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Tillamook County Department of Community Development

201 Laurel Avenue
Tillamook, OR 97141

(503) 842-3408
FAX: (503) 842-1819

This web version of the Tillamook County Land Use Ordinance (LUO) is provided for the convenience of the public. The official version is available at the Tillamook County Courthouse, 201 Laurel Avenue, Tillamook, OR 97141. Tillamook County cannot be held responsible for differences between this web version and the official version of the LUO.

Zoning Maps are **NOT** yet available online, [please call for zoning information](#) on a specific parcel, then look below for the regulations in that zone.

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ARTICLE I

INTRODUCTORY PROVISIONS

SECTION 1.010: TITLE

This Ordinance shall be known as the TILLAMOOK COUNTY LAND USE ORDINANCE of 1981.

SECTION 1.020: PURPOSE

The purposes of this Ordinance are to encourage the orderly development of land in the County; to promote appropriate uses of land; to preserve and stabilize the value of property; to aid in the provision of fire and police protection; to preserve access to adequate light and air; to minimize traffic congestion; to prevent undue concentration of population; to facilitate the provision of community services such as water supply and sewage treatment; to encourage the conservation of non-renewable energy resources and provide for the use of renewable energy resources; to protect and enhance the appearance of the landscape; and in general to protect and promote the public health, safety, convenience and general welfare.

SECTION 1.030: DEFINITIONS

Unless specifically defined in this Section or elsewhere in this Ordinance, words or phrases used herein shall be interpreted so as to give them the meaning they have in common usage, and to give this Ordinance its most reasonable application. Words used in the present tense include the future; the word "building" includes the "structure"; and the word "shall" is mandatory and not discretionary.

(A) GENERALLY USED DEFINITIONS

ABUTTING: Sharing all or part of a common property line. For the purpose of determining abutting property, intervening public and private ways and watercourses do not break the continuity of abutting properties.

ACCEPTED FARMING PRACTICES: A mode of operation that is common to farms of a similar nature, that is necessary for the operation of such farms to obtain a profit in money, and is customarily utilized in conjunction with farm use.

ACCESS: The legally established route by which pedestrians and vehicles enter and leave property from a public way.

ACCESSORY STRUCTURE-ACCESSORY USE: A detached structure or a land use that is incidental and subordinate to the established primary use of a piece of property, and which is located on the same property as is the primary use, except as provided in Section 5.040.

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

ADULT FOSTER HOME: As defined by OAR 411-5-400 (2); a State-certified dwelling operated in a family-type setting for senior citizens and/or disabled persons over the age of 18 who are in need of help in the provision of shelter, food, medical care and/or other service.

AIRPORT, RUNWAY: The center portion of the landing strip, which is designed and constructed for takeoff and landing of aircraft.

ALLEY: A street which affords only a secondary means of vehicular access to property.

APARTMENT HOUSE: Any building, or portion thereof, which is designed, built, rented, leased, let or hired out to be occupied, or which is occupied as the home or residence of four or more families living independently of each other and doing their own cooking in the building.

APPEAL: Means a request for review of a Planning Director's or a Planning Commission's decision or interpretation of any provision of this Ordinance.

AQUACULTURE: The propagation, cultivation, maintenance, and harvesting of aquatic species.

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

AUTOMOBILE WRECKING YARD: Any property where two or more motor vehicles which are not in running condition, or the parts thereof, are wrecked, dismantled, disassembled, substantially altered, or stored in the open, and are not intended to be restored to operation. Such intent may be shown by progressive repair or restoration work on said vehicles.

AWNING: A shade structure that is supported by both posts or columns and by a mobile home installed on a mobile home lot.

BAYFRONT LOT: Lot which abuts the Estuary Planning Boundary of non-riverine waterways or a lot where there is no buildable lot between it and estuarine bay waters.

BEACH: The sloping unvegetated shore of a body of water.

BASEMENT: A portion of a building which has less than one-half (1/2) of its height measured from finished floor to finished ceiling above the average elevation of the adjoining ground, but not an "underground structure" as defined in this ordinance. (FLOOD DEFINITION INSERT)

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

BED AND BREAKFAST ENTERPRISE, BOARDING, LODGING OR ROOMING HOUSE:
A residential structure where not more than 15 persons, not including members of the family occupying such a structure, provide compensation for lodging.

BIOMASS ENERGY SYSTEM: A system that produces, collects, converts, or uses organic materials other than fossil fuels for the production of energy.

BOARD: The Board of County Commissioners of Tillamook County, Oregon.

BOARDING, LODGING, OR ROOMING HOUSE: See **BED AND BREAKFAST ENTERPRISE, BOARDING, LODGING, OR ROOMING HOUSE.**

BUILDABLE AREA:

- (a) For the purpose of siting structures on a parcel, the area thereon exclusive of all applicable setbacks or areas within restrictive overlay zones contained in this Ordinance.
- (b) For purposes of calculating the allowable number of dwellings on a lot or parcel, the area thereof, exclusive of the following:
 - 1. Road or utility easements;
 - 2. Narrow strips of land provided for access from a street to a flag lot;
 - 3. Areas seaward of the beach zone line;
 - 4. Areas within all estuary zones;
 - 5. Channels within the ordinary high water lines of streams that are at least 15 feet wide; and
 - 6. Areas within the ordinary high water line of lakes.

This definition shall not apply to erosion control structures or structures otherwise allowed within applicable overlay zones.

BUILDING: A structure built or used for the support, shelter, or enclosure of persons, animals, chattels, or property of any kind.

BUILDING HEIGHT: The vertical distance of a building measured from grade to the highest point of the roof. (See grade)

CABANA: A room enclosure attached to a mobile home for residential use by the occupant of the mobile home.

CAMPER: See RECREATIONAL VEHICLE.

CAMPING UNIT: Any tent or recreational vehicle located in a campground as temporary living quarters for recreational, education or vacation purposes.

CAMPSITE: Any plot of ground within a campground intended for the exclusive occupancy by a camping unit or units.

CLEAR-VISION AREA: See Section 4.010.

CO-GENERATION: The sequential conversion of a primary fuel to produce two or more energy streams, one of electrical or mechanical energy, and one of heat energy.

COMMISSION: The Tillamook County Planning Commission.

COMMUNITY GROWTH BOUNDARY: A boundary placed on zoning maps to entirely contain the lands within an unincorporated community that are either served, or can be served, by community sewage treatment facilities; such lands are typically designated for residential or commercial development at urban densities.

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

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

COMPOSTING FACILITY: A site or facility, excluding home composting and agricultural composting conducted as a farm use, which utilizes green feedstocks to produce a useful product through a managed process of controlled biological decomposition. Composting may include amendments beneficial to the composting process. Vermiculture and vermicomposting are considered composting facilities. Composting facilities or sites may include sales of the finished product, as well as accessory products limited to topsoil, barkdust and aggregate commonly used in landscaping to wholesale and retail customers

CONDITIONAL USE: A use of land that generally conforms to the type and nature of the uses permitted by right in a zone, but because of potential adverse off-site impacts, requires the review and discretionary approval of the Director or Commission according to the provisions of Article VI of this Ordinance.

CONDOMINIUM: A structure containing more than one dwelling unit, each of which is owned individually, exclusive of the land upon which the structure is located. (See also ORS ~~91.500~~ 100.005).

CONTIGUOUS: Sharing all or part of a common boundary.

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

COUNTY: The County of Tillamook, State of Oregon.

CURRENT EMPLOYMENT OF LAND: That land for farm use which includes:

- (a) Land subject to soil-bank provisions of the Federal Agricultural Act of 1956, as amended (P.L. 84-540, Stat. 188);
- (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;
- (d) Any land constituting a woodlot of less than 20 acres contiguous to and owned by the owner of land specially assessed at true cash value for farm use, even if the land constituting the wood lot is not utilized in conjunction with farm use;
- (e) Wasteland, in an exclusive farm use zone, dry, covered or partially covered with water, lying in or adjacent to and in common ownership with farm use land and which is not currently being used for any economic farm use;
- (f) Land under dwellings customarily provided in conjunction with the farm use in an exclusive farm use zone; and
- (g) Land under buildings supporting accepted farm practices.

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

DEPARTMENT: The Tillamook County Department of Community Development.

DEVELOPMENT: Any man-made change to improved or unimproved land, including, but not limited to, buildings or other structures; mining; dredging; filling; grading; paving; excavation; drilling operations; construction of roads or ditches; earth-moving; or construction of dikes, berms or levees. It does not include ordinary farm or forest practices such as plowing, disking, harrowing, cutting, or planting, or other similar activities for the cultivation or preparation of the soil for farm or forest production.

DIRECTOR: The Director of the Department or his or her designate.

DORMITORIES: A large room for sleeping, containing numerous beds.

DWELLING: A detached structure that meets the requirements of the Uniform Building Code for residential structures, and which is intended and/or used for residential purposes. **DWELLING** includes qualifiers such as the following, indicating the number of dwelling units per structure:

Single family.....	1
Two-family	2
3 or 4 family.....	3 or 4
Multi-family.....	5 or more

DWELLING, ACCESSORY: A dwelling unit with a separate entrance that shares at least one building wall, or portion thereof, with a single family, detached dwelling unit, or an accessory structure on the same tax lot, but not a two or three family dwelling. For purposes of these provisions, 'wall' does not include a breezeway, porch, or awning.

DWELLING, ATTACHED OR COMMONWALL: A dwelling which shares at least one wall, or portion thereof, with another dwelling and which is permitted in a single-family residential zone subject to the same density requirements as single family detached dwellings in those zones. An attached or commonwall dwelling may, or may not, include a separate lot or parcel.

DWELLING UNIT: One or more rooms occupied, designed or intended for occupancy as separate living quarters, and containing three or more of the following:

- refrigeration;
- cooking facility (including cooking stove, hot plate, range hood, microwave oven, or similar facility)
- dishwashing machine
- sink intended for meal preparation (not including a wet bar)
- garbage disposal
- toilet.

EASEMENT: The grant of a right of use for a specific purpose over, through, or on a parcel of land.

FACING: Directly opposite, across from.

FAMILY: One or more persons related by blood, marriage, adoption or guardianship, and not more than five additional persons not so related, occupying a dwelling unit and living as a single household unit. This includes the occupants of an ADULT FOSTER HOME and a FOSTER FAMILY HOME.

FARM USE: The current employment of land for the primary purpose of obtaining a profit measurable in money by raising, harvesting, and selling crops or by the feeding, breeding, management and sale of, or the produce of, livestock, poultry, fur-bearing animals or honeybees or for dairying and the sale of dairy products or any other agricultural or horticultural use or animal husbandry or any combination thereof. FARM USE includes the preparation and storage of the products raised on such land for man's use and animal use and disposal by marketing or otherwise.

It does not include the use of land subject to the provisions of ORS Chapter 321 except land used exclusively for growing cultured Christmas trees as defined in ORS 215.203 (3).

FENCE, SIGHT OBSCURING: A fence or shrubbery arranged in such a way as to obstruct vision.

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

FOSTER FAMILY HOME: As defined by OAR 412-22-010 (4); any State-certified home maintained by a person who has under his or her care any child unattended by parents or a guardian for the purpose of providing such child with care, food, and lodging. Such homes include foster family, group, and shelter homes. (See Adult Foster Home)

GRADE: The average elevation of the existing ground at the centers of all walls of a building.

GROUP COTTAGES: See HOTEL.

HEALTH HARDSHIP: Circumstances where the temporary placement of a mobile home or recreational vehicle to accommodate a seriously ill person or their attendant is justified by the absence of a reasonable alternative.

HEAVY INDUSTRY: A manufacturing activity that has substantial impact on the surrounding area because of hazards, dust, odor, light, heat, noise, or other pollutants, but which does not present a significant public hazard.

HEIGHT OF BUILDING: See BUILDING HEIGHT.

HOME OCCUPATION: A lawful occupation carried out by a resident of the property on which the activity is located, within the residence or other buildings normally associate with uses permitted in the zone in which the property is located, subject to the provisions of Section 4.140 of this Ordinance.

Home occupations do not include garage sales, yard sales, Christmas bazaars, or home parties which are held for the purpose of the sale or distribution of goods or services. However, if such sales and/or parties are held more than 2 times in any calendar year, such sales and/or parties shall be considered a home occupation.

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

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

HOTEL OR GROUP COTTAGES: A building or group of buildings containing six or more units without cooking facilities which are designed to be used, or which are used, rented, or hired out for transient occupancy.

HYDROELECTRIC SYSTEM: A mechanism for converting energy from moving or falling water into electrical or mechanical energy. A hydroelectric system which produces no more electricity than the average annual consumption of the owner shall not be considered a **COMMERCIAL FACILITY** under ORS 215.213, even though it may sell excess power to the local utility.

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

JUNK YARD: Any property used as a site for breaking up, dismantling, sorting, storing, distributing, trading, bartering, buying, or selling of any scrap, waste, or disposed material.

KENNEL: A commercial establishment where four or more dogs, cats, or animals that are at least four months of age are kept for board, propagation, training, or sale.

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

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

LINE, PROPERTY: A line, or a description thereof, that is recorded in the office of the County Clerk, and which serves to distinguish a lot or parcel from surrounding properties.

LIVESTOCK: Domestic animals and fowl of types customarily raised or kept on farms for profit or home consumption.

LOT: A tract of land that has been created by a subdivision.

LOT AREA: The total area of a lot or parcel measured in a horizontal plane within the property lines, exclusive of public and private roads.

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

LOT, CORNER: A lot abutting two or more streets or private ways, other than an alley, at their intersection.

LOT DEPTH: The average horizontal distance between the front lot line and the rear lot line.

LOT, FLAG: A single buildable lot partially separated from a public or private road by other land, but maintaining a minimum of 25 foot frontage on the public or private road from which it gains access.

LOT, INTERIOR: A non-corner lot.

LOT LINE: The property line of a lot.

LOT LINE, FRONT: The line separating a lot from a street or private way, other than an alley. On a corner lot, the front is the shortest property line along a street or private way other than an alley. In the case of a through lot or a corner lot with equal lines abutting streets, the front lot line is the side from which primary vehicular access is attained.

LOT LINE, REAR: A property line which is opposite and most distant from the front lot line. In the case of an irregular, triangular, or other-shaped lot, a hypothetical line 10 feet in length within the lot that is parallel to the front lot line.

LOT LINE, SIDE: Any non-front or -rear lot line.

LOT LINE, STREET SIDE: Any lot line along a street or private way (not an alley), other than the front lot line.

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

1. Contiguous lots under the same ownership when initially zoned shall be combined when any of these lots, parcels or units of land did not satisfy the lot size requirements of the initial zoning district, excluding lots in a recorded plat.

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

LOT, THROUGH: An interior lot abutting two streets.

LOT, WIDTH: The average horizontal distance between the side lot lines, ordinarily measured parallel to the front lot line.

MANUFACTURED DWELLING: Includes:

Residential trailer: a structure, greater than 400 square feet, constructed for movement on the public highways that has sleeping, cooking and plumbing facilities, that is intended for human occupancy, that is being used for residential purposes and that was constructed before January 1, 1962.

Mobile home: A structure having at least 400 square feet of floor area and which is transportable in one or more sections. A structure constructed for movement on the public highways that has sleeping, cooking and plumbing facilities, that is intended for human occupancy, that is being used for residential purposes and that 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.

Manufactured home: A structure constructed for movement on the public highways, after June 15, 1976, that has sleeping, cooking and plumbing facilities, that is intended for human occupancy, that is being used for residential purposes and that was constructed in accordance with federal manufactured housing construction and safety standards and regulations in effect at the time of construction.

MANUFACTURED STRUCTURE: Recreational Vehicle or Manufactured Dwelling,

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

MOBILE/MANUFACTURED HOME PARK: A place where either four or more mobile homes/manufactured homes or mobile homes/manufactured homes and recreational vehicles mixed, are located on one or more contiguous lots, tracts, or parcels of land under a single ownership, the purpose of which is to provide permanent residential spaces for charge or fee paid for the use of facilities, or to offer space free of charge in connection with securing the trade, patronage or services of the occupant.

MOBILE HOME SUBDIVISION: A subdivision designated by the County to permit the outright

placement of mobile homes, and where the primary use of lots is for placement of mobile homes and where development standards have been met.

MOBILE KITCHEN UNIT, TEMPORARY: A vehicle in which food is prepared, processed, or converted, or which is used in selling and dispensing of food to the ultimate consumer.

MOTEL: A building or group of buildings used for transient residential purposes that contains guest rooms or dwelling units, and which is designed, intended or used primarily for the accommodation of transient automobile travelers. MOTEL includes groups designated as auto cabins, motor courts, motor hotels and similar designations.

MOTOR HOME: See RECREATIONAL VEHICLE.

NONCONFORMING STRUCTURE OR USE: A structure or use that legally exists at the time this Ordinance or any Amendment hereto becomes effective, but which does not conform to the current requirements of the zone in which it is located.

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

OCEANFRONT LOT: Lot which abuts the State Beach Zone Line (ORS 390.770) or a lot where there is no portion of a buildable lot between it and the State Beach Zone Line.

OWNER: The owner of the title to real property, or the contract purchaser of real property of record, as shown on the last available complete tax assessment roll. OWNER shall also mean any agent with written authority of the owner.

PARCEL: Any tract of land that is not included within the bounds of a residential subdivision.

PARKING SPACE: A 20 by 8 foot area (exclusive areas for maneuvering and access) that is permanently reserved for the temporary storage of a single vehicle, and which has legal access to a street or alley.

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

PARTY TO PROCEEDING: For the purpose of notice, party to proceeding includes only the applicant, individuals or agencies who respond in writing to a request, or those individuals who attend the hearing and sign the guest list.

PERSON: Every natural person, firm, partnership, association, social or fraternal organization, corporation, estate, trust, receiver, syndicate, branch of government, or any other group or combination acting as a unit.

PLANNING COMMISSION: A Commission appointed by the governing body of the County to assist in the development and administration of the County's planning regulations as provided by ORS 215.020 to 215.035.

PLANNING DIRECTOR: An individual or his or her designate who is appointed by the governing body of the County to be responsible for the administration of planning as provided by ORS 215.042.

PRIMARY USE: The principle purpose for which property is used or occupied.

PRIMARY WOOD PROCESSING: The use of a portable chipper or stud mill or other similar methods of initial treatment of a forest product, including, but not limited to pole and piling preparation, small portable saw mills, log sorting yards, wood chipping operations, fence post manufacturing and fire wood production.

PRIMITIVE CAMPGROUND: A designated place where four or more campsites are located for occupancy by camping units on a temporary basis for recreation, education or vacation purposes. A primitive campground is predominantly an unattended facility which is established to accommodate recreational vehicles, tents, or bicycle uses for a period of time not to exceed two weeks in any given four week period.

PRINCIPALLY ABOVE GROUND: A structure where at least 51 percent of the actual cash value, less land value, is above ground.

PRIVATE WAY: A thoroughfare reserved for use by an identifiable set of persons.

PRODUCE STAND: An accessory facility to a farm use. As a permitted use, a produce stand shall be located on property owned or leased by the produce stand operator for the production of farm products. As a conditional use, a produce stand may include the sale of farm products produced by other farmers, but

excludes the sale of meats. Such facility may include the sale of incidental and related items. Produce stands are subject to the regulations and licensing requirements of the Food and Dairy Division of Oregon Department of Agriculture, the requirements of the Uniform Building Code, and the parking and signing requirements of this Ordinance.

PUBLIC PARK OR RECREATION: Recreation developments which provide for picnicking, swimming, hunting, fishing, riding or other similar activities, but which exclude overnight camper or recreational vehicle use and outdoor commercial amusements such as miniature golf courses and go-cart tracks.

RECREATIONAL VEHICLE: A portable temporary dwelling unit, with a gross floor area not exceeding 400 square feet in the set up mode, which is intended for vacation, emergency or recreational use, but not for permanent residential use, unless located in a recreational vehicle or mobile/manufactured dwelling park.

RECREATIONAL VEHICLE includes the following:

- (a) **CAMPER:** A structure containing a floor that is designed to be temporarily mounted upon a motor vehicle, and which is designed to provide facilities for temporary human habitation.
- (b) **MOTOR HOME:** A motor vehicle with a permanently attached camper, or that is originally designed, reconstructed or permanently altered to provide facilities for temporary human habitation.
- (c) **TRAVEL TRAILER:** A trailer that is capable of being used for temporary human habitation, which is not more than eight feet wide, and except in the case of a tent trailer, has four permanent walls when it is in the usual travel position.
- (d) **SELF-CONTAINED RECREATIONAL VEHICLE:** A vehicle that contains a factory-equipped, on-board system for the storage and disposal of gray water and sewage.

This definition of a recreational vehicle shall not apply in the F-1 or SFW-20 zones.

RECREATIONAL CAMPGROUND: A place where four or more recreational vehicles and/or tents are located on one or more continuous lots, tracts or parcel of land under a single ownership for temporary recreational camping. A permanent house, mobile home, or recreational vehicle for the owner, operator, or manager of the campground is permitted, however other Sections of the Ordinance pertaining to such use shall apply i.e. Section 4.040, etc. Accessory uses that may be permitted include recreation cabins, shower, laundry, a grocery, gas pump, and recreation facilities that are designated for the primary purpose of serving the occupants of the campground. A camper shall not be permitted to stay any longer than six (6) months in any twelve (12) month period.

RECREATIONAL VEHICLE SUBDIVISION: A subdivision designated by the County as permitting the placement of recreational vehicles outright, subject to all development standards and placement permit

requirements.

RESIDENTIAL CARE, TRAINING, OR TREATMENT FACILITY: As defined by ORS 443.400; any facility which provides care, training, or treatment for six or more physically, mentally, emotionally, or behaviorally disabled individuals. Facilities that provide for five or less are addressed as ADULT FOSTER HOMES or FOSTER FAMILY HOMES.

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

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

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

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

RURAL INDUSTRY: A business conducted in non-urban zones that employs up to ten non-family members, and which is not necessarily conducted in conjunction with a dwelling. Impacts to surrounding properties are not offensive. All parking is provided for on the property.

RURAL LAND: Lands that are neither suitable nor necessary for development at urban densities, and which, as a result, are designated for rural homesites or recreational, agricultural, or forestry uses. RURAL LAND includes all lands within zones which require, outright, at least a two acre minimum lot size.

SAND DUNES: The aeolian deposition of sand in ridged or mounds, landward of the beach.

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

SEASONAL FARM WORKER: Any person who, for an agreed remuneration or rate of pay, performs temporary labor for another to work in production of farm products or planting, cultivating or harvesting of seasonal agricultural crops or in reforestation of lands, including but not limited to, the planting, transplanting, tubing, pre-commercial thinning, and thinning of trees and seedlings, the clearing, piling and disposal of brush and slash and other related activities.

SEASONAL FARM WORKER HOUSING: Housing limited to occupancy by seasonal farm workers and their immediate families, that is occupied for no more than nine months in a calendar year.

SETBACK: A linear distance perpendicular to a lot line that describes the depth of a lot or parcel that shall not be occupied by a structure, unless specifically provided for in this Ordinance. See also YARD.

SEWAGE: Water-carried wastes from a home or community.

SEWAGE TREATMENT PLANT: Facilities for the treatment and disposal of sewage.

SHOPPING CENTER: Three or more retail or service establishments on a single unit of land.

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

SIGHT-OBSCURING PLANTING: A dense perennial evergreen planting with sufficient foliage to obscure vision and which will reach a height of at least six (6) feet within thirty (30) months after planting.

SIGN: An identification, description, illustration or device which is affixed to or represented, directly or indirectly, upon a building, structure or land, and which directs attention to a product, place, activity, person, institution, or business. Each display surface of a sign other than two surfaces parallel and back to back on the same structure shall be considered a sign.

SIGN, ADVERTISING: A sign which directs attention to a business, product, activity, or service which is not necessarily conducted, sold, or offered upon the premises where such sign is located.

SOLAR ENERGY SYSTEM: Any device, structure, mechanism, or series of mechanisms which uses solar radiation as a source for heating, cooling, or electrical energy.

SMALL POWER PRODUCTION FACILITY: A facility that produces energy primarily by use of biomass, waste, solar energy, wind power, water power, geothermal energy or any combination thereof, having a power production capacity that, together with any other facilities located at the same site, is not greater than 80 megawatts; and such facility is more than 50 percent owned by a person who is not a public utility, an electric utility holding company or an affiliated interest. When this definition differs from that in ORS 758.500, the definition in ORS 758.500 shall prevail.

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

- a. Environmentally hazardous wastes as defined in ORS 466.055;
- b. Materials used for fertilizer or for other productive purposes on land in agricultural

operations in the growing and harvesting of crops or the raising of fowl or animals. This exception does not apply to the keeping of animals on land which has been zoned for residential non-agricultural purposes;

- c. Septic tank and cesspool pumping or chemical toilet waste;
- d. For purposes of Article V of this Ordinance, reusable beverage containers as defined in ORS 459A;
- e. Source separated, principal recyclable materials as defined in ORS 459A and the Rules promulgated thereunder and under this Ordinance, which have been purchased or exchanged for fair market value, unless said principal recyclable materials create a public nuisance pursuant to Article II of this Ordinance;
- f. Applications of industrial sludges or industrial waste by-products authorized through a Land Use Compatibility Statement or Management Plan approval and that have been applied to agricultural lands according to accepted agronomic practices or accepted method approved by the Land Use Compatibility Statement or Management Plan, but not to exceed 100 dry tons per acre annually;
- g. Stabilized municipal sewage sludge applied for accepted beneficial uses on land in agricultural, non-agricultural, or silvicultural operations. Sludge derived products applied for beneficial uses on land in landscaping projects.

STANDARDS: Rules governing the size, dimensions, shape, or orientation of a lot or parcel, or the placement of buildings or activities thereon.

START OF CONSTRUCTION:

- (a) For a structure other than a mobile home, **START OF CONSTRUCTION** means the first placement of permanent material for the construction of the primary use on a site, such as the pouring of slabs or footings or any work beyond the stage of excavation. For a structure without a basement or poured footings, the **START OF CONSTRUCTION** means the first permanent framing or assembly of the structure, or any part thereof, on its piling or foundation.

- (b) For mobile homes not within a mobile home park or subdivision, **START OF CONSTRUCTION** means securing the mobile home at its permanent location by means of tiedowns or, in the case of a double-wide mobile home, its placement upon piers.

STORY: That portion of a building between the finished surface of any floor and the next floor above, that is at least six feet above grade; the top story shall be the topmost living space.

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

STREET: The entire right-of-way of every public and private way for vehicular and pedestrian traffic; includes the terms **ROAD, HIGHWAY, LANE, PLACE, AVENUE, ALLEY,** and other similar designations. For setback purposes, non-vehicular public and private ways are not considered streets and require no setbacks.

STREET LINE: A property line between a lot, tract, or parcel of land and an adjacent street or private way.

STRUCTURAL ALTERATION: Any change to the weight-bearing members of a building, including foundations, bearing walls, columns, beams, girders, or any change in the roof or exterior walls.

STRUCTURE: Anything constructed or installed or portable, the use of which requires a location on a parcel of land.

SUBDIVISION: A tract of land that has been divided into four or more lots within a calendar year.

SUBSTANTIAL IMPROVEMENT: Any repair, reconstruction, or improvement of a structure, where the cost equals or exceeds fifty (50) percent of the market value of the structure, either;

- (a) Before the improvement or repair is started; or
- (b) If the structure has been damaged and is being restored, before the damage occurred.

SUBSTANTIAL IMPROVEMENT occurs upon the first structural alteration of a building, whether or not the alteration of a building, whether or not the alteration affects the external dimensions of the building. The term does not, however, include:

- (a) Any improvements made to a structure to comply with existing state or local health, sanitary, or safety code specifications, and which are solely necessary to assure safe living conditions;
- (b) Any restoration work on a structure listed in the National Register of Historic Places or a State Inventory of Historic Places; or

- (c) Any project for the addition or expansion of an electrical cogeneration facility.

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

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

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

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

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

TEMPORARY MOBILE KITCHEN UNIT: See **MOBILE KITCHEN UNIT, TEMPORARY.**

TOWNHOUSE: Townhouse is a single-family dwelling unit constructed in a row of attached units separated by property lines and with open space on at least two sides.

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

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

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

TRAVEL TRAILER: See **RECREATIONAL VEHICLE.**

URBAN or URBANIZABLE LAND: Only those lands within or surrounding an incorporated city which

are contained by an Urban Growth Boundary.

URBAN GROWTH BOUNDARY: A line established by the governing body and placed on a zoning map, which distinguishes urbanizable land adjacent to an incorporated city from surrounding rural land.

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

USE: The purpose for which a structure is designed, arranged, or intended, or for which a unit of land is developed, occupied or maintained.

UTILITY FACILITIES: Structures, pipes, or transmission lines which provide the public with electricity, gas, heat, steam, communication, water, sewage collection, or other similar service.

VARIANCE: A grant of relief from one or more of the standards contained in this Ordinance.

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

WETLANDS: Areas that are inundated or saturated by surface or ground water at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions.

WIND ENERGY CONVERSION SYSTEM (WECS): A system for converting energy from moving air masses into electrical energy. A single WECS with a tower height less than 150 feet and which produces no more electricity than the average annual consumption of the owner shall not be considered a COMMERCIAL FACILITY under ORS 215.213, even though it may sell excess power to the local utility.

WINDMILL: A system for converting energy from moving air masses into a form of energy other than electricity.

YARD: Any portion of a lot or parcel that is not occupied by a structure, unless specifically allowed by this Ordinance.

YARD, FRONT: The area between side lot lines, measured horizontally and at right angles to the front lot line, to the nearest point of a structure.

YARD, REAR: The area between side lot lines or between a street and the opposite side lot line, measured horizontally and at right angles to the rear lot line, to the nearest point of a structure.

YARD REQUIREMENT: The portion of a lot or parcel that shall not be occupied by a structure, unless specifically provided for in this ordinance. This has the same meaning as "required yard", "minimum yard", or "setback".

YARD, SIDE: The area between the front and rear yard, measured horizontally and at right angles to the side lot line, to the nearest point of a structure.

YARD, STREET SIDE: The area adjacent to a street or private way, located between the front and rear yards, measured horizontally and at right angles from the street side lot line to the nearest point of a structure.

ARTICLE II

PROVISIONS FOR ZONES

SECTION 2.010: ESTABLISHMENT OF ZONES

For the purpose of this Ordinance the following zones are hereby established in Tillamook County:

MAP DESIGNATION	ZONE
3.002	F-1* Farm*
3.004	F* Forest*
3.006	SFW-20* Small Farm Woodlot -20*
3.008	SFW-10 Small Farm and Woodlot-10 acre
3.010	RR-2, RR-10 Rural Residential 2 Acre and Rural Residential 10 Acre
3.011	CSFR Community Single Family Residential
3.012	CR-1 Community Low Density Urban Residential
3.014	CR-2 Community Medium Density Urban Residential
3.016	CR-3 Community High Density Urban Residential
3.018	RMH Residential Mobile Home
3.020	RC Rural Commercial
3.022	CC Community Commercial
3.024	CP Community Public Use
3.030	RI Rural Industrial
3.031	CI Community Industrial
3.032	M-1 General Industrial
3.034	UFO Utilities Facilities Overlay
3.040	RM Recreation Management
3.042	RN Recreation Natural
3.044	RD Recreation Development
3.050	WDD Water-Dependent Development
3.060	FH Flood Hazard Overlay
3.080	PD Planned Development Overlay
3.082	CR Coast Resort Overlay
3.084	PDR Planned Destination Resort
3.085	BD Beach and Dune Overlay
3.090	SH Shoreland Overlay
3.092	FW Freshwater Wetlands Overlay
3.094	MAO Mineral and Aggregate
3.100	Estuary Zones
3.102	EN Estuary Natural
3.104	ECA Estuary Conservation Aquaculture
3.106	EC1 Estuary Conservation 1
3.108	EC2 Estuary Conservation 2
3.110	ED Estuary Development

3.120		Regulated Activities and Impact Assessments
3.140		Estuary Development Standards
3.200	TAO	Tillamook Airport Obstruction 1
3.210	PAO	Pacific City Airport Obstruction Overlay Zone
3.300	NKN	Neahkahnie Urban Residential Zones
3.310	ROS	Residential Oceanside Zone
3.312	COS	Commercial Oceanside Zone
3.314	POS	Park Oceanside Zone
3.320	Nesk RR	Neskowin Rural Residential
3.322	Nesk R- I	Neskowin Low Density Residential
3.324	Nesk R-3	Neskowin High Density Urban Residential
3.326	Nesk C	Neskowin Commercial
3.328	Nesk RM	Neskowin Recreation Management
3.330	PCW-P	Pacific City/ Woods Park Zone
3.331	PCW-RR	Pacific City/ Woods Rural Residential
3.332	PCW-R2	Pacific City/ Woods Medium Density Residential
3.334	PCW-R3	Pacific City/ Woods High Density Residential
3.335	PCW-AP	Pacific City/ Woods Airpark Zone
3.337	PCW-C1	Pacific City/ Woods Neighborhood Commercial
3.338	PCW-C2	Pacific City/ Woods Community Commercial
3.340	NT-R2	Netarts Medium Density Urban Residential
3.342	NT-R3	Netarts High Density Urban Residential
3.344	NT-RMD	Netarts Residential Manufactured Dwelling
3.346	NT-PRD	Planned Residential Development Overlay Zone
3.348	NT-C1	Netarts Neighborhood Commercial

SECTION 2.020: LOCATION OF ZONES

- (1) Except for FH zones, the boundaries for the zones listed in this Ordinance are shown on maps entitled "Zoning Map of Tillamook County, Oregon", which are a part of this Ordinance. Maps shall be adopted on the date of adoption of this Ordinance. The boundaries of zones shall be modified only in accordance with zoning map amendments adopted according to procedures in Article 9 of this Ordinance.
- (2) The areas of special flood hazard identified by the Federal Insurance Administration in a scientific and engineering report entitled "Flood Insurance Study, for Tillamook County", dated September 28, 1990, and any amendment thereto, with accompanying Flood Insurance Rate Maps (FIRM) and Flood boundary and Floodway Maps, issued by the Federal Emergency Management Agency (FEMA), are declared to be a part of this Ordinance and shall be known as FH zones.

SECTION 2.030: ZONING MAPS

A Zoning Map or Zoning Map Amendment adopted by Section 2.020 of this Ordinance or by an Amendment to the Section shall be prepared by authority of the County Planning Commission or be a modification by the Board of County Commissioners of a Map or Map Amendment so prepared. The Map or Map Amendment shall be dated with the effective date of the Ordinance or resolution that adopts the Map Amendment. A print of the adopted Map or Map Amendment shall be maintained without charge in the Planning Department as long as this Ordinance remains in effect, and a second set of prints of all such maps shall be maintained in a fire-proof depository separate from the Tillamook County Department of Community Development.



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Tillamook County Department of Community Development

201 Laurel Avenue
Tillamook, OR 97141

(503) 842-3408
FAX: (503) 842-1819

This page will contain information pertaining to Tillamook County's Resource Zones Codification effort. The County's adopted Farm (F-1), Forest (F), and Small Farm & Woodlot-20 (SFW-20) zones do not conform to current state law. Work is underway to align Tillamook County's ordinances with state law. In the meantime the Department is using state law in combination with the [Land Use Ordinance](#) in order to guide development on resource lands. This does not affect the Small Farm & Woodlot-10 (SFW-10) zone.

For more information, contact [Lisa Phipps](#), Coastal Resource Planner.

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SECTION 3.008: SMALL FARM AND WOODLOT 10 ACRE ZONE (SFW-10)

- (1) **PURPOSE:** The purpose of the SFW-10 zone is to permit small-scale farms and large-acreage rural residential homesites on land that has potential for small-scale farm or forest uses, but because of limitations it is impractical for the Farm or Forest zone. It also provides a buffer between non-resource uses and lands that are managed for farm or forest uses, thereby assuring that the conversion of such lands to higher density uses occurs in an orderly and economical manner.
- (2) **USES PERMITTED OUTRIGHT:** In the SFW-10 Zone, the following uses and their accessory uses are permitted outright, subject to all applicable supplementary regulations contained in this Ordinance.
 - (a) Farm uses, including aquaculture.
 - (b) Forest uses.
 - (c) Noncommercial preserves, parks, and low intensity recreational uses.
 - (d) Fish and game management not requiring developed facilities or structures.
 - (e) Single-family residential structures.
 - (f) A mobile home or recreational vehicle used only during the construction or substantial improvement of a use for which a building or placement permit has been issued.
 - (g) Signs, subject to Section 4.020.
 - (h) Home occupations according to the provisions of Section 4.140 of this Ordinance.
 - (i) Cottage industries.
 - (j) Roadside stands for the sale of produce grown on the premises.
- (3) **USES PERMITTED CONDITIONALLY:** In the SFW-10 zone, the following conditional uses and their accessory uses are permitted subject to the provisions of Article 6, all applicable supplementary regulations contained in this Ordinance, and the finding that the use will not conflict with neighboring farm or forest uses.
 - (a) Rock quarries, and the mining, storage and processing of sand, gravel, peat and other earth products.
 - (b) Facilities for the exploration, extraction, or generation of energy resources.

- (c) Primary wood processing.
- (d) Recreational campgrounds, primitive campgrounds and associated facilities.
- (e) Golf courses and associated facilities.
- (f) Churches and schools.
- (g) Non-profit community centers.
- (h) Cemeteries.
- (i) Rural fire stations.
- (j) Animal hospitals, kennels, or other animal boarding services.
- (k) Towers for communications, wind energy conversion systems, or structures having similar impacts.
- (l) Accessory structures or accessory uses without an on-site primary use.
- (m) Sanitary landfills, waste transfer stations, or other waste processing facilities.
- (n) Public utility facilities, including substations and transmission lines.
- (o) Private airports or helicopter pads, including associated hangars, maintenance, and service facilities as provided in ORS 215.213 (1) (g).
- (p) Temporary use of mobile non-residential units such as kitchens, offices, or laboratories.
- (q) Rural or light industries.
- (r) Recreation vehicles.
- (s) Storage of construction equipment and materials, including structures used for such purposes.
- (t) Developed facilities or structures for fish or game management.
- (u) Foster family home for six or more children or adults.
- (v) Bed and breakfast enterprises.

- (w) Temporary placement of a mobile home or recreation vehicle to be used because of a health hardship, subject to Section 6.050.
 - (x) Temporary Real Estate sales office.
 - (y) Residential care, training, or treatment facility as defined by ORS 443.400; any facility which provides care, training, or treatment for six or more physically, mentally, emotionally, or behaviorally disabled individuals. Facilities that provide for five or less are addressed as "Adult Foster Homes" or Foster Family Homes".
 - (z) Home occupations according to the provisions of Section 4.140 of this Ordinance.
- (4) STANDARDS: Land divisions and development in the SFW-10 zone shall conform to the following standards, unless more restrictive supplemental regulations apply:
- (a) Lot sizes:
 1. The minimum lot size for all permitted uses shall be ten acres, unless the property is developed as a residential group development.
 2. (a) If the property is developed as a residential group development, the average density shall be one unit per eight acres, on the condition that either all, or all but one of the home sites are located within a contiguous area that is not larger than 25 percent of the total property. Adequate buffers shall be provided to minimize potential conflicts with agricultural or forestry uses. The Director may approve lot sizes at the minimum required to obtain approval for adequate on-site sewage disposal. The procedures for approval of a residential group development shall be those contained in Article 6, except that the criteria for review in Section 6.040 shall be replaced by the following:
 1. The development will not create conflicts with neighboring farm or forest uses.
 2. The development will not materially alter the stability of the overall land use pattern in the vicinity.
 3. The development will not result in the alteration of significant wetlands identified in the comprehensive plan.
 4. The development is not likely to result in hazards to life or property due to flooding or geologic conditions.
 5. All homesites are located according to a plan of partition or

subdivision, and are developed according to the requirements of the land division Ordinance.

- (b) If a residential group development is approved, the Department shall maintain an active record showing that the use of the undeveloped portion of the property is limited to farm, forest, recreational, or other resource purposes, and that construction or placement of dwellings does not occur.
3. Parcels less than ten acres in size that were legally established prior to June 17, 1982, may be built upon, provided that all other requirements of this Ordinance and other applicable County requirements are met.
- (b) The minimum lot width and depth shall both be 125 feet.
 - (c) The minimum front, side, and rear yards shall be 20 feet.
 - (d) The maximum building height for agricultural structures shall be 70 feet; for all other structures, it shall be 35 feet, except on ocean or bay frontage lots, it shall be 24 feet. higher structures may be permitted only according to the provisions of Article VIII.
 - (e) No residential structure shall be located within 100 feet of an F-1 or F zone boundary, unless it can be demonstrated that topography or other natural features will act as an equally effective barrier to conflicts between resource and residential land uses.
 - (f) Recreation vehicles shall be sited in such a way as to be screened by existing vegetation and topography from adjacent properties and roads.

SECTION 3.010: RURAL RESIDENTIAL 2 ACRE AND 10 ACRE ZONE (RR-2) (RR-10)

- (1) **PURPOSE:** The purpose of the RR zone is to provide for the creation and use of small-acreage residential homesites. Land that is suitable for Rural Residential use has limited value for farm or forest use; it is physically capable of having homesites on parcels of five acres or less; and it can be utilized for residential purposes without constraining the use of surrounding resource-zoned properties for resource-production purposes.
- (2) **USES PERMITTED OUTRIGHT:** In the RR zone, the following uses and their accessory uses are permitted outright, subject to all applicable supplementary regulations contained in this Ordinance.
 - (a) Single-family dwelling.
 - (b) Mobile or Manufactured Home.
 - (c) Recreational vehicle used during the construction or placement of a use for which a building or placement permit has been issued.
 - (d) Home occupations according to the provisions of Section 4.140 of this Ordinance.
 - (e) Farm uses, including aquaculture.
 - (f) Forest uses.
 - (g) Roadside stands for produce grown on the premises.
 - (h) Signs, subject to Section 4.020.
 - (i) Electrical distribution lines.
- (3) **USES PERMITTED CONDITIONALLY:** In the RR zone, the following uses and their accessory uses are permitted subject to the provisions of Article 6 and the requirements of all other applicable supplementary regulations contained in this Ordinance.
 - (a) Planned Developments subject to Section 3.080, or Mixed Use Developments subject to Section 4.130. The number of attached single family dwelling units in a cluster shall be established in the Planned Development approval process and may exceed four units per cluster if it is demonstrated that benefits in protection of natural conditions, better views, or access will be achieved by such clustering. This shall apply only to RR/PD zoned property located within a community growth boundary.
 - (b) Mobile or manufactured home, in those areas identified in Section 5.160 as being subject to special mobile/manufactured home standards, which do not comply with those standards.

- (c) Cottage industries.
- (d) Recreational vehicle where not allowed outright by Section 5.130.
- (e) A temporary real estate sales office.
- (f) Churches and schools.
- (g) Accessory structures or accessory uses without an on-site primary structure.
- (h) Nonprofit community meeting buildings.
- (i) Cemeteries.
- (j) Fire or ambulance stations.
- (k) Golf courses and associated facilities.
- (l) Animal hospital, kennel, or other animal boarding service.
- (m) Towers for communications, wind energy conversion systems, or structures having similar impacts.
- (n) Public utility facilities, including substations and transmission lines.
- (o) Mining, quarrying, and the processing and storage of rock, sand, gravel, peat, or other earth products; on a contiguous ownership of 10 or more acres.
- (p) Small-scale primary wood processing facilities, such as a shake mill, chipper, or stud mill, on a contiguous ownership of 10 or more acres.
- (q) Rural industries on a contiguous ownership of 10 or more acres.
- (r) Foster family homes accommodating six or more children or adults.
- (s) Bed and breakfast enterprise.
- (t) Temporary placement of a mobile home or recreational vehicle to be used because of health hardship, subject to Section 6.050.
- (u) Parks, recreational campgrounds, primitive campgrounds hunting and fishing preserves, and other recreational uses and associated facilities, on a contiguous ownership of 10 or more acres.

- (v) Residential care, training, or treatment facility as defined by ORS 443.400; any facility which provides care, training, or treatment for six or more physically, mentally, emotionally, or behaviorally disabled individuals. Facilities that provide for five or less are addressed as ADULT FOSTER HOMES or FOSTER FAMILY HOMES.
 - (w) Home occupations according to the provisions of Section 4.140 of this Ordinance.
- (4) STANDARDS: Land divisions and development in the RR-2 and RR-10 zone shall conform to the following standards, unless more restrictive supplemental regulations apply:
- (a) The minimum lot size is two acres for parcels zoned before October 4, 2000.
 - (b) The minimum parcel/lot size is 10 acres for lots/parcels rezoned Rural Residential on or after October 4, 2000.
 - (c) Parcels less than two acres in size that were legally established prior to December 18, 2002 may be built upon provided that all other requirements of this Ordinance and other applicable development requirements are met.
 - (d) Lots in an approved preliminary subdivision plat that is being maintained in an active status as of the date of adoption of this Ordinance may be built upon after approval and recording of the final plat.
 - (e) The minimum lot width and depth shall both be 100 feet.
 - (f) The minimum front yard shall be 20 feet.
 - (g) The minimum side yard shall be 5 feet; on the street side of a corner lot, it shall be no less than 15 feet.
 - (h) The minimum rear yard shall be 20 feet; on a corner lot, it shall be no less than 5 feet.
 - (i) The maximum building height shall be 35 feet, except on ocean or bay frontage lots, where it shall be 24 feet. Higher structures may be permitted only according to the provisions of Article 8.
 - (j) Livestock can be located closer than 100 feet to a nonfarm residential building on an adjacent lot only if one of the following conditions are met:
 - 1. The location of the livestock is a nonconforming use according to the provisions of Article VII of this Ordinance.

2. The property has been taxed at the farm use rate during three of the past five year.
 3. The location of the livestock has been reviewed and approved as a conditional use according to the provisions of Article VI of this Ordinance.
- (k) No residential structure shall be located within 100 feet of an F-1, F, or SFW-20 zone boundary, unless it can be demonstrated that natural or man-made features will act as an equally effective barrier to conflicts between resource and residential used; or that a residential structure could not otherwise be placed on the property without requiring a variance to the 100 foot requirement. In either case, all yard requirements in this zone shall still apply.

SECTION 3.011: COMMUNITY SINGLE FAMILY RESIDENTIAL ZONE (CSFR)

- (1) **PURPOSE:** The purpose of the CSFR zone is to provide for the creation and use of small-acreage residential homesites. Land that is suitable for Community Single Family Residential use is located within an unincorporated community boundary and is physically capable of having homesites.
- (2) **USES PERMITTED OUTRIGHT:** In the CSFR zone, the following uses and their accessory uses are permitted outright, subject to all applicable supplementary regulations contained in this Ordinance.
 - (a) Single-family dwelling.
 - (b) Mobile or Manufactured Home.
 - (c) Recreational vehicle used during the construction or placement of a use for which a building or placement permit has been issued.
 - (d) Home occupations according to the provisions of Section 4.140 of this Ordinance.
 - (e) Farm uses, including aquaculture.
 - (f) Forest uses.
 - (g) Roadside stands for produce grown on the premises.
 - (h) Signs, subject to Section 4.020.
 - (i) Electrical distribution lines.
- (3) **USES PERMITTED CONDITIONALLY:** In the CSFR zone, the following uses and their accessory uses are permitted subject to the provisions of Article 6 and the requirements of all other applicable supplementary regulations contained in this Ordinance.
 - (a) Planned Developments subject to Section 3.080, or Mixed Use Developments subject to Section 4.130. The number of attached single family dwelling units in a cluster shall be established in the Planned Development approval process and may exceed four units per cluster if it is demonstrated that benefits in protection of natural conditions, better views, or access will be achieved by such clustering. This shall apply only to CSFR/PD zoned property located within a community growth boundary.
 - (b) Mobile or manufactured home, in those areas identified in Section 5.160 as being subject to special mobile/manufactured home standards, which do not comply with those standards.

- (c) Cottage industries.
- (d) Recreational vehicle where not allowed outright by Section 5.130.
- (e) A temporary real estate sales office.
- (f) Churches and schools.
- (g) Accessory structures or accessory uses without an on-site primary structure.
- (h) Nonprofit community meeting buildings.
- (i) Cemeteries.
- (j) Fire or ambulance stations.
- (k) Towers for communications, wind energy conversion systems, or structures having similar impacts.
- (l) Public utility facilities, including substations and transmission lines.
- (m) Mining, quarrying, and the processing and storage of rock, sand, gravel, peat, or other earth products; on a contiguous ownership of 10 or more acres.
- (n) Small-scale primary wood processing facilities, such as a shake mill, chipper, or stud mill, on a contiguous ownership of 10 or more acres.
- (o) Rural industries on a contiguous ownership of 10 or more acres.
- (p) Mobile or Manufactured Home park on a contiguous ownership of 10 or more acres.
- (q) Foster family homes accommodating six or more children or adults.
- (r) Bed and breakfast enterprise.
- (s) Temporary placement of a mobile home or recreational vehicle to be used because of health hardship, subject to Section 6.050.
- (t) Parks, recreational campgrounds, primitive campgrounds hunting and fishing preserves, and other recreational uses and associated facilities, on a contiguous ownership of 10 or more acres.
- (u) Residential care, training, or treatment facility as defined by ORS 443.400; any facility which provides care, training, or treatment for six or more physically,

mentally, emotionally, or behaviorally disabled individuals. Facilities that provide for five or less are addressed as ADULT FOSTER HOMES or FOSTER FAMILY HOMES.

- (v) Home occupations according to the provisions of Section 4.140 of this Ordinance.
- (4) STANDARDS: Land divisions and development in the CSFR zone shall conform to the following standards, unless more restrictive supplemental regulations apply:
- (a) The minimum lot size is 20,000 for permitted uses.
 - (b) The minimum lot width and depth shall both be 100 feet.
 - (c) The minimum front yard shall be 20 feet.
 - (d) The minimum side yard shall be 5 feet; on the street side of a corner lot, it shall be no less than 15 feet.
 - (e) The minimum rear yard shall be 20 feet; on a corner lot, it shall be no less than 5 feet.
 - (f) The maximum building height shall be 35 feet, except on ocean or bay frontage lots, where it shall be 24 feet. Higher structures may be permitted only according to the provisions of Article 8.
 - (g) Livestock can be located closer than 100 feet to a non-farm residential building on an adjacent lot only if one of the following conditions are met:
 - 1. The location of the livestock is a nonconforming use according to the provisions of Article VII of this Ordinance.
 - 2. The property has been taxed at the farm use rate during three of the past five year.
 - 3. The location of the livestock has been reviewed and approved as a conditional use according to the provisions of Article VI of this Ordinance.
 - (h) No residential structure shall be located within 50 feet of an F-1, F, or SFW-20 zone boundary, unless it can be demonstrated that natural or man-made features will act as an equally effective barrier to conflicts between resource and residential used; or that a residential structure could not otherwise be placed on the property without requiring a variance to the 100 foot requirement. In either case, all yard requirements in this zone shall still apply.

SECTION 3.012: COMMUNITY LOW DENSITY URBAN RESIDENTIAL ZONE (CR-1)

- (1) **PURPOSE:** The purpose of the CR-1 zone is to designate areas for low-density single-family residential development and other, compatible, uses. Suitability of land for low-density uses is determined by the availability of public sewer service and such limitations to density such as geologic and flood hazards, shoreline erosion, and the aesthetic or resource values of nearby natural features.
- (2) **USES PERMITTED OUTRIGHT:** In the CR-1 zone, the following uses and their accessory uses are permitted outright, subject to all applicable supplementary regulations contained in this ordinance.
 - (a) Single-family dwelling.
 - (b) Farm and forest uses.
 - (c) Home occupations according to the provisions of Section 4.140 of this ordinance.
 - (d) Public park and recreation areas.
 - (e) Public utility lines.
 - (f) Mobile home, manufactured home or recreational vehicle used during the construction of a use for which a building permit has been issued.
 - (g) Signs, subject to Section 4.020.
- (3) **USES PERMITTED CONDITIONALLY:** In the CR-1 zone, the following uses and their accessory uses are permitted subject to the provisions of Article 6 and the requirements of all applicable supplementary regulations contained in this ordinance.
 - (a) Two-family dwelling.
 - (b) Planned developments subject to Section 3.080, or Mixed Use Developments subject to Section 4.130. The number of attached single family dwelling units in a cluster shall be established in the Planned Development approval process and may exceed four units per cluster if it is demonstrated that benefits in protection of natural conditions, better views, or access will be achieved by such clustering.
 - (c) Churches and schools.
 - (d) Nonprofit community meeting buildings and associated facilities.
 - (e) Utility substations and power transmission lines.
 - (f) Swimming, tennis, racquetball and similar facilities.

- (g) Golf courses and associated facilities.
 - (h) A temporary real estate sales office.
 - (i) Fire and ambulance stations.
 - (j) Towers for communications, wind energy conversion systems or structures having similar impacts.
 - (k) Water supply or treatment facilities or sewage treatment plants.
 - (l) Aquaculture facilities.
 - (m) Cottage industries.
 - (n) Accessory structures or uses without an on-site primary structure.
 - (o) Cemeteries.
 - (p) Foster family homes accommodating six or more children or adults.
 - (q) Bed and breakfast enterprise.
 - (r) Temporary placement of a mobile home or recreational vehicle to be used because of Health Hardship subject to Section 6.050.
 - (s) Residential care, training, or treatment facility as defined by ORS 443.400; any facility which provides care, training, or treatment for six or more physically, mentally, emotionally, or behaviorally disabled individuals. Facilities that provide for five or less are addressed as ADULT FOSTER HOMES or FOSTER FAMILY HOMES.
 - (t) Home occupations according to the provisions of Section 4.140 of this ordinance.
- (4) STANDARDS: Land divisions and development in the CR-1 zone shall conform to the following standards, unless more restrictive supplemental regulations apply:
- (a) The minimum lot size for permitted uses shall be 7,500 square feet, except that the minimum lot size for a two-family dwelling shall be 10,000 square feet. Where public sewers are not available, the County Sanitarian may require lot sizes greater than the minimum if necessary for the installation of adequate on-site subsurface sewage disposal systems.
 - (b) The minimum lot width shall be 60 feet.

- (c) The minimum lot depth shall be 75 feet.
- (d) The minimum front yard shall be 20 feet.
- (e) The minimum side yard shall be 5 feet; on the street side of a corner lot, it shall be 15 feet.
- (f) The minimum rear yard shall be 20 feet; on a corner lot, it shall be 5 feet.
- (g) The maximum building height shall be 35 feet, except on ocean or bay frontage lots, where it shall be 24 feet. Higher structures may be permitted only according to the provisions of Article VIII.
- (h) Livestock shall be located no closer than 100 feet to a residential building on an adjacent lot.

SECTION 3.014: COMMUNITY MEDIUM DENSITY URBAN RESIDENTIAL ZONE (CR-2)

- (1) **PURPOSE:** The purpose of the CR-2 zone is to designate areas for medium-density single-family and duplex residential development, and other, compatible, uses. Land that is suitable for the CR-2 zone has public sewer service available, and has relatively few limitations to development.
- (2) **USES PERMITTED OUTRIGHT:** In the CR-2 zone, the following uses and their accessory uses are permitted outright, subject to all applicable supplementary regulations contained in this Ordinance.
 - (a) One or two-family dwelling.
 - (b) Farm and forest uses.
 - (c) Public park and recreation uses.
 - (d) Home occupations according to the provisions of Section 4.140 of this Ordinance.
 - (e) Public utility lines.
 - (f) Mobile homes or recreational vehicles used during the construction of a use for which a building permit has been issued.
 - (g) Signs, subject to Section 4.020.
- (3) **USES PERMITTED CONDITIONALLY:** In the CR-2 zone, the following uses and their accessory uses are permitted subject to the provisions of Article 6 and the requirements of all applicable supplementary regulations contained in this Ordinance.
 - (a) Three or four-family dwelling.
 - (b) Planned Development subject to Section 3.080, or Mixed Use Developments subject to Section 4.130. The number of attached single-family dwelling units in a cluster shall be established in the Planned Development approval process and may exceed four units per cluster if it is demonstrated that benefits in protection of natural conditions, better views, or access will be achieved by such clustering.
 - (c) Mobile or manufactured homes subject to the exception contained in Section 5.160.
 - (d) Churches, schools, and colleges.
 - (e) Nonprofit community meeting buildings and associated facilities.
 - (f) Utility substation and power transmission lines.

- (g) A temporary real estate sales office.
- (h) Cemeteries.
- (i) Hospitals, sanitariums, rest homes, and nursing homes.
- (j) Swimming, tennis, racquetball and similar facilities.
- (k) Accessory structures and accessory uses without an on-site primary use.
- (l) Fire and ambulance stations.
- (m) Towers for communications, wind energy conversion systems or structures having similar impacts.
- (n) Water supply and treatment facilities and sewage treatment plants.
- (o) Temporary mobile kitchen units.
- (p) Cottage industries.
- (q) Foster family homes accommodating six or more children or adults.
- (r) Bed and Breakfast enterprise.
- (s) Temporary placement of a mobile home or recreational vehicle to be used because of a health hardship, subject to Section 6.050.
- (t) Golf course.
- (u) Mobile/Manufactured Home Park.
- (v) Residential care, training, or treatment facility as defined by ORS 443.400; any facility which provides care, training, or treatment for six or more physically, mentally, emotionally, or behaviorally disabled individuals. Facilities that provide for five or less are addressed as ADULT FOSTER HOMES or FOSTER FAMILY HOMES.
- (w) Home occupations according to the provisions of section 4.140 of this s Ordinance.

- (4) STANDARDS: Land divisions and development in the CR-2 zone shall conform to the following standards, unless more restrictive supplemental regulations apply:
- (a) For a single-family dwelling, the minimum size for lots with an average slope of 20 percent or less shall be 5000 square feet. For lots averaging over 20 percent, the minimum lot size shall be 6000 square feet for a single-family dwelling. A two-family dwelling shall require 2500 square feet additional area, and each of the third and fourth dwelling units shall require an additional 3750 square feet. Where public sewers are unavailable, the County Sanitarian may require lot sizes greater than the minimum, if necessary for the installation of adequate on-site sewage disposal systems.
 - (b) The minimum lot width shall be 50 feet; on a corner lot, the minimum width shall be 65 feet.
 - (c) The minimum lot depth shall be 75 feet.
 - (d) The minimum front yard shall be 20 feet.
 - (e) The minimum side yard shall be 5 feet; on the street side of a corner lot, it shall be 15 feet.
 - (f) The minimum rear yard shall be 20 feet; on a corner lot it shall be 5 feet.
 - (g) The maximum building height shall be 35 feet, except on ocean or bay frontage lots, where it shall be 24 feet. Higher structures may be permitted only according to the provisions of Article VIII.
 - (h) Livestock shall not be located closer than 100 feet to a residential building on an adjacent lot.

SECTION 3.016: COMMUNITY HIGH DENSITY URBAN RESIDENTIAL ZONE (CR-3)

- (1) **PURPOSE:** The purpose of the CR-3 zone is to designate areas for a medium- to high-density mix of dwelling types and other, compatible, uses. The CR-3 zone is intended for densely-developed areas or areas that are suitable for high-density urban development because of level topography and the absence of hazards, and because public facilities and services can accommodate a high level of use.
- (2) **USES PERMITTED OUTRIGHT:** In the CR-3 zone, the following uses and their accessory uses are permitted outright, and are subject to all applicable supplementary regulations contained in this ordinance.
 - (a) One, two, three, or four-family dwelling.
 - (b) Mobile or manufactured home subject to the exception contained in Section 5.160.
 - (c) Farm and forest uses.
 - (d) Home occupations according to the provisions of Section 4.140 of this Ordinance.
 - (e) Public park and recreation areas.
 - (f) Utility lines necessary for public service.
 - (g) A mobile home, manufactured home or recreational vehicle used during the construction or placement of a use for which a building or placement permit has been issued.
 - (h) Bed and Breakfast enterprise.
 - (i) Signs subject to Section 4.020.
- (3) **USES PERMITTED CONDITIONALLY:** In the CR-3 zone, the following uses and their accessory uses are permitted subject to the provisions of Article 6 and the requirements of all applicable supplementary regulations contained in this ordinance.
 - (a) Mobile or manufactured home not subject to Section 5.160, and mobile or manufactured home park.
 - (b) Multifamily dwellings, including townhouses and condominiums.
 - (c) Planned Developments subject to Section 3.080, or Mixed Use Developments subject to Section 4.130. The number of attached single family dwelling units in a cluster shall be established in the Planned Development approval process and

may exceed four units per cluster if it is demonstrated that benefits in protection of natural conditions, better views, or access will be achieved by such clustering.

- (d) Motel and hotel, which may include eating and drinking establishments.
- (e) Churches and schools.
- (f) Nonprofit community meeting buildings and associated facilities.
- (g) Accessory structures or uses without an on-site primary use.
- (h) Swimming, tennis, racquetball or other similar facilities.
- (i) Utility substation and power transmission lines.
- (j) Cemeteries.
- (k) Hospitals, sanitariums, rest homes, or nursing homes.
- (l) Fire or ambulance stations.
- (m) Towers for communications, wind energy conversion systems or structures having similar impacts.
- (n) Water supply and treatment facilities and sewage treatment plants.
- (o) Temporary mobile kitchen units.
- (p) Cottage industries.
- (q) A temporary real estate sales office.
- (r) Mobile/Manufactured Home Park and recreational campground.
- (s) Foster family home accommodating six or more children or adults.
- (u) Temporary placement of a mobile or manufactured home or recreational vehicle to be used because of a health hardship, subject to Section 6.050.
- (v) Residential care, training, or treatment facility as defined by ORS 443.400; any facility which provides care, training, or treatment for six or more physically, mentally, emotionally, or behaviorally disabled individuals. Facilities that provide for five or less are addressed as ADULT FOSTER HOMES or FOSTER FAMILY HOMES.
- (w) Home occupations according to the provisions of Section 4.140 of this Ordinance.

- (4) **STANDARDS:** Land divisions and development in the CR-3 zone shall conform to the following standards, unless more restrictive supplemental regulations apply:
- (a) For a single family dwelling, the minimum size for lots with an average slope of 20 percent or less shall be 5000 square feet. For lots averaging over 20 percent, the minimum lot size shall be 6000 square feet for a single-family dwelling. Each additional dwelling unit shall require 2500 square feet additional area on slopes of 20 percent or less, and 3000 square feet additional area otherwise. Where public sewers are unavailable, the County Sanitarian may require lot sizes greater than the minimum, if necessary for the installation of adequate on-site sewage disposal systems.
 - (b) The minimum lot width shall be 50 feet, except on a corner lot it shall be 65 feet.
 - (c) The minimum lot depth shall be 75 feet.
 - (d) The minimum front yard shall be 20 feet.
 - (e) The minimum side yard shall be 5 feet; on the street side of a corner lot it shall be no less than 15 feet.
 - (f) The minimum rear yard shall be 20 feet; on a corner lot it shall be no less than 5 feet.
 - (g) The maximum building height shall be 35 feet, except that on ocean or bay front lots, it shall be 24 feet. Higher structures may be permitted only according to the provisions of Article 8.
 - (h) Livestock shall be located no closer than 100 feet to a residential building on an adjacent lot.
 - (i) Lot size and yard setback standards shall apply to motels or hotels in the CR-3 zone.
 - (j) For multifamily structures with separately owned dwelling units with common walls, yard setbacks shall apply to the entire structures only.

SECTION 3.018: RESIDENTIAL MOBILE HOME ZONE (RMH)

- (1) **PURPOSE:** The purpose of the RMH zone is to designate areas for a liberal mixture of permanent and recreational mobile homes, manufactured homes and one- and two-family dwellings. Land that is suitable for either the R-2 or the R-3 zones may be suitable for the RMH zone, provided that the RMH zone will neither conflict with the character of, nor impair the use of, surrounding properties.
- (2) **USES PERMITTED OUTRIGHT:** In the RMH zone, the following uses and their accessory uses are permitted outright, subject to all applicable supplementary regulations contained in this ordinance.
 - (a) One- or two-family dwelling.
 - (b) Mobile or manufactured home.
 - (c) Farm and forest uses.
 - (d) Home occupations.
 - (e) Public park and recreation areas.
 - (f) Public utility lines.
 - (g) Signs, subject to Section 4.020.
 - (h) Recreational vehicle used during the construction or placement of a use for which a building or placement permit has been issued.
 - (i) Mobile/Manufactured Home Park.
- (3) **USES PERMITTED CONDITIONALLY:** In the RMH zone, the following uses and their accessory uses are permitted subject to the provisions of Article 6 and the requirements of all applicable supplementary regulations contained in this ordinance.
 - (a) Churches or schools.
 - (b) Community meeting buildings and associated facilities.
 - (c) Three- or four-family dwelling.
 - (d) Swimming, tennis, racquetball, or other similar facilities.
 - (e) Utility substations and power transmission lines.

- (f) A temporary real estate sales office.
 - (g) Cemeteries.
 - (h) Accessory structures or accessory uses without an on-site primary use.
 - (i) Hospital, sanitarium, rest home, or nursing home.
 - (j) Fire or ambulance stations.
 - (k) Towers for communications, wind energy conversion systems, or structures having similar impacts.
 - (l) Recreational Campground.
 - (m) Recreational vehicles, where not allowed outright by Section 5.130.
 - (n) Temporary mobile kitchen units.
 - (o) Cottage industries.
 - (p) Water supply and treatment facilities, and sewage treatment plants.
 - (q) Foster family homes accommodating six or more children or adults.
 - (r) Bed and breakfast enterprise.
 - (s) Residential care, training, or treatment facility as defined by ORS 443.440; any facility which provides care, training, or treatment for six or more physically, mentally, emotionally, or behaviorally disabled individuals. Facilities that proved for five or less are addressed as ADULT FOSTER HOMES or FOSTER FAMILY HOMES.
- (4) **STANDARDS:** Land divisions and development in the RMH zone shall conform to the following standards, unless more restrictive supplemental regulations apply:
- (a) For a single family dwelling, the minimum size for lots with an average slope of 20 percent or less shall be 5000 square feet. For lots averaging over 20 percent, the minimum lot size shall be 6000 square feet for a single family dwelling. A two-family dwelling shall require 2500 square feet additional area, and each of the third and fourth dwelling units shall require an additional 3750 square feet. Where public sewers are unavailable, the County Sanitarian may require lot sizes greater than the minimum, if necessary for the installation of adequate on-site sewage disposal systems.

- (b) The minimum lot width shall be 50 feet; on a corner lot it shall be 65 feet.
- (c) The minimum lot depth shall be 75 feet.
- (d) The minimum front yard shall be 20 feet.
- (e) The minimum side yard shall be 5 feet; on the street side of a corner lot, it shall be no less than 15 feet.
- (f) The minimum rear yard shall be 20 feet; on a corner lot it shall be no less than 5 feet.
- (g) The maximum building height shall be 35 feet except on ocean or bay front lots, where it shall be 24 feet. Higher structures may be permitted only according to the provisions of Article 8.
- (h) Livestock shall be located no closer than 100 feet to a residential building on an adjacent lot.

SECTION 3.020: RURAL COMMERCIAL ZONE (RC)

- (1) **PURPOSE:** The purpose of the RC zone is to permit a moderate level of commercial activities to serve the commercial needs of rural areas, and tourist areas. Commercial uses in the RC zone typically provide goods and services that would be required by most households in the area, and they have relatively few impacts on neighboring areas. Land is suitable for the RC zone because it:
 - (a) Is needed;
 - (b) Is physically capable of being developed;
 - (c) Can obtain access to a public road without causing traffic hazards or congestion;
 - (d) Will not cause significant conflicts with nearby residential uses; and
 - (e) Has sufficient land area to accommodate off-street parking.
- (2) **USES PERMITTED OUTRIGHT:** In the RC zone, the following uses and their accessory uses are permitted outright, subject to all applicable supplementary regulations contained in this ordinance.
 - (a) General retail trade establishments such as grocery stores, drug stores, or hardware stores, provided that such establishments do not require over 15 parking spaces.
 - (b) Business, government, professional, and medical offices, financial institutions, and libraries requiring less than 15 parking spaces.
 - (c) Eating and drinking establishments, excluding drive-in or fast food restaurants.
 - (d) A single-family dwelling, manufactured or mobile home for the owner of an active business located on the same lot or parcel.
 - (e) Mobile home or recreational vehicle used during the construction of a use for which a building or placement permit has been issued.
 - (f) Swimming, tennis, racquetball, or other similar facilities.
 - (g) Signs, subject to Section 4.020.
 - (h) Dwelling unit or units accessory to an active commercial use, located above the first story.
 - (i) Bed and breakfast enterprise.

- (j) Public park and recreation uses.
 - (k) Miniature Golf Course.
 - (l) Temporary produce stand- Not to exceed 45 days.
- (3) USES PERMITTED CONDITIONALLY: In the R C zone, the following uses and their accessory uses are permitted subject to the provisions of Article IV and the requirements of all applicable supplementary regulations contained in this ordinance:
- (a) General retail trade establishments such as grocery stores, drug stores, and hardware stores, that require 25 parking spaces or fewer.
 - (b) Sales and service activities requiring a large outdoor storage space, including the sale and repair of cars, trucks, farm equipment, heavy machinery and marine craft; the storage of construction, plumbing, heating, paving, electrical and painting materials; and parking for trucks as part of a construction or shipping operation.
 - (c) Warehousing, including mini-storage.
 - (d) Animal hospitals, kennels or other animal boarding facilities.
 - (e) Lodges, clubs, or meeting facilities for private organizations.
 - (f) Temporary mobile kitchen units.
 - (g) Light industries.
 - (h) One-family dwelling,
 - (i) Mobile home or recreational vehicle.
 - (j) Churches and schools.
 - (k) Community meeting buildings and associated facilities.
 - (l) Hospitals, sanitariums, rest homes, and nursing homes.
 - (m) Fire and ambulance stations.
 - (n) Utility substations and power transmission lines.
 - (o) Towers for communications, wind energy conversion systems, or structures having similar impacts.

- (p) Water supply and treatment facilities, and sewage treatment plants.
 - (q) Foster family home accommodating six or more children or adults.
 - (r) Recreational campgrounds without full hook-up requiring community septic system.
 - (s) Off-site advertising sign.
 - (t) Residential care, training, or treatment facility as defined by ORS 443.400; any facility which provides care, training or treatment for six or more physically, mentally, emotionally, or behaviorally disabled individuals. Facilities that provide for five or less are addressed as ADULT FOSTER HOMES or FOSTER FAMILY HOMES.
- (4) STANDARDS: Land divisions and development in the RC zone shall conform to the following standards, unless more restrictive supplemental regulations apply:
- (a) The minimum lot dimensions, yard setbacks, and building height restrictions for structures containing only residential use shall be the same as in the RR zone.
 - (b) Minimum yards for any structure on a lot or parcel adjacent to a residential zone shall be 5 feet on the side adjacent to the residential zone, and 10 feet in the front yard. No rear yard is required.
 - (c) For commercial or combined commercial-residential structures, structures shall be either constructed on the property line or setback at least 3 feet or as required in Section 3.020 (4) (b).
 - (d) All structures shall meet the requirements for clear-vision areas specified in Section 4.010.
 - (e) All uses shall meet off-street parking requirements as provided in Section 4.030.
 - (f) Outdoor storage abutting or facing a lot in a residential zone shall be screened with a sight-obscuring fence.
 - (g) The maximum building height for commercial structures shall be 35 feet except on ocean or bay frontage lots, where it shall be 24 feet, higher structures may be permitted as a conditional use in accordance with Article VI.
 - (h) Scale of Commercial uses:
 - a. Outside an unincorporated community, the use shall not exceed a total of 3,000 square feet of floor area per use within a building(s)

- b. Outside an unincorporated community a lawfully established use that existed prior to the adoption of this Section (December 4, 2002) may be expanded to occupy a maximum of 3,000 square feet of floor area, or an additional 25% of the floor area currently occupied, whichever is greater.

