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August 6, 2026

BCC Agenda Date/Item: _____

Board of County Commissioners
Clackamas County

**Adoption of Previously Approved Comprehensive Plan and
Zoning and Development Ordinance Amendments in Ordinance ZDO-293**

Previous Board Action/Review: Policy Session December 5, 2025; Policy Session March 10, 2026; Land Use Hearing June 16, 2026

Performance Clackamas: Public trust in good government

Counsel Review: Yes

Procurement Review: N/A

Contact Person: Caleb Huegel

Contact Phone: 503-655-8364

EXECUTIVE SUMMARY: Ordinance ZDO-293 is a package of legislative amendments to the Comprehensive Plan and Zoning and Development Ordinance (ZDO) which makes relatively minor changes that are necessary to comply with state laws, clarify existing language, correct errors, and adopt optional provisions that require only minimal analysis. More specifically, the amendments:

1. Implement state mandates, which were adopted through legislation or administrative rulemaking, and that are currently in effect;
2. Align the County's requirements in its Natural Resource Districts with state law;
3. Amend certain height limit and dock prohibition standards within the Willamette River Greenway;
4. Clarify how to identify front, rear, and side lot lines for the purpose of structure setback measurement; and
5. Make minor changes to the Comprehensive Plan and ZDO to clarify provisions, reduce administrative barriers, and correct citations and typographical errors.

To achieve all this, Ordinance ZDO-293 amends Chapter 3 of the Comprehensive Plan; amends Sections 202, 315, 316, 401, 406, 407, 510, 511, 512, 602, 703, 704, 705, 706, 709, 710, 712, 713, 804, 806, 837, 839, 840, 841, 845, 903, 1005, 1009, 1010, 1015, 1102, 1103, 1105, 1107, 1203, 1205, 1206, 1307, 1309, and 1310 of the ZDO; and adds new Sections 848 and 849 to the ZDO.

The Planning Commission held a public hearing on the amendments on May 11, 2026. The Planning Commission voted 6-1 to recommend approval of Ordinance ZDO-293.

For Filing Use Only

The Board held a public hearing on the amendments on June 16, 2026. The Board voted 5-0 to approve Ordinance ZDO-293, as recommended by staff.

The attached ordinance and the exhibits thereto reflect the amendments, as approved by the Board, with minor corrections for numbering, formatting, citations, consistency, and typos found in staff's final proofread.

RECOMMENDATION: Staff recommends that the Board adopt the attached ordinance and the exhibits thereto.

Respectfully submitted,

A handwritten signature in blue ink, appearing to read "Caleb Huegel", with a stylized flourish extending to the right.

Caleb Huegel
Assistant County Counsel

ATTACHMENTS:

Ordinance with Exhibits

Ordinance ZDO-293

An Ordinance Amending Chapter 3 of the Clackamas County Comprehensive Plan; Amending Sections 202, 315, 316, 401, 406, 407, 510, 511, 512, 602, 703, 704, 705, 706, 709, 710, 712, 713, 804, 806, 837, 839, 840, 841, 845, 903, 1005, 1009, 1010, 1015, 1102, 1103, 1105, 1107, 1203, 1205, 1206, 1307, 1309, and 1310 of the Clackamas County Zoning and Development Ordinance; and Adding New Sections 848 and 849 to the Clackamas County Zoning and Development Ordinance

WHEREAS, the 2025-2027 Long-Range Planning Work Program includes a project intended to make relatively minor changes to the Comprehensive Plan and Zoning and Development Ordinance (ZDO) that are necessary to comply with state laws, clarify existing language, correct errors, and adopt optional provisions that require only minimal analysis; and

WHEREAS, legislation and administrative rules adopted in 2022, 2023, 2025, and 2026 require the County to amend its urban housing procedures and on-site parking regulations for the urban area, and to allow certain uses outright, including childcare centers, emergency shelters, residential treatment facilities and homes, mental and psychiatric hospitals, and crisis stabilization centers; and

WHEREAS, it is a policy of the Board to provide excellent public service, streamline permitting processes, encourage sound land use and development, and improve the Comprehensive Plan and ZDO where possible; and

WHEREAS, it is consistent with that policy and the Work Program to implement state mandates; align the County's requirements in its Natural Resource Districts with state law; amend certain height limit and dock prohibition standards within the Willamette River Greenway (WRG); clarify how to identify front, rear, and side lot lines for the purpose of structure setback measurement; allow outdoor silos, towers, or other specialized storage and processing structures in the Business Park and Light Industrial Districts; allow single-room occupancies in commercial zones that currently allow multifamily and congregate housing; amend approval periods for most land use application types and remove the optional time extension; and make certain other clarifications and corrections; and

WHEREAS, these amendments are consistent with the Statewide Planning Goals, the Metro Urban Growth Management Functional Plan, the Comprehensive Plan, and the ZDO; and

WHEREAS, after a duly noticed public hearing on June 16, 2026, and after considering a recommendation by the Planning Commission following its own public hearing on May 11, 2026, the Board orally approved the amendments; and

WHEREAS, per Statewide Planning Goal 15, amendments to the County's WRG Design Plan, including development standards within the WRG, must also be adopted and approved by the Land Conservation and Development Commission (LCDC) and the Oregon Parks and Recreation Department (OPRD);

Now, therefore, the Board of Commissioners of Clackamas County ordains as follows:

Section 1: Chapter 3 of the Comprehensive Plan and Section 705 of the ZDO are amended as shown in Exhibit A, attached hereto and by this reference incorporated herein.

- Section 2:** Sections 202, 315, 316, 401, 406, 407, 510, 511, 512, 602, 703, 704, 706, 709, 710, 712, 713, 804, 806, 837, 839, 840, 841, 845, 903, 1005, 1009, 1010, 1015, 1102, 1103, 1105, 1107, 1203, 1205, 1206, 1307, 1309, and 1310 of the ZDO are amended as shown in Exhibit B, attached hereto and by this reference incorporated herein.
- Section 3:** Sections 848 and 849 are added to the ZDO as shown in Exhibit B.
- Section 4:** The Board adopts the findings shown in Exhibit C, attached hereto and by this reference incorporated herein.
- Section 5:** Section 1 of this Ordinance shall be effective upon LCDC's and OPRD's adoption and approval of the amendments shown in Exhibit A. Section 2 shall be repealed on June 30, 2027, if LCDC and OPRD have not adopted and approved the amendments shown in Exhibit A by that date.
- Section 6:** Sections 2 and 3 of this Ordinance shall be effective on September 8, 2026.
- Section 7:** If any provision of the Comprehensive Plan or ZDO that is amended or adopted by this ordinance is adjudged or declared to be unconstitutional or otherwise held to be invalid by a tribunal of competent jurisdiction, the remaining provisions that are amended or adopted by this ordinance shall remain in full force and effect.

ADOPTED this 6th day of August 2026

BOARD OF COUNTY COMMISSIONERS

Chair

Recording Secretary

|
Exhibit A
Ordinance ZDO-293
Comprehensive Plan Amendments

Text to be added is underlined. Text to be deleted is ~~struck through~~.

Chapter 3: NATURAL RESOURCES AND ENERGY

Citizen involvement is essential in the governmental process to promote the general health and welfare of the total community. New approaches must be developed by local government to effectively involve citizens in the planning and decision-making process. Positive accomplishments can be achieved.

The resources and natural systems of Clackamas County are the most enduring and tangible assets for its communities and their economies and environment.

River corridors, farm fields, marshes, scenic outlooks, wildflowers, spawning beds for salmon, deer and elk wintering areas, gravel quarries, magnificent stands of trees along Oatfield Ridge, or reservoirs of hot water beneath the slopes of Mt. Hood are all part of the wealth of Clackamas County's environment.

Natural resources and processes are interdependent, supplying benefits to the system of which they are a part. Plants are used by animals. Floodplains accommodate floods. Geologic processes produce areas of spectacular scenery. Skiers use the snow-covered slopes of Multnomah Mountain. Favorable soils and slopes result in savings for construction. Energy flows into the region from the sun, wind, and rain.

Clackamas County is an area of rapid growth, urbanization pressures, and diverse rural activities. As man exerts a greater influence on the environment, planning for future use of Clackamas County's land, water, and energy resources becomes increasingly important. The concern becomes one of insuring long-range values and a high quality of life. This can be accomplished by insuring that our resources are wisely managed, that different uses of land do not conflict, that energy for productivity is available in the quantities needed, and that there is a sufficient amount of high-quality water for the needs of the population as well as natural systems.

ISSUES

- Use of rivers for recreation and public water supply.
- Effects of river corridor development.
- Competing land use demands in river corridors and impact of development on wetlands.

- Availability and quality of groundwater.
- Management of agricultural resources.
- Management of forest resources on small woodlot ownerships.
- Management of urban forests.
- Competition of recreational demands in forest areas.
- Management of mineral and aggregate supplies.
- Reuse of exhausted aggregate extraction sites.
- Management of fish and wildlife habitat.
- Compatibility of structures and land uses in critical habitat areas; animal damage in agricultural/forest areas.
- Protection of scenic and unique natural areas on public and private lands.
- Housing density in hazard areas (e.g., steep slopes, active landslides, and floodplains).
- Government liability if known hazard areas are allowed to develop, and damage to life or property occurs.
- Energy efficiency and alternative local sources (e.g., solar, geothermal).
- Need for educational programs on energy conservation (e.g., weatherization, recycling, and efficient land use patterning).

SUMMARY OF FINDINGS AND CONCLUSIONS

- On peak days and/or during summer months, sections of the Willamette River are overused in terms of recreational activities. The Clackamas and Sandy Rivers may be approaching recreational overuse in some sections. The Molalla has very low summer flows. Access points on the Tualatin River and lower Molalla River are few. The banks of the Tualatin are predominantly mud, relatively fragile, and cannot withstand much wave (wake) action. Regulatory programs include State Scenic Waterways on the Clackamas and Sandy Rivers, Federal Wild and Scenic Waterways Act, the Willamette River Greenway, state water quality standards, Water Resources Department policy and water rights, and Division of State Lands fill permits. Seven cities and the County share jurisdiction of the Willamette River.
- All rivers either support or provide passage for anadromous fish, i.e. salmon and steelhead.
- Existing land uses within each river corridor area are:

Land Use as Percentage of Total

<u>River</u>	<u>Residential</u>	<u>Commercial</u>	<u>Industrial</u>	<u>Ag/Forest/OS</u>
Clackamas	6.5	0.1	3.2	90.2
Sandy	4.7	0.4	0.0	94.9
Molalla	2.0	0.0	1.0	97.0

Clackamas County Comprehensive Plan

Tualatin	13.9	0.2	0.0	85.9
Willamette	11.3	0.4	3.6	84.7

- Quality of groundwater in Clackamas County is generally good, although some dissolved iron is found in well supplies. Groundwater monitoring activities show a gradual yearly decline in the water table; however, according to the Oregon Water Resources Department, there is no indication of a critical groundwater situation.
- The County's agricultural production in 1987 had an estimated value of over \$150 million. This contributed a total of approximately \$500 million to the state's economy. The County's agricultural land base has decreased over 100,000 acres in the last 30 years. The potential for agricultural production is further reduced by rural parcelization patterns and inactive farm land owners.
- Techniques for maintaining the County's agricultural base are (1) regulating land uses to insure that in prime agricultural lands, economic farm units are preserved; and (2) utilizing and expanding existing resources that provide tax relief, educational programs, technical assistance, cooperatives, etc., to encourage the economic viability of the County's farms.
- Federal timber revenues to the County treasury averaged over \$9 million per year from 1984 to 1988. The forest industry is one of the largest industries in the state.
- During the late 1980s (from 1984 to 1988) federal lands supplied 70 to 75 percent of Clackamas County's timber harvest volume, and the forest industry supplied about 15 to 20 percent. Small woodlot owners control approximately 20 percent of the Countywide commercial forest land, and supply 5 to 10 percent of the timber harvest.
- Inside the Portland Metropolitan Urban Growth Boundary, street trees are required in certain areas and encouraged elsewhere.
- Inside the Portland Metropolitan Urban Growth Boundary, preservation, maintenance, and enhancement of the tree canopy are required or encouraged through regulation and public education.
- The County could simplify management of its scattered forest holdings by exchanging them for forest lands in other parts of the County and using them for parks and/or open space. A County forest land inventory and management plan has been completed and is now being implemented.
- Aggregate supplies are integral to general economic development in the County; however, supplies near the urban area are limited due to encroachment of urban land uses.
- Fishing is a major recreational activity in the County, with many streams and rivers noted for their salmon and steelhead runs. Hunting is also a major activity, with deer, bear, elk, and other hunting having an important economic impact on Clackamas County.

- Areas near rivers or streams are the most important wildlife habitat, harbor the greatest species diversity, and are critical to the survival of numerous species. Cool and well-oxygenated rivers sustain fish in the summer. Winter range is necessary to support big game during inclement months.
- Scenic and natural areas are often quite fragile and easily obscured or degraded by inappropriate forms of development.
- County population projections indicate an increase of 45 percent by the year 2010, substantially increasing development pressure and recreational use of the County's scenic and natural areas. The quality of these resources affects tourism, a major County industry.
- Flooding and landslides are natural events posing hazards to existing structures and may be compounded by further development. There are approximately 330 acres of landslides and 935 acres of floodplain in northwest unincorporated urban Clackamas County.
- Inappropriate hillside development can increase runoff, erosion, and public service costs. County road maintenance costs, for development on hillsides with greater than 15 percent slope, are about four times as great as maintenance costs for development on 0 percent to 8 percent slope.
- Practically all energy is imported to the County. Although little can be done to affect price or supply, efficient use of energy can be accomplished once it enters the County, and auxiliary sources (e.g. solar, wind, geothermal, etc.) can be developed.
- Nearly 40 percent of the County's energy consumption is wasted by inefficient insulation, improper ventilation, poorly designed appliances, etc. Energy loss due to inefficient land use patterns add to this total. Energy conservation strengthens the economy by preventing job loss during shortages, reducing demands on natural resources, and providing time to develop new or more efficient sources.
- Solar and wind energy are both essentially unlimited in their supply and pose few environmental problems. If more actively promoted, they could become important auxiliary energy sources in Clackamas County. Solar energy can make an immediate contribution for heating and cooling individual buildings.
- The Metropolitan Service District has established a solid waste transfer station and recycling center in Oregon City. It, and a similar station near Sandy, are collection points for solid waste before the nonrecycled material is trucked to the landfill.
- Initial exploration near Mt. Hood indicates a potential for geothermal energy. Heat from the earth could be an important contributor to the total energy requirements of the Portland metropolitan area in the next 10 to 20 years.

WATER RESOURCES

The value of Clackamas County's water resources is immeasurable. Rivers, lakes, farm ponds, marshes, streams, and groundwater provide for domestic supply, recreation, wildlife habitat, drainage control, and many aesthetic benefits.

To protect our water resources, the following goals and policies address rivers and stream corridors in general, five individual river corridors, wetlands, and groundwater.

WATER RESOURCES GOALS

- Maintain an adequate amount of surface water and maintain and improve water quality to insure its continued use for domestic water supply, aquatic habitat, and recreation.
- Minimize erosion and hazards to life or private and public property.
- Maintain or improve the quality and quantity of groundwater.
- Maintain or improve the quality of rivers and streams.
- Protect and enhance wetlands as a valuable source of groundwater recharge, wildlife habitat, and stormwater drainage control.

3.A River and Stream Corridors Policies

- 3.A.1 Maintain rivers and streams in their natural state to the maximum practicable extent through sound water and land management practices. Consideration shall be given to natural, scenic, historic, economic, cultural, and recreational qualities of the rivers and adjacent lands.
- 3.A.2 Apply erosion and sediment reduction practices in all river basins to assist in maintaining water quality. Existing riparian vegetation along streams and river banks should be retained to provide fisheries and wildlife habitat, minimize erosion and scouring, retard water velocities, and suppress water temperatures.

- 3.A.3 For areas that are outside both the Metropolitan Service District Boundary and the Portland Metropolitan Urban Growth Boundary, require preservation of a buffer or filter strip of natural vegetation along all river and stream banks as shown on the adopted Water Protection Rules Classification (WPRC) Maps. The depth of the buffer or filter strip will be dependent on the proposed use or development, width of river or stream, steepness of terrain, type of soil, existing vegetation, and other contributing factors, but will not exceed 150 feet. River and stream corridor crossings shall be permitted provided they do not interfere with fish movement. Commercial forest activities and harvesting practices shall provide for vegetation buffers and the intended shading, soil stabilizing, and water filtering effects as required by the Oregon Forest Practices Act and administered by the State Department of Forestry. Tree cutting activities associated with river or stream enhancement projects approved by the Oregon Department of Fish and Wildlife are exempt from this policy.
- 3.A.4 For areas that are inside either the Metropolitan Service District Boundary or the Portland Metropolitan Urban Growth Boundary, require preservation of a buffer or filter strip of natural vegetation along all river and stream banks as shown on the adopted Habitat Conservation Areas Map and Water Quality Resource Areas Map and for unmapped Water Quality Resource Areas.
- 3.A.5 Encourage establishment and maintenance of adequate minimum flow standards in all streams to insure a productive fish habitat and to protect aquatic life and scenic qualities. As new data become available, and the Department of Water Resources Commission establishes minimum stream flows, such information shall be incorporated into the County planning process.
- 3.A.6 Require to the most reasonable extent possible the use of nonstructural methods of bank stabilization in areas experiencing accelerated soil loss. Require that bank stabilization not degrade fish habitat and not accelerate erosion in other sections of the river or stream.
- 3.A.7 Allow diversion or impoundment of stream courses if fisheries, wildlife, water quality, and flow will not be adversely affected. If the action is taken for fish or wildlife habitat enhancement, the action shall be approved by the applicable federal, state or local agencies having jurisdiction.

- 3.A.7.1 Require new dams or other impoundments, or major modifications to existing dams or impoundments, to demonstrate that anadromous and resident fish will not be adversely affected by the installation of such works. The methodology for such determination shall be developed by the County in conjunction with affected federal and state agencies, including, but not limited to, the U.S. Department of Fish and Wildlife, the Oregon Department of Environmental Quality and Environmental Quality Commission, and the Oregon Department of Fish and Wildlife.
- 3.A.7.2 Require all new dam and impoundment projects to incorporate designs which assist to the maximum extent practicable the restoration, expansion and monitoring of anadromous fish populations, as determined by the County in the development of a methodology with the agencies listed in Policy 3.A.7.1 above.
- 3.A.8 Allow low head hydroelectric dam facilities that do not adversely impact fisheries and water quality.
 - 3.A.8.1 Require new dams or other impoundments, or major modifications to existing dams or other existing impoundments, to demonstrate pursuant to current accepted methodology that anadromous and resident fish will not be adversely impacted as determined by the Oregon Department of Fish and Wildlife.
 - 3.A.8.2 Require all new dam and impoundment construction incorporate designs which assist to the maximum extent practical restoration, expansion and monitoring of anadromous fish populations as determined by the Oregon Department of Fish and Wildlife and U.S. Fish and Wildlife Services.
- 3.A.9 Decisions regarding developments in Principal River Conservation Areas, Stream Conservation Areas, and Habitat Conservation Areas shall be consistent with the applicable Economic, Social, Environmental and Energy (ESEE) analyses for the watershed.
- 3.A.10 Establish water-based recreational areas for activities such as swimming, fishing, and canoeing that are free from conflicts with speed boating and water skiing.

3.B Principal River Conservation Area Policies

- 3.B.1 Designate a Principal River Conservation Area along the corridor of the Willamette River. For areas that are outside both the Metropolitan Service District Boundary and the Portland Metropolitan Urban Growth Boundary, designate Principal River Conservation Areas along the corridors of the Clackamas River, Sandy/Salmon Rivers, Molalla/Pudding Rivers, Tualatin River, Roaring River, and Zig Zag River as shown on Map 3-2. The corridors include those rivers identified by the Omnibus Oregon Wild and Scenic Rivers Act (1988), and the State Scenic Rivers Program. The corridor width will be one-quarter mile from mean high water level on each side, except along the Willamette River, where the width is defined by the Willamette River Greenway boundaries, urban and rural.
- 3.B.1.1 Coordinate with regional, state and federal regulatory agencies to provide a common management direction and permit review procedures for the designated river corridors. This includes reliance on the Oregon Forest Practices Act for contemplated forest management activities.
- 3.B.1.2 Manage development in all Principal River Conservation Areas according to the following siting performance criteria:
- 3.B.1.2.a Maintain vegetative fringe areas along the river free of structures, grading and tree cutting activities (see Policy 3.A.3). Diseased trees or those in danger of falling may be removed.
 - 3.B.1.2.b Minimize erosion and sedimentation through drainage control techniques, revegetation of cleared/disturbed areas, phasing of vegetation removal, closure of unused roads, and discouraging off-road vehicles.
 - 3.B.1.2.c Limit residential structure height to 35 feet and use a vegetative fringe to screen from the river primary and accessory structures, except for development within a High Density Residential designation within the Willamette River Greenway, where the height limit does not apply.
 - 3.B.1.2.d Encourage subdued substructure color or tones to blend with surroundings and adjacent features.
 - 3.B.1.2.e Screen commercial/industrial structures (except water-dependent or water-related uses), parking and/or loading, and storage areas from view from the river, and orient signs away from the river.

- 3.B.1.3 Require a minimum setback of not less than 100 feet or more than 150 feet from mean high water level for all structures, except water-dependent uses. The actual setback shall be based on the site criteria stipulated in Policy 3.A.3. Residential lots of record and residential minor land partitions unable to meet this requirement shall be exempt from the minimum setback standard. However, all River Areas siting criteria and other provisions of this Plan shall be met. Requirements of the State Scenic Waterways Act and Willamette River Greenway must be met on the applicable reaches of the Clackamas, Sandy, and Willamette Rivers.
- 3.B.1.4 Encourage new public access points to minimize trespass and vandalism on private property.
- 3.B.1.5 Mining of aggregate within Principal River Conservation Areas shall only be allowed upon demonstration the site is significant, has been reviewed pursuant to the Goal 5 process and procedures, and when demonstrated such uses shall not adversely impact water quantity or quality. Under no circumstances shall mining or other development activities associated with the use occur within one hundred fifty (150) feet of the mean high water line of the river.
 - 3.B.1.5.a The Canby Sand and gravel site, identified in Board order 95-47, commenced the Goal 5 process in 1992 and has been designated as a significant Goal 5 aggregate site but has not completed the ESEE stage of the process. This site has been found to have significant aggregate and fish habitat. The County has delayed the decision to protect these Goal 5 resources until a concurrent examination of these resources is performed pursuant to the ESEE analysis in OAR 660, Division 16.

3.C Stream Conservation Area Policies

- 3.C.1 For areas that are outside both the Metropolitan Service District Boundary and the Portland Metropolitan Urban Growth Boundary, designate stream conservation areas along the corridors of fish-bearing streams based on Water Protection Rule Classification (WPRC) Maps created through the cooperative efforts of the Oregon Department of Forestry (DOF) and Oregon Department of Fish and Wildlife (ODFW) pursuant to OAR 629-635-000. Establish and manage conservation corridors based upon the following performance criteria:
 - 3.C.1.1 Large stream conservation areas: A minimum 100 feet from the mean high water line shall be designated along all streams described as fish-bearing streams (Type F) with average annual flows of 10 cubic feet per second or greater as shown on WPRC maps.

- 3.C.1.2 Medium stream conservation areas: A minimum 70 feet from the mean high water line shall be designated along all streams described as fish-bearing streams (Type F) with average annual flows greater than two cubic feet per second and less than 10 cubic feet per second or greater as shown on WPRC maps.
 - 3.C.1.3 Small stream conservation areas: A minimum 50 feet from the mean high water line shall be designated along all streams described as fish-bearing streams (Type F) with average annual flows less than two cubic feet per second as shown on WPRC maps.
 - 3.C.1.4 Manage development and establish minimum setbacks from watercourses. Allow stream corridor crossings provided they do not interfere with fish movement.
 - 3.C.1.5 Maintain vegetative fringe areas along fish bearing streams free of structures.
 - 3.C.1.6 Establish residential lots of record exemption provisions to allow development on properties physically unable to satisfy the minimum setback requirements.
 - 3.C.1.7 Manage stream conservation areas to maintain and enhance water flows from springs, seeps, side channels and other sources.
- 3.C.2 Sandy/Zig Zag/Salmon Rivers Design Plan and Policies
- 3.C.2.1 Implement the design plan for the Sandy/Salmon Rivers according to Map 3-1b, which illustrates uses. Management activities and land classifications shown on the map are consistent with land use policies and designations in the Land Use Chapter. Official maps showing precise boundaries and sites (scale 1"=2000') are on file at the Clackamas County Department of Transportation and Development.
 - 3.C.2.2 Limit development and intense recreation activities on those sites designated Protection Resource Areas on the Design Plan Map. Islands shall not be developed.
 - 3.C.2.3 Apply policies contained in the adopted Mt. Hood Community Plan to the Sandy/Salmon Rivers.
 - 3.C.2.4 Prohibit water appropriations or other withdrawals from the Salmon River unless it is demonstrated through current accepted methodology that anadromous and resident fish habitat will not be adversely impacted as determined by the Oregon Department of Fish and Wildlife.

3.C.3 Clackamas River Design Plan and Policies

- 3.C.3.1. Implement the design plan for the Clackamas River according to Map 3-1a, which illustrates uses. Management activities and land classifications shown on the map are consistent with land use policies and designations in the Land Use Chapter. Official maps showing precise boundaries and sites (scale 1"=2000') are on file at the Clackamas County Department of Transportation and Development.
- 3.C.3.2. Cooperate with the Oregon Department of Transportation (ODOT) in development of a coordinated management scheme for the scenic waterway section.
- 3.C.3.3. Limit development and intense recreational activities on those sites/areas designated Protection Resource Area on the Design Plan Map. Islands shall not be developed.
- 3.C.3.4. Develop, with the Oregon State Parks and Recreation Department, a Clackamas River Scenic Waterway Recreation Guide for river users that shows landmarks, access/egress points, and scenic waterway rules.
- 3.C.3.5. Study, for potential inclusion in the State Scenic Waterway Program, a Clackamas River "Gorge" from Estacada to Faraday Dam.
- 3.C.3.6. Encourage the posting of hazardous water signs in reaches of the river where safety hazards exist.

3.C.4 Molalla River Design Plan and Policies

- 3.C.4.1. Implement the design plan for the Molalla/Pudding Rivers according to Map 3-1c, which illustrates uses. Management activities and land classifications shown on the map are consistent with land use policies and designations in the Land Use Chapter. Official maps showing precise boundaries and sites (scale 1"=2000') are on file in the Clackamas County Department of Transportation and Development.
- 3.C.4.2. Encourage new public access points to minimize traffic hazards, trespass, vandalism, and crop disturbance. Clackamas County shall evaluate public access sites shown by the Oregon Department of Fish and Wildlife as indicated in the Pudding River Basin Master Plan for Angler Access and Associated Recreational Uses, 1969.
- 3.C.4.3. Limit development and intense recreational activities on those sites designated Protection Resource Areas on the Design Plan Map.

3.C.5 Tualatin River Design Plan and Policies

- 3.C.5.1 Implement the design plan for the Tualatin River according to Map 3-1d, which illustrates uses. Management activities and land classifications shown on the map are consistent with land use policies and designations in the Land Use Chapter. Official maps showing boundaries and sites (scale 1"=2000') are on file at the Clackamas County Department of Transportation and Development.

- 3.C.5.2 Encourage new public access points to minimize trespass and vandalism on private property.
- 3.C.5.3 Identify public access points above River Mile 3.4 (Lake Oswego Diversion Dam) and discourage boating activities which create bank erosion due to wave action.
- 3.C.5.4 Cooperate with the State Water Resources Department and other appropriate agencies to implement the Willamette River Basin Plan.

3.C.6 Willamette River Design Plan and Policies

- 3.C.6.1 Implement the design plan for the Willamette River according to Map 3-1e, which illustrates uses. Management activities and land classifications shown on the map are consistent with land use policies and designations in the Land Use Chapter. Official maps showing precise boundaries and sites (scale 1"=2000') are on file at the Clackamas County Department of Transportation and Development.
- 3.C.6.2 Support regulation of recreational activities in the rural portion of the Willamette Greenway to minimize conflicts between water-based recreational uses, manage the intensity of recreational uses, and buffer bankside uses from water-borne recreational activities including recreational noise levels. The County shall develop a joint land management program with the Oregon State Parks and Recreation Department for all County- and state-owned lands in the rural greenway.
- 3.C.6.3 Provide for recreational activities in the urban portion of the Willamette Greenway through a jointly developed management program with all incorporated cities. At a minimum, public safety, recreational use intensity, and recreational noise need to be addressed.
- 3.C.6.4 Exempt specified modifications of single family residences from the existing Greenway Conditional Use procedure. For all other uses, change of use, modifications, and intensifications, require Willamette River Greenway Conditional Use approval and compliance with provisions of the design plan and Policies 3.B.1.2 and 3.B.1.3 of this chapter.
- ~~3.C.6.5 Prohibit private noncommercial docks and moorages in limited use rural portions of the Greenway to protect the natural river character.~~
- ~~3.C.6.6~~ 3.C.6.5 Allow private noncommercial docks and moorages in urban and ~~multiple-use~~ rural portions of the Greenway through the Willamette River Greenway permit Conditional Use provisions of the Zoning and Development Ordinance ~~which require an extraordinary exception in the rural portion.~~
- ~~3.C.6.7~~ 3.C.6.6 Limit development and intense recreational activities on sites designated Protection Resource Areas on the Design Plan Map. Islands shall not be developed.

~~3.C.6.8~~3.C.6.7 Encourage new public access points to minimize trespass and vandalism on private property. Emphasis shall be directed to the area from Gladstone to Milwaukie.

3.C.7 Cooperate with the State Water Resources Department and other appropriate agencies to implement the Willamette River Basin Plan.

3.D Habitat Conservation Area Policies

3.D.1 For areas that are inside the Metropolitan Service District (Metro) Boundary or the Portland Metropolitan Urban Growth Boundary, designate Habitat Conservation Areas as required by Title 13 of the Metro Urban Growth Management Functional Plan, a Statewide Planning Goal 5 program for riparian corridors, wetlands, and wildlife habitat.

3.D.2 Regulate development in Habitat Conservation Areas, and on parcels that contain Habitat Conservation Areas, in a manner consistent with Metro's acknowledged Goal 5 inventory, significance determination, and Economic, Social, Environmental, and Energy analysis.

3.D.3 Implement Habitat Conservation Area regulations by adopting by reference Metro's Habitat Conservation Areas Map, establishing an overlay zoning district, and applying development standards consistent with Metro's Habitat Conservation Areas model ordinance.

3.E Water Quality Resource Area Policies

3.E.1 For areas that are inside the Metropolitan Service District (Metro) Boundary or the Portland Metropolitan Urban Growth Boundary, designate Water Quality Resource Areas as required by Title 3 of the Metro Urban Growth Management Functional Plan, a Statewide Planning Goal 6 program for water quality.

3.E.2 Regulate development in Water Quality Resource Areas by adopting by reference Metro's Water Quality Resource Areas Map, establishing an overlay zoning district, and applying development standards consistent with Metro's Water Quality Resource Areas model ordinance.

3.E.3 Use Metro's Water Quality Resource Areas Map as a reference document, but rely on the text of the Zoning and Development Ordinance to establish criteria for the identification of protected water resources and the location of the boundaries of Water Quality Resource Areas.

3.F Wetlands Policies

- 3.F.1 For areas that are outside both the Metropolitan Service District Boundary and the Portland Metropolitan Urban Growth Boundary, prevent disturbance of natural wetlands (marshes, swamps, bogs) associated with river and stream corridors. Adjacent development shall not substantially alter normal levels or rates of runoff into and from wetlands. Site analysis and review procedures specified in the Open Space and Floodplains section of the Land Use chapter shall apply. (See Wildlife Habitats and Distinctive Resource Areas of this chapter).
- 3.F.1.1 Develop guidelines for compatible uses on wetlands and their peripheries, and for wetland restoration. Table 3-1 shall be used as a guide. Wetland restoration decisions shall be made on a site-specific basis.
- 3.F.1.2 The County recognizes the U.S. Department of the Interior, Fish and Wildlife Service National Wetlands Inventory as a resource document for wetland identification in the County. Individual site development of inventoried lands will be reviewed for compliance with wetlands policies.
- 3.F.1.3 The County has insufficient information as to location, quality, and quantity of wetland resources outside of the Mt. Hood urban area and the Portland Metropolitan Urban Growth Boundary to develop a management program at this time. If such information becomes available, the County shall evaluate wetland resources pursuant to Goal 5 and OAR Chapter 660, Division 16, prior to the next Periodic Review. In the interim, the County will review all conditional use, subdivision, and zone change applications and commercial and industrial development proposals to assure consistency with Section 1000 of the Zoning and Development Ordinance and goals and policies of Chapter 3 of the Plan.

3.G Groundwater Policies

- 3.G.1 Cooperate with appropriate state and federal agencies to inventory and catalog groundwater resources and their uses to assess groundwater potentials and establish management criteria and priorities to protect and maintain this natural asset.
- 3.G.2 Investigate the feasibility of maintaining or subsidizing a groundwater testing service, available to the County's citizens (upon request for a nominal fee) to assist in assuring adequate well water quality.

- 3.G.3 Cooperate in the monitoring of groundwater levels and quality with the Oregon Water Resources Department.
- 3.G.4 Protect groundwater supplies in rural, agricultural, and forest areas.
 - 3.G.4.1 Implement large-lot zoning.
 - 3.G.4.2 Regulate all subdivisions utilizing groundwater as a potable water source to promote long-term sustainability of groundwater supplies.
 - 3.G.4.3 Regulate all development and land divisions utilizing groundwater as a potable water source located in areas classified by the State of Oregon as a groundwater limited area, critical groundwater area or other area where new groundwater appropriations are restricted by the State of Oregon, to promote long-term sustainability of groundwater supplies.
- 3.G.5 Develop programs to encourage the conservation of groundwater.

AGRICULTURE

Preliminary estimates of the County's farm income show that it added over five hundred million dollars to the State's economy in 1987. The County ranked second among Oregon counties for total farm income according to the Oregon State University Extension Service. Production of nursery stock, Christmas trees, poultry, and vegetables have increased in recent years, along with traditional County crops of berries, tree fruits, field crops, and livestock.

In addition to its economic importance, farm land is valuable open space and provides urban buffers, visual resources, and wildlife habitats.

For additional consideration of agricultural lands, see the Land Use Chapter.

AGRICULTURE GOALS

- Preserve agricultural lands.
- Maintain the agricultural economic base in Clackamas County and the State of Oregon.
- Increase agricultural markets, income and employment by creating conditions that further the growth and expansion of agriculture and attract agriculturally related industries.
- Maintain and improve the quality of air, water, and land resources.
- Conserve scenic areas, open space and wildlife habitats.

3.H Agriculture Policies

- 3.H.1 Recognize agricultural areas through appropriate zoning. All agricultural areas shall continue unencumbered by activities/land uses unrelated to agriculture in order to insure productive farm land. Specific policies relating to land use in agricultural areas are found in the Land Use Chapter of this Plan.
- 3.H.2 Investigate the feasibility of irrigation projects in cooperation with the Oregon State University Extension Service, Bureau of Reclamation, Soil Conservation Service, and other state and federal agencies.
- 3.H.3 Encourage cooperative agricultural projects in support of small agricultural businesses within the County, e.g., establishment of a receiving/shipping station for fresh produce and a farmers market for the direct exchange of local farm products between growers and the public to benefit the economic viability of agricultural businesses.

- 3.H.4 Encourage food processing industries and services that support agriculture to locate in the County.
- 3.H.5 Cooperate with the Oregon State University Extension Service to promote education and dissemination of information on agricultural crops, methods and technology, special tax assessment programs, new farming techniques, and commercial agriculture opportunities for new farmers.
- 3.H.6 Encourage the appropriate agencies to assess agriculture's labor force problems and develop a program to alleviate these problems (e.g., provision of second job opportunities in Unincorporated Communities).

FORESTS

The forest resources of Clackamas County, primarily Douglas Fir, Western Hemlock and other coniferous trees, have provided thousands of jobs for many decades both in Clackamas County and the surrounding region. Timber volume is temporarily declining in the County as the old growth stands are replaced by younger forests. Sound management practices and coordination are needed by all forest owners.

Increased demand for outdoor recreation from a growing County and regional population places renewed emphasis on the need for balanced use and management of forest resources.

Development pressures pose a challenge to retaining and enhancing a healthy urban forest canopy. Accommodating growth inside the Portland Metropolitan Urban Growth Boundary should be balanced with the preservation and planting of trees for their environmental, aesthetic, and economic benefits.

For additional consideration of forest lands, see the Land Use Chapter.

FORESTS GOALS

- Conserve and protect forest lands.
- Provide continued employment in the forest products industry.
- Protect, maintain, and conserve open space, environmentally sensitive areas, wildlife habitat, scenic corridors, recreational uses, and urban buffers.
- Maintain and improve the quality of air, water and land resources.
- Create conditions that will maintain or further the growth of the wood products industry.
- Support principles and implementation of the Oregon Forest Practices Act.

3.I Forests Policies

- 3.I.1 Protect from conflicting land uses productive forest lands and related forested areas which are environmentally sensitive or otherwise require protection (watersheds, areas subject to erosion, landslides, etc.) (see Chapter 4-Land Use). Recognize forest producing areas through appropriate zoning.
 - 3.I.1.1 Ensure that forest productivity data, based on cubic foot site classes, is current and revised periodically to reflect changes in commercial forest resources.

- 3.1.2 Encourage forest related industries, specifically firms doing secondary wood processing or those which use wood products now underutilized or considered waste--hardwoods, slash materials, etc.
- 3.1.3 Continue to support and coordinate programs of the Oregon State University Extension Service and the State Forestry Department to promote more intensive management of small woodlot forest lands, including the education and dissemination of information on timber management methods, special tax assessment incentives, and programs to aid in the marketing of small timber sales.
 - 3.1.3.1 Encourage ready availability of regeneration stock, greater opportunity for equipment-sharing co-ops, and joint timber harvest programs to assist smaller woodlot and timber tract owners.
- 3.1.4 Encourage coordinated management of major forest lands by cooperation with the U.S. Forest Service, the Bureau of Land Management, the Oregon State Board of Forestry, and the private industry sector.
- 3.1.5 Cooperate and coordinate with appropriate state and federal agencies to ensure forest management practices that recognize the multiple resource values of forest lands. Impacts on environmentally sensitive areas such as slide and erosion hazard areas, sensitive fish and wildlife habitat, scenic corridors, unique natural and/or cultural features, etc, shall be minimized.
 - 3.1.5.1 Encourage forest owners to restrict the use of off-road vehicles to specified areas where environmental damage and conflicts with other forest uses will be minimized.
 - 3.1.5.2 Encourage public agencies to acquire through purchase, exchange, or easement, scenic areas now in private ownership in order to insure their preservation.
 - 3.1.5.3 Encourage strengthening of the Oregon Forest Practices Act to include special consideration of scenic values in methods of harvesting, in addition to prompt clean up and regeneration (ref. State Forest Practices Act, Section 629-24-541(h), 1978) and ORS 527.710.
 - 3.1.5.4 Support visual management techniques on federal lands within the County, e.g., alternating smaller harvests along scenic corridors to reduce large-scale impacts. Develop incentives to increase the management of scenic/watershed resources on privately owned forest lands, e.g., tax incentives for modifying harvest techniques in designated scenic corridors.
- 3.1.6 Initiate a tree conservation and planting program inside the Portland Metropolitan Urban Growth Boundary to preserve urban forest areas and promote tree landscapes.

- 3.I.6.1 Implement tree conservation standards in conjunction with the processing of design review, land division, and conditional use applications to minimize and regulate removal of trees and other vegetation and protection of trees during construction.
- 3.I.6.2 Discourage excessive tree removal prior to development by imposing a five-year prohibition on approval of design review, land division, and conditional use applications, if such tree removal has occurred.
 - 3.I.6.2.a Provide an exception for lands specially assessed as forestland on the effective date of the regulations.
 - 3.I.6.2.b Provide an exception for minor modifications to approved developments.
 - 3.I.6.2.c Allow unlimited removal of certain types of trees, such as those that are hazardous, diseased, or planted as a commercial crop.
 - 3.I.6.2.d Allow unlimited removal of trees for certain purposes, such as utility line maintenance, or compliance with other legal requirements.
- 3.I.6.3 Develop non-regulatory approaches to encourage and facilitate tree preservation, maintenance, and planting. Such approaches may include public education and outreach, partnerships with other community organizations, and County-sponsored tree planting.
- 3.I.6.4 Develop an urban street tree planting and maintenance program that focuses on specified arterials (e.g., boulevards) and designated neighborhoods. This should be done in cooperation with businesses and community groups.
- 3.I.7 Adopt and implement an updated Forest Management Plan for County-owned forest land, emphasizing consolidation/exchange of scattered County holdings to facilitate more intensive programs for timber management, park development and acquisition, and protection of any recognized watershed, recreation, or scenic values.

MINERAL AND AGGREGATE RESOURCES

Clackamas County is rich in mineral and aggregate resources, the conservation of which is an economic necessity to our society. Haul distances and development, however, have limited many options for use of these resources. To maintain the availability of these valuable resources, areas containing significant resources must be protected from the potential limitations on their use caused by encroachment of conflicting uses.

Mining and processing these resources generates noise, truck traffic, dust and other impacts that can be a problem where there are conflicting uses like nearby houses or a school. Conflicting uses can reduce the economic viability of the resource site. Regulating some conflicting uses is necessary to allow the use of significant mineral and aggregate resources to some desired extent. Development standards are required of mining and processing to reduce the adverse effects these activities may have on surrounding land uses. The county requires reclamation of the mined land for use consistent with the comprehensive plan.

MINERAL AND AGGREGATE RESOURCES GOALS

Protect and ensure the appropriate use of mineral and aggregate resources while minimizing adverse effects of mining and processing on surrounding land uses.

3.J Mineral and Aggregate Resources Policies

- 3.J.1 To identify and protect mineral and aggregate resources, the county will comply with Statewide Planning Goal 5 and administrative rules adopted by LCDC interpreting the Goal 5 planning process.
- 3.J.2 The county will maintain an inventory of mineral and aggregate resources. The inventory comprises three parts.
 - A list of sites the county has determined are not significant or not in its planning jurisdiction. These sites are “other sites.”
 - A list of sites for which the county lacks specific information about the location, quality and quantity of the possible resource. These sites are “potential sites.”
 - A list of sites the county has determined are significant Goal 5 resources. These sites are “significant sites”.
- 3.J.3 Where the county has completed the Goal 5 planning process and developed a program for protection of a significant mineral or aggregate site, the county shall use a Mineral and Aggregate Overlay District. The county may use other tools to carry out its program to achieve the Goal. If any aspect of the overlay requires interpretation, the county shall rely on direction in the site-specific program in the comprehensive plan.

- 3.J.4 The county shall use the site plan review process for the Mineral and Aggregate Overlay District solely for determining whether an application to mine complies with the site-specific program developed through the county's Goal 5 analysis or complies with other standards of the Zoning and Development Ordinance.
- 3.J.5 Applicants may seek land use permits to mine mineral or aggregate sites not zoned with the Mineral and Aggregate Overlay District. Subject to applicable laws, on land zoned exclusive farm use, the county may only issue a permit if an aggregate site is on the county inventory of mineral and aggregate sites. The requirement that a site be on the comprehensive plan inventory shall not apply to sites zoned other than for exclusive farm use.
- 3.J.6 Before 2005, the county will review its list of potential sites to determine if information exists to judge the significance of these sites. If the county finds sites on the list of potential sites significant resources, it shall complete the Goal 5 planning process.
- 3.J.7 Before 1999, the county will complete its analysis for the Anderson Quarry site, the Canby Sandy and Gravel site, and the Oregon Asphalt Paving Company site. The county will follow administrative rules interpreting and implementing Statewide Planning Goal 5.
- 3.J.8 The county will coordinate its planning and permitting processes for mineral and aggregate resources with the Oregon Department of Geologic and Mineral Industries (DOGAMI) and Oregon Department of State Lands (DSL).
 - 3.J.8.1 To assist state agency permit decisions, the county will identify post-mining land uses as part of any program to protect a significant mineral or aggregate resource site.
 - 3.J.8.2 The county recognizes the jurisdiction of DOGAMI for the purpose of mined land reclamation pursuant to ORS 517.750 to 517.900 and the rules adopted thereunder.
 - 3.J.8.3 Unless specifically authorized by ORS 517.830(3), DOGAMI should delay its final decision on approval of a reclamation plan and issuance of an operating permit, as those terms are defined by statute and rule, until all issues concerning local land use are decided by the county.
 - 3.J.8.4 No mining or processing activity, as defined by the Zoning and Development Ordinance, shall begin until the county has issued a final land use decision and the permittee provides copies of an approved reclamation plan and operating permit issued by DOGAMI or DSL.

- 3.J.9 The county shall resolve issues relating to mine truck use of public roads as directed in county transportation plans and policies. The county reserves the right to make agreements with aggregate operators about the use of county roads independent from its decisions in Goal 5 analysis.

WILDLIFE HABITATS AND DISTINCTIVE RESOURCE AREAS

Fish and wildlife species provide an essential "background" to our daily lives and must have the environments necessary to provide food, cover, and water in order to survive.

Clackamas County's well-known distinctive resources include mountains, rivers and lakes, forest lands, agricultural lands, unique natural vegetation, geological formations, and other natural features.

The popularity of such places as the Mt. Hood Highway Corridor, the Clackamas River Corridor, and the Willamette River is testimony to the quality of scenic resources available to the Portland metropolitan area and Clackamas County.

Visual corridors along scenic roadways, rivers, and major arterials, the prominent slopes in the urban areas, and other distinctive areas are landscapes highly sensitive to alteration and development.

WILDLIFE HABITAT AND DISTINCTIVE RESOURCE AREA GOALS

- Maintain and improve fisheries and wildlife habitat to enhance opportunities for consumptive and non-consumptive uses.
- Retain and enhance wetlands and riparian habitat to provide areas for fisheries and wildlife and to promote species diversity, bank stabilization, and storm water runoff control.
- Protect the scenic landscapes and natural beauty of Clackamas County.
- Provide an urban environment where trees and landscape plantings abound and where significant features of the natural landscape are retained.
- Preserve and protect areas of unique and distinctive wildlife habitats, native vegetation, and geologic formations.

3.K Wildlife Habitat and Distinctive Resource Area Policies

- 3.K.1 Cooperate with wildlife management agencies to enhance fish and wildlife opportunities and populations. This includes cooperation with the Oregon Department of Fish and Wildlife in its habitat improvement practices and programs and Wild Fish Management Policy, and with the U.S. Fish and Wildlife Service to inventory and classify wetland environments.
- 3.K.2 Protect native plant species, wetlands, and stream bank vegetation on County-managed public lands.
- 3.K.3 Manage roadside spraying programs to minimize adverse water quality, and fish and wildlife impacts.

- 3.K.4 Support preferential taxation methods to encourage retention of riparian habitat, brushy fencerows, and wetlands on private lands.
- 3.K.5 Minimize adverse wildlife impacts in sensitive habitat areas, including deer and elk winter range below 3,000 feet elevation, riparian areas, and wetlands.
- 3.K.6 Encourage closure of temporary roads outside the urban area that are no longer necessary for fire protection or logging activities to reduce wildlife harassment during the critical seasons of winter and spring. Countywide, all new roads crossing streams containing anadromous fish shall provide fish passage facilities acceptable to the Oregon Department of Fish and Wildlife.
- 3.K.7 Expand, in conjunction with the cities and the County's community planning organizations, the detailed inventory of unique natural and scenic areas, including a visual resource inventory and map showing areas of outstanding visual sensitivity as well as blighted areas.
- 3.K.8 Protect areas of high visual sensitivity and/or unique natural areas by requiring development review for any development which would substantially alter the existing landscape, as specified in the Land Use Chapter of the Plan. The purpose is to integrate development with natural features, minimizing any adverse impacts.
- 3.K.9 Improve scenic quality of areas impacted by urban blight, working toward the following objectives:
 - 3.K.9.1 Regulation and/or removal of advertising billboards
 - 3.K.9.2 Screening junkyards and other unsightly areas
 - 3.K.9.3 Placing of utility service lines underground
 - 3.K.9.4 Requiring landscape buffers (berms, trees, etc.) between incompatible uses and in visually sensitive areas.
- 3.K.10 When natural resource activities (e.g., commercial timber harvesting) compete with retention of visual or unique/natural resources and values, the County shall coordinate with appropriate state and federal agencies to minimize significant adverse impacts. The County also will encourage the public acquisition of land through purchase or land exchange, or conservation easements in designated scenic corridors or vistas and unique/distinctive natural areas (see Map 3-2).

- 3.K.11 Protect and conserve sensitive bird resources to avoid degradation of habitat by requiring development review for any development which could potentially result in adverse impacts to sensitive bird nesting and rearing areas. See maps 3-3, Molalla State Park Great Blue Heron Rookery, and 3-4, Stevens Great Blue Heron Rookery.
 - 3.K.11.1 Inventory and analyze, on a periodic basis, nesting and rearing areas of sensitive bird species pursuant to the Goal 5 and Oregon Administrative Review Rules 660, Division 16 provisions.
 - 3.K.11.2 Establish standards and procedures for evaluating development activities that affect sensitive bird habitat areas.
 - 3.K.11.3 Cooperate and coordinate with wildlife management agencies to identify sensitive bird habitat areas and protect sensitive bird populations. This includes cooperation with the Oregon Department of Fish and Wildlife and the U.S. Department of Fish and Wildlife for inventorying habitat and reviewing development activities in habitat areas.
- 3.K.12 For areas that are inside the Metropolitan Service District (Metro) Boundary or the Portland Metropolitan Urban Growth Boundary, designate Habitat Conservation Areas as required by Title 13 of the Metro Urban Growth Management Functional Plan, a Statewide Planning Goal 5 program for riparian corridors, wetlands, and wildlife habitat.
 - 3.K.12.1 Regulate development in Habitat Conservation Areas, and on parcels that contain Habitat Conservation Areas, in a manner consistent with Metro's acknowledged Goal 5 inventory, significance determination, and Economic, Social, Environmental, and Energy analysis.
 - 3.K.12.2 Implement Habitat Conservation Area regulations by adopting by reference Metro's Habitat Conservation Areas Map, establishing an overlay zoning district, and applying development standards consistent with Metro's Habitat Conservation Areas model ordinance.
- 3.K.13 For areas that are inside the Metropolitan Service District (Metro) Boundary or the Portland Metropolitan Urban Growth Boundary, use the performance and implementation objectives and indicators identified in Table 3.07-13e of the Metro Urban Growth Management Functional Plan as the County's performance monitoring program for wildlife habitat protection and restoration.
- 3.K.14 In accordance with Statewide Planning Goal 5, the County will consider development of additional regulatory and non-regulatory programs to protect upland wildlife habitat identified on Metro's Regionally Significant Fish and Wildlife Habitat Inventory Map.

NATURAL HAZARDS

Policies for natural hazards protect County residents and prevent development in those areas with a potential for structural damage or destruction.

NATURAL HAZARDS GOALS

- Protect life, property, private and public investments from natural or man-induced geologic and/or hydrologic hazards.
- Incorporated hazardous areas within open space networks encouraging these areas to remain natural.

3.L Natural Hazards Policies

- 3.L.1 Recognize floodplains as areas where high water presents hazards to life and property, and provide protection in flood hazard areas as stated in the Land Use Chapter.
- 3.L.2 Prevent development (structures, roads, cuts and fills) of landslide areas (active landslides, slumps and planar slides as defined and mapped by the Oregon Department of Geology and Mineral Industries, DOGAMI) to avoid substantial threats to life and property except as modified by 3.L.2.1. Vegetative cover shall be maintained for stability purposes and diversion of stormwater into these areas shall be prohibited.
 - 3.L.2.1 Allow mitigation of identified landslide hazards based on established and proven engineering techniques, and related directly to an approved specific plan that avoids adverse impacts (see Land Use Chapter). Developers should be made aware of liability in such cases for protection of private and public properties from damage of any kind.
- 3.L.3 Apply appropriate safeguards to development on organic/compressible soils, high shrink-swell soils and wet soils with high water table (as defined in DOGAMI Bulletin No. 99) to minimize threats to life, private and public structures/facilities.
- 3.L.4 Insure that data on the severity and area of natural hazards is current and revised periodically to reflect any additional information.

- 3.L.5 Continue cooperation with DOGAMI in the delineation of earth faults. As the information becomes available, policies governing the location of structures and land uses shall be adopted as a part of the Plan. The County Emergency Operations Plan should be reviewed and modified as necessary to prepare for volcanic eruptions, earthquakes, and other natural hazards.
- 3.L.6 Regulate the use of hillsides and steep slope hazard areas in order to direct urban area development toward more suitable lands. As slope and other adverse conditions increase, the need to regulate development also increased in order to reduce major sources of erosion and storm runoff, and public costs of maintaining development.
 - 3.L.6.1 Require soils and engineering geologic studies in developments proposed on slopes of 20 percent or greater. More detailed surface and subsurface investigations shall be warranted if indicated by engineering and geologic studies to sufficiently describe existing conditions (e.g., soils, vegetation, geologic formations, drainage patterns) and where stability may be lessened by proposed grading/filling or land clearing. DOGAMI Bulletin No. 99 provides general geologic data.
 - 3.L.6.2 Establish any additional standards or criteria including the density for development on hillside slope and hazard areas, as stated in the Land Use Chapter. Density Transfers shall be encouraged to take advantage of natural topographic features such as benches or terraces. Joint hillside development projects shall be encouraged.
 - 3.L.6.3 Establish a consistent, uniform method for calculating slope on a site specific basis in conjunction with zoning and subdivision ordinances.

ENERGY SOURCES AND CONSERVATION

Virtually all energy used in Clackamas County is imported in one form or another from other counties, states, or in the case of petroleum and natural gas, foreign countries. There is very little the County can do to affect the supply or cost of imported energy; however, it is possible to develop supplemental energy sources, such as geothermal, solar and waste by products, and to use energy efficiently once it enters Clackamas County.

The importance of energy conservation cannot be overemphasized. Conscientious application of a broad energy conservation program to all sectors of the energy market - homes, businesses, industry and transportation -- could significantly cut the historical energy growth rate and reduce long-term energy price increases. Programs such as home weatherization produce immediate benefits due to reduced energy expenditures by the homeowner or renter, and the creation of new jobs.

ENERGY SOURCES AND CONSERVATION GOAL

Conserve energy and promote energy efficiency and resiliency through source development, recycling, land use and circulation patterning, site planning, building design and public education.

3.M Energy Sources and Conservation Policies

3.M.1 Cooperate with the state legislature and appropriate state and federal agencies (Public Utility Commission, Geology and Mineral Industries, Forest Service, etc.) in programs to encourage alternative energy source development. Such programs will focus on (a) geothermal resources in the Cascades; (b) single building solar and wind conversion technologies; and (c) energy recoverable from solid wastes.

3.M.1.1 Support exploration, research and development of geothermal resources consistent with environmental protection policies of this Plan. The County also will cooperate in the development of any necessary transmission facilities designed to bring such energy to local industries and residences.

3.M.1.2 Cooperate with the State Department of Energy to undertake and evaluate studies on the specific nature and potential of the County's wind and solar energy resources.

3.M.2 Initiate solid waste recycling programs to reduce dependence on nonrenewable resources.

3.M.2.1 Work cooperatively with the Metropolitan Service District to develop a solid waste recycling program and refuse-derived fuel facility.

- 3.M.2.2 Facilitate recycling of domestic, commercial and industrial waste materials through collection franchises and conveniently located collection depots.
- 3.M.3 Encourage energy-efficient land use and circulation patterns.
 - 3.M.3.1 Locate employment centers, shopping services, parks, recreational and cultural facilities, and medical/dental services near residential developments to minimize transportation, fully utilize urban services, and encourage neighborhood self-sufficiency.
 - 3.M.3.2 Provide for high density developments near transit and major employment/shopping centers.
 - 3.M.3.3 Develop an overall circulation system for the County which promotes transportation alternatives (transit, carpooling, bicycling, and foot travel) and improves traffic flow on major arterials (synchronized signals, vacating nonessential cross streets, access controls).
 - 3.M.3.4 Design subdivisions, Planned Unit Developments, and multifamily, commercial and industrial developments to encourage the use of transit, bicycles, and pedestrian walkways (see Land Use and Transportation chapters).
 - 3.M.3.5 Encourage bike lanes/sidewalks on collector streets. Bike/pedestrian paths should be developed through long blocks and between cul-de-sacs to improve neighborhood circulation.
- 3.M.4 Encourage energy efficiency through site planning of all residential subdivisions and multifamily, commercial, and industrial projects.
 - 3.M.4.1 Permit lot configurations within subdivisions and Planned Unit Developments to make maximum use of energy-saving features of the natural environment and minimize the effects of temperature extremes.
 - 3.M.4.2 Retain natural terrain features and vegetation where practical which create micro-climates conducive to energy conservation in subdivisions, Planned Unit Developments and multifamily, commercial, and industrial developments.
 - 3.M.4.3 Encourage planting of appropriate landscape materials to reduce solar impact in the summer, minimize winter heat loss and buffer against prevailing wind sources in Planned Unit Developments and multifamily, commercial and industrial developments.
 - 3.M.4.4 Orient structures to enhance potentials for both passive and active solar collection where practical.
 - 3.M.4.5 Allow low-density residential developments to include common-wall structures or attached dwellings.
 - 3.M.4.6 Allow flexibility in yard size, setbacks, and building height to permit efficient building orientation and shapes.

- 3.M.4.7 Cluster structures to minimize road surfaces and utility networks and to provide the potential for common-wall construction or attached dwellings.
 - 3.M.4.8 Allow flexible road standards for more energy-efficient circulation within developments. Streets should be of such widths as to serve only necessary functions and minimize use of asphalt.
 - 3.M.4.9 Provide for adequate and convenient bicycle parking spaces in multifamily, commercial, and industrial developments.
 - 3.M.4.10 Revise parking standards to reflect the trend to smaller automobiles and use of transit. The integration and sharing of parking facilities within commercial/industrial areas should be encouraged.
 - 3.M.4.11 Permit planting of street trees in new subdivisions and along designated arterials to minimize temperature extremes, favoring deciduous trees (sun in winter and shade in summer) over evergreens and ornamentals.
 - 3.M.4.12 Encourage large employment centers to provide priority parking spaces for carpools and vanpools, as well as incentives for increasing transit ridership.
 - 3.M.4.13 Encourage eating facilities, day care facilities, and on-site recreational areas in large employment centers and large multifamily developments.
 - 3.M.4.14 Provide incentives such as density bonuses for housing proposals demonstrating exceptional examples of energy-efficient site planning.
- 3.M.5 Encourage energy efficiency through building design and weatherization of existing structures.
- 3.M.5.1 Encourage flexibility in building and zoning codes to permit energy-efficient building design, such as commonwall construction, solar collection and underground/earth-sheltered structures.
 - 3.M.5.2 Encourage architectural and design features which are conducive to energy efficiency and conservation, such as south facing windows, roof overhangs, awnings, double entry vestibules, storm windows, insulation, shutters, louvers, double glazed windows and draperies with thermal linings. Many of these same features also can be utilized in the weatherization of existing structures.
- 3.M.6 Cooperate with the cities, other agencies (e.g., educational) and energy purveyors (Portland General Electric, Northwest Natural Gas, etc.), in development of an education program to:
- 3.M.6.1 Publicize the importance of energy conservation and available weatherization programs.
 - 3.M.6.2 Serve as a forum for addressing energy-related issues (e.g., recycling of domestic wastes, code weatherization of existing residences prior to sale, and need for a Countywide Energy Advisory Commission).

- 3.M.7 Continue implementation of the 1983 County Energy Management Plan for County activities and property, including assessment of vehicular policy and an energy audit of County buildings.
- 3.M.8 Support and facilitate the placement of electrical lines underground to increase infrastructure resiliency and promote wildfire mitigation.

NOISE AND AIR QUALITY

Noise and air quality affect our health, our economic interests, and our quality of life. High noise levels affect a person's mental and physical well being and ability to work. Poor air quality can be a health hazard, impair views of scenic vistas, and erode and degrade structures. Air quality management is a regional responsibility, while noise control is more local.

NOISE AND AIR QUALITY GOALS

- Maintain an environment not disturbed by excessive levels of noise.
- Promote maintenance of an airshed in Clackamas County free from adverse effects on public health and welfare.

3.N Noise Policies

- 3.N.1 Cooperate with public agencies and the private sector to reduce noise, and continue to enforce the County noise ordinance.
- 3.N.2 Implement a procedure to minimize the impact of external noise on sensitive land uses.
 - 3.N.1.1 Require, through the review process, buffering of noise sensitive areas or uses where appropriate. For example, adjacent to arterials, expressways, freeways or heavily used rail lines, landscaped berms or other solid barriers may be required. Encourage setbacks and/or noise insulation in structures.
 - 3.N.1.2 Noise mitigation plans, subject to County approval, shall be required of significant new noise generating land uses adjacent to or impacting established noise sensitive properties.
 - 3.N.1.3 Construction or reconstruction of high volume arterials, expressways, or freeways in or near residential areas may require sound buffers as part of the road project.

3.O Air Quality Policy

- 3.O.1 Cooperate with local, regional, state, and federal agencies and industry to maintain and/or improve local air quality.]

705 WILLAMETTE RIVER GREENWAY (WRG)

705.01 PURPOSE

Section 705 is adopted to:

- A. Protect, conserve, enhance, and maintain the natural, scenic, historical, agricultural, economic, and recreational qualities of lands along the Willamette River;
- B. Maintain the integrity of the Willamette River by minimizing erosion, promoting bank stability, and maintaining and enhancing water quality and fish and wildlife habitats; and
- C. Implement the Willamette River Design Plan set forth in Chapter 3 of the Comprehensive Plan.

705.02 DEFINITIONS

Unless specifically defined in Subsection 705.02, words or phrases used in Section 705 shall be interpreted to give them the same meaning as they have in common usage and to give Section 705 its most reasonable application.

- A. Change of Use: Making a different use of the land or water which requires construction, alterations of the land, water, or other areas outside of existing structures and which substantially alters or affects the land or water.
- B. Develop: To bring about growth or availability; to construct or alter a structure; to conduct a mining operation; to make a physical change in the use or appearance of land; to divide land into parcels; to create or terminate rights of access.
- C. Development: The act, process, or result of developing.
- D. Intensification: Any addition or action which increases or expands the area or amount of an existing use, or the level of activity, including remodeling the exterior of a structure if the remodeling substantially alters the appearance of the structure.
- E. Water-Dependent Use: A use or activity that can be carried out only on, or adjacent to water areas because the use requires access to the water body for water borne transportation, recreation, energy production, or source of water.

705.03 AREA OF APPLICATION

Section 705 applies to development, change of use, or intensification of use on lands and water within the Willamette River Greenway, except:

- A. A change of use of a building or other structure which does not substantially alter or affect the land or water upon which it is situated;
- B. Landscaping, driveway construction, modifications of existing structures, and the construction or placement of subsidiary structures or facilities which are usual and necessary to the use and enjoyment of existing improvements;
- C. Changes, modifications, and other practices customarily related to those farm uses described in Section 401;
- D. Gravel removal from the bed of the Willamette River when conducted under a permit from the State of Oregon, and when compatible with the purposes stated in Subsection 705.01;
- E. Customary dredging and channel maintenance;
- F. The placing, by a public agency, of signs, workers, or aids to serve the public;
- G. Activities to protect, conserve, enhance, and maintain public recreational, scenic, historical, and natural uses on public lands;
- H. Acquisition and maintenance of scenic easements by the Oregon Parks and Recreation Department; and
- I. The partial harvest of timber beyond the vegetative fringes in areas not covered by a scenic easement when the harvest is consistent with an approved plan under the Oregon Forest Practices Act (OFPA). If such activity is not covered by the OFPA, it shall be reviewed as a Type II application pursuant to Section 1307, to ensure consistency with the purposes stated in Subsection 705.01. Commercial forest activities and harvesting practices shall provide for vegetation buffers and the intended shading, soil stabilizing, and water filtering effects required by the OFPA.

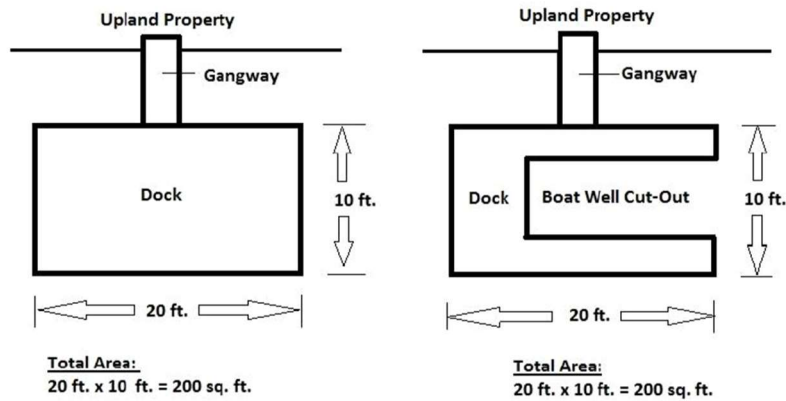
705.04 STANDARDS FOR INTENSIFICATION, CHANGE OF USE, OR
DEVELOPMENT WITHIN THE WILLAMETTE RIVER GREENWAY

All intensification, change of use, or development shall require a Willamette River Greenway (WRG) permit. A WRG permit requires review as a Type II application pursuant to Section 1307 and shall be subject to the following standards and criteria:

- A. The request is consistent with the purposes stated in Subsection 705.01.
- B. Where necessary, public access has been provided by appropriate legal means to and along the river.
- C. The request will provide the maximum possible landscaped area, open space, or vegetation between the activity and the river. The depth of this area need not exceed 150 feet.

- D. The request will result in the preservation of a buffer or filter strip of natural vegetation along the river bank. The depth of this vegetative buffer or filter strip need not exceed 150 feet, and shall be determined by consideration of the following:
1. The character of the use or development;
 2. The width of the river;
 3. Steepness of the terrain;
 4. Type and stability of the soil; and
 5. The type and density of the existing vegetation.
- E. Structures shall observe a minimum setback between 100 and 150 feet from the mean low water level. The setback shall be determined by evaluation of the criteria stated in Subsection 705.04. Residential lots of record and water-dependent uses unable to meet this requirement shall be exempt from this setback.
- F. The maximum height of a dwelling or a structure accessory to a dwelling shall be 35 feet, except in the HDR District.
- G. Private noncommercial docks and boathouses shall be subject to the following standards, in addition to the other standards in Subsection 705.04:
1. General Provisions:
 - a. Private noncommercial docks, boathouses, and pilings shall either be dark natural wood colors, or painted dark earth tones (dark brown or green).
 - b. The square footage of docks and boathouses is measured as the length times the width of the outer edge of the structure. The area of the gangway, pilings, and debris booms are not included in the square footage calculations. The area of the boat well cut-out shall be included in the square footage calculations. (See Figure 705-1).
 - c. The length-to-width ratio of a private noncommercial dock shall not exceed 3:1.
 - d. Only one dock and boathouse is allowed per riverfront lot of record.

Figure 705-1: Dock Square Footage Calculations



2. Oregon City Falls to Multnomah County line:
 - a. Private noncommercial docks shall not exceed 400 square feet.
 - b. Private boathouses are prohibited.
3. Oregon City Falls to Marion County line:
 - a. Private noncommercial docks shall not exceed 700 square feet.
 - b. Private noncommercial boathouses shall not exceed 500 square feet.
 - c. Private noncommercial boathouses shall not exceed 12 feet in height, measured from the platform of the dock to the roof peak.
4. All docks located on state-owned submerged and/or submersible land must be leased or registered with the Oregon Division of State Lands, according to state law.

705.05 PROHIBITED USES

The following uses are prohibited in the Willamette River Greenway (WRG):

A. Low head hydroelectric dam facilities, which adversely impact fisheries or the scenic and water quality of the river. ~~and~~

~~B. Private noncommercial docks and moorages in the limited use rural portions of the WRG identified on Comprehensive Plan Map III-1e, Willamette River Greenway Design Plan.~~

705.06 SUBMITTAL REQUIREMENTS

In addition to the submittal requirements identified in Subsection 1307.07(C), an application for a Willamette River Greenway permit shall include:

- A. A site plan showing existing vegetation and development, and locations of proposed development or activity;
- B. Elevations of any proposed structures;
- C. Exterior materials list for any proposed structures, including type and colors of siding and roofing; and
- D. Cross section of any area within the vegetative buffer or filter strip where grading, filling, or excavating will occur.

705.07 APPROVAL PERIOD ~~AND TIME EXTENSION~~

- A. Approval of a WRG permit is valid for ~~six~~six years from the date of the final written decision. If the County's final written decision is appealed, the approval period shall commence on the date of the final appellate decision. During this ~~six~~six-year period, the approval shall be implemented, or the approval will become void.

- 1. "Implemented" means all major development permits shall be obtained and maintained, or if no major development permits are required to complete the development contemplated by the approved WRG permit, "implemented" means all other necessary County development permits (e.g. grading permit, building permit for an accessory structure) shall be obtained and maintained. A "major development permit" is:

- a. A building or manufactured dwelling placement permit for a new primary structure that was part of the WRG permit approval; or
- b. A permit issued by the County Engineering Division for parking lot or road improvements that were part of the WRG permit approval.

~~B. If the approval of a WRG permit is not implemented within the initial approval period established by Subsection 705.07(B), a two-year time extension may be approved pursuant to Section 1310.~~

[Amended by Ord. ZDO-230, 9/26/11; Amended by Ord. ZDO-248, 10/13/14]

202 DEFINITIONS

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

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

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

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

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

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

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

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

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

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

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

AQUIFER: A layer of rock or alluvial deposit which holds water.

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

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

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

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

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

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

BED AND BREAKFAST HOMESTAY: A use that is conducted in an owner-occupied single-family dwelling, provides rooms for rent on a daily or weekly basis to the public, and includes breakfast as part of the cost of the room. A maximum of two guest rooms and a maximum of five guests at one time are permitted.

BED AND BREAKFAST INN: A use that is conducted in an operator- or owner-occupied single-family dwelling, provides rooms for rent on a daily or weekly basis to the public, and includes breakfast as part of the cost of the room. A bed and breakfast inn may include a restaurant offering meals to the general public as well as to overnight guests.

BED AND BREAKFAST RESIDENCE: A use that is conducted in an operator- or owner-occupied single-family dwelling, provides rooms for rent on a daily or weekly basis to the public, and includes breakfast as part of the cost of the room. In addition to the required breakfast, other occasional family-style meals may be provided for overnight guests.

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

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

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

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

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

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

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

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

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

BOUNDARY LINE: A separation that delineates the confines of a property for development purposes, such as from another property, or from an easement granted for right-of-way or private motor vehicle access.

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

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

BUILDING LINE: A straight line that is parallel and adjacent to the ~~front side of the main building and parallel to the front lot line.~~plane of the primary building façade (exclusive of architectural features, arcades, bay or bow windows, porches, patios, stairs, or ramps) that is most close to parallel to the front lot line. A lot with more than one front lot line will have multiple building lines. If a property has more than one primary building, the building line is established based on the façade plane of the primary building nearest to the front lot line.

BUILDING OR STRUCTURE HEIGHT: The term "height of building" shall be

calculated by the methods identified in the State of Oregon Structural Specialty Code or the State of Oregon One and the Two Family Dwelling Specialty Code, as applicable.

~~**BULK PLANT:** Hazardous substances at the bulk plant level are manufactured, collected, repackaged, stored, or distributed, but are generally not used on the site. The primary emphasis of uses at the bulk plant level is on hazardous substances. Materials are stored in large permanent tanks. Bulk plant quantities are larger than amounts transported in or out in any single shipment. Processors of hazardous substances will generally be at this level. Uses which produce hazardous substances as a by-product or accessory to another product are not in this category.~~

CANNABINOID: Any of the chemical compounds that are the active constituents of marijuana.

CANNABINOID CONCENTRATE: A substance obtained by separating cannabinoids from marijuana by a mechanical extraction process; a chemical extraction process using a nonhydrocarbon-based or other solvent, such as water, vegetable glycerin, vegetable oils, animal fats, isopropyl alcohol, or ethanol; a chemical extraction process using the solvent carbon dioxide, provided that the process does not involve the use of high heat or pressure; or any other process identified by the Oregon Liquor ~~and Cannabis Control~~ Commission, in consultation with the Oregon Health Authority, by rule.

CANNABINOID EDIBLE: Food or potable liquid into which a cannabinoid concentrate, cannabinoid extract, or dried marijuana leaves or flowers have been incorporated.

CANNABINOID EXTRACT: A substance obtained by separating cannabinoids from marijuana by a chemical extraction process using a hydrocarbon-based solvent, such as butane, hexane or propane; a chemical extraction process using the solvent carbon dioxide, if the process uses high heat or pressure; or any other process identified by the Oregon Liquor ~~and Cannabis Control~~ Commission, in consultation with the Oregon Health Authority, by rule.

CANNABINOID PRODUCT: A cannabinoid edible and any other product intended for human consumption or use, including a product intended to be applied to the skin or hair, that contains cannabinoids or dried marijuana leaves or flowers. Cannabinoid product includes usable marijuana, cannabinoid extracts, or cannabinoid concentrates that have been combined with an added substance; or any combination of usable marijuana, cannabinoid extracts, or cannabinoid concentrates. Cannabinoid product does not include usable marijuana by itself, a cannabinoid concentrate by itself, a cannabinoid extract by itself, or industrial hemp as defined in ~~Oregon Revised Statutes (ORS) 571.269300.~~

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

medication management, money management, or recreation.

CHILD CARE CENTER: As defined in ORS 329A.244(1)(a). Includes child care facility, excluding family child care home; preschool or school-age recorded program; and parent cooperative, as defined in ORS 329A.250.

CHILD CARE FACILITY: As defined in ORS 329A.250 ~~but excluding a family child care home~~.

CLACKAMAS REGIONAL CENTER: The regional center identified on Comprehensive Plan Map 10-CRC-1, *Regional Center, Corridors, and Station Community*, excluding the portion in the City of Happy Valley.

CLACKAMAS REGIONAL CENTER AREA: The Clackamas Regional Center Area identified on Comprehensive Plan Map 10-CRC-1, *Regional Center, Corridors, and Station Community*, excluding the portion in the City of Happy Valley.

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

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

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

COMMUNITY GARDEN: A site where any kind of plant, except marijuana, is grown, and several individuals or households cultivate the site. The site may be divided into individual allotments, or gardeners may work together to cultivate the entire property. The land may be publicly or privately owned. The plants are grown for personal use by the gardeners, or for donation, and sales are prohibited.

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

COMPOSTING FACILITY: A site or facility, excluding home composting 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.

CONGREGATE HOUSING FACILITY: A building that contains more than one

dwelling unit and provides common facilities and services for residents who require or desire a more supportive living environment than typically afforded to residents in other types of dwellings. Regular on-premise supervision by a registered physician, registered nurse, or other health care provider may be included.

COTTAGE CLUSTER: A group of four or more detached dwelling units with a common courtyard, all of which are located on the same lot of record or on middle housing lots.

COTTAGE CLUSTER DEVELOPMENT: A development site with one or more cottage clusters.

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

CULTURAL RESOURCE INVENTORY: The official list of designated cultural features, sites, districts subject to the provisions of Section 707, *Historic Landmark (HL)*, *Historic District (HD)*, and *Historic Corridor (HC)*.

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

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

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

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

DIMENSIONAL STANDARD: A numerical measurement for a distance or area standard of this Ordinance, such as building height, lot size, or setback; or a percentage of a distance or area measurement of this Ordinance, such as lot coverage or landscaped area.

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

DISTINCTIVE URBAN FOREST: Forested or woodland areas which are visually prominent or contain unique or rare tree and plant communities. These areas are

usually found in association with other open space resources within the urban area.

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

DRIVE AISLE: A drive aisle is the portion of a motor vehicle parking area provided for the purpose of ingress and egress to individual parking spaces within the parking area. A drive aisle is different from an internal or private street in that an internal or private street does not provide direct access to parking spaces, except for parallel spaces.

DRIVEWAY: The area of a property that is located between a road and a motor vehicle parking area. A driveway includes the location of any apron or motor vehicle entrance onto the lot but does not include any parking spaces, internal streets, or private streets provided as a part of the motor vehicle parking area. A driveway may also contain or be crossed by walkways provided for pedestrians.

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

DUPLEX: A building that contains exactly two dwelling units, both of which are located on the same lot of record or on middle housing lots. If one of the two dwelling units is an accessory dwelling unit, the building is not a duplex.

DWELLING: A building that contains one or more dwelling units. A dwelling may be a residential trailer or a manufactured dwelling but not a recreational vehicle, except when the recreational vehicle is approved as a temporary dwelling pursuant to Section 1204, *Temporary Permits*, or as a second dwelling pursuant to Section 847, *Recreational Vehicles as Second Dwellings*.

DWELLING, ACCESSORY HISTORIC: A detached single-family dwelling legally constructed between 1850 and 1945 that was converted from a primary dwelling to an accessory dwelling, pursuant to Section 843, *Accessory Historic Dwellings*.

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

DWELLING, MULTIFAMILY: A building that contains five or more dwelling units.

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

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

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

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

EQUINE FACILITY: Premises that are used for the stabling or training of equines, including, but not limited to, providing riding lessons, training clinics, and schooling shows.

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

FAMILY CHILD CARE HOME: A child care ~~provider who~~ facility that provides child care to 16 or fewer children, including children of the provider, regardless of full-time or part-time status, in the home of the provider. Child and child care are as defined in ORS 329A.250.

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

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

FLOOR AREA: The area inside the perimeter walls of a building or portion thereof. For a building, or portion thereof, not provided with perimeter walls, the floor area shall be the area under the horizontal projection of the roof or floor above. Floor area shall not include exterior stairs, exterior covered entries, or portions of buildings used for parking of vehicles. In a multi-story building, floor area is the sum of the floor area of each floor. For the purposes of calculating floor area, mezzanines and lofts are considered to be floors within perimeter walls.

FLOOR AREA RATIO (FAR): A measurement of density expressed as the ratio of floor area (in square feet) to net site area (in square feet). The greater the ratio, the greater the density. For example, a building occupying one-fourth of the net site area has a FAR of 0.25:1, or 0.25; adding a second floor of equal area to the same building increases the FAR to 0.5:1, or 0.5.

GOVERNMENT CAMP: The unincorporated community of Government Camp, as identified on Comprehensive Plan Map 10-MH-4, *Government Camp Village Plan, Land Use Plan & Boundary*.

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

GREEN FEEDSTOCKS: Yard debris, non-treated wood waste, vegetative food waste, produce waste, vegetative restaurant waste, vegetative food processor by-products, crop waste, and livestock manure. Non-treated wood waste excludes wood waste treated with paint, varnish, or other chemicals or preservatives.

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

GROUNDWATER: Any water, except capillary moisture, beneath the land surface or beneath the bed of any stream, lake, reservoir, or other body of surface water, whatever may be the geological formation or structure in which such water stands, flows, percolates, or otherwise moves.

GUEST HOUSE: An accessory building, or portion thereof, that includes at least one bedroom and is—with the exception of bathrooms, closets, and halls—constructed as habitable space under the Oregon Residential Specialty Code.

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

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

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

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

HOME COMPOSTING: A composting area operated and controlled by the owner or person in control of a single-family dwelling and used to dispose of vegetative waste,

garden wastes, weeds, lawn cuttings, leaves, and prunings generated from that property.

HOME OCCUPATION: An occupation or business activity that results in a product or service and is conducted, in whole or in part, in a dwelling unit, an accessory building normally associated with primary uses allowed in the subject zoning district, or both. Home occupations do not include garage sales, yard sales, holiday bazaars, or home parties which are held for the purpose of the sale or distribution of goods or services unless such sales and parties are held more than six times in a calendar year or operate in excess of 24 total days in a calendar year.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

LIVESTOCK: One or more domesticated animals raised to produce commodities, such as food, fiber, and labor. Livestock includes, but is not limited to, miniature livestock, fowl, and farmed fish.

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

LOT AREA OR LOT SIZE: The total surface area (measured horizontally) within the lot lines of a lot. For property with a Comprehensive Plan designation of Rural, Agriculture, or Forest, lots with street frontage on County or public road rights-of-way may include the land area between the front lot line and the centerline of the County or public road rights-of-way. This allowance does not apply to land area within a state or federal highway right-of-way.

LOT, CORNER: A lot ~~with street frontage on two streets intersecting at a corner of the lot with more than one front lot line, where at least two front lot lines intersect.~~ A lot within the radius curve or curves of a single street is not a corner lot and the collective boundary line or lines that separate the lot from the adjacent street shall be viewed as one lot line. A lot may be both a corner lot and a through lot.

LOT COVERAGE: The area of a lot covered by a building or buildings, exclusive of architectural features and swimming pools, expressed as a percentage of the total lot area.

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

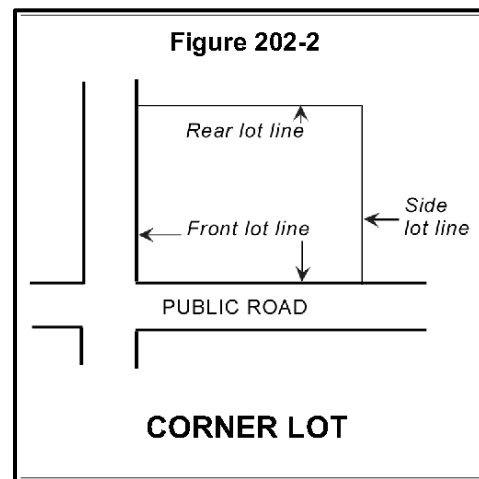
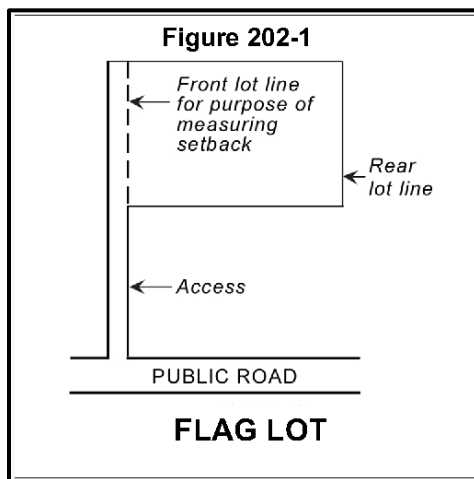
LOT, FLAG: A lot that has access to a road by means of a ~~narrow~~ strip of lot or easement no greater than 25 feet in width.

LOT LINE, FRONT: Any boundary line separating a lot from a County, public, state, or private road, or from an access drive or a private street. Exceptions are:

1. Except as otherwise provided in Subsection 903.08, the front lot line of a flag lot shall be within the boundaries of the lot by a distance equal to the width of the narrow strip of lot or easement providing access to the lot. The front lot line shall be parallel to the lot line extending from the road to the lot line opposite and most distant from the road. (See Figure 202-1.)
2. A corner lot may have more than one front lot line. Each lot line established by a County or public road is a front lot line. Each lot line established by a private road or access drive from which motor vehicle access is taken is a front lot line. Unless the lot is a through lot, all other lot lines that would be front lot lines are side lot lines if those lines separate the lot from a private road or access drive has at least two front lot lines, except where one of the lot lines that would otherwise be a front lot line abuts a private road or access drive and motor vehicle access from the lot is not taken to that private road or access drive. In that case, the lot line where motor vehicle access is not taken is a side lot line.
3. A through lot has at least two front lot lines except where one of the lot lines that

would otherwise be a front lot line abuts a collector, arterial, expressway, interstate, or other feature that precludes motor vehicle access. In that case, the lot line where access is precluded is the rear lot line.

4. Any portion of a boundary line that separates a lot from an area of a private road or access drive may be a side lot line if:
 - a. The boundary line delineates an area outside of the primary travel or parking areas of the private road or access drive;
 - b. This area is provided for the maneuvering of emergency vehicles as required by the Roadway Standards, Comprehensive Plan, or this Ordinance;
 - c. No motor vehicle access serving the lot makes use of the emergency vehicle maneuvering area; and
 - d. Any garage or carport motor vehicle entry oriented towards the boundary line complies with the minimum front setback applicable to such entries.



LOT LINE, REAR: ~~Any~~ The whole length of any boundary line opposite and most distant from the front lot line and not intersecting a front lot line. Exceptions are:

1. For a corner lot, the rear lot line is any one of the boundary lines opposite the front lot lines. Any other opposite boundary line is a side lot line. (See Figure 202-2.)
2. A triangular-shaped lot has no rear lot line. A triangular-shaped lot is one whose lot lines only intersect at three points.
3. A through lot has no rear lot line except where one of the lot lines that would otherwise be a front lot line abuts a collector, arterial, expressway, interstate, or other feature that precludes motor vehicle access. In that case, the lot line where

access is precluded is a rear lot line.

