approval.”

(f) *Significant sites with conflicts that can not be minimized but, based on an ESEE analysis, are not to be protected by Goal 5 or approved for mining.*

(i) If a significant site has conflicts not able to be minimized, but, pursuant to an ESEE analysis, is determined not to receive Goal 5 protection not to be approved for mining under Goal 5, the decision maker shall provide full protection to the conflicting use and shall amend LCC Chapter 905 (Land Use Element Code) to:

(I) add the site to Appendix 10 — entitled “Inventory of Significant Sites Not Protected by Goal 5 and Not Approved for Mining Pursuant to an ESEE Analysis (Formerly “3B” Sites)”<sup>6</sup>; and

(II) add the ESEE analysis to Appendix 11 entitled — “Inventory of Significant Sites Not Protected by Goal 5 and Not Approved for Mining Pursuant to an ESEE Analysis”<sup>7</sup>; and

(ii) Where mining is not protected pursuant to Goal 5, the ARO shall not be applied to the site.

(2) If the decision maker makes a determination approving mining under subsections (A) (1) (c) to (A) (1) (e), the amendments set forth in the *Comprehensive Plan* shall include:

<sup>5</sup>The inventory of these sites is required by the September 1, 1996 amendments to the Goal 5 rule.

<sup>6</sup>The inventory of these sites is required by the September 1, 1996 amendments to the Goal 5 rule.

<sup>7</sup>The inventory of these sites is required by the September 1, 1996 amendments to the Goal 5 rule.

(a) a program to protect the resource;

(b) identified measures to minimize conflicts and any special conditions and regulations. Such measures, conditions, and regulations shall be clear and objective; and

(c) the approved post-mining use.

(B) *STEP 10B — Amend the Zoning Map to apply the ARO.* If the decision maker makes a determination approving mining under subsections (A) (1) (c) to (A) (1) (e), the decision maker shall amend the Land Development Code Zoning Map:

(1) To show the mining area. The extraction area shall be applied to significant sites where mining is permitted by the *Comprehensive Plan*. The mining area boundary as set forth in an application may be modified through the Goal 5 process to reduce conflicts with uses existing within the impact area.

(2) To show the impact area. The size of the impact area may be increased or decreased through application of the Goal 5 process.

(3) To apply an ARO to the impact area for sites receiving protection pursuant to Goal 5.

(C) The requirements of subsections (A) (2), (A) (3) and (B) of this section, do not apply to approval of mining under LCC 921.560 to 921.569.

[Adopted 99-156 §12 eff 6/30/99 (OAR 660-023-0180 (6); amd 2000-119 §3 eff 3/28/00)]

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**Statutory References and Other Authorities:**  
ORS 197; 203; 215; 517; OAR 660, Div. 023

**Legislative History of Chapter 939:**

Adopted 99-156 §12 eff 6/30/99

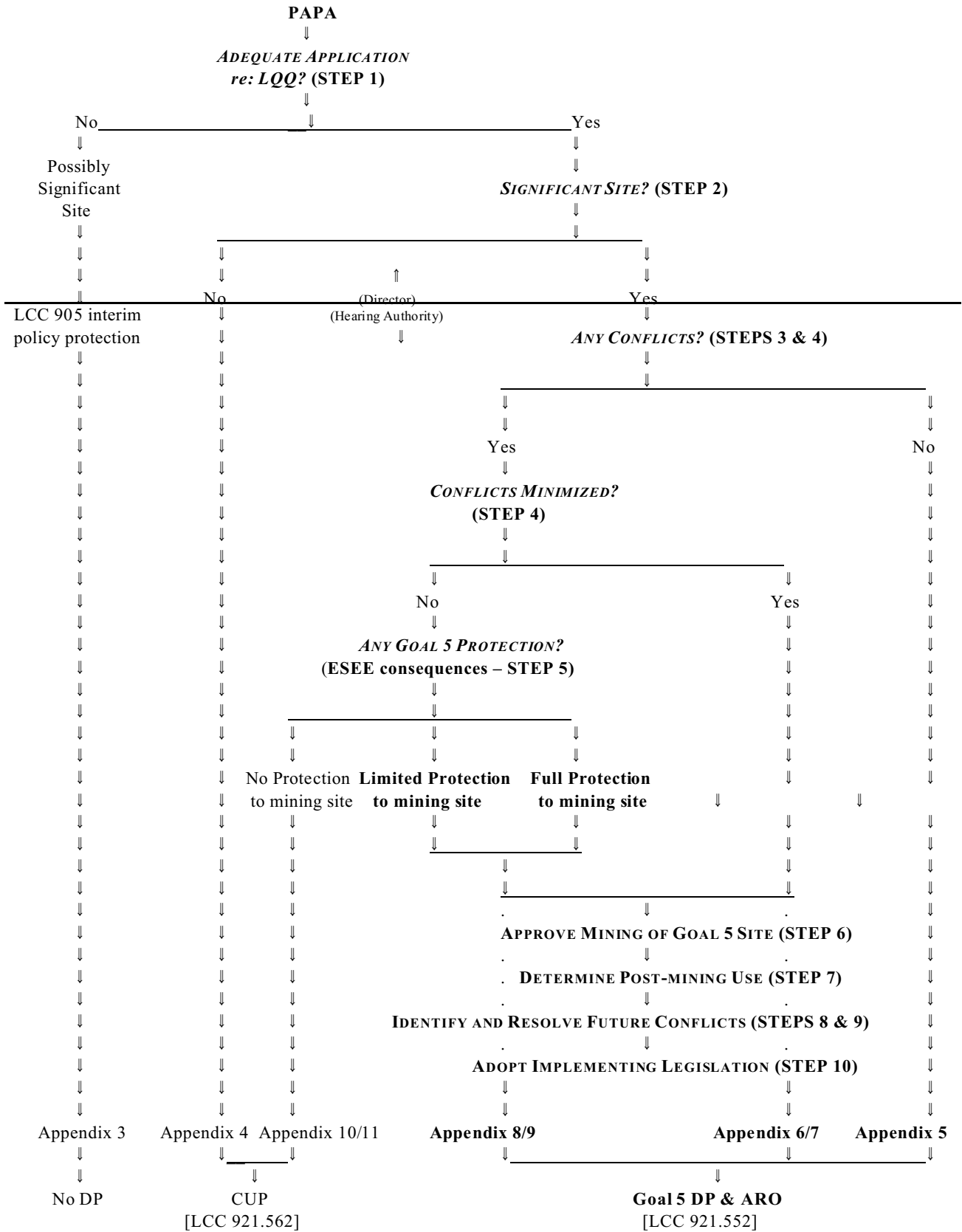
Amendments to 99-156

#1 2000-119 §3 eff 3/28/00

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**APPENDIX 1 — MINING PERMIT CHART (THE GOAL 5 PROCESS IS IN BOLD)**



*Appendix 1 to the Land Development Code*

***Land Development Code Zoning Map***

[see LCC 920.010 and 920.300]

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