SECTION 3.022: COMMUNITY COMMERCIAL ZONE (CC)

- (1) **PURPOSE:** The purpose of the CC zone is to designate areas for high intensity commercial and some light industrial activities within unincorporated community boundaries. The zone is intended to accommodate all commercial needs of the community, surrounding rural areas, and visitors. Land that is suitable for the RC zone is suitable for the CC zone, except that a higher level of use, and therefore a higher level of off-site impacts, must be anticipated.
- (2) **USES PERMITTED OUTRIGHT:** In the CC zone, the following uses and their accessory uses are permitted outright, subject to all applicable supplementary regulations contained in this ordinance.
 - (a) General and specialty retail trade establishments.
 - (b) Personal and business services such as barbers, tailors, printers, funeral homes, shoe repair shops, upholsterers, and cleaners.
 - (c) Business, government, professional, and medical offices; financial institutions; and libraries.
 - (d) Animal hospitals, kennels and similar animal boarding facilities.
 - (e) Retail establishments requiring drive-in facilities such as gas stations, bank drive-up windows, and fast food restaurants.
 - (f) Sales and service activities requiring large outdoor storage space, including the sale and repair of cars, trucks, farm equipment, heavy machinery, and marine craft; the storage of construction, plumbing, heating, paving, electrical, and painting materials; and parking for trucks as part of a construction or shipping operation.
 - (g) Shopping centers.
 - (h) Warehousing, including mini-storage.
 - (i) Eating and drinking establishments.
 - (j) Lodges, clubs, or meeting facilities for private organizations.
 - (k) Motels, hotels, and cabin camps.
 - (l) A single-family dwelling, manufactured or mobile home for the owner of an active business located on the same lot or parcel.

- (m) Mobile or manufactured homes or recreational vehicles used during the construction or placement of a use for which a building or placement permit has been issued.
 - (n) Community meeting buildings and associated facilities.
 - (o) Schools.
 - (p) Water supply and treatment facilities.
 - (r) Off-site advertising signs.
 - (s) Dwelling units accessory to an active commercial use, when located above the first story.
 - (t) Bed and breakfast enterprises.
 - (u) Swimming.
 - (v) Public park and recreation uses.
 - (w) Temporary produce stand- Not to exceed 45 days.
- (3) USES PERMITTED CONDITIONALLY: In the CC zone, the following uses and their accessory uses are permitted subject to the provisions of Article 6 and the requirements of all applicable supplementary regulations contained in this ordinance:
- (a) One or two-family dwelling not associated with an active business.
 - (b) Light industries.
 - (c) Multifamily dwelling, including townhouses, and condominiums.
 - (d) Mobile home or recreational vehicle.
 - (e) Hospitals, sanitariums, rest homes, and nursing homes.
 - (f) Fire and ambulance stations.
 - (g) Utility substations and power transmission lines.
 - (h) Towers for communications, wind energy conversion systems, or structures having similar impacts.
 - (i) Commercial amusement or entertainment establishments.

- (j) Sewage treatment plants.
 - (k) Recreational campground.
 - (l) Foster family home accommodating six or more children or adults.
 - (m) Temporary mobile kitchen units.
 - (n) Mixed Use Developments subject to Section 4.130.
 - (o) Mobile/Manufactured Home Park.
 - (p) Residential care, training, or treatment facility as defined by ORS 443.400; any facility which provides care, training, or treatment for six or more physically, mentally, emotionally, or behaviorally disabled individuals. Facilities that provide for five or less are addressed as ADULT FOSTER HOMES or FOSTER FAMILY HOMES.
 - (q) Car wash.
 - (r) Outdoor Retail
- (4) STANDARDS: Land divisions and development in the CC zone shall conform to the following standards, unless more restrictive supplemental regulations apply:
- (a) The minimum lot dimensions and yard setbacks, and the maximum building heights for structures containing only residential uses, shall be the same as in the CR-3 zone.
 - (b) In the CC zone, motels, hotels, and cabin camps shall be considered a commercial use.
 - (c) Minimum yards for any structure on a lot or parcel adjacent to a residential zone shall be 5 feet on the side adjacent to the residential zone, and 10 feet in the front yard. No rear yard is required.
 - (d) For commercial or combined commercial-residential structures, structures shall be either constructed on the property line or setback at least 3 feet or as required in Section 3.020 (4) (b)
 - (e) All structures shall meet the requirements for clear-vision areas specified in Section 4.010.
 - (f) All uses shall meet off-street parking requirements as provided in Section 4.030.
 - (g) Buildings shall not exceed 45 feet in height.

- (h) Outdoor storage abutting or facing a lot in a residential zone shall be screened with a sight-obscuring fence.
- (i) Maximum Floor Area Per Use: Individual uses shall not exceed 4,000 square feet of gross floor area.

SECTION 3.024: COMMUNITY PUBLIC USE ZONE (CP)

- (1) **PURPOSE:** The purpose of the CP zone is to designate areas for public uses in unincorporated communities. The zone is intended to accommodate public service, recreational and open space needs of the community, surrounding rural areas, and visitors.
- (2) **USES PERMITTED OUTRIGHT:** In the CP zone, the following uses and their accessory uses are permitted outright, subject to all applicable supplementary regulations contained in this ordinance.
 - (a) Not-for-profit child daycare facilities.
 - (b) Community meeting buildings and associated facilities.
 - (c) Fire and ambulance stations.
 - (d) Public and semipublic buildings, structures and uses essential to the physical, social, cultural and economic welfare of the area.
 - (e) Public park and open space uses, including rest areas and waysides.
 - (f) Public recreational facilities, including playing fields.
- (3) **STANDARDS:** Land divisions and development in the CP zone shall conform to the following standards, unless more restrictive supplemental regulations apply:
 - (a) Minimum yards for any structure on a lot or parcel adjacent to a residential zone shall be 5 feet on the side adjacent to the residential zone, and 10 feet in the front yard. No rear yard is required.
 - (b) Structures shall be either constructed on the property line or setback at least 3 feet.
 - (c) All structures shall meet the requirements for clear-vision areas specified in Section 4.010.
 - (d) All uses shall meet off-street parking requirements as provided in Section 4.030.
 - (e) Buildings shall not exceed 35 feet in height.
 - (f) Outdoor storage abutting or facing a lot in a residential zone shall be screened with a sight-obscuring fence.

SECTION 3.030: RURAL INDUSTRIAL ZONE (RI)

- (1) **PURPOSE:** The purpose of the RI zone is to accommodate commercial activities requiring large sites and industrial activities that have impacts of such a nature that do not preclude the use of surrounding properties for legal purposes. Considerations for the inclusion of land in the RC-zone apply likewise to the RI zone, but the site should be at least 5 acres in size; in addition, site location and the nature of nearby uses are especially critical.
- (2) **USES PERMITTED OUTRIGHT:** In the RI zone, the following uses and their accessory uses are permitted outright, subject to all applicable supplementary regulations contained in this ordinance:
 - (a) Light industries such as printing; research and testing; plastics molding; fabrication and assembly of instruments, light equipment, electronics, appliances and specialty wood products; packaging of specialty food products; and other similar industrial uses as defined in Section 1.030.
 - (b) Commercial service activities requiring large outdoor storage space, including the sale and repair of cars, trucks, farm equipment, heavy machinery, and marine craft; the storage of construction, plumbing, heating, paving, electrical and painting materials; and parking for trucks as part of a construction or shipping operation.
 - (c) Warehousing, including mini-storage, wholesaling, and product distribution centers.
 - (d) Mobile homes, manufactured home, or recreational vehicle used during the construction of a use for which a building permit has been issued.
 - (e) Interim uses prior to industrial or commercial development, including:
 - (1) Farm uses, including aquaculture;
 - (2) Forest uses, including log and equipment storage and the primary processing of forest products; and
 - (3) Outdoor recreation uses.
 - (f) Forest uses and farm uses, including aquaculture.
 - (g) Signs, subject to Section 4.020.
 - (h) Off-Site advertising signs.

(3) **USES PERMITTED CONDITIONALLY:** In the RI zone, the following uses and their accessory uses are permitted subject to the provisions of Article VI and the requirements of all applicable supplementary regulations contained in this ordinance:

- (a) Fire and ambulance stations.
- (b) Utility substations and power transmission lines.
- (c) Towers for communications, wind energy conversion systems, or structures having similar impacts.
- (d) Energy generation systems.
- (e) Water supply and treatment facilities and sewage treatment plants.
- (f) Mixed Use Developments subject to Section 4.130.
- (g) Mobile home /manufactured home, recreational vehicle, or boat manufacturing facilities.

(4) **STANDARDS:** Land development in the RI zone shall conform to the following standards, unless more restrictive supplemental regulations apply:

- (a) The minimum yard adjacent to a residential use or zone shall be 20 feet.
- (b) The maximum building height shall be 45 feet. Higher structures may be permitted only according to the provisions of Article 8.
- (c) Outdoor storage abutting or facing a residential use or zone shall be screened with a sight-obscuring fence.
- (d) Off-street parking and loading areas shall be provided as specified in Section 4.030.
- (e) For any parcel five acres or larger in size, an overall development plan shall be submitted to the Department at the time an application for a building permit is filed. The site development plan shall be reviewed for compatibility with surrounding land uses, and approved at the time of issuance of the building permit. The Director may attach conditions to the approval of such permits in order to assure compatibility with surrounding uses.
- (f) Maximum industrial use floor area:
 - a. A total of 7,500 square feet of floor area per except for the primary processing of raw material produced in rural areas, where there is no square footage of floor area per use limitation.

- b. Standard for Existing Industrial Uses: Lawfully established uses that existed on or before the date of this ordinance (December 4, 2002), not otherwise listed in the zone, are allowed outright and shall not be classified as non-conforming uses.
- c. A lawfully established use that existed on (December 4, 2002) may expand to occupy 7,500 square feet of floor area within a building(s) or an additional 25% of floor area currently occupied, whichever is greater.

SECTION 3.031: COMMUNITY-INDUSTRIAL ZONE (CI)

- (1) **PURPOSE:** The purpose of the CI zone is to accommodate uses that cannot be accommodated in other zones due to off-site impacts that could, without sufficient buffers, interrupt the use or enjoyment of surrounding properties. Land is suitable for the CI zone if it:
 - (a) Is needed;
 - (b) Is physically capable of accommodating heavy industrial activities;
 - (c) Has access to transportation routes capable of accommodating heavy traffic;
 - (d) Is buffered from residential areas so as not to create conflicts; and
 - (e) Is or can be adequately served by public utilities and services.
- (2) **USES PERMITTED OUTRIGHT:** In the CI zone, the following uses and their accessory uses are permitted outright, subject to all applicable supplementary regulations contained in this Ordinance:
 - (a) Light industries.
 - (b) Heavy industries.
 - (c) Sales and service activities requiring large outdoor storage space, including the sale and repair of cars, trucks, farm equipment, heavy machinery, and marine craft; the storage of construction, plumbing, heating, paving, electrical , and painting materials; and parking for trucks as part of a construction or shipping operation.
 - (d) Warehousing, including mini-storage, wholesaling, truck dispatch, or storage facilities.
 - (e) Rock quarries, and the mining and processing of sand, gravel, peat and other earth products.
 - (f) Farm uses, including aquaculture, and forest uses.
 - (g) Energy resource exploration and extraction.
 - (h) Public park and recreation uses.
 - (i) Utility substations and power transmission lines.

- (j) Towers for communications, wind energy conversion systems, or structures having similar impacts.
 - (k) Sanitary landfills, waste transfer stations or processing facilities, and recycling centers.
 - (l) Water supply and treatment facilities and sewage treatment plants.
 - (m) Airports.
 - (n) Dwellings for caretakers or watchmen that are accessory to an established use, including mobile home or recreational vehicle.
 - (o) Mobile homes or recreational vehicles used during the construction of a use for which a building permit has been issued.
 - (p) Signs, subject to Section 4.020.
 - (q) Off-Site Advertising Sign.
- (3) **USES PERMITTED CONDITIONALLY:** In the CI zone, except as provided in Subsection (2) (q) of this Section, the following uses and their accessory uses are permitted subject to the provisions of Article VI and the requirements of all applicable supplementary regulations contained in this Ordinance:
- (a) Industries with exceptionally heavy environmental impacts according to State Department of Environmental Quality standards.
 - (b) Mining and processing activities not specifically listed in Section 3.032 (2).
 - (c) Power generating facilities.
 - (d) Business, government, or professional offices.
 - (e) Convention facilities, including motels and restaurants.
 - (f) Fire or ambulance stations.
 - (g) Schools.
 - (h) Community meeting buildings and associated facilities.
 - (i) Temporary mobile kitchen units.
 - (j) Auto wrecking yards.

- (k) Recreational campground, provided that in addition to the conditional use criteria contained in Section 6.040 the following criteria are met and/or applied as conditions if approval is granted.
 - 1. The proposed development will not conflict with any existing or emerging patterns of industrial development;
 - 2. Permanent facilities and structures are limited so that they can easily be removed to accommodate an industrial siting; and,
 - 3. Periodic review of the decision shall be conducted by the County Planning Staff to determine if a need is present for the subject parcel to be converted to industrial use.
- (l) Correctional facility.
- (4) STANDARDS: Land development in the CI zone shall conform to the following standards, unless more restrictive supplemental regulations apply:
 - (a) The minimum yard adjacent to a residential use or zone shall be 20 feet.
 - (b) Building heights shall not exceed 75 feet.
 - (c) Outdoor storage abutting or facing a lot in a residential zone shall be screened with a sight-obscuring fence.
 - (d) Off-street parking and loading areas shall be provided as specified in Section 4.030.
 - (e) Maximum industrial use floor area:
 - a. A total of 10,000 square feet of floor area per except for the primary processing of raw material produced in rural areas, where there is no square footage of floor area per use limitation.
 - b. Standard for Existing Industrial Uses: Lawfully established uses that existed on or before the date of this ordinance (December 18, 2002), not otherwise listed in the zone, are allowed outright and shall not be classified as non-conforming uses.
 - c. A lawfully established use that existed on (December 18, 2002) may expand to occupy 10,000 square feet of floor area within a building(s) or an additional 50% of floor area currently occupied, whichever is greater.

SECTION 3.032: GENERAL INDUSTRIAL ZONE (M-1)

- (1) **PURPOSE:** The purpose of the M-1 zone is to accommodate uses that cannot be accommodated in other zones due to off-site impacts that could, without sufficient buffers, interrupt the use or enjoyment of surrounding properties. Uses listed in Section 3.032 are permitted in the identified Port of Tillamook Bay Industrial Park "M-1 Zone" and the Tillamook Creamery "M-1 Zone" only.

Land is suitable for the M-1 zone if it:

- (a) Is needed;
 - (b) Is physically capable of accommodating heavy industrial activities;
 - (c) Has access to transportation routes capable of accommodating heavy traffic;
 - (d) Is buffered from residential areas so as not to create conflicts; and
 - (e) Is or can be adequately served by public utilities and services.
 - (f) Land zoned for resource use cannot be zoned M-1 without an approved Exception to Goals 3, 4, and 14.
 - (g) Land zoned for development cannot be zoned M-1 zone without an approved Exception to Goal 14.
- (2) **USES PERMITTED OUTRIGHT:** In the M-1 zone, the following uses and their accessory uses are permitted outright, subject to all applicable supplementary regulations contained in this Ordinance:
- (a) Light industries.
 - (b) Heavy industries.
 - (c) Sales and service activities requiring large outdoor storage space, including the sale and repair of cars, trucks, farm equipment, heavy machinery, and marine craft; the storage of construction, plumbing, heating, paving, electrical , and painting materials; and parking for trucks as part of a construction or shipping operation.
 - (d) Warehousing, including mini-storage, wholesaling, truck dispatch, or storage facilities.
 - (e) Rock quarries, and the mining and processing of sand, gravel, peat and other earth products.

- (f) Farm uses, including aquaculture, and forest uses.
 - (g) Energy resource exploration and extraction.
 - (h) Public park and recreation uses.
 - (i) Utility substations and power transmission lines.
 - (j) Towers for communications, wind energy conversion systems, or structures having similar impacts.
 - (k) Sanitary landfills, waste transfer stations or processing facilities, and recycling centers.
 - (l) Water supply and treatment facilities and sewage treatment plants.
 - (m) Airports.
 - (n) Dwellings for caretakers or watchmen that are accessory to an established use, including mobile home or recreational vehicle.
 - (o) Mobile homes or recreational vehicles used during the construction of a use for which a building permit has been issued.
 - (p) Signs, subject to Section 4.020.
 - (q) Uses listed in Subsections 3.032 (3) (c) through (f) are permitted outright in the Port of Tillamook Bay Industrial Park "M-1 Zone" only.
 - (r) Off-Site Advertising Sign.
- (3) **USES PERMITTED CONDITIONALLY:** In the M-1 zone, except as provided in Subsection (2) (q) of this Section, the following uses and their accessory uses are permitted subject to the provisions of Article 6 and the requirements of all applicable supplementary regulations contained in this Ordinance:
- (a) Industries with exceptionally heavy environmental impacts according to State Department of Environmental Quality standards.
 - (b) Mining and processing activities not specifically listed in Section 3.032 (2).
 - (c) Power generating facilities.
 - (d) Business, government, or professional offices.
 - (e) Convention facilities, including motels and restaurants.

- (f) Fire or ambulance stations.
- (g) Schools.
- (h) Community meeting buildings and associated facilities.
- (i) Temporary mobile kitchen units.
- (j) Auto wrecking yards.
- (k) Recreational campground, provided that in addition to the conditional use criteria contained in Section 6.040 the following criteria are met and/or applied as conditions if approval is granted.
 - 1. The proposed development will not conflict with any existing or emerging patterns of industrial development;
 - 2. Permanent facilities and structures are limited so that they can easily be removed to accommodate an industrial siting; and,
 - 3. Periodic review of the decision shall be conducted by the County Planning Staff to determine if a need is present for the subject parcel to be converted to industrial use.
- (l) Correctional facility.
- (m) Golf Course in Port of Tillamook Bay Industrial Park.
- (4) **STANDARDS:** Land development in the M-1 zone shall conform to the following standards, unless more restrictive supplemental regulations apply:
 - (a) The minimum yard adjacent to a residential use or zone shall be 20 feet.
 - (b) Building heights shall not exceed 75 feet.
 - (c) Outdoor storage abutting or facing a lot in a residential zone shall be screened with a sight-obscuring fence.
 - (f) Off-street parking and loading areas shall be provided as specified in Section 4.030.

SECTION 3.034: UTILITIES FACILITIES OVERLAY ZONE (UFO)

- (1) **PURPOSE:** The purpose of the UFO zone is to accommodate the facilities necessary to supply the foreseeable utility needs of the County. The UFO zone is applied as an overlay upon existing zones in order to permit the installation of utility facilities in appropriate locations. Sites included in this zone should be of sufficient size and quality to provide the needed service, minimize off-site impacts, and preserve resource values in the area.
- (2) **USES PERMITTED OUTHRIGHT:** In the UFO zone, in addition to the uses permitted outright in the underlying zone, the following uses and their accessory uses are permitted outright, subject to all applicable supplementary regulations contained in this Ordinance.
 - (a) Electrical substations and switching facilities.
 - (b) Electrical transmission lines and line support structures.
 - (c) Towers for communications, wind energy conversion systems, or structures having similar impacts.
 - (d) Energy generation systems.
 - (e) Water supply and treatment facilities, water control structures, pumping stations, storage tanks, and reservoirs.
 - (f) Waste treatment works, including any devices or systems used to store, treat, recycle, or reclaim municipal wastes; or to recycle or reuse waste water; including sewer lines, outfalls, and pumping facilities.
 - (g) Yards or structures for storage and/or repair of utility supplies and equipment.
 - (h) Utility offices.
- (3) **USES PERMITTED CONDITIONALLY:** In the UFO zone, uses other than, but related to, the uses listed in (2) above are permitted subject to the provisions of Article 6 and the requirements of all applicable supplementary regulations contained in this Ordinance. Any of the utility uses listed in (2) above which are listed as Conditional Uses in the underlying zone shall be permitted outright upon the application of the UFO zone.
- (4) **STANDARDS:** In the UFO zone, the following standards shall apply to uses listed in (2) above, in lieu of standards contained in the underlying zone. The standards do not apply to any distribution lines providing services to residential, commercial, industrial, or other customers. All structures listed in this zone are subject to applicable supplementary regulations such as those contained in Sections 3.060, 3.090, 4.070, and 4.080 of this Ordinance.
 - (a) Except as provided in this section, no utility structure shall be constructed closer than

either 20 feet from a front property line or 10 feet from any other property line. Utility structures that are no greater than 36 square feet from these setbacks. Transmission lines and related structures are exempt from these setbacks, but they are subject to all requirements of the right-of-way, easement, or County franchise for such facilities.

- (b) Minimum lot dimensions for specific utility uses are as follows:
 - (1) Electrical substation: 100 by 200 feet.
 - (2) Water storage tank: 100 by 100 feet.
- (c) Buildings shall not exceed 35 feet in height. Other structures not used for human occupancy may exceed this height limitation, as provided in Section 5.120.
- (d) Outdoor storage areas within 200 feet of a residential use or zone shall be screened with a sight-obscuring fence.
- (e) Off-street parking and loading shall be provided in accordance with the standards set forth in Section 4.030.
- (f) Signs that are 16 square feet in area or less, and which are necessary for safety or other operational requirements, shall be permitted subject to the standards contained in Section 4.020.
- (g) Substations and other utility facilities shall utilize equipment, baffling structures, site excavation, and earthen berms or landscaped screening to limit objectionable noise and visual impacts upon adjacent residential uses or zones.
- (h) Any building providing a place of employment shall meet state and County Sanitation requirements for sewage disposal.
- (i) Fresh water wetlands identified by the Oregon Department of Fish and Wildlife, and adopted by the County as critical wildlife habitats, shall be protected according to site-specific recommendations provided by the Oregon Department of Fish and Wildlife.
- (j) Public Works Department requirements shall be met for any utility structure placed in a public right-of-way by a utility not having a franchise for such location. For those utilities having such a franchise, requirements of the franchise shall be met.

SECTION 3.040: RECREATION MANAGEMENT ZONE (RM)

- (1) **PURPOSE:** The purpose of the RM zone is to designate areas for public and private parks and day-use facilities, including such areas that contain significant natural or scenic values. The RM zone is intended to accommodate the type of recreational developments that preserve an area's natural values; it is not intended for intensive recreational developments that do not retain substantial open space on the property.
- (2) **USES PERMITTED OUTRIGHT:** In the RM zone, the following uses and their accessory uses are permitted outright, subject to all applicable supplementary regulations contained in this Ordinance:
 - (a) Maintenance and operation of existing structures and facilities.
 - (b) Recreational improvements and additions necessary to serve the same numbers and densities of visitors served by the existing facilities, provided that off-site impacts are not increased. Such facilities include picnic areas, playgrounds, pavilions, maintenance buildings, tennis courts, and swimming pools.
 - (c) Single- or multiple-unit dwellings or residential quarters for caretakers and staff members necessary to serve existing facilities.
 - (d) Utility lines, excluding power transmission lines.
 - (e) Signs, subject to Section 4.020.
 - (f) Farm uses, including aquaculture, and forest uses.
 - (g) Fish and game management.
- (3) **USES PERMITTED CONDITIONALLY:** In the RM zone, the following uses and their accessory uses are permitted subject to the provisions of Article 6 and the requirements of all applicable supplementary regulations contained in this Ordinance:
 - (a) Recreation campgrounds, primitive campgrounds and group lodging facilities such as dormitories for visitors, but not including commercial motels, hotels, or group cottages.
 - (b) Meeting and recreational facilities that will increase visitor capacity or off-site impacts.
 - (c) Retail facilities, including eating establishments, that are designed primarily to serve those who visit nearby recreational developments.

- (d) Marinas or mooring areas.
 - (e) Rock quarries.
 - (f) Primary wood processing.
 - (g) Water treatment facilities and sewage treatment plants.
 - (h) Utility substations and power transmission lines.
 - (i) Towers for communications, wind energy conversion systems, or structures having similar impacts.
 - (j) Hydroelectric power generating facilities.
 - (k) Golf courses.
 - (l) A single-family residential structure on a legally created parcel that is at least 5 acres in size.
- (4) **STANDARDS:** Land divisions and development in the RM zone shall conform to the following standards, unless more restrictive supplemental regulations apply:
- (a) Recreational developments shall retain substantial open space on the property.
 - (b) Master plans for improvements in the RM zone may include any of the permitted or Conditional Uses listed in this zone. The Planning Department or Commission may approve such plans for a recreation area, according to the provisions of this Section, that plan for a period not to exceed ten years. Such approvals would allow all uses provided in the plan except those that require further information or review due either to lack of plan detail or the applicability of additional Ordinance criteria or standards. Any changes to the plan which would not affect visitor capacity or increase off-site impacts may be approved by the Director. All other changes or amendments shall be reviewed as required by this Section.
 - (c) The minimum lot size shall be 40 acres. The Director may approve a smaller lot size according to the provisions of Article VI, provided that forest resource values are maintained in the vicinity.

SECTION 3.042: RECREATION NATURAL ZONE (RN)

- (1) **PURPOSE:** The purpose of the RN zone is to designate and preserve areas that contain significant natural and/or scenic values. It is intended to accommodate only the type of developments that will preserve and maintain such values. Parcels in the RN zone should be large enough to allow all permitted activities to occur primarily in areas well removed from areas with significant natural or scenic values.
- (2) **USES PERMITTED OUTRIGHT:** In the RN zone, the following uses and their accessory uses are permitted outright, and are subject to all applicable supplementary regulations contained in this Ordinance.
 - (a) General maintenance and operation of existing structures and facilities.
 - (b) Educational and recreational improvements and additions necessary to serve the same numbers and densities of visitors served by the existing facilities, provided off-site impacts are not increased and areas exhibiting significant natural or scenic values are not disturbed.
 - (c) Selective removal of trees damaged by windthrow or disease.
- (3) **USES PERMITTED CONDITIONALLY:** In the RN zone, the following uses and their accessory uses are permitted subject to the provisions of Article 6 and the requirements of all applicable supplementary regulations contained in this Ordinance:
 - (a) Recreational improvements and additions that will increase visitor capacity or off-site impacts, provided that areas exhibiting significant natural or scenic values are not disturbed.
- (4) **STANDARDS:** Land divisions and development in the RN zone shall conform to the following standards, unless more restrictive supplemental regulations apply:
 - (a) The Department may approve master plans for an area zoned RN, according to the provisions of this section and Article VI of this Ordinance. Such plans may not exceed a time period of over ten years. The approval would allow all uses indicated in the plan except those that require further information or review due either to lack of plan detail or the applicability of additional Ordinance criteria or standards. Minor changes in the plan which would not affect visitor capacity, off-site impacts or natural or scenic areas may be approved by the Director.
 - (b) The minimum lot size shall be 40 acres. The Department may approve a smaller lot size according to the provisions of Article VI, provided that natural or scenic values are maintained.

SECTION 3.044: RECREATION DEVELOPMENT ZONE (RD)

- (1) **PURPOSE:** The purpose of the Recreation Development (RD) Zone is to designate areas for land intensive recreation activities and their accessory uses that cannot be reasonably accommodated within urban growth boundaries.
- (2) **USES PERMITTED OUTRIGHT:** In the RD zone, the following uses and their accessory uses are permitted outright, subject to all applicable supplementary regulations contained in this Ordinance:
 - (a) Golf course on 65 acres or more, with highly maintained turf consisting of a series of nine (9) or more holes each including a tee, a fairway, a putting green and often one or more natural or artificial hazards;
 - (b) Accessory uses that are incidental to and in conjunction with the operation of and maintenance of a golf course or provides goods and services customarily provided to golfers in conjunction with a golf course, such as, clubhouse, restrooms, shower and locker facility, golf cart storage and servicing facility;
 - (c) Public parks providing playgrounds, ball fields, and picnic areas;
 - (d) Utility lines;
 - (e) Signs, subject to Section 4.020;
 - (f) Farm uses, and forest uses.
- (3) **USES PERMITTED CONDITIONALLY:** In the RD zone, the following uses and their accessory uses are permitted subject to the provisions of Article VI and the requirements of all applicable supplementary regulations contained in this Ordinance:
 - (a) Par three or greater golf course with a series of nine holes or more, on less than 65 acres.
 - (b) Recreation uses subordinate to land intensive recreation use permitted outright in RD zone, such as miniature-golf, pitch-putt golf and, practice and driving range, automated batting cages, basketball courts, tennis courts, handball courts, skate parks, bicycle tracks, indoor recreational facilities, and similar uses.
 - (c) Accessory uses subordinate to recreational use permitted outright in RD zone such as a restaurant, beverage service, pro-shop, etc., and shall be limited in size and orientation to serve the needs of people who patronize the on-site recreation facilities.
 - (d) Single family manufactured home for owner, caretaker or security staff for approved recreation facility that must be removed if primary use ceases.
- (4) **STANDARDS:** Land divisions and development in the RD zone shall conform to the following standards, unless more restrictive supplemental regulations apply:
 - (a) Recreational developments shall retain substantial open space on the property.

- (b) The minimum lot size shall be 65 acres for creation of new parcels under this zone. The Director may approve a smaller lot size according to the provisions of Article VI, provided that a market study demonstrates a viable need for the proposed use.
- (c) The minimum front yard shall be 20 feet.
- (d) The minimum side yard and rear yard shall be 20 feet for structures open to the public or a minimum three feet for structures not open to the public unless yard is adjacent to a street in which case the minimum yard shall be 15 feet.
- (e) The maximum building height shall be 35 feet, except on ocean or bay frontage lots, where it shall be 24 feet.
- (f) No structure open to the public or residential structure shall be located within 100 feet of an F-1, F, or SFW-20 zone boundary, unless it can be demonstrated that natural or man-made features will act as an effective barrier to conflicts between resource and residential used; or that a structure required for the permitted use could not otherwise be placed on the property without requiring a variance to the 100 foot requirement. In either case, all yard requirements in this zone shall still apply.

SECTION 3.050: WATER-DEPENDENT DEVELOPMENT ZONE (WDD)

- (1) **PURPOSE AND AREAS INCLUDED:** The purpose of this zone is to designate shoreland areas which are especially suited for water-dependent recreational , commercial and industrial uses. Areas within the WDD zone may include, but are not limited to:
 - (a) Areas with deep water close to shore and supporting land transportation facilities.
 - (b) Areas with potential for aquaculture.
 - (c) Areas adjacent to protected areas subject to scour which would require little dredging for use as marinas.
 - (d) Areas with potential for recreational utilization of coastal water resources or riparian resources.

- (2) **USES PERMITTED WITH STANDARDS (PS):** In a WDD zone the following uses and their accessory uses are permitted with standards (PS), provided that any applicable development standards in Section 3.140 have been met.
 - (a) Maintenance and repair of either existing structures or facilities which are in conformance with Goals 17 requirements or nonconforming structures or facilities.
 - (b) Water-dependent industrial uses, including, but not limited to:
 1. Piers, wharves and other terminal and transfer facilities for passengers or water-borne commerce such as fish, shellfish, timber or timber products.
 2. Water intake and discharge structures.
 3. Facilities for the extraction of minerals, aggregate, petroleum, natural gas, earth products or geothermal resources (as defined by Subsection 4 of ORS 533.010) which require access to a water body during the extraction procedure.
 4. Water access structure of facilities which require access to a water body as a part of the manufacture, assembly, fabrication or repair of marine equipment, due to the size of the craft or equipment.
 5. Aquaculture facilities, including hatchery sites or fish release/recapture sites, which require access to or use of water.

- (c) Water-dependent commercial facilities, including commercial marinas, docks and moorages (including seaplane moorages).
 - (d) Water-dependent recreational facilities, including private docks and moorages in conjunction with a residence or group of residences.
 - (e) Other water-dependent uses. A use is determined to be water-dependent when it can be carried out only on, in or adjacent to water, and the location or access is needed for:
 - 1. Water-borne transportation.
 - 2. Recreation.
 - 3. A source of water (such as energy production, cooling of industrial equipment or wastewater, or other industrial processing).
 - (f) Structural shoreline stabilization, subject to Shoreline Stabilization Standards in Section 6.050.
 - (g) Temporary uses not requiring substantial structural or capital improvements prior to development; including but not limited to:
 - 1. Farm uses.
 - 2. Forest uses.
 - 3. Public open space and low-intensity outdoor recreation.
 - (h) Signs subject to Section 4.020.
- (3) **USES PERMITTED CONDITIONALLY:** In a WDD zone the following conditional uses and their accessory uses are permitted subject to the provisions of Article 6 only if they will not preclude or unduly conflict with existing or potential water-dependent use on the site or in the vicinity.
- (a) Water-related uses. A use is determined to be water-related when in use:
 - 1. Provides goods and/or services that are directly associated with water-dependent uses (supplying materials to, or using products of, water-dependent uses); and
 - 2. If not located near the water, would experience a public loss of quality in the goods and services offered. Evaluation of public loss of quality will involve

a subjective consideration of economic, social and environmental consequences of the use.

(b) Water-related uses can include, but are not limited to, the following:

1. Water-related industrial uses such as:

a. Fish or shellfish processing plants; or

b. Warehousing and/or other storage areas for marine equipment or water-borne commerce.

2. Water-related commercial uses, such as:

a. Fish or shellfish retail or wholesale outlets;

b. Marine craft or marine equipment sales establishments;

c. Sport fish cleaning, smoking or canning establishments;

d. Charter fishing offices;

e. Retail trade facilities in which the majority of products such as ice, bait, tackle, nautical charts, gasoline, or other products incidental to or used in conjunction with water-dependent use;

f. Restaurants which provide a view of the waterfront, and which are in conjunction with a water-dependent or other water-related uses, such as a seafood processing plant or a charter office.

(c) Energy facilities and utilities.

(d) Land transportation facilities.

(e) New dike construction, if required for a water-dependent use.

(f) Residential structure for a owner or caretaker of an approved water-dependent or water related uses.

(g) Restoration actions subject to the restoration standards in Section 3.140.

(4) STANDARDS:

(a) The minimum yards for any structure on a lot adjacent to a residential zone shall be

a 5 foot side yard on the side adjacent to the residential zone. The front yard setback shall be one-half of the front yard requirement in the adjacent residential zone. Setback requirements of Section 4.080 shall also be met.

- (b) For commercial-residential structures, no yards shall be required except as provided in (a) above.
 - (c) The maximum building height shall be 24 feet. Higher structures may be permitted by the Planning Department according to the provisions of Article 8.
 - (d) Outdoor storage shall be screened with a sight-obscuring fence.
 - (e) Accessory uses or structures are limited in size of lot coverage to a maximum of ten percent of the lot or parcel size.
 - (f) If applicable, the standards and requirements of Sections 4.070, 4.080 and 4.090 shall be met.
- (5) ADMINISTRATIVE PROVISIONS:
- (a) The following public agencies shall be notified according to the procedures of Article VI of all conditional use applications in the WDD zone; The Oregon Department of Fish and Wildlife, Oregon Division of State Lands, Oregon Department of Land Conservation and Development, Oregon Department of Economic Development, U. S. Fish and Wildlife Service, National Marine Fisheries Service, Environmental Protection Agency, U. S. Army Corps of Engineers and the locally affected Port District.

SECTION 3.060: FLOOD HAZARD OVERLAY ZONE (FH)

- (1) **PURPOSE:** It is the purpose of the FH zone to promote the public health, safety and general welfare and to minimize public and private losses or damages due to flood conditions in specific areas by provisions designed to:
 - (a) Protect human life and health;
 - (b) Minimize expenditure of public money for costly flood control projects;
 - (c) Minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the public;
 - (d) Minimize prolonged business interruptions;
 - (e) Minimize damage to public facilities and utilities such as water and gas mains, electric, telephone and sewer lines, streets and bridges located in areas of special flood hazards;
 - (f) Help maintain a stable tax base by providing for the sound use and development of areas of special flood hazard so as to minimize future flood blight areas;
 - (g) Ensure that potential buyers are notified that property is in an area of special flood hazard; and
 - (h) Ensure that those who occupy the areas of special flood hazard assume responsibility for their actions.
 - (i) Maintain the functions and values associated with Special Flood Hazard Areas which reduce the risk of flooding.
- (2) **CONTENT:** In order to accomplish this purpose, this Section of the Land Use Ordinance includes methods and provisions for:
 - (a) Restricting or prohibiting uses which are dangerous to health, safety, and property due to water or erosion hazards, or which result in damaging increases in erosion or in flood heights or velocities;
 - (b) Requiring that uses vulnerable to floods, including facilities which serve such uses, be protected against flood damage at the time of initial construction;
 - (c) Maintaining the natural and existing flood plains, stream channels, and natural protective barriers, which help accommodate or channel flood waters;
 - (d) Minimizing and controlling filling, grading, dredging, and other development which may increase flood damage or may increase flood hazards in other areas;

- (e) Preventing or regulating the construction of flood barriers which will unnaturally divert flood waters or may increase flood hazards in other areas;
 - (f) Encouraging mitigation and restoration programs in "exchange" (/in addition to) for alteration of Special Flood Hazard Areas, existing and natural floodplains, stream channels, and natural protective barriers, which help accommodate or channel flood waters
- (3) **DEFINITIONS:** Unless specifically defined below or in Section 1.030 of this ordinance, words or phrases used in this ordinance shall be interpreted so as to give them the meaning they have in common usage and to give this ordinance its most reasonable application.

AREA OF SHALLOW FLOODING: Means a designated A0 or AH Zone on the Flood Insurance Rate Map (FIRM). The base flood depths range from one to three feet; a clearly defined channel does not exist; the path of flooding is unpredictable and indeterminate; and velocity flow may be evident. A0 is characterized as sheet flow and AH indicates ponding.

AREA OF SPECIAL FLOOD HAZARD: Means the land in the flood plain within the county subject to a one percent or greater chance of flooding in any given year. Designation includes the letters A or V.

ADDITION: An alteration to an existing structure that results in any increase in its ground floor area.

BASE FLOOD: Means the flood having a one percent chance of being equaled or exceeded in any given year. Also referred to as the "100-year flood". Designation on maps always includes the letters A or V.

BASEMENT: Any area of a building having its flood subgrade (below ground level) on all sides.

BREAKAWAY WALL: Means a wall that is not a part of the structural support of the building and is intended through its design and construction to collapse under specific lateral loading forces, without causing damage to the elevated portion of the building or supporting foundation system.

COASTAL HIGH HAZARD AREA: Means the area subject to high velocity waters, including but not limited to storm surge or tsunamis. The area is designated on the FIRM as Zones V1-V30, VE or V.

DEVELOPMENT: Means any man-made change to improved or unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations located within the area of special flood hazard.

ENHANCEMENT: Means the process of improving upon the natural functions and/or values of an area or feature which has been degraded by human activity.

EXISTING MANUFACTURED HOME PARK: Is one in which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed is completed before August 1, 1978. The construction of facilities includes, at a minimum, the installation of utilities, construction of streets, and either final site grading or the pouring of concrete pads.

FILL: Means any material such as, but not limited to, sand, gravel, soil, rock or gravel that is placed on land including existing and natural floodplains, or in waterways, for the purposes of development or redevelopment.

FIRST FINISHED FLOOR: The first finished floor is when all mechanical equipment is above minimum required base flood elevation of county. This can include but is not limited to ducting, and wiring located within joists (See Mechanical). If no mechanicals are located within floor joists, first finished floor shall be the subfloor above the required elevation above base flood.

FLOOD OR FLOODING: Means a general and temporary condition of partial or complete inundation of normally dry land areas from:

- (1) The overflow of inland or tidal waters and/or
- (2) The unusual and rapid accumulation or runoff of surface waters from any source.

FLOOD HAZARD BOUNDARY MAP (FHBM): Means the official map issued by the Federal Emergency Management Agency where the boundaries of the area of special flood hazards applicable to Tillamook County have been designated as Zone A, M and/or E.

FLOOD INSURANCE RATE MAP (FIRM): Means the official map on which the Federal Emergency Management Agency has delineated both the areas of special flood hazards and the risk premium zones applicable to the community.

FLOOD INSURANCE STUDY: Means the official report provided by the Federal Insurance Administration that includes flood profiles, the Flood Boundary-Floodway Map, and the water surface elevation of the base flood.

FLOOD PLAIN: Means any land area susceptible to being inundated by water from the sources specified in the flood(ing) definition.

FLOOD PLAIN MANAGEMENT REGULATIONS: Means the provisions of this ordinance in addition to the Land Division Ordinance, building codes, health regulations, and other applications of police power. The term describes such state or local regulations, in any combination thereof, which provide standards for the purpose of flood damage prevention and reduction.

FLOODWAY: Means the channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one foot.

HIGHWAY READY: Refers to a recreational vehicle that is on wheels or a jacking system is attached to the site only by quick disconnect type utilities and security devices, and has no permanently attached additions. This includes having a plan and making provision to remove the unit in the event of flood

HYDROSTATIC LOADS: Means those loads caused by water either above or below the ground surface, free or confined, which is either stagnant or moves at very low velocities, of up to five (5) feet per second. These loads are equal to the product of the water pressure times the surface area on which the water acts. The pressure at any point is equal to the product of the unit weight of water (62.5 pounds per cubic foot) multiplied by the height of water above that point or by the height to which confined water would rise if free to do so.

HYDRODYNAMIC LOADS: Means those loads induced on buildings or structures by the flow of flood water moving at moderate or high velocity around the buildings or structures or parts thereof, above ground level when openings or conduits exist which allow the free flow of flood waters. Hydrodynamic loads are basically of the lateral type and relate to direct impact loads by the moving mass of water, and to drag forces as the water flows around the obstruction.

IRREVOCABLY COMMITTED: Means any platted area with improved streets, sewer, water, and fire districts, as well as established commercial and high density residential uses as of June 2, 1978.

LETTER OF MAP AMENDMENT (LOMA): A LOMA is the result of an administrative procedure in which the Federal Insurance Administer reviews scientific or technical data submitted by the owner or lessee of property who believes the property has incorrectly been included in a designated Special Flood Hazard Area (SFHA). A LOMA amends the currently effective FEMA map and establishes that a property is not located in an SFHA.

LETTER OF MAP REVISION (LOMR): A LOMR is an official amendment to the currently effective FEMA map. It is used to change flood zones, flood delineations, flood elevations, and planimetric features. All requests for LOMRs must be made to FEMA through the chief executive officer of the community, since it is the community that must adopt any changes and revisions to the map. A LOMR is usually followed by a physical map revision

LOWEST FLOOR: Means the lowest floor of the lowest enclosed area (including basement). An unfinished or flood resistant enclosure, usable solely for parking or vehicles, building access or storage, in an area other than a basement area, is not considered a building's lowest floor, provided that such enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirements of this ordinance.

MANUFACTURED DWELLING: Includes:

Residential trailer: a structure, greater than 400 square feet, constructed for movement on the public highways that has sleeping, cooking and plumbing facilities, that is intended for human occupancy, that is being used for residential purposes and that was constructed before January 1, 1962.

Mobile home: A structure having at least 400 square feet of floor area and which is transportable in one or more sections. A structure constructed for movement on the public highways that has sleeping, cooking and plumbing facilities, that is intended for human occupancy, that is being used for residential purposes and that 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.

Manufactured home: A structure constructed for movement on the public highways, after June 15, 1976, that has sleeping, cooking and plumbing facilities, that is intended for human occupancy, that is being used for residential purposes and that was constructed in accordance with federal manufactured housing construction and safety standards and regulations in effect at the time of construction.

MANUFACTURED HOME PARK OR SUBDIVISION: Means a parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale.

MEAN SEA LEVEL: Means the average height of the sea for all stages of the tide.

MECHANICAL EQUIPMENT: Means Electrical, heating, ventilation, plumbing, and air conditioning equipment and other service facilities.

MITIGATION: Means the reduction of adverse effects of a proposed project by considering, in the following order:

- (a) Avoiding the impact all together by not taking a certain action or parts of an action;
- (b) Minimizing impacts by limiting the degree or magnitude of the action and its implementation;
- (c) Rectifying the impact by repairing, rehabilitating, or restoring the affected environment;
- (d) Reducing or eliminating the impact over time by preservation and maintenance operations during the life of the action by monitoring and taking appropriate measures; and
- (e) Mitigating for the impact by replacing or providing comparable substitute floodplain areas.

NEW CONSTRUCTION: Means structures for which the "start of construction" commenced on or after August 1, 1978.

PERMANENT FOUNDATION: Refers to a natural or manufactured support system to which a structure is anchored or attached. A permanent foundation is capable of resisting flood forces and may include posts, piles, poured concrete or reinforced block walls, properly compacted fill, or other systems of comparable flood resistivity and strength.

REACH: Means a hydraulic engineering term used to describe longitudinal segments along a stream of water. A reach will generally include a segment of the flood hazard area where flood heights are primarily controlled by man-made or natural obstructions or constrictions. In an urban area an example of a reach would be the segment of a stream or river between two consecutive bridge crossings.

RECONSTRUCTION: Means the repair of a structure damaged by any cause (not limited to flooding) without increasing the floor area of the structure.

RECREATIONAL VEHICLE: A portable temporary dwelling unit, with a gross floor area not exceeding 400 square feet in the set up mode, which is intended for vacation, emergency or recreational use, but not for permanent residential use, unless located in a recreational vehicle park.

RECREATIONAL VEHICLE includes the following:

- (a) **CAMPER:** A structure containing a floor that is designed to be temporarily mounted upon a motor vehicle, and which is designed to provide facilities for temporary human habitation.

- (b) **MOTOR HOME:** A motor vehicle with a permanently attached camper, or that is originally designed, reconstructed or permanently altered to provide facilities for temporary human habitation.
- (c) **TRAVEL TRAILER:** A trailer that is capable of being used for temporary human habitation, which is not more than eight feet wide, and except in the case of a tent trailer, has four permanent walls when it is in the usual travel position.
- (d) **SELF-CONTAINED RECREATIONAL VEHICLE:** A vehicle that contains a factory-equipped, on-board system for the storage and disposal of gray water and sewage.

REHABILITATION: Means any improvements and repairs made to the interior and exterior of an existing structure that do not result in an increase in the ground floor area of the structure. Examples include remodeling a kitchen, gutting a structure and redoing the interior, or adding a second story.

REINFORCED PIER: At a minimum, a reinforced pier must have a footing adequate to support the weight of the manufactured dwelling under saturated soil conditions. Concrete blocks may be used if vertical steel reinforcing rods are placed in the hollows of the blocks and the hollows are filled with concrete or high strength mortar. Dry stacking concrete blocks do not constitute reinforced piers.

REPETITIVE LOSS: Flood-related damages sustained by a structure on two separate occasions during a 10-year period for which the cost of repairs at the time of each such flood event, on the average, equals or exceeds 25 percent of the market value of the structure before damage occurred.

RESTORATION: Means the process of returning a disturbed or altered area or feature to a previously existing natural condition. Restoration activities reestablish the ecological structure, function, and/or diversity to that which occurred prior to impacts caused by human activity.

SPECIAL FLOOD HAZARD AREA (SFHA): Areas subject to inundation from the waters of a 100-year flood.

START OF CONSTRUCTION: Includes substantial improvement, and means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, placement or other improvement occurred within 180 days of the permit date. The actual start means either the first placement of permanent construction of the structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the state of excavation; or the placement of a manufactured dwelling on a foundation. Permanent construction does not include land preparation, such as clearing, grading and filling; nor does it include the installation of street and/or walkways; nor does it include excavation for a basement, footings, piers, or

foundation or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure.

STRUCTURE: Anything constructed or installed or portable, the use of which requires a location on a parcel of land.

SUBSTANTIAL DAMAGE: Pertains to flood related damage where the cost of restoring the structure would equal or exceed 50 percent of the market value of the structure before the damage occurred.

SUBSTANTIAL IMPROVEMENT: Means any repair, reconstruction, or improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure either:

- (1) Before the improvement or repair is started, or
- (2) If the structure has been damaged and is being restored, before the damage occurred. For the purposes of this definition **SUBSTANTIAL IMPROVEMENT** occur when the first alteration of any wall, ceiling, floor, or other structural part of the building commences, whether or not that alteration affects the external dimensions of the structure. Substantial Improvement applies to additions, reconstructions, rehabilitations, repetitive loss structures, and nonresidential construction at a cumulative 50% of market value, determined at the time of a building permit application. The market value of the structure will be determined through the records of the County Assessor at the beginning of the five year period.

Unless the addition meets the definition of Substantial Improvement, then only the actual addition needs to meet the requirements of the Flood Hazard Overlay Zone.

The term does not, however, include either:

- (3) Any project for improvement of a structure to comply with existing state or local health, sanitary, or safety code specifications which have been identified by local code enforcement activity and which are solely necessary to assure safe living conditions, or
- (4) Any alteration of a structure listed on the National Register of Historic Places or a State Inventory of Historic Places.

WATER SURFACE ELEVATION: Means the projected water heights in relation to mean sea level.

- (4) GENERAL STANDARDS: In all areas of special flood hazards the following standards are required:

ANCHORING

- (a) All new construction and substantial improvements shall be anchored to prevent flotation, collapse or lateral movement of the structure.
- (b) All manufactured dwellings must likewise be anchored to prevent flotation, collapse or lateral movement, and shall be installed using methods and practices that minimize flood damage. Anchoring methods may include, but are not limited to, use of over-the-top or frame ties to ground anchors (See FEMA's "Manufactured Home Installation in Flood Hazard Areas" guidebook for techniques). A certificate signed by a registered architect or engineer which certifies that the anchoring system is in conformance with FEMA regulations shall be submitted prior to final inspection approval.

CONSTRUCTION MATERIALS AND METHODS

- (c) All new construction and substantial improvements shall be constructed with materials and utility equipment resistant to flood damage.
- (d) All new construction and substantial improvements shall be constructed using methods and practices that minimize flood damage.
- (e) Electrical, heating, ventilation, plumbing, and air-conditioning equipment and other service facilities shall be elevated to three feet above flood level so as to prevent water from entering or accumulating within the components during conditions of flooding.

UTILITIES

- (f) All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood water into the system.
- (g) New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of flood waters into the systems and discharge from the systems into flood waters.
- (h) On-site waste disposal systems shall be located to avoid impairment to them or contamination from them during flooding.

SUBDIVISION AND PARTITION PROPOSALS

- (i) All subdivision and partition proposals governed by the Land Division Ordinance shall be consistent with the need to minimize flood damage.
- (j) All subdivision and partition proposals governed by the Land Division Ordinance shall have public utilities and facilities such as sewer, gas, electrical and water systems located and constructed to minimize flood damage.
- (k) All subdivisions and partition proposals governed by the Land Division Ordinance shall have adequate drainage provided to reduce exposure to flood damage.
- (l) Where base flood elevation data has not been provided or is not available from another authoritative source, it shall be generated for subdivision and partition proposals governed by the Land Division Ordinance and other proposed developments which contain at least 50 lots or 5 acres (whichever is less).

BUILDING AND MANUFACTURED DWELLING PERMITS

- (m) Where elevation data is not available either through the Flood Insurance Study or from another authoritative source, applications for building permits and/or manufactured dwelling permits shall be reviewed to assure that proposed construction will be reasonably safe from flooding. The test of reasonableness is a local judgment and includes use of historical data, high water marks, photographs of past floodings, etc., where available. Failure to elevate at least three feet above grade in these zones may result in higher insurance rates.
- (5) **SPECIFIC STANDARDS FOR NUMBERED A ZONES (A1-A30):** In all areas of special flood hazards where base flood data has been provided as set forth in Section 2.020 (2) or other base flood data are utilized, the following provisions are required:

RESIDENTIAL CONSTRUCTION

- (a) New construction and substantial improvement of any residential structure (including manufactured dwellings) shall have the lowest floor, including basement, at a minimum of three feet above base flood elevation.
- (b) Fully enclosed areas below the lowest floor that are subject to flooding are prohibited, or shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters. Designs for meeting this requirement must either be certified by a registered professional engineer or must meet or exceed the following minimum criteria:

- (1) A minimum of two openings having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding shall be provided.
- (2) The bottom of all openings shall be no higher than one foot above grade.
- (3) Openings may be equipped with screens, louvers, or other coverings or devices provided that they permit the automatic entry and exit of floodwaters.

NONRESIDENTIAL CONSTRUCTION

- (c) New construction and substantial improvement of any commercial, industrial or other nonresidential structure shall have either the lowest floor including basement elevated to three feet above the level of the base flood elevation or higher; or, together with attendant utility and sanitary facilities, shall:
 - (1) Be floodproofed so that the portion of the structure that lies below the portion that is three feet or more above the base flood level is watertight with walls substantially impermeable to the passage of water.
 - (2) Have structural components capable of resisting hydrostatic and hydrodynamic loads and effects of buoyancy.
 - (3) Be certified by a registered professional engineer or architect that the design and methods of construction are in compliance with accepted standards of practice for meeting provisions of this subsection based on their development and/or review of the structural design, specifications and plans. Such certifications shall be provided to the Planning Director.
 - (4) Nonresidential structures that are elevated, not floodproofed, must meet the same standards for space below the lowest floor as described in the residential construction Section of this Section.
 - (5) Applicants floodproofing nonresidential buildings shall be notified that flood insurance premiums will be based on rates that are one foot below the floodproofed level (e.g. a building constructed to the base flood level will be rated as one foot below that level).

MANUFACTURED DWELLINGS

- (d) Any manufactured dwelling which incurs substantial damage as the result of a flood, must be elevated to the standard listed in (e) below.

- (e) All manufactured dwellings to be placed or substantially improved within Zones A1-30, shall be elevated on a permanent foundation such that the lowest floor of the manufactured dwelling is at or above three feet above the base flood elevation and shall be securely anchored to an adequately anchored foundation system in accordance with the following chart:
- (6) **RECREATIONAL VEHICLES:** Recreational vehicles may occupy a site in a Special Flood Hazard Area for periods of 180 consecutive days or greater providing they are fully licensed and highway ready. Recreational vehicles that do not meet these criteria become manufactured dwellings and must be anchored and elevated pursuant to this ordinance.
- (7) **SPECIFIC STANDARDS FOR FLOODWAYS:** Located within areas of special flood hazard established in Section 2.020 (2) are areas designated as floodways. Since the floodway is an extremely hazardous area due to the velocity of flood waters which carry debris, potential projectiles, and erosion potential, the following provisions apply:
 - (a) Encroachments including fill, new construction and substantial improvements are prohibited unless certification is provided by a professional registered architect or engineer certifying that the proposed encroachment, improvement, or development shall not result in any increase in flood levels during the occurrence of the base flood discharge.
 - (b) If Subsection 5 (c) (1) is satisfied, all new construction and substantial improvement shall comply with all applicable flood hazard reduction provisions of Section 3.060 (3) and (4).
- (8) **SPECIFIC STANDARDS FOR COASTAL HIGH HAZARD AREAS (V ZONES):** Located within areas of special flood hazard established in Section 2.020 (2) are Coastal High Hazard Areas, designed as Zones V1-V30, VE, and/or V. These areas have special flood hazards associated with high velocity waters from tidal surges and, therefore, in addition to meeting all provisions in this Section the following provisions shall apply:
 - (a) All new construction and substantial improvements in Zones V1-V30, VE and V shall be elevated on pilings and columns so that:
 - (1) The bottom of the lowest horizontal structural member of the lowest floor (excluding the pilings or columns) is elevated to or above one foot above the base flood level: and
 - (2) The pile or column foundation and structure attached thereto is anchored to resist flotation, collapse and lateral movement due to the effects of wind and water loads acting simultaneously on all building components. Wind and water loading values shall each have a one percent chance of being equaled or exceeded in any given year (100-year mean recurrence interval).

- (b) A registered professional engineer or architect shall develop or review the structural design, specifications and plans for the construction and shall certify that the design and methods of construction to be used are in accordance with accepted standards of practice for meeting the provisions of (1) and (2) above. A certificate shall be submitted, signed by the registered professional engineer or architect that the requirements of this Section will be met.
- (c) Obtain the elevation (in relation to mean sea level) of the bottom of the lowest structural member of the lowest floor (excluding pilings and columns) of all new and substantially improved structures in Zones V1-30, VE, and V and whether or not such structures contain a basement. The Planning Director shall maintain a record of all such information.
- (d) All new construction shall be located landward of the reach of mean high tide.
- (e) Provide that all new construction and substantial improvements have the space below the lowest floor either free of obstruction or constructed with nonsupporting breakaway walls, open wood lattice-work, or insect screening intended to collapse under wind and water loads without causing collapse, displacement, or other structural damage to the elevated portion of the building or supporting foundation system, For the purpose of this Section a breakaway wall shall have a design safe loading resistance of not less than 10 and no more than 20 pounds per square foot. Use of breakaway walls which exceed a design safe loading resistance of 20 pounds per square foot (either by design or when so required by local or state codes) may be permitted only if a registered professional engineer or architect certifies that the designs proposed meet the following conditions:
 - (1) Breakaway wall collapse shall result from a water load less than that which would occur during the base flood; and
 - (2) The elevated portion of the building and supporting foundation system shall not be subject to collapse, displacement, or other structural damage due to the effects of wind and water loads acting simultaneously on all building components (structural and nonstructural). Maximum wind and water loading values to be used in this determination shall each have a one percent chance of being equaled or exceeded in any given year (100-year mean recurrence interval).
- (f) If breakaway walls are utilized, such enclosed space shall be usable solely for parking of vehicles, building access, or storage. Such space shall not be used for human habitation.
- (g) Prohibit the use of fill for structural support of buildings.

- (h) Prohibit man-made alteration of sand dunes, including vegetation removal, which would increase potential flood damage.
- (9) **SPECIFIC STANDARDS FOR AREAS OF SHALLOW FLOODING (A0 ZONE):** Shallow flooding areas appear on FIRM's as A0 zones with depth designations. The base flood depths in these zones range from 1 to 3 feet where a clearly defined channel does not exist, or where the path of flooding is unpredictable and where velocity flow may be evident. Such flooding is usually characterized as sheet flow. In these areas the following provisions apply:
- (a) Require adequate drainage paths around structures on slopes to guide floodwaters around and away from proposed structures.

RESIDENTIAL

- (b) New construction and substantial improvements of residential structures (including manufactured dwellings) within A0 zones shall have the lowest floor (including basement) elevated one foot above the depth number specified on the FIRM (at least two feet above the highest adjacent grade if no depth number is specified).

NON-RESIDENTIAL

- (c) New construction and substantial improvements of nonresidential structures within A0 zones shall either:
 - (1) Have the lowest floor (including basement) elevated above the highest adjacent grade of the building site, one foot above the depth number specified on the FIRM (at least two feet if no depth number is specified):
or
 - (2) Together with attendant utility and sanitary facilities, be completely floodproofed to one foot above the depth number specified on the FIRM so that any space below that level is watertight with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and effects of buoyancy. If this method is used, compliance shall be certified by a registered professional engineer or architect as in Subsection (5) (3) (3) of this Section.
- (10) **WARNING AND DISCLAIMER OF LIABILITY:** The degree of flood protection required by this ordinance is considered reasonable for regulatory purposes and is based on scientific and engineering considerations. Larger floods can and will occur on rare occasions. Flood heights may be increased by man-made or natural causes. This ordinance does not imply that land outside the areas of special flood hazard or uses permitted within such areas will be free from flooding or flood damages. This ordinance

shall not create liability on the part of Tillamook County, any officer or employee thereof, of the Federal Insurance Administration, for any flood damages that result from reliance on this ordinance or any administrative decision lawfully made hereunder.

(11) SPECIAL ADMINISTRATIVE PROVISIONS FOR FH ZONE:

- (a) The Planning Director of Tillamook County is hereby appointed to administer and implement the provisions of this Section by granting or denying development permit applications in accordance with its provisions.
- (b) Duties of the Planning Director shall include, but not be limited to:
 - (1) Review all development permit requests to assure that the requirements of this Section have been satisfied and that all other necessary permits have been obtained from those federal, state or local governmental agencies from which prior approval is required.
 - (2) Review all other permit applications to determine compliance with this Section.
 - (3) Notify adjacent communities and the Department of Land Conservation and Development prior to any alteration or relocation of a watercourse, and submit evidence of such notification to the Federal Insurance Administration.
 - (4) Require that maintenance is provided within the altered or relocated portion of said watercourse so that the flood carrying capability is not diminished.
 - (5) Where base flood elevation data is provided through the Flood Insurance Study or required within this Section, obtain and record the actual elevation (in relation to mean sea level) of the lowest floor (including basement) of all new or substantially improved structures, and whether or not the structure contains a basement.
 - (6) For all new or substantially improved floodproofed structures:
 - (a) Verify and record the actual elevation (in relation to mean sea level), and
 - (b) Maintain the floodproofing certifications required in this Section.
 - (7) Maintain for inspection the affidavits of certification required in this Section. Affidavits of certification are required to be submitted by the permit applicant for elevations and structural requirements as specified in this Section, both pre- and post-construction, utilizing forms provided for

this purpose by FEMA. Elevations may be certified by a licensed surveyor or a registered professional architect or engineer. Structural requirements may be certified by a registered professional architect or engineer.

- (8) Where interpretation is needed requiring the boundaries of the areas of special flood hazard, the Planning Director will make the necessary interpretation. The person contesting the location of the boundary or other decision shall be given a reasonable opportunity to appeal the interpretation as provided in this Section.
 - (9) When base flood elevation had not been provided, the Planning director shall obtain, review and reasonably utilize any base flood data and floodway available from federal, state, or other source in order to administer the provisions of Section 3.060.
 - (10) All records pertaining to the provisions of this Section shall be maintained in the Tillamook County Planning Department and shall be open for public inspection.
 - (11) When a Variance is granted, the Planning Director shall give written notice that the structure will be allowed to be built with the lowest floor elevation at or below base flood elevation, and that the cost of flood insurance will be commensurate with the increased risk resulting from the lowest floor elevation.
- (d) Restrict the location of structures placed on undeveloped parcels between Brooten Road and the Nestucca River, from the Woods Bridge downstream to map cross-section line F on the amended floodway map for the Nestucca River.

Such structures shall occupy no more than 62.5% of the lot width of the parcel to be built upon. This requirement does not apply if the structure is built upon piling with the area beneath the structure open to permit passage of flood water, or enclosed only with "breakaway walls" which are designed to give way to allow passage of flood waters.

Any such structure shall comply with all other requirements of this Section. The intent of this subsection is to maintain a minimum of 1000 feet of open space on the east bank of the Nestucca River, between Brooten Road and the river, from the Woods Bridge structure downstream to map cross-section line F on the amended floodway map for the Nestucca River.

- (e) Publicly owned open land recreation parks and accessory restroom facilities, where allowed in the underlying zone, shall be allowed in floodplain areas below the base flood elevation. The accessory restroom facilities shall be located outside of floodplain areas if possible. If it is not possible, the structures shall be located:
 - (1) On the highest portion of the park grounds; and
 - (2) Be wet-floodproofed; and
 - (3) Maintain riparian setbacks.

If the structure is located in a designated floodway, it shall conform to 1 through 3 above and shall be small enough and positioned so that it will not divert floodwaters.

- (f) All residential and non-residential development and substantial improvements, within the Pacific City Airport Overlay Zone where the height is restricted by the PAO zone, below that allowed by the underlying zone, shall conform to the FH zone regulations except that the first finished floor elevation and the floodproofing shall be certified at the base flood elevation given on the FIRM maps instead of the required three foot above base flood elevation level.

(12) **DEVELOPMENT PERMIT PROCEDURES:** A development permit shall be obtained before construction or development begins within any area of special flood hazard zone. The permit shall be for all structures including manufactured dwellings, and for all development including fill and other development activities, as set forth in the Definitions contained in this Section of the Land Use Ordinance.

- (a) Application for a development permit shall be made on forms furnished by the Planning Director and shall include but not necessarily be limited to: plans in duplicate drawn to scale showing the nature, location, dimensions, and elevations of the area in question, existing or proposed structures, fill, storage of materials, drainage facilities, and the location of the foregoing. Specifically, the following information is required and Development Permits required under this Section are subject to the Review Criteria put forth in Section 3.060 (12)(b):
 - (1) Elevation in relation to mean sea level of the lowest floor, including basement, of all structures;
 - (2) Elevation in relation to mean sea level to which any proposed structure will be floodproofed;
 - (3) Certification by a registered professional engineer or architect that the floodproofing methods for any nonresidential structure meet the floodproofing criteria in Subsection 4 (c) of this Section; and

- (4) Description of the extent to which any watercourse will be altered or relocated as a result of proposed development.

(b) Development Permit Review Criteria

- (1) The fill is not within a floodway, wetland, riparian area or other sensitive area regulated by the Tillamook County Land Use Ordinance.
- (2) The fill is necessary for an approved use on the property.
- (3) The fill is the minimum amount necessary to achieve the approved use.
- (4) No feasible alternative upland locations exist on the property.
- (5) The fill does not impede or alter drainage or the flow of floodwaters.
- (6) For creation of new, and modification of, Flood Refuge Platforms, the following apply, in addition to (12)(a)(1-4) and (b)(1-5):
 - i. The fill is not within a floodway, wetland, riparian area or other sensitive area regulated by the Tillamook County Land Use Ordinance.
 - ii. The property is actively used for livestock and/or farm purposes,
 - iii. Maximum platform size = 10 sq ft of platform surface per acre of pasture in use, or 30 sq ft per animal, with a 10-ft wide buffer around the outside of the platform,
 - iv. Platform surface shall be at least 1 ft above base flood elevation,
 - v. Slope of fill shall be no steeper than 1.5 horizontal to 1 vertical,
 - vi. Slope shall be constructed and/or fenced in a manner so as to prevent and avoid erosion.

Conditions of approval may require that if the fill is found to not meet criterion (5), the fill shall be removed or, where reasonable and practical, appropriate mitigation measures shall be required of the property owner. Such measures shall be verified by a certified engineer or hydrologist that the mitigation measures will not result in a net rise in floodwaters and be in coordination with applicable state, federal and local agencies, including the Oregon Department of Fish and Wildlife.

- (c) Before approving a development permit application for other than a building, the Planning Director may determine that a public hearing should be held on the application. Such hearing shall be held before the Planning Commission and a decision made by the Planning Commission in accordance with the provisions of Section 3.060 (11).

(13) APPEALS, REDUCTIONS AND VARIANCES:

- (a) An appeal of the ruling of the Planning Director regarding a requirement of this Section may be made to the Tillamook County Planning Commission pursuant to Section 10.020.
- (b) Reductions of the "3 feet above base flood elevation" standard may be granted by the Planning Director, upon findings that:
 - (1) Strict application of the three-foot standard would produce an unreasonable or inequitable result; and
 - (2) A lesser elevation requirement will not result in an appreciable increase in flood damage.

Reductions to below 1 foot above base flood elevation require a Variance as described in (c), below.

The intent of this provision is to limit this application of the Director's discretion to those rare and unusual circumstances where the three-foot standard would result in unnecessary and burdensome development requirements.

- (c) Variances to the standards contained in Section 3.060 shall be issued only in accordance with Section 1910.9 of the Federal Regulations governing flood insurance (Title 24 CFR) and any amendment thereto.
 - (d) The procedures for reviewing and taking action on a variance under the provisions of this Section shall be pursuant to the procedures provided in Article 8.
- (14) PROVISIONS: The provisions of Section 3.060 shall take precedence over all prior resolutions or orders of the Board of County Commissioners relating to Flood Plain Management.

SECTION 3.070: SCENIC WATERWAY OVERLAY ZONE (SWO)

- (1) **PURPOSE AND AREAS INCLUDED:** The purpose of this zone is to facilitate implementation of the Oregon Park and Recreation Commission's management plan for the Nestucca River Scenic Waterway, and thereby to protect and preserve the natural setting and water quality of waterways possessing outstanding scenic, fish, wildlife, geological, botanical, historic, archaeologic, and outdoor recreation values. The zone comprises all land within one-fourth mile of the bank of the Nestucca River from the County line downstream to its confluence with Moon Creek (approximately river mile 24.5, in Blaine).

- (2) **USES PERMITTED:**
 - (a) Any development activity, mining operation, timber harvesting, or other landscape alteration activity permitted in the underlying zone may be allowed, provided the activity is approved by the Oregon Parks and Recreation Department, or otherwise complies with the Scenic Waterway Notification procedures described in OAR-736-040-0080.

SECTION 3.080: PLANNED DEVELOPMENT OVERLAY ZONE (PD)

- (1) **PURPOSE:** The purpose of the PLANNED DEVELOPMENT is to permit greater flexibility and creativity in the design of land development than is presently possible through the strict interpretation of conventional zoning and land division ordinances. The intent is to encourage development designs that preserve and/or take advantage of the natural features and amenities of a property such as, but not limited to, views water frontage, wetlands, sloping topography, geologic features and drainage areas. A Planned Development should be compatible with the established and proposed surrounding land uses. A Planned Development should accrue benefits to the County and the general public in terms of need, convenience and service sufficient to justify any necessary exceptions to the zoning and land divisions ordinances.
- (2) **STANDARDS AND REQUIREMENTS:** The following standards and requirements shall govern the application of a Planned Development in an area in which it is permitted.
 - (a) A PLANNED DEVELOPMENT OVERLAY ZONE is allowed in the RR-2, RR-10, CSFR, CR-1, CR-2, CR-3, RMH, RC, CC and RI, CI, and unincorporated community zones where permitted.
 - (b) A planned development may include any uses and conditional uses permitted in the RR, CSFR, CR-1, CR-2, CR-3, RMH, and RC zones. In addition, the uses permitted in the CC and CI, RI, and unincorporated community zones where permitted will be permitted in the areas where the underlying zone permits those uses.
 - (c) The density of a planned development will be based on the density of the underlying zone.
 - (d) The height limit may be increased to not more than 35 feet by the Planning Commission in approving a specific Planned Development project. If the applicant is requesting a height increase, this request shall be noted in the notice to affected property owners. The Planning Commission may allow an increase in the height if there is a reasonable basis for the additional height such as: topography of the site, clustering of units, preservation of open space, staggering of building sites, and view corridors between ocean front dwelling units.
 - (e) Dimensional standards for lot area, depth, width, and all yard setback standards of the underlying zone shall not apply and these standards shall be established through the Planned Development approval process in order to fulfill the purpose set forth in Section 3.080 (1). In the RR/PD zoned areas, only those properties located within a Community Growth Boundary can utilize this item. All rural RR/PD zoned land shall conform to the density and standards of the RR zone.
 - (f) The development standards of the Land Division Ordinance shall provide the basic guide for the design of a planned development. Variances may be permitted

through the Planned Development approval process in order to fulfill the purposes set forth in Section 3.080 (1). Variance process and criteria contained in the Tillamook County Land Division Ordinance and Tillamook County Land Use Ordinance must be followed.

- (3) **PLANNED DEVELOPMENT PROCEDURE:** The following procedures shall be observed in applying for and acting on a planned development.
- (a) An applicant shall submit a preliminary development plan to the Planning Department for review. The preliminary plan shall include the following information:
- (1) Proposed land uses, building locations and housing unit densities.
 - (2) Proposed circulation pattern indicating the status of street ownership.
 - (3) Proposed open space uses.
 - (4) Proposed grading and drainage pattern.
 - (5) Proposed method of water supply and sewage disposal.
 - (6) Economic and supporting data to justify any proposed commercial development in an area not so zoned.
 - (7) Relation of the proposed development to the surrounding area and the comprehensive plan.
- (b) During its review the Planning Department shall distribute copies of the proposal to county agencies for study and comment. In considering the plan, the Planning Department shall seek to determine that:
- (1) There are special physical conditions or objectives of development which the proposal will satisfy to warrant a departure from the standard ordinance requirements.
 - (2) Resulting development will not be inconsistent with the comprehensive plan provisions or zoning objectives of the area.
 - (3) The plan can be completed within a reasonable period of time.
 - (4) The streets are adequate to support the anticipated traffic and the development will not overload the streets outside the planned area.
 - (5) Proposed utility and drainage facilities are adequate for the population densities and type of development proposed.