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

LOT OF RECORD:

1. A lot or parcel created by a subdivision or partition plat, as defined in ORS chapter 92, filed with the Clackamas County Surveyor and recorded with the Clackamas County Clerk;
2. A unit of land created by a recorded deed or recorded land sales contract and in compliance with all applicable planning, zoning, and subdivision or partition ordinances and regulations, if any, in effect on the date the deed or land sales contract was signed by the parties to the deed or contract; or
3. A unit of land created solely to establish a separate tax account or for mortgage purposes; that did not conform to all planning, zoning, or subdivision or partition ordinances or regulations in effect on the date it was created; and that was sold prior to September 5, 2023, under the foreclosure provisions of ORS chapter 88.

LOT, THROUGH: A lot that has street frontage on two or more non-intersecting streets. A lot may be both a corner lot and a through lot.

LOT WIDTH: The mean horizontal distance between the side lot lines of a lot.

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

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

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

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

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

MANUFACTURED DWELLING PARK: Any place where four or more manufactured dwellings or prefabricated structures that are relocatable and more than eight and one-half feet wide, are located within 500 feet of one another on a lot, tract, or parcel of land under the same ownership, the primary purpose of which is to rent or lease space or keep space for rent or lease to any person for a charge or fee paid or to be paid for rental or lease or use of facilities or to offer space free in connection with securing the trade or patronage of such person. Manufactured dwelling park does not include a lot or lots located within a subdivision being rented or leased for occupancy by no more than one manufactured dwelling per lot.

MANUFACTURED HOME: A structure constructed on or after June 15, 1976, for movement on the public highways that has sleeping, cooking, and plumbing facilities, that is intended for human occupancy by one family, 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.

MARIJUANA: The plant Cannabis family Cannabaceae, any part of the plant Cannabis family Cannabaceae, and the seeds of the plant Cannabis family Cannabaceae. Marijuana does not include industrial hemp as defined in ORS 571.269~~300~~ or prescription drugs, as that term is defined in ORS 689.005, including those containing one or more cannabinoids, that are approved by the United States Food and Drug Administration and dispensed by a pharmacy, as defined in ORS 689.005.

MARIJUANA ITEMS: Marijuana, cannabinoid products, cannabinoid concentrates, and cannabinoid extracts.

MARIJUANA PROCESSING: The processing, compounding, or conversion of marijuana into cannabinoid products, cannabinoid concentrates, or cannabinoid extracts, provided that the marijuana processor is licensed by the Oregon Liquor and Cannabis~~Control~~ Commission (OLCC), a holder of a research certificate issued by the OLCC, or registered with the Oregon Health Authority.

MARIJUANA PRODUCTION: The manufacture, planting, propagation, cultivation, growing, or trimming, harvesting, or drying of marijuana, provided that the marijuana producer is licensed by the Oregon Liquor and Cannabis~~Control~~ Commission (OLCC), a holder of a research certificate issued by the OLCC, or registered with the Oregon Health Authority and a “person designated to produce marijuana by a registry identification cardholder.” Marijuana production does not include the drying of marijuana by a marijuana processor if the marijuana processor is not otherwise producing marijuana; or the cultivation and growing of an immature marijuana plant by a marijuana wholesaler or marijuana retailer if the marijuana wholesaler or marijuana retailer purchased or otherwise received the plant from a licensed marijuana producer.

MARIJUANA RETAILING: The sale of marijuana items to a consumer, provided that the marijuana retailer is licensed by the Oregon Liquor and Cannabis~~Control~~

Commission or registered with the Oregon Health Authority.

MARIJUANA WHOLESALING: The purchase of marijuana items for resale to a person other than a consumer, provided that the marijuana wholesaler is licensed by the Oregon Liquor ~~and Cannabis Control~~ Commission.

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.

MIDDLE HOUSING: A duplex, triplex, quadplex, townhouse, or cottage cluster.

MIDDLE HOUSING LAND DIVISION: A partition or subdivision of a lot of record that is developed, or proposed to be developed, with more than one middle housing dwelling unit. The type of middle housing developed on the original lot of record is not altered by a middle housing land division. Notwithstanding the definition of partition or subdivision, within the same calendar year as an original partition that was not a middle housing land division, the County may allow one or more of the resulting vacant parcels to be further partitioned into not more than three parcels through a middle housing land division.

MIDDLE HOUSING LOT: A lot or parcel created through a middle housing land division. A middle housing lot is a separate lot of record; however, development on a middle housing lot is limited by conditions imposed at the time of the middle housing land division. Middle housing lots are not divisible.

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

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

MOBILE HOME: A structure constructed for movement on the public highways that has sleeping, cooking, and plumbing facilities, that is intended for human occupancy by one family, 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.

MOBILE VENDING UNIT: A vehicle that is used in selling and dispensing goods or services to the customer. Notwithstanding this definition, a mobile vending unit shall not be used in selling and dispensing marijuana items. As used in this definition,

a vehicle is motorized or non-motorized transportation equipment containing an axle and intended for use on public roads, including, but not limited to, a car, van, pickup, motorcycle, recreational vehicle, bus, truck, detached trailer, or a truck tractor with no more than one trailer.

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

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

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

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

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

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

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

OAR: Oregon Administrative Rules

OPEN SPACE: Land within a development which has been dedicated in common to the ownership within the development or to the public specifically for the purpose of providing places for recreational uses or for scenic purposes. Open space shall be used as such in perpetuity.

ORS: Oregon Revised Statutes

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

OVERHEAD SPRINKLER IRRIGATION: The application of irrigation water from spray heads, rotors, or other above-ground emitters that send water through the air.

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

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

PARKING AREA, MOTOR VEHICLE: A defined portion of a property provided for the parking and maneuvering of motor vehicles. A parking area may be located within an easement and shared between multiple lots without being considered a private road or access drive for the purpose of assigning lot lines.

A motor vehicle parking area may contain drive aisles but does not have additional driveways providing access to further lots or parking areas – see “road, private,” “access drive,” “street, internal,” and “street, private” where this is the case.

PARKING STRUCTURE: A building having at least two levels that are designed and used for parking vehicles, or a building having one level of covered parking area under an open space or recreational use. A one-level surface parking area, garage, or carport is not a parking structure.

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. "Partition" does not include the sale of a lot in a recorded subdivision, even though the lot may have been acquired prior to the sale with other contiguous lots or property by a single owner.

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

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

PEDESTRIAN-SCALE LIGHTING: Street lights designed to illuminate sidewalks to provide security for nighttime use by pedestrians. Pedestrian scale lighting includes ornamental lighting with a 14- to 25-foot mounting height and which meets the Illumination Society guidelines for Commercial Collector roadways.

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

PERSON DESIGNATED TO PRODUCE MARIJUANA BY A REGISTRY IDENTIFICATION CARDHOLDER: A person designated to produce marijuana by a registry identification cardholder under ORS ~~475C.792475B.420~~ who produces marijuana for a registry identification cardholder at an address other than the address where the registry identification cardholder resides or at an address where more than 12 mature marijuana plants are produced.

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

PLAT, FINAL: A final map and other writing containing all the descriptions, locations, specifications, dedications, provisions, and information concerning a partition or subdivision and recorded as required by ORS Chapter 92.

PLAT, PRELIMINARY: A clearly legible and approximate drawing of the proposed layout of streets, blocks, lots and other elements of a subdivision or partition which shall help furnish a basis for the approval or disapproval of the general layout of a

partition or subdivision. As used in this Ordinance, preliminary plat shall be synonymous with tentative plan as used in ORS Chapter 92.

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

PREFABRICATED STRUCTURE: A building or subassembly that has been in whole or substantial part manufactured or assembled using closed construction at an off-site location to be wholly or partially assembled on-site; is relocatable; is more than eight and one-half feet wide; and is designed for use as a single-family dwelling. A prefabricated structure is not a manufactured dwelling or “small home”, as defined in ORS Chapter 455.

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

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

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

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

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

PROPERTY LINE ADJUSTMENT: A relocation or elimination of all or a portion of the common property line between two abutting lots of record that does not create an additional lot of record. As used in this definition, a property line is the entirety of the ~~division boundary~~ line between two abutting lots of record.

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

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

QUADPLEX: A building that contains exactly four dwelling units, all of which are located on the same lot of record or on middle housing lots.

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

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

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

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

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

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

REPLAT: The act, other than a property line adjustment or a middle housing land division, of platting the lots, parcels, tracts, or easements in a final plat to achieve a reconfiguration of the existing final plat or to increase or decrease the number of lots or parcels.

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

RESIDENTIAL TRAILER: A structure constructed for movement on the public highways that has sleeping, cooking, and plumbing facilities, that is intended for human occupancy by one family, that is being used for residential purposes, and that was constructed before January 1, 1962.

RESIDENTIAL TREATMENT FACILITY: A facility that provides, for six or more individuals with mental, emotional or behavioral disturbances or alcohol or drug dependence, residential care and treatment in one or more buildings on contiguous properties. For the purposes of a residential treatment facility or residential treatment home, "treatment" means the systematic, planned maintenance, development or enhancement of self-care skills, social skills or independent living skills, or the

planned sequence of systematic interactions, activities or structured learning situations designed to meet each resident's specified needs in the areas of physical, social, emotional and intellectual growth.

RESIDENTIAL TREATMENT HOME: A facility that provides for five or fewer individuals with mental, emotional or behavioral disturbances or alcohol or drug dependence, residential care and treatment in one or more buildings on contiguous properties.

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

RHODODENDRON: The unincorporated community of Rhododendron, as identified on Comprehensive Plan Map 4-7, *Non-Urban Area Land Use Plan*, *Mt. Hood Corridor Land Use Plan*.

RIGHT-OF-WAY: The legal right, established by usage or grant, to pass through property owned by another, or the strip of land subject to a nonowner's right to pass through.

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," except "street, internal" and "street, private" shall have the meanings provided elsewhere in this Ordinance.

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

ROAD, PRIVATE: A private way created by deed or easement to provide vehicular ingress to, or egress from, three or more lots or parcels. When a private way is located integrally within a motor vehicle parking area, refer to "street, internal" and "street, private."

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

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

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

SALVAGE, JUNKYARD: A location at which solid wastes are separated, collected, and/or stored pending resale.

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

SENSITIVE GROUNDWATER AREA: Any area classified by the State of Oregon as a groundwater limited area, critical groundwater area, or other area where new groundwater appropriations are restricted by the State of Oregon.

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

SETBACK: The shortest horizontal distance between a structure and the lot line.

SETBACK, FRONT: The shortest horizontal distance between a structure and the front lot line.

SETBACK, REAR: The shortest horizontal distance between a structure and the rear lot line.

SETBACK, SIDE: The shortest horizontal distance between a structure and the side lot line.

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

SHORT-TERM RENTAL: The rental of a dwelling unit, portion of a dwelling unit, or guest house for overnight residential purposes, for a period of up to 30 consecutive nights. Overnight occupancy of the dwelling unit plus any guest house shall not exceed 15 persons. A short-term rental may include use of accessory structures, such as decks or swimming pools, that are located on the same lot as the dwelling unit or guest house being rented.

SIDEWALK: A concrete pedestrian facility adjacent to a curb along a road or set

back from the curb behind a planting strip.

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

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

SIGN AREA, OR SURFACE AREA: The area, on the largest single face of a sign, within a perimeter which forms the outside shape of a sign. If the sign consists of more than one module, the total area of all modules will constitute the sign area. The area of a sign having no such perimeter or border shall be computed by enclosing the entire copy area within the outline of either a parallelogram, triangle, circle or any other easily recognized geometric shape and then computing the area. Where a sign is of a three-dimensional, round or irregular shape, the largest cross section shall be used in flat projection for the purpose of computing sign area.

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

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

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

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

SIGN, DRIVE-THRU: A freestanding or building sign for a commercial drive-thru window service that is oriented toward a drive-thru lane on the same property and that is for viewing by drivers and their passengers while they are in the drive-thru lane, but does not extend higher than eight feet above grade.

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

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

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

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

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

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

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

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

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

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

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

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

SIGN, RESIDENTIAL: Any sign associated with a dwelling.

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

SIGN, SEGMENTED MESSAGE: Any message or distinct subunit of a message

presented by means of at least one display change on an electronic message center sign.

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

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

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

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

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

SINGLE ROOM OCCUPANCY: A residential development with no fewer than four attached units that are independently rented and lockable and provide living and sleeping space for the exclusive use of an occupant, but require that the occupant share sanitary or food preparation facilities with other units in the occupancy.

SNOW SLIDE AREA: The area around a building that may be subject to snow buildup as a result of snow sliding from the sloped roof of the building.

SOIL MOISTURE SENSOR: A device that measures the amount of water in the soil. The device also suspends and initiates irrigation events.

SOLAR ENERGY SYSTEM: Any solar collector, or other solar energy device, the primary purpose of which is to provide for the collection, storage, and distribution of solar energy for space heating or cooling, water heating, or electricity.

1. The power generating capacity of a roof-mounted solar energy system that is located on a primary use, conditional use, or limited use structure is limited only by the size of the system that can fit within the confines of the roof surface to which it is mounted.
2. The power generating capacity of a ground-mounted solar energy system, or of a roof-mounted solar energy system that is located on an accessory structure, is limited to power consumed by the development to which the system is accessory,

or—if the system feeds power into the grid of a public utility company—to an amount equivalent to no more than the annual usage of the development to which the system is accessory.

SOLID WASTE: As defined in Chapter 10.03, *Solid Waste and Wastes Management*, of the Clackamas County Code.

STORMWATER MANAGEMENT FACILITY: Any facility that is designed, constructed, and maintained to collect, treat, filter, retain, or detain surface water runoff during and after a storm event for the purpose of controlling flows or reducing pollutants in stormwater runoff. Stormwater management facilities include, but are not limited to, constructed wetlands, rain gardens, water quality swales, stormwater planters, infiltration facilities, and ponds.

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

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

STREAM CORRIDOR AREA: An area including the streambed and a required strip or buffer of land on each side of the streambed necessary to maintain streamside amenities and existing water quality. The width of the stream corridor area varies with the site conditions and shall be determined by on-the-ground investigation, as provided under Subsection 1002.04(B). The intent of the stream corridor area shall be to preserve natural environmental qualities and the function of land to purify water before it reaches the stream but not to prohibit timber management activities pursuant to the State Forest Practices Act.

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

STREET: See “ROAD”, except that “street, internal” and “street, private” shall have the definitions provided elsewhere in this Ordinance.

STREET, INTERNAL: A way located outside of a road that is provided for motor vehicle circulation within a commercial, industrial, institutional, or mixed-use development or between multiple such developments. An internal street may also be located within a residential development that consists of housing other than detached single family dwelling(s), temporary dwelling(s), accessory dwelling units, or middle housing.

STREET, PRIVATE: An internal street that has been improved with curbs, sidewalks or pedestrian paths, street trees, and pedestrian-scale lighting.

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

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

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

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

SUBDIVISION, MAJOR: A subdivision creating 11 or more lots in the same calendar year.

SUBDIVISION, MINOR: A subdivision creating four to 10 lots in the same calendar year.

SUNNYSIDE VILLAGE: The Sunnyside Village community plan area, as identified on Comprehensive Plan Map 10-SV-1, *Sunnyside Village Plan, Land Use Plan Map*.

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 does not mean operations within a road right-of-way or other easement for the purpose of construction, reconstruction, or maintenance; excavations of sand, gravel, clay, rock, or other similar materials by a landowner or tenant for the purpose of construction, reconstruction, or maintenance of access roads; excavation or grading in the process of farming, forestry, or cemetery operations, or other onsite construction, unless more than 5,000 cubic yards of such materials are removed from the property for compensation, except that more than 5,000 cubic yards of such materials may be removed from the property for compensation when the construction activities are authorized by a building permit.

SURFACE MINING, MINERALS: 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.

SURFACE WATER MANAGEMENT REGULATORY AUTHORITY: The surface water management district in which the subject property is located, or, if there is no such district, the County.

TOWNHOUSE: A dwelling unit that shares at least one wall, or portion thereof, with another townhouse and is located on a separate lot of record from any other dwelling that is not an accessory dwelling unit.

TRACT: One or more contiguous lots of record under the same ownership. Notwithstanding the preceding definition, as used in Sections 706, *Habitat Conservation Area District*, 709, *Water Quality Resource Area District*, 1012, *Lot Size and Density*, 1013, *Planned Unit Developments*, and 1105, *Subdivisions, Partitions, Replats, Condominium Plats, and Vacations of Recorded Plats*, a tract is a unit of land (other than a lot or parcel) created by a subdivision, partition, or replat.

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

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

TRANSIT STOP: Any posted bus or light rail stop.

TRIPLEX: A building that contains exactly three dwelling units, all of which are located on the same lot of record or on middle housing lots.

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

UNDERGROUND STRUCTURE: A structure in which more than 50 percent of the cubic footage of the enclosed, covered space is (1) constructed below the highest elevation of the ground adjoining the structure site prior to excavation; and (2) covered over by ground materials, such as soil, sod, sand or exterior paving, which are continuous on at least one side of the structure with contiguous surface ground materials. Conventional roofing materials may be used to cover any portion of the structure which extends above ground elevation.

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

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

UTILITY CABINET: A small enclosure used to house utility equipment intended for off-site service, such as electrical transformer boxes, telephone cable boxes, cable television boxes, fire alarm boxes, police call boxes, traffic signal control boxes, and other similar apparatus.

UTILITY FACILITY: A building, structure, or any constructed portion of a system that provides for the production, transmission, conveyance, delivery, or furnishing of heat, light, power, gas, water, sanitary sewer, stormwater, telephone, cable television, internet, or other similar service. Utility facility does not include wireless telecommunication facility.

UTILITY LINE: A utility facility consisting of a cable, conduit, pipe, wire, drainageway, or other linear conveyance system. A utility line may include support poles, support towers, and equipment for the monitoring or operation of the utility line, provided that such equipment is mounted on the poles or towers; underground; or both aboveground and not exceeding five feet in length, width, and height.

UTILITY SERVICE LINE: A utility line that ends at the point where the utility service is received by the customer. A service line is distinguished from larger utility lines including, but not limited to, distribution lines, mainlines, transmission lines, and trunk lines.

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

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

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

WELL, EXEMPT-USE: A well from which groundwater is used as defined in ORS 537.545(1) as amended.

WELL, PERMITTED: A well from which the intended use of water requires a registration, certificate of registration, application for a permit, permit, certificate of completion, or groundwater right certificate under ORS 537.505 to 537.795 and 537.992.

WEMME/WELCHES: The unincorporated community of Wemme/Welches, as identified on Comprehensive Plan Map 4-7, *Non-Urban Area Land Use Plan, Mt. Hood Corridor Land Use Plan*.

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.

WILDWOOD/TIMBERLINE: The unincorporated community of Wildwood/Timberline, as identified on Comprehensive Plan Map 4-7, *Non-Urban Area Land Use Plan, Mt. Hood Corridor Land Use Plan*.

ZIGZAG VILLAGE: The unincorporated community of Zigzag Village, as identified on Comprehensive Plan Map 4-7, *Non-Urban Area Land Use Plan, Mt. Hood Corridor Land Use Plan*.

ZONING DISTRICT, COMMERCIAL: A zoning district regulated by Section 500, *Commercial Districts*.

ZONING DISTRICT, INDUSTRIAL: A zoning district regulated by Section 600, *Industrial Districts*.

ZONING DISTRICT, NATURAL RESOURCE: A zoning district regulated by Section 400, *Natural Resource Districts*.

ZONING DISTRICT, RESIDENTIAL: A zoning district regulated by Section 300, *Urban and Rural Residential Districts*.

[Amended by Ord. ZDO-224, 05/31/2011; Amended by Ord. ZDO-231, 01/31/2012; Amended by Ord. ZDO-232, 03/12/2012; Amended by Ord. ZDO-234, 06/07/2012; Amended by Ord. ZDO-243, 09/09/2013; Amended by Ord. ZDO-246, 03/01/2014; Amended by Ord. ZDO-249, 10/13/2014; Amended by Ord. ZDO-248, 10/13/2014; Amended by Ord. ZDO-252, 06/01/2015; Amended by Ord. ZDO-253, 06/01/2015; Amended by Ord. ZDO-254, 01/04/2016 and 03/01/2016; Amended by Ord.

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ZDO-258, 01/18/2017; Amended by Ord. ZDO-263, 05/23/2017; Amended by Ord. ZDO-267, 08/28/2017; Amended by Ord. ZDO-266, 05/23/2018; Amended by Ord. ZDO-269, 09/06/2018; Amended by Ord. ZDO-268, 10/02/2018; Amended by automatic repeal of Ord. ZDO-267, 08/28/2019; Amended by Ord. ZDO-273, 01/17/2021; Amended by Ord. ZDO-280, 10/23/2021; Amended by Land Use Board of Appeals Remand of Ord. ZDO-273, 01/24/2022; Amended by Ord. ZDO-282, 07/01/2022; Amended by Ord. ZDO-273, on remand, 05/30/2023; Amended by Ord. ZDO-283, 09/05/2023; Amended by Ord. ZDO-285, 09/03/2024; Amended by Ord. ZDO-288, 09/09/2024]

315 URBAN LOW DENSITY RESIDENTIAL (R-2.5, R-5, R-7, R-8.5, R-10, R-15, R-20, AND R-30), VILLAGE STANDARD LOT RESIDENTIAL (VR-5/7), VILLAGE SMALL LOT RESIDENTIAL (VR-4/5), VILLAGE TOWNHOUSE (VTH), PLANNED MEDIUM DENSITY RESIDENTIAL (PMD), MEDIUM DENSITY RESIDENTIAL (MR-1), MEDIUM HIGH DENSITY RESIDENTIAL (MR-2), HIGH DENSITY RESIDENTIAL (HDR), VILLAGE APARTMENT (VA), SPECIAL HIGH DENSITY RESIDENTIAL (SHD), AND REGIONAL CENTER HIGH DENSITY RESIDENTIAL (RCHDR) DISTRICTS

315.01 PURPOSE

Section 315 is adopted to implement the policies of the Comprehensive Plan for Low Density Residential, Village Standard Lot Residential, Village Small Lot Residential, Village Townhouse, Medium Density Residential, Medium High Density Residential, High Density Residential, Special High Density Residential, Village Apartment, and Regional Center High Density Residential areas.

315.02 APPLICABILITY

Section 315 applies to land in the Urban Low Density Residential (R-2.5, R-5, R-7, R-8.5, R-10, R-15, R-20, and R-30), Village Standard Lot Residential (VR-5/7), Village Small Lot Residential (VR-4/5), Village Townhouse (VTH), Planned Medium Density Residential (PMD), Medium Density Residential (MR-1), Medium High Density Residential (MR-2), High Density Residential (HDR), Village Apartment (VA), Special High Density Residential (SHD), and Regional Center High Density Residential (RCHDR) Districts, hereinafter collectively referred to as the urban residential zoning districts.

315.03 USES PERMITTED

A. Uses permitted in each urban residential zoning district are listed in Table 315-1, *Permitted Uses in the Urban Residential Zoning Districts*. Uses not listed are prohibited, except:

1. In the PMD District, uses similar to one or more of the listed uses for the PMD District may be authorized pursuant to Section 106, *Authorizations of Similar Uses*; and
2. In the HDR, SHD, and RCHDR Districts, uses similar to one or more of the listed limited uses for the applicable zoning district may be authorized pursuant to Section 106.

B. As used in Table 315-1:

1. "P" means the use is a primary use.
2. "A" means the use is an accessory use.

3. “L” means the use is a limited use and shall be developed concurrently with or after a primary use is developed on the same site.
 4. “C” means the use is a conditional use, approval of which is subject to Section 1203, *Conditional Uses*.
 5. “CPUD” means the use is allowed as a conditional use in a planned unit development.
 6. “X” means the use is prohibited.
 7. Numbers in superscript correspond to the notes that follow Table 315-1.
- C. Permitted uses are subject to the applicable provisions of Subsection 315.04, *Dimensional and Building Design Standards*; Section 1000, *Development Standards*; and Section 1100, *Development Review Process*.

315.04 DIMENSIONAL AND BUILDING DESIGN STANDARDS

- A. General: Dimensional and building design standards applicable in the urban residential zoning districts are listed in Tables 315-2, *Dimensional and Building Design Standards in the Urban Low Density Residential Zoning Districts*; 315-3, *Dimensional and Building Design Standards in the VR-4/5, VR-5/7, and VTH Districts*; and 315-4, *Dimensional Standards in the PMD, MR-1, MR-2, HDR, VA, SHD, and RCHDR Districts*. As used in Tables 315-2 through 315-4, numbers in superscript correspond to the notes that follow each table.
- B. Modifications: Modifications to the standards in Tables 315-2 through 315-4 are established by Sections 800, *Special Use Requirements*; 904, *Height Exceptions*; 1012, *Lot Size and Density*; 1107, *Property Line Adjustments*; and 1205, *Variances*. Except in the HDR, SHD, and RCHDR Districts, modifications to the standards in these tables also are established by Section 903, *Setback Exceptions*.

Table 315-1: Permitted Uses in the Urban Residential Zoning Districts

Use	R-5 – R-30	VR-4/5 & VR-5/7	R-2.5	VTH	PMD	MR-1	MR-2	HDR	VA	SHD	RCHDR
Accessory Buildings and Uses, Customarily Permitted , such as amateur (Ham) radio antennas and towers, arbors, bicycle racks, carports, citizen band transmitters and antennas, cogeneration facilities, courtyards, decks, decorative ponds, driveways, electric vehicle charging stations, family child care homes, fountains, garages, garden sheds, gazebos, greenhouses, HVAC units, meeting facilities, outdoor kitchens, parking areas, patios, pergolas, pet enclosures, plazas, property maintenance and property management offices, recreational facilities (such as bicycle trails, children’s play structures, dance studios, exercise studios, playgrounds, putting greens, recreation and activity rooms, saunas, spas, sport courts, swimming pools, and walking trails), rainwater collection systems, satellite dishes, self-service laundry facilities, shops, solar energy systems, storage buildings/rooms, stormwater management facilities, television antennas and receivers, transit amenities, trellises, utility service equipment, and utility service lines	A	A	A	A	A	A	A	A	A	A	A

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Use	R-5 – R-30	VR-4/5 & VR-5/7	R-2.5	VTH	PMD	MR-1	MR-2	HDR	VA	SHD	RCHDR
Bed and Breakfast Inns , subject to Section 832	C	X	C	X	X	P	P	P	X	L ¹ ,C ²	L ³
Bed and Breakfast Residences , subject to Section 832	C	X	C	P	X	P	P	P	P	X	X
Bus Shelters	A	A	A	A	P	A	A	A	A	A	A
Cemeteries , subject to Section 808	C	X	C	X	X	X	X	X	X	X	X
Child Care ~~Facilities~~ Centers	~~P⁴~~ ,C	~~P⁴~~ ,C	~~CP~~	~~CP~~	~~P⁴~~ ,C	~~P⁴~~ ,C	~~CP~~	~~L⁴~~ , ~~CP~~	~~CP~~	~~L¹~~ , ~~CP~~	~~L³~~
Civic and Cultural Facilities , including art galleries, museums, and visitor centers	X	X	X	X	X	X	X	L ⁵⁴ ,C ⁵⁵	X	L ¹ ,C ²	L ³
Community Halls	CPUD	CPUD	CPUD	CPUD	CPUD	CPUD	CPUD	CPUD	CPUD	CPUD	CPUD
Composting Facilities	X	X	X	X	X	X	X	X	X	X	X
Daycare Services, Adult	C	C	C	C	C	C	C	L ⁴⁵ ,C	C	L ¹ ,C ²	L ³
Dwellings⁶⁷, including:											
Accessory Dwelling Units, subject to Section 839	A	A	A	A	X	X	X	X	X	X	X
Congregate Housing Facilities	X	X	X	P	P	P	P	P	P	P	P
Cottage Clusters	P ^{78,9}	P ^{78,9}	X	X	P	X	X	X	X	X	X
Detached Single-Family Dwellings	P ⁸⁷	P ⁸⁷	X	X	X	X	X	X	X	X	X
Duplexes	P ⁸⁷	P ⁸⁷	X	P	P	P	P	P	P	X	X
Manufactured Dwelling Parks, subject to Section 825	P ¹⁰⁹ ,C	P ¹¹⁰	C	X	C	P	X	X	X	X	X

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Use	R-5 – R-30	VR-4/5 & VR-5/7	R-2.5	VTH	PMD	MR-1	MR-2	HDR	VA	SHD	RCHDR
Manufactured Homes	P ⁸⁷	P ⁸⁷	X	X	X	X	X	X	X	X	X
Multifamily Dwellings	X	X	X	X	P	P	P	P	P	P	P
Prefabricated Structures	P ⁸⁷	P ⁸⁷	X	X	X	X	X	X	X	X	X
Quadplexes	P ^{7,8,9}	P ^{7,8,9}	X	P	P	P	P	P	P	P	P
Recreational Vehicles as Second Dwellings, subject to Section 847	P	P	X	X	X	X	X	X	X	X	X
Single Room Occupancies	P ^{87, 124}	P ^{87, 124}	X	X	P	P	P	P	P	P	P
Townhouses	P ^{7,8,9}	P ^{7,8,9}	P	P	X	P ¹³²	P ¹³²	X	X	X	X
Triplexes	P ^{7,8,9}	P ^{7,8,9}	X	P	P	P	P	P	P	X	X
<u>Emergency Shelter, subject to Section 848</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>
Entertainment Facilities , including arcades, billiard halls, bowling alleys, miniature golf courses, and movie theaters	X	X	X	X	X	X	X	X	X	C ²	X
Farmers' Markets , subject to Section 840	A	A	A	A	A	A	A	A	A	A	A
Fences and Retaining Walls	P	P	P	P	P	P	P	P	P	P	P
Financial Institutions , including banks, brokerages, credit unions, loan companies, and savings and loan associations	X	X	X	X	X	X	X	L ⁵⁴ ,C ⁶⁵	X	L ¹ ,C ²	L ³
Fitness Facilities , including athletic clubs, exercise studios, gymnasiums, and health clubs	X	X	X	X	X	X	X	L ⁵⁴ ,C	X	L ^{1,143} ,C	L ³ ,C

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Use	R-5 – R-30	VR-4/5 & VR-5/7	R-2.5	VTH	PMD	MR-1	MR-2	HDR	VA	SHD	RCHDR
Fraternal Organization Lodges	C ¹⁵⁴	X	C ¹⁵⁴	X	C ¹⁵⁴	C ¹⁵⁴	C ¹⁵⁴	C ¹⁵⁴	X	C ¹⁵⁴	C ¹⁵⁴
Government Uses , unless such a use is specifically listed as a primary, accessory, limited, conditional, or prohibited use in the applicable zoning district	C ¹⁵⁴	X	C ¹⁵⁴	X	C ¹⁵⁴	C ¹⁵⁴	C ¹⁵⁴	C ¹⁵⁴	X	C ¹⁵⁴	C ¹⁵⁴
Guest Houses , subject to Section 833	A	X	A	X	X	X	X	X	X	X	X
Home Occupations , including bed and breakfast homestays, subject to Section 822 ¹⁶⁵	A	A	A	A	A	A	A	A	A	A	A
Horticulture, Nurseries, Hydroponics, and Similar Uses that Exceed an Accessory Use	C	X	X	X	X	X	X	X	X	X	X
Hosting of Weddings, Family Reunions, Class Reunions, Company Picnics, and Similar Events	C	X	C	X	X	C	C	C	X	C	X
Hotels and Associated Convention Facilities	X	X	X	X	X	X	X	X	X	C ¹⁷⁶	L ³ ,C
Kitchens, Accessory	A ¹⁸⁷	A ¹⁸⁷	A ¹⁸⁷	A ¹⁸⁷	X	A ¹⁸⁷	A ¹⁸⁷	X	X	X	X
Libraries	CPUD	CPUD	CPUD	CPUD	CPUD	CPUD	CPUD	L ⁵⁴ ,C ⁶⁵ , CPUD	CPUD	L ¹ ,C ² , CPUD	L ³ , CPUD
Livestock , subject to Section 821	A	A	A	X	X	X	X	X	X	X	X
Marijuana Processing	X	X	X	X	X	X	X	X	X	X	X
Marijuana Production	X	X	X	X	X	X	X	X	X	X	X
Marijuana Retailing	X	X	X	X	X	X	X	X	X	X	X

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Use	R-5 – R-30	VR-4/5 & VR-5/7	R-2.5	VTH	PMD	MR-1	MR-2	HDR	VA	SHD	RCHDR
Marijuana Wholesaling	X	X	X	X	X	X	X	X	X	X	X
Multi-Use Developments , subject to Section 844	C	X	X	X	X	C	X	C	X	C	X
Nursing Homes	C	C	C	P	P	P	P	P	P	P	P
Offices , including accounting services, administrative, business, corporate, and professional offices, but not including offices for governmental uses. Examples include offices for the following: architectural services, business management services, call centers, employment agencies, engineering services, income tax services, insurance services, legal services, manufacturer’s representatives, office management services, property management services, real estate agencies, and travel agencies.	X	X	X	X	X	X	X	L ⁵⁴ ,C ⁶⁵	X	L ¹ ,C ²	L ³
Offices and Outpatient Clinics —both of which may include associated pharmacies and laboratories—for healthcare services, such as acupuncture, chiropractic, counseling, dental, massage therapy, medical, naturopathic, optometric, physical therapy, psychiatric, occupational therapy, and speech therapy	X	X	X	X	X	X	X	L ⁵⁴ ,C ⁶⁵	X	L ¹ ,C ²	L ³
Parking Structures	X	X	X	X	X	A	A	A	X	A	A

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Use	R-5 – R-30	VR-4/5 & VR-5/7	R-2.5	VTH	PMD	MR-1	MR-2	HDR	VA	SHD	RCHDR
Pedestrian Amenities	P	P	P	P	P	P	P	P	P	P	P
Places of Worship , subject to Section 804	P	P	P	P	P	P	P	P	P	P	P
Produce Stands , subject to Section 815	A	A	A	X	X	X	X	X	X	X	X
Radio and Television Studios , excluding transmission towers	X	X	X	X	X	X	X	X	X	L ¹ ,C ²	X
Radio and Television Transmission and Receiving Towers and Earth Stations ¹⁸	C ¹ ~~5~~ ⁴	X	C ¹ ~~5~~ ⁴	X	X	C ¹ ~~5~~ ⁴	C ¹ ~~5~~ ⁴	C ¹ ~~5~~ ⁴	X	C ¹ ~~5~~ ⁴	C ¹ ~~5~~ ⁴
Recreational Vehicle Camping Facilities , subject to Section 813	X	X	X	X	X	C ¹ ~~5~~ ⁴	C ¹ ~~5~~ ⁴	C ¹ ~~5~~ ⁴	X	X	X

CLACKAMAS COUNTY ZONING AND DEVELOPMENT ORDINANCE

Use	R-5 – R-30	VR-4/5 & VR-5/7	R-2.5	VTH	PMD	MR-1	MR-2	HDR	VA	SHD	RCHDR
Recreational Uses, Government-Owned , including parks, amphitheaters; arboreta; arbors, decorative ponds, fountains, gazebos, pergolas, and trellises; ball fields; bicycle and walking trails; bicycle parks and skate parks; boat moorages and ramps; community buildings and grounds; community and ornamental gardens; courtyards and plazas; equine facilities; fitness and recreational facilities, such as exercise equipment, gymnasiums, and swimming pools; miniature golf, putting greens, and sports courts; picnic areas and structures; play equipment and playgrounds; nature preserves and wildlife sanctuaries; tables and seating; and similar recreational uses ¹⁹	P ²¹⁰	P ²¹⁰	P ²¹⁰	P ²²⁺	P ²²⁺	P ²²⁺	P ²²⁺	P ²²⁺	P ²²⁺	P ²²⁺	P ²²⁺
Recreational Uses, Government-Owned Golf Courses ¹⁹	P ²¹⁰	X	P ²¹⁰	X	C ¹⁵⁴	P ²²⁺	P ²²⁺	C ¹⁵⁴	X	C ¹⁵⁴	C ¹⁵⁴
Recreational Uses , including boat moorages, country clubs, equine facilities, gymnastics facilities, golf courses, parks, and swimming pools ¹⁹	C ¹⁵⁴	X	C ¹⁵⁴	X	C ¹⁵⁴	C ¹⁵⁴	C ¹⁵⁴	C ¹⁵⁴	X	C ¹⁵⁴	C ¹⁵⁴
Recyclable Drop-Off Sites , subject to Section 819	A ²³²	A ²³²	A ²³²	A ²³²	A ²³²	A ²³²	A ²³²	A ²³²	A ²³²	A ²³²	A ²³²

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Use	R-5 – R-30	VR-4/5 & VR-5/7	R-2.5	VTH	PMD	MR-1	MR-2	HDR	VA	SHD	RCHDR
<u>Residential Treatment Facilities and Residential Treatment Homes, subject to Section 849^{8,24}</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>
Retailing —whether by sale, lease, or rent—of any of the following new or used products: apparel, appliances, art, art supplies, beverages, bicycle supplies, bicycles, books, cameras, computers, computer supplies, cookware, cosmetics, dry goods, electrical supplies, electronic equipment, firewood, flowers, food, furniture, garden supplies, gun supplies, guns, hardware, hides, interior decorating materials, jewelry, leather, linens, medications, music (whether recorded or printed), musical instruments, nutritional supplements, office supplies, optical goods, paper goods, periodicals, pet supplies, pets, plumbing supplies, photographic supplies, signs, small power equipment, sporting goods, stationery, tableware, tobacco, toiletries, tools, toys, vehicle supplies, and videos	CPUD ^{2,5} 3	CPUD ^{2,5} 3	CPUD ^{2,5} 3	CPUD ^{2,5} 3	CPUD ^{2,5} 3	CPUD ^{2,5} 3	CPUD ^{2,5} 3	L ^{5,4} ,C ^{6,5} , CPUD ^{2,5,3}	CPUD ^{2,5} 3	L ¹ ,C ² , CPUD ^{2,5,3}	L ³ , CPUD ^{2,5} 3
Roads	P	P	P	P	P	P	P	P	P	P	P
Schools , subject to Section 805	C	C	C	CPUD	CPUD	C	C	L ^{5,4,2,6,4} ,C ^{6,5} , 2,6,4,CPUD	CPUD	L ^{1,2,6,4} ,C ^{2,2} , 6,4,CPUD	L ^{3,2,6,4} , CPUD

CLACKAMAS COUNTY ZONING AND DEVELOPMENT ORDINANCE

Use	R-5 – R-30	VR-4/5 & VR-5/7	R-2.5	VTH	PMD	MR-1	MR-2	HDR	VA	SHD	RCHDR
Services, Business , including computer rental workstations; leasing, maintenance, repair, and sale of communications and office equipment; mailing; notary public; photocopying; and printing	X	X	X	X	X	X	X	L ⁵⁴ , C ⁶⁵	X	L ² , C ³	L ¹
Services, Commercial—Construction and Maintenance , including contractors engaged in construction and maintenance of electrical and plumbing systems	X	X	X	X	X	X	X	X	X	C ²	X
Services, Commercial—Food and Beverage , including catering and eating and drinking establishments	CPUD ²⁵ ₃	CPUD ²⁵ ₃	CPUD ²⁵ ₃	CPUD ²⁵ ₃	CPUD ²⁵ ₃	CPUD ²⁵ ₃	CPUD ²⁵ ₃	L ⁵⁴ , C ⁶⁵ , CPUD ²⁵³	CPUD ²⁵ ₃	L ¹ , C ² , CPUD ²⁵³	L ³ , CPUD ²⁵ ₃
Services, Commercial—Maintenance and Repair of any of the following: appliances, bicycles, electronic equipment, guns, housewares, musical instruments, optical goods, signs, small power equipment, sporting goods, and tools	X	X	X	X	X	X	X	L ⁵⁴ , C ⁶⁵	X	L ¹ , C ²	L ³
Services, Commercial—Maintenance and Repair of any of the following: all-terrain vehicles, automobiles, light trucks, motorcycles, and snowmobiles	X	X	X	X	X	X	X	X	X	C ²	X

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Use	R-5 – R-30	VR-4/5 & VR-5/7	R-2.5	VTH	PMD	MR-1	MR-2	HDR	VA	SHD	RCHDR
Services, Commercial—Miscellaneous , including food lockers, interior decorating, locksmith, upholstering, and veterinary	X	X	X	X	X	X	X	L ⁵⁴ , C ⁶⁵	X	L ¹ , C ²	L ³
Services, Commercial—Personal and Convenience , including barbershops, beauty salons, dry cleaners, laundries, photo processing, seamstresses, shoe repair, tailors, and tanning salons. Also permitted are incidental retail sales of products related to the service provided.	CPUD ²⁵ 3	CPUD ²⁵ 3	CPUD ²⁵ 3	CPUD ²⁵ 3	CPUD ²⁵ 3	CPUD ²⁵ 3	CPUD ²⁵ 3	L ⁵⁴ , C ⁶⁵ , CPUD ²⁵³	CPUD ²⁵ 3	L ¹ , C ² , CPUD ²⁵³	L ³ , CPUD ²⁵ 3
Services, Commercial—Studios of the following types: art, craft, dance, music, and photography	CPUD ²⁵ 3	CPUD ²⁵ 3	CPUD ²⁵ 3	CPUD ²⁵ 3	CPUD ²⁵ 3	CPUD ²⁵ 3	CPUD ²⁵ 3	L ⁵⁴ , C ⁶⁵ , CPUD ²⁵³	CPUD ²⁵ 3	L ¹ , C ² , CPUD ²⁵³	L ³ , CPUD ²⁵ 3
Short-Term Rental in a dwelling unit or guest house permitted by this table	P ²⁷⁵	P ²⁷⁵	P	P	P	P	P	P	P	P	P
Signs , subject to Section 1010	A ²⁸⁶	A ²⁸⁶	A ²⁸⁶	A ²⁸⁶	A ²⁸⁶	A ²⁸⁶	A ²⁸⁶	A ²⁸⁶	A ²⁸⁶	A ²⁸⁶	A ²⁸⁶
Temporary Buildings for Uses Incidental to Construction Work. Such buildings shall be removed upon completion or abandonment of the construction work.	A	A	A	A	A	A	A	A	A	A	A

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Use	R-5 – R-30	VR-4/5 & VR-5/7	R-2.5	VTH	PMD	MR-1	MR-2	HDR	VA	SHD	RCHDR
Temporary Storage within an Enclosed Structure of Source-Separated Recyclable/Reusable Materials Generated and/or Used On-site Prior to On-site Reuse or Removal by the Generator or Licensed or Franchised Collector to a User or Broker	A	A	A	A	A	A	A	A	A	A	A
Transit Park-and-Rides	X	X	X	X	X	X	X	X	X	X	A
Utility Facilities, including:											
Stormwater Management Facilities	P,C ²⁹⁷	P,C ²⁹⁷	P,C ²⁹⁷	P,C ²⁹⁷	P,C ²⁹⁷	P,C ²⁹⁷	P,C ²⁹⁷	P,C ²⁹⁷	P,C ²⁹⁷	P,C ²⁹⁷	P,C ²⁹⁷
Utility Cabinets	P,C ³⁰²⁸	P,C ³⁰²⁸	P,C ³⁰²⁸	P,C ³⁰²⁸	P,C ³⁰²⁸	P,C ³⁰²⁸	P,C ³⁰²⁸	P,C ³⁰²⁸	P,C ³⁰²⁸	P,C ³⁰²⁸	P,C ³⁰²⁸
Utility Facilities, except Utility Lines, in Road Rights-of-Way	P	P	P	P	P	P	P	P	P	P	P
Utility Facilities Not Otherwise Listed in Table 315-1	C ^{143,3129}	C ^{143,3129}	C ^{143,3129}	X	C ^{143,3129}	C ^{143,3129}	C ^{143,3129}	C ^{143,3129}	X	C ^{143,3129}	C ^{143,3129}
Utility Lines	P,C ³²⁹	P,C ³²⁹	P,C ³²⁹	P,C ³²⁹	P,C ³²⁹	P,C ³²⁹	P,C ³²⁹	P,C ³²⁹	P,C ³²⁹	P,C ³²⁹	P,C ³²⁹
Wireless Telecommunication Facilities , subject to Section 835	See Table 835-1	See Table 835-1	See Table 835-1	See Table 835-1	See Table 835-1	See Table 835-1	See Table 835-1	See Table 835-1	See Table 835-1	See Table 835-1	See Table 835-1

¹ The limited use is permitted subject to the following criteria:

- a. The use shall be allowed only in a development meeting the minimum residential density for the entire site area.
 - b. The building floor area occupied by all limited uses shall not exceed 15 percent of the building floor area occupied by primary uses.
 - c. No outdoor storage of materials associated with the use shall be allowed.
 - d. The use shall not be of a type or intensity which produces odor, smoke, fumes, noise, glare, heat, or vibration which are detectable outside of the premises and are incompatible with primary uses.
- ² The use shall be developed in conjunction with a primary use on the same site, which is developed at the maximum allowed density for the site area.
- ³ The limited use is permitted subject to the following criteria:
- a. The use shall be allowed only in a development meeting the minimum residential density for the entire site area.
 - b. No outdoor storage of materials or display of merchandise associated with the use shall be allowed.
- ⁴ Child care centers are a primary use only if located on the same lot of record as a legally established institutional use, including a civic center, public recreational center, public park, place of worship, school, college, or library; and is subject to the same land use review standards as the institutional use with which it is located.
- ⁴⁵ The limited use is permitted subject to the following criteria:
- a. The use shall be part of a development within a Design Plan area.
 - b. The use shall be allowed only in a development meeting the minimum residential density for the entire site area.
 - c. The building floor area occupied by all limited uses shall not exceed 10 percent of the building floor area occupied by primary uses. No single limited commercial use shall occupy more than 1,500 square feet of building floor area.
 - d. Allowing the use will not adversely impact the livability, value, and appropriate development of the site and abutting properties considering the location, size, design, and operating characteristics of the use.
 - e. No outdoor storage of materials associated with the use shall be allowed.

f. The use shall not be of a type or intensity which produces odor, smoke, fumes, noise, glare, heat, or vibration which are detectable outside of the premises and are incompatible with primary uses.

⁵⁶ The use shall be developed in conjunction with a primary use on the same site, which is developed at the maximum allowed density for the site area. The building floor area occupied by all limited uses, and by all conditional uses that are subject to Note 6, shall not exceed 10 percent of the building floor area occupied by primary uses.

⁶⁷ Dwellings not otherwise permitted in the applicable zoning district may nonetheless be permitted if they are developed as affordable housing, as defined in ORS 197A.445(1), and subject to Subsection~~Section~~ 846.01, ~~Affordable Housing~~.

⁷⁸ Except as allowed by Section 839, *Accessory Dwelling Units*, or Section 1204, *Temporary Permits*, each lot of record may be developed with only one of the following: cottage cluster development, detached single-family dwelling, duplex, manufactured home, prefabricated structure, quadplex, residential treatment facility, residential treatment home, single room occupancy, townhouse, or triplex.

⁸⁹ The development of a triplex, quadplex, townhouse, or cottage cluster is subject to Section 845, *Triplexes, Quadplexes, Townhouses, and Cottage Clusters*.

⁹¹⁰ A manufactured dwelling park that also qualifies as a cottage cluster development pursuant to Section 845, *Triplexes, Quadplexes, Townhouses, and Cottage Clusters*, is a primary use. All other manufactured dwelling parks are conditional uses.

¹⁰¹¹ A manufactured dwelling park that also qualifies as a cottage cluster development pursuant to Section 845, *Triplexes, Quadplexes, Townhouses, and Cottage Clusters*, is a primary use. All other manufactured dwelling parks are prohibited.

¹¹¹² A single room occupancy shall contain a maximum of six units.

¹²¹³ For a townhouse, the minimum lot size is 3,630 square feet in the MR-1 District and 2,420 square feet in the MR-2 District unless, as part of an application filed pursuant to Section 1105, *Subdivisions, Partitions, Replats, Condominium Plats, and Vacations of Recorded Plats*, new lots or parcels are proposed for townhouses. In that case, there is no minimum lot size provided that the density of the entire development complies with the maximum density standards of Subsection 1012.05.

¹³¹⁴ Only indoor facilities are permitted.

¹⁴¹⁵ Uses similar to this use may be authorized pursuant to Section 106, *Authorizations of Similar Uses*.

¹⁵¹⁶ A use may be permitted as a home occupation, subject to Section 822, *Home Occupations*, even if such use is also identified in another use listing in Table 315-1.

~~16~~¹⁷ Hotels in the SHD District are limited to a maximum of 80 units per gross acre.

~~17~~¹⁸ An accessory kitchen is permitted only in a townhouse, a detached single-family dwelling, a manufactured home, or a prefabricated structure, to the extent that these dwelling types are permitted in the applicable zoning district. Only one accessory kitchen is permitted in each townhouse, detached single-family dwelling, manufactured home, or prefabricated structure.

~~18~~¹⁹ The base of such towers shall not be closer to the property line than a distance equal to the height of the tower.

~~19~~²⁰ This use may include concessions, restrooms, maintenance facilities, and similar support uses.

~~20~~²¹ Any principal building, swimming pool, or use shall be located a minimum of 45 feet from any other lot in a residential zoning district.

~~21~~²² Any principal building or swimming pool shall be located a minimum of 30 feet from any other lot in a residential zoning district.

~~22~~²³ Recyclable drop-off sites are permitted only if accessory to an institutional use.

²⁴ Section 849 applies to all residential treatment facilities and residential treatment homes, except those with 15 or fewer residents, all of whom reside in a single dwelling unit that is permitted by Table 315-1. Residential treatment facilities and residential treatment homes that meet this exception are an allowed use within a dwelling unit and are subject only to the review required to permit the dwelling unit.

~~23~~²⁵ The use is subject to the following standards and criteria:

- a. The use shall be located in a planned unit development (PUD) with a minimum of 100 dwelling units. No building permit for the use shall be issued until a minimum of 100 dwelling units are constructed within the PUD.
- b. The area occupied by all uses subject to Note 22 and located in a single PUD, including their parking, loading, and maneuvering areas, shall not exceed a ratio of one-half acre per 100 dwelling units in the PUD.
- c. The use shall be an integral part of the general plan of development for the PUD and provide facilities related to the needs of residents of the PUD.
- d. The use shall be located, designed, and operated to efficiently serve frequent trade and service needs of residents of the PUD and not persons residing elsewhere.
- e. The use shall not, by reason of its location, construction, manner or hours of operation, signs, lighting, parking arrangements, or other characteristics, have adverse effects on residential uses within or adjoining the PUD.

- ²⁶⁴ Only commercial schools are permitted, and such schools are not subject to Section 805, *Schools*.
- ²⁷⁵ This use is prohibited in a recreational vehicle established pursuant to Section 847, *Recreational Vehicles as Second Dwellings*, and in the primary dwelling on the same lot of record as the recreational vehicle.
- ²⁸⁶ Temporary signs regulated under Subsection 1010.13(A) are a primary use.
- ²⁹⁷ Stormwater management facilities are a primary use if:
- a. They are underground, except for an outlet structure if applicable;
 - b. They are vegetated, except for an outlet structure if applicable; or
 - c. They are approved in conjunction with a development approved through another land use permit (e.g., a subdivision or design review).
- ³⁰²⁸ Utility cabinets are a primary use if they comply with Section 830, *Utility Cabinets*, or if they are inside a road right-of-way.
- ³¹²⁹ Except for hydroelectric facilities and telephone exchanges, utility facilities shall not include shops, garages, or general administrative offices.
- ³²⁹ Utility lines are a conditional use only if they are gas transmission lines or electric transmission lines.

Table 315-2: Dimensional and Building Design Standards in the Urban Low Density Residential Zoning Districts

Standard	R-2.5	R-5	R-7	R-8.5	R-10	R-15	R-20	R-30
District Land Area (DLA) for Calculating Density Pursuant to Section 1012/Minimum Lot Size ^{1,2}	2,500/2,000 square feet	5,000/4,000square feet ³	7,000/5,600 square feet ⁴	8,500/6,800 square feet ⁴	10,000/8,000 square feet ⁴	15,000/12,000 square feet ⁴	20,000/16,000 square feet ⁴	30,000/24,000 square feet ⁴
Maximum Lot Coverage	50 percent ^{5,6}							
Maximum Building Height	Accessory buildings larger than 500 square feet and accessory to a primary dwelling, except accessory dwelling units: 20 feet or the height of the primary dwelling, whichever is greater All other buildings, including accessory dwelling units: 35 feet							
Minimum Front Setback	15 feet, except 20 feet to garage and carport motor vehicle entries ⁷							
Minimum Rear Setback	20 feet ^{7,8,9,10,11}							
Minimum Side Setback	5 feet ^{7,8,9,10,11}							
Maximum Building Floor Space for an Accessory Building Larger than 500 Square Feet and Accessory to a Primary Dwelling	Equal to the ground floor area of the primary dwelling and the ground floor area of any non-residential space that shares a common wall with the primary dwelling (e.g., an attached garage). This provision does not apply to accessory dwelling units.							

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Standard	R-2.5	R-5	R-7	R-8.5	R-10	R-15	R-20	R-30
Building Design Standards for Detached Single-Family Dwellings, Duplexes, Manufactured Homes, Prefabricated Structures, and Single Room Occupancies ¹²	A minimum of three of the following features are required: a covered porch at least two feet deep; an entry area recessed at least two feet from the exterior wall to the door; a bay or bow window (not flush with the siding); an offset on the building face of at least 16 inches from one exterior wall surface to the other; a dormer; a gable; roof eaves with a minimum projection of 12 inches from the intersection of the roof and the exterior walls; a roofline offset of at least 16 inches from the top surface of one roof to the top surface of the other; an attached garage; orientation of the long axis and front door to a street; a cupola; a tile, shake, or composition roof; and horizontal lap siding. The required features must be on the same facade as a front door unless the feature is unrelated to a facade (e.g., roofing material).							
Building Design Standards for Buildings Accessory to a Dwelling	Freight shipping containers shall be located behind the building line of the dwelling, and the exterior shall be painted similar in color to that of the dwelling. Metal buildings greater than 500 square feet in area shall include roof overhangs, gutters, and downspouts, and the exterior shall be painted similar in color to that of the dwelling.							

- ¹ The minimum lot size standards apply as established by Sections 1012 and 1107. Notwithstanding the minimum lot size standard, a lot of record may be developed subject to other applicable standards of this Ordinance, except minimum lot size standards of Section 800 apply.
- ² In a planned unit development, there is no minimum lot size. However, the DLA standard applies pursuant to Section 1012, *Lot Size and Density*.
- ³ For townhouses developed pursuant to Section 845, *Triplexes, Quadplexes, Townhouses, and Cottage Clusters*, there is no minimum lot size and the DLA shall be one-third of the DLA.
- ⁴ For townhouses developed pursuant to Section 845, *Triplexes, Quadplexes, Townhouses, and Cottage Clusters*, there is no minimum lot size and the DLA shall be one-quarter of the DLA in the applicable zoning district.
- ⁵ Maximum lot coverage in a planned unit development is 65 percent.

- ⁶ For development on a middle housing lot, the lot coverage is calculated on the entire parent lot that was divided through a middle housing land division.
- ⁷ For a swimming pool that is accessory to a dwelling, the minimum front setback is 10 feet, and the minimum side and rear setbacks are three feet.
- ⁸ In a planned unit development, there are no minimum rear and side setbacks except from rear and side lot lines on the perimeter of the final plat. In a zero-lot-line development, approved pursuant to Subsection 1105.03(B), there are no minimum rear and side setbacks for detached single-family dwellings, manufactured homes, prefabricated structures, single room occupancies, and structures accessory to such dwellings, except from rear and side lot lines on the perimeter of the final plat. Where either of these standards applies, it supersedes any other rear or side setback standard in Table 315-2.
- ⁹ Except for townhouses, setbacks for structures on a middle housing lot shall continue to be measured from the lot lines of the parent lot that was divided through the middle housing land division..
- ¹⁰ The following exceptions apply to a lot of record that is 6,000 square feet or less in area and was created prior to the application of an Urban Low Density Residential District to the subject lot of record:
 - a. The minimum rear setback for a detached single-family dwelling, duplex, manufactured home, prefabricated structure, or single room occupancy is 10 feet.
 - b. The minimum side setback for a detached single-family dwelling, duplex, manufactured home, prefabricated structure, or single room occupancy is a total of five feet (e.g., five feet from one side lot line and zero from the other, three feet from one side lot line and two feet from the other) except that if the subject lot of record has more than two side lot lines, the minimum side setback from each of the additional side lot lines is five feet.

- ¹¹ If an accessory building is located behind the building line of the main building, the applicable minimum rear and side setback standards for that accessory building are based on the accessory building area and accessory building height, as follows:

Building Area	Building Height			
	≤ 8 feet	> 8 feet and ≤ 10 feet	> 10 feet and ≤ 15 feet	> 15 feet
≤ 100 square feet	None	3 feet side and rear	5 feet side and rear	5 feet side, 10 feet rear
> 100 square feet and ≤ 200 square feet	3 feet side and rear	3 feet side and rear	5 feet side and rear	5 feet side, 10 feet rear
> 200 square feet and ≤ 500 square feet	5 feet side and rear	5 feet side and rear	5 feet side and rear	5 feet side, 10 feet rear
> 500 square feet	5 feet side; 10 feet rear	5 feet side; 10 feet rear	5 feet side, 10 feet rear	5 feet side, 10 feet rear

- ¹² These building design standards do not apply to temporary dwellings approved pursuant to Section 1204, *Temporary Permits*; ~~or to~~ manufactured homes or prefabricated structures in manufactured dwelling parks; or to an application for the development of 20 or more detached single-family dwellings, duplex dwelling units, manufactured homes, or prefabricated structures.

Table 315-3: Dimensional and Building Design Standards in the VR-5/7, VR-4/5, and VTH Districts

General Standards			
Standard	VR-5/7	VR-4/5	VTH
District Land Area for Calculating Density Pursuant to Section 1012/Minimum Lot Size ¹	5,000/4,000 square feet ²	4,000/2,000 square feet ²	2,000/2,000 square feet ³
Maximum Lot Size ¹	7,000 square feet ^{4,5}	5,000 square feet ^{4,6}	3,000 square feet ^{3,7}
Maximum Lot Coverage	50 percent ⁸		65 percent
Maximum Height for Fences and Sight-Obscuring Plantings	6 feet at or behind the building line of the dwelling closest to front lot line(s) or, in the case of non-residential development, of the main building or 4 feet forward of the building line of the dwelling closest to front lot line(s) or, in the case of non-residential development, of the main building.		
Maximum Driveway Width	16 feet at the front lot line, unless the subject property is developed with a garage that has at least three side-by-side (as opposed to tandem) garage bays, in which case the maximum driveway width shall be 24 feet at the front lot line ⁹		See Subsection 1005.11(B)(4).
Minimum Percentage of Lots in a Subdivision that Shall have Alley Motor Vehicle Access Only	50 percent of lots with frontage on an alley		Not Applicable
Garage/Carport Design for Primary Dwellings	A minimum of 50 percent of the primary dwellings in a development shall have a recessed garage/carport or no garage/carport. The remaining 50 percent may have a non-recessed garage/carport. ^{9,10,11}	All garages and carports shall be recessed. ¹⁰	See Subsection 1005.11(B).

Standards for Primary Dwellings			
Standard	VR-5/7	VR-4/5	VTH
Maximum Building Height	35 feet ⁹		
Minimum Front Setback	10 feet for a dwelling with a recessed garage/carport or no garage/carport; 19½ feet to the garage door/carport motor vehicle entry for a dwelling with a non-recessed garage/carport ^{9,10,11,12,13,14}	10 feet ^{12,13,14}	10 feet ^{15,16,17}
Maximum Front Setback	18 feet for a dwelling with a recessed garage/carport or no garage/carport; 20½ feet to the garage door/carport motor vehicle entry for a dwelling with a non-recessed garage/carport ^{9,10,11,12,13,18,19,20}	18 feet ^{12,13,18,19,20}	18 feet ¹⁵
Minimum Rear Setback	15 feet ^{9,12,13,21}		15 feet ²¹
Minimum Side Setback	0 on one side; 5 feet on all other sides ^{9,12,21}		5 feet ^{21,22}

Building Design Standards ^{9,23,24}	• Front facades shall be designed with balconies and/or bays. Facades facing a street shall not consist of a blank wall. • Window trim shall not be flush with exterior wall treatment. Windows shall be provided with an architectural surround at the jamb, head, and sill. • Hipped, gambrel, or gabled roofs are required. Flat roofs are prohibited. • If the lot on which the dwelling is located has street frontage on a local or connector street, or a private street that meets local or connector street design standards, then the primary entry to the dwelling shall be accessed directly from and be visible from one of those streets. • A minimum of 50 percent of the dwellings in a subdivision shall have a porch or patio. The porch or patio shall be covered, placed immediately adjacent to the primary entry to the dwelling, have a minimum unobstructed depth of six feet, and have a minimum unobstructed width of 10 feet.			See Subsections 1005.03(F) and 1005.11(A).
Standards for Buildings Accessory to a Dwelling				
Standard	VR-5/7	VR-4/5	VTH	
Maximum Number of Accessory Buildings per Lot of Record	Two			
Minimum Separation Distance Between an Accessory Building and any other Building on the Same Lot of Record	3 feet			
Maximum Building Height	25 feet or the building height of the primary dwelling, whichever is less ²⁵⁴			

Maximum Building Area	Only one accessory building may exceed 100 square feet, and it shall have a maximum ground floor area of 600 square feet, or the square footage of the ground floor of the primary dwelling, whichever is less.	Only one accessory building may exceed 100 square feet, and it shall have a maximum ground floor area of 500 square feet, or the square footage of the ground floor of the primary dwelling, whichever is less.	
Minimum Front Setback	Greater than or equal to the front setback of the facade of the primary dwelling (not including porches, patios, bays, garages, and architectural features) ^{9,265}		
Exterior Building Materials	Buildings greater than 100 square feet in area shall be constructed with similar exterior building materials to those of the primary dwelling. ⁹		
Minimum Rear and Side Setback Standards for Buildings Accessory to a Primary Dwelling in the VR-5/7, VR-4/5, and VTH Districts ^{10,20}			
Building Area	Building Height		
	≤ 8 feet	> 8 feet and ≤ 20 feet	> 20 feet
≤ 100 square feet	None	No minimum on one side, 3 feet on all other sides; 3 feet rear if rear lot line does not abut an alley, 6 feet rear if rear lot line does abut an alley ²⁷⁶	No minimum on one side, 5 feet on all other sides; 5 feet rear if rear lot line does not abut an alley, 6 feet rear if rear lot line does abut an alley ²⁷⁶
> 100 square feet	No minimum on one side, 3 feet on all other sides; 3 feet rear if rear lot line does not abut an alley, 6 feet rear if rear lot line does abut an alley ²⁷⁶		No minimum on one side, 5 feet on all other sides; 5 feet rear if rear lot line does not abut an alley, 6 feet rear if rear lot line does abut an alley ^{26,27,28}

- 1 The minimum and maximum lot size standards apply as established by Sections 1012 and 1107. Notwithstanding the minimum and maximum lot size standards, a lot of record may be developed subject to other applicable standards of this Ordinance, except minimum lot size standards of Section 800 apply.
- 2 For townhouses developed pursuant to Section 845, *Triplexes, Quadplexes, Townhouses, and Cottage Clusters*, there is no minimum lot size and the DLA shall be one-third of the DLA.
- 3 The minimum and maximum lot size standards apply only to lots or parcels for townhouses.
- 4 The maximum lot size standard applies only to lots or parcels for detached single-family dwellings, manufactured homes, prefabricated structures, single room occupancies, or middle housing, except the maximum lot size standard does not apply to a middle housing land division.
- 5 Alternatively, the average size of all lots in a subdivision, partition, or replat shall not exceed 6,500 square feet.
- 6 Alternatively, the average size of all lots in a subdivision, partition, or replat shall not exceed 5,000 square feet.
- 7 Alternatively, the average size of all lots in a subdivision, partition, or replat shall not exceed 2,500 square feet.
- 8 For development on a middle housing lot, the lot coverage is calculated on the entire parent lot that was divided through a middle housing land division.
- 9 Except for middle housing developed pursuant to Section 845, *Triplexes, Quadplexes, Townhouses, and Cottage Clusters*, development on lots in the plat of Sieben Creek Estates (plat no. 3039) is not required to comply with this standard.
- 10 A recessed garage or carport is a garage or carport with a front setback to the garage door or carport motor vehicle entry that is a minimum of five feet greater (i.e., farther from the front lot line) than the front setback to the facade of the primary dwelling living area (not including porches, patios, bays, and architectural features).
- 11 A non-recessed garage or carport shall have a front setback to the garage door or carport motor vehicle entry that is a maximum of five feet less (i.e., closer to the front lot line) than the front setback to the facade of the primary dwelling living area (not including porches, patios, bays, and architectural features).
- 12 The minimum and maximum setback standards do not apply in a Resource Protection Area shown on Comprehensive Plan Map X-SV-1, *Sunnyside Village Plan Land Use Plan Map*. The maximum setback standards do not apply to cottage clusters developed pursuant to Section 845, *Triplexes, Quadplexes, Townhouses, and Cottage Clusters*.
- 13 On a middle housing lot, there are no minimum setbacks, except from lot lines on the perimeter of the final plat or lot lines abutting a road or access drive.
- 14 A porch or patio, whether covered or not, may extend a maximum of four feet into the minimum front yard depth.
- 15 Frontage on an accessway shall be considered a front lot line.

- 16 On a corner lot, the minimum setback from one front lot line is eight feet, provided that the lot line abuts a road with a functional classification of local or connector.
- 17 Awnings, porches, bays, and overhangs may extend a maximum of four feet into the minimum front setback.
- 18 If a public utility easement precludes compliance with the maximum front setback standard, the maximum shall be as close to the front lot line as possible.
- 19 Dwellings located on lots with less than 35 feet of street frontage shall be exempt from the maximum front setback standard.
- 20 If a lot has more than one front lot line, compliance with the maximum front setback standard is required from only two intersecting front lot lines.
- 21 In a planned unit development, there are no minimum rear and side setbacks except from rear and side lot lines on the perimeter of the final plat. Where this standard applies, it supersedes any other rear or side setback standard in Table 315-3.
- 22 Frontage on a pedestrian connection shall be considered a side lot line.
- 23 For triplexes, quadplexes, and townhouses developed pursuant to Section 845, *Triplexes, Quadplexes, Townhouses, and Cottage Clusters*, design standards in Section 845 shall apply in addition to standards in Table 315-3.
- 24 These building design standards do not apply to an application for the development of 20 or more detached single-family dwellings, duplex dwelling units, manufactured homes, or prefabricated structures.
- ~~24~~²⁵ The maximum building height standard applies only to accessory buildings larger than 100 square feet.
- ~~25~~²⁶ A garage may be required to be recessed, as defined by Note 11, in order to comply with the standard for garage/carport design for primary dwellings.
- ~~26~~²⁷ Frontage on a pedestrian connection shall be considered a side lot line, and the minimum setback is five feet.
- ~~27~~²⁸ If the rear lot line abuts an alley, a second-story accessory dwelling unit may cantilever a maximum of four feet into the minimum rear setback.

Table 315-4: Dimensional Standards in the PMD, MR-1, MR-2, HDR, VA, SHD, and RCHDR Districts

Standard	PMD	MR-1	MR-2	HDR	VA	SHD	RCHDR
District Land Area for Calculating Density Pursuant to Section 1012	3,630 square feet	3,630 square feet	2,420 square feet	1,742 square feet	1,500 square feet	726 square feet	Not Applicable
Minimum Density	See Section 1012	See Section 1012	See Section 1012	See Section 1012	See Section 1012	See Section 1012	See Section 1012
Minimum Lot Size	None	None ¹	None ²	None	None	None	None
Minimum Front Setback	15 feet, except 20 feet to garage and carport motor vehicle entries	15 feet, except 20 feet to garage and carport motor vehicle entries ^{3,4}	15 feet, except 20 feet to garage and carport motor vehicle entries ⁴	15 feet ⁵	10 feet ^{6,7}	15 feet	5 feet ⁸
Maximum Front Setback	See Subsections 1005.02(E) and (H).	See Subsections 1005.02(E) and (H).	See Subsections 1005.02(E) and (H).	See Subsections 1005.02(E) and (H).	18 feet ⁶	See Subsections 1005.02(E) and (H).	20 feet ^{8,9}
Minimum Rear Setback	30 feet ¹⁰	20 feet ^{5,10,11,12}	20 feet ^{5,10}	See Subsection 1005.02(L) ⁵	None ^{6,7}	See Subsection 1005.02(L)	See Subsection 1005.02(L) ¹³

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Standard	PMD	MR-1	MR-2	HDR	VA	SHD	RCHDR
Minimum Side Setback	30 feet ¹⁰	One story: five feet; two stories: seven feet; three stories: 15 feet. For each story higher than three, an additional five feet of yard depth shall be required. ^{5,10,11,12,14,15}	One story: five feet; two stories: seven feet; three stories: 15 feet. For each story higher than three, an additional five feet of yard depth shall be required. ^{5,10,14,15}	See Subsection 1005.02(L) ⁵	None	See Subsection 1005.02(L)	See Subsection 1005.02(L) ¹⁶
Maximum Building Height	None	None	None	None	45 feet	None	None
Minimum Building Separation	10 feet	None	None	See Subsection 1005.02(L)	20 feet between multifamily dwellings	See Subsection 1005.02(L)	See Subsection 1005.02(L)

- ¹ The minimum lot size for a lot developed with a detached single-family dwelling classified as a nonconforming use is 3,630 square feet.
- ² The minimum lot size for a lot developed with a detached single-family dwelling classified as a nonconforming use is 2,420 square feet.
- ³ For a swimming pool that is accessory to a dwelling, the minimum front setback is 10 feet.
- ⁴ On a corner lot developed with a townhouse, the minimum front setback from one front lot line is 10 feet, except that the minimum shall be 20 feet to garage and carport motor vehicle entries.
- ⁵ The minimum setback standards of Table 315-2, *Dimensional and Building Design Standards in the Urban Low Density Residential Districts*, apply to detached single-family dwellings that are nonconforming uses, as well as to structures that are accessory to such dwellings.

- ⁶ If the front or rear lot line abuts Sunnyside Road, the minimum setback shall be 65 feet from the centerline of Sunnyside Road, and the maximum setback shall be 75 feet from the centerline of Sunnyside Road.
- ⁷ Awnings, porches, and bays may extend a maximum of six feet into the minimum setback.
- ⁸ For dwellings and structures accessory to dwellings, the minimum front setback shall be 15 feet, and there shall be no maximum setback. However, Note 8 does not apply to mixed-use buildings that include dwellings or to structures accessory to such mixed-use buildings.
- ⁹ The maximum setback may be exceeded to accommodate plazas identified on Comprehensive Plan Map X-CRC-3, *Clackamas Regional Center Area Design Plan Urban Design Elements*.
- ¹⁰ In a planned unit development, there are no minimum rear and side setbacks except from rear and side lot lines on the perimeter of the final plat. Where this standard applies, it supersedes any other rear or side setback standard in Table 315-4.
- ¹¹ For a swimming pool that is accessory to a dwelling, the minimum side and rear setbacks are five feet, unless the side or rear lot line abuts an Urban Low Density Residential, VR-4/5, or VR-5/7 District, in which case the minimum setback shall be 15 feet from the abutting lot line.

- ¹² The minimum rear and side setback standards for an accessory building are based on the building area and height, as follows:

Building Area	Building Height		
	≤ 8 feet	> 8 feet and ≤ 10 feet	> 10 feet
≤ 100 square feet	None, if the accessory building is located behind the building line of the main building; otherwise, 3 feet side and rear	3 feet side and rear	Same as primary building minimum setbacks
> 100 square feet and ≤ 200 square feet	3 feet side and rear	3 feet side and rear	Same as primary building minimum setbacks
> 200 square feet	Same as primary building minimum setbacks	Same as primary building minimum setbacks	Same as primary building minimum setbacks

- ¹³ If the rear lot line abuts a residential zoning district other than HDR, SHD, or RCHDR, the minimum rear setback is 20 feet.
- ¹⁴ If the side lot line abuts an Urban Low Density Residential, VR-5/7, or VR-4/5 District, the minimum side setback for a two-story building is 10 feet.
- ¹⁵ The minimum side setback for a townhouse is five feet from any side lot line where two townhouses do not share a common wall.
- ¹⁶ If the side lot line abuts a residential zoning district other than HDR, SHD, or RCHDR, the minimum side setback is 15 feet.

[Added by Ord. ZDO-249, 10/13/2014; Amended by Ord. ZDO-250, 10/13/2014; Amended by Ord. ZDO-252, 06/01/2015; Amended by Ord. ZDO-253, 06/01/2015; Amended by Ord. ZDO-254, 01/04/2016; Amended by Ord. ZDO-266, 05/23/2018; Amended by Ord. ZDO-268, 10/2/2018; Amended by Ord. ZDO-280, 10/23/2021; Amended by Ord. ZDO-282, 07/01/2022; Amended by Ord. ZDO-273, on remand, 05/30/2023; Amended by Ord. ZDO-287, 08/03/2023; Amended by Ord. ZDO-283, 09/05/2023; Amended by Ord. ZDO-285, 09/03/2024; Amended by Ord. ZDO-288, 09/09/2024]

316 RURAL AREA RESIDENTIAL 1-ACRE (RA-1), RURAL AREA RESIDENTIAL 2-ACRE (RA-2), RECREATIONAL RESIDENTIAL (RR), RURAL RESIDENTIAL FARM FOREST 5-ACRE (RRFF-5), FARM FOREST 10-ACRE (FF-10), AND FUTURE URBAN 10-ACRE (FU-10) DISTRICTS ---

316.01 PURPOSE

Section 316 is adopted to implement the policies of the Comprehensive Plan for Unincorporated Community Residential, Rural, and Future Urban areas.

316.02 APPLICABILITY

Section 316 applies to land in the Rural Area Residential 1-Acre (RA-1), Rural Area Residential 2-Acre (RA-2), Recreational Residential (RR), Rural Residential Farm Forest 5-Acre (RRFF-5), Farm Forest 10-Acre (FF-10), and Future Urban 10-Acre (FU-10) Districts, hereinafter collectively referred to as the rural residential and future urban residential zoning districts.

316.03 USES PERMITTED

A. Uses permitted in each rural residential and future urban residential zoning district are listed in Table 316-1, *Permitted Uses in the Rural Residential and Future Urban Residential Zoning Districts*. Uses not listed are prohibited.

B. As used in Table 316-1:

~~1. "P" means the use is a primary use.~~

12. "A" means the use is an accessory use.

23. "C" means the use is a conditional use, approval of which is subject to Section 1203, *Conditional Uses*.

34. "CPUD" means the use is allowed as a conditional use in a planned unit development.

4. "NA" means not applicable.

5. "P" means the use is a primary use.

~~5. "X" means the use is prohibited.~~

6. "Type II" means the use requires review of a Type II application, pursuant to Section 1307, *Procedures*.

7. "X" means the use is prohibited.

87. Numbers in superscript correspond to the notes that follow Table 316-1.

C. Permitted uses are subject to the applicable provisions of Subsection 316.04, *Dimensional Standards*; Section 1000, *Development Standards*; and Section 1100, *Development Review Process*.

316.04 DIMENSIONAL STANDARDS

- A. General: Dimensional standards applicable in the rural and future urban residential zoning districts are listed in Table 316-2, *Dimensional Standards in the Rural Residential and Future Urban Residential Zoning Districts*. As used in Table 316-2, numbers in superscript correspond to the notes that follow the table.
- B. Modifications: Modifications to the standards in Table 316-2 are established by Sections 800, *Special Use Requirements*; 903, *Setback Exceptions*; 1012, *Lot Size and Density*; 1107, *Property Line Adjustments*; and 1205, *Variances*.

Table 316-1: Permitted Uses in the Rural Residential and Future Urban Residential Zoning Districts

Use	RA-1	RA-2	RR	RRFF-5	FF-10	FU-10
Accessory Buildings and Uses, Customarily Permitted , such as amateur (Ham) radio antennas and towers, arbors, bicycle racks, carports, citizen band transmitters and antennas, cogeneration facilities, courtyards, decks, decorative ponds, driveways, electric vehicle charging stations, family child care homes, fountains, garages, garden sheds, gazebos, greenhouses, HVAC units, meeting facilities, outdoor kitchens, parking areas, patios, pergolas, pet enclosures, plazas, property management and maintenance offices, recreational facilities (such as bicycle trails, children's play structures, dance studios, exercise studios, playgrounds, putting greens, recreation and activity rooms, saunas, spas, sport courts, swimming pools, and walking trails), rainwater collection systems, satellite dishes, self-service laundry facilities, shops, solar energy systems, storage buildings/rooms, stormwater management facilities, television antennas and receivers, transit amenities, trellises, utility service equipment, and utility service lines	A	A	A	A	A	A
Aircraft Land Uses	X	X	X	C	C	C
Aircraft Landing Areas	X	C	C ¹	X	X	X
Bed and Breakfast Inns , subject to Section 832	C	C	C	C	C	X
Bed and Breakfast Residences , subject to Section 832	C	C	C	C	C	C
Bus Shelters	P	P	P	P	P	P
Campgrounds	C	C	C	C	C	C

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Use	RA-1	RA-2	RR	RRFF-5	FF-10	FU-10
Cemeteries , subject to Section 808	C	C	X	C	C	C
Child Care ~~Facilities~~ Centers	<u>P²</u> ,C	<u>P²</u> ,C	C	<u>P²</u> ,C	<u>P²</u> ,C	<u>P²</u> ,C ³²
Commercial or Processing Activities that are in Conjunction with Farm or Forest Uses⁴³	X	X	X	C	C	X
Community Halls	CPUD	CPUD	CPUD	CPUD	CPUD	X ⁵⁴
Composting Facilities , subject to Section 834	X	X	X	C	C	X
Conservation Areas or Structures for the Conservation of Water, Soil, Forest, or Wildlife Habitat Resources	P	P	P	P	P	P
Crematories , subject to Section 808	C	C	X	X	X	X
Daycare Services, Adult	C	C	C	C	C	C ⁶⁵
Dwellings, including:						
Accessory Dwelling Units, subject to Section 839	A ⁷⁶	A ⁷⁶	A ⁷⁶	A ⁷⁶	A ⁷⁶	A ⁷⁶
Accessory Historic Dwellings, subject to Section 843	A ⁸⁷	A ⁸⁷	A ⁸⁷	A ⁸⁷	A ⁸⁷	X
Detached Single-Family Dwellings	P ⁹⁸	P ⁹⁸	P ⁹⁸	P ⁹⁸	P ⁹⁸	P ⁹⁸
Duplexes	C ⁹⁸	X	X	X	X	X
Manufactured Dwellings	P ⁹⁸	P ⁹⁸	P ⁹⁸	P ⁹⁸	P ⁹⁸	P ⁹⁸
Prefabricated Structures	P ⁹⁸	P ⁹⁸	P ⁹⁸	P ⁹⁸	P ⁹⁸	P ⁹⁸
Recreational Vehicles as Second Dwellings, subject to Section 847	A ⁷⁶	A ⁷⁶	A ⁷⁶	A ⁷⁶	A ⁷⁶	A ⁷⁶
Single Room Occupancies	P ^{98,109}	P ^{98,109}	P ^{98,109}	P ^{98,109}	P ^{98,109}	P ^{98,109}
Energy Source Development	X	X	C	X	X	X
Farm Uses, including³:						
Raising, harvesting, and selling crops	P	P	P ¹¹⁰	P	P	P
Feeding, breeding, management and sale of, or the produce of, livestock, poultry, fur-bearing animals, or honeybees	X ¹²⁴	P	X ¹²⁴	P	P	P
Dairying and the sale of dairy products	X ¹²⁴	P	X ¹²⁴	P	P	P
Any other agricultural or horticultural use or animal husbandry or any combination thereof	X ¹²⁴	P	X ¹²⁴	P	P	P

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Use	RA-1	RA-2	RR	RRFF-5	FF-10	FU-10
Preparation, storage, and disposal by marketing or otherwise of the products or by-products raised on such land for human or animal use	P	P	P ¹¹⁰	P	P	P
Propagation, cultivation, maintenance, and harvesting of aquatic, bird, and animal species that are under the jurisdiction of the Oregon Fish and Wildlife Commission, to the extent allowed by the rules adopted by the commission	X ¹²⁴	P	X ¹²⁴	P	P	P
Growing cultured Christmas trees	P	P	P ¹¹⁰	P	P	P
Farmers' Markets , subject to Section 840	A	A	A	A	A	A
Fish or Wildlife Management Programs	X	X	X	P	P	P
Forest Practices , including the following operations conducted on or pertaining to forestland: reforestation of forestland, road construction and maintenance, harvesting of forest tree species, application of chemicals, disposal of slash, and removal of woody biomass	P ¹³²	P ¹³²	P	P ¹³²	P ¹³²	P ¹³²
Fraternal Organization Lodges	C ¹⁴³	C ¹⁴³	C ¹⁴³	C ¹⁴³	C ¹⁴³	C ¹⁴³
Government Uses , unless such a use is specifically listed as a primary, accessory, conditional, or prohibited use in the applicable zoning district	C ¹⁴³	C ¹⁴³	C ¹⁴³	C ¹⁴³	C ¹⁴³	C ¹⁴³
Guest Houses , subject to Section 833	A	A	A	A	A	A
Guest Ranches and Lodges	X	X	C	X	X	X
Home Occupations , including bed and breakfast homestays, subject to Section 822 ¹⁵⁴	A	A	A	A	A	A
Home Occupations to Host Events , subject to Section 806	C	C	C	C	C	C
Kennels	C ¹⁶⁵	C ¹⁶⁵	X	C ¹⁶⁵	C ¹⁶⁵	X
Kitchens, Accessory	A ¹⁷⁶	A ¹⁷⁶	A ¹⁷⁶	A ¹⁷⁶	A ¹⁷⁶	A ¹⁷⁶

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Use	RA-1	RA-2	RR	RRFF-5	FF-10	FU-10
Libraries	CPUD	CPUD	CPUD	CPUD	CPUD	X ⁵⁴
Livestock , subject to Section 821	P	~~NAX~~ ¹ ₂₊	A	~~NAX~~ ¹²⁺	~~NAX~~ ¹ ₂₊	~~NAX~~ ¹²⁺
Marijuana Processing	X	X	X	X	X	X
Marijuana Production , subject to Section 841	X	X	X	A	A	X
Marijuana Retailing	X	X	X	X	X	X
Marijuana Wholesaling	X	X	X	X	X	X
Operations Conducted for the Exploration, Mining, or Processing of Geothermal Resources or Other Subsurface Resources	X	X	X	C	C	X
Places of Worship , subject to Section 804	P	P	P	P	P	P
Produce Stands	A ¹⁸⁷	A ¹⁸⁷	A ¹⁸⁷	A ¹⁸⁷	A ¹⁸⁷	A ^{187,198}
Radio and Television Transmission and Receiving Towers and Earth Stations	C ^{143,2019}	C ^{143,2019}	C ^{143,2019}	C ^{143,2019}	C ^{143,2019}	C ^{143,2019}
Recreational Uses , including boat moorages, community gardens, country clubs, equine facilities, gymnastics facilities, golf courses, horse trails, pack stations, parks, playgrounds, sports courts, swimming pools, ski areas, and walking trails ²¹⁰	C ¹⁴³	C ^{143,22+}	C ¹⁴³	C ^{143,224}	C ^{143,22+}	C ^{143,224}

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Use	RA-1	RA-2	RR	RRFF-5	FF-10	FU-10
Recreational Uses, Government-Owned , including amphitheaters; arboreta; arbors, decorative ponds, fountains, gazebos, pergolas, and trellises; ball fields; bicycle and walking trails; bicycle parks and skate parks; equine facilities; boat moorages and ramps; community buildings and grounds; community and ornamental gardens; courtyards and plazas; fitness and recreational facilities, such as exercise equipment, gymnasiums, and swimming pools; horse trails; miniature golf, putting greens, and sports courts; pack stations; parks; picnic areas and structures; play equipment and playgrounds; nature preserves and wildlife sanctuaries; ski areas; tables and seating; and similar recreational uses ²¹⁹	P ²³²	P ²³²	P ²³²	P	P	P
Recreational Uses, Government-Owned Golf Courses ²¹⁹	P ²³²	P ²³²	P ²³²	P	P	P
Recreational Vehicle Camping Facilities , subject to Section 813	C ¹⁴³	C ¹⁴³	C	C ¹⁴³	C ¹⁴³	X
Recyclable Drop-Off Sites , subject to Section 819	A ²⁴³	A ²⁴³	A ²⁴³	A ²⁴³	A ²⁴³	A ²⁴³

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Use	RA-1	RA-2	RR	RRFF-5	FF-10	FU-10
Retailing —whether by sale, lease, or rent—of any of the following new or used products: apparel, appliances, art, art supplies, beverages, bicycle supplies, bicycles, books, cameras, computers, computer supplies, cookware, cosmetics, dry goods, electrical supplies, electronic equipment, flowers, food, furniture, garden supplies, hardware, interior decorating materials, jewelry, linens, medications, music (whether recorded or printed), musical instruments, nutritional supplements, office supplies, optical goods, paper goods, periodicals, pet supplies, pets, plumbing supplies, photographic supplies, signs, small power equipment, sporting goods, stationery, tableware, tobacco, toiletries, tools, toys, vehicle supplies, and videos.	CPUD ²⁵ ₄	X	X	X	X	X
Roads	P	P	P	P	P	P
Sanitary Landfills and Debris Fills	X	X	X	C	C	X
Schools , subject to Section 805	C ²⁶⁵	C ²⁶⁵	C	C ²⁶⁵	C ²⁶⁵	C ²⁷⁶
Services, Commercial—Food and Beverage , including catering and eating and drinking establishments	CPUD ²⁵ ₄	X	X	X	X	X
Services, Commercial—Personal and Convenience , including barbershops, beauty salons, dry cleaners, laundries, photo processing, seamstresses, shoe repair, tailors, and tanning salons. Also permitted are incidental retail sales of products related to the service provided.	CPUD ²⁵ ₄	X	X	X	X	X
Services, Commercial—Studios of the following types: art, craft, dance, music, and photography	CPUD ²⁵ ₄	X	X	X	X	X

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Use	RA-1	RA-2	RR	RRFF-5	FF-10	FU-10
Short-Term Rental in a dwelling unit or guest house permitted by this table ²⁸⁷	P	P ²⁹⁸	P	P ²⁹⁸	P ²⁹⁸	P ²⁹⁸
Signs , subject to Section 1010	A ³⁰²⁹	A ³⁰²⁹	A ³⁰²⁹	A ³⁰²⁹	A ³⁰²⁹	A ³⁰²⁹
Surface Mining , subject to Section 818	X	X	X	C	C	X
Temporary Buildings for Uses Incidental to Construction Work. Such buildings shall be removed upon completion or abandonment of the construction work.	A	A	A	A	A	A
Temporary Storage within an Enclosed Structure of Source-Separated Recyclable/Reusable Materials Generated and/or Used On-site Prior to On-site Reuse or Removal by the Generator or Licensed or Franchised Collector to a User or Broker	A	A	A	A	A	A
Transfer Stations , subject to Section 819	X	X	C	X	X	C
Utility Facilities, including:						
Sewer System Components that Serve Lands Inside an Urban Growth Boundary, subject to OAR 660-011-0060(3)	Type II ³¹⁹	Type II ³¹⁹	Type II ³¹⁹	Type II ³¹⁹	Type II ³¹⁹	Type II ³¹⁹
Sewer Systems and Extensions of Sewer Systems to Serve Land Outside an Urban Growth Boundary and Unincorporated Community, subject to OAR 660-011-0060(4)	Type II ³²⁴	Type II ³²⁴	Type II ³²⁴	Type II ³²⁴	Type II ³²⁴	Type II ³²⁴
Stormwater Management Facilities	P,C ³³²	P,C ³³²	P,C ³³²	P,C ³³²	P,C ³³²	P,C ³³²
Utility Cabinets	P,C ³⁴³	P,C ³⁴³	P,C ³⁴³	P,C ³⁴³	P,C ³⁴³	P,C ³⁴³
Utility Facilities, except Utility Lines, in Road Rights-of-Way	P	P	P	P	P	P
Utility Facilities Not Otherwise Listed in Table 316-1	C ^{143,354}	C ^{143,354}	C ^{143,354}	C ^{143,354}	C ^{143,354}	C ^{143,354}
Utility Lines	P,C ³⁶⁵	P,C ³⁶⁵	P,C ³⁶⁵	P,C ³⁶⁵	P,C ³⁶⁵	P,C ³⁶⁵

Use	RA-1	RA-2	RR	RRFF-5	FF-10	FU-10
Wireless Telecommunication Facilities , subject to Section 835	See Table 835-1	See Table 835-1	See Table 835-1	See Table 835-1	See Table 835-1	See Table 835-1

¹ Aircraft landing areas are permitted for use by emergency aircraft (e.g., fire, rescue) only.

² Within the Portland Metropolitan Urban Growth Boundary, child care centers are a primary use if located on the same lot of record as a legally established institutional use, including a civic center, public recreational center, public park, place of worship, school, college, or library; and is subject to the same land use review standards as the institutional use with which it is located.

²³ This use is limited to alteration or expansion of a lawfully established child care center~~facility~~, unless established as a primary use, pursuant to Note 2.

³⁴ As used in Table 316-1, farm uses do not include marijuana production, marijuana processing, marijuana wholesaling, or marijuana retailing. See separate listings in Table 316-1 for these uses.

⁴⁵ Even though it is prohibited in this category, this use is included in the “government use” category.

⁵⁶ This use is limited to alteration or expansion of a lawfully established adult daycare service.

⁶⁷ This use is not permitted in an urban reserve established pursuant to OAR 660, Division 21 or OAR 660, Division 27. Recreational Vehicles as Second Dwellings are also not permitted within the urban growth boundaries of Barlow, Canby, Estacada, Molalla, and Sandy.

⁷⁸ This use is permitted only outside of both an urban growth boundary and an urban reserve established pursuant to OAR 660, Division 21 or OAR 660, Division 27.

⁸⁹ Except as allowed by Section 839, *Accessory Dwelling Units*, Section 843, *Accessory Historic Dwellings*, or Section 1204, *Temporary Permits*, each lot of record may be developed with only one of the following: detached single-family dwelling, duplex (only if approved as a conditional use in the RA-1 District), manufactured dwelling, prefabricated structure, or single room occupancy.

⁹¹⁰ This use is permitted only inside an urban growth boundary and shall contain a maximum of six units.

¹¹⁰ This use is permitted only on lots larger than five acres.

¹²¹ In the RA-2, RRFF-5, FF-10, and FU-10 Districts, livestock is not subject to Section 821, *Livestock*, and is instead permitted as described under the use category of farm uses. ~~In the RA-1 and RR Districts, livestock is permitted as described under the use category of livestock.~~

- ¹³² For land inside the Portland Metropolitan Urban Growth Boundary, refer to Subsection 1002.02 regarding a development restriction that may apply if excessive tree removal occurs.
- ¹⁴³ Uses similar to this may be authorized pursuant to Section 106, *Authorizations of Similar Uses*.
- ¹⁵⁴ A use may be permitted as a home occupation, subject to Section 822, even if such use is also identified in another use listing in Table 316-1.
- ¹⁶⁵ The portion of the premises used shall be located a minimum of 200 feet from all property lines.
- ¹⁷⁶ An accessory kitchen is permitted only in a detached single-family dwelling, a manufactured dwelling, or a prefabricated structure. Only one accessory kitchen is permitted in each single-family dwelling, manufactured dwelling, or prefabricated structure.
- ¹⁸⁷ A produce stand shall be subject to the parking requirements of Section 1015, *Parking and Loading*.
- ¹⁹⁸ In addition to selling produce grown on-site, a produce stand may sell agricultural products that are produced in the surrounding community in which the stand is located.
- ²⁰⁴⁹ The base of such towers shall not be closer to the property line than a distance equal to the height of the tower.
- ²¹⁰ This use may include concessions, restrooms, maintenance facilities, and similar support uses.
- ²²⁴ Equine facilities are a primary use, subject to the following standards and criteria:
- a. The number of horses shall be limited to no more than one horse per acre or five horses in total, whichever is less. Horses owned by the operator of the equine facility, or owned by a 501(c)(3) organization and being temporarily fostered by the operator of the equine facility, do not count toward the maximum number of horses. The one-horse-per-acre standard shall be calculated based on the area of the lot of record or tract on which the equine facility is located.
 - b. Services offered at the equine facility, such as riding lessons, training clinics, and schooling shows, shall be provided only to the family members and nonpaying guests of the operator of the equine facility, the owners of boarded horses, or the family members and nonpaying guests of the owners of boarded horses.
- ²³² Any principal building or swimming pool shall be located a minimum of 45 feet from any other lot in a residential zoning district.
- ²⁴³ Recyclable drop-off sites are permitted only if accessory to an institutional use.

²⁵⁴ The use is subject to the following standards and criteria:

- a. The use shall be located in a planned unit development (PUD) with a minimum of 100 dwelling units. No building permit for the use shall be issued until a minimum of 100 dwelling units are constructed within the PUD.
- b. The area occupied by all uses subject to Note 23 and located in a single PUD, including their parking, loading, and maneuvering areas, shall not exceed a ratio of one-half acre per 100 dwelling units in the PUD.
- c. The use shall be an integral part of the general plan of development for the PUD and provide facilities related to the needs of residents of the PUD.
- d. The use shall be located, designed, and operated to efficiently serve frequent trade and service needs of residents of the PUD and not persons residing elsewhere.
- e. The use shall not, by reason of its location, construction, manner or hours of operation, signs, lighting, parking arrangements, or other characteristics, have adverse effects on residential uses within or adjoining the PUD.
- f. The maximum building floor space per commercial use is 4,000 square feet except that no maximum applies to uses authorized under Oregon Statewide Planning Goals 3 and 4 and uses intended to serve the community and surrounding rural area or the travel needs of people passing through the area.

²⁶⁵ Schools are prohibited within the areas identified as Employment, Industrial, and Regionally Significant Industrial on the Metropolitan Service District's 2040 Growth Concept Map.

²⁷⁶ This use is limited to alteration or expansion of a lawfully established school.

²⁸⁷ This use is prohibited in an accessory dwelling unit established pursuant to Subsection 839.04. This use is prohibited in a recreational vehicle established pursuant to Section 847, *Recreational Vehicles as Second Dwellings*, and in the primary dwelling on the same lot of record as the recreational vehicle.

²⁹⁸ This use is not permitted in an urban or rural reserve established pursuant to OAR 660, Division 27.

³⁰²⁹ Temporary signs regulated under Subsection 1010.13(A) are a primary use.

³¹⁰ Components of a sewer system that serve land outside urban growth boundaries or unincorporated community boundaries are prohibited.

³²⁴ The use is limited to sewer systems that: are designed and constructed so that their capacity does not exceed the minimum necessary to serve the area within the boundaries described under OAR 660-011-0060(4)(b)(B), except for urban reserve areas as provided under OAR 660-021-0040(6); and do not serve any uses other than those existing or allowed in the identified service area on the date the sewer system is approved.

³³² Stormwater management facilities are a primary use if:

- a. They are underground, except for an outlet structure if applicable;
- b. They are vegetated, except for an outlet structure if applicable; or
- c. They are approved in conjunction with a development approved through another land use permit (e.g., a subdivision or design review).

³⁴³ Utility cabinets are a primary use if they comply with Section 830, *Utility Cabinets*, or if they are inside a road right-of-way.

³⁵⁴ Except for hydroelectric facilities and telephone exchanges, utility facilities shall not include shops, garages, or general administrative offices.

³⁶⁵ Utility lines are a conditional use only if they are gas transmission lines or electric transmission lines.

Table 316-2: Dimensional Standards in the Rural Residential and Future Urban Residential Zoning Districts

Standard	RA-1	RA-2	RR	RRFF-5	FF-10	FU-10
Minimum Lot Size ¹	1 acre ^{2,3}	2 acres ³	2 acres	2 acres, provided that the minimum average lot size of all lots or parcels in a subdivision, partition, or replat is 5 acres ^{3,4,5,6}	10 acres ^{3,4,7}	10 acres ⁴
Minimum Front Setback	30 feet ⁸	30 feet ⁸	15 feet, except 20 feet to garage and carport motor vehicle entries ⁹	30 feet ⁸	30 feet ⁸	30 feet
Minimum Rear Setback	30 feet ^{10,11}	30 feet ^{10,12}	15 feet ¹⁰	30 feet ^{10,12}	30 feet ^{10,12}	30 feet ¹²
Minimum Side Setback	10 feet ^{10,13}	10 feet ¹⁰	5 feet ¹⁰	10 feet ¹⁰	10 feet ¹⁰	10 feet
Maximum Lot Coverage	None	None	40 percent	None	None	None
Minimum Building Separation above 3,500 Feet in Elevation	None	None	20 feet between buildings with contiguous snow slide areas	None	None	None

- ¹ The minimum lot size standards apply as established by Sections 1012 and 1107. Notwithstanding the minimum lot size standard, a lot of record may be developed subject to other applicable standards of this Ordinance, except minimum lot size standards of Section 800 apply.
- ² In a planned unit development, there is no minimum individual lot size. However, the minimum average lot size is one acre except for lots to be developed with a duplex, in which case the minimum average lot size is two acres. The average lot size is calculated by determining the lot area of the land proposed for subdivision, partition, or replat and dividing by the number of lots or parcels in the proposed planned unit development.
- ³ The minimum lot size inside the Portland Metropolitan Urban Growth Boundary is 20 acres. The 20-acre minimum lot size is applicable to subdivisions, partitions, and Type II replats, but not to Type I replats or property line adjustments. Where this standard applies, it supersedes any other minimum lot size standard in Table 316-2.
- ⁴ For the purpose of complying with the minimum lot size standard, lots with street frontage on County or public road rights-of-way may include the land area between the front lot line and the centerline of the County or public road right-of-way.
- ⁵ The minimum lot size inside the urban growth boundaries of the cities of Canby, Estacada, Molalla, and Sandy is five acres.
- ⁶ The average lot size is calculated by determining the lot area of the land proposed for subdivision, partition, or replat and dividing by the number of lots or parcels in the proposed partition, subdivision, or replat.
- ⁷ In a planned unit development, the minimum individual lot size is two acres, except inside the urban growth boundaries of the cities of Canby, Estacada, Molalla, and Sandy, where the minimum individual lot size is five acres. In all cases, the minimum average lot size is 10 acres. The average lot size is calculated by determining the lot area of the land proposed for subdivision, partition, or replat and dividing by the number of lots or parcels in the proposed planned unit development.
- ⁸ In a planned unit development, the minimum front setback is 20 feet.
- ⁹ For a corner lot located above 3,500 feet in elevation, one of the minimum front setbacks is 10 feet, except 20 feet to garage and carport motor vehicle entries.
- ¹⁰ In a planned unit development, there are no minimum rear and side setbacks except from rear and side lot lines on the perimeter of the final plat. Where this standard applies, it supersedes any other rear or side setback standard in Table 316-2.
- ¹¹ The minimum rear setback for an accessory building shall be five feet except as established by Note 10.

- ¹² The minimum rear setback for an accessory building shall be 10 feet except as established by Note 10.
- ¹³ The minimum side setback for an accessory building shall be five feet except as established by Note 10.

[Added by Ord. ZDO-252, 06/01/2015; Amended by Ord. ZDO-253, 06/01/2015; Amended by Ord. ZDO-254, 01/04/2016; Amended by Ord. ZDO-263, 05/23/2017; Amended by Ord. ZDO-266, 05/23/2018; Amended by Ord. ZDO-269, 09/06/2018; Amended by Ord. ZDO-268, 10/02/2018; Amended by Ord. ZDO-280, 10/23/2021; Amended by Ord. ZDO-282, 07/01/2022; Amended by Ord. ZDO-273, on remand, 05/30/2023; Amended by Ord. ZDO-287, 08/03/2023; Amended by Ord. ZDO-283, 09/05/2023; Amended by Ord. ZDO-285, 09/03/2024; Amended by Ord. ZDO-288, 09/09/2024]

401 EXCLUSIVE FARM USE DISTRICT (EFU)

401.01 PURPOSE

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

401.02 APPLICABILITY

Section 401 applies to land in the Exclusive Farm Use (EFU) District.

401.03 DEFINITIONS

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

~~A. Accessory Farm Dwelling: Includes all types of residential dwellings allowed by the applicable state building code and the number of dwelling units is determined by a land use decision.~~

AB. Agricultural Land:

1. "Agricultural Land" as defined in Statewide Planning Goal 3 includes:

a. Lands classified by the U.S. Natural Resources Conservation Service as predominantly Class I-IV soils;

b. Land in other soil classes that is suitable for farm use as defined in ORS 215.203(2)(a), taking into consideration soil fertility; suitability for grazing; climatic conditions; existing and future availability of water for farm irrigation purposes; existing land use patterns; technological and energy inputs required; and accepted farming practices; and

c. Land that is necessary to permit farm practices to be undertaken on adjacent or nearby agricultural lands.

2. Land in capability classes other than I-IV that is adjacent to or intermingled with lands in capability classes I-IV within a farm unit, shall be inventoried as agricultural lands even though this land may not be cropped or grazed.

3. "Agricultural Land" does not include land within acknowledged urban growth boundaries or land within acknowledged exception areas for Statewide Planning Goal 3 or 4.

~~As defined in Oregon Administrative Rules (OAR) 660-33-0020.~~

B. Commercial Agricultural Enterprise:

1. “Commercial Agricultural Enterprise” consists of farm operations that will:
 - a. Contribute in a substantial way to the area's existing agricultural economy;
and
 - b. Help maintain agricultural processors and established farm markets.
2. When determining whether a farm is part of the commercial agricultural enterprise, not only what is produced, but how much and how it is marketed shall be considered. These are important factors because of the intent of Statewide Planning Goal 3 to maintain the agricultural economy of the state.

C. Commercial Farm: A farm unit with all of the following characteristics:

1. The land is used for the primary purpose of obtaining a profit in money from farm use;
2. The net income derived from farm products is significant; and
3. Products from the farm unit contribute substantially to the agricultural economy, to agricultural processors, and to farm markets.

D. Contiguous: Connected in such a manner as to form a single block of land.

~~ED.~~ Date of Creation and Existence: When a lot of record or tract is reconfigured pursuant to applicable law after November 4, 1993, the effect of which is to qualify a lot of record or tract for the siting of a dwelling, the date of the reconfiguration is the date of creation or existence. Reconfigured means any change in the boundary of the lot of record or tract.

~~FE.~~ Dwelling: Except as allowed for an accessory farm dwelling pursuant to Subsection 401.05(C)(9), Unless otherwise provided in Section 401, a dwelling is a detached single-family dwelling, a manufactured dwelling, or a prefabricated structure.

G. Exception Area: An area no longer subject to the requirements of Statewide Planning Goal 3 or 4 because the area is the subject of a site specific exception acknowledged pursuant to ORS 197.732 and OAR chapter 660, division 4.

~~HF.~~ Farm or Ranch Operator: A person who operates a farm or ranch, doing the work, and making the day-to-day decisions about such things as planting, harvesting, feeding, and marketing.

~~IG.~~ Farm or Ranch Operation: All lots of record in the same ownership that are used by the farm or ranch operator for farm use.

~~H. Farm Unit: The contiguous and noncontiguous tracts within the County or a contiguous county held in common ownership and used by the farm operator for farm use.~~

~~J. Farm Use: As defined in ORS 215.203. As used in the definition of "farm use" in ORS 215.203:~~

~~1. "Preparation" of products or by-products includes but is not limited to the cleaning, treatment, sorting, or packaging of the products or by-products; and~~

~~2. "Products or by-products raised on such land" includes:~~

~~a. Products or by-products raised on the farm operation where the preparation occurs;~~

~~b. Products or by-products raised on other farmland provided:~~

~~i. The preparation is occurring only on a tract currently employed for a farm use or farm uses other than preparation; and~~

~~ii. Such products or by-products are prepared in the same facilities as and in conjunction with products or by-products raised on the farm operation where the preparation occurs.~~

~~KJ. High-Value Farmland: As defined in ORS 215.710 and OAR 660-033-0020(8).~~

~~LK. Irrigated: ~~Agricultural land~~ Watered by an artificial or controlled means, such as sprinklers, furrows, ditches, or spreader dikes. An area or tract is "irrigated" if it is currently watered, or has established rights to use water for irrigation, including such tracts that receive water for irrigation from a water or irrigation district or other provider. An area or tract within a water or irrigation district that was once irrigated shall continue to be considered "irrigated" even if the irrigation water was removed or transferred to another tract.~~

~~L. Low Value Farmland: ~~All land not defined as High Value Farmland in ORS 215.710 and OAR 660-033-0020(8).~~~~

~~M. Ownership: ~~Holding fee title to a lot of record, except in those instances when the land is being sold on contract, the contract purchaser shall be deemed to have ownership. Ownership shall include all contiguous lots of record meeting this definition.~~~~

~~M. NRCS Web Soil Survey: The official source of certified soils data available online that identifies agricultural land capability classes, developed and maintained by the Natural Resources Conservation Service as of January 1, 2016, for agricultural soils that are not high-value, and as of December 6, 2007, for high-value agricultural soils.~~

~~N. Private Park: Land that is used for low impact casual recreational uses such as picnicking, boating, fishing, swimming, camping, and hiking or nature oriented recreational uses such as viewing and studying nature and wildlife habitat and may include play areas and accessory facilities that support the activities listed above but does not include tracks for motorized vehicles or areas for target practice or the discharge of firearms.~~

~~NØ. Tract: One or more contiguous lots of record under the same ownership, including lots of record divided by a county or public road, or contiguous at a common point. Lots of record divided by a state highway are not considered contiguous.~~

401.04 USES PERMITTED

Uses permitted in the EFU District are listed in Table 401-1, *Permitted Uses in the EFU District*.

A. As used in Table 401-1:

1. “A” means the use is an accessory use~~allowed~~.
2. “C” means the use is a conditional use, approval of which is subject to Section 1203, Conditional Uses.
3. “HV” means high-value farmland.
4. “NA” means not applicable.
5. “NHV” means not high-value farmland.
6. “P” means the use is a primary use.
- ~~7~~2. “Type I” means the use requires review of a Type I application, pursuant to Section 1307, *Procedures*.
- ~~8~~3. “Type II” means the use requires review of a Type II application, pursuant to Section 1307, *Procedures*.
- ~~9~~4. “Type III” means the use requires review of a Type III application, pursuant to Section 1307, *Procedures*.
10. “X” means the use is prohibited.
11. “X*” means the use is prohibited except as set forth in Subsection 401.05(I)(1).
- ~~5. “C” means the use is a conditional use, approval of which is subject to Section 1203, Conditional Uses.~~

~~6. The “Subject To” column identifies any specific provisions of Subsection 401.05 to which the use is subject.~~

~~7. “N” means not applicable.~~

~~8. “*NA” means the use is not allowed except as set forth in Subsection 401.05(I)(1).~~

~~9. “HV” means High Value Farmland.~~

~~10. “LV” means Low Value Farmland.~~

~~12~~¹. Numbers in superscript correspond to the notes that follow Table 401-1.

- B. Permitted uses are subject to the applicable provisions of Subsection 401.07; ~~and~~ Section 1000, *Development Standards*; and Section 1100, *Development Review Process*. However, uses listed in ORS 215.283(1) are not subject to Section 1000.

Table 401-1: Permitted Uses in the EFU District

HV	NHVLV	Farm-and/-Forest Resource Uses	Subject To
A	A	~~Propagation or harvesting of a forest product.~~	
PA	PA	Farm use ~~as defined in Oregon Revised Statutes (ORS) 215.203. Marijuana production is subject to Section 841.~~	<u>Marijuana production is subject to Section 841.</u>
PA	PA	Other buildings customarily provided in conjunction with farm use.	
P	P	<u>Propagation or harvesting of a forest product</u>	
C	C	<u>A facility for the primary processing of forest products</u>	<u>401.05(B)(1)</u>
P, TYPE II	P, TYPE II	A facility for the processing of farm <u>crops or the production of biofuel as defined in ORS 315.141 or an establishment for the slaughter or processing of poultry pursuant to ORS 603.038</u> ~~products.~~ <u>Marijuana processing is subject to Section 841.</u> ⁴	<u>401.05(B)(24)(3) & (42)</u> <u>Marijuana processing is also subject to Section 841.</u> ¹
G	G	~~A facility for the primary processing of forest products.~~	<u>401.05(B)(3)</u>
HV	NHVLV	Natural Resource Uses	Subject To
PA	PA	Creation of, restoration of, or enhancement of wetlands.	
P, TYPE II	P, TYPE II	The propagation, cultivation, maintenance, and harvesting of aquatic species that are not under the jurisdiction of the Oregon Fish and Wildlife Commission <u>or insect species.</u>	<u>401.05(A)(1) & (B)(5)</u>
HV	NHVLV	Residential Uses	Subject To
A	A	Uses and structures customarily accessory and incidental to a dwelling, only if a lawfully established dwelling exists.	
PA, TYPE II ²	PA, TYPE II ²	Alteration, restoration, or replacement of a lawfully established dwelling.	<u>401.05(A)(3) & (C)(1)</u>
TYPE II	TYPE II	Replacement dwelling to be used in conjunction with farm use if the existing dwelling has been listed in a County inventory as historic property <u>as defined in ORS 358.480. In order to meet the requirements specified in the statute, a historic dwelling shall be</u> ~~and~~ listed on the National Register of Historic Places. ³	<u>401.05(A)(3)</u>
P, TYPE II ⁴	P, TYPE II	Lot of record dwelling ~~on Low Value Farmland.~~	<u>401.05(A)(2), (3), (4) & (C)(2)</u>
TYPE II	N	~~Lot of record dwelling on Class III or IV High Value Farmland.~~	<u>401.05(A)(2), (3), (4) & (C)(3)</u>
TYPE III	N	~~Lot of record dwelling on Class I or II High Value Farmland.~~	<u>401.05(A)(2), (3), (4) & (C)(4)</u>

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~~P.~~ TYPE II	~~NA~~	~~Farm dDwelling customarily provided in conjunction with a farm use on hHigh-vValue fFarmland.³~~	401.05(A)(3) & (C)(~~35~~), (5), or (10)
~~NA~~	~~P.~~ TYPE II	~~Farm dDwelling customarily provided in conjunction with a farm use not on highLow-vValue fFarmland.³~~	401.05(A)(3) & (C)(~~46~~), (5), (6), or (10)
~~TYPE II~~	~~TYPE II~~	~~Dwelling customarily provided in conjunction with a commercial dairy farm.~~	401.05(A)(3) & (C)(7)
~~N~~	~~TYPE II~~	~~160-acre test for a dwelling.³~~	401.05(A)(3), (4) & (C)(8)
~~N~~	~~TYPE II~~	~~Capability test for a dwelling.³~~	401.05(A)(3), (4) & (C)(9)

~~P.~~ TYPE II	~~P.~~ TYPE II	~~A single-family dwelling not provided in conjunction with farm use; a Nnonfarm dwelling.~~	401.05(A)(3), (4) & (C)(~~7~~ 40)
~~A.~~ TYPE II	~~A.~~ TYPE II	~~Relative farm help dwelling.³~~	401.05(A)(3) & (C)(~~8~~ 44)
~~A.~~ TYPE II	~~A.~~ TYPE II	~~Accessory farm dwelling in conjunction with farm use.³~~	401.05(A)(3) & (C)(~~9~~ 42)
~~TYPE II~~	~~TYPE II~~	~~Dwelling on Low or High Value Farmland to be operated by a different farm operator on at least 80 acres.³~~	401.05(A)(3) & (C)(13)
~~A.~~ TYPE II	~~A.~~ TYPE II	~~Temporary dwelling for care, subject to Subsection 1204.04.~~	401.05(A)(1), (3) & (C)(~~11~~ 44) & Subsection 1204.04
~~P.~~ TYPE II	~~P.~~ TYPE II	~~Room and board arrangements for a maximum of five unrelated persons in existing dwellings.~~	401.05(A)(1) & (3)
~~P.~~ TYPE II	~~P.~~ TYPE II	~~Residential home as defined in ORS 197.660, in existing dwellings.~~	401.05(A)(1) & (3)
HV	LV	Commercial Uses	Subject To
~~A~~	~~A~~	~~Family child care home.~~	
~~P.~~ TYPE II	~~P.~~ TYPE II	~~Child care facilities, preschool recorded programs, or school-age recorded programs that are authorized under ORS 329A.250 to 329A.450~~	401.05 (A)(1) & (D)(9)
~~PA~~	~~PA~~	~~Dog training classes.~~	401.05(D)(~~5~~ 6)
~~PA~~	~~PA~~	~~Dog testing trials.~~	401.05(D)(~~6~~ 7)
~~P.~~ TYPE I	~~P.~~ TYPE I	~~A license for an approved cider business, farm brewery, or winery to carry out the first six days of the 18-day limit for agri-tourism and other commercial events, subject to: ORS 215.451(6)(a) for a cider business; ORS 215.449(6)(a) for a farm brewery; and ORS 215.237 and 215.452(6)(a) for a winery.~~	
~~P.~~ TYPE II	~~P.~~ TYPE II	~~Farm stands~~	401.05(D)(~~7~~ 8)
~~A.~~ TYPE II	~~A.~~ TYPE II	~~Home occupations, subject to Section 822.~~	401.05(A)(1) & (D)(1) & Section 822

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<u>P.</u> TYPE II	<u>P.</u> TYPE II	A landscape contracting business, <u>as defined in ORS 671.520, or a business providing landscape architecture services, as described in ORS 671.318, if the business is pursued in conjunction with the growing and marketing of nursery stock on the land that constitutes farm use.</u>	401.05(A)(1) ~~& (D)(2)~~
<u>P.</u> TYPE I	<u>P.</u> TYPE I	Expedited license for a single agri-tourism or other commercial event or activity <u>that is related to and supportive of agriculture on a tract in a calendar year</u> , subject to ORS 215.237 and 215.283(4)(b), (6)(a), and (6)(c)	<u>401.05(D)(2)</u>
<u>P.</u> TYPE II	<u>P.</u> TYPE II	Single agri-tourism or other commercial event or activity <u>that is related to and supportive of agriculture on a tract in a calendar year</u> , subject to ORS 215.237 and 215.283(4)(a), (6)(a), and (6)(c)	401.05(A)(1) & (D)(~~23~~)
<u>P.</u> TYPE II	<u>P.</u> TYPE II	Up to six agri-tourism or other commercial events or activities <u>that are related to and supportive of agriculture on a tract in a calendar year</u> , subject to ORS 215.237 and 215.283(4)(c) and (6)	401.05(A)(1) & (D)(~~23~~)
C	C	Up to 18 agri-tourism <u>and</u> other commercial events or activities <u>that are related to and supportive of agriculture on a lot of record that is a minimum of 80 acres</u> , subject to ORS 215.237 and 215.283(4)(d), (5), (6)(a), and (6)(c)	401.05(A)(1) & (D)(~~23~~)
<u>P.</u> TYPE II	<u>P.</u> TYPE II	A cider business as <u>provided described</u> in <u>and subject to</u> ORS 215.451.	
<u>P.</u> TYPE II	<u>P.</u> TYPE II	A farm brewery as <u>provided described</u> in <u>and subject to</u> ORS 215.449.	
<u>P.</u> TYPE II	<u>P.</u> TYPE II	A winery as described in <u>and subject to</u> ORS 215.452 or 215.453, <u>and 215.237 whichever is applicable, but not a restaurant open more than 25 days per calendar year.</u>	
<u>P.</u> TYPE II	<u>P.</u> TYPE II	<u>A large winery with</u> ~~A~~ restaurant in conjunction with a winery as described in ORS 215.453 that is open to the public for more than 25 days in a calendar year or; <u>the provision of private events</u> ~~agri-tourism or other commercial events~~ in conjunction with a winery as described in ORS 215.453 that occur on more than 25 days in a calendar year.	401.05(A)(1)
<u>P.</u> TYPE II	<u>P.</u> TYPE II	A bed and breakfast facility as a home occupation in association with a cider business, farm brewery, or winery, subject to: ORS 215.448 and ORS 215.451(10) for a cider business; ORS 215.448 and ORS 215.449(10) for a farm brewery; and ORS 215.448 and either ORS 215.452 or 215.453, whichever is applicable, for a winery.	401.05(A)(1) & (D)(~~34~~)

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<u>P</u> , TYPE II	<u>P</u> , TYPE II	Cider business, farm brewery, or winery agri-tourism or other commercial events for days seven through 18 of the 18-day limit, subject to: <u>ORS</u> 215.451(6)(c) for a cider business; ORS 215.449(6)(c) for a farm brewery; and ORS 215.237 and 215.452(6)(c) for a winery.	
<u>P</u> , TYPE II	<u>P</u> , TYPE II	Equine and equine-affiliated therapeutic and counseling activities. ⁴⁵	401.05(A)(1) & (D)(~~89~~)
<u>P</u> , Type II	<u>P</u> , Type II	<u>Parking of no more than seven log trucks as provided in ORS 215.311</u>	<u>401.05(A)(1)</u>
C	C	Home occupation to host events, ~~subject to Section 806.~~	401.05(A)(1) & (D)(1) <u>& Section 806</u>
C	C	Commercial activities in conjunction with farm use, <u>including the processing of farm crops into biofuel not permitted under that exceed the standards of</u> ORS 215.203(2)(b)(K) or Subsection 401.05(B)(~~24~~) <u>through (4)</u> , ~~such as the processing of farm crops into biofuel.~~ ⁶⁰	401.05(A)(1)
C	C	An aerial fireworks display business <u>that has been in continuous operation at its current location within an exclusive farm use zone since December 31, 1986, and possesses a wholesaler's permit to sell or provide fireworks.</u>	401.05(A)(1) & (D)(~~45~~)
C	C	Commercial dog boarding kennels.	401.05(A)(1)
C	C	Dog training classes or testing trials that cannot be established under Subsection 401.05(D)(~~56~~) or (~~67~~).	401.05(A)(1)
HV	LV	Mineral, Aggregate, Oil, and Gas Uses	Subject To
<u>PA</u>	<u>PA</u>	Operations for the exploration for, and production of, geothermal resources as defined by ORS 522.005 and oil and gas as defined by ORS 520.005, including the placement and operation of compressors, separators, and other customary production equipment for an individual well adjacent to <u>thea</u> wellhead. Any activities or construction relating to such operations shall not be a basis for an exception under ORS 197.732(1)(a) or (b).	

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~~PA~~	~~PA~~	Operations for the exploration for minerals as defined by ORS 517.750. Any activities or construction relating to such operations shall not be a basis for an exception under ORS 197.732(1)(a) or (b).	
C	C	Operations conducted for mining, crushing, or stockpiling of aggregate and other mineral and other subsurface resources subject to ORS 215.298.	401.05(A)(1); ~~&~~ (E)(1) ~~& (E)(1)(a)~~
C	C	Processing as defined by ORS 517.750 of aggregate into asphalt or Portland cement.	401.05(A)(1), (E)(1) & ~~(E)(2)(b)~~
C	C	Processing of other mineral resources and other subsurface resources.	401.05(A)(1); ~~&~~ (E)(1) ~~& (E)(1)(e)~~
C	C	Operations conducted for mining and processing of geothermal resources as defined by ORS 522.005 and oil and gas as defined by ORS 520.005 not otherwise permitted under Section 401.	401.05(A)(1); ~~&~~ (E)(1) ~~& (E)(1)(d)~~
HV	LV	Transportation Uses	Subject To
~~PA~~	~~PA~~	Climbing and passing lanes within the right-of-way existing as of July 1, 1987.	
~~PA~~	~~PA~~	Reconstruction or modification of public roads and highways, including the placement of utility facilities overhead and in the subsurface of public roads and highways along the public right-of-way, but not ~~including the addition of travel lanes, where no removal or displacement of buildings would occur, or no resulting in the creation of new land parcels result.~~	
~~PA~~	~~PA~~	Temporary public road and highway detours that will be abandoned and restored to original condition or use at such time as no longer needed.	
~~PA~~	~~PA~~	Minor betterment of existing public road and highway related facilities such as maintenance yards, weigh stations, and rest areas, within right-of-way existing as of July 1, 1987, and contiguous public-owned property utilized to support the operation and maintenance of public roads and highways.	
~~TYPE II~~	~~TYPE II~~	~~Parking of no more than seven log trucks, subject to ORS 215.314~~	~~401.05(A)(1)~~
~~P. TYPE II~~	~~P. TYPE II~~	Construction of additional passing and travel lanes requiring the acquisition of right-of-way but not resulting in the creation of new land parcels.	401.05(A)(1)
~~P. TYPE II~~	~~P. TYPE II~~	Reconstruction or modification of public roads and highways involving the removal or displacement of buildings but not resulting in the creation of new land parcels.	401.05(A)(1)

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~~P.~~ TYPE II	~~P.~~ TYPE II	Improvement of public road and highway related facilities, such as maintenance yards, weigh stations, and rest areas, where additional property or right-of-way is required but not resulting in the creation of new land parcels	401.05(A)(1)
C	C	Roads, highways and other transportation facilities, and improvements not otherwise allowed under Section 401.	401.05(F)(1)
C	C	Personal-use airports for airplanes and helicopter pads, including associated hangar, maintenance, and service facilities.	401.05(A)(1) &(F)(2)
C	C	Transportation improvements on rural lands, ~~as allowed by subject to Oregon Administrative Rules (OAR) 660-012-0065.~~	<u>401.05(A)(1)</u>
HV	LV	Utility~~/~~and Solid Waste Disposal Facilities~~ies~~y-Uses	Subject To
~~PA~~	~~PA~~	Irrigation reservoirs, canals, delivery lines, and those structures and accessory operational facilities, not including parks or other recreational structures and facilities, associated with a district as defined in ORS 540.505.	
A	A	Solar energy systems ~~s-as an accessory use.~~	
A	A	Rainwater collection systems ~~-as an accessory use.~~	
A	A	Electric vehicle charging stations for residents and their non-paying guests.	
~~A~~	~~A~~	~~Meteorological towers.~~	
See Table 835-1	See Table 835-1	The following types of wireless telecommunication facilities, subject to Section 835: level one collocations, level one placements on utility poles, and, provided that the wireless telecommunication facility includes a transmission tower over 200 feet in height, level two collocations.	
A	A	Utility facility service lines. Utility facility service lines are utility lines and accessory facilities or structures that end at the point where the utility service is received by the customer and ~~that~~ are located on one or more of the following: a public right-of-way; land immediately adjacent to a public right-of-way, provided the written consent of all adjacent property owners has been obtained; ~~and/or~~ the property to be served by the utility.	
~~P.~~ TYPE II	~~P.~~ TYPE II	Essential public communication services, as defined in Section 835, if they include a new transmission tower over 200 feet in height.	401.05(A)(1)

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~~P.~~ TYPE II	~~P.~~ TYPE II	Utility facilities necessary for public service, including associated transmission lines as defined in ORS 469.300 and wetland waste treatment systems but not including commercial facilities for the purpose of generating electrical power for public use by sale or transmission towers over 200 feet in height. This category includes wireless telecommunication facilities not otherwise listed in Table 401-1, <i>Permitted Uses in the EFU District</i> .	401.05(G)(2)
~~P.~~ TYPE II	~~P.~~ TYPE II	Composting operations and facilities that are accepted farm practices in conjunction with and auxiliary to farm use on the subject tract.	401.05(G)(3)
~~X~~ *NA	C	Composting operations and facilities (other than those that are accepted farm practices in conjunction with and auxiliary to farm use on the subject tract), ~~subject to Section 834.~~	401.05(A)(1) & <u>Section 834</u>
C	C	Transmission towers over 200 feet in height. Essential public communication services, as defined in Section 835, are excluded from this category, and towers supporting other types of wireless telecommunication facilities are subject to Section 835.	401.05(A)(1)
C	C	Commercial utility facilities for the purpose of generating power for public use by sale, not including wind <u>power generation facilities</u> or photovoltaic solar power generation facilities or renewable energy facilities as defined in ORS 215.446.	401.05(A)(1) & (G)(4)
C	C	Wind power generation facilities as commercial utility facilities for the purpose of generating power for public use by sale, subject to OAR 660-033-0130(37).	401.05(A)(1)
C	C	Photovoltaic solar power generation facilities as commercial utility facilities for the purpose of generating power for public use by sale, subject to OAR 660-033-0130(38).	401.05(A)(1)
C	C	Renewable energy facilities as defined in and subject to ORS 215.446.	401.05(A)(1)

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~~X~~ *NA	C	A site for the disposal of solid waste approved by the governing body of a city or county or both and for which a permit has been granted under ORS 459.245 by the Department of Environmental Quality together with equipment, facilities, or buildings necessary for its operation.	401.05(A)(1)
HV	LV	Parks, ~~Public~~, and Quasi-Public Uses	Subject To
~~PA~~	~~PA~~	Land application of reclaimed water, agricultural process or industrial process water, or biosolids for agricultural, horticultural, or forest production, or for irrigation in connection with a use allowed in the EFU zoning district, subject to the issuance of a license, permit, or other approval by the Department of Environmental Quality under ORS 454.695, 459.205, 468B.050, 468B.053, or 468B.055, or in compliance with rules adopted under ORS 468B.095.	
~~PA~~	~~PA~~	Onsite filming and activities accessory to onsite filming for 45 days or less.	
~~P, TYPE II~~	~~P, TYPE II~~	A site for the takeoff and landing of model aircraft, including such buildings or facilities as may reasonably be necessary.	401.05(H)(1)
~~P, TYPE II~~	~~P, TYPE II~~	Public parks and playgrounds.	401.05(A)(1), (5) & (H)(2)
~~P, TYPE II~~	~~P, TYPE II~~	Fire service facilities providing rural fire protection services.	
~~P, TYPE II~~	~~P, TYPE II~~	Community centers <u>owned by a governmental agency or a nonprofit community organization and operated primarily by and for residents of the local rural community</u>	401.05(A)(1), (5) & (H)(3)
~~P, TYPE II~~	~~P, TYPE II~~	Living history museum.	401.05(A)(1), (5) & (H)(4)
~~P, TYPE II~~	~~P, TYPE II~~	Firearms training facility as provided in ORS 197.770.	401.05(A)(5)
~~P, TYPE II~~	~~P, TYPE II~~	Expansion of existing county fairgrounds and activities directly relating to county fairgrounds governed by county fair boards established pursuant to ORS 565.210.	401.05(A)(1)

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<u>P</u> . TYPE II	<u>P</u> . TYPE II	A county law enforcement facility that lawfully existed on August 20, 2002, and is used to provide rural law enforcement services primarily in rural areas, including parole and post-prison supervision, but not including a correctional facility as defined under ORS 162.135.	401.05(A)(1)
~~X~~ *NA	<u>P</u> . TYPE II	Churches and cemeteries in conjunction with churches, consistent with ORS 215.441, which does not include private or parochial school education for prekindergarten through grade 12 or higher education.	401.05(A)(5)
C	C	Operations for the extraction and bottling of water.	401.05(A)(1)
C	C	Onsite filming and activities accessory to onsite filming for more than 45 days as provided for in ORS 215.306.	401.05(A)(1)
~~X~~ *NA	C	Public or private schools for kindergarten through grade 12, including all buildings essential to the operation of a school, primarily for residents of the rural area in which the school is located.	401.05(A)(1) & (5)
<u>P</u> . TYPE II	<u>P</u> . TYPE II	Expansion of a public or private school established on or before January 1, 2009, or expansion of buildings essential to the operation of a public or private school established on or before January 1, 2009.	401.05(I)(2) & (3)
~~X~~ *NA	C	Private parks, playgrounds, hunting and fishing preserves, and campgrounds.	401.05(A)(1), (5) & (H)(5) & ~~(6)~~
~~X~~ *NA	C	Golf courses.	401.05(A)(1), (5) & (H)(~~7~~ 6)
<u>PA</u>	<u>PA</u>	An outdoor mass gathering as defined in ORS 433.735, subject to ORS 433.735 to 433.770. However, an outdoor mass gathering permit under ORS 433.750 is not required for agri-tourism and other commercial events or activities permitted under ORS 215.283(4), 215.449, 215.451, and 215.452.	
<u>P</u> . TYPE III	<u>P</u> . TYPE III	An outdoor mass gathering of more than 3,000 persons any part of which is held outdoors and which continues or can reasonably be expected to continue for a period exceeding that allowable for an outdoor mass gathering as defined in ORS 433.735, subject to ORS 433.763	

¹ The processing, compounding, or conversion of marijuana into cannabinoid extracts is prohibited.

² Type II review is required except as established by Subsection 401.05(C)(1)(h).

³ Farming of a marijuana crop, and the gross sales derived from selling a marijuana crop, may~~shall~~ not be used to demonstrate compliance with the approval criteria for a dwelling. (See ORS 475C.489.)

⁴ A lot of record dwelling on high-value farmland consisting predominantly of Prime, Unique, Class I, or Class II Soils requires review of a Type III application pursuant to Section 1307, Procedures.

⁵⁴ The use is prohibited in an urban or rural reserve established pursuant to OAR chapter 660, division 27.

⁶⁵ A commercial activity carried on in conjunction with a marijuana crop is prohibited. (See ORS 475C.489.)

401.05 APPROVAL CRITERIA FOR SPECIFIC USES

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

A. General Criteria

1. Uses may be approved only where such uses:

- a. Will not force a significant change in accepted farm or forest practices on surrounding lands devoted to farm or forest use; and
- b. Will not significantly increase the cost of accepted farm or forest practices on surrounding lands devoted to farm or forest use.

c. For purposes of Subsections 401.05(A)(1)(a) and (b), a determination of forcing a significant change in accepted farm or forest practices on surrounding lands devoted to farm and forest use or a determination of whether the use will significantly increase the cost of accepted farm or forest practices on surrounding lands devoted to farm or forest use requires:

- i. Identification and description of the surrounding lands, the farm and forest operations on those lands, and the accepted farm practices on each farm operation and the accepted forest practices on each forest operation;
- ii. An assessment of the individual impacts to each farm and forest practice, and whether the proposed use is likely to have an important influence or effect on any of those practices; and

- iii. An assessment of whether all identified impacts of the proposed use when considered together could have a significant impact to any farm or forest operation in the surrounding area in a manner that is likely to have an important influence or effect on that operation.
 - iv. For purposes of Subsection 401.05(A)(1)(c), examples of potential impacts for consideration may include but are not limited to traffic, water availability and delivery, introduction of weeds or pests, damage to crops or livestock, litter, trespass, reduction in crop yields, or flooding.
 - v. For purposes of Subsections 401.05(A)(1)(a) and (b), potential impacts to farm and forest practices or the cost of farm and forest practices, impacts relating to the construction or installation of the proposed use shall be deemed part of the use itself for the purpose of conducting a review under Subsections 401.05(A)(1)(a) and (b).
 - vi. In the consideration of potentially mitigating conditions of approval under ORS 215.296(2), the County may not impose such a condition upon the owner of the affected farm or forest land or on such land itself, nor compel said owner to accept payment to compensate for the significant changes or significant increases in costs described in Subsections 401.05(A)(1)(a) and (b).
- 2. The ~~Natural Resources Conservation Service (NRCS)~~ Web Soil Survey ~~for Clackamas County~~ shall be used to determine the soil classification and soil rating for a specific lot of record for a dwelling, with the following exceptions:
 - a. For ~~the~~ purposes of ~~approving~~evaluating a lot of record dwelling application on high-~~value~~ farmland, the County may change the soil class, soil rating, or other soil designation of a specific lot of record if the property owner~~applicant may~~:
 - i. Submits a statement of agreement from the NRCS that the soil class, soil rating or other soil designation should be adjusted based on new information; or
 - ii. S~~submits~~ a report from a ~~professional~~ soils ~~scientist~~classifier whose credentials are acceptable to the Oregon Department of Agriculture that the soil class, soil rating, or other soil designation should be changed; and submits a statement from the Oregon Department of Agriculture that the Director of Agriculture or the director's designee has reviewed the report and finds the analysis in the report to be soundly and scientifically based.

b. For a nonfarm dwelling application, more detailed data on soil capability than is contained in the USDA Natural Resources Conservation Service (NRCS) soil maps and soil surveys may be used to define agricultural land. However, the more detailed soils data shall be related to the NRCS land capability classification system.

i. If a person concludes that more detailed soils information than that contained in the Web Soil Survey operated by the NRCS, would assist the County to make a better determination of whether land qualifies as agricultural land, the person must request that the Oregon Department of Land Conservation and Development arrange for an assessment of the capability of the land by a professional soil classifier who is chosen by the person, using the process described in OAR 660-033-0045.

3. The landowner for the dwelling shall sign and record in the County deed records ~~for the County~~ a document binding the landowner, and the landowner's successors in interest, prohibiting them from pursuing a claim for relief or cause of action alleging injury from farming or forest practices for which no action or claim is allowed under ~~Oregon Revised Statutes (ORS)~~ 30.936 or 30.937.
4. An approval to construct a dwelling may be transferred to any other person after the effective date of the land use decision.
5. No enclosed structure with a design capacity greater than 100 people, or group of structures with a total design capacity of greater than 100 people, shall be approved in connection with the use within three miles of an urban growth boundary, unless an exception is approved pursuant to ORS 197.732 and ~~Oregon Administrative Rules (OAR)~~ chapter 660, division 4, or unless the structure is described in a master plan adopted under the provisions of OAR chapter 660, division 34.
 - a. Any enclosed structures or group of enclosed structures described in Subsection 401.05(A)(5) within a tract must be separated by at least one-half mile. For purposes of Subsection 401.05(A)(5), "tract" means a tract as defined by Subsection 401.03(~~NO~~) that was in existence as of June 17, 2010.
 - b. Existing facilities wholly within a farm use zone may be maintained, enhanced, or expanded on the same tract, subject to other requirements of law, but enclosed existing structures within a farm use zone within three miles of an urban growth boundary may not be expanded beyond the requirements of Subsection 401.05(A)(5).

B. Farm-and/-Forest Resource Uses and Natural Resource Uses

1. A facility for the primary processing of forest products shall not seriously interfere with accepted farming practices and shall be compatible with farm uses described in ORS 215.203(2). Such facility may be approved for a one-year period that is renewable and is intended to be only portable or temporary in nature. The primary processing of a forest product, as used in Subsection 401.05(B)(1) means the use of a portable chipper or stud mill or other similar methods of initial treatment of a forest product in order to enable its shipment to market. Forest products as used in Subsection 401.05(B)(1) means timber grown upon a tract where the primary processing facility is located.

2~~1~~. A facility for the processing of farm products shall:

- a. Use less than 10,000 square feet for its processing area and comply with all applicable siting standards, but the siting standards may not be applied in a manner that prohibits the siting of a facility for the processing of farm products~~facility~~; or
- b. Notwithstanding any applicable siting standard, use less than 2,500 square feet for its processing area. However, applicable standards and criteria pertaining to floodplains, geologic hazards, airport safety, and fire siting standards shall apply.

3. Any division of a lot of record that separates a facility for the processing of farm products from the farm operation on which it is located is prohibited.

4. As used in Subsections 401.05(B)(2) and (3), the following definitions apply:

1e. “Facility for the processing of farm products” means a facility for:

ai. Processing farm crops, including the production of biofuel as defined in ORS 315.141, if at least one-quarter of the farm crops come from the farm operation containing the facility; or

bii. Slaughtering, processing, or selling poultry or poultry products, rabbits or rabbit products from the farm operation containing the facility and consistent with the licensing exemption for a person under ORS 603.038(2).

2d. “Processing area” means the floor area of a building dedicated to farm product processing. “Processing area” does not include the floor area designated for preparation, storage, or other farm use.

~~2. Any division of a lot of record that separates a facility for the processing of farm products from the farm operation on which it is located is prohibited.~~

~~3. A facility for the primary processing of forest products shall not seriously interfere with accepted farm practices and shall be compatible with farm uses described in ORS 215.203(2). Such facility may be approved for a one-year period that is renewable and is intended to be only portable or temporary in nature. The primary processing of a forest product, as used in Subsection 401.05(B)(3), means the use of a portable chipper or stud mill or other similar methods of initial treatment of a forest product in order to enable its shipment to market. Forest products as used in Subsection 401.05(B)(3) means timber grown upon a tract where the primary processing facility is located.~~

5. Insect species shall not include any species under quarantine by the Oregon Department of Agriculture or the United States Department of Agriculture.

C. Residential Uses

1. A lawfully established dwelling may be altered, restored, or replaced if:

a. The dwelling to be altered, restored or replaced has, or formerly had, the following features. "Formerly had" means that the dwelling possessed all the listed features within three years prior to the date an application is submitted for a replacement dwelling.

i. Intact exterior walls and roof structure;

ii. Indoor plumbing consisting of a kitchen sink, toilet, and bathing facilities connected to a sanitary waste disposal system;

iii. Interior wiring for interior lights; and

iv. A heating system; and

b. The dwelling to be altered, restored, or replaced meets one of the following conditions:

i. Unless the value of the dwelling was eliminated as a result of destruction or demolition, was assessed as a dwelling for purposes of ad valorem taxation since the later of:

A) Five years before the date of the application; or

B) The date that the dwelling was erected upon or fixed to the land and became subject to property tax assessment.

ii. If the value of the dwelling was eliminated as a result of destruction or demolition, was assessed as a dwelling for purposes of ad valorem taxation prior to the destruction or demolition and since the later of:

- A) Five years before the date of the destruction or demolition; or
 - B) The date that the dwelling was erected upon or fixed to the land and became subject to property tax assessment.
- c. For replacement of a lawfully established dwelling, the dwelling to be replaced must be removed, demolished, or converted to an allowable nonresidential use within three months from the date the replacement dwelling is certified for occupancy pursuant to ORS 455.055 or, in the case of a manufactured dwelling, within three months after the date of final inspection by County Building Codes;
 - d. As a condition of approval, if the dwelling to be replaced is located on a portion of the lot of record that is not zoned EFU, the applicant shall execute and cause to be recorded in the County deed records a deed restriction prohibiting the siting of another dwelling on that portion of the lot of record. The restriction imposed is irrevocable unless the Planning Director places a statement of release in the County deed records ~~of the County~~ to the effect that the provisions of ORS 215.283 and 215.291 regarding replacement dwellings have changed to allow the lawful siting of another dwelling.
 - e. A replacement dwelling must:
 - i. Be sited on the same lot of record as the dwelling it is replacing; and
 - ii. Comply with all applicable siting standards; however, the standards may not be applied in a manner that prohibits the siting of the replacement dwelling.;
 - ~~iii. Comply with applicable building codes, plumbing codes, sanitation codes, and other requirements relating to health and safety or to siting at the time of construction; and;~~
 - ~~iv. Comply with the construction provisions of Section R327 of the Oregon Residential Specialty Code, if:~~
 - ~~A) The dwelling is in an area identified as extreme or high wildfire risk on the statewide map of wildfire risk described in ORS 477.490; or~~
 - ~~B) No statewide map of wildfire risk has been adopted.~~
 - f. Construction of the replacement dwelling must commence no later than four years after the approval of the replacement dwelling application becomes final.
 - g. If an applicant is granted a deferred replacement permit.;

- i. ~~The~~ deferred replacement permit does not expire but, notwithstanding Subsection 401.05(C)(1)(c), the permit becomes void unless the dwelling to be replaced is removed or demolished within three months after the deferred replacement permit is issued; and the deferred replacement permit may not be transferred, by sale or otherwise, except by the applicant to the spouse or a child of the applicant.
 - ii. The replacement dwelling must comply with applicable building codes, plumbing codes, sanitation codes, and other requirements relating to health and safety or to siting at the time of construction.
 - h. The alteration, restoration, or replacement of a lawfully established dwelling requires review as a Type II application pursuant to Section 1307, *Procedures*, unless the dwelling to be altered, restored, or replaced:
 - i. Is the only dwelling on the lot of record other than a temporary dwelling approved pursuant to Section 1204, *Temporary Permits*, or a relative farm help or accessory farm~~worker~~ dwelling approved pursuant to Subsection 401.05(C)(~~811~~) or (~~912~~), respectively;
 - ii. Currently has the features listed in Subsection 401.05(C)(1)(a); and
 - iii. Was lawfully established as demonstrated by:
 - A) An issued County building or manufactured dwelling placement permit approved by the Planning Director; or
 - B) Assessment records of the County Department of Assessment and Taxation that demonstrate that the dwelling was constructed before the application to the subject property of the first farm, forest, or mixed farm and forest zoning district that restricted the development of dwellings.
- 2. Lot of record dwelling ~~when determined to be located on Low Value Farmland;~~ A lot of record dwelling is allowed subject to the following criteria:
 - a. The unit of land~~lot of record~~ on which the dwelling will be sited is a lot of record~~was lawfully created prior to January 1, 1985.~~
 - b. The lot of record has been under the continuous ownership of the present owner who either:
 - i. Acquired the lot of record prior to January 1, 1985, or

- ii. Acquired the lot of record by devise or intestate succession from a person ~~or persons~~ who had continuously owned the property since prior to January 1, 1985.
- iii. As used in Subsection 401.05(C)(2)(b), “owner” includes the wife, husband, son, daughter, mother, father, brother, brother-in-law, sister, sister-in-law, son-in-law, daughter-in-law, mother-in-law, father-in-law, aunt, uncle, niece, nephew, stepparent, stepchild, grandparent, or grandchild of the owner, or a business entity owned by any one or a combination of these family members.
- c. The tract on which the dwelling will be sited does not include a dwelling.
- d. If t~~The~~ lot of record on which the dwelling will be sited was ~~not~~ part of a tract ~~that contained a dwelling~~ on November 4, 1993, no dwelling exists on another lot of record that was part of that tract.
- e. The proposed dwelling is not prohibited by, and will comply with, the requirements of the ~~acknowledged~~ Comprehensive Plan, this Ordinance, and other provisions of law.
- f. When the lot of record on which the dwelling will be sited is part of a tract, ~~the all~~ remaining portions of the tract are consolidated into a single lot of record when common ownership shall remain in common ownership as long as the dwelling is allowed remains as approved.
- g. The dwelling either will not seriously interfere with the preservation of big game winter range areas identified on Comprehensive Plan Map III-2, *Scenic and Distinctive Resource Areas*, or can be adequately mitigated. Estimated impacts and appropriate mitigation measures shall be submitted by the applicant and based on the best available data and assessment methods from the appropriate agency. The Oregon Department of Fish and Wildlife (ODFW) suggests to the County that in the absence of mitigation measures, winter range is seriously impacted by residential densities which exceed one unit per 80 acres or one unit per 40 acres, if clustered within 200 feet.
- h. The County Assessor shall be notified that the County intends to allow the dwelling.
- i. If the subject property is high-value farmland predominantly composed of Class III and IV Soils, provided they are not Prime or Unique Soils:
- ~~3. Lot of record dwelling when determined to be located on High Value Farmland consisting predominantly of Class III and IV Soil, subject to the following criteria:~~

- ~~a. The lot of record on which the dwelling will be sited was lawfully created prior to January 1, 1985.~~
- ~~b. The lot of record has been under the continuous ownership of the present owner who either:~~
 - ~~i. Acquired the lot of record prior to January 1, 1985, or~~
 - ~~ii. Acquired the lot of record by devise or intestate succession from a person or persons who had continuously owned the property since January 1, 1985.~~
 - ~~iii. As used in Subsection 401.05(C)(3)(b), "owner" includes the wife, husband, son, daughter, mother, father, brother, brother-in-law, sister, sister-in-law, son-in-law, daughter-in-law, mother-in-law, father-in-law, aunt, uncle, niece, nephew, stepparent, stepchild, grandparent, or grandchild of the owner, or a business entity owned by any one or a combination of these family members.~~
- ~~c. The tract on which the dwelling will be sited does not include a dwelling.~~
- ~~d. The lot of record on which the dwelling will be sited was not part of a tract that contained a dwelling on November 4, 1993.~~
- ~~e. The proposed dwelling is not prohibited by, and will comply with, the requirements of the acknowledged Comprehensive Plan, this Ordinance and other provisions of law.~~
- ~~f. When the lot of record on which the dwelling will be sited is part of a tract, all remaining portions of the common ownership land shall remain in common ownership as long as the dwelling remains as approved.~~
- ~~ig. The tract is no more than 21 acres or less in size; and~~
- ~~iih. The tract is bordered on at least 67 percent of its perimeter by tracts that are smaller than 21 acres, and at least two such tracts had dwellings on January 1, 1993; or;~~
- ~~iii. The tract is not a flaglot and is bordered on at least 25 percent of its perimeter by tracts that are smaller than 21 acres, and at least four dwellings existed on January 1, 1993, within one-quarter mile of the center of the subject tract. Up to two of the four dwellings may lie within an urban growth boundary, but only if the subject tract abuts an urban growth boundary-; or~~

- iv. The tract is a flaglot and is bordered on at least 25 percent of its perimeter by tracts that are smaller than 21 acres, and at least four dwellings existed on January 1, 1993, within one-quarter mile of the center of the subject tract and on the same side of the public road that provides access to the subject tract. The center of the subject tract is the geographic center of the flaglot if the applicant makes a written request for that interpretation and that interpretation does not cause the center to be located outside the flaglot. Up to two of the four dwellings may lie within an urban growth boundary, but only if the subject tract abuts an urban growth boundary.
- v. As used in Subsection 401.05(C)(2)(i)(iii) and (iv), “flaglot” means a tract containing a narrow strip or panhandle of land providing access from the public road to the rest of the tract.
- vi. As used in Subsection 401.05(C)(2)(i)(iv), “geographic center of the flaglot” means the point of intersection of two perpendicular lines of which the first line crosses the midpoint of the longest side of a flaglot, at a 90-degree angle to the side, and the second line crosses the midpoint of the longest adjacent side of the flaglot.
- ~~i. The dwelling either will not seriously interfere with the preservation of big game winter range areas identified on Comprehensive Plan Map III-2, *Scenic and Distinctive Resource Areas*, or the impacts can be adequately mitigated so as not to interfere. Estimated impacts and appropriate mitigation measures shall be submitted by the applicant and based on the best available data and assessment methods from the appropriate agency. ODFW suggests to the County that in the absence of impact mitigation measures, winter range is seriously considered impacted by residential densities which exceed one unit per 80 acres or one unit per 40 acres, if clustered within 200 feet.~~
- j4. ~~Lot of record dwelling when determined to be located on~~ If the subject lot of record is ~~h~~High-~~v~~Value ~~f~~Farmland consisting predominantly of Prime, Unique, Class I, or Class II Soils, subject to the following criteria:
 - ~~a. The lot of record on which the dwelling will be sited was lawfully created prior to January 1, 1985.~~
 - ~~b. The lot of record has been under the continuous ownership of the present owner who either:~~
 - ~~i. Acquired the lot of record prior to January 1, 1985, or~~

~~ii. Acquired the lot of record by devise or intestate succession from a person or persons who had continuously owned the property since January 1, 1985.~~

~~iii. As used in Subsection 401.05(C)(4)(b), “owner” includes the wife, husband, son, daughter, mother, father, brother, brother-in-law, sister, sister-in-law, son-in-law, daughter-in-law, mother-in-law, father-in-law, aunt, uncle, niece, nephew, stepparent, stepchild, grandparent, or grandchild of the owner, or a business entity owned by any one or a combination of these family members.~~

~~e. The tract on which the dwelling will be sited does not include a dwelling;~~

~~d. The lot of record on which the dwelling will be sited was not part of a tract that contained a dwelling on November 4, 1993.~~

~~e. The proposed dwelling is not prohibited by, and will comply with, the requirements of the acknowledged Comprehensive Plan, this Ordinance and other provisions of law.~~

~~f. When the lot of record on which the dwelling will be sited is part of a tract, all remaining portions of the common ownership land shall remain in common ownership as long as the dwelling remains as approved.~~

~~g.~~i. The lot of record cannot practicably be managed for farm use, by itself or in conjunction with other land, due to extraordinary circumstances inherent in the land or its physical setting that do not apply generally to other land in the vicinity. This criterion asks whether the subject lot of record can be physically put to farm use without undue hardship or difficulty because of extraordinary circumstances inherent in the land or its physical setting. Neither size alone nor a lot of record’s limited economic potential demonstrates that a lot of record cannot be practicably managed for farm use. Examples of “Extraordinary circumstances inherent in the land or its physical setting” include very steep slopes, deep ravines, rivers, streams, roads, railroads or utility lines or other similar natural or physical barriers that by themselves or in combination, separate the subject lot of record property from adjacent agricultural land and prevent it from being practicably managed for farm use by itself or together with adjacent or nearby farms. A lot of record parcel that has been put to farm use despite the proximity of a natural barrier or since the placement of a physical barrier shall be presumed manageable for farm use.

ii. The dwelling will comply with Subsection 401.05(A)(1).

iih. The dwelling will not materially alter the stability of the overall land use pattern in the area as determined by applying the standards set forth in Subsection 401.05(C)(7)(d).

~~i. The dwelling either will not seriously interfere with the preservation of big game winter range areas identified on Comprehensive Plan Map III-2, Scenic and Distinctive Resource Areas, or can be adequately mitigated. (Estimated impacts and appropriate mitigation measures shall be submitted by the applicant and based on the best available data and assessment methods from the appropriate agency. ODFW suggests to the County that in the absence of mitigation measures, winter range is seriously impacted by residential densities which exceed one unit per 80 acres or one unit per 40 acres, if clustered within 200 feet).~~

35. Farm d~~Dwelling in conjunction with a farm use on h~~High--v~~Value f~~Farm L~~and: If the subject property is high-value farmland, aA primary farm dwelling is allowed for the farm operator may be allowed~~ subject to the following criteria:

a. The subject tract is currently employed for thein farm use on which the farm operator earned at least \$80,000 in gross annual income from the sale of farm products in each of the last two years or three of the last five years, or in an average of three of the last five years;

~~b. Lots of record in Eastern Oregon shall not be used to qualify a dwelling under this criterion.~~

be. Except for seasonal farmworker housing approved prior to 2001, there is no other dwelling on lands designated for exclusive farm use pursuant to ORS chapter 215 or for mixed farm/forest use pursuant to OAR 660-006-0057 owned by the farm or ranch operator or on the farm or ranch operation.

~~d. The lot of record on which the dwelling will be sited was lawfully created;~~

ce. The dwelling will be occupied by a person or persons who produced the commodities that grossed~~which generated~~ the income in Subsection 401.05(C)(3)(a);

df. In determining the gross income required by Subsection 401.05(C)(3)(a)requirement,;

i. T~~he~~ cost of purchased livestock shall be deducted from the total gross ~~annual~~ income attributed to the farm or ranch operation~~tract,;~~

~~ii.g.~~ Only gross income from land owned, not leased or rented, shall be counted; ~~and~~

~~iii.h.~~ Gross farm income earned from a lot of record ~~that~~~~which~~ has been used previously to qualify another lot of record for the construction or siting of a primary farm dwelling may not be used.

~~e.~~ The applicant shall submit an IRS tax return transcript and any other information necessary to demonstrate compliance with the gross farm income requirement.

~~fi.~~ Only a lot of record zoned for farm use in Clackamas County or ~~a~~ contiguous ~~counties~~~~county~~ may be used to meet the gross income requirements. However, when a farm or ranch operation has lots of record in both Western and Eastern Oregon, as defined by OAR 660-033-0020, lots of record in Eastern Oregon may not be used to qualify a dwelling.

~~g.~~ Prior to final approval for a dwelling, a covenants, conditions, and restrictions form shall be recorded in the deed records of Clackamas County and any other county where the property subject to the covenants, conditions, and restrictions is located. The covenants, conditions, and restrictions shall be recorded for each lot of record subject to the application for the primary farm dwelling and shall preclude:

~~i.~~ All future rights to construct a dwelling except for accessory farm dwellings, relative farm assistance dwellings, temporary dwellings for care, or replacement dwellings allowed by ORS chapter 215; and

~~ii.~~ The use of any gross farm income earned on the lots of record to qualify another lot of record for a primary farm dwelling.

~~j.~~ An irrevocable deed restriction shall be recorded with the County Clerk's Office acknowledging that all future rights to construct a dwelling on other properties used to qualify the primary farm dwelling is precluded except for accessory farm dwellings, accessory relative farm dwellings, temporary hardship dwelling or replacement dwellings, and that any gross farm income used to qualify the primary farm dwelling cannot be used again to qualify any other parcel for a primary farm dwelling.

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

~~i.~~ Enforcement of the covenants, conditions and restrictions may be undertaken by the Department of Land Conservation and Development or

by the county or counties where the property subject to the covenants, conditions, and restrictions is located.

- j. The failure to follow the requirements of Subsection 401.05(C)(3)(g) shall not affect the validity of the transfer of property or the legal remedies available to the buyers of property that is subject to the covenants, conditions, and restrictions required by Subsection 401.05(C)(3)(g).

46. ~~Farm dwelling in conjunction with a farm use not on high-value~~Low Value
~~Farmland: If the subject property is not high-value farmland, a primary~~
~~farm dwelling for the farm operator may be is~~ allowed on low value farmland
subject to the following criteria:

- a. The subject tract is currently employed for the~~in~~ farm use on which, in each of the last two years or three of the last five years, or in an average of three of the last five years, the farm operator earned the lower of the following:
- i. A~~at~~ least \$40,000 in gross annual income from the sale of farm products ~~in each of the last two years or three of the last five years, or in an average of three of the last five years; or~~
 - ii. Gross annual income of at least the midpoint of the median income range of gross annual sales for farms in the county with gross annual sales of \$10,000 or more according to the 1992 Census of Agriculture, Oregon.
- b. ~~Lots of record in Eastern Oregon shall not be used to qualify a dwelling under this criterion.~~
- be. Except for seasonal farmworker housing approved prior to 2001, there is no other dwelling on lands designated for exclusive farm use pursuant to ORS chapter 215 or for mixed farm/forest use pursuant to OAR 60-006-0057 owned by the farm or ranch operator or on the farm or ranch operation.;
- d. ~~The lot of record on which the dwelling will be sited was lawfully created;~~
- ce. The dwelling will be occupied by a person or persons who produced the commodities that grossed~~which generated~~ the income in Subsection 401.05(C)(4)(a).;
- df. In determining the gross income, required by Subsection 401.05(C)(4)(a):
- i. T~~he~~ cost of purchased livestock shall be deducted from the total gross income attributed to the farm or ranch operation~~tract~~.

- ii.g. Only gross income from land owned, not leased or rented, shall be counted.
- iii.h. Gross farm income earned from a lot of record ~~that~~which has been used previously to qualify another lot of record for the construction or siting of a primary farm dwelling may not be used.
- e. The applicant shall submit an IRS tax return transcript and any other information necessary to demonstrate compliance with the gross farm income requirement.
- fi. Only lots of record zoned for farm use in Clackamas County or ~~a~~ contiguous ~~counties~~county may be used to meet the gross income requirements. However, when a farm or ranch operation has lots of record in both Western and Eastern Oregon, as defined by OAR 660-033-0020, lots of record in Eastern Oregon may not be used to qualify a dwelling.
- g. Prior to final approval for a dwelling, a covenants, conditions, and restrictions form shall be recorded in the deed records of Clackamas County and any other county where the property subject to the covenants, conditions, and restrictions is located. The covenants, conditions, and restrictions shall be recorded for each lot of record subject to the application for the primary farm dwelling and shall preclude:
 - i. All future rights to construct a dwelling except for accessory farm dwellings, relative farm assistance dwellings, temporary dwellings for care, or replacement dwellings allowed by ORS chapter 215; and
 - ii. The use of any gross farm income earned on the lots of record to qualify another lot of record for a primary farm dwelling.
- ~~j.~~ ~~An irrevocable deed restriction shall be recorded with the County Clerk's Office acknowledging that all future rights to construct a dwelling on other properties used to qualify the primary farm dwelling is precluded except for accessory farm dwellings, accessory relative farm dwellings, temporary hardship dwelling or replacement dwellings, and that any gross farm income used to qualify the primary farm dwelling cannot be used to qualify any other parcel for a primary farm dwelling.~~
- h. The covenants, conditions, and restrictions are irrevocable, unless a statement of release is signed by an authorized representative of the county or counties where the property subject to the covenants, conditions and restrictions is located.
- i. Enforcement of the covenants, conditions and restrictions may be undertaken by the Department of Land Conservation and Development or

by the county or counties where the property subject to the covenants, conditions, and restrictions is located.

- j. The failure to follow the requirements of Subsection 401.05(C)(4)(g) shall not affect the validity of the transfer of property or the legal remedies available to the buyers of property that is subject to the covenants, conditions, and restrictions required by Subsection 401.05(C)(4)(g).

57. Farm dwelling: A farm dwelling is allowed customarily provided in conjunction with a commercial dairy farm, which is a dairy operation that owns a sufficient number of producing dairy animals capable of earning the gross annual income as required by Subsection 401.05(C)(5)(a) or 401.05(C)(6)(a), whichever is applicable, from the sale of fluid milk; if; subject to the following criteria:

- a. The subject tract will be employed as a commercial dairy. ~~and~~
- b. The dwelling is sited on the same lot of record as the buildings required by the commercial dairy. ~~and~~
- c. Except for seasonal farmworker housing approved prior to 2001, there is no other dwelling on the subject tract.
- e. ~~Except for a replacement of a lawfully established dwelling, there is no other dwelling on the subject tract; and~~
- d. The dwelling will be occupied by a person or persons who will be principally engaged in the operation of the commercial dairy farm, such as the feeding, milking, or pasturing of the dairy animals or other farm use activities necessary to the operation of the commercial dairy farm. ~~and~~
- e. The building permits, if required, have been issued for and construction has begun for the buildings and animal waste facilities required for a commercial dairy farm; and
- f. The Oregon Department of Agriculture has approved the following:
 - i. A permit for a “confined animal feeding operation” under ORS 468B.050 and 468B.200 to 468B.230; and
 - ii. A Producer License for the sale of dairy products under ORS 621.072.
- g. As used in Subsection 401.05(C)(5), a "commercial dairy farm" is a dairy operation that owns a sufficient number of producing dairy animals capable of earning the gross annual income required by Subsection

401.05(C)(3)(a) or (4)(a), whichever is applicable, from the sale of fluid milk.

68. Farm dwelling not on high-value farmland160-acre test; If the subject property is not high-value farmland, a farm dwelling is allowed subject to the following criteria:

- a. The lot of record~~parcel~~ on which the dwelling will be located is at least 160 acres.
- b. The subject tract is currently employed for~~in a~~ farm use.
- c. The dwelling will be occupied by a person or persons who will be principally engaged in the farm use of the subject tract~~land~~, such as planting, harvesting, marketing, or caring for livestock, at a commercial scale.
- d. Except for seasonal farmworker housing approved prior to 2001, there is no other dwelling on the subject tract.~~;~~ ~~or~~

~~9. Capability test, subject to the following criteria:~~

- ~~a. The subject tract is at least as large as the median size of those commercial farm or ranch tracts capable of generating at least \$10,000 in annual gross sales that are located within a study area which includes all tracts wholly or partially within one mile from the perimeter of the subject tract.~~
- ~~b. Lots of record in Eastern Oregon shall not be used to qualify a dwelling under this criterion.~~
- ~~c. The subject tract is capable of producing at least the median level of annual gross sales of county indicator crops as the same commercial farm or ranch tracts used to calculate the tract size in Subsection 401.05(C)(9)(a).~~
- ~~d. The subject tract is currently employed for a farm use at a level capable of producing the annual gross sales required in Subsection 401.05(C)(9)(a).~~
- ~~e. The subject lot of record on which the dwelling is proposed is not less than 10 acres.~~
- ~~f. Except for seasonal farmworker housing approved prior to 2001, there is no other dwelling on the subject tract.~~
- ~~g. The dwelling will be occupied by a person or persons who will be principally engaged in the farm use of the land, such as planting, harvesting, marketing or caring for livestock, at a commercial scale.~~

- ~~h. If no farm use has been established at the time of application, land use approval shall be subject to a condition that no building permit may be issued prior to the establishment of the farm use required by Subsection 401.05(C)(9)(d).~~
- ~~i. In determining the gross sales capability required by Subsection 401.05(C)(9)(d):~~
 - ~~i. The actual or potential cost of purchased livestock shall be deducted from the total gross sales attributed to the farm or ranch tract;~~
 - ~~ii. Only actual or potential gross sales from land owned, not leased or rented, shall be counted; and~~
 - ~~iii. Actual or potential gross farm sales earned from a lot of record that has been used previously to qualify another lot of record for the construction or siting of a primary farm dwelling may not be used.~~
- ~~j. In order to identify the commercial farm or ranch tracts to be used in Subsection 401.05(C)(9)(a), the gross sales capability of each tract in the study area, including the subject tract, must be determined, using the gross sales figures prepared by the county pursuant to Subsection 401.05(C)(9)(k) as follows:~~
 - ~~i. Identify the study area. This includes all land in the tracts wholly or partially within one mile of the perimeter of the subject tract;~~
 - ~~ii. Determine for each tract in the study area the number of acres in every land classification from the county assessor's data;~~
 - ~~iii. Determine the potential earning capability for each tract by multiplying the number of acres in each land class by the gross sales per acre for each land class provided by the Land Conservation and Development Commission pursuant to Subsection 401.05(C)(9)(k). Add these to obtain the potential earning capability for each tract;~~
 - ~~iv. Identify those tracts capable of grossing at least \$10,000 based on the data generated in Subsection 401.05(C)(9)(j)(iii); and~~
 - ~~v. Determine the median size and median gross sales capability for those tracts capable of generating at least \$10,000 in annual gross sales to use in Subsections 401.05(C)(9)(a) and 401.05(C)(9)(c).~~
- ~~k. In order to review a farm dwelling pursuant to Subsection 401.05(C)(9)(a), the county may prepare, subject to review by the director of the Department of Land Conservation and Development, a table of the estimated potential gross~~

~~sales per acre of each assessor land class (irrigated and nonirrigated) required by 401.05(C)(9)(j). The director shall provide assistance and guidance to the county in preparation of this table. The table shall be prepared as follows:~~

- ~~i. Determine up to three indicator crop types with the highest harvested acreage for irrigated and for nonirrigated lands in the county using the most recent OSU Extension Service Commodity Data Sheets, Report No. 790, "Oregon County and State Agricultural Estimates," or other USDA/Extension Service documentation;~~
- ~~ii. Determine the combined weighted average of the gross sales per acre for the three indicator crop types for irrigated and for nonirrigated lands, as follows: (1) Determine the gross sales per acre for each indicator crop type for the previous five years (i.e., divide each crop type's gross annual sales by the harvested acres for each crop type); (2) Determine the average gross sales per acre for each crop type for three years, discarding the highest and lowest sales per acre amounts during the five-year period; (3) Determine the percentage each indicator crop's harvested acreage is of the total combined harvested acres for the three indicator crop types for the five year period; (4) Multiply the combined sales per acre for each crop type identified under Subsection 401.05(C)(9)(k)(ii)(2) by its percentage of harvested acres to determine a weighted sales per acre amount for each indicator crop; and (5) Add the weighted sales per acre amounts for each indicator crop type identified in Subsection 401.05(C)(9)(k)(ii)(4). The result provides the combined weighted gross sales per acre.~~
- ~~iii. Determine the average land rent value for irrigated and nonirrigated land classes in the EFU District according to the annual "income approach" report prepared by the county assessor pursuant to ORS 308A.092; and~~
- ~~iv. Determine the percentage of the average land rent value for each specific land rent for each land classification determined in Subsection 401.05(C)(9)(k)(iii). Adjust the combined weighted sales per acre amount identified in Subsection 401.05(C)(9)(k)(ii)(5) using the percentage of average land rent (i.e., multiply the weighted average determined in Subsection 401.05(C)(9)(k)(ii)(5) by the percent of average land rent value from Subsection 401.05(C)(9)(k)(iii)). The result provides the estimated potential gross sales per acre for each assessor land class that will be provided to the county to be used as explained under Subsection 401.05(C)(9)(j)(iii).~~

740. Nonfarm dwelling not in conjunction with a farm use: A nonfarm dwelling ~~for a nonfarm use~~ is~~may be~~ allowed subject to the following criteria:

- a. The dwelling or activities associated with the dwelling will not force a significant change in or significantly increase the cost of accepted farming or forest practices on nearby lands devoted to farm or forest use;

- b. The dwelling will be sited on a lot of record that is predominantly composed of Class IV through ~~Class~~-VIII soils that would not, when irrigated, be classified as prime, unique, Class I or ~~Class~~-II soils;
- c. The dwelling will be sited on a lot of record ~~lawfully~~ created before January 1, 1993.
- d. The dwelling ~~will~~~~shall~~ not materially alter the stability of the overall land use pattern of the area. In determining whether a proposed nonfarm dwelling will alter the stability of the land use pattern in the area, the County shall consider the cumulative impact of possible new nonfarm dwellings and parcels on other lots of record in the area similarly situated. To address this standard, the following shall be done:
 - i. Identify a study area for the cumulative impacts analysis. The study area shall include at least 2,000 acres or a smaller area not less than 1,000 acres, if the smaller area is a “distinct agricultural area” based on topography, soils types, land use pattern, or the type of farm or ranch operations or practices that distinguish it from other, adjacent agricultural areas. Findings shall describe the study area, its boundaries, ~~and~~ the location of the subject parcel within this area, why the selected area is representative of the land use pattern surrounding the subject parcel and is adequate to conduct the analysis required by this standard. Lands zoned for rural residential or other urban or nonresource uses shall not be included in the study area;
 - ii. Identify within the study area the broad types of farm uses (irrigated or nonirrigated crops, pasture, or grazing lands), the number, location, and type of existing dwellings (farm, nonfarm, hardship, etc.), and the dwelling development trends since 1993. Determine the potential number of nonfarm/lot-of-record dwellings that could be approved under Subsections 401.05(C)(2)-~~through (4)~~ and ~~(7+0)~~, including identification of predominant soil classifications, the parcels created prior to January 1, 1993, and the parcels larger than the minimum lot size that may be divided to create new parcels for nonfarm dwellings under ORS 215.263(4). The findings shall describe the existing land use pattern of the study area, including the distribution and arrangement of existing uses and the land use pattern that could result from approval of the possible nonfarm dwellings under Subsection 401.05(C)(7)(d)(ii); and
 - iii. Determine whether approval of the proposed nonfarm dwelling together with existing nonfarm dwellings will materially alter the stability of the land use pattern in the area. The stability of the land use pattern will be materially altered if the cumulative effect of existing and potential nonfarm dwellings will make it more difficult for the

existing types of farms in the area to continue operation due to diminished opportunities to expand, purchase or lease farmland, acquire water rights or diminish the number of tracts or acreage in farm use in a manner that will destabilize the overall character of the study area.

- e. The dwelling shall comply with such other conditions as the County considers necessary.
- f. If the subject lot of record is, or has been, receiving special assessment at value for farm use under ORS 308A.050 to 308A.128 or other special assessment under ORS 308A.315, 321.257 to 321.390, 321.700 to 321.754 or 321.805 to 321.855~~Prior to Planning Director approval for issuance of a building or manufactured dwelling permit,~~ the applicant shall notify the County Assessor that the lot of record is no longer being used ~~as for~~ farmland or for other specially assessed uses under ORS 308A.315, 321.257 to 321.390, 321.700 to 321.754 or 321.805 to 321.855~~and;~~ request that the County Assessor ~~to~~ disqualify the lot of record ~~from for~~ special assessment under ORS 308A.050 to 308A.128, 308A.315, 321.257 to 321.390, 321.700 to 321.754 or 321.805 to 321.855; 308.370, 308.765, 321.257 to 321.381, 321.730 or 321.815~~and;~~ pay any additional tax imposed upon disqualification from special assessment. ~~A lot of record that has been disqualified pursuant to Subsection 401.05(C)(10)(f) shall not requalify for special assessment unless, when combined with another contiguous lot of record, it constitutes a qualifying parcel.~~ Prior to Planning Director approval of a building or manufactured dwelling placement permit, the applicant shall provide evidence that the subject lot of record has been disqualified for special assessment at value for farm use under ORS 308A.050 to 308A.128 or other special assessment under ORS 308A.315, 321.257 to 321.390, 321.700 to 321.754 or 321.805 to 321.855 and any additional tax imposed as the result of disqualification has been paid.

~~811.~~ Relative farm help dwelling: A relative farm help dwelling ~~is~~may be allowed subject to the following criteria:

- a. The dwelling must be occupied by relatives whose assistance in the management and farm use of the existing commercial farming operation is required by the farm operator. The farm operator must continue to play the predominant role in the management and farm use of the farm.
- i. “Relative” means a child, parent, stepparent, grandchild, grandparent, stepgrandparent, sibling, stepsibling, niece, nephew, or first cousin of the farm operator or the farm operator’s spouse.

ii. “Assistance in the management and farm use” means performing functions such as planting, harvesting, marketing, or caring for livestock.

iii. “Required” means the size, type, and intensity of the farm operation must be used to evaluate the need for the dwelling.

~~ba.~~ ~~The A relative farm help~~ dwelling ~~must~~~~shall~~ be located on the same lot of record as the dwelling of the farm operator and must be on real property used for farm use.;

~~cb.~~ Notwithstanding ORS 92.010 to 92.192 or the minimum lot or parcel requirements under ORS 215.780, if the owner of a relative farm help dwelling obtains construction financing or other financing secured by the dwelling and the secured party forecloses on the dwelling, the secured party may also foreclose on the “homesite,” as defined in ORS 308A.250, and the foreclosure shall operate as a partition of the homesite to create a new parcel. Prior conditions of approval for the subject land and dwelling remain in effect.

~~i.~~ “Foreclosure” means only those foreclosures that are exempt from partition under ORS 92.010(9)(a).