- (6) The parcel is suitable for the proposed use, considering its size, shape, location, topography, existence of improvements, and natural features.
 - (7) The proposed use will not alter the character of the surrounding area in a manner which substantially limits, impairs or prevents the use of surrounding properties for the permitted uses listed in the underlying zone.
 - (8) The proposed use is timely, considering the adequacy of public facilities and services existing or planned for the area affected by the use.
 - (9) Proposed uses which are not otherwise permitted by the underlying zoning on the parcel are accessory uses within the entire development.
- (c) The Planning Department shall notify the applicant whether, in its opinion, the foregoing provisions have been satisfied and, if not, whether they can be satisfied with further plan revision.
 - (d) Following this preliminary review, the applicant may request approval of the planned development by the Planning Commission according to the provisions in Article VI if the proposal is to take place on property designated with the PLANNED DEVELOPMENT OVERLAY ZONE prior to May 30, 1985.
 - (e) If the property is to be divided under the provisions of the Land Division Ordinance, a request according to the requirements of that Ordinance shall be included as part of the Planning Commission's review.
 - (f) The filing fee for a planned development is the total of all fees for the action requested.
 - (g) In addition to the requirements of this section, the Planning Commission may attach conditions it finds are necessary to carry out the purposes of this ordinance.
 - (h) Planned Development shall be identified on the zoning map with the letters "PD" in addition to the abbreviated designation of the existing zone.
 - (i) Building permits in a planned development shall be issued only on the basis of the approved plan. Any changes in the approved plan shall be submitted to the Planning Commission for approval in accordance with the procedures for approval of a conditional use request.
 - (j) In an existing PD overlay zone, lots on parcels of record as of the date of adoption of this ordinance which are less than one acre in size, may be built upon in accordance with all other requirements of the zone in which the lot or parcel is located and of this ordinance.

- (4) TO ESTABLISH A NEW PLANNED DEVELOPMENT OVERLAY ZONE: To establish a Planned Development Overlay designation under Article IX of this ordinance, the applicant must submit to the department the following material in addition to the requirements of Article IX and Section 3.080 (3):
- (a) A conceptual development plan for the proposed site with the object of demonstrating that the property possesses the characteristics set forth in Section 3.080 (1) of this ordinance. The plan shall include a scale drawing or the entire site showing proposed land uses, road ways, pedestrian ways, drainage patterns, common areas, recreation facilities, natural features, residential lots and the approximate location of structures other than single family residences.
 - (b) Parcels receiving the PLANNED DEVELOPMENT OVERLAY ZONE designation after July 1, 1992, will be eligible for development under the Land Division Ordinance, with the approved and recorded conceptual plan serving as the zoning map for the land parcel.
 - (c) Any proposed change to an approved conceptual plan which may increase the intensity of use or off-site impacts must conform to the criteria and procedures contained in Article IX of this ordinance. This determination shall be made by the Director. Notice of such a determination shall be provided to those within the required notice area.

SECTION 3.082: COAST RESORT OVERLAY ZONE

- (1) **PURPOSE AND INTENT:** The purpose of the COAST RESORT OVERLAY ZONE is to recognize sites that are suitable and appropriate for the location of recreation oriented coast resorts as defined in this Section, and to establish standards to guide the development of such facilities. The COAST RESORT OVERLAY ZONE is intended to insure the compatibility of coast resorts with the natural resources of the County.

Tillamook County recognized that ocean shore lands constitute an outstanding natural scenic and recreational resource. Therefore, the COAST RESORT OVERLAY ZONE is provided for and may be applied only to lands which abut the ocean beach or a major part of which have views of the ocean.

- (2) **DEFINITIONS:** A "coast resort" is a self-contained development that serves as an attraction for vacationers and other visitors and provides temporary lodging in conjunction with natural, scenic and recreational amenities available as an integral part of the development and in the surrounding environment. A coast resort:
- (a) Is located on a large site with a high level of natural amenities;
 - (b) Maintains the open space character of the site and the design, density and layout of the development maintains the natural and scenic amenities of the site;
 - (c) Provides primarily visitor oriented accommodations and has developed recreation facilities and natural amenities that are a primary attraction for visitors;
 - (d) Is located at least 25 road miles from an urban growth boundary containing a population of 50,000 or more.

"Visitor oriented accommodations" are lodging, restaurants, meeting facilities, staff housing and other facilities that provide for the needs of visitors and which constitute a majority of the developed facilities on the site.

"Developed recreational facilities" on the site are those which require a significant investment and are provided at a level and variety in proportion to the number of living accommodations in the development.

A "self-contained development" is one in which sewer, water and recreational facilities are provided in conjunction with the development and in which the sewer and water facilities are limited to meet the needs of the development.

- (3) **PERMITTED USES:**
- (a) The following uses are permitted when provided as a part of, and intended primarily

to serve persons at, a coast resort developed under this Section:

- (1) Living accommodations including lodges, hotels, motels, one-family, two-family and multifamily dwelling units.
- (2) All manner of outdoor and indoor recreation facilities including, but not limited to, golf courses, tennis courts, swimming pools, racquetball and handball courts, riding stables, nature trails, and walking/running/bicycle paths.
- (3) Convention facilities and meeting rooms.
- (b) The following uses are permitted when provided as uses incidental to and together with the uses described in (a) above as a part of a coast resort, subject to the conditions and restrictions on such incidental uses set forth in the Section.
 - (1) Restaurants, lounges and nightclubs.
 - (2) Theaters and performing arts auditoriums.
 - (3) Health clubs, spas and exercise studios.
 - (4) Craft and art studios and galleries.
 - (5) Kennels, as a service for resort guests only.
 - (6) Commercial services and speciality shops to provide for the needs of vacationers and visitors.
 - (7) Airport or heliport.
 - (8) First aid station or infirmary.
 - (9) Facilities necessary for utility service.
 - (10) Sewer and water treatment plant.
 - (11) Farm and forest uses.
 - (12) Signs subject to Section 4.020.

(4) APPLICATION OF THE OVERLAY ZONE AND PROCEDURE:

(a) APPLICATION: The COAST RESORT OVERLAY ZONE may be applied to any non-estuarine property complying with the standards contained herein. Application of the Overlay Zone to specific property is accomplished through a Zoning Map change. Approval of a Zoning Map change to COAST RESORT OVERLAY ZONE signifies that the affected property is suitable for development pursuant to this Section and subject to the Land Use Plan approved at the time of zone change, but does not authorize development.

(1) The zone or zones applicable to the property preceding the change will be retained on the Zoning Map. If a proposed Preliminary Development Plan is not submitted for a site within five years of the zone change to COAST RESORT OVERLAY ZONE, the designation shall be extinguished and removed from the zoning map, unless prior to the end of the five year period the property owner submits a request for a two-year extension and thereafter the Planning Commission approves the extension. Approval shall be based upon a finding that circumstances have not changed sufficiently since prior approval to render the zone change inappropriate. The CR zone may be extended thereafter from year to year based upon a similar application and finding.

(2) While the COAST RESORT OVERLAY ZONE is applicable to certain property, no development or use of the property shall occur except as provided in this Section.

(3) Development pursuant to this COAST RESORT OVERLAY ZONE Section shall be reviewed and approved based upon the provisions of this Section rather than the provisions of the underlying zone or zones. The requirements of other applicable overlay zones and supplemental standards shall apply.

(4) A proposed zone change from COAST RESORT OVERLAY ZONE to a zone or zones other than the underlying zone or zones retained on the Zoning Map shall be evaluated as a change from such underlying zone or zones.

(b) PROCEDURE:

(1) Zone Change: An amendment to the Zoning Map to apply the COAST RESORT OVERLAY ZONE may be initiated by the Board of County Commissioners or by application of the property owner. The procedure shall be as provided in Section 9.020 but the matters to be included in an application and considered on review shall be as set forth in (5) of this section and the criteria for approval of the change shall be as set forth in (6) of this section. A land use plan for the site shall be approved as a part of the zone

change. The requirements for the land use plan are described in (5) (e) of the section. If development as identified on the land use plan requires one or more exceptions to Land Conservation and Development Commission Goals the Goal 2 exception process, including comprehensive plan amendments shall be complied with at the time of the zone change.

- (2) **Preliminary Development Plan:** A Preliminary Development Plan shall determine the nature, location and phasing, if any, of development on property designated COAST RESORT OVERLAY ZONE. A property owner may initiate a request for approval of a Preliminary Development Plan by filing an application with the Planning Department. The Planning Commission shall review the Preliminary Development Plan according to the procedure of Article 6 and standards and criteria of (7), (8) and (9) of this Section.
- (3) **Final Development Plan:** A Final Development Plan shall include the elements provided in (10) of this Section and shall be the authority for issuance of building and other required development permits. The proposed Final Development Plan shall be submitted to the Planning Department and approved or denied by the Director pursuant to the criteria set forth in (11) of this Section. If the proposed development will include subdivision or major partition of the property, preliminary approval shall be obtained prior to approval of the Final Development Plan as required by the Land Division Ordinance. If the Preliminary Development Plan authorized phased development, the final Development Plan may be for one or more of the phases. If a Final Development Plan is not submitted within five years of approval of the Preliminary Development Plan, the latter shall expire and a new Preliminary Development Plan shall be required, unless prior to the end of the five year period the property owner submits a request for a one-year extension and thereafter the Planning Commission approves the extension. Approval shall be based upon a finding that circumstances have not changed sufficiently since prior approval to render the Preliminary Development Plan inappropriate. The Plan may be extended thereafter from year to year based upon a similar application and finding.
- (4) **Pre-application Conference:** Prior to submitting a zone change application or a Preliminary Development Plan application, the applicant shall confer with the Planning director regarding the proposal and the requisites of the applications.
- (5) **Combined Procedure:** The steps described in 4 (b) (1) and 4 (b) (2) above may be combined in which case the Preliminary Development Plan shall serve as the Land Use Plan required for zone change approval.

- (5) CONTENTS OF ZONE CHANGE APPLICATION FOR COAST RESORT OVERLAY ZONE: The following information shall be provided as part of an application for a zone change to COAST RESORT OVERLAY ZONE:
- (a) The completed application form.
 - (b) A site map, drawn to scale, showing the subject property and all property within 250' of the boundaries of the subject property.
 - (c) A vicinity map showing the area and land uses within 1/2 mile of the property.
 - (d) A site inventory and map including the following information as is available in the Comprehensive Plan or other readily available published inventories (The maps shall be at either a 1:100, 200, 300, or 400 scale.):
 - (1) SCS soils classifications.
 - (2) Forest site classification.
 - (3) Goal 5 resources inventoried in the Comprehensive Plan.
 - (4) The shorelands boundary and shorelands resources inventoried in the Comprehensive Plan.
 - (5) Outstanding natural features not included within (3) or (4) above.
 - (6) Beach and dunes land form classifications.
 - (7) Geologic hazards.
 - (e) A Land Use Plan for the site.
 - (1) The Land Use Plan shall consist of a site map, a site suitability matrix and any findings and conditions required under this Subsection (e). The site map shall divide the site into units having common physical, locational and aesthetic characteristics as determined from the site inventory. Each unit shall be identified on the map by a district letter, number or descriptive designation. Non-contiguous portions of the site having common characteristics may be included in one unit. The site suitability matrix shall list on the horizontal scale the five land use categories described below. It shall list on the vertical scale the designations of each of the units shown on the site map. Each of the combinations of land use category and site unit shall be evaluated for use suitability and assigned a value of "suitable", "moderately suitable" or "unsuitable".

- (2) The land use categories to be evaluated for each site unit are as follows:
- (a) Natural (N): Areas that will not be altered or developed because of extreme hazard to life or property, or because of significant ecological, scientific, educational, historic, archaeological or other values identified for protection in the Comprehensive Plan.
 - (b) Low Intensity Recreation (RL): Recreation activities that require no developed facilities or minimal facilities having minor impact on the ecosystem such as unpaved paths, footbridges or boat docks suitable only for small boats and canoes.
 - (c) High Intensity Recreation (RH): Recreation activities requiring substantial developed facilities such as tennis courts, golf courses or marinas and related utility facilities.
 - (d) Development Density 1 (D1): Moderate to low intensity residential development and utility facilities.
 - (e) Development Density 2 (D2): High intensity residential facilities, commercial and utility facilities.
- (3) Suitability evaluations shall be utilized in the following manner:
- (a) A site unit evaluated as suitable for Natural uses will not be developed for other uses except for protection or restoration consistent with the requirements of Sections 3.090, 4.080 and 4.090 regardless of its moderate suitability or suitability under another land use category.
 - (b) A site unit with a land use category other than Natural evaluated as moderately suitable for the category will permit the uses for such category only upon findings describing the reason for the evaluation and conditions and findings demonstrating mitigation of adverse impacts from such permitted uses or such part thereof as are proposed. A site unit not designated as natural that contains significant ecological, scientific, educational, historic or other values identified in the Comprehensive Plan for limitation of conflicting uses shall be evaluated as moderately suitable or unsuitable only and the conditions and findings shall implement the limited protection required by the Comprehensive Plan.
 - (c) A site unit with a land use category other than Natural evaluated as unsuitable for the category will not permit the uses for such category.

- (d) A site unit evaluated as unsuitable or moderately suitable for Natural uses and moderately suitable or suitable for uses in another land use category will permit the uses under the other category or such part thereof as are proposed, subject to the requirements of (b) above if applicable.
 - (f) A written statement providing justification for the proposed zone change according to the approval criteria state in (6) of this Section. The written statement shall include the report of a qualified economist or other market research specialist addressing the issue of the developed recreation facilities that will be necessary, when considered together with the natural amenities of the property, to constitute a primary attraction for visitors. Because a specific development plan is not required for a zone change, the report may refer to categories and ranges of scale of facilities and may provide two or more acceptable alternatives.
 - (g) A demonstration of the feasibility of providing sewer, water and fire services, including public services availability or on-site provision of services, as applicable.
- (6) CRITERIA FOR APPROVAL OF COAST RESORT OVERLAY ZONE: A zone change to COAST RESORT OVERLAY ZONE shall be approved upon findings that the following criteria are satisfied:
 - (a) The natural amenities of the property shall include at least (i) ocean views from a majority of the property or (ii) portions of the property that abut the ocean beach. The natural amenities considered together with identified developed recreation facilities that can be provided on the property (as demonstrated by the Land Use Plan) will constitute a primary attraction for visitors. This conclusion shall be supported by the report required in (5) (f) of this Section.
 - (b) The property is not well suited for commercial agriculture considering the terrain, adverse soil or land conditions, drainage and flooding, location and size of the tract.
 - (c) The proposed development of the property in accordance with the Land Use Plan can be accomplished without substantial interference to or significant adverse effects upon identified sensitive or unique natural areas or ecological features.
 - (d) The proposed development of the property can be accomplished in accordance with the Land Use Plan in a manner that will be compatible with the uses permitted on adjacent lands.
 - (e) Suitable access exists or can be provided to serve development of the property.
 - (f) Adequate sewer, water and fire services can be provided to serve the proposed development of the property.

- (g) Required findings for needed Goal exceptions have been made.
 - (h) The proposed development of the property is consistent with the Comprehensive Plan.
- (7) CONTENTS OF APPLICATION FOR APPROVAL OF PRELIMINARY DEVELOPMENT PLAN: The information required as part of the preliminary development plan shall be as stated in Sections 5-11 of the Tillamook County Land Division Ordinance. The requirements of Section 12 of the Land Division Ordinance may also be applied by the Planning Department. The application shall also include such additional information in the form of written statements, maps and drawings as is necessary to demonstrate compliance with the development standards and approval criteria of (8) and (9) of this Section.
- (8) DEVELOPMENT STANDARDS:
- (a) The Preliminary Development Plan shall be consistent with the Land Use Plan approved for the property.
 - (b) The proposed development shall satisfy the definition of COAST RESORT contained in this Section.
 - (c) The Preliminary Development Plan shall demonstrate that the majority of the developed housing units will be used by visitors and not by full time residents. Such units include, but are not limited to, hotel and motel rooms, cabins, and time share units.
 - (d) Developed recreational facilities shall be provided on the property of a variety, quantity and quality that, when considered together with the retained natural amenities of the property, will be sufficient to constitute in combination a primary attraction for visitors. Satisfaction of this standard shall be demonstrated by the report submitted as required by (5) (f) of this Section and supplemented by a similarly qualified individual if necessitated by any changes in the proposed facilities from the zone change submittal. The developed recreational facilities shall also be adequate to serve the number of living accommodations proposed.
 - (e) A coast resort shall consist of not less than 160 acres of property. Living units, enclosed recreation, entertainment or commercial facilities and paved surfaces may cover a maximum of 40% of the gross area of the property.
 - (f) To the greatest extent possible, significant vegetation and natural features on the property shall be preserved.
 - (g) The commercial, cultural and entertainment uses permitted in (3) (b) (1) through (7) of this Section are intended to be incidental to the primary uses in (3) (a). Such incidental uses shall be permitted only at a scale suited to serve visitors to the coast

resort except to the extent that a particular use cannot be reduced from the proposed scale without impairing the function or economic viability of the use.

- (h) Any commercial, cultural or entertainment services provided as a part of the coast resort shall be contained within the development and shall not be oriented to public highways adjacent to the property. The buildings shall be designed to be compatible in appearance with the living accommodations and shall be constructed of similar materials.
 - (i) A coast resort shall be served by on-site sewage and water systems approved by the DEQ, except where connection to a public system is permitted under the Public Service and Facilities (Goal 11) element of the Comprehensive Plan and such connection will not result in increased tax expense for property served by the public system prior to the connection.
 - (j) Adequate fire protection shall be available through an existing fire district or provided on site.
 - (k) A coast resort proposal shall not alter the character of the surrounding area in a manner which substantially limits, impair or prevents the permitted use of the surrounding properties. A coast resort proposal shall not force a significant change in or significantly increase the cost of farm or forest practices on nearby lands devoted to farm or forest uses.
 - (l) All requirements of other applicable county ordinance provisions shall be satisfied.
 - (m) A Preliminary Development Plan may specify phases of development if each successive phase together with previously completed phases is capable of operating in a manner consistent with the intent and purpose of this Section.
- (9) APPROVAL CRITERIA FOR PRELIMINARY DEVELOPMENT PLAN: The Preliminary Development Plan for a coast resort development permitted under this Section shall be approved upon finding that the following criteria have been met:
- (a) The proposed development will satisfy the development standards in (8) of this Section.
 - (b) The development has been designed to provide beach access or views of the ocean as a major feature of the project.
 - (c) The proposed type and level of development is appropriate to the site and will be compatible with the existing uses of the adjacent lands as well as the potential future uses as indicated by the current Comprehensive Plan and zoning designations.

- (d) The proposed means of external and internal circulation is adequate to provide for the safe movement of vehicles and pedestrians.
 - (e) Adequate public services will be available to serve the development, including water supply, sewage disposal, electric power, telephone service, police and fire protection.
- (10) CONTENTS OF FINAL DEVELOPMENT PLAN: The information required as a part of the final development plan shall be as stated in Sections 16 and 17 of the Tillamook County Land Division Ordinance and shall also include information regarding the method of compliance with (12) (a) of this Section.
- (11) APPROVAL CRITERIA FOR FINAL DEVELOPMENT PLAN: The Final Development Plan for the site, or for a phase of development if applicable shall be approved if it contains the information required under (10) above, is consistent with the approved Preliminary Development Plan and if all other applicable County requirements have been met. The approved method of compliance with the requirements of (12) (a) of this Section may be amended from time to time with the prior written approval of the Planning Director.
- (12) IMPLEMENTATION:
- (a) To provide adequate assurance that developed recreational facilities proposed in the Preliminary Development Plan will be completed, the Final Development Plan shall specify one or a combination approved by the Planning Director of the following procedures. Building permits and final subdivision plat approvals shall be issued only upon compliance with the specified procedure.
 - (1) The total number of subdivided lots and the total number of dwelling units not on individual lots that will be offered for sale, exclusive of time share sales, shall be specified. Such lots and dwelling units shall be referred to in this Subsection (12) (a) as "units". The estimated cost of each of the proposed developed recreational facilities stated in current dollars shall be specified. Subdivision final plat approvals and building permits for not more than 25% of the total number of units may be issued prior to completion of any developed recreational facilities. Thereafter, the percentage of units for which final subdivision plat approvals or building permits are issued compared to the total number of units shall not exceed the percentage of the dollar value of completed developed recreation facilities based on their estimated cost compared to the total estimated costs.
 - (2) The Preliminary Development Plan shall provide for no fewer than four phases satisfying the requirements of (8) (m) of this Section. The first phase shall not include more than 25% of the total number of units determined in the manner described in (1) above.

- (3) A corporate surety performance bond shall be deposited with the county in a form acceptable to the Planning Director and in an amount equal to the estimated cost of all developed recreational facilities proposed in the Final Development Plan prior to issuance of final subdivision plat approvals or building permits for development pursuant to the plan.
 - (b) When phased development has been approved through the Preliminary Development Plan, development of a subsequent phase shall not begin until all developed recreation facilities of the previous phase have been completed.
- (13) FEES: The fees for COASTAL RESORT OVERLAY ZONE applications should be calculated in the same way and at the same amount as those assessed for PLANNED DESTINATION RESORT applications as provided in Section 3.084 (12) (6) of this ordinance.

SECTION 3.084: PLANNED DESTINATION RESORT (PDR)

(1) PURPOSE:

The purpose of the PDR zone is to provide an implementing mechanism for the PLANNED DESTINATION RESORT designation in the Comprehensive Plan. The PDR zone is intended to ensure that destination resorts will be primarily visitor-oriented developments; will be developed in substantial harmony with the natural features of a particular site; will provide economic benefits to the County and the State; and will be compatible with uses on adjacent lands to the extent and by the means provided by ORS 197.435 - 197.465 and LCDC Goal 8.

A "Destination Resort" is a self-contained development that provides for visitor-oriented accommodations and developed recreational facilities in a setting with high natural amenities. Development of lands designated "Destination Resort" shall be governed by this Section.

(2) DEFINITIONS:

DEVELOPED RECREATION FACILITIES means improvements constructed for the purpose of recreation and may include, but are not limited to, golf courses, tennis courts, swimming pools, marinas, ski runs and bicycle paths.

SELF-CONTAINED DEVELOPMENT means a development for which community sewer and water facilities are provided on-site and are limited to meet the needs of the development or are provided by existing public sewer or water service as long as all costs related to service extension and any capacity increases are borne by the development. A SELF-CONTAINED DEVELOPMENT shall have developed recreational facilities provided on-site.

VISITOR-ORIENTED ACCOMMODATIONS means overnight lodging, restaurants, meeting facilities which are designed to and provide for the needs of visitors rather than year-round residents.

HIGH VALUE CROP AREA means an area in which there is a concentration of commercial farms capable of producing crops or products with a minimum gross value of \$1,000 per acre per year. These crops and products include field crops, small fruits, berries, tree fruits, nuts or vegetables, dairying, livestock feedlots or Christmas trees as these terms are used in the 1983 County and State Agricultural Estimates prepared by the Oregon State University Extension Service. The "high value crop area" designation is used for the purpose of minimizing conflicting uses in resort siting and does not revise the requirements of an agricultural land goal or administrative rules interpreting the goal.

OVERNIGHT LODGINGS means permanent, separately rentable accommodations which are not available for residential use. Overnight lodgings include hotel or motel rooms, cabins and time-share units. Individually owned units may be considered overnight lodgings if they

are available for overnight rental use by the general public for at least 45 weeks per calendar year through a central reservation and check-in service. Tent sites, recreational vehicle parks, mobile homes, dormitory rooms and similar accommodations do not qualify as overnight lodgings for the purpose of this definition.

RECREATION AREAS, FACILITIES AND OPPORTUNITIES means facilities that provide for human development and enrichment, and include but are not limited to: open space and scenic landscapes; recreational lands; history, archaeology and natural science resources; scenic roads and travelers; sports and cultural events; camping, picnicking and recreational lodging; tourist facilities and accommodations; trails; waterway use facilities; hunting; angling; winter sports; mineral resources; active and passive games and activities.

RECREATION NEEDS refers to the existing and future demand of citizens and visitors for recreations areas, facilities and opportunities.

- (3) APPROVAL OF DEVELOPMENT: No development in a PDR zone, including but not limited to clearing, grading, excavating, road building, site preparation or structural improvements, may be permitted prior to approval of a Development Plan pursuant to Section 3.084 (12) (e) of this Section. No transfer, sale or conveyance of any individual lot, residential unit or overnight accommodation in a PDR zone shall be permitted prior to Final Development Approvals pursuant to Section 3.084 (12) (f).
- (4) DEVELOPMENT PLANS BINDING: All development and subsequent operation of a destination resort within a PDR zone shall be undertaken in accordance with the provisions of the approved Development Plans and Final Development Approvals. Failure to comply with these provisions shall constitute a violation of the provisions of this Section.
- (5) CONFLICTING REGULATIONS: The provisions of this Section shall take precedence over the provisions of other articles or ordinances which might otherwise disallow, limit or condition certain uses or activities authorized by this Section; provided, however, that the following shall continue to apply: the FLOOD HAZARD OVERLAY ZONE, Section 3.060; the BEACH AND DUNE OVERLAY ZONE, Section 3.085; the SHORELAND OVERLAY ZONE, Section 3.090; the FRESHWATER WETLANDS OVERLAY ZONE, Section 3.092; the ESTUARY ZONES, Section 3.100 - 3.110; the GEOLOGIC HAZARD OVERLAY ZONE, Section 4.070; the requirements for PROTECTION OF WATER QUALITY AND STREAMBANK STABILIZATION, Section 4.080; and the Tillamook County Land Division Ordinance, which regulates major partitions and subdivisions.
- (6) PERMITTED USES:
 - (a) Subject to an approved Development Plan, the following uses may be permitted when provided as part of and intended primarily to serve visitors at a destination resort:
 - I. Overnight lodging, including lodges, hotels, motels, time share units and

similar transient lodging facilities as defined in Section 3.084 (2).

- II. All manner of outdoor and indoor developed recreational facilities, including but not limited to golf courses, racquet sports facilities, nature trails, walking/running/bicycle paths, boat launching, moorage, campgrounds, etc. Commercial uses accessory to recreation facilities (e.g. golf or tennis proshops, bicycle or boat rental facilities, etc.) may also be permitted.
 - III. Restaurant, lounges and similar eating and drinking establishments.
 - IV. Convention facilities and meeting rooms.
 - V. Public utility facilities.
 - VI. Necessary housing for employees of operators of facilities.
 - VII. Farm and forest uses.
- (b) Subject to Final Development Approvals, the following uses may be permitted when provided as part of and intended primarily to serve persons at a destination resort:
- I. Single-family, two-family and multifamily dwelling units, as limited by Section 3.084 (7) (b) (VI) for small destination resorts.
 - II. Commercial services and specialty shops necessary for and limited to providing for the needs of vacationers and visitors to the resort, except in small scale destination resorts, where commercial services are not permitted.
 - III. Heliports, limited to type and level of use necessary to serve the needs of destination resort visitors, except in small scale destination resorts, where heliports are not permitted.

(7) SITING STANDARDS:

(a) LARGE DESTINATION RESORTS

A Large Destination Resort shall meet the following standards:

- I. The resort shall be located on a site of 160 acres or more, except within two miles of the ocean shoreline, where the site shall be 40 acres or more.
- II. At least 50 percent of the site shall be dedicated to permanent open space, excluding streets and parking areas.

- III. At least \$2 million, in 1984 dollars, shall be spent on improvements for on-site developed recreational facilities and visitor-oriented accommodations exclusive of costs for land, sewer and water facilities and roads. Not less than one-third of this amount shall be spent on developed recreational facilities.
- IV. Visitor-oriented accommodations, including meeting rooms, restaurants with seating for at least 100 persons and at least 150 separate rentable units for overnight lodging, shall be provided. Accommodations available for residential use shall not exceed two such units for each unit of overnight lodging.
- V. Commercial uses shall be limited to types and levels of use necessary to meet the needs of visitors to the development, and shall be designed to be compatible in appearance with any residential units and visitor-oriented accommodations. Industrial uses of any kind are not permitted.

(b) SMALL DESTINATION RESORTS:

A SMALL DESTINATION RESORT shall meet the following standards:

- I. The resort shall be located on a site of 20 acres or more.
- II. At least 50 percent of the site shall be dedicated to permanent open space, excluding streets and parking areas.
- III. At least \$1 million, in 1984 dollars, shall be spent on improvements for on-site developed recreational facilities and visitor-oriented accommodations exclusive of costs for land, sewer and water facilities and roads. Not less than one-third of this amount shall be spent on developed recreational facilities.
- IV. At least 25 units, but not more than 75 units, of overnight lodging shall be provided.
- V. Restaurants and meeting rooms with at least one seat for each unit of overnight lodging shall be provided.
- VI. Residential uses shall be limited to those necessary for the staff and management of the resort.
- VII. The primary purpose of the small destination resort shall be to provide lodging and other services oriented to a recreational resource which can only reasonably be enjoyed in a rural area.
- VIII. The resort shall be constructed and located so that it is not designed to attract

highway traffic. Resorts shall not use any manner of outdoor advertising signing except:

- (A) Tourist-oriented directional signs as provided in ORS 377.715 to 377.830; and
- (B) On-site identification and directional signs.

(c) MAP INDICATING ELIGIBLE AREAS

The attached map (Comprehensive Plan, b.4) fulfills the requirements of ORS 197.455 and indicates the areas within the County that are eligible for destination resort applications.

(8) COMPATIBILITY STANDARDS

Compatibility with the site and adjacent land uses shall be insured through the following measures:

- (a) Important natural features, including habitat of threatened or endangered species, streams, river, and significant wetlands shall be maintained. Riparian vegetation within one hundred feet of streams, rivers, and significant wetlands shall be maintained. Alterations to important natural features, including placement of structures which maintain the overall values of the features may be allowed.
- (b) Improvements and activities shall be located and designed to avoid or minimize adverse effects of the resort on uses on surrounding lands, particularly effects on intensive farming operations in the area. At a minimum, measures to accomplish this shall include:
 - I. Establishment and maintenance of buffers between the resort and adjacent land uses, including natural vegetation and, where appropriate, fences, berms, landscaped areas, and other similar types of buffers.
 - II. Setbacks of structures and other improvements from adjacent land uses.

(9) DIMENSIONAL STANDARDS:

Dimensional standards such as yards, building height, etc. shall be in keeping with adequate provision for open space and protection of natural features. Dimensional standards shall be specified on the Development Plan, except that for subdivided lots, dimensional standards may be determined on a case-by-case basis by a homeowner's association, architectural review committee or other private body established for that purpose. Such a procedure shall be specified in the Development Plan.

(10) **GUARANTEES AND SURETY BONDING:**

As part of the Final Development Approvals pursuant to Section 3.084 (12) (f), the developer of a destination resort shall assure that developed recreational facilities, key facilities intended to serve the entire development and visitor oriented accommodations are physically provided or are guaranteed through surety bonding or substantially equivalent financial assurances prior to closure of sale of individual lots or units. In phased developments, developed recreational facilities, visitor-oriented accommodations and other key facilities intended to serve a particular phase shall be constructed or guaranteed through surety bonding prior to sales in that phase.

(11) **PHASING:**

A Destination Resort authorized pursuant to this Section may be developed in phases. If a proposed resort is to be developed in phases, each phase shall be described in detail in the Development Plan. Each individual phase shall meet the following requirements:

- (a) Each phase, together with previously completed phases, if any, shall be capable of operating in a manner consistent with the intent and purpose of this Section.
- (b) All developed recreational facilities, visitor-oriented accommodations and other key facilities intended to serve the entire development shall be constructed or guaranteed through surety bonding or other substantially equivalent financial assurance in the initial phase of any destination resort authorized pursuant to this Section.
- (c) Building permits and other authorizations for development of structures or other improvements in subsequent phases shall not be issued until the Final Development Approvals for the previous phase have been issued.

(12) **PROCEDURE:**

The authorization and development of a destination resort pursuant to this Section shall be governed by the following procedure:

- (a) **GENERAL PROCEDURE:** Four steps are required for the authorization and development of a destination resort.

Step 1 is the pre-application review process as described in Section 3.084 (12) (c).

Step 2 is the application for a quasi-judicial Comprehensive Plan and Zoning Map amendment that amends the subject parcel from the existing Plan and Zone designations to **PLANNED DESTINATION RESORT**. This step includes the submittal of a Conceptual Plan and shall proceed in accordance with Section 3.084 (12) (d).

Step 3 is the Development Plan application, which shall proceed in accordance with Section 3.084 (12) (e).

Step 4 is the Final Development Approvals, which shall proceed in accordance with Section 3.084 (12) (f).

(b) FEES: Each application shall be submitted with five additional copies and an application fee based upon the total estimated construction costs, which shall exclude the cost of single-family dwellings on individual lots.

I. For large-scale destination resorts;

(A) The Pre-application review fee shall be \$2,500. This fee shall be paid prior to any community meetings arranged to discuss the proposal.

(B) The Zone Change application (Conceptual Plan submittal) fee is .04% of the total estimated construction costs, or \$5,000, whichever is greater, but not more than \$15,000.

(C) The Development Plan application fee is .025% of the total estimated construction costs, or \$5,000, whichever is greater, but not more than \$10,000.

(D) The Final Development Approvals fee is .01% of the total estimated construction costs, or \$2,000, whichever is greater, but not more than \$4,000.

II. For small-scale destination resorts;

(A) The Pre-application review fee shall be \$1,000. This fee shall be paid prior to any community meetings arranged to discuss the proposal.

(B) The Zone Change application (Conceptual Plan submittal) fee is .04% of the total estimated construction costs or \$2,500, whichever is greater, but not more than \$15,000.

(C) The Development Plan application fee is .025% of the total estimated construction costs, or \$2,500, whichever is greater but not more than \$10,000.

(D) The Final Development Approvals fee is .01% of the total estimated construction costs or \$1,000, whichever is greater, but not more than \$4,000.

- (c) **PRE-APPLICATION REVIEW:** There shall be a formal pre-application review process to help assure that the Conceptual Plan, when submitted, will be generally consistent with the requirements of this ordinance. This process will include one or more public informational meetings in the nearest town or community to give the developer, planning staff, and affected property owners and residents an opportunity to share information and concerns.
- (d) **CONCEPTUAL PLAN:** An application for a Comprehensive Plan and Zoning Map amendment to **PLANNED DESTINATION RESORT** shall be accompanied by a Conceptual Plan of the proposed destination resort. The Conceptual Plan shall be the basis for any approval of a Comprehensive Plan and Zoning Map amendment to **PLANNED DESTINATION RESORT** and shall be binding upon the applicant.

All subsequent development on any property designated **PLANNED DESTINATION RESORT** shall be in substantial conformance with the approved Conceptual Plan.

I. **CONTENT OF THE CONCEPTUAL PLAN:** The Conceptual Plan shall include, at a minimum, the following;

- (A) A general site plan of the proposed development, which shall include:
 - (i) The location and total number of acres to be designated Destination Resort; the location and number of acres to be reserved as open space or common area.
 - (ii) Proposed overall density.
 - (iii) A discussion of the natural features of the site and how they will be enhanced or utilized in the design.
 - (iv) The type and extent of developed recreational facilities to be provided.
 - (v) A general indication of the residential units proposed, including typical lot and building configuration and typical architectural character.
 - (vi) Feasibility and proposed method of supply of adequate electric power.
 - (vii) Feasibility and proposed method of providing adequate police and fire protection.

- (viii) Feasibility and proposed method of providing adequate domestic water service including source, storage and distribution.
 - (ix) Feasibility and proposed method of providing adequate storm drainage.
 - (x) Feasibility and proposed method of providing adequate sewage disposal.
 - (xi) Proposed method(s) of adequate access to the development, and an indication of whether streets will be public or private.
- (B) A general discussion, together with maps, of the natural characteristics of the site and of other lands directly affected by the proposed development. Such discussion shall include a description of the resources and limitations present, the effect of the proposed development on such resources and methods to be employed to overcome limitations or mitigate adverse impacts on natural resources. Resources to be addressed and mapped shall include:
- (i) Soils.
 - (ii) Geology, including areas of potential instability.
 - (iii) Slope and general topography.
 - (iv) Drainage patterns, including major drainage ways.
 - (v) Areas subject to flooding.
 - (vi) Other hazards or development constraints.
 - (vii) Riparian vegetation.
 - (viii) Water areas, including streams, lakes, ponds and wetlands.
 - (ix) Fish and wildlife habitats.
 - (x) Ecologically or scientifically significant natural areas.
 - (xi) Other applicable County zones, as provided in Section 3.084 (5).

- (C) A discussion of existing and projected public and private uses on adjacent lands, including impacts of the proposed development on such uses; potential problems of incompatibility of uses; and measures which may be employed to mitigate anticipated compatibility problems or conflicts.
- (D) A preliminary economic analysis of the proposed development, which shall include:
 - (i) A preliminary analysis which addresses the economic viability of the proposed development, and the total estimated cost of construction (excluding single-family dwellings on individual lots).
 - (ii) A preliminary analysis of the fiscal impacts of the project, including changes in community employment and income, changes in tax revenues, required levels of public services and effects on resource lands.
- (E) Other information as may be required in writing by the Planning Director.

II. APPROVAL OF COMPREHENSIVE PLAN AND ZONING MAP AMENDMENT.

A Comprehensive Plan and Zoning Map amendment assigning the PLANNED DESTINATION RESORT designation to a site shall be approved upon findings that the Conceptual Plan complies with Sections 3.084 (1), (5), (6), (7), (8), (9), (10) and (12) (d) I.

The procedure shall be as provided in Section 9.020 of this Zoning Ordinance, except that the matters to be included in an application shall be as set forth in Sections 3.084 (1), (5), (6), (7), (8), (9), (10) and (12) (d) I herein, rather than those set forth in Section 9.020 (2), and the criteria for approval of the change shall be satisfaction of these criteria rather than satisfaction of the criteria in Section 9.020 (3).

The Planning Commission may require changes to the Conceptual Plan or may impose conditions upon approval of the Conceptual Plan to assure compliance with this ordinance.

III. CHANGES TO AN APPROVED CONCEPTUAL PLAN:

Any substantial change, as determined by the Planning Director, proposed by the developer to an approved Conceptual Plan shall require resubmission of the Conceptual Plan and reapplication and approval.

"Substantial change" to an approved Conceptual Plan, as used here, means an alteration in the type, scale, location or other characteristic of the proposed development such that the findings of fact upon which the original approval was based would be materially affected.

IV. TIME LIMIT ON CONCEPTUAL PLAN:

Approval shall be valid for a period of five years from the date of approval, which period shall be tolled pending any appeals. If, within this five-year period, Development Plan approval is not obtained, the Conceptual Plan shall expire, unless an extension is approved by the Planning Commission, for good cause shown. If the Conceptual Plan expires, the zone on the affected property shall automatically revert to the zone that existed at the time the PDR zone was applied to the property.

(e) DEVELOPMENT PLAN:

A Development Plan shall determine the final details, location and phasing, if any, of all development in a PDR zone. The procedure for review, decision and appeals for the Development Plan shall be in accordance with Article X of this Zoning Ordinance. If the proposed development includes a subdivision of land or other action requiring review and approval under the provisions of the Land division Ordinance, application for such approvals shall be combined with the application for approval of the Development Plan.

I. CONTENT OF DEVELOPMENT PLAN:

An application for approval of a Development Plan shall include a detailed site plan and such other information as is necessary to determine conformance with this Section and other applicable requirements. Such maps, site plans and other information shall include, at a minimum, the following:

- (A) The Conceptual Plan.
- (B) The overall density proposed.
- (C) The location, size, design, construction plans, maintenance responsibility and cost estimates (certified by a licensed engineer or

architect) of all developed recreational facilities, visitor-oriented accommodations and key facilities intended to serve the entire development, including, but not limited to:

- (i) Sewer,
- (ii) Water,
- (iii) Storm drains,
- (iv) Power,
- (v) Telephone,
- (vi) Cable,
- (vii) Other utilities,
- (viii) Roads,
- (ix) Pedestrian ways,
- (x) Access points to roads outside the development,
- (xi) Construction necessary to mitigate adverse impacts on adjacent uses and properties;

Provided however, that if any of the above-listed items are provided by a public agency or district, a binding letter of commitment from the public agency or district shall be sufficient.

- (D) The location, size, design and proposed use of all buildings to be constructed, except single-family dwellings on individual lots.
- (E) Land areas to be reserved as open space and the proposed use of such areas.
- (F) Identification of potential use conflicts between resort uses and adjacent uses, and methods to be employed to mitigate adverse impacts on adjacent uses and properties.
- (G) Plans for phasing, if any.

- (H) Identification of the type and location of important natural features, including maps and a detailed description of such features and proposed measures for maintaining the overall values of these features.
- (I) Such other information as the Planning Director may request in writing.

II. REVIEW FOR COMPLETENESS:

Within 90 days of receipt of the Development Plan, the Planning Director shall decide whether the application is sufficiently complete to determine compliance. The applicant shall be given 90 days within which to submit any additional information the Planning Director requests in writing.

III. APPROVAL OF DEVELOPMENT PLAN:

A Development Plan is in conformance with the approved Conceptual Plan.

- (A) The Development Plan is in conformance with the approved Conceptual Plan.
- (B) The Development Plan demonstrates that the proposed destination resort will comply with the requirements of Section 3.084 (1), (5), (6), (7), (8), (9), (10), (11), and (12) (d) and (e).
- (C) The proposed development will be in conformance with all other applicable requirements of this Section.
- (D) The Planning Commission shall consider the Development Plan at the earliest practicable hearing.
- (E) The Planning Commission shall take final action on the Development Plan within 120 days after close of the hearing.
- (F) The Planning Commission may require changes to the Development Plan to assure compliance with this ordinance as a condition precedent to approval.
- (G) Approval of the Development Plan by the Commission shall give the applicant the right to proceed with submission of a Request for Final Development Approvals. Any decision of the Commission on a request for approval of a Development Plan may be appealed pursuant

to Article X.

IV. DEVELOPMENT AUTHORIZED BY DEVELOPMENT PLAN APPROVAL:

Based on an approved Development Plan, building permits or other development permits for uses and improvements listed in Section 3.084 (6) (a) or Section 3.084 (12) (e) I (A) shall be authorized. Uses and improvements specified in Section 3.084 (6) (b) shall be authorized only upon Final Development Approvals as specified in Section 3.084 (12) (f).

V. TIME LIMIT ON DEVELOPMENT PLAN:

Approval of a Development Plan shall be valid for a period of five (5) years from the date of approval, which period shall be tolled pending any appeals. If, within this five-year period, Final Development approvals are not obtained, the Development Plan shall expire, unless an extension is approved by the Planning Commission, for good cause shown. If the Development Plan expires, the zone on the affected property shall automatically revert to the zone that existed at the time the PDR Zone was applied to the property.

VI. TIME EXTENSION ON A DEVELOPMENT PLAN:

Prior to the expiration of the Development Plan, a request may be submitted for a two-year extension of the deadline for submitting a Request for Final Development Approvals, and such request may be granted for good cause shown. Subsequent requests for time extensions shall be considered by the Commission at public hearing pursuant to Article X.

VII. CHANGES TO AN APPROVED DEVELOPMENT PLAN:

Any substantial change, as determined by the Director, proposed to an approved Development Plan shall require resubmission of the Development Plan, which shall be considered pursuant to Section 3.084 (12) (e). "Substantial change" to an approved Development Plan, as used here, means an alteration in the type, scale, location or other characteristic of development such that the findings of fact upon which the original approval was based would be materially affected.

VIII. COMBINED APPLICATIONS:

An applicant may simultaneously submit a Conceptual Plan and request for a Comprehensive Plan and Zoning Map amendment together with a request for approval of a Development Plan. Both will be considered by the Planning

Commissioners pursuant to the procedures set forth in Section 3.084 (12).

(f) FINAL DEVELOPMENT APPROVALS:

Within five (5) years of the date of approval of the Development Plan, or such longer period as may be authorized by an extension, a Request for Final Development Approvals may be submitted. The Request shall include forms of the certificates, binding letters of commitment, guarantees, surety bonds and other information required to demonstrate compliance with the terms and conditions of the Development Plan. The Request shall be the basis for the issuance of building permits and other required development permits. If the proposed development involves a subdivision of land, final plat approval in accordance with the provisions of the subdivision ordinance shall be granted simultaneously with Final Development Approvals. If the proposed development involves phasing, the Final Development Approvals may be for one or more phases.

I. CONTENT OF REQUEST FOR FINAL DEVELOPMENT APPROVALS:

The Request shall contain all information necessary to determine conformance with the Development Plan. Such information shall include, at a minimum, either;

- (1) As-built drawings, final inspection notices of certificates of occupancy for all uses specified in Section 3.084 (6) (b) or Section 3.084 (12) (e) 1 (iii) that have actually been constructed; or
- (2) Forms of surety bonds or other substantial equivalent financial assurance acceptable to the County guaranteeing construction of such facilities pursuant to Section 3.084 (10) herein.

II. APPROVALS OF REQUEST FOR FINAL DEVELOPMENT APPROVALS:

Approval shall be based upon compliance with Section 3.084 (12) (e), and upon satisfactory execution of the certificates, binding letters of commitment, guarantees, surety bonds and other necessary documents or assurances.

III. EXPIRATION:

If substantial construction has not taken place within five years from the date of Final Development Approvals, the Approvals shall expire and be void. The Planning Commission may grant a two-year extension to this deadline for good cause shown.

SECTION 3.085: BEACH AND DUNE OVERLAY ZONE (BD)

- (1) **PURPOSE:** The purpose of the Beach and Dune Overlay Zone is to regulate development and other activities in a manner that conserves, protects and, where appropriate, restores the natural resources, benefits, and values of coastal beach and dune areas, and reduces the hazard to human life and property from natural events or human-induced actions associated with these areas. The Overlay Zone establishes guidelines and criteria for the assessment of hazards resulting from beach and dune processes and development activities in beach and dune areas.
- (2) **AREAS INCLUDED:**
- (A) The BD zone is based on information contained in the inventory of beach and dune landforms of Tillamook County, prepared by the Soil Conservation Service (SCS, now known as the Natural Resource Conservation Service) and published in their 1975 report, Beaches and Dunes of the Oregon Coast. The dune areas mapped in the inventory are identified in the Goal 18 (Beaches and Dunes) Element of the Comprehensive Plan.
- (B) This overlay zone includes the following areas identified and defined in the report noted in (A) above and corresponding to the LCDC system as shown below:

INVENTORY CLASSIFICATION	LCDC CLASSIFICATION
Active Inland Dune (AID)	Dune, Active
Beach (B)	Beach
Dune Complex (DC)	Dune Complex
Younger Stabilized dunes (DS)	Dune, Younger Stabilized
Recently Stabilized Foredunes (FD)	Foredune, Conditionally Stable
Active Foredune (FDA)	Foredune, Active
Active Dune Hummocks (H)	Hummock, Active
Older Stabilized Dunes (ODS)	Dunes, Older Stabilized
Open Dune Sand (OS)	Dune, Active/Dune, Parabolic
Open Dune Sand Conditionally Stable (OSC)	Dune, Conditionally Stable
Wet Interdune (W)	Interdune (Note: This is not the same as a deflation plain)
Wet Deflation Plain (WDP)	Deflation Plain

- (3) CATEGORIES: The results of the inventory can be summarized into four Beach and Dune categories:

CATEGORY (1) - DEVELOPED BEACHFRONT AREAS:

Active foredune areas where an Exception to Goal 18 allows development on the active foredune. These areas are described in Section 6.1 of the Goal 18 Element of the Comprehensive Plan.

CATEGORY (2) - FOREDUNE MANAGEMENT AREAS:

Active foredune areas where an Exception to Goal 18 allows development on the active foredune and an overall management plan is approved to allow foredune grading. The management plans for these areas are contained in Section 3.1 of the Goal 18 Element of the Comprehensive Plan.

CATEGORY (3) - RESOURCE PROTECTION AREAS

- a. Beach and dune areas committed to resource protection or recreational use, including:
 - (1) Beaches,
 - (2) Active foredunes outside of those included in categories 1 and 2,
 - (3) Conditionally stable foredunes which are subject to ocean undercutting or wave overtopping,
 - (4) Interdune areas that are subject to ocean flooding, and
 - (5) Deflation plains that are subject to ocean flooding.

CATEGORY (4): STABILIZED BEACH AND DUNE AREAS

- b. Beach and dune areas stabilized by vegetation, including:
 - (1) Conditionally stable foredunes and other conditionally stable areas which are not subject to ocean undercutting or wave overtopping,
 - (2) Younger or older stabilized dunes, and
 - (3) Coastal Terraces.

- (4) ADMINISTRATIVE PROVISIONS: Uses within the BD zone are subject to the provisions

and standards of the underlying zone and of this Section. Where the provisions of this zone and the underlying zone conflict, the more restrictive provisions shall apply. Other overlay zone and regulatory criteria also may apply to uses within the BD zone: for example, the standards and criteria of the Shoreland Overlay Zone, the Estuary Zones, Estuary Development Standards, Development Requirements for Geologic Hazard Areas, Flood Hazard Overlay Zone, and Requirements for Protection of Water Quality and Streambank Stabilization as set forth in the Tillamook County Land Use Ordinance.

(A) PERMITTED USES

- (1) Residential, commercial and industrial development, subject to the standards in Section 3.085 (5) and the following provisions:
 - a. Such development is permitted only in areas classified as stabilized foredune or conditionally stable foredune not subject to ocean undercutting or wave overtopping, or in areas where an exception has been taken to the prohibitions contained in Goal 18 implementation requirement (2).
 - b. The placement of oceanfront structures in coastal or geologic hazards areas is subject to the requirements of Section 3.085 (5) of this ordinance which includes a requirement that the applicant submit a Dune Hazard Report. This report shall conform to the standards and criteria set forth in Section 3.085 (5) (B) Dune Hazard and Modified Dune Hazard Reports, and also those standards and criteria set forth in the Development Requirements for Geologic Hazard Areas where applicable. The department also will consider any other pertinent information, and may require additional studies and information from the applicant. Based upon this report and any other information, oceanfront structures may be denied or restricted with respect to their location and construction.
 - c. Oceanfront structures shall be located in a manner which aligns development parallel to the Oregon Coordinate Line (beach zone line) as much as possible, consistent with the purpose of this zone.
- (1) The Oceanfront Setback Line (OSL) determines how close to the ocean any structure other than an approved structure for oceanfront protection or stabilization or for beach access may be located, subject to any additional setback necessary to meet site-specific hazard concerns.

The OSL is landward of the crest of the active foredune and is approximately parallel to the Oregon Coordinate Line. In all cases, the OSL is measured from the most oceanward point of a structure which is higher than three feet from existing grade.

The exact location of the OSL depends on the location of oceanfront buildings near the proposed structure and upon the location and orientation of the Oregon Coordinate Line. For purposes of determining the OSL, "building" shall be limited to a permanent residential, commercial or industrial structure attached to a fixed foundation, and located within 500 feet of the Oregon Coordinate Line. Accessory structures or RV's shall not be used in making this determination.

- (a) If there are legally constructed buildings within 300 feet of the exterior boundary of the subject property to both the north and the south, the OSL is a line drawn between the most oceanward point of any legally constructed portion of the nearest building to the north and the nearest building to the south.
 - (b) If there are legally constructed buildings within 300 feet to the north only or to the south only, the OSL is the average setback from the Oregon Coordinate Line of all such buildings.
 - (c) If there are no legally constructed buildings within 300 feet to either the north or south on oceanfront lots, the OSL is the average oceanfront setback from the Oregon Coordinate Line of the nearest two such existing buildings.
- (2) In cases where the above method of OSL determination requires development to be set back further from the Beach Zone line than is required by geologic hazards or protection of the ocean view of existing development on oceanfront property, the Planning Director may determine the setback distance which will apply. The intent of this provision is to limit this application of the Director's discretion to those rare and unusual circumstances where the above method of determining the OSL produces an unreasonable and inequitable result. In such instances, a public meeting for purposes of discussing the proposed setback shall be held and recorded. Notice shall be given to surrounding property owners and persons requesting notice pursuant to the notice requirements set forth in Section 10.040 of this ordinance.

Upon finding that the purposes of the landward yard setback will still be achieved, the Director also may reduce the landward yard setback to no less than 10 feet.

The Director's decision shall be made pursuant to the standards and criteria set forth in this section and any other standards or regulations which may apply.

- (3) Notwithstanding the above provisions, the Planning Director shall require a greater setback from the ocean where there is evidence of significant coastal, environmental, or geologic hazards as determined by a Dune Hazard Report submitted pursuant to Section 3.085 (5) or other information available to the Department. In making this determination, the Hazard Report and the Director shall take into account evidence of recent, active beach erosion and whether the proposed development has been designed to adequately minimize and mitigate for any adverse environmental effects to the fullest extent required by law.
 - d. Residential building in active foredune areas shall be constructed so as to minimize the future need to remove inundating sand.
 - e. Building heights shall be measured from the existing grade. Only in Foredune Management Areas shall additional fill be allowed on an oceanfront lot, provided the applicant can demonstrate that a structure located on the existing grade will not provide an ocean view, and that the provisions of Section 3.060 (Flood Hazard Overlay Zone) are met.
2. Accessory structures for beach access, oceanfront protection or stabilization, on-site sewage disposal systems, or other uses which the Department determines are consistent with the purpose of this zone, subject to the standards of Section 3.085 (5) and the following provisions:
- a. The location of accessory structures will be determined in each case on the basis of site-specific information provided by a Dune Hazard Report, pursuant to the provisions of Section 3.085 (5) B.
 - b. Any accessory structure higher than three feet as measured from existing grade will be subject to the variance procedure and criteria set forth in Article VIII of the Tillamook County Land Use Ordinance.

- c. Accessory structures for on-site subsurface sewage disposal systems may not be located oceanward of the primary structure on the subject property unless the following provisions are met:
 - (1) The primary structure on the subject property is an authorized residential, commercial, or industrial structure in existence as of October 28, 1992;
 - (2) The accessory structure is required for repair of an existing disposal system, and there is no viable alternative system or location landward of the primary structure; and
 - (3) The owner of the subject property submits an affidavit to the Department acknowledging that the property owner has been informed an oceanfront protective structure will not be authorized to protect the disposal system against erosion, and that the owner has sole responsibility for notifying any purchaser of this condition prior to sale of the property.

3. Private Beach Access

- a. Boardwalks and pedestrian footpaths to the beach shall be permitted in all dune areas, except where restricted in Fore dune Management Areas.
- b. Off-road recreational vehicle use in dune areas shall be permitted in Sand Lake Recreational Area. Motor vehicles registered to operate on public highways and roads shall be allowed to travel on beaches where posted by the State Parks and Recreation Division. Operation of motor vehicles at other beach locations will require a Vehicle Permit (ORS 390.668) from State Parks.
- c. In Fore dune Management Areas, where heavy use of public easements or rights of way destabilizes dune areas on adjoining private property, signs may be placed at landward entrance points to encourage the use of alternative public access points. Signs shall be subject to review by the Fore dune Management Authority, Tillamook County, and the State Parks and Recreation Division.

4. Beachfront Protective Structures

- a. For the purposes of this requirement, "development" means houses, commercial and industrial buildings, and vacant subdivision lots which are physically improved through the construction of streets and provision of utilities to the lot.

Lots or parcels where development existed as of January 1, 1977, are identified on the 1978 Oregon State Highway Ocean Shores aerial photographs on file in Tillamook County.

- b. Beachfront protective structures (riprap and other revetments) shall be allowed only in Developed Beachfront Areas and Foredune Management Areas, where "development" existed as of January 1, 1977, or where beachfront protective structures are authorized by an Exception to Goal 18.
- c. Proposals for beachfront protective structures shall demonstrate that:
 - 1. The development is threatened by ocean erosion or flooding;
 - 2. Non-structural solutions can not provide adequate protection;
 - 3. The beachfront protective structure is place as far landward as possible;
 - 4. Adverse impacts to adjoining properties are minimized by angling the north and south ends of the revetment into the bank to prevent flank erosion;
 - 5. Public costs are minimized by placing all excess sand excavated during construction over and seaward of the revetment, by planting beachgrass on the sand-covered revetment, and by annually maintaining the revetment in such condition.
 - 6. Existing public access is preserved; and
 - 7. The following construction standards are met:
 - a. The revetment includes three components; an armor layer, a filter layer of graded stone (beneath armor layer), and a toe trench (seaward extension of revetment structure).
 - b. The revetment slope is constructed at a slope that is between 1:1 to 2:1.
 - c. The toe trench is constructed and excavated below the winter beach level or to the existing wet sand level during the time of construction.
 - d. Beachfront protective structures located seaward of the state beach zone line (ORS 390.770) are subject to the review and

approval of the State Parks and Recreation Division. Because of some concurrent jurisdiction with the Division of State Land, the Parks Division includes the Division of State Lands in such beach permit reviews.

- e. The State Parks and Recreation Division shall notify Tillamook County of emergency requests for beachfront protective structures. Written or verbal approval for emergency requests shall not be given until both the Parks and Recreation Division and the County have been consulted. Beachfront protective structures placed for emergency purposes, shall be subject to the construction standards in Section 3.140 (17).

5. Beach Log Removal

- a. Drift log removal from beach areas seaward of the state beach zone line is subject to the approval of the State Parks and Recreation Division. The Parks Division shall notify the county of all requests for commercial driftwood removal from Non-State Park Beaches, including requests for emergency permits to remove driftwood.

B. USES AND ACTIVITIES PERMITTED CONDITIONALLY

1. Public Beach Access

- a. New public beach access points shall be allowed where identified in Tillamook County's Public Access Program to Coastal Shorelands, contained in the Goal 17 (Coastal Shorelands) Element of the Comprehensive Plan.

2. Sand Mining and Mineral Extraction

- a. Sand mining and mineral extraction shall only be permitted outside Developed Beachfront or Foredune Management Areas.
- b. Sand mining shall be permitted in other beach and dune areas only where a geological investigation establishes that a historic surplus exists at the site, and the mining will not impair the beach and dune processes near the site, including ground water circulation and littoral drift. Sand mining operations seaward of the state beach zone line is subject to the approval by the State Parks and Recreation Division (ORS 390.725).

3. Dredged Material Disposal
 - a. Shoreland disposal of dredged material shall be allowed only at acceptable sites identified in County Dredged Material Disposal Plans, contained in the Goal 16 Element of the Comprehensive Plan, unless the disposal is part of an approved ocean beach nourishment project.
 - b. Beach nourishment projects shall be designed to either offset the effects of active erosion or to maintain a stable beach profile.
 - c. Proposals for a beach nourishment project shall demonstrate that:
 1. No new buildable upland is created;
 2. The grain size and chemical characteristics of the material proposed for beach nourishment are substantially similar to the substrate in the beach nourishment area; and
 3. Erosion of dredged material from the beach nourishment area does not result in adverse impacts either to significant shoreland habitat areas identified in the Goal 17 Element of the comprehensive Plan or to nearby estuarine areas.

C. SPECIAL ACTIVITIES PERMITTED WITH STANDARDS

1. Foredune Breaching
 - a. Definition: In areas subject to ocean flooding, foredune crest excavation one foot below the base flood elevation constitutes foredune breaching.
 - b. Foredune breaching shall be allowed in recreational beach and dune areas solely to replenish sand supply to interdune recreational areas.
 - c. In non-recreational areas, foredune breaching shall be allowed only on a temporary basis for emergency purposes, such as fire control and the alleviation of flood hazards or other disaster conditions. Foredunes may be breached for emergency vehicle access, only after it can be demonstrated that temporary access cannot be accomplished by the use of a fabric ground cover in combination with a crushed rock overlay. Such construction materials (rock, fencing, etc.) shall be removed following restoration of breached foredunes.

- d. Breached foredunes shall be restored and stabilized using permanent dune stabilization techniques, immediately following alleviation of emergency conditions. At a minimum, foredunes shall be restored to the pre-existing dune profile.
- e. Foredune breaching shall be allowed for the installation and maintenance of a fiber optic cable where an exception to Goal 18 is approved.

2. Foredune Grading

- a. Definition: Foredune grading means the alteration of a foredune, by mechanical redistribution or removal of sand, which results in a lower or more uniform dune height. Foredune grading, unlike foredune breaching, does not increase the potential for ocean flooding at the site.
- b. Foredune grading shall be permitted only in Foredune Management Areas or in Developed Beachfront Areas. In these areas, grading shall be allowed only for siting a permitted use, for removing sand that is inundating a structure allowed by the underlying zone, or for dune restoration purposes where recommended in Foredune Management Plans. Sand graded from foredune lots shall be relocated either to the beach, to low and narrow dune areas on the site, or to alternative beach and dune areas as specified in an approved Foredune Management Plan.
- c. Foredune grading to remove inundating sand shall be permitted only if there is no feasible or reasonable alternative method of sand removal, or as specified in an approved Foredune Management Plan. Inundating sand shall be disposed of seaward of existing structures and distributed in a manner that shall not impact adjacent dwellings or adversely impact the public beach. Areas graded between November and April shall be replanted with beachgrass or other appropriate vegetation approved by the Department. If grading occurs between the months of May and October, approved temporary stabilization measures, such as mulching with ryegrass straw or matting shall be employed.

In Foredune Management Areas, grading to remove inundating sand may occur on a parcel by parcel basis. An Administrative Review of a Remedial Grading Plan is required, as described in e., below.

- d. Foredune grading to maintain ocean views shall be permitted only in Foredune Management Areas, according to Foredune Grading Plans included in the Goal 18 Element of the Comprehensive Plan.

Grading in foredune crest areas shall only be allowed where the dune elevation is more than four feet above the base flood elevation. At a

minimum, Foredune Grading Plans shall describe standards for redistribution of graded sand by identifying low and narrow dune areas suitable for dune restoration, define the appropriate timing for grading actions, and outline requirements for future monitoring.

- e. All foredune grading and other activities in foredune management areas may only be conducted as part of an approved grading plan developed as described below. A grading plan shall contain the following elements:
 - 1. Description of the proposed work, including location and timing of activities, and equipment to be used;
 - 2. Plan view and elevations of existing conditions in the grading area;
 - 3. Plan view and elevations of proposed modifications in the grading area; and
 - 4. Identity of the individual(s) responsible for supervising the project, and for conducting monitoring and maintenance activities.

All grading plans shall cover all or at least a 500 foot portion of a Management Unit plan contained in the Management Strategy and shall have approval of 60% of the property owners in the area covered, except for remedial grading which may be approved for a single parcel. The grading plan shall be submitted to the County for administrative review. Administrative Review of the plan shall be confined to determining consistency with the approved Foredune Management Plan. A review fee as determined by the County shall accompany the plan. The approval may be revoked and citations issued for noncompliance with the approval.

3. Sand Stabilization

- a. Definition: Sand Stabilization is a program to stabilize a dune area against the effects of excessive wind or water erosion, by either planting appropriate vegetation alone or in conjunction with the placement of sand fences.
- b. Sand fences for the creation or restoration of foredunes shall be permitted in Foredune Management Areas according to specifications in Foredune Management Plans.
- c. In other dune areas, proposals for sand fences shall demonstrate that:
 - 1. Sand fences will be located landward of the state zone line.

2. The sand fences will be orientated parallel to the beach and located approximately 30 feet apart.
 3. Existing public access is preserved.
 4. Sand fences proposed seaward of the state zone line shall meet the approval of the State Parks and Recreation Division.
- d. In residential yards, fire resistant vegetation, such as purple beach pea, is recommended as a preferred vegetation in order to minimize fire hazards.
- (5) **SITE DEVELOPMENT REQUIREMENTS:** All development within the Beach and Dune Overlay zone shall comply with the following standards and requirements.
- A. **General Development Criteria**
1. **Groundwater and Deflation Plain Areas:**
 - a. No filling or draining of deflation plain wetlands identified as significant wetlands in the Goal 17 Element of the Comprehensive Plan shall be allowed.
 - b. The filling or draining of other deflation plains may be permissible if it can be demonstrated that the activity will not lead to the loss of stabilizing vegetation, a deterioration of water quality, or the intrusion of salt water into water supplies.
 - c. Prior to the approval of development using groundwater resources, a hydraulic analysis report shall demonstrate that groundwater withdrawal will not lead to the loss of stabilizing vegetation, a deterioration of water quality, or the intrusion of salt water into water supplies.
 2. **Land Grading Practices:**
 - a. No excavations for residential and commercial site development shall be done earlier than thirty (30) days prior to the start of construction. Following the completion of major construction, excavated areas shall be stabilized. At a minimum, the site shall be stabilized within nine (9) months of the termination of major construction.
 - b. All sidehill roads and driveways shall be built entirely in cut areas, unless adequate structural support is provided for fill.
 - c. Excavated, filled or graded slopes in dune areas shall not exceed 30

degrees in slope. All surplus excavated material shall be removed off-site to a location where it will not constitute a hazard.

- d. Land grading proposals shall demonstrate that the removal of vegetation shall be limited to what is necessary to place buildings, or to install utilities.

3. Drainage and Erosion:

- a. Temporary measures shall be taken to control runoff and erosion of soils during all phases of construction. Storm water (roof and footing drains) shall be intercepted by closed conduits and directed into adjacent drainageways with adequate capacity to prevent flooding of adjacent or downstream properties.
- b. Plans for temporary and permanent stabilization programs, and the planned maintenance of restabilized areas, shall be provided by the applicant for areas disturbed during site preparation. At a minimum, areas proposed for removal of native vegetation shall be identified on building plans and if approved, they shall be replanted within nine (9) months following the completion of major construction.

B. Dune Hazard and Modified Dune Hazard Reports

- 1. A Dune Hazard Report shall be required prior to the approval of subdivisions and partitions governed by the Land Division Ordinance, planned developments, mixed use developments, coast resorts, sand mining, and building permits, with the following exceptions:
 - a. Building permits for accessory structures;
 - b. Development in older stabilized dunes, unless the area is a locally known hazard area based on evidence of past occurrences;
 - c. Building permits for mobile home placement, single-family residential and duplex structures in Developed Beachfront Areas, if the structure will be located in AO, B, C, or D FIRM flood hazard zone. Where there is evidence of recent, active erosion at or near the proposed building site, a Modified Dune Hazard Report shall be required prior to issuance of building permits.
- 2. Modified Dune Hazard Report
 - a. The purpose of a Modified Dune Hazard Report is to provide findings and conclusions that a residential structure located in or near a zone of recent, active erosion will be reasonably protected from the described

hazard for the lifetime of the structure.

- b. Evidence of recent, active beach or dune erosion can include information provided by the following:
 - 1. Permits for shoreline stabilization structures that have been issued in the area within the past 5 years, or;
 - 2. Results of site investigation by County, State Parks and Recreation, or Division of State Lands representatives.
- c. The Report shall present findings on the average retreat of the shoreline, using either the line of established upland shore vegetation or a similar persistent geomorphic coastal feature that can be identified on aerial photographs. The Oregon Department of Transportation Ocean Shores aeriels, or other similar historic records, are suitable for calculating the average rate of retreat of the shoreline.

3. Dune Hazards Report

The Dune Hazards Report shall include the results of a preliminary site investigation and where recommended in the preliminary report, a detailed site investigation.

- a. Preliminary Site Investigation
 - 1. The purpose of the Preliminary Site Report is to identify and describe existing or potential hazards in areas proposed for development. The report shall be based on site inspections conducted by a qualified person, such as a geologist, engineering geologist, soil scientist, civil engineer, or coastal oceanographer.
 - 2. The preliminary Site Report shall either recommend that a more detailed site investigation report is needed to fully disclose the nature of on-site hazards or it shall conclude that known hazards were adequately investigated, and recommend development standards for buildable areas.
 - 3. The Preliminary Site Report shall include plan diagrams of the general area, including legal descriptions and property boundaries, and geographic information as required below:
 - a. Identification of each dune landform (according to either the Goal 18 or SCS system of classification);
 - b. History of dune stabilization in the area;

- c. History of erosion or accretion in the area, including long-term trends;
- d. General topography including spot elevations;
- e. Base flood elevation and areas subject to flooding, including flood areas shown on the NFIP maps of Tillamook County;
- f. Location of perennial streams or springs in the vicinity;
- g. Location of the state beach zone line;
- h. Location of beachfront protective structures in the vicinity;
- i. Elevation and width of the foredune crest.
- j. Land grading practices, including standards for cuts and fills and the proposed use and placement of excavated material.

Elevations shall relate to the National Geodetic Vertical Datum of 1929, NGVD.

b. Detailed Site Investigation

1. The purpose of a Detailed Site Investigation is to fully describe the extent and severity of identified hazards. Such investigation shall be required either where recommended in a Preliminary Site Report or when building plans, including grading plans for site preparation, were not available for review as part of the preliminary site investigation.

The Detailed Site Report shall be based on site inspections or other available information and shall be prepared by a qualified person, such as a registered civil engineer or engineering geologist.

2. The report of a Detailed Site Investigation shall recommend development standards to assure that proposed alterations and structures are properly designed so as to avoid or recognize hazards described in the preliminary report or as a result of separate investigations. The report shall include standards for:
 - a. Development density and design;

- b. Location and design of roads and driveways;
 - c. Special foundation design (for example spread footings with post and piers), if required;
 - d. Management of storm water runoff during and after construction.
- c. Summary Findings and Conclusions. The Preliminary and Detailed Site Reports shall include the following summary findings and conclusion:
- 1. The proposed use and the hazards it might cause to life, property, and the natural environment;
 - 2. The proposed use is reasonably protected from the described hazards for the lifetime of the structure.
 - 3. Measures necessary to protect the surrounding area from any hazards that are a result of the proposed development;
 - 4. Periodic monitoring necessary to ensure recommended development standards are implemented or that are necessary for the long-term success of the development.

(6) PERMIT PROCEDURES:

- A. A County Development Permit shall be obtained prior to sand mining, beach nourishment, foredune grading, or proposals for beachfront protective structures and sand fencing within the Beach and Dune Overlay Zone.
- B. Applications shall be made to the Planning Director, Department of Community Development, on forms prescribed by Tillamook County.
- C. An appeal of the ruling by the planning director regarding a permit requirement of this section may be made to the Tillamook County Planning Commission pursuant to Section 10.020.

SECTION 3.090: SHORELAND OVERLAY ZONE (SH)

- (1) **PURPOSE:** The purpose of the SHORELAND OVERLAY ZONE is to:
 - (a) Provide for development, restoration, conservation of protection of coastal shorelands in a manner which is compatible with the resources and benefits of coastal shorelands and adjacent coastal water bodies.
 - (b) Protect identified priority dredged material disposal and mitigation sites from uses which would prevent their ultimate use for dredged material disposal or mitigation;
- (2) **AREAS INCLUDED:** The SHORELAND OVERLAY ZONE is designated on the Tillamook County Zoning Maps. Included in this zone are:
 - (a) Lands contiguous with the ocean estuaries and coastal lakes that contain the following features shown in the Coastal Shoreland Element of the Comprehensive Plan:
 - (1) Areas subject to ocean flooding and lands within 100 feet of the ocean shore or within 50 feet of an estuary or a coastal lake.
 - (2) Adjacent areas of geologic instability where the geologic instability is related to or will impact a coastal water body.
 - (3) Riparian vegetation or other natural or man-made riparian resources necessary for shoreline stabilization or water quality maintenance.
 - (4) Significant shoreland and wetland biological habitats.
 - (5) Areas necessary for water-dependent and water-related uses.
 - (6) Shoreland areas of exceptional aesthetic or scenic quality.
 - (7) Coastal headlands.
 - (b) Priority Dredged Material Disposal (DMD-1) and Mitigation (MIT-1) sites.
- (3) **Categories of Coastal Shorelands:** There are two categories of coastal shorelands included in the SHORELAND OVERLAY ZONE.
 - (a) Rural Shorelands are the first category of Coastal Shorelands. Rural Shorelands are those areas that are outside an urban growth boundary and do not fall within the second category of Coastal Shorelands.

- (b) The second category are those shorelands identified in the Estuarine Element and Coastal Shorelands Element of the Comprehensive Plan as:
 - (1) Significant shoreland and wetland biological habitat.
 - (2) Exceptional aesthetic or scenic resources and coastal headlands.
 - (3) Priority dredged material disposal and priority mitigation sites.
 - (4) Beaches, active foredunes, conditionally stable foredunes that are subject to ocean undercutting or wave overtopping and interdune areas subject to ocean flooding.

- (4) **USES PERMITTED:** Uses authorized by the underlying zone as outright or conditional uses are permitted, except at locations identified in (3) above.
 - (a) Rural Shorelands in General:
 - (1) Rural shorelands uses are limited to:
 - (a) Farm uses,
 - (b) Propagation and harvesting of forest products consistent with the Oregon Forest Practices Act,
 - (c) Aquaculture,
 - (d) Water-dependent recreational, industrial and commercial uses,
 - (e) Replacement, repair or improvement of existing state park facilities,
 - (f) Other uses are allowed only upon a finding by the County that such uses satisfy a need which cannot be accommodated at any alternative upland location, except in the following cases:
 - (1) In built and committed exception shoreland areas, where all uses permitted in the underlying zone are permitted, and
 - (2) In the F-1, F, SFW-20, and RM zones, where the Other Uses listed in Sections 8.4.e, 8.4.f, 8.4.g and 8.5.e, respectively of the Coastal Shoreland Element, are permitted, if no suitable non-shoreland locations exist on the parcel.