~~e.~~ ~~A relative farm help dwelling shall be occupied by relatives whose assistance in the management and farm use of the existing commercial farming operation, such as planting, harvesting, marketing, or caring for livestock, is required by the farm operator. The farm operator shall continue to play the predominant role in the management and farm use of the farm. “Relative” means a child, parent, stepparent, grandchild, grandparent, stepgrandparent, sibling, stepsibling, niece, nephew or first cousin, of the farm operator or the farm operator’s spouse.~~

~~d.~~ ~~The size, type, and intensity of the farm operation shall be used to evaluate the need for the dwelling.~~

~~e.~~ ~~The net income derived from the farm products shall be significant and products from the farm unit shall contribute substantially to the agricultural economy, agricultural processors, and farm markets.~~

~~f.~~ ~~There are no other dwellings on the lot of record that are vacant or currently occupied by persons not working on the subject farm unit that could reasonably be used as a relative farm help dwelling.~~

912. Accessory farm dwelling ~~in conjunction with farm use~~: An accessory farm dwelling ~~for a nonrelative, and their immediate family unless otherwise~~

~~specified, of the farm operator may be~~ is allowed subject to the following criteria:

- a. The accessory farm dwelling ~~must~~shall be occupied by a person or persons who will be principally engaged in the farm use of the land and whose seasonal or year-round assistance in the management of the farm use, such as planting, harvesting, marketing, or caring for livestock, is or will be required by the farm operator ~~on the farm unit~~.
- b. The accessory farm dwelling ~~must~~shall be located:
 - i. On the same lot of record as the primary farm dwelling; ~~or~~
 - ii. On the same tract as the primary farm dwelling when the lot of record on which the accessory farm dwelling will be sited is consolidated into a single ~~parcel~~ lot of record with all other contiguous lots of record in the tract; ~~or~~
 - iii. On a lot of record on which the primary farm dwelling is not located, when the accessory farm dwelling is a manufactured dwelling ~~and with~~ a deed restriction ~~is filed with the County Clerk~~. The deed restriction shall be signed and recorded in the County deed records and require the manufactured dwelling to be removed when the lot of record is conveyed to another party. The manufactured dwelling may remain if it is re-approved pursuant to Section 401; ~~or~~
 - iv. On any lot of record, when the accessory farm dwelling is limited to only attached multi-unit residential structures allowed by the applicable state building code or similar types of farmworker housing as that existing on farm or ranch operations registered with the Department of Consumer and Business Services, Oregon Occupational Safety and Health Division under ORS 658.750. All accessory farm dwellings approved under Subsection 401.05(C)(~~912~~)(b)(iv) shall be removed, demolished, or converted to a nonresidential use when farm worker housing is no longer required. “Farmworker housing” shall have the meaning set forth in ORS 215.278 and not the meaning in ORS 315.163.
 - v. On a lot of record on which the primary farm dwelling is not located, when the accessory farm dwelling is located on a lot of record of at least 80 acres ~~the size of the applicable minimum lot size~~ and the lot of record complies with the gross farm income requirements of Subsection 401.05(C)(~~912~~)(e)(i) or 401.05(C)(~~912~~)(e)(ii), whichever is applicable.

c. There ~~is~~are no other dwellings on ~~the~~ lands designated for exclusive farm use owned by the farm operator that is vacant or currently occupied by persons not working on the subject farm or ranch and that could reasonably be used as an accessory farm dwelling.

~~d. All multi-unit accessory dwellings shall be consistent with the intent of the Legislative Assembly as provided in ORS 215.243.~~

~~de.~~ The primary farm dwelling to which the proposed dwelling would be accessory ~~must~~shall meet one of the following:

i. On ~~land not identified as high~~Low-~~v~~Value ~~f~~Farmland, the primary farm dwelling is located on a farm ~~or ranch~~ operation that is currently employed for farm use, ~~as defined in ORS 215.203,~~ on which, ~~in each of the last two years or three of the last five years or in an average of three of the last five years,~~ the farm operator earned the lower of ~~the following:~~ at least \$40,000 in gross annual income from the sale of farm products, or gross annual income of at least the midpoint of the median income range of gross annual sales for farms in the County with the gross annual sales of \$10,000 or more according to the 1992 Census of Agriculture, Oregon, ~~in each of the last two years or three of the last five years or in an average of three of the last five years;~~ or

ii. On ~~land identified as h~~High-~~v~~Value ~~f~~Farmland, the primary farm dwelling is located on a farm ~~or ranch~~ operation that is currently employed for farm use, ~~as defined in ORS 215.203,~~ on which the farm operator earned at least \$80,000 in gross annual income from the sale of farm products in each of the last two years or three of the last five years or in an average of three of the last five years; ~~or~~

iii. It is located on a commercial dairy farm as defined by OAR 660-033-0135(8); and the building permits, if required, have been issued and construction has begun or been completed for the buildings and animal waste facilities required for a commercial dairy farm; and the Oregon Department of Agriculture has approved a permit for a "confined animal feeding operation" under ORS 468B.050 and 468B.200 to 468B.230 and a Producer License for the sale of dairy products under ORS 621.072.

~~ef.~~ In determining the gross annual income, the cost of purchased livestock shall be deducted from the total gross income attributed to the tract.

~~fg.~~ An accessory farm dwelling approved pursuant to Subsection 401.05(C)(~~912~~) ~~shall~~cannot later be used to satisfy the requirements for a dwelling not provided in conjunction with farm use pursuant to Subsection 401.05(C)(~~740~~).

- g. For the purposes of Subsection 401.05(C)(9), "accessory farm dwelling" includes all types of residential structures allowed by the applicable state building code.
- h. Accessory farm dwellings destroyed by a wildfire identified in an Executive Order issued by the Governor in accordance with the Emergency Conflagration Act, ORS 476.510 through 476.610 may be replaced. The temporary use of modular structures, manufactured housing, fabric structures, tents, and similar accommodations is allowed until replacement under Subsection 401.05(C)(9)(h) occurs.
- i. The applicant shall submit an IRS tax return transcript and any other information necessary to demonstrate compliance with the gross farm income requirements in Subsection 401.05(C)(9)(d)(i) or (ii), whichever is applicable.
- ~~h. "Farmworker", means an individual who, for an agreed remuneration or rate of pay, performs labor, temporarily or on a continuing basis, for a person in the production of farm products, planting, cultivating or harvesting of seasonal agricultural crops; or forestation or reforestation of land, including but not limited to planting, transplanting, tubing, precommercial thinning and thinning of trees or seedlings, the clearing, piling and disposal of brush and slash and other related activities.~~
- ~~i. "Farmworker Housing", means housing limited to occupancy by farmworkers and their immediate families, and no dwelling unit of which is occupied by a relative of the owner or operator of the farmworker housing.~~
- ~~j. "Relative", for the purposes of Subsection 401.05(C)(12), means an ancestor, lineal descendant, or whole or half sibling of the owner or operator or the spouse of the owner or operator.~~
- ~~k. "Farmworker Housing Owner", means a person that owns farmworker housing. It does not mean a person whose interest in the farmworker housing is that of a holder of a security interest in the housing.~~
- 103. Farm dwelling in conjunction with a farm use on Low or High Value Farmland, whichever is applicable: A primary farm dwelling for the farm operator may be is allowed subject to the following criteria:
 - a. Within the previous two years, the applicant owned and operated a different farm or ranch operation that earned the gross farm income as provided in 401.05(C)(5)(a) or 401.05(C)(6)(a), whichever is applicable, in each of the last five years or four of the last seven years as required by Subsection 401.05(C)(3)(a) or (4)(a), whichever is applicable.

- b. The subject lot of record~~parcel~~ on which the dwelling will be located is:
 - i. Currently employed for the farm use; that produced in each of the last two years or three of the last five years, or in an average of three of the last five years the gross farm income required by as provided in Subsection 401.05(C)(35)(a) or 401.05(C)(46)(a), whichever is applicable; and
 - ii. ~~The parcel is~~ At least 80 acres.
 - c. Except for seasonal farmworker housing approved prior to 2001, there is no other dwelling on the subject tract.
 - d. The dwelling will be occupied by a person or persons who produced the commodities that grossed the income ~~as provided~~ in Subsection 401.05(C)(103)(a).
 - e. In determining the gross income required by Subsections 401.05(C)(10)(a) and (b)(i):
 - i. ~~The~~ The cost of purchased livestock shall be deducted from the total gross income attributed to the tract; and
 - ii. ~~f~~. Only gross income from land owned, not leased or rented, shall be counted.
 - f. The applicant shall submit an IRS tax return transcript and any other information necessary to demonstrate compliance with the gross farm income requirement.
114. One manufactured dwelling, residential trailer, or recreational vehicle, in conjunction with an existing dwelling as a temporary use for the term of a hardship suffered by the existing resident or a relative of the resident. “Relative” means a child, parent, stepparent, grandchild, grandparent, stepgrandparent, sibling, stepsibling, niece, nephew, or first cousin. Within three months of the end of the hardship, the manufactured dwelling, residential trailer, or recreational vehicle shall be removed or demolished. Department of Environmental Quality review and removal requirements also apply. A temporary residence approved under Subsection 401.05(C)(114) is not eligible for replacement under Subsection 401.05(C)(1).

D. Commercial Uses

- 1. Home occupations:

- a. The home occupation shall not unreasonably interfere with other uses permitted in the EFU District and shall not be used as justification for a zone change.
 - b. A use provided in OAR 660-033-0120 may only be approved as a home occupation if:
 - i. The scale and intensity of the use is no more intensive than the limitations and conditions otherwise specified for the use in OAR 660-033-0120; and
 - ii. The use is accessory, incidental, and subordinate to the primary residential use of a dwelling on the property.
- ~~2. A landscape contracting business, as defined in ORS 671.520, or a business providing landscape architecture services, as described in ORS 671.318, if the business is pursued in conjunction with the growing and marketing of nursery stock on the land that constitutes farm use.~~
- 23. Agri-tourism and other commercial events or activities that are related to and supportive of agriculture:
 - a. A determination under ORS 215.283(4) that an event or activity is ‘incidental and subordinate’ requires consideration of any relevant circumstances, including the nature, intensity, and economic value of the respective farm and event uses, that bear on whether the existing farm use remains the predominant use of the tract.
 - b. A determination under ORS 215.283(4)(d)(A) that an event or activity is ‘necessary to support’ either the commercial farm uses or commercial agricultural enterprises in the area means that the events are essential in order to maintain the existence of either the commercial farm or the commercial agricultural enterprises in the area.

~~Agri-tourism or other commercial events or activities shall be incidental and subordinate to existing farm use on the tract. “Incidental and subordinate” means that the event or activity is strictly secondary and ancillary to on-site commercial farm uses or the commercial agricultural enterprises in the area in terms of income generated, area occupied, and off-site impacts. “Agri-tourism” means a commercial event or activity that is logically, physically, or economically connected to and supports an existing on-site farm operation and promotes the practice of agriculture.~~
- 34. A cider business, farm brewery, or winery bed and breakfast facility as a home occupation subject to ORS 215.448, on the same tract as the approved

cider business, farm brewery, or winery and in association with that cider business, farm brewery, or winery, and the following:

- a. May prepare and serve two meals per day to registered guests of the bed and breakfast facility; and
- b. Meals may be served at the bed and breakfast facility or at the cider business, farm brewery, or winery.

45. ~~An A~~erial fireworks display business; ~~that has been in continuous operation at its current location within an exclusive farm use zone since December 31, 1986, and possesses a wholesaler's permit to sell or provide fireworks.~~

- a. ~~As part of the conditional use approval process~~ for an aerial fireworks display business, for the purpose of verifying the existence, continuity, and nature of the business, representatives of the business may apply to the County and submit evidence including, but not limited to, sworn affidavits or other documentary evidence that the business qualifies. ~~Alteration, restoration, or replacement of A~~an aerial fireworks display business may be altered, restored, or replaced pursuant to Section 1206, Nonconforming Uses and Vested Rights.

56. Dog training classes; ~~which may be~~ conducted outdoors or in ~~preexisting~~ farm buildings that existed on January 1, 20193, when:

- a. The number of dogs participating in training does not exceed 10 ~~dogs~~ per training class; and
- b. The number of training classes to be held on-site does not exceed six per day.

67. Dog testing trials; ~~which may be~~ conducted outdoors or in ~~preexisting~~ farm buildings that existed on January 1, 20193, when:

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

78. ~~A f~~Farm stands is allowed if:

- a. The structures are designed and used for sale of farm crops and livestock grown on the farm operation, or grown on the farm operation and other farm operations in Oregon, including the sale of retail incidental items and fee-based activity to promote the sale of farm crops or livestock sold at the farm stand if the annual sales of the incidental items and fees from promotional activity do not make up more than 25 percent of the total annual sales of the farm stand; and

- b. The farm stand does not include structures designed for occupancy as a residence or for activities other than the sale of farm crops and livestock and does not include structures for banquets, public gatherings, or public entertainment.
- c. As used in Subsection 401.05(D)(78), “farm crops or livestock” includes both fresh and processed farm crops and livestock grown on the farm operation, or grown on the farm operation and other farm operations in Oregon. As used in Subsection 401.05(D)(78)(c), “processed farm crops and livestock” includes jams, syrups, apple cider, animal products, and other similar farm crops and livestock that have been processed and converted into another product but not prepared food items.
- d. ~~A f~~Farm stands may not be used for the sale, or to promote the sale, of marijuana products or extracts~~items~~.
- e. At the request of the County, the farm stand operator shall submit to the County evidence of compliance with the annual sales requirement of Subsection 401.05(D)(7)(a). Such evidence shall consist of an IRS tax return transcript and any other information the County may require to document ongoing compliance with Subsection 401.05(D)(7) or any other condition of approval required by the County.

89. Equine and equine-affiliated therapeutic and counseling activities, provided:

- a. The activities must be~~are~~ conducted in existing buildings that were lawfully constructed on the property before January 1, 2019, or in new buildings that are accessory, incidental, and subordinate to the farm use on the tract; and
- b. All individuals conducting therapeutic or counseling activities must~~are~~ acti~~ng~~ within the proper scope of any licenses required by the state.

9. Child care facilities, preschool recorded programs, or school-age recorded programs, provided:

- a. They are primarily for the children of residents and workers of the rural area in which the facility or program is located; and
- b. The use is colocated with a community center or a public or private school allowed under Section 401. “Colocated” means located on the same lot of record.

E. Mineral, Aggregate, Oil, and Gas Uses

1. ~~Mineral, Aggregate, Oil and Gas Uses:~~ Pursuant to ORS 215.298 a land use permit is required for mining more than 1000 cubic yards of material or excavation preparatory to mining of a surface area of more than one acre. A permit for mining of aggregate shall be issued only for a site included on an inventory acknowledged in the Comprehensive Plan ~~for the following:~~
 - a. ~~Operations conducted for mining, crushing, or stockpiling of aggregate and other mineral and other subsurface resources, subject to ORS 215.298.~~
 - b. ~~Processing as defined by ORS 517.750 of aggregate into asphalt or Portland cement; and~~
- 2i. New uses that batch and blend mineral and aggregate into asphalt cement may not be authorized within two miles of a planted vineyard. Planted vineyard means one or more vineyards totaling 40 acres or more that are planted as of the date the application for batching and blending is filed.
 - e. ~~Processing of other mineral resources and other subsurface resources.~~
 - d. ~~Operations conducted for mining and processing of geothermal resources as defined by ORS 522.005 and oil and gas as defined by ORS 520.005 not otherwise permitted under Section 401.~~

F. Transportation Uses

1. Roads, highways and other transportation facilities, and improvements not otherwise allowed under Section 401 may be established, subject to the adoption of an exception to Statewide Land Use Planning Goal 3, ~~(Agricultural Lands)~~, and to any other applicable goal with which the facility or improvement does not comply. In addition, transportation uses and improvements may be authorized under conditions and standards as set forth in OAR 660-012-0035 and 660-012-0065.
2. A personal-use airport means an airstrip restricted, except for aircraft emergencies, to use by the owner, and, on an infrequent and occasional basis, by invited guests, and by commercial aviation activities in connection with agricultural operations. No aircraft may be based on a personal-use airport other than those owned or controlled by the owner of the airstrip. Exceptions to the activities allowed under this definition may be granted through waiver action by the Oregon Department of Aviation in specific instances. A personal-use airport lawfully existing as of September 13, 1975, shall continue to be allowed subject to any applicable rules of the Oregon Department of Aviation.

G. ~~Utility/and~~ Solid Waste Disposal Facility Uses

1. Wind energy power production systems as an accessory use, provided:
 - a. The system is not a commercial power generating facility;
 - b. No turbine has an individual rated capacity of more than 100kW, nor does the cumulative total rated capacity of the turbines comprising the installation exceed 100 kW;
 - c. The system complies with the Oregon Department of Environmental Quality noise standards otherwise applicable to commercial and industrial uses for quiet areas, measured at the nearest property line of the noise-sensitive use. This may be demonstrated through information provided by the manufacturer;
 - d. The system is prohibited if tower lighting for aviation safety is required;
 - e. The system will be located outside an urban growth boundary on a minimum of one acre;
 - f. The system does not exceed 150 feet in height from base to the height of the tower plus one blade;
 - g. The system is set back a distance not less than the tower height plus one blade from all property lines; and
 - h. Roof mounted system towers shall extend no more than an additional five feet above the highest ridge of a building's roof or 15 feet above the highest eave, whichever is higher, but shall not exceed 150 feet in height from finished grade.
2. A utility facility necessary for public service may be established as provided in OAR 660-033-0130(16)(a) and ORS 215.275 and 215.276, or, if the utility facility is an associated transmission line, as provided in OAR 660-033-0130(16)(b) and ORS 215.274 and 215.276.
3. Composting operations and facilities
 - a. Must:
 - i. Compost only on-farm produced compostable materials; or
 - ii. Compost only off-site materials and use all on-site generated compost for on-farm production in conjunction with, and auxiliary to, the farm use on the subject tract; or

- iii. Compost any off-site materials with on-farm produced compostables and use all on-site generated compost for on-farm production in conjunction with, and auxiliary to, the farm use on the subject tract;
 - b. Must be an accepted farm practice in conjunction with and auxiliary to farm use on the subject tract, meaning that if off-site materials are added to on-farm produced compostables, the total amount of compost generated by the operation or facility does not exceed the amount of compost reasonably anticipated to be used on the subject tract;
 - c. Must limit buildings and facilities used in conjunction with the composting operation to those required for the operation of the subject facility;
 - d. Must meet the performance and permitting requirements of the Department of Environmental Quality under OAR 340-093-0050 and 340-096-0060; and
 - e. May sell or transport excess compost only if:
 - i. The operation or facility does not use off-site materials;
 - ii. It is sold or transported to neighboring farm operations within two and one-half miles of the subject tract; and
 - iii. It is sold or transported in bulk loads of not less than one unit (7.5 cubic yards) in size that are transported in one vehicle.
4. ~~Commercial utility facilities for the purpose of generating power for public use by sale, but not including wind power or photovoltaic solar power generation. A power generation facility shall not use, occupy, or cover more than 12 acres on High Value Farmland, or more than 20 acres on Low Value Farmland, from use as a commercial agricultural enterprise unless an exception is taken pursuant to OAR chapter 660, division 4; and~~
- a. ~~On high-value farmland, p~~Permanent features of a power generation facility shall not use, occupy, or cover more than 12 acres ~~from use as a commercial agricultural enterprise~~ unless an exception is taken pursuant to ORS 197.732 and OAR chapter 660, division 4. If the subject property is not high-value farmland, permanent features of a power generation facility shall not use, occupy, or cover more than 20 acres unless an exception is taken pursuant to ORS 197.732 and OAR chapter 660, division 4. A power generation facility may include on-site and off-site facilities for temporary workforce housing for workers constructing a power generation facility. Such facilities must be removed or converted to an allowed use under Subsection 401.05(H)(6) OAR 660-033-0130(19) (a private campground) or other statute or rule when the

project construction is complete. Temporary workforce housing facilities not included in the initial approval may be considered through a minor amendment request. A minor amendment request shall be subject to Subsection 401.05(A)(1) and shall have no effect on the original approval.

H. Parks, Public, and Quasi-public Uses

1. Buildings and facilities associated with a site for the takeoff and landing of model aircraft shall not be more than 500 square feet in floor area or placed on a permanent foundation unless the building or facility preexisted the use approved under Subsection 401.05(H)(1). The site shall not include an aggregate surface or hard surface area unless the surface preexisted the use approved under Subsection 401.05(H)(1). An owner of property used for the purpose authorized in Subsection 401.05(H)(1) may charge a person operating the use on the property rent for the property. An operator may charge users of the property a fee that does not exceed the operator's cost to maintain the property, buildings and facilities. As used in Subsection 401.05(H)(1), "model aircraft" means a small-scale version of an airplane, glider, helicopter, dirigible or balloon that is used or intended to be used for flight and is controlled by radio, lines, or design by a person on the ground.
2. Public parks including only the uses specified under OAR 660-034-0035 or 660-034-0040, whichever is applicable. A public park may be established consistent with the provisions of ORS 195.120. If the subject property has a local park master plan adopted as part of the Comprehensive Plan, the park is also subject to Section 714, *Special Use Overlay District*.
3. ~~Community centers owned by a governmental agency or a nonprofit community organization and operated primarily by and for residents of the local rural community.~~ A community center ~~authorized under Subsection 401.05(H)(3)~~ may provide services to veterans, including but not limited to emergency and transitional shelter, preparation and service of meals, vocational and educational counseling and referral to local, state or federal agencies providing medical, mental health, disability income replacement and substance abuse services, only in a facility that is in existence on January 1, 2006. The services may not include direct delivery of medical, mental health, disability income replacement or substance abuse services.
4. "Living History Museum" means a facility designed to depict and interpret everyday life and culture of some specific historic period using authentic buildings, tools, equipment and people to simulate past activities and events. As used in Subsection 401.05(H)(4), a living history museum shall be related to resource based activities and shall be owned and operated by a governmental agency or a local historical society. A living history museum may include limited commercial activities and facilities that are directly related to the use and enjoyment of the museum and located within authentic

buildings of the depicted historic period or the museum administration building, if areas other than an exclusive farm use zone cannot accommodate the museum and related activities or if the museum administration buildings and parking lot are located within one quarter mile of an urban growth boundary. "Local historical society" means the local historical society, recognized as such by the county governing body and organized under ORS chapter 65.

5. A "private park" is an area devoted to low-intensity, outdoor, recreational uses for which enjoyment of the outdoors in an open space, or on land in its natural state, is a necessary component and the primary focus.

~~65. Private parks, playgrounds, hunting and fishing preserves, and campgrounds.~~
A campground is an area devoted to overnight temporary use for vacation, recreational, or emergency purposes, but not for residential purposes ~~and is established on a site or is contiguous to lands with a park or other outdoor natural amenity that is accessible for recreational use by the occupants of the campground.~~ Campgrounds shall not include intensively developed recreational uses such as swimming pools, tennis courts, retail stores, or gas stations.

- a. Except on a lot of record contiguous to a lake or reservoir, private campgrounds shall not be allowed within three miles of an urban growth boundary unless an exception is approved pursuant to ORS 197.732 and OAR chapter 660, division 4.
- b. A campground shall be designed and integrated into the rural agricultural and forest environment in a manner that protects the natural amenities of the site and provides buffers of existing native trees and vegetation or other natural features between campsites.
- c. Campsites may be occupied by a tent, travel trailer, yurt, or recreational vehicle.
- d. Separate sewer, water, or electric service hook-ups shall not be provided to individual campsites except that electrical service may be provided to yurts allowed for by Subsection 401.05(H)(6)(g).
- ~~e. Campgrounds authorized by Subsection 401.05(H)(6) shall not include intensively developed recreational uses such as swimming pools, tennis courts, retail stores, or gas stations.~~
- f. Overnight temporary use in the same campground by a camper or camper's vehicle shall not exceed a total of 30 days during any consecutive six-month period.

- g. A private campground may provide yurts for overnight camping. No more than one-third or a maximum of 10 campsites, whichever is smaller, may include a yurt. The yurt shall be located on the ground or on a wood floor with no permanent foundation. As used in Subsection 401.05(H)(6), "yurt" means a round, domed shelter of cloth or canvas on a collapsible frame with no plumbing, sewage disposal hook-up, or internal cooking appliance.

76. Golf courses, on land ~~that is determined not to be~~ high value farmland, as defined in ORS 195.300, subject to OAR 660-033-0130(20).

I. Nonconforming Uses

1. Existing facilities wholly within a farm use zone may be maintained, enhanced, or expanded on the same tract, subject to other requirements of law. An existing golf course may be expanded consistent with the requirements of Subsection 401.05(A)(1) and OAR 660-033-0130(20), but shall not be expanded to contain more than 36 total holes.
2. Notwithstanding ORS 215.283, Section 1206, or any other provision of this Ordinance, a public or private school, including all building essential to the operation of the school, formerly allowed pursuant to ORS 215.283(1)(a), as in effect before January 1, 2010, the effective date of 2009 Oregon Laws, chapter 850, section 14, may be expanded, provided:
 - a. The expansion complies with Subsection 401.05(A)(1);
 - b. The school was established on or before January 1, 2009;
 - c. The expansion occurs on a tax lot:
 - i. On which the school was established; or
 - ii. Contiguous to and, on January 1, 2015, under the same ownership as the tax lot on which the school was established; and
 - d. The school is a public or private school for kindergarten through grade 12.
3. A nonconforming public or private school described in Subsection 401.05(I)(2) may be expanded without regard to:
 - a. A maximum capacity of people in the structure or group of structures;
 - b. A maximum distance between structures; or
 - c. A maximum density of structures per acre.

401.06 PROHIBITED USES

Uses of structures and land not specifically permitted are prohibited.

401.07 DIMENSIONAL STANDARDS

- A. Minimum Lot Size: New lots of record shall be a minimum of 80 acres in size, except as provided in Subsection 401.08. For the purpose of complying with the minimum lot size standard, lots of record with street frontage on County or public road rights-of-way may include the land area between the front lot line and the centerline of the County or public road right-of-way.
- B. Minimum Front Setback: 30 feet.
- C. Minimum Side Setback: 10 feet.
- D. Minimum Rear Setback: 30 feet; however, accessory buildings shall have a minimum rear setback of 10 feet.
- E. Modifications: Modifications to the dimensional standards are established by Sections 800, *Special Uses*; 903, *Setback Exceptions*; 1107, *Property Line Adjustments*; and 1205, *Variances*.

401.08 LAND DIVISIONS

- A. A land division shall not separate a temporary dwelling for care, relative farm help dwelling, home occupation, or processing facility from the lot of record on which the primary residential or other primary use exists.
- B. A land division shall not separate a relative farm help dwelling approved pursuant to Subsection 401.05(C)(~~811~~) from the lot of record on which the dwelling of the farm operator exists, except as provided in ORS 215.283(1)(d).
- C. A land division shall not separate an accessory dwelling in conjunction with farm use approved pursuant to Subsection 401.05(C)(~~912~~) from the lot of record on which the primary farm dwelling exists, except as provided in OAR 660-033-0010(24)(~~cB~~).
- D. A land division of a lot of record created before January 1, 1993, on which a nonfarm dwelling was approved pursuant to ORS 215.284(1) Subsection 401.05(C)(1) is prohibited.
- E. Land divisions are permitted, if consistent with Subsections 1105.01(A) and 1105.1~~21~~. A land division pursuant to Subsection 401.08(~~GF~~) shall require review of a Type I application pursuant to Section 1307, *Procedures*. A land division pursuant to Subsection 401.08(~~G~~), (H), (I), (J), ~~or~~ (K), (L), (M), or (N) shall require review of a Type II application pursuant to Section 1307.

F. A land division for nonfarm use under Subsection 401.08(H), (I), (J), (K), (L), or (M) shall not be approved unless any additional tax imposed for the change in use has been paid.

GF. 80-Acre Minimum Lot Size Land Divisions: A land division may be approved, if each new lot of record is a minimum of 80 acres in size, as established by Subsection 401.07(A).

HG. Nonfarm Use Land Divisions:

1.—A land division creating ~~lots of record~~ parcels less than 80 acres in size may be approved for the following nonfarm uses, if the lot of record parcel for the nonfarm use is ~~not larger than~~ the minimum size needed to accommodate the use in a manner consistent with other provisions of law necessary for the use:

1a. A fire service facility providing rural fire protection services;

2b. Nonfarm uses, except dwellings, set out in ORS 215.283(2); or

3e. If the parcel to be divided is outside an urban or rural reserve established pursuant to OAR chapter 660, division 27, utility facilities necessary for public service set out in ORS 215.283(1)(c), ~~including wetland waste treatment systems but not including commercial facilities for the purpose of generating electrical power for public use by sale or transmission towers over 200 feet in height.~~

2.—Land that is divided under Subsection 401.08(~~HG~~)(~~31~~)(~~e~~) may not later be rezoned for retail, commercial, industrial, or other nonresource use, except as provided under the statewide land use planning goals or under ORS 197.732.

IH. Nonfarm Dwelling Land Divisions: ~~New~~ Lots of record may be created for dwellings not in conjunction with farm use less than 80 acres in size may be approved, subject to the following criteria:

1. The originating lot of record:

a. ~~Is at least~~ 80 acres or larger; ~~and~~

b. ~~Is~~ not stocked to the requirements under ORS 527.610 to 527.770;

c2. ~~The lot of record~~ ~~Is~~ composed of at least 95% percent Class VI through Class VIII agricultural soils; ~~and~~

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

23. The new lot of record ~~for a dwelling~~ will not be smaller than 20 acres; and

4. No new lot of record may be created for this purpose unless the dwelling to be sited on the new lot of record has been approved under the requirements for dwellings not in conjunction with farm use in ORS 215.284(4), 215.236, and OAR 660-033-0130(4) until the criteria in Subsections 401.05(C)(10)(a), (b), (d), (e), and (f) for a dwelling are satisfied.

J. Parks/Open Space/Land Conservation Land Divisions: A land division ~~for a provider of public parks or open space, or a not-for-profit land conservation organization,~~ may be approved subject to the following criteria ~~ORS 215.263(10) and:~~

1. The land division shall be for the purpose of allowing a provider of public parks or open space, or a not-for-profit land conservation organization, to purchase at least one of the resulting lots of record;
2. A lot of record created by the land division that contains a dwelling shall be large enough to support continued residential use of the lot of record.
3. A lot of record created pursuant to Subsection 401.08(I) that does not contain a dwelling:
 - a. Is not eligible for siting a dwelling, except as may be authorized under ORS 195.120;
 - b. May not be considered in approving or denying an application for siting any other dwelling;
 - c. May not be considered in approving a redesignation or rezoning of forestlands except for a redesignation or rezoning to allow a public park, open space or other natural resource use; and
 - d. May not be smaller than 25 acres unless the purpose of the land division is:
 - i. To facilitate the creation of a wildlife or pedestrian corridor or the implementation of a wildlife habitat protection plan; or
 - ii. To allow a transaction in which at least one party is a public park or open space provider, or a not-for-profit land conservation organization, that has cumulative ownership of at least 2,000 acres of open space or park property.
4. The land division shall comply with Subsection 401.05(A)(1).
5. In addition, The owner of any lot of record ~~parcel~~ not containing a dwelling shall sign and record in the County deed records an irrevocable deed restriction prohibiting the owner and the owner's successors in interest from pursuing a cause of action or claim of relief alleging an injury from farming or

forest practices for which no claim or action is allowed under ORS 30.936 or 30.937.

~~KJ.~~ Historic Property Land Divisions: A land division may be approved to create a parcel with an existing dwelling to be used for historic property that meets the requirements of ORS 215.283(1)(L)~~has the features listed in Subsection 401.05(C)(1)(a)(i) through (iv) and the dwelling has been listed in county inventory as described in ORS 358.480.~~

L. Residential Home Land Divisions: A land division may be approved to create a parcel with an existing dwelling to be used as a residential home as described in ORS 197.660(2) only if the dwelling has been approved under ORS 215.284(1) or (4).

M. Church Land Divisions: A land division may be approved, subject to the following criteria:

1. The division is for the purpose of establishing a church, including cemeteries in conjunction with the church;
2. The church has been approved under ORS 215.283(1);
3. The newly created lot of record is not larger than five acres; and
4. The remaining lot of record, not including the church, meets the minimum lot or parcel size described in ORS 215.780 (1) and (2) either by itself or after it is consolidated with another lot of record.

~~NK.~~ Land Divisions Along an Urban Growth Boundary: A division of a lot of record may occur along an urban growth boundary where the parcel remaining outside the urban growth boundary is zoned EFU and is smaller than 80 acres, subject to the following criteria:

- a. If the parcel contains a dwelling, the parcel must be large enough to support continued residential use.
- b. If the parcel does not contain a dwelling, ~~it the parcel:~~
 - i. Is not eligible for siting a dwelling, except as may be authorized under ORS 195.120;
 - ii. May not be considered in approving or denying an application for any other dwelling; and
 - iii. May not be considered in approving a redesignation or rezoning of agricultural lands, except to allow a public park, open space, or other natural resource use.

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

~~401.09~~ — SUBMITTAL REQUIREMENTS

~~In addition to the submittal requirements identified in Subsection 1307.07(C), an application for any use requiring review of a Type I, II, or III application shall include an accurate site plan drawn to scale on eight and one-half inch by 11-inch or eight and one-half inch by 14-inch paper, showing the subject property and proposal. In addition, applications for farm dwellings requiring a justification of income shall include tax forms, farm receipts, or other appropriate documentation demonstrating the income produced from the subject property.~~

401.~~09~~10 APPROVAL PERIOD AND TIME EXTENSION

- A. ~~Land Divisions~~Approval Period: Approval of ~~a Type I, II, or III~~an application ~~for a land division~~ is valid for ~~six~~four years from the date of the final written decision. If the County's final written decision is appealed, the approval period shall commence on the date of the final appellate decision. During this ~~six~~four-year period, the approval shall be implemented. "Implemented" means:

- ~~1. For a land division~~, the final plat shall be recorded with the County Clerk. If a final plat is not required under ~~ORS Oregon Revised Statutes~~ chapter 92, deeds with the legal descriptions of the new lots of record~~parcels~~ shall be recorded with the County Clerk.;

B. Replacement Dwellings:

- ~~2. For Approval of a replacement dwelling approved~~ pursuant to Subsection 401.05(C)(1) is valid for four years from the date of the final written decision, If the County's final written decision is appealed, the approval period shall commence on the date of the final appellate decision. During this four-year period, the approval shall be implemented. "Implemented" means a building or manufactured dwelling placement permit for the replacement dwelling shall be obtained and maintained and construction of the replacement dwelling shall have commenced.;

C. Lot of Record and Nonfarm Dwellings:

1. Approval of a dwelling pursuant to Subsection 401.05(C)(2) or (7) is valid for four years from the date of the final written decision. If the County's final written decision is appealed, the approval period shall commence on the date of the final appellate decision. During this four-year period, the approval shall

be implemented. “Implemented” means a building or manufactured dwelling placement permit for the dwelling shall be obtained and maintained.

2. An extension of a permit described in Subsection 401.09(C)(1) is valid for two years provided that the applicant submits a written request for the extension prior to the expiration of the initial approval period.

3. A maximum of five additional one-year extensions of a permit shall be approved if:

a. The applicant makes a written request for the additional extension prior to the expiration of the extension;

b. The applicable residential development statute has not been amended following the approval of the permit; and

c. An applicable rule or land use regulation has not been amended following the issuance of the permit, unless allowed by the County, which may require that the applicant comply with the amended rule or land use regulation.

D3. Approval of ~~For all any~~ other applications, is valid for two years from the date of the final written decision. If the County’s final written decision is appealed, the approval period shall commence on the date of the final appellate decision. During this two-year period, the approval shall be implemented.

1. For a dwelling, “implemented” means a building or manufactured dwelling placement permit for ~~the dwelling~~a new primary structure that was the subject of the application shall be obtained and maintained. ~~If no building or manufactured dwelling placement permit is required, all other necessary County development permits shall be obtained and maintained.~~

2. For anything other than a dwelling, “implemented” means all major development permits shall be obtained and maintained for the approved land use, or if no major development permits are required to complete the development contemplated by the approved land use application, “implemented” means all other necessary County development permits (e.g., grading permit, building permit for an accessory structure) shall be obtained and maintained. A major development permit is:

a. A building permit for a new primary structure that was part of the land use approval; or

b. A permit issued by the County for parking lot or road improvements required by the land use approval.

3. One extension period of up to 12 months shall be approved if:

- a. An applicant makes a written request for an extension of the development approval period;
 - b. The request is submitted to the County prior to the expiration of the approval period;
 - c. The applicant states reasons that prevented the applicant from beginning or continuing development within the approval period; and
 - d. The County determines that the applicant was unable to begin or continue development during the approval period for reasons for which the applicant was not responsible.
4. Additional one-year extensions shall be authorized subject to compliance with Subsections 401.09(D)(3)(a) through (d) and where applicable criteria for the decision have not changed.
- E. An extension pursuant to Subsection 401.09(C)(3), (D)(3), or (D)(4) requires review as a Type II application pursuant to Section 1307, *Procedures*. The decision is an administrative decision, is not a land use decision as described in ORS 197.015, and is not subject to appeal as a land use decision.
- ~~B. Time Extension: Except for approval of a Type II application for a replacement dwelling pursuant to Subsection 401.05(C)(1), if the approval of a Type I, II, or III application is not implemented within the initial approval period established by Subsection 401.10(A), a two-year time extension may be approved pursuant to Section 1310.~~
- ~~F. Exceptions: Subsections 401.09(D) overrides any other potentially applicable approval period standard in other sections of this Ordinance except that 401.10(A) and (B) do not apply to home occupations; and conditional uses, or temporary dwellings for care, which shall be subject to the any applicable approval period and time extension provisions of Sections 822, *Home Occupations*, 1203, *Conditional Uses*, or 1204, *Temporary Permits*, respectively.~~

[Amended by Ord. ZDO-224, 5/31/2011; Amended by Ord. ZDO-230, 9/26/2011; Amended by Ord. ZDO-234, 6/7/2012; Amended by Ord. ZDO-241, 1/1/2013; Amended by Ord. ZDO-247, 3/1/2014; Amended by Ord. ZDO-248, 10/13/2014; Amended by Ord. ZDO-254, 1/4/2016; Amended by Ord. ZDO-262, 5/23/2017; Amended by Ord. ZDO-263, 5/23/2017; Amended by Ord. ZDO-264, 8/22/2017; Amended by Ord. ZDO-266, 5/23/2018; Amended by Ord. ZDO-268, 10/2/2018; Amended by Ord. ZDO-276, 10/1/2020; Amended by Ord. ZDO-280, 10/23/2021; Amended by Ord. ZDO-283, 9/5/2023; Amended by Ord. ZDO-286, 11/20/2023; Amended by Ord. ZDO-285, 9/3/2024]

406 TIMBER DISTRICT (TBR)

406.01 PURPOSE

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

406.02 APPLICABILITY

Section 406 applies to land in the Timber (TBR) District.

406.03 DEFINITIONS

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

- A. Auxiliary: A use or alteration of a structure or land which provides help or is directly associated with the conduct of a particular forest practice. An auxiliary structure is located on site, temporary in nature, and not designed to remain for the forest's entire growth cycle from planting to harvesting. An auxiliary use is removed when a particular forest practice has concluded.
- B. Cubic Foot Per Acre: As defined in Oregon Administrative Rules (OAR) 660-006-0005(3).
- C. Cubic Foot Per Tract Per Year: As defined in OAR 660-006-0005(4).
- D. Date of Creation and Existence: When a lot of record or tract is reconfigured pursuant to applicable law after November 4, 1993, the effect of which is to qualify a lot of record or tract for the siting of a dwelling, the date of the reconfiguration is the date of creation or existence. Reconfigured means any change in the boundary of the lot of record or tract.
- E. Dwelling: Unless otherwise provided in Section 406, a dwelling is a detached single-family dwelling, a manufactured dwelling, or a prefabricated structure.
- F. Firearms Training Facility: An indoor facility only, that provides training courses and issues certifications required for law enforcement personnel, by the Oregon Department of Fish and Wildlife, or by nationally recognized programs that promote shooting matches, target shooting, and safety.
- G. Forest Operation: Any commercial activity relating to the growing or harvesting of any forest tree species as defined in Oregon Revised Statutes 527.620(6).
- H. Navigation: References an instrument within a waterway or flightway that assists in traveling to a destination for water vessels and aircraft.

~~I. Ownership: Holding fee title to a lot of record, except in those instances when the land is being sold on contract, the contract purchaser shall be deemed to have ownership. Ownership shall include all contiguous lots of record meeting this definition.~~

IJ. Primary Processing of Forest Products: The initial treatments of logs or other forest plant or fungi materials to prepare them for shipment for further processing or to market, including, but not limited to, debarking, peeling, drying, cleaning, sorting, chipping, grinding, sawing, shaping, notching, biofuels conversion, or other similar methods of initial treatments.

JK. Private Park: Land that is used for low impact casual recreational uses such as picnicking, boating, fishing, swimming, camping, hiking, or nature-oriented recreational uses such as viewing and studying nature and wildlife habitat and may include play areas and accessory facilities that support the activities listed above but does not include tracks for motorized vehicles or areas for target practice or the discharge of firearms.

KL. Temporary Structures: Onsite structures which are auxiliary to and used during the term of a particular forest operation and used in the preliminary processing of a particular forest operation such as: pole and piling preparation, small portable sawmill, small pole building, etc. Temporary structures are allowed for a period not to exceed one year.

~~M. Tract: One or more contiguous lots of record under the same ownership, including lots of record divided by a County or public road, or land contiguous at a common point. Lots of record divided by a state highway are not considered contiguous.~~

406.04 USES PERMITTED

Uses permitted in the TBR District are listed in Table 406-1, *Permitted Uses in the TBR District*.

A. As used in Table 406-1:

1. "A" means the use is an accessory use~~allowed~~.

2. "C" means the use is a conditional use, approval of which is subject to Section 1203, *Conditional Uses*.

3. "P" means the use is a primary use.

~~42.~~ "Type II" means the use requires review of a Type II application, pursuant to Section 1307, *Procedures*.

~~53.~~ “Type III” means the use requires review of a Type III application, pursuant to Section 1307, *Procedures*.

~~4. “C” means the use is a conditional use, approval of which is subject to Section 1203, *Conditional Uses*.~~

~~5. The “Subject To” column identifies any specific provisions of Subsection 406.05 to which the use is subject.~~

6. Numbers in superscript correspond to the notes that follow Table 406-1.

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

Table 406-1: Permitted Uses in the TBR District

	Type	Use	Subject To
FARM AND FOREST USES	<u>PA</u>	Forest operations or forest practices including, but not limited to, reforestation of forest land, road construction and maintenance, harvesting of a forest tree species, application of chemicals and disposal of slash where such uses pertain to forest uses and operations. Inside the Portland Metropolitan Urban Growth Boundary, refer to Subsection 1002.02 regarding a development restriction that may apply if excessive tree removal occurs.	
	<u>PA</u>	Temporary on-site structures which are auxiliary to and used during the term of a particular forest operation.	
	<u>PA</u>	Physical alterations to the land auxiliary to forest practices including, but not limited to, those made for purposes of exploration, mining, commercial gravel extraction and processing, landfills, dams, reservoirs, road construction, or recreational facilities.	
	<u>PA</u>	Farm use as defined in ~~Oregon Revised Statutes (ORS) 215.203. Marijuana production is subject to Section 841, Marijuana Production, Processing, and Retailing.~~	<u>Marijuana production is subject to Section 841.</u>
	A	Uses and structures customarily accessory and incidental to a farm or forest use, only if a primary farm or forest use exists.	
	<u>P</u> , TYPE II	~~For a period not to exceed one year, temporary~~ portable facility for the primary processing of forest products <u>grown on-site.</u>	~~406.05(B)(1)~~
	C	Permanent facility for the primary processing of forest products.	406.05(A)(1), (6) & (B)(~~12~~)
	C	Permanent ~~facilities for~~ logging equipment repair and storage.	406.05(A)(1) & (6)
	C	Log scaling and weigh stations.	406.05(A)(1) & (6)

	Type	Use	Subject To
NATURAL RESOURCE USES	A	Uninhabitable structures accessory to fish and wildlife enhancement.	
	C	Forest management research and experimentation facilities <u>as described by ORS 526.215 or where accessory to forest operations.</u>	406.05(A)(1) ~~& (C)(1)~~
	Type	Use	Subject To
RESIDENTIAL USES	A	Uses and structures customarily accessory and incidental to a dwelling, only if a lawfully established dwelling exists.	
	~~P~~ A, TYPE II ¹	Alteration, restoration, or replacement of a lawfully established dwelling.	406.05(A)(3) & ~~(CD)~~ (1)
	~~P~~ , TYPE II	Forest lot of record dwelling.	406.05(A)(3), (4), (5) & ~~(CD)~~ (2)
	~~P~~ , TYPE II	Forest template test dwelling.	406.05(A)(3), (4), (5) & ~~(CD)~~ (3)
	~~P~~ , TYPE II	160 acre forest dwelling.	406.05(A)(3), (4), (5) & ~~(CD)~~ (4)
	~~P~~ , TYPE II	200 acre noncontiguous tract forest dwelling	406.05(A)(3), (4), (5) & ~~(CD)~~ (5)
	~~P~~ , TYPE II	Caretaker residences for public parks and public fish hatcheries.	406.05(A)(2) & (5)
	~~P~~ , TYPE II	Temporary forest labor camp for a period not to exceed one year.	
	~~P~~ , TYPE II	Temporary dwelling for care, subject to Subsection 1204.04.	406.05(A)(1), (2) & ~~(CD)~~ (6)
	~~P~~ , TYPE II	Accessory dwelling supporting family forestry.	406.05(~~CD~~)(7)
	Type	Use	Subject To
COMMERCIAL USES	A	Family child care home.	
	~~A~~ , TYPE II	Home occupation, ~~subject to Section 822, Home Occupations.~~	406.05(A)(1), (2), (5) & ~~(DE)~~ (1) & Section 822
	C	Home occupation to host events, ~~subject to Section 806, Home Occupations to Host Events.~~	406.05(A)(1), (2), (5) & ~~(DE)~~ (1) & Section 806
	C	Home occupation for canine skills training, ~~subject to Section 836, Home Occupations for Canine Skills Training.~~	406.05(A)(1), (2) (5) & ~~(DE)~~ (1) & Section 836
	C	Private accommodations for fishing on a temporary basis.	406.05(A)(1), (2), (5) & ~~(DE)~~ (2)
	C	Private seasonal accommodations for fee based hunting.	406.05(A)(1), (5) & ~~(DE)~~ (3)
	Type	Use	Subject To

MINERAL, AGGREGATE, OIL, AND GAS USES	<u>PA</u>	Exploration for mineral and aggregate resources as defined in ORS chapter 517 and subject to the requirements of the Department of Geology and Mineral Industries.	
	C	Mining and processing of oil, gas, or other subsurface resources, <u>as defined in ORS chapter 520, and not otherwise permitted under the use listing in this table that immediately follows this one (e.g., compressors, separators and storage serving multiple wells), and mining and processing of aggregate and mineral resources as defined in ORS chapter 517.</u>	406.05(A)(1), <u>& (6)</u> ~~& (F)(4)~~
	C	Exploration for and production of geothermal, gas, ~~and oil, and other associated hydrocarbons,~~ <u>including the placement and operation of compressors, separators and other customary production equipment for an individual well adjacent to the well head.</u>	406.05(A)(1), <u>& (6)</u> ~~& (F)(2)~~
TRANSPORTATION USES	Type	Use	Subject To
	<u>PA</u>	Widening of roads within existing rights-of-way in conformance with Chapter 5, <i>Transportation System Plan</i> , of the Comprehensive Plan.	
	<u>PA</u>	Climbing and passing lanes within the right of way existing as of July 1, 1987.	
	<u>PA</u>	Reconstruction or modification of public roads and highways, including the placement of utility facilities overhead and in the subsurface of public roads and highways along the public right of way, but not including the addition of travel lanes, where no removal or displacement of buildings would occur, or no new land parcels result.	
	<u>PA</u>	Temporary public road and highway detours that will be abandoned and restored to original condition or use at such time as no longer needed.	
	<u>PA</u>	Minor betterment of existing public road and highway related facilities such as maintenance yards, weigh stations, and rest areas, within right of way existing as of July 1, 1987, and contiguous public-owned property utilized to support the operation and maintenance of public roads and highways.	
	<u>P</u> , TYPE II	Construction of additional passing and travel lanes requiring the acquisition of right-of-way but not resulting in the creation of new land parcels.	406.05(A)(1)
	<u>P</u> , TYPE II	Reconstruction or modification of public roads and highways involving the removal or displacement of buildings but not resulting in the creation of new land parcels.	406.05(A)(1)
	<u>P</u> , TYPE II	Improvement of public roads and highway-related facilities, such as maintenance yards, weigh stations, and rest areas, where additional property or right-of-way is required but not resulting in the creation of new land parcels.	406.05(A)(1)

UTILITY AND SOLID WASTE DISPOSAL FACILITY USES	~~P~~ TYPE II	Parking of up to seven dump trucks and seven trailers, subject to ORS 215.311.	406.05(A)(1)
	C	Aids to navigation and aviation.	406.05(A)(1) & (6)
	C	Expansion of existing airports.	406.05(A)(1)
	C	Temporary asphalt and concrete batch plants as accessory uses to specific highway projects.	406.05(A)(1)
	C	Roads, highways, and other transportation facilities and improvements not otherwise allowed under this Ordinance.	406.05(A)(1) & ~~(E)~~ (1)
	Type	Use	Subject To
	See Table 835-1	Wireless telecommunication facilities, ~~subject to Section 835, Wireless Telecommunication Facilities.~~	<u>Section 835</u>
	A	Local distribution lines (i.e., electric, telephone, natural gas) and accessory equipment (i.e., electric distribution transformers, poles, meter cabinets, terminal boxes, pedestals), or equipment which provides service hookups, including water service hookups.	
	~~PA~~	Water intake facilities, canals and distribution lines for farm irrigation and ponds.	
	A	Solar energy systems ~~as an accessory use.~~	
	A	Rainwater collection systems ~~as an accessory use.~~	
	A	Electric vehicle charging stations for residents and their nonpaying guests.	
	~~PA~~	Meteorological towers.	
	~~P~~ TYPE II	Wind energy power production systems as an accessory use.	406.05(~~EH~~)(1)
	C	Water intake facilities, related treatment facilities, pumping stations, and distribution lines.	406.05(A)(1) & (6)
	C	Reservoirs and water impoundments.	406.05(A)(1), (2), & ~~(5) & (6)~~
	C	~~A~~ ~~Disposal~~ site for solid waste for which the Oregon Department of Environmental Quality has granted a permit under ORS 459.245, together with equipment, facilities, or buildings necessary for its operation. A composting facility is subject to Section 834, <i>Composting Facilities</i> .	406.05(A)(1) & (6)
	C	Commercial utility facilities for the purpose of generating power. <u>A power generation facility shall not preclude more than 10 acres from use as a commercial forest operation unless an exception is taken pursuant to OAR chapter 660, division 4.</u>	406.05(A)(1), & (6) - & ~~(H)(2)~~
	C	New electric transmission lines <u>with right-of-way widths of up to 100 feet as specified in ORS 772.210. New distribution lines (e.g., gas, oil, geothermal, telephone, fiber optic cable) with rights-of-way 50 feet or less in width.</u>	406.05(A)(1) - & ~~(H)(3)~~
	C	Television, microwave, and radio communication facilities <u>and transmission towers.</u>	406.05(A)(1), (6) & ~~(EH)(24)~~

	Type	Use	Subject To
PARKS AND PUBLIC/QUASI-PUBLIC USES	~~PA~~	Private hunting and fishing operations without any lodging accommodations ~~.~~	
	~~PA~~	Towers and fire stations for forest fire protection ~~.~~	
	C	Fire stations for rural fire protection ~~.~~	406.05(A)(1) & (6)
	C	Youth camps on 40 acres or more, subject to OAR 660-006-0031 ~~.~~	406.05(A)(1) & (3)
	C	Cemeteries ~~.~~	406.05(A)(1) & (6)
	C	Firearms training facility as provided in ORS 197.770(2) ~~.~~	406.05(A)(1) & (6)
	C	Private parks and campgrounds ~~.~~	406.05(A)(1), (2), (6) & (~~G~~)(1)
	C	Public parks <u>including only those uses specified under OAR 660-034-0035 or 660-034-0040, whichever is applicable.</u>	406.05(A)(1), (6) & (~~G~~)(2)
	Type	Use	Subject To
OUTDOOR GATHERINGS	~~PA~~	An outdoor mass gathering as defined in ORS 433.735, subject to ORS 433.735 to 433.770	
	~~P~~ TYPE III	An outdoor mass gathering of more than 3,000 persons, any part of which is held outdoors and which continues or can reasonably be expected to continue for a period exceeding that allowable for an outdoor mass gathering as defined in ORS 433.735, subject to ORS 433.763	406.05(A)(1)

¹ Type II review is required except as established by Subsections 406.05(~~CD~~)(1)(h) or (i).

406.05 APPROVAL CRITERIA FOR SPECIFIC USES

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

A. General Criteria

1. The use may be allowed provided that:
 - a. The proposed use will not force a significant change in, or significantly increase the cost of, accepted farming or forest practices on agriculture or forest lands; and
 - b. The proposed use will not significantly increase fire hazard or significantly increase fire suppression costs or significantly increase risks to fire suppression personnel.
2. A written statement recorded with the deed or written contract with the County or its equivalent is obtained from the land owner that recognizes the rights of the adjacent and nearby land owners to conduct forest operations consistent with the Oregon Forest Practices Act and Rules.

3. The landowner for the dwelling shall sign and record in the deed records for the County a document binding the landowner, and the landowner's successors in interest, prohibiting them from pursuing a claim for relief or cause of action alleging injury from farming or forest practices for which no action or claim is allowed under Oregon Revised Statutes (ORS) 30.936 or 30.937.
4. An approval to construct a dwelling may be transferred to any other person after the effective date of the land use decision.
5. If road access to the use is by a road owned and maintained by a private party or by the Oregon Department of Forestry, the United States Bureau of Land Management (BLM), or the United States Forest Service (USFS), then the applicant shall provide proof of a long-term road access use permit or agreement. The road use permit may require the applicant to agree to accept responsibility for road maintenance.
6. A land division for the use may be approved pursuant to Subsection 406.09(D).

B. Farm and Forest Uses

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

12. Permanent facility for the primary processing of forest products that is:

- a. Located in a building or buildings that do not exceed 10,000 square feet in total floor area, or an outdoor area that does not exceed one acre excluding laydown and storage yards, or a proportionate combination of indoor and outdoor areas; and
- b. Adequately separated from surrounding properties to reasonably mitigate noise, odor and other impacts generated by the facility that adversely affect forest management and other existing uses.

~~C. Natural Resource Uses~~

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

~~DD.~~ Residential Uses

1. A lawfully established dwelling may be altered, restored, or replaced if
 - a. The dwelling to be altered, restored, or replaced has, or formerly had, the following features. "Formerly had" means that the dwelling possessed all

the listed features within three years prior to the date an application is submitted for a replacement dwelling.

- i. Intact exterior walls and roof structure;
 - ii. Indoor plumbing consisting of a kitchen sink, toilet, and bathing facilities connected to a sanitary waste disposal system;
 - iii. Interior wiring for interior lights; and
 - iv. A heating system; and
- b. The dwelling to be altered, restored, or replaced meets one of the following conditions:
- i. Unless the value of the dwelling was eliminated as a result of destruction or demolition, was assessed as a dwelling for purposes of ad valorem taxation since the later of:
 - A) Five years before the date of the application; or
 - B) The date that the dwelling was erected upon or fixed to the land and became subject to property tax assessment.
 - ii. If the value of the dwelling was eliminated as a result of destruction or demolition, was assessed as a dwelling for purposes of ad valorem taxation prior to the destruction or demolition and since the later of:
 - A) Five years before the date of the destruction or demolition; or
 - B) The date that the dwelling was erected upon or fixed to the land and became subject to property tax assessment
- c. For replacement of a lawfully established dwelling, the dwelling to be replaced must be removed, demolished, or converted to an allowable nonresidential use within three months from the date the replacement dwelling is certified for occupancy pursuant to ORS 455.055 or, in the case of a manufactured dwelling, within three months after the date of final inspection by County Building Codes.
- d. As a condition of approval, the applicant shall execute and cause to be recorded in the deed records a deed restriction prohibiting the siting of another dwelling on the lot of record. The restriction imposed is irrevocable unless the Planning Director places a statement of release in the deed records of the County to the effect that the provisions of ORS 215.283 and 215.291 regarding replacement dwellings have changed to allow the lawful siting of another dwelling.

- e. A replacement dwelling must:
 - i. Be sited on the same lot of record as the dwelling it is replacing;
 - ii. Comply with all applicable siting standards except as established by Subsection 406.05(~~CD~~)(1)(h)(iv); however, the standards may not be applied in a manner that prohibits the siting of the replacement dwelling; and
 - iii. Comply with applicable building codes, plumbing codes, sanitation codes, and other requirements relating to health and safety or to siting at the time of construction; ~~and~~
 - ~~iv. Comply with the construction provisions of Section R327 of the Oregon Residential Specialty Code, if:~~
 - ~~A) The dwelling is in an area identified as extreme or high wildfire risk on the statewide map of wildfire risk described in ORS 477.490; or~~
 - ~~B) No statewide map of wildfire risk has been adopted.~~
- f. Construction of the replacement dwelling must commence no later than four years after the approval of the replacement dwelling application becomes final.
- g. If an applicant is granted a deferred replacement permit, the deferred replacement permit does not expire but, notwithstanding Subsection 406.05(~~CD~~)(1)(c), the permit becomes void unless the dwelling to be replaced is removed or demolished within three months after the deferred replacement permit is issued; and the deferred replacement permit may not be transferred, by sale or otherwise, except by the applicant to the spouse or a child of the applicant.
- h. The alteration, restoration, or replacement of a lawfully established dwelling pursuant to Subsections 406.05(~~CD~~)(1)(a) through (g) requires review as a Type II application pursuant to Section 1307, *Procedures*, unless the dwelling to be altered, restored, or replaced:
 - i. Is the only dwelling on the lot of record other than a temporary dwelling approved pursuant to Section 1204, *Temporary Permits*, or an accessory dwelling supporting family forestry approved pursuant to Subsection 406.05(~~CD~~)(7);
 - ii. Currently has the features listed in Subsection 406.05(~~CD~~)(1)(a);
 - iii. Was lawfully established as demonstrated by:

- A) An issued County building or manufactured dwelling placement permit approved by the Planning Director; or
 - B) Assessment records of the County Department of Assessment and Taxation that demonstrate that the dwelling was constructed before the application to the subject property of the first farm, forest, or mixed farm and forest zoning district that restricted the development of dwellings; and
- iv. Will be sited no more than 100 feet from the dwelling to be replaced and is, therefore, exempt from Subsection 406.08(C). This distance shall be measured from the closest portion of each structure.
- i. Notwithstanding Subsections 406.05(~~CD~~)(1)(a) through (h), a lawfully established dwelling that is destroyed by wildfire may be replaced within 60 months when substantial evidence demonstrates that the dwelling to be replaced contained the features listed in Subsection 406.05(~~CD~~)(1)(a). Substantial evidence includes, but is not limited to, County Department of Assessment and Taxation data.
- i. The replacement dwelling must be certified for occupancy pursuant to ORS 455.055 or, in the case of a manufactured dwelling, have final inspection completed by County Building Codes, within 60 months of the date of destruction of the dwelling to be replaced.
 - ii. The dwelling to be replaced must be removed, demolished, or converted to an allowable nonresidential use within three months from the date the replacement dwelling is certified for occupancy pursuant to ORS 455.055 or, in the case of a manufactured dwelling, within three months after the date of final inspection by County Building Codes.
 - iii. The property owner of record at the time of the wildfire may reside on the subject property in an existing building, tent, travel trailer, yurt, recreational vehicle, or similar accommodation until replacement has been completed or the time for replacement has expired.
2. Lot of record dwelling, subject to the following criteria:
- a. The lot of record on which the dwelling will be sited was lawfully created prior to January 1, 1985.
 - b. The lot of record on which the dwelling will be sited was acquired by the present owner:
 - i. Prior to January 1, 1985; or

- ii. By devise or intestate succession from a person who acquired the lot or parcel prior to January 1, 1985.
 - iii. As used in Subsection 406.05(~~CD~~)(2)(b), “owner” includes the wife, husband, son, daughter, mother, father, brother, brother-in-law, sister, sister-in-law, son-in-law, daughter-in-law, mother-in-law, father-in-law, aunt, uncle, niece, nephew, stepparent, stepchild, grandparent, or grandchild of the owner, or a business entity owned by any one or a combination of these family members.
 - c. The tract on which the dwelling will be sited does not include a dwelling.
 - d. The lot of record on which the dwelling will be sited was not part of a tract that contained a dwelling on November 4, 1993.
 - e. The property is not capable of producing 5,000 cubic feet per year of commercial tree species.
 - f. The property is located within 1,500 feet of a public road, as defined under ORS 368.001 that provides or will provide access to the subject tract. The road shall be maintained and either paved or surfaced with rock and shall not be a BLM road, or a USFS road unless the road is paved to a minimum width of 18 feet, there is at least one defined lane in each direction, and a maintenance agreement exists between the USFS and the landowners adjacent to the road, a local government, or a state agency.
 - g. The proposed dwelling is not prohibited by this Ordinance or the Comprehensive Plan, or any other provisions of law.
 - h. When the lot or parcel on which the dwelling will be sited is part of a tract, the remaining portions of adjacent common ownership land shall remain in common ownership as long as the dwelling remains as approved.
 - i. The County Assessor's Office shall be notified of all approvals granted under Subsection 406.05(~~CD~~)(2).
3. Forest template dwelling, subject to the following criteria:
- a. No dwellings are allowed on other lots of record that make up the tract.
 - b. A deed restriction shall be recorded with the County Clerk stating no other lots of record that make up the tract may have a dwelling.
 - c. The tract on which the dwelling will be sited does not include a dwelling.
 - d. The lot of record upon which the dwelling is to be located was lawfully established.

- e. Any property line adjustment to the lot of record complied with the applicable provisions in Section 1107, *Property Line Adjustments*.
- f. Any property line adjustment to the lot of record after January 1, 2019, did not have the effect of qualifying the lot of record for a dwelling under Subsection 406.05(~~C~~)(3).
- g. If the lot of record on which the dwelling will be sited was part of a tract on January 1, 2019, no dwelling existed on the tract on that date, and no dwelling exists or has been approved on another lot of record that was part of the tract.
- h. The County Assessor's Office shall be notified of all approvals granted under Subsection 406.05(~~C~~)(3).
- i. The lot of record upon which the dwelling will be sited shall pass a template test, conducted as follows:
 - i. A 160 acre square template shall be centered upon the mathematical centroid of the subject tract. The template may be rotated around the centroid to the most advantageous position. After a position has been selected, the template shall remain fixed while lots of record and dwellings are counted. If the subject tract is larger than 60 acres and abuts a road or perennial stream, the 160 acre template shall be one-quarter mile wide by one mile long, be centered upon the mathematical centroid of the subject tract, and, to the maximum extent possible, have its length aligned with the road or perennial stream.
 - ii. If the predominant soil type on the subject tract has a forest production capability rating, as determined by the Natural Resources Conservation Service (NRCS) Internet Soils Survey of:
 - A) Less than 50 cubic feet per acre per year of wood fiber production, all or part of at least three other lots of record that existed on January 1, 1993, shall be within the template, and at least three lawfully established dwellings shall have existed on January 1, 1993, and continue to exist on the other lots of record within the template area; or
 - B) 50 to 85 cubic feet per acre per year of wood fiber production, all or part of at least seven other lots of record that existed on January 1, 1993, shall be within the template, and at least three lawfully established dwellings shall have existed on January 1, 1993, and continue to exist on the other lots of record within the template area; or
 - C) More than 85 cubic feet per acre per year of wood fiber production, all or part of at least 11 lots of record that existed on

January 1, 1993, shall be within the template, and at least three lawfully established dwellings shall have existed on January 1, 1993, and continue to exist on the other lots of record within the template area.

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

- A) Lots of record or dwellings located within an urban growth boundary;
- B) Temporary dwellings; and
- C) The subject lot of record.

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

4. 160 acre minimum forest dwelling, subject to the following criteria:
 - a. The tract on which the dwelling is to be sited is at least 160 acres.
 - b. The tract on which the dwelling will be sited does not include a dwelling.
 - c. The lot of record upon which the dwelling is to be located was lawfully created.
 - d. The County Assessor's Office shall be notified of all approvals granted under Subsection 406.05(~~CD~~)(4).
5. 200 acre noncontiguous dwelling, subject to the following criteria:
 - a. The tract on which the dwelling will be sited does not include a dwelling;
 - b. An owner of tracts that are not contiguous but are in Clackamas County adds together the acreage of two or more tracts that total 200 acres or more;

- c. The owner submits proof of an irrevocable deed restriction, recorded in the deed records of the county, for the tracts in the 200 acres. The deed restriction shall preclude all future rights to construct a dwelling on the tracts not supporting the proposed dwelling, or to use the tracts to total acreage for future siting of dwellings for present and any future owners unless the tract is no longer subject to protection under goals for agricultural and forest lands;
 - d. None of the lots of record or tracts used to total 200 acres may already contain a dwelling.
 - e. All lots of record or tracts used to total a minimum of 200 acres must have a Comprehensive Plan designation of Forest;
 - f. The lot of record upon which the dwelling is to be located was lawfully created;
 - g. The County Assessor's Office shall be notified of all approvals granted under Subsection 406.05(~~CD~~)(5).
6. One manufactured dwelling, residential trailer, or recreational vehicle may be used for care in conjunction with an existing dwelling for the term of a health hardship experienced by the existing resident or a relative of the resident. "Relative" means a child, parent, stepparent, grandchild, grandparent, stepgrandparent, sibling, stepsibling, niece, nephew or first cousin. Within three months of the end of the hardship, the manufactured dwelling, residential trailer, or recreational vehicle shall be removed or demolished. Department of Environmental Quality review and removal requirements also apply. A temporary residence approved under Subsection 406.05(~~CD~~)(6) is not eligible for replacement under Subsection 406.05(~~CD~~)(1).
7. Accessory dwelling supporting family forestry, subject to the following criteria:
- a. The new single-family dwelling unit will not be located in an urban or rural reserve established pursuant to OAR chapter 660, division 27;
 - b. The new single-family dwelling unit will be a manufactured home on a lot of record no smaller than 80 acres;
 - c. The new single-family dwelling unit will be on a lot of record that contains exactly one existing single-family dwelling unit that was lawfully:
 - i. In existence before November 4, 1993; or
 - ii. Approved under Oregon Administrative Rules (OAR) 660-006-027, ORS 215.130(6), ORS 215.705, or OAR 660-006-0025(3)(o);

- d. The shortest distance between any portion of the new single-family dwelling unit and any portion of the existing single-family dwelling unit is no greater than 200 feet;
- e. The new single-family dwelling unit shall use the same driveway entrance as the existing single-family dwelling unit, although the driveway may be extended;
- f. The lot of record is within a rural fire protection district organized under ORS chapter 478;
- g. The new single-family dwelling unit complies with the Oregon residential specialty code relating to wildfire hazard mitigation;
- h. As a condition of approval of the new single-family dwelling unit, in addition to the requirements of OAR 660-006-0029(5)(e), the property owner agrees to acknowledge and record in the deed records for the county, one or more instruments containing irrevocable deed restrictions that:
 - i. Prohibit the owner and the owner's successors from partitioning the property to separate the new single-family dwelling unit from the lot of record containing the existing single-family dwelling unit; and
 - ii. Require that the owner and the owner's successors manage the lot of record as a working forest under a written forest management plan, as defined in ORS 526.455 that is attached to the instrument;
- i. The existing single-family dwelling is occupied by the owner or a relative;
- j. The new single-family dwelling unit will be occupied by the owner or a relative;
- k. The owner or a relative occupies the new single-family dwelling unit to allow the relative to assist in the harvesting, processing or replanting of forest products or in the management, operation, planning, acquisition, or supervision of forest lots of record of the owner; and
- l. If a new single-family dwelling unit is constructed under Subsection 406.05(~~CD~~)(7), the new or existing dwelling unit may not be used for vacation occupancy as defined in ORS 90.100.
- m. As used in Subsection 406.05(~~CD~~)(7)(j), "owner or relative" means the owner of the lot of record, or a relative of the owner or the owner's spouse, including a child, parent, stepparent, grandchild, grandparent, stepgrandparent, sibling, stepsibling, niece, nephew, or first cousin of either.

DE. Commercial Uses

1. The home occupation shall not unreasonably interfere with other uses permitted in the zoning district in which the subject property is located and shall not be used as justification for a zone change.
2. Private accommodations for fishing occupied on a temporary basis may be allowed subject to the following:
 - a. Accommodations limited to no more than 15 guest rooms as that term is defined in the Oregon Structural Specialty Code; and
 - b. Only minor incidental and accessory retail sales are permitted; and
 - c. Accommodations occupied temporarily for the purpose of fishing during fishing seasons authorized by the Oregon Fish and Wildlife Commission; and
 - d. Accommodations must be located within one-quarter mile of fish bearing Class I waters.
3. Private seasonal accommodations for fee hunting operations may be allowed subject to the following:
 - a. Accommodations are limited to no more than 15 guest rooms as that term is defined in the Oregon Structural Specialty Code; and
 - b. Only minor incidental and accessory retail sales are permitted; and
 - c. Accommodations are occupied temporarily for the purpose of hunting during game bird and big game hunting seasons authorized by the Oregon Fish and Wildlife Commission.

~~F. Mineral, Aggregate, Oil, and Gas Uses~~

- ~~1. Mining and processing of oil, gas, or other subsurface resources, as defined in ORS chapter 520 and mining and processing of aggregate and mineral resources as defined in ORS chapter 517;~~
- ~~2. Exploration for and production of geothermal, gas, oil, and other associated hydrocarbons, including the placement and operation of compressors, separators, and other customary production equipment for an individual well adjacent to a well head;~~

EG. Transportation Uses

1. Roads, highways, and other transportation facilities and improvements not otherwise allowed under this Ordinance, with:

- a. The adoption of an exception to the goal related to forest lands and to any other applicable goal with which the facility or improvement does not comply; or
- b. Compliance with ORS 215.296 for those uses identified by rule of the Oregon Land Conservation and Development Commission as provided in Oregon Laws 1993, chapter 529, section 3.

FH. Utility and Solid Waste Disposal Facility Uses

- 1. Wind energy power production systems as an accessory use, provided:
 - a. The system is not a commercial power generating facility;
 - b. No turbine has an individual rated capacity of more than 100kW, nor does the cumulative total rated capacity of the turbines comprising the installation exceed 100 kW;
 - c. The system complies with the Oregon Department of Environmental Quality noise standards otherwise applicable to commercial and industrial uses for quiet areas, measured at the nearest property line of the noise-sensitive use. This may be demonstrated through information provided by the manufacturer;
 - d. The system is prohibited if tower lighting for aviation safety is required;
 - e. The system will be located outside an urban growth boundary on a minimum of one acre;
 - f. The system does not exceed 150 feet in height from base to the height of the tower plus one blade;
 - g. The system is set back a distance not less than the tower height plus one blade from all property lines; and
 - h. Roof mounted system towers shall extend no more than an additional five feet above the highest ridge of a building's roof or 15 feet above the highest eave, whichever is higher, but shall not exceed 150 feet in height from finished grade.
- ~~2. Commercial utility facilities for the purpose of generating power. A power generation facility shall not preclude more than 10 acres from use as a commercial forest operation unless an exception is taken pursuant to OAR chapter 660, division 4.~~

~~3. New electric transmission lines with right-of-way widths of up to 100 feet as specified in ORS 772.210. New distribution lines (i.e., gas, oil, geothermal, telephone, fiber optic cable) with rights-of-way 50 feet or less in width.~~

24. Television, microwave, and radio communication facilities and transmission towers, provided the base of a transmission tower~~such structure~~ shall not be closer to the lot~~property~~ line than a distance equal to the height of the tower.

~~G~~. Parks, Public, and Quasi-Public Uses

1. Private parks and campgrounds: Campgrounds in private parks shall only be those allowed by Subsection 406.05(~~G~~)(1). A campground is an area devoted to overnight temporary use for vacation, recreational, or emergency purposes, but not for residential purposes and is established on a site or is contiguous to lands with a park or other outdoor natural amenity that is accessible for recreational use by the occupants of the campground, subject to the following:
 - a. Except on a lot of record contiguous to a lake or reservoir, campgrounds shall not be allowed within three miles of an urban growth boundary unless an exception is approved pursuant to ORS 197.732 and OAR chapter 660, division 4.
 - b. A campground shall be designed and integrated into the rural agricultural and forest environment in a manner that protects the natural amenities of the site and provides buffers of existing native trees and vegetation or other natural features between campsites.
 - c. Campsites may be occupied by a tent, travel trailer, yurt, or recreational vehicle.
 - d. Separate sewer, water, or electric service hook-ups shall not be provided to individual campsites except that electrical service may be provided to yurts allowed for by Subsection 406.05(~~G~~)(1)(g).
 - e. Campgrounds authorized by Subsection 406.05(~~G~~)(1) shall not include intensively developed recreational uses such as swimming pools, tennis courts, retail stores, or gas stations.
 - f. Overnight temporary use in the same campground by a camper or camper's vehicle shall not exceed a total of 30 days during any consecutive six-month period.
 - g. A private campground may provide yurts for overnight camping. No more than one-third or a maximum of 10 campsites, whichever is smaller, may include a yurt. The yurt shall be located on the ground or on a wood floor with no permanent foundation. As used in Subsection 406.05(~~G~~)(1), "yurt" means a round, domed shelter of cloth or canvas on a collapsible

frame with no plumbing, sewage disposal hook-up, or internal cooking appliance.

2. ~~Public parks including only the uses specified under OAR 660-034-0035 or 660-034-0040, whichever is applicable.~~ A public park may be established consistent with the provisions of ORS 195.120. If the subject property has a local park master plan adopted as part of the Comprehensive Plan, the park is also subject to Section 714, *Special Use Overlay District*.

406.06 PROHIBITED USES

~~A.~~ Uses of structures and land not specifically permitted are prohibited.

~~B. An agricultural building, as defined in Oregon Revised Statutes 455.315, customarily provided in conjunction with farm use or forest use may not be converted to another use.~~

406.07 DIMENSIONAL STANDARDS

- A. Minimum Lot Size: New lots of record shall be a minimum of 80 acres in size, except as provided in Subsection 406.09. For the purpose of complying with the minimum lot size standard, lots of record with street frontage on County or public road rights-of-way may include the land area between the front lot line and the centerline of the County or public road right-of-way.
- B. Minimum Front Setback: 30 feet.
- C. Minimum Side Setback: 10 feet.
- D. Minimum Rear Setback: 30 feet; however, accessory buildings shall have a minimum rear yard setback of 10 feet.
- E. Modifications: Modifications to dimensional standards are established by Sections 800, *Special Uses*; 903, *Setback Exceptions*; 1107, *Property Line Adjustments*; and 1205, *Variances*.

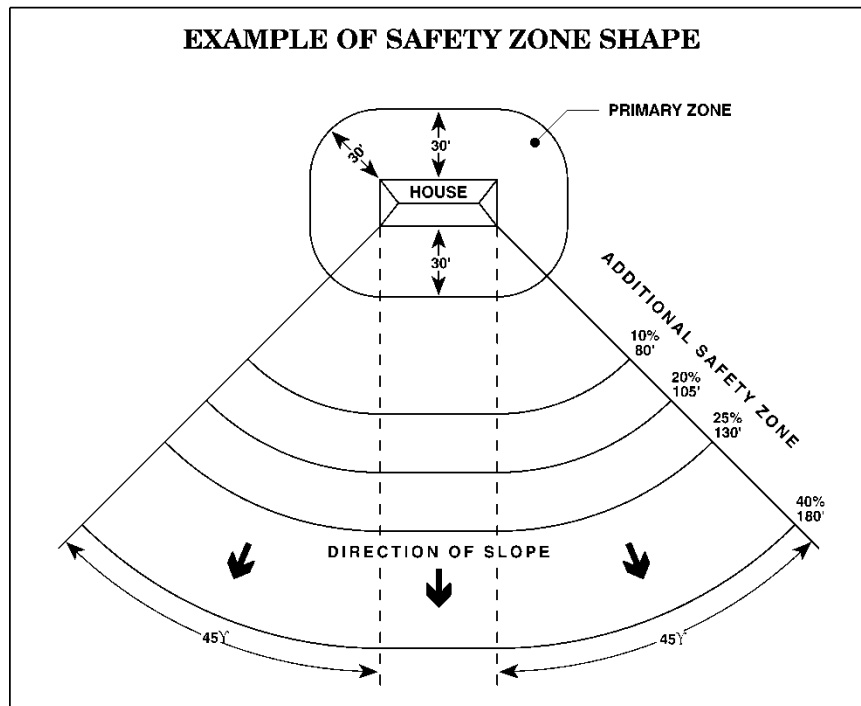
406.08 DEVELOPMENT STANDARDS

- A. Fire-Siting Standards for New Structures: Fuel-free break standards shall be provided surrounding any new structure ~~approved after April 28, 1992, pursuant to a land use application~~, as follows:
 1. A primary fuel-free break area shall be maintained surrounding any new structure, including any new dwelling.

- a. The primary safety zone is a fire fuel break extending a minimum distance around structures. The minimum distance is established by Table 406-2, *Minimum Primary Safety Zone* and Figure 406-1, *Example of Primary Safety Zone*. The goal within the primary safety zone is to remove fuels that will produce flame lengths in excess of one foot. Vegetation within the primary safety zone may include green lawns and shrubs less than 24 inches in height. Trees shall be spaced with greater than 15 feet between the crowns and pruned to remove dead and low (less than eight feet) branches. Accumulated leaves, needles, limbs and other dead vegetation shall be removed from beneath trees. Nonflammable materials (i.e., rock) instead of flammable materials (i.e., bark mulch) shall be placed next to the structure. As slope increases, the primary safety zone shall increase away from the structure and down the slope at a 45-degree angle from the structure, in accordance with Table 406-2 and Figure 406-1:

Table 406-2: Minimum Primary Safety Zone

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

Figure 406-1: Example of Primary Safety Zone

2. For any new dwelling, a secondary fuel-free break area shall be cleared and maintained on land surrounding the dwelling that is owned or controlled by the owner.
 - a. The secondary fuel-free break extends around the primary safety zone required pursuant to Subsection 406.08(A)(1). The goal of the secondary fuel-free break shall be to reduce fuels so that the overall intensity of any wildfire would be lessened and the likelihood of crown fires and crowning is reduced. Vegetation within the secondary fuel-free break shall be pruned and spaced so that fire will not spread between crowns of trees. Small trees and brush growing underneath larger trees shall be removed to prevent spread of fire up into the crowns of the larger trees. Dead fuels shall be removed. The minimum width of the secondary fuel-free break shall be the lesser of:
 - i. 100 feet; or
 - ii. The distance from the dwelling to the edge of land surrounding the dwelling that is owned or controlled by the owner.

3. Structures within a River and Stream Conservation Area or the Willamette River Greenway shall be sited consistent with the requirements of Sections 704, *River and Stream Conservation Area (RSCA)* and 705, *Willamette River Greenway (WRG)*, respectively. Structures shall be sited so that a primary safety zone can be completed around the structure outside of the river or stream corridor setback/buffer area. The area within the river or stream setback/buffer area shall be exempt from the secondary fuel-free break area requirements.
 4. The fuel-free break standards shall be completed and approved prior to issuance of any septic, building, or manufactured dwelling permits. Maintenance of the fuel-free breaks shall be the continuing responsibility of the property owner.
- B. Additional Fire-Siting Standards for New Dwellings: The following fire-siting standards shall apply to any new dwelling ~~approved pursuant to a land use application based on standards in effect on or after February 5, 1990:~~
1. The dwelling shall be located upon a parcel within a fire protection district or shall be provided with residential fire protection by contract. If the dwelling is not within a fire protection district, the applicant shall provide evidence that the applicant has asked to be included within the nearest such district. If inclusion within a fire protection district or contracting for residential fire protection is impracticable, an alternative means for protecting the dwelling from fire hazards shall be provided. The means selected may include a fire sprinkling system, onsite equipment and water storage, or other methods that are reasonable, given the site conditions. If a water supply is required for fire protection, it shall be a swimming pool, pond, lake, or similar body of water that at all times contains at least 4,000 gallons or a stream that has a continuous year round flow of at least one cubic foot per second. The applicant shall provide verification from the Oregon Water Resources Department that any permits or registrations required for water diversion or storage have been obtained or that permits or registrations are not required for the use. Road access shall be provided to within 15 feet of the water's edge for firefighting pumping units. The road access shall accommodate the turnaround of firefighting equipment during the fires season. Permanent signs shall be posted along the access route to indicate the location of the emergency water source.
 2. The dwelling shall have a fire retardant roof.
 3. The dwelling shall not be sited on a slope of greater than 40 percent.
 4. If the dwelling has a chimney or chimneys, each chimney shall have a spark arrester.

C. Compatibility Siting Standards: The following compatibility siting standards shall apply to any new structure, including any new dwelling, ~~approved pursuant to a land use application based on standards in effect on or after April 28, 1994:~~

1. Structures shall be sited on the subject property so that:
 - a. They have the least impact on nearby or adjoining forest or agricultural lands;
 - b. The siting ensures that adverse impacts on forest operations and accepted farming practices on the tract will be minimized;
 - c. The amount of forest lands used to site access roads, service corridors, and structures is minimized; and
 - d. The risks associated with wildfire are minimized.
2. Siting criteria satisfying Subsection 406.08(C)(1) may include setbacks from adjoining properties, clustering near or among existing structures, siting close to existing roads, and siting on that portion of the subject property least suited for growing trees.

D. The applicant shall provide evidence that the domestic water supply is from a source authorized in accordance with the Oregon Water Resources Department's (OWRD) administrative rules for the appropriation of ground water or surface water and not from a Class II stream as defined in the Oregon Forest Practices Rules (OAR chapter 629). Evidence of a domestic water supply means:

- a. Verification from a water purveyor that the use described in the application will be served by the purveyor under the purveyor's rights to appropriate water;
- b. A water use permit issued by the OWRD for the use described in the application; or
- c. Verification from the OWRD that a water use permit is not required for the use described in the application. If the proposed water supply is from a well and is exempt from permitting requirements under Oregon Revised Statutes 537.545, the applicant shall submit the well constructor's report to the County upon completion of the well.

E. Approval of a dwelling shall be subject to the following requirements:

1. The owner of the tract shall plant a sufficient number of trees on the tract to demonstrate that the tract is reasonably expected to meet Department of Forestry stocking requirements at the time specified in Department of Forestry administrative rules.

2. The Planning Director shall notify the County Assessor of the above condition at the time the dwelling is approved.
3. If the lot or parcel is more than 10 acres, the property owner shall submit a stocking survey report to the County Assessor and the Assessor will verify that the minimum stocking requirements have been met by the time required by Department of Forestry administrative rules.
4. Upon notification by the County Assessor, the Department of Forestry will determine whether the tract meets minimum stocking requirements of the Forest Practices Act. If the Department of Forestry determines that the tract does not meet those requirements, that department will notify the owner and the County Assessor that the land is not being managed as forest land. The County Assessor will then remove the forest land designation pursuant to ORS 321.359 and impose the additional tax.

406.09 LAND DIVISIONS

Land divisions are permitted, if consistent with one of the following options and Subsections 1105.01(A) and 1105.1~~2~~⁴. A land division pursuant to Subsection 406.09(A) shall require review of a Type I application pursuant to Section 1307, *Procedures*. A land division pursuant to Subsection 406.09(B), (C), (D), (E), (F) or (G) shall require review of a Type II application pursuant to Section 1307.

- A. 80-Acre Minimum Lot Size Land Divisions: A land division may be approved if each new lot of record is a minimum of 80 acres in size, as established by Subsection 406.07(A).
- B. Multiple Dwelling Land Divisions: A lot of record may be divided subject to Subsection 406.05(A)(2) and the following provisions:
 1. At least two lawfully established dwellings existed on the lot of record prior to November 4, 1993;
 2. Each dwelling complies with the criteria for a replacement dwelling under Subsection 406.05(~~C~~^D)(1);
 3. Except for one lot or parcel, each lot or parcel created under this provision is not less than two nor greater than five acres in size;
 4. At least one of the existing dwellings is located on each lot or parcel created under this provision;
 5. The landowner of a lot or parcel created under this provision provides evidence that a restriction has been recorded in the Deed Records for Clackamas County that states the landowner and the landowner's successors in interest are prohibited from further dividing the lot or parcel. This restriction shall be irrevocable unless released by the Planning Director indicating the

land is no longer subject to the statewide planning goals for lands zoned for Forest use;

6. A lot of record may not be divided under this provision if an existing dwelling on the lot of record was approved through:
 - a. A statute, an administrative rule, or a land use regulation that prohibited or required removal of the dwelling or prohibited a subsequent land division of the lot of record; or
 - b. A farm use zone provision that allowed both farm and forest uses in a mixed farm and forest use zone under Goal 4 (*Forest Lands*);
 7. Existing structures shall comply with the minimum setback standards of Subsections 406.07(B) through (D) from new property lines; and
 8. The landowner shall sign a statement that shall be recorded with the County Clerk, declaring that the landowner and the landowner's successors in interest will not in the future complain about accepted farming or forest practices on nearby lands devoted to farm or forest use.
- C. Homestead Dwelling Land Division: A land division may be approved for the establishment of a parcel for an existing dwelling, subject to the following criteria:
1. The parcel established for the existing dwelling shall not be larger than five acres, except as necessary to recognize physical factors such as roads or streams, in which case the parcel shall be no larger than 10 acres;
 2. The dwelling existed prior to June 1, 1995;
 3. The remaining parcel, not containing the existing dwelling, is:
 - a. At least 80 acres; or
 - b. The remaining parcel, not containing the existing dwelling, is consolidated with another parcel, and together the parcels total at least 80 acres;
 4. The remaining parcel, not containing the existing dwelling, is not entitled to a dwelling unless subsequently authorized by law or goal;
 5. The landowner shall provide evidence that an irrevocable deed restriction on the remaining parcel, not containing the existing dwelling, has been recorded with the County Clerk. The restriction shall state that the parcel is not entitled to a dwelling unless subsequently authorized by law or goal and shall be irrevocable unless a statement of release is signed by the Planning Director that the law or goal has changed in such a manner that the parcel is no longer subject to statewide planning goals pertaining to agricultural or forest land; and

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

- d. May not result in a parcel of less than 35 acres, unless the purpose of the land division is to:
 - i. Facilitate an exchange of lands involving a governmental agency; or
 - ii. Allow transactions in which at least one participant is a person with a cumulative ownership of at least 2,000 acres of forest land; and
- e. The landowner shall sign a statement that shall be recorded with the County Clerk, declaring that the landowner and the landowner's successors in interest will not in the future complain about accepted farming or forest practices on nearby lands devoted to farm or forest use.