(b) Significant Shoreland and Wetland Biological Habitats (Identified in Section 3.2 of the Coastal Shorelands Element of the Comprehensive Plan).

- (1) Only low intensity uses and developments such as hiking trails and platforms for wildlife viewing or similar types of educational, scientific or recreational uses may be permitted providing that such uses and developments will not act as a barrier to or result in major disturbances or displacement of fish or wildlife species. Maintenance of existing drainageways and drainage structures is permitted.
- (2) In significant wetland biological habitats, no development is allowed except for the placement of a floating or pile supported dock or a boat ramp using less than 50 cubic yards of fill to allow boat access to a coastal lake providing that such developments are placed to minimize impacts on wetland habitats.

Where dwellings are permitted in the underlying zone, the density of allowed development shall be determined by the size of the entire parcel providing the allowed development will not result in a major impact to adjacent significant wetland habitat.

- (3) Dredging less than 50 cubic yards from a coastal lake to provide access to a public boat ramp or a public boat dock is allowed, subject to the approval of Tillamook County.
- (4) Within the Neskowin Community Growth Boundary, only the following uses are allowed within significant shoreland and wetland biological habitat and within 25 feet of the upland edge of such habitat:
 - (a) Low-impact recreational uses consistent with Section 3.090(4)(b)(1);
 - (b) Existing park or golf course facilities which exist as of March 1, 1999, and maintenance of existing facilities. Improvements and additions, provided adverse impacts to shoreland and wetland habitat are not measurably increased, or are mitigated.
 - (c) Repair, replacement or maintenance of existing structures and drainage facilities, provided that size or capacity is not increased (unless necessary for improved fish passage);
 - (d) Bank stabilization;
 - (e) Vegetation management of non-native plants;

- (f) maintenance and improvement of stream corridors for storm drainage purposes or for fish and wildlife enhancement;
 - (g) Stormwater discharge;
- (5) The 25-foot setback requirement of Section 3.090(4)(b)(4) may be reduced through the provisions of Article VIII. In addition to the standard variance criteria, the variance request shall meet the following criterion:
Encroachment on the shoreland or wetland biological habitat, along with any proposed mitigation, will not have negative impacts on the natural functions and values of the resource area.
- (c) Exceptional Aesthetic or Scenic Resources and coastal Headlands (identified in Section 3.2 of the coastal Shorelands Element of the Comprehensive Plan).
- (1) Rock quarries, mining and mineral extraction, industrial uses, communication and energy generation towers other than wind energy conversion systems, power transmission lines, landfills and airports are not permitted.
 - (2) In the Cascade Head Scenic Research Area, and the Oswald West, Nahalem Bay, Cape Meares, Cape Lookout, Cape Kiwanda and Nestucca Spit State Parks, forest uses shall be limited to those allowed by the respective management plans for these areas. In other exceptional aesthetic or scenic resource areas or on coastal headlands, forest uses are limited to fire, insect and disease control, reforestation and hazard tree removal as long as the resource remains substantially unaltered.
 - (3) Buildings may be allowed only if they and the land preparation which precedes them preserves the natural topography and unique scenic features and does not substantially alter the scenic character or the natural vegetative cover of the area.
 - (4) Signs shall be constructed of wood and shall be limited to interpretive and directional signs having an area no greater than 16 square feet.
- (e) Priority Dredged Material Disposal and Priority Mitigation sites (identified by the symbols DMD-1 and MIT-1 respectively on the Estuary Zoning Maps).
- (1) Uses shall not preclude the ultimate use of the site as a dredged material disposal or mitigation site.
 - (2) Structures or other improvements shall be of a temporary nature, easily moved or of low value, so that demolition or removal of these structures can be easily accomplished in order to accommodate dredged material

disposal or mitigation. On priority mitigation sites only structures or other improvements which can be completely removed from the site are allowed.

- (3) Fill is permitted only where it is necessary to maintain or repair existing structures and facilities such as dikes. In priority mitigation sites there shall be no land grading which will reduce the potential of using the site for mitigation.

(5) **CONDITIONAL USES:**

- (a) Aquatic and shoreland disposal of dredged material shall be allowed only at approved sites listed in the Comprehensive Plan, unless the disposal is part of an approved fill project. Dredged material disposal is subject to the standards of Section 3.140 (4).
- (b) Mitigation actions shall be allowed only at approved sites listed in the Comprehensive Plan, unless the mitigation is part of an approved dredge or fill project. Mitigation actions are subject to the standards of Section 3.140 (12).
- (c) Estuarine restoration actions (as defined in Section 6.12 of the Estuarine Resources Element of the Comprehensive Plan) shall be allowed only at approved sites listed in the Comprehensive Plan, unless the restoration action is approved as part of a mitigation project. Restoration actions are subject to the standards of Section 3.140 (15).

(6) **STANDARDS:** Uses within the **SHORELAND OVERLAY ZONE** are subject to the provisions and standards of the underlying zone and of this section. Where the standards of the **SHORELANDS OVERLAY ZONE** and the underlying zone conflict, the more restrictive provisions shall apply.

- (a) Riparian vegetation shall be protected and retained according to the provisions outlined in Section 4.080, **REQUIREMENTS FOR PROTECTION OF WATER QUALITY AND STREAMBANK STABILIZATION**.
- (b) Development in flood hazard areas shall meet the requirements of Section 3.060, **FLOOD HAZARD OVERLAY ZONE**.
- (c) Development in beach and dune and other geologic hazard areas shall meet the requirements of Section 3.085, **BEACH AND DUNE OVERLAY ZONE** and Section 4.070, **DEVELOPMENT REQUIREMENTS FOR GEOLOGIC HAZARD AREAS**.
- (d) Forestry operations shall be consistent with the protection of the natural values of major marshes, significant wildlife habitat and riparian vegetation. A forest operation for which notification is required by ORS 527.670 (2) shall be governed by the Oregon Forest Practices Act and any supplemental agreements entered into

by the Oregon State Board of Forestry and the Oregon State Fish and Wildlife Commission.

- (e) The productivity of resource land on Rural Shorelands shall be considered when determining the location of "Other Uses" within a given land parcel in the F-1, F, and SFW-20 zones. "Other Uses" within these zones shall be located so that the productivity of resource land is maintained.
- (f) Existing public ownerships, rights of way and similar public easements in coastal shorelands which provide access to or along coastal waters shall be retained or replaced if sold, exchanged or transferred. Rights of way may be vacated to permit redevelopment of shoreland areas provided public access across the affected site is retained.

(7) ADMINISTRATIVE PROVISIONS:

- (a) All applications for developments in the SHORELANDS OVERLAY ZONE shall be reviewed for compliance with the requirements of the underlying zone and the requirements of the SHORELANDS OVERLAY ZONE.
- (b) All applications shall be accompanied by a plot plan identifying the location of the parcel and its boundaries, the location of existing uses on the property, the proposed location of developments and uses and the location of any waterbodies, watercourses and wetlands in the vicinity of the proposed developments. Developments involving contiguous parcels under separate ownerships may be considered in a single application, provided that all affected property owners sign the final application.
- (c) In the following instances, public agencies shall be notified of applications for development in the SHORELANDS OVERLAY ZONE.
 - (1) Significant Wetland Biological Habitats: The Oregon Department of Fish and Wildlife, Oregon Division of State Lands, Oregon Department of Land Conservation and Development, U. S. Fish and Wildlife Service, Environmental Protection Agency and U. S. Army Corps of Engineers shall be notified.
 - (2) Other Significant Shoreland Habitats: The Oregon Department of Fish and Wildlife, Oregon Department of Land Conservation and Development, and U. S. Fish and Wildlife Services shall be notified.
 - (3) Coastal Headlands and Exceptional Aesthetic and Scenic Resources: The Oregon Parks and Recreation Division and Oregon Department of Land Conservation and Development shall be notified.

- (4) Priority Dredged Material Disposal and Mitigation Sites: The Oregon Department of Fish and Wildlife, Oregon Division of State Lands, Oregon Department of Land Conservation and Development, Oregon Department of Economic Development, U. S. Fish and Wildlife Service, National Marine Fisheries Service, Environmental Protection Agency, U. S. Army Corps of Engineers and the locally affected Port District shall be notified.
 - (5) Public Access Projects: The Oregon Parks and Recreation Division and the Oregon Department of Land Conservation and Development shall be notified.
- (d) Notification Procedure
- (1) If a development application involves regulated activities (for definition see Section 3.120), notice will be mailed within 7 days of County receipt of the State or Federal permit notice. The Planning Department shall consider any comments received no later than seven days before the closing date for comments on the State or Federal permit notice.
 - (2) If a development application involves a conditional use or a variance, notification procedures shall be those of Articles VI or VIII respectively.
 - (3) In all other instances, notice will be mailed within seven days of the receipt of a completed application. The Planning Department shall consider all comments received within ten days after notice has been mailed.

SECTION 3.092: FRESHWATER WETLANDS OVERLAY ZONE (FW)

- (1) **PURPOSE AND AREAS INCLUDED:** The purpose of this zone is to protect significant areas of freshwater wetlands, marshes and swamps from filling, drainage or other alteration which would destroy or reduce their biological value. Areas included in this zone are:
- (a) **Significant Goal 5 Wetlands:** wetlands identified as “significant” in the Goal 5 Element of the Comprehensive Plan;
 - (b) **Notification Wetlands:** wetlands shown on the Statewide Wetland Inventory (discussed in the Goal 5 Element of the Comprehensive Plan).

When required, the verification of zone boundaries shall be carried out in conjunction with the property owner and the Oregon Division of State Lands.

(2) **USES PERMITTED:**

- (a) **Significant Goal 5 Wetlands:**
 - (1) A forest operation for which notification is required by ORS 527.670 (2) shall be governed by the Oregon Forest Practices Act and any supplemental agreements entered into by the Oregon State Board of Forestry and the Oregon State Fish and Wildlife Commission.
 - (2) Other uses and developments permitted outright or conditionally in the underlying zone shall be permitted if they will not result in filling, drainage, removal of vegetation or other alteration which would destroy or reduce the biological value of the wetland. Minor drainage improvements necessary to ensure effective drainage on surrounding agricultural lands shall be allowed where such an action has been fully coordinated with the Oregon Department of Fish and Wildlife and the Tillamook County Soil and Water Conservation District. Existing drainage ditches may be cleared to original specifications without review.
- (b) **Notification Wetlands:**
 - (1) uses permitted outright or conditionally in the underlying zone shall be permitted subject to approval by the Oregon Division of State Lands.

(3) **STANDARDS:** The following standard shall be met in addition to the standards of the underlying zone.

- (a) Where dwellings are permitted in the underlying zone, the density of allowed development shall be determined by the size of the entire parcel.
- (b) Development activities, permits, and land-use decisions affecting a Notification

Wetland require notification of the Division of State Lands, and are allowed only upon compliance with any requirements of that agency. The applicant shall be responsible for obtaining approval from the Division of State Lands for activities on Notification Wetlands.

SECTION 3.094: MINERAL AND AGGREGATE RESOURCES OVERLAY ZONE

- (1) Purpose
- (2) Definitions
- (3) Overlay Zone Areas
- (4) Procedure for Applying the Overlay Zone
- (5) Extraction Area - Allowed Uses
- (6) Exemptions
- (7) Extraction Area - Development Standards
- (8) Site Reclamation
- (9) Site Plan Review
- (10) Impact Area - Uses and Development Standards
- (11) Termination of the Mineral and Aggregate Overlay

(1) PURPOSE

The purpose and intent of the MINERAL AND AGGREGATE RESOURCES OVERLAY ZONE is:

- (A) To provide a mechanism to identify and protect significant mineral and aggregate resource sites;
- (B) To allow the development and use of mineral and aggregate resources subject to uniform operating standards;
- (C) To balance and resolve conflicts between surface mining activities and activities on surrounding land;

(2) DEFINITIONS

AGGREGATE RESOURCES: The rock, gravel, sand and other similar resources that are used for the construction of roads, parking areas, walkways and structures.

CONFLICTING USE: A use authorized in the underlying zone and located within the impact area which, if allowed, could adversely affect operations at a significant mineral and aggregate resource site. For the purposes of this chapter, another Goal 5 resource located within the impact area may be considered a conflicting use if that resource could be adversely affected by mining or processing activities, or force a change in mining or processing at the site.

ESEE ANALYSIS: The analysis of Economic, Social, Environmental and Energy consequences of;

- (a) Allowing mining on a significant site, and

- (b) Allowing conflicting uses to displace mining on a significant site. Based on the results of the ESEE analysis, the County shall determine a level of protection for the resource, and implement a program to achieve the designated level of protection.

EXTRACTION AREA: The area of identified significant mineral and aggregate reserves in which mining and processing are permitted.

GOAL 5 PROCESS: The planning process required by Oregon Administrative Rules (OAR) Chapter 660, Division to implement the requirements of Statewide Planning Goal 5. This process includes the identification of conflicting uses, the analysis of economic, social, environmental and energy consequences of conflicting uses, the determination on the level of protection to be afforded a resource site, and the selection of a program to protect significant sites.

IMPACT AREA: The area surrounding the extraction area in which conflicting uses occur and in which ESEE consequences are analyzed, and the establishment of new conflicting uses is regulated.

MINERAL RESOURCES: The metallic, industrial and energy resources such as silver, copper, lead, zinc, clay, coal and natural gas.

MINING: All or any part of the process of extracting mineral or aggregate products. Mining does not include:

- (a) Excavations conducted by a landowner or tenant on the landowner or tenant's property for the primary purpose of constructing or maintaining roads to a mine site;
- (b) Excavation or grading conducted in the process of farm or cemetery operations;
- (c) Excavation or grading conducted within a road right-of-way or other easement for the primary purpose of road construction, reconstruction or maintenance; or
- (d) Removal, for compensation, of materials resulting from on-site construction for which a development permit and a construction time schedule have been approved by the County.

NOISE OR DUST SENSITIVE USE: A conflicting use which is primarily used for habitation. Residential structures, churches, hospitals, schools, public libraries, and campgrounds are considered noise or dust sensitive uses during their period of use. Forest uses and farm uses are not noise or dust sensitive uses unless so determined through the Goal 5 process to the effect that they satisfy this definition in more than an incidental manner.

PROCESSING: The washing, crushing, milling, sorting, handling, and conveying of mineral

and aggregate resources, including the batching and blending of such resources into asphalt or portland cement concrete.

RESTRICTIVE COVENANT: An enforceable promise, given by the owner of a parcel whose use and enjoyment of that parcel may be restricted in some fashion by mining occurring on another parcel, not to object to the terms of a permit used by a local government, state agency or federal agency. The restrictive covenant shall be recorded in the real property records of the County and shall run with the land, and is binding upon the heirs and successors of the parties. The covenant shall state that obligations imposed by the covenant shall be released when the site has been mined and reclamation has been completed.

SCREENED USES:

- (a) Conflicting uses identified through the Goal 5 process, and
- (b) Scenic viewpoints or other areas designated as significant Goal 5 resources.

SIGNIFICANT SITE: A site containing either significant aggregate resources or significant mineral resources.

- (A) A SIGNIFICANT AGGREGATE RESOURCE site is a site that contains aggregate or stone material which meet modified Oregon Department of Transportation specifications for construction grade material, which are the three materials tests of abrasion (OSHD TM 211) with loss of not more than 35 percent by weight, Oregon Air Degradation (OSHD TM 208) with loss of not more than 35 percent by weight and Sodium Sulphate Soundness (OSHD TM 206) with loss of not more than 18 percent by weight; and is located within an ownership or long-term lease containing reserves in excess of 100,000 cubic yards; or is located on property owned by, or under long-term lease to a city, county, state jurisdiction for the primary purpose of excavating aggregate or stone materials for road construction and maintenance.
- (B) A SIGNIFICANT MINERAL RESOURCE site is a site that contains non-aggregate minerals that have been determined to be significant based upon an analysis and findings concerning the commercial or industrial use of the resource and the relative quality and abundance of the resource in Tillamook County.

SITE PLAN: A County permit either;

- (a) To begin mining in the extraction area, or
- (b) To begin a use in the impact area.

The SITE PLAN shall include such surveys, maps, diagrams, narratives and other materials as may be necessary to describe the placement of and use of all improvements, equipment,

fixtures, mitigation measures, landscaping, and vehicles on site.

(3) OVERLAY ZONE AREAS

The MINERAL AND AGGREGATE OVERLAY ZONE comprises two areas, the Extraction Area and the Impact Area. Neither element of the overlay, the Extraction Area or the Impact Area, shall be applied independently by the County to land within another county, or within a city or its urban growth boundary.

- (A) **EXTRACTION AREA:** The Extraction Area shall be applied to significant sites where mining is permitted. This area may consist of one or more parcels or portions of parcels, and may be applied to contiguous properties under different ownership. The Extraction Area boundary may be modified through the Goal 5 process to reduce conflicts with uses existing when the overlay is applied. The Extraction Area shall be identified on the zoning map.
- (B) **IMPACT AREA:** The Impact Area may be applied to parcels or portions of parcels adjacent to and within 750 feet of the Extraction area boundary unless a different sized impact area is identified in the Goal 5 process. The Impact Area shall be identified on the zoning map.

(4) PROCEDURE FOR APPLYING THE OVERLAY ZONE

- (A) **DETERMINATION OF A SIGNIFICANT SITE:** The County shall analyze information about the locations, quality and quantity of mineral and aggregate deposits. Information necessary to demonstrate the significance of a resource shall include:
 - (1) A survey, map, tax lot map, or other legal description that identifies the location and perimeter of the mineral and aggregate resource with reasonable particularity; and
 - (2) Information demonstrating that the resource meets or can meet applicable quality specifications for the intended use(s). Information may consist of laboratory test data or the determination of a geologist, engineer, or other qualified person; and
 - (3) Information demonstrating the quantity of the resource as determined by exploratory test data, or other calculations compiled and attested to by a geologist, engineer, or other qualified person.
- (B) **PLACEMENT ON THE INVENTORY:** Based on the analysis of information about the location, quality and quantity of the mineral and aggregate resource, the County

shall determine the inventory status of the resource site. Each site considered by the County shall be placed on one of three inventories based on the following criteria:

- (1) If the resource site meets the definition of an significant site, the County shall include the site on an inventory of "Significant Sites"; or
 - (2) If information is not available to determine whether or not the resource site meets the definition of a significant site, the County shall include the site on an inventory of "Potential Sites". Sites shall remain on the "Potential Sites" inventory until information is available to determine whether or not the site is significant; or
 - (3) If the resource site does not meet the definition of a significant site, the County shall include the site on an inventory of "Other Sites".
- (C) IDENTIFY THE IMPACT AREA: For each significant site, the Impact Area shall be identified and mapped. The Impact Area shall include the Extraction Area and all lands within 750 feet of the Extraction Area boundary, unless the Impact Area is modified through the Goal 5 process.
- (D) IDENTIFY CONFLICTING USES: For each significant site placed on the inventory, conflicting uses shall be identified.
- (1) The identification of conflicting uses shall include uses in existence at the time of review, as well as the potential conflicting uses. Identification of potential conflicting uses shall be accomplished by analyzing the uses allowed in the underlying zone(s).
 - (2) If no conflicting uses are identified, the Extraction Area portion of the MINERAL AND AGGREGATE OVERLAY ZONE shall be applied to the resource site. The Impact Area overlay shall not be applied.
- (E) ESEE ANALYSIS: For each significant site where conflicting uses have been identified, an ESEE analysis shall be performed.
- (1) The ESEE analysis shall determine the relative value of use of the mineral or aggregate resource site as compared to existing or potential conflicting uses.
 - (2) The ESEE analysis shall be limited to uses and Goal 5 resources identified pursuant to Subsection (D) of this Section.
 - (3) The ESEE analysis shall consider opportunities to avoid and mitigate conflicts.

The analysis shall examine:

- (a) The consequences of allowing conflicting uses fully, notwithstanding the possible effects on mining and processing;
 - (b) The consequences of allowing mining and processing fully, notwithstanding the possible effects on conflicting uses;
 - (c) The consequences of protecting conflicting Goal 5 resources;
 - (d) The applicability and requirements of other Statewide Planning Goals, the County Comprehensive Plan or provisions of the County Zoning Ordinance.
- (F) **DECISION ON PROGRAM TO PROVIDE GOAL 5 PROTECTION:** Based on the ESEE analysis, the County shall determine the amount of protection to be given each significant site. Each determination shall be incorporated into the Comprehensive Plan, and reflected on the County zoning maps. The County shall make one of the following determinations:
- (1) Protect the site fully and allow mining and processing. To implement this decision the County shall apply the MINERAL AND AGGREGATE OVERLAY ZONE. Development of the significant site shall be governed by the standards in Section 3.094 (7). As part of the final decision, the County shall adopt site-specific policies specifying the planned use of the site following reclamation and prohibiting the establishment of conflicting uses within the Impact Area.
 - (2) Balance protection of the significant site and conflicting uses and allow mineral and aggregate mining and processing. To implement this decision the County shall apply the MINERAL AND AGGREGATE OVERLAY ZONE, specify the planned use of the site following reclamation, and identify which uses in the underlying zone are allowed outright, allowed conditionally, or prohibited. Section 3.094 (7) and other site-specific requirements developed through the Goal 5 process shall govern mining at the significant site. Section 3.094 (10) and any other site-specific requirements developed through the Goal 5 process shall govern development of conflicting uses within the Impact Area.
 - (3) Allow conflicting uses fully, even though this may impair mining and processing. To implement this decision the County shall not apply the MINERAL AND AGGREGATE OVERLAY ZONE, and shall not include the site on the inventory of significant sites. The site will not be protected

from conflicting uses.

- (G) **DESIGNATION OF THE MINERAL AND AGGREGATE RESOURCES OVERLAY ZONE AREAS:** The MINERAL AND AGGREGATE RESOURCES OVERLAY ZONE AREAS may be applied through the initial legislative planning process, the plan update process or through an individual application for a Comprehensive Plan amendment and zone change. The boundary of the Overlay Zone Area shall be all property within the Mineral and Aggregate Resources Extraction and Impact Areas.

Individual applications shall be initiated by the petition of the owner, contract purchaser, or option holder of property comprising the Extraction Area.

- (H) **SITE PLAN APPROVAL:** The operator of a Significant Site may seek approval of a Site Plan as part of the Goal 5 Process. The standards for Site Plan approval are state in Section 3.094 (9). If the operator chooses to delay application for a Site Plan until some later time, the procedure shall be as set forth in Section 3.094 (9).

(5) EXTRACTION AREA ALLOWED USES

- (A) Uses permitted either outright or conditionally in the underlying zone may be allowed subject to the underlying zone criteria, any requirements adopted as part of the Goal 5 process, and the following criteria:

- (1) Permitted uses shall be reviewed according to the site plan review procedure;
- (2) Noise sensitive uses as defined in Section 3.094 (2) or those uses determined through the Goal 5 process to be conflicting uses may be permitted as conditional uses;
- (3) Applications for conditional uses within the Extraction Area shall be reviewed against the approval criteria of Section 3.094 (10).

- (B) The following uses shall be permitted subject to the review standards of Section 3.094 (7) and any requirements adopted as part of the Goal 5 process:

- (1) Mining;
- (2) Processing, except the batching or blending of mineral and aggregate materials into asphalt concrete within two miles of a planted commercial vineyard existing on the date the application was received for the asphalt batch plant;
- (3) Stockpiling of mineral and aggregate materials extracted and processed onsite;

- (4) Sale of mineral and aggregate products extracted and processed onsite;
- (5) Storage of equipment or vehicles used in conduction with onsite mining or processing;
- (6) Buildings, structures and activities necessary and accessory to development or reclamation of a mineral or aggregate resource.

(6) EXEMPTIONS

The following mining activities are exempt from the provisions of Section 3.094 (7). Operators or land owners claiming any of these exemptions have the burden of establishing the validity of the exemption.

- (A) Pre-existing or nonconforming activities subject to Article VII of this Ordinance;
- (B) In exclusive farm use zones, mining less than 1,000 cubic yards of material or excavation preparatory to mining of an area of less than one acre;
- (C) In all other zones, mining less than 5,000 cubic yards of material or disturbing less than one acre of land within a period of 12 consecutive months until such time that mining affects five or more acres;
- (D) Mining and processing auxiliary to forest practices.

(7) EXTRACTION AREA DEVELOPMENT STANDARDS

The following standards apply to mining and processing unless other standards are adopted in the Goal 5 process. Prior to the commencement of mining, the applicant shall demonstrate that the following standards or replacement standards adopted in the Goal 5 process are met or can be met by a specified date.

- (A) ACCESS:
 - (1) Onsite roads used in mining, and access roads from the extraction site to a public road shall be designed and constructed to accommodate mining vehicles and equipment, and shall meet the following standards:
 - (a) All access road intersections with public roads shall comply with the road approach regulations of the agency with jurisdiction for the public road;
 - (b) All onsite roads within the Extraction Area shall be constructed and maintained in a manner so that all applicable DEQ standards for

vehicular noise control, ambient air quality and water quality are met or can be met by a specified date;

(c) Effective dust control measures shall be applied to all onsite roads within the Extraction Area within 250 feet of a noise or dust sensitive use existing on the effective date that the overlay is applied.

(2) Improvements to public roads outside of the Extraction Area may only be required as necessary to correct safety deficiencies and to provide effective dust control. Requirements for road improvements shall be specified in the Goal 5 program for the site, and shall be based upon the ESEE analysis.

(B) SCREENING:

(1) The mining activities listed in Subsection (B) (2) of this Section shall be obscured from view of screened uses, unless one of the exceptions in Subsection (B) (4) of this Section applies. Screening shall be accomplished in a manner consistent with Subsection (B) (3) of this Section.

(2) Mining Activities to be Screened.

(a) All excavated areas except:

(1) Those areas where reclamation is being performed,

(2) Internal onsite roads existing on the effective date of this ordinance,

(3) New roads approved as part of the site plan review,

(4) Material excavated to create berms, and

(5) Material excavated to change the level of the mine site to an elevation which provides natural screening;

(b) All processing equipment;

(c) All equipment stored on the site.

(3) Types of Screening.

(a) Natural Screening. Existing vegetation or other landscape features which are located within the boundaries of the Extraction Area, and which obscure the view of mining activities from screened uses, shall

be preserved and maintained consistent with the development and use of the resource.

- (b) **Supplied Screening.** Supplied vegetative screening is screening that does not exist at the time of the site plan review. Plantings used in supplied vegetative screening shall be evergreen shrubs and trees and shall not be required to exceed a height of six feet at the commencement of mining. Supplied earthen screening shall consist of berms covered with earth and stabilized with ground cover.
- (4) **Exceptions.** Supplied screening shall not be required when and to the extent that any of the following circumstances exist:
 - (a) The natural topography of the site provides screening to obscure mining activities from screened uses;
 - (b) Supplied screening cannot obscure mining activities from screened uses due to local topography;
 - (c) The applicant demonstrates that supplied vegetative screening cannot reliably be established or cannot survive for a ten-year period due to soil, water or climatic conditions;
 - (d) Mining activities that are visible from screened used will be completed or removed, and reclaimed within 6 months; or
 - (e) An alternate program or technique to achieve screening is developed, and determined to be at least as effective as the natural or supplied screening described above.
- (C) **AIR QUALITY:** The discharge of contaminants and dust created by mining shall comply with applicable DEQ ambient air quality and emissions standards.
- (D) **STREAMS AND DRAINAGE:** Mining abutting a lake or other perennial body of water, shall be subject to the riparian protection measures contained in Section 4.080 of this ordinance unless mining is allowed within this area as part of the Goal 5 process.
- (E) **FLOOD PLAIN:** Any mining operation conducted in a flood plain shall demonstrate compliance with all applicable standards and criteria of Section 3.06 of this ordinance.
- (F) **NOISE:** Noise created by mining shall not exceed applicable DEQ noise control standards. Compliance with this standard can be demonstrated by the report of a certified engineer, and compliance methods may include use of existing topography,

equipment modifications, equipment siting or use of supplied berms.

(G) HOURS OF OPERATION:

- (1) Mining and processing are restricted to the hours of 7 a.m. to 10 p.m., Monday through Saturday, unless otherwise limited by the Goal 5 process. Hauling and other activities may operate without restriction provided that DEQ noise control standards are met.
- (2) Mining shall not take place on Sundays or the following legal holidays: New Year's Day, Memorial Day, July 4, Labor Day, Thanksgiving Day, and Christmas Day.

(H) DRILLING AND BLASTING:

- (1) Drilling and blasting are restricted to the hours of 9 a.m. to 6 p.m., Monday through Friday. No drilling or blasting shall occur on Saturdays, Sundays, or the following legal holidays: New Year's Day, Memorial Day, July 4, Labor Day, Thanksgiving Day, and Christmas Day.
- (2) Notice of blasting events shall be provided in a manner calculated to be received by property owners and tenants within the impact area at least 48 hours prior to the blasting event. For ongoing blasting activities, notice shall be provided once each month for the period of blasting events, and specify the days and hours when blasting is expected to occur.

(I) SURFACE WATER: Surface water shall be managed in a manner which meets all applicable DEQ water quality standards and DOGAMI requirements. The applicant shall demonstrate that all water necessary for the proposed operation has been appropriated to the site and is legally available.

(J) COMPLIANCE WITH SPECIAL CONDITIONS: The applicant shall demonstrate that all special conditions or requirements adopted as part of the Goal 5 process have been satisfied or will be satisfied by a specified date.

(K) PERFORMANCE AGREEMENTS: The mining operator shall keep applicable DOGAMI permits or exemption certificates in effect.

(8) SITE RECLAMATION

(A) No mining shall begin without the operator providing the County a copy of a DOGAMI operating permit and approved reclamation plan or exemption certificate issued in accordance with ORS 517.750 through 517.900 and the rules adopted

thereunder.

- (B) The jurisdiction of the County with respect to mined land reclamation is limited to determining the subsequent beneficial use of mined areas, ensuring that the subsequent beneficial use is compatible with applicable provisions of the Comprehensive Plan, and ensuring that mine operations are consistent with adopted programs to protect other Goal 5 resources.
- (C) The County shall coordinate with DOGAMI to ensure compatibility between DOGAMI and the County in the following manner:
 - (1) When notified by DOGAMI that an operator has applied for approval of a reclamation plan and issuance of an operating permit, the County shall, in turn, notify DOGAMI if local site plan approval is required.
 - (a) If site plan approval is required, the County shall request that DOGAMI delay final action on the application for approval of the reclamation plan and issuance of the operating permit until after site plan approval has been granted.
 - (b) If site plan approval is not required, the County shall notify DOGAMI that no land use approval is required, and the County will review the proposed reclamation plan during DOGAMI's notice and comment period.
 - (2) When reviewing a proposed reclamation plan and operating permit application circulated by DOGAMI, the County shall review the plan against the following criteria:
 - (a) The plan will rehabilitate mined land for a use specified in the Comprehensive Plan, including subsequent beneficial uses identified through the Goal 5 process;
 - (b) The reclamation plan, and surface mining and reclamation techniques employed to carry out the plan complies with the standards of Section 3.094 (7);
 - (c) Measures are included which will ensure that other significant Goal resources determined to conflict with mining will be protected in a manner consistent with the Comprehensive Plan.

(9) SITE PLAN REVIEW

- (A) Site plan review is required prior to commencement of mining. Applications shall be in the form required by the County, and shall demonstrate compliance with the standards of Section 3.094 (7) and any requirements adopted as part of the Goal 5 process.
- (B) Applications for site plan approval of surface mining operations and activities authorized by Section 3.094 (6) shall be reviewed in accordance with the provisions for making a limited land use decision as provided by ORS 215.425.
- (C) The County shall approve, conditionally approve, or deny a site plan based on the ability of the site plan to conform to the standards of Section 3.094 (7) and any other requirements adopted as part of the Goal 5 process.
- (D) If the County determines that the site plan is substantially different from the proposal approved in the Goal 5 process, the application shall be denied or conditioned to comply with the decision adopted as part of the Goal 5 process, or the applicant may choose to apply for a Comprehensive Plan amendment whereby the original decision reached through the Goal 5 process will be reexamined based on the revised site plan.

(10) IMPACT AREA - USES AND DEVELOPMENT STANDARDS

- (A) **USES PERMITTED OUTRIGHT:** Uses permitted outright in the underlying zone, except noise or dust sensitive uses or conflicting uses, may be permitted subject to the standards and criteria of the underlying zone(s).
- (B) **USES ALLOWED CONDITIONALLY:**
 - (1) Noise or dust sensitive uses or conflicting uses shall be reviewed as conditional uses subject to the standards and criteria of the underlying zone and this Section.
 - (2) Conditional uses in the underlying zone(s) which are not noise or dust sensitive uses or conflicting uses shall be reviewed as conditional uses subject to the standards and criteria of the underlying zone.
- (C) **PROHIBITED USES:** Uses identified through the Goal 5 process as incompatible with mining in all instances shall not be permitted within the Impact Area.
- (D) **APPROVAL CRITERIA:** To approve uses allowed conditionally in the Impact Area, the applicant must demonstrate compliance with the following criteria:
 - (1) The proposed use will not interfere with or cause an adverse impact on lawfully established and lawfully operating mining operations;

- (2) The proposed use will not cause or threaten to cause the mining operation to violate any applicable standards of this chapter;
- (3) The applicable criteria of Subsection (E) of this Section are met;
- (4) Any setbacks or other requirements imposed through the Goal 5 process have been met, or can be met by a specified date through the imposition of conditions on the conflicting use.

(E) **NOISE AND DUST REDUCTION:**

- (1) The applicant for a new noise or dust sensitive use shall demonstrate that the mining operation in the adjacent Extraction Area will maintain compliance with DEQ noise control standards and ambient air quality and emission standards as measured at the new noise or dust sensitive use.
- (2) The applicant for a new noise sensitive use shall submit an analysis prepared by an engineer or other qualified person, demonstrating that the applicable DEQ noise control standards are met or can be met by a specified date by the adjoining mining operation. If noise mitigation measures are necessary to ensure continued compliance on the part of the mining operation, such measures shall be a condition of approval. If noise mitigation measures are inadequate to ensure compliance with DEQ noise control standards, the noise sensitive use shall not be approved within the Impact Area.
- (3) As a condition of final approval for the establishment of a new noise sensitive use, the applicant may be required to execute a restrictive covenant in favor of the mining operator that incorporates the compliance items specified in Subsection (E) (2) of this Section.

(11) TERMINATION OF THE MINERAL AND AGGREGATE OVERLAY

When a significant site has been fully mined and reclamation has been complete, the property shall be rezoned to remove the MINERAL AND AGGREGATE RESOURCES OVERLAY ZONE. Rezoning shall not relieve requirements on the part of the owner or operator to reclaim the site in accordance with ORS 517.750 through 517.900 and the rules adopted thereunder.

SECTION 3.100: ESTUARY ZONES

- (1) GENERAL USE PRIORITIES AND AREAS INCLUDED: General priorities, from highest to lowest, for uses within all ESTUARY ZONES shall be:
 - (a) Uses which maintain the integrity of the estuarine ecosystem.
 - (b) Water-dependent uses requiring an estuarine location, as consistent with the overall Oregon Estuarine Classification.
 - (c) Water-related uses which do not degrade or reduce the natural estuarine resources and values.
 - (d) Non-dependent, non-related uses which do not alter, reduce or degrade the estuarine resources and values.

ESTUARY ZONES shall be applied to all estuarine waters, intertidal areas, submerged and submersible lands and tidal wetlands up to the line of non-aquatic vegetation or the Mean Higher High Water (MHHW) line, whichever is most landward.

The application of a particular type of ESTUARY ZONE within a given estuary is dependent upon the classification of the estuary under L.C.D.C Rule No. OAR 660-17-010, and the criteria outlined in individual zone descriptions in Section 3.102 to 3.110.

Estuary Classification: Development. Estuaries: Nehalem, Tillamook. Permitted Zones: Estuary Development (ED), Estuary Conservation 2 (EC2), Estuary Conservation 1 (EC1), Estuary Conservation Aquaculture (ECA) and Estuary Natural (EN).

Estuary Classification: Conservation. Estuaries: Nestucca, Netarts, Neskowin Creek, Sutton Creek. Permitted Zones: Estuary Conservation 2 (EC2), Estuary Conservation 1 (EC1), Estuary Conservation Aquaculture (ECA) and Estuary Natural (EN).

- (2) USES PERMITTED OUTRIGHT (P): The following uses are permitted outright within all ESTUARY ZONES:
 - (a) Maintenance and repair of existing structures or facilities not involving a regulated activity. (See Section 3.120). For the purpose of this ordinance, "existing structures or facilities" are defined as structures or facilities in current use or good repair as of the date of adoption of this ordinance (including structures or facilities which are in conformance with the requirements of this ordinance and non-conforming structures or facilities established prior to October 7, 1977).

- (b) Dike maintenance and repair for:
 - (1) Existing serviceable dikes (including those that allow some seasonal inundation; and
 - (2) Dikes that have been damaged by flooding, erosion or tidegate failure where the property has not reverted to estuarine habitat; and
 - (3) Dikes that have been damaged by flooding, erosion or tidegate failure where the property has reverted to estuarine habitat only if the property is in the Farm, F-1 zone and it has been in agricultural use for 3 of the last 5 years and reversion to estuarine habitat has not occurred more than 5 years prior.

Tillamook County will rely on the U. S. Army Corps of Engineers and the Division of State Lands to determine whether an area has reverted to estuarine habitat.

For the purpose of this Subsection, agricultural use means using the area for pasture several months of the year or harvesting this area once a year.

- (c) Low-intensity, water-dependent recreation, including but not limited to fishing, crabbing, clamming, wildlife observation, swimming and hunting.
- (d) Research and educational observation.
- (e) Grazing of livestock.
- (f) Fencing, provided that it is not placed across publicly-owned intertidal areas so as to restrict public access to, or recreational boating access across said lands and intertidal areas.
- (g) Passive restoration.

SECTION 3.102: ESTUARY NATURAL ZONE (EN)

- (1) **PURPOSE AND AREAS INCLUDED:** The purpose of the EN Zone is to provide for preservation and protection of significant fish and wildlife habitats and other areas which make an essential contribution to estuarine productivity or fulfill scientific, research or educational needs.

Except where a goal exception has been taken in the Tillamook County Comprehensive Plan, the EN Zone includes the following areas:

- (a) **Development and Conservation Estuaries:** Major tracts of tidal marsh, intertidal flats and seagrass and algae beds. The "major tract" determination is made through a consideration of all of the following four criteria: Size; habitat value; scarcity and degree of alteration.
 - (b) **Natural Estuaries:** The EN Zone includes all estuarine waters, intertidal areas, submerged or submersible lands and tidal wetland areas.
- (2) **USES PERMITTED WITH STANDARDS:** The following uses are permitted subject to the procedures of Section 3.120 and the standards in Section 3.140.
- (a) Maintenance and repair of existing structures or facilities involving a regulated activity.
 - (b) Navigational aids.
 - (c) Vegetative shoreline stabilization.
 - (d) Tidegate installation in existing functional dikes.
 - (e) Temporary dikes for emergency flood protection.
 - (f) Aquaculture facilities limited to temporary or easily removed bottom or in the water column structures (stakes, racks, trays, longlines, or rafts) or ground culture aquaculture.
 - (g) Bridge crossings and crossing support structures.
 - (h) Fill for boat launch parking lots shall be allowed where an exception to Goal 16 has been approved.
 - (i) Piling and docks in conjunction with public boat launches where an exception to Goal 16 has been approved.

- (3) **USES PERMITTED CONDITIONALLY:** The following uses may be permitted subject to the procedures of Section 3.120 and Article 6 and the standards in Section 3.140.
- (a) Aquaculture and water-dependent portions of aquaculture facilities which do not require dredging or fill.
 - (b) Water intake structures for out-bay aquaculture.
 - (c) Riprap to protect unique natural resources, historical and archaeological values, public facilities and uses existing as of October 7, 1977; and uses allowed by the zone.
 - (d) Electrical distribution lines and line support structures.
 - (e) Active restorations and estuarine enhancement.
 - (f) Temporary low water bridge.
 - (g) Temporary alterations.
 - (h) Boat ramps for public use where no dredging or fill for navigational access is needed.
- (4) **REGULATED ACTIVITIES:** The following Regulated Activities are permitted subject to the procedure of Section 3.120 and the standards of Section 3.140.
- (a) Regulated activities for the purpose of on-site maintenance and repair of existing structures or facilities, limited to:
 - (1) Dredging for on-site maintenance of:
 - a. Drainage tiles.
 - b. Drainage ditches.
 - c. Tidegates.
 - d. Bridge crossing support structures.
 - e. Water, sewer, gas or communication lines.
 - f. Electrical distribution lines.
 - g. Outfills.
 - (2) Fill or riprap for on-site maintenance of:

- a. Dikes.
 - b. Bridge crossing support structures or other land transportation facilities.
- (b) Riprap for structural shoreline stabilization or protection of utility lines allowed by this zone.
- (c) Piling installation for:
 - (1) Navigational aids.
 - (2) Aquaculture facilities.
 - (3) Public boat ramp.
 - (4) Bridge crossing support structures.
- (d) Dredging for installation of:
 - (1) Water, sewer, gas, or communication lines.
 - (2) Water intake facilities.
 - (3) Electrical distribution lines.
 - (4) Tidegates in existing functional dikes adjacent to EN zones.
- (e) Regulated Activities in conjunction with an approved Active Restoration Estuarine Enhancement project.
- (f) Regulated activities in conjunction with temporary alterations.
- (g) Fill for installation of public boat ramps or bridge crossing support structures.
- (h) Incidental dredging for harvest of benthic species or removal of in-water structures such as stakes or racks.

SECTION 3.104: ESTUARY CONSERVATION AQUACULTURE ZONE (ECA)

- (1) **PURPOSE AND AREAS INCLUDED:** The purpose of the ECA Zone is to promote the continuing utilization of designated shellfish culture areas, while providing for low-intensity, water-dependent recreation, commercial and recreational fishing and crabbing and protecting the significant biological productivity of major tracts of fish and wildlife habitat and areas needed for scientific, research or educational purposes.

Except where a goal exception has been taken in the Tillamook County Comprehensive Plan, the ECA Zone includes the following areas:

- (a) Areas which are in existing aquaculture use and which are subject to a valid oyster growing lease from the State of Oregon pursuant to ORS 622.
 - (b) Other areas suitable for aquaculture which do not qualify as natural management units.
- (2) **USES PERMITTED WITH STANDARDS:** The following uses are permitted subject to the procedure of Section 3.120 and the standards in Section 3.140:
- (a) Aquaculture facilities limited to temporary or easily removed bottom or in the water column structures (stakes, racks, trays, longlines or rafts) or ground culture aquaculture.
 - (b) Navigational aid.
- (3) **USES PERMITTED CONDITIONALLY:** The following uses may be permitted subject to the procedures of Section 3.120 and Article 6 and the standards in Section 3.140:
- (a) Active restoration and estuarine enhancement.
 - (b) Structural shoreline stabilization, limited to riprap.
 - (c) Temporary alterations.
- (4) **REGULATED ACTIVITIES:** The following Regulated Activities are permitted subject to the procedure of Section 3.120 and the standards in Section 3.140:
- (a) Piling installation for:
 - 1. Anchoring of bottom or in-the-water structures used for aquaculture.
 - 2. Navigational aids.

- (b) Regulated Activities in conjunction with an approved active restoration project or estuarine enhancement.
- (c) Riprap for structural shoreline stabilization.
- (d) Incidental dredging for harvest of benthic species or removal of in-water structures such as stakes or racks.

SECTION 3.106: ESTUARY CONSERVATION 1 ZONE (EC1)

- (1) **PURPOSE AND AREAS INCLUDED:** The purpose of the EC1 zone is to:
- (a) Provide for long-term utilization of areas which support, or have the potential to support valuable biological resources.
 - (b) Provide for long-term maintenance and enhancement of biological productivity.
 - (c) Provide for the long-term maintenance of the aesthetic values of estuarine areas, in order to promote or enhance the low intensity recreational use of estuarine areas adjacent to rural or agricultural shorelands.

Except where a goal exception has been taken in the Tillamook County Comprehensive Plan, the EC1 Zone includes the following areas within Development and Conservation Estuaries:

- (a) Tracts of tidal marshes, tideflats, seagrass and algae beds which are smaller or of less biological importance than those included in EN or ECA Zones.
 - (b) Productive recreational or commercial shell fish and fishing areas.
 - (c) Areas that are partially altered and adjacent to existing development of moderate intensity which do not possess the resource characteristics of Natural or Development management units.
 - (d) Areas with potential for shell fish culture (excluding platted oyster beds in Tillamook Bay).
- (2) **USES PERMITTED WITH STANDARDS:** The following uses are permitted subject to the procedure of Section 3.120 and the standards in Section 3.140:
- (a) Maintenance and repair of existing structures or facilities involving a regulated activity.
 - (b) Navigational aids.
 - (c) Vegetative shoreline stabilization.
 - (d) Structural shoreline stabilization, limited to riprap.
 - (e) Boat dock in conjunction with one or more private residences. Single purpose private docks shall be limited to a maximum of 200 square feet in size. Larger docks may be permitted subject to the conditional use provisions of Article VI of this Ordinance.

- (f) Tidegate installation in existing functional dikes adjacent to EC1 zones.
 - (g) Water, sewer, gas or communication lines.
 - (h) Electrical distribution lines and line support structures.
 - (i) Active restoration and estuarine enhancement.
 - (j) Temporary dikes for emergency flood protection.
 - (k) Temporary low-water bridge.
 - (l) Signs subject to Section 4.020.
 - (m) Aquaculture and water-dependent portions of aquaculture facilities not requiring dredge or fill other than incidental dredging for harvest of benthic species or removal of in-water structures such as stakes or racks.
 - (n) Bridge crossings and crossing support structures.
 - (o) Boat ramps for public use where no dredging or fill for navigational access is needed.
 - (p) Water intake structures for out-bay aquaculture.
- (3) **USES PERMITTED CONDITIONALLY:** The following uses may be permitted subject to the procedures of Section 3.120 and Article 6 and the standards in Section 3.140.
- (a) Water dependent portions of aquaculture facilities which require dredge or fill.
 - (b) Water-dependent recreational facilities, including:
 - (1) Boat ramps, requiring dredging or fill for navigational access.
 - (2) Community boat docks in conjunction with a subdivision or planned development.
 - (3) Public or commercial docks and moorages for recreational marine craft (including seaplanes), and accessory uses not requiring the use of fill or the occupation of additional estuarine surface area.
 - (c) Mining and mineral extraction.
 - (d) Storm water and treated sewage outfalls.
 - (e) Bulkheads for structural shoreline stabilization.

- (f) Temporary alterations.
 - (g) Minor navigational improvements.
- (4) **REGULATED ACTIVITIES:** The following Regulated Activities are permitted subject to the procedure of Section 3.120 and the standards in Section 3.140.
- (a) Regulated Activities in association with on-site maintenance and repair of existing structures or facilities, limited to:
 - (1) Dredging for on-site maintenance of:
 - a. Drainage tiles.
 - b. Drainage ditches.
 - c. Tidegates.
 - d. Bridge crossing support structures.
 - e. Water, sewer, gas or communication lines.
 - f. Electrical distribution lines.
 - g. Outfalls.
 - (2) Fill or riprap for on-site maintenance of:
 - a. Dikes.
 - b. Bridge crossing support structures or other land transportation facilities.
 - (3) Replacement of pilings.
 - (b) Piling installation for:
 - (1) Water-dependent recreational facilities.
 - (2) Aquaculture facilities.
 - (3) Navigational aids.
 - (4) Bridge crossing support structures.

- (c) Riprap for structural shoreline stabilization or protection of utility lines.
- (d) Dredging for:
 - (1) Bridge crossing support structure installation.
 - (2) Storm water or treated sewage outfall installation.
 - (3) Tidegate installation in existing functional dikes adjacent to EC1 Zones.
 - (4) Water, sewer, gas or communication line installation.
 - (5) Water intake facilities.
 - (6) Electrical distribution line installation.
 - (7) Mining or mineral extraction.
- (e) Fill for:
 - (1) Bridge crossing support structures.
 - (2) Structural shoreline stabilization.
 - (3) Boat ramps.
 - (4) Bridge approaches, where a goal exception has been taken and included as an amendment to the Tillamook County Comprehensive Plan (Ordinance # 33).
- (f) Regulated Activities in conjunction with an approved active restoration or estuarine enhancement project.
- (g) Incidental dredging for harvest of benthic species or removal of in-water structures such as stakes or racks.
- (h) Regulated activities in conjunction with temporary alterations.

SECTION 3.108: ESTUARY CONSERVATION - 2 ZONE (EC2)

- (1) PURPOSE AND AREAS INCLUDED: The purpose of the EC2 Zone is to:
- (a) Provide for long-term use of renewable resources that do not require major alterations of the estuary except for purposes of restoration.
 - (b) Other than minor navigational improvements, aquaculture facilities and water dependent recreational facilities, provide for new water-dependent industrial and commercial uses only where dredging and filling are not necessary and where consistent with the resource capabilities of the area and purposes of the management unit.

Except where a goal exception has been taken in the Tillamook County Comprehensive Plan, the EC2 Zone includes the following areas within Development and Conservation Estuaries:

- (c) Tracts of significant habitat not qualifying for EN or EC1 designation;
 - (d) Areas containing existing water-dependent facilities which require periodic dredging to maintain water access;
 - (e) Partially altered estuarine areas or estuarine areas adjacent existing water-dependent development which do not otherwise qualify for EN, EC1 or ED designations; and
 - (f) Subtidal navigable areas which are adjacent to urbanized areas, which do not qualify for EN, ECA or EC1 designations and which are not Federally authorized and maintained navigation channels.
- (2) USES PERMITTED WITH STANDARDS: The following uses are permitted subject to the procedure of Section 3.120 and the standards in Section 3.140:
- (a) Maintenance and repair of existing structures or facilities involving a regulated activity.
 - (b) Navigational aids.
 - (c) Vegetative shoreline stabilization.
 - (d) Structural shoreline stabilization, limited to riprap.
 - (e) Boat dock in conjunction with one or more private residences. Single purpose private docks shall be limited to a maximum of 200 square feet in size. Larger docks may be permitted subject to the Conditional Use provisions of Article VI of this Ordinance.

- (f) Aquaculture and water-dependent portions of aquaculture facilities not requiring dredging or fill other than incidental dredging for harvest of benthic species or removable in-water structures such as stakes or racks.
 - (g) Water intake facilities for out-bay aquaculture requiring dredge or fill.
 - (h) Tidegate installation in existing functional dikes adjacent to EC2 Zones.
 - (i) Water, sewer, gas or communication lines.
 - (j) Electrical distribution lines and line support structures.
 - (k) Temporary dikes for emergency flood protection.
 - (l) Active restoration and estuarine enhancement.
 - (m) Temporary low water bridges.
 - (n) Signs subject to Section 4.020.
 - (o) Boat ramps for public use where no dredging or fill for navigational access is needed.
 - (p) Bridge crossing support structures.
- (3) USES PERMITTED CONDITIONALLY (C): The following uses may be permitted subject to the procedures of Section 3.120 and Article 6 and the standards in Section 3.140.
- (a) Water-dependent recreational facilities, including:
 - (1) Boat ramps, which require dredging or fill for navigational access.
 - (2) Community boat docks in conjunction with a subdivision or planned development.
 - (3) Public or commercial docks, moorages and marinas for recreational marine craft (including seaplanes) and accessory uses not requiring the use of fill or the occupation of additional estuarine surface area.
 - (b) Water-dependent commercial facilities not requiring the use of dredging or fill, including moorages, docks and marinas for commercial marine craft (including seaplanes), and accessory uses not requiring the use of fill or the occupation of additional estuarine surface area.

- (c) Water-dependent industrial facilities not requiring the use of dredging or fill, including:
 - (1) Piers, wharves and other terminal and transfer facilities for passengers or water-borne commerce such as fish, shellfish, timber or timber products.
 - (2) Water intake and discharge structures.
 - (3) Water access structures or facilities which require access to a water body as part of the manufacturing, assembly, fabrication or repair of marine craft or marine equipment, due to the size of the craft or equipment.
- (d) Other water-dependent uses not requiring the use of fill. A use is determined to be water-dependent when it can only be carried out on, in, or adjacent to water, and the location or access is needed for:
 - (1) Water-borne transportation.
 - (2) Recreation.
 - (3) A source of water (such as energy production, cooling of industrial equipment or waste water, or other industrial processes).
- (e) Navigational structures, limited to floating breakwaters.
- (f) Mining and mineral extraction.
- (g) Storm water and treated sewage outfalls.
- (h) Bulkheads for structural shoreline stabilization.
- (i) Temporary alterations.
- (j) Minor navigational improvements.
- (k) Water dependent portion of aquaculture facilities requiring dredging or fill.
- (4) **REGULATED ACTIVITIES:** The following Regulated Activities are permitted subject to the procedure of Section 3.120 and the standards in Section 3.140.
 - (a) Regulated Activities in association with on-site maintenance and repair of existing structures or facilities, limited to:
 - (1) Dredging for on-site maintenance of:

- a. Drainage tiles.
 - b. Drainage ditches.
 - c. Tidegates.
 - d. Bridge crossing support structures.
 - e. Water, sewer, gas or communication lines.
 - f. Electrical distribution lines.
 - g. Outfalls.
- (2) Fill or riprap for on-site maintenance of:
- a. Dikes.
 - b. Bridge crossing support structures or other land transportation facilities.
 - c. Shoreline stabilization structures.
- (b) Piling installation for:
- (1) Water-dependent industrial, commercial or recreational facilities.
 - (2) Water-dependent portions of aquaculture facilities or aquaculture operations.
 - (3) Navigational aids.
 - (4) Bulkheads.
 - (5) Bridge crossing support structures.
- (c) Dredging for:
- (1) Maintenance of existing facilities.
 - (2) Minor navigational improvements.
 - (3) Water-dependent recreational facilities.
 - (4) Water-dependent portions of aquaculture facilities.

- (5) Mining and mineral extraction.
 - (6) Bridge crossing support structure installation.
 - (7) Outfall installation.
 - (8) Water, sewer, gas or communication line installation.
 - (9) Electrical distribution line installation.
 - (10) Tidegate installation in existing functional dikes adjacent to EC2 Zones.
 - (11) Boat ramps.
- (d) Riprap for structural shoreline stabilization or protection of utility lines allowed by this zone.
 - (e) Fill for:
 - (1) Bridge crossing support structures.
 - (2) Structural shoreline stabilization.
 - (3) Water-dependent recreational facilities.
 - (4) Water-dependent portions of aquaculture facilities.
 - (5) Boat ramps.
 - (f) Regulated activities in conjunction with an approved active restoration or estuarine enhancement project .
 - (g) Incidental dredging for harvest of benthic species or removal of in-water structures such as stakes or racks.
 - (h) Regulated activities in conjunction with temporary alterations.

SECTION 3.110: ESTUARY DEVELOPMENT ZONE (ED)

- (1) **PURPOSE AND AREAS INCLUDED:** The purpose of the ED Zone is to:
 - (a) Provide for long-term maintenance, enhancement, expansion or creation of structures or facilities for navigational and other water-dependent commercial, industrial or recreation uses.
 - (b) Provide for the expansion or creation of other commercial, industrial or recreational facilities, subject to the general use priorities outlined in Section 3.110.
 - (c) Areas which contain public facilities which are utilized for shipping, handling or storage of water-borne commerce, or for moorage or fueling of marine craft.
 - (d) Subtitle channel areas adjacent or in proximity to the shoreline which are currently used or needed for shallow-draft navigation (including authorized maintained channels and turning basins).
 - (e) Areas of minimum biologic significance needed for uses requiring alteration of the estuary not included in EN, ECA, EC1, or EC2 zones.
 - (f) Where an acknowledged Goal 16 exception has been taken, areas of biologic significance which are potentially suitable for commercial, recreational or industrial development due to their proximity to subtidal channels, developed or developable shorelands or developed estuarine areas, and to the availability of services.
- (2) **USES PERMITTED WITH STANDARDS:** The following uses are permitted subject to the procedure of Section 3.120 and standards in Section 3.140.
 - (a) Maintenance and repair of existing structures or facilities involving a regulated activity.
 - (b) Navigational structures and navigational aids.
 - (c) Water-dependent commercial uses, including docks, moorages and marinas for commercial marine craft (including seaplanes).
 - (d) Water-dependent industrial uses, including:
 - (1) Piers, wharves and other terminal and transfer facilities for passengers or water-borne commerce such as fish, shellfish, timber or timber products.
 - (2) Water intake and discharge structures.

- (3) Water access structures or facilities which require access to a water body as part of the manufacturing, assembly or fabrication or repair of marine craft or marine equipment.
- (e) Water-dependent public recreational facilities, including:
 - (1) Boat ramps.
 - (2) Docks, moorages and marinas for recreational marine craft (including seaplanes).
- (f) Aquaculture and water-dependent portions of aquaculture facilities.
- (g) Other water-dependent uses. A use is determined to be water-dependent when it can only be carried out on, in or adjacent to water, and the location or access is needed for:
 - (1) Water-borne transportation.
 - (2) Recreation.
 - (3) A source of water (such as energy production, cooling of industrial equipment or waste water, or other industrial processes).
- (h) Accessory uses or accessory structures in conjunction with a Permitted with Standards use listed in c-g above, limited in size to a maximum of 10 percent of the lot or parcel size.
- (i) Vegetative shoreline stabilization.
- (j) Structural shoreline stabilization.
- (k) Tidegate installation in existing functional dikes adjacent to ED Zones.
- (l) Water, sewer, gas or communication lines.
- (m) Electrical distribution lines and line support structures.
- (n) Temporary dikes for emergency flood protection.
- (o) New dike construction if:
 - (1) Required for a water-dependent use for which a substantial public benefit is demonstrated by, the use or alteration does not unreasonably interfere with

public trust rights and for which no practicable upland locations exist.

- (2) Adverse impacts are avoided or minimized to be consistent with the purposes of the area.
 - (p) Temporary low water bridges.
 - (q) Signs subject to Section 4.020.
 - (r) Temporary alterations.
 - (s) Active restoration or estuarine enhancement.
 - (t) Bridge crossing support structures.
- (3) **USES PERMITTED CONDITIONALLY:** The following uses may be permitted subject to the procedures of Section 3.120 and Article 6, the standards in Section 3.140 and only after a finding that the proposed facility does not preclude or unduly conflict with water-dependent use on the site or in adjacent water-dependent development shorelands, and is consistent with the purposes of the area.
- (a) Water-related uses not requiring the use of fill. A use is determined to be water-related when the use:
 - (1) Provides goods and/or services that are directly associated with water-dependent uses (supplying materials to ,or using products of, water-dependent uses); and
 - (2) If not located near the water, would experience a public loss of quality in the goods and services offered. Evaluation of public loss of quality will involve a subjective consideration of economic, social and environmental consequences of the use. Water-related uses can include, but are not limited to, the following:
 - (1) Water-related industrial uses such as:
 - a. Fish or shellfish processing plants; or
 - b. Warehousing and/or other storage areas for marine equipment or water-borne commerce.
 - (2) Water-related commercial uses, such as:
 - a. Fish or shellfish retail or wholesale outlet;

- b. Marine craft or marine equipment sales establishments;
 - c. Charter fishing offices;
 - d. Sport fish cleaning, smoking or canning establishments;
 - e. Retail trade facilities in which the majority of products are products such as ice, bait, tackle, nautical charts, gasoline, or other products incidental to or used in conjunction with a water-dependent use;
 - f. Restaurants which provide a view of the waterfront, and which are in conjunction with a water-dependent or other water-related uses, such as a seafood processing plant or a charter office.
- (b) Non-water-dependent and non-water-related uses not requiring the use of fill.
 - (c) In-water sorting, storage and handling of logs in association with water-borne transportation of logs.
 - (d) Accessory uses or accessory structures in conjunction with a Conditional Use listed in a-c above, limited in size to a maximum of 10 percent of the lot or parcel size.
 - (e) Mining and mineral extraction.
 - (f) Storm water and sewer outfalls.
 - (g) Water-related or non-dependent, non-related uses requiring the use of fill, provided that a Goal 16 exception has been approved and included as an amendment to the Tillamook County Comprehensive Plan.
- (4) **REGULATED ACTIVITIES:** The following Regulated Activities are permitted subject to the procedure of Section 3.120 and the standards in Section 3.140.
- (a) Regulated activities in association with on-site maintenance and repair of existing structures or facilities.
 - (b) Dredging for:
 - (1) Navigational improvements.
 - (2) Maintenance dredging of existing facilities.

- (3) Water-dependent uses.
 - (4) Water-dependent portions of aquaculture facilities or aquaculture operations.
 - (5) Mining and mineral extraction.
 - (6) Bridge crossing support structure installation.
 - (7) Water, sewer, gas or communication line installation.
 - (8) Outfall installation.
 - (9) Electrical distribution line installation.
 - (10) Tidegate installation in existing functional dikes adjacent to ED Zones.
- (c) Fill for:
- (1) Water-dependent uses.
 - (2) Water-dependent portions of aquaculture facilities.
 - (3) Navigational structures or navigational improvements.
 - (4) Structural shoreline stabilization.
 - (5) Bridge crossing support structures.
 - (6) Water-related or non-water-dependent uses in areas where Goal 16 exceptions have been taken and approved as part of the Tillamook County Comprehensive Plan.
 - (7) New dike construction.
- (d) Piling and dolphin installation in conjunction with a Permitted with Standards or Conditional Use within this zone.
- (e) Riprap for structural shoreline stabilization or protection of utility lines allowed by this zone.
- (f) Dredged material disposal in an approved DMD site or in conjunction with an approved fill project, subject to State and Federal permit requirements for dredged material disposal.

- (g) Flow-lane disposal of dredged material, subject to State and Federal permit requirements.
- (h) Regulated activities in conjunction with an approved active restoration (project) or estuarine enhancement project.
- (i) Incidental dredging for harvest of benthic species or removal of in-water structures such as stakes or racks.
- (j) Regulated activities in conjunction with temporary alterations.

SECTION 3.120: REVIEW OF REGULATED ACTIVITIES

- (1) **PURPOSE:** The purpose of this Section is to provide an assessment process and criteria for local review and comment on State and Federal permit applications which could potentially alter the integrity of the estuarine ecosystem.
- (2) **REGULATED ACTIVITIES:** Regulated activities are those actions which require State and/or Federal permits and include the following:
 - (a) Fill (either fill in excess of 50 c.y. or fill of less than 50 c.y., which requires a Section 10 or Section 404 permit from the U.S. Army Corps of Engineers).
 - (b) Dredging (either dredging in excess of 50 c.y. within a 12 month period, or dredging of less than 50 c.y., which requires a Section 10 permit from the U.S. Army Corps of Engineers).
 - (c) Dredged material disposal including flow lane disposal.
 - (d) Piling/dolphin installation.
 - (e) Shoreline stabilization, bank line or streamline alteration involving fill or dredging in excess of 50 c.y.
 - (f) In-water lot storage.
- (3) **PROCEDURE FOR REVIEWING REGULATED ACTIVITIES:** Review of State and Federal permit notices are an Administrative function of the Planning Department. Regulated activities and any associated use or uses as a whole shall be reviewed according to the requirements of the zone(s) in which the proposed uses and activities are to be located (Section 3.100 to 3.110), standards relevant to the proposed uses and activities (Section 3.140), an impact assessment (Section 3.120 (6)), requirements for degradations or reductions of estuarine natural values where applicable (Section 3.120 (7)) and comments from State and Federal agencies having responsibility for permit review (Section 3.120 (8)). Based on this review, the Department will decide whether the proposed uses and activities comply with this Ordinance and will forward this decision to the appropriate permitting agencies and the permit applicant prior to the final date set for comments. Decisions of the Planning Department or Planning Commission may be appealed (Section 3.120 (9)).
- (4) **ZONE REQUIREMENTS:** Uses and activities shall be allowed only if they are allowed in the zones in which they are to be located. Accessory uses proposed for adjacent upland areas must be allowed in the upland zones in which they are to be located as well as the SHORELANDS OVERLAY ZONE (Section 3.090). Uses that are permitted with standards must comply with the standards of Section 3.140. Uses listed as Conditional Uses shall be reviewed according to the procedures of Article 6 and the standards of Section 3.140. If a

Conditional Use review is required, the Planning Department shall notify the applicant and State and Federal permitting agencies and shall request an extension of the comment period.

- (5) **IMPACT ASSESSMENTS:** The Planning Department shall, with the assistance of affected State and Federal agencies, develop impact assessments for regulated activities. Federal Environmental Impact Statements or Assessments may be substituted if made available to the Planning Department. The following considerations must be addressed in the impact assessment.
 - (a) The type and extent of alterations expected.
 - (b) The type of resource(s) affected including, but not limited to aquatic life and habitats, riparian vegetation, water quality and hydraulic characteristics.
 - (c) The expected extent of impacts of the proposed alteration on water quality and other physical characteristics of the estuary, living resources, recreation and aesthetic use, navigation and other existing and potential uses of the estuary.
 - (d) The methods which could be employed to avoid or minimize adverse impacts.
- (6) **REQUIREMENTS FOR RESOURCE CAPABILITY DETERMINATIONS:** Uses and activities for which a resource capability determination is required by Section 3.140, shall be allowed only if they are found to be consistent with the resource capabilities of the management unit(s) and the purposes of the zone(s) in which they are to be located. An activity will be found to be consistent with the resource capabilities of a management unit (as described in Section 2 of the Estuarine Resources Element of the Tillamook County Comprehensive Plan) when either (1) the impacts of the use on estuarine species, habitats, biological productivity and water quality are not significant or; (2) that the resources of the area are able to assimilate the use and activity and their effects and continue to function in a manner consistent with the purposes of the zone. The resource capability determination shall be based on information generated by the impact assessment.
- (7) **SIGNIFICANT DEGRADATIONS OR REDUCTIONS OF ESTUARINE NATURAL VALUES:**
 - (a) **Definition:** Significant degradations or reductions of estuarine natural values include dredging, fill, and other activities which will cause significant off site impacts as determined by the impact assessment (Section 3.120 (5)).
 - (b) **Requirements:** Dredging and fill must comply with the standards in Section 3.140 (Subsections (5) and (7) respectively). Other reductions and degradations of estuarine natural values shall be allowed only if:
 - (1) A need (i.e. a substantial public benefit) is demonstrated and the use or

alteration does not unreasonably interfere with public trust rights; and

- (2) No feasible alternative upland locations exist; and
- (3) Adverse impacts are minimized as much as feasible.

- (8) **STATE AND FEDERAL REVIEWING AGENCY COMMENTS:** In the review of regulated activities, the Planning Department shall notify the following agencies: Oregon Department of Fish and Wildlife, Oregon Division of State Lands, Oregon Department of Land Conservation and Development, Oregon Department of Economic Development, U.S. Fish and Wildlife Service, National Marine Fisheries Service, Environmental Protection Agency, U.S. Army Corps of Engineers. Notice will be mailed within 7 days of County receipt of the State or Federal permit notice. The notice will include permit reference, identification of the local decisions to be made, references to applicable policies and standards, and notification of comment and appeal periods. The Planning Department shall consider any comments received no later than seven days before the closing date for comments on the State or Federal permit notice.
- (9) **APPEALS:** Planning Department decisions on regulated activities may be appealed according to the requirements of Section 10.020. Planning Commission decisions on regulated activities that involve a Conditional Use may be appealed according to the requirements of Section 10.030. If the decision of the Planning Department or Planning Commission is appealed, the Planning Department shall notify the appropriate State and Federal permitting agencies and shall request an extension to the comment period to allow for the local appeals process.

SECTION 3.140: ESTUARY DEVELOPMENT STANDARDS

- (1) **AQUACULTURE FACILITIES:** Aquaculture facilities in estuary zones shall be subject to the following standards:
 - (a) Evidence shall be provided by the applicant and findings made by the County that aquaculture facilities do not prevent access to navigation channels, and that obstruction of access to publicly-owned lands and recreation use areas is minimized.
 - (b) Aquaculture facilities should be designed to minimize their visual impact (view obstruction). Whenever feasible, submerged structures are preferred over floating structures.
 - (c) In the design and construction of aquaculture facilities, reclamation and reuse of waste water should be considered.
 - (d) Water diversion structures or man-made spawning channels shall be constructed so as to maintain required stream flows for aquatic life in adjacent streams and avoid significant reduction or acceleration of average water flow in an associated marsh. Water Quality policies shall apply.
 - (e) Shellfish culture facilities shall either be located more than 2,000 feet away from sanitary sewer outfalls so that there will be no potential health hazard, or shall make provision for purification of water used in the aquaculture operation.
 - (f) Water discharge from an aquaculture facility shall meet all Federal and State water quality standards and any conditions attached to a waste discharge permit. Water Quality policies shall apply.
 - (g) All State and Federal laws governing environmental quality, resource protection, public health and safety, and engineering standards shall be met in the design, siting, construction and operation of aquaculture facilities. This determination shall be made by the Oregon Department of Fish and Wildlife or other State or Federal agencies with regulatory authority over aquaculture facilities.
 - (h) Aquaculture facilities in Estuary Conservation (EC) Zones, Estuary Development (ED) Zones, and Estuary Natural (EN) Zones shall be permitted only if evidence can be provided by the applicant and findings made by the County that:
 - (1) Aquaculture facilities in Estuary Conservation (EC) Zones will require a resource capability determination where dredging, fill or other alterations of the estuary is needed, other than incidental dredging for harvest of benthic species or removal of in-water structures.

- (2) Aquaculture facilities in Estuary Development (ED) Zones will not preclude the provision or maintenance of navigation or other needs for commercial and industrial water dependent uses, and will not preempt the use of shorelands especially suited for water-dependent development.
 - (3) Aquaculture facilities in Estuary Natural (EN) Zones will be consistent with the resource capabilities and purpose of the management unit(s) in which they are to be located. The Oregon Department of Agriculture shall provide these findings for oyster culture and the Oregon Department of Fish and Wildlife shall provide them for other types of aquaculture in instances when Tillamook County finds that it does not have the technical expertise or resources to make them.
 - (4) Aquaculture facilities in Estuary Natural (EN) Zones will not require dredging or fill other than incidental dredging for harvest of benthic species or removal of in-water structures.
 - (i) Leasing of publicly-owned estuarine waters, intertidal areas or tidal wetlands for aquaculture shall be subject to the requirements of the Division of State Lands.
 - (j) Dredge, fill, shoreline stabilization, piling/dolphin installation or other activities in conjunction with an aquaculture facility shall be subject to the respective standards for these activities.
- (2) DIKING: Siting, design, construction, maintenance or expansion of dikes in estuary zones, shall be subject to the following standards:
- (a) Diking policy requirements in the Tillamook County Comprehensive Plan shall be met.
 - (b) Proposals for new dike construction or dike maintenance or repair shall be accompanied by a brief statement from the local Soil and Water Conservation Service or a certified engineer stating that:
 - (1) The project is in conformance with good engineering practices and any applicable rules and regulations set forth by the Oregon Division of State Lands and the U. S. Army Corps of Engineers.
 - (2) Provides for suitable erosion protection for the dike face.
 - (3) Will produce no appreciable flood and erosion potential upstream or downstream of the proposed project.