G. Land Divisions Along an Urban Growth Boundary: A division of a lot of record may occur along an urban growth boundary where the parcel remaining outside the urban growth boundary is zoned AG/F or TBR and is smaller than 80 acres, subject to the following criteria:

- 1. If the parcel contains a dwelling, the parcel must be large enough to support continued residential use.
- 2. If the parcel does not contain a dwelling, the parcel:
 - a. Is not eligible for siting a dwelling, except as may be authorized under ORS 195.120;
 - b. May not be considered in approving or denying an application for any other dwelling;
 - c. May not be considered in approving a redesignation or rezoning of forest lands, except to allow a public park, open space, or other natural resource use; and
 - d. The owner of the parcel shall record with the county clerk an irrevocable deed restriction prohibiting the owner and all successors in interest from pursuing a cause of action or claim of relief alleging injury from farming or forest practices for which a claim or action is not allowed under ORS 30.936 or 30.937.

~~406.10 — SUBMITTAL REQUIREMENTS~~

~~In addition to the submittal requirements identified in Subsection 1307.07(C), an application for any use requiring review of a Type I or II application shall include an accurate site plan drawn to scale on eight and one-half inch by 11-inch or eight and one-half inch by 14-inch paper, showing the subject property and proposal.~~

406.10~~1~~ APPROVAL PERIOD AND TIME EXTENSION

- A. Land Divisions~~Approval Period~~: Approval of ~~ana Type I or II~~ application for a land division is valid for ~~six~~four years from the date of the final written decision. If the County's final written decision is appealed, the approval period shall commence on the date of the final appellate decision. During this ~~six~~four-year period, the approval shall be implemented. "Implemented" means:

1. ~~For a land division~~, the final plat shall be recorded with the County Clerk. If a final plat is not required under ~~ORS~~Oregon Revised Statutes chapter 92, deeds with the legal descriptions of the new lots of record~~parcels~~ shall be recorded with the County Clerk.;

B. Replacement Dwellings:

2. ~~For~~Approval of a replacement dwelling ~~approved~~ pursuant to Subsection 406.01(D)(1); is valid for four years from the date of the final written decision. If the County's final written decision is appealed, the approval period shall commence on the date of the final appellate decision. During this four-year period, the approval shall be implemented. "Implemented" means a building or manufactured dwelling placement permit for the replacement dwelling shall be obtained and maintained and construction of the replacement dwelling shall have commenced.;
3. ~~For all other applications, a building or manufactured dwelling placement permit for a new primary structure that was the subject of the application shall be obtained and maintained. If no building or manufactured dwelling placement permit is required, all other necessary County development permits shall be obtained and maintained.~~

C. Other Dwellings:

1. Approval of a dwelling pursuant to Subsection 406.05(C), (3), (4), or (5), or for a caretaker residence for a public park or public fish hatchery, is valid for four years from the date of the final written decision. If the County's final written decision is appealed, the approval period shall commence on the date of the final appellate decision. During this four-year period, the approval shall be implemented. "Implemented" means a building or manufactured dwelling placement permit for the dwelling shall be obtained and maintained.
2. An extension of a permit described in Subsection 406.10(C)(1) is valid for two years provided that the applicant submits a written request for the extension prior to the expiration of the initial approval period.
3. A maximum of five additional one-year extensions of a permit shall be approved if:
 - a. The applicant makes a written request for the additional extension prior to the expiration of the extension;

- b. The applicable residential development statute has not been amended following the approval of the permit; and
 - c. An applicable rule or land use regulation has not been amended following the issuance of the permit, unless allowed by the County, which may require that the applicant comply with the amended rule or land use regulation.
- D. Approval of any other application is valid for two years from the date of the final written decision. If the County's final written decision is appealed, the approval period shall commence on the date of the final appellate decision. During this two-year period, the approval shall be implemented.
 - 1. "Implemented" means all major development permits shall be obtained and maintained for the approved land use, or if no major development permits are required to complete the development contemplated by the approved land use application, "implemented" means all other necessary County development permits (e.g., grading permit, building permit for an accessory structure) shall be obtained and maintained. A major development permit is:
 - a. A building permit for a new primary structure that was part of the land use approval; or
 - b. A permit issued by the County for parking lot or road improvements required by the land use approval.
 - 2. One extension period of up to 12 months shall be approved if:
 - a. An applicant makes a written request for an extension of the development approval period;
 - b. The request is submitted to the County prior to the expiration of the approval period;
 - c. The applicant states reasons that prevented the applicant from beginning or continuing development within the approval period; and
 - d. The County determines that the applicant was unable to begin or continue development during the approval period for reasons for which the applicant was not responsible.
 - 3. Additional one-year extensions shall be authorized subject to compliance with Subsections 406.10(D)(3)(a) through (d) and where applicable criteria for the decision have not changed.
- E. An extension pursuant to Subsection 406.10(C)(3), (D)(2), or (D)(3) requires review as a Type II application pursuant to Section 1307, *Procedures*. The

decision is an administrative decision, is not a land use decision as described in ORS 197.015, and is not subject to appeal as a land use decision.

~~B. Time Extension: Except for approval of a Type II application for a replacement dwelling pursuant to Subsection 406.05(D)(1), if the approval of a Type I or II application is not implemented within the initial approval period established by Subsection 406.11(A), a two-year time extension may be approved pursuant to Section 1310, *Time Extension*.~~

~~FC. Exceptions: Subsections 406.10(D) overrides any other potentially applicable approval period standard in other sections of this Ordinance except that 406.11(A) and (B) do not apply to home occupations and or temporary dwellings for care, which shall be subject to the any applicable approval period and time extension provisions of Sections 822, *Home Occupations*, or 1204, *Temporary Permits*, respectively.~~

[Amended by Ord. ZDO-224, 05/31/2011; Amended by Ord. ZDO-230, 09/26/2011; Amended by Ord. ZDO-234, 06/07/2012; Amended by Ord. ZDO-245, 07/01/2013; Amended by Ord. ZDO-247, 03/01/2014; Amended by Ord. ZDO-248, 10/13/2014; Amended by Ord. ZDO-254, 01/04/2016; Amended by Ord. ZDO-262, 05/23/2017; Amended by Ord. ZDO-266, 05/23/2018; Amended by Ord. ZDO-268, 10/02/2018; Amended by Ord. ZDO-276, 10/01/2020; Amended by Ord. ZDO-280, 10/23/2021; Amended by Ord. ZDO-283, 09/05/2023; Amended by Ord. ZDO-286, 11/20/2023; Amended by Ord. ZDO-285, 09/03/2024]

407 AG/FOREST DISTRICT (AG/F)

407.01 PURPOSE

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

407.02 APPLICABILITY

Section 407 applies to land in the Ag/Forest (AG/F) District.

~~**407.03 DEFINITIONS**~~

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

407.034 USES PERMITTED

Uses permitted in the AG/F District are those allowed in the EFU District, subject to Section 401, *Exclusive Farm Use District (EFU)*, and those allowed in the TBR District, subject to Section 406, *Timber District (TBR)*. However, the following limitations apply listed in Table 407-1, *Permitted Uses in the AG/F District*.

~~A. As used in Table 407-1:~~

- ~~1. “A” means the use is allowed.~~
- ~~2. “Type I” means the use requires review of a Type I application, pursuant to Section 1307, *Procedures*.~~
- ~~3. “Type II” means the use requires review of a Type II application pursuant to Section 1307.~~
- ~~4. “Type III” means the use requires review of a Type III application, pursuant to Section 1307.~~
- ~~5. “C” means the use is a conditional use, approval of which is subject to Section 1203, *Conditional Uses*.~~
- ~~6. The “Subject To” column identifies any specific provisions of Subsection 401.05 or 406.05 to which the use is subject.~~
- ~~7. Numbers in superscript correspond to the notes that follow Table 407-1.~~

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

~~AC.~~ Dwellings are subject to the applicable provisions of Section 401; ~~Exclusive Farm Use District (EFU)~~, if the predominant use of the subject tract was agriculture on January 1, 1993. Dwellings are subject to the applicable provisions of Section 406; ~~Timber District (TBR)~~, if the predominant use of the subject tract was forestry on January 1, 1993.

~~B. If a use, other than a dwelling, is allowed by both Section 401 and Section 406, the use shall comply with the applicable standards of both sections. If there is a conflict between a standard in Section 401 and a standard in Section 406, to the extent that it is not possible for a use to comply with both, the most restrictive standard shall apply.~~

Table 407-1: Permitted Uses in the AG/F District

	Type	Use	Subject To
<u>FARM AND FOREST USES</u>	A	Forest operations or forest practices including, but not limited to, reforestation of forest land, road construction and maintenance, harvesting of a forest tree species, application of chemicals and disposal of slash where such uses pertain to forest uses and operations. Inside the Portland Metropolitan Urban Growth Boundary, refer to Subsection 1002.02 regarding a development restriction that may apply if excessive tree removal occurs.	
	A	Temporary on-site structures which are auxiliary to and used during the term of a particular forest operation.	
	A	Physical alterations to the land auxiliary to forest practices including, but not limited to, those made for the purposes of exploration, mining, commercial gravel extraction and processing, landfills, dams, reservoirs, road construction, or recreational facilities.	
	A	Farm use as defined in Oregon Revised Statutes (ORS) 215.203. Marijuana production is subject to Section 841, ~~Marijuana Production, Processing, and Retailing.~~	
	A	Uses and structures customarily accessory and incidental to a farm or forest use, only if the primary farm or forest use exists.	
	TYPE II	Temporary portable facility for the primary processing of forest products.	406.05(B)(1)
	TYPE II	A facility for the processing of farm products. Marijuana processing is subject to Section 841. ⁴	401.05(B)(1) & (2)
	C	Permanent facility for the primary processing of forest products.	406.05(A)(1), (6) & (B)(2)
	C	Permanent facilities for logging equipment repair and storage.	406.05(A)(1) & (6)

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	C	Log scaling and weigh stations.	406.05(A)(1) & (6)
	Type	Use	Subject To
<u>NATURAL RESOURCE USES</u>	A	Uninhabitable structures accessory to fish and wildlife enhancement.	
	A	Creation of, restoration of, or enhancement of wetlands.	
	TYPE II	The propagation, cultivation, maintenance, and harvesting of aquatic species that are not under the jurisdiction of the Oregon Fish and Wildlife Commission.	401.05(A)(1)
	C	Forest management research and experimentation facilities.	406.05(A)(1) & (C)(1)
<u>RESIDENTIAL USES</u>	A	Uses and structures customarily accessory and incidental to a dwelling, only if a lawfully established dwelling exists.	
	Varies	Dwellings	407.04(C)
	TYPE II	Temporary forest labor camp for a period not to exceed one year.	
	TYPE II	Room and board arrangements for a maximum of five unrelated persons in existing dwellings.	401.05(A)(1) & (3)
	TYPE II	Residential home as defined in ORS 197.660, in existing dwellings.	401.05(A)(1) & (3)
	Type	Use	Subject To
<u>COMMERCIAL USES</u>	A	Family child care home.	
	A	Dog training classes.	401.05(D)(6)
	A	Dog testing trials.	401.05(D)(7)
	TYPE I	A license for an approved cider business, farm brewery, or winery to carry out the first six days of the 18-day limit for agri-tourism and other commercial events, subject to: ORS 215.451(6)(a) for a cider business; ORS 215.449(6)(a) for a farm brewery; and ORS 215.237 and 215.452(6)(a) for a winery.	
	TYPE II	Farm stands	401.05(D)(8)
	TYPE II	Home occupation, subject to Section 822, <i>Home Occupations</i>.	406.05(A)(1), (2), (5) & (E)(1)
	TYPE II	A landscape contracting business.	401.05(A)(1) & (D)(2)
	TYPE I	Expedited license for a single agri-tourism or other commercial event or activity on a tract in a calendar year, subject to ORS 215.237 and 215.283(4)(b), (6)(a), and (6)(c)	
	TYPE II	Single agri-tourism or other commercial event or activity on a tract in a calendar year, subject to ORS 215.237 and 215.283(4)(a), (6)(a), and (6)(c)	401.05(A)(1) & (D)(3)
	TYPE II	Up to six agri-tourism or other commercial events or activities on a tract in a calendar year, subject to ORS 215.237 and 215.283(4)(c) and (6)	401.05(A)(1) & (D)(3)
	C	Up to 18 agri-tourism or other commercial events or activities on a lot of record that is a minimum of 80 acres, subject to ORS 215.237 and 215.283(4)(d), (5), (6)(a), and (6)(c)	401.05(A)(1) & (D)(3)
	TYPE II	A cider business as described in and subject to ORS 215.451.	

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<u>COMMERCIAL USES (cont.)</u>	TYPE II	~~A farm brewery as described in and subject to ORS 215.449.~~	
	TYPE II	~~A winery as described in and subject to ORS 215.452 or 215.453, whichever is applicable, but not a restaurant open more than 25 days per calendar year.~~	
	TYPE II	~~A large winery with a restaurant in conjunction with a winery as described in ORS 215.453 that is open to the public for more than 25 days in a calendar year or; agri-tourism or other commercial events in conjunction with a winery as described in ORS 215.453 that occur on more than 25 days in a calendar year.~~	~~401.05(A)(1)~~
	TYPE II	~~A bed and breakfast facility as a home occupation in association with a cider business, farm brewery, or winery, subject to: ORS 215.448 and ORS 215.451(10) for a cider business; ORS 215.448 and ORS 215.449(10) for a farm brewery; and ORS 215.448 and either ORS 215.452 or 215.453, whichever is applicable, for a winery.~~	~~401.05(A)(1) & (D)(4)~~
	TYPE II	~~Cider business, farm brewery, or winery agri-tourism or other commercial events for days seven through 18 of the 18-day limit, subject to: ORS 215.451(6)(c) for a cider business; ORS 215.449(6)(c) for a farm brewery; and ORS 215.237 and 215.452(6)(c) for a winery.~~	
	TYPE II	~~Equine and equine-affiliated therapeutic and counseling activities.³~~	~~401.05(A)(1) & (D)(9)~~
	G	~~Home occupation to host events, subject to Section 806, <i>Home Occupation to Host Events</i>.~~	~~406.05(A)(1), (2), (5) & (E)(1)~~
	G	~~Commercial activities in conjunction with farm use that exceed the standards of ORS 215.203(2)(b)(K) or Subsection 401.05(B)(1), such as the processing of farm crops into biofuel.⁴~~	~~401.05(A)(1)~~
	G	~~Private accommodations for fishing on a temporary basis.~~	~~406.05(A)(1), (2), (5) & (E)(2)~~
	G	~~Private seasonal accommodations for fee-based hunting.~~	~~406.05(A)(1), (5) & (E)(3)~~
	G	~~An aerial fireworks display business.~~	~~401.05(A)(1) & (D)(5)~~
	G	~~Commercial dog boarding kennels.~~	~~401.05(A)(1)~~
	G	~~Dog training classes or testing trials that cannot be established under Subsection 401.05(D)(6) or (7).~~	~~401.05(A)(1)~~
	Type	Use	Subject To
<u>MINERAL, AGGREGATE, OIL, AND GAS USES</u>	A	~~Exploration for mineral and aggregate resources as defined in ORS chapter 517 and subject to the requirements of the Department of Geology and Mineral Industries.~~	
	A	~~Operations for the exploration for, and production of, geothermal resources as defined by ORS 522.005 and oil and gas as defined by ORS 520.005, including the placement and operation of compressors, separators and other customary production equipment for an individual well adjacent to a wellhead. Any activities or construction relating~~	

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<u>MINERAL, AGGREGATE, OIL, AND GAS USES (cont.)</u>		~~to such operations shall not be a basis for an exception under ORS 197.732(1)(a) or (b).~~	
	A	~~Operations for the exploration for minerals as defined by ORS 517.750. Any activities or construction relating to such operations shall not be a basis for an exception under ORS 197.732(1)(a) or (b).~~	
	G	~~Operations conducted for mining, crushing, or stockpiling of aggregate and other mineral and other subsurface resources subject to ORS 215.298.~~	~~401.05(A)(1), (E)(1) & (E)(1)(a)~~
	G	~~Processing as defined by ORS 517.750 of aggregate into asphalt or Portland cement.~~	~~401.05(A)(1), (E)(1) & (E)(1)(b)~~
	G	~~Processing of other mineral resources and other subsurface resources.~~	~~401.05(A)(1), (E)(1) & (E)(1)(c)~~
	G	~~Operations conducted for mining and processing of geothermal resources as defined by ORS 522.005 and oil and gas as defined by ORS 520.005 not otherwise permitted under Section 407.~~	~~401.05(A)(1), (E)(1) & (E)(1)(d)~~
	G	~~Mining and processing of oil, gas, or other subsurface resources.~~	~~406.05(A)(1), (6) & (F)(1)~~
	G	~~Exploration for and production of geothermal, gas, and oil.~~	~~406.05(A)(1), (6) & (F)(2)~~
<u>TRANSPORTATION USES</u>	Type	Use	Subject To
	A	~~Widening of roads within existing rights of way in conformance with Chapter 5, <i>Transportation System Plan</i>, of the Comprehensive Plan.~~	
	A	~~Climbing and passing lanes within the right of way existing as of July 1, 1987.~~	
	A	~~Reconstruction or modification of public roads and highways, including the placement of utility facilities overhead and in the subsurface of public roads and highways along the public right-of-way, but not including the addition of travel lanes, where no removal or displacement of buildings would occur, or no new land parcels result.~~	
	A	~~Temporary public road and highway detours that will be abandoned and restored to original condition or use at such time as no longer needed.~~	
	A	~~Minor betterment of existing public road and highway related facilities such as maintenance yards, weigh stations, and rest areas, within right of way existing as of July 1, 1987, and contiguous public-owned property utilized to support the operation and maintenance of public roads and highways.~~	
	TYPE II	~~Parking of up to seven dump trucks and seven trailers, subject to ORS 215.311.~~	~~406.05(A)(1)~~
	TYPE II	~~Parking of no more than seven log trucks, subject to ORS 215.311.~~	~~401.05(A)(1)~~
	TYPE II	~~Construction of additional passing and travel lanes requiring the acquisition of right of way but not resulting in the creation of new land parcels.~~	~~406.05(A)(1)~~
	TYPE II	~~Reconstruction or modification of public roads and highways involving the removal or displacement of buildings but not resulting in the creation of new land parcels.~~	~~406.05(A)(1)~~

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TRANSPORTATION USES (cont.)	TYPE II	Improvement of public roads and highway-related facilities, such as maintenance yards, weigh stations, and rest areas, where additional property or right-of-way is required but not resulting in the creation of new land parcels.	406.05(A)(1)
	C	Aids to navigation and aviation.	406.05(A)(1) & (6)
	C	Personal-use airports for airplanes and helicopter pads, including associated hangar, maintenance, and service facilities.	401.05(A)(1) & (F)(2)
	C	Expansion of existing airports.	406.05(A)(1)
	C	Temporary asphalt and concrete batch plants as accessory uses to specific highway projects.	406.05(A)(1)
	C	Roads, highways, and other transportation facilities and improvements not otherwise allowed under this Ordinance.	401.05(F)(1)
UTILITY AND SOLID WASTE DISPOSAL FACILITY USES	Type	Use	Subject To
	See Table 835-1	Wireless telecommunication facilities (other than essential public communication services, as defined in Section 835, <i>Wireless Telecommunication Facilities</i>), subject to Section 835.	
	TYPE II	Essential public communication services, as defined in Section 835.	406.05(A)(1)
	A	Local distribution lines (i.e., electric, telephone, natural gas) and accessory equipment (i.e., electric distribution transformers, poles, meter cabinets, terminal boxes, pedestals), or equipment which provides service hookups, including water service hookups.	
	A	Irrigation reservoirs, canals, delivery lines and those structures and accessory operational facilities, not including parks or other recreational structures and facilities, associated with a district as defined in ORS 540.505.	
	A	Water intake facilities, canals and distribution lines for farm irrigation and ponds.	
	A	Solar energy systems as an accessory use.	
	A	Rainwater collection systems as an accessory use.	
	A	Electric vehicle charging stations for residents and their non-paying guests.	
	A	Meteorological towers.	
	TYPE II	Wind energy power production systems as an accessory use.	406.05(H)(1)
	TYPE II	Composting operations and facilities that are accepted farming practices in conjunction with and auxiliary to farm use on the subject tract.	401.05(G)(3)
	C	Water intake facilities, related treatment facilities, pumping stations, and distribution lines.	406.05(A)(1) & (6)
	C	Reservoirs and water impoundments.	406.05(A)(1),(2) & (6)
	C	A disposal site for solid waste for which the Oregon Department of Environmental Quality has granted a permit under ORS 459.245, together with equipment, facilities, or buildings necessary for its operation. A composting facility is subject to Section 834, <i>Composting Facilities</i> .	406.05(A)(1) & (6)
	C	Commercial utility facilities for the purpose of generating power.	406.05(A)(1), (6) & (H)(2)

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

PARKS, PUBLIC AND QUASI-PUBLIC USES (cont.)	G	Cemeteries	406.05(A)(1) & (6)
	G	Firearms training facility as provided in ORS 197.770(2).	406.05(A)(1) & (6)
	G	Private parks and campgrounds.	406.05(A)(1),(2),(6) & (1)(1)
	G	Public parks.	406.05(A)(1), (6) & (1)(2)
OUTDOOR GATHERINGS	Type	Use	Subject To
	A	An outdoor mass gathering as defined in ORS 433.735, subject to ORS 433.735 to 433.770. However, an outdoor mass gathering permit under ORS 433.750 is not required for agri-tourism and other commercial events or activities permitted under ORS 215.283(4), 215.449, 215.451, and 215.452.	
	TYPE III	An outdoor mass gathering of more than 3,000 persons any part of which is held outdoors and which continues or can reasonably be expected to continue for a period exceeding that allowable for an outdoor mass gathering as defined in ORS 433.735, subject to ORS 433.763.	

¹—The processing, compounding, or conversion of marijuana into cannabinoid extracts is prohibited.

²—Farming of a marijuana crop shall not be used to demonstrate compliance with the approval criteria for a dwelling. (See ORS 475B.526.)

³—The use is prohibited in an urban or rural reserve established pursuant to OAR chapter 660, division 27.

⁴—A commercial activity carried on in conjunction with a marijuana crop is prohibited. (See ORS 475B.526.)

407.045 PROHIBITED USES

A.—Uses of structures and land not specifically permitted are prohibited.

B.—An agricultural building, as defined in Oregon Revised Statutes 455.315, customarily provided in conjunction with farm use or forest use may not be converted to another use.

407.06 DIMENSIONAL STANDARDS

~~Subsection 406.07, which establishes dimensional standards in the TBR District, shall apply in the AG/F District.~~

~~407.07 — DEVELOPMENT STANDARDS~~

~~Subsection 406.08, which establishes development standards in the TBR District, shall apply in the AG/F District.~~

407.0~~5~~8 LAND DIVISIONS

Subsection 406.09, which establishes land division standards in the TBR District, shall apply in the AG/F District.

~~407.09 — SUBMITTAL REQUIREMENTS~~

~~Subsection 406.10, which establishes submittal requirements in the TBR District, shall apply in the AG/F District.~~

~~407.10 — APPROVAL PERIOD AND TIME EXTENSION~~

~~Subsection 406.11, which establishes approval period and time extension standards in the TBR District, shall apply in the AG/F District.~~

[Amended by Ord. ZDO-224, 05/31/2011; Amended by Ord. ZDO-230, 09/26/2011; Amended by Ord. ZDO-234, 06/07/2012; Amended by Ord. ZDO-241, 01/01/2013; Amended by Ord. ZDO-245, 07/01/2013; Amended by Ord. ZDO-247, 03/01/2014; Amended by Ord. ZDO-248, 10/13/2014; Amended by Ord. ZDO-254, 01/04/2016; Amended by Ord. ZDO-262, 05/23/2017; Amended by Ord. ZDO-263, 05/23/2017; Amended by Ord. ZDO-264, 08/22/2017; Amended by Ord. ZDO-266, 05/23/2018; Amended by Ord. ZDO-268, 10/02/2018; Amended by Ord. ZDO-276, 10/01/2020; Amended by Ord. ZDO-283, 09/05/2023; Amended by Ord. ZDO-286, 11/20/2023]

510 NEIGHBORHOOD COMMERCIAL (NC), COMMUNITY COMMERCIAL (C-2), REGIONAL CENTER COMMERCIAL (RCC), RETAIL COMMERCIAL (RTL), CORRIDOR COMMERCIAL (CC), GENERAL COMMERCIAL (C-3), PLANNED MIXED USE (PMU), STATION COMMUNITY MIXED USE (SCMU), OFFICE APARTMENT (OA), OFFICE COMMERCIAL (OC), AND REGIONAL CENTER OFFICE (RCO) DISTRICTS

510.01 PURPOSE

Section 510 is adopted to implement the policies of the Comprehensive Plan for the Neighborhood Commercial zoning district and Community Commercial, Regional Center Commercial, Retail Commercial, Corridor Commercial, General Commercial, Planned Mixed Use, Station Community Mixed Use, Office Apartment, Office Commercial, and Regional Center Office areas.

510.02 APPLICABILITY

Section 510 applies to land in the Neighborhood Commercial (NC) Community Commercial (C-2), Regional Center Commercial (RCC), Retail Commercial (RTL), Corridor Commercial (CC), General Commercial (C-3), Planned Mixed Use (PMU), Station Community Mixed Use (SCMU), Office Apartment (OA), Office Commercial (OA), and Regional Center Office (RCO) Districts, hereinafter collectively referred to as the urban commercial and mixed-use zoning districts.

510.03 USES PERMITTED

Uses permitted in each zoning district are listed in Table 510-1, *Permitted Uses in the Urban Commercial and Mixed-Use Zoning Districts*. In addition, uses similar to one or more of the listed uses for the applicable zoning district may be authorized pursuant to Section 106, *Authorizations of Similar Uses*.

A. As used in Table 510-1:

1. “P” means the use is a primary use.
2. “A” means the use is an accessory use.
3. “L” means the use is a limited use and shall be developed concurrently with, or after, a primary use.
4. “C” means the use is a conditional use, approval of which is subject to Section 1203, *Conditional Uses*.
5. “S” means the use may be authorized only pursuant to Section 106; however, identifying a use as “S” does not indicate that any determination has been made regarding whether the use will be authorized pursuant to Section 106.

6. “X” means the use is prohibited.
 7. Numbers in superscript correspond to the notes that follow Table 510-1.
- B. If a use is identified in Table 510-1 as prohibited, it is prohibited even if it also falls within a broader use description that is permitted in the applicable zoning district. For example, a car wash may be prohibited even if commercial services in general are permitted.
 - C. If a use is included in more than one use description in Table 510-1, the more specific listing applies. For example, if a car wash is a conditional use, but commercial services in general are a primary use, the car wash shall be reviewed as a conditional use. Notwithstanding this provision, a use may be included in two of the following categories because it is allowed with fewer restrictions in one category than another: primary, accessory, limited, and conditional. In that case, the use may be approved in either category, to the extent that it complies with the respective approval criteria. For example, ~~child care facilities~~ hotels may be permitted as a limited use with a maximum building floor area and as a conditional use without a maximum building floor area.
 - D. Permitted uses are subject to the applicable provisions of Subsection 510.04, *Dimensional Standards*, Subsection 510.05, *Development Standards*, Section 1000, *Development Standards*, and Section 1100, *Development Review Process*.

510.04 DIMENSIONAL STANDARDS

Dimensional standards applicable in the urban commercial and mixed-use zoning districts are listed in Table 510-2, *Dimensional Standards in the Urban Commercial and Mixed-Use Zoning Districts*. Modifications to the standards of Table 510-2 are established by Sections 800, *Special Use Requirements*; 903, *Setback Exceptions*; 904, *Height Exceptions*; 1012, *Lot Size and Density*; 1107, *Property Line Adjustments*; and 1205, *Variances*. As used in Table 510-2, numbers in superscript correspond to the notes that follow Table 510-2.

510.05 DEVELOPMENT STANDARDS

The following development standards apply:

- A. Outdoor Operations in the NC District: In the NC District, primary and accessory uses, including storage of materials, products, or waste, shall be wholly contained within an approved structure.
- B. Operational Impacts in the C-2 and C-3 Districts: In the C-2 and C-3 Districts, processes and equipment employed and goods processed or sold shall be limited to those that are not objectionable by reason of odor, dust, smoke, cinders, gas, fumes, noise, vibration, refuse matter, or water-carried wastes.

- C. Storage in the C-2 District: In the C-2 District, storage of materials and merchandise shall be confined and contained within completely enclosed buildings.
- D. Outdoor Operations in the RCC District: In the RCC District:
1. Primary commercial uses are permitted provided that outdoor display and storage shall be limited to no more than five percent of the building coverage.
 2. Outdoor sales and services are prohibited.
- E. Outdoor Operations in the RTL District: In the RTL District, primary commercial uses and conditional uses are permitted provided that:
1. Outdoor display and storage shall be limited to no more than five percent of the building coverage.
 2. Notwithstanding Subsection 510.05(E)(1), auto body, recreational vehicle, and boat repair businesses shall store within a completely enclosed structure those vehicles and equipment that are damaged or being repaired.
 3. Primary commercial uses shall conduct most activities within a completely enclosed structure.
- F. Outdoor Sales and Storage in the PMU District: In the PMU District, outdoor sales, except temporary sidewalk sales and sidewalk cafes and food vendors, are prohibited. Also prohibited is permanent outdoor storage of materials or products.
- G. Site-Specific Standards in the PMU District: Six sites have a Comprehensive Plan designation of PMU. These sites are designated PMU1 through PMU6 and are identified on Comprehensive Plan Map IV-6, *North Urban Area Land Use Plan Map*. When one of these sites is zoned Planned Mixed Use District, a site number corresponding to the number designated by the Comprehensive Plan is assigned. A PMU site shall comply with the specific standards for that site identified in Table 510-3, *Site-Specific Requirements for the PMU District*, except that there are no site-specific standards for PMU6. As used in Table 510-3, numbers in superscript correspond to the notes that follow Table 510-3.
- H. Outdoor Operations in the SCMU District: In the SCMU District, outdoor displays, processes, or storage, except for the storage of solid waste and recyclables either as required by Section 1021, *Solid Waste and Recyclable Material Collection*, or as an accessory use to a townhouse, are prohibited.

- I. Outdoor Operations in the OA District: In the OA District, all primary and accessory uses associated with office uses, including storage of materials, products, or waste, shall be wholly contained within an approved structure. For the purposes of this provision, “office uses” include the following uses from Table 510-1, *Permitted Uses in the Urban Commercial and Mixed-Use Zoning Districts*: Business Services, Financial Institutions, Information Services, Offices, Office and Outpatient Clinics, and Research Facilities and Laboratories.
- J. Outdoor Storage and Display in the OC District: In the OC District, outdoor storage or display of materials or products is prohibited.
- K. Outdoor Sales, Storage, and Display in the RCO District: In the RCO District, outdoor sales, storage, or display of materials or products is prohibited.

Table 510-1: Permitted Uses in the Urban Commercial and Mixed-Use Zoning Districts

Use	NC	C-2	RCC	RTL	CC	C-3	PMU ¹	SCMU	OA ^{2,3}	OC	RCO
Accessory Uses, Customarily Permitted , such as amateur (Ham) radio antennas and towers, arbors, bicycle racks, carports, citizen band transmitters and antennas, cogeneration facilities, courtyards, decks, decorative ponds, driveways, electric vehicle charging stations, family child care home, fountains, garages, garden sheds, gazebos, greenhouses, HVAC units, meeting facilities, outdoor kitchens, parking areas, patios, pergolas, pet enclosures, plazas, property maintenance and property management offices, recreational facilities (such as bicycle trails, children's play structures, dance studios, exercise studios, playgrounds, putting greens, recreation and activity rooms, saunas, spas, sport courts, swimming pools, and walking trails), rainwater collection systems, satellite dishes, self-service laundry facilities, shops, solar energy systems, storage buildings/rooms, stormwater management facilities, television antennas and receivers, transit amenities, trellises, utility service equipment, and utility service lines	A	A	A	A	A	A	A	A	A	A	A
Assembly Facilities , including auditoriums, community centers, convention facilities, exhibition halls, fraternal organization lodges, senior centers, and theaters for the performing arts	C	P	P,C ⁴	P	P	P	P	P	S	P,C ⁴	P,C ⁴
Bed and Breakfast Residences and Inns , subject to Section 832	P	P	X	P	P	P	X	X	X	P	X
Bus Shelters	A	A	P	P	P	P	P	P	A	P	P

CLACKAMAS COUNTY ZONING AND DEVELOPMENT ORDINANCE

Use	NC	C-2	RCC	RTL	CC	C-3	PMU ¹	SCMU	OA ^{2,3}	OC	RCO
Child Care ~~Facilities~~ Centers	P	P	P	P	P	P	P	P	P	~~L⁵, C⁶~~ <u>P</u>	~~L⁶, C⁷~~ <u>P</u>
Civic and Cultural Facilities , including art galleries, museums, and visitor centers	P	P	P	P	P	P	P	P	P	P	P
Composting Facilities	X	X	X	X	X	X	X	X	X	X	X
<u>Crisis Stabilization Centers, as defined in ORS 430.626, subject to Section 849</u>	<u>P⁵</u>	<u>P⁵</u>	<u>P⁵</u>	<u>P⁵</u>	<u>P⁵</u>	<u>P⁵</u>	<u>P⁵</u>	<u>P⁵</u>	<u>P⁵</u>	<u>P⁵</u>	<u>P⁵</u>
Daycare Services, Adult	P	P	P	P	P	P	P	P	P	~~L⁶, C~~	~~L⁷, C~~
Dog Services , including boarding, daycare, and grooming	S	P	P	P	P	P	P	~~P^{8,7}~~	S	~~C^{9,8}~~	~~L^{7,6}~~
Drive-Thru Window Services , subject to Section 827	C	A	~~A^{10,9}~~	A	A	A	~~A^{11,10}~~	X	X	~~A^{11,10}~~	~~A^{11,10}~~
Dwellings^{12,4}, including:											
Congregate Housing Facilities	X	X	~~P^{13,1}~~ ~~4,2,3~~	~~P^{15,4}~~	~~P^{15,4}~~	~~P^{15,4}~~	P	P	L	~~P^{15,4}~~	~~P^{13,1}~~ ~~4,3~~
Detached Single-Family Dwellings	A	A	X	A	X	A	X	X	X	X	X
Duplexes	X	A	X	P	P	P	P	P	~~L^{16,5}~~	P	X
Multifamily Dwellings	X	X	~~P^{13,2}~~	~~P^{15,4}~~	~~P^{15,4}~~	~~P^{15,4}~~	P	P	~~L^{16,5}~~	~~P^{15,4}~~	~~P^{13,2}~~
Quadplexes	X	X	~~P^{13,2}~~	~~P^{15,4}~~	~~P^{15,4}~~	~~P^{15,4}~~	P	P	~~L^{16,5}~~	~~P^{15,4}~~	~~P^{13,2}~~
<u>Single Room Occupancies</u>	~~X~~	~~X~~	<u>P¹³</u>	<u>P¹⁵</u>	<u>P¹⁵</u>	<u>P¹⁵</u>	<u>P</u>	<u>P</u>	<u>L¹⁶</u>	<u>P¹⁵</u>	<u>P¹³</u>
Townhouses	X	A	X	A	X	A	P	P	~~L^{17,6}~~	X	X
Triplexes	X	X	X	P	P	P	P	P	~~L^{16,5}~~	P	X
Electric Vehicle Charging Stations	A,C	P	A	A,C	P	P	A	A	A	A	A
<u>Emergency Shelters, subject to Section 848</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>

CLACKAMAS COUNTY ZONING AND DEVELOPMENT ORDINANCE

Use	NC	C-2	RCC	RTL	CC	C-3	PMU ¹	SCMU	OA ^{2,3}	OC	RCO
Employee Amenities , such as cafeterias, clinics, child care facilities, fitness facilities, lounges, and recreational facilities	A	A	A	A	A	A	A	A	A ¹⁸⁷	A ¹⁸⁷	A ¹⁸⁷
Entertainment Facilities , including arcades, billiard halls, bowling alleys, miniature golf courses, and movie theaters	C ¹⁹⁸	P ¹⁹⁸	P ¹⁹⁸	P	P	P	P ¹⁹⁸	P ^{87,198}	S	C ^{98,198}	L ^{76,198}
Farmers' Markets , subject to Section 840	P	P	P	P	P	P	P	P	P	P	P
Financial Institutions , including banks, brokerages, credit unions, loan companies, and savings and loan associations	P	P	P	P	P	P	P	P	P	P	P
Fitness Facilities , including athletic clubs, exercise studios, gymnasiums, and health clubs	P ¹⁹⁸	P ¹⁹⁸	P ¹⁹⁸	P	P	P	P ¹⁹⁸	P ^{87,198}	L ^{198,204}	C ¹⁹⁸	L ^{198,210}
Government Uses , including fire stations, police stations, and post offices	C	P	P	P	P	P	P	P	P	P	P
Heliports	X	X	C ²²⁴	C	C	C	X	X	X	C ²²⁴	C ²²⁴
Helistops	X	X	C ²²⁴	C	C	C	C	C	X	C ²²⁴	C ²²⁴
Home Occupations , including bed and breakfast homestays, subject to Section 822	A	A	A	A	A	A	A	A	A	A	A
Hospitals, General	X	X	X	X	X	X	X	X	X	C	C
Hospitals, Mental or Psychiatric , subject to Section 849	<u>P²³</u>	<u>P²³</u>	<u>P²³</u>	<u>P²³</u>	<u>P²³</u>	<u>P²³</u>	<u>P²³</u>	<u>P²³</u>	<u>P²³</u>	<u>P²³,C</u>	<u>P²³,C</u>
Hotels	P	P	P	P	P	P	P	P ⁸⁷	S	L ^{65,242}	C ²
Libraries	P	P	P	P	P	P	P	P	P	P	P

CLACKAMAS COUNTY ZONING AND DEVELOPMENT ORDINANCE

Use	NC	C-2	RCC	RTL	CC	C-3	PMU ¹	SCMU	OA ^{2,3}	OC	RCO
Manufacturing , including the mechanical, physical, or chemical transformation of materials, substances, or components into new products and the assembly of component parts, but excluding the primary processing of raw materials	S ^{2~~53~~}	S ^{2~~64~~}	S	S	P	P	S	P ^{2~~75~~,2~~86~~}	S	P ^{2~~97~~}	S
Manufacturing of Edible or Drinkable Products Retailed on the Same Site , including the primary processing of raw materials (e.g., malt, milk, spices) that are ingredients in edible or drinkable products retailed on the same site, and also including the wholesale distribution of edible or drinkable products that are manufactured and retailed on the same site.	S	P	S	S	P	P	S	P ^{2~~75~~,2~~86~~}	S	P ^{2~~97~~}	S
Marijuana Processing	X	X	X	X	P ^{3~~028~~}	P ^{3~~028~~}	X	P ^{2~~75~~,3~~028~~}	X	P ^{2~~97~~,3~~028~~}	X
Marijuana Production	X	X	X	X	X	X	X	X	X	X	X
Marijuana Retailing , subject to Section 841	P	P	P	P	P	P	P	P ^{8~~7~~}	X	P ^{9~~8~~}	L ^{7~~6~~}
Marijuana Wholesaling	X	X	X	X	X	X	X	X	X	X	X
Mobile Vending Units , subject to Section 837	P	P	P	P	P	P	P	P	A ^{3~~129~~}	A ^{3~~129~~}	A ^{3~~129~~}
Motels	P	P	P	P	P	P	P	P ⁷	S	L ^{6~~5~~,3~~24~~} ,C ³ 2 ~~9~~	L ^{7~~6~~}
Multi-Use Developments , subject to Section 844	X	X	X	X	X	C	X	X	X	C	X
Nursing Homes	X	X	X	X	X	X	P	P	L	X	X

CLACKAMAS COUNTY ZONING AND DEVELOPMENT ORDINANCE

Use	NC	C-2	RCC	RTL	CC	C-3	PMU¹	SCMU	OA^{2,3}	OC	RCO
Offices , including administrative, business, corporate, governmental, and professional offices. Examples include offices for the following: accounting services, architectural services, business management services, call centers, employment agencies, engineering services, governmental services, income tax services, insurance services, legal services, manufacturer's representatives, office management services, property management services, real estate agencies, and travel agencies.	P	P	P	P	P	P	P	P	P	P	P
Offices and Outpatient Clinics —both of which may include associated pharmacies and laboratories—for healthcare services, such as acupuncture, chiropractic, counseling, dental, massage therapy, medical, naturopathic, optometric, physical therapy, psychiatric, occupational therapy, and speech therapy.	P	P	P	P	P	P	P	P	P	P	P
Parking Lots	A	A	A	A	P	P	A	A	A	P ^{3,4}	A
Parking Structures	X	A ^{3,4}	P ^{3,4}	P ^{3,4}	P	P	A	A	A ^{3,4}	P ^{3,4}	P ^{3,4}

CLACKAMAS COUNTY ZONING AND DEVELOPMENT ORDINANCE

Use	NC	C-2	RCC	RTL	CC	C-3	PMU¹	SCMU	OA^{2,3}	OC	RCO
Parks, Government-Owned , including amphitheaters; arboreta; arbors, decorative ponds, fountains, gazebos, pergolas, and trellises; ball fields; bicycle and walking trails; bicycle parks and skate parks; boat moorages and ramps; community buildings and grounds; community and ornamental gardens; courtyards and plazas; equine facilities; fitness and recreational facilities, such as exercise equipment, gymnasiums, and swimming pools; miniature golf, putting greens, and sports courts; nature preserves and wildlife sanctuaries; picnic areas and structures; play equipment and playgrounds; tables and seating; and similar recreational uses. Accessory uses to a park may include concessions, maintenance facilities, restrooms, and similar support uses.	P	P	P	P	P	P	P	P	P	P	P
Pedestrian Amenities	P	P	P	P	P	P	P	P	P	P	P
Places of Worship , subject to Section 804	P	P	P	P	P	P	P	P	P	P	P
Race Tracks, Outdoor	X	X	X	X	X	C	X	X	X	X	X
Radio and Television Studios , excluding transmission towers	C	P	P	P	P	P	P	P	S	P	P
Radio and Television Transmission and Receiving Towers and Earth Stations³³	S	C	S	S	C	C	S	S	S	S	S
Radio and Television Transmission and Receiving Earth Stations	S	C	C	C	C	C	A	S	S	S	S

CLACKAMAS COUNTY ZONING AND DEVELOPMENT ORDINANCE

Use	NC	C-2	RCC	RTL	CC	C-3	PMU ¹	SCMU	OA ^{2,3}	OC	RCO
Recreational Sports Facilities for such sports as basketball, dance, gymnastics, martial arts, racquetball, skating, soccer, swimming, and tennis. These facilities may be used for any of the following: general recreation, instruction, practice, and competitions.	P ¹⁹⁸	P ¹⁹⁸	P ¹⁹⁸	P	P	P	P ¹⁹⁸	P ^{87,198}	S	C ¹⁹⁸	L ^{198,210}
Recyclable Drop-Off Sites , subject to Section 819	A	A	A ³⁶⁴	A ³⁶⁴	A	A	A ³⁶⁴	A ³⁶⁴	A ³⁶⁴	A ³⁶⁴	A ³⁶⁴
Research Facilities and Laboratories , including medical laboratories, medical research, product design and testing, and product research and development	S	S	S	S	P	P	P ²⁹⁷	P	P ³⁷⁵	P ³⁷⁵	P ²⁹⁷
<u>Residential Treatment Facilities and Residential Treatment Homes</u> , subject to <u>Section 849</u> ³⁸	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>
Retailing —whether by sale, lease, or rent—of new or used products	S	S	P	P	P	P	P	P ⁸⁷	S	C ⁹⁸	L ⁷⁶

CLACKAMAS COUNTY ZONING AND DEVELOPMENT ORDINANCE

Use	NC	C-2	RCC	RTL	CC	C-3	PMU ¹	SCMU	OA ^{2,3}	OC	RCO
Retailing —whether by sale, lease, or rent—of any of the following new or used products: apparel, appliances, art, art supplies, beverages, bicycle supplies, bicycles, books, cameras, computers, computer supplies, cookware, cosmetics, dry goods, electrical supplies, electronic equipment, firewood, flowers, food, furniture, garden supplies, gun supplies, guns, hardware, hides, interior decorating materials, jewelry, leather, linens, medications, music (whether recorded or printed), musical instruments, nutritional supplements, office supplies, optical goods, paper goods, periodicals, pet supplies, pets, plumbing supplies, photographic supplies, signs, small power equipment, sporting goods, stationery, tableware, tobacco, toiletries, tools, toys, vehicle supplies, and videos	P	P	P	P	P	P	P	P ⁷	L ^{2049,39} _{6,S}	L ^{65,396} ₈ ,C ⁹	L ⁷⁶
Retailing —whether by sale, lease, or rent—of any of the following new or used products: all-terrain vehicles, automobiles, light trucks, motorcycles, and snowmobiles	S	S	P	P	P	P	X	X	X	C ⁹⁸	L ⁷⁶
Retailing —whether by sale, lease, or rent—of any of the following new or used products: boats; heavy trucks such as dump trucks, moving trucks, and truck tractors; large cargo trailers such as semitrailers; large construction equipment such as backhoes and bulldozers; large farm equipment such as tractors and combines; large forestry equipment; large mineral extraction equipment; manufactured dwellings; recreational vehicles; and residential trailers	X	X	X	P	P	P	X	X	X	X	X

CLACKAMAS COUNTY ZONING AND DEVELOPMENT ORDINANCE

Use	NC	C-2	RCC	RTL	CC	C-3	PMU ¹	SCMU	OA ^{2,3}	OC	RCO
Roads	P	P	P	P	P	P	P	P	P	P	P
Schools	P ⁴⁰³⁷	P ⁴⁰³⁷	P	P	P	P	P	P	L ⁴¹³⁸	P	P
Service Stations	C	P	X	C	P	P	X	X	X	X	X
Services, Business , including computer rental workstations; leasing, maintenance, repair, and sale of communications and office equipment; mailing; notary public; photocopying; and printing	P	P	P	P	P	P	P	P	P	P	P
Services, Commercial	S	S	P	P	P	P	P	P ⁸⁷	S	C ⁹⁸	L ⁷⁶
Services, Commercial—Car Washes	S	S	X	C	P	P	P	X	X	X	X
Services, Commercial—Construction and Maintenance , including contractors engaged in construction and maintenance of electrical and plumbing systems	C	P	P	P	P	P	P	S	S	C ⁹⁸	L ⁷⁶
Services, Commercial—Food and Beverage , including catering and eating and drinking establishments	P	P	P	P	P	P	P	P ⁸⁷	L ¹⁹⁸	L ⁶⁵ , C ⁴²³⁹	L ^{76,43} ₀
Services, Commercial—Maintenance and Repair of any of the following: appliances, bicycles, electronic equipment, guns, housewares, musical instruments, optical goods, signs, small power equipment, sporting goods, and tools	P	P	P	P	P	P	P	P ⁸⁷	S	C ⁹⁸	L ⁷⁶
Services, Commercial—Maintenance and Repair of any of the following: all-terrain vehicles, automobiles, light trucks, motorcycles, and snowmobiles	C	P	P	P	P	P	X	X	X	C ⁹⁸	L ⁷⁶

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Use	NC	C-2	RCC	RTL	CC	C-3	PMU ¹	SCMU	OA ^{2,3}	OC	RCO
Services, Commercial—Maintenance and Repair of any of the following: boats; heavy trucks such as dump trucks, moving trucks, and truck tractors; large cargo trailers such as semitrailers; large construction equipment such as backhoes and bulldozers; large farm equipment such as tractors and combines; large forestry equipment; large mineral extraction equipment; manufactured dwellings; recreational vehicles; and residential trailers	X	X	X	P	P	P	X	X	X	X	X
Services, Commercial—Miscellaneous , including food lockers, interior decorating, locksmith, upholstering, and veterinary	P	P	P	P	P	P	P	P ^{8,7}	S	C ^{9,8}	L ^{7,6}
Services, Commercial—Personal and Convenience , including barbershops, beauty salons, dry cleaners, laundries, photo processing, seamstresses, shoe repair, tailors, and tanning salons. Also permitted are incidental retail sales of products related to the service provided.	P	P	P	P	P	P	P	P ^{8,7}	L ^{20,4,9}	L ^{6,5}	L ^{7,6}
Services, Commercial—Mini-Storage/Self-Storage Facilities	S	S	X	C	P	P	X	X	S	X	X
Services, Commercial—Storage of any of the following: all-terrain vehicles, automobiles, light trucks, motorcycles, and snowmobiles	S	S	X	C	P	P	X	X	X	X	X

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Use	NC	C-2	RCC	RTL	CC	C-3	PMU¹	SCMU	OA^{2,3}	OC	RCO
Services, Commercial—Storage of any of the following: boats; heavy trucks such as dump trucks, moving trucks, and truck tractors; large cargo trailers such as semitrailers; large construction equipment such as backhoes and bulldozers; large farm equipment such as tractors and combines; large forestry equipment; large mineral extraction equipment; manufactured dwellings; recreational vehicles; and residential trailers	X	X	X	C	P	P	X	X	X	X	X
Services, Commercial—Studios of the following types: art, craft, dance, music, and photography	P	P	P	P	P	P	P	P ⁷	S	P	P
Services, Commercial—Truck Stops	X	X	X	X	P	P	X	X	X	X	X
Services, Information , including blueprinting, bookbinding, photo processing, photo reproduction, printing, and publishing	S	S	S	S	P	P	P	P ^{2,7,5}	P	P	P
Short-Term Rental in a dwelling unit permitted by this table, except for a dwelling unit that is an accessory use	X	X	P	P	P	P	P	P	P	P	P
Signs , subject to Section 1010	A ^{4,11}	A ^{4,11}	A ^{4,11}	A ^{4,11}	A ^{4,11}	A ^{4,11}	A ^{4,11}	A ^{4,11}	A ^{4,11}	A ^{4,11}	A ^{4,11}
Stadiums, Outdoor	X	X	X	X	X	C	X	X	X	X	X
Temporary Buildings for Uses Incidental to Construction Work , provided that such buildings shall be removed upon completion or abandonment of the construction work	A	A	A	A	A	A	A	A	A	A	A

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Use	NC	C-2	RCC	RTL	CC	C-3	PMU ¹	SCMU	OA ^{2,3}	OC	RCO
Temporary Storage within an Enclosed Structure of Source-Separated Recyclable/Reusable Materials Generated and/or Used On-site Prior to On-site Reuse or Removal by the Generator or Licensed or Franchised Collector to a User or Broker	A	A	A	A	A	A	A	A	A	A	A
Transit Facilities , including transit centers, transit park-and-rides, transit stations, and transit stops	S	S	P	P	P	P	P	P	S	P	P
Utility Facilities, including:											
Stormwater Management Facilities	P,C ⁴ ~~5~~ ₂	P,C ⁴ ~~5~~ ₂	P,C ⁴ ~~5~~ ₂	P,C ⁴ ~~5~~ ₂	P,C ⁴ ~~5~~ ₂	P,C ⁴ ~~5~~ ₂	P,C ⁴ ~~5~~ ₂	P,C ⁴ ~~5~~ ₂	P,C ⁴ ~~5~~ ₂	P,C ⁴ ~~5~~ ₂	P,C ⁴ ~~5~~ ₂
Utility Cabinets	P,C ⁴ ~~6~~ ₃	P,C ⁴ ~~6~~ ₃	P,C ⁴ ~~6~~ ₃	P,C ⁴ ~~6~~ ₃	P,C ⁴ ~~6~~ ₃	P,C ⁴ ~~6~~ ₃	P,C ⁴ ~~6~~ ₃	P,C ⁴ ~~6~~ ₃	P,C ⁴ ~~6~~ ₃	P,C ⁴ ~~6~~ ₃	P,C ⁴ ~~6~~ ₃
Utility Facilities, except Utility Lines, in Road Rights-of-Way	P	P	P	P	P	P	P	P	P	P	P
Utility Facilities Not Otherwise Listed in Table 510-1	S	C	C	C	C	C	S	S	S	S	S
Utility Lines	P,C ⁴ ~~7~~ ₄	P,C ⁴ ~~7~~ ₄	P,C ⁴ ~~7~~ ₄	P,C ⁴ ~~7~~ ₄	P,C ⁴ ~~7~~ ₄	P,C ⁴ ~~7~~ ₄	P,C ⁴ ~~7~~ ₄	P,C ⁴ ~~7~~ ₄	P,C ⁴ ~~7~~ ₄	P,C ⁴ ~~7~~ ₄	P,C ⁴ ~~7~~ ₄
Wireless Telecommunication Facilities , subject to Section 835	See Table 835-1	P	P	P	P	P	P	See Table 835-1	P	P	P

¹ Required primary uses for each Planned Mixed Use site are listed in Table 510-3, *Site-Specific Requirements for the PMU District*.

² A minimum of 60 percent of the total building floor area on a site shall be primary use(s).

³ A maximum of 40 percent of the total building floor area on a site may be limited use(s).

- ⁴ An assembly facility with a maximum capacity of more than 500 people is a conditional use.
- ⁵ A crisis stabilization center must locate on property owned by a public body, as defined in ORS 174.109, and adjacent to where a mental or psychiatric hospital licensed under ORS 441.025 is or will be located as established by a pending development application.
- ⁵⁶ The maximum combined building floor area of the use, and any other limited uses, shall be 20 percent of the building floor area of primary uses in the same development.
- ⁶⁷ The use is permitted only:
- In a multistory building with a primary use, up to a maximum building floor area equal to the building floor area of the first floor; or
 - On the ground-level floor of a freestanding parking structure.
- ⁷⁸ A maximum of 40,000 square feet of ground-floor building floor area may be occupied by any one business, regardless of the number of buildings occupied by that business. In addition, the total ground-floor building floor area occupied by any combination of uses subject to Note ⁸⁷ shall not exceed 40,000 square feet in a single building.
- ⁸² The maximum combined building floor area of the use, any limited uses, and any other uses subject to Note ⁹⁸, shall be 20 percent of the building floor area of primary uses in the same development.
- ⁹¹⁰ Drive-thru window service is prohibited on streets designated as Main Streets on Comprehensive Plan Map X-CRC-3, *Clackamas Regional Center Area Design Plan, Urban Design Elements*.
- ¹¹⁰ Drive-thru window service is permitted only if it is accessory to a financial institution and only if the financial institution is not on a street designated as a Main Street on Comprehensive Plan Map X-CRC-3.
- ¹²⁴ Dwellings not otherwise permitted in the applicable zoning district may nonetheless be permitted if they are developed as affordable housing, as defined in ORS 197A.445(1), and subject to Section 846, *Affordable Housing*.
- ¹³² Freestanding congregate housing facilities, freestanding multifamily dwellings, freestanding single room occupancies, and freestanding quadplexes (as opposed to congregate housing facilities, multifamily dwellings, single room occupancies, and quadplexes in a mixed-use building) are subject to the development and dimensional standards applicable to congregate housing facilities, multifamily dwellings, and quadplexes in the RCHDR District.
- ¹⁴³ A congregate housing facility shall have a minimum of four dwelling units.
- ¹³⁴ Freestanding congregate housing facilities, freestanding multifamily dwellings, freestanding single room occupancies, and freestanding quadplexes (as opposed to congregate housing facilities, multifamily dwellings, single room occupancies, and quadplexes in a mixed-use building) are subject to the development and dimensional standards applicable to congregate housing facilities, multifamily dwellings, and quadplexes in the HDR District, except that the minimum and maximum residential density standards of Table 510-2, *Dimensional Standards in the Urban Commercial and Mixed-Use Zoning Districts*, apply.

¹⁶⁵ Duplexes, triplexes, quadplexes, ~~and~~ multifamily dwellings, and single room occupancies, subject to the density standards of the MR-2 District, may be developed in the same building as a primary use.

¹⁷⁶ Townhouses, subject to the density standards of the VTH District, may be developed in the same building as a primary use.

¹⁸⁷ Employee amenities shall be located in the same structure as the use to which they are accessory.

¹⁹⁸ Only indoor facilities are permitted.

²⁰⁴⁹ An individual use shall not exceed 2,500 square feet of building floor area. In addition, the maximum combined building floor area of an individual use, and any other uses subject to Note ²⁰⁴⁸, shall be 10 percent of the total building floor area in the same development.

²¹⁰ The use may be allowed in conjunction with a primary use on the site, subject to the following criteria:

- a. If the primary use on the site is an office use, the minimum floor area ratio (FAR) standard of Table 510-2 may be modified as follows for a lot of greater than two and one-half acres in size:
 - i. The minimum FAR for the office use shall be 0.75; and
 - ii. The minimum FAR for the fitness facility or recreational sports facility and the office use combined shall be 1.0.
- b. If the primary use on the site is a multifamily dwelling, the site area developed with the fitness facility or recreational sports facility and any parking or accessory structures used exclusively for the fitness facility or recreational sports facility shall be included in the net acreage when calculating minimum density pursuant to Table 510-2.
- c. The fitness facility or recreational sports facility shall be developed concurrently with, or after, a primary use.

²²⁴ This use is permitted only in conjunction with a primary or another conditional use.

²³ A mental or psychiatric hospital established as a primary use must be located adjacent to where a crisis stabilization center, as defined in ORS 430.626 and licensed under ORS 430.627, is or will be located as established by a pending development application.

²⁴² Also permitted are associated gift shops, newsstands, and eating and drinking establishments, all of which shall be located in the same building as the hotel.

²⁵³ In the NC District, sign production is a conditional use.

²⁶⁴ In the C-2 District, sign production is a permitted use.

²⁷⁵ These uses are permitted with a maximum of 10,000 square feet of building floor area per building, if part of a mixed-use development and if the combined building floor area of the use, and any other uses subject to Note ²⁷⁴, does not exceed 25 percent of the building floor area of the mixed-use development.

²⁸⁶ Manufacturing of the following is prohibited: explosive devices; incendiary devices; and renewable fuel resources, such as alcohol, biomass, and methanol.

- ²⁹⁷ This use is permitted only if it has physical and operational requirements that are similar to those of other primary uses allowed in the same zoning district.
- ³⁰²⁸ Marijuana processing shall be located entirely within one or more completely enclosed buildings. The processing, compounding, or conversion of marijuana into cannabinoid concentrates or cannabinoid extracts is prohibited.
- ³¹²⁹ Only level one mobile vending units are permitted.
- ³²⁹ Also permitted are associated gift shops, newsstands, and eating and drinking establishments, all of which shall be located in the same building as the motel.
- ³³⁴ The parking is permitted to serve only developments located in the same zoning district as the subject property.
- ³⁴² This use is limited to understructure parking.
- ³⁵³ The base of such towers shall not be closer to the property line than a distance equal to the height of the tower.
- ³⁶⁴ Recyclable drop-off sites are permitted only if accessory to an institutional use.
- ³⁷⁵ No operation shall be conducted or equipment used which would create hazards and/or noxious or offensive conditions.
- ³⁸ Section 849 applies to all residential treatment facilities and residential treatment homes, except those with 15 or fewer residents, all of whom reside in a single dwelling unit that is permitted by Table 510-1. Residential treatment facilities and residential treatment homes that meet this exception are an allowed use within the dwelling unit and are subject only to the land use review required to permit the dwelling unit.
- ³⁹⁶ Only retailing of videos is permitted as a limited use. All other retailing in this use category requires review pursuant to Section 106 in the OA District and is a conditional use, subject to Note ⁹⁴⁷, in the OC District.
- ⁴⁰³⁷ Only commercial schools are permitted.
- ⁴¹³⁸ Schools shall be limited to no more than 30 percent of the total building floor area on a site.
- ⁴²³⁹ An eating and drinking establishment may be permitted as a conditional use, provided that it complies with a minimum of five of the following criteria:
- Has a minimum seating capacity of 75;
 - Specializes in gourmet, ethnic, or specialty cuisine;
 - Includes banquet facilities and services;
 - Provides live entertainment at least two nights a week;
 - Utilizes custom architectural design and/or collections of artistic, cultural, or historic items to produce a distinctive thematic decor or atmosphere;

- f. Has an Oregon Liquor Control Commission license to serve beer and wine; or
- g. Employs only chefs who have graduated from a recognized culinary institute, or who have outstanding qualifications or reputations for their culinary skills.

⁴⁰⁴³ Notwithstanding Note ⁷⁶, a freestanding eating and drinking establishment shall be allowed in conjunction with a primary use in the same development, subject to the following criteria:

- a. The building floor area of the freestanding eating and drinking establishment shall not exceed 5,000 square feet.
- b. If the primary use in the same development is an office use, as defined in Note 23 to Table 510-2, *Dimensional Standards in the Urban Commercial and Mixed-Use Zoning Districts*, the floor area ratio of the development, including the eating and drinking establishment, shall comply with the minimum floor area ratio standard for primary office uses in Table 510-2.
- c. If the primary use in the same development is a multifamily dwelling or a congregate housing facility, the acreage developed with the eating and drinking establishment, and any parking or accessory structures that are used exclusively for the eating and drinking establishment, may be subtracted from the total acreage when calculating minimum density pursuant to Table 510-2.
- d. The eating and drinking establishment shall be developed concurrently with, or after, a primary use.

⁴⁴¹ Temporary signs regulated under Subsection 1010.13(A) are a primary use.

⁴⁵² Stormwater management facilities are a primary use if:

- a. They are underground, except for an outlet structure if applicable;
- b. They are vegetated, except for an outlet structure if applicable; or
- c. They are approved in conjunction with a development approved through another land use permit (e.g., a subdivision or design review).

⁴⁶³ Utility cabinets are a primary use if they comply with Section 830, *Utility Cabinets*, or if they are inside a road right-of-way.

⁴⁷⁴ Utility lines are a conditional use only if they are gas transmission lines or electric transmission lines.

Table 510-2: Dimensional Standards in the Urban Commercial and Mixed-Use Zoning Districts

Standard	NC	C-2	RCC	RTL	CC	C-3	PMU	SCMU	OA	OC	RCO
Minimum Lot Size	7,260 square feet ^{1,2}	None	1 acre ^{2,3}	½ acre ^{2,3}	None	None	PMU1: None PMU2: 2 acres PMU3: 3 acres PMU4: ½ acre PMU5: 10 acres PMU6: 5 acres	½ acre ^{2,4}	None	1 acre ^{2,3}	2½ acres ^{2,3}
Minimum Street Frontage	None	None	None	None	None	None	None	100 feet ⁵	None	None	None
Maximum Front Setback	20 feet ⁶	20 feet ⁶	20 feet ⁷	20 feet ⁶	20 feet ⁶	20 feet ⁶	20 feet ^{7,8}	See Subsection 1005.09	20 feet ⁶	20 feet ⁶	20 feet ⁷
Minimum Front Setback	0	15 feet	5 feet ⁹	15 feet	15 feet	15 feet	0	See Subsection 1005.09	10 feet	15 feet	5 feet ⁹

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Standard	NC	C-2	RCC	RTL	CC	C-3	PMU	SCMU	OA	OC	RCO
Minimum Rear Setback	0	0 ¹⁰	0 ¹¹	0 ¹²	0 ¹²	0 ¹²	0 ^{8,10}	See Subsection 1005.09	10 feet ¹³	10 feet ¹¹	0 ¹⁴
Minimum Side Setback	0	0 ¹⁵	0 ¹⁵	0 ¹⁶	0 ¹⁶	0 ¹⁶	0 ^{8,15}	See Subsection 1005.09	6 feet ¹⁷	10 feet ¹⁸	0 ¹⁵
Maximum Building Height	35 feet	None ¹⁹	None	None	None	None	None	None	45 feet	None ²⁰	None
Minimum Floor Area Ratio	None	None	0.3 for a retail development; 0.5 for an office development ²¹	None	None	None	See Table 510-3.	None	None	None	0.5 for primary office uses on lots of 2½ acres or less; 1.0 for primary office uses on lots greater than 2½ acres ^{21, 22, 23}
Maximum Building Floor Area per Use	5,000 square feet	None	None	None	None	None	None	None	None	None	None

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Standard	NC	C-2	RCC	RTL	CC	C-3	PMU	SCMU	OA	OC	RCO
Minimum Residential Density	None	None	30 dwelling units per net acre for freestanding multifamily dwellings and freestanding congregate housing facilities; none if these uses are in a building with another primary use ²⁴	20 dwelling units per net acre for residential development; none for mixed-use development ²⁴	20 dwelling units per net acre for residential development; none for mixed-use development ²⁴	20 dwelling units per net acre for residential development; none for mixed-use development ²⁴	See Table 510-3	20 dwelling units per net acre for residential development; none for mixed-use development ²⁴	None	20 dwelling units per net acre for residential development; none for mixed-use development ²⁴	30 dwelling units per net acre for freestanding multifamily dwellings and freestanding congregate housing facilities; none if these uses are in a building with another primary use or with a limited use other than a fitness facility or a freestanding restaurant ²⁴

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Standard	NC	C-2	RCC	RTL	CC	C-3	PMU	SCMU	OA	OC	RCO
Maximum Residential Density	None, but residential density may be limited because dwellings are allowed only as an accessory use.	None, but residential density may be limited because dwellings are allowed only as an accessory use.	None	60 dwelling units per acre ²⁵	60 dwelling units per acre ²⁵	60 dwelling units per acre ²⁵	None	None	Standards in MR-2 District apply. See Table 315-4.	60 dwelling units per acre ²⁵	None

Notes to Table 510-2:

- ¹ The minimum lot size for land with a Comprehensive Plan land use plan designation of Low Density Residential shall be the same as that allowed by the zoning district that applied to the subject property immediately prior to the application of the NC zoning district.
- ² The minimum lot size standard applies only to subdivisions, partitions, and property line adjustments. Notwithstanding the minimum lot size standard, an undersized lot of record may be developed, subject to other applicable standards of this Ordinance.
- ³ No minimum lot size standard applies to a lot created by partition or subdivision or adjusted through a property line adjustment, provided that the newly created or adjusted lot is developed only with a dwelling classified as a nonconforming use and uses accessory to that dwelling.
- ⁴ The minimum is 2,000 square feet for a lot developed only with a townhouse and uses accessory to that townhouse.
- ⁵ The minimum street frontage standard applies only to subdivisions, partitions, and property line adjustments. The minimum for a lot of record on the outer radius of a curved street or the circular end of a cul-de-sac is 35 feet measured on the arc. The minimum for a lot of record developed only with a townhouse, and uses accessory to that townhouse, shall be 20 feet. A lot of record with frontage on more than one street shall meet the minimum on each street.

- ⁶ The maximum front setback standard applies only if required by Subsection 1005.02(H). However, see Subsection 1005.02(E) for a related standard.
- ⁷ The maximum front setback standard shall be met for all buildings except freestanding parking structures. However, the maximum front setback may be exceeded to the minimum extent necessary to accommodate pedestrian amenities. If a lot has more than one front lot line, the standard must be met for only one. A private road used to satisfy the maximum front setback standard must comply with Subsection 1005.07(G). The maximum front setback from Main Streets identified on Comprehensive Plan Map X-CRC-3 is 10 feet.
- ⁸ In lieu of complying with the standard, an applicant for design review on a site of 25 acres or larger may propose alternate setback standards. The alternate standards, or any part thereof, shall be approved if they are found to be equally effective as the regular standards in establishing a visual image, sense of place, and quality pedestrian environment for the area.
- ⁹ There is no minimum setback from a front lot line that abuts a Main Street identified on Comprehensive Plan Map X-CRC-3.
- ¹⁰ If the rear lot line abuts a residential zoning district, the minimum shall be 15 feet.
- ¹¹ If the rear lot line abuts a residential zoning district, the minimum shall be 35 feet.
- ¹² If the rear lot line abuts a residential zoning district, the minimum shall be 15 feet plus one foot for each one-foot increase in building height over 35 feet. Height increments of less than one foot shall be rounded up to the nearest foot. For example, if the building height is 38.8 feet, the minimum setback shall be 19 feet.
- ¹³ If the rear lot line abuts an Urban Low Density Residential, VR-4/5, or VR-5/7 zoning district, the minimum shall be: 10 feet for the portion of a building that is 25 feet or less in height; 20 feet for the portion of a building that is greater than 25 feet and less than or equal to 35 feet in height; and 40 feet for the portion of a building that is greater than 35 feet and less than or equal to 45 feet in height.
- ¹⁴ If the rear lot line abuts a residential zoning district, the minimum shall be 35 feet plus one foot for each one-foot increase in building height over 35 feet. Height increments of less than one foot shall be rounded up to the nearest foot. For example, if the building height is 38.8 feet, the minimum setback shall be 39 feet.
- ¹⁵ If the side lot line abuts a residential zoning district, the minimum shall be 15 feet.

- ¹⁶ If the side lot line abuts a residential zoning district, the minimum side yard setback shall be 15 feet plus one foot for each one-foot increase in building height over 35 feet. Height increments of less than one foot shall be rounded up to the nearest foot. For example, if the building height is 38.8 feet, the minimum setback shall be 19 feet.
- ¹⁷ If the side lot line abuts an Urban Low Density Residential, VR-4/5, or VR-5/7 zoning district, the minimum shall be: six feet for the portion of a building that is 25 feet or less in height; 16 feet for the portion of a building that is greater than 25 feet and less than or equal to 35 feet in height; and 40 feet for the portion of a building that is greater than 35 feet and less than or equal to 45 feet in height.
- ¹⁸ If the side lot line abuts a residential zoning district, the minimum shall be 35 feet.
- ¹⁹ If the subject property abuts a residential zoning district, the maximum building height shall be 35 feet.
- ²⁰ If the building is located less than 100 feet from an Urban Low Density Residential, VR-4/5, or VR-5/7 District, the maximum building height shall be equal to the building's distance from the Urban Low Density Residential, VR-4/5, or VR-5/7 District.
- ²¹ Floor area ratio shall be calculated pursuant to Subsection 1005.02(K).
- ²² With a master plan approved pursuant to Subsection 1102.03(B), a lot greater than two and one-half acres may be developed in phases provided that the minimum floor area ratio of each phase prior to the final phase is 0.5 and that the minimum floor area ratio of 1.0 is achieved for the entire lot with development of the final phase.
- ²³ For the purposes of this provision, "office uses" include the following uses from Table 510-1, *Permitted Uses in the Urban Commercial and Mixed-Use Zoning Districts*: Business Services, Financial Institutions, Information Services, Offices, Offices and Outpatient Clinics, and Research Facilities and Laboratories.
- ²⁴ Net acreage shall be calculated pursuant to Subsections 1012.08(A) and (B).
- ²⁵ Maximum residential density may be increased pursuant to Table 1012-1, *Bonus Density*. Any partial figure of one-half or greater shall be rounded up to the next whole number.

Table 510-3: Site-Specific Requirements for the PMU District

Land Uses & Areas Required	PMU1
Office uses ¹ , minimum square feet	525,000 square feet
Retail, entertainment, hotel, service commercial, theater, or equivalent, minimum square feet	500,000 square feet
Dwelling units, minimum number	200 dwelling units; demonstrate ability to accommodate 600 dwelling units
Public plaza	one-half- to one-acre plaza
Entertainment/recreational facility	
Transit facilities	
Preserve Phillips Creek and enhance Phillips Creek Greenway	
Land Uses & Areas Required	PMU 2, 3, 4, and 5
Office uses ¹ or residential uses ² , minimum site area	50 percent
Office uses ¹ , minimum floor area ratio (FAR)	0.5 for office uses on lots of two and one-half acres or less; 1.0 for office uses on lots greater than two and one-half acres, calculated pursuant to Subsection 1005.02(K). With a master plan approved pursuant to Subsection 1102.03(B), a lot greater than two and one-half acres may be developed in phases, provided that the minimum floor area ratio of each phase prior to the final phase is 0.5 and that the minimum floor area ratio of 1.0 is achieved for the entire lot with development of the final phase.
Retail uses and service commercial uses, minimum FAR	0.3, calculated pursuant to Subsection 1005.02(K)
Residential density ²	The minimum density for residential development shall be 30 dwelling units per net acre. Net acreage shall be calculated pursuant to Subsections 1012.08(A) and (B).

Notes to Table 510-3:

- ¹ For the purposes of this provision, “office uses” include the following uses from Table 510-1, *Permitted Uses in the Urban Commercial and Mixed-Use Zoning Districts*: Assembly Facilities, Business Services, Civic and Cultural Facilities, Financial Institutions, Information Services, Libraries, Offices, Offices and Outpatient Clinics, Radio and Television Studios, Research Facilities and Laboratories, and Schools.
- ² For the purposes of this provision, “residential uses” include the following uses from Table 510-1: Congregate Housing Facilities, Multifamily Dwellings, and Nursing Homes. However, nursing homes are excluded from the minimum residential density standard.

[Added by Ord. ZDO-250, 10/13/2014; Amended by Ord. ZDO-252, 06/01/2015; Amended by Ord. ZDO-253, 06/01/2015; Amended by Ord. ZDO-254, 01/04/2016; Amended by Ord. ZDO-266, 05/23/2018; Amended by Ord. ZDO-268, 10/02/2018; Amended by Ord. ZDO-276, 10/01/2020; Amended by Ord. ZDO-280, 10/23/2021; Amended by Ord. ZDO-277, 01/01/2022; Amended by Ord. ZDO-282, 07/01/2022; Amended by Ord. ZDO-273, on remand, 05/30/2023; Amended by Ord. ZDO-287, 08/03/2023; Amended by Ord. ZDO-283, 09/05/2023; Amended by Ord. ZDO-285, 09/03/2024; Amended by Ord. ZDO-288, 09/09/2024]

511 VILLAGE COMMUNITY SERVICE DISTRICT (VCS)

511.01 PURPOSE

Section 511 is adopted to implement the policies of the Comprehensive Plan for Village Community Service areas.

511.02 APPLICABILITY

Section 511 applies to land in the Village Community Service (VCS) District.

511.03 USES PERMITTED

Uses permitted in the VCS District are listed in Table 511-1, *Permitted Uses in the VCS District*. In addition, uses similar to one or more of the listed uses may be authorized pursuant to Section 106, *Authorizations of Similar Uses*.

A. As used in Table 511-1:

1. “P” means the use is a primary use.
2. “A” means the use is an accessory use.
3. “C” means the use is a conditional use, approval of which is subject to Section 1203, *Conditional Uses*.
4. “X” means the use is prohibited.
5. Numbers in superscript correspond to the notes that follow Table 511-1.

B. Permitted uses are subject to the applicable provisions of Subsection 511.04, *Dimensional Standards*, Subsection 511.05, *Development Standard*, Section 1000, *Development Standards*, and Section 1100, *Development Review Process*.

511.04 DIMENSIONAL STANDARDS

The following dimensional standards apply in the VCS District. Modifications to the dimensional standards are established by Sections 800, *Special Use Requirements*; 903, *Setback Exceptions*; 904, *Height Exceptions*; 1107, *Property Line Adjustments*; and 1205, *Variances*.

- A. Setback: The setback from lot lines abutting Oregon Trail Drive and Hines Drive shall be zero. The minimum setback from all other lot lines shall be five feet.
- B. Maximum Building Height: Maximum building height shall be 35 feet.

511.05 DEVELOPMENT STANDARD

All primary and accessory uses, including storage of materials, products, or waste, shall be wholly contained within an approved structure.

Table 511-1: Permitted Uses in the VCS District

Use	VCS
Accessory Uses, Customarily Permitted , such as bicycle racks, cogeneration facilities, meeting facilities, property maintenance and property management offices, rainwater collection systems, satellite dishes, solar energy systems, storage of building maintenance and landscape maintenance equipment, stormwater management facilities, transit amenities, utility service equipment, and utility service lines	A
Assembly Facilities , including auditoriums, community centers, and senior centers	P
Athletic Clubs	C
Bus Shelters	A
Child Care ~~Facilities~~ Centers	P
Civic and Cultural Facilities , including art galleries and museums	P ¹ , C ²
Community Gardens	P
Composting Facilities	X
<u>Crisis Stabilization Centers, as defined in ORS 430.626, subject to Section 849</u>	<u>P</u> ³
Daycare Services, Adult	P
Dwellings , if developed as affordable housing, as defined in ORS 197A.445(1), subject to Section 846, ~~Affordable Housing~~	P
Electric Vehicle Charging Stations	A
<u>Emergency Shelter, subject to Section 848</u>	<u>P</u>
Employee Amenities , including cafeterias, clinics, daycare facilities, fitness facilities, lounges, and recreational facilities	A ⁴³
Farmers' Markets , subject to Section 840	P
Government Uses , including fire stations, police stations, and post offices	P
<u>Hospitals, Mental or Psychiatric, subject to Section 849</u>	<u>P</u> ⁵
Libraries	P
Marijuana Processing	X
Marijuana Production	X
Marijuana Retailing	X
Marijuana Wholesaling	X
Offices , including developer sales offices and professional offices	C

Use	VCS
Offices , including government offices and utility offices	P
Pedestrian Amenities	P
Places of Worship , subject to Section 804	P
Public Recreation Facilities	P
Recyclable Drop-off Sites , subject to Section 819	A
<u>Residential Treatment Facilities and Residential Treatment Homes, subject to Section 849</u>	<u>P</u>
Roads	P
Schools	P
Signs , subject to Section 1010	A ⁶⁴
Telecommuting Support Services , including photocopying centers with fax and computer facilities	P
Temporary Buildings for Uses Incidental to Construction Work , provided that such buildings shall be removed upon completion or abandonment of the construction work	A
Temporary Storage within an Enclosed Structure of Source-Separated Recyclable/Reusable Materials Generated and/or Used On-Site Prior to On-Site Reuse or Removal by the Generator or Licensed or Franchised Collector to a User or Broker	A
Utility Carrier Cabinets , subject to Section 830	P,C ⁷⁵
Utility Facilities, including:	
Stormwater Management Facilities	P,C ⁷⁵
Utility Cabinets	P,C ⁸⁶
Utility Facilities, except Utility Lines, in Road Rights-of-Way	P
Utility Lines	P,C ⁹⁷
Wireless Telecommunication Facilities , subject to Section 835	See Table 835-1

Notes to Table 511-1:

¹ Museums are a primary use.

² Art galleries are a conditional use.

³ A crisis stabilization center must locate on property owned by a public body, as defined in ORS 174.109, and adjacent to where a mental or psychiatric hospital licensed under ORS 441.025 is or will be located as established by a pending development application.

⁴³ Employee amenities shall be located in the same structure as the use to which they are accessory.

⁵ A mental or psychiatric hospital established as a primary use must be located adjacent to where a crisis stabilization center, as defined in ORS 430.626 and licensed under ORS 430.627, is or will be located as established by a pending development application.

⁶⁴ Temporary signs regulated under Subsection 1010.13(A) are a primary use.

⁷⁵ Stormwater management facilities are a primary use if:

- a. They are underground, except for an outlet structure if applicable;
- b. They are vegetated, except for an outlet structure if applicable; or
- c. They are approved in conjunction with a development approved through another land use permit (e.g., a subdivision or design review).

⁸⁶ Utility cabinets are a primary use if they comply with Section 830, *Utility Cabinets*, or if they are inside a road right-of-way.

⁹⁷ Utility lines are a conditional use only if they are gas transmission lines or electric transmission lines.

[Added by Ord. ZDO-250, 10/13/2014; Amended by Ord. ZDO-253, 06/01/2015; Amended by Ord. ZDO-254, 01/04/2016; Amended by Ord. ZDO-266, 05/23/2018; Amended by Ord. ZDO-268, 10/02/2018; Amended by Ord. ZDO-280, 10/23/2021; Amended by Ord. ZDO-287, 08/03/2023; Amended by Ord. ZDO-285, 09/03/2024; Amended by Ord. ZDO-288, 09/09/2024]

512 VILLAGE OFFICE DISTRICT (VO)

512.01 PURPOSE

Section 512 is adopted to implement the policies of the Comprehensive Plan for Village Office areas.

512.02 APPLICABILITY

Section 512 applies to land in the Village Office (VO) District.

512.03 USES PERMITTED

Uses permitted in the VO District are listed in Table 512-1, *Permitted Uses in the VO District*. In addition, uses similar to one or more of the listed uses may be authorized pursuant to Section 106, *Authorizations of Similar Uses*.

A. As used in Table 512-1:

1. “P” means the use is a primary use.
2. “A” means the use is an accessory use.
3. “L” means the use is a limited use.
4. “C” means the use is a conditional use, approval of which is subject to Section 1203, *Conditional Uses*.
5. “X” means the use is prohibited.
6. Numbers in superscript correspond to the notes that follow Table 512-1.

B. Permitted uses are subject to the applicable provisions of Subsection 512.04, *Dimensional Standards*, Subsection 512.05, *Development Standard*, Section 1000, *Development Standards*, and Section 1100, *Development Review Process*.

512.04 DIMENSIONAL STANDARDS

The following dimensional standards apply in the VO District. Modifications to the dimensional standards are established by Sections 800, *Special Use Requirements*; 903, *Setback Exceptions*; 904, *Height Exceptions*; 1107, *Property Line Adjustments*; and 1205, *Variances*.

- A. Maximum Front Setback: The maximum front setback shall be 50 feet from the centerline of 142nd Avenue, 75 feet from the centerline of Sunnyside Road, and 10 feet from lot lines abutting any other road. The maximum front setback may be exceeded to the minimum extent necessary to accommodate proposed pedestrian amenities.

- B. Minimum Front Setback: The minimum front setback shall be 40 feet from the centerline of 142nd Avenue, 65 feet from the centerline of Sunnyside Road, and five feet from lot lines abutting any other road. Awnings or other overhangs may extend a maximum of four feet into the minimum front yard depth.
- C. Rear Setback: The maximum and minimum front setback standards for lot lines abutting 142nd Avenue and Sunnyside Road shall apply even if a lot line abutting 142nd Avenue or Sunnyside Road is designated as a rear lot line pursuant to the definition of rear lot line in Section 202, *Definitions*.
- D. Maximum Building Height: Maximum building height shall be 45 feet.

512.05 DEVELOPMENT STANDARD

Primary and accessory uses, including storage of materials, products, or waste, shall be wholly contained within an approved structure.

Table 512-1: Permitted Uses in the VO District

Use	VO
Accessory Uses, Customarily Permitted , such as bicycle racks, cogeneration facilities, meeting facilities, property maintenance and property management offices, rainwater collection systems, satellite dishes, solar energy systems, stormwater management facilities, storage of building maintenance and landscape maintenance equipment, transit amenities, utility service equipment, and utility service lines	A
Assembly Facilities , including auditoriums, community centers, convention facilities, exhibition halls, fraternal organization lodges, places of worship, senior centers, and theaters for the performing arts	C ^{1,2}
Bus Shelters	A
Child Care ~~Centers~~ Facilities	~~L~~ ^{3,4} , ~~C~~ ⁵ P
Civic and Cultural Facilities , including art galleries and museums	C ¹
Composting Facilities	X
<u>Crisis Stabilization Centers, as defined in ORS 430.626, subject to Section 849</u>	<u>P</u> ³
Daycare Services, Adult	~~L~~ ^{43,56} , ~~C~~ ⁶⁵
Dwellings , if developed as affordable housing, as defined in ORS 197A.445(1), subject to Section 846, ~~Affordable Housing~~	P
Educational Institutes	C ⁷
Electric Vehicle Charging Stations	A
<u>Emergency Shelter, subject to Section 848</u>	<u>P</u>

Use	VO
Employee Amenities , including cafeterias, clinics, daycare facilities, fitness facilities, lounges, and recreational facilities	A ⁸
Farmers' Markets , subject to Section 840	P
Financial Institutions , including banks, brokerages, credit unions, loan companies, and savings and loan associations	P
Fitness Facilities , including athletic clubs, exercise studios, gymnasiums, and health clubs	C
Hospitals, Mental or Psychiatric , subject to Section 849	<u>P⁹</u>
Libraries	C ¹
Manufacturing , including the mechanical, physical, or chemical transformation of materials, substances, or components into new products; and the assembly of component parts. Primary processing of raw materials is prohibited.	P ¹⁰⁹
Marijuana Processing	P ^{109, 119}
Marijuana Production	X
Marijuana Retailing	X
Marijuana Wholesaling	X
Mobile Vending Units, Level One , subject to Section 837	A
Offices , including administrative, business, corporate, governmental, and professional offices. Examples include offices for the following: architectural services, business management services, call centers, employment agencies, engineering services, governmental services, insurance services, legal services, manufacturer's representatives, office management services, property management services, real estate agencies, and travel agencies.	P
Offices and Outpatient Clinics —both of which may include associated pharmacies and laboratories—for healthcare services, such as acupuncture, chiropractic, counseling, dental, massage therapy, medical, naturopathic, optometric, physical therapy, psychiatric, occupational therapy, and speech therapy.	P
Pedestrian Amenities	P
Radio and Television Studios , excluding transmission towers	C ⁷
Recreational Sports Facilities for such sports as basketball, dance, gymnastics, martial arts, racquetball, skating, soccer, swimming, and tennis. These facilities may be used for any of the following: general recreation, instruction, practice, and competitions.	C
Recyclable Drop-off Sites , subject to Section 819	A

Use	VO
Research Facilities and Laboratories , including medical laboratories, medical research, product design and testing, and product research and development	P ¹²⁺
<u>Residential Treatment Facilities and Residential Treatment Homes, subject to Section 849</u>	P
Roads	P
Services, Business , including computer rental workstations; leasing, maintenance, repair, and sale of communications and office equipment; mailing; notary public; photocopying; and printing	P
Services, Commercial—Food and Beverage , including catering and eating and drinking establishments	L ⁴³
Services, Information , including blueprinting, bookbinding, photo processing, photo reproduction, printing, and publishing	P
Signs , subject to Section 1010	A ¹³²
Studios of the following types: -art, dance, and music	C ⁷
Temporary Buildings for Uses Incidental to Construction Work , provided that such buildings shall be removed upon completion or abandonment of the construction work	A
Temporary Storage within an Enclosed Structure of Source-Separated Recyclable/Reusable Materials Generated and/or Used On-Site Prior to On-Site Reuse or Removal by the Generator or Licensed or Franchised Collector to a User or Broker	A
Trade Schools. Trade schools provide training in occupational skills. These facilities also may be referred to as technical schools, vocational schools, and career schools.	C ⁷
Utility Facilities, including:	
Stormwater Management Facilities	P,C ¹⁴³
Utility Cabinets	P,C ¹⁵⁴
Utility Facilities, except Utility Lines, in Road Rights-of-Way	P
Utility Lines	P,C ¹⁶⁵
Wireless Telecommunication Facilities , subject to Section 835	See Table 835-1

Notes to Table 512-1:

- ¹ This use is permitted only if there is no opportunity to locate it either in the VCS District or on land zoned VCS prior to annexation to the City of Happy Valley.

- ² An assembly facility shall have a maximum capacity of 500 people.
- ³ A crisis stabilization center must locate on property owned by a public body, as defined in ORS 174.109, and adjacent to where a mental or psychiatric hospital licensed under ORS 441.025 is or will be located as established by a pending development application.
- ³⁴ The maximum building floor area of the use, and any other limited uses, shall be 20 percent of the building floor area of primary uses in the same development.
- ~~⁴ The use shall be integrated within office buildings and shall neither exceed 1,500 square feet nor serve more than 13 children.~~
- ~~⁵ The use shall be located in the southern half of the VO District and shall be oriented toward the adjacent residential neighborhood.~~
- ⁵⁶ The use shall be integrated within office buildings and shall neither exceed 1,500 square feet nor serve more than 13 adults.
- ⁶ The use shall be located in the southern half of the VO District and shall be oriented toward the adjacent residential neighborhood.
- ⁷ This use is permitted only if there is no opportunity to locate it on land zoned Village Commercial District prior to annexation to the City of Happy Valley.
- ⁸ Employee amenities shall be located in the same structure as the use to which they are accessory.
- ⁹ A mental or psychiatric hospital established as a primary use must be located adjacent to where a crisis stabilization center, as defined in ORS 430.626 and licensed under ORS 430.627, is or will be located as established by a pending development application.
- ¹⁰⁹ This use is allowed only if it has physical and operational requirements that are similar to those of other primary uses allowed in the VO District.
- ¹¹⁰ The processing, compounding, or conversion of marijuana into cannabinoid concentrates or cannabinoid extracts is prohibited.
- ¹²⁴ No operation shall be conducted, or equipment used, that would create any of the following: hazards, noxious conditions, or offensive conditions.
- ¹³² Temporary signs regulated under Subsection 1010.13(A) are a primary use.
- ¹⁴³ Stormwater management facilities are a primary use if:
 - a. They are underground, except for an outlet structure if applicable;
 - b. They are vegetated, except for an outlet structure if applicable; or
 - c. They are approved in conjunction with a development approved through another land use permit (e.g., a subdivision or design review).
- ¹⁵⁴ Utility cabinets are a primary use if they comply with Section 830, *Utility Cabinets*, or if they are inside a road right-of-way.
- ¹⁶⁵ Utility lines are a conditional use only if they are gas transmission lines or electric transmission lines.

CLACKAMAS COUNTY ZONING AND DEVELOPMENT ORDINANCE

[Added by Ord. ZDO-250, 10/13/2014; Amended by Ord. ZDO-253, 06/01/2015; Amended by Ord. ZDO-254, 01/04/2016; Amended by Ord. ZDO-266, 05/23/2018; Amended by Ord. ZDO-268, 10/02/2018; Amended by Ord. ZDO-280, 10/23/2021; Amended by Ord. ZDO-285, 09/03/2024; Amended by Ord. ZDO-288, 09/09/2024]

602 BUSINESS PARK (BP), LIGHT INDUSTRIAL (LI), AND GENERAL INDUSTRIAL (GI) DISTRICTS

602.01 PURPOSE

Section 602 is adopted to implement the policies of the Comprehensive Plan for Business Park, Light Industrial, and General Industrial areas.

602.02 APPLICABILITY

Section 602 applies to land in the Business Park (BP), Light Industrial (LI), and General Industrial (GI) Districts.

602.03 USES PERMITTED

Uses permitted in each zoning district are listed in Table 602-1, *Permitted Uses in the BP, LI, and GI Districts*. In addition, uses similar to one or more of the listed uses for the applicable zoning district may be authorized pursuant to Section 106, *Authorizations of Similar Uses*.

A. As used in Table 602-1:

1. “P” means the use is a primary use.
2. “A” means the use is an accessory use.
3. “C” means the use is a conditional use, approval of which is subject to Section 1203, *Conditional Uses*.
4. “X” means the use is prohibited.
5. Numbers in superscript correspond to the notes that follow Table 602-1.

B. Permitted uses are subject to the applicable provisions of Subsection 602.04, *Dimensional Standards*, Subsection 602.05, *Development Standards*, Section 1000, *Development Standards*, and Section 1100, *Development Review Process*.

602.04 DIMENSIONAL STANDARDS

- A. General: Dimensional standards applicable in the BP, LI, and GI Districts are listed in Table 602-2, *Dimensional Standards in the BP, LI, and GI Districts*. As used in Table 602-2, numbers in superscript correspond to the notes that follow Table 602-2.
- B. Modifications: Modifications to the standards of Table 602-2 are established by Sections 800, *Special Use Requirements*; 1012, *Lot Size and Density*; 1107, *Property Line Adjustments*; and 1205, *Variances*.

602.05 DEVELOPMENT STANDARDS

The following development standards apply in the BP, LI, and GI Districts.

A. Outdoor Operations in the BP District: In the operation of a primary use in the BP District:

1. All display areas shall be located within a building. No outdoor display areas shall be allowed.
2. No outdoor storage of materials or products shall be allowed.
3. No outdoor processes shall be employed in the operation of the business.
4. Receptacles for solid waste and recyclable materials shall be maintained within an enclosed structure.

B. Outdoor Operations in the LI District: In the operation of a primary use in the LI District:

1. All display of products shall be located within an enclosed building. No outdoor display areas shall be allowed. Notwithstanding these limitations, outdoor display of finished products may be permitted as a conditional use, as established by Table 602-1 and provided that, at a minimum, outdoor display areas and items on display shall:
 - a. Not block visibility to or from any road or driveway, or block visibility of signs located on adjacent lots;
 - b. Be located a minimum of 15 feet from the front lot line(s);
 - c. Be maintained to project an organized and neat appearance at all times; and
 - d. Only include finished products manufactured on, or sold on a wholesale basis from, the subject property.
2. Limited outdoor storage areas shall be allowed, subject to the following criteria:
 - a. Except as permitted as a conditional use, as established by Table 602-1, outdoor storage may occupy an area no greater than the area of the ground floor of the building(s) on the same premises.
 - b. Outdoor storage areas shall be located behind the building, to the rear of the site, and not adjacent to front lot lines.

- c. Outdoor storage areas shall be screened with a sight-obscuring fence a minimum of six feet in height. Fencing shall be located behind the landscaping strips required by Subsections 1009.03(B) and 1009.06.
 - d. Equipment, vehicles, materials, and other items located within outdoor storage areas shall be maintained in an orderly fashion and, except for large industrial or commercial vehicles and equipment, shall be no higher than the height of the fence.
 - e. Outdoor storage areas shall not be used to store waste or recyclable materials.
- 3. No outdoor processes shall be employed in the operation of the business.
 - 4. Receptacles for solid waste and recyclable materials shall be maintained within an enclosed structure.
- C. Outdoor Operations in the GI District: In the operation of a primary use in the GI District:
- 1. Outdoor display of finished products is permitted, provided that outdoor display areas and items on display shall:
 - a. Not block visibility to or from any road or driveway, or block visibility of signs located on adjacent lots;
 - b. Be located a minimum of 10 feet from the front lot line(s);
 - c. Be maintained to project an organized and neat appearance at all times; and
 - d. Only include finished products manufactured on, or sold on a wholesale basis from, the subject property.
 - 2. Outdoor storage and processing are permitted, subject to the following standards:
 - a. Outdoor storage and processing areas shall be located a minimum of 20 feet from the front lot line(s), a minimum of 15 feet from side or rear lot lines that abut a commercial zoning district, and a minimum of 35 feet from side or rear lot lines that abut a residential or natural resource zoning district.
 - b. Outdoor storage areas shall be screened with a sight-obscuring fence a minimum of six feet in height and a maximum of 10 feet in height. Fencing shall be located behind the landscaping strips required by Subsections 1009.03(B) and 1009.06. Outdoor processing areas shall be buffered pursuant to Subsections 1009.04(D) through (F).

- c. Equipment, stockpiles of materials, and other items located within outdoor storage and processing areas shall be maintained in an orderly fashion.
- d. Waste materials (by-products that are not further processed or recycled on-premise) shall not accumulate in outdoor storage and processing areas for more than two weeks, except that waste materials from water treatment facilities or surface water retention facilities may accumulate for such longer period as necessitated by Best Management Practices for the facility.
- e. It shall be demonstrated through engineering and design or monitoring that outdoor storage of waste materials will not negatively impact ground or surface waters.

Table 602-1: Permitted Uses in the BP, LI, and GI Districts

Use	BP	LI	GI
Accessory Uses, Customarily Permitted , such as amateur (Ham) radio antennas and towers, arbors, bicycle racks, citizen band transmitters and antennas, cogeneration facilities, courtyards, decks, decorative ponds, driveways, electric vehicle charging stations, fountains, gazebos, HVAC units, meeting facilities, parking areas, patios, pergolas, plazas, property maintenance and property management offices, rainwater collection systems, satellite dishes, solar energy systems, stormwater management facilities, television antennas and receivers, transit amenities, trellises, utility service equipment, and utility service lines	A	A	A
Accessory Uses permitted in the R-5 through R-30 Districts, except accessory dwelling units, listed in Table 315-1, Permitted Uses in the Urban Residential Zoning Districts , provided that such uses are accessory to a single-family dwelling that is a nonconforming use	A	A	A
Arenas, Exhibition Halls, and Stadiums	C ¹	C ¹	C ¹
Bus Shelters	A	A	A
<u>Child Care Centers²</u>	<u>P</u>	<u>P</u>	<u>X</u>
Composting Facilities , subject to Section 834	X	C	C
Construction and Maintenance Contractors , including contractors engaged in construction and maintenance of buildings and their component parts (e.g., roofing, siding, windows), fencing, decking, building systems (e.g., plumbing, electrical, mechanical), landscaping, and infrastructure (e.g., roads, utilities). Also included are excavation contractors, building movers, pest control services, and janitorial services.	P	P	P
<u>Crisis Stabilization Centers, as defined in ORS 430.626, subject to Section 849</u>	<u>p³</u>	<u>p³</u>	<u>p³</u>
Dwellings , if developed as affordable housing, as defined in ORS 197A.445(1), and subject to Section 846, ~~Affordable Housing~~	P	P	X
<u>Emergency Shelters, subject to Section 848</u>	<u>P</u>	<u>P</u>	<u>P</u>
Employee Amenities , such as cafeterias, clinics, child care facilities, fitness facilities, lounges, and recreational facilities	A	A	A
Farmers' Markets , subject to Section 840	P	P	P
Government Uses , unless such a use is listed elsewhere in this table as a primary or accessory use	C ²⁴	C ²⁴	C ²⁴

Use	BP	LI	GI
Heavy Truck and Heavy Equipment Uses , including sales, rental, storage, repair, and servicing of heavy trucks such as dump trucks, moving trucks, and truck tractors; large construction equipment such as backhoes and bulldozers; large farm equipment such as tractors and combines; and large cargo trailers such as semitrailers. Sales, rental, storage, repair, and servicing of passenger vehicles, recreational vehicles, and boats are excluded.	X	P	P
Heliports	C	C	C
<u>Hospitals, Mental or Psychiatric, subject to Section 849</u>	<u>P⁵</u>	<u>P⁵</u>	<u>P⁵</u>
Industrial Trade Schools , including training facilities whose primary purpose is to provide training to meet industrial needs. These facilities also may be referred to as technical schools, vocational schools, and career schools. Industrial trade schools provide training in such occupational skills as welding, operation and repair of industrial machinery, and truck driving.	P	P	P
Information Services , including establishments engaged in producing and distributing information; providing the means to transmit or distribute these products, as well as data or communications; and processing data. Examples include publishing industries such as book, periodical, and software publishing; computer systems design; internet web search services; internet service providers; radio, television, motion picture, and recording studios; computer data storage services; optical scanning and imaging services; and financial transaction processing such as credit card transaction and payroll processing services. These businesses primarily serve other industries or deliver their products to the end user through means other than on-site pickup by the customer. Few general public customer visits per day are generated.	P	P	P
Large-Scale Laundry, Dry-Cleaning, and Carpet-Cleaning Plants These businesses primarily serve other industries or deliver their services to the end user through means other than on-site customer visits. Few general public customer visits per day are generated.	P	P	P
Level One Mobile Vending Units , subject to Section 837	A	A	A

Use	BP	LI	GI
Manufacturing , including establishments engaged in the mechanical, physical, or chemical transformation of materials, substances, or components into new products, including the assembly of component parts. Examples of manufacturing include alternative energy development, biosciences, food and beverage processing, software and electronics production, and fabrication of products made from materials such as metal, glass, rubber, plastic, resin, wood, and paper.	P	P	P
Marijuana Processing	P ⁶³	P ⁶³	P ⁶³
Marijuana Production	P ⁶³	P ⁶³	P ⁶³
Marijuana Retailing	X	X	X
Marijuana Wholesaling	P ⁶³	P ⁶³	P ⁶³
Miscellaneous Industrial Uses , including wrecking and salvage of building materials, equipment, and vehicles; tire retreading and recapping; and petroleum, coal, or other fuel storage, refining, reclaiming, distribution, and wholesale trade. These businesses primarily serve other industries or deliver their products and services to the end user through means other than on-site customer visits. Few general public customer visits per day are generated.	X	X	P
Offices , including administrative and corporate offices and call centers. These businesses primarily serve other industries or deliver their products and services to the end user through means other than on-site customer visits. Few general public customer visits per day are generated.	P	P	P
Outdoor Display of Products , subject to Subsection 602.05(B)(1) or (C)(1), provided that such display is associated with a permitted use	X	C	A
Outdoor Entertainment Facilities , including amusement parks, circuses, carnivals, drive-in theatres, and racetracks for automobiles, dogs, horses, and motorcycles	X	X	C
Outdoor Storage Areas Larger than Allowed by Subsection 602.05(B)(2)(a) , provided that such storage is associated with a permitted use	X	C	A
Parking, Storage, Repair, and Servicing of Fleet Vehicles	A	A	A
Parking Structures	A	A	A
Pedestrian Amenities	P	P	P

Use	BP	LI	GI
Radio and Television Transmission and Receiving Towers and Earth Stations , provided that the base of such towers shall not be closer to the property line than a distance equal to the height of the tower	C	C	C
Recreational Sports Facilities for such sports as basketball, dance, gymnastics, martial arts, racquetball, skating, soccer, swimming, and tennis. These facilities may be used for any of the following: instruction, practice, and competitions. Only indoor facilities are permitted. Health and fitness clubs are excluded from this category but are included in the “retail and professional services that cater to daily customers/retail commercial uses” category.	P ¹	P ¹	P ¹
Recyclable Drop-Off Sites , subject to Section 819	A ²⁴	A ²⁴	A ²⁴
Recycling Centers and Transfer Stations , subject to Section 819	X	C	P
Repair and Servicing Uses , including large-scale repair and servicing of equipment, machinery, and other products. Examples include authorized service centers, welding shops and machine shops. Products are received from and returned to customers primarily by shipping or pickup/delivery by employees of the business. Few general public customer visits per day are generated.	P	P	P
Research Facilities and Laboratories , including product research and development, product design and testing, medical research, and medical laboratories. Medical laboratories in this category primarily serve other industries or deliver their services to the end user through means other than on-site customer visits. Few general public customer visits per day are generated.	P	P	P
<u>Residential Treatment Facilities and Residential Treatment Homes</u> , subject to Section 849	<u>P</u>	<u>P</u>	<u>X</u>

Use	BP	LI	GI
Retail and Professional Services that Cater to Daily Customers/Retail Commercial Uses , including the sale of goods and services to the general public. Examples of retail and professional services that cater to daily customers include rental and storage of passenger vehicles, recreational vehicles, and boats; health and fitness clubs; daycare facilities; and financial, insurance, real estate, legal, medical, and dental offices. Auto repairing, overhauling, painting, washing, body and fender work, and reconditioning are excluded. Examples of retail commercial uses include sales of passenger vehicles, recreational vehicles, and boats; stores; and restaurants. Sales of motor vehicle fuels are excluded.	P ^{<u>5,6,7,8,9,10</u>}	P ^{<u>5,6,7,8,9,10</u>}	A ^{<u>118</u>}
Retail Services , including auto repairing, overhauling, painting, washing, body and fender work, and reconditioning	X	X	C
Roads	P	P	P
Signs , subject to Section 1010	A ^{<u>129</u>}	A ^{<u>129</u>}	A ^{<u>129</u>}
Surface Mining , subject to Section 818	X	C	C ^{<u>130</u>}
Temporary Buildings for Uses Incidental to Construction Work , provided that such buildings shall be removed upon completion or abandonment of the construction work	A	A	A
Temporary Storage within an Enclosed Structure of Source-Separated Recyclable/Reusable Materials Generated and/or Used Onsite Prior to Onsite Reuse or Removal by the Generator or Licensed or Franchised Collector to a User or Broker	A	A	A
Towing Establishments and Storage of Towed Vehicles	X	P	P
Transportation Uses , including the transportation of cargo using motor vehicles or rail spurs, loading docks, and parking of cargo transport vehicles. Examples include freight terminals, parcel delivery services, moving companies, and parking facilities for long-haul trucks. These uses often are associated with warehousing facilities. Also included are parking, storage, repair, and servicing of fleet vehicles used for the transport of people. Examples include ambulance services and mass transit and school bus fleet facilities. Also included are commercial motor vehicle fueling services, such as cardlock fueling stations; however, motor vehicle fueling stations that cater to the general public are excluded.	X	P	P
Utility Facilities, including:			

Use	BP	LI	GI
Stormwater Management Facilities	P,C ¹⁴⁺	P,C ¹⁴⁺	P,C ¹⁴⁺
Utility Cabinets	P,C ¹⁵²	P,C ¹⁵²	P,C ¹⁵²
Utility Facilities, except Utility Lines, in Road Rights-of-Way	P	P	P
Utility Facilities Not Otherwise Listed in Table 602-1	C	C	C
Utility Lines	P,C ¹⁶³	P,C ¹⁶³	P,C ¹⁶³
Warehouse Event Retail Sales	A ¹⁷⁴	A ¹⁷⁴	A ¹⁷⁴
Warehousing and Distribution , including establishments primarily engaged in operating warehousing and distribution facilities for general merchandise, refrigerated goods, and other products and materials that have been manufactured and generally are being stored in anticipation of delivery to the final customer. A range of logistical services may be provided, including labeling, packaging, price marking and ticketing, and transportation arrangement. Mini-storage/self-storage facilities are excluded.	A	P	P
Wholesale Trade , including establishments engaged in selling and distributing goods and services to retailers; to industrial, commercial, or professional business users; or to other wholesalers, generally without transformation. Wholesalers sell goods and services to other businesses, not the general public.	P	P	P
Wireless Telecommunication Facilities , subject to Section 835	P	P	P

Notes to Table 602-1:

- ¹ In Regionally Significant Industrial Areas identified on Comprehensive Plan Map IV-8, *Urban Growth Concept*, places of assembly shall not exceed 20,000 square feet.
- ² A child care center may not be located on property designated on the Department of Environmental Quality's statewide list of contaminated properties as having known or suspected releases of hazardous substances.
- ³ A crisis stabilization center must locate on property owned by a public body, as defined in ORS 174.109, and adjacent to where a mental or psychiatric hospital licensed under ORS 441.025 is or will be located as established by a pending development application.
- ⁴² In Regionally Significant Industrial Areas (RSIAs) identified on Comprehensive Plan Map IV-8, parks—intended to serve people other than those working or residing in the RSIA—and schools are prohibited.

- ⁵ A mental or psychiatric hospital established as a primary use must be located adjacent to where a crisis stabilization center, as defined in ORS 430.626 and licensed under ORS 430.627, is or will be located as established by a pending development application.
- ⁶³ Notwithstanding Subsection 602.05, marijuana production, marijuana processing, and marijuana wholesaling shall be located entirely within one or more completely enclosed buildings. A maximum of 20,000 square feet of building floor space may be used for all activities associated with marijuana production, marijuana processing, and marijuana wholesaling on a lot of record.
- ⁷⁴ Recyclable drop-off sites are permitted only if accessory to an institutional use.
- ⁸⁵ Notwithstanding other provisions of Section 602 that may permit outdoor display, storage, or processing, these uses shall be conducted entirely within a building, except the following are permitted: outdoor seating areas associated with a restaurant, outdoor play areas associated with a daycare facility, and similar outdoor amenities. Drive-thru window service facilities are prohibited.
- ⁹⁶ In Regionally Significant Industrial Areas identified on Comprehensive Plan Map IV-8, building floor area associated with each use shall not exceed 3,000 square feet, and the total building floor area of all such uses in the same development project shall not exceed 20,000 square feet. Notwithstanding these limitations, the lawful use of any structure or land as of September 9, 2013, may continue and expand to add up to 20 percent more building floor area. Outside Regionally Significant Industrial Areas identified on Comprehensive Plan Map IV-8, the same standards shall apply, except that the single-use limit is 5,000 square feet of building floor area. However, the building floor area limitations do not apply to the following uses in the BP District: destination restaurants that comply with Subsection 1016.05(B)(4) and provide lunch service; and hotels and associated convention facilities, gift shops, and restaurants.
- ¹⁰⁷ Lots of record created on or after September 9, 2013, shall be subject to Note 7 to Table 602-1 in lieu of Note 6 to Table 602-1. In Regionally Significant Industrial Areas identified on Comprehensive Plan Map IV-8, building floor area associated with each use shall not exceed 3,000 square feet. Outside Regionally Significant Industrial Areas identified on Comprehensive Plan Map IV-8, building floor area associated with each use shall not exceed 5,000 square feet. Notwithstanding these limitations, the lawful use of any structure or land as of September 9, 2013, may continue and expand to add up to 20 percent more building floor area. In all cases, the total building floor area of all such uses on the same lot of record shall not exceed 20,000 square feet or 25 percent of the building floor area on the lot of record, whichever is less. However, the building floor area limitations do not apply to the following uses in the BP District: destination restaurants that comply with Subsection 1016.05(B)(4) and provide lunch service; and hotels and associated convention facilities, gift shops, and restaurants.
- ¹¹⁸ This use is limited to indoor areas for retail display and retail sales of products manufactured by the same business occupying the premises, as well as related products. In Regionally Significant Industrial Areas identified on Comprehensive Plan Map IV-8, building floor area for such retail display and retail sales shall not exceed 3,000 square feet per business, and the total

building floor area of all such retail display and retail sales areas in the same development project shall not exceed 20,000 square feet. Notwithstanding these limitations, the lawful use of any structure or land as of September 9, 2013, may continue and expand to add up to 20 percent more building floor area. Outside Regionally Significant Industrial Areas identified on Comprehensive Plan Map IV-8, the same standards shall apply, except that the single-business limit is 5,000 square feet of building floor area.

¹²⁹ Temporary signs regulated under Subsection 1010.13(A) are a primary use.

¹³⁰ Aggregate batch plant operations are a primary use in the GI District.

¹⁴⁴ Stormwater management facilities are a primary use if:

- a. They are underground, except for an outlet structure if applicable;
- b. They are vegetated, except for an outlet structure if applicable; or
- c. They are approved in conjunction with a development approved through another land use permit (e.g., a subdivision or design review).

¹⁵² Utility cabinets are a primary use if they comply with Section 830, *Utility Cabinets*, or if they are inside a road right-of-way.

¹⁶³ Utility lines are a conditional use only if they are gas transmission lines or electric transmission lines.

¹⁷⁴ Warehouse event retail sales are permitted if the products being sold at the event sale are manufactured, warehoused, or distributed as a primary use on the subject property; no more than one event sale occurs each calendar month; a single event sale lasts a maximum of three consecutive days, which shall be Friday, Saturday, Sunday, or Monday; and the event sales occur indoors.

Table 602-2: Dimensional Standards in the BP, LI, and GI Districts

Standard	BP	LI	GI
Minimum Lot Size ¹	3 acres	1 acre ²	1 acre ²
Maximum Front Setback	See Subsections 1005.02(E) and (H).		
Minimum Front Setback	20 feet ³	20 feet ³	20 feet ³
Minimum Rear Setback	0 ^{3,4,5}	0 ^{3,4,5}	0 ^{3,4,56}
Minimum Side Setback	0 ^{3,67}	0 ^{3,67}	0 ^{3,4,67}

Notes to Table 602-2:

- ¹ The minimum lot size standards apply as established by Sections 1012, Density, and 1107, Property Line Adjustments, except that no minimum lot size standard applies to a lot that is developed with a dwelling that is a nonconforming use. Notwithstanding the minimum lot size standard, a lot of record may be developed, except minimum lot size standards of Section 800 apply.
- ² The minimum lot size may be reduced to 20,000 square feet, subject to design review approval pursuant to Section 1102, *Design Review*, of the overall development plan for the entire lot of record, including access, circulation, parking, landscaping, and proposed building locations.
- ³ The minimum setback requirements of Table 315-2, *Dimensional Standards in the Urban Low Density Residential Districts*, apply to dwellings that are nonconforming uses, as well as to structures that are accessory to such dwellings.
- ⁴ Except as established by Notes 3 and ~~65~~, if the rear lot line abuts a commercial zoning district, the minimum setback is 15 feet, and if the rear lot line abuts a natural resource or residential zoning district, the minimum setback is 35 feet.
- ⁵ The minimum setback for a silo, tower, or other specialized storage or processing structure (unless such structure is enclosed in a building) is 35 feet.
- ~~⁵⁶~~ The minimum setback for a silo, tower, or other specialized storage or processing structure (unless such structure is enclosed in a building) is 35 feet for structures 35 feet or less in height. An additional five feet of setback is required for each additional 10-foot height increment, or portion thereof, for structures over 35 feet in height. These greater setback standards do not apply if the lot line abuts an LI or GI District.
- ~~⁶⁷~~ Except as established by Notes 3 and ~~65~~, if the side lot line abuts a commercial zoning district, the minimum setback is 15 feet, and if the side lot line abuts a natural resource or residential zoning district, the minimum setback is 35 feet.

[Amended by Ord. ZDO-224, 5/31/2011; Amended by Ord. ZDO-231, 1/31/2012; Amended by Ord. ZDO-235, 5/14/2012; Amended by Ord. ZDO-243, 9/9/2013; Amended by Ord. ZDO-249, 10/13/2014; Amended by Ord. ZDO-250, 10/13/2014; Amended by Ord. ZDO-253, 6/1/2015; Amended by Ord. ZDO-254, 1/4/2016; Amended by Ord. ZDO-267, 8/28/2017; Amended by Ord. ZDO-266, 5/23/2018; Amended by Ord. ZDO-268, 10/2/2018; Amended by automatic repeal of Ord. ZDO-267, 8/28/2019; Amended by Ord. ZDO-280, 10/23/2021; Amended by Ord. ZDO-283, 9/5/2023; Amended by Ord. ZDO-285, 9/3/2024; Amended by Ord. ZDO-288, 9/9/2024]

703 FLOODPLAIN MANAGEMENT DISTRICT (FMD)

703.01 FINDINGS OF FACT

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

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

703.02 PURPOSE

Section 703 is adopted to:

- A. Promote the public health, safety, and general welfare;
- B. Protect human life and health;
- C. Minimize public and private flood losses due to flooding in flood hazard areas;
- D. Minimize expenditure of public money for costly flood control projects;
- E. Minimize prolonged business interruptions;
- F. Help maintain a stable tax base by providing for the sound use and development of special flood hazard areas so as to minimize future flood blight areas;
- G. Restrict or prohibit uses that are dangerous to health, safety, or property in times of flooding or that cause increases in erosion, flood heights, or velocities;
- H. Minimize damage to public facilities and utilities—such as water and gas mains; electric, telephone, and sewer lines; streets; and bridges—located in special flood hazard areas;

- I. Require that uses vulnerable to floods, including public facilities that serve such uses, be provided with flood protection at the time of initial construction;
- J. Notify those who occupy special flood hazard areas that they assume responsibility for their actions;
- K.. Protect individuals, as much as possible, from buying lands that are not suitable for intended purposes because of flood hazard, by ensuring to the degree possible that potential buyers are notified that property is in a special flood hazard area; and
- L. Minimize the need for rescue and relief efforts associated with flooding undertaken at the expense of the general public.

703.03 WARNING AND DISCLAIMER OF LIABILITY

The degree of flood protection required by the FMD is considered reasonable for regulatory purposes and is based on engineering and scientific study. Larger floods may occur on rare occasions. Flood heights may be increased by manmade or natural causes, such as ice jams and bridge openings restricted by debris. Section 703 does not imply that areas outside the FMD or land uses permitted within the FMD will be free from flooding or flood damages. Section 703 shall not create liability on the part of the County, any officer or employee thereof, or the Federal Insurance Administration, for any flood damages that result from reliance on the FMD or any administrative decision lawfully made hereunder.

703.04 APPLICABILITY

Section 703 applies to the FMD, which is applied to the special flood hazard areas (SFHAs) identified by the Federal Insurance Administration in a scientific and engineering report entitled, "The Flood Insurance Study for Clackamas County, Oregon & Incorporated Areas," (FIS) dated January 18, 2019, with accompanying Flood Insurance Rate Maps (FIRMs).

- A. The FIS and FIRMs are hereby adopted by reference and declared to be a part of Section 703 and are on file at the County Department of Transportation and Development.
- B. The Planning Director shall make interpretations where needed, as to the exact location of the boundaries of the SFHA (for example, where there appears to be a conflict between a mapped boundary and actual field conditions, topography, and/or elevations). In areas where base flood elevation data have been provided, the Planning Director may require the applicant to submit an elevation certificate. To most precisely determine the base flood elevation of the subject area, the elevations provided by the FIS flood profiles in combination with the cross section lines on the FIRM shall supersede the base flood elevation lines and values identified on the FIRM.

703.05 DEFINITIONS

The following definitions apply to Section 703:

- A. Area of Shallow Flooding: A designated AO, AH, AR/AO, AR/AH, or VO zone on a community's Flood Insurance Rate Map with a one percent or greater annual chance of flooding to an average depth of one to three feet where a clearly defined channel does not exist, where the path of flooding is unpredictable, and where velocity flow may be evident. Such flooding is characterized by ponding or sheet flow.
- B. Base Flood: The flood having a one percent chance of being equaled or exceeded in any given year.
- C. Base Flood Elevation: The computed elevation to which floodwater is anticipated to rise during the base flood. Base flood elevations are shown on Flood Insurance Rate Maps and on the flood profiles included in the Flood Insurance Study.
- D. Basement: Any area of the building having its floor subgrade (below ground level) on all sides.
- E. Below-Grade Crawl Space: An enclosed area below the base flood elevation — which is in nearly all cases considered by the National Flood Insurance Program to also be a basement — that generally serves as the foundation for a structure and exhibits the following characteristics:
 - 1. All sides of the crawl space are below the adjacent exterior grades outside the crawl space;
 - 2. The interior grade inside the crawl space is not more than two feet below the lowest adjacent exterior grade; and
 - 3. The height, measured from the interior grade of the crawl space to the top of the crawl space foundation, does not exceed four feet at any point.
- F. Community Rating System: A program of the National Flood Insurance Program (NFIP) that recognizes jurisdictions for implementing floodplain management practices and standards that exceed NFIP minimum requirements. Membership in the program results in increased public safety and property protection, along with reductions in flood insurance premiums.
- G. Conditional Letter of Map Revision (CLOMR): The Federal Emergency Management Agency's (FEMA's) comment on a proposed project that would, upon construction, affect the hydrologic or hydraulic characteristics of a flooding source and thus result in the modification of the existing regulatory floodway, the effective base flood elevations, or the special flood hazard area.

- H. Critical Facility: A facility for which even a slight chance of flooding might be too great. Critical facilities include schools, hospitals, nursing homes, orphanages, penal institutions, fire stations, police stations, communications centers, water and sewage pumping stations, other public or quasi-public buildings, emergency response installations, and installations that produce, use, or store hazardous materials or hazardous waste.
- I. Cross Section: A source of data that is developed during the hydraulic analyses of a stream in the course of producing the Flood Insurance Rate Maps (FIRMs) and the Flood Insurance Study (FIS). Cross sections provide an elevation view of the floodplain taken perpendicular to the flow at specific points and are typically determined using field survey information and topographic maps. Some of the locations of cross sections are shown on the FIRMs and are, in turn, cross-referenced in the FIS, where they provide precise information about a variety of data that relates to flood conditions.
- J. Development: Any manmade change to improved or unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations or storage of equipment or materials.
- K. Elevation Certificate: A form produced by the Federal Emergency Management Agency (FEMA) that is completed by a professional engineer, licensed architect, or licensed surveyor, usually through field survey work, that reports elevation information about grades, structures, and other facilities. An elevation certificate is used to determine the relationship of grades, structures, and other facilities to the base flood elevation. It is also used to certify building elevations to ensure compliance with community floodplain regulations; determine proper insurance rates; and support a Letter of Map Amendment or Letter of Map Revision Based on Fill. Communities that participate in the Community Rating System are required to use an elevation certificate for all official reporting and recordkeeping of elevations.
- L. Encroachments: Activities or construction within the floodway, including fill, new construction, substantial improvements, and other development.
- M. Federal Emergency Management Agency (FEMA): A federal agency, whose primary mission is to reduce the loss of life and property and protect the nation from all hazards, including natural disasters, acts of terrorism, and other manmade disasters, by leading and supporting the nation in a risk-based, comprehensive emergency management system of preparedness, protection, response, recovery, and mitigation. Among other things, FEMA manages and oversees the National Flood Insurance Program.

N. Flood:

1. A general and temporary condition of partial or complete inundation of normally dry land area from:
 - a. The overflow of inland or tidal waters.
 - b. The unusual and rapid accumulation of runoff of surface waters from any source.
 - c. Mudslides (i.e., mudflows) which are proximately caused by flooding as defined in Subsection 703.05(N)(1)(b) and are akin to a river of liquid and flowing mud on the surfaces of normally dry land areas, as when earth is carried by a current of water and deposited along the path of the current.
2. The collapse or subsidence of land along the shore of a lake or other body of water as a result of erosion or undermining caused by waves or currents of water exceeding anticipated cyclical levels or suddenly caused by an unusually high water level in a natural body of water, accompanied by a severe storm, or by an unanticipated force of nature, such as flash flood or an abnormal tidal surge, or by some similarly unusual and unforeseeable event which results in flooding as defined in Subsection 703.05(N)(1)(a).

- O. Flood Insurance Rate Map: An official map of a community, on which the Federal Insurance Administrator has delineated both the special flood hazard areas and the risk premium zones applicable to the community.
- P. Flood Insurance Study: An examination, evaluation, and determination of flood hazards and, if appropriate, corresponding water surface elevations, or an examination, evaluation, and determination of mudslide (i.e., mudflow) and/or flood-related erosion hazards.
- Q. Flood Profile: A graph, found in the Flood Insurance Study, of computed flood elevations at floodplain cross sections that is typically available for a stream that has base flood elevations shown on the Flood Insurance Rate Map (FIRM). Elevations provided by the flood profiles, used in combination with the cross section lines on the FIRM, are the most accurate means of determining the base flood elevation at a particular site.
- R. Floodplain: Land area susceptible to being inundated by water from any source.
- S. Floodproofing: Any combination of structural and non-structural additions, changes, or adjustments to properties and structures which reduce or eliminate flood damage to real estate or improved real property, water and sanitary facilities, structures and their contents.

- T. Floodway: 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. Often referred to as the “regulatory floodway.”
- U. Letter of Map Amendment (LOMA): An official amendment, by letter, to an effective National Flood Insurance Program map. A LOMA establishes a property’s location in relation to the special flood hazard area.
- V. Letter of Map Revision (LOMR): The Federal Emergency Management Agency’s modification to an effective Flood Insurance Rate Map (FIRM). LOMRs are generally based on the implementation of physical measures that affect the hydrologic or hydraulic characteristics of a flooding source and thus result in the modification of the existing regulatory floodway, the effective base flood elevations, or the special flood hazard area. The LOMR officially revises the FIRM, and sometimes the Flood Insurance Study (FIS) report, and, when appropriate, includes a description of the modifications. The LOMR is generally accompanied by an annotated copy of the affected portions of the FIRM or FIS report.
- W. Letter of Map Revision Based on Fill (LOMR-F): The Federal Emergency Management Agency’s modification of the special flood hazard area shown on the Flood Insurance Rate Map based on the placement of fill outside the existing regulatory floodway.
- X. Lowest Floor: The lowest floor of the lowest enclosed area (including basement). An unfinished or flood resistant enclosure, usable solely for parking of vehicles, building access or storage in an area other than a basement 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 Subsection 703.11(A)(1).
- Y. Manufactured Home: A structure, transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when attached to the required utilities. The term manufactured home does not include a recreational vehicle. A manufactured home may also be referred to as a manufactured dwelling.
- Z. National Flood Insurance Program (NFIP): A federal program that is administered by the Federal Emergency Management Agency that is designed to reduce the loss of life, damage to property, and rising disaster relief costs, both within and beyond the special flood hazard area. The NFIP makes federally backed flood insurance available to communities that agree to adopt and enforce floodplain management ordinances that meet or exceed NFIP requirements.

- AA. New Construction: Structures for which the start of construction commenced on or after the effective date of a floodplain management regulation adopted by the County (Section 703) and includes any subsequent improvements to such structures.
- BB. “No-Rise” Certification: A certification that is provided by a professional engineer or licensed architect that demonstrates through accompanying hydrologic and hydraulic analyses, performed in accordance with standard engineering practice and National Flood Insurance Program rules and regulations, that an encroachment within the floodway will not result in any increase in the flood levels during the regulatory flood discharge. The supporting technical data should be based on the standard step-backwater computer model used to develop the 100-year floodway shown on the Flood Insurance Rate Map.
- CC. Obstruction: Any dam, wall, wharf, embankment, levee, dike, pile, abutment, projection, excavation, channel, rectification, bridge, conduit, culvert, building, wire, fence, rock, gravel, refuse, fill, structure, or matter in, along, across, or projected into any channel, watercourse, or regulatory flood hazard area that may impede, retard, or change the direction of the flow of water, either in itself or by catching or collecting debris carried by such water, or that is placed where it might be carried downstream by the flow of water resulting in damage to life or property.
- DD. Pre-FIRM Structure: A structure that was built before March 1, 1978, the effective date of the first Flood Insurance Rate Map (FIRM) for the County, and hence, prior to the date when detailed flood hazard data and flood elevations were provided to the County.
- EE. Recreational Vehicle: A vehicle which is:
1. Built on a single chassis;
 2. 400 square feet or less when measured at the largest horizontal projection;
 3. Designed to be self-propelled or permanently towable by a light duty truck; and
 4. Designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use.
- FF. Regulatory Flood Protection Elevation: The elevation to which uses regulated by the FMD are required to be elevated or floodproofed.
- GG. Special Flood Hazard Area: (SFHA): An area having special flood, mudslide (i.e., mudflow), or flood-related erosion hazards, and shown on a FIRM as Zone A, AO, A1-30, AE, AR, AR/A1-30, AR/AR, AR/AO, AR/AH, AR/A, A99, AH, VO, V1-30, VE, V, M, or E.

- HH. Start of Construction: Includes substantial improvement, and means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition placement, or other improvement was within 180 days of the permit date. The actual start means either the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footings, piers, or foundation or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. For a substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of the building, whether or not that alteration affects the external dimensions of the structure.
- II. Structure: For floodplain management purposes, a walled and roofed building, including a gas or liquid storage tank, that is principally above ground, as well as a manufactured home.
- JJ. Substantial Damage: Damage of any origin sustained by a structure whereby the cost of restoring the structure to its before damaged condition would equal or exceed 50 percent of the market value of the structure before the damage occurred. The market value of the structure before the damage occurred shall be the structure's real market value that is provided by the County Department of Assessment and Taxation. The cost of restoring a structure shall be determined by the County Building Codes Division.
- KK. Substantial Improvement: Any reconstruction, repair, rehabilitation, addition, or other improvement — or series of reconstructions, repairs, rehabilitations, additions or other improvements — of a structure, the cost of which — or cumulative costs of which at the time of the most recent reconstruction, repair, rehabilitation, addition, or other improvement — equals or exceeds 50 percent of the market value of the structure before the “start of construction” of the improvement. The market value of the structure shall be determined at the time of the most recent reconstruction, repair, rehabilitation, addition, or other improvement, either before the improvement is started, or if the structure has been damaged and is being restored, before the damage occurred. The market value of the structure shall be the structure's real market value that is provided by the County Department of Assessment and Taxation. The cost of reconstruction, repair, rehabilitation, addition, or other improvement of a structure, or series thereof, shall be determined by the County Building Codes Division. This term includes structures which have incurred “substantial damage”, regardless of the actual repair work performed. The term does not, however, include either:

1. Any project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specifications which have been identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions; or
2. Any alteration of a “historic structure” listed on the National Register of Historic Places or a State or Local Inventory of Historic Places, provided that the alteration will not preclude the structure’s continued designation as a “historic structure”.

LL. Variance: A grant of relief by the County from the terms of a floodplain management regulation.

MM. Water-Dependent Use: A use that is dependent on close proximity to the water to perform its intended purpose and by reason of the intrinsic nature of its operations. The term “water dependent use” shall be recognized as having a broader meaning than the term “functionally dependent use” as defined in Volume 44 Code of Federal Regulations (CFR) Section 59.1. A “water dependent use” shall not meet the requirements to qualify for a variance under Volume 44 CFR Section 60.6(a)(7) unless the use also qualifies as a “functionally dependent use” as defined in Volume 44 CFR 59.1.

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

703.06 TYPE I USES

The following uses require review as a Type I application pursuant to Section 1307, *Procedures*, and are exempt from the requirement to obtain a floodplain development permit and from compliance with Subsections 703.10 and 703.11.

- A. Reconstruction, repair, rehabilitation, addition, or other improvement of a pre-FIRM structure that is not a substantial improvement and where the structure has not sustained substantial damage. If the structure is located in the floodway, no increase in ground coverage shall result unless a “no-rise” certification is provided.

703.07 DEVELOPMENT IN THE FLOODWAY

Development in the floodway is prohibited, except as provided in Subsection 703.06, or for the following uses. The following uses are allowed only if permitted in the underlying zoning district and require approval of a floodplain development permit:

- A. Water-dependent uses. A “no-rise” certification shall be provided.
- B. Riprap or other structural stream bank protection measures, subject to either Subsection 703.07(B)(1) or 703.07(B)(2).
 - 1. If riprap or other structural stream bank protection measures are proposed to repair bank damage, bank removal, or bank erosion, the following criteria shall be met. For the purpose Subsection 703.07(B)(2), pre-existing conditions are the conditions of the repair area upon which the FIRM(s), flood boundary and floodway map(s), and FIS(s) were based that were in effect during the period that the bank was damaged, removed, and/or eroded, leading up to the proposed repair.
 - a. The measures shall not encroach any further into the stream channel than the pre-existing conditions.
 - b. The measures shall not add any more cubic yards of bank material than was in place in the pre-existing conditions.
 - c. The measures shall not exceed the height of the bank nor protrude above the topography that was in place in the pre-existing conditions.
 - d. The pre-existing conditions shall be demonstrated through some combination of historical and aerial photography, survey and cross-section information, maps or plans, hydrologic and hydraulic modeling, or any other pertinent information.
 - e. The applicant shall provide evidence from a professional engineer, with expertise in hydrology, hydraulics, fluvial geomorphology, or hydrogeology, that the proposal complies with Subsections 703.07(B)(2)(a) through (d) and that the proposed stream bank protection measures will cause no adverse impacts to upstream or downstream properties, when compared to impacts of the pre-existing conditions.
 - 2. If riprap or other structural stream bank protection measures are proposed for reasons other than to repair bank damage, bank removal, or bank erosion, or if the repair exceeds the standards of Subsection 703.07(B)(1), the applicant shall provide a “no-rise” certification and evidence from a professional engineer, with expertise in hydrology, hydraulics, fluvial geomorphology, or hydrogeology, that the proposed stream bank protection measures will cause no adverse impacts to upstream or downstream properties.
- C. Hydroelectric facilities. A “no-rise” certification shall be provided;

- D. Stream crossings. A “no-rise” certification shall be provided;
- E. Replacement, substantial improvement, or repair of substantial damage of a structure that was constructed prior to the establishment of, or revisions to, the floodway, subject to the following:
 - 1. The development shall comply with Subsection 1206.076.
 - 2. Foundations shall be designed by a professional engineer or licensed architect, to the satisfaction of the County Building Codes Division, to withstand the mean velocity of floodwaters in the floodway, as they are listed in the Floodway Data tables of the Flood Insurance Study, and to withstand the scouring forces associated with those floodwater velocities.
 - 3. If an increase in ground coverage is proposed, a “no-rise” certification shall be provided.

703.08 DUTIES OF THE PLANNING DIRECTOR

The Planning Director is hereby appointed to administer and implement Section 703 by granting or denying development permit applications in accordance with its provisions. The Planning Director may delegate authority to implement these provisions. Duties of the Planning Director under Section 703 include:

- A. The Planning Director shall review floodplain development permits to determine if the proposed development adversely affects the flood carrying capacity of the special flood hazard area. For purposes of this subsection, "adversely affects" means that the cumulative effect of the proposed development and all other existing and anticipated development, will not increase the water surface elevation of the base flood more than one foot at any point.
- B. Within the special flood hazard area, when more detailed base flood elevation or floodway data is available outside of the adopted Flood Insurance Study (FIS) from a federal, state or other authoritative source — such as preliminary or draft information from a new study that will revise the FIS — the Planning Director may obtain, review, and reasonably utilize such data as long as it is more restrictive than the currently effective data. When the data pertains to a preliminary or draft FIS in Zone A, the Planning Director is required to reasonably utilize the data, and is allowed discretion in using this data only to the extent that the technical or scientific validity of the data in the draft or preliminary FIS is questioned by a qualified professional.
- C. When base flood elevation data has not been provided (A zones), the Planning Director shall obtain, review, and reasonably utilize any base flood elevation and floodway data available from a Federal, State, or other source, in order to administer the standards in Subsections 703.08, 703.10, and 703.11.

- D. The Planning Director shall, where base flood elevation data is provided through the FIS, Flood Insurance Rate Map, or utilized pursuant to Subsections 703.08(B) or (C), obtain and record the actual elevation (in relation to mean sea level) of the lowest floor (including basements and below-grade crawlspaces) of all new or substantially improved structures, and whether or not the structure contains a basement.
- E. For all new or substantially improved structures, the Planning Director shall review an elevation certificate or a Federal Emergency Management Agency National Flood Insurance Program Floodproofing Certificate (for Non-Residential Structures) provided by the applicant and shall verify and record the actual elevation (in relation to mean sea level) and maintain the elevation and floodproofing certificates required.
 - 1. In either case, the currently effective form shall be used, and it shall be completed in accordance with the accompanying instructions.
 - 2. The determination regarding which certificate is required shall be made based on the nature of the development consistent with National Flood Insurance Program regulations.
- F. The Planning Director shall maintain for public inspection all records pertaining to the provisions of Section 703.
- G. The Planning Director shall review all floodplain development permits to determine if the proposed development activity qualifies as a substantial improvement.
- H. The Planning Director shall provide to building officials the regulatory flood protection elevation applicable to any building requiring a building permit.
- I. The Planning Director shall notify adjacent communities, the State of Oregon Department of Land Conservation and Development, and other appropriate state and federal agencies prior to any alteration or relocation of a watercourse and submit evidence of such notification to the Federal Insurance Administration.
- J. The Planning Director shall notify the Federal Emergency Management Agency (FEMA) within six months of project completion when an applicant had obtained a Conditional Letter of Map Revision (CLOMR) from FEMA, or when development altered a watercourse, modified floodplain boundaries, or modified base flood elevations. This notification shall be provided as a Letter of Map Revision (LOMR).
 - 1. The project applicant shall be responsible for preparing technical data to support the LOMR application and for payment of all processing and application fees charged by FEMA.

703.09 FLOODPLAIN DEVELOPMENT PERMITS

Except as provided under Subsection 703.06, a floodplain development permit (FDP) shall be obtained for development laterally within the FMD before construction or development begins. The permit shall be for all structures, including manufactured dwellings, and for all development, including fill and other activities. Work that is necessary to protect existing structures, utility facilities, roadways, driveways, and stream banks in response to emergencies may be undertaken prior to obtaining an FDP, provided that an application is made within 90 days of water receding. The measures used for protection may not be able to be permitted. An FDP requires review as a Type II application pursuant to Section 1307, *Procedures*.

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

2. The danger that materials may be swept on to other lands or downstream to the injury of others;
 3. The proposed water supply and sanitation systems and the ability of those systems to prevent disease, contamination, and unsanitary conditions;
 4. The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner;
 5. The importance to the community of the service provided by the proposed facility;
 6. The requirements of the facility for a waterfront location;
 7. The availability of alternative locations not subject to flooding for the proposed use;
 8. The compatibility of the proposed use with existing development and development anticipated in the foreseeable future;
 9. The relationship of the proposed use to the Comprehensive Plan and floodplain management program for the area;
 10. The safety of access to property in times of flood for ordinary and emergency vehicles;
 11. Whether the proposed development activity represents a substantial improvement to an existing structure;
 12. Whether the proposed structure qualifies as a critical facility;
 13. The expected heights, velocity, duration, rate of rise, and sediment transport of the floodwaters expected at the site; and
 14. Other factors that are relevant to the purpose of Section 703.
- C. Approval Criteria: An FDP shall be subject to the following standards and criteria:
1. All necessary permits have been obtained from those federal, state, or local governmental agencies from which prior approval is required.
 2. If the proposed development is in the floodway, the standards of Subsection 703.07 have been met.
 3. If the proposed development includes alteration of a watercourse, maintenance will be provided within the altered or relocated portion of said watercourse so that the flood carrying capacity is not diminished.

4. The proposed development will comply with the applicable provisions of Subsections 703.10 and 703.11.
- D. Conditions of Approval: The County may attach conditions of approval to an FDP if such conditions are deemed necessary to further the purpose of Section 703. Such conditions may include, but are not limited to:
1. Limitations on periods of use and operation;
 2. Imposition of operation controls, sureties, and deed restrictions; and
 3. Floodproofing and other protective measures, such as:
 - a. Installation of watertight doors, bulkheads, and shutters;
 - b. Reinforcement of walls to resist water pressure;
 - c. Use of paints, membranes, or mortars to reduce seepage of water through walls;
 - d. Addition of mass or weight to structures to resist flotation;
 - e. Installation of pumps to lower water levels in structures;
 - f. Construction of water supply and waste treatment systems to prevent the entrance of floodwaters;
 - g. Pumping facilities for subsurface external foundation wall and basement floor pressures;
 - h. Construction to resist rupture or collapse caused by water pressure or floating debris;
 - i. Cutoff valves on sewer lines or the elimination of gravity flow basement drains; and
 - j. Requirements for construction of channel modifications, dikes, levees, and other protective measures.
- E. Finalization of an FDP: If a preliminary elevation certificate or floodproofing certificate was required for a structure, a second elevation certificate is required prior to approval of the foundation inspection. In addition, a building permit for that structure shall not receive a final approval or certificate of occupancy until the County approves a final elevation certificate or floodproofing certificate that is based on the as-built/finished construction.

F. Approval Period: Approval of an FDP is valid for ~~six~~four years from the date of the final written decision. If the County's final written decision is appealed, the approval period shall commence on the date of the final appellate decision. During this ~~six~~four-year period, the approval shall be implemented, or the approval will become void.

1. "Implemented" means all major development permits shall be obtained and maintained, or if no major development permits are required to complete the development contemplated by the approved FDP, "implemented" means all other necessary County development permits (e.g. grading permit, building permit for an accessory structure) shall be obtained and maintained.

a. A "major development permit" is:

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

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

703.10 GENERAL FMD STANDARDS

Development in the FMD shall comply with the following standards:

A. Anchoring:

All new construction and substantial improvements shall be anchored to prevent flotation, collapse, or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy.

B. Construction Materials and Methods, and Utilities:

- 1. The following standards shall apply to below-grade crawl spaces. For more detailed information, refer to FEMA Technical Bulletin 11-01, *Crawlspace Construction for Buildings Located in Special Flood Hazard Areas*. For flood insurance purposes, there is an additional charge that is added to the basic flood insurance policy premium for structures that are built on below-grade crawl spaces.

- a. The building shall be designed and adequately anchored to resist flotation, collapse, and lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy. Hydrostatic loads and the effects of buoyancy can usually be addressed through the openings required by Subsection 703.10(B)(1)(b). Because of hydrodynamic loads, crawl-space construction is prohibited in areas with flood velocities greater than five feet per second unless the design is reviewed by a qualified design professional, such as a professional engineer or licensed architect. Other types of foundations are recommended for these areas.
- b. The crawl space shall have openings that equalize hydrostatic pressures by allowing the automatic entry and exit of floodwaters. The bottom of each flood vent opening shall be no more than one foot above the lowest adjacent exterior grade.
- c. Portions of the building below the base flood elevation (BFE) shall be constructed with materials resistant to flood damage. This includes not only the foundation walls of the crawl space used to elevate the building, but also any joists, insulation, or other materials that extend below the BFE. The recommended construction practice is to elevate the bottom of joists and all insulation above BFE.
- d. Any building utility systems within the crawl space shall be elevated above the BFE or designed so that floodwaters cannot enter or accumulate within the system components during flood conditions. Ductwork, in particular, shall either be placed above the BFE or sealed from floodwaters.
- e. The interior grade of a crawl space below the BFE shall not be more than two feet below the lowest adjacent exterior grade.
- f. The height of the below-grade crawl space, measured from the interior grade of the crawl space to the top of the crawl space foundation wall shall not exceed four feet at any point. The height limitation is the maximum allowable unsupported wall height according to the engineering analyses and building code requirements for flood hazard areas.
- g. There shall be an adequate drainage system that removes floodwaters from the interior area of the crawl space. The enclosed area shall be drained within a reasonable time after a flood event. The type of drainage system will vary because of the site gradient and other drainage characteristics, such as soil types. Possible options include natural drainage through porous, well-drained soils and drainage systems such as perforated pipes, drainage tiles, or gravel or crushed stone drainage by gravity or mechanical means.

- h. The velocity of floodwaters at the site should not exceed five feet per second for any crawl space. For velocities in excess of five feet per second, other foundation types should be used.
2. All new construction and substantial improvements shall be constructed with materials and utility equipment resistant to flood damage, and using methods and practices that minimize flood damage. For more detailed information, refer to November 1999 FEMA Publication 348, *Protecting Building Utilities from Flood Damage*; and FEMA Technical Bulletin 2-93, *Flood-Resistant Materials Requirements*.
3. New and replacement water supply systems shall be designed to minimize or eliminate infiltration of floodwaters into the system.
4. New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of floodwaters into the system and discharge from the system into floodwaters.
5. All equipment, machinery, appliances, and electrical boxes that pertain to electrical, ventilation, plumbing, and heating and air-conditioning systems and services, as well as outside fuel storage tanks, outside air-conditioning units, and other interior or exterior service facilities, systems, equipment, machinery, appliances, and other utilities shall be elevated or floodproofed so as to prevent water from entering or accumulating within the components during conditions of flooding.
 - a. Floodproofed facilities, systems, equipment, machinery, and appliances — except for waterproofed wires and cables, as well as waterproofed and sealed plumbing pipes and other plumbing services — shall be certified as such by a preliminary and final floodproofing certificate.
 - b. Except for manufactured dwelling electrical crossover connections, regulated pursuant to Subsection 703.11(A)(1), non-floodproofed facilities, systems, equipment, machinery, and appliances shall be elevated at least two feet above the BFE, except that duct systems may be elevated at least one foot above the BFE.
6. Onsite wastewater disposal systems shall be located to avoid impairment to them or contamination from them during flooding consistent with Oregon Department of Environmental Quality regulations.
7. A professional engineer or licensed architect shall certify that the design and methods of construction are in accordance with accepted standards of practice for meeting provisions of this subsection based on their development and/or review of the structural design, specifications, and plans. Such certifications shall be provided to the County.

- C. Substantial Improvement and Substantial Damage: A structure for which a substantial improvement or repair of substantial damage is proposed shall be elevated, retrofitted, upgraded, etc., such that the structure and all of its interior and exterior service facilities, systems, equipment, machinery and appliances shall be brought into compliance with the applicable standards of this section.
- D. Manufactured Dwellings:
1. Manufactured dwellings to be placed or substantially improved shall be placed on a permanent foundation and elevated pursuant to Subsection 703.11.
 2. Manufactured dwellings shall be anchored to prevent flotation, collapse, or lateral movement, and shall be installed using methods and practices that minimize flood damage. Anchoring methods may include, but are not limited to, use of over-the-top or frame ties to ground anchors.
 3. Manufactured dwellings shall be placed utilizing the applicable designs and guidelines, as approved by the Building Codes Division, of the September 1985 FEMA Publication, *Manufactured Home Installation in Flood Hazard Areas*, and State of Oregon Manufactured Dwelling Installation Specialty Code, whichever is the most restrictive.
- E. Recreational Vehicles: Recreational vehicles shall comply with the requirements of Subsection 703.10(D) for manufactured dwellings or shall be:
1. Located on the site for fewer than 180 consecutive days;
 2. Fully licensed and ready for highway use;
 3. Supported on wheels or a jacking system;
 4. Attached to services on the site only by quick-disconnect type utilities and security devices; and
 5. Void of any permanently attached additions.
- F. Fill:
1. Any fill or other materials — except those proposed within the interior of, and inside the walls of, a crawl space, foundation, basement or enclosure floor — shall be shown to have a beneficial purpose and the amount thereof not greater than is necessary to achieve that purpose, as demonstrated by a plan submitted by the applicant, showing the uses to which the filled land will be put and the final dimensions of the proposed fill or other materials.
 2. Fill or other materials shall be protected against erosion by riprap, vegetative cover, or bulkheading.

3. Structures may be allowed to be constructed on fill and thereby elevated above the BFE, subject to the following standards:
 - a. The fill shall be placed such that the lowest adjacent finished grade of the fill to the foundation of the structure is at least two feet above the BFE.
 - b. The lowest portion of the lowest structural support system of the building (i.e., the bottom of slab, bottom of footings, or bottom of any other lowest on-grade or sub-grade supporting member) shall be located at least one foot above the BFE.
 - c. Placement of the fill shall require approval of a grading permit.
 - d. The structure shall be constructed pursuant to the applicable standards of FEMA Technical Bulletin 10-01, *Ensuring That Structures Built on Fill in or near Special Flood Hazard Areas Are Reasonably Safe from Flooding*.
4. All fill placed at or below the BFE shall be balanced with at least an equal amount of material removal either on-site, or from a nearby area at or below the BFE and in the same drainage basin. In addition, the following standards shall apply:
 - a. Excavation below the level of the seasonal groundwater table shall not be used in balancing fill volumes against excavation volumes;
 - b. The mean annual groundwater level shall be determined by soil morphology, or other available data on groundwater conditions;
 - c. Balancing of a fill shall occur at the same time as the fill is placed on the development site;
 - d. The site plan required in Subsection 703.09(A)(1) shall identify the area where material is removed from the floodplain to balance fill volumes, including pertinent elevations and volume of fill removed;
 - e. A professional engineer or licensed architect shall certify that the amount of material removed balances the amount of fill material;
 - f. A suitable recorded easement or similar legally binding mechanism, in a form acceptable to County Counsel shall be provided to the Planning Director, indicating that future development of the delineated area where material is removed to balance fill volumes is prohibited, and the delineated area cannot be used in the future as balancing for a fill; and
 - g. When the balancing occurs off-site, the application shall also include:
 - i. Authorization from the owner of the property where the balancing will occur; and

- ii. A legal description of the parcel where the balancing will occur.
5. The following uses or activities are not subject to the provisions of Subsection 703.10(F)(4):
- a. Removal and/or fill necessary to plant new trees or vegetation;
 - b. Removal and/or fill required for the construction of storm-water runoff detention facilities and/or structures; and
 - c. Removal and/or fill required for the construction of other facilities such as levees designed specifically to reduce or mitigate flood impacts.
- G. Stream Crossings, Including Bridges and Culverts, and Transportation Projects:
- 1. Stream crossings and transportation projects shall be designed as balanced removal and fill projects, or designed to not raise the BFE.
 - 2. Stream crossings and transportation projects that encroach into the floodway shall obtain a “no-rise” certification, or, if the “no-rise” condition cannot be achieved, shall obtain a Conditional Letter of Map Revision, prior to permitting the work, followed by a Letter of Map Revision after the work has been completed.
 - 3. Stream crossings and transportation projects shall be designed to minimize the area of fill in the special flood hazard area (SFHA) and to minimize erosive water velocities.
 - 4. Stream crossings shall be as close to perpendicular to the stream as practicable.
 - 5. Stream crossings shall be designed to allow fish passage.
 - 6. Stream crossings and transportation projects are subject to review and approval pursuant to applicable federal and state statutes and administrative rules.
- H. Subdivisions:
- 1. Subdivisions shall be consistent with the need to minimize flood damage.
 - 2. Subdivisions shall have public utilities and facilities, such as sewer, gas, electrical, and water systems, located and constructed to minimize flood damage.
 - 3. Subdivisions shall have adequate drainage provided to reduce exposure to flood damage.

I. Toxic or Hazardous Materials:

1. The storage or use of toxic or hazardous materials in conjunction with nonresidential uses is prohibited, except as permitted in Subsection 703.10(I)(2).
2. Storage or use of toxic or hazardous materials may be permitted if the applicant demonstrates the following:
 - a. The proposed development requires toxic or hazardous materials for operation.
 - b. An area outside the SFHA is not available to be used for storage or use of toxic or hazardous materials.
 - c. The containers, structures, facilities and machinery that contain, use or process the toxic or hazardous materials shall be elevated:
 - i. A minimum of two feet above the BFE in AE zones, as indicated on the FIRM or determined pursuant to Subsection 703.08(B);
 - ii. A level to be determined pursuant to Subsection 703.11(C)(1) in unnumbered A zones, as indicated on the FIRM or determined pursuant to Subsection 703.08(B); or
 - iii. The depth number specified on the Flood Insurance Rate Map — or a minimum of two feet above the highest adjacent grade if no depth number is specified — in shallow flooding areas.
 - iv. The structures that support the containers, structures, facilities, and machinery that contain, use or process the toxic or hazardous materials shall comply with Subsections 703.10(A) and 703.10(B)(2) and (7).

- J. Critical Facilities: Construction of new critical facilities shall be, to the extent possible, located outside the limits of the Special Flood Hazard Area (SFHA). Construction of new critical facilities shall be permissible within the SFHA if no feasible alternative site is available. Critical facilities constructed within the SFHA shall have the lowest floor elevated three feet above base flood elevation or to the height of the 500-year flood, whichever is higher. Access to and from the critical facility shall also be protected to the height utilized above. Floodproofing and sealing measures shall be taken to ensure that toxic substances will not be displaced by or released into floodwaters. Access routes elevated to or above the level of the base flood elevation shall be provided to all critical facilities to the extent possible.

703.11 SPECIFIC STANDARDS

A. AE Zones with Designated Floodways: In AE zones with designated floodways, as indicated on the Flood Insurance Rate Map (FIRM) or determined pursuant to Subsection 703.08(B), development shall comply with the following criteria:

1. Residential Construction: New construction and substantial improvement of a dwelling shall have the lowest floor, including basement, elevated at least two feet above the base flood elevation (BFE), except that new or substantially improved manufactured dwellings shall have the bottom of the longitudinal frame beam and electrical crossover connections elevated at least one foot above the BFE. Fully enclosed areas below the lowest floor that are subject to flooding are prohibited, or shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters. Designs for meeting this requirement shall either be certified by a professional engineer or licensed architect or shall meet or exceed the following minimum criteria. For more detailed information, refer to FEMA Technical Bulletin 1-93, *Openings in Foundation Walls*.
 - a. A minimum of two openings having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding shall be provided, unless the applicant provides documentation from a professional engineer or licensed architect that a flood vent manufacturer's product can provide less than one square inch of opening for every square foot of enclosed area and still meet National Flood Insurance Program standards.
 - b. The bottom of all openings shall be no higher than one foot above grade.
 - c. Openings may be equipped with screens, louvers, or other coverings or devices provided that they permit the automatic entry and exit of floodwaters.
2. Nonresidential Construction: New construction and substantial improvement of a nonresidential structure shall either comply with Subsection 703.11(A)(1), or, together with attendant utility and sanitary facilities, shall comply with the following criteria. For more detailed information, refer to FEMA Technical Bulletin 3-93, *Non-Residential Floodproofing — Requirements & Certification*.
 - a. The structure shall be floodproofed, so that below the point one foot above the BFE, the structure is watertight, with walls substantially impermeable to the passage of water. Applicants floodproofing nonresidential structures shall be notified in writing that flood insurance premiums will be based on rates that are one foot below the floodproofed level (e.g. a building floodproofed to one foot above the BFE will be rated as being floodproofed to the BFE).

- b. The structure shall have structural components capable of resisting hydrostatic and hydrodynamic loads and effects of buoyancy.
 - c. A professional engineer or licensed architect shall certify that the design and methods of construction are in accordance with accepted standards of practice for meeting provisions of this subsection based on their development and/or review of the structural design, specifications, and plans. Such certifications shall be provided to the County.
- B. AE Zones without Designated Floodways: In AE zones without designated floodways, as indicated on the FIRM or determined pursuant to Subsection 703.08(B), development shall comply with Subsection 703.11(A) and the following criteria:
 - 1. The cumulative effect of the proposed development and all other existing and anticipated development, shall not increase the water surface elevation of the base flood more than one foot at any point.
 - 2. Whenever possible, structures shall be constructed with the longitudinal axis parallel to the direction of flood flow.
 - 3. So far as practical, structures shall be placed approximately on the same flood flow lines as those of adjoining structures.
- C. Unnumbered A Zones: In unnumbered A zones, as indicated on the FIRM or determined pursuant to Subsection 703.08(B), development shall comply with the following criteria:
 - 1. Proposed construction shall be reasonably safe from flooding. The test of reasonableness is a local judgment and includes use of historical data, high water marks, photographs of past flooding, post-flood improvements to the waterway, etc., where available. Failure to elevate the lowest floor to at least two feet above the highest grade may result in higher insurance rates.
 - 2. Proposed residential construction shall comply with Subsections 703.11(A)(1). Proposed nonresidential construction, together with attendant utility and sanitary facilities, shall comply with Subsections 703.11(A)(2). However, the level to which the structure must be elevated or floodproofed shall be determined pursuant to Subsection 703.11(C)(1).
 - 3. Proposed construction shall comply with Subsections 703.11(B)(2) and (3).
 - 4. The applicant shall provide base flood elevations for the area of development. Where base flood elevation data have not been provided or are not available from another authorized source, the data shall be generated for subdivisions or other proposed development that contain at least 50 lots or five acres, whichever is less.

D. Areas of Shallow Flooding: In areas of shallow flooding, development shall comply with the following criteria:

1. New construction and substantial improvement of a dwelling shall comply with Subsections 703.11(A)(1) and shall have the lowest floor, including basement, elevated above the highest adjacent grade of the building site to a minimum of two feet above the depth number specified on the FIRM. If no depth number is specified, the lowest floor shall be elevated at least two feet above the highest adjacent grade of the building site.
2. New construction and substantial improvement of a nonresidential structure shall either comply with Subsection 703.11(D)(1), or, together with attendant utility and sanitary facilities, shall comply with Subsection 703.11(A)(2), except that the structure shall be floodproofed to the elevation identified in Subsection 703.11(D)(1).
3. Adequate drainage paths shall be provided around structures on slopes to guide floodwaters around and away from proposed structures.

703.12 EXCEPTION

A. Approval Criteria: Certain non-residential structures — such as detached garages and storage sheds solely used for parking and limited storage that are no greater than 400 square feet in area and do not exceed one story, pole barns used for storage of farm machinery and equipment, small garden sheds, and structures used in conjunction with agricultural activities — may be granted an exception from the elevation and floodproofing standards of Subsection 703.11, subject to the following criteria. (For more detailed information, refer to FEMA Technical Bulletin 7-93, *Wet Floodproofing Requirements*.) Additionally, the following structures may qualify for the exception: residential accessory structures up to 200 square feet, which may not require a building permit pursuant to Oregon Residential Specialty Code R105.2; residential accessory structures greater than 200 and up to 400 square feet if the lot size and setbacks qualify pursuant to Oregon Residential Specialty Code R105.2; and commercial accessory structures that are up to 120 square feet, which may not require a building permit pursuant to Oregon Structural Specialty Code 105.2.

1. The exception is reviewed pursuant to Subsection 703.13, and compliance with the approval criteria of Subsection 703.13(A) is demonstrated.
2. The structure will be wet floodproofed.
3. The structure will not be temperature controlled.
4. The structure will not cause significant flood risk.
5. The structure will not be used for human habitation, and will be utilized for storage or parking.

6. The structure will be located, designed, and constructed to have low flood damage potential.
 7. The structure will be constructed and placed on the building site so as to offer the minimum resistance to the flow of flood waters.
 8. The structure will not be used to store toxic material, oil or gasoline, or any priority persistent pollutant identified by the Oregon Department of Environmental Quality, unless confined in a tank installed in compliance with Section 703 or stored at least one foot above the base flood elevation.
 9. The structure will be anchored to prevent flotation, collapse, or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy, during conditions of the base flood.
 10. The structure will be constructed with electrical and other service facilities located and installed so as to prevent water from entering or accumulating within the components during conditions of the base flood.
 11. The structure will be constructed to equalize hydrostatic flood forces on exterior walls by allowing for the automatic entry and exit of floodwater. Designs for complying with this requirement must be certified by a licensed professional engineer or architect or comply with Subsections 703.11(A)(1)(a) through (c).
 12. The structure will be constructed with flood-resistant materials that meet the requirements of the County Building Codes Division, up to:
 - a. A minimum of one foot above the BFE in AE zones, as indicated on the FIRM or determined pursuant to Subsection 703.08(B);
 - b. A level to be determined pursuant to Subsection 703.11(C)(1) in unnumbered A zones, as indicated on the FIRM or determined pursuant to Subsection 703.08(B); or
 - c. The depth number specified on the Flood Insurance Rate Map — or a minimum of two feet above the highest adjacent grade if no depth number is specified — in areas of shallow flooding.
 13. If the structure will be located in the floodway, the structure will comply with Subsection 703.07.
- B. Insurance Consequences: If an exception is granted for a structure that is accessory to a dwelling and the structure will exceed a value greater than 10 percent of the value of the dwelling, the applicant shall be given written notice that substantial increases in insurance rates may result.

703.13 VARIANCES

- A. Approval Criteria: In conjunction with review of a floodplain development permit, a variance from the requirements of Section 703 may be approved, subject to the following standards and criteria:
 1. The request is consistent with Subsection 703.09(B).
 2. There is good and sufficient cause for the variance.
 3. Compliance with the requirements for which the variance is requested would cause an exceptional hardship to the applicant.
 4. Approval of the variance would not result in increased flood levels during base flood discharge, additional threats to public safety, extraordinary public expense, or a nuisance condition, cause fraud on or victimization of the public, or conflict with existing local laws or ordinances.
 5. The variance requested is the minimum necessary, considering the flood hazard, to provide relief.
 6. If the proposal is to repair or rehabilitate a historic structure that is listed on the National Register of Historic Places or a State or Local Inventory of Historic Places, the proposed repair or rehabilitation will not preclude the structure's continued designation as a historic structure, and the variance is the minimum necessary to preserve the historic character and design of the structure.
- B. Consequences: If a variance is granted that allows the lowest floor of a structure to be built below the regulatory flood protection elevation, the applicant shall be given written notice that:
 1. The cost of flood insurance will be commensurate with the increased risk resulting from the reduced lowest floor elevation; and
 2. Such construction below the base flood level increases risks to life and property and the County is not liable for any damages that result from the variance approval.
- C. The written notice required by Subsection 703.13(B) shall be maintained with a record of all variance actions.

[Amended by Ord. ZDO-230, 09/26/2011; Amended by Ord. ZDO-248, 10/13/2014; Amended by Ord. ZDO-275, 01/18/2019]

704 RIVER AND STREAM CONSERVATION AREA (RSCA)

704.01 PURPOSE

Section 704 is adopted to:

- A. Maintain the integrity of the rivers and streams in the County by minimizing erosion, promoting bank stability, maintaining and enhancing water quality and fish and wildlife habitat, and preserving scenic quality and recreational potential;
- B. Maintain rivers in their natural state to the maximum extent practicable, thereby recognizing their natural, scenic, historic, economic, cultural, and recreational qualities; and
- C. Implement the River Design Plans set forth in Chapter 3 of the Comprehensive Plan.

704.02 DEFINITIONS

Unless specifically defined in Subsection 704.02, words or phrases used in Section 704 shall be interpreted to give them the same meaning as they have in common usage and to give Section 704 its most reasonable application.

- A. Composite Bank Stabilization: A combination of structural and nonstructural bank stabilization methods that includes a revetment of rock with a natural vegetation cover or overlay.
- B. Development: Any manmade change to improved or unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavation, or any other activity which results in the removal of substantial amounts of vegetation or in the alteration of natural site characteristics.
- C. Mean High Water Line: The bank of any river or stream established by the annual fluctuations of water generally indicated by physical characteristics such as a line on the bank, changes in soil conditions, or vegetation line.
- D. Nonstructural Bank Stabilization: The placement of natural vegetation—to include a filter fabric if desired—along a shoreline for the primary purpose of bank stabilization.
- E. Structural Bank Stabilization: The placement of a manmade, concrete wall or revetment of rock along a shoreline for the primary purpose of bank stabilization.

704.03 AREA OF APPLICATION

- A. Section 704 applies to land that is generally within a quarter mile of the mean high water line of the Clackamas, Sandy/Salmon, Molalla/Pudding, Roaring, Tualatin, and Zig Zag Rivers. These lands are classified as Principal River Conservation Areas and are identified on Comprehensive Plan Maps III-1a, *Principal River Conservation Area Clackamas River Design Plan*, III-1b, *Principal River Conservation Area Sandy-Salmon River Design Plan*, III-1c, *Principal River Conservation Area Molalla River Design Plan*, III-1d, *Principal River Conservation Area Tualatin River Design Plan*, and III-2, *Scenic & Distinctive Resource Areas*. The location of these rivers may vary from these maps, if more specific information is provided.
- B. Section 704 also applies to land that is located within 100 feet of the mean high water line of large Type F streams, except principal rivers identified in Subsection 704.03(A), identified on Water Protection Rule Classification (WPRC) Maps compiled pursuant to OAR 629-635-000 and adopted as part of the Comprehensive Plan. The location of these streams may vary from these maps if more specific information is provided. Classified as Stream Conservation Areas (SCAs), these large streams are designated in the Comprehensive Plan as those that generally have annual average flows of 10 cubic feet per second or greater.
- C. Section 704 also applies to land that is located within 70 feet of the mean high water line of medium Type F streams, identified on the WPRC Maps. The location of these streams may vary from these maps if more specific information is provided. Classified as SCAs, these medium streams are designated in the Comprehensive Plan as those that generally have annual average flows of greater than two cubic feet per second and less than 10 cubic feet per second.
- D. Section 704 also applies to land that is located within 50 feet of the mean high water line of small Type F streams, identified on the WPRC Maps. The location of these streams may vary from these maps if more specific information is provided. Classified as SCAs, these small streams are designated in the Comprehensive Plan as those that generally have annual average flows of less than two cubic feet per second.
- E. The provisions of Section 704 are in addition to those requirements of the State Scenic Waterways Act, Omnibus Oregon Wild and Scenic Rivers Act of 1988, and the Federal Wild and Scenic Rivers Act of 1968. In those areas so designated, the requirements of the County shall be administered subject to the application requirements of Subsection 704.08 and prevail when they are more restrictive than state and federal standards.
- F. Notwithstanding Subsections 704.03(A) through (E), Section 704 does not apply to land that is inside the Metropolitan Service District Boundary or the Portland Metropolitan Urban Growth Boundary, nor does it apply to Oregon Department of Fish and Wildlife, or other state or federally approved, fish enhancement projects.

704.04 RIVER AND STREAM SETBACKS

The following minimum setbacks shall apply to structures exceeding 120 square feet or 10 feet in height:

- A. Structures shall be located a minimum of 100 feet from the mean high water line of a principal river. This minimum setback may be increased up to 150 feet from the mean high water line to lessen the impact of development. In determining the minimum setback, the following shall be considered:
 1. The size and design of any proposed structures;
 2. The width of the river;
 3. The topography of the land between the site and the river;
 4. The type and stability of the soils;
 5. The type and density of existing vegetation between the site and the river;
 6. Established recreation areas or areas of public access; and
 7. Visual impact of any structures.
- B. Structures shall be located a minimum of 100 feet from the mean high water line of a large stream.
- C. Structures shall be located a minimum of 70 feet from the mean high water line of a medium stream.
- D. Structures shall be located a minimum of 50 feet from the mean high water line of a small stream.

704.05 SETBACK EXCEPTIONS

- A. The following uses are exempt from the minimum setback standards of Subsection 704.04:
 1. Residential lots of record where lot depth precludes compliance with the setback standards of Subsection 704.04, provided that:
 - a. Structures shall be sited the maximum distance from the mean high water line which meets the setback and other standards of the underlying zoning district; and
 - b. The footprint of structures shall not exceed 25 percent of the lot area;
 2. Repairs, additions, alterations to, or replacement of structures, roadways, driveways, or other development, which is located closer to a river or stream than permitted by the setback requirements of Subsection 704.04, provided that such development does not encroach into the setback any more than the existing structures, roadways, driveways, or other development;
 3. Water dependent uses such as private boat docks, marinas, or boat ramps, provided that structures shall be muted earth tones and any structure shall be the minimum size necessary to accommodate the use;

4. Uses such as roads, bridges, culverts, pipes, and power lines that are necessary for crossing streams, provided they do not create barriers to fish movement and that adverse impacts are mitigated;
5. Water impoundments, diversions, detention and retention facilities, and hydroelectric facilities; and
6. Structural, nonstructural, and composite bank stabilization, provided that structural bank stabilization shall only be approved if:
 - a. Structural bank stabilization is required to protect existing structures;
 - b. Nonstructural bank stabilization will be insufficient to adequately protect existing structures; and
 - c. The structural bank stabilization will utilize composite bank stabilization.
- B. In addition to the exemptions listed in Subsection 704.05(A), the minimum setback standards of Section 704 may be modified for purposes consistent with the adopted Economic, Social, Environmental, and Energy analyses for the applicable watershed.

704.06 DEVELOPMENT STANDARDS

- A. The maximum height of a dwelling or a structure accessory to a dwelling shall be 35 feet, if the dwelling or accessory structure can be seen from a principal river.
- B. Commercial or industrial facilities, such as structures, parking areas, and storage areas shall comply with Subsection 704.04, and signs shall be screened from view of the Principal River or Stream Conservation Area by an opaque vegetation buffer. These facilities shall be subject to design review, pursuant to Section 1102.
- C. Subdivisions and partitions shall be designed, where possible, to allow compliance with Section 704.

704.07 VEGETATION PRESERVATION REQUIREMENTS

- A. A minimum of 75 percent of the setback area (distance) shall be preserved with native vegetation.
- B. Tree cutting and grading shall be prohibited within the buffer or filter strip, with the following exceptions:
 1. Trees that endanger life or structures may be removed.
 2. Tree cutting and grading may be permitted in conjunction with those uses listed in Subsections 704.05 and 704.06, to the extent necessary to accommodate those uses. Disturbed areas that are outside the footprint of structures and other improvements shall be restored with native vegetation.
 3. Vegetation removal may occur when approved by the Oregon Department of Fish and Wildlife, upon written notification that such removal is required as part of a river or stream enhancement project.
- C. Commercial forest activities and harvesting practices outside an urban growth

boundary shall be subject to the Oregon Forest Practices Act. Commercial forest harvesting activities inside an urban growth boundary shall be reviewed pursuant to the Forest Policies of the Comprehensive Plan.

704.08 SUBMITTAL REQUIREMENTS

In addition to the submittal requirements identified in Subsection 1307.07(C), an application filed pursuant to Subsection 704.09 shall include:

- A. A site plan showing existing vegetation and development, and locations of proposed development or tree-cutting activity;
- B. Elevations of any proposed structures;
- C. Exterior materials list for any proposed structures, including type and colors of siding and roofing;
- D. Cross-section of any area within the vegetative buffer or filter strip where grading, filling, or excavating will occur; and
- E. A stream buffer restoration plan showing the location, number, and species of native trees and vegetation to be planted.

704.09 ADMINISTRATION OF SECTION 704

- A. Development and tree-cutting activities controlled by Section 704 in a Principal River Conservation Area (PRCA) shall be reviewed to ensure consistency with Section 704. Proposed developments on lands within 150 feet of the mean high water line shall be reviewed through a Type II application pursuant to Section 1307. For lands beyond 150 feet of the mean high water line, notice shall be sent to the U.S. Forest Service and Bureau of Land Management.
- B. Development and grading permits in a Stream Conservation Area (SCA) shall be reviewed through a Type II application pursuant to Section 1307.
- C. Approval of a PRCA or SCA permit is valid for ~~six~~six years from the date of the final written decision. If the County's final written decision is appealed, the approval period shall commence on the date of the final appellate decision. During this ~~six~~six-year period, the approval shall be implemented, or the approval will become void.

- 1. "Implemented" means all major development permits shall be obtained and maintained, or if no major development permits are required to complete the development contemplated by the approved PRCA or SCA permit, "implemented" means all other necessary County development permits (e.g. grading permit, building permit for an accessory structure) shall be obtained and maintained.

- a. A "major development permit" is:

- i. A building or manufactured dwelling placement permit for a new primary structure that was part of the PRCA or SCA permit approval; or

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- ii. A permit issued by the County Engineering Division for parking lot or road improvements that were part of the PRCA or SCA permit approval.

~~D. If the approval of a PRCA permit is not implemented within the initial approval period established by Subsection 704.09(C), a two-year time extension may be approved pursuant to Section 1310.~~

[Amended by Ord. ZDO-230, 09/26/2011; Amended by Ord. ZDO-248, 10/13/2014]

706 HABITAT CONSERVATION AREA DISTRICT (HCAD)

706.01 PURPOSE

Section 706 is adopted to implement the policies of the Comprehensive Plan for Habitat Conservation Areas.