- (c) When temporary dikes are constructed in intertidal areas or tidal wetlands, notice must be given to the D. S. L. within 24 hours following the start of such activity and their approval for continuation of the project must be obtained (ORS 541.615 (4)). Intertidal areas and tidal wetlands shall be restored by the sponsor of the dike to predike conditions after the removal of temporary dikes.
 - (d) Fill, shoreline stabilization or other activities in conjunction with dike construction, maintenance or repair shall be subject to the respective standards for these activities.
 - (e) Repair and maintenance of existing dikes, and construction of new dikes involving fill in intertidal areas and tidal wetlands are subject to the requirements of the State Fill and Removal Law (ORS 541.605 - 541.665) and the Clean Water Act of 1977 (P.L. 95217). (Applies to fill only).
- (3) DOCKS AND MOORAGES: Siting, design, construction, maintenance or expansion of new docks and moorages in estuary zones, Water-Dependent Development (WWD) Shoreland Zones or other areas within the Shoreland Overlay Zone shall be subject to the following standards:
- (a) Docks and moorages policy requirements in the Tillamook County Comprehensive Plan shall be met.
 - (b) When new construction or expansion of docks and moorages is proposed, evidence shall be provided by the applicant and findings made by the County that:
 - (1) The size of the facility is the minimum necessary to accommodate the number and size of boats using the facility. The maximum size limit for a single purpose private dock (excluding walkways) shall be 200 square feet. Larger docks may be permitted subject to the Conditional Use provisions of Article VI of this Ordinance.
 - (2) Alternatives such as dryland storage, launching ramps or mooring buoys are impracticable.
 - (c) To ensure that consideration is given to the beneficial economic and social impacts of moorages on local communities, proposals for new or expanded moorages should include statements on the impacts to local communities derived from increases in employment or increases in commercial or recreational activity.
 - (d) Open pile piers or secured floats shall be used for dock construction. Piers and floats shall extend no further out into the water than is needed to provide navigational access.
 - (e) Floating docks shall be designed so that they do not rest on the bottom at low water.

- (f) Single purpose docks shall be permitted if evidence is provided by the applicant and findings made by the County that cooperative use facilities (marinas or community docks or mooring buoys) are unavailable, impractical or will not satisfy the need.
 - (g) Covered or enclosed moorages shall be limited to not more than 30 percent (in number) of the total moorage spaces of a given moorage.
 - (h) To avoid contamination of estuarine waters, intertidal areas or tidal wetlands, public docks and moorages should provide enclosed facilities on shorelands for public dumping of oil and emptying of holding tanks.
 - (i) When docks and moorages are proposed in Estuary Conservation 1 or Estuary Conservation 2 Zones, evidence shall be presented by the applicant and findings made by the County that the proposed dock or moorage is consistent with the resource capabilities of the area and the long term use of renewable resource and does not constitute a major alteration to the estuary. In assessing the resource capabilities of an area, consideration shall be given to the size or intensity of the proposed facility, and its location with respect to adjacent resources.
 - (j) Docks and moorages in Water-Dependent Development (WDD) Shoreland Zones or other areas within the Shoreland Overlay Zone shall be subject to Shoreland Development standards.
 - (k) Moorages with a capacity greater than 25 boats shall be subject to Shallow Draft Port Facility and Marina standards.
 - (l) Dredging, fill, piling/dolphin installation, shoreline stabilization or other activities in conjunction with the construction of docks and moorages shall be subject to the respective standards for these activities.
- (4) **DREDGED MATERIAL DISPOSAL:** Dredged material disposal in estuary zones, Water-Dependent Development (WDD) Shoreland Zones or other areas within the Shoreland Overlay Zone shall be subject to the following standards:
- (a) Dredged material disposal shall occur only in approved dredged material disposal sites, or for fill of development sites which have received appropriate local, State and Federal permits. All Dredged Material Disposal policy requirements and Fill Standards shall apply.
 - (b) State and Federal water quality standards shall be met during all phases of dredged material disposal. Water Quality policies shall apply.

- (c) The timing of dredged material disposal shall be coordinated with State and Federal resource agencies to ensure adequate protection of wildlife habitat, bird nesting areas, fish runs and fish spawning activity, and to minimize interference with fishing activities.
- (d) Ocean disposal of dredged material shall be permitted only in an ocean disposal site approved by the U.S. Army Corps of Engineers and the Environmental Protection Agency.
- (e) With regard to in-water disposal in the river, estuary and ocean:
 - (1) Consideration shall be given to the need for the proposed disposal, and the availability and desirability of alternate sites and methods of disposal that might be less damaging to the environment.
 - (2) The physical and chemical characteristics of the dredged material should be compared with those of the disposal site, and consideration should be given to matching the dredged material to the capabilities of the site.
 - (3) In-water disposal requires either an EPA/DEQ water quality certification or a short-term exemption. Polluted materials that cannot meet EPA/DEQ requirements for ocean disposal shall be disposed of on nonaquatic sites designed to properly settle out all pollutants prior to discharge back into the aquatic system. Dredged material disposal shall not be permitted in the vicinity of a public water supply intake.
- (f) Flow-lane disposal of dredged material shall be monitored to assure that estuarine sedimentation is consistent with the resource capabilities and purposes of affected natural and conservative management units.
- (g) Ocean disposal of dredged material shall be conducted to ensure that U. S. Corps of Engineers and Environmental Protection Agency standards are met, and that:
 - (1) The amount of material deposited at a site will not seriously impact local ocean resources.
 - (2) Interference with sport and commercial fishing is minimized.
 - (3) Disposal is confined to the authorized disposal site.
 - (4) The sediment transport of the materials after disposal will not return to the bar or the estuary. This determination shall be made by the U. S. Army Corps and the Environmental Protection Agency during their review of permit applications for ocean disposal of dredged material.

- (h) Disposal of dredged materials on ocean beaches for purposes of beach nourishment shall be conducted to ensure that:
 - (1) The volume and frequency of dredged material disposal is controlled to avoid excessive fluctuations in beach profile. A stable beach profile shall be maintained as nearly as possible.
 - (2) Adverse impacts on benthic productivity, and native plants and wildlife within, and downstream or, the disposal site shall be avoided or minimized. Particular care shall be taken to ensure that erosion or smothering of productive habitat areas does not occur.
 - (3) The dredged material is uncontaminated, and composed predominately of sand with a particle size compatible with material on the receiving shores.

- (i) Land disposal of dredged materials shall be conducted to ensure that the integrity of estuarine water, streams, underground springs and waterways is maintained. To ensure this:
 - (1) U. S. Army Corps of Engineers guidelines for design of containment areas at dredged material disposal sites shall be followed. The U. S. Army Corps of Engineers shall be responsible for determining that these guidelines have been met.
 - (2) All surface water runoff from disposed dredged materials shall be controlled and shall enter the waterway or estuary directly through an approved outfall. Outfalls shall be designed so that effluent is routed as directly as practicable to the main channel or deep water for dilution.
 - (3) When necessary, dikes shall be constructed around land dredged material disposal sites.
 - (4) Dredged material disposal settling ponds shall be designed to maintain at least one foot of standing water at all times to encourage proper settling of suspended solids. Secondary dredged material disposal settling ponds may be necessary to ensure the proper treatment of overflow waters, particularly in areas used for disposal of spoils containing toxic materials.
 - (5) Runoff from disposed dredged materials must pass over an appropriately designed and operated weir. Weir design and size shall be dependent upon the size of the disposal site and the physical and chemical characteristics of the dredged material.

- (j) The final height and slope after each use of a land dredged material site shall be such that:
 - (1) The site does not enlarge itself by sloughing and erosion at the expense of adjacent aquatic areas.
 - (2) Loss of material from the site during storms and freshets is minimized.
 - (3) Interference with the view from nearby residences, scenic viewpoints and parks is avoided.
 - (k) Revegetation of land disposal sites shall occur as soon as is practicable in order to retard water induced erosion and to restore agricultural or wildlife habitat value to the site. Native species or non-native species approved by the Soil Conservation Service shall be used, and reference shall be made to the Inter-Agency Seeding Manual prepared by the Soil Conservation Service.
 - (l) Disposal of dredged material should occur on the smallest practicable land area consistent with the use of the property and the characteristics of the dredged material. Clearing of land should occur in stages on an as-needed basis. Reuse of existing disposal sites is preferred over creation of new sites in order to minimize the total land area covered by dredged material.
 - (m) Before dredged materials are disposed on land areas for use as fill in approved fill projects, a determination shall be made that the structural characteristics of the material are suitable for this use.
 - (n) The use of agricultural lands for dredged material disposal shall occur only when the sponsor of the dredging project can demonstrate that the soils can be restored to agricultural productivity after disposal use is completed. In cases where this demonstration cannot be made, an exception to the Agricultural Lands Goal must be taken and included as an amendment to the Comprehensive Plan prior to the use of the site for dredged material disposal.
 - (o) Dredging project proposals shall provide at least a five-year program for disposal of dredging material, consistent with the standards listed above. Disposal programs shall provide a mechanism for establishing stockpile sites of fill material suitable for use in approved fill projects.
- (5) **DREDGING IN ESTUARINE WATERS, INTERTIDAL AREAS AND TIDAL WETLANDS:** These standards shall apply only to dredging in excess of 50 c.y. within a 12-month period or dredging of 50 c.y. or less which requires a Section 10 permit from the U. S. Army Corps of Engineers.

- (a) When dredging in estuarine waters, intertidal areas or tidal wetlands is proposed, evidence shall be provided by the applicant and findings made by the County that:
 - (1) The dredging is necessary for navigation or other water dependent uses that require an estuarine location, or is specifically allowed by the management unit or zone; and,
 - (2) A need (i.e. a substantial public benefit) is demonstrated and the use or alteration does not unreasonably interfere with public trust rights;
 - (3) If no feasible alternative upland locations exist; and,
 - (4) If adverse impacts are minimized.
- (b) Dredging projects shall meet all requirements of the State Fill and Removal Law (ORS 541.605 - 541.665), Section 10 of the Rivers and Harbors Act of 1899, and other applicable State and Federal laws. These requirements shall be enforced by State and Federal agencies with regulatory authority over dredging projects.
- (c) Existing water quality, quantity and rate of flow shall be maintained or improved. Minimum stream flow requirements shall be maintained. Water Quality policies shall apply.
- (d) Flushing capacity of estuaries shall be maintained. A hydrologic report from a professional registered hydrologist or engineer may be required by the Planning Department to ensure that this standard has been met.
- (e) Dredging shall be timed in order to minimize the effects of sedimentation and turbidity and to minimize impacts on fish, shellfish, and recreational and commercial fishery activities. The work periods specified in the Oregon Guidelines for Timing of In-Water Work to Protect Fish and Wildlife Resources (ODFW, 2000) shall be followed unless approval of alternative work periods has been obtained from the O.D.F.W.
- (f) Evidence shall be provided by the applicant and findings made by the County that projects requiring dredging are sited and designed so that initial and maintenance dredging are minimized.
- (g) Dredging proposals shall provide at least a five-year program for disposal of dredged materials. Programs for disposal of dredged material shall be consistent with Dredged Material Disposal standards.
- (h) Dredging proposals requiring mitigation shall include a mitigation plan consistent with Mitigation Standards.

- (i) New dredging projects shall not be allowed in areas where insufficient data are available to assess the relative biological value. Under these circumstances, the applicant may arrange to provide the necessary information with the technical assistance of State and Federal resource agencies.
- (j) When dredging for the purpose of on-site maintenance of existing facilities is proposed, evidence shall be presented by the applicant and findings made by the County that:
 - (1) The dredging is necessary to maintain proper operation of the facility.
 - (2) The amount of dredging proposed is confined to the geographic area of the existing facility, and is the minimum amount necessary to fulfill the need.

In cases where dredging or ditching for the purpose of tidegate or land drainage network maintenance is proposed, this findings requirement may be met by a brief statement from the local Soil and Water Conservation Service stating that:

- (1) Dredging or ditching is necessary to maintain proper operation of the tidegate and/or the associated land drainage network behind the dike.
 - (2) The amount of dredging or ditching proposed is confined to the geographic area of the tidegate or drainage new work, and is the minimum amount necessary to fulfill the need.
- (k) Excavation to create new water surface area shall be subject to the standards listed above and to the following standards:
 - (1) Provision shall be made for stabilization of new bank lines prior to the connection of the new water body to existing water bodies. Excavation of as much as is practical of the new water body shall be completed before it is connected to existing water bodies.
 - (2) Toxic substances or other pollutants shall not leak into the water as a result of the excavation.
 - (3) Erosion of adjacent shoreland areas and excessive sedimentation and turbidity in adjacent aquatic areas shall be avoided.
 - (4) Excavation shall occur at a time that will minimize its impact on aquatic life.
 - (5) Excavated materials shall not be disposed of in estuarine waters, intertidal areas, or tidal wetlands, except as part of an approved fill project subject to fill standards.

- (l) Dredging for the purpose of bankline or stream alteration (i.e. realignment of a stream bank or the entire stream, either within or without its normal high water boundaries) shall be subject to the standards listed above and to following standards:
 - (1) Alignments should make maximum use of natural or existing deep water channels provided that pockets of stagnant water are not created.
 - (2) Erosion of adjacent shoreland areas and excessive sedimentation and turbidity in adjacent aquatic areas shall be avoided.
 - (3) Temporary stabilization (mulching or sodding), sediment basins or other performance equivalent structures may be required at the discretion of the Planning Department.
 - (4) Provision shall be made for stabilization of new banklines. Shoreline Stabilization standards shall apply.
 - (5) Adverse impacts on fish spawning, feeding, migration and transit routes and wildlife habitat shall be evaluated and minimized.
- (m) An impact assessment shall be conducted during local, State and Federal review of permit applications for dredging in estuarine waters, intertidal areas or tidal wetlands. The impact assessment shall follow the procedures outlined in Section 3.020. Identified adverse impacts shall be minimized to be consistent with the resource capabilities and purposes of the area.
- (6) **ENERGY FACILITIES AND UTILITIES:** Siting, design, construction, maintenance or expansion of energy facilities and utilities in estuary zones, shall be subject to the following standards:
 - (a) When new energy facilities and utilities are proposed within estuarine waters, intertidal areas or tidal wetlands, evidence shall be provided by the applicant and findings made by the County that:
 - (1) A need (i.e. a substantial public benefit) exists and the use or alteration does not unreasonably interfere with public trust rights.
 - (2) Alternative non-aquatic locations are unavailable or impractical.
 - (3) Dredging, fill and other adverse impacts are avoided or minimized.
 - (b) Electrical or communication transmission lines shall be located underground or along existing rights-of-way unless economically infeasible.

- (c) Above-ground utilities shall be located to have the least adverse effect on visual and other aesthetic characteristics of the area. Interference with public use and public access to the estuary shall be minimized.
- (d) Whenever practicable, new utility lines and crossings within estuarine waters, intertidal areas or tidal wetlands shall follow the same corridors as existing lines and crossings.
- (e) Water discharge into estuarine waters, intertidal areas and tidal wetlands from an energy facility or utility shall meet EPA and DEQ standards, and shall not produce increases in temperature in the receiving waters which would have adverse impacts on aquatic life. Water Quality policies shall apply.
- (f) When new energy facilities and utilities are proposed in EN zones, evidence shall be provided by the applicant and findings made by the County that the proposed use is consistent with the resource capabilities of the area and the preservation of areas needed for scientific, research or educational needs.
- (g) When storm water and sewer outfalls are proposed in EC2 and EC1 zones, evidence shall be provided by the applicant and findings made by the County that the proposed use is consistent with the resource capabilities of the area and the long-term use of renewable resources, and does not cause a major alteration of the estuary.
- (h) When new energy facilities and utilities are proposed in Estuary Development (ED) zones, evidence shall be provided by the applicant and findings made by the County that the proposed facility will not preclude the provision or maintenance of navigation and other public, commercial and industrial water dependent uses.
- (i) Storm water and sewer outfalls shall go out to channels or areas where flushing will be adequate and shall not empty onto tideflats or intertidal wetlands. Effluent from outfalls must meet DEQ and EPA water quality standards. Water Quality policies shall apply.
- (j) Dredge, fill, shoreline stabilization or other activities in conjunction with construction of energy facilities or utilities shall be subject to the respective standards for these activities.
- (k) Energy facilities and utilities shall be sited so that they do not and will not require structural shoreline stabilization methods.

- (7) **FILL IN ESTUARINE WATERS, INTERTIDAL AREAS AND TIDAL WETLANDS:** These standards shall apply only to fill in excess of 50 c.y. or fill of less than 50 c.y. which requires a Section 10 or 404 Permit from the U.S. Army Corps of Engineers.
- (a) When fill in estuarine waters, intertidal areas or tidal wetlands is proposed, evidence shall be provided by the applicant and findings made by the County that:
 - (1) The fill is necessary for navigation or other water dependent uses that require an estuarine location, or is specifically allowed by the management unit or zone; and
 - (2) A need (i.e. a substantial public benefit) is demonstrated and the use or alteration does not unreasonably interfere with public trust rights; and,
 - (3) If no feasible alternative upland locations exist; and,
 - (4) If adverse impacts are minimized.
 - (b) When fill for the purpose of on-site maintenance of existing facilities is proposed, evidence shall be provided by the applicant and findings made by the County that:
 - (1) There are no alternatives to fill to maintain proper operation of the facility.
 - (2) The amount of fill proposed is confined to the geographic area of the existing facility, and is the minimum amount necessary to fulfill the need.
 - (c) Where existing public access is reduced, suitable access as part of the development project shall be provided.
 - (d) The fill shall be placed at a time that will minimize sedimentation and turbidity. The work periods specified in the Oregon Guidelines for Timing of In-Water Work to Protect Fish and Wildlife Resources (ODFW, 1976) shall be followed unless approval of alternative work periods has been obtained from the ODFW.
 - (e) Only non-polluted materials may be used for fill. Materials which would create water quality problems are not permitted.
 - (f) The perimeters of the fill shall be provided with erosion prevention measures, consistent with Shoreline Stabilization standards.
 - (g) Fills shall be placed so that adjacent or nearby property is not adversely impacted by increased erosion, shoaling or flooding produced by changes in littoral drift or other changes in water circulation patterns. An affidavit from a professional registered engineer or hydrologist may impact assessment required in Section 3.120.

- (h) Fill proposals requiring mitigation shall include a mitigation plan consistent with Mitigation standards.
 - (i) Fill in estuarine waters, intertidal areas and tidal wetlands shall be subject to the requirements of the State Fill and Removal Law (ORS 541.605 - 541.665), The Rivers and Harbors Act of 1899, the Clean Water Act of 1977 (PL 95-217) and other applicable State and Federal laws. These requirements shall be enforced by State and Federal agencies with regulatory authority over fill projects.
 - (j) An impact assessment shall be conducted during the local, State, and Federal review of permit applications for fill in estuarine waters, intertidal areas, or tidal wetlands according to the provisions outlined in Section 3.120. Identified adverse impacts shall be minimized to be consistent with the resource capabilities and purposes of the area.
- (8) **FORESTRY AND THE FOREST PRODUCTS INDUSTRY:** The following standards shall apply to forestry, and to log handling, sorting, and storage areas in estuary zones.
- (a) Log storage, sorting and processing areas in shorelands adjacent to estuaries or waterways shall be designed, constructed, and operated to control leachates and prevent the loss of bark, chips, sawdust and other wood debris into public waters.
 - (b) Timber propagation and harvest on commercial forest lands shall be subject to the Oregon Forest Practices Act and Administration Rules for forest lands as defined in ORS 527.610, 527-730, and 572.990. The Oregon Department of Forestry shall be responsible for determining that these standards have been met.
 - (c) In-water log handling, sorting, and storage areas, and log storage, sorting and processing areas in shorelands adjacent to estuaries or other water bodies shall be subject to the requirements of the water quality program administered by the Department of Environmental Quality under the Clean Water Act of 1977 (PL92-500). The DEQ, in conjunction with other affected resource agencies, shall be responsible for determining that the flushing characteristics of in-water log handling, sorting and storage areas, the number of logs and duration of storage, and the bark and debris controls for both in-water and shoreland sites are such that State and Federal clean water standards are met.
 - (d) Leasing of publicly-owned aquatic areas for the purpose of in-water log handling, sorting and storage shall be subject to the requirements of the Division of State Lands.

- (e) When new in-water log handling, sorting and storage areas are proposed in estuarine waters, evidence must be presented by the applicant and findings made by the County that:
 - (1) The proposed use is an integral part of the process of water-borne transportation of logs (i.e. is water-dependent).
 - (2) There is a need (i.e. a substantial public benefit) for the proposed use and the use or alteration does not unreasonably interfere with public trust rights.
 - (3) Alternative non-aquatic locations are unavailable, impracticable or do not meet the need.
 - (4) Conflicts with navigation, aquaculture and commercial and recreational fishing have been avoided or minimized.
 - (5) Easy let-down facilities for transfer of logs from land to water have been provided for (free-fall lot dumps shall not be permitted).
 - (6) Sites are located to avoid shellfish beds, shallow spawning areas, or areas where grounding of logs will occur.

- (9) INDUSTRIAL AND COMMERCIAL USES IN ESTUARINE WATERS, INTERTIDAL AREAS AND TIDAL WETLANDS: Siting, design, construction, maintenance or expansion of industrial and commercial uses within estuary zones shall be subject to the following standards:
 - (a) Evidence shall be provided by the applicant and findings made by the County that:
 - (1) The amount of estuarine surface area occupied is the minimum required to meet the need.
 - (2) Provision has been made for public access, view-points and recreational use, consistent with safety and security considerations.
 - (3) Multipurpose and cooperative use of piers, wharves, parking areas or handling and storage facilities has been provided for, or is impracticable.
 - (4) Floating structures are designed so as not to rest on the bottom at low water, and are protected against currents and waves.
 - (5) Alteration of productive intertidal areas and tidal marshes has been avoided or minimized.

- (6) Adverse impacts on the following have been avoided or minimized to be consistent with the resource capabilities and purposes of the area:
 - (i) Water quality.
 - (ii) Hydrographic characteristics.
 - (iii) Aquatic life and habitat.
 - (iv) Bird and wildlife habitat.
 - (v) Fish transit and migration routes.
- (b) Removal of riparian vegetation shall be permitted only if direct access to water is required in conjunction with a water-dependent use. Replacement of riparian vegetation, or enhancement of existing riparian vegetation shall be required, where consistent with water-dependent use, to enhance attractiveness or assist in bank stabilization.
- (c) Visual access to the water shall not be impaired by the placement of signs. When feasible, signs shall be constructed on or against buildings to minimize visual obstruction of the shoreline and water bodies. Off-premise outdoor advertising signs shall not be allowed within estuarine waters, intertidal areas or tidal wetlands.
- (d) The design and construction of new industrial and commercial facilities should consider reclamation and re-use of waste water.
- (e) Provision for the prevention and control of contaminants from entering the water shall be made. A contingency plan to provide for containment and clean-up of spills of contaminants shall be provided.
- (f) Industrial outfalls, sewer outfalls, and storm water outfalls shall go out to channels or areas where flushing will be adequate and shall not empty onto tideflats or salt marshes. Effluent from outfalls must meet DEQ and EPA water quality standards. Water Quality policies shall apply.
- (g) When water-dependent industrial and commercial uses are proposed in Estuary Conservation 2 (EC2) zones, evidence shall be provided by the applicant and findings made by the County that the proposed use is consistent with the resource capabilities of the area and the long-term use of renewable resources, and would not cause a major alteration of the estuary.

- (h) When water-related nor non-dependent, non-related industrial or commercial uses are proposed in Estuary Development (ED) zones evidence must be presented that:
 - (1) The use will not preclude the provision or maintenance of navigation and other needed public, commercial and industrial water-dependent uses.
 - (2) The use will not preempt the use of shorelands especially suited for water-dependent development.
 - (3) Non-water-dependent and non-water-related uses which permanently alter estuarine resources and values shall include evidence of the public benefits derived from the project, which shall include:
 - (i) The beneficial economic impacts to local communities derived from increases in employment; and/or
 - (ii) Indirect economic impacts generated by increases in commercial, industrial or recreational activity within the area.
 - (i) All State and Federal laws governing the use, handling, storage, treatment and disposal of toxic materials, petroleum, waste water and organic wastes and other State and Federal laws governing environmental quality, resource protection or public health and safety shall be met. This determination shall be made by appropriate State or Federal agencies with regulatory authority.
 - (j) Dredging, fill, piling/dolphin installation, shoreline stabilization, disposal of dredged material or other activities in conjunction with industrial and commercial uses shall be subject to the respective standards for these activities.
- (10) LAND TRANSPORTATION FACILITIES: Siting, design, construction and maintenance of bridges, roads or railroads in estuary zones shall be subject to the following standards:
 - (a) Proposals for new County or State highways, or for railroads, shall provide an evaluation of the proposed project on the following:
 - (1) Land use patterns.
 - (2) Energy use.
 - (3) Air and water quality.
 - (4) Estuarine habitat, functions and processes.
 - (5) Existing transportation facilities.

- (6) Physical and visual access to estuaries and shorelands.
 - (b) Evidence shall be provided by the applicant and findings made by the County that the siting, design, construction and maintenance of land transportation facilities will be conducted to avoid mass soil wasting or excessive surface erosion.
 - (c) Land transportation facility proposals shall include a rehabilitation plan specifying the method and timing of necessary site rehabilitation. Site rehabilitation plans shall provide for replacement of riparian vegetation.
 - (d) Vegetated buffer strips shall be maintained, whenever practicable, along roadways to manage storm drainage runoff.
 - (e) When culverts are used in association with bridge crossings, spring line natural bottom culverts are preferred over box culverts.
 - (f) All bridge crossings and culverts shall be positioned and maintained to allow fish passage, avoid interference with anadromous fish runs and to prevent any constriction of natural streams which would result in increases in flood or erosion potential. When culverts are used, no fill shall be allowed in streams, rivers or estuaries.
 - (g) When new bridge crossing support structures are proposed in Estuary Natural (EN) zones, evidence shall be provided by the applicant and findings made by the County that the proposed use is consistent with the resource capabilities and purposes of the area.
 - (h) When land transportation facilities are proposed in Estuary Development (ED) zones, evidence shall be presented by the applicant and findings made by the County that the proposed use will not preclude the provision or maintenance of navigation and other needed public, commercial and industrial water-dependent uses.
 - (i) Dredging, fill, piling/dolphin installation, shoreline stabilization, dredged material disposal or other activities in conjunction with land transportation facilities shall be subject to the respective standards for these activities.
- (11) **MINING AND MINERAL EXTRACTION:** Mining and mineral extraction in estuary zones shall be subject to the following standards:
- (a) Mining and mineral extraction policy requirements in the Tillamook County Comprehensive Plan shall be met.

- (b) Mining and mineral extraction proposals shall include a mining plan and a rehabilitation plan specifying the method and timing of necessary site rehabilitation. Any necessary rehabilitation plan specifying the method and timing of necessary site rehabilitation. Any necessary rehabilitation of mining and/or mineral extraction sites shall be completed within two years of the completion of the mining or mineral extraction operation.
- (c) Evidence shall be provided by the applicant and findings made by the County that mining and mineral extraction projects are sited, designed, operated and maintained to ensure that adverse impacts on the following are minimized:
 - (1) Aquatic life and habitat, including but not limited to the spawning, rearing and passage requirements of anadromous fish.
 - (2) Bird and wildlife habitat.
 - (3) Hydrographic characteristics, including but not limited to the alteration of local currents that may affect adjacent properties by causing erosion, accretion or increased flooding.
 - (4) Water quality. (Water Quality policies shall apply).
- (d) Temporary removal of riparian vegetation shall be permitted in cases where direct water access is required as part of a mining or mineral extraction operation. Site rehabilitation plans shall provide for replacement of riparian vegetation.
- (e) Spoils and stockpiles shall not be placed within estuarine waters, intertidal areas or tidal wetlands, unless as part of an approved fill project, subject to Fill standards.
- (f) When mining and mineral extraction projects are proposed in Estuary Conservation 1 (EC1) and Estuary Conservation 2 (EC2) Zones, evidence shall be provided by the applicant and findings made by the County that the proposed project is consistent with the resource capabilities of the area and the long-term use of renewable resources, and does not cause a major alteration of the estuary.
- (g) When mining and mineral extraction projects are proposed in Estuary Development (ED) Zones, evidence shall be presented by the applicant and findings made by the County that the project is consistent with the maintenance of navigation and other needed public, commercial and industrial water-dependent uses.
- (h) Dredging, fill, or other activities in conjunction with mining and mineral extraction shall be subject to the respective standards for these activities.

- (i) The location and operation of mining and mineral extraction projects shall be in conformance with the requirements of the Division of State Lands, (ORS 541.605 - 541.665; ORS 273.551; ORS 273.775 - 273.780), the Department of Geology and Mineral Industries (ORS 520.005 - 520.095) and other applicable State and Federal laws governing environmental quality, resource protection and public health and safety. These requirements shall be enforced by State and Federal agencies with regulatory authority over mining and mineral extraction projects.
- (12) MITIGATION: Mitigation projects in estuary zones, Water-Dependent Development (WDD) Shoreland Zones or other areas within the Shoreland Overlay Zone shall be subject to the following standards:
- (a) Mitigation for dredge or fill within intertidal areas or tidal wetlands shall be required by the Director of the Division of State Lands (under the provisions of ORS 541.605 - 541.665). The suitability of a mitigation proposal for a given proposed project shall be determined by the Director of the Division of State Lands, according to the procedure established in Administrative Rule 85-245 (Chapter 141).
 - (b) Mitigation projects shall go into effect prior to or at the same time as the development project.
 - (c) Mitigation projects in Water-Dependent Development (WDD) Shoreland Zones or other areas within the Shoreland Overlay Zone shall be subject to Shoreland Development Standards.
- (13) NAVIGATIONAL STRUCTURES AND NAVIGATIONAL AIDS: Navigational structures and navigational aids in estuary zones shall be subject to the following standards:
- (a) When navigational structures are proposed, evidence shall be provided by the applicant and findings made by the County that:
 - (1) The amount of estuarine surface area occupied is the minimum necessary to accomplish the proposed use.
 - (2) The project will not interfere with the normal public use of fishery, recreation, or water resources.
 - (3) The proposed project will not adversely impact adjacent or nearby property through increased erosion, shoaling, or flooding produced by changes in littoral drift or other changes in water circulation patterns. An affidavit from a professional registered engineer or hydrologist may be required by the Planning Department as a result of the impact assessment required in Section 3.120.

- (4) Non-structural solutions are unavailable, impractical, or do not meet the need.
 - (b) When floating breakwaters are proposed in Estuary Conservation 1 (EC1) and Estuary Conservation 2 (EC2) Zones, evidence shall be provided by the applicant and findings made by the County that the proposed use is consistent with the resource capabilities of the area and the long-term use of renewable resources, and does not cause a major alteration of the estuary.
 - (c) Navigational structures shall meet all applicable U. S. Army Corps of Engineers engineering standards. The U. S. Army Corps of Engineers shall be responsible for determining that these engineering standards have been met.
 - (d) An impact assessment shall be conducted during local, State and Federal review of permit applications for navigational structures. The impact assessment shall follow the procedures outlined in Section 3.120. Identified adverse impacts shall be minimized to be consistent with the resource capabilities and purpose of the area.
 - (e) Dredging, fill, or other activities in conjunction with navigational structures and navigational aids shall be subject to the respective standards for these activities.
- (14) PILING/DOLPHIN INSTALLATION: Piling/dolphin installation in estuary zones shall be subject to the following standards:
- (a) When piling or dolphin installation is proposed, evidence shall be provided by the applicant and findings made by the County that:
 - (1) The amount of estuarine surface area occupied is the minimum necessary to accomplish the proposed use.
 - (2) The project will not unduly interfere with the normal public use of fishery, recreation or water resources.
 - (3) The proposed project will not adversely impact adjacent or nearby property through increased erosion, shoaling or flooding produced by changes in littoral drift or other changes in water circulation patterns. An affidavit from a professional registered engineer or hydrologist may be required by the Planning Department as a result of the impact assessment required in Section 3.120.
 - (b) When new piling or dolphin installation is proposed in Estuary Natural (EN), Estuary Conservation 2 (EC2) or Estuary Conservation 1 (EC1) zones, evidence shall be provided by the applicant and findings made by the County that the project is consistent with the resource capabilities of the area and the purposes of the management area.

- (c) When proposals for new piling or dolphin installation in conjunction with a non-water-dependent or non-water-related use within Estuary Development (ED) zones are made, evidence shall be presented by the applicant and findings made by the County that the project is consistent with the maintenance of navigation and other needed public, commercial and industrial water-dependent uses.
 - (d) Piling/dolphin replacement and new installation shall meet all applicable U. S. Army Corps of Engineers engineering standards and permit requirements. The U. S. Army Corps of Engineers shall be responsible for determining that these engineering standards and permit requirements have been met.
 - (e) An impact assessment shall be conducted during local, State and Federal review of permit applications for piling/dolphin installation. The impact assessment shall follow the procedure outlined in Section 3.120. Identified adverse impacts shall be minimized to be consistent with the resource capabilities and purposes of the area.
- (15) RESTORATION AND ENHANCEMENT: Restoration and enhancement projects in estuary zones, Water-Dependent Development (WDD) shoreland zones or other areas within the Shoreland Overlay zone shall be subject to the following standards:
- (a) Restoration and enhancement policy requirements in the Tillamook County Comprehensive Plan shall be met.
 - (b) Proposals for restoration projects shall present evidence that:
 - (1) The restored area is a shallow subtidal or an intertidal or tidal marsh area after alteration work is performed; and
 - (2) The restored area may not have been a functioning part of the estuarine system when alteration work begins; and
 - (3) The restored area is revitalizing, returning or replacing original attributes and amenities which have been diminished or lost by past alterations, activities or catastrophic events.
 - (c) Estuarine enhancement project proposals shall identify:
 - (1) The original conditions to be enhanced.
 - (2) The cause of the loss or degradation.
 - (3) The location and extent of actions necessary to achieve the enhancement objective.

- (d) Estuarine enhancement project proposals shall present evidence that the project will result in an overall improvement in the cultural, historic, economic or navigation features of an estuary, which will outweigh any adverse impacts.
 - (e) When active restoration and enhancement projects are proposed in Estuary Natural (EN) or Estuary Conservation Aquaculture (ECA) zones, evidence shall be provided by the applicant and findings made by the County that the project is consistent with the protection of significant fish and wildlife habitats, biological productivity, and scientific, research and educational needs.
 - (f) When active restoration or enhancement projects are proposed in Estuary Conservation 1 (EC1) or Estuary Conservation 2 (EC2) zones, evidence shall be provided by the applicant and findings made by the County that the proposed use is consistent with the resource capabilities of the area and the long-term use of renewable resources, and does not cause a major alteration of the estuary.
 - (g) When passive or active restoration or enhancement projects are proposed in Estuary Development (ED) zones, evidence shall be provided by the applicant and findings made by the County that the project will not interfere with the provision or maintenance of navigation and other needed public, commercial and industrial water-dependent uses, and will not interfere with the use of adjacent shorelands especially suited for water-dependent development.
 - (h) When active restoration projects are proposed in Water-Dependent Development (WDD) shoreland zones, evidence shall be provided by the applicant and findings made by the County that the proposed project does not preclude or conflict with existing or reasonable potential water-dependent use on the site or in the vicinity. Shoreland Development standards shall apply.
 - (i) Dredge, fill, shoreline stabilization, shoreland development, installation of energy facilities or utilities, dredged material disposal and other uses and activities proposed as part of (an active) a restoration or enhancement project shall be subject to the respective standards for these uses and activities.
 - (j) Restoration and enhancement projects in Water-Dependent Development (WDD) shoreland zones or other areas within the Shoreland Overlay zone shall be subject to Shoreland Development standards.
- (16) **SHALLOW DRAFT PORT FACILITIES AND MARINAS:** Siting, design, construction and maintenance of shallow draft port facilities and marinas in estuary zones shall be subject to the following standards:

- (a) Evidence shall be provided by the applicant and findings made by the County that:
- (1) Facilities have been sited and designed to minimize initial and maintenance dredging.
 - (2) Dryland boat storage has been provided for, or is impracticable.
 - (3) Provision has been made for public access, view-points and recreation use, consistent with safety and security considerations.
 - (4) Multipurpose and cooperative use of piers, wharves, parking areas and cargo handling and storage has been provided for, or is impracticable.
 - (5) Floating structures are designed so as not to rest on the bottom at low water, and are protected against currents and waves.
 - (6) The amount of water surface occupied is the minimum required to meet the need.
 - (7) Provision has been made for maintenance of riparian vegetation, except where direct access to water is required.
 - (8) Natural or man-made protection from wind, waves, storm or tidal currents or ship wakes has been provided for.
 - (9) Adverse impacts on the following have been avoided or minimized to be consistent with the resource capabilities and purposes of the area:
 - (i) Navigation.
 - (ii) Water quality.
 - (iii) Hydrographic characteristics.
 - (iv) Natural processes of erosion and sedimentation.
 - (v) Aquatic life and habitat.
- (b) Marina access channels shall be designed to maximize water circulation and avoid dead spots. Dead-end channels or confined basins should be avoided. Demonstration shall be made that State and Federal clean water standards can be maintained. A field study of water circulation patterns may be required by the Planning Department as a result of the impact assessment required in Section 3.120.

- (c) Safe navigation access to port facilities and marinas shall be provided and maintained.
- (d) Covered or enclosed moorages shall be limited to not more than 50 percent (in number) of the total moorage spaces of a given port facility or marina.
- (e) The following provisions for the prevention and control of contaminants from entering the water shall be made:
 - (1) Enclosed shoreland facilities for public dumping of oil and emptying of holding tanks shall be provided.
 - (2) A contingency plan to provide for containment and cleanup of spills of contaminants shall be provided.
- (f) Proposals for expansion or creation of port and marina facilities shall be accomplished by a demonstration of the public benefits derived from the project, which shall include:
 - (1) Information on why the capacity of existing facilities is inadequate.
 - (2) The beneficial economic impacts to local communities derived from increases in employment; and/or
 - (3) Indirect economic impacts generated by increases in commercial, industrial or recreational activity within the area.
- (g) All State and Federal laws governing the use, handling, storage, treatment and disposal of toxic materials, petroleum, waste water and organic wastes, and other State and Federal laws governing environmental quality, resource protection or public health and safety shall be met. This determination shall be made by appropriate State or Federal agencies with regulatory authority.
- (h) When marina expansion or development is proposed in Estuary Conservation 2 (EC2) zones, evidence shall be provided by the applicant and findings made by the County that the project is consistent with the resource capabilities of the area and the long-term use of renewable resources and does not cause a major alteration of the estuary.
- (i) Dredge, fill, piling/dolphin installation, navigational structures, shoreline stabilization or other activities in conjunction with expansion or creation of new port facilities and marinas shall be subject to the respective standards for these activities.

- (17) **SHORELINE STABILIZATION:** Shoreline stabilization projects in estuary zones, Water-Dependent Development (WDD) shoreland zones or other areas within the Shoreland Overlay Zone shall be subject to the following standards:
- (a) Within estuarine waters, intertidal areas and tidal wetlands, and along Water-Dependent Development Zones and other shoreland areas, general priorities for shoreline stabilization for erosion control are, from highest to lowest:
 - (1) Proper maintenance of existing riparian vegetation.
 - (2) Planting of riparian vegetation.
 - (3) Vegetated riprap.
 - (4) Non-vegetated riprap.
 - (5) Groins, bulkheads or other structural methods. Shoreline protection proposals shall include justification for the use of a lower priority method over a higher priority method.
 - (b) Vegetative shoreline stabilization shall utilize native species, or non-native species approved by the Soil Conservation Service. Reference shall be made to the Inter-Agency Seeding Manual prepared by the Soil Conservation Service.
 - (c) When structural shoreline stabilization methods are proposed, evidence shall be presented by the applicant and findings made by the County that:
 - (1) Flooding or erosion is threatening an established use on a subject property or a need (i.e. a substantial public benefit) is demonstrated in conjunction with navigation or a water dependent use, and
 - (2) Land use management practices or nonstructural solutions are inappropriate or will not meet the need, and
 - (3) The proposed structural stabilization method is the minimum size needed to accomplish the desired stabilization, and
 - (4) The proposed project will not restrict existing public access to publicly-owned lands or interfere with navigation or the normal public use of fishery, recreation or water resources, and

- (5) The proposed project will not adversely impact adjacent aquatic areas or nearby property through increased erosion, sedimentation, shoaling or flooding produced by changes in littoral drift or other changes in water circulation patterns. An affidavit from a professional registered engineer, hydrologist, or geologist may be required by the Planning Department as a result of the impact assessment required in Section 3.120.
- (6) A brief statement from the local Soil and Water Conservation Service may serve as evidence that standards (c) (2) and (c) (3) have been met.
- (d) Shoreline stabilization projects shall be timed to minimize impacts on aquatic life.
- (e) Proposals for riprap shall include evidence that the rock to be used will be effective, and provide justification for use of a slope steeper than 1 1/2 feet horizontal to one foot vertical.
- (f) When bulkheads are proposed, evidence shall be provided by the applicant and findings made by the County that the other forms of structural stabilization are inappropriate or will not meet the need. Bulkheads should be designed to be permeable to ground water and runoff. Fill policies and standards shall apply to bulkhead projects which involve fill within estuarine waters, intertidal areas or tidal wetlands.
- (g) When riprap is proposed in Estuary Natural (EN) zones, a resource capability determination shall be required for purposes other than the protection of unique natural resources, historical and archaeological values, public facilities and uses existing as of October 7, 1977.
- (h) When structural shoreline stabilization is proposed in Estuary Conservation Aquaculture (ECA), Conservation 1 (EC1) and Estuary Conservation 2 (EC2) zones, evidence shall be presented by the applicant and findings made by the County that the project is consistent with the resource capabilities of the area and the long-term use of renewable resources, and does not cause a major alteration of the estuary.
- (i) When structural shoreline stabilization is proposed in Estuary Development (ED) zones, evidence shall be presented by the applicant and findings made by the County that the project is consistent with the maintenance of navigation and other needed public, commercial and industrial water-dependent uses.
- (j) Structural stabilization along ocean shorelands west of the Beach Zone Line shall be subject to the requirements of the Oregon Department of Transportation ocean shore permit and regulatory program.

- (k) An impact assessment shall be conducted during local, state and federal review of permit applications for structural shoreline stabilization seaward of the line of non-aquatic vegetation or the Mean Higher High Water (MHHW) line. The impact assessment shall follow the procedure outlined in Section 3.120. Identified adverse impacts shall be avoided or minimized to be consistent with the resource capabilities and purposes of the area.

SECTION 3.200: TILLAMOOK AIRPORT OBSTRUCTION ZONE (TAO)

- (1) **PURPOSE:** It is hereby found that an obstruction has the potential for endangering the lives and property of users of Tillamook Airport, and property or occupants of land in its vicinity; that an obstruction may affect existing and future instrument approach minimums of Tillamook; and that an obstruction may reduce the size of areas available for the landing, takeoff, and maneuvering of aircraft, thus tending to destroy or impair the utility of Tillamook Airport and the public investment therein. Accordingly, it is declared:
- (a) That the creation or establishment of an obstruction has the potential of being a public nuisance and may injure the region served by Tillamook Airport.
 - (b) That it is necessary in the interest of the public health, public safety, and general welfare that the creation or establishment of obstructions that are a hazard to air navigation be prevented.
 - (c) That the prevention of these obstructions should be accomplished, to the extent legally possible, by the exercise of the police power without compensation.

It is further declared that the prevention of the creation or establishment of hazards to air navigation, the elimination, removal, alteration or mitigation of hazards to air navigation, or the marking and lighting of obstructions are public purposes for which a political subdivision may raise and expend public funds and acquire land or interests in land.

(2) **DEFINITIONS:**

- (a) **AIRPORT** - the Tillamook Airport.
- (b) **AIRPORT ELEVATION** - the highest point of an airport's usable landing area measured in feet from sea level. 35 feet above mean sea level for Tillamook Airport.
- (c) **APPROACH SURFACE** - a surface longitudinally centered on the extended runway centerline, extending outward and upward from the end of the primary surface and at the same slope as the approach zone height limitation slope set forth in Section IV of this ordinance. In plan, the perimeter of the approach surface coincides with the perimeter of the approach zone.
- (d) **APPROACH, TRANSITIONAL, HORIZONTAL AND CONICAL ZONES** - these zones are set forth in Section III of this ordinance.
- (e) **CONICAL SURFACE** - a surface extending outward and upward from the periphery of the horizontal surface at a slope of 20 to 1 for a horizontal distance of 4,000 feet.

- (f) HAZARD TO AIR NAVIGATION - an obstruction determined to have a substantial adverse effect on the safe and efficient utilization of the navigable airspace.
- (g) HEIGHT - for the purpose of determining the height limits in all zones set forth in this ordinance and shown on the zoning map, the datum shall be mean sea level elevation unless otherwise specified.
- (h) HORIZONTAL SURFACE - a horizontal plane 150 feet above the established airport elevation, the perimeter of which in plan coincides with the perimeter of the horizontal zone.
- (i) LARGER THAN UTILITY RUNWAY - a runway that is constructed for and intended to be used by propeller driven aircraft of greater than 12,500 pounds maximum gross weight and jet-powered aircraft.
- (j) NONPRECISION INSTRUMENT RUNWAY - a runway having an existing instrument approach procedure utilizing air navigation facilities with only horizontal guidance, or area type navigation equipment, for which a straight-in nonprecision instrument approach procedure has been approved or planned.
- (k) OBSTRUCTION - any structure, growth, or other object, including a mobile object, which exceeds a limiting height set forth in Section IV of this Ordinance.
- (l) PERSON - an individual, firm, partnership, corporation, company, association, joint stock association or governmental entity; includes a trustee, a receiver, an assignee or a similar representative of any of them.
- (m) PRIMARY SURFACE - a surface longitudinally centered on a runway. When the runway has a specifically prepared hard surface the primary surface extends 200 feet beyond each end of that runway; for military runways or when the runway has specially prepared hard surface, or planned hard surface, the primary surface ends at each end of that runway. The width of the primary surface is set forth in Section III of this Ordinance. The elevation of any point on the primary surface is same as the elevation of the nearest point on the runway centerline.
- (n) RUNWAY - a defined area on an airport prepared for landing and takeoff of aircraft along its length.
- (o) STRUCTURE - an object, including a mobile object, constructed or installed by man, including but without limitation, buildings, towers, cranes, smokestacks, earth formation and overhead transmission lines.

- (p) **TRANSITIONAL SURFACES** - these surfaces extend outward at 90 degree angles to the runway centerline and the runway centerline extended at a slope of seven (7) feet horizontally for each foot vertically from the sides of the primary and approach surfaces to where they intersect the horizontal surfaces.
- (q) **TREE** - any object of natural growth.
- (r) **UTILITY RUNWAY** - a runway that is constructed for and intended to be used by propeller-driven aircraft of 12,500 pounds maximum gross weight and less.
- (s) **VISUAL RUNWAY** - a runway intended solely for the operation of aircraft using visual approach procedures.

(3) **AIRPORT ZONES:** there are hereby created and established certain zones which include all of the land lying beneath the approach surfaces, transitional surfaces, horizontal surfaces, and conical surfaces as they apply to Tillamook Airport. Such zones are shown on Tillamook Airport Approach and Clear Zone Map consisting of one sheet, prepared by Century West Engineering Corporation, and dated June, 1979, which is attached to this Ordinance, and made a part hereof. An area located in more than one (1) of the following zones is considered to be only in the zone with the more restrictive height limitation. The various zones are hereby established and defined as follows:

- (a) **UTILITY RUNWAY VISUAL APPROACH ZONE** - the inner edge of this approach zone coincides with the width of the primary surface and is 250 feet wide for Runway 1/19. The approach zone expands outward uniformly to a width of 1,250 feet at a horizontal distance of 5,000 feet from the primary surface. Its centerline is the continuation of the centerline of the runway.
- (b) **RUNWAY LARGER THAN UTILITY WITH A VISIBILITY MINIMUM GREATER THAN 3/4 MILE NONPRECISION INSTRUMENT APPROACH ZONE** - the inner edge of this approach zone coincides with the width of the primary surface and is 500 feet wide for Runway 13/31. The approach zone expands outward uniformly to a width of 3,500 feet at a horizontal distance of 10,000 feet from the primary surface. Its centerline is the continuation of the centerline of the runway.
- (c) **TRANSITIONAL ZONES** - the transitional zones are the areas beneath the transitional surfaces.
- (d) **HORIZONTAL ZONE** - the horizontal zone is established by swinging arcs of 10,000 feet radii from the center of each end of the primary surface of each runway and connecting the adjacent arcs by drawing lines tangent to those arcs. The horizontal zone does not include approach and transitional zones.

- (e) CONICAL ZONE - the conical zone is established as the area that commences at the periphery of the horizontal zone and extends outward there from a horizontal distance of 4,000 feet.
- (4) AIRPORT ZONE HEIGHT LIMITATIONS: except as otherwise provided in this Ordinance, no structure shall be erected, altered, or maintained, and no tree shall be allowed to grow in any zone created by this Section to a height in excess of the applicable height limit herein established for such zone. Such applicable height limitations are hereby established for each of the zones in question as follows:
- (a) UTILITY RUNWAY VISUAL APPROACH ZONES - RUNWAY 1/19 - slopes twenty (20) feet outward for each foot upward beginning at the end of and at the same elevation as the primary surface and extending to a horizontal distance of 5,000 feet along the extended runway centerline.
 - (b) RUNWAY LARGER THAN UTILITY WITH A VISIBILITY MINIMUM GREATER THAN 3/4 MILE NONPRECISION INSTRUMENT APPROACH ZONE - RUNWAY 13/31 - slopes thirty-four (34) feet outward for each foot upward beginning at the end of and at the same elevation as the primary surface and extending to a horizontal distance of 10,000 feet along the extended runway centerline.
 - (c) TRANSITIONAL ZONES - slope seven (7) feet outward for each foot upward beginning at the sides of and at the same elevation at the primary surface and the approach surface, and extending to a height of 150 feet above the airport elevation which is 35 feet above mean sea level. In addition to the foregoing, there are established height limits sloping seven (7) feet outward for each foot upward beginning at the sides of and at the same elevation as the approach surface, and extending to where they intersect the horizontal surface.
 - (d) HORIZONTAL ZONE - established at 150 feet above the airport elevation or at a height of 185 feet above mean sea level for Tillamook Airport.
 - (e) CONICAL ZONE - slopes twenty (20) feet outward for each foot upward beginning at the periphery of the horizontal zone and at 150 feet above the airport elevation and extending to a height of 350 feet above the airport elevation.
 - (f) EXCEPTED HEIGHT LIMITATIONS - nothing in this Ordinance shall be construed as prohibiting the construction or maintenance of any structure, or growth of any tree to a height up to 35 feet above the surface of the land.
 - (g) RESTRICTIVE LIMITATION - where an area is covered by more than one (1) height limitation, the more restrictive limitation shall prevail.

(5) **USE RESTRICTIONS:** notwithstanding any other provisions of this Ordinance, no use may be made of land or water within any zone established by this Section 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 others, 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.

(6) **EXISTING USES:**

(a) **REGULATIONS NOT RETROACTIVE** - the regulations prescribed by this Section shall not be construed to require the removal, lowering or other change or alteration of any structure or tree not conforming to this Section as of the effective date of this Ordinance, or otherwise interfere with the continuance of an existing 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 this Ordinance, and is diligently prosecuted.

No permit shall be granted that would allow the establishment or creation of an obstruction or permit an existing use, structure or tree to become a greater hazard to air navigation amendments thereto.

(b) **MARKING AND LIGHTING** - the owner of any existing structure or tree not in compliance with this Section is hereby required to permit the installation, operation and maintenance thereon of such markers and lights as shall be deemed necessary by the airport owner to indicate to the operators of aircraft in the vicinity of the airport the presence of such airport obstruction. Such markers and lights shall be installed, operated and maintained at the expense of the airport owner.

(c) **USES ABANDONED OR DESTROYED** - whenever the Tillamook County Planning Department determines that a nonconforming tree or structure has been abandoned or more than 80 percent torn down, physically deteriorated or decayed, no permit shall be granted that would allow such structure or tree to exceed the applicable height limit or otherwise deviate from the regulations of this section.

(7) **VARIANCES:** any person desiring to erect or increase the height of any structure, or permit the growth of any tree, or use property, not in accordance with the regulations prescribed in this Section, may apply to the Planning Commission for a variance from such regulations. The application for variance shall be accompanied by a determination from the Federal Aviation Administration as to the effect of the proposal on the operation of air navigation facilities and the safe, efficient use of navigable airspace. Such variance shall be allowed where it is duly found that a literal application or enforcement of the regulations will result in unnecessary hardship and, relief granted, will not be contrary to the public interest, will not

create a hazard to air navigation, will do substantial justice, and will be in accordance with the spirit of this Ordinance. Additionally, no application for variance to the requirements of this Section may be considered by the Planning Commission unless a copy of the application has been furnished to the airport owner for advice as the aeronautical effects of the variance.

If the airport owner does not respond to the request within forty-five (45) days after receipt, the Planning Commission may act to grant or deny said application without such advice.

- (a) OBSTRUCTION MARKING AND LIGHTING - any variance granted may, if such action is deemed advisable to effectuate the purpose of this Ordinance and be reasonable in the circumstances, be so conditioned as to require the owner of the structure or tree in question to install, operate and maintain at the owner's expense, such markings and lights as may be necessary. If deemed proper by the Planning Commission, this condition may be modified to require the owner to permit the airport owner at its own expense, to install, operate and maintain the necessary markings and lights.

- (8) JURISDICTION: within the boundaries of the property comprising the Port of Tillamook Bay Airport and Industrial Park, the provisions of this Section shall be administered directly by the Port of Tillamook Bay.

SECTION 3.210: PACIFIC CITY AIRPORT OBSTRUCTION OVERLAY ZONE (PAO)

- (1) **PURPOSE:** It is hereby found that an obstruction has the potential for endangering the lives and property of users of Pacific City Airport, and property or occupants of land in its vicinity; that increasing obstructions may affect the continued use of the Pacific City State Airport; and that an obstruction may reduce the size of areas available for the landing, take off, and maneuvering of aircraft, thus tending to destroy or impair the utility of Pacific City State Airport and the public investment therein. Accordingly, it is declared that:
 - (a) The creation or establishment of an obstruction has the potential of being a public nuisance and may injure the region served by the Pacific City State Airport.
 - (b) It is necessary in the interest of the public health, public safety, and general welfare that the creation or establishment of obstructions that are a hazard to air navigation be prevented.

It is further declared that the prevention of the creation or establishment of hazards to air navigation, the elimination, removal, alteration or mitigation of hazards to air navigation, or the marking and lighting of obstructions are public purposes for which a political subdivision may raise and expend public funds and acquire land or interests in land.

- (2) **DEFINITIONS:**
 - (a) **AIRPORT:** The Pacific City State Airport.
 - (b) **AIRPORT CENTERLINE:** The center of the existing paved Pacific City State Airport runway surface.
 - (c) **AIRPORT ELEVATION:** The highest point of an airport's usable landing area measured in feet from sea level. This is six (6) feet above mean sea level for Pacific City State Airport.
 - (d) **AIRPORT HAZARD:** Any structure, tree or use of land which exceeds height limits established by the Airport Imaginary Surfaces.
 - (e) **AIRPORT IMAGINARY SURFACES:** The imaginary areas in space which are defined by the Approach Surfaces, Transitional Surfaces, Special Height Surface, Horizontal Surface, and Conical Surface and in which any object extending above these imaginary surfaces is an obstruction.
 - (f) **APPROACH SURFACE:** A surface longitudinally centered on the extended runway centerline and extending upward from the end of the Primary Surface on the South and the displaced threshold on the North. The inner edge of the approach surface is the same width as the primary surface and extends to a width of seven hundred (700) feet. The airport approach surface extends for a horizontal distance of 5,000 feet at a slope of twenty (20) feet outward for each foot upward (20.1).

- (g) **APPROACH ZONE:** All the land lying beneath the Approach Surface.
- (h) **CONICAL SURFACE:** Begins at the edge of the Horizontal Surface (5,000 feet from the south end of the Primary Surface and 5,000 feet from the center of the displaced threshold on the north at one hundred fifty (150) feet above the airport elevation) and extends twenty (20) feet outward for each foot upward (20:1) for 4,000 feet extending to a height of three hundred fifty (350) feet above the airport elevation.
- (i) **CONICAL ZONE:** All the land lying beneath the Conical Surface.
- (j) **DISPLACED THRESHOLD:** A displaced threshold is a threshold located at a point on the runway other than at the runway end (which point is 300 feet south of the North property line for Pacific City State Airport) and reduces the length of runway available for landing airplanes. The runway behind the displaced threshold is available for completing landing rollouts in the opposite direction and takeoff in either direction.
- (k) **HORIZONTAL SURFACE:** A horizontal plane one hundred fifty (150) feet above the established airport elevation, the perimeter of which is constructed by swinging arcs of 5,000 feet from the center of the south end of the Primary Surface and the center of the displaced threshold to the north and connecting the adjacent arcs by lines tangent to those arcs.
- (l) **HORIZONTAL ZONE:** All the land lying beneath the Horizontal Surface.
- (m) **MEAN SEA LEVEL:** Equivalent to National Geodetic Vertical Datum (NGVD) for the purposes of this Ordinance.
- (n) **OBSTRUCTION:** Any structure, growth, or other object, including a mobile object, which exceeds a limiting height set forth in Section 3.210 (3).
- (o) **PRIMARY SURFACE:** A surface longitudinally centered on a runway. The width of the Primary Surface is one hundred (100) feet on each side of the Airport Centerline, for a total width of two hundred (200) feet for the Pacific City State Airport. This surface begins at the northern property boundary, remains south of Pacific Avenue and extends to the south the full length of the paved runway (1850 feet) plus 100 feet beyond. The elevation of any point on the Primary Surface is six (6) feet above mean sea level for the Pacific City State Airport.
- (p) **RUNWAY:** A defined rectangular area on an airport prepared for the landing and takeoff of aircraft along its length. For Pacific City State Airport, the paved runway begins at the north property line and extends one thousand eight hundred fifty (1850) feet to the south.
- (q) **SPECIAL HEIGHT SURFACE:** A surface elevated thirty-three (33) and thirty-seven (37) feet above mean sea level which is located over the Special Height Zone. The surface will be slightly irregular where it has been pierced by development prior to the

adoption of this Section, in which case the surface lies so as to average the heights of the immediately adjacent neighboring structures or the height of the special height zone, whichever is higher.

- (r) **SPECIAL HEIGHT ZONE:** This area borders the Primary Surface and the Approach Zone on its inside edges. The outside edge of the zone is formed where the 37 foot MSL height intersects the Transition Zone each side of and perpendicular to the Primary Surface on the south and the Primary Surface and Displaced Threshold on the north (three hundred seventeen (317) feet from the Runway Centerline) and then angles to intersect the Approach Surfaces at points located six hundred twenty (620) feet beyond the end of the Primary Surface to the south, six hundred twenty (620) feet beyond the Displaced Threshold to the north and one hundred thirty-one (131) feet perpendicular to each side of the extended Runway Centerline at the six hundred twenty (620) foot locations. This zone could also be described as all the land lying beneath the Transitional Surface from the Primary Surface to a point where the Transitional Surface reaches thirty-seven (37) feet above mean sea level. The Special Height Zone is now divided into two zones. Zone A runs between one hundred (100) and one hundred twenty (120) feet from the runway centerline within the Special Height Zone, and allows structures to be thirty-three (33) feet above mean sea level. Zone B runs between one hundred twenty (120) feet and three hundred seventeen (317) feet from the Runway Centerline within the Special Height Zone and allows structures to be thirty-seven (37) feet above mean sea level.
- (s) **STRUCTURE:** An object, including a mobile object, constructed or installed by man, including but without limitation, buildings, towers, cranes, smokestacks, earth formation and overhead transmission lines.
- (t) **TRANSITIONAL SURFACE:** A surface which extends one (1) foot upward for each seven (7) feet outward (7:1) from the sides of the Primary Surface south of the Displaced Threshold at a height of six (6) feet above mean sea level, and from the sides of the Approach Surfaces thence extending 1 foot upward for each seven (7) feet outward (7:1) to a height of one hundred fifty (150) feet above the airport elevation to where they intersect the horizontal surfaces.
- (u) **TRANSITIONAL ZONE:** All the land lying beneath the transitional surface, except the area within the Special Height Zone.
- (v) **TREE:** Any object of natural growth.
- (w) **UTILITY RUNWAY:** A runway that is constructed for and intended to be used by propeller-driven aircraft of 12,500 pounds maximum gross weight and less.
- (x) **VISUAL RUNWAY:** A runway intended solely for the operation of aircraft using visual approach procedure.

- (3) **AIRPORT ZONE HEIGHT LIMITATIONS:** Except as otherwise provided in this Ordinance, no new structure shall be erected and no tree shall be allowed to grow in any zone created by this Section so as to penetrate further into the Airport Imaginary Surfaces as defined above in Section 3.210 (2).
- (a) Whenever there is a conflict in height limitations prescribed by this overlay zone and the primary zoning district, the lowest height limitation fixed shall govern; provided, however, that the height limitations here imposed shall not apply to such structures customarily employed for aeronautical purposes. In the Special Height Zone, the thirty-three (33) foot and thirty-seven (37) foot height limitations shall take precedence over the Transitional Zone height restrictions.
 - (b) Where natural terrain penetrates the horizontal, transitional or conical surfaces, not including Approach surfaces and Special Height Zones, buildings may be allowed, provided they do not exceed thirty five (35) feet above ground level, and existing trees may remain provided they do not exceed sixty five (65) feet. Trees grown for commercial forestry are excluded from the height limitation.
 - (c) In the Special Height Zone, structures and trees shall be allowed up to thirty-three (33) feet above mean sea level if between one hundred (100) feet and one hundred twenty (120) feet from the Runway Centerline, and up to thirty-seven (37) feet from Runway Centerline. In cases where a lot has structures immediately adjacent on both sides of it, one or both of which exceed the thirty-three (33) or thirty-seven (37) foot limit, a new building may go up to a height which is the average of the heights of the buildings located on the adjacent lots.
 - (d) Notwithstanding the above, any property owner wishing to construct a structure in the airport Approach Zone to the east of the Big Nestucca River or in the Special Height Zone shall sign a Hold Harmless Agreement given in Subsection 9 and shall submit it prior to a building permit being issued.
 - (e) Parking of vehicles will be allowed in the Primary Surface only east of the existing drainage ditch on the east side of the airstrip.
- (4) **USE RESTRICTIONS:** Notwithstanding any other provisions of this Ordinance, no use may be made of land or water within any zone established by this Section in such a manner as to create electrical interference with aviation radio communications, result in glare in the eyes of pilots using the airport, impair the visibility in the vicinity of the airport, create bird strike hazards, or otherwise in any way endanger or interfere with the landing, takeoff, of maneuvering of aircraft intending to use the airport.
- (a) **ALLOWABLE USES IN APPROACH ZONE EAST OF NESTUCCA RIVER:** Uses permitted are those which do not congregate more than one person per 100 square feet of ground floor at one time. Examples of permitted uses include, but are not limited to, single family dwellings; barbers; tailors; printers; cleaners; shoe repair; tennis and racquetball courts; fire and ambulance stations; car wash; utility substations;

warehousing, including ministorage; light industry; wholesale sales establishments not open to the general public; sales and service with large outdoor storage space, including the sale and repair of cars, trucks, farm equipment, heavy machinery, and marine craft; the storage of construction, plumbing, heating, paving, electrical, and painting materials; and parking for trucks as part of a construction or shipping operation. Business and professional offices are permitted if it can be demonstrated that they will not congregate more than one person per one hundred (100) square feet of ground floor space at any one time. Examples of uses not permitted include, but are not limited to, public or private schools or day care centers; churches; mobile home or RV parks; motels or hotels; group cottages; multi-family dwellings; hospitals; medical or other health care clinics; sanitarium, rest home or nursing home; animal hospital; retail sales establishments, including grocery stores, convenience stores, dining and drinking establishments, and shopping malls; private and public meeting facilities such as lodges or community centers; libraries; and commercial amusement and entertainment establishments.

- (b) No use shall occur within the area defined by the Primary surface which will present an obstruction to aircraft except parking as allowed under (3) (e) above, or as approved through the variance procedure described in Section 3.210 (6).

(5) **EXISTING USES:**

- (a) **REGULATIONS NOT RETROACTIVE:** The regulations prescribed by this Section shall not be construed to require the removal, lowering or other change or alteration of any structure or tree not conforming to this Section as of the effective date of this Ordinance, or otherwise interfere with the continuance of an existing 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 this Ordinance, and which shows signs of progress toward completion every six months.

No permit shall be granted that would allow the establishment or creation of an obstruction or permit an existing use, structure or tree to become a greater hazard to air navigation than it was on the effective date of this Ordinance or any amendments thereto.

- (b) **EXISTING USES DESTROYED:** In the Approach Zone existing structures as of the date of the adoption of this Ordinance may be reconstructed in the event they are destroyed, so long as the new structure has the same height, floor area and location as the old structure or as long as they comply with existing uses and restrictions then applicable whichever is more lenient. Existing uses in the Approach Zone as of the date of adoption of this Ordinance will be allowed to continue and be re-established on the same lot.
- (c) **MARKING AND LIGHTING:** The owner of any existing structure or tree not in compliance with this Section is hereby required to permit the installation operation and maintenance thereon of such markers and lights as shall be deemed necessary by the

airport owner to indicate to the airport the presence of such airport obstruction. Such markers and lights shall be installed, operated and maintained at the expense of the airport owner.

- (6) **VARIANCES:** Any person desiring to erect or increase the height of any structure, or permit the growth of any tree, or use property, not in accordance with the regulations prescribed in this Section, may apply to the Planning Commission for a variance from such regulations. The application for variance shall be accompanied by a determination from the Federal Aviation Administration as to the effect of the proposal on the operation of air navigation facilities and the safe, efficient use of navigable airspace. To obtain a determination, an FAA form 7460-1 must be filed in advance with the FAA and the Oregon State Aeronautics Division. Such variance shall be allowed where it is duly found that a literal application or enforcement of the regulations will result in unnecessary hardship and, if relief is granted, will not be contrary to the public interest, will not create a hazard to air navigation, will do substantial justice, and will be in accordance with the spirit of this Ordinance. If the airport owner and the FAA do not respond to the request within forty-five (45) days after receipt, the Planning Commission may act to grant or deny said application without such advice.

NOTE:OBSTRUCTION MARKING AND LIGHTING: Any variance granted may be so conditioned as to require the owner of the structure or tree in question to install, operate and maintain at the owner's expense, such markings and lights as may be necessary.

- (7) **NOTICE OF PENDING APPLICATIONS:** In addition to the Requirements of the Oregon Administrative Rule 738-100 and Oregon Revised Statute 215.223, the Oregon State Aeronautics Division shall be notified of all applications including building permits within the Approach Zone east of the Nestucca River and shall be given fourteen (14) days to comment before action is taken on the application.
- (8) **COMPLIANCE:** In addition to complying with the provisions of the primary zoning district, uses shall comply with the provisions of this overlay zone. In the event of any conflict between any provisions of this overlay zone and the primary zoning district, the more restrictive provision shall apply. An area located in more than one of the following zones is considered to be only in the zone with the more restrictive height limitation, except for those properties within the Special Height Zone.

(9)

HOLD HARMLESS AGREEMENT

KNOW ALL PERSONS BY THESE PRESENTS, that the undersigned, hereinafter referred to as Grantors (whether singular or plural), hereby covenant and agree that Grantors shall not, by reason of their ownership or occupation of the following described real property, protest or bring a suit or action in any court or administrative forum against Tillamook County or its officers, employees or agents, or the State of Oregon, Department of Transportation and Aeronautics Division, or its officers, employees or agents, for aviation related noise, property damage or personal injury based on the fact that the State of Oregon, Department of Transportation, and Aeronautics Division own and operate the Pacific City State Airport and that Tillamook County granted building and development permits to grantor to develop the following described real property. The Grantors acknowledge that the Pacific City State Airport does not conform to Federal Aviation Administration Standards and that development of the Grantor's real property also will not conform to Federal Aviation Administration Standards.

The real property of Grantors subject to this covenant and agreement is situated in the County of Tillamook, State of Oregon, and described as follows:

(Insert Legal Description and Appropriate Map)

This covenant and agreement is made and executed by the Grantors in consideration for Tillamook County's granting a building permit for Grantor's use and development of the above described real property, which real property is located in the Airport special Height Zone or Approach Zone of the Pacific City State Airport. The execution of this covenant and agreement by Grantors is required by Tillamook County as a prerequisite to the granting of the above said building permit to Grantors. This agreement is executed for the protection and benefit of Tillamook County, the State of Oregon, the Oregon Department of Transportation and the Aeronautics Division. This covenant and agreement is intended to be binding upon the Grantors, their heirs, assigns and successors and inure to the benefit of Tillamook County and the State of Oregon, Department of Transportation and Aeronautics Division, their successors and assigns.

DATED this _____ day of _____, _____.

STATE OF OREGON)
)
) ss. _____
)
County of _____)

SECTION 3.300: NEAHKAHNIE URBAN RESIDENTIAL ZONES
(NK-7.5, NK-15, NK-30)

- (1) **PURPOSE:** The purpose of the NK-7.5, NK-15 and NK-30 zones is to designate area within the Neahkahnie Community Growth Boundary for relatively low-density, single-family, urban area has public sewer and water services. The permitted uses are those that appear most suitable for a coastal community that wished to maintain a primarily single-family residential character. The only differences in the three zoning designations are density provisions for the creation of new lots. These varying densities are designed to be consistent with physical constraints within the Neahkahnie Community.

- (2) **USES PERMITTED OUTRIGHT:** In the NK-7.5, NK-15 and NK-30 zones, the following uses and their accessory uses are permitted outright, subject to all applicable supplementary regulations contained in this ordinance.
 - (a) Single-family dwellings.
 - (b) Farm and forest uses.
 - (c) Public park and recreation areas.
 - (d) Utility lines.
 - (e) Utility structures that are less than 120 square feet in size.
 - (f) Mobile homes or recreational vehicles used for a period of no more than 12 months during the construction of a use for which a building permit has been issued.
 - (g) Signs, subject to Section 4.020.
 - (h) Home occupations within a residence or accessory structure which may employ no more than two persons who do not live within the home, provided that there are no external manifestations of a business and that an additional off-street parking site be provided for each non-resident employee.

- (3) **USES PERMITTED CONDITIONALLY:** In the NK-7.5, NK-15 and NK-30 zones, the following uses and their accessory uses are permitted subject to the provisions of Article VI and all applicable supplementary regulations contained in this ordinance.
 - (a) Planned developments subject to Section 3.080.
 - (b) Churches and schools.

- (c) Nonprofit community meeting buildings and associated facilities.
 - (d) Utility substations.
 - (e) Fire station.
 - (f) Ambulance station.
 - (g) Sewage collection system appurtenances larger than 120 square feet.
 - (h) Structures for water supply and treatment that are larger than 120 square feet.
 - (i) Communication structures that serve more than one residence.
 - (j) Bed and breakfast facilities within an owner-occupied primary residence which provide for no more than two guest rooms.
 - (k) Accessory apartment within a residence or accessory structure. Such a unit must be subordinate in size, location and appearance to the primary residence, and shall not be larger than 800 square feet.
 - (l) Temporary subdivision sales office located within an approved subdivision which shall sell only properties within that subdivision.
- (4) STANDARDS: Land divisions in the NK-7.5, NK-15 and NK-30 zones shall conform to the following standards, unless more restrictive supplementary regulations apply:
- (a) The minimum size for the creation of new lots or parcels shall be 7,500 square feet in the NK-7.5 zone; 15,000 square feet in the NK-15 zone and 30,000 square feet in the NK-30 zone with the following exceptions:
 1. The provisions of the "cluster subdivision" section of the Land Division Ordinance or of the PD Overlay zone in the Land Use Ordinance may be used to concentrate development on a portion of a contiguous ownership except that no lots shall be created that are less than 7,500 square feet.
 2. In the Neahkahnie Special Hazard Area, the minimum lot size shall be determined in accord with the requirements of Section 4.070 of the Land Use Ordinance, but such lots shall not be smaller than the minimums provided in the NK-7.5, NK-15 and NK-30 zones.

- (b) The minimum lot width shall be 60 feet.
- (c) The minimum lot depth shall be 75 feet.
- (d) The minimum front yard setback shall be 20 feet.
- (e) The minimum side yard setback shall be 5 feet, except on the street side of a corner lot where it shall be 15 feet.
- (f) The minimum rear yard shall be 20 feet, except on a street corner lot where it shall be 5 feet.
- (g) The maximum building height shall be 17 feet west of the line shown on the zoning maps and 24 feet east of that line. (That line is approximately 500 feet east of the Beach Zone Line.)
- (h) Livestock may be located no closer than 100 feet to a residential building on an adjacent lot.

SECTION 3.310 RESIDENTIAL OCEANSIDE (ROS) ZONE

- (1) **PURPOSE:** The purpose of the ROS zone is to designate areas for low-density one and two-family residential development and other, compatible, uses. Suitability of land for low-density uses is determined by the availability of public sewer services, and limitations to density such as geologic and flood hazards, shoreline erosion, and the aesthetic or resource values of nearby natural features. Where any provision of the ROS zone imposes a restriction on the use of land greater than is provided by other ordinance provisions, then the ROS zone shall prevail.
- (2) **USES PERMITTED OUTRIGHT:** In the ROS zone, the following uses and their accessory uses are permitted outright, subject to all applicable supplementary regulations contained in this ordinance.
 - (a) Single-family dwelling.
 - (b) Home occupation according to the provisions of Section 4.140 (b) of this ordinance.
 - (c) Public park with associated uses.
 - (d) On-site manufactured home or recreational vehicle used during the construction of a primary permitted use for which a building permit has been issued. Limited to 1 year.
 - (e) Unlighted signs, four square feet or less in area, and securely attached to the ground or structure.
- (3) **USES PERMITTED CONDITIONALLY:** In the ROS zone, the following uses and their accessory uses are permitted subject to the provisions of Article 6 and the requirements of all applicable supplementary regulations contained in this ordinance.
 - (a) Two-family dwelling.
 - (b) Church or school.
 - (c) Non-profit community meeting building and associated facilities.
 - (d) Fire and ambulance station with appropriate communications towers.
 - (e) Screened Utility substation and power transmission lines.
 - (f) Swimming, tennis, racquetball and similar facilities.

- (g) On-site temporary real estate sales office in subdivision.
 - (h) Water supply or treatment facilities or sewage treatment plants.
 - (i) Accessory structure or use without on-site primary structure.
 - (j) Temporary placement of mobile home or recreation vehicle to be used because of health hardship subject to Section 6.050.
 - (k) Owner occupied Bed & Breakfast enterprise provided that no more than two (2) bedrooms for guests are provided. The Conditional Use is subject to periodic review.
 - (l) Foster family home accommodating six or more children or adults.
 - (m) Residential care, training, or treatment facility as defined by ORS 443.400; any facility which provides care, training, or treatment for six or more physically, mentally, emotionally, or behaviorally disabled individuals. Facilities that provide for five or less are addressed as “Adult Foster Homes” or “Foster Family Homes”.
- (4) STANDARDS: Land divisions and development in the ROS zone shall conform to the following standards, unless more restrictive supplemental regulations apply:
- (a) The minimum lot size for permitted uses shall be 7,500 square feet where the slope averages less than 19 percent. Where the slope averages from 19 to 29 percent the minimum lot size shall be 10,000 square feet, and where the slope averages greater than 29 percent, the minimum lot size shall be 20,000 square feet, except that in both of these sloped areas and in unsewered or geologic hazard areas, a larger minimum may be required. **[Refer to Article V Exceptions for existing legally platted lots and parcels]**
 - (b) The minimum lot width shall be 60 feet.
 - (c) The minimum lot depth shall be 75 feet.
 - (d) The minimum front yard setback shall be 20 feet.
 - (e) The minimum side yard setback shall be 5 feet; on the street side of a corner lot, it shall be 15 feet.
 - (f) The minimum rear yard setback shall be 20 feet; on a corner lot, it shall be 5 feet.
 - (g) All setback standards may be subject to the exceptions in Tillamook County Land Use Ordinance Section 5.110.

- (h) The maximum building height shall be 35 feet, except on ocean or bay frontage lots, where it shall be 24 feet. Higher structures may be permitted only according to the provisions of Article VIII.
- (i) Structures shall not occupy more than 50% of the lot area.
- (j) A property survey of the lot shall be performed including elevations, and all corners shall be monumented by a registered surveyor prior to land division and/or submittal of a permit for construction/location on lots containing less than 7,500 square feet. A copy of the survey shall be submitted with the application and other required material.
- (k) Off-street parking shall conform to Section 4.030.
- (l) New uses authorized within the community growth boundary shall not adversely affect farm or forest management practices conducted in accordance with federal and state laws. Authorization to create a parcel or construct a dwelling adjacent to land zoned for farm or forest use shall require a notarized declaratory statement signed by all current property owners who appear on the property deed or contract. This statement shall serve as a covenant that runs with the land binding heirs, assigns, lessees and successors. This covenant shall affirm that residents of the parcel may be subject to farm or forest management practices conducted in accordance with federal and state laws which ordinarily and necessarily produce noise, dust, smoke and other impacts. Those signing the statement acknowledge that they “do hereby accept the potential impacts from farm and forest practices as normal and necessary and part of the risk of establishing a dwelling in this area, and acknowledge the need to avoid activities that conflict with nearby farm or forest uses”. The signed and notarized covenant must be approved by the County Planning Director and recorded with the Tillamook County Clerk.

PRIOR TO PREPARING PLANS FOR DEVELOPMENT WITHIN THIS UNINCORPORATED COMMUNITY YOU ARE ADVISED TO CHECK THE TILLAMOOK COUNTY LAND USE ORDINANCE FOR ADDITIONAL REGULATIONS THAT MAY APPLY.

SECTION 3.312 COMMERCIAL OCEANSIDE (COS) ZONE

- (1) **PURPOSE:** The purpose of the COS zone is to permit a moderate level of commercial activities in the community. Commercial uses in the COS zone typically provide goods and services that would be required by most households in the area, and they have relatively few impacts on neighboring areas. Land is suitable for the COS zone because it: (a) is needed; (b) is physically capable of being developed; (c) can obtain access to a public road without causing traffic hazards or congestion; and (d) will not cause significant conflicts with nearby residential uses.

The COS zone classification is intended to provide a variety of commercial uses which enhance a rural community's viability and livability. It is also intended to provide development that results in rural employment opportunities. Commercial activities in this zone generally consist of small scale low impact uses which serve the community and surrounding rural area.

- (2) **USES PERMITTED OUTRIGHT:** In the COS zone, the following small scale low impact commercial uses and their accessory buildings and uses are permitted in a building or buildings not exceeding 4,000 square feet of floor space and are subject to the general provisions and exceptions set forth in the Land Use Ordinance.
- (a) Oceanside community service buildings.
 - (b) General retail trade establishment such as a grocery store, drug store, or a hardware store, provided that such establishments do not require over 5 parking spaces.
 - (c) Personal and business services such as barber, tailor, beauty and shoe repair shop.
 - (d) Business, government, professional, and medical offices, financial institutions, library and fire station.
 - (e) Eating and drinking establishment, excluding walk-up and/or drive-in services.
 - (f) Single-family residential structure for the owner of an active business on the same lot.
 - (g) On-site manufactured home or recreational vehicle used during the construction of a primary permitted use for which a building or placement permit has been issued. Limited to one (1) year.
 - (h) Signs, subject to Subsection 5 of this section.
 - (i) Dwelling unit or units accessory to an active commercial use, located above the first story.

- (j) Owner occupied Bed & Breakfast enterprise provided that no more than two bedrooms for guests are provided.
 - (k) Public park and recreation uses.
- (3) **USES PERMITTED CONDITIONALLY:** In the COS zone, the following uses and their accessory uses are permitted subject to the provisions in Article 6 and the requirements of all applicable supplementary regulations contained in this ordinance:
- (a) Walk-up eating establishment.
 - (b) Mini-storage.
 - (c) Small retail shoppe complex.
 - (d) Lodge, club or meeting facility.
 - (e) Motel or hotel containing not more than 35 units.
 - (f) Temporary mobile kitchen unit.
 - (g) One- or two-family dwelling, including townhouses, row houses and condominiums.
 - (h) Church or school.
- (4) **STANDARDS:** Land divisions and development in the COS zone shall conform to the following standards, unless more restrictive supplemental regulations apply:
- (a) The minimum lot dimensions, yard setbacks, and building height restrictions for structures containing only residential uses shall be the same as in the ROS zone. In the COS zone, motels and hotels shall be considered a commercial use.
 - (b) Minimum yards for any structure on a lot or parcel adjacent to a ROS zone shall be 5 feet on the side adjacent to the ROS zone, and 10 feet in the front. No rear yard is required.
 - (c) For commercial or combined commercial-residential structures, structures shall be either constructed on the property line or set back 3 feet or as required in Section (4) (b) of this section.
 - (d) All structures shall meet the requirements for clear vision areas specified in Section 4.010.

- (e) All uses shall meet off-street parking requirements as provided in Section 4.030.
 - (f) All structures will have storm drainage facilities that are channeled in to the public storm drainage system or a natural drainage system approved by the County Engineer.
 - (g) A property survey of the lot shall be performed and all corners shall be monumented by a registered surveyor prior to land division and/or prior to submittal of a permit for construction/location and a copy of the survey shall be submitted with the application and other required material.
 - (h) Outdoor storage abutting or facing a lot in a residential zone shall be screened with a sight-obscuring fence.
 - (i) The maximum building height for commercial structures shall be 35 feet except on ocean front lots, where it shall be 24 feet.
 - (j) A commercial building shall not exceed 8000 square feet, motels are exempt from this limit.
- (5) SIGNS: A total of 100 square feet or less in area per business frontage. No sign shall be larger than 32 square feet in size. Temporary banner for grand opening, business change, etc. is allowed for a maximum of two weeks. The following types of signs shall be prohibited:
- (a) Off-premise sign.
 - (b) Flashing sign.
 - (c) Billboard.
 - (d) Sign/signs extending in setback area.
 - (e) Beach-side signs on beach front property.

PRIOR TO PREPARING PLANS FOR DEVELOPMENT WITHIN THIS CGB YOU ARE ADVISED TO CHECK THE TILLAMOOK COUNTY LAND USE ORDINANCE FOR ADDITIONAL REGULATIONS THAT MAY APPLY!

SECTION 3.314 PARK OCEANSIDE (POS) ZONE

- (1) **PURPOSE:** The purpose of the POS zone is to permit open space recreation activities in the community. Park use in the POS zone typically provides for visual and outdoor recreation aesthetic qualities in the area, and they have relatively few impacts on neighboring areas. Land is suitable for the POS zone because it: (a) is needed; (b) is physically capable of being retained as outdoor low-intensity recreation use and/or needed off-street parking for the community; and (c) will not cause significant conflicts with nearby residential uses and commercial uses. Land should be kept as much as possible in its pristine state with regard to vegetation and terrain.
- (2) **USES PERMITTED OUTRIGHT:** In the POS zone, the following uses are permitted outright, subject to all applicable supplementary regulations contained in the ordinance.
 - (a) Oceanside community service buildings and fire station.
 - (b) Public open-space park or recreation area.
- (3) **USES PERMITTED CONDITIONALLY:** In the POS zone, the following uses are permitted subject to the provisions in Article 6 and the requirements of all applicable supplementary regulations contained in this ordinance:
 - (a) Retaining walls, barriers, fences other screening or stabilization structures.
 - (b) Accessory structures.
 - (c) On-premise signs.
- (4) **STANDARDS:** No land divisions within the POS zone shall occur.

PRIOR TO PREPARING PLANS FOR DEVELOPMENT WITHIN THIS CGB YOU ARE ADVISED TO CHECK THE TILLAMOOK COUNTY LAND USE ORDINANCE FOR ADDITIONAL REGULATIONS THAT

MAY APPLY!

SECTION 3.320: NESKOWIN RURAL RESIDENTIAL ZONE (NeskRR)

- (1) **PURPOSE:** Land designated Rural Residential is intended to maintain the rural character of the community by retaining large lots where typically community water and sewer are not available. Land that is suitable for Rural Residential use has limited value for farm or forest use; it is physically capable of having homesites on parcels of five acres or less; and it can be utilized for residential purposes without constraining the use of surrounding resource-zoned properties for resource-production purposes.

- (2) **USES PERMITTED OUTRIGHT:** In the NeskRR zone, the following uses and their accessory uses are permitted outright, subject to all applicable supplementary regulations contained in this Ordinance.
 - (a) Single-family dwelling.
 - (b) Mobile or Manufactured Home, meeting the standards of Section 5.160.
 - (c) Recreational vehicle used during the construction or placement of a use for which a building or placement permit has been issued.
 - (d) Home occupations according to the provisions of Section 4.140 of this Ordinance.
 - (e) Farm uses, including aquaculture.
 - (f) Forest uses.
 - (g) Roadside stands for produce grown on the premises.
 - (h) Signs, subject to Section 4.020.
 - (i) Electrical distribution lines.
 - (j) Foster family home accommodating 5 or fewer children or adults, per ORS 197.665.

- (3) **USES PERMITTED CONDITIONALLY:** In the NeskRR zone, the following uses and their accessory uses are permitted subject to the provisions of Article 6 and the requirements of all other applicable supplementary regulations contained in this Ordinance.
 - (a) Planned Development subject to Section 3.080, or Mixed Use Development subject to Section 4.130, including only uses allowed in Neskowin zones and excluding commercial development, resorts, hotels

and motels. The number of attached single family dwelling units in a cluster shall be established in the Planned Development approval process and may exceed four units per cluster if it is demonstrated that benefits in protection of natural conditions, better views, or access will be achieved by such clustering. This shall apply only to RR/PD zoned property located within a community growth boundary. Wetlands or other areas which cannot be developed due to the existence of sensitive natural features protected by the requirements of this ordinance shall not be used in calculating the gross area available for calculating density allowed in a clustered development.

- (b) Two-family dwelling.
- (c) Mobile or manufactured home which does not comply with the standards of Section 5.160.
- (d) Cottage industries, subject to the standards of Section 3.226(4)(a) and (b).
- (e) Recreational vehicle .
- (f) Churches and schools.
- (g) Accessory structures or accessory uses without an on-site primary structure.
- (h) Nonprofit community meeting buildings.
- (i) Cemeteries.
- (j) Fire or ambulance stations.
- (k) Swimming, tennis, racquetball and similar facilities.
- (l) Golf course and associated facilities.
- (m) Animal hospital, kennel, or other animal boarding service, subject to the standards of Section 3.226(4)(a) and (b).
- (n) Towers for communications, wind energy conversion systems, or structures having similar impacts.
- (o) Public utility facilities, including substations and transmission lines.
- (p) Small-scale primary wood processing facilities, such as a shake mill, chipper, or stud mill, on a contiguous ownership of 10 or more acres.

- (q) Rural industries on a contiguous ownership of 10 or more acres, subject to the standards of Section 3.226(4)(a) and (b).
 - (r) Temporary mobile kitchen units, subject to the standards of Section 3.226(4)(a) and (b).
 - (s) Foster family home accommodating six or more children or adults.
 - (t) Bed and breakfast enterprise.
 - (u) Temporary placement of a mobile home or recreational vehicle to be used because of health hardship, subject to Section 6.050.
 - (v) Parks, primitive campgrounds, fishing preserves, and other recreational uses and associated facilities, on a contiguous ownership of 10 or more acres.
 - (w) Residential care, training, or treatment facility as defined by ORS 443.400; any facility which provides care, training, or treatment for six or more physically, mentally, emotionally, or behaviorally disabled individuals. Facilities that provide for five or less are addressed as ADULT FOSTER HOMES or FOSTER FAMILY HOMES.
 - (x) Home occupations according to the provisions of Section 4.140 of this Ordinance.
- (4) STANDARDS: Land divisions and development in the NeskRRR zone shall conform to the following standards, unless more restrictive supplemental regulations apply:
- (a) The minimum lot size is 20,000 square feet. Where public sewers are not available, the County Sanitarian may require lot sizes greater than the minimum, if necessary for the installation of adequate on-site sewage disposal facilities, or for adequate protection of public health or sensitive water bodies.
 - (b) Parcels less than 20,000 square feet in size that were legally established prior to June 17, 1982 may be built upon provided that all other requirements of this Ordinance and other applicable development requirements are met.
 - (c) Lots in an approved preliminary subdivision plat that is being maintained in an active status as of the date of adoption of this Ordinance may be built upon after approval and recording of the final plat.
 - (d) The minimum lot width and depth shall both be 100 feet.

- (e) Creation of new lots or parcels, and construction on existing lots or parcels, can only be allowed if sewer service or adequate on-site sanitation are provided, as follows:
 - (1) If sewer service is not available, as defined in OAR 340-071-160(5)(f), approval(s) for on-site sanitation disposal shall be required for each lot or parcel prior to lot or parcel creation through partition, subdivision, or other process. Approval for on-site sanitation shall be required prior to approval of a building permit for a structure containing plumbing fixtures or otherwise requiring sanitary waste disposal.
 - (2) If sewer service is available, as defined in OAR 340-071-160(5)(f), hookup to the sewer system shall be required prior to approval of a building permit for a structure containing plumbing fixtures or otherwise requiring sanitary waste disposal.
- (f) Confirmation of water service availability from the water district, or evidence of an alternative functioning domestic water supply, shall be provided to the Department prior to approval of residential construction or other development requiring potable water.
- (g) Driveway connection to the street shall be limited to 25% of the street frontage of the lot, but not less than 12 feet, unless the Tillamook County Public Works Department or the Oregon Department of Transportation requires a different width.
- (h) The minimum front yard shall be 20 feet.
- (i) The minimum side yard shall be 5 feet; on the street side of a corner lot, it shall be no less than 15 feet.
- (j) The minimum rear yard shall be 20 feet; on a corner lot, it shall be no less than 5 feet.
- (k) Structures shall meet the following standards. Applicants shall demonstrate compliance with these standards on submitted plans. For purposes of these standards, building depth is defined as the dimension of the building footprint measured between the front and rear setbacks, and building width is defined as the dimension of the building footprint measured between side property lines.
 - (1) The building depth at all points shall not exceed 70% of the distance between front and rear lot lines (measured as close to perpendicular to those lines as possible).

- (2) Building width at all points shall not exceed 70% of the distance between opposite side lot lines (measured as close to perpendicular to those lines as possible).
 - (3) Structural elements which are exempted from setback requirements by other sections of the Land Use Ordinance shall be exempt from this standard. This standard shall not apply on lots smaller than 3000 sq ft; Section 5.100 shall apply to these lots.
- (l) The maximum building height shall be 35 feet, except on ocean or bay frontage lots, where it shall be 24 feet. Higher structures may be permitted only according to the provisions of Article VIII. Within the Neskowin Community Growth Boundary, building height shall be measured as the vertical distance from existing grade at a given point to the highest surface of any building element or projection above that same point. The building height shall not exceed the maximum building height at any point. Existing grade is defined as the grade prior to land disturbing activities or fill placement. The department may require a topographic survey for any building permit application. Prior to approval of a building permit for any structure that appears to be within 3 feet of the maximum building height, the applicant shall sign a legally binding statement holding Tillamook County harmless should construction of approved plans result in a structure exceeding the height limit and needing to be removed or altered.
- (m) Livestock can be located closer than 100 feet to a nonfarm residential building on an adjacent lot only if one of the following conditions are met:
- (1) The location of the livestock is a nonconforming use according to the provisions of Article VII of this Ordinance.
 - (2) The property has been taxed at the farm use rate during three of the past five year.
 - (3) The location of the livestock has been reviewed and approved as a conditional use according to the provisions of Article VI of this Ordinance.

No residential structure shall be located within 100 feet of an F-1, F, or SFW-20 zone boundary, unless it can be demonstrated that natural or man-made features will act as an equally effective barrier to conflicts between resource and residential uses; or that a residential structure could not otherwise be placed on the property without requiring a variance to the 100 foot requirement. In either case, all yard requirements in this zone shall still apply.

SECTION 3.322: NESKOWIN LOW DENSITY RESIDENTIAL ZONE (NeskR-1)

- (1) **PURPOSE:** The purpose of the NeskR-1 zone is to designate areas for low-density single-family residential development and other, compatible, uses. Suitability of land for low-density uses is determined by the availability of public sewer service, and such limitations to density such as geologic and flood hazards, shoreline erosion, and the aesthetic or resource values of nearby natural features.
- (2) **USES PERMITTED OUTRIGHT:** In the NeskR-1 zone, the following uses and their accessory uses are permitted outright, subject to all applicable supplementary regulations contained in this ordinance.
 - (a) Single-family dwelling.
 - (b) Farm and forest uses.
 - (c) Home occupations according to the provisions of Section 4.140 of this ordinance.
 - (d) Public park and recreation areas.
 - (e) Public utility lines.
 - (f) Mobile home, manufactured home or recreational vehicle used during the construction of a use for which a building permit has been issued.
 - (g) Signs, subject to Section 4.020.
 - (h) Foster family home accommodating 5 or fewer children or adults, per ORS 197.665.
- (3) **USES PERMITTED CONDITIONALLY:** In the NeskR-1 zone, the following uses and their accessory uses are permitted subject to the provisions of Article 6 and the requirements of all applicable supplementary regulations contained in this ordinance.
 - (a) Two-family dwelling.
 - (b) Planned development subject to Section 3.080, including only uses allowed in Neskowin zones and excluding commercial development, resorts, hotels and motels. The number of attached single family dwelling units in a cluster shall be established in the Planned Development approval process and may exceed four units per cluster if it is demonstrated that benefits in protection of natural conditions, better views, or access will be

achieved by such clustering. Wetlands or other areas which cannot be developed due to the existence of sensitive natural features protected by the requirements of this ordinance shall not be used in calculating the gross area available for calculating density allowed in a clustered development.

- (c) Churches and schools.
- (d) Nonprofit community meeting buildings and associated facilities.
- (e) Utility substations and power transmission lines.
- (f) Swimming, tennis, racquetball and similar facilities.
- (g) Golf courses and associated facilities.
- (h) Fire and ambulance stations.
- (i) Towers for communications, wind energy conversion systems or structures having similar impacts.
- (j) Water supply or treatment facilities or sewage treatment plants.
- (k) Aquaculture facilities.
- (l) Cottage industries, subject to the standards of Section 3.226(4)(a) and (b).
- (m) Accessory structures or uses without an on-site primary structure.
- (n) Cemeteries.
- (o) Foster family homes accommodating six or more children or adults.
- (p) Bed and breakfast enterprise.
- (q) Temporary placement of a mobile home or recreational vehicle to be used because of Health Hardship subject to Section 6.050.
- (r) Residential care, training, or treatment facility as defined by ORS 443.400; any facility which provides care, training, or treatment for six or more physically, mentally, emotionally, or behaviorally disabled individuals. Facilities that provide for five or less are addressed as ADULT FOSTER HOMES or FOSTER FAMILY HOMES.
- (s) Home occupations according to the provisions of Section 4.140 of this ordinance.

- (4) STANDARDS: Land divisions and development in the NeskR-1 zone shall conform to the following standards, unless more restrictive supplemental regulations apply:
- (a) The minimum lot size for permitted uses shall be 7,500 square feet, except that the minimum lot size for a two-family dwelling shall be 10,000 square feet. Where public sewers are not available, the County Sanitarian may require lot sizes greater than the minimum if necessary for the installation of adequate on-site subsurface sewage disposal systems, or for adequate protection of public health or sensitive water bodies.
 - (b) The minimum lot width shall be 60 feet.
 - (c) The minimum lot depth shall be 75 feet.
 - (d) Creation of new lots or parcels, and construction on existing lots or parcels, can only be allowed if sewer service or adequate on-site sanitation are provided, as follows:
 - (1) If sewer service is not available, as defined in OAR 340-071-160(5)(f), approval(s) for on-site sanitation disposal shall be required for each lot or parcel prior to lot or parcel creation through partition, subdivision, or other process. Approval for on-site sanitation shall be required prior to approval of a building permit for a structure containing plumbing fixtures or otherwise requiring sanitary waste disposal.
 - (2) If sewer service is available, as defined in OAR 340-071-160(5)(f), hookup to the sewer system shall be required prior to approval of a building permit for a structure containing plumbing fixtures or otherwise requiring sanitary waste disposal.
 - (e) Confirmation of water service availability from the water district, or evidence of an alternative functioning domestic water supply, shall be provided to the Department prior to approval of residential construction or other development requiring potable water.
 - (f) Driveway connection to the street shall be limited to 25% of the street frontage of the lot, but not less than 12 feet, unless the Tillamook County Public Works Department or the Oregon Department of Transportation requires a different width.
 - (g) The minimum front yard shall be 20 feet.

- (h) The minimum side yard shall be 5 feet; on the street side of a corner lot, it shall be 15 feet.
- (i) The minimum rear yard shall be 20 feet; on a corner lot, it shall be 5 feet.
- (j) Structures shall meet the following standards. Applicants shall demonstrate compliance with these standards on submitted plans. For purposes of these standards, building depth is defined as the dimension of the building footprint measured between the front and rear setbacks, and building width is defined as the dimension of the building footprint measured between side property lines.
 - (1) The building depth at all points shall not exceed 70% of the distance between front and rear lot lines (measured as close to perpendicular to those lines as possible).
 - (2) Building width at all points shall not exceed 70% of the distance between opposite side lot lines (measured as close to perpendicular to those lines as possible).
 - (3) Structural elements which are exempted from setback requirements by other sections of the Land Use Ordinance shall be exempt from this standard. This standard shall not apply on lots smaller than 3000 sq ft; Section 5.100 shall apply to these lots.
- (k) The maximum building height shall be 35 feet, except on ocean or bay frontage lots, where it shall be 24 feet. Higher structures may be permitted only according to the provisions of Article VIII. Within the Neskowin Community Growth Boundary, building height shall be measured as the vertical distance from existing grade at a given point to the highest surface of any building element or projection above that same point. The building height shall not exceed the maximum building height at any point. Existing grade is defined as the grade prior to land disturbing activities or fill placement. The department may require a topographic survey for any building permit application. Prior to approval of a building permit for any structure that appears to be within 3 feet of the maximum building height, the applicant shall sign a legally binding statement holding Tillamook County harmless should construction of approved plans result in a structure exceeding the height limit and needing to be removed or altered.
- (l) Livestock shall be located no closer than 100 feet to a residential building on an adjacent lot.

No residential structure shall be located within 100 feet of an F-1, F, or SFW-20 zone boundary, unless it can be demonstrated that natural or man-made features will act as an

equally effective barrier to conflicts between resource and residential used; or that a residential structure could not otherwise be placed on the property without requiring a variance to the 100 foot requirement. In either case, all yard requirements in this zone.

SECTION 3.324: NESKOWIN HIGH DENSITY URBAN RESIDENTIAL ZONE
(NeskR-3)

- (1) **PURPOSE:** The purpose of the NeskR-3 zone is to designate areas for a medium-to high-density mix of dwelling types and other, compatible, uses. The NeskR-3 zone is intended for densely-developed areas or areas that are suitable for high-density urban development because of level topography and the absence of hazards, and because public facilities and services can accommodate a high level of use.
- (2) **USES PERMITTED OUTRIGHT:** In the NeskR-3 zone, the following uses and their accessory uses are permitted outright, and are subject to all applicable supplementary regulations contained in this ordinance.
 - (a) One, two, three, or four-family dwelling.
 - (b) Mobile or manufactured home meeting the standards of Section 5.160.
 - (c) Farm and forest uses.
 - (d) Home occupations according to the provisions of Section 4.140 of this Ordinance.
 - (e) Public park and recreation areas.
 - (f) Utility lines necessary for public service.
 - (g) A mobile home, manufactured home or recreational vehicle used during the construction or placement of a use for which a building or placement permit has been issued.
 - (h) Bed and Breakfast enterprise.
 - (i) Signs subject to Section 4.020.
 - (j) Foster family home accommodating 5 or fewer children or adults, per ORS 197.665.
- (3) **USES PERMITTED CONDITIONALLY:** In the NeskR-3 zone, the following uses and their accessory uses are permitted subject to the provisions of Article 6 and the requirements of all applicable supplementary regulations contained in this ordinance.
 - (a) Multifamily dwellings, including townhouses and condominiums.

- (b) Planned development subject to Section 3.080, including only uses allowed in Neskowin zones and excluding commercial development, resorts, hotels and motels. The number of attached single family dwelling units in a cluster shall be established in the Planned Development approval process and may exceed four units per cluster if it is demonstrated that benefits in protection of natural conditions, better views, or access will be achieved by such clustering. Wetlands or other areas which cannot be developed due to the existence of sensitive natural features protected by the requirements of this ordinance shall not be used in calculating the gross area available for calculating density allowed in a clustered development.
- (c) Churches and schools.
- (d) Nonprofit community meeting buildings and associated facilities.
- (e) Accessory structures or uses without an on-site primary use.
- (f) Swimming, tennis, racquetball or other similar facilities.
- (g) Utility substation and power transmission lines.
- (h) Cemeteries.
- (i) Hospitals, sanitariums, rest homes, or nursing homes.
- (j) Fire or ambulance stations.
- (k) Towers for communications, wind energy conversion systems or structures having similar impacts.
- (l) Water supply and treatment facilities and sewage treatment plants.
- (m) Temporary mobile kitchen units.
- (n) Cottage industries, subject to the standards of Section 3.226(4)(a) and (b).
- (o) Foster family home accommodating six or more children or adults.
- (p) Temporary placement of a mobile or manufactured home or recreational vehicle to be used because of a health hardship, subject to Section 6.050.
- (q) Residential care, training, or treatment facility as defined by ORS 443.400; any facility which provides care, training, or treatment for six or more physically, mentally, emotionally, or behaviorally disabled

individuals. Facilities that provide for five or less are addressed as ADULT FOSTER HOMES or FOSTER FAMILY HOMES.

- (r) Home occupations according to the provisions of Section 4.140 of this Ordinance.
- (4) STANDARDS: Land divisions and development in the NeskR-3 zone shall conform to the following standards, unless more restrictive supplemental regulations apply:
- (a) For a single family dwelling, the minimum size for lots with an average slope of 20 percent or less shall be 5000 square feet. For lots averaging over 20 percent, the minimum lot size shall be 6000 square feet for a single family dwelling. Each additional dwelling unit shall require 2500 square feet additional area on slopes of 20 percent or less, and 3000 square feet additional area otherwise. Where public sewers are unavailable, the County Sanitarian may require lot sizes greater than the minimum, if necessary for the installation of adequate on-site sewage disposal systems, or for adequate protection of public health or sensitive water bodies.
 - (b) The minimum lot width shall be 50 feet, except on a corner lot it shall be 65 feet.
 - (c) The minimum lot depth shall be 75 feet.
 - (d) Creation of new lots or parcels, and construction on existing lots or parcels, can only be allowed if sewer service or adequate on-site sanitation are provided, as follows:
 - (1) If sewer service is not available, as defined in OAR 340-071-160(5)(f), approval(s) for on-site sanitation disposal shall be required for each lot or parcel prior to lot or parcel creation through partition, subdivision, or other process. Approval for on-site sanitation shall be required prior to approval of a building permit for a structure containing plumbing fixtures or otherwise requiring sanitary waste disposal.
 - (2) If sewer service is available, as defined in OAR 340-071-160(5)(f), hookup to the sewer system shall be required prior to approval of a building permit for a structure containing plumbing fixtures or otherwise requiring sanitary waste disposal.
 - (e) Confirmation of water service availability from the water district, or evidence of an alternative functioning domestic water supply, shall be

provided to the Department prior to approval of residential construction or other development requiring potable water.

- (f) Driveway connection to the street shall be limited to 25% of the street frontage of the lot, but not less than 12 feet, unless the Tillamook County Public Works Department or the Oregon Department of Transportation requires a different width.
- (g) The minimum front yard shall be 20 feet.
- (h) The minimum side yard shall be 5 feet; on the street side of a corner lot it shall be no less than 15 feet.
- (i) The minimum rear yard shall be 20 feet; on a corner lot it shall be no less than 5 feet.
- (j) Structures shall meet the following standards. Applicants shall demonstrate compliance with these standards on submitted plans. For purposes of these standards, building depth is defined as the dimension of the building footprint measured between the front and rear setbacks, and building width is defined as the dimension of the building footprint measured between side property lines.
 - (1) The building depth at all points shall not exceed 70% of the distance between front and rear lot lines (measured as close to perpendicular to those lines as possible).
 - (2) Building width at all points shall not exceed 70% of the distance between opposite side lot lines (measured as close to perpendicular to those lines as possible).
 - (3) Structural elements which are exempted from setback requirements by other sections of the Land Use Ordinance shall be exempt from this standard. This standard shall not apply on lots smaller than 3000 sq ft; Section 5.100 shall apply to these lots.
- (k) The maximum building height shall be 35 feet, except that on ocean or bay front lots, it shall be 24 feet. Higher structures may be permitted only according to the provisions of Article VIII. Within the Neskowin Community Growth Boundary, building height shall be measured as the vertical distance from existing grade at a given point to the highest surface of any building element or projection above that same point. The building height shall not exceed the maximum building height at any point. Existing grade is defined as the grade prior to land disturbing activities or fill placement. The department may require a topographic survey for any building permit application. Prior to approval of a building permit for any

structure that appears to be within 3 feet of the maximum building height, the applicant shall sign a legally binding statement holding Tillamook County harmless should construction of approved plans result in a structure exceeding the height limit and needing to be removed or altered.

- (l) Livestock shall be located no closer than 100 feet to a residential building on an adjacent lot.
- (m) Lot size and yard setback standards shall apply to motels or hotels in the NeskR-3 zone.
- (n) For multifamily structures with separately owned dwelling units with common walls, yard setbacks shall apply to the entire structures only.

SECTION 3.326: NESKOWIN COMMERCIAL ZONE (Nesk C)

- (1) **PURPOSE:** The purpose of the NeskC zone is to permit a moderate level of commercial activities to serve the commercial needs of neighborhoods, rural areas, and tourist areas. Commercial uses in the NeskC zone typically provide goods and services that would be required by most households in the area, and they have relatively few impacts on neighboring areas. Land is suitable for the NeskC zone because it:
 - (a) Is needed;
 - (b) Is physically capable of being developed;
 - (c) Can obtain access to a public road without causing traffic hazards or congestion;
 - (d) Will not cause significant conflicts with nearby residential uses; and
 - (e) Has sufficient land area to accommodate off-street parking.

- (2) **USES PERMITTED OUTRIGHT:** In the NeskC zone, the following uses and their accessory uses are permitted outright, subject to all applicable supplementary regulations contained in this ordinance.
 - (a) General retail trade establishments such as grocery stores, drug stores, hardware stores, and nursery and landscaping stores, provided that such establishments do not require over 25 parking spaces.
 - (b) Repair and maintenance services for the type of goods to be found in the above permitted retail trade establishments, provided that such services are performed either off-site or entirely within an enclosed building.
 - (c) Personal and business services such as barbers, tailors, printing shops, funeral homes, shoe repair shops, and laundry and dry cleaning services.
 - (d) Business, government, professional, and medical offices, financial institutions, and libraries.
 - (e) Eating and drinking establishments, excluding drive-in or fast food restaurants.
 - (f) A single-family dwelling, manufactured or mobile home for the owner of an active business located on the same lot or parcel.
 - (g) Mobile home or recreational vehicle used during the construction of a use for which a building or placement permit has been issued.
 - (h) Swimming, tennis, racquetball, or other similar facilities.

- (i) Signs, subject to Section 4.020.
 - (j) Dwelling unit or units accessory to an active commercial use, located above the first story.
 - (k) Bed and breakfast enterprise.
 - (l) Public park and recreation uses.
 - (m) Foster family home accommodating 5 or fewer adults or children, in a dwelling approved under the requirements of this zone.
 - (n) Recreational facilities and fitness facilities
 - (o) Art Center
- (3) **USES PERMITTED CONDITIONALLY:** In the NeskC zone, the following uses and their accessory uses are permitted subject to the provisions of Article 6 and the requirements of all applicable supplementary regulations contained in this ordinance:
- (a) General retail trade establishments such as grocery stores, drug stores, hardware stores, and nursery and landscaping stores, that require over 25 parking spaces.
 - (b) Retail establishments requiring drive-in facilities such as gas stations, bank drive-up windows, fast food restaurants, and car washes.
 - (c) Sales and service activities requiring a large outdoor storage space, including the sale and repair of cars, trucks, farm equipment, heavy machinery and marine craft; the storage of construction, plumbing, heating, paving, electrical and painting materials; and parking for trucks as part of a construction or shipping operation.
 - (d) Warehousing, including mini-storage.
 - (e) Shopping centers.
 - (f) Animal hospitals, kennels or other animal boarding facilities.
 - (g) Lodges, clubs, or meeting facilities for private organizations.
 - (h) Motels, hotels, or cabin camps, served by a community sewer system, and containing a maximum of 35 units.
 - (i) Temporary mobile kitchen units.
 - (j) Light industries.

- (k) One-, two-, three-, or four or multi-family dwelling, including townhouses, and condominiums.
 - (l) Mobile home or recreational vehicle.
 - (m) Churches and schools.
 - (n) Community meeting buildings and associated facilities.
 - (o) Hospitals, sanitariums, rest homes, and nursing homes.
 - (p) Fire and ambulance stations.
 - (q) Utility substations and power transmission lines.
 - (r) Towers for communications, wind energy conversion systems, or structures having similar impacts.
 - (s) Water supply and treatment facilities, and sewage treatment plants.
 - (t) Mobile home park .
 - (u) Foster family home accommodating six or more children or adults.
 - (v) Mixed Use Developments subject to Section 4.130, and including only uses allowed in Neskowin zones.
 - (w) Residential care, training, or treatment facility as defined by ORS 443.400; any facility which provides care, training or treatment for six or more physically, mentally, emotionally, or behaviorally disabled individuals. Facilities that provide for five or less are addressed as ADULT FOSTER HOMES or FOSTER FAMILY HOMES.
- (4) STANDARDS: Land divisions and development in the NeskC zone shall conform to the following standards, unless more restrictive supplemental regulations apply:
- (a) Commercial use shall occur in a building or buildings not exceeding 4,000 square feet. Motels and hotels are exempt from the 4,000 square-foot limit, but are limited to 35 units.
 - (b) A larger commercial structure may be permitted only:
 1. By comprehensive plan amendment, justifying use as consistent with the policies of this plan or by a plan amendment that includes an exception to the applicable Statewide Planning Goals; or

2. Through a conditional use permit in accordance with Section 3.326(4)(c) if the structure does not exceed 8,000 square feet or a combination of two or more uses utilizing common walls and shared parking, and does not exceed 12,000 square feet.
- (c) A conditional use to permit larger structures as provided by Section 3.326(4)(b)(2) shall meet the review criteria contained in Article VI of this ordinance and the following additional review criteria:
- (1) The use is consistent with policy 7.5 of the Neskowin Community Plan adopted as part of the Tillamook County Comprehensive Plan and uses exceeding 4000 square feet are limited to the following uses
 - (A) Grocery Store,
 - (B) Nursery and Landscaping Facility,
 - (C) Art Center, or
 - (D) Recreational or Fitness Center;
 - (2) The use is intended to serve the community and surrounding rural area or the travel needs of people passing through the area;
 - (3) The use is compatible with the rural character of the community;
 - (4) The size and type of development does not dominate the character of the commercial uses in the community;
- (d) Industrial uses shall occur in a building or buildings not exceeding 10,000 square feet, unless such use is authorized under Goal 3 or 4 of the Statewide Planning Goals.
- (e) Creation of new lots or parcels, and construction on existing lots or parcels, can only be allowed if sewer service or adequate on-site sanitation are provided, as follows:
- (1) If sewer service is not available, as defined in OAR 340-071-160(5)(f), approval(s) for on-site sanitation disposal shall be required for each lot or parcel prior to lot or parcel creation through partition, subdivision, or other process. Approval for on-site sanitation shall be required prior to approval of a building permit for a structure containing plumbing fixtures or otherwise requiring sanitary waste disposal.
 - (2) If sewer service is available, as defined in OAR 340-071-160(5)(f), hookup to the sewer system shall be required prior to approval of a building permit for a structure containing plumbing fixtures or otherwise requiring sanitary waste disposal.

- (f) Confirmation of water service availability from the water district, or evidence of an alternative functioning domestic water supply, shall be provided to the Department prior to approval of residential construction or other development requiring potable water.
- (g) The minimum lot dimensions, yard setbacks, and building height restrictions for structures containing only residential use shall be the same as in the NeskR-3 zone. In the NeskC zone, motels, hotels and cabin camps shall be considered a commercial use.
- (h) Minimum yards for any structure on a lot or parcel adjacent to a residential zone shall be 5 feet on the yard adjacent to the residential zone, and 10 feet in the front yard.
- (i) For commercial or combined commercial-residential structures, structures shall be either constructed on the property line or setback at least 3 feet or as required in Section 3.326(4)(e).
- (j) All structures shall meet the requirements for clear-vision areas specified in Section 4.010.
- (k) All uses shall meet off-street parking requirements as provided in Section 4.030.
- (l) Outdoor storage abutting or facing a lot in a residential zone shall be screened with a sight-obscuring fence.
- (m) The maximum building height for commercial structures shall be 35 feet except on ocean or bay frontage lots, where it shall be 24 feet. Higher structures may be permitted as a conditional use in accordance with Article VI. Within the Neskowin Community Growth Boundary, building height shall be measured as the vertical distance from existing grade at a given point to the highest surface of any building element or projection above that same point. The building height shall not exceed the maximum building height at any point. Existing grade is defined as the grade prior to land disturbing activities or fill placement. The department may require a topographic survey for any building permit application. Prior to approval of a building permit for any structure that appears to be within 3 feet of the maximum building height, the applicant shall sign a legally binding statement holding Tillamook County harmless should construction of approved plans result in a structure exceeding the height limit and needing to be removed or altered.
- (n) Driveway connection to the street shall be limited to 25% of the street frontage of the lot, but not less than 12 feet, unless the Tillamook County Public Works Department or the Oregon Department of Transportation requires a different width.

SECTION 3.328: NESKOWIN RECREATION MANAGEMENT ZONE (NeskRM)

- (1) **PURPOSE:** The purpose of the NeskRM zone is to designate areas for public and private parks and day-use facilities, including such areas that contain significant natural or scenic values. The NeskRM zone is intended to accommodate the type of recreational developments that preserve an area's natural values; it is not intended for intensive recreational developments that do not retain substantial open space on the property.
- (2) **USES PERMITTED OUTRIGHT:** In the NeskRM zone, the following uses and their accessory uses are permitted outright, subject to all applicable supplementary regulations contained in this Ordinance:
 - (a) Maintenance and operation of existing structures and facilities.
 - (b) Recreational improvements and additions necessary to serve the same numbers and densities of visitors served by the existing facilities, provided that off-site impacts are not increased. Such facilities include picnic areas, playgrounds, pavilions, maintenance buildings, tennis courts, and swimming pools.
 - (c) Utility lines, excluding power transmission lines.
 - (d) Fish and game management.
- (3) **USES PERMITTED CONDITIONALLY:** In the NeskRM zone, the following uses and their accessory uses are permitted subject to the provisions of Article 6 and the requirements of all applicable supplementary regulations contained in this Ordinance:
 - (a) Primitive campgrounds and group lodging facilities such as dormitories for visitors, but not including commercial motels, hotels, or group cottages.
 - (b) Single- or multiple-unit dwellings or residential quarters for caretakers and staff members necessary to serve existing facilities.
 - (c) Marinas or mooring areas.
 - (d) Primary wood processing.
 - (e) Water treatment facilities and sewage treatment plants.
 - (f) Utility substations and power transmission lines.

- (g) Towers for communications, wind energy conversion systems, or structures having similar impacts.
 - (h) A single-family residential structure on a legally created parcel that is at least 5 acres in size.
- (4) STANDARDS: Land divisions and development in the NeskRM zone shall conform to the following standards, unless more restrictive supplemental regulations apply:
- (a) Recreational developments shall retain substantial open space on the property.
 - (b) Master plans for improvements in the NeskRM zone may include any of the permitted or Conditional Uses listed in this zone. The Planning Department or Commission shall review the Master Plan according to the procedures and criteria of Article VI and this section. Master plans for a recreation area shall plan for a period not to exceed ten years. Such approvals would allow all uses provided in the plan except those that require further information or review due either to lack of plan detail or the applicability of additional Ordinance criteria or standards. Any changes to the plan which would not affect visitor capacity or increase off-site impacts may be approved by the Director. All other changes or amendments shall be reviewed as required by this Section.
 - (c) The minimum lot size shall be 40 acres. The Director may approve a smaller lot size according to the provisions of Article VI, provided that forest resource and coastal shoreland resource values are maintained in the vicinity.
 - (d) Confirmation of water service availability from the Neskowin Regional Water District, or evidence of an alternative functioning domestic water supply, shall be provided to the Department prior to approval of residential construction or other development requiring potable water.

SECTION 3.330 PACIFIC CITY/WOODS PARK (PCW-P) ZONE

- (1) **PURPOSE**: The purpose of the PCW-P is to regulate development and other activities in a manner that conserves, protects, and where appropriate, restores the natural resources, benefits, and values of open areas for the good of the community.

- (2) **USES PERMITTED OUTRIGHT**: In the PCW-P zone, the following uses and their accessory uses are permitted outright, subject to all applicable supplementary regulations contained in this ordinance.
 - (a) Congregation and assembly for public events.
 - (b) Public water and sanitary sewer pump stations, water storage, and wastewater treatment plants.
 - (c) Displays and signage for natural resource and heritage education.
 - (d) Public restrooms.
 - (e) Public footpaths and bike trails.
 - (f) Swimming, volleyball, or other similar recreational uses.
 - (g) Weather shelters.
 - (h) Parking facilities necessary to serve park uses.
 - (i) Special event uses, such as Dory Days, which may include overnight parking and storage of equipment accessory to the event if authorized by a temporary use permit.

- (3) **USES PERMITTED CONDITIONALLY**: In the PCW-P zone, the following uses and their accessory uses are permitted subject to the provisions of Article VI and the requirements of all applicable supplementary regulations contained in this ordinance.
 - (a) Utility substations and power transmission lines.
 - (b) Towers for communication or structures having similar impact.
 - (c) Parking lots.
 - (d) Overnight dory parking.
 - (e) Campgrounds.

- (f) Buildings and kiosks for informational purposes.
 - (g) Temporary mobile kitchen units for public events.
- (4) **STANDARDS**: Land divisions and development in the PCW-P zone shall conform to the following standards, unless more restrictive supplemental regulations apply:
- (a) Structures shall be limited to one-story.
 - (b) Creation of new lots or parcels, and construction on existing lots or parcels, shall only be allowed if water availability and sewer service or adequate on-site sanitation are provided, as follows:
 - (1) Confirmation of water service availability from the water district, or evidence of an alternative functioning domestic water supply, shall be provided to the Department prior to approval of residential construction or other development requiring potable water.
 - (2) If sewer service is available, as defined in OAR 340-071-160(5)(f), hookup to the sewer system shall be required prior to approval of a building permit for a structure containing plumbing fixtures or otherwise requiring sanitary waste disposal.
 - (3) If sewer service is not available, as defined in OAR 340-071-160(5)(f), approval(s) for on-site sanitation disposal shall be required for:
 - (i) each lot or parcel prior to lot or parcel creation through partition or subdivision process; in some cases on-site sanitation may require larger lot sizes than the minimum allowed by the zone;
 - (ii) building permit approval for a structure containing plumbing fixtures or otherwise requiring sanitary waste disposal.

PRIOR TO PREPARING PLANS FOR DEVELOPMENT WITHIN THIS ZONE YOU ARE ADVISED TO CHECK THE TILLAMOOK COUNTY LAND USE ORDINANCE FOR ADDITIONAL REGULATIONS THAT MAY APPLY.

**SECTION 3.331:
PACIFIC CITY/WOODS RURAL RESIDENTIAL ZONE (PCW-RR)**

- (1) **PURPOSE:** The purpose of the PCW-RR zone is to provide for the creation and use of small-acreage residential homesites. Land that is suitable for Rural Residential use has limited value for farm or forest use; it is physically capable of having homesites on parcels of five acres or less; and it can be utilized for residential purposes without constraining the use of surrounding resource-zoned properties for resource-production purposes.
- (2) **USES PERMITTED OUTRIGHT:** In the RR zone, the following uses and their accessory uses are permitted outright, subject to all applicable supplementary regulations contained in this Ordinance.
 - (a) Single-family dwelling.
 - (b) Mobile or Manufactured Home.
 - (c) Recreational vehicle used during the construction or placement of a use for which a building or placement permit has been issued.
 - (d) Home occupations according to the provisions of Section 4.140 of this Ordinance.
 - (e) Farm uses, including aquaculture.
 - (f) Forest uses.
 - (g) Roadside stands for produce grown on the premises.
 - (h) Signs, subject to Section 4.020.
 - (i) Electrical distribution lines.
- (3) **USES PERMITTED CONDITIONALLY:** In the PCW-RR zone, the following uses and their accessory uses are permitted subject to the provisions of Article 6 and the requirements of all other applicable supplementary regulations contained in this Ordinance.
 - (a) Planned Developments subject to Section 3.080, or Mixed Use Developments subject to Section 4.130. The number of attached single family dwelling units in a cluster shall be established in the Planned Development approval process and may exceed four units per cluster if it is demonstrated that benefits in protection of natural conditions, better views, or access will be achieved by such clustering. This shall apply only to RR/PD zoned property located within a community growth boundary.

- (b) Two-family dwelling.
- (c) Mobile or manufactured home, in those areas identified in Section 5.160 as being subject to special mobile/manufactured home standards, which do not comply with those standards.
- (d) Cottage industries.
- (e) Recreational vehicle where not allowed outright by Section 5.130.
- (f) A temporary real estate sales office.
- (g) Churches and schools.
- (h) Accessory structures or accessory uses without an on-site primary structure.
- (i) Nonprofit community meeting buildings.
- (j) Cemeteries.
- (k) Fire or ambulance stations.
- (l) Swimming, tennis, racquetball and similar facilities.
- (m) Golf course and associated facilities.
- (n) Animal hospital, kennel, or other animal boarding service.
- (o) Towers for communications, wind energy conversion systems, or structures having similar impacts.
- (p) Public utility facilities, including substations and transmission lines.
- (q) Temporary mobile kitchen units.
- (r) Mobile or Manufactured Home park.
- (s) Foster family homes accommodating six or more children or adults.
- (t) Bed and breakfast enterprise.
- (u) Temporary placement of a mobile home or recreational vehicle to be used because of health hardship, subject to Section 6.050.

- (v) Residential care, training, or treatment facility as defined by ORS 443.400; any facility which provides care, training, or treatment for six or more physically, mentally, emotionally, or behaviorally disabled individuals. Facilities that provide for five or less are addressed as ADULT FOSTER HOMES or FOSTER FAMILY HOMES.
 - (w) Home occupations according to the provisions of Section 4.140 of this Ordinance.
- (4) STANDARDS: Land divisions and development in the PCW-RR zone shall conform to the following standards, unless more restrictive supplemental regulations apply:
- (a) The minimum lot size is 20,000 square feet.
 - (b) The minimum lot width and depth shall both be 100 feet.
 - (c) The minimum front yard shall be 20 feet.
 - (d) The minimum side yard shall be 5 feet; on the street side of a corner lot, it shall be no less than 15 feet.
 - (e) The minimum rear yard shall be 20 feet; on a corner lot, it shall be no less than 5 feet.
 - (f) The maximum building height shall be 35 feet, except that the maximum building height shall be 24 feet on ocean or bay frontage lots. Bay frontage lots are defined as those bay/river frontage lots located downstream from the Beachy Bridge (Pacific Avenue).
 - (g) Livestock can be located closer than 100 feet to a nonfarm residential building on an adjacent lot only if one of the following conditions are met:
 1. The location of the livestock is a nonconforming use according to the provisions of Article VII of this Ordinance.
 2. The property has been taxed at the farm use rate during three of the past five years.
 3. The location of the livestock has been reviewed and approved as a conditional use according to the provisions of Article VI of this Ordinance.
 - (h) No residential structure shall be located within 100 feet of an F-1, F, or SFW-20 zone boundary, unless it can be demonstrated that natural or man-made features will act as an equally effective barrier to conflicts between

resource and residential uses; or that a residential structure could not otherwise be placed on the property without requiring a variance to the 100 foot requirement. In either case, all yard requirements in this zone shall still apply.

- (i) Creation of new lots or parcels, and construction on existing lots or parcels, shall only be allowed if water availability and sewer service or adequate on-site sanitation are provided, as follows:
 - (1) Confirmation of water service availability from the water district, or evidence of an alternative functioning domestic water supply, shall be provided to the Department prior to approval of residential construction or other development requiring potable water.
 - (2) If sewer service is available, as defined in OAR 340-071-160(5)(f), hookup to the sewer system shall be required prior to approval of a building permit for a structure containing plumbing fixtures or otherwise requiring sanitary waste disposal.
 - (3) If sewer service is not available, as defined in OAR 340-071-160(5)(f), approval(s) for on-site sanitation disposal shall be required for:
 - (i) each lot or parcel prior to lot or parcel creation through partition or subdivision process; in some cases on-site sanitation may require larger lot sizes than the minimum allowed by the zone;
 - (ii) building permit approval for a structure containing plumbing fixtures or otherwise requiring sanitary waste disposal.
- (j) New uses authorized within the community growth boundary shall not adversely affect farm or forest management practices conducted in accordance with federal and state laws. Authorization to create a parcel or construct a dwelling adjacent to land zoned for farm or forest use shall require a notarized declaratory statement signed by all current property owners who appear on the property deed or contract. This statement shall serve as a covenant that runs with the land binding heirs, assigns, lessees and successors. This covenant shall affirm that residents of the parcel may be subject to farm or forest management practices conducted in accordance with federal and state laws which ordinarily and necessarily produce noise, dust, smoke and other impacts. Those signing the statement acknowledge that they “do hereby accept the potential impacts from farm and forest practices as normal and necessary and part of the risk of establishing a dwelling in this area, and acknowledge the need to avoid

activities that conflict with nearby farm or forest uses.” The signed and notarized covenant must be approved by the County Planning Director or representative thereof and recorded with the Tillamook County Clerk.

PRIOR TO PREPARING PLANS FOR DEVELOPMENT WITHIN THIS ZONE YOU ARE ADVISED TO CHECK THE TILLAMOOK COUNTY LAND USE ORDINANCE FOR ADDITIONAL REGULATIONS THAT MAY APPLY.

**SECTION 3.332:
PACIFIC CITY/WOODS LOW DENSITY RESIDENTIAL ZONE (PCW-R1)**

- (1) **PURPOSE:** The purpose of the PCW-R1 zone is to designate areas for low-density single-family residential development and other, compatible, uses. Suitability of land for low-density uses is determined by the availability of public sewer service, and such limitations to density such as geologic and flood hazards, shoreline erosion, and the aesthetic or resource values of nearby natural features.
- (2) **USES PERMITTED OUTRIGHT:** In the PCW-R1 zone, the following uses and their accessory uses are permitted outright, subject to all applicable supplementary regulations contained in this ordinance.
 - (a) Single-family dwelling.
 - (b) Farm and forest uses.
 - (c) Home occupations according to the provisions of Section 4.140 of this ordinance. . Home occupation signs shall be unlighted and limited to 2 square feet.
 - (d) Public and private park and recreation areas.
 - (e) Public utility lines and sewer and water pumping stations.
 - (f) Mobile home or recreational vehicle used during the construction of an approved use.
 - (g) Signs subject to Section 4.020 except a sign shall not exceed 30 square feet identifying a non-residential use such as the sale of farm produce, a golf course, or a church.
 - (h) Manufactured home subject to Section 5.160.
- (3) **USES PERMITTED CONDITIONALLY:** In the PCW-R1 zone, the following uses and their accessory uses are permitted subject to the provisions of Article 6 and the requirements of all applicable supplementary regulations contained in this ordinance.
 - (a) Two-family dwelling.
 - (b) Planned Development subject to Section 3.080, or Mixed Use Developments subject to Section 4.130.
 - (c) Churches or schools.

- (d) Nonprofit community meeting buildings and associated facilities.
 - (e) Utility substations and power transmission lines.
 - (f) A temporary real estate sales office.
 - (g) Police, fire and ambulance stations.
 - (h) Towers for communications, wind energy conversion systems or structures having similar impacts.
 - (i) Accessory structures or uses without an on-site primary structure.
 - (j) Foster family homes accommodating six or more children or adults.
 - (k) Bed and breakfast enterprises.
 - (l) Temporary placement of a mobile home or recreational vehicle to be used because of Health Hardship subject to Section 6.050.
 - (m) Residential care, training, or treatment facility as defined by ORS 443.400; any facility which provides care, training, or treatment for six or more physically, mentally, emotionally, or behaviorally disabled individuals. Facilities that provide for five or less are addressed as ADULT FOSTER HOMES or FOSTER FAMILY HOMES.
 - (n) Home occupations according to the provisions of Section 4.140 of this ordinance. Home occupation signs shall be unlighted and limited to 2 square feet.
 - (o) Signs exceeding size allowed in Section 3.332 (2)(g), subject to Section 4.020.
- (4) **STANDARDS:** Land divisions and development in the PCW-R1 zone shall conform to the following standards, unless more restrictive supplemental regulations apply:
- (a) The minimum lot size for permitted uses shall be 7,500 square feet, except that the minimum lot size for a two-family dwelling shall be 10,000 square feet. Where public sewers are not available, the County Sanitarian may require lot sizes greater than the minimum if necessary for the installation of adequate on-site subsurface sewage disposal systems.
 - (b) Small existing lots of less than 7,500 square feet will be allowed to be built upon consistent with all applicable regulations. Small lot coverage

standards consistent with the resolution of the “small lots” issue reflected in the Tillamook County Land Use Ordinance Section 5.100, shall be met.

- (c) The minimum lot width shall be 60 feet.
- (d) The minimum lot depth shall be 75 feet.
- (e) The minimum front yard shall be 20 feet.
- (f) The minimum side yard shall be 5 feet; on the street side of a corner lot, it shall be 15 feet.
- (g) The minimum rear yard shall be 20 feet; on a corner lot, it shall be 5 feet.
- (h) The maximum building height shall be 35 feet, except that the maximum building height shall be 24 feet on ocean or bay frontage lots and in the subdivisions known as Pacific City Heights and Pacific City Heights First, Second, Third, Fourth and Fifth Additions. Bay frontage lots are defined as those bay/river frontage lots located downstream from the Beachy Bridge (Pacific Avenue).
- (i) Livestock shall be located no closer than 100 feet to a residential building on an adjacent lot.
- (j) Creation of new lots or parcels, and construction on existing lots or parcels, shall only be allowed if water availability and sewer service or adequate on-site sanitation are provided, as follows:
 - (1) Confirmation of water service availability from the water district, or evidence of an alternative functioning domestic water supply, shall be provided to the Department prior to approval of residential construction or other development requiring potable water.
 - (2) If sewer service is available, as defined in OAR 340-071-160(5)(f), hookup to the sewer system shall be required prior to approval of a building permit for a structure containing plumbing fixtures or otherwise requiring sanitary waste disposal.
 - (3) If sewer service is not available, as defined in OAR 340-071-160(5)(f), approval(s) for on-site sanitation disposal shall be required for:
 - (i) each lot or parcel prior to lot or parcel creation through partition or subdivision process; in some cases on-site sanitation may require larger lot sizes than the minimum allowed by the zone;

- (ii) building permit approval for a structure containing plumbing fixtures or otherwise requiring sanitary waste disposal.

- (k) New uses authorized within the community growth boundary shall not adversely affect farm or forest management practices conducted in accordance with federal and state laws. Authorization to create a parcel or construct a dwelling adjacent to land zoned for farm or forest use shall require a notarized declaratory statement signed by all current property owners who appear on the property deed or contract. This statement shall serve as a covenant that runs with the land binding heirs, assigns, lessees and successors. This covenant shall affirm that residents of the parcel may be subject to farm or forest management practices conducted in accordance with federal and state laws which ordinarily and necessarily produce noise, dust, smoke and other impacts. Those signing the statement acknowledge that they “do hereby accept the potential impacts from farm and forest practices as normal and necessary and part of the risk of establishing a dwelling in this area, and acknowledge the need to avoid activities that conflict with nearby farm or forest uses.” The signed and notarized covenant must be approved by the County Planning Director or representative thereof and recorded with the Tillamook County Clerk.

PRIOR TO PREPARING PLANS FOR DEVELOPMENT WITHIN THIS ZONE YOU ARE ADVISED TO CHECK THE TILLAMOOK COUNTY LAND USE ORDINANCE FOR ADDITIONAL REGULATIONS THAT MAY APPLY.

SECTION 3.333: PACIFIC CITY/WOODS MEDIUM DENSITY RESIDENTIAL ZONE (PCW-R2)

- (1) **PURPOSE:** The purpose of the PCW-R2 zone is to designate areas for medium-density single-family and duplex residential development, and other, compatible, uses. Land that is suitable for the R-2 zone has public sewer service available, and has relatively few limitations to development.
- (2) **USES PERMITTED OUTRIGHT:** In the PCW-R2 zone, the following uses and their accessory uses are permitted outright, subject to all applicable supplementary regulations contained in this Ordinance.
 - (a) One or two-family dwelling.
 - (b) Farm and forest uses.
 - (c) Public and private park and recreation uses.
 - (d) Home occupations subject to provisions of Section 4.140. Home occupation signs shall be unlighted and limited to 2 square feet.
 - (e) Public utility lines, water and sewage pump stations.
 - (f) Mobile home or recreational vehicle used during the construction of a use for which a building permit has been issued.
 - (g) Manufactured home subject to Section 5.160.
 - (h) Signs subject to Section 4.020 except a sign shall not exceed 30 square feet identifying a non-residential use such as the sale of farm produce, a golf course, or a church.
- (3) **USES PERMITTED CONDITIONALLY:** In the PCW-R2 zone, the following uses and their accessory uses are permitted subject to the provisions of Article IV and the requirements of all applicable supplementary regulations contained in this Ordinance.
 - (a) Three or four-family dwelling.
 - (b) Planned Development subject to Section 3.080, or Mixed Use Developments subject to Section 4.130. The number of attached single-family dwelling units in a cluster shall be established in the Planned Development approval process and may exceed four units per cluster if it is demonstrated that benefits in protection of natural conditions, better views, or access will be achieved by such clustering.

- (c) Churches, schools, or colleges.
 - (d) Nonprofit community meeting buildings and associated facilities.
 - (e) Utility substation and power transmission lines.
 - (f) A temporary real estate sales office.
 - (g) Accessory structures and accessory uses without an on-site primary use.
 - (h) Police, fire and ambulance stations.
 - (i) Towers for communications, wind energy conversion systems or structures having similar impacts.
 - (j) Water supply and treatment facilities.
 - (k) Cottage industries. A sign shall not exceed 16 square feet identifying a cottage industry.
 - (l) Foster family homes accommodating six or more children or adults.
 - (m) Bed and Breakfast enterprises.
 - (n) Temporary placement of a mobile home or recreational vehicle to be used because of a health hardship, subject to Section 6.050.
 - (o) Golf courses.
 - (p) Mobile Home Park.
 - (q) Residential care, training, or treatment facility as defined by ORS 443.400; any facility which provides care, training, or treatment for six or more physically, mentally, emotionally, or behaviorally disabled individuals. Facilities that provide for five or less are addressed as ADULT FOSTER HOMES or FOSTER FAMILY HOMES.
 - (r) Home occupations subject to provisions of Section 4.140. Home occupation signs will be unlighted and limited to 2 square feet.
 - (r) Signs exceeding size allowed in Section 3.333 (2) (g), subject to Section 4.020 .
- (4) **STANDARDS:** Land divisions and development in the PCW-R2 zone shall conform to the following standards, unless more restrictive supplemental regulations apply:

- (a) For a single-family dwelling, the minimum size for lots with an average slope of 20 percent or less shall be 5000 square feet. For lots averaging over 20 percent, the minimum lot size shall be 6000 square feet for a single-family dwelling. A two-family dwelling shall require 2500 square feet additional area, and each of the third and fourth dwelling units shall require an additional 3750 square feet. Where public sewers are unavailable, the County Sanitarian may require lot sizes greater than the minimum, if necessary for the installation of adequate on-site sewage disposal systems.
- (b) The minimum lot width shall be 50 feet; on a corner lot, the minimum width shall be 60 feet.
- (c) The minimum lot depth shall be 75 feet.
- (d) The minimum front yard shall be 20 feet.
- (e) The minimum side yard shall be 5 feet; on the street side of a corner lot, it shall be 15 feet.
- (f) The minimum rear yard shall be 20 feet; on a corner lot it shall be 5 feet.
- (g) The maximum building height shall be 35 feet, except that the maximum building height shall be 24 feet on ocean or bay frontage lots. Bay frontage lots are defined as those bay/river frontage lots located downstream from the Beachy Bridge (Pacific Avenue).
- (h) Livestock shall not be located closer than 100 feet to a residential building on an adjacent lot.
- (j) Creation of new lots or parcels, and construction on existing lots or parcels, shall only be allowed if water availability and sewer service or adequate on-site sanitation are provided, as follows:
 - (1) Confirmation of water service availability from the water district, or evidence of an alternative functioning domestic water supply, shall be provided to the Department prior to approval of residential construction or other development requiring potable water.
 - (2) If sewer service is available, as defined in OAR 340-071-160(5)(f), hookup to the sewer system shall be required prior to approval of a building permit for a structure containing plumbing fixtures or otherwise requiring sanitary waste disposal.

- (3) If sewer service is not available, as defined in OAR 340-071-160(5)(f), approval(s) for on-site sanitation disposal shall be required for:
 - (i) each lot or parcel prior to lot or parcel creation through partition or subdivision process; in some cases on-site sanitation may require larger lot sizes than the minimum allowed by the zone;
 - (ii) building permit approval for a structure containing plumbing fixtures or otherwise requiring sanitary waste disposal.

- (j) New uses authorized within the community growth boundary shall not adversely affect farm or forest management practices conducted in accordance with federal and state laws. Authorization to create a parcel or construct a dwelling adjacent to land zoned for farm or forest use shall require a notarized declaratory statement signed by all current property owners who appear on the property deed or contract. This statement shall serve as a covenant that runs with the land binding heirs, assigns, lessees and successors. This covenant shall affirm that residents of the parcel may be subject to farm or forest management practices conducted in accordance with federal and state laws which ordinarily and necessarily produce noise, dust, smoke and other impacts. Those signing the statement acknowledge that they “do hereby accept the potential impacts from farm and forest practices as normal and necessary and part of the risk of establishing a dwelling in this area, and acknowledge the need to avoid activities that conflict with nearby farm or forest uses.” The signed and notarized covenant must be approved by the County Planning Director or representative thereof and recorded with the Tillamook County Clerk.

PRIOR TO PREPARING PLANS FOR DEVELOPMENT WITHIN THIS ZONE YOU ARE ADVISED TO CHECK THE TILLAMOOK COUNTY LAND USE ORDINANCE FOR ADDITIONAL REGULATIONS THAT MAY APPLY.

SECTION 3.334: PACIFIC CITY/WOODS HIGH DENSITY RESIDENTIAL ZONE (PCW-R3)

- (1) **PURPOSE**: The purpose of the PCW-R3 zone is to designate areas for a medium- to high-density mix of dwelling types and other, compatible, uses. The PCW-R3 zone is intended for densely-developed areas or areas that are suitable for high-density urban development because of level topography and the absence of hazards, and because public facilities and services can accommodate a high level of use.
- (2) **USES PERMITTED OUTRIGHT**: In the PCW-R3 zone, the following uses and their accessory uses are permitted outright, and are subject to all applicable supplementary regulations contained in this ordinance.
 - (a) One, two, three, or four-family dwelling, including townhouses, rowhouses, and condominiums.
 - (b) Mobile home subject to Section 5.160.
 - (c) Farm and forest uses.
 - (d) Home occupations subject to provisions of Section 4.140. Home occupation signs shall be unlighted and limited to 2 square feet.
 - (e) Public and private park and recreation areas.
 - (f) Utility lines necessary for public service, water and sewage pump stations.
 - (g) A mobile home or recreational vehicle used during the construction or placement of a use for which a building or placement permit has been issued.
 - (h) Bed and Breakfast enterprise.
 - (i) Signs subject to Section 4.020 except a sign shall not exceed 32 square feet identifying a multi-family dwelling or motel in the R-3 zone and a sign shall not exceed 30 square feet identifying a non-residential use such as the sale of farm produce, a golf course, or a church.
 - (j) Manufactured home subject to Section 5.160.
- (3) **USES PERMITTED CONDITIONALLY**: In the PCW-R3 zone, the following uses and their accessory uses are permitted subject to the provisions of Article 6 and the requirements of all applicable supplementary regulations contained in this ordinance.
 - (a) Mobile home not subject to Section 5.160, and mobile home parks.

- (b) Multifamily dwellings exceeding 4 units, including townhouses, row houses and condominiums and apartments. A sign shall not exceed 32 square feet identifying a multi-family dwelling or motel in the R-3 zone.
- (c) Planned Developments subject to Section 3.080, or Mixed Use Developments subject to Section 4.130. The number of attached single family dwelling units in a cluster shall be established in the Planned Development approval process and may exceed four units per cluster if it is demonstrated that benefits in protection of natural conditions, better views, or access will be achieved by such clustering.
- (d) Motels and hotels, limited to 100 units. Motels and hotels may include eating and drinking establishments.
- (e) Churches or schools.
- (f) Nonprofit community meeting buildings and associated facilities.
- (g) Accessory structures or uses without an on-site primary use.
- (h) Swimming, tennis, racquetball or other similar facilities.
- (i) Utility substation and power transmission lines.
- (j) Hospitals, sanitariums, rest homes, or nursing homes and assisted living.
- (k) Fire, police, or ambulance stations.
- (l) Towers for communications, wind energy conversion systems or structures having similar impacts.
- (m) Water supply and treatment facilities.
- (n) Temporary mobile kitchen units.
- (o) Cottage industries. A sign shall not exceed 16 square feet identifying a cottage industry.
- (p) A temporary real estate sales office.
- (q) Mobile Home Park and recreational campground.
- (r) Foster family home accommodating six or more children or adults.
- (s) Temporary placement of a mobile home or recreational vehicle to be used because of a health hardship, subject to Section 6.050.

- (t) Residential care, training, or treatment facility as defined by ORS 443.400; any facility which provides care, training, or treatment for six or more physically, mentally, emotionally, or behaviorally disabled individuals. Facilities that provide for five or less are addressed as ADULT FOSTER HOMES or FOSTER FAMILY HOMES.
 - (u) Home occupations subject to provisions of Section 4.140. Home occupation signs shall be unlighted and limited to 2 square feet.
 - (v) Signs exceeding size requirements in Section 3.334 (2)(i), subject to Section 4.020.
- (4) **STANDARDS:** Land divisions and development in the R-3 zone shall conform to the following standards, unless more restrictive supplemental regulations apply:
- (a) For a single family dwelling, the minimum size for lots with an average slope of 20 percent or less shall be 5000 square feet. For lots averaging over 20 percent, the minimum lot size shall be 6000 square feet for a single family dwelling. Each additional dwelling unit shall require 2000 square feet additional area. For multifamily structures with separately owned units with common walls, area requirements shall apply to the gross lot area and not to individual lots.
 - (b) The minimum lot width shall be 50 feet, except on a corner lot it shall be 60 feet.
 - (c) The minimum lot depth shall be 75 feet.
 - (d) The minimum front yard shall be 15 feet.
 - (e) The minimum side yard shall be 5 feet; on the street side of a corner lot it shall be no less than 15 feet.
 - (f) The minimum rear yard shall be 20 feet; on a corner lot it shall be no less than 5 feet.
 - (g) The maximum building height shall be 35 feet, except the maximum building height shall be 24 feet on ocean or bay frontage lots. Bay frontage lots are defined as those bay/river frontage lots located downstream from the Beachy Bridge (Pacific Avenue).
 - (h) Livestock shall be located no closer than 100 feet to a residential building on an adjacent lot.