706.02 AREA OF APPLICATION

- A. Section 706 applies in the Habitat Conservation Area District (HCAD). The HCAD applies to all parcels containing a Habitat Conservation Area (HCA). The HCAD also applies to any area that is less than 100 feet outside the boundary of an HCA even if the area is not located on the same parcel as the HCA. HCAs are identified on maps adopted by reference in Chapter 3 of the Comprehensive Plan (hereinafter referred to as the HCA Map) and are categorized as High, Moderate, or Low HCA. Notwithstanding the HCA Map, however, Section 706 does not apply to areas that are outside both the Metropolitan Service District Boundary and the Portland Metropolitan Urban Growth Boundary.
- B. An applicant may dispute the location of an HCA by submitting an application for HCA Map Verification pursuant to Subsection 706.06(B) or by applying for a Comprehensive Plan amendment to modify the HCA Map. HCA Map Verification does not amend the Comprehensive Plan.
- C. Development within an HCA in accordance with the provisions of Section 706 shall not result in removal of such developed areas from the HCA and shall not change the applicable HCA category.

706.03 DEFINITIONS

Unless specifically defined in Subsection 706.03, words or phrases used in Section 706 shall be interpreted to give them the same meaning as they have in common usage and to give Section 706 its most reasonable application.

- A. Bankfull Stage: The stage or elevation at which water overflows the natural banks of streams or other waters of the state and begins to inundate the upland. The bankfull stage may be approximated using either the two-year recurrence interval flood elevation or one foot measured vertically above the ordinary mean high water line.

- B. Building Footprint: The area that is covered by buildings or other roofed structures. A roofed structure includes any structure more than six feet above grade at any point, and that provides an impervious cover over what is below. Building footprint also includes uncovered horizontal structures such as decks, stairways, and entry bridges that are more than six feet above grade. Eaves are not included in the building footprint. Underground facilities and structures are defined based on the foundation line.
- C. Developed Areas Not Providing Vegetative Cover: Areas that do not meet the definition of Forest Canopy, Low Structure Vegetation or Open Soils, or Woody Vegetation.
- D. Developed Flood Area: A flood area (a) upon which a building or other structure has been located, or (b) that is an uncovered, hard-surfaced area or an area covered with a perforated hard surface (such as “Grasscrete”) that is able to withstand vehicular traffic or other heavy-impact uses; provided, however, that graveled areas shall not be considered developed flood areas.
- E. Development: Any manmade change defined as structures, roads, utilities, mining, dredging, paving, filling, or grading in amounts greater than 10 cubic yards. In addition, “development” is any other activity that results in the removal of more than 10 percent or 20,000 square feet of the Habitat Conservation Area vegetation on a lot of record, whichever is less. The calculation of the amount of vegetative cover removed shall be done separately for each lot of record and shall include all vegetative cover removed after January 5, 2009, regardless of whether the removal is done as one project or a series of projects. When individual trees are removed, the area contained within the tree’s drip line shall be the basis for calculating the square footage of vegetation removed.
- F. Disturb: Manmade changes to the existing physical status of the land, which are made in connection with development.
- G. Disturbance Area: An area that contains all temporary and permanent development, exterior improvements, and staging and storage areas on the site. For new development the disturbance area must be contiguous. The disturbance area does not include agricultural and pasture lands or naturalized areas.
- H. Drip Line: The outermost edge of a tree’s canopy; when delineating the drip line on the ground, it will appear as an irregularly shaped circle defining the canopy’s perimeter.

- I. Ecological Functions: The primary biological and hydrologic characteristics of healthy fish and wildlife habitat. Riparian ecological functions include microclimate and shade, streamflow moderation and water storage, bank stabilization and sediment/pollution control, sources of large woody debris and natural channel dynamics, and organic material sources. Upland wildlife ecological functions include size of habitat area, amount of habitat with interior conditions, connectivity of habitat to water resources, connectivity to other habitat areas, and presence of unique habitat types.
- J. Emergency: Any manmade or natural event or circumstance causing or threatening loss of life, injury to person or property, and includes, but is not limited to, fire, explosion, flood, severe weather, drought, earthquake, volcanic activity, spills or releases of oil or hazardous material, contamination, utility or transportation disruptions, and disease.
- K. Enhancement: The process of improving upon the natural functions and/or values of an area or water resource that has been degraded by human activity. Enhancement activities may or may not return the site to a pre-disturbance condition, but create/recreate beneficial processes and resources that occur naturally.
- L. Erosion: The movement of soil particles resulting from actions of water or wind.
- M. Fill: Any material such as, but not limited to, sand, soil, rock, or gravel that is placed in a wetland or flood area for the purposes of development.
- N. Flood Areas: Lands contained within the Floodplain Management District regulated by Section 703 and lands that were inundated in the February 1996 flood. (Note: Areas that were mapped as flood areas but were filled to a level above the base flood level prior to September 30, 2005, consistent with all applicable local, state, and federal laws shall no longer be considered habitat based on their status as flood areas.)
- O. Flood Management Areas: Flood areas and, in addition, lands that have documented evidence of flooding.
- P. Forest Canopy: Areas that are part of a contiguous grove of trees of one acre or larger in area with approximately 60 percent or greater crown closure, irrespective of whether the entire grove is within 200 feet of the relevant water resource.

- Q. Habitat-Friendly Development: A method of developing property that has less detrimental impact on fish and wildlife habitat than do traditional development methods. Examples include clustering development to avoid habitat, using alternative materials and designs such as pier, post, or piling foundations designed to minimize tree root disturbance, managing storm water on-site to help filter rainwater and recharge groundwater sources, collecting rooftop water in rain barrels for reuse in site landscaping and gardening, and reducing the amount of effective impervious surface created by development.
- R. Invasive Non-Native or Noxious Vegetation: Plant species that are listed in the Oregon Department of Agriculture's Noxious Weed Policy and Classification System.
- S. Low Structure Vegetation or Open Soils: Areas that are part of a contiguous area one acre or larger of grass, meadow, crop-lands, or areas of open soils located within 300 feet of a surface stream (low structure vegetation areas may include areas of shrub vegetation less than one acre in size if they are contiguous with areas of grass, meadow, crop-lands, orchards, Christmas tree farms, holly farms, or areas of open soils located within 300 feet of a surface stream and together form an area of one acre in size or larger).
- T. Mitigation: The reduction of adverse effects of proposed development by considering, in the following order
1. Avoiding the impact by not taking a certain action or parts of an action;
 2. Minimizing impacts by limiting the degree or magnitude of the action and its implementation;
 3. Rectifying the impact by repairing, rehabilitating, or restoring the affected environment;
 4. Reducing or eliminating the impact over time by preservation and maintenance operations during the life of the action by monitoring and taking appropriate measures; and
 5. Compensating for the impact by replacing or providing comparable substitute Habitat Conservation Areas.
- U. Native Vegetation: Vegetation native to the Portland metropolitan area provided that it is not invasive non-native or noxious vegetation.

- V. Open Space: Land that is undeveloped and that is planned to remain so indefinitely. The term encompasses parks, forests, and farmland. It may also refer only to land zoned as being available to the public, including playgrounds, watershed preserves, and parks.
- W. Ordinary Mean High Water Line: The line on the bank or shore to which water ordinarily rises in season.
- X. Practicable: Available and capable of being done after taking into consideration cost, existing technology, and logistics in light of overall project purpose and probable impact on ecological functions. The practicability of a development option shall include consideration of the type of HCA that will be affected by the proposed development. For example, High HCAs have been so designated because they are areas that have been identified as having lower urban development value and higher-valued habitat, so it should be more difficult to show that alternative development options that avoid the habitat are not practicable. On the other hand, Low HCAs have been so designated because they are areas that have been identified as having higher urban development value and lower-valued habitat, so it should be less difficult to show that alternative development options that avoid the habitat are not practicable.
- Y. Restoration: The process of returning a disturbed or altered area or water resource to a previously existing natural condition. Restoration activities reestablish the structure, function, or diversity to that which existed prior to impacts caused by human activity.
- Z. Riparian: Those areas associated with streams, lakes, and wetlands where vegetation communities are predominately influenced by their association with water.
- AA. Significant Detrimental Impact: An impact that affects the natural environment, considered individually or cumulatively with other impacts on the HCA, to the point where existing fish and wildlife habitat functional values are degraded.
- BB. Stormwater: The surface water runoff that results from all natural forms of precipitation.
- CC. Stormwater Pretreatment Facility: Any structure or drainage way that is designed, constructed, and maintained to collect and filter, retain, or detain surface water run-off during and after a storm event for the purpose of water quality improvement.

- DD. Stream: A body of running water moving over the earth's surface in a channel or bed, such as a creek, rivulet, or river. A stream flows at least part of the year, including perennial and intermittent streams. Streams are dynamic in nature and their structure is maintained through build-up and loss of sediment.
- EE. Structure: A building or other major improvement that is built, constructed, or installed, not including minor improvements—such as fences, utility poles, flagpoles, or irrigation system components—that are not customarily regulated through zoning codes.
- FF. Urban Development Value: The economic value of a property lot or parcel as determined by analyzing three separate variables: assessed land value, value as a property that could generate jobs (“employment value”), and the Metro 2040 design type designation of property. The urban development value of all properties containing regionally significant fish and wildlife habitat is depicted on the Metro Habitat Urban Development Value Map.
- GG. Utility Facilities: Buildings, structures, or any constructed portion of a system that provides for the production, transmission, conveyance, delivery, or furnishing of services including, but not limited to, heat, light, water, power, natural gas, sanitary sewer, stormwater, telephone, and cable television. Utility facilities do not include stormwater pre-treatment facilities.
- HH. Water Resource: All rivers, streams (regardless of whether they carry year-round flow, i.e., including intermittent streams), springs which feed streams and wetlands and have year-round flow, flood management areas, wetlands, and all other bodies of open water.
- II. Watershed: A watershed is a geographic unit defined by the flows of rainwater or snowmelt. All land in a watershed drains to a common outlet, such as a stream, lake, or wetland.
- JJ. Wetlands: Areas that are inundated or saturated by surface water or ground water at a frequency and duration sufficient to support and under normal circumstances do support a prevalence of vegetation typically adapted for life in saturated soil conditions. Wetlands generally include swamps, marshes, bogs, and similar areas. Wetlands are those areas identified and delineated by a qualified wetland specialist as set forth in the 1987 Corps of Engineers Wetland Delineation Manual.

- KK. Woody Vegetation: Areas that are part of a contiguous area one acre or larger of shrub or open or scattered forest canopy (less than 60 percent crown closure) located within 300 feet of a surface stream.

706.04 EXEMPT USES

The following uses and activities are exempt from the requirements of Section 706, except that if the use or activity requires a building or grading permit, a Construction Management Plan shall be required pursuant to Subsection 706.06(A). Notwithstanding the requirement for HCA Map Verification under Subsection 706.06(B), the HCA Map shall be deemed reliable for the purpose of administering Subsection 706.04 unless an approved HCA Map Verification exists for the subject property, in which case the approved HCA Map Verification shall be used to administer Subsection 706.04.

- A. Uses and activities that do not constitute development, except if the use or activity is prohibited by Subsection 706.05;
- B. Development that:
 - 1. Had it been proposed prior to January 5, 2007, would not have required a land use, building, erosion prevention and sediment control, or grading permit; and
 - 2. Is located on a parcel that is developed with a dwelling for which a building or manufactured home placement permit was issued prior to January 5, 2007, or a dwelling that was lawfully established prior to the requirement to obtain such a permit;
- C. Development, authorized by a valid design review or conditional use permit for which a complete application was submitted prior to January 5, 2009, provided that the development will not result in an increase in the HCA disturbance area approved under the design review or conditional use permit;
- D. Development on a partition parcel or a subdivision lot, provided that the parcel or lot is part of a partition or subdivision approved pursuant to Subsection 706.10(A)(4) or (B);
- E. Maintenance, alteration, expansion, repair, and replacement of existing structures, provided that the building footprint is not increased;
- F. Expansion or replacement of an existing structure, provided that:
 - 1. The expansion or replacement shall not intrude more than 500 square feet into the HCA in addition to the building footprint that lawfully existed on January 5, 2007. If more than one expansion or

replacement of the same structure is undertaken—regardless of whether the work is done as one project or a series of projects—the total increase in the intrusion in the HCA shall not exceed this 500-square-foot limit;

2. The new intrusion into the HCA shall be no closer to the protected water resource than the pre-existing structure; and
 3. Replacement is lawfully commenced within one year of destruction of the original structure. “Lawfully commenced” means the filing of an application for a land use, building, septic, grading, manufactured dwelling or residential trailer placement, plumbing, electrical, or other development permit required by the County or other appropriate permitting agency that is necessary to begin replacement of the structure.
- G. Development that will have a disturbance area that does not exceed 120 square feet. If more than one development is undertaken pursuant to this exemption—regardless of whether the work is done as one project or a series of projects—the total disturbance area shall not exceed this 120 square-foot limit;
- H. Temporary clearing of vegetative cover in an HCA, not to exceed 200 square feet per lot of record, for the purpose of site investigations and pits for preparing soil profiles, provided that cleared areas are replanted with native vegetation when the investigation is complete. After replanting, no open soil areas greater than 25 square feet in area shall remain. If a tree is removed, the area contained within the tree’s drip line shall be the basis for calculating the square footage of vegetative cover removed. If a tree is removed in an HCA and the tree is equal to or greater than 6 inches in diameter at breast height, it shall be replaced as set forth in Table 706-6;
- I. Maintenance of existing gardens, pastures, lawns, and landscaping, including the installation of new irrigation systems within existing gardens, pastures, lawns, and landscaping;
- J. Removal of invasive non-native or noxious vegetation and the planting or propagation of native vegetation, provided that:
1. Handheld tools are used to remove invasive non-native or noxious vegetation; and
 2. After such removal, all open soil areas greater than 25 square feet are replanted with native vegetation;

- K. Farming practices, as defined in Oregon Revised Statutes (ORS) 30.930, and farm uses, as defined in ORS 215.203, in zoning districts where agricultural uses are a primary use, except that this exemption does not apply to buildings associated with farm practices or farm uses;
- L. Forest practices, as defined in ORS 30.930, on forestlands, as defined in ORS 30.930, outside the Portland Metropolitan Urban Growth Boundary;
- M. Maintenance, alteration, repair, and replacement of existing roads, railroads, and utilities, provided that there is no additional intrusion into the HCA;
- N. Maintenance and repair of existing manmade water control facilities, such as irrigation and drainage ditches, constructed ponds and lakes, wastewater facilities, and stormwater pre-treatment facilities;
- O. Projects with the sole purpose of restoring or enhancing wetlands, streams, or fish and wildlife habitat areas, provided that the project is part of an approved local, regional, state, or federal restoration or enhancement plan;
- P. Removal of dead or diseased trees or trees that pose an imminent hazard to persons or property, provided that a consulting arborist's report, or other credible evidence, is provided by the owner of the subject property and verifies the dead, diseased, or hazardous condition of the trees proposed for removal;
- Q. Low-impact outdoor recreation facilities for public use, such as multi-use paths, trails, picnic areas, interpretive and educational displays, and overlooks, provided that:
 - 1. The facility is located outside of a Water Quality Resource Area regulated pursuant to Section 709;
 - 2. The facility includes less than 500 square feet of new impervious surface; and
 - 3. Any proposed trails are constructed using non-hazardous, pervious materials, with a maximum width of four feet;
- R. Emergency procedures or activities undertaken which are necessary to remove or abate hazards and nuisances, or for the protection of public health, safety, and welfare, provided that:

1. Such remedial or preventative action must take place within a timeframe too short to allow for compliance with the requirements of Section 706; and
 2. After the emergency, the owner shall mitigate adverse impacts to the HCA resulting from the emergency action; and
- S. Facilities that infiltrate stormwater onsite, including the associated piping, provided that forest canopy and areas within the drip lines of trees are not disturbed and that only native vegetation is planted in these facilities. Such facilities may include, but are not limited to, vegetated swales, rain gardens, vegetated filter strips, and vegetated infiltration basins.

706.05 PROHIBITED USES

The following uses and activities are prohibited within a Habitat Conservation Area:

- A. The planting of invasive non-native or noxious vegetation; and
- B. Outside storage of materials and equipment, unless such storage began before January 5, 2009, or is approved pursuant to review under Subsection 706.06(C).

706.06 DEVELOPMENT REVIEW REQUIREMENTS

The following review requirements are applicable to development in the Habitat Conservation Area District (HCAD) unless such development is exempt pursuant to Subsection 706.04.

- A. A Construction Management Plan, consistent with Subsection 706.08, shall be required prior to development in the HCAD, regardless of whether development will occur within an HCA. However, if an area is in the HCAD solely because it is less than 100 feet outside the boundary of an HCA located on a different parcel, a Construction Management Plan shall not be required unless HCA Map Verification determines that an HCA exists on the same parcel as the area for which development is proposed. A Construction Management Plan shall be reviewed:
 1. As part of an HCA Development Permit; or
 2. In conjunction with review of a building or grading permit, if no HCA Development Permit is required.

B. Unless the applicant concurs with the accuracy of the HCA Map, HCA Map Verification, pursuant to Subsection 706.09, shall be required or allowed as follows:

1. HCA Map Verification shall be required for:
 - a. Development that is proposed to be either in an HCA or less than 100 feet outside of the boundary of an HCA, as shown on the HCA Map; or
 - b. A parcel that:
 - i. Either contains an HCA, or any part of which is less than 100 feet outside the boundary of an HCA, as shown on the HCA Map; and
 - ii. Is the subject of a land use application for a partition, subdivision, or any other land use application the approval of which would authorize new development on the subject parcel.
2. An application for HCA Map Verification may be submitted even if one is not required pursuant to Subsection 706.06(B)(1).
3. If a parcel is subject to Subsection 706.06(B)(1)(b), an application for HCA Map Verification shall be filed concurrently with the other land use application referenced in Subsection 706.06(B)(1)(b)(ii) unless a previously approved HCA Map Verification for the subject property remains valid.
4. HCA Map Verification shall be reviewed as a Type II application pursuant to Section 1307, *Procedures*, unless the application is filed concurrently with another land use application that requires review as a Type III application, in which case the applications will be consolidated and reviewed as a Type III application pursuant to Section 1307.

C. An HCA Development Permit, consistent with Subsection 706.10, shall be required for:

1. Development in an HCA or for a parcel that:
 - a. Contains an HCA; and
 - b. Is the subject of a land use application for a partition or subdivision.

2. If a parcel is subject to Subsections 706.06(C)(1)(a) and (b), an application for an HCA Development Permit shall be filed concurrently with the application for a partition or subdivision.
3. An application for an HCA Development Permit shall be reviewed as a Type II application pursuant to Section 1307 unless the application is filed concurrently with another land use application that requires review as a Type III application, in which case the applications will be consolidated and reviewed as a Type III application pursuant to Section 1307.

D. Approval of HCA Map Verification or an HCA Development Permit shall be valid for ~~six~~four years from the date of the final written decision. If the County's final written decision is appealed, the approval period shall commence on the date of the final appellate decision. During this ~~six~~four-year period, the approval shall be implemented, or the approval will become void.

1. For an HCA Development Permit directly related to an application for a partition or subdivision, "implemented" means that the final plat of the partition or subdivision shall be recorded with the County Clerk.
2. For any other HCA Development Permit, "implemented" means all major development permits shall be obtained and maintained, or if no major development permits are required to complete the development contemplated by the approved HCA Development Permit, "implemented" means all other necessary County development permits (e.g. grading permit, building permit for an accessory structure) shall be obtained and maintained. A "major development permit" is:
 - a. A building or manufactured dwelling placement permit for a new primary structure that was part of the HCA Development Permit approval; or
 - b. A permit issued by the County Engineering Division for parking lot or road improvements that were part of the HCA Development Permit approval.
3. For HCA Map Verification, "implemented" has the meaning set forth in Subsection 706.06(D)(1) and (2), except that under Subsection 706.06(D)(2), if the approval did not contemplate a specific development proposal, "implemented" means at least one County development permit shall be obtained and maintained.

- ~~E. If the approval of HCA Map Verification or an HCA Development Permit is not implemented within the initial approval period established by Subsection 706.06(D), a two-year time extension may be approved pursuant to Section 1310.~~
- EF. HCA Map Verification that was valid on the date when the final plat for a subdivision or partition was recorded with the County Clerk shall remain valid for subsequent development on the lots or parcels created by the subdivision or partition.

706.07 SUBMITTAL REQUIREMENTS

Construction Management Plans and applications filed pursuant to Section 706 shall comply with the following submittal requirements:

A. A Construction Management Plan shall include:

1. A site plan of the subject property, drawn to scale and identifying the following:
 - a. Location and type of existing and proposed development, including but not limited to, building footprints, roads, driveways, parking areas, utilities, onsite sewage disposal systems, wells, landscaping, and filling or grading in an amount greater than 10 cubic yards, with labels of each element as existing or proposed;
 - b. Location and width of existing adjacent roads and road rights-of-way;
 - c. Location of the Habitat Conservation Area (HCA) as shown on the HCA Map or as identified pursuant to an approved HCA Map Verification;
 - d. Drip lines outside the HCA of trees that are inside the HCA;
 - e. Distance between the HCA boundary and proposed development outside the HCA;
 - f. The site ingress and egress proposed to be used by construction vehicles;
 - g. Proposed equipment and material staging and stockpile areas; and
 - h. Proposed orange construction fencing required pursuant to Subsection 706.08(B);
2. An Erosion Prevention and Sediment Control (EPSC) plan, which may be included on the site plan if acceptable to the EPSC regulatory authority; and
3. If a modification or waiver of the construction fencing requirement of Subsection 706.08(B) is proposed, a narrative demonstrating compliance with Subsection 706.08(B)(1) or (2).

B. An application for HCA Map Verification shall include:

1. The submittal requirements identified in Subsection 1307.07(C);
2. A summer 2002 aerial photograph of the subject property, with lot lines shown, at a scale of at least one map inch equal to 50 feet for lots of 20,000 or fewer square feet, and a scale of at least one map inch equal to 100 feet for larger lots (available from the Metro Data Resource Center, 600 N.E. Grand Ave., Portland, OR 97232; 503-797-1742);
3. For an application filed pursuant to Subsection 706.09(A)(1), either:
 - a. A documented demonstration of the misalignment between the HCA Map (generated from the summer 2002 aerial photographs) and the tax lot lines of the subject property. For example, the applicant could compare the road rights-of-way boundaries shown on the tax lot layer for roads within 500 feet of the subject property with the location of such roads as viewed on the summer 2002 aerial photograph of the same area to provide evidence of the scale and amount of incongruity between the HCA Map and the tax lot lines, and the amount of adjustment that would be appropriate to accurately depict habitat on the subject property; or
 - b. A documented demonstration of another type of computer mapping error that was made in the creation of the HCA map;
4. For an application filed pursuant to Subsection 706.09(A)(2):
 - a. A site plan of the subject property, drawn to scale and identifying the following:
 - i. Location and type of existing development, including but not limited to, building footprints, roads, driveways, parking areas, utilities, onsite sewage disposal systems, wells, landscaping, and filling or grading in an amount greater than 10 cubic yards, with labels of the elements that were developed after August 1, 2002;
 - ii. Location and width of existing adjacent roads and road rights-of-way;
 - iii. Location of the HCA as shown on the HCA Map, including off-site HCA where review is required due to proposed development within 100 feet outside the HCA boundary and including the location of High, Moderate, and Low HCA; and

- iv. Location of the HCA as proposed by the applicant, including the location of High, Moderate, and Low HCA;
 - b. A summer 2005 aerial photograph of the subject property (or, if available, an aerial photograph taken closer to, but not after, January 5, 2009), with lot lines shown, at a scale of at least one map inch equal to 50 feet for lots of 20,000 or fewer square feet, and a scale of at least one map inch equal to 100 feet for larger lots (available from the Metro Data Resource Center, 600 N.E. Grand Ave., Portland, OR 97232; 503-797-1742);
 - c. Any approved development permits (e.g. building, grading, land use) and site plans related to the development of the property that took place between August 1, 2002, and January 5, 2009; and
 - d. A narrative that correlates with the submitted site plan and development permits and identifies the type and scope of the new development that has occurred and the previously identified habitat that no longer exists because it is now part of a developed area; and
5. For an application filed pursuant to Subsection 706.09(A)(3):
- a. A site plan of the subject property, drawn to scale and identifying the following:
 - i. Location and type of existing development, including but not limited to, building footprints, roads, driveways, parking areas, utilities, onsite sewage disposal systems, wells, landscaping, and filling or grading in an amount greater than 10 cubic yards;
 - ii. Location and width of existing adjacent roads and road rights-of-way;
 - iii. Location of the HCA as shown on the HCA Map, including off-site HCA where review is required due to proposed development within 100 feet outside the HCA boundary and including the location of High, Moderate, and Low HCA;
 - iv. Location of the HCA as proposed by the applicant, including the location of High, Moderate, and Low HCA;
 - v. Location of any rivers, streams, wetlands, and flood areas;

- vi. Location of agricultural areas (e.g. pastures, orchards);
 - vii. Location of naturalized areas (e.g. meadows, woods); and
- b. A report prepared and signed by either a qualified natural resource professional - such as a wildlife biologist, botanist, or hydrologist - or an environmental engineer registered in Oregon. The report shall include:
 - i. A description of the qualifications and experience of all persons that contributed to the report, and, for each person that contributed, a description of the elements of the analysis to which the person contributed;
 - ii. Additional aerial photographs if the applicant believes they provide better information regarding the subject property, including documentation of the date and process used to take the photographs and an expert's interpretation of the additional information they provide;
 - iii. A topographic map of the subject property, drawn to scale and shown by contour lines of two-foot intervals for slopes less than 15 percent and 10-foot intervals for slopes 15 percent or greater. On properties that are two acres or larger, such a contour map is required only for the portion of the property to be developed; and
 - iv. A narrative analysis and any additional documentation necessary to address each step of the verification process set forth in Subsection 706.09(E).
- C. An application for an HCA Development Permit under Subsection 706.10(A) shall include:
 - 1. The submittal requirements identified in Subsection 1307.07(C);
 - 2. A site plan of the subject property, drawn to scale and identifying the following:
 - a. Location and type of existing and proposed development, including but not limited to, building footprints, roads, driveways, parking areas, utilities, onsite sewage disposal systems, wells, landscaping, and filling or grading in an amount greater than 10 cubic yards, with labels of each element as existing or proposed;

- b. Location and width of existing adjacent roads and road rights-of-way;
 - c. Location of the HCA as identified pursuant to a valid HCA Map Verification, and including the location of High, Moderate, and Low HCA;
 - d. Location of any rivers, streams, wetlands, and flood areas;
 - e. Location of agricultural areas (e.g. pastures, orchards);
 - f. Location of naturalized areas (e.g. meadows, woods);
 - g. Drip lines outside the HCA of trees that are inside the HCA;
 - h. For a property containing less than one acre of HCA, the location of all trees within the HCA that are greater than six inches diameter at breast height (DBH), identified by DBH and species. For properties containing one acre or more of HCA, the applicant may approximate the number of trees within the HCA that are greater than six inches DBH and the DBH range, and provide a listing of the dominant species;
 - i. The location of all trees with a DBH of six inches or greater that are proposed to be removed, identified by DBH and species;
 - j. The site ingress and egress proposed to be used by construction vehicles;
 - k. Proposed equipment and material staging and stockpile areas; and
 - l. Location of any Water Quality Resource Area regulated by Section 709;
- 3. A mitigation plan that demonstrates compliance with Subsections 706.10(A)(6), (7), and, if applicable, (8);
 - 4. If offsite mitigation is proposed pursuant to Subsection 706.10(A)(7)(b), the mitigation plan required by Subsection 706.07(C)(2) shall address both the subject property and the alternate mitigation site and shall document the following:
 - a. The number of trees and shrubs that can be planted onsite;

- b. The onsite location where those trees and shrubs can be planted;
 - c. An explanation of why it is not practicable for the remainder of the mitigation to occur onsite; and
 - d. Identification of the proposed location for off-site mitigation and documentation that the applicant possesses legal authority to conduct and maintain the mitigation, such as having a sufficient ownership interest in the mitigation site, and, if the mitigation is not within an HCA, documentation that the mitigation site will be protected from development after the monitoring period expires by a restrictive covenant, conservation easement, or public dedication;
- 5. If the applicant proposes to vary the number and size of required trees and shrubs pursuant to Subsection 706.10(A)(8), a report, prepared and signed by a qualified professional, such as a botanist or a certified landscape architect, that:
 - a. Explains why the numbers and sizes of trees and shrubs that the applicant proposes to plant will achieve, at the end of the fifth year after initial planting, comparable or better mitigation results as the results that would be achieved if the applicant complied with all of the requirements of Subsection 706.10(A)(6)(a) through (c); and
 - b. Discusses site preparation, including soil additives, removal of invasive and noxious vegetation, plant diversity, plant spacing, planting season, and immediate post-planting care including mulching, irrigation, wildlife protection, and weed control;
- D. An application for an HCA Development Permit under Subsection 706.10(B) shall include:
 - 1. The items listed in Subsections 706.07(C)(1) and (2);
 - 2. A topographic map of the subject property, drawn to scale and shown by contour lines of two-foot intervals for slopes less than 15 percent and 10-foot intervals for slopes 15 percent or greater. On properties that are two acres or larger, such a contour map is required only for the portion of the property to be developed;
 - 3. If grading will occur within the HCA, a grading plan showing the proposed alteration of the ground at one-foot vertical contours in areas of slopes less than five percent, two-foot vertical contours in

areas of slopes from five percent to 15 percent, and five-foot vertical contours in areas of slopes greater than 15 percent;

4. An Impact Evaluation and Alternatives Analysis, prepared and signed by either a qualified natural resource professional—such as a wildlife biologist, botanist, or hydrologist—or an environmental engineer registered in Oregon. The report shall include:
 - a. A description of the qualifications and experience of all persons that contributed to the analysis, and, for each person that contributed, a description of the elements of the analysis to which the person contributed;
 - b. Identification of the ecological functions of the HCA on the subject property. The ecological functions to be evaluated are those identified in Subsections 706.10(B)(2)(b)(i) through (iii);
 - c. Evaluation of alternative locations, design modifications, or alternative methods of development to determine which options reduce significant detrimental impacts on the HCA and the ecological functions provided by the HCA. At a minimum, the approaches identified in Subsections 706.10(B)(1)(a) through (g) shall be considered; and
 - d. Determination of the alternative that best meets the applicable approval criteria, and identification of unavoidable significant detrimental impacts; and
5. A mitigation plan that demonstrates compliance with Subsections 706.10(A)(6), (7), and, if applicable, (8) or an alternative mitigation plan. An alternative mitigation plan shall be prepared and signed by a qualified professional, such as a botanist or a certified landscape architect. The report shall include:
 - a. A description of the qualifications and experience of all persons that contributed to the plan, and, for each person that contributed, a description of the elements of the plan to which the person contributed;
 - b. An explanation of how the proposed mitigation will adequately compensate for the impacts to ecological functions described in the Impact Evaluation and Alternatives Analysis. The mitigation that would be required under Subsections 706.10(A)(6) and (7)(a) may be used as the baseline mitigation required to compensate for disturbance to an HCA that

provides an average level of ecological functions. The explanation shall include:

- i. If the mitigation that would be required under Subsections 706.10(A)(6) and (7)(a) is used as the baseline mitigation required to compensate for disturbance to an HCA, a calculation of the number of trees and shrubs that would be required under Subsection 706.10(A)(6)(a);
 - ii. A site plan showing where the specific mitigation activities will occur and the numbers and sizes of trees and shrubs that are proposed to be planted; and
 - iii. A discussion of site preparation, including soil additives, removal of invasive and noxious vegetation, plant diversity, plant spacing, planting season, and immediate post-planting care, including mulching, irrigation, wildlife protection, and weed control;
- c. Documentation of coordination with appropriate local, regional, special district, state, and federal regulatory agencies;
 - d. A list of all parties responsible for implementing and monitoring the mitigation plan and, if mitigation will occur offsite, the names of the owners of property where mitigation plantings will occur;
 - e. A mitigation site monitoring and reporting plan;
 - f. If the proposed mitigation will not be conducted onsite, a map and accompanying narrative that details the following:
 - i. The number of trees and shrubs that can be planted onsite;
 - ii. The onsite location where those trees and shrubs can be planted;
 - iii. An explanation of why it is not practicable for the remainder of the mitigation to occur onsite; and
 - iv. The proposed location for off-site mitigation and documentation that the applicant can carry out and ensure the success of the mitigation, including documentation that the applicant possesses legal authority to conduct and maintain the mitigation, such as having a sufficient ownership interest in the mitigation site, and, if the mitigation is not within an HCA, documentation that the

mitigation site will be protected from development after the monitoring period expires by a restrictive covenant, conservation easement, or public dedication;

- g. If the mitigation area is offsite and not within the same subwatershed (6th Field Hydrologic Unit Code) as the disturbed HCA, an explanation of why it is not practicable to conduct the mitigation within the same subwatershed and of why and how, considering the purpose of the mitigation, the mitigation will provide more ecological functional value if implemented outside of the subwatershed; and
 - h. An implementation schedule, including a timeline for construction, mitigation, mitigation maintenance, monitoring, and reporting and a contingency plan. If in-stream work in fish-bearing streams is proposed as part of the mitigation plan, documentation that such work will be done in accordance with the Oregon Department of Fish and Wildlife in-stream work timing schedule shall be submitted.
- E. Except for utility facilities reviewed pursuant to Subsection 706.10(A)(1) and notwithstanding any other provisions of Subsection 706.07, for utility facilities developed by public utilities on property that is not owned by the utility, the utility shall not be required to map or provide any information about the property except for the area within 300 feet of the proposed disturbance area.

706.08 CONSTRUCTION MANAGEMENT PLANS

A Construction Management Plan (CMP) shall comply with the following criteria.

- A. Erosion prevention and sediment control (EPSC) measures shall be required and shall comply with the standards of the EPSC regulatory authority.
- B. Orange construction fencing (i.e. safety fencing, snow fencing, or a comparable product) shall be installed on or outside the boundary of the HCA, except where the drip line of a protected tree extends outside the HCA, in which case the drip line shall be included inside the fencing. This requirement may be modified or waived if:
 - 1. Disturbance of the HCA is authorized pursuant to Subsection 706.04 or 706.10, in which case the fencing shall be installed in such a manner as to protect the area of the HCA not authorized for disturbance; or
 - 2. The HCA is already lawfully developed, in which case the fencing shall be installed in such a manner as to protect any water resource

that is the basis for the HCA designation and any area of the HCA where naturalized vegetative cover exists.

- C. Trees in the HCA shall not be used as anchors for stabilizing construction equipment.
- D. Native soils disturbed during development shall be conserved on the subject property.
- E. Development shall not commence until the EPSC measures and fencing required pursuant to Subsections 706.08(A) and (B) are in place.
- F. Compliance with the CMP shall be maintained until the development is complete.

706.09 HCA MAP VERIFICATION

HCA Map Verification shall be subject to the following criteria.

- A. An applicant for HCA Map Verification shall use one or more of the following methods to verify the Habitat Conservation Area (HCA) boundary and, if applicable, the boundary between High, Moderate, and Low HCA.
 1. The applicant may demonstrate that a computer mapping error was made in the creation of the HCA map (e.g., the mapped vegetative cover layer—which was derived from aerial photographs taken in the summer of 2002 and was used to establish the Vegetative Cover Map and the HCA Map—in Metro’s geographic information system database does not align precisely with the tax lot layer, thereby resulting in an HCA Map of the subject property that is also misaligned with tax lot lines);
 2. The applicant may demonstrate that the subject property was developed lawfully between August 1, 2002 (when the taking of the aerial photographs used to determine the regional habitat inventory commenced) and January 5, 2009 and, therefore, that the HCA boundary or category (High, Moderate, or Low) is inaccurate; or
 3. If the identified HCA is riparian habitat rather than publicly-owned upland habitat, the applicant may demonstrate that the HCA Map is inaccurate for a reason other than those described in Subsections 706.09(A)(1) and (2).

- B. The location of any HCA on the subject property shall be determined by considering information submitted by the applicant, information collected during any site visit that may be made to the subject property, information generated by prior HCA Map Verification that has occurred on adjacent properties, and any other relevant information that has been provided.
- C. For applications filed pursuant to Subsection 706.09(A)(1), the HCA Map shall be deemed to be accurate unless, as described in Subsection 706.09(A)(1), there was a computer mapping error (e.g., an alignment error) made in the creation of the HCA Map.
- D. For applications filed pursuant to Subsection 706.09(A)(2), developed areas not providing vegetative cover shall be removed from the HCA, provided that they were developed lawfully between August 1, 2002, and January 5, 2009, and are more than 50 feet from the water resource. Developed areas not providing vegetative cover that were developed lawfully between August 1, 2002, and January 5, 2009, and are 50 feet or less from the water resource, shall remain classified as HCA, but the HCA category shall be changed if necessary to remain consistent with Tables 706-1 and 706-2.
- E. For applications filed pursuant to Subsection 706.09(A)(3), the HCA boundary shall be established as follows:
 - 1. Locate the water resource that was inventoried by Metro and is the basis for the HCA designation, including: Bankfull stage of streams, rivers, and bodies of open water on or within 200 feet of the subject property; flood areas on or within 100 feet of the subject property; and wetlands on or within 150 feet of the subject property based on the 1994 Clackamas County Wetland Inventory maps adopted by reference in Chapter 3 of the Comprehensive Plan and the Metro 2002 Wetland Inventory Map (available from the Metro Data Resource Center, 600 N.E. Grand Ave., Portland, OR 97232; 503-797-1742). Identified wetlands shall be further delineated consistent with methods currently accepted by the Oregon Division of State Lands and the U.S. Army Corps of Engineers.
 - 2. Identify the vegetative cover status of all areas on the subject property that are within 200 feet of the bankfull stage of streams, rivers, and bodies of open water; are wetlands or are within 150 feet of wetlands; and are flood areas or are within 100 feet of flood areas.

- a. Vegetative cover status shall be as identified on the Metro Vegetative Cover Map (available from the Metro Data Resource Center, 600 N.E. Grand Ave., Portland, OR 97232; 503-797-1742); or
 - b. Vegetative cover status may be adjusted if the property was developed lawfully between August 1, 2002, and January 5, 2009, or an error was made at the time the vegetative cover status was determined by Metro. To assert the latter type of error, applicants shall submit an analysis of the vegetative cover on their property using summer 2002 aerial photographs and the definitions of the different vegetative cover types provided in Subsection 706.03.
3. Determine whether the degree that the land slopes upward from all streams, rivers, and bodies of open water on or within 200 feet of the subject property is greater than or less than 25 percent. A minimum of three slope measurements along the water resource shall be made on the subject property. The measurements shall be made at no more than 100-foot increments, which means that more than three measurements may be required, depending on the length of the water resource on the subject property. Slope shall be measured in 25-foot increments away from the water resource until a point 200 feet from the starting point of measurement is reached. Where the protected water resource is confined by a ravine or gully, the top of ravine is the break in the greater-than-25-percent slope; and
4. Using Table 706-1 and the data identified pursuant to Subsections 706.09(E)(1) through (3), identify all Class I and II riparian areas on the subject property. The riparian class may vary within a single property.

Table 706-1: Method for Locating Boundaries of Class I and II Riparian Areas

Distance from Water Resource	Vegetative Cover Status ¹			
	Developed areas not providing vegetative cover	Low structure vegetation or open soils	Woody vegetation	Forest canopy
Streams				
0-50'	Class II	Class I ²	Class I	Class I
50'-100'		Class II ³	Class I	Class I
100'-150'		Class II ³ if slope > 25 percent	Class II ³ if slope > 25 percent	Class II ³
150'-200'		Class II ³ if slope > 25 percent	Class II ³ if slope > 25 percent	Class II ³ if slope > 25 percent
Wetlands (Wetland itself is a Class I Riparian Area)				
0-100'		Class II ³	Class I	Class I
100'-150'				Class II ³
Flood Areas				
Within 300' of river or surface stream		Class I	Class I	Class I
More than 300' from river or surface stream	See footnote 4.	Class II ³	Class II ³	Class I
0-100' from edge of flood area			Class II ^{3,5}	Class II ³

¹ The vegetative cover type assigned to any particular area is based on two factors: the type of vegetation and the size of the overall contiguous area of vegetative cover to which a particular piece of vegetation belongs. For example, in order to qualify as "forest canopy," the forested area has to be part of a larger patch of forest of at least one acre in size.

² These areas shall be Class II riparian areas if the stream is a high gradient stream. High gradient streams are identified on the Metro Vegetative Cover Map. If the applicant believes the gradient of a stream was incorrectly identified, then the applicant may demonstrate the correct classification by identifying the channel type using the methodology described in the Oregon Watershed Assessment Manual, published by the Oregon Watershed Enhancement Board, and appended to the Metro's Riparian Corridor and Wildlife Habitat Inventories Report, Attachment 1 to Exhibit F to Metro Ordinance No. 05-1077C.

³ Areas that have been identified as habitats of concern, as designated on the Metro Habitats of Concern Map (available from the Metro Data Resource Center, 600 N.E. Grand Ave., Portland, OR 97232; 503-797-1742), shall be Class I riparian areas, unless additional information is provided that establishes that they do not meet the criteria used to identify habitats of concern as described in Metro's Technical Report for Fish and Wildlife. Examples of habitats of concern include: Oregon white oak woodlands, bottomland hardwood forests, wetlands, native grasslands, riverine islands or deltas, and important wildlife migration corridors.

⁴ If development prior to January 5, 2009, within a contiguous, undeveloped flood area (to include contiguous flood areas on adjacent properties) that was not mapped as having any vegetative cover has reduced the size of that contiguous flood area to less than one half of an acre in size, then the remaining flood area shall also be considered a developed flood area and shall not be identified as habitat.

⁵ Only if within 300 feet of a river or surface stream.

5. Use the Metro Habitat Urban Development Value Map (available from the Metro Data Resource Center, 600 N.E. Grand Ave., Portland, OR 97232; 503-797-1742) to identify the urban development value of the subject property.
 - a. An upward adjustment of the subject property's urban development value designation shall be made if the Metro 2040 Design Type designation for the subject property has changed from a category designated as a lower urban development value category to one designated as a higher urban development value category. 2040 Design Type designations are identified on the Metro 2040 Applied Concept Map (available from the Metro Data Resource Center, 600 N.E. Grand Ave., Portland, OR 97232; 503-797-1742). The urban development value categories of the 2040 Design Types are identified in the footnotes to Table 706-2.
 - b. If the subject property is owned by a regionally significant educational or medical facility, as designated by Title 13 of the Metro Urban Growth Management Functional Plan, it is designated as of high urban development value.
 - c. If the subject property is located outside the Portland Metropolitan Urban Growth Boundary and therefore does not have a Metro 2040 Design Type designation, it is designated as of high urban development value.
6. Use Table 706-2 to cross-reference habitat class with urban development value in order to categorize identified HCA as High, Moderate, or Low HCA.

Table 706-2: Method for Identifying Habitat Conservation Areas (HCA)

Fish & wildlife habitat classification	High urban development value¹	Medium urban development value²	Low urban development value³	Publicly Owned Parks and Open Spaces
Class I Riparian	Moderate HCA	High HCA	High HCA	High HCA ⁴
Class II Riparian	Low HCA	Low HCA	Moderate HCA	Moderate HCA ⁴
Class A Upland Wildlife	No HCA	No HCA	No HCA	High HCA ⁴
Class B Upland Wildlife	No HCA	No HCA	No HCA	High HCA ⁴

NOTE: The default urban development value of property is as depicted on the Metro Habitat Urban Development Value Map. The Metro 2040 Design Type designations provided in the following footnotes are only for use when making an adjustment pursuant to Subsection 706.09(E)(5)(a).

¹ Primary 2040 design type: Central City, Regional Centers, Town Centers, and Regionally Significant Industrial Areas

² Secondary 2040 design type: Main Streets, Station Communities, Other Industrial Areas, and Employment Centers

³ Tertiary 2040 design type: Inner and Outer Neighborhoods and Corridors

⁴ HCAs in publicly owned parks and open spaces designated as natural areas shall be considered High HCA+. HCAs in other publicly owned parks and open spaces shall be designated as shown in Table 706-2.

706.10 HABITAT CONSERVATION AREA DEVELOPMENT PERMITS

A Habitat Conservation Area (HCA) Development Permit shall be approved if the applicant provides evidence substantiating compliance with either Subsection 706.10(A) or (B). However, if the proposed development is in a Water Quality Resource Area (WQRA) regulated pursuant to Section 709, it shall comply with either Subsection 706.10 or 709.10, except that if the subject parcel contains an HCA and a WQRA and is the subject of a land use application for a partition or subdivision, the partition or subdivision shall comply with the requirements of Subsections 706.10 and 709.11, and if the provisions conflict, the most restrictive standard shall apply.

A. Development in an HCA shall be permitted subject to the following criteria:

1. Except as provided in Subsections 706.10(A)(2) through (5), a maximum disturbance area (MDA) shall apply to the subject property.
 - a. For property inside the Portland Metropolitan Urban Growth Boundary (UGB), the MDA shall be calculated pursuant to Table 706-3 for property with a Comprehensive Plan designation of Urban Low Density Residential and Table 706-4 for property with any other Comprehensive Plan designation.

Table 706-3: Maximum Disturbance Area for Urban Low Density Residential Property

HCA Type ¹	Maximum Disturbance Area
High	50 percent of the area of the subject property, up to a maximum of 5,000 square feet
Moderate/Low ²	65 percent of the area of the subject property, up to a maximum of 6,000 square feet

¹ If more than one HCA Type is present on the subject property, the MDA shall be based on the predominant type. For the purpose of this provision, High HCA shall be the predominant type if at least 50 percent of the area of the HCA on the subject property is High HCA.

² For the purpose of Table 706-3, Moderate and Low HCA shall be combined as one HCA Type.

Table 706-4: Maximum Disturbance Area for Other Property Inside the UGB

HCA Type	Maximum Disturbance Area ¹
High	10 percent of High HCA on the subject property
Moderate	15 percent of Moderate HCA on the subject property
Low	50 percent of Low HCA on the subject property

¹ The MDA refers only to the maximum percentage of each type of HCA that may be disturbed. Table 706-4 imposes no limit on disturbance area outside an HCA.

- b. For property outside the Portland Metropolitan Urban Growth Boundary, the MDA shall be calculated pursuant to Table 706-5, except that the MDA shall be calculated pursuant to Table 706-4 for:
 - i. Commercial development;
 - ii. Industrial development;

- iii. Buildings associated with farming practices, as defined in Oregon Revised Statutes (ORS) 30.930, and farm uses, as defined in ORS 215.203, in zoning districts where agricultural uses are a primary use; and
- iv. Buildings associated with forest practices, as defined in ORS 30.930, on forestlands, as defined in ORS 30.930.

Table 706-5: Maximum Disturbance Area Outside the UGB

HCA Type ¹	Maximum Disturbance Area
High	5 percent of the area of the subject property or 5,000 square feet, whichever is greater
Moderate/Low ²	5 percent of the area of the subject property or 6,000 square feet, whichever is greater

¹ If more than one HCA Type is present on the subject property, the MDA shall be based on the predominant type. For the purpose of this provision, High HCA shall be the predominant type if at least 50 percent of the area of the HCA on the subject property is High HCA.

² For the purpose of Table 3, Moderate and Low HCA shall be combined as one HCA Type.

- c. For property subject to Table 706-3 or 706-5, the MDA shall be located outside the HCA except:
 - i. If the MDA exceeds the non-HCA area, the excess MDA may be located in Low HCA; and
 - ii. If the MDA exceeds the area of non- and Low HCA combined, the excess MDA may be located in Moderate HCA; and
 - iii. If the MDA exceeds the area of non-, Low, and Moderate HCA combined, the excess MDA may be located in High HCA.
 - d. In determining compliance with the MDA standard, both existing and proposed disturbance area shall be included in the calculation.
2. The following disturbance area limitations shall apply to certain utility facilities. Utility facilities other than those addressed in Subsections 706.10(A)(2)(a) through (c) shall be subject to Subsection 706.10(A)(1).

- a. The disturbance area for private connections of utility lines, pipes, or cables to other utility facilities shall be no greater than 10 feet wide.
 - b. The disturbance area for the upgrade of existing utility lines, pipes, or cables shall be no greater than 15 feet wide.
 - c. The disturbance area for new underground utility lines, pipes, or cables shall be no greater than 25 feet wide and shall disturb no more than 200 linear feet of Water Quality Resource Area regulated pursuant to Section 709, within any 1,000 linear foot stretch of Water Quality Resource Area regulated pursuant to Section 709, provided that this disturbance area, with the exception of necessary access points to the utility facility, shall be restored by the planting of native vegetation.
3. A partition of a parcel that contains an HCA shall comply with one of the following options:
- a. There shall be no more than a 30 percentage point difference in the percentage of each parcel's area that is in an HCA. For example, a partition that produces two parcels, one that is 55 percent HCA and the other that is 35 percent HCA, is permissible; whereas a partition that produces two parcels, one that is 75 percent HCA and the other that is 30 percent HCA, is not permissible. In this case, development in the HCA shall be subject to further review under Section 706;
 - b. The partition shall comply with Subsection 706.10(A)(4); or
 - c. The applicant shall demonstrate, through an analysis of different possible partition plans based on the characteristics and zoning of the subject property, that it is not practicable to comply with Subsection 706.10(A)(3)(a) or (b) and that the applicant's alternate plan will result in the smallest practicable percentage point difference in the percentage of each parcel's area that is in an HCA. In this case, development in the HCA shall be subject to further review under Section 706.

4. A subdivision of property that contains an HCA shall require that a minimum of 90 percent of the subject property's High HCA and a minimum of 80 percent of its Moderate HCA shall be platted as a tract or restricted development area (RDA). Any HCA that remains outside an HCA tract or RDA may be developed, subject to compliance with the mitigation standards of Subsection 706.10(A) or (B). It shall be assumed that any HCA that remains outside an HCA tract or RDA eventually will be developed, and mitigation shall be required. Mitigation shall be completed, or a performance bond in an amount sufficient to cover the cost of mitigation shall be posted with the County, prior to approval of the final plat.
 - a. If over 50 percent of the HCA on the subject property is High HCA, the entire calculation is for High (i.e., 90 percent of the HCA shall be placed within a separate tract or RDA).
 - b. If over 50 percent of the HCA on a property is Moderate HCA, the entire calculation is for Moderate (i.e., 80 percent of the HCA shall be placed within a separate tract or RDA).
 - c. An HCA tract shall be designated on the final plat as one of the following where development is prohibited:
 - i. A private natural area owned by a homeowners association or a private non-profit with the mission of land conservation; or
 - ii. A public natural area where the tract has been dedicated to a public entity.
 - d. An HCA RDA shall be designated on the final plat as a private natural area where development is prohibited.
 - e. Notwithstanding Subsections 706.10(4)(c) and (d), the tract or RDA may be subject to an easement conveying storm and surface water management rights to the surface water management authority.
5. The MDA for publicly owned parks and open spaces designated as natural areas shall be five percent of the HCA on the subject property. Subsection 706.10(A)(5) imposes no limit on disturbance area outside an HCA for such natural areas.
6. If development in an HCA is approved pursuant to Subsection 706.10(A), compliance with the following mitigation standards shall be required, except that the mitigation standards for

development in a wetland (as distinct from an HCA that is adjacent to a wetland) shall be only those required by federal and state law.

- a. **Required Plants and Plant Densities.** All trees, shrubs and ground cover shall be native vegetation. An applicant shall comply with Subsection 706.10(A)(6)(a)(i) or (ii), whichever results in more tree plantings, except that where the disturbance area is one acre or more, the applicant shall comply with Subsection 706.10(A)(6)(a)(ii).
 - i. The mitigation requirement shall be calculated based on the number and size of trees that are removed from the site. Trees that are removed from the site shall be replaced as shown in Table 706-6. Conifers shall be replaced with conifers. Bare ground shall be planted or seeded with native grasses or herbs. Non-native sterile wheat grass may also be planted or seeded, in equal or lesser proportion to the native grasses or herbs; or

Table 706-6: Tree Replacement

Size of Tree to be Removed (inches in diameter at breast height)	Number of Trees and Shrubs to be Planted
6 to 12	2 trees and 3 shrubs
over 12 to 18	3 trees and 6 shrubs
over 18 to 24	5 trees and 12 shrubs
over 24 to 30	7 trees and 18 shrubs
over 30	10 trees and 30 shrubs

- ii. The mitigation requirement shall be calculated based on the size of the disturbance area within the HCA. Native trees and shrubs shall be planted at a rate of five trees and 25 shrubs per every 500 square feet of disturbance area (calculated by dividing the number of square feet of disturbance area by 500, and then multiplying that result times five trees and 25 shrubs, and rounding all fractions to the nearest whole number of trees and shrubs; for example, if there will be 330 square feet of disturbance area, then 330 divided by 500 equals 0.66, and 0.66 times five equals 3.3, so three trees shall be planted, and 0.66 times 25 equals

16.5, so 17 shrubs shall be planted). Bare ground shall be planted or seeded with native grasses or herbs. Non-native sterile wheat grass may also be planted or seeded, in equal or lesser proportion to the native grasses or herbs.

- b. Plant Size. Replacement trees shall be at least one-half inch in caliper, measured at six inches above the ground level for field grown trees or above the soil line for container grown trees (the one-half inch minimum size may be an average caliper measure, recognizing that trees are not uniformly round), unless they are oak or madrone which may be one-gallon size. Shrubs shall be in at least a one-gallon container or the equivalent in ball and burlap and shall be at least 12 inches in height.
- c. Plant Spacing. Trees shall be planted between eight and 12 feet on center, and shrubs shall be planted between four and five feet on center, or clustered in single species groups of no more than four plants, with each cluster planted between eight and 10 feet on center. When planting near existing trees, the drip line of the existing tree shall be the starting point for plant spacing measurements.
- d. Plant Diversity. Shrubs shall consist of at least two different species. If 10 trees or more are planted, then no more than 50 percent of the trees may be of the same genus.
- e. Invasive Vegetation. Invasive non-native or noxious vegetation shall be removed within the mitigation area prior to planting, and shall be removed or controlled for five years following the date that the mitigation planting is completed.
- f. Mulching. Mulch shall be applied around new plantings at a minimum of three inches in depth and 18 inches in diameter.
- g. Tree and Shrub Survival. Trees and shrubs that die shall be replaced in kind to the extent necessary to ensure that a minimum of 80 percent of the trees initially required and 80 percent of the shrubs initially required shall remain alive on the fifth anniversary of the date that the mitigation planting is completed.

- h. **Monitoring and Reporting.** Monitoring of the mitigation site shall be the ongoing responsibility of the property owner. For a period of five years following the date that the mitigation planting is completed, the property owner shall submit an annual report to the Planning Director documenting the survival of the trees and shrubs on the mitigation site. In lieu of complying with the monitoring and reporting requirement, the property owner may post with the County a performance bond, or other surety acceptable to the County, in an amount sufficient to cover costs of plant material and labor associated with site preparation, planting, and maintenance. An applicant who elects to post a surety shall be subject to Subsection 1311.02.
- 7. The mitigation area required by Subsection 706.10(A)(6) shall be located as follows:
 - a. All vegetation shall be planted on the subject property, either within the HCA or in an area contiguous to the HCA, provided, however, that if the vegetation is planted in an area contiguous to the HCA, such area shall be protected from development by a restrictive covenant, conservation easement, or public dedication.
 - b. Off-site mitigation within the same subwatershed (6th Field Hydrologic Unit Code) as the HCA within which development is proposed, may be approved for part or all of the required mitigation, if the applicant provides evidence substantiating that:
 - i. It is not practicable to complete the mitigation on-site; and
 - ii. The applicant possesses legal authority to conduct and maintain the mitigation, such as having a sufficient ownership interest in the mitigation site, and, if the mitigation is not within an HCA, that the mitigation site will be protected from development after the monitoring period expires by a restrictive covenant, conservation easement, or public dedication.

8. An applicant may request to proportionally vary the number and size of trees and shrubs required pursuant to Subsections 706.10(A)(6)(a) and (b)—for example, to plant fewer larger trees and shrubs or to plant more smaller trees and shrubs—and a corresponding modification of the plant spacing requirements of Subsection 706.10(A)(6)(c). The request shall be approved if the applicant provides evidence substantiating that the proposed planting will achieve, at the end of the fifth year after initial planting, comparable or better mitigation results as the results that would be achieved if the applicant complied with all of the requirements of Subsections ~~706.10~~ 706.10(A)(6)(a) through (c).

- B. Development in an HCA that does not comply with Subsection 706.10(A) shall be permitted subject to the following criteria:
 1. Development in the HCA shall be avoided to the extent practicable. If there is more than one category (High, Moderate, or Low) of HCA on the subject property, then the applicant shall first avoid the intrusion of development into the higher-valued HCA, to the extent practicable. To comply with these requirements, the following approaches shall be used, to the extent practicable:
 - a. Multi-story construction;
 - b. Minimizing building and development footprint;
 - c. Maximizing the use of native landscaping materials and meeting applicable landscaping requirements by preservation of the HCA as permitted by Section 1009;
 - d. Minimal excavation foundation systems (e.g., pier, post, or piling foundation);
 - e. Transfer of density from the HCA to another part of the subject property as permitted by Section 1012;
 - f. Placing facilities that are required to infiltrate stormwater onsite, including associated piping, within the HCA, provided that such facilities comply with Subsection 706.04(R); and
 - g. Complying with the setback standards of Subsection 706.11 rather than those of the underlying zoning district.
 2. If there is no practicable alternative that will avoid disturbance of the HCA, then significant detrimental impacts to the HCA shall be minimized as follows:

- a. The proposed development shall minimize loss of habitat as compared to other practicable alternatives, including significantly different practicable alternatives that would result in less development within the HCA.
- b. The proposed development shall minimize significant detrimental impacts to ecological functions of the HCA on the subject property as compared to other practicable alternatives, including significantly different practicable alternatives that would result in less development within the HCA. The ecological functions that shall be considered are:
 - i. Connectivity of the habitat to water;
 - ii. Connectivity of the habitat to other habitat areas; and
 - iii. The functions identified in Table 706-7.

Table 706-7: Ecological functional values of riparian corridors

Ecological function	Landscape features providing functional values
Microclimate and shade	Forest canopy or woody vegetation within 100 feet of a stream; a wetland ¹ ; or a flood area ²
Streamflow moderation and water storage	A wetland or other water body ³ with a hydrologic connection to a stream; or a flood area ²
Bank stabilization, sediment and pollution control	All sites within 50 feet of a surface stream; Forest canopy, woody vegetation, or low structure vegetation/open soils within 100 feet of a stream or a wetland; or forest canopy, woody vegetation, or low structure vegetation/open soils within a flood area; and Forest canopy, woody vegetation, or low structure vegetation/open soils within 100-200 feet of a stream if the slope is greater than 25 percent
Large wood and channel dynamics	Forest canopy within 150 feet of a stream or wetland, or within a flood area; and The channel migration zone is defined by the flood area, but where there is no mapped flood area, a default of 50 feet is established to allow for the channel migration zone.
Organic material sources	Forest canopy or woody vegetation within 100 feet of a stream or wetland, or within a flood area

¹ Refers to “hydrologically-connected wetlands,” which are located partially or wholly within ¼ mile of a surface stream or flood area.

² Developed flood areas are not identified as HCAs because they do not provide primary ecological functional value.

³ “Other water body” could include lakes, ponds, reservoirs, or manmade water resource that is not a water quality facility or farm pond.

- c. If there is more than one category of HCA on the subject property, then development within a higher-valued HCA shall be considered more detrimental than development within a lower-valued HCA.
- d. To the extent practicable, development in the HCA shall be designed, located, and constructed to:
 - i. Minimize grading, removal of native vegetation, and disturbance and removal of native soils by using the approaches required by Subsection 706.08, reducing building footprints, and using minimal excavation foundation systems (e.g., pier, post, or piling foundation);
 - ii. Minimize adverse hydrological impacts on water resources, such as by using the techniques described in Part (a) of Table 706-8, unless their use is prohibited by an applicable and required state or federal permit issued to a unit of local government having jurisdiction in the area, such as a permit required under the federal Clean Water Act, 33 U.S.C. §§1251 et seq., or the federal Safe Drinking Water Act, 42 U.S.C. §§300f et seq., and including conditions or plans required by such permit;
 - iii. Minimize impacts on wildlife corridors and fish passage, such as by using the techniques described in Part (b) of Table 706-8; and
 - iv. Consider using the techniques described in Part (c) of Table 706-8.

Table 706-8: Habitat-Friendly Development Practices¹

Part (a): Design and Construction Practices to Minimize Hydrologic Impacts
1. Amend disturbed soils to original or higher level of porosity to regain infiltration and stormwater storage capacity. 2. Use pervious paving materials for residential driveways, parking lots, walkways, and within centers of cul-de-sacs. 3. Incorporate stormwater management in road right-of-ways. 4. Landscape with rain gardens to provide on-lot detention, filtering of rainwater, and groundwater recharge. 5. Use green roofs for runoff reduction, energy savings, improved air quality, and enhanced aesthetics. 6. Disconnect downspouts from roofs and direct the flow to vegetated infiltration/filtration areas such as rain gardens. 7. Retain rooftop runoff in a rain barrel for later on-lot use in lawn and garden watering. 8. Use multi-functional open drainage systems in lieu of more conventional curb-and-gutter systems. 9. Use bioretention cells as rain gardens in landscaped parking lot islands to reduce runoff volume and filter pollutants. 10. Apply a treatment train approach to provide multiple opportunities for storm water treatment and reduce the possibility of system failure. 11. Reduce sidewalk width and grade them such that they drain to the front yard of a residential lot or retention area. 12. Reduce impervious impacts of residential driveways by narrowing widths and moving access to the rear of the site. 13. Use shared driveways. 14. Reduce width of residential streets, depending on traffic and parking needs. 15. Reduce street length, primarily in residential areas, by encouraging clustering and using curvilinear designs. 16. Reduce cul-de-sac radii and use pervious vegetated islands in center to minimize impervious effects, and allow them to be utilized for truck maneuvering/loading to reduce need for wide loading areas on site.

Part (a): Design and Construction Practices to Minimize Hydrologic Impacts
17. Eliminate redundant non-ADA sidewalks within a site (i.e., sidewalk to all entryways and/or to truck loading areas may be unnecessary for industrial developments). 18. Minimize car spaces and stall dimensions, reduce parking ratios, and use shared parking facilities and structured parking. 19. Minimize the number of stream crossings and place crossing perpendicular to stream channel if possible. 20. Allow narrow street right-of-ways through stream corridors whenever possible to reduce adverse impacts of transportation corridors.
Part (b): Design and Construction Practices to Minimize Impacts on Wildlife Corridors and Fish Passage
1. Carefully integrate fencing into the landscape to guide animals toward animal crossings under, over, or around transportation corridors. 2. Use bridge crossings rather than culverts wherever possible. 3. If culverts are utilized, install slab, arch or box type culverts, preferably using bottomless designs that more closely mimic stream bottom habitat. 4. Design stream crossings for fish passage with shelves and other design features to facilitate terrestrial wildlife passage. 5. Extend vegetative cover through the wildlife crossing in the migratory route, along with sheltering areas.
Part (c): Miscellaneous Other Habitat-Friendly Design and Construction Practices
1. Use native vegetation throughout the development (not just in HCA). 2. Locate landscaping (required by other sections of this Ordinance) adjacent to HCA. 3. Reduce light spill-off into HCAs from development. 4. Preserve and maintain existing trees and tree canopy coverage, and plant trees, where appropriate, to maximize future tree canopy coverage.

¹ These development practices represent the state of scientific knowledge at the time of the adoption of Section 706. If more effective habitat-friendly practices become available, they may be used.

3. If development in an HCA is approved pursuant to Subsection 706.10(B), compliance with the following mitigation standards shall be required, except that the mitigation standards for development in a wetland (as distinct from an HCA that is adjacent to a wetland) shall be only those required by federal and state law.
 - a. Compliance with Subsections 706.10(A)(6), (7), and, if applicable, (8) shall be required; or
 - b. An alternative mitigation plan (e.g., a proposal to create an alternative plant community type such as an oak savannah or a low-structure plant community, or where an applicant demonstrates that a portion of identified HCA on the subject property provides only impaired ecological functions) may be approved, subject to the following criteria:
 - i. The mitigation plan shall demonstrate that it compensates for significant detrimental impacts to the ecological functions provided by the HCA on the subject property, after taking into consideration efforts to minimize such significant detrimental impacts through the use of the techniques described in Table 706-8 and through any additional or innovative techniques.
 - ii. Mitigation shall occur on the subject property, except that offsite mitigation may be approved pursuant to Subsection 706.10(A)(7)(b). In addition, off-site mitigation outside the subwatershed (6th Field Hydrologic Unit Code) in which the disturbed HCA is located—but inside the Metropolitan Service District boundary or the Portland Metropolitan Urban Growth Boundary—may be approved if it is not practicable to complete the mitigation within the same subwatershed and if, considering the purpose of the mitigation, the mitigation will provide more ecological functional value if implemented outside of the subwatershed.
 - iii. All mitigation plantings shall be native vegetation.
 - iv. All in-stream work in fish-bearing streams shall be done in accordance with the Oregon Department of Fish and Wildlife in-stream work-timing schedule.
 - v. A mitigation maintenance plan shall be included and shall be sufficient to ensure the success of the planting.

4. Municipal potable water, stormwater (drainage), and wastewater utility facilities, which may include, but are not limited to, water treatment plants, wastewater treatment plants, raw water intakes, pump stations, transmission mains, conduits or service lines, terminal storage reservoirs, and outfall devices, shall not have to comply with Subsection 706.10(B)(1), provided that:
 - a. Where practicable, the development shall not encroach closer to a water resource than existing operations and development, or for new projects where there are no existing operations or development, the development shall not encroach closer to a water resource than practicable; and
 - b. Best management practices shall be employed that accomplish the following:
 - i. Account for watershed assessment information in project design;
 - ii. Minimize the trench area and tree removal within the HCA;
 - iii. Utilize and maintain erosion prevention and sediment control measures until other site stabilization measures are established, post-construction;
 - iv. Replant immediately after backfilling or as soon as effective;
 - v. Preserve wetland soils and retain soil profiles;
 - vi. Minimize compactions and the duration of the work within the HCA;
 - vii. Complete in-water construction during appropriate seasons, or as approved within requisite state or federal permits;
 - viii. Monitor water quality during the construction phases, if applicable; and
 - ix. Implement a full inspection and monitoring program during and after project completion, if applicable.

706.11 SETBACKS

For parcels that contain a Habitat Conservation Area and are inside the Portland Metropolitan Urban Growth Boundary, the minimum front, rear, and side yard setbacks shall be zero, except:

- A. Garages and carports shall comply with the minimum front yard setback of the underlying zoning district; and
- B. A greater setback may be required to comply with applicable fire or life safety requirements.

[Amended by Ord. ZDO-230, 09/26/2011; Amended by Ord. ZDO-248, 10/13/2014; Amended by Ord. ZDO-253, 06/01/2015; Amended by Ord. ZDO-283, 09/05/2023]

709 WATER QUALITY RESOURCE AREA DISTRICT (WQRAD)

709.01 PURPOSE

Section 709 is adopted to implement the policies of the Comprehensive Plan for Water Quality Resource Areas.

709.02 AREA OF APPLICATION

- A. Section 709 applies in the Water Quality Resource Area District (WQRAD). The WQRAD applies to all parcels containing a Water Quality Resource Area (WQRA), provided that such parcels are inside the Metropolitan Service District Boundary or the Portland Metropolitan Urban Growth Boundary and outside the boundaries of both Clackamas County Service District No. 1 and Surface Water Management Agency of Clackamas County. WQRAs are protected water resources and adjacent vegetated corridors as established by Section 709. Protected water resources are classified as primary or secondary.
- B. A wetland shall be a primary protected water resource if the wetland meets any one of the following criteria and is not a constructed wetland:
1. The wetland is fed by surface flows, sheet flows, or precipitation, has evidence of flooding during the growing season, has 60 percent or greater vegetative cover, and is over one-half acre in size;
 2. The wetland qualifies as having “intact water quality function” under the 1996 Oregon Freshwater Wetland Assessment Methodology;
 3. The wetland is in the Flood Management District, has evidence of flooding during the growing season, is five acres or more in size, and has a restricted outlet or no outlet;
 4. The wetland qualifies as having “intact hydrologic control function” under the 1996 Oregon Freshwater Wetland Assessment Methodology; or
 5. The wetland or a portion of it is within a horizontal distance of less than one-fourth mile from a water body that meets the Oregon Department of Environmental Quality’s definition of a “water quality limited water body.”
- C. Rivers, perennial streams, intermittent streams draining more than 100 acres, natural lakes, and springs that feed streams and wetlands and have year-round flow are primary protected water resources.
- D. Intermittent streams draining 100 acres or less are secondary protected water resources.

- E. The width of the vegetated corridor included within a WQRA is specified in Table 709-1. However, if an improved, public road right-of-way runs parallel to and—based on Table 709-1—would be included within a WQRA, the WQRA shall not extend beyond the improved, public road right-of-way.

Table 709-1: Width of WQRA Vegetated Corridor

Protected Water Resource Type	Slope Adjacent to Protected Water Resource¹	Starting Point for Measurements from Water Resource	Width of Vegetated Corridor²
Primary Protected Water Resource	< 25 percent	•Edge of bankfull stage •Delineated edge of protected wetland	50 feet
Primary Protected Water Resource	≥ 25 percent for 150 feet or more	•Edge of bankfull stage •Delineated edge of protected wetland	200 feet ³
Primary Protected Water Resource	≥ 25 percent for less than 150 feet	•Edge of bankfull stage •Delineated edge of protected wetland	Distance from starting point of measurement to break in 25 percent slope plus 50 feet ^{3,4}
Secondary Protected Water Resource	< 25 percent	•Edge of bankfull stage	15 feet
Secondary Protected Water Resource	≥ 25 percent	•Edge of bankfull stage	50 feet ³

¹ At least three slope measurements along the water resource, at no more than 100-foot increments, shall be made for each property for which development is proposed. Depending on the slope measurements, the width of the vegetated corridor may vary. Slope shall be measured in 25-foot increments away from the water resource until slope is less than 25 percent or a point 150 feet from the starting point of measurement is reached, whichever occurs first. The 25-foot increments shall be measured horizontally. Where the protected water resource is confined by a ravine or gully, the top of ravine is the break in the greater-than-25-percent slope.

² The width of the vegetated corridor shall be measured horizontally.

³ Vegetated corridors in excess of 50 feet for primary protected resources, or in excess of 15 feet for secondary protected resources, apply on steep slopes only in the uphill direction from the protected water resource.

⁴ A maximum reduction of 25 feet may be permitted in the width of the vegetated corridor beyond the slope break if a geotechnical report demonstrates that the slope is stable.

- F. The text of Section 709 shall determine the boundaries of a WQRA.

1. Certain protected water resources are identified on maps adopted by reference in Chapter 3 of the Comprehensive Plan (hereinafter referred to as the WQRA Map). The WQRA Map shall be a reference for identifying areas likely to be regulated by Section 709, but the WQRA Map is not intended to provide field-verified locations of the protected resources or delineate the edge of the vegetated corridors.

2. In addition, there may be WQRAs not shown on the WQRA Map. If credible evidence (e.g. aerial photographs, topographic maps, expert studies) indicates that the subject property may contain a WQRA that is not identified on the WQRA map, the provisions of Section 709 shall apply.

709.03 DEFINITIONS

Unless specifically defined in Subsection 709.03, words or phrases used in Section 709 shall be interpreted to give them the same meaning as they have in common usage and to give Section 709 its most reasonable application.

- A. Bankfull Stage: The stage or elevation at which water overflows the natural banks of streams or other waters of the state and begins to inundate the upland. The bankfull stage may be approximated using either the two-year recurrence interval flood elevation or one foot measured vertically above the ordinary mean high water line.
- B. Created Wetlands: Wetlands developed in an area previously identified as a non-wetland to replace, or mitigate, wetland destruction or displacement. A created wetland shall be regulated and managed the same as an existing wetland.
- C. Constructed Wetlands: Wetlands developed as a water quality or quantity facility, subject to change and maintenance as such. These areas must be clearly defined and separated from naturally occurring or created wetlands.
- D. Debris: Discarded manmade objects that would not occur in an undeveloped stream corridor or wetland. Debris includes, but is not limited to, tires, vehicles, litter, scrap metal, construction waste, lumber, plastic, or Styrofoam. Debris does not include objects necessary to a use allowed by Section 709, or ornamental and recreational structures. Debris does not include existing natural plant materials or natural plant materials that are left after flooding, downed or standing dead trees, or trees that have fallen into protected water resources.
- E. Development: Any manmade change defined as structures, roads, utilities, mining, dredging, paving, vegetation removal, filling, or grading in amounts greater than 10 cubic yards. In addition, “development” is any other activity that results in the removal of more than 10 percent of the Water Quality Resource Area vegetation on a lot of record. The calculation of the amount of vegetative cover removed shall be done separately for each lot of record and shall include all vegetative cover removed after January 5, 2009, regardless of whether the removal is done as one project or a series of projects. When individual trees are removed, the area contained within the tree’s drip line shall be the basis for calculating the square footage of vegetation removed.
- F. Disturb: Manmade changes to the existing physical status of the land, which are made in connection with development.

- G. Drip Line: The outermost edge of a tree's canopy; when delineating the drip line on the ground, it will appear as an irregularly shaped circle defining the canopy's perimeter.
- H. Emergency: Any manmade or natural event or circumstance causing or threatening loss of life, injury to person or property, and includes, but is not limited to, fire, explosion, flood, severe weather, drought, earthquake, volcanic activity, spills or releases of oil or hazardous material, contamination, utility or transportation disruptions, and disease.
- I. Enhancement: The process of improving upon the natural functions and/or values of an area or resource that has been degraded by human activity. Enhancement activities may or may not return the site to a pre-disturbance condition, but create/recreate beneficial processes and resources that occur naturally.
- J. Erosion: The movement of soil particles resulting from actions of water or wind.
- K. Fill: Any material such as, but not limited to, sand, soil, rock, or gravel that is placed in a wetland or flood area for the purposes of development.
- L. Invasive Non-Native or Noxious Vegetation: Plant species that are listed in the Oregon Department of Agriculture's Noxious Weed Policy and Classification System.
- M. Mitigation: The reduction of adverse effects of a proposed project by considering, in the following order:
 - 1. Avoiding the impact altogether by not taking a certain action or parts of an action;
 - 2. Minimizing impacts by limiting the degree or magnitude of the action and its implementation;
 - 3. Rectifying the impact by repairing, rehabilitating, or restoring the affected environment;
 - 4. Reducing or eliminating the impact over time by preservation and maintenance operations during the life of the action by monitoring and taking appropriate measures; and
 - 5. Compensating for the impact by replacing or providing comparable substitute Water Quality Resource Areas.
- N. Native Vegetation: Vegetation native to the Portland metropolitan area provided that it is not invasive non-native or noxious vegetation.

- O. Ordinary Mean High Water Line: The line on the bank or shore to which water ordinarily rises in season.
- P. Practicable: Available and capable of being done after taking into consideration cost, existing technology, and logistics in light of overall project purpose.
- Q. Restoration: The process of returning a disturbed or altered area or water resource to a previously existing natural condition. Restoration activities re-establish the structure, function, or diversity to that which existed prior to impacts caused by human activity.
- R. Riparian: Those areas associated with streams, lakes, and wetlands where vegetation communities are predominately influenced by their association with water.
- S. Stormwater: The surface water runoff that results from all natural forms of precipitation.
- T. Stormwater Pretreatment Facility: Any structure or drainage way that is designed, constructed, and maintained to collect and filter, retain, or detain surface water runoff during and after a storm event for the purpose of water quality improvement.
- U. Stream: A body of running water moving over the earth's surface in a channel or bed, such as a creek, rivulet, or river. A stream flows at least part of the year, including perennial and intermittent streams. Streams are dynamic in nature and their structure is maintained through build-up and loss of sediment.
- V. Stream, Intermittent: A stream that flows only part of the year, or seasonally, during years of normal precipitation.
- W. Stream, Perennial: A stream that flows year-round during years of normal precipitation.
- X. Structure: A building or other major improvement that is built, constructed, or installed, not including minor improvements—such as fences, utility poles, flagpoles, or irrigation system components—that are not customarily regulated through zoning codes.
- Y. Utility Facilities: Buildings, structures, or any constructed portion of a system that provides for the production, transmission, conveyance, delivery, or furnishing of services including, but not limited to, heat, light, water, power, natural gas, sanitary sewer, stormwater, telephone, and cable television. Utility facilities do not include stormwater pretreatment facilities.

- Z. Vegetated Corridor: The area between bankfull stage of a protected water resource and the delineated edge of the Water Quality Resource Area as defined in Table 709-1.
- AA. Wetlands: Areas that are inundated or saturated by surface water or ground water at a frequency and duration sufficient to support and under normal circumstances do support a prevalence of vegetation typically adapted for life in saturated soil conditions. Wetlands generally include swamps, marshes, bogs, and similar areas. Wetlands are those areas identified and delineated by a qualified wetland specialist as set forth in the 1987 Corps of Engineers Wetland Delineation Manual.

709.04 EXEMPT USES

The following uses and activities are exempt from the requirements of Section 709, except that if the use or activity requires a building or grading permit, a Construction Management Plan shall be required pursuant to Subsection 709.06(A):

- A. Uses and activities that do not constitute development, except if the use or activity is prohibited by Subsection 709.05;
- B. Farming practices, as defined in Oregon Revised Statutes (ORS) 30.930, and farm uses, as defined in ORS 215.203, in zoning districts where agricultural uses are a primary use, except that this exemption does not apply to buildings associated with farm practices or farm uses;
- C. Forest practices, as defined in ORS 30.930, on forestlands, as defined in ORS 30.930, outside the Portland Metropolitan Urban Growth Boundary;
- D. Installation of erosion prevention and sediment control (EPSC) measures pursuant to an EPSC plan approved by the EPSC regulatory authority.
- E. Projects with the sole purpose of restoring or enhancing wetlands, streams, or fish and wildlife habitat areas, provided that the project is part of an approved local, regional, state, or federal restoration or enhancement plan;
- F. Placement of structures that do not require a grading or building permit;
- G. Maintenance of existing structures, roadways, driveways, utility facilities, accessory uses, and other development;
- H. Removal of invasive non-native or noxious vegetation and the planting or propagation of native vegetation, provided that:
 - 1. Handheld tools are used to remove invasive non-native or noxious vegetation; and

2. After such removal, all open soil areas greater than 25 square feet are replanted with native vegetation;
- I. Removal of dead or diseased trees or trees that pose an imminent hazard to persons or property, provided that a consulting arborist's report, or other credible evidence, is provided by the owner of the subject property and verifies the dead, diseased, or hazardous condition of the trees proposed for removal;
- J. Removal of vegetation, except trees of 1.5 inches or greater caliper, provided such removal shall not result in more than 10 percent of the area of the vegetated corridor being devoid of vegetation;
- K. Repair, replacement, or improvement of utility facilities where the disturbed portion of the Water Quality Resource Area (WQRA) is restored and vegetation is replaced with native vegetation;
- L. Additions, alterations, rehabilitation, or replacement of existing structures, roadways, driveways, accessory uses, and other development that do not increase existing structural footprints in the WQRA where the disturbed portion of the WQRA is restored and vegetation is replaced with native vegetation;
- M. Measures to remove or abate nuisances, or any other violation of statute, administrative rule, or ordinance, where such measures are required by government order and the disturbed portion of the WQRA is restored and vegetation is replaced with native vegetation; and
- N. Work necessary to protect, repair, maintain, or replace existing structures, utility facilities, roadways, driveways, accessory uses, and exterior improvements in response to emergencies, provided that after the emergency has passed, adverse impacts are mitigated in accordance with Table 709-2.

709.05 PROHIBITED USES

The following uses and activities are prohibited within a Water Quality Resource Area:

- A. The planting of invasive non-native or noxious vegetation; and
- B. Uncontained areas of hazardous materials as defined by the Oregon Department of Environmental Quality.

709.06 DEVELOPMENT REVIEW REQUIREMENTS

The following review requirements are applicable to development in the Water Quality Resource Area District (WQRAD) unless such development is exempt pursuant to Subsection 709.04.

- A. A Construction Management Plan, consistent with Subsection 709.08, shall be required prior to development in the WQRAD, regardless of whether development will occur within a Water Quality Resource Area (WQRA). A Construction Management Plan shall be reviewed:
 - 1. As part of a WQRA Development Permit; or
 - 2. In conjunction with review of a building or grading permit, if no WQRA Development Permit is required.
- B. In order to confirm the location of a WQRA, WQRA Boundary Verification, consistent with Subsection 709.09, shall be required or allowed as follows:
 - 1. WQRA Boundary Verification shall be required for:
 - a. Development that is proposed to be in the WQRAD; or
 - b. A parcel that:
 - i. Is in the WQRAD; and
 - ii. Is the subject of a land use application for a partition, subdivision, or any other land use application the approval of which would authorize new development on the subject parcel.
 - 2. Notwithstanding Subsection 709.06(B)(1)(a), if credible evidence (e.g. aerial photographs, topographic maps, expert studies) indicates that the proposed development is clearly outside a WQRA, the requirement for WQRA Boundary Verification may be waived.
 - 3. An application for WQRA Boundary Verification may be submitted even if one is not required pursuant to Subsection 709.06(B)(1).
 - 4. If a parcel is subject to Subsection 709.06(B)(1)(b), an application for WQRA Boundary Verification shall be filed concurrently with the other land use application referenced in Subsection 709.06(B)(1)(b)(ii) unless a previously approved WQRA Boundary Verification for the subject property remains valid.
 - 5. An application for WQRA Boundary Verification shall be reviewed as a Type II application pursuant to Section 1307 unless the application is filed concurrently with another land use application that requires review as a Type

III application, in which case the applications will be consolidated and reviewed as a Type III application pursuant to Section 1307.

- C. A WQRA Development Permit, consistent with Subsection 709.10, shall be required for development in a WQRA. However, if the proposed development is in a Habitat Conservation Area (HCA) regulated pursuant to Section 706, it shall comply with either Subsection 706.10 or 709.10. An application for a WQRA Development Permit shall be reviewed as a Type II application pursuant to Section 1307 unless the application is filed concurrently with another land use application that requires review as a Type III application, in which case the applications will be consolidated and reviewed as a Type III application pursuant to Section 1307.
- D. Property that contains a WQRA and is the subject of a land use application for a partition or subdivision shall comply with Subsection 709.11, except that if the subject parcel contains a WQRA and an HCA, the partition or subdivision shall comply with the requirements of Subsections 706.10 and 709.11, and if the provisions conflict, the most restrictive standard shall apply.
- E. Approval of WQRA Boundary Verification or a WQRA Development Permit shall be valid for ~~six~~four years from the date of the final written decision. If the County's final written decision is appealed, the approval period shall commence on the date of the final appellate decision. During this ~~six~~four-year period, the approval shall be implemented, or the approval will become void.
 - 1. For a WQRA Development Permit directly related to an application for a partition or subdivision, "implemented" means that the final plat of the partition or subdivision shall be recorded with the County Clerk.
 - 2. For any other WQRA Development Permit, "implemented" means all major development permits shall be obtained and maintained, or if no major development permits are required to complete the development contemplated by the approved WQRA Development Permit, "implemented" means all other necessary County development permits (e.g. grading permit, building permit for an accessory structure) shall be obtained and maintained. A "major development permit" is:
 - a. A building or manufactured dwelling placement permit for a new primary structure that was part of the WQRA Development Permit approval; or
 - b. A permit issued by the County Engineering Division for parking lot or road improvements that were part of the WQRA Development Permit approval.
 - 3. For WQRA Boundary Verification, "implemented" has the meaning set forth in Subsection 709.06(E)(1) and (2), except that under Subsection

709.06(E)(2), if the approval did not contemplate a specific development proposal, “implemented” means at least one County development permit shall be obtained and maintained.

~~F. If the approval of WQRA Boundary Verification or a WQRA Development Permit is not implemented within the initial approval period established by Subsection 709.06(E), a two-year time extension may be approved pursuant to Section 1310.~~

FG. WQRA Boundary Verification that was valid on the date when the final plat for a subdivision or partition was recorded with the County Clerk shall remain valid for subsequent development on the lots or parcels created by the subdivision or partition.

709.07 SUBMITTAL REQUIREMENTS

Construction Management Plans and applications filed pursuant to Section 709 shall comply with the following submittal requirements:

A. A Construction Management Plan shall include:

1. A site plan of the subject property, drawn to scale and identifying the following:
 - a. Location and type of existing and proposed development, including but not limited to, building footprints, roads, driveways, parking areas, utilities, onsite sewage disposal systems, wells, landscaping, and filling or grading in an amount greater than 10 cubic yards, with each element labeled as existing or proposed;
 - b. Location and width of existing adjacent roads and road rights-of-way;
 - c. Location of the Water Quality Resource Area (WQRA) as identified pursuant to Subsection 709.09;
 - d. Drip lines outside the WQRA of trees that are inside the WQRA;
 - e. Distance between the WQRA boundary and proposed development outside the WQRA;
 - f. The site ingress and egress proposed to be used by construction vehicles;
 - g. Proposed equipment and material staging and stockpile areas; and
 - h. Proposed orange construction fencing required pursuant to Subsection 709.08(B);
2. An Erosion Prevention and Sediment Control (EPSC) plan, which may be included on the site plan if acceptable to the EPSC regulatory authority; and

3. If a modification or waiver of the construction fencing requirement of Subsection 709.08(B) is proposed, a narrative demonstrating compliance with Subsection 709.08(B)(1) or (2).