- (i) Lot size and yard setback standards shall apply to motels or hotels in the PCW-R3 zone.
- (j) For multifamily structures with separately owned dwelling units with common walls, yard setbacks shall apply to the entire structures only.
- (k) Creation of new lots or parcels, and construction on existing lots or parcels, shall only be allowed if water availability and sewer service or adequate on-site sanitation are provided, as follows:
 - (1) Confirmation of water service availability from the water district, or evidence of an alternative functioning domestic water supply, shall be provided to the Department prior to approval of residential construction or other development requiring potable water.
 - (2) If sewer service is available, as defined in OAR 340-071-160(5)(f), hookup to the sewer system shall be required prior to approval of a building permit for a structure containing plumbing fixtures or otherwise requiring sanitary waste disposal.
 - (3) If sewer service is not available, as defined in OAR 340-071-160(5)(f), approval(s) for on-site sanitation disposal shall be required for:
 - (i) each lot or parcel prior to lot or parcel creation through partition or subdivision process; in some cases on-site sanitation may require larger lot sizes than the minimum allowed by the zone;
 - (ii) building permit approval for a structure containing plumbing fixtures or otherwise requiring sanitary waste disposal.
- (l) New uses authorized within the community growth boundary shall not adversely affect farm or forest management practices conducted in accordance with federal and state laws. Authorization to create a parcel or construct a dwelling adjacent to land zoned for farm or forest use shall require a notarized declaratory statement signed by all current property owners who appear on the property deed or contract. This statement shall serve as a covenant that runs with the land binding heirs, assigns, lessees and successors. This covenant shall affirm that residents of the parcel may be subject to farm or forest management practices conducted in accordance with federal and state laws which ordinarily and necessarily produce noise, dust, smoke and other impacts. Those signing the statement acknowledge that they “do hereby accept the potential impacts

from farm and forest practices as normal and necessary and part of the risk of establishing a dwelling in this area, and acknowledge the need to avoid activities that conflict with nearby farm or forest uses.” The signed and notarized covenant must be approved by the County Planning Director or representative thereof and recorded with the Tillamook County Clerk.

PRIOR TO PREPARING PLANS FOR DEVELOPMENT WITHIN THIS ZONE YOU ARE ADVISED TO CHECK THE TILLAMOOK COUNTY LAND USE ORDINANCE FOR ADDITIONAL REGULATIONS THAT MAY APPLY.

SECTION 3.335 PACIFIC CITY/WOODS AIRPARK (PCW-AP) ZONE

- (1) **PURPOSE:** The purpose of the PCW-AP zone is to support and encourage the continued operation and vitality of the Pacific City airport and to designate areas for uses including residential homes, aircraft hangars and aircraft related businesses, while promoting safety in the airport area. Land that is suitable for the PCW-AP zone is contiguous to the Pacific City Airport. It is acknowledged that the airport has adverse impacts to the surrounding area, i.e. noise and prop-wash, however, the community desires that the airport be maintained.

- (2) **USES PERMITTED OUTRIGHT:** In the PCW-AP zone, the following uses and their accessory uses are permitted outright, subject to all applicable supplementary regulations contained in this ordinance.
 - (a) One or two-family dwelling.
 - (b) Aircraft hangars.
 - (c) Aircraft fueling facilities.
 - (d) Landing strip and taxiways.
 - (e) Commercial or retail establishments only if dependent upon or related to aircraft and related components. Shall meet standards in Section 3.337 (4)(a) or (b).
 - (f) Aircraft navigational aids.
 - (g) Home offices or occupations according to the provisions of Section 4.140 of this ordinance. Home occupation signs shall be unlighted and limited to 2 square feet.
 - (h) Bed and breakfast enterprises.
 - (i) Signs, subject to Section 4.020 except a sign shall not exceed 30 square feet identifying a non-residential use.
 - (j) Public park and recreation uses.

- (3) **USES PERMITTED CONDITIONALLY:** In the PCW-AP Zone, the following uses and their accessory uses are permitted subject to the provisions of Article 6 and the requirements of all applicable supplementary regulations contained in this ordinance.
 - (a) Planned Development subject to Section 3.080, which may include a temporary real estate office.

- (b) Cottage industries.
 - (c) Foster family homes accommodating six or less children or adults.
- (1) **STANDARDS:** Land divisions and development in the PCW-AP zone shall conform to the following standards, unless more restrictive supplemental regulations apply:
- (a) For a single family dwelling, the minimum size for lots shall be 5,000 square feet. A two-family dwelling shall require 2,500 square feet additional area.
 - (b) The minimum lot width shall be 50 feet; on a corner lot, the minimum width shall be 65 feet.
 - (c) The minimum lot depth shall be 75 feet.
 - (d) The minimum front yard shall be 20 feet.
 - (e) The minimum side yard shall be 5 feet; on the street side of a corner lot, it shall be 15 feet.
 - (f) The minimum rear yard shall be 20 feet; on a corner lot it shall be 5 feet.
 - (g) The maximum building height shall be in conformance with the Pacific City Airport Overlay. A survey shall be submitted with a building permit application to determine compliance with Section 3.210 Pacific City Airport Obstruction Overlay Zone (PAO) maximum building height requirements. Maximum building height shall be 35 feet unless the Airport Overlay Zone requires lesser height.
 - (h) All uses shall meet off-street parking requirements as provided in Section 4.030.
 - (j) Creation of new lots or parcels, and construction on existing lots or parcels, shall only be allowed if water availability and sewer service or adequate on-site sanitation are provided, as follows:
 - (1) Confirmation of water service availability from the water district, or evidence of an alternative functioning domestic water supply, shall be provided to the Department prior to approval of residential construction or other development requiring potable water.

- (2) If sewer service is available, as defined in OAR 340-071-160(5)(f), hookup to the sewer system shall be required prior to approval of a building permit for a structure containing plumbing fixtures or otherwise requiring sanitary waste disposal.
- (3) If sewer service is not available, as defined in OAR 340-071-160(5)(f), approval(s) for on-site sanitation disposal shall be required for:
 - (i) each lot or parcel prior to lot or parcel creation through partition or subdivision process; in some cases on-site sanitation may require larger lot sizes than the minimum allowed by the zone;
 - (ii) building permit approval for a structure containing plumbing fixtures or otherwise requiring sanitary waste disposal.

PRIOR TO PREPARING PLANS FOR DEVELOPMENT WITHIN THIS ZONE YOU ARE ADVISED TO CHECK THE TILLAMOOK COUNTY LAND USE ORDINANCE FOR ADDITIONAL REGULATIONS THAT MAY APPLY.

SECTION 3.337: PACIFIC CITY/WOODS NEIGHBORHOOD COMMERCIAL ZONE
(PCW-C1)

- (1) **PURPOSE:** The purpose of the PCW-C1 zone is to permit a moderate level of commercial activities to serve the commercial needs of neighborhoods, rural areas, and tourist areas. Commercial uses in the PCW-C1 zone typically provide goods and services that would be required by most households in the area, and they have relatively few impacts on neighboring areas. Land is suitable for the PCW-C1 zone because it:
 - (a) Is needed;
 - (b) Is physically capable of being developed;
 - (c) Can obtain access to a public road without causing traffic hazards or congestion;
 - (d) Will not cause significant conflicts with nearby residential uses; and
 - (e) Has sufficient land area to accommodate off-street parking.

- (2) **USES PERMITTED OUTRIGHT:** In the PCW-C1 zone, the following uses and their accessory uses are permitted outright, subject to all applicable supplementary regulations contained in this ordinance.
 - (a) General retail trade establishments such as grocery stores, drug stores, or hardware stores, provided that such establishments do not require over 25 parking spaces.
 - (b) Repair and maintenance services for the type of goods to be found in the above permitted retail trade establishments, provided that such services are performed either off-site or entirely within an enclosed building.
 - (c) Personal and business services such as barbers, tailors, printing shops, funeral homes, and laundry and dry cleaning services.
 - (d) Business, government, professional, and medical offices, financial institutions, and libraries.
 - (e) Eating and drinking establishments, excluding drive-in or fast food restaurants.
 - (f) A single-family residential structure for the owner of an active business located on the same lot or parcel.
 - (g) Mobile homes or recreational vehicles used during the construction of a use for which a building or placement permit has been issued.
 - (h) Swimming, tennis, racquetball, or other similar facilities.

- (i) Signs, subject to Section 4.020.
 - (j) Dwelling unit or units accessory to an active commercial use, located above the first story.
 - (k) Bed and breakfast enterprises.
 - (l) Public park and recreation uses.
 - (m) Miniature Golf Course.
- (3) **USES PERMITTED CONDITIONALLY:** In the PCW-C1 zone, the following uses and their accessory uses are permitted subject to the provisions of Article VI and the requirements of all applicable supplementary regulations contained in this ordinance:
- (a) General retail trade establishments such as grocery stores, drug stores, and hardware stores, that require over 25 parking spaces.
 - (b) Retail establishments requiring drive-in facilities such as gas stations, bank drive-up windows, fast food restaurants, and car washes.
 - (c) Sales and service activities requiring a large outdoor storage space, including the sale and repair of cars, trucks, farm equipment, heavy machinery and marine craft; the storage of construction, plumbing, heating, paving, electrical and painting materials; and parking for trucks as part of a construction or shipping operation.
 - (d) Warehousing, including mini-storage.
 - (e) Shopping centers.
 - (f) Animal hospitals, kennels or other animal boarding facilities.
 - (g) Lodges, clubs, or meeting facilities for private organizations.
 - (h) Motels, hotels, and cabin camps not exceeding 100 units.
 - (I) Commercial amusement or entertainment establishments.
 - (j) Temporary mobile kitchen units.
 - (k) Light industries.
 - (l) Multifamily dwellings exceeding 4 units, including townhouses, row houses and condominiums and apartments.
 - (m) Mobile homes or recreational vehicles.

- (n) Churches or schools.
 - (o) Community meeting buildings and associated facilities.
 - (p) Hospitals, sanitariums, rest homes, and nursing homes.
 - (q) Fire and ambulance stations.
 - (r) Utility substations and power transmission lines.
 - (s) Towers for communications, wind energy conversion systems, or structures having similar impacts.
 - (t) Water supply and treatment facilities, and sewage treatment plants and pump facilities.
 - (u) Mobile home parks or recreational vehicle parks.
 - (v) Foster family homes accommodating six or more children or adults.
 - (w) Planned development subject to section 3.08.
 - (x) Recreational campgrounds.
 - (y) Off-site advertising sign.
 - (z) Residential care, training, or treatment facility as defined by ORS 443.400; any facility which provides care, training or treatment for six or more physically, mentally, emotionally, or behaviorally disabled individuals. Facilities that provide for five or less are addressed as ADULT FOSTER HOMES or FOSTER FAMILY HOMES.
 - (aa) Commercial Uses allowed in this zone exceeding 8000 square feet according to provisions of Section 3.337(4)(b).
- (4) STANDARDS: Land divisions and development in the PCW-C1 zone shall conform to the following standards, unless more restrictive supplemental regulations apply:
- (a) Commercial use shall occur in a building or buildings not exceeding 8,000 square feet except for the following uses:
 - (A) Grocery Store
 - (B) Hardware Store

- (b) A conditional use to permit larger structures for the uses identified in (4)(a) shall meet the review criteria contained in Article VI of this ordinance and the following additional review criteria:
 - (1) The use is consistent with the Pacific City/Woods Community Plan adopted as part of the Tillamook County Comprehensive Plan and uses exceeding 8,000 square feet but no more than 10,000 square feet are limited to the following uses:
 - (2) The use is intended to serve the community and surrounding rural area or the travel needs of people passing through the area;
 - (3) The use is compatible with the rural character of the community;
 - (4) The size and type of development does not dominate the character of the commercial uses in the community;
- (c) Motels and hotels are exempt from the 8000 square-foot limit, but are limited to 100 units.
- (d) An Industrial Use allowed in this zone (including light industries, storage of industrial equipment, warehousing, rural industries, some cottage industries) shall not exceed 20,000 square feet in a single or multiple buildings.
- (e) The minimum lot dimensions, yard setbacks, and building height restrictions for structures containing only residential use shall be the same as in the PCW-R3 zone. In the PCW-C1 zone, motels, hotels and cabin camps shall be considered a commercial use.
- (f) Minimum yards for any structure on a lot or parcel adjacent to a residential zone shall be 5 feet on the side adjacent to the residential zone, and 10 feet in the front yard. No rear yard is required.
- (g) For commercial or combined commercial-residential structures, structures shall be either constructed on the property line or setback at least 3 feet or as required in Section 3.020 (4) (b).
- (h) All structures shall meet the requirements for clear-vision areas specified in Section 4.010.
- (i) All uses shall meet off-street parking requirements as provided in Section 4.030.
- (j) Outdoor storage abutting or facing a lot in a residential zone shall be screened with a sight-obscuring fence.

(k) The maximum building height shall be 35 feet, except on ocean or bay front lots, it shall be 24 feet. Bay frontage lots are defined as those bay/river frontage lots located downstream from the Beachy Bridge (Pacific Avenue).

(l) Creation of new lots or parcels, and construction on existing lots or parcels, shall only be allowed if water availability and sewer service or adequate on-site sanitation are provided, as follows:

(1) Confirmation of water service availability from the water district, or evidence of an alternative functioning domestic water supply, shall be provided to the Department prior to approval of residential construction or other development requiring potable water.

(2) If sewer service is available, as defined in OAR 340-071-160(5)(f), hookup to the sewer system shall be required prior to approval of a building permit for a structure containing plumbing fixtures or otherwise requiring sanitary waste disposal.

(3) If sewer service is not available, as defined in OAR 340-071-160(5)(f), approval(s) for on-site sanitation disposal shall be required for:

(i) each lot or parcel prior to lot or parcel creation through partition or subdivision process; in some cases on-site sanitation may require larger lot sizes than the minimum allowed by the zone;

(ii) building permit approval for a structure containing plumbing fixtures or otherwise requiring sanitary waste disposal.

(m) New uses authorized within the community growth boundary shall not adversely affect farm or forest management practices conducted in accordance with federal and state laws. Authorization to create a parcel or construct a dwelling adjacent to land zoned for farm or forest use shall require a notarized declaratory statement signed by all current property owners who appear on the property deed or contract. This statement shall serve as a covenant that runs with the land binding heirs, assigns, lessees and successors. This covenant shall affirm that residents of the parcel may be subject to farm or forest management practices conducted in accordance with federal and state laws which ordinarily and necessarily produce noise, dust, smoke and other impacts. Those signing the statement acknowledge that they “do hereby accept the potential impacts from farm and forest practices as normal and necessary and part of the risk of establishing a dwelling in this area, and acknowledge the need to avoid activities that conflict with nearby farm or forest uses.” The signed and notarized covenant must be approved by the County Planning Director or representative thereof and recorded with the Tillamook County Clerk.

PRIOR TO PREPARING PLANS FOR DEVELOPMENT WITHIN THIS ZONE YOU ARE ADVISED TO CHECK THE TILLAMOOK COUNTY LAND USE ORDINANCE FOR ADDITIONAL REGULATIONS THAT MAY APPLY.

SECTION 3.338: PACIFIC CITY/WOODS COMMUNITY COMMERCIAL ZONE (PCW-C2)

- (1) **PURPOSE:** The purpose of the PCW-C2 zone is to designate areas for high intensity commercial and some light industrial activities. The zone is intended to accommodate all commercial needs of nearby communities, surrounding rural areas, and visitors. Land that is suitable for the PCW-C1 zone is suitable for the PCW-C2 zone, except that a higher level of use, and therefore a higher level of off-site impacts, must be anticipated.
- (2) **USES PERMITTED OUTRIGHT:** In the PCW-C2 zone, the following uses and their accessory uses are permitted outright, subject to all applicable supplementary regulations contained in this ordinance.
 - (a) General and specialty retail trade establishments.
 - (b) Personal and business services such as barbers, tailors, printers, funeral homes, shoe repair shops, upholsterers, and cleaners.
 - (c) Business, government, professional, and medical offices; financial institutions; and libraries.
 - (d) Animal hospitals, kennels and similar animal boarding facilities.
 - (e) Retail establishments requiring drive-in facilities such as gas stations, bank drive-up windows, and fast food restaurants.
 - (f) Sales and service activities requiring large outdoor storage space, including the sale and repair of cars, trucks, farm equipment, heavy machinery, and marine craft; the storage of construction, plumbing, heating, paving, electrical, and painting materials; and parking for trucks as part of a construction or shipping operation.
 - (g) Shopping centers.
 - (h) Warehousing, including mini-storage.
 - (i) Eating and drinking establishments.
 - (j) Lodges, clubs, or meeting facilities for private organizations.
 - (k) Motels, hotels, and cabin camps not exceeding 100 units.
 - (l) A single-family dwelling, manufactured or mobile home for the owner of an active business located on the same lot or parcel.
 - (m) Mobile or manufactured home or recreational vehicle used during the construction or placement of a use for which a building or placement permit has been issued.

- (n) Community meeting buildings and associated facilities.
 - (o) Schools.
 - (p) Water supply and treatment facilities.
 - (q) Off-site advertising signs.
 - (r) Dwelling units accessory to an active commercial use, when located above the first story.
 - (s) Bed and breakfast enterprises.
 - (t) Swimming facilities.
 - (u) Public park and recreation uses.
- (3) **USES PERMITTED CONDITIONALLY:** In the PCW-C2 zone, the following uses and their accessory uses are permitted subject to the provisions of Article 6 and the requirements of all applicable supplementary regulations contained in this ordinance:
- (a) One or two-family dwelling not associated with an active business.
 - (b) Light industries.
 - (c) Multifamily dwellings, including townhouses, and condominiums.
 - (d) Mobile home or recreational vehicle.
 - (e) Hospitals, sanitariums, rest homes, and nursing homes.
 - (f) Fire and ambulance stations.
 - (g) Utility substations and power transmission lines.
 - (h) Towers for communications, wind energy conversion systems, or structures having similar impacts.
 - (i) Commercial amusement or entertainment establishments.
 - (j) Sewage treatment plants.
 - (k) Recreational campground.
 - (l) Foster family home accommodating six or more children or adults.

- (m) Temporary mobile kitchen units.
 - (n) Mixed Use Developments subject to Section 4.130.
 - (o) Mobile/Manufactured Home Park.
 - (p) Residential care, training, or treatment facility as defined by ORS 443.400; any facility which provides care, training, or treatment for six or more physically, mentally, emotionally, or behaviorally disabled individuals. Facilities that provide for five or less are addressed as ADULT FOSTER HOMES or FOSTER FAMILY HOMES.
 - (q) Car wash.
 - (r) Commercial Uses allowed in this zone exceeding 8000 square feet according to provisions of Section 3.338 (4)(b).
- (4) STANDARDS: Land divisions and development in the C-2 zone shall conform to the following standards, unless more restrictive supplemental regulations apply:
- (a) Commercial use shall occur in a building or buildings not exceeding 8,000 square feet except for the following uses:
 - (A) Grocery Store,
 - (B) Hardware Store
 - (b) A conditional use to permit larger structures for the uses identified in (4)(a) shall meet the review criteria contained in Article VI of this ordinance and the following additional review criteria:
 - (1) The use is consistent with the Pacific City/Woods Community Plan adopted as part of the Tillamook County Comprehensive Plan and uses exceeding 8,000 square feet but no more than 10,000 square feet are limited to the following uses:
 - (2) The use is intended to serve the community and surrounding rural area or the travel needs of people passing through the area;
 - (3) The use is compatible with the rural character of the community;
 - (4) The size and type of development does not dominate the character of the commercial uses in the community;

- (c) Motels and hotels are exempt from the 8000 square-foot limit, but are limited to 100 units.
- (d) An Industrial Use allowed in this zone (including light industries, storage of industrial equipment, warehousing, rural industries, some cottage industries) shall not exceed 20,000 square feet in a single or multiple buildings.
- (e) The minimum lot dimensions, yard setbacks, and building height restrictions for structures containing only residential use shall be the same as in the PCW-R3 zone. In the PCW-C1 zone, motels, hotels and cabin camps shall be considered a commercial use.
- (f) Minimum yards for any structure on a lot or parcel adjacent to a residential zone shall be 5 feet on the side adjacent to the residential zone, and 10 feet in the front yard. No rear yard is required.
- (g) For commercial or combined commercial-residential structures, structures shall be either constructed on the property line or setback at least 3 feet or as required in Section 3.020 (4) (b).
- (h) All structures shall meet the requirements for clear-vision areas specified in Section 4.010.
- (i) All uses shall meet off-street parking requirements as provided in Section 4.030.
- (j) Outdoor storage abutting or facing a lot in a residential zone shall be screened with a sight-obscuring fence.
- (k) The maximum building height shall be 35 feet, except on ocean or bay front lots, it shall be 24 feet. Bay frontage lots are defined as those bay/river frontage lots located downstream from the Beachy Bridge (Pacific Avenue).
- (l) Creation of new lots or parcels, and construction on existing lots or parcels, shall only be allowed if water availability and sewer service or adequate on-site sanitation are provided, as follows:
 - (1) Confirmation of water service availability from the water district, or evidence of an alternative functioning domestic water supply, shall be provided to the Department prior to approval of residential construction or other development requiring potable water.
 - (2) If sewer service is available, as defined in OAR 340-071-160(5)(f), hookup to the sewer system shall be required prior to approval of a building permit for a structure containing plumbing fixtures or otherwise requiring sanitary waste disposal.

- (3) If sewer service is not available, as defined in OAR 340-071-160(5)(f), approval(s) for on-site sanitation disposal shall be required for:
 - (i) each lot or parcel prior to lot or parcel creation through partition or subdivision process; in some cases on-site sanitation may require larger lot sizes than the minimum allowed by the zone;
 - (ii) building permit approval for a structure containing plumbing fixtures or otherwise requiring sanitary waste disposal.

- (m) New uses authorized within the community growth boundary shall not adversely affect farm or forest management practices conducted in accordance with federal and state laws. Authorization to create a parcel or construct a dwelling adjacent to land zoned for farm or forest use shall require a notarized declaratory statement signed by all current property owners who appear on the property deed or contract. This statement shall serve as a covenant that runs with the land binding heirs, assigns, lessees and successors. This covenant shall affirm that residents of the parcel may be subject to farm or forest management practices conducted in accordance with federal and state laws which ordinarily and necessarily produce noise, dust, smoke and other impacts. Those signing the statement acknowledge that they “do hereby accept the potential impacts from farm and forest practices as normal and necessary and part of the risk of establishing a dwelling in this area, and acknowledge the need to avoid activities that conflict with nearby farm or forest uses.” The signed and notarized covenant must be approved by the County Planning Director or representative thereof and recorded with the Tillamook County Clerk.

SECTION 3.340: NETARTS MEDIUM DENSITY URBAN RESIDENTIAL ZONE (NT-R2)

1. **PURPOSE:** The purpose of the NT-R2 zone is to designate areas for medium-density single-family and duplex residential development, and other, compatible, uses. Land that is suitable for the NT-R2 zone has public sewer service available, and has relatively few limitations to development.
2. **USES PERMITTED OUTRIGHT:** In the NT-R2 zone, the following uses and their accessory uses are permitted outright, subject to all applicable supplementary regulations contained in this ordinance.
 - a. One or two single-family dwellings, or a two-family dwelling.
 - b. Temporary dwellings such as manufactured dwellings, or recreation vehicles used during the construction of a use for which a building permit has been issued. Maximum limit the temporary dwelling may be located on site is either until completion of construction, or not to exceed 36 months, whichever comes first.
 - c. Home occupations according to the provisions of Section 4.140 of this ordinance.
 - d. Signs, in compliance to Section 4.020.
 - e. Public park and recreation areas.
 - f. Residential Home.
 - g. Family Child Care.
 - h. Family Child Care Group Home.
 - i. Residential Facility.
 - j. Adult Day Care.
3. **PERMITTED CONDITIONALLY:** In the NT-R2 zone, the following uses and their accessory uses are permitted subject to the provisions of Article 6 and the requirements of all applicable supplementary regulations contained in this ordinance.
 - a. Three or four single family dwellings, or a three- or four-family dwelling.
 - b. Mobile home in compliance with Sections 4.040 and 5.160 (1)- (5).
 - c. Planned Residential Developments subject to Section 3.346 (NT-PRD).

- d. Churches, schools or colleges.
 - e. Nonprofit community meeting buildings and associated facilities.
 - f. Power transmission lines.
 - g. A temporary real estate sales office. Maximum time limit of 24 months or until all lots or units within subdivision are sold. A temporary real estate office shall be located on a tract of land abutting or within the subdivision where real property is to be sold.
 - h. Fire and emergency stations.
 - i. Bed and breakfast enterprises that contain a maximum of six rented rooms per establishment. No more and no less than one parking space shall be provided per rented room , plus one space for each employee during the working shift that requires the greatest number of employees.
 - j. Temporary placement of a manufactured home, mobile home or recreation vehicle to be used because of a health hardship as provided in Section 6.050. The temporary home shall be removed once the hardship ends .
 - k. Home occupations according to Section 4.140 of this ordinance.
4. STANDARDS: Land divisions and development in the NT-R2 zone shall conform to the following Requirements and Standards, unless more restrictive supplemental regulations apply:

Lot Area:

- a. For a single family dwelling, the minimum size for lots with an average slope of 20% or less shall be 5000 square feet. For lots with average slope over 20%, the minimum lot size shall be 6000 square feet for a single family dwelling. A two-family dwelling shall require 2500 square feet additional area, and each of the third and fourth dwelling units shall require an additional 3750 square feet.
- b. Not more than 40% of the lot area shall be covered by above-ground structures on lots 3,000 square feet or larger in size. The lot coverage standard of Section 5.100 applies to lots less than 3,000 square feet in size.

Lot Dimensions:

- c. Minimum width of 50 feet, except on a corner lot, then it shall be 65 feet.

- d. Minimum lot depth shall be 75 feet.
- e. Minimum front yard shall be 20 feet.
- f. Minimum side yard shall be 5 feet; on the street side of a corner lot, it shall be no less than 15 feet.
- g. The minimum rear yard shall be 20 feet.
- h. Livestock shall not be located closer than 100 feet to a residential building on an adjacent lot.

Height:

- i. The maximum building height shall be 35 feet.
- j. The maximum building height on ocean or bay frontage lots shall be 24 feet.

Development Requirement:

- k. Utility lines shall be placed underground in new subdivisions and Planned Residential Developments.
- l. Authorization to create a parcel or dwelling adjacent to land zoned for farm or forest use shall require a notarized declaratory statement signed by all current property owners who appear on the deed or contract. This statement shall serve as a covenant that runs with the land bindings heirs, assigns, lessees and successors. This covenant shall affirm that residents of the parcel may be subject to farm or forest management practices conducted in accordance with federal and state laws which ordinarily and necessarily produce noise, dust, smoke and other impacts. Those signing the statement acknowledge that they "do hereby accept the potential impacts from farm and forest practices as normal and necessary and part of the risk of establishing a dwelling in this area, and acknowledge the need to avoid activities that conflict with nearby farm or forest uses." The signed and notarized covenant must be approved by the County Planning Director and recorded with the Tillamook County Clerk.

SECTION 3.342: NETARTS HIGH DENSITY URBAN RESIDENTIAL ZONE (NT-R3)

1. **PURPOSE:** The purpose of the NT-R3 zone is to designate areas for a medium to high density mix of dwelling types and other, compatible uses. The NT-R3 zone is intended for densely developed areas or areas that are suitable for high density urban development because of suitable topography (average slope of 20 percent or less), the absence of hazards, and because public facilities and services can accommodate a high level of use.
2. **USES PERMITTED OUTRIGHT:** In the NT-R3 zone, the following uses and their accessory uses are permitted outright, and are subject to all applicable supplementary regulations contained in this ordinance
 - a. One-, two-, three-, or four-family dwellings.
 - b. Mobile home in compliance with Sections 4.040 and 5.160 (1)- (5).
 - c. Temporary dwellings such as manufactured dwellings or recreation vehicles used during the construction of a use for which a building permit has been issued. Maximum limit the temporary dwelling may be located on site is either until completion of construction, or 36 months, whichever comes first.
 - d. Home occupations according to the provisions of Section 4.140 of this ordinance.
 - e. Signs, in compliance to Section 4.020.
 - f. Public park and recreation areas.
 - g. Residential Home.
 - h. Family Child Care.
 - i. Family Child Care Group Home.
 - j. Residential Facility.
 - k. Adult Day Care.
3. **USES PERMITTED CONDITIONALLY:** In the NT-R3 zone, the following uses and their accessory uses are permitted subject to the provisions of Article 6 and the requirements of all applicable supplementary regulations contained in this ordinance.
 - a. Townhouses, row houses, and condominiums, with up to four dwelling units per structure and no more than eight units per parcel or ownership, with landscaped buffers around each complex.
 - b. Planned Residential Development subject to Section 3.344.

- c. Churches, schools or colleges.
 - d. Nonprofit community meeting buildings and associated facilities.
 - e. Accessory structures or uses without an on-site primary use .
 - f. Power transmission lines.
 - g. Fire and Emergency Stations.
 - h. Bed and breakfast enterprises that contain a maximum of six rented rooms per establishment. No more and no less than one parking space shall be provided per rented room , plus one space for each employee during the working shift that requires the greatest number of employees.
 - i. A temporary real estate sales office. Maximum time limit of 24 months or until all lots or units within subdivision are sold. A temporary real estate office shall be located on a tract of land abutting or within the subdivision where real property is to be sold.
 - j. Temporary placement of a manufactured home, mobile home or recreation vehicle to be used because of a health hardship as provided in Section 6.050. Temporary home shall be removed once the hardship ends .
 - k. Home occupations according to Section 4.140 of this ordinance.
4. STANDARDS: Land divisions and development in the NT-R3 zone shall conform to the following Requirements and Dimensional Standards, unless more restrictive supplemental regulations apply:

Lot Area:

- a. For a single family dwelling, the minimum lot size with slopes of 20 percent or less shall be 3000 square feet. This zone shall not be placed on lands averaging over 20 percent. Each additional dwelling unit shall require 2500 square feet of area on slopes of 20 percent or less, and 3000 square feet additional area on slopes greater than 20 percent.
- b. Not more than 40% of the lot area shall be covered by an above-ground structure on lots 3,000 square feet or larger in size. The lot coverage standard of Section 5.100 applies to lots less than 3,000 square feet in size.

Lot Dimensions:

- a. Minimum width of 50 feet, except on a corner lot it shall be 60 feet.
- b. Minimum depth of 55 feet, except on a corner where it shall be 50 feet.
- c. The combination of front and rear yard setbacks shall be 30 feet, but neither shall be less than 10 feet.
- d. Minimum side yard shall be 5 feet; on the street side of a corner lot it shall be no less than 10 feet.
- e. Livestock shall be located no closer than 100 feet to a residential building on an adjacent lot.

Height:

- a. The maximum building height shall be 35 feet.
- b. The maximum building height on ocean or bay front lots shall be 24 feet.

Development Requirement:

- a. Utility lines shall be placed underground in new subdivisions and Planned Residential Developments.
- b. Authorization to create a parcel or dwelling adjacent to land zoned for farm or forest use shall require a notarized declaratory statement signed by all current property owners who appear on the deed or contract. This statement shall serve as a covenant that runs with the land bindings heirs, assigns, lessees and successors. This covenant shall affirm that residents of the parcel may be subject to farm or forest management practices conducted in accordance with federal and state laws which ordinarily and necessarily produce noise, dust, smoke and other impacts. Those signing the statement acknowledge that they "do hereby accept the potential impacts from farm and forest practices as normal and necessary and part of the risk of establishing a dwelling in this area, and acknowledge the need to avoid activities that conflict with nearby farm or forest uses." The signed and notarized covenant must be approved by the County Planning Director and recorded with the Tillamook County Clerk.

SECTION 3.344: NETARTS RESIDENTIAL MANUFACTURED DWELLING ZONE (NT-RMD)

1. **PURPOSE:** The purpose of the NT-RMD zone is to designate areas for a mixture of legally established manufactured dwellings and single-family and duplex dwellings.
2. **USES PERMITTED OUTRIGHT:** In the NT-RMD zone, the following uses and their accessory uses are permitted outright, subject to all applicable supplementary regulations contained in this ordinance.
 - (a) One or two dwelling units (attached or detached).
 - (b) Manufactured Home.
 - (c) The use of Recreation Vehicles is permitted outright in Wilson Beach, located in the Netarts NT-RMD zone, provided that the standards of Section 5.160 and all other applicable development standards are met.
 - (d) Temporary dwellings such as manufactured dwellings or recreation vehicles used during the construction of a use for which a building permit has been issued. Maximum limit temporary dwelling may be located on site is either until completion of construction, or not to exceed 36 months, whichever comes first.
 - (e) Manufactured home subdivision.
 - (f) Home occupations according to the provisions of Section 4.140 of this ordinance.
 - (g) Signs, subject to Section 4.020.
 - (h) Public park and recreation areas.
 - (i) Farm uses.
 - (j) Forest uses.
 - (k) Residential Home.
 - (l) Family Child Care.
 - (m) Family Child Care Group Home.
 - (n) Residential Facility.

(o) Adult Day Care.

3. USES PERMITTED CONDITIONALLY: In the NT-RMD zone, the following uses and their accessory uses are permitted subject to the provisions of Article 6 and the requirements of all applicable supplementary regulations contained in this ordinance.

(a) Three and four dwelling units (detached or attached).

(b) Churches, schools or colleges.

(c) Nonprofit community meeting buildings and associated facilities.

(d) Residential accessory structures without an on-site primary use.

(e) Power transmission lines.

(f) Bed and breakfast enterprises that contain a maximum of six rented rooms per establishment. No more and no less than one parking space shall be provided per rented room, plus one space for each employee during the working shift that requires the greatest number of employees.

(g) Home occupations according to Section 4.140 of this ordinance.

(h) Recreation Campground.

4. STANDARDS: Land divisions and development in the NT-RMD zone shall conform to the following Requirements and Dimensional Standards, unless more restrictive supplemental regulations apply:

Lot Area:

(a) For a single family dwelling, the minimum size for lots with an average slope of 20 percent or less shall be 5,000 square feet. For lots with average slope over 20 percent, the minimum lot size shall be 6,000 square feet for a single family dwelling. A second dwelling shall require 2,500 square feet additional area, and a third or fourth dwelling shall require an additional 3,750 square feet.

(b) Not more than 40% of the lot area shall be covered by an above-ground structure on lots 3,000 square feet or larger in size. The lot coverage standard of Section 5.100 applies to lots less than 3,000 square feet in size.

Lot Dimensions:

- (c) Minimum width of 50 feet, except on a corner lot it shall be 65 feet.
- (d) Minimum depth of 75 feet.
- (e) The combination of front and rear yard setbacks shall be 30 feet, but neither shall be less than 10 feet.
- (f) Minimum side yard shall be 5 feet; on the street side of a corner lot it shall be no less than 10 feet.
- (g) Livestock shall be located no closer than 100 feet to a residential building on an adjacent lot.

Height:

- (h) The maximum building height shall be 35 feet.
- (i) The maximum building height on ocean or bay front lots shall be 24 feet.

Development Requirement:

- (j) Utility lines shall be placed underground in new subdivisions and Planned Residential Developments.
- (k) Authorization to create a parcel or dwelling adjacent to land zoned for farm or forest use shall require a notarized declaratory statement signed by all current property owners who appear on the deed or contract. This statement shall serve as a covenant that runs with the land bindings heirs, assigns, lessees and successors. This covenant shall affirm that residents of the parcel may be subject to farm or forest management practices conducted in accordance with federal and state laws which ordinarily and necessarily produce noise, dust, smoke and other impacts. Those signing the statement acknowledge that they "do hereby accept the potential impacts from farm and forest practices as normal and necessary and part of the risk of establishing a dwelling in this area, and acknowledge the need to avoid activities that conflict with nearby farm or forest uses." The signed and notarized covenant must be approved by the County Planning Director and recorded with the Tillamook County Clerk.

SECTION 3.346: PLANNED RESIDENTIAL DEVELOPMENT OVERLAY ZONE (NT-PRD)

1. **PURPOSE:** The purpose of a Planned Residential Development is to encourage development designs that preserve the natural features and amenities of a property such as but not limited to: stream corridors, water frontage (bay, stream, wetland and shoreline), wetlands, sloping topography and natural geologic features, groves of trees and significant views. A Planned Residential Development shall conform to the general objectives as presented by the comprehensive plan for the area and it shall be compatible with the established and proposed surrounding land uses.

2. **STANDARDS AND REQUIREMENTS:** The following standards and requirements shall govern the application of a Planned Residential Development in an area in which it is permitted.
 - a. A Planned Residential Development overlay zone is allowed in the RR, NT-R2 and NT-R3 zones.
 - b. The density of a Planned Residential Development shall conform to the density and standards of the underlying zone.
 - c. Dimensional standards for lot area, depth, width, and all yard setback standards of the underlying zone shall not apply. These standards shall be established through the Planned Residential Development approval process in order to fulfill the purpose of the NT-PRD Overlay Zone. In the RR/PRD zoned areas, only those properties located within a Community Growth Boundary can utilize this item.
 - d. The height limit may be increased to not more than 35 feet by the Planning Commission in approving a specific Planned Residential Development project.
 - e.

3. **PLANNED RESIDENTIAL DEVELOPMENT PROCEDURE:** The following procedures shall be observed in applying for and acting on a planned residential development.
 - a. To establish a new Planned Residential Development Overlay designation under Article IX of this ordinance, the applicant must submit to the Department the following material in addition to the requirements of Article IX and Section 3.346 (3)(b) through (k):
 1. A conceptual development plan for the proposed site with the object of demonstrating that the property possesses the characteristics set forth in Section 3.346 (1) of this ordinance. The plan shall include a scale drawing of the entire site showing proposed land uses, road ways, pedestrian ways, drainage patterns, common areas, recreation facilities, natural features,

residential lots and the approximate location of structures other than single family residences.

2. Parcels receiving the Planned Residential Development Overlay Zone designation after the effective date of this ordinance , will be eligible for development under the Land Division Ordinance, with the approved and recorded conceptual plan serving as the zoning map for the land parcel.
 3. Any proposed change to an approved conceptual plan which may increase the intensity of use or off-site impacts must conform to the criteria and procedures contained in Article IX of this ordinance. This determination shall be made by the Director. Notice of such a determination shall be provided to those within the required notice area.
- b. An applicant shall submit a preliminary development plan to the Planning Department for review. The preliminary plan shall include the following information:
1. Proposed land uses, building locations and housing unit densities.
 2. Proposed circulation pattern indicating the status of street ownership.
 3. Proposed open space uses.
 4. Proposed grading and drainage pattern.
 5. Proposed method of water supply and sewage disposal.
 6. Inventory of and plan for protecting existing natural and cultural resources (e.g., wetlands, estuaries, wildlife, vegetation, historic and cultural sites).
 7. Relation of the proposed development to the surrounding area and the comprehensive plan.
 8. Narrative addressing applicable provisions of the Comprehensive Plan and Sections in the underlying zone .
- c. During its review the Planning Department shall distribute copies of the proposal to County agencies for study and comment. In considering the plan, the Planning Department shall seek to determine that:
1. There are special physical conditions or objectives of development which the proposal will satisfy to warrant a departure from the standard ordinance requirements.

2. Resulting development will not be inconsistent with the comprehensive plan provisions or zoning objectives of the area.
 3. The plan can be completed within a reasonable period of time.
 4. The streets are adequate to support the anticipated traffic and the development will not overload the streets outside the planned area.
 5. Proposed utility and drainage facilities are adequate for the population densities and type of development proposed.
 6. The parcel is suitable for the proposed use, considering its:
 - o size (5-40 acres)
 - o shape (not a linear or separated parcel)
 - o existence of improvements (adequate sewer, water, and fire facilities)
 - o natural features (avoids sensitive natural, cultural or historic resources, particularly streams, significant trees and cultural sites)
 7. The proposed use will not alter the character of the surrounding area in a manner which substantially limits, impairs or prevents the use of surrounding properties for the permitted uses listed in the underlying zone.
 8. The proposed use is timely, considering the adequacy of public facilities and services existing or planned for the area affected by the use.
 9. Proposed uses which are not otherwise permitted by the underlying zoning on the parcel are accessory uses within the entire development.
- d. The Planning Department shall notify the applicant whether, in its opinion, the foregoing provisions have been satisfied and, if not, whether they can be satisfied with further plan revision.
- e. Following this preliminary review, the applicant may request approval of the Planned Residential Development by the Planning Commission according to the provisions in Article VI if the proposal is to take place on property designated with the Planned Development Overlay Zone prior to May 30, 1985.
- f. If the property is to be divided under the provisions of the Land Division Ordinance, a request according to the requirements of that Ordinance shall be included as part of the Planning Commission's review.
- g. The filing fee for a Planned Residential Development is the total of all fees for the action requested.

- h. In addition to the requirements of this section, the Planning Commission may attach conditions that are necessary to carry out the purpose of this ordinance.
- i. Planned Residential Development shall be identified on the zoning map with the letters "PRD" in addition to the abbreviated designation of the existing zone.
- j. Building permits in a Planned Residential Development shall be issued only on the basis of the approved plan. Any changes in the approved plan shall be submitted to the Planning Commission for approval in accordance with the procedures for approval of a conditional use request.
- k. In an existing PRD overlay zone, lots or parcels of record as of the date of adoption of this ordinance which are less than one acre in size, may be built upon in accordance with all other requirements of the zone in which the lot or parcel is located and of this ordinance.

SECTION 3.348: NETARTS NEIGHBORHOOD COMMERCIAL ZONE (NT-C1)

- (1) **PURPOSE:** The purpose of the NT-C1 zone is to permit a moderate level of commercial activities to serve the commercial needs of neighborhoods, rural areas, and tourist areas. Commercial uses in the NT-C1 zone typically provide goods and services that would be required by most households in the area, and they have relatively few impacts on neighboring areas. Land is suitable for the NT-C1 zone because it:
 - (a) Is needed;
 - (b) Is physically capable of being developed;
 - (c) Can obtain access to a public road without causing traffic hazards or congestion;
 - (d) Will not cause significant conflicts with nearby residential uses; and
 - (e) Has sufficient land area to accommodate off-street parking.

- (2) **USES PERMITTED OUTRIGHT:** In the NT-C1 zone, the following uses and their accessory uses are permitted outright, subject to all applicable supplementary regulations contained in this ordinance.
 - (a) The following uses, provided that such establishments do not require over 25 parking spaces:
 - (1) General retail trade establishments such as grocery stores, drug stores, or hardware stores.
 - (2) Repair and maintenance services for the type of goods to be found in the above permitted retail trade establishments, provided that such services are performed either off-site or entirely within an enclosed building.
 - (3) Personal and business services such as barbers, tailors, printing shops, shoe repair shops, and laundry services.
 - (4) Business, government, professional, and medical offices, financial institutions, and libraries.
 - (5) Eating and drinking establishments, excluding drive-in or fast food restaurants.
 - (6) Bed and breakfast enterprises.
 - (7) Public park and recreation uses.

- (b) A single-family residential structure for the owner of an active business.
 - (c) Temporary placement of mobile homes or recreational vehicles used during the construction of a use for which a building or placement permit has been issued. Maximum limit temporary dwelling may be located on site is either until completion of construction, or 36 months, whichever comes first.
 - (d) Signs, subject to Section 4.020.
 - (e) Dwelling unit or units accessory to an active commercial use, located above the first story.
- (3) **USES PERMITTED CONDITIONALLY:** In the NT-C1 zone, the following uses and their accessory uses are permitted subject to the provisions of Article 6 and the requirements of all applicable supplementary regulations contained in this ordinance:
- (a) Any of the outright uses under 3.348(2) that require over 25 parking spaces.
 - (b) Retail establishments requiring drive-in facilities such as gas stations, bank drive-up windows, fast food restaurants, and car washes.
 - (c) Warehousing, including mini-storage.
 - (d) Shopping centers.
 - (e) Veterinary clinics and associated facilities located within a building.
 - (f) Lodges, clubs, or meeting facilities for private organizations.
 - (g) Motels, and hotels up to 35 units.
 - (h) Commercial amusement or entertainment establishments.
 - (i) Temporary mobile kitchen units.
 - (j) Light industries.
 - (k) One-, two-, three-, or four or multi-family dwellings, including townhouses, row houses, and condominiums.
 - (l) Mobile homes or recreation vehicles.

- (m) Churches or schools.
 - (n) Community meeting buildings and associated facilities.
 - (o) Rest homes, and nursing homes.
 - (p) Fire and ambulance stations.
 - (q) Utility substations and power transmission lines.
 - (r) Towers for communications.
 - (s) Water supply and treatment facilities, and sewage treatment plants.
 - (t) Mobile home parks or recreation vehicle parks.
 - (u) Foster family homes accommodating six or more children or adults.
 - (v) Mixed Use Developments subject to Section 4.130.
 - (w) Recreational campgrounds.
 - (x) Off-site Advertising Sign.
 - (y) Residential care, training, or treatment facility as defined by ORS 443.400; any facility which provides care, training or treatment for six or more physically, mentally, emotionally, or behaviorally disabled individuals. Facilities that provide for five or less are addressed as ADULT FOSTER HOMES or FOSTER FAMILY HOMES.
 - (z) Funeral homes, and dry cleaning services.
 - (aa) Swimming, tennis, racquetball, or other similar facilities.
- (4) STANDARDS: Land divisions and development in the NT-C1 zone shall conform to the following standards, unless more restrictive supplemental regulations apply:
- (a) The minimum lot dimensions, yard setbacks, and building height restrictions for structures containing only residential use shall be the same as in the NT-R3 zone. In the NT-C1 zone, motels, hotels and cabin camps shall be considered a commercial use.
 - (b) Minimum yards for any structure on a lot or parcel adjacent to a residential zone shall be 5 feet in the yard adjacent to the residential zone, and 10 feet in the front yard.

- (c) For commercial or combined commercial-residential structures, structures shall be either constructed on the property line or setback at least 3 feet or as required in Section 3.348 (4) (b).
- (d) All structures shall meet the requirements for clear-vision areas specified in Section 4.010.
- (e) All uses shall meet off-street parking requirements as provided in Section 4.030.
- (f) Outdoor storage abutting or facing a lot in a residential zone shall be screened with a sight-obscuring fence.
- (g) The maximum building height for commercial structures shall be 35 feet except on ocean or bay frontage lots, where it shall be 24 feet, higher structures may be permitted as a conditional use in accordance with Article VI.
- (h) New commercial uses shall be small scale low impact uses which take place in a building or buildings not exceeding 8,000 square feet of floor space. "Commercial Use" means the use of land primarily for the retail sale of products or services, including offices. It does not include factories, warehouses, freight terminals, or wholesale distribution centers.
- (i) New industrial uses shall be small-scale, low impact uses which take place in a building or buildings not exceeding 20,000 square feet of floor space. "Industrial Use" means the use of land primarily for the manufacture, processing, storage, or wholesale distribution of products, goods, or materials. It does not include commercial uses.

ARTICLE IV

SUPPLEMENTARY REGULATIONS

SECTION 4.005: RESIDENTIAL AND COMMERCIAL ZONE STANDARDS

PURPOSE: In all RESIDENTIAL AND COMMERCIAL ZONES, the purpose of land use standards are the following:

- (1) To ensure the availability of private open space;
- (2) To ensure that adequate light and air are available to residential and commercial structures;
- (3) To adequately separate structures for emergency access;
- (4) To enhance privacy for occupants of residences;
- (5) To ensure that all private land uses that can be reasonably expected to occur on private land can be entirely accommodated on private land, including but not limited to dwellings, shops, garages, driveways, parking, areas for maneuvering vehicles for safe access to common roads, alternative energy facilities, and private open spaces;
- (6) To ensure that driver visibility on adjacent roads will not be obstructed;
- (7) To ensure safe access to and from common roads;
- (8) To ensure that pleasing views are neither unreasonably obstructed nor obtained;
- (9) To separate potentially incompatible land uses;
- (10) To ensure access to solar radiation for the purpose of alternative energy production.

SECTION 4.010: CLEAR-VISION AREAS

- (1) **PURPOSE:** The purpose of a CLEAR-VISION AREA is to ensure safe sight distance for drivers approaching street intersections.
- (2) A CLEAR-VISION AREA shall be maintained on the corners of all properties located at the intersection of two streets or private ways or a street or private way and a railroad.
- (3) A CLEAR-VISION AREA is a triangular area consisting of two equidistant sides which are lot lines measured from the point of intersection of the lot lines abutting streets; or, where the lot lines have rounded corners, such lines extended straight to their point of intersection, and then so measured; and a line joining the two non-intersecting ends at a distance from their intersection specified in Subsection (5) below.
- (4) A CLEAR-VISION AREA shall contain no planting, fence, wall, structure, parked cars, or other temporary or permanent obstructions exceeding thirty inches in height, measured from the top of the highest curb in the CLEAR-VISION AREA or, where no curb exists, from the highest established street center line grade adjacent to the CLEAR-VISION AREA. Trees exceeding this height may be located in this area, provided that all branches and foliage are removed to a height of eight feet above the specified grade.
- (5) The following measurements shall establish CLEAR-VISION AREAS:
 - (a) In agricultural or residential zones, the minimum distance shall be 25 feet or, at intersections including an alley, 10 feet.
 - (b) In all other zones, the minimum distance shall be 15 feet or, at intersections including an alley, 10 feet. When the angle of intersection between streets is 30 degrees or less, the distance shall be 25 feet.

SECTION 4.020: SIGNS

- (1) **PURPOSE:** The purpose of these supplemental regulations governing signs is to promote scenic values; to prevent unsafe driver distraction; to provide orientation and directions to visitors; to facilitate emergency response; and in general to provide for the placement of necessary SIGNS in appropriate areas. These provisions shall not be construed to preclude the placement of street address SIGNS in locations that can be readily seen by operators of emergency vehicles, provided that such placement does not impair efforts to maintain roads, drainage ways, or brush-free road right-of-ways. No SIGN shall be constructed within a required yard that will impair the use of an existing solar energy system on adjoining property.
- (2) No SIGN shall be placed in or extend over a required non-street side yard or street right-of-way, or within 10 feet of the front property line in a required front yard.
- (3) Any lighting for SIGN purposes shall be directed away from any adjacent residential use.
- (4) No flashing or moving SIGNS shall be located within 100 feet of a traffic control signal. No SIGN lighting shall present a traffic hazard.
- (5) In the F-1, SFW-20, SFW-10, RR, CSFR, CR-1, CR-2, CR-3, RMH, NT-RMD, RC, CC, and those unincorporated communities with adopted boundaries, RM and WDD zones, SIGNS, other than off-site advertising SIGNS, shall be limited to the following kinds, which may be directed towards each facing street or located at needed points of vehicular access where such access points are over 200 feet apart:
 - (a) A name plate or SIGN not exceeding two square feet for each dwelling.
 - (b) A temporary SIGN not exceeding eight square feet pertaining either to the lease, rental, or sale of the property upon which the SIGN is located, or to a construction project.
 - (c) A SIGN not exceeding 64 square feet advertising a subdivision.
 - (d) A SIGN not exceeding 150 square feet, identifying a multi-family dwelling or motel in the CR-3 zone and those zones with adopted unincorporated community boundaries.
 - (e) A SIGN not exceeding 50 square feet identifying a non-residential use such as the sale of farm produce, a golf course, or a church.
 - (f) A SIGN not exceeding 24 square feet identifying a cottage industry.
 - (g) A SIGN not exceeding 50 square feet identifying a rural or light industry in the SFW-10 zone.

- (h) A SIGN not exceeding 24 square feet directing traffic to places of interest to the public, such as tourist accommodations and recreation sites, which would otherwise be difficult to find. Such SIGNS shall be located within 600 feet of the intersecting roadway which provides access from the highway to the place of interest.
 - (i) SIGNS not exceeding a total area of 200 square feet for each commercial establishment in a RC, CC, commercial zones within unincorporated community boundaries where permitted, or WDD zone.
 - (j) A SIGN identifying a home occupation up to 12 square feet in size.
 - (k) A SIGN or SIGNS not exceeding a total of 200 square feet identifying a mobile home park, recreational campground, primitive campground, commercial farm, or community identification.
 - (l) A SIGN not exceeding 16 square feet for a bed & breakfast enterprise. SIGNS for bed & breakfast enterprises, which are greater than 16 square feet but less than 24 square feet may be approved according to the provisions of Article VI.
- (6) In the F zone, the following SIGNS are permitted:
- (a) SIGNS pertaining solely to uses permitted and conducted within the F (FOREST) zone.
 - (b) Road identification SIGNS.
 - (c) Intermittent flashing lights are only permitted where necessary to provide warning for a traffic hazard.
 - (d) SIGNS allowed in a FOREST zone shall not be located in, or extend over, a public right-of-way except for road identification SIGNS and highway regulatory SIGNS.
- (7) In the EC-1, EC-2 and ED zones, the following SIGNS are permitted:
- (a) SIGNS pertaining solely to uses permitted and conducted in the zone in which the SIGNS are located.
 - (b) Placement of SIGNS shall not involve any regulated activities.
 - (c) A temporary SIGN not exceeding eight square feet in area pertaining either to the lease, rental or sale of the property or to a construction project.
 - (d) A SIGN exceeding 100 square feet for each recreational use in the EC-1 zone.

- (e) A SIGN not exceeding 200 square feet for each recreational, commercial or industrial use in the EC-2 or ED zones.
- (8) SIGNS larger than those permitted by this Section may be allowed only after consideration according to the provisions of Article VI.

SECTION 4.021: OFF-SITE ADVERTISING SIGN STANDARDS

- (1) PURPOSE: The purpose of the supplemental regulations for OFF-SITE ADVERTISING SIGNS is to provide standards to safeguard property and public welfare, to preserve locally recognized values of community appearance, and to reduce hazards to motorists and pedestrians traveling on public streets.
- (2) General Requirements:
 - (a) No OFF-SITE ADVERTISING SIGN shall exceed 600 square feet in size.
 - (b) All required setback of the underlying zone shall be maintained. A SIGN may be located within a clear-vision area if the bottom of the SIGN is not located less than 8 feet above the existing grade, and the SIGN support is not obstructive.
 - (c) The maximum height of the SIGN structure, including any protrusions, shall be 24 feet measured from the existing grade.
 - (d) No person shall erect, construct, or maintain any SIGN upon property or building without the consent of the owner of the property or building if any, or their authorized representatives.
 - (e) SIGNS may only be illuminated by a concealed light source, and shall not flash, blink, fluctuate, or produce glare.

SECTION 4.030: OFF-STREET PARKING AND OFF-STREET LOADING REQUIREMENTS

- (1) **PURPOSE:** The purpose of requirements for off-street parking and loading areas is to relieve traffic congestion; to ensure customer convenience and safety; to provide safe access to parked vehicles; and to help ensure safe and timely response of emergency vehicles.
- (2) **PARKING SPACE:** A single parking space shall be at least 8 feet by 20 feet in size.
- (3) **TIMING OF COMPLIANCE:** At the time any structure or use is erected or enlarged, or the use of any parcel or structure is changed, all required off-street parking spaces and loading areas provided in conjunction with an existing use shall not be reduced below the minimum requirements of this Ordinance.
- (4) **PARKING FOR MULTIPLE USES:** In the event several uses occupy a single structure or parcel of land, the total parking requirements shall be the sum of the requirements of the several uses computed separately. Joint use of the same parking and loading spaces by more than one use may be permitted, provided that the hours of operation of the separate uses do not overlap, and that satisfactory legal evidence is presented to the Department to establish the joint uses.
- (5) **USE OF REQUIRED PARKING AREAS:** Parking areas required by this Section are designated for the operable vehicles of residents and their guests, and the owner, customer, patrons, and employees of commercial or industrial activities only. Vehicle or material storage, or the parking of vehicles used to conduct an activity, shall require additional parking areas.
- (6) **DRAINAGE:** Areas used for standing and maneuvering of vehicles shall have a surface that is suitable for all-weather use, and shall be drained so as to avoid the flow of water across public sidewalks and streets.
- (7) **BUFFERING NON-RESIDENTIAL PARKING AREAS:** Non-residential parking and loading areas adjacent to a residential use shall be enclosed along the residential use by a sight-obscuring fence that is from five to six feet in height, except where vision clearance is required.
- (8) **CURBING:** Parking spaces along the boundaries of a lot shall be contained by a curb or bumper rail that is at least four inches high and is set back at least four and one-half feet from the property line.
- (9) **LIGHTING:** Artificial lighting shall not create or reflect substantial glare into any adjacent residential zone or use.
- (10) **PROXIMITY TO TRAFFIC:** Parking areas for four or more vehicles shall be of sufficient

size to allow the backing and maneuvering of vehicles entirely out of the flow of traffic.

- (11) **SCHOOL DRIVEWAY:** A one-way driveway for loading and unloading children shall be located on the site of any school having a capacity of more than 25 students.
- (12) **OFF-STREET LOADING AREAS:** Activities that receive or distribute materials or merchandise by truck shall install and utilize loading docks in sufficient numbers and size to accommodate loading requirements without the disruption of nearby traffic. Parking areas required by this Ordinance may only be used for loading operations during periods of the day when not required for patron or customer parking.
- (13) **PARKING SPACE REQUIREMENTS:** Requirements for types of building and uses not specifically listed herein shall be determined by the Department, based upon the requirements for comparable uses either listed below or active elsewhere in the county.
 - (a) **RESIDENTIAL:** Two spaces for the first dwelling unit, and one space for each additional dwelling unit.
 - (b) **BOARDING, LODGING, OR ROOMING HOUSE:** One space for each guest accommodation.
 - (c) **MOTEL, HOTEL OR GROUP COTTAGES:** One space for every unit.
 - (d) **HOSPITAL, NURSING HOME OR SIMILAR INSTITUTION:** One space for every three beds.
 - (e) **CHURCH, CLUB, OR SIMILAR PLACE OF ASSEMBLY:** One space for every six seats, or one space for every 50 square feet of floor area used for assembly.
 - (f) **LIBRARY:** One space for every 300 square feet of floor area.
 - (g) **DANCE HALL OR SKATING RINK:** One space for every 100 square feet of floor area.
 - (h) **BOWLING ALLEY:** Five spaces for each lane.
 - (i) **EATING AND DRINKING ESTABLISHMENT:** One space for every 150 square feet of floor area.
 - (j) **SERVICE OR REPAIR SHOP, RETAIL STORE HANDLING BULKY MERCHANDISE SUCH AS AUTOMOBILES AND FURNITURE:** One space for each 600 square feet of floor area.
 - (k) **BANK, OFFICE:** One space for each 500 square feet of floor area.

(l) RETAIL STORES OR MEDICAL OR DENTAL CLINIC: One space for each 200 square feet of floor area.

(m) WAREHOUSE, STORAGE AND WHOLESALE BUSINESS: One space for each 2,000 square feet of floor or storage area.

(n) MANUFACTURING ESTABLISHMENT: One space for each 1,000 square feet of floor area.

SECTION 4.040: MOBILE HOME, MANUFACTURED HOME AND RECREATIONAL VEHICLE SITING CRITERIA

Each mobile home, manufactured home and recreational vehicle located within the County shall comply with all County and state installation and placement requirements and the following additional requirements, except when used during the construction of a permitted use as detailed in the applicable zone, when only Section 4.040 (9) of the following requirements shall apply in addition to placement permit requirements.

- (1) An application for mobile home, manufactured home or recreational vehicle placement shall be obtained from, and approved by, the Department prior to the placement of a mobile home, manufactured home or recreational vehicle on any lot within the County's jurisdiction. Plans showing the proposed location of the unit shall accompany the application. No permit shall be considered approved until compliance with all applicable sanitation, building, planning, and public works requirements can be demonstrated, and such demonstration is acknowledged by the signatures of appropriate County officials. A new application must be obtained and approved if a new or different mobile home, manufactured home or recreational vehicle is placed, or if placement has not taken place within ~~12~~ 6 (six) months following approval of the most recent application.
- (2) Building permits are required for construction of a foundation or any site-constructed buildings or structures, if one is required by the Uniform Building Code as adopted by the County.
- (3) The area of a mobile home, manufactured home or recreational vehicle shall be determined by measurement of the exterior dimensions of the unit, exclusive of any trailer hitch device.
- (4) A mobile home or manufactured home shall be anchored with required tie-downs.
- (5) A mobile home or manufactured home shall have a continuous skirting of non-decaying material within ninety (90) days of placement.
- (6) A storage building of at least sixty-four (64) square feet that is structurally compatible with the mobile home, manufactured home or recreational vehicle shall be constructed within ninety days following placement of the unit.
- (7) Off-street parking sufficient for two automobiles shall be provided for each mobile home, manufactured home or recreational vehicle installation. Construction of the off-street parking facilities shall be completed within ninety days following placement of the unit upon the site in compliance with Section 4.030.
- (8) Additions or alterations may be attached to a mobile or manufactured home, provided that such additions are structurally compatible with the mobile and manufactured home,

and
comply with other requirements of this Ordinance, the Uniform Building Code, and State regulations.

- (9) Temporary mobile home, manufactured home or recreational vehicle used in conjunction with a building or permanent placement permit shall meet the following criteria:
 - (a) Continuous construction shall take place as evidenced by construction activity during each consecutive six-month period.
 - (b) Tie-downs shall be utilized according to State standards.
 - (c) Required set-backs shall be maintained.
 - (d) A mobile or manufactured home shall be removed within thirty days after the date the building permit is void, closed out, or finalized by the County Building Official.
 - (e) A recreational vehicle shall be immediately unhooked from utilities and stored on the lot so as to maintain required set-backs, or shall be removed within thirty days after the date that either the building permit is void, closed out, or finalized by the County Building Official, or the permanent placement permit is issued or denied.
 - (f) Failure to meet any of the criteria in (a) through (e) above shall automatically void the temporary placement permit.
- (10) The Director has the authority to waive the requirements in Subsections (5) and (6) above, upon application by the owner showing just cause for said waiver.

SECTION 4.050: MOBILE AND MANUFACTURED HOME PARK STANDARDS

PURPOSE:

The purpose of the MOBILE AND MANUFACTURED HOME PARK standards is to insure that each new or enlarged park provides necessary facilities, adequate lot area, set-backs, and other needed requirements for the public safety, health and general welfare.

A MOBILE AND MANUFACTURED HOME PARK is a place where four or more mobile homes/manufactured homes or mobile homes/manufactured homes and recreational vehicles mixed, are located on one or more contiguous lots, tracts, or parcels of land under a single ownership, the purpose of which is to provide permanent residential spaces for charge of fee paid for the use of facilities, or to offer space free of charge in connection with securing the trade, patronage or services of the occupant.

The standards contained in this Section are minimum standards. Additional standards may be required where necessary to meet other requirements of this Ordinance, i.e. Flood Plain, Geologic Hazard Zone, Riparian Vegetation.

A MOBILE AND MANUFACTURED HOME PARK shall be built to State standards and shall comply with the following provisions:

- (1) A MOBILE AND MANUFACTURED HOME PARK shall have:
 - (A) A minimum lot size of 1 acre, or the minimum lot size of the zone, whichever is greater,
 - (B) A minimum number of 4 spaces.
- (2) Each park space shall have:
 - (A) A minimum length of 40 feet,
 - (B) A minimum width of 30 feet,
 - (C) A maximum coverage of 75%,
 - (D) Clearly-defined boundaries marked by a fence, planting, or other suitable means,
 - (E) Electricity, potable water, and an approved means of sewage disposal.
- (3) Mobile and manufactured homes, and Recreational Vehicles within the park shall have the following setbacks:

- (A) A minimum distance of 20 feet from public streets right-of-way,
 - (B) A minimum distance of 10 feet from all non-street property lines.
- (4) Accessory building or structure, including community and service buildings, carports, cabanas, and ramadas, but excluding signs and fences, shall be at least 20 feet from public street rights-of-way.
 - (5) Streets within mobile and manufactured home parks shall have:
 - (A) A minimum width of 20 feet if parking is prohibited and 30 feet if parking is permitted on one side,
 - (B) Well-drained, durable and dustless surfaces improved to minimum public road standards, or other approved surface and maintained in good condition.
 - (6) Walkways not less than three (3) feet wide and illumination of not less than one foot candles may be required to provide pedestrian access from mobile and manufactured home spaces to community and service buildings. All walkways shall be well drained and have durable and dustless surfaces.
 - (7) Screening consisting of sight-obscuring fence and/or buffer strip of vegetation may be required along all property lines. b
 - (8) Trash receptacle shall be provided in convenient locations for the use of the tenants within the park, and shall be located in such number and be of such capacity that there is no uncovered accumulation of trash at any time.
 - (9) A mobile or manufactured home permitted in the park shall meet the standards as stipulated in Section 4.040 of this Ordinance. All recreational vehicles shall be tied down.
 - (10) If the park provides spaces for 50 or more mobile or manufactured home units, each vehicular way in the park shall be named and marked with signs which are similar in appearance to those used to identify public streets. A map of the named vehicular ways shall be provided to the departments of emergency services for distribution to all affected emergency agencies. One shall be filed with the Department of Community Development.
 - (11) An on-site storage area, for park residents only, may be allowed. If allowed, the storage area shall be screened with a 6 foot high sight obscuring fence or hedge, or combination of landscaping and fence to 6 foot high along all exterior property lines.
 - (12) The standards contained in this Section are minimum standards. Different standards may be required where necessary to meet other requirements of this Ordinance. b

- (13) Preliminary plans which contain all the information specified in OAR 814-050 shall be submitted to the Planning Department when requesting Conditional Use, or permit approval.
- (14) Approval of a MOBILE AND MANUFACTURED HOME PARK shall not be construed to be an approval of the building plans for building permit review purposes. All proposed building construction is subject to alteration to meet Uniform Building Code requirements as part of building permit review.
- (15) All MOBILE AND MANUFACTURED HOME PARKS, which legally existed prior to the date of this Ordinance, and which have submitted complete Master Plans to the Department for review, shall be considered an "existing use" if:
 - (A) The park is in compliance with all State regulations and County sanitation regulations; and
 - (B) Master Plans and review fees are submitted to the Department no later than December 31, 1986; and
 - (C) The Department issues a letter to the park owner indicating that the park meets the above two criteria.

If it is determined by the Department that the park DOES meet the first two criteria the Department shall submit the letter, mentioned in (C) above, to the park owner. At that time, only that portion of the park identified in the Master Plan, will then be considered an "existing use".

Only those parks who retain the confirmation letter will be considered an "existing use". In the future, if one of the "existing use" parks enlarge or expand, only the new portion of the park will be required to meet the County standards.

The "existing use" parks are to be allowed to remain as they are represented within the accepted Master Plan on only that portion of the property designated. If the use is vacated for over one year the "existing use" designation shall be void, and any new use of the property shall conform to the requirements of this Ordinance.

The "existing use" may be sold or transferred to new owners. The new owners will maintain the rights as the previous owners.

SECTION 4.060: RECREATIONAL CAMPGROUND STANDARDS

PURPOSE:

The purpose of the RECREATIONAL CAMPGROUND STANDARDS is to insure that each new or enlarged RECREATIONAL CAMPGROUND provides necessary facilities, adequate lot area, set-back, and other needed requirements for the public safety, health, and general welfare.

A RECREATIONAL CAMPGROUND is a place where four or more recreational vehicles and/or tents are located on one or more continuous lots, tracts, or parcels of land under a single ownership for temporary recreational camping. A permanent house, mobile home, manufactured home, or recreational vehicle for the owner, operator, or manager of the campground is allowed, however other Sections of the Ordinance pertaining to such use shall apply, including Section 4.040, etc. Accessory uses that may be permitted include recreational cabins, showers, laundry, a grocery, a gas pump, and recreation facilities that are designated for the primary purpose of serving the occupants of the campground. A camper as defined in Article I, shall not be allowed to stay any longer than six (6) months in any twelve (12) month period.

The standards contained in this Section are minimum standards. Additional standards may be required where necessary to meet other requirements of this Ordinance, i.e. Floodplain, Geologic Hazard zone, Riparian Vegetation.

A RECREATIONAL CAMPGROUND shall be built to State standards and shall comply with the following provisions:

(A) A RECREATIONAL CAMPGROUND shall have:

- (1) A minimum size of 1 acre or the minimum lot size of the zone, whichever is greater;
- (2) A minimum number of 4 sites;
- (3) A minimum width of space 23 feet or state minimum which ever is greater,for each site;
- (4) Lot depths may vary in size, however maximum unit lengths shall be designated for each proposed space, and each space shall include enough area for the required set-backs along with the maximum unit length;
- (5) A minimum distance between actual unit location and interior road right-of-way of 10 feet. Each campsite will have direct access to interior road right-of-way;
- (6) And all property lines not abutting an exterior roadway shall be 10 feet. A minimum distance between actual unit and an exterior roadway shall be 20 feet;
- (7) A minimum distance between actual units of 15 feet;

- (8) Minimum distance between actual unit and community or service buildings of 10 feet;
- (9) Campground roads shall have a surface width of at least 16 feet with 2 foot shoulders on each side. All interior park roads shall be surfaced to minimum County road standards and well-drained. No on-street parking shall be allowed;
- (10) Walkways not less than three (3) feet wide may be required to be provided from trailer spaces to community and service buildings. All access roads and walkways should be well lighted;
- (11) All areas not used for spaces, motor vehicle parking, traffic circulation, or service or community buildings shall be completely and permanently landscaped or maintain existing natural vegetation. The landscaping shall be maintained in good condition;
- (12) A sight-obscuring fence and/or buffer strip of vegetation may be required on every side of a RECREATIONAL CAMPGROUND;.
- (13) Trash cans shall be provided in convenient locations for the use of guests of the park, and shall be located in such number, and shall be of such capacity, that there is no uncovered accumulation of trash at any time;
- (14) All Recreational Vehicles staying in the park shall be assigned to a space. No space shall have more than one (1) Recreational Vehicle or tent assigned to it, except as provided in State law;
- (15) Approval of a recreational campground shall not be construed to be an approval of the building plans for building permit review purposes. All proposed building construction must meet Uniform Building Code requirements as part of building permit review;
- (16) On-site storage areas, for park residents only, may be allowed. If allowed, the storage area shall be screened or combined landscape and screening with a 6 foot high sight obscuring fence or hedge along all exterior property lines of the storage area;
- (17) Preliminary plans which contain all the information specified in OAR 333-31-059 shall be submitted to the Planning Department when requesting Conditional Use approval.
- (18) All RECREATIONAL CAMPGROUNDS, which legally existed prior to the date of this Ordinance, and which have submitted complete Master Plans to the department for review, shall be considered an "existing use" if:

- (a) The RECREATIONAL CAMPGROUND is in compliance with all State regulations and County Sanitation regulations; and
- (b) Master Plans and review fees are submitted to the department no later than December 31, 1986; and
- (c) The department issues a letter to the RECREATIONAL CAMPGROUND owner indicating that the campground meets the above two criteria.

If it is determined by the department that the RECREATIONAL CAMPGROUND does meet the first two criteria, the department shall submit the letter, mentioned in (c) above, to the campground owner. At that time, only that portion of the campground identified in the Master Plan, will then be considered an "existing use".

Only those campgrounds who retain the confirmation letter will be considered an "existing use". In the future, if one of the "existing use" campgrounds enlarge or expand, only that new portion of the campground will be required to meet the County standards.

The "existing use" RECREATIONAL CAMPGROUNDS are to be allowed to remain as they are represented within the accepted Master Plan on only that portion of the property designated. If the use is vacated for over one year the "existing use" designation shall be void, and any new use of the property shall conform to the requirements of this Ordinance.

The "existing use" may be sold or transferred to new owners. The new owners will maintain the same rights as the previous owners.

- (19) The accessory commercial uses such as gas pump, laundry, grocery store and recreational facilities shall not exceed the requirements of Rural Commercial, Section 3.020.
- (20) New full hook-up parks requiring a community septic/sewer system are permitted only within adopted community growth boundaries.

SECTION 4.065: PRIMITIVE CAMPGROUND STANDARDS

PURPOSE

The purpose of the PRIMITIVE CAMPGROUND STANDARDS is to insure that each new or enlarged campground provides the necessary facilities, sites, amenities, and other requirements in the interest of preserving the public safety, health, and general welfare, and that such developments provide a quality camping opportunity for visitors to the County.

A PRIMITIVE CAMPGROUND is a designated place where four or more campsites are located for occupancy by camping units on a temporary basis for recreation, education or vacation purposes.

A PRIMITIVE CAMPGROUND is predominantly an unattended facility which is established to accommodate recreational vehicles, tents, or bicycle uses for a period of time not to exceed two weeks in any given four week period.

The standards contained in this Section are minimum standards. Additional standards may be required where necessary to meet other requirements of this Ordinance, i.e. Flood Plain, Geologic Hazard zone, riparian vegetation.

A campground shall be built to State standards and shall comply with the following provisions:

1. The total area utilized for campsites and access shall not exceed 60% of the total area of the campground.
2. Each space shall be a minimum of 1,200 square feet.
3. Each campsite shall be provided with a fire pit or ring.
4. Tables shall be provided at all campsites.
5. Natural vegetation or landscaping surrounding campsites shall remain intact.
6. Trash cans may be provided in convenient locations for the use of guests of the park, may be located in such number, and may be of such capacity that there is no uncovered accumulation of trash at any time.
7. A house, mobile home or manufactured home may be located within the campground for the owner, manager or caretaker of the campground.
8. Other camp-related buildings may be permitted, if approved through the Conditional Use process.
9. No recreational vehicle, tent, or other building or structure shall be within 20 feet of

any property line.

10. Access and interior roadways must be approved by the County Public Works Department.
11. The campground may be adequately screened with vegetation and/or natural features around its exterior boundary lines.
12. Preliminary plans which contain all the information specified in OAR 333-31-059 shall be submitted to the Planning Department when requesting Conditional Use or permit approval.
13. All PRIMITIVE CAMPGROUNDS, which legally existed prior to the date of this Ordinance, and which have submitted complete Master Plans to the Department for review, shall be considered an "existing use" if:
 - A. The PRIMITIVE CAMPGROUND is in compliance with all State regulations and County Sanitation regulations; and
 - B. Master Plans and review fees are submitted to the department no later than December 31, 1986; and
 - C. The department issues a letter to the PRIMITIVE CAMPGROUND owner indicating that the campground meets the above two criteria.

If it is determined by the department that the PRIMITIVE CAMPGROUND does meet the first two criteria, the department shall submit the letter, mentioned in (C) above, to the campground owner. At that time, only that portion of the campground identified in the Master Plan, will then be considered an "existing use".

Only those campgrounds who retain the confirmation letter will be considered an "existing use". In the future, if one of the "existing use" campgrounds enlarge or expand, only that new portion of the campground will be required to meet the County standards.

The "existing use" PRIMITIVE CAMPGROUNDS are to be allowed to remain as they are represented within the accepted Master Plan on only that portion of the property designated. If the use is vacated for over one year the "existing use" designation shall be void, and any new use of the property shall conform to the requirements of this Ordinance.

The "existing use" may be sold or transferred to new owners. The new owners will maintain the same rights as the previous owners.

SECTION 4.070: DEVELOPMENT REQUIREMENTS FOR GEOLOGIC HAZARD AREAS

- (1) The following are GEOLOGIC HAZARD AREAS to which the standards of this Section apply:
 - (a) Active landslides identified in Oregon Department of Geology and Mineral Industries (DOGMI) Bulletins 74 and 79;
 - (b) Inactive landslides, landslide topography and mass movement topography identified in DOGMI bulletins 74 and 79 where slopes are greater than 19 percent;
 - (c) Areas prone to mudflows identified in DOGMI Bulletin 79;
 - (d) Brallier Peat soils identified in Soil Survey, Tillamook Area, Oregon (USDA, Soil Conservation Service, 1964) and the unpublished Soil Conservation Service soils survey for coastal Tillamook County;
 - (e) Ocean front lots on bluffs in areas where erosion and sliding are identified as problems in the Goal 18 element of the Comprehensive Plan;
 - (f) Other locally known areas of GEOLOGIC HAZARD based on evidence of past occurrences.
 - (g) As required for development.
- (2) All development within GEOLOGIC HAZARD areas shall comply with the following standards:
 - (a) Vegetation removal shall be the minimum necessary to accommodate the use.
 - (b) Temporary measures shall be taken to control runoff and erosion of soils during construction. Such measures include temporary stabilization (mulching or sodding) sediment basins or other performance equivalent structures required by the Planning Department.
 - (c) Exposed areas shall be planted in permanent cover as soon as possible after construction.
 - (d) Storm water shall be directed into drainages with adequate capacity so as not to flood adjacent or downstream properties. Finished grades should preferably be designed to direct water flows along natural drainage courses.
 - (e) Additional requirements contained in a Geologic report required by this Section shall be followed.

- (3) A GEOLOGIC HAZARD report is required prior to approval of planned developments, coast resorts, subdivisions and partitions governed by the Land Division Ordinance, building permits, mobile home permits, sand mining, occurring in areas identified in (1) with the following exception:
 - (a) For building or mobile home or manufactured home permits in areas identified in (1) (b), reports are needed for lots 20,000 square feet or larger only where the proposed structure is to be situated on slopes greater than 29 percent or if (1) (f) applies.
- (4) A report prepared for a subdivision, planned development or partition pursuant to the requirements of this Section, may be used to satisfy these requirements for subsequent building, mobile home or manufactured home permits providing that the original report provided recommendations on building placement and construction and that these recommendations are followed.
- (5) The GEOLOGIC HAZARD report shall be prepared, stamped and signed by both an Oregon Registered Geologist and a qualified Oregon Registered Engineer or by an Oregon Certified Engineering Geologist. Structural recommendations shall be prepared, stamped and signed by an Oregon Registered Engineer trained and proficient in preparing structural calculations and diagrams. The Planning Director or his designee shall determine the boundary limits of the study area. The GEOLOGIC HAZARD report shall be prepared and submitted on forms deemed acceptable by the County and shall include plan and sectional diagrams of the area showing property boundaries and the geographic information required by (6) below.
- (6) The GEOLOGIC HAZARD analysis shall include the following:
 - (a) In landslide areas [(1) (a) and (1) (b)];
 - (1) Soils and bedrock types,
 - (2) Slope,
 - (3) Orientation of bedding planes in relation to the dip of the surface slope,
 - (4) Soil depth,
 - (5) Other relevant soils engineering data,
 - (6) Water drainage patterns, and
 - (7) Identification of visible landslide activity in the immediate area.

- (b) In areas prone to mudflow [(1) (c)];
 - (1) History of mud or debris flow, and
 - (2) Areas likely to be affected by future mudflow.
- (c) In Brallier peat soils [(1) (d)];
 - (1) Boring log,
 - (2) Bearing capacity, and
 - (3) Drainage patterns.
- (d) Ocean front bluffs subject to coastal erosion and sliding [(1) (e)];
 - (1) Information required by (6) (a) above, and
 - (2) History of coastal erosion in the area.
- (7) The GEOLOGIC HAZARDS report shall recommend development standards that will protect development on the property and surrounding properties. These should include standards for:
 - (a) Development density (when more than one use is possible),
 - (b) Locations for structures and roads,
 - (c) Land grading practices, including standards for cuts and fills,
 - (d) Vegetation removal and re-vegetation practices,
 - (e) Foundation design (if special design is necessary),
 - (f) Road design (if applicable), and
 - (g) Management of storm water runoff during and after construction.

- (8) The GEOLOGIC HAZARD report shall include the following summary findings and conclusions:
- (a) The type of use proposed and the adverse effects it might have on adjacent areas;
 - (b) Hazards to life, public and private property, and the natural environment which may be caused by the proposed use;
 - (c) Methods for protecting the surrounding area from any adverse effects of the development;
 - (d) Temporary and permanent stabilization programs and the planned maintenance of new and existing vegetation;
 - (e) The proposed development is adequately protected from any reasonably foreseeable hazards including but not limited to GEOLOGIC HAZARDS, wind erosion, undercutting, ocean flooding and storm waves; and
 - (f) The proposed development is designed to minimize adverse environmental effects.

SECTION 4.080: REQUIREMENTS FOR PROTECTION OF WATER QUALITY AND STREAMBANK STABILIZATION

- (1) The following areas of riparian vegetation are defined:
 - (a) Fifty (50) feet from lakes and reservoirs of one acre or more, estuaries, and the main stems of the following rivers where the river channel is more than 15 feet in width; Nestucca, Little Nestucca, Three Rivers, Tillamook, Trask, Wilson, Kilchis, Miami, Nehalem and North and South Fork Nehalem River.
 - (b) Twenty-five (25) feet from all other rivers and streams where the river or stream channel is greater than 15 feet in width.
 - (c) Fifteen (15) feet from all perennial rivers and streams where the river or stream channel is 15 feet in width or less.

For estuaries, all measurements are horizontal and perpendicular from the mean high water line or the line of non-aquatic vegetation, which ever is most landward. Setbacks for rivers, streams, and coastal lakes shall be measured horizontal and perpendicular from the ordinary high water line.

- (2) All development shall be located outside of areas listed in (1) above, unless:
 - (a) For a bridge crossing; or
 - (b) Direct water access is required in conjunction with a waterdependent use; or
 - (c) Because of natural features such as topography, a narrower riparian area protects equivalent habitat values; or
 - (d) A minimal amount of riparian vegetation is present and dense development in the general vicinity significantly degrades riparian habitat values.

Setbacks may be reduced under the provisions of (c) and (d) above only if the threat of erosion will not increase and a minimum 20 foot setback is maintained. Determinations of habitat values will be made by the Oregon Department of Fish and Wildlife.

- (3) Exemptions from (2) above and from the applicable setback requirement for the front or rear yard that is opposite the riparian area may be granted without a variance for uses on:
 - (a) Lots located in areas identified in the Comprehensive Plan's Goal 2 exception element as "built and committed" and which existed as of the date of adoption of this Ordinance, and single family residential "lots of record" as defined and used in

Chapter 884 Oregon Laws 1981 as amended, with a depth measured according to (1) above that is;

- (1) Less than 95 feet in places where the area of riparian vegetation is 50 feet wide; or
 - (2) Less than 70 feet in places where the area of riparian vegetation is 25 feet wide.
- (b) Other lots in identified “built and committed” areas and other “lots of record” where the combination of setbacks required by this section result in a buildable lot depth of less than 45 feet.

Exemptions from the riparian setback shall be the minimum necessary to accommodate the proposed use after the yard opposite the riparian area has been reduced to a width of no less than ten feet.

- (4) All trees and at least 50 percent of the understory vegetation shall be retained within areas listed in (1) above, with the following exceptions:
- (a) Removal of trees that pose an erosion or safety hazard to existing uses allowed by the underlying zone.
 - (b) The mowing, planting, or maintenance of existing lawn and pasture, including the control of noxious weeds.
 - (c) Vegetation removal necessary in conjunction with an approved in-water project or to provide direct access for a water-dependent use.
 - (d) Structural shoreland stabilization subject to the shoreline stabilization standards in Section 3.140.
 - (e) Vegetation removal for new bridge construction or routine repair, operation, or maintenance of bridges and highways.
 - (f) Vegetation removal necessary for maintenance of clear vision areas and the removal of roadside hazards.
 - (g) Vegetation removal necessary for construction of a minor highway improvement within an existing right-of-way.

Forest operations for which notification is required by ORS 527.670 (2) shall be governed by the Oregon Forest Practices Act.

SECTION 4.100: DEMOLITIONS OR ALTERATIONS OF HISTORIC STRUCTURES

- (1) Demolitions of HISTORIC STRUCTURES identified in the Comprehensive Plan inventory of HISTORIC BUILDINGS:
 - (a) The Planning Department shall hold applications for demolition for 45 days before issuing the permit.
 - (b) During the 45 day period, the Planning Department shall take the following action: Notify the State Historic Preservation Office and the Pioneer Museum of the proposed demolition; advertise in a newspaper of general circulation the nature of the request and the historical values that would be lost; inform the applicant of the historic character of the building and the incentive associated with historic preservation.
 - (c) If after 45 days the Planning Department finds that there is no reasonable possibility for protecting the building, the demolition permit shall be issued.
- (2) Alterations of the following buildings identified in the Comprehensive Plan as having significant historic and architectural merit: Isom/Fox Cottage, Povey Cottage, Wentz Cottage, Doyle Cottage, Churchill Cottage, Tillamook Naval Air Station Blimp Hangers.
 - (a) Exterior alterations (except painting), additions, and construction of auxiliary buildings shall be reviewed by the Planning Department and the Curator of the Pioneer Museum.
 - (b) Alterations shall be approved if proposed exterior materials and details are consistent with the building's historical character and maintenance of the building's predominant architectural features.

SECTION 4.110: PROTECTION OF ARCHAEOLOGICAL SITES

- (1) The Planning Department shall review building permits and other land use actions that may affect known ARCHAEOLOGICAL SITES. If it is determined that the proposed action may affect the integrity of an ARCHAEOLOGICAL SITE, the Planning Director shall consult with the State Historic Preservation Office on appropriate measures to preserve or protect the site and its contents. No permit shall be issued until either the State Historic Preservation Office determines that the proposed activity will not adversely affect the ARCHAEOLOGICAL SITE, or the State Historic Preservation Office has developed a program for the preservation or excavation of the site.

- (2) Indian cairns, graves and other significant archaeological resources uncovered during construction or excavation shall be preserved intact until a plan for their excavation or reinterment has been developed by the State.

SECTION 4.130: MIXED USE DEVELOPMENT (MUD)

1. **PURPOSE:** The purpose of a MIXED USE DEVELOPMENT is to allow greater freedom, diversity and cohesiveness in the planning and integrated development of relatively large tracts of land for a range of uses which could not effectively be accommodated under the provisions of this Ordinance. The use of these provisions is dependent upon three conditions:

- a. That a specific development proposal cannot effectively be reviewed under the provisions of the zone within which it is proposed;
- b. That the individual proposed uses are not incompatible with the established surrounding land uses; and
- c. That the proposal involves at least three different types of land use within a single site plan. For the purposes of a MIXED USE DEVELOPMENT review, a "type of land use" is one which differs in nature or character from other uses contained within a single development proposal.

2. **APPLICABILITY:** These provisions cannot be utilized without the submission of an acceptable plan, with satisfactory assurance that it can be carried out, and a preliminary determination by the Department that the three conditions listed in (1) above have been met. A MUD is considered a Conditional Use in the RR, CSFR, CR-1, CR-2, CR-3, RC, CC and RI and unincorporated community zones where permitted. However, in the RR zone, only parcels within a Community Growth Boundary will be considered for a MUD proposal. Additional RR zoned properties may be designated for a MUD through a Plan Amendment according to the provisions of Article IX of this Ordinance. All permitted uses listed in the RR, CSFR, CR-1, CR-2, CR-3 and RC and unincorporated community zones are permitted in a MUD in any of these zones. All permitted uses in the CC and RI zones, as well as those in the RR, CSFR, CR-1, CR-2, CR-3 and RC and unincorporated community zones where permitted are permitted in a MUD in the CC and RI zones.

3. **STANDARDS:** Standards pertaining to lot size, density, off-street parking, yards, building heights, or other aspects of development shall be governed by the standards of the underlying zone or zones in which the MUD is proposed. The requirements of all applicable overlay zones must be met by the proposed development. Where Variances from applicable standards are required, they shall be considered under the provisions of Article VIII at the time of Planning Commission review. Where applicable standards conflict, the more restrictive shall apply. Preliminary review of proposals involving the division of land shall take place, at the time of Planning Commission review, under the provisions of the Tillamook County Land Division Ordinance.

All standards for use, as identified for RC, CC, RI, and CI shall apply where appropriate.

4. MIXED USE DEVELOPMENT PROCEDURES AND CRITERIA: The following procedures and criteria shall govern a request to review and approve a MUD proposal:
- a. The applicant shall arrange a pre-application meeting with the Department so as to determine the standards, requirements, and procedures governing a MUD request, and to inform the Department of the nature of the proposed development.
 - b. The applicant shall submit a complete preliminary development plan to the Department for review, along with six (6) copies of a report summarizing the proposal. The plan shall include the following information:
 1. A map showing the entire parcel, the proposed land uses and building locations, and the vehicular and pedestrian circulation patterns. Such a map shall be of such detail to indicate that all applicable Ordinance standards and requirements can be met.
 2. A topographic map rendered in the same scale as the map in (1) above.
 3. Housing unit densities for areas of residential development.
 4. Proposed uses and ownership and maintenance arrangements for all areas to be left in open space, and the ownership status of all streets.
 5. Proposed property lines upon the completion of the project.
 6. A preliminary grading and drainage plan.
 7. The method of water supply and sewage disposal.
 8. An outline of proposed deed restrictions, if any.
 9. A discussion of the economic justification for proposed land uses which are in conflict with the zoning on the parcel, and the relations of such uses to all other uses proposed within the MUD.
 10. The proposed time frame for completion of the entire development.
 11. A Geologic Hazard report where required by the Land Use Ordinance.
 12. A map indicating flood hazard areas if required by this Ordinance.
 13. Filing and review fees, which shall be established by order of the Board of County Commissioners, and which shall be non-refundable despite Planning Commission action. Such fees shall not be applied to any concurrent application.

- c. The Planning Department shall distribute the preliminary plan, for review and comment, to those agencies and departments which it deems necessary to determine the feasibility and adequacy of the plan. Such agencies and departments shall be given at least 21 days for review.
- d. Following the preliminary review as described above, the Department shall notify the applicant of changes which have been suggested or would be required by the agencies and departments reviewing the plan.
- e. After the Department's notification of what changes are considered necessary in order to meet the purposes of all applicable Ordinances and to protect the rights of property owners surrounding the proposed development, the developer shall submit, for Planning Commission review, a final proposal of the project. Planning Commission review will not take place until the complete plan is submitted.
- f. The Commission shall apply the following criteria in the consideration of all MUD requests:
 - 1. The proposed plan is internally cohesive and is consistent with Comprehensive Plan Policies for the vicinity.
 - 2. There are special development objectives that the project will satisfy which warrant review under these provisions.
 - 3. The parcel is suitable for the proposed use, considering its size, shape, location, topography, existence of improvements, and natural features.
 - 4. Proposed uses which are not otherwise permitted by the zoning on the parcel are accessory uses within the entire development.
 - 5. The proposed use will not have a substantial impact upon adjacent uses, nor will it alter the character of the surrounding area in a manner which substantially limits, impairs, or prevents the use of surrounding properties for permitted uses listed in the underlying zone.
 - 6. The proposed use is timely, considering the adequacy of public facilities and services existing or planned for the area affected by the use.
- 5. In approving a MUD proposal, the Planning Commission may impose whatever conditions are necessary in order to ensure that the purposes of this Ordinance are met.
- 6. The approved site plan for a MIXED USE DEVELOPMENT cannot be substantially amended or altered unless approved by the Planning Commission under the provisions of Article VI of this Ordinance. Determination of the substance of such changes or amendments shall be the responsibility of the Planning Director.

SECTION 4.140: HOME OCCUPATION PERFORMANCE STANDARDS

- (1) **PURPOSE:** To provide for occupational activities in residences or their accessory structure, as provided by ORS 215.448, while assuring compatibility with existing and permitted uses within the area affected by the home occupation.
- (2) **APPLICABILITY:** HOME OCCUPATIONS are allowed outright or conditionally, depending upon the intensity of the use and the zone within which they are located. In the F-1, F and SFW-20 zones, a HOME OCCUPATION includes a "Foster Family Home" and a "Bed and Breakfast Enterprise".
- (3) **STANDARDS:**
 - (A) All HOME OCCUPATIONS shall meet the following standards or conditions in addition to other applicable ordinance requirements:
 - (1) The HOME OCCUPATION is operated by the resident of the property upon which the activity is located, within the residence or accessory structures.
 - (2) The HOME OCCUPATION will employ no more than five full- or part-time persons.
 - (3) The HOME OCCUPATION will not interfere with existing uses on nearby land or with other uses permitted in the zone in which the property is located.
 - (4) Where HOME OCCUPATIONS are allowed conditionally, conditions of approval shall limit retail sales, signs, traffic, noise, obnoxious odors, hazardous activities, and other identifiable adverse off-site impacts.
 - (5) The existence of a HOME OCCUPATION shall not be used as justification for a zone change.
 - (B) HOME OCCUPATIONS permitted outright shall meet the following additional standards or requirements:
 - (1) Those employed in the HOME OCCUPATION must be members of the family residing on the premises.
 - (2) There shall be no activities that give the outward appearance or manifest the characteristics of a retail business, such as signs other than those permitted under Section 4.020, advertising of the dwelling as a business location, more than six customers daily entering the business premises, more than two customer vehicles at a time, noise that adversely affects neighbors, obnoxious odors, hazardous activities, or other adverse off-site impacts.

- (3) Complaints from neighbors may be cause for requiring a Conditional Use review of the activity.
- (4) REVIEW: The Director shall review all Conditional Use Permits approving HOME OCCUPATIONS every 12 months following the date of approval, and may allow the use to continue if the HOME OCCUPATION continues to comply with Ordinance requirements.

ARTICLE V

PROPERTY USE REQUIREMENTS AND EXCEPTIONS

SECTION 5.010: ZONE BOUNDARIES

If a ZONE BOUNDARY divides a lot between two zones, the entire lot shall be deemed to be in the zone in which the greater area of the lot lies, provided that the distance from the ZONE BOUNDARY to the property boundary does not exceed 20 feet.

SECTION 5.020: AUTHORIZATION OF SIMILAR USES

The Director may permit a use not listed in a particular zone, provided that it is of the same general character, or has similar impacts on nearby properties, as do other uses permitted in the zone.

SECTION 5.030: MAINTENANCE OF MINIMUM ORDINANCE REQUIREMENTS

No lot or parcel area, dimension, required setback or yard, or off-street parking or loading area that exists on or is created after the effective date of this Ordinance shall be reduced below the applicable standards required by this Ordinance.

SECTION 5.040: GENERAL PROVISIONS REGARDING ACCESSORY USES

- (1) An ACCESSORY USE shall comply with all requirements for a principal use, except as this Ordinance specifically allows to the contrary, and shall comply with the following limitations:
 - (a) A guest house may be maintained as a dwelling, provided it contains no cooking facilities.
 - (b) An ACCESSORY STRUCTURE that is separate from the main building may be located in the required rear and side yard, except in the required street side yard of a corner lot, provided that it is at no point located closer than three feet to a property line.
 - (c) Storage of recreation vehicles, boats, and utility trailers is permitted as an accessory use in any zone when stored in accordance with Section 5.040 (1) (b).
- (2) An ACCESSORY STRUCTURE may be constructed on a lot or parcel that is neither the site of a primary residential use, nor contiguous with the site of the primary use, provided that the owner of the primary use secures approval for an ACCESSORY STRUCTURE or use according to the provisions of Article VI.

SECTION 5.060: ACCESS

Every lot and parcel shall abut a street other than an alley, an approved private way, or an approved private ACCESS easement, for at least 25 feet.

SECTION 5.070: DUAL USE OF REQUIRED OPEN SPACE

No lot area, yard, or off-street parking or loading area which is required by this Ordinance for one use shall be a required lot area, yard, or off-street parking or loading area for another use, unless otherwise specifically allowed by this Ordinance.

SECTION 5.080: DISTANCE BETWEEN BUILDINGS

A minimum distance of six feet shall be maintained between a building designed for dwelling purposes and any other freestanding buildings located on the same property.

SECTION 5.100: GENERAL EXCEPTION TO LOT SIZE REQUIREMENTS

A lot or parcel, as recorded in the office of the County Clerk prior to the adoption of this Ordinance, which complies with the standards then in effect, but which does not now meet the dimensional lot standards of the zone in which the property is located, may nevertheless be occupied by a one-family dwelling if the lot or parcel meets all other applicable Ordinance requirements, including setbacks, provided that lots smaller than 3,000 square feet meet the following additional requirements.

- (1) A property survey of the lot shall be performed and all corners shall be monumented by a registered surveyor prior to submittal of a permit for construction/location and a copy of the survey shall be submitted with the application and other required material.
- (2) Prior to the County's issuance of any permits affecting the use of real property, an applicant owning a small lot shall combine all or part of an adjacent property with the small lot for any consideration of any applicable County permit or land use law. For purposes of this Section, the following definitions apply:
 - 2.1 "Applicant" means any legal person (or persons) who:
 - (i) Owns a small lot in fee simple, and
 - (ii) Also owns real property adjacent to the small lot.
 - 2.2 "Small lot" means any real property less than 3,000 square feet.
 - 2.3 This Section shall be interpreted liberally to carry its intent to require proposed buildable lots to meet as nearly as possible or exceed a particular zone's minimum lot size requirement based upon identical owners of adjacent real properties.

- (3) Not more than 50% of the lot area shall be covered with any structure of any height.
- (4) Front and rear setbacks in combination must be at least 30 feet, with each minimum of 10 feet.
- (5) No portion of a structure shall be located closer than six (6) feet to any structure on an adjacent lot.
- (6) The permitted living space as determined by the Building Official shall be no more than 50% of the square footage of the lot or 1,200 square feet, whichever is larger. Additionally, up to 600 square feet is permitted for an enclosed garage or storage area. This garage or storage area may be enlarged if there is an equivalent reduction in living space.
- (7) An approved Road Approach Permit must be obtained from the Tillamook County Public Works Department.
- (8) The proposed structure shall meet all other requirements of the County's Land Use Ordinances, including off-street parking; except where contradicted by other provisions of this Section.

SECTION 5.110: EXCEPTIONS TO YARD SETBACK REQUIREMENTS

- (1) **PURPOSE:** The purpose of the EXCEPTIONS described in this Section is to provide a measure of ministerial relief from the requirements for yards in certain areas or zones when those requirements are unnecessarily restrictive.
- (2) **AVERAGING FRONT YARDS:** The following EXCEPTIONS to the front yard requirement for a dwelling, mobile home or recreation vehicle are authorized for a lot or parcel in any zone. The required front yard for a dwelling need not exceed:
 - (a) The average depth of the front yards of all dwellings within 100 feet of both sides of the proposed dwelling; or
 - (b) The average of the depth of the front yard of the nearest dwelling within 100 feet on either side of the proposed dwelling, and the required front yard of the zone.
- (3) **SIDE YARDS TEN PERCENT OF LOT WIDTH:** The required width of a non-street side yard may be reduced to 10 percent of the width of the lot, but not to less than 3 feet, unless a Variance for a lesser distance is approved.
- (4) **HAWK CREEK HILLS:** Front yards in the Hawk Creek Hills and the First Addition to Hawk Creek Hills Subdivisions need not exceed 5 feet.
- (5) **SMALL LOT EXCEPTIONS:** In the RR, CSFR, RC, CC, CR-1, CR-2, CR-3, RMH and RMD zones and including those communities with adopted community growth boundaries, a front or rear yard, but not both, may be ten feet, provided the following apply to the subject parcel:
 - (a) The parcel is 7500 square feet or less in size.
 - (b) At least one side yard is ten feet or more wide.
 - (c) Required off-street parking is provided.
 - (d) The right-of-way width at the front of the lot is at least thirty feet. In the case of right-of-ways under 30 feet in width, a ten-foot yard may be approved if it is approved by the Public Works Department.
 - (e) The lot is not a corner lot. If the lot is a corner lot and meets the above criteria, the front yard may be 15 feet.
- (7) **PROJECTIONS FROM BUILDINGS:** Architectural features such as cornices, eaves, canopies, gutters, signs, chimneys, and flues shall not project more than 18 inches into a required yard unless evidence is presented to the Department that such projections increase the energy efficiency of the building, either by the capture of solar radiation of

by providing shading for cooling, in which case they shall not project more than 24 inches into a required yard.

(8) **DECKS, PORCHES, AND STEPS:**

(A) Decks may be constructed within setback areas provided that the intruding portion:

- (1) Of the floor does not exceed 30 inches in height above finished grade, and
- (2) Any fixed benches, railings or other attachments do not exceed 40 inches above finished grade, and
- (3) Maintains a minimum of half the required front yard setback, a minimum of 10 foot street side yard setback on a corner lot, and a minimum of 3 feet for rear yard and non street side yard setbacks.

(B) All other uncovered decks, porches, or steps shall not project more than 24 inches into a required yard.

(C) Decks which extend into the required setbacks shall not be enclosed, nor covered, without using the procedures set forth in Article VIII. The existence of a deck within the required setbacks shall not be used as justification to extend a building into the required setbacks.

(9) **ZERO TO THREE FOOT SETBACK:** Where a side or rear yard is not required, and a structure is not to be erected at the property line, it shall be set back at least three feet from the property line.

(10) **OCEANFRONT SETBACKS** - See Section 3.085 (4) (a) (ib).

(11) **WATER QUALITY SETBACKS** - See Section 4.080 (1) (2) and (3).

(12) **CLEAR VISION:** These provisions may not be interpreted to allow parking or structures

SECTION 5.120: GENERAL EXCEPTIONS TO BUILDING HEIGHT LIMITATIONS

- (1) Projections such as chimneys, spires, elevator shaft housings, flagpoles, devices or structures for the capture of solar energy, towers for wind energy conversion systems and windmills, and other structures not used for human occupancy are not subject to the BUILDING HEIGHT LIMITATIONS of this Ordinance, unless such projection shades an existing solar energy system on an adjoining property to such an extent as to affect the efficiency of that system.
- (2) In the airport overlay zone, no structure or tree shall exceed 150 feet in height.

SECTION 5.130: GENERAL EXCEPTIONS FOR THE LOCATION OF RECREATIONAL VEHICLES AND MOBILE AND MANUFACTURED HOMES

- (1) The Commission, upon receiving a preliminary subdivision designed either for RECREATIONAL VEHICLES in the RMH, RMD, CSFR or RR-2 AND RR-10 zones or MOBILE AND MANUFACTURED HOMES in the CR-2 or CR-3 zones, may approve the preliminary plat with the stipulation that the proposed use may be permitted outright, provided that the following criteria can be met:
 - (a) There is no apparent incompatibility with land uses on surrounding properties.
 - (b) The proposed use of the subdivision will not substantially alter the overall land use pattern in the vicinity.
 - (c) The proposed use is consistent with Comprehensive Plan policies for the vicinity.
 - (d) All applicable regulations pertaining to the proposed use will be met.
- (2) The use of RECREATIONAL VEHICLES is permitted outright in the following areas, provided that all applicable development standards are met:
 - (a) Silver Valley Mobile Home Ranch, located in the Neskowin area in the RR zone.
 - (b) Three Rivers Ranch, located on Highway 22 near Hebo in the RR zone.
 - (c) Deer Ridge Subdivision and all recorded additions, located on Netarts Highway, 4 miles from Tillamook in the RR zone.
 - (d) Foley Creek, Foley Creek II, and Foley Creek III, located on Miami-Foley Road, 7 miles from Garibaldi in the RR zone.
 - (e) Wilson Beach, located in Netarts in the RMD zone.
 - (f) Elk Meadows, located east of Lee's Camp on the Wilson River Highway.

SECTION 5.140: BUILDING HEIGHTS WITHIN THE NEAH-KAH-NIE COMMUNITY GROWTH BOUNDARY

Within the Neah-Kah-Nie Community Growth Boundary, all buildings within five hundred (500) feet of the State Beach Zone Line shall be limited in height to seventeen (17) feet, and to twenty-four (24) feet otherwise. When the five hundred (500) foot measurement line divides a lot, the entire lot is subject to the seventeen (17) foot limitations. Higher buildings may be permitted only according to the provisions of Article 8.

SECTION 5.150: TEMPORARY USES

- (1) The use of a recreation vehicle as a temporary dwelling during the construction of a public facility improvement project may be authorized by the Director in any zone, subject to the approval of a sewage disposal system by the County Sanitarian.
- (2) The temporary parking and use of a recreational vehicle by a party visiting a resident of Tillamook County is authorized in conjunction with a legally established dwelling, on the resident's property for a period not to exceed two weeks within one month (30 days), provided that no County Sanitation or setback requirements are violated.
- (3) Temporary Use permits for Special Events and Retail Sales:
 - (a) Definition: For the purposes of this Subsection, Temporary Use means activities involving the retail sale of food or goods, or outdoor events such as festivals or carnivals, which last no more than a total of three consecutive days. Such uses shall not involve the construction of permanent facilities.
 - (b) Temporary Use Permit: A Temporary Use is not permitted until a permit is acquired from the Department.
 - (1) Applications for a temporary use permit shall be made on forms provided by the Department. Applications shall include:
 - a. The applicant's name, address, and telephone number.
 - b. The written permission of the property owner.
 - c. Organizational affiliation or sponsorship, if any.
 - d. Description of the planned activity.
 - e. Days and hours of operation.
 - f. Provisions for parking, access, and litter control, if necessary.

- (2) Applications will be reviewed by the Tillamook County Public Works, Planning, Health, Sheriff's Department; Parks Department where applicable.
 - (3) In reviewing a Temporary Use Permit, the Director shall consider the recommendations and comments of the reviewing departments and the potential impacts of the proposed use on nearby properties. The Director may impose conditions of approval to ensure compliance with the provisions of this Ordinance.
 - (4) The Director's decision on a Temporary Use Permit may be appealed to the Board by filing a written letter with the Department within 7 days of the decision. Notice of the public hearing before the Board shall be provided in accordance with Section 10.060 (3) (a).
- (c) Fees for Temporary Use Permits:
- (1) No fee shall be charged if the applicant is a bonafide nonprofit, charitable organization.
 - (2) Applicants may coordinate their requests so that a single fee may be charged for all associated activities occurring at one location during the same time period.
 - (3) The appeal fee is equal to the cost of the application.
- (d) Approved permits shall be available, at the location of the Temporary Use during the period allowed by the permit, for inspection by Tillamook County law enforcement or Department officials.

SECTION 5.151: GARAGE SALES

Not more than two garage sales consisting of not more than three consecutive days each shall be allowed in an 12 month period.

SECTION 5.160: SPECIAL REQUIREMENTS FOR MOBILE HOMES

In the CR-1, CR-2 zones of Cloverdale, the CR-3 zone when permitted outright; in the CR-2 zone when permitted conditionally; in the CSFR zone within and contiguous to the exception areas of Falcon Cove and Tierra Del Mar; and in the RR zone in the Idaville Roads, and an area south of the Alderbrook Golf Course and north of Alderbrook Road between Vaughn and Doughty Roads; and in the First Addition to Wilson Beach zoned RMD, and as otherwise identified as applicable by the ordinance; in addition to the requirements of Section 4.040 for mobile homes, mobile homes shall:

- (1) Be multi-sectional, and not single wide.
- (2) Have a roof with at least a pitch of 3 in 12
- (3) Be roofed with composition shingles or other conventional house-type roofing.
- (4) Be sided with lap or other wood-like siding.
- (5) Be skirted with the same material as the siding.

SECTION 5.170: SPECIAL DRAINAGE ENHANCEMENT AREA PROVISIONS FOR THE SOUTH NEAH-KAH-NIE AREA

Section 2.9 of the Goal VII Element of the County Comprehensive Plan identifies a special drainage enhancement area in Neah-Kah-Nie south and east of Nehalem Road at its junction with Beach Street. Section 2.9 of the Goal VII Element also identifies, within the southwest portion of this area, a "potential development area" upon which one dwelling unit may be placed. These areas are further described in the Plan and are identified on the County's Zoning Map. Subject to the following exceptions, development, including fill, will be prohibited within this drainage enhancement area:

- (1) Ditching and tiling that improve drainage into or out of the Drainage Enhancement Area shall be permitted.
- (2) Activities such as landscaping and gardening, which do not include placement of structures, dikes, levees, or berms, or filling, grading or paving, and which will not restrict drainage into or out of the Drainage Enhancement Area, shall be permitted.
- (3) A pond may be created if it can be shown through the flood hazard area development permit process of Section 3.060 of the County's Land Use Ordinance that it will not adversely affect drainage in the area.
- (4) One dwelling unit, including necessary fill, shall be permitted within the "potential development area" portion of the Drainage Enhancement Area, providing that the area subject to development for this purpose is contiguous and does not exceed one-half the area of the "potential development areas".

ARTICLE VI

CONDITIONAL USE PROCEDURES AND CRITERIA

SECTION 6.010: PURPOSE

The purpose of a CONDITIONAL USE is to provide for uses that are not allowed by right in a certain zone because of potentially adverse impacts on uses permitted by right in that zone. Such uses may be made or deemed compatible through the review process contained in this Article, which subjects the proposed CONDITIONAL USE activity to specific requirements, criteria, and conditions. The location and operation of any CONDITIONAL USE listed in this Ordinance shall only be permitted according to the provisions of this Article.

SECTION 6.020: PROCEDURE

The following procedure shall be observed in submitting and acting on a CONDITIONAL USE request:

- (1) A request may be initiated for a CONDITIONAL USE, or the modification of an approved CONDITIONAL USE, by filing an application with the Department. The Department may require any information necessary for a complete understanding of the proposed use and its relationship to surrounding properties. An application will not be considered complete for purposes of statutory time limitations until all requested information is received by the Department. No application will be accepted until all review fees, as set by the Board, are paid in full.
- (2) The Director shall, within ten days of receipt and acceptance of an application for a CONDITIONAL USE, act administratively according to the procedure set forth in Sections 6.020 (3) through (9), or shall refer the application to the Commission for a public hearing and decision. The application shall be referred to the Commission if the director determines that the proposed use would have significant impacts that extend beyond the abutting properties, and that those impacts are not likely to be adequately addressed by response to public notice required by Section 6.020 (3). If the Director elects to refer the application to the Commission, it shall be heard at the next available Commission hearing, unless the applicant requests otherwise.
- (3) If the Planning Director elects to act administratively, he or she shall send, by First Class mail, a notice of the application for a CONDITIONAL USE to the following persons:
 - (a) The applicant.
 - (b) All owners of property abutting the property which is the subject of the CONDITIONAL USE application. For the purpose of determining whether property

is abutting other property, intervening public and private ways and water courses do not break the continuity of abutting properties.

- (c) The Citizen Advisory Committee (CAC) members for the area in which the subject property is located.
 - (d) Other persons, agencies, or departments the Director deems appropriate.
- (4) No CONDITIONAL USE permit shall be invalidated because of failure to receive the notice provided for in Section 6.020 (3).
 - (5) Notices sent pursuant to Section 6.020 (3) shall be mailed within ten days of receipt of a complete application. They shall state the general nature of the request, and that there is a right to respond with comments or objections in writing within ten days of mailing. The notice shall also say that only those persons who respond in writing will receive a copy of the written decision, and shall have a right to appeal that decision to the Commission.
 - (6) In addition to the notice mailed to the persons listed in Section 6.020 (3), notice of a CONDITIONAL USE application shall be published in a newspaper of general circulation in the County at least ten days before any administrative decision is made. The newspaper notice shall inform the public of the general nature of the request, and shall announce that written comments and objections will be accepted by the Department for seven days from the date of publications. The notice shall also say that only those persons who respond in writing will receive a copy of the written decision, and shall have a right to appeal that decision to the Commission.
 - (7) After any written comments or objections are received, and the period of time for public input has passed, the Director shall have ten days to prepare a written decision approving, disapproving, or approving with conditions, the application for a CONDITIONAL USE. In making the decision, the Director shall consider all written comments, the information in the application, and all applicable criteria of the Ordinance.
 - (8) The applicant and all persons who submitted written comments shall be considered parties to the written decision, and shall be entitled to written notice of the decision within ten days of the date of that decision. Any party may appeal the decision of the Director to the Commission in accordance with Section 10.020 of this Ordinance. Only those who are considered to be parties have standing to appeal an administrative decision made pursuant to Section 6.020.
 - (9) Copies of all written decisions shall be mailed to Commission members. The Commission members shall be afforded an opportunity to comment on all written decisions at their next regular public hearing.

SECTION 6.030: GENERAL REQUIREMENTS

A CONDITIONAL USE shall be authorized, pursuant to the procedures set forth in Section 6.020, if the applicant adequately demonstrates that the proposed use satisfies all relevant requirements of this Ordinance, including the review criteria contained in Section 6.040 or the Health Hardship provisions contained in Section 6.050, and the following general requirements:

- (1) A CONDITIONAL USE shall be subject to the standards of the zone in which it is located, except as those standards have been modified in authorizing the CONDITIONAL USE. The size of a lot to be used for a public utility facility may be reduced below the minimum required, provided that it will have no adverse effect upon adjacent uses.
- (2) A CONDITIONAL USE may be enlarged or altered pursuant to the following:
 - (a) Major alterations of a CONDITIONAL USE, including changes to or deletion of any imposed conditions, shall be processed as a new CONDITIONAL USE application.
 - (b) Minor alterations of a CONDITIONAL USE may be approved by the Director according to the procedures used for authorizing a building permit, if such alterations are requested prior to the issuance of a building permit for the CONDITIONAL USE. Minor alterations are those which may affect the siting and dimensions of structural and other improvements relating to the CONDITIONAL USE, and may include small changes in the use itself. Any change which would affect the basic type, character, arrangement, or intent of the approved CONDITIONAL USE shall be considered a major alteration.
 - (c) The enlargement or alteration of a one-or two-family dwelling, mobile home, manufactured home, or recreational vehicle that is authorized as a CONDITIONAL USE under the provisions of this Ordinance shall not require further authorization, if all applicable standards and criteria are met.
- (3) Where the approval of a CONDITIONAL USE request is contingent upon an amendment to this Ordinance, and an application for such amendment has been recommended for approval by the Commission, the CONDITIONAL USE request may be approved upon the condition that the Board approves the Ordinance Amendment.

SECTION 6.040: REVIEW CRITERIA

Any CONDITIONAL USE authorized according to this Article shall be subject to the following criteria, where applicable:

- (1) The use is listed as a CONDITIONAL USE in the underlying zone, or in an applicable overlying zone.

- (2) The use is consistent with the applicable goals and policies of the Comprehensive Plan.
- (3) The parcel is suitable for the proposed use considering its size, shape, location, topography, existence of improvements and natural features.
- (4) The proposed use will not alter the character of the surrounding area in a manner which substantially limits, impairs or prevents the use of surrounding properties for the permitted uses listed in the underlying zone.
- (5) The proposed use will not have detrimental effect on existing solar energy systems, wind energy conversion systems or wind mills.
- (6) The proposed use is timely, considering the adequacy of public facilities and services existing or planned for the area affected by the use.

SECTION 6.050: HEALTH HARDSHIP PROVISIONS

A CONDITIONAL USE for a HEALTH HARDSHIP may be authorized according to the procedure set forth in Section 6.020, provided that the use is of a temporary nature. Approval of the HEALTH HARDSHIP permits the placement of a mobile home, manufactured home or recreational vehicle, subject to the following conditions in addition to the requirements of Section 4.040:

- (1) The applicant can demonstrate that approval of the request would allow for the care of a seriously ill person in a manner that could not be achieved by any reasonable existing alternative.
- (2) The applicant has a medical doctor's written confirmation of a HEALTH HARDSHIP.
- (3) The approval is for a length of time not to exceed 24 months, or the duration of the HEALTH HARDSHIP, whichever is less. The Director may extend an approval for additional 24 month periods if a written request for renewal is submitted by the applicant before expiration, and written reconfirmation of the HEALTH HARDSHIP is provided by a medical doctor.

SECTION 6.060: CONDITIONS OF APPROVAL

In approving a CONDITIONAL USE or a modification of a CONDITIONAL USE, any conditions which are considered necessary to protect the area surrounding the proposed use, and to preserve the basic purpose and intent of the underlying zone, may be imposed. These may include, but are not limited to, the following:

- (1) Increasing the required parcel area or yard dimensions.

- (2) Limiting the height, size, or location of buildings and structures.
- (3) Modifying the location and number of required off-street parking and loading spaces.
- (4) Controlling the location and number of vehicle access points.
- (5) Limiting the number, size and location of signs.
- (6) Requiring diking, fencing, screening, landscaping, or other measures to protect adjacent or nearby properties from the effects of the use.
- (7) Prescribing a time limit within which to fulfill any established conditions.

SECTION 6.070: COMPLIANCE WITH CONDITIONS

Adherence to the approved plot plan and compliance with the conditions imposed in approving a CONDITIONAL USE request shall be required. Any departure from the conditions of approval or approved plans constitutes a violation of this Ordinance.

SECTION 6.080: TIME LIMIT

All CONDITIONAL USES except those approved for a Health Hardship may be approved for a 24-month period. If construction has not begun on the approved development, such approvals may be extended beyond 24 months only if the Director determines that a review would be unlikely to reveal new information which could lead to different conclusions than those reflected in the original staff report. For the purposes of such a determination, the Director may rely on such things as:

- (1) Changes in Ordinance requirements or the requirements of State law;
- (2) The extent and character of new development in the vicinity of the request;
- (3) The adequacy of the review upon which the original was based;
- (4) Any other circumstances which could change the substance of the original staff report.

If the Director determines that a new review is warranted, then the applicant shall provide all information and fees required by this Article.

ARTICLE VII
NONCONFORMING USES AND STRUCTURES

SECTION 7.010: PURPOSE

The purpose of the NONCONFORMING USES AND STRUCTURES provisions are to establish standards and procedures regulating the continuation, improvement and replacement of structures and uses which pre-date, and which do not comply with, this Ordinance. The intent is to allow changes to nonconforming uses and structures in a manner that does not increase the level of adverse impact to surrounding areas. These provisions are intended to be consistent with ORS 215.130

SECTION 7.020: NONCONFORMING USES AND STRUCTURES

(1) DEFINITIONS:

- (a) NONCONFORMING USE: A use that does not conform to current requirements of this Ordinance but which legally existed at the time the applicable section(s) of the Ordinance took effect and has continued into the present without discontinuance as described in Section 7.020 (6).
- (b) A NONCONFORMING STRUCTURE: A structure that does not conform to current requirements of this Ordinance but which legally existed at the time the applicable section(s) of the Ordinance took effect.
- (c) ALTERATION of a NONCONFORMING STRUCTURE: A partial change to a structure, not involving enlargement of the external dimensions of the structure.
- (d) ALTERATION of a NONCONFORMING USE: A change in the characteristics of the use (for example, hours of operation; type of vehicle serviced) but not a change in the use.
- (e) EXPANSION: Any increase in any external dimension of a structure, or any increase in land area devoted to a use.
- (f) REPLACEMENT OF USE: The discontinuance as described in Section 7.020 (6) of an existing use and commencement of a new use.
- (g) REPLACEMENT OF STRUCTURE: Removal that exceeds 80 percent of an existing structure and placement of a new structure.

- (h) 100% MARKET VALUE THRESHOLD: ALTERATIONS or EXPANSIONS within any five-year period, of which equals or exceeds 100% of the market value of the structure (as indicated by the records of the County Assessor) at the beginning of the five-year period. The 100% MARKET VALUE THRESHOLD shall not apply to an ALTERATION or EXPANSION for purposes of conformance with Section 3.060 Flood Hazard Overlay Zone.
- (2) BURDEN OF PROOF: In matters relating to the continuation, alteration, expansion or replacement of a nonconforming structure or use, the applicant bears the burden of proof for establishing:
- (a) The current use or structure lawfully existed at the time the applicable zoning requirement went into effect; and
 - (b) The level of use and/or dimensions of the structure that existed at the time the applicable zoning went into effect.

Standard evidence that a use or structure has been maintained over time may include dated documents such as: building permits, land use approvals, development permits, other governmental permits, utility bills, tax records, assessor records, loan statements, business license, directory listings, published references or other documents deemed admissible by the Director.

If the regulation, which rendered the structure or use nonconforming, was enacted more than 20 years prior to the time of application, the applicant need only provide evidence or information pertaining to the 20 years immediately previous to application.

- (3) CONTINUATION: A NONCONFORMING USE OR STRUCTURE may be continued at the level of use or dimension of structure existing on the date the applicable zoning went into effect, subject to the requirements of Section 7.020.
- (4) ALTERATION OR EXPANSION:
- (a) ALTERATION of a NONCONFORMING STRUCTURE or a structure devoted to a NONCONFORMING USE is allowed, subject to all other provisions of this ordinance. If such alteration causes the 100% MARKET VALUE THRESHOLD to be exceeded, then it shall be subject to Major Review under Section 7.020(12). The 100% MARKET VALUE THRESHOLD shall not apply to an ALTERATION for purposes of conformance with Section 3.060 Flood Hazard Overlay Zone.

- (b) EXPANSION of a NONCONFORMING STRUCTURE, EXPANSION of a structure devoted to a NONCONFORMING USE, or ALTERATION or EXPANSION of a NONCONFORMING USE shall be subject to Minor Review under Section 7.020(11). If the criteria of Section 7.020(11) are not met, then the proposed alteration or expansion can only be allowed through a Variance (Article VIII). EXPANSION of a NONCONFORMING STRUCTURE shall be allowed outright for purposes of conformance with Section 3.060 Flood Hazard Overlay Zone if the EXPANSION meets the height standard for the subject property and does not reduce existing nonconforming setbacks. The 100% MARKET VALUE THRESHOLD shall not apply to an EXPANSION for purposes of conformance with Section 3.060 Flood Hazard Overlay Zone.

(5) REPLACEMENT OR USE ADDITION:

- (a) If a NONCONFORMING STRUCTURE is replaced, the new structure shall conform to the current requirements of this ordinance.
- (b) If a NONCONFORMING USE involving a structure is replaced or a new use is added to the existing use, the new use shall conform to the current requirements of this ordinance, unless it is determined that the structure is suitable only for nonconforming uses. Such determination shall be made as part of the procedure and criteria of Minor Review under Section 7.020(11).
- (c) If a NONCONFORMING USE not involving a structure is replaced, or a new use is added to the existing use, the new use shall conform to the current requirements of this ordinance.
- (d) NONCONFORMING manufactured dwellings or recreational vehicles located in the LM or M-1 zones may be replaced provided the required setbacks of Section 3.016 (4) (d), (e) and (f) are met and the structure meets the standards of Section 4.040.
- (e) A NONCONFORMING recreational vehicle may be replaced with a manufactured home or mobile home subject to the procedure of Section 6.020. The replacement shall conform to the criteria of Section 6.040. The manufactured dwelling shall also conform to the standards of Section 4.040 and the setback requirements of the zone in which it is located.
- (f) A NONCONFORMING farm structure may be replaced by a new structure provided the new structure conforms to the standards of the zone in which it is located.

(6) DISCONTINUANCE OF USE:

- (a) If a NONCONFORMING USE is discontinued for a period of one year, subsequent use of the property shall conform to this Ordinance.
- (b) If a NONCONFORMING USE of a mineral or aggregate mining operation is discontinued for a period of two years, subsequent use of the property shall conform to this Ordinance.
- (c) DISCONTINUANCE OF USE shall not apply to a medical leave of absence for a serious illness suffered by the owner/operator of the use, or serious illness suffered by member of owner/operator's immediate family related by blood, marriage, adoption or guardianship for which primary care is the responsibility of the owner/operator of the use, that resulted in an inability to continue the use for the period of the illness not in excess of two years. Burden of proof shall be with the owner/operator of the use and shall consist of the following:
 - (i) A Medical Doctor's affidavit stating the nature and term of the illness and necessity for the medical leave of absence;
 - (ii) Copies of receipts of medical bills related to the illness; and
 - (iii) Proof of relationship to owner/operator.

(7) RELOCATION OF USE: A NONCONFORMING USE may be relocated upon the same parcel after review according to the procedure of Section 8.020 and findings that the proposed relocation conforms to the following standards:

- (a) The proposed location is no more detrimental to adjacent and nearby properties and uses than is the use at the current location.
- (b) The proposed location does not reduce the productivity of the parcel of land if the use is located in an F, F-1, or SFW-20 zone.

(8) DESTRUCTION OF USE: If a NONCONFORMING STRUCTURE or a structure devoted to a NONCONFORMING USE is destroyed or damaged by any cause other than an action of the property owner or his agent, to an extent exceeding 80 percent of its fair market value as indicated by the records of the County Assessor, that structure may be rebuilt, subject to the following conditions:

- (a) Reconstruction of the structure shall conform to the setbacks, building height and other requirements of the zone in which it is located.

(b) Reconstruction of a structure shall be allowed in the same location if the destroyed structure was not in conformance with Section 4.080 Riparian Overlay Zone.

(c) Restoration or replacement shall be commenced within one year from the occurrence of the event that destroyed or damaged the structure. This requirement shall be satisfied by obtaining a building permit for the restoration or replacement of the structure or by demonstrating that circumstances beyond the control of the applicant made it impossible to obtain a building permit within that time. In any case a building permit must be obtained and construction must commence within 24 months after the destructive event. If this requirement is not satisfied, the use of the property shall be in conformance with the requirements of the zone in which it is located.

If destruction or damage is caused by an action of the property owner or their agent the reconstruction shall be subject to Section 7.010(5) of this ordinance.

(9) **NONCONFORMING STRUCTURE EXCEPTIONS:** Notwithstanding Section 7.020(3), a structure having a conforming main use but not conforming to setback or height standards may be expanded as follows:

(a) If all proposed new construction complies with all standards of the zone, the expansion may be allowed;

(b) If the structure has a nonconforming non-street side yard of three feet or more, the structure may be expanded to the interior edge of required front or rear yards.

(c) If the structure has a nonconforming non-street side yard of less than three feet, the structure may be expanded at no less than three feet from the side property line, to the interior edge of required front or rear yards.

If the expansion exceeds the 100% MARKET VALUE THRESHOLD, then the Major Review criteria must be met.

(10) Notwithstanding the provisions of this section, alteration or expansion of a **NONCONFORMING USE OR STRUCTURE** shall be allowed if necessary to comply with any lawful requirement.

(11) **MINOR REVIEW:** Application is made under the fee and procedures for an Administrative Review and is reviewed using the following review criteria. A request may be permitted if:

- (1) The request will have no greater adverse impact on neighboring areas than the existing use or structure when the current zoning went into effect, considering:
 - (A) A comparison of existing use or structure with the proposed change using the following factors:
 - (1) Noise, vibration, dust, odor, fumes, glare, or smoke detectable at the property line or off-site;
 - (2) Numbers and kinds of vehicular trips to the site;
 - (3) Amount and nature of outside storage, loading and parking;
 - (4) Visual impact;
 - (5) Hours of operation;
 - (6) Effect on existing vegetation;
 - (7) Effect on water drainage and water quality;
 - (8) Service or other benefit to the use or structure provides to the area; and
 - (9) Other factors relating to conflicts or incompatibility with the character or needs of the area.
 - (B) The character and history of the use and of development in the surrounding area.
- (2) The request shall maintain a minimum separation of six feet between structures, and comply with the clear vision area of Section 4.010.

The Department may require the applicant to submit a property survey or similar information to assist in making these determinations.

- (12) **MAJOR REVIEW:** Application is made using the same fee and procedure as for a Conditional Use, but reviewed relative to the following criteria:
 - (1) The proposed alteration or expansion may be allowed only if the nonconforming structure or use is brought into conformance, or the nonconforming structure or use, including the proposed alteration/expansion, meets the following criteria:
 - (a) The alteration/expansion meets the Minor Review criteria; and
 - (b) Either:
 - (i) The nonconforming structure or use, including the proposed alteration/expansion, is consistent with the purposes of relevant development standards as enumerated in Section 4.005 and preserves the rights of neighboring property owners to use and enjoy their land for legal purposes; or
 - (ii) The applicant demonstrates that bringing the structure or use into compliance is either physically impracticable or financially onerous, and

that mitigation will be implemented and maintained which will substantially offset the impact(s) to neighboring property owners.

The Department may require the applicant to submit a property survey or similar information to assist in making these determinations.

- (13) EXPLANATORY TABLE: The following table summarizes the use allowance or review requirements applicable to actions involving nonconforming uses or structures. This table is meant for summarizing purposes only and shall not be used in place of the requirements of Article VII. The summary presented by this table lacks the detail needed to fully understand the complexity of nonconforming uses or structures and regulations applied to them.

	<u>Continuation</u> see §7.020 (3)	<u>Alteration</u> see §7.020 (4)	<u>Expansion</u> see §7.020 (4)	<u>100% Market Value Threshold</u> see §7.020 (4)	<u>Replacement</u> see §7.020 (5)
Nonconforming Structure	outright use	outright use	minor review	major review	shall conform to current regulations (or obtain Variance)
Structure devoted to a Nonconforming Use	outright use	structural alteration= outright use; use alteration = minor review	minor review	major review	shall conform to current regulations
Nonconforming Use <u>not</u> involving a structure	outright use	minor review	minor review		shall conform to current regulations

ARTICLE VIII

VARIANCE PROCEDURE AND CRITERIA

SECTION 8.010: PURPOSE

The purpose of a VARIANCE is to provide relief when a strict application of the dimensional requirements for lots or structures would cause an undue or unnecessary hardship by rendering the parcel incapable of reasonable economic use. No VARIANCE shall be granted to allow a use of property not authorized by this Ordinance.

SECTION 8.020: PROCEDURE

The following procedure shall be observed in applying for and acting on a VARIANCE request:

- (1) A request may be initiated for a VARIANCE, or the modification of an approved VARIANCE, by filing an application with the Department. The Department may require any information necessary for a complete understanding of the proposed VARIANCE and its relationship to surrounding properties. An application will not be considered complete for purposes of statutory time limitations until all requested information is received by the Department. No application will be accepted until all review fees, as set by the Board, are paid in full.
- (2) The Director shall, within ten days of receipt and acceptance of an application for a VARIANCE, act administratively according to the procedure set forth in Sections 8.020 (3) through (9), or shall refer the application to the Commission for a public hearing and decision. The application shall be referred to the Commission if the Director determines that the proposed use would have significant impacts that extend beyond the abutting properties, and that those impacts are not likely to be adequately addressed by response to public notice required by Section 8.0202 (3). If the Director elects to refer the application to the Commission, it shall be heard at the next available Commission hearing, unless the applicant requests otherwise.
- (3) If the Planning Director elects to act administratively, he or she shall send, by First Class mail, a notice of the application for a VARIANCE to the following persons:
 - (a) The applicant.
 - (b) All owners of property abutting the property which is the subject of the VARIANCE request. For the purpose of determining whether property is abutting other property, intervening public and private ways and water courses do not break the continuity of abutting properties.

- (c) The Citizen Advisory Committee (CAC) members for the area in which the subject property is located.
 - (d) Other persons, agencies, or departments the Director deems appropriate.
- (4) No approved VARIANCE request shall be invalidated because of failure to receive the notice provided for in Section 8.020 (3).
 - (5) Notices described in Section 8.020 (3) shall be mailed within ten days of receipt of a complete application. They shall state the general nature of the request, and that there is a right to respond with comments or objections in writing within ten days of mailing. The notice shall also say that only those persons who respond in writing will receive a copy of the written decision, and shall have a right to appeal that decision to the Commission.
 - (6) In addition to the notice mailed to the persons listed in Section 8.020 (3), notice of a VARIANCE request shall be published in a newspaper of general circulation in the County at least ten days before any administrative decision is made. The newspaper notice shall inform the public of the general nature of the request, and shall announce that written comments and objections will be accepted by the Department for seven days from the date of publication. The notice shall also say that only those persons who respond in writing will receive a copy of the written decision, and shall have a right to appeal that decision to the Commission.
 - (7) After any written comments or objections are received, and the period of time for public input has passed, the Director shall have ten days to prepare a written decision approving, disapproving, or approving with conditions, the application for a VARIANCE. In making the decision, the Director shall consider all written comments, the information in the application, and all applicable criteria of the Ordinance.
 - (8) The applicant and all persons who submitted written comments shall be considered parties to the written decision, and shall be entitled to written notice of the decision within ten days of the date of that decision. Any party may appeal the decision of the Director to the Commission in accordance with Section 10.020 of this Ordinance. Only those who are considered to be parties have standing to appeal an administrative decision made pursuant to Section 8.020.
 - (9) Copies of all written decisions shall be mailed to Commission members. The Commission members shall be afforded an opportunity to comment on all written decisions at their next regular public hearing.

SECTION 8.030: REVIEW CRITERIA

A VARIANCE shall be granted, according to the procedures set forth in Section 8.020, if the applicant adequately demonstrates that the proposed VARIANCE satisfies all of the following criteria:

- (1) Circumstances attributable either to the dimensional, topographic, or hazardous characteristics of a legally existing lot, or to the placement of structures thereupon, would effectively preclude the enjoyment of a substantial property right enjoyed by the majority of landowners in the vicinity, if all applicable standards were to be met. Such circumstances may not be self-created.
- (2) A VARIANCE is necessary to accommodate a use or accessory use on the parcel which can be reasonably expected to occur within the zone or vicinity.
- (3) The proposed VARIANCE will comply with the purposes of relevant development standards as enumerated in Section 4.005 and will preserve the right of adjoining property owners to use and enjoy their land for legal purposes.
- (4) There are no reasonable alternatives requiring either a lesser or no VARIANCE.

SECTION 8.040: ENERGY CONSIDERATIONS

It is the policy of the County that its development standards encourage the construction of facilities intended to conserve ENERGY or to develop renewable sources of ENERGY. Consequently, development standards may be adjusted to accommodate design features that are intended to result in either ENERGY conservation or the use of renewable ENERGY. Variances granted for this purpose shall be the minimum required to achieve this policy.

SECTION 8.050: CONDITIONS OF APPROVAL

Conditions deemed appropriate to carry out the intent of this Article may be attached to approved Variances. Such conditions shall be reasonably related to the Variance criteria.

SECTION 8.060: COMPLIANCE WITH CONDITIONS

Any departure from the conditions of approval or the approved plot plan constitutes a violation of this Ordinance. The Director may revoke approval of any Variance for failure to comply with any conditions of approval or for any other violation of this Ordinance.

SECTION 8.070: TIME LIMIT

All approved Variances shall be void if construction of the structure which required the Variance has not begun within 24 months of the date upon which the applicant was notified of the Commission's or the Director's decision. If construction/division has not begun, or if the division of land has not been filed with the County Clerk, such approval may be extended beyond 24 months only upon the Director's approval. Requests for extension of time shall be in writing and shall be submitted prior to the date of expiration.

ARTICLE IX

AMENDMENT

SECTION 9.010: AUTHORIZATION TO INITIATE AMENDMENTS

An AMENDMENT to a zoning map maybe initiated by the Board, the Commission, the Department, or by application of a property owner. Anyone may initiate proceedings to AMEND the text of this Ordinance.

SECTION 9.020: MAP AMENDMENT PROCEDURE AND CRITERIA

The following provisions shall govern the consideration of a MAP AMENDMENT request:

- (1) Notice of a proposed AMENDMENT shall be distributed according to the provisions of Section 10.060 of this Ordinance.
- (2) The Department shall prepare an analysis of the site and the surrounding area in the form of a map and report, considering the following factors:
 - (a) Size, shape and orientation of the subject parcel.
 - (b) Surrounding parcel sizes.
 - (c) Topography, drainage, hazards, and other physical site characteristics.
 - (d) Parcel ownership and current use.
 - (e) Economic and population data for the affected area that may be contained in the Comprehensive Plan.
 - (f) Traffic circulation.
 - (g) Zoning history of the subject parcel.
 - (h) Compatibility of the proposed new zone with the surrounding zoning and land uses.
 - (i) Availability and feasibility for development of nearby properties in the proposed zone.
 - (j) Aesthetics.
 - (k) Availability of public facilities and services.

- (1) Land use objectives of both the applicable and the proposed zoning.
- (3) The Commission shall consider an AMENDMENT request at the earliest practicable public hearing after it is proposed. In hearing the request to establish a new zoning designation, the Commission shall consider all of the following criteria. A zone MAP AMENDMENT may be approved only if all four criteria can be met.
 - (a) The proposed new zone is consistent with applicable Comprehensive Plan policies.
 - (b) The proposed new zone shall not result in the conversion of resource lands to non-resource use without an approved exception to applicable state resource protection Goals.
 - (c) The site under consideration is better suited to the purposes of the proposed zone than it is to the purposes of the existing zone.
 - (d) Development anticipated to result from the proposed zone shall not impair the actual or the legally designated uses of surrounding properties.
- (4) The Director shall report the Commission's recommendation to the Board. The Board shall conduct a public hearing on an AMENDMENT to modify or change an existing zone on a zoning map subsequent to receiving the report and recommendation of the Planning Commission. Zone MAP AMENDMENTS shall be adopted by the Board of County Commissioners by Ordinance.
- (5) The Board's decision on a zone MAP AMENDMENT shall be final.
- (6) A copy of all zone MAP AMENDMENTS shall be forwarded to the County Assessor's office.

SECTION 9.030: TEXT AMENDMENT PROCEDURE

- (1) This Ordinance may be AMENDED by application of any person. The proponent of an ORDINANCE AMENDMENT shall arrange a pre-application conference with the Department.
- (2) An application for an ORDINANCE AMENDMENT shall be submitted to the Department at least 45 days prior to the Commission hearing for its consideration. Such applications shall be accompanied both by fees as set by order of the Board, and by the proponent's justification for the AMENDMENT.
- (3) Notice of a proposed AMENDMENT shall be published according to the provisions of Section 10.060 (3).

- (4) The Department shall prepare an analysis of the proposed AMENDMENT, addressing such issue as the intent of the provisions being amended; the affect on land use patterns in the County; the affect on the productivity of resource lands in the County; administration and enforcement; and the benefits or costs to Departmental resources resulting from the proposed text.
- (5) The Commission shall consider an AMENDMENT request at the earliest practicable public hearing after it is proposed. It shall consider the intent of applicable policies of the Comprehensive Plan, and recommend that the Board adopt, adopt with modifications, or not adopt the proposed AMENDMENT.
- (6) The Director shall report the Commission's recommendation to the Board. The Board shall conduct a public hearing on an AMENDMENT of modify or change the text of the Land Use Ordinance subsequent to receiving the report and recommendation of the Planning Commission. AMENDMENTS to the text of this Ordinance shall be adopted by the Board of County Commissioners by Ordinance.
- (7) The Board's decision on an AMENDMENT to the text of this Ordinance shall be final.

ARTICLE X

ADMINISTRATIVE PROVISIONS

SECTION: 10.010: ADMINISTRATION

The Director shall have the power and duty to interpret and enforce the provisions of this Ordinance. The Director may delegate any of his or her responsibilities or authority granted under this Ordinance to a member of the Department staff.

SECTION 10:020: APPEAL FROM RULING OF THE DIRECTOR

An action or ruling by the DIRECTOR pursuant to this Ordinance may be APPEALED by parties to the decision, as defined in Section 8.020 (8), within 12 days after notification of the decision is mailed to said parties. Written notice of the APPEAL shall be filed in the Department. If the APPEAL is not filed within the 12-day period, the action or ruling of the DIRECTOR shall be final. If an APPEAL is filed, the Commission shall receive a report and recommendation thereon from the DIRECTOR, and shall hold a public hearing on the APPEAL. Other actions of the DIRECTOR may be APPEALED within 21 days after such an action or decision is reduced to writing.

SECTION 10.030: APPEAL FROM RULING OF THE COMMISSION

An action or ruling of the COMMISSION pursuant to this Ordinance may be APPEALED to the BOARD within 12 days after the Department's notification of the Commission's action to the applicant. Written notice of the APPEAL must be filed with the BOARD, and a copy sent to the Department. If the APPEAL is not filed within the 12-day period, the COMMISSION'S decision shall be final. If an APPEAL is filed, the BOARD shall receive a report and recommendation from the Director, and shall hold a public hearing on the APPEAL.

SECTION 10.040: FORM OF PETITIONS, APPLICATIONS, AND APPEALS

All PETITIONS, APPLICATIONS AND APPEALS provided for in this Ordinance shall be made on forms prescribed by the County. APPLICATIONS shall be accompanied by accurately-scaled plans, showing the actual shape and dimensions of the property to be built upon: the size and location on the lot of existing and proposed buildings and other structures; and any other information necessary to fully explain the request and determine compliance with the requirements of this Ordinance.

SECTION 10.050: FEES

The Board shall set all FEES, by Order, to be paid; to the Department upon the filing of any application or appeal.

SECTION 10.060: NOTICE OF PUBLIC HEARING

Decisions by the Director, the Commission, or the Board, that are made according to the provisions of this Ordinance, shall only be made following notification made in the following manner:

- (1) NOTICE OF PUBLIC HEARINGS shall meet the minimum standards of the Oregon Open Meeting Law, ORS 192.160 - .690.
- (2) Quasi-Judicial Land Use Hearings: The public notice provided to property owners for quasi-judicial land use hearings shall comply with the requirements of ORS 215.213.
 - (a) NOTICE of a quasi-judicial land use hearing shall be mailed by first class mail to property owners within 250 feet of the exterior boundary of the property for which the application is made, at least 10 calendar days prior to the date of the hearing.
 - (b) The names and addresses of property owners as shown on the records of the County Assessor shall be used for such mailings.
 - (c) In cases where the property for which the application is being made is a Priority Dredged Material Disposal (DMD-1) or Priority Mitigation (MIT-1) site, notices shall be mailed by first class mail both to property owners within 250 feet of the exterior boundary of the property boundary of the property for which the application is made, and to those agencies and local jurisdictions which participated in the Dredged Material Disposal Plan or Mitigation Plan, at least 30 days prior to the date of the hearing.
 - (d) NOTICE of public hearing shall be published in a newspaper of general circulation in the County at least 10 calendar days prior to the date of the hearing.
 - (e) Failure of a person to receive the NOTICE prescribed in this Subsection shall not invalidate the decision.

- (3) Legislative Land Use Hearings
- (a) NOTICE of each public hearing to consider a legislative zone change or Comprehensive Plan Amendment shall be made by publication in a newspaper of general circulation in the County at least 10 calendar days prior to the date of the first hearing. NOTICE of the dates and times of more than one public hearing for the same proposed Amendment may be made in the same publication, if the dates and times of each hearing are announced.
 - (b) Where Amendments are being made to the Dredged Material Disposal Plan or the Mitigation Plan, NOTICE shall be made by publication in a newspaper of general circulation in the County, and shall be mailed to those agencies which participated in the Dredged Material Disposal Plan or the Mitigation Plan, at least 30 days prior to the date of the first hearing).
- (4) Additional public NOTICE as required by ORS 215.503 shall be provided, only if the expense incurred by the County is fully reimbursed by the Department of Land Conservation and Development as provided in ORS 215.508.

SECTION 10.070: RECESS OF HEARING

A land use hearing may be RECESSED in order to either obtain additional information or to solicit further comment from persons who may be interested in, or affected by, the proposal being considered. Upon RECESSING, the time and date for resumption of the hearing shall be announced.

SECTION 10.080: TIME BETWEEN APPLICATIONS

If a request for a Zone Map Amendment, Conditional Use Permit, or Variance is denied, no re-application for substantially the same request may be made for six (6) months following the date of the final decision on the denial of the request.

SECTION 10:090: DUE PROCESS

In addition to the procedures specifically provided for in this Section, all requirements of Oregon State Law to ensure DUE PROCESS of law in all matters pertaining to this Ordinance shall be met.

SECTION 10.110: MAINTENANCE OF LAND USE ORDINANCE TEXT AND ZONE MAPS

Copies of the text of this Ordinance shall be available in the Department. This Ordinance shall be revised at least annually to include any Amendments or policy changes made during the preceding year. A set of zone maps shall be maintained in the Department for reference by the general public. Individual zone maps shall be revised, and the corrected map made available for reference, within 30 days of any zone map Amendment adopted by the Board.

ARTICLE XI

COMPLIANCE AND PENALTIES

SECTION 11.010: COMPLIANCE WITH ORDINANCE PROVISIONS

- (1) No application made under the provisions of this Ordinance shall be approved unless COMPLIANCE can be shown with all applicable local, State and Federal laws. A lot or parcel may be used, and a structure or part of a structure constructed, reconstructed, altered, occupied, or used, only in accordance with the requirements of this Ordinance.
- (2) Any application or any decision based upon any State or local regulation administered by the Director, the Department, the Commission, or the Board, shall constitute an application or a decision pursuant to this Ordinance.

SECTION 11.020: PENALTIES

Any use of land contrary to the County's Comprehensive Plan or this Ordinance is prohibited. Any person violating any of the provisions of this Ordinance shall be subject to the provisions of ORS 203.065 and 215.185, or as they may be subsequently amended or replaced, and to any County Ordinance which provides for enforcement of this Ordinance. A violation of this Ordinance shall be considered a separate offense for each day the violation continues.

ARTICLE XII

MISCELLANEOUS PROVISIONS

SECTION 12.010: INTERPRETATION

Where any requirement of this Ordinance is less restrictive than comparable requirements of this Ordinance or of any other Ordinance, resolution, or regulation, the provisions which are more restrictive shall govern.

SECTION 12.020: SEVERABILITY

The provisions of this Ordinance are severable. If any Section, sentence, clause, or phrase of this Ordinance is adjudged by a Court of competent jurisdiction to be invalid, the decision shall not affect the validity of the remaining portions of this Ordinance.

SECTION 12.030: REPEALER

Tillamook County Ordinances No. 4, 5, 6, 7, 8, 9, 10, 11, 12, 14, 15, 16, 17, 18, 19, 27 and all Amendments thereto are hereby REPEALED.

SECTION 12.040: ADOPTION

This Ordinance shall be in full force and effect ninety days after its adoption.

Adopted this 30th day of December, 1981.

BOARD OF COUNTY COMMISSIONERS OF TILLAMOOK COUNTY, OREGON

By s/Gerald Woodward, Chairman

By s/F. E. Knight, Commissioner

By s/Carol Williams, Commissioner

APPROVED AS TO FORM: Lynn Rosik, County Counsel

RECORDING SECRETARY: Nina Gallino