B. An application for WQRA Boundary Verification shall include:

1. The submittal requirements identified in Subsection 1307.07(C);
2. A site plan that complies with the following requirements:
 - a. The site plan shall be drawn at a scale of no less than one inch equaling 20 feet.
 - b. The site plan shall show the location of the proposed development and the lot lines of the property on which development is proposed.
 - c. The site plan shall show the location of the protected water resource. If the protected water resource is a wetland, the delineation shall be made by a qualified wetlands specialist pursuant to the Division of State Lands' recommended wetlands delineation process. For all other protected water resources, the location shall be established by a registered professional engineer or surveyor licensed by the State of Oregon.
 - d. The site plan shall show the location of the WQRA, including slope and drainage information sufficient to classify the protected water resource under Table 709-1.

C. An application for a WQRA Development Permit shall include:

1. The submittal requirements identified in Subsection 1307.07(C);
2. The following information in a report stamped by a registered professional engineer or surveyor licensed by the State of Oregon
 - a. A topographic map of the site at contour intervals of five feet or less showing a delineation of the WQRA;
 - b. The location of all existing natural features including, but not limited to, all trees of a caliper greater than six inches diameter at a height of four feet, natural or historic drainages on the site, springs, seeps, outcroppings of rocks and boulders within the WQRA;
 - c. Location of wetlands that qualify as primary protected water resources. Where such wetlands are identified, a delineation shall be made by a qualified wetlands specialist pursuant to the Division of State Lands' recommended wetlands delineation process;

- d. An inventory and location of existing debris, nuisance vegetation, and any noxious or hazardous materials;
 - e. An assessment of the existing condition of the WQRA in accordance with Table 709-2;
 - f. An inventory of vegetation, including percentage ground and canopy coverage;
 - g. An Impact Evaluation and Alternatives Analysis that addresses the requirements of Subsections 709.10(A) and (B); and
 - h. A mitigation plan containing the following information:
 - i. A description of adverse impacts that will be caused as a result of development;
 - ii. An explanation of how adverse impacts to resource areas will be avoided, minimized, and/or mitigated in accordance with, but not necessarily limited to, Table 709-2;
 - iii. A list of all responsible parties including, but not necessarily limited to, the owner, applicant, contractor or other persons responsible for work on the subject property;
 - iv. A map showing where the specific mitigation activities will occur; and
 - v. An implementation schedule, including a timeline for construction, mitigation, mitigation maintenance, monitoring, and reporting and a contingency plan. All in-stream work in fish-bearing streams shall be done in accordance with the Oregon Department of Fish and Wildlife in-stream timing schedule; and
- D. Data from sources other than a field-verified delineation of the protected water resource may be used to satisfy the submittal requirements only if the protected water resource is not located on the subject property and access to the water resource is denied for the purposes of supplying the required delineation. In order to use alternate data, an applicant shall submit the following:
- 1. A copy of a letter addressed to the owner of the property on which the protected water resource exists requesting access to the property for the purpose of completing a delineation of the protected water resource; and
 - 2. A copy of a return receipt from the US Postal Service verifying that the letter was mailed certified and was received or refused.

709.08 CONSTRUCTION MANAGEMENT PLANS

A Construction Management Plan (CMP) shall comply with the following criteria.

- A. Erosion prevention and sediment control (EPSC) measures shall be required and shall comply with the standards of the EPSC regulatory authority.
- B. Orange construction fencing (i.e. safety fencing, snow fencing, or a comparable product) shall be installed on or outside the boundary of the Water Quality Resource Area (WQRA), except where the drip line of a protected tree extends outside the WQRA, in which case the drip line shall be included inside the fencing. This requirement may be modified or waived if:
 - 1. Disturbance of the WQRA is authorized pursuant to Subsection 709.04 or 709.10, in which case the fencing shall be installed in such a manner as to protect the area of the WQRA not authorized for disturbance; or
 - 2. The WQRA is already lawfully developed, in which case the fencing shall be installed in such a manner as to protect any water resource that is the basis for the WQRA designation and any area of the WQRA where naturalized vegetative cover exists.
- C. Trees in the WQRA shall not be used as anchors for stabilizing construction equipment.
- D. Native soils disturbed during development shall be conserved on the subject property.
- E. Development shall not commence until the EPSC measures and fencing required pursuant to Subsections 709.08(A) and (B) are in place.
- F. Compliance with the CMP shall be maintained until the development is complete.

709.09 WATER QUALITY RESOURCE AREA BOUNDARY VERIFICATION

The standards of Subsection 709.02 shall be applied to an application for Water Quality Resource Area Boundary Verification and shall determine the boundary of any WQRA on the subject property.

709.10 WATER QUALITY RESOURCE AREA DEVELOPMENT PERMITS

A Water Quality Resource Area (WQRA) Development Permit shall be approved if the applicant provides evidence substantiating compliance with the following criteria. However, if the proposed development is in a Habitat Conservation Area (HCA) regulated pursuant to Section 706, it shall comply with either Subsection 706.10 or 709.10, except that if the subject parcel contains an HCA and a WQRA and is the subject of a land use application for a partition or subdivision, the partition or subdivision shall comply with the requirements of Subsections 706.10 and 709.10, and if the provisions conflict, the most restrictive standard shall apply.

- A. No practicable alternative locations exist for the requested development that will not disturb the WQRA;
- B. No reasonably practicable alternative design or method of development exists that would have a lesser impact on the WQRA than the one proposed. If no such reasonably practicable alternative design or method of development exists, the development shall be conditioned to:
 - 1. Limit its disturbance and impact on the WQRA to the minimum extent necessary to achieve the proposed development; and
 - 2. Ensure that impacts to the functions and values of the water quality resource area will be mitigated or impacted areas restored to the extent practicable.
- C. The WQRA shall be restored and maintained as required by Table 709-2.
- D. To the greatest extent practicable, existing native vegetation shall be retained and protected;
- E. Walkways and bike paths shall be subject to the following standards:
 - 1. Where it is not practicable to maintain a setback of greater than 30 feet from a protected water resource, a maximum of 10 percent of the total area of a gravel, earthen, tree bark product or equivalent walkway or bike path may be within 30 feet of the protected water resource.
 - 2. For any paved walkway or bike path, the width of the water quality resource area on the subject property shall be increased by a distance equal to the width of the paved path. Where it is not practicable to maintain a setback of greater than 30 feet from a protected water resource, a maximum of 10 percent of the total area of the walkway or bike path may be within 30 feet of the protected water resource.
 - 3. A walkway or bike path approved under Subsection 709.10(E)(1) or (2) shall not exceed 10 feet in width, shall not be constructed closer than 10 feet from the boundary of the protected water resource, and shall be constructed so as to minimize disturbance to existing vegetation.
- F. Stormwater pretreatment facilities shall be subject to the following standards:
 - 1. A stormwater pretreatment facility may encroach a maximum of 25 feet into the outside boundary of the WQRA of a primary protected water resource.
 - 2. A stormwater pretreatment facility may encroach a maximum of five feet into the outside boundary of the WQRA of a secondary protected water resource.

3. The area of encroachment shall be replaced by adding an equal area to the WQRA on the subject property.
4. All stormwater shall be collected on-site and passed through a treatment facility, such as a detention/composting facility or filter as approved by the surface water management regulatory authority, prior to being discharged into the WQRA.

Table 709-2: Water Quality Resource Area Mitigation Requirements

Existing Condition of Water Quality Resource Area	Mitigation Requirements
<u>Good Existing Corridor:</u> Combination of trees, shrubs and groundcover are 80 percent present, and there is more than 50 percent tree canopy coverage in the vegetated corridor.	<u>If area is disturbed during construction:</u> 1. Restore and mitigate according to approved plan using native vegetation. 2. Remove debris. 3. Prior to construction, a qualified professional shall prepare and submit a plan for mitigating water quality impacts related to the development, including: sediments, temperature nutrients, sediment control, temperature control, or any other condition that may have caused the protected water resource to be listed on DEQ's 303(d) list. 4. Re-vegetation must occur during the next planting season following site disturbance. Seeding may be required prior to establishing plants for site stabilization. Annual replacement of plants that do not survive is required until vegetation representative of natural conditions is established on the site. <u>If area is undisturbed during construction:</u> 1. Remove debris.

Table 709-2: Water Quality Resource Area Mitigation Requirements

<u>Marginal Existing Corridor:</u> Combination of trees, shrubs and groundcover are 80 percent present, and there is 25 to 50 percent tree canopy coverage in the vegetated corridor.	<u>If area is disturbed during construction:</u> 1. Restore and mitigate according to approved mitigation plan using native vegetation that would reasonably represent the vegetative composition that would naturally occur on the site. 2. Remove debris. 3. Re-vegetate during the next planting season following site disturbance. Seeding may be required prior to establishing plants for site stabilization. Annual replacement of plants that do not survive is required until vegetation representative of natural conditions is established on the site. <u>If area is undisturbed during construction:</u> 1. Remove debris.

<u>Degraded Existing Corridor:</u> Less vegetation and canopy coverage than marginal vegetated corridors, and/or greater than 10-percent surface coverage of any non-native vegetation.	<u>If area is disturbed during construction:</u> 1. Restore and mitigate according to approved mitigation plan using native vegetation that would reasonably represent the vegetative composition that would naturally occur on the site. 2. Remove debris. 3. Re-vegetate during the next planting season following site disturbance. Seeding may be required prior to establishing plants for site stabilization. Annual replacement of plants that do not survive is required until vegetation representative of natural conditions is established on the site. <u>If area is undisturbed during construction:</u> 1. Vegetate bare areas with native vegetation. 2. Remove non-native vegetation and re-vegetate with native vegetation. 3. Remove debris.

709.11 PARTITIONS AND SUBDIVISIONS

- A. A partition or subdivision of property that contains a WQRA shall require that the WQRA shall be platted as a tract or restricted development area (RDA).
- B. A WQRA tract shall be designated on the final plat as one of the following where development is prohibited:
 - 1. A private natural area owned by a homeowners association or a private non-profit with the mission of land conservation; or
 - 2. A public natural area where the tract has been dedicated to a public entity.
- C. A WQRA RDA shall be designated on the final plat as a private natural area where development is prohibited.
- D. Notwithstanding Subsections 709.11(B) and (C), the tract or RDA may be subject to an easement conveying storm and surface water management rights to the surface water management authority.

[Amended by Ord. ZDO-230, 9/26/11; Amended by Ord. ZDO-248, 10/13/14; Amended by Ord. ZDO-283, 9/5/23]

710 SENSITIVE BIRD HABITAT DISTRICT (SBH)

710.01 PURPOSE

Section 710 is adopted to:

- A. Conserve sensitive bird resources by protecting nesting and rearing habitat and providing buffer areas;
- B. Establish standards and procedures for evaluating and permitting developments which affect sensitive bird habitat areas;
- C. Implement the sensitive bird policies of the Natural Resources and Energy Chapter of the Comprehensive Plan; and
- D. Enhance coordination between County, state, federal, and other jurisdictional agencies regarding development activities in or near sensitive bird sites.

710.02 APPLICABILITY/ADOPTION OF REPORTS

- A. The Sensitive Bird Habitat District (SBH) is an overlay district that consists of sensitive bird habitat areas as identified in the Comprehensive Plan policies and Sensitive Bird Inventory completed pursuant to the Goal 5 and Oregon Administrative Rules 660, Division 16 provisions. The sensitive habitat area to be protected pursuant to Section 710 shall be defined as the area necessary to protect the sensitive bird site from impacts adverse to its nesting and rearing activities. The area protected is dependent upon the specific species as described in the Comprehensive Plan Inventory and Economic, Social, Environmental, and Energy (ESEE) findings and conclusions. The standards and procedures of the SBH District apply to all development, alterations, and vegetation removal within any portion of a sensitive bird site habitat or buffer area. Should the County be notified by the Oregon Department of Fish and Wildlife that a sensitive bird site area no longer exists within an SBH District, development activities and uses shall not be subject to the provisions of Section 710.
- B. The sensitive bird habitat areas administered through these provisions are based upon the Comprehensive Plan Inventory and Economic, Social, Environmental and Energy (ESEE) findings and conclusions. The Inventory maps and ESEE reports are hereby adopted by reference and declared to be part of this Ordinance.

710.03 DEFINITIONS

Unless specifically defined below, words or phrases used in Section 710 shall be interpreted to give them the same meaning as they have in common usage and to give Section 710 its most reasonable application.

- A. Alteration: A use which adversely impacts the condition of a sensitive bird habitat site and/or buffer area. Alterations include, but are not limited to,

buildings or other structures, grading, filling, dredging, draining, channelizing, mining, paving (including sidewalks, roads and bike paths), surface water management facilities, or other land uses that adversely impact the existing vegetation, hydrology, wildlife or wildlife habitat.

- B. Development: A partition, subdivision, or property line adjustment which may or may not include an alteration.
- C. Economic, Social, Environmental and Energy (ESEE) Analysis: The analysis conducted pursuant to Statewide Planning Goal 5 in which the County evaluates the conflicting use economic, social, environmental and energy consequences and the Board of County Commissioners reached a decision of which, if any, conflicting use(s) would be allowed fully or on a limited basis.
- D. Rookery: A discrete area that contains one or more Great Blue Heron nests.
- E. Sensitive Bird Habitat: The nesting, rearing and roosting area of sensitive birds as identified in the Comprehensive Plan.
- F. Sensitive Bird, Buffer: An area around a sensitive bird site, determined to be appropriate for the specific species, that is included on the planned and zoned SBH District overlay maps
- G. Sensitive Bird Habitat, Edge or Boundary: The boundary of a sensitive bird habitat area as mapped on the Comprehensive Plan Sensitive Bird Habitat Inventory maps. Generally, the edge or boundary is the line, represented by a horizontal line regardless of elevation between sensitive bird habitat areas and nonsensitive bird habitat areas.

710.04 USES IN SENSITIVE BIRD HABITAT AREAS

- A. Alterations and developments consistent with the underlying zoning district located within an SBH District may be granted, subject to review of an SBH District Permit, which shall require review as a Type II application pursuant to Section 1307 and shall be subject to the following standards and criteria:
 - 1. The proposal is consistent with Policy 11.0 of the Wildlife Habitats and Distinctive Resource Areas Section of the Natural Resources and Energy Element of the Comprehensive Plan;
 - 2. A mitigation plan demonstrates the proposed alteration or development will not disrupt the nesting or rearing habitat; and
 - 3. Vegetation and construction management plans demonstrate the alteration or development will be consistent with the provisions Section 710.

B. Prohibited Uses:

Vegetation removal within the buffer is prohibited unless the removal is permitted in conjunction with a vegetation and construction management plan described in Subsection 710.04(A)(3).

C. Exempt Uses:

1. Modifications that do not extend beyond the footprint of legally established uses, structures, and facilities are exempt from the provisions of this subsection.
2. Commercial forest practices subject to Oregon Revised Statutes (ORS) Chapter 527 and the Oregon Administrative Rules (OARs) adopted pursuant thereto.
3. Agricultural practices subject to ORS 30.930 through ORS 30.939 and the OARs adopted pursuant thereto.

710.05 DEVELOPMENT STANDARDS

The following standards shall apply to alterations or development in sensitive bird habitat areas.

- A. Based on the biology and characteristics of the species and characteristics of the site, the proposed alteration or development shall provide protection that will prevent destruction or abandonment of the subject site.
- B. Alteration activities shall be prohibited during the nesting season unless the Oregon Department of Fish and Wildlife determines in writing the proposed alteration will not be disruptive to the nest or rookery. Alterations necessary to (1) repair or reconstruct septic systems or structures damaged or (2) destroyed by fire or natural causes are exempt from this provision.
- C. New roads, driveways, or public trails shall be located the greatest distance possible from the nest or rookery unless topographic, vegetation, or structural features will provide greater visual or noise buffer to the nest or rookery.
- D. Existing vegetation buffers the nest or rookery and shall be retained unless removal is granted pursuant to Subsection 710.04(A).
- E. No land divisions or property line adjustments shall be approved which would result in the location of a structure within the designated sensitive habitat area.
- F. Exterior lighting for new uses shall be sited and shielded away from the nest or rookery.

- G. Residential lots of record where lot configuration precludes compliance with these provisions shall be exempt when proposed structures are sited the maximum practical distance from the rookery.
- H. Additions to existing structures which are located closer than the required buffer shall be permitted provided the addition complies with the remaining provisions of this subsection
- I. Sensitive bird habitat areas disturbed by alterations considered pursuant to Subsection 710.04(A) shall be re-vegetated with plants not identified on the Planning Director's Prohibited Plant List at a pre-removal or greater density within 90 days of completion, considering Subsection 710.05(B), or a surety agreement shall be provided pursuant to Section 1311, *Completion of Improvements, Sureties, and Maintenance*. The developer shall submit a written contract guaranteeing vegetation survival of at least 80 percent for a minimum one-year period.
- J. Prior to commencing alteration or construction activities on parcels containing sensitive bird habitat, the edge of the SBH District and buffer area, as identified on the County maps, shall be clearly marked with stakes connected by flagging. The applicant shall retain this temporary marking until construction is completed and vegetation on the site is reestablished.

710.06 SUBMITTAL REQUIREMENTS

In addition to the submittal requirements identified in Subsection 1307.07(C), an application for an SBH District Permit in sensitive bird habitat and buffer areas considered pursuant to Subsection 710.04(A) shall include the following:

- A. A site plan showing existing natural features and the proposed development on the site(s), including proposed alterations, vegetation removal, surface water sources, tree cutting activity, utilities, easements, and location of the nesting or rookery site and respective buffer;
- B. A written analysis describing how the proposal is consistent with Policy 11.0 of the Wildlife Habitats and Distinctive Resource Areas Section of the Natural Resources and Energy Element of the Comprehensive Plan;
- C. A written construction management plan describing the timing and sequence of construction activities, equipment, surface water management, and erosion control plan; and
- D. A vegetation plan that includes the species and quantity to be removed and planted, and any maintenance activities that will be used to ensure survival and growth of the vegetation.

710.07 APPROVAL PERIOD AND TIME EXTENSION

A. Approval Period: Approval of an SBH District Permit is valid for ~~six~~^{four} years from the date of the final written decision. If the County's final written decision is appealed, the approval period shall commence on the date of the final appellate decision. During this ~~six~~^{four}-year period, the approval shall be implemented.

"Implemented" means:

1. "Implemented" means all major development permits shall be obtained and maintained, or if no major development permits are required to complete the development contemplated by the approved SBH District Permit, "implemented" means all other necessary County development permits (e.g. grading permit, building permit for an accessory structure) shall be obtained and maintained. A "major development permit" is:
 - a. A building or manufactured dwelling placement permit for a new primary structure that was part of the SBH District Permit approval; or
 - b. A permit issued by the County Engineering Division for parking lot or road improvements that were part of the WRG permit approval.

~~B. Time Extension: If the approval of an SBH District Permit is not implemented within the initial approval period established by Subsection 710.07(A), a two-year time extension may be approved, pursuant to Subsection 1310.~~

[Amended by Ord. ZDO-248, 10/13/2014; Amended by Ord. ZDO-253, 06/01/2015]

712 PRIVATE USE AIRPORT AND SAFETY OVERLAY ZONE

712.01 PURPOSE

Section 712 is adopted to implement ~~Oregon Revised Statutes (ORS)~~ 836.600 through 836.630 and policies of the Comprehensive Plan as they relate to private use airports. When applied, it provides for the continued operation and vitality of private use airports consistent with state law. It also provides for safety standards to promote air navigational safety at these airports, and to reduce the potential for safety hazards for property and for persons living, working or recreating on lands near such airports.

712.02 APPLICATION

This special use zoning district may be applied to private-use airports that are shown in the records of the Oregon Department of Aviation as the base for three or more aircraft on December 31, 1994.

The boundaries of this special use zoning district are coterminous with airport boundaries as described in ~~Oregon Revised Statutes (ORS)~~ 836.608. The boundaries of safety overlay zones radiate from points at the ends of the airport's primary surface as described in ~~Oregon Administrative Rules (OAR)~~ 660-013-0070(1)(b) and Exhibit 2 that accompanies that rule. The definitions in Subsection 712.03 are consistent with ORS Chapter 836, OAR 660-013, and Exhibit 2 of that rule.

If an airport that had this special use zoning district applied is removed from the State's list of airports in a manner described in ORS 836.610, the application of this special use zoning district to such airport is automatically terminated.

712.03 DEFINITIONS

- A. Aircraft. Means airplanes and helicopters, but not hot air balloons or ultralights.
- B. Airport. The strip of land used for taking off and landing aircraft, together with all adjacent land used in connection with the aircraft landing or taking off from the strip of land, including but not limited to land used for existing airport uses.
- C. Airport Elevation. The highest point of an airport's usable runway, measured in feet above mean sea level.
- D. Airport Imaginary Surfaces. Imaginary areas in space or on the ground that are established in relation to the airport and its runways. Imaginary surfaces for private use airports are defined by the primary surface and approach surfaces.
- E. Airport Sponsor. The owner, manager, or other person or entity designated to represent the interests of an airport.

- F. Approach Surface. An imaginary surface longitudinally centered on the extended runway centerline and extending outward and upward from each end of the primary surface. An approach surface is applied to each end of the runway. The inner edge of the approach surface is the same width as the primary surface and it expands uniformly to a width of 450 feet for that end of a private use airport with only visual approaches. The approach surface extends for a horizontal distance of 2,500 feet at a slope of 20 feet outward for each one foot upward.
- G. Hazard. All hazards within and around airports shall be as determined by the Oregon Department of Aviation or Federal Aviation Administration.
- H. Heliports. A heliport is an area of land, water, or structure designated for the landing and take-off of helicopters or other rotorcraft. The heliport overlay zone applies the following imaginary surfaces. The heliport approach surfaces begin at each end of the heliport primary surface and have the same width as the primary surface. They extend outward and upward for a horizontal distance of 4,000 feet where their width is 500 feet. The slope of the approach surfaces is eight to one for civilian heliports and 10 to one for military heliports. The heliport primary surface coincides in size and shape with the designated takeoff and landing area of a heliport. The heliport primary surface is a horizontal plane at the established heliport elevation. The heliport transitional surfaces extend outward and upward from the lateral boundaries of the heliport primary surface and from the approach surfaces at a slope of two to one for a distance of 250 feet measured horizontally from the centerline of the primary and approach surfaces.
- I. Primary Surface. A surface longitudinally centered on a runway. The primary surface ends at each end of a runway. The elevation of any point on the primary surface is the same as the elevation of the nearest point on the runway centerline. The width of the primary surface for private use airports is 200 feet.
- J. Runway. A defined area on an airport prepared for landing and takeoff of aircraft along its length.
- K. Structure. Any constructed or erected object which requires location on the ground or is attached to something located on the ground. Structures include, but are not limited to, buildings, decks, fences, signs, towers, cranes, flagpoles, antennas, smokestacks, earthen formations, and overhead transmission lines. Structures do not include paved areas.

712.04 CONTINUED OPERATION OF EXISTING USES

Operation of the following uses may be continued at their current levels as of ~~November 1, 2001~~ the effective date of Section 712, upon a demonstration that the use existed at the airport at any time during 1996. A list of those established uses for each private use airport classified as having three or more based aircraft is contained in the County's Airport Plan, which is adopted by reference in Appendix A of the Comprehensive Plan.

- A. Customary and usual aviation-related activities, including but not limited to takeoffs and landings; aircraft hangars and tie-downs; construction and maintenance of airport facilities; fixed-base operator facilities; one single-family dwelling in conjunction with an airport (if there is not one there already) for an airport manager, caretaker, or security officer; and other activities incidental to the normal operation of an airport. Except as provided in this ordinance, "customary and usual aviation-related activities" do not include residential, commercial, industrial, manufacturing, and other uses.
- B. Air passenger and air freight services and facilities, at levels consistent with the classification and needs identified in the Oregon Department of Aviation Airport System Plan.
- C. Emergency medical flight services, including activities, aircraft, accessory structures, and other facilities necessary to support emergency transportation for medical purposes. Emergency medical flight services include search and rescue operations but do not include hospitals, medical offices, medical labs, medical equipment sales, and other similar uses.
- D. Law enforcement, military, and firefighting activities, including aircraft and ground-based activities, facilities and accessory structures necessary to support federal, state or local law enforcement or land management agencies engaged in law enforcement or firefighting activities. Law enforcement and firefighting activities include transport of personnel, aerial observation, and transport of equipment, water, fire retardant and supplies.
- E. Search and rescue operations, including aircraft and ground based activities that support the orderly and efficient conduct of search or rescue related activities.
- F. Flight instruction, including activities, facilities, and accessory structures located at airport sites that provide education and training directly related to aeronautical activities. Flight instruction includes ground training and aeronautic skills training, but does not include schools for flight attendants, ticket agents or similar personnel.
- G. Aircraft service, maintenance and training, including activities, facilities and accessory structures provided to teach aircraft service and maintenance skills and to maintain, service, refuel or repair aircraft or aircraft components. "Aircraft service, maintenance and training" includes the construction and assembly of aircraft and aircraft components for personal use, but does not include activities, structures or facilities for the manufacturing of aircraft, aircraft components or aircraft-related products for sale to the public.
- H. Aircraft rental, including activities, facilities and accessory structures that support the provision of aircraft for rent or lease to the public.

- I. Aircraft sales and the sale of aeronautic equipment and supplies, including activities, facilities and accessory structures for the storage, display, demonstration and sales of aircraft and aeronautic equipment and supplies to the public but not including activities, facilities or structures for the manufacturing of aircraft, aircraft components or other aircraft-related products for sale to the public.
- J. Crop dusting activities, including activities, facilities and structures accessory to crop dusting operations. Crop dusting activities include, but are not limited to, aerial application of chemicals, seed, fertilizer, defoliant and other chemicals or products used in a commercial agricultural, forestry or rangeland management setting.
- K. Agricultural and Forestry Activities, including activities, facilities and accessory structures that qualify as a "farm use" as defined in ORS 215.203 or "farming practice" as defined in ORS 30.390.
- L. Aeronautic recreational and sporting activities, including activities, facilities and accessory structures at airports that support recreational usage of aircraft and sporting activities that require the use of aircraft or other devices used and intended for use in flight, are permitted subject to the acceptance of the airport sponsor. Aeronautic recreation and sporting activities include, but are not limited to, fly-ins; glider flights; hot air ballooning; ultralight aircraft flights; displays of aircraft; aeronautic flight skills contests; gyrocopter flights; flights carrying parachutists; and parachute drops onto an airport. As used herein, parachuting and parachute drops include all forms of skydiving.

712.05 EXPANSION OF EXISTING USES

The expansion of uses identified in Subsection 712.04 and that existed at any time during 1996 at an airport is permitted as provided in Subsection 712.05.

A. Expansions Permitted Outright: The following expansions of existing uses are permitted outright:

- 1. Construction of additional hangars and tie-downs by the owner of the airport;
- 2. Basing of additional aircraft at the airport; and
- 3. Increases in flight activity.

B. Other Expansions:

- 1. Growth of existing uses that require building permits, other than those existing uses identified in Subsection 712.05(A), shall require review as a Type II application pursuant to Section 1307, Procedures, and shall be permitted unless the growth:

- a. Cannot be supported by existing public facilities and services and transportation systems authorized by applicable statewide land use planning goals;
- b. Forces a significant change or significantly increases the costs of conducting existing uses on surrounding lands; or
- c. Exceeds the standards of ORS 215.296(1) if the airport is adjacent to land zoned for exclusive farm use.

712.06 NEW AIRPORT-RELATED USES

Uses identified in Subsection 712.04 and at an airport shall require review as a Type III application pursuant to Section 1307, Procedures, and shall be subject to the following standards and criteria:

- A. The use is or will be supported by adequate types and levels of public facilities, services, and transportation systems authorized by applicable statewide land use planning goals;
- B. The use does not seriously interfere with existing land uses in areas surrounding the airport; and
- C. For airports adjacent to land zoned for exclusive farm use, the use complies with ~~the standards described in~~ ORS 215.296.
- D. An applicant may demonstrate that these standards will be satisfied through the imposition of clear and objective conditions.

712.07 OTHER USES

Uses not identified in Subsection 712.04, but permitted in the underlying zoning district, shall require review as a Type II application pursuant to Section 1307, Procedures, and may be permitted at an airport if they do not conflict with permitted uses in Subsection 712.04, safety, or the continued operation and vitality of the airport.

712.0~~8~~7 IMAGINARY SURFACE DELINEATION

The airport elevation and the location and dimensions of the runway, primary surface, and approach surface shall be delineated for each private use airport subject to this safety overlay zone and shall be made part of the zoning maps adopted pursuant to Subsection 103.02. All lands, waters, and airspace, or portions thereof, that are located within these surfaces shall be subject to the requirements of this safety overlay zone.

712.0~~98~~ NONCONFORMING USES

Section 712 shall not be construed to require the removal, lowering, or alteration of any existing structure or vegetation not conforming to Section 712. Section 712 shall not require any change in the construction, or alteration of the intended use of any structure, the construction or alteration of which was begun or completed prior to the effective date of this safety overlay zone.

[Amended by Ord. ZDO-248, 10/13/2014]

713 PUBLIC USE AIRPORT AND SAFETY OVERLAY ZONES

713.01 PURPOSE

Section 713 is adopted to implement ~~Oregon Revised Statutes-ORS~~ 836.600 through 836.630 and policies of the Comprehensive Plan as they relate to public use airports. When applied, it provides for their continued operation and vitality consistent with state law by allowing certain compatible airport related commercial and recreational uses. It also provides for safety standards to promote air navigational safety at such public use airports and to reduce the potential for safety hazards for property and for persons living, working, or recreating on lands near such airports.

713.02 APPLICATION

This special use zoning district may be applied to publicly owned airports that are shown in the records of the Oregon Department of Aviation (ODA) on December 31, 1994. It also may be applied to those privately owned, public use airports identified pursuant to ~~Oregon Revised Statutes-(ORS)~~ 836.610(3) by the ODA as providing important links in air traffic in Oregon, providing essential safety or emergency services, or are of economic importance to the County.

The boundaries of this special use district are coterminous with airport boundaries as described in ~~Oregon Administrative Rules-(OAR)~~ 660-013-0040. The boundaries of safety overlay zones radiate from points at the ends of the airport's primary surface as described in OAR 660-013-0070(1)(a) and Exhibits 1 and 4 that accompany that rule. The definitions in Subsection 713.03 are consistent with ORS Chapter 836, OAR 660-013, and Exhibits 1 and 4 of that rule.

If an airport that had this special use zoning district applied is removed from the State's list of airports in a manner described in ORS 836.610, the application of this special use zoning district is automatically terminated.

713.03 DEFINITIONS

- A. Aircraft. Means airplanes and helicopters, but not hot air balloons or ultralights.
- B. Airport. The strip of land used for taking off and landing aircraft, together with all adjacent land used in connection with the aircraft landing or taking off from the strip of land, including but not limited to land used for existing airport uses.
- C. Airport Elevation. The highest point of an airport's usable runway, measured in feet above mean sea level.
- D. Airport Imaginary Surfaces. Imaginary areas in space and on the ground that are established in relation to the airport and its runways. Imaginary surfaces are defined by the primary surface, runway protection zone, approach surface, horizontal surface, conical surface and transitional surface.

- E. Airport Noise Impact Boundary. Areas located within 1,500 feet of an airport runway or within established noise contour boundaries exceeding 55 Ldn.
- F. Airport Sponsor. The owner, manager, or other person or entity designated to represent the interests of an airport.
- G. Approach Surface. A surface longitudinally centered on the extended runway centerline and extending outward and upward from each end of the primary surface.
1. The inner edge of the approach surface is the same width as the primary surface and it expands uniformly to a width of:
 - a. 1,250 feet for a utility runway having only visual approaches;
 - b. 1,500 feet for a runway other than a utility runway with only visual approaches;
 - c. 2,000 feet for a runway with a non-precision instrument approach;
 - d. 3,500 feet for a non-precision instrument runway other than utility, having visibility minimums greater than three-fourths statute mile;
 - e. 4,000 feet for a non-precision instrument runway, other than utility, having a non-precision approach with visibility minimums as low as three-fourths statute mile; and
 - f. 16,000 feet for precision instrument runways.
 2. The approach surface extends for a horizontal distance of:
 - a. 5,000 feet at a slope of 20 feet outward for each foot upward for all utility and visual runways;
 - b. 10,000 feet at a slope of 34 feet outward for each foot upward for all non-precision instrument runways, other than utility; and
 - c. 10,000 feet at a slope of 50 feet outward for each one foot upward, with an additional 40,000 feet at a slope of 40 feet outward for each one foot upward, for precision instrument runways.
 3. The outer width of an approach surface will be that width prescribed in this subsection for the most precise approach existing or planned for that runway end.
- H. Conical Surface. A surface extending outward and upward from the periphery of the horizontal surface at a slope of 20 to one for a horizontal distance of 4,000 feet.

- I. Hazard. All hazards within and around airports shall be as determined by the Oregon Department of Aviation or Federal Aviation Administration (FAA).
- J. Heliports. A heliport is an area of land, water, or structure designated for the landing and take-off of helicopters or other rotorcraft. The heliport overlay zone applies the following imaginary surfaces. The heliport approach surfaces begin at each end of the heliport primary surface and have the same width as the primary surface. They extend outward and upward for a horizontal distance of 4,000 feet where their width is 500 feet. The slope of the approach surfaces is eight to one for civilian heliports and 10 to one for military heliports. The heliport primary surface coincides in size and shape with the designated takeoff and landing area of a heliport. The heliport primary surface is a horizontal plane at the established heliport elevation. The heliport transitional surfaces extend outward and upward from the lateral boundaries of the heliport primary surface and from the approach surfaces at a slope of two to one for a distance of 250 feet measured horizontally from the centerline of the primary and approach surfaces.
- K. Horizontal Surface. A horizontal plane 150 feet above the established airport elevation, the perimeter of which is constructed by swinging arcs of specified radii from the center of each end of the primary surface of each runway of each airport and connecting the adjacent arcs by lines tangent to those arcs. The radius of each arc is:
 - 1. 5,000 feet for all runways designated as utility or visual.
 - 2. 10,000 feet for all other runways.
 - 3. The radius of the arc specified for each end of a runway will have the same arithmetical value. That value will be the highest determined for either end of the runway. When a 5,000 foot arc is encompassed by tangents connecting two adjacent 10,000 foot arcs, the 5,000 foot arc shall be disregarded on the construction of the perimeter of the horizontal surface.
- L. Non-Precision Instrument Runway. A runway having an existing instrument approach procedure utilizing air navigation facilities with only horizontal guidance, or area type navigation equipment, for which a straight-in non-precision instrument approach has been approved, or planned, and for which no precision approach facilities are planned or indicated on an FAA-approved airport layout plan or other FAA planning document.
- M. Other than Utility Runway. A runway that is constructed for and intended to be used by turbine-driven aircraft or by propeller-driven aircraft exceeding 12,500 pounds gross weight.

- N. Precision Instrument Runway. A runway having an existing instrument approach procedure utilizing air navigation facilities that provide both horizontal and vertical guidance, such as an Instrument Landing System (ILS) or Precision Approach Radar (PAR). It also means a runway for which a precision approach system is planned and is so indicated by an FAA-approved airport layout plan or other FAA planning document.
- O. Primary Surface. A surface longitudinally centered on a runway. When a runway has a specially prepared hard surface, the primary surface extends 200 feet beyond each end of that runway. When a runway has no specially prepared hard surface, or planned hard surface, the primary surface ends at each end of that runway. The elevation of any point on the primary surface is the same as the elevation of the nearest point on the runway centerline. The width of the primary surface is:
1. 250 feet for utility runways having only visual approaches;
 2. 500 feet for utility runways having non-precision instrument approaches;
 3. For other than utility runways the width is:
 - a. 500 feet for visual runways having only visual approaches;
 - b. 500 feet for non-precision instrument runways having visibility minimums greater than three-fourths statute mile;
 - c. 1,000 feet for a non-precision instrument runway having a non-precision instrument approach with a visibility minimum as low as three-fourths statute mile, and for precision instrument runways.

~~P. Public Assembly Facility. A permanent or temporary structure or facility, place or activity where concentrations of people gather in reasonably close quarters for purposes such as deliberation, education, worship, shopping, employment, entertainment, recreation, sporting events, or similar activities. Public assembly facilities include, but are not limited to, schools, places of worship, conference or convention facilities, employment and shopping centers, arenas, athletic fields, stadiums, clubhouses, museums, and similar facilities and places, but do not include parks, golf courses or similar facilities unless used in a manner where people are concentrated in reasonably close quarters. Public assembly facilities also do not include air shows, structures or uses approved by the FAA in an adopted airport master plan, or places where people congregate for short periods of time such as parking lots or bus stops.~~

~~Q.P.~~ Runway. A defined area on an airport prepared for landing and takeoff of aircraft along its length.

~~R.Q.~~ Runway Protection Zone (RPZ). An area off the runway end used to enhance the protection of people and property on the ground. The RPZ is trapezoidal in shape and centered about the extended runway centerline. The inner width of the RPZ is the same as the width of the primary surface. The outer width of the RPZ is a function of the type of aircraft and specified approach visibility minimum associated with the runway end. The RPZ extends from each end of the primary surface for a horizontal distance of:

1. 1,000 feet for utility runways.
2. 1,700 feet for other than utility runways having non-precision instrument approaches.
3. 2,500 feet for precision instrument runways.

~~S.R.~~ Structure. Any constructed or erected object which requires location on the ground or is attached to something located on the ground. Structures include but are not limited to buildings, decks, fences, signs, towers, cranes, flagpoles, antennas, smokestacks, earthen formations and overhead transmission lines. Structures do not include paved areas.

~~T.S.~~ Transitional Surface. Those surfaces that extend upward and outward at 90 degree angles to the runway centerline and the runway centerline extended at a slope of seven feet horizontally for each foot vertically from the sides of the primary and approach surfaces to the point of intersection with the horizontal and conical surfaces. Transitional surfaces for those portions of the precision approach surfaces which project through and beyond the limits of the conical surface, extend a distance of 5,000 feet measured horizontally from the edge of the approach surface and at a 90 degree angle to the extended runway centerline.

~~U.T.~~ Utility Runway. A runway that is constructed for and intended to be used by propeller driven aircraft of 12,500 pounds maximum gross weight or less.

~~V.U.~~ Visual Runway. A runway intended solely for the operation of aircraft using visual approach procedures, where no straight-in instrument approach procedures or instrument designations have been approved or planned, or are indicated on an FAA-approved airport layout plan or any other FAA planning document.

~~W.V.~~ Water Impoundment. Includes wastewater treatment settling ponds, surface mining ponds, detention and retention ponds, artificial lakes and ponds, and similar water features. A new water impoundment includes an expansion of an existing water impoundment except where such expansion was previously authorized by land use action approved prior to the effective date of Section 713.

713.04 USES PERMITTED OUTRIGHT

The following uses and activities are permitted outright in the Public Use Airport special use zoning district:

- A. Customary and usual aviation-related activities, including but not limited to takeoffs and landings; aircraft hangars and tie-downs; construction and maintenance of airport facilities; fixed-base operator facilities; one single-family dwelling in conjunction with an airport (if there is not one there already) for an airport manager, caretaker, or security officer; and other activities incidental to the normal operation of an airport. Except as provided in this ordinance, "customary and usual aviation-related activities" do not include residential, commercial, industrial, manufacturing, and other uses.
- B. Air passenger and air freight services and facilities, at levels consistent with the classification and needs identified in the Oregon Department of Aviation Airport System Plan.
- C. Emergency medical flight services, including activities, aircraft, accessory structures, and other facilities necessary to support emergency transportation for medical purposes. Emergency medical flight services do not include hospitals, medical offices, medical labs, medical equipment sales, and other similar uses.
- D. Law enforcement, military, and firefighting activities, including aircraft and ground-based activities, facilities and accessory structures necessary to support federal, state or local law enforcement or land management agencies engaged in law enforcement or firefighting activities. Law enforcement and firefighting activities include transport of personnel, aerial observation, and transport of equipment, water, fire retardant and supplies.
- E. Search and rescue operations, including aircraft and ground based activities that support the orderly and efficient conduct of search or rescue related activities.
- F. Flight instruction, including activities, facilities, and accessory structures located at airport sites that provide education and training directly related to aeronautical activities. Flight instruction includes ground training and aeronautic skills training, but does not include schools for flight attendants, ticket agents or similar personnel.
- G. Aircraft service, maintenance and training, including activities, facilities and accessory structures provided to teach aircraft service and maintenance skills and to maintain, service, refuel or repair aircraft and aircraft components. "Aircraft service, maintenance and training" includes the construction and assembly of aircraft and aircraft components for personal use, but does not include activities, structures or facilities for the manufacturing of aircraft, aircraft components or other aircraft-related products for sale to the public.
- H. Aircraft rental, including activities, facilities and accessory structures that support the provision of aircraft for rent or lease to the public.

- I. Aircraft sales and the sale of aeronautic equipment and supplies, including activities, facilities and accessory structures for the storage, display, demonstration and sales of aircraft and aeronautic equipment and supplies to the public but not including activities, facilities or structures for the manufacturing of aircraft, aircraft components or other aircraft-related products for sale to the public.
- J. Crop dusting activities, including activities, facilities and structures accessory to crop dusting operations. Crop dusting activities include, but are not limited to, aerial application of chemicals, seed, fertilizer, defoliant and other chemicals or products used in a commercial agricultural, forestry or rangeland management setting.
- K. Agricultural and Forestry Activities, including activities, facilities and accessory structures that qualify as a "farm use" as defined in ORS 215.203 or "farming practice" as defined in ORS 30.930.
- L. Aeronautic recreational and sporting activities, including activities, facilities and accessory structures at airports that support recreational usage of aircraft and sporting activities that require the use of aircraft or other devices used and intended for use in flight. Aeronautic recreation and sporting activities authorized under this paragraph include, but are not limited to, fly-ins; glider flights; hot air ballooning; ultralight aircraft flights; displays of aircraft; aeronautic flight skills contests; and gyrocopter flights, but do not include flights carrying parachutists or parachute drops (including all forms of skydiving).
- M. Flights carrying parachutists, and parachute drops (including all forms of skydiving) onto an airport, but only upon demonstration that the parachutist business has secured approval to use a drop zone that is at least 10 contiguous acres in size. The configuration of the drop zone shall roughly approximate a square or a circle and may contain structures, trees, or other obstacles only if the remainder of the drop zone provides adequate areas for parachutists to land safely.

~~N. Uses not identified in Subsection 713.04, but permitted in the underlying zoning district, may be permitted if they do not conflict with permitted uses in Subsection 713.04, safety, or the continued operation and vitality of the airport.~~

713.05 AIRPORT-RELATED USES PERMITTED SUBJECT TO REVIEW

Uses not identified in Subsection 713.04 and contained in an Airport Expansion Plan approved by the County as part of the Comprehensive Plan shall require review as a Type III application pursuant to Section 1307, Procedures, and shall be subject to the following standards and criteria:

- A. The use is, or will be, supported by adequate types and levels of public facilities, services, and transportation systems authorized by applicable statewide land use planning goals;

- B. The use does not seriously interfere with existing land uses in areas surrounding the airport; and
- C. For airports where the underlying zoning district is EFU, the use shall comply with the standards described in ORS 215.296.
- D. The development standards in Section 1000, Development Standards, shall be applied appropriate to the type of use permitted.
- E. An applicant may demonstrate that these standards will be satisfied through the imposition of clear and objective conditions.

713.06 OTHER USES

Uses not identified in Subsection 713.04, but permitted in the underlying zoning district, shall require review as a Type II application pursuant to Section 1307, Procedures, and may be permitted at an airport if they do not conflict with permitted uses in Subsection 713.04, safety, or the continued operation and vitality of the airport.

713.076 IMAGINARY SURFACE AND NOISE IMPACT BOUNDARY DELINEATION

The airport elevation, the airport noise impact boundary, and the location and dimensions of the runway, primary surface, runway protection zone, approach surface, horizontal surface, conical surface and transitional surface, direct and secondary impact boundaries shall be delineated for each public use airport where this district is applied and shall be made part of the zoning maps adopted pursuant to Subsection 103.02. All lands, waters, and airspace, or portions thereof, that are located within these boundaries or surfaces shall be subject to the requirements of this zone.

~~713.07 LAND USE COMPATIBILITY REQUIREMENTS~~

~~Applications for land use or building permits for properties within the boundaries of these safety overlay zones shall comply with the requirements of this Section as provided herein.~~

713.08 WATER IMPOUNDMENTS WITHIN SAFETY OVERLAY ZONES

Any use or activity that would result in the establishment or expansion of a water impoundment shall comply with the requirements of Section 713~~this section~~.

713.09 NONCONFORMING USES

Section 713 shall not be construed to require the removal, lowering, or alteration of any existing structure or vegetation not conforming to Section 713. Section 713 shall not require any change in the construction, or alteration of the intended use of any

structure, the construction or alteration of which was begun or completed prior to the effective date of this safety overlay zone.

[Amended by Ord. ZDO-248, 10/13/14; Amended by Ord. ZDO-268, 10/2/18]

804 PLACES OF WORSHIP

804.01 STANDARDS

Except where the applicable zoning district allows for a less restrictive standard, places of worship shall comply with the following standards:

- A. Maximum Lot Coverage: The maximum lot coverage is 50 percent.
- B. Maximum Building Height: The maximum building height is 50 feet.
- C. Minimum Rear Setback: The minimum rear setback is 20 feet plus five feet for each story in excess of two.
- D. Minimum Side Setback: The minimum side setback is 20 feet plus five feet for each story in excess of two.

804.02 PERMITTED USES

- A. Customarily Associated Activities. Pursuant to Oregon Revised Statutes 215.441, a place of worship may be used for activities customarily associated with the practices of the religious activity, including:
 - 1. Worship services;
 - 2. Religion classes;
 - 3. Weddings;
 - 4. Funerals;
 - 5. Meal programs; and
 - 6. Child care or any preschool or prekindergarten education, but not ~~including~~ private or parochial ~~school~~ education for ~~pre~~kindergarten through grade 12 or higher education. (Although a private or parochial school is not permitted pursuant to this provision, this Ordinance may otherwise provide for such use on the subject property.)

- B. Accessory Uses. In addition to buildings and uses otherwise permitted accessory to a place of worship in the applicable zoning district, healthcare services, including counseling, are a permitted accessory use, provided the healthcare services occupy no more than 10 percent of the combined floor area of all structures associated with places of worship on the same property, and provided that the healthcare services are operated by a charitable organization that is tax-exempt under section 501(c)(3) of the Internal Revenue Code. Notwithstanding the 10-percent limitation, a larger floor area may be permitted if the use is found still to be accessory to the place of worship.

[Amended by Ord. ZDO-224, 05/31/2011; Amended by Ord. ZDO-252, 06/01/2015; Amended by Ord. ZDO-268, 10/02/2018; Amended by Ord. ZDO-280, 10/23/2021; Amended by Ord. ZDO-287, 08/03/2023]

806 HOME OCCUPATIONS TO HOST EVENTS

806.01 EXEMPTION

Except as set forth in Section 806, home occupations to host events are exempt from Section 1000, *Development Standards*.

806.~~01~~02 DEFINITIONS

The following definitions apply to Section 806:

- A. Employee: Any on-site person, whether they work full-time or part-time in the home occupation, including, but not limited to, the operator, partners, assistants, and any other persons participating in the operation of the home occupation. Except in the EFU, TBR, and AG/F Districts, persons employed by contract to provide services for a single event, such as caterers, photographers, and florists, are not considered employees.
- B. Event: A wedding, family reunion, class reunion, company picnic, or similar gathering.
- C. Operator: The person who conducts the home occupation, has majority ownership interest in the home occupation, and is responsible for strategic decisions and day-to-day operations of the home occupation.

806.~~02~~03 STANDARDS

Home occupations to host events shall comply with the following standards:

- A. Operator: The operator shall reside full-time in a lawfully established dwelling unit on the tract on which the home occupation is located.
- B. Employees: The home occupation shall have no more than five employees.
- C. Type of Buildings: Notwithstanding the definition of home occupation in Section 202, *Definitions*, in the AG/F, EFU, and TBR Districts, the home occupation shall be operated substantially in the operator's dwelling or other buildings normally associated with uses permitted in the applicable zoning district.
- D. Tents: Temporary tents are allowed as follows:
 - 1. In the AG/F, EFU, and TBR Districts, temporary tents are permitted to the extent consistent with Subsection 806.~~02~~03(C).
 - 2. In a zoning district other than AG/F, EFU, and TBR, one temporary tent is permitted, and additional temporary tents may be permitted if consistent with Subsection 1203.03.

3. Temporary tents may be placed on the subject property no more than 24 hours before the event and must be removed no more than 24 hours after the event.
- E. Impacts on Dwellings: In the AG/F, EFU, and TBR Districts, the evaluation of compliance with Subsection 1203.03(D) shall include consideration of impacts on dwellings even though dwellings are not primary uses in these zoning districts.
 - F. Hours of Operation: During the months of November through March, no event shall take place outside the hours of 9:00 a.m. to 10:00 p.m. During the months of April through October, no event shall take place outside the hours of 8:00 a.m. to 10:00 p.m. These time restrictions do not apply to persons involved in the set-up or clean-up of the facilities.
 - G. Frequency of Events: A maximum of two events shall be allowed per day, and no more than one event shall occur at any one time. During the months of November through March, no more than five events shall be allowed per week. During the months of April through October, no more than seven events shall be allowed per week.
 - H. Guests: The maximum number of guests for any single event is 300. However, to the extent necessary to comply with Subsection 1203.03, a lower limit may be imposed based on site capacity constraints.
 - I. Lighting: All lighting used during events shall comply with Subsection 1005.04(A).
 - J. Noise: Noise shall be regulated as follows:
 1. From 7:00 a.m. until 10:00 p.m. on Friday and Saturday and until 9:00 p.m. on all other days of the week, the average peak sound pressure level, when measured off the subject property, of noise created by the home occupation shall not exceed the greater of 60 dB(A) or the ambient noise level. During all other hours, the average peak sound pressure level, when measured off the subject property, of noise created by the home occupation shall not exceed the greater of 50 dB(A) or the ambient noise level.
 - a. Noise generated by vehicles entering or exiting the subject property, but not by idling vehicles, shall be exempt from Subsection 806.0203(J)(1).
 - b. Subsection 806.0203(J)(1) shall not apply to noise detectable on public rights-of-way and railroad rights-of-way.
 2. A noise study may be required to demonstrate compliance with Subsection 806.0203(J)(1). If a noise study is required, measurements shall be made with a sound level meter. The sound level meter shall be an instrument in good operating condition, meeting the requirements of a Type I or Type II meter, as specified in ANSI Standard 1.4-1971. The sound level meter shall contain at least an A-weighted scale, and both fast and slow meter response capability.

Personnel making measurements shall have completed training in the use of the sound level meter, and measurement procedures consistent with that training shall be followed.

K. Parking: The home occupation shall comply with Section 1015, *Parking and Loading*, except as modified by Subsection 806.0203(K).

1. On-street parking shall be prohibited on the day of an event.
2. An alternative to the parking area surface required pursuant to Subsection 1015.01(B) may be approved based on the following criteria:
 - a. It is appropriate considering season, duration, and intensity of use.
 - b. It shall be surfaced with hardy grasses, wood chips, or other similar organic materials sufficient to adequately stabilize the ground surface for parking.
 - c. In order to minimize tracking of soil onto the roadway, a driveway surfaced with screened gravel or better must extend a minimum of 200 feet in length from the interior edge of the roadway that provides access to the subject property. A traffic management plan must direct all vehicular traffic along the required driveway prior to such traffic entering the roadway.

L. Screening and Buffering: Subsection 1009.04, *Screening and Buffering*, shall apply.

~~L. Portable Restrooms: Portable restroom facilities shall:~~

- ~~1. Include hand sanitizing or hand washing facilities;~~
- ~~2. Comply with the standards of the service provider and the applicable regulations of the Oregon Department of Environmental Quality;~~
- ~~3. Be screened from adjacent lots and rights of way by sight-obscuring fences or plantings; and~~
- ~~4. Be located a minimum of 50 feet from all lot lines.~~

M. Signs: One temporary sign shall be allowed in addition to signs permitted pursuant to Section 1010, *Signs*. The sign shall not exceed eight square feet in area; shall be placed on private property on the day of the event; shall be removed no more than 24 hours after the event; and shall be physically attached to the premises in a manner which both prevents the sign from being moved or blown from its location, and allows the prompt removal of the sign.

- N. Storage: Equipment, furniture, goods, and other amenities used for events shall be stored indoors on non-event days.
- O. Appearance: On non-event days, the use shall not take an outward appearance nor manifest any characteristics of a business or operation of a service commercial nature, except for those characteristics normally associated with or allowed for a primary use in the subject zoning district, ~~or, in the AG/F, EFU, and TBR Districts, for a use identified as “allowed” by Table 407-1, Permitted Uses in the AG/F District, 401-1, Permitted Uses in the EFU District, or 406-1, Permitted Uses in the TBR District, respectively.~~

[Amended by Ord. ZDO-224, 05/31/2011; Amended by Ord. ZDO-245, 07/01/2013; Amended by Ord. ZDO-268, 10/02/2018; Amended by Ord. ZDO-283, 09/05/2023]

837 MOBILE VENDING UNITS

837.01 EXEMPTIONS

- A. Section 837 does not apply to mobile vending units that are part of a farmers' market approved pursuant to Section 840, *Farmers' Markets*.
- B. Except as set forth in Section 837, mobile vending units are exempt from Sections 1000, *Development Standards*, and 1102, *Design Review*.

837.02 SUBMITTAL REQUIREMENTS

In addition to the submittal requirements identified in Subsection 1307.07(C):

- A. An application for a level two mobile vending unit shall include a site plan, drawn to scale, that includes:
 - 1. The lot lines;
 - 2. The location of existing structures and mobile vending units on the subject property;
 - 3. The proposed location of the mobile vending unit and any portable accessory items, such as picnic tables and trash cans;
 - 4. The dimensions of the proposed mobile vending unit;
 - 5. The proposed distance between the mobile vending unit and the lot lines of the subject property, as well as the proposed separation distance between the unit and other onsite structures or mobile vending units;
 - 6. The type and location of any proposed onsite utility connections for the mobile vending unit;
 - 7. The location of existing loading areas, driveways, onsite circulation drives, parking lot aisles, bicycle and motor vehicle parking spaces, and walkways;
 - 8. The location of windows and doors on the mobile vending unit that are proposed to be used for service to customers;
 - 9. The location of existing landscaping; and
 - 10. The dimensions, height, location, and lighting of proposed signs.
- B. An application for a level three mobile vending unit shall include the applicable items identified in Subsection 1102.02.

837.03 LEVEL ONE MOBILE VENDING UNITS

Except as established by Subsection 837.03, level one mobile vending units are exempt from regulation under this Ordinance. No permit to operate a level one mobile vending unit is required under this Ordinance. A level one mobile vending unit is one that complies with the following standards:

- A. The mobile vending unit shall operate on a designated route and not stop at a fixed location for more than two hours during the workday. Storage of such a unit during hours outside the workday is not regulated by Section 837, but remains subject to any other applicable provisions of this Ordinance, which may include compliance with Sections 1000, Development Standards, and 1102, Design Review.
- B. The mobile vending unit shall be entirely self-contained with no connections to onsite utilities; no outdoor seating; and no storage outside the unit. Attachments to the mobile vending unit, such as awnings or canopies, are permitted only if they are supported entirely by the unit and do not touch the ground.

837.04 LEVEL TWO MOBILE VENDING UNITS

A level two mobile vending unit requires review as a Type I application pursuant to Section 1307, *Procedures*, and shall be subject to the following standards:

- A. Qualifying Site: The mobile vending unit shall be located on a developed site. A developed site is one that has previously received design review approval and where that approval has been implemented. Alternatively, if not located on a developed site, the mobile vending unit shall remain on the subject property for no more than 120 days in a calendar year. For the purpose of this standard:
 - 1. If a mobile vending unit is replaced by another, the number of days shall be calculated by adding the days spent onsite by each unit.
 - 2. If a mobile vending unit spends any portion of a day on the subject property, it shall count as one day.
- B. Maximum Number: Except as allowed under Subsection 837.03, no more than two mobile vending units may be located on a single lot of record, or on two or more lots of record that are part of a single development.
- C. Accessory Items and Structures: Portable accessory items, such as picnic tables and trash cans, are permitted. Attachments to the mobile vending unit, such as awnings or canopies, are permitted only if they are supported entirely by the unit and do not touch the ground. Neither the mobile vending unit nor any item relating to the unit shall lean against or hang from any structure or utility pole. No structure shall be attached to the mobile vending unit. New structures, such as restroom buildings, trash enclosures, and gazebos, are prohibited, except that a fence may be constructed pursuant to Subsection 837.04(Q).

- D. Accessory Storage: Except as specifically allowed by Section 837, items relating to the mobile vending unit shall be stored in, on, or under the unit.
- E. Interior Seating or Vending: Customer seating or vending inside the mobile vending unit is prohibited.
- F. Maximum Size: The mobile vending unit shall not exceed 200 square feet, measured by the outside dimensions of the unit. Attachments to the mobile vending unit, such as awnings or canopies, shall be excluded when calculating the square footage.
- G. Minimum Setbacks and Separation Distance: The mobile vending unit shall be located a minimum of:
1. Five feet from any structure or mobile vending unit;
 2. Ten feet from any front lot line, except in the RTC District in Government Camp, where the minimum front setback from a lot line abutting Government Camp Loop shall be four feet, and a corner lot with frontage on Government Camp Loop shall comply with a minimum front setback of 10 feet from the lot line abutting the other road; and
 3. Five feet from any side or rear lot line, except if such lot line abuts a residential zoning district, in which case the minimum shall be 15 feet.
- H. Utilities: To the extent that utilities are desired by the applicant or required by applicable regulations, the mobile vending unit shall have self-contained utilities, or if onsite utility connections are proposed, such utilities shall be installed underground, except where prohibited by the utility district or company. Notwithstanding this requirement:
1. If allowed by the utility district or company and any applicable Oregon Specialty Code, aboveground utility connections are permitted, when a mobile vending unit will remain on the subject property for no more than 120 days in a calendar year. For the purpose of this exception:
 - a. If a mobile vending unit is replaced by another, the number of days shall be calculated by adding the days spent onsite by each unit.
 - b. If a mobile vending unit spends any portion of a day on the subject property, it shall count as one day.
 2. If allowed by the utility district or company and the Oregon Electrical Specialty Code, aboveground power cords are permitted to connect the mobile vending unit to an approved electricity source.

3. If allowed by the utility district or company and the Oregon Plumbing Specialty Code, aboveground hoses are permitted to connect the mobile vending unit to an approved water source.
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- I. Portable Sanitation Facilities: Portable toilets are prohibited. Portable hand-washing facilities are permitted but may not drain to the surface.
 - J. On-Site Wastewater Treatment Systems: Inside the Portland Metropolitan Urban Growth Boundary (UGB), Government Camp, Rhododendron, Wemme/Welches, Wildwood/Timberline, and Zigzag Village, on-site wastewater treatment systems are prohibited unless allowed by Subsection 1006.05(B).
 - K. Obstruction of Vehicular and Pedestrian Use Areas: Neither the mobile vending unit nor any elements associated with the mobile vending unit, such as aboveground power cords, seating areas, trash receptacles, signs, and customer queuing areas, shall occupy bicycle parking spaces, loading areas, driveways, onsite circulation drives, parking lot aisles, or walkways. However, occupying existing onsite automobile parking spaces is permitted, provided that such spaces are not simultaneously used for parking.
 - L. Setback from Vehicular and Pedestrian Use Areas: Windows and doors used for service to customers shall be located a minimum of 10 feet from loading areas, driveways, onsite circulation drives, and parking lot aisles, and a minimum of five feet from bicycle parking spaces and walkways.
 - M. Driveway Access: No new or modified driveway access is permitted.
 - N. Intersection Sight Distance and Roadside Clear Zones: The mobile vending unit and any attachments or accessory items shall comply with the intersection sight distance and roadside clear zone standards of the Clackamas County Roadway Standards.
 - O. Surfacing: Inside the UGB, the mobile vending unit shall be placed on an existing hard-surfaced area, and any associated parking, loading, and maneuvering areas for vehicles shall be on existing hard-surfaced areas, unless a permeable parking, loading, or maneuvering area surface was authorized as part of a previously implemented design review approval for the site. Outside the UGB, the mobile vending unit shall be placed on an area surfaced with screened gravel or better, and any associated parking, loading, and maneuvering areas for vehicles shall be surfaced with screened gravel or better.
 - P. Drive-Thru Window Service: Drive-thru window service is prohibited.
 - Q. Screening: If the mobile vending unit is located less than 20 feet from a residential zoning district, the unit shall be screened from the lot line abutting that zoning district. Required screening:
 1. May be provided by an existing structure, a fence, or a hedge;

2. Shall be sight-obscuring; and
 3. Shall have a minimum height of six feet.
- R. Obstruction of Existing Landscaping: The mobile vending unit shall not occupy landscaping areas approved as part of a prior design review or other land use application. Other elements associated with the mobile vending unit, such as seating areas, also shall not occupy such landscaping areas, unless such elements are permitted as pedestrian amenities under Subsection 1009.02(A)(9).
- S. Signs: Signs are permitted pursuant to Section 1010, *Signs*.
- T. Trash Receptacle: A trash receptacle for customer use shall be maintained no more than 10 feet from the mobile vending unit.
- U. Skirting: Skirting shall be placed around the perimeter of the mobile vending unit.

837.05 LEVEL THREE MOBILE VENDING UNITS

A level three mobile vending unit requires review as a Type II application pursuant to Section 1307, *Procedures*, and shall be subject to the following standards:

- A. Maximum Number: Except as allowed under Subsection 837.03, no more than four mobile vending units may be located on a single lot of record, or on two or more lots of record that are part of a single development.
- B. Accessory Items and Structures: Portable accessory items, such as picnic tables and trash cans, are permitted. Attachments to the mobile vending unit, such as awnings or canopies, are permitted only if they are supported entirely by the unit and do not touch the ground. Neither the mobile vending unit nor any item relating to the unit shall lean against or hang from any structure or utility pole. No structure shall be attached to the mobile vending unit. New accessory structures may be constructed, as follows:
1. A maximum of two restroom structures, provided that the combined square footage does not exceed 200;
 2. A maximum of two storage buildings, provided that the combined square footage does not exceed 200;
 3. One trash enclosure; and
 4. Outdoor seating areas, which may have roofs, floors, and railings, but no walls (e.g. decks, picnic shelters), provided that the combined square footage does not exceed 200 square feet per mobile vending unit and that no single structure exceeds 200 square feet.

- C. Accessory Storage: Except as specifically allowed by Section 837, items relating to the mobile vending unit shall be stored in, on, or under the unit.
- D. Interior Seating or Vending: Customer seating or vending inside the mobile vending unit is prohibited.
- E. Maximum Size: The mobile vending unit shall not exceed 200 square feet, measured by the outside dimensions of the unit. Attachments to the mobile vending unit that are supported entirely by the unit and do not touch the ground shall be excluded when calculating the square footage.
- F. Minimum Setbacks and Separation Distance: The mobile vending unit shall be located a minimum of:
 - 1. Five feet from any structure or another mobile vending unit;
 - 2. Ten feet from any front lot line, except in the RTC District in Government Camp, where the minimum front setback from a lot line abutting Government Camp Loop shall be four feet, and a corner lot with frontage on Government Camp Loop shall comply with a minimum front setback of 10 feet from the lot line abutting the other road; and
 - 3. Five feet from any side or rear lot line, except if such lot line abuts a residential zoning district, in which case the minimum shall be 15 feet.
- G. Structure Setbacks: Structures allowed under Subsection 837.05(B) shall comply with the setback standards of the zoning district in which the subject property is located.
- H. Hillsides, Trees and Wooded Areas, and Mass Movement Hazard Areas: The development shall be subject to Subsections 1002.01, 1002.03, and 1003.02, as applicable.
- I. Utilities: To the extent that utilities are desired by the applicant or required by applicable regulations, the mobile vending unit shall have self-contained utilities, or if onsite utility connections are proposed, such utilities shall be installed underground, except where prohibited by the utility district or company. Notwithstanding this requirement:
 - 1. If allowed by the utility district or company and any applicable Oregon Specialty Code, aboveground utility connections are permitted, when a mobile vending unit will remain on the subject property for no more than 120 days in a calendar year. For the purpose of this exception:
 - a. If a mobile vending unit is replaced by another, the number of days shall be calculated by adding the days spent onsite by each unit.

- b. If a mobile vending unit spends any portion of a day on the subject property, it shall count as one day.
- 2. If allowed by the utility district or company and the Oregon Electrical Specialty Code, aboveground power cords are permitted to connect the mobile vending unit to an approved electricity source.
- 3. If allowed by the utility district or company and the Oregon Plumbing Specialty Code, aboveground hoses are permitted to connect the mobile vending unit to an approved water source.
- J. Portable Sanitation Facilities: Portable toilets are prohibited unless they are connected to a sanitary sewer system or an on-site wastewater treatment system. Portable hand-washing facilities are permitted but may not drain to the surface.
- K. On-Site Wastewater Treatment Systems: Inside the Portland Metropolitan Urban Growth Boundary (UGB), Government Camp, Rhododendron, Wemme/Welches, Wildwood/Timberline, and Zigzag Village, on-site wastewater treatment systems are prohibited unless allowed by Subsection 1006.05(B).
- L. Lighting: Outdoor lighting shall be subject to Subsection 1005.04.
- M. Obstruction of Vehicular and Pedestrian Use Areas: Neither the mobile vending unit nor any elements associated with the mobile vending unit, such as aboveground power cords, seating areas, trash receptacles, signs, and customer queuing areas, shall occupy bicycle parking spaces, loading areas, driveways, onsite circulation drives, parking lot aisles, or walkways.
- N. Setback from Vehicular and Pedestrian Use Areas: Windows and doors used for service to customers shall be located a minimum of 10 feet from loading areas, driveways, onsite circulation drives, and parking lot aisles, and a minimum of five feet from bicycle parking spaces and walkways.
- O. Driveway Access: Approval of driveway access shall be subject to the Clackamas County Roadway Standards.
- P. Intersection Sight Distance and Roadside Clear Zones: The mobile vending unit and any attachments or accessory items or structures shall comply with the intersection sight distance and roadside clear zone standards of the Clackamas County Roadway Standards.

- Q. Surfacing: Inside the UGB, the mobile vending unit shall be placed on a hard-surfaced area, and any associated parking, loading, and maneuvering areas for vehicles shall be hard-surfaced unless a permeable surface is required for surface water management pursuant to the regulations of the surface water management authority. Outside the UGB, the mobile vending unit shall be placed on an area surfaced with screened gravel or better, and any associated parking, loading, and maneuvering areas for vehicles shall be surfaced with screened gravel or better and shall provide for suitable drainage.
- R. Drive-Thru Window Service: A mobile vending unit may include drive-thru window service only if drive-thru window service is a permitted accessory use in the zoning district in which the subject property is located. Drive-thru window service shall be subject to Section 827, *Drive-Thru Window Services*.
- S. Screening and Buffering: The proposed development shall be subject to the screening and buffering provisions of Subsection 1009.04.
- T. Obstruction of Existing Landscaping: The mobile vending unit shall not occupy landscaping areas approved as part of a prior design review or other land use application. Other elements associated with the mobile vending unit, such as seating areas, also shall not occupy such landscaping areas, unless such elements are permitted as pedestrian amenities under Subsection 1009.02(A)(9).
- U. Landscaping Requirements: If the subject property does not have a previously approved landscape plan, compliance with Subsections 1009.01(A) through (E), 1009.03(B), and 1009.10 shall be required.
- V. Signs: Signs are permitted pursuant to Section 1010, *Signs*.
- W. Off-Street Motor Vehicle Parking Spaces on a Developed Site: On a developed site, the mobile vending unit, attachments to the mobile vending unit, customer queuing areas, and portable accessory items may occupy existing off-street motor vehicle parking spaces, provided that such spaces are not simultaneously used for parking. A developed site is one that has previously received design review approval and where that approval has been implemented. In addition, no new off-street parking spaces are required. However, new structures may be located in existing off-street motor vehicle parking spaces only if such spaces are in excess of the minimum number required for existing development.
- X. Off-Street Motor Vehicle Parking Spaces on an Undeveloped Site: On an undeveloped site in the HR, MRR, RC, or RTC District, a minimum of two off-street motor vehicle parking spaces per mobile vending unit is required. An undeveloped site is one that does not have an implemented design review approval.
- Y. Motor Vehicle Parking Area Standards: The development of new motor vehicle parking areas shall comply with Section 1015, *Parking and Loading*.

Z. Solid Waste and Recycling Standards: A trash receptacle for customer use shall be maintained no more than 10 feet from the mobile vending unit. In addition, compliance with Section 1021, *Solid Waste and Recyclable Material Collection*, shall be required.

AA. Skirting: Skirting shall be placed around the perimeter of the mobile vending unit.

837.06 LEVEL FOUR MOBILE VENDING UNITS

If a proposed mobile vending unit exceeds the standards of both a level two and a level three mobile vending unit, it may be approved as a level four mobile vending unit, subject to Sections 1000, *Development Standards*, and 1102, *Design Review*. In addition, compliance with Subsection 837.05 shall be required, except where a more restrictive standard is applicable pursuant to other provisions of this Ordinance.

837.07 APPROVAL PERIOD ~~AND TIME EXTENSION~~

A. A level two or three mobile vending unit approval is valid for ~~six~~^{six} years from the date of the final written decision. If the County's final written decision is appealed, the approval period shall commence on the date of the final appellate decision. During this ~~six~~^{six}-year period, the approval shall be implemented, or the approval will become void. "Implemented" means all necessary County development permits shall be obtained and maintained for the approved development.

~~B. If a level three mobile vending unit approval is not implemented within the initial approval period established by Subsection 837.07(A), a two-year time extension may be approved pursuant to Section 1310, *Time Extension*.~~

BE. A level four mobile vending unit approval is subject to the approval period ~~and time extension~~ provisions of Subsection 1102.05.

[Added by Ord. ZDO-231, 01/31/2012; Amended by Ord. ZDO-245, 07/01/2013; Amended by Ord. ZDO-248, 10/13/2014; Amended by Ord. ZDO-268, 10/02/2018; Amended by Ord. ZDO-283, 09/05/2023]

839.01 **STANDARDS INSIDE AN URBAN GROWTH BOUNDARY OR UNINCORPORATED COMMUNITY**

Accessory dwelling units inside an urban growth boundary or unincorporated community shall comply with the following standards:

- A. Only one accessory dwelling unit shall be allowed per detached single-family dwelling or manufactured dwelling.
- B. No accessory dwelling unit shall be allowed in a cottage cluster development, or in a manufactured dwelling park, or accessory to a temporary dwelling approved pursuant to Section 1204, *Temporary Permits*.
- C. In the R-2.5 and VTH Districts, only one accessory dwelling unit shall be allowed per townhouse.
- D. The maximum floor area of an accessory dwelling unit shall be:
 - 1. 500 square feet in the R-2.5 District; and
 - 2. 900 square feet in all other zoning districts except the VR-4/5, VR-5/7, and VTH Districts.
- E. When calculating floor area, all contiguous space in a building shall be included except:
 - 1. A primary dwelling unit;
 - 2. Space that is separated from the accessory dwelling unit with a wall that does not contain a door; and
 - 3. Space that is separated from the accessory dwelling unit with a wall that contains a door, if the door provides access only to unconditioned space (i.e., with no heating or cooling) that is provided with no plumbing.

839.02 **STANDARDS IN THE VR-4/5 AND VR-5/7 DISTRICTS**

In the VR-4/5 and VR-5/7 Districts, accessory dwelling units shall comply with the following standards:

- A. An accessory dwelling unit either may be located above a detached garage, or it may be integral to a primary dwelling.
- B. If the accessory dwelling unit is located above a detached garage:

1. The maximum floor area of the accessory dwelling unit shall be 900 square feet. When calculating floor area, all contiguous space in a building shall be included except:
 - a. A primary dwelling unit;
 - b. Space that is separated from the accessory dwelling unit with a wall that does not contain a door; and
 - c. Space that is separated from the accessory dwelling unit with a wall that contains a door, if the door provides access only to unconditioned space (i.e., with no heating or cooling) that is provided with no plumbing.
 2. The accessory dwelling unit shall be subject to the standards in Table 315-3, *Dimensional and Building Design Standards in the VR-5/7, VR-4/5, and VTH Districts*, that apply to accessory structures in the VR-4/5 and VR-5/7 Districts.
- C. If the accessory dwelling unit is integral to a primary dwelling, it shall be subject to the standards in Table 315-3 that apply to primary dwellings in the VR-4/5 and VR-5/7 Districts.

839.03 STANDARDS IN THE VTH DISTRICT

In the VTH District, accessory dwelling units shall comply with the following standards:

- A. An accessory dwelling unit either may be located above a detached garage, or it may be integral to a primary dwelling.
- B. If the accessory dwelling unit is located above a detached garage:
 1. The maximum floor area of the accessory dwelling unit shall be 500 square feet. When calculating floor area, all contiguous space in a building shall be included except:
 - a. A primary dwelling unit;
 - b. Space that is separated from the accessory dwelling unit with a wall that does not contain a door; and
 - c. Space that is separated from the accessory dwelling unit with a wall that contains a door, if the door provides access only to unconditioned space (i.e., with no heating or cooling) that is provided with no plumbing.

2. The accessory dwelling unit shall be subject to the dimensional standards in Table 315-3, *Dimensional and Building Design Standards in the VR-5/7, VR-4/5, and VTH Districts*, that apply to accessory structures in the VTH District.
- C. If the accessory dwelling unit is integral to a primary dwelling, it shall be subject to the standards in Table 315-3 that apply to primary dwellings in the VTH District and to Subsection 1005.11(A).

839.04 STANDARDS OUTSIDE AN URBAN GROWTH BOUNDARY AND UNINCORPORATED COMMUNITY

Accessory dwelling units outside both an urban growth boundary and an unincorporated community shall comply with the following standards:

- A. Only one accessory dwelling unit shall be allowed per lot of record.
- B. The lot of record on which the accessory dwelling unit will be sited shall:
 1. Be a minimum of two acres;
 2. Contain one, and only one, detached single-family dwelling, prefabricated structure, or manufactured dwelling;
 3. Not contain any other dwelling, including, but not limited to, dwellings approved pursuant to Section 846, *Recreational Vehicles as Second Dwellings*, or Section 1204, *Temporary Permits*;
 4. Not contain a guest house;
 5. Be served by a fire protection service provider with professionals who have received training or certification described in Oregon Revised Statutes (ORS) 181A.410.
- C. The primary dwelling on the lot of record shall not be subject to an order declaring it a nuisance or subject to any pending action under ORS 105.550 to 105.600.
- D. The accessory dwelling unit shall comply with the following standards:
 1. Maximum Floor Area: The floor area of the accessory dwelling unit shall not exceed 900 square feet. When calculating floor area, all contiguous space in a building shall be included except:
 - a. A primary dwelling unit;
 - b. Space that is separated from the accessory dwelling unit with a wall that does not contain a door; and

- c. Space that is separated from the accessory dwelling unit with a wall that contains a door, if the door provides access only to unconditioned space (i.e., with no heating or cooling) that is provided with no plumbing.
2. Maximum Separation Distance: The accessory dwelling unit shall be located within 100 feet of the primary dwelling. This distance shall be measured from the closest portion of each structure.
3. Minimum Setbacks: The accessory dwelling unit shall comply with the minimum setback standards for primary dwellings in the applicable zoning district.
4. Access: Adequate access shall be provided for firefighting equipment, safe evacuation, and staged evacuation areas. Access shall be considered “adequate” if, prior to approval of an onsite wastewater treatment, building, or manufactured dwelling placement permit for the accessory dwelling unit, documentation is submitted from the fire protection service provider acknowledging compliance with the provider’s access standards.

~~5.—Wildfire Hazard Mitigation:~~

- ~~a.—The construction provisions of Section R327 of the Oregon Residential Specialty Code shall apply to:~~
 - ~~i.—All accessory dwelling units, if the Statewide Wildfire Hazard Map described in ORS 477.490 has not been approved.~~
 - ~~ii.—Accessory dwelling units only in areas designated as high wildfire hazard, identified pursuant to ORS 477.490, if the Statewide Wildfire Hazard Map described in ORS 477.490 has been approved.~~
- ~~b.—Minimum defensible space rules established by the State Fire Marshal, as described in ORS 476.392, shall apply to accessory dwelling units located in areas designated as wildland-urban interface, identified pursuant to ORS 477.490, if the Statewide Wildfire Hazard Map described in ORS 477.490 has been approved.~~

- E. Use of the accessory dwelling unit as a short-term rental is prohibited.
- F. The placement or construction of any additional dwellings, or of a guest house, is prohibited on any lot of record developed with an accessory dwelling unit approved pursuant to Subsection 839.04.

[Added by Ord. ZDO-249, 10/13/2014; Amended by Ord. ZDO-250, 10/13/2014; Amended by Ord. ZDO-269, 09/06/2018; Amended by Ord. ZDO-276, 10/01/2020; Amended by Ord. ZDO-282, 07/01/2022; Amended by Ord. ZDO-283, 09/05/2023; Amended by Ord. ZDO-285, 09/03/2024]

840 FARMERS' MARKETS

840.01 EXEMPTION

Except as set forth in Section 840, farmers' markets are exempt from Sections 1000, *Development Standards*, and 1102, *Design Review*.

840.02 STANDARDS

A farmers' market requires review as a Type II application pursuant to Section 1307, *Procedures*, and shall be subject to the following standards:

- A. Location: If the farmers' market is in a residential zoning district, it shall be located at an institutional use and shall have different days and times of operation than the institutional use.
- B. Parking: If the farmers' market is in ~~the RC, RI, or RTC Districts~~ ~~commercial or industrial zoning district~~ and is proposed to operate when regular business operations are being conducted, adequate parking shall be provided pursuant to Section 1015, *Parking and Loading*.
 - 1. Fifty percent of the total area occupied by farmers' market stalls shall be calculated as developed area for the purpose of determining minimum required parking spaces.
 - 2. Parking spaces occupied by farmers' market stalls shall not be counted as available spaces during farmers' market operation.
- C. Days and Hours of Operation:
 - 1. The farmers' market may be conducted on a maximum of two days each week.
 - 2. If the farmers' market is in a residential zoning district, it may be operated (including setup and dismantling) only between the hours of 8 a.m. and 8 p.m.
- D. Signs: Signs are permitted pursuant to Section 1010, *Signs*.

[Added by Ord. ZDO-253, 06/01/2015; Amended by Ord. ZDO-268, 10/02/2018]

841 MARIJUANA PRODUCTION, PROCESSING, AND RETAILING

841.01 PROCEDURE

Marijuana production and marijuana retailing require review as Type I applications pursuant to Section 1307, *Procedures*. Marijuana processing requires review as a Type II application pursuant to Section 1307.

841.02 MARIJUANA PRODUCTION

Marijuana production shall be subject to the following standards and criteria:

- A. Maximum Number of Licensed Premises/Registered Sites: In the AG/F, EFU, and TBR Districts, only one premises licensed for marijuana production by the Oregon Liquor ~~and Cannabis Control~~ Commission¹ or one medical marijuana grow site registered by the Oregon Health Authority² may be located on a tract.
- B. Outdoor Production:
 1. Outdoor production means producing marijuana:
 - a. In an expanse of open or cleared ground; or
 - b. In a greenhouse, hoop house, or similar non-rigid structure that does not utilize any artificial lighting on mature marijuana plants, including but not limited to electrical lighting sources. A mature marijuana plant is a marijuana plant that is flowering.
 2. Outdoor production is prohibited in the FF-10 and RRFF-5 Districts but is permitted in the AG/F, EFU, and TBR Districts. Where permitted, outdoor production is subject to the same standards and criteria as indoor production, except where specifically noted.

1 The Oregon Liquor ~~and Cannabis Control~~ Commission is referred to herein as “OLCC.” References to OLCC shall include any successor entity that may be created by the State of Oregon to assume the responsibility of administering the state’s recreational marijuana program.

2 The Oregon Health Authority is referred to herein as “OHA.” References to OHA shall include any successor entity that may be created by the State of Oregon to assume the responsibility of administering the state’s medical marijuana program.

C. Minimum Tract Size: A minimum tract size standard shall apply as follows:

1. In the FF-10 and RRFF-5 Districts, the subject tract shall be a minimum of five acres, except that if the majority of abutting lots of record are equal to or greater than two acres, the subject tract shall be a minimum of two acres. Abutting lots of record include lots of record that are contiguous to the subject tract, as well as lots of record directly across any access drive, or private, public, or county road, provided the functional classification of the road is below that of a collector.
2. In the AG/F, EFU, and TBR Districts, the subject tract shall be a minimum of two acres, except that if outdoor production is proposed, the subject tract shall be a minimum of five acres.

D. Minimum Setback/Distance from Lot Lines: The following standards shall apply:

1. In the FF-10 and RRFF-5 Districts, the minimum front, rear, and side setbacks for any structure used for marijuana production shall be 50 feet.
 - a. Pursuant to Oregon Revised Statutes (ORS) ~~475C.449(2)(b)~~~~475B.340(2)(b)~~, these setback standards do not apply to an agricultural building used to produce marijuana located on a premises for which a license has been issued under ORS ~~475C.065~~~~475B.070~~ if the agricultural building:
 - i. Was constructed on or before July 1, 2015, in compliance with all applicable land use and building code requirements at the time of construction;
 - ii. Is located at an address where a marijuana grow site first registered with the OHA under ORS ~~475C.792~~~~475B.420~~ on or before January 1, 2015;
 - iii. Was used to produce marijuana pursuant to the provisions of ORS ~~475C.770 to 475C.919~~~~475B.400 to 475B.525~~ on or before January 1, 2015; and
 - iv. Has four opaque walls and a roof.
2. In the AG/F, EFU, and TBR Districts:
 - a. Outdoor production shall be a minimum of 100 feet from all lot lines.
 - b. Structures used for indoor production shall comply with the setback standards of the subject zoning district.
3. If the subject property is a tract that includes more than one lot of record, Subsections 841.02(D)(1) and (2)(a) do not apply to the lot line(s) that only

separate these lots of record from one another. However, the setback standards of the subject zoning district still apply.

- E. Enclosed Buildings: In the FF-10 and RRFF-5 Districts, marijuana production shall be located entirely within one or more completely enclosed buildings.
- F. Maximum Building Floor Space: The following standards apply in the FF-10 and RRFF-5 Districts:
 - 1. A maximum of 5,000 square feet of building floor space may be used for marijuana production and all activities associated with marijuana production (hereinafter referred to as marijuana production space) on the subject tract.
 - 2. If only a portion of a building is authorized as marijuana production space, a partition wall at least seven feet in height, or a height as required by the County Building Codes Division, whichever is greater, shall separate the marijuana production space from the remainder of the building. A partition wall may include a door, capable of being closed, for ingress and egress between the marijuana production space and the remainder of the building.
- G. Access: If the subject tract takes access via a private road or access drive that also serves other properties, evidence shall be provided, in the form of a petition, that all other property owners who have access rights to the private road or access drive agree to allow the specific marijuana production described in the application. Such evidence shall include any conditions stipulated in the agreement.
- H. Lighting: Lighting shall be regulated as follows:
 - 1. Light cast by light fixtures inside any building used for marijuana production shall not be visible outside the building from 7:00 p.m. to 7:00 a.m. the following day.
 - 2. Marijuana grow lights located outside a building shall not be illuminated from 7:00 p.m. to 7:00 a.m. the following day.
 - 3. Light cast by exterior light fixtures other than marijuana grow lights (e.g., security lights, driveway lights) shall not be directed skyward and shall be directed within the boundaries of the subject tract.
- I. Odor: As used in Subsection 841.02(I), building means the building, or portion thereof, used for marijuana production. However, Subsection 841.02(I) does not apply to a building approved as part of outdoor production pursuant to Subsection 841.02(B)(1)(b).
 - 1. The building shall be equipped with an activated carbon filtration system for odor control to ensure that air leaving the building through an exhaust vent first passes through an activated carbon filter.

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2. The filtration system shall consist of one or more fans and activated carbon filters. At a minimum, the fan(s) shall be sized for cubic feet per minute (CFM) equivalent to the volume of the building (length multiplied by width multiplied by height) divided by three. The filter(s) shall be rated for the applicable CFM.
 3. The filtration system shall be maintained in working order and shall be in use. The filters shall be changed a minimum of once every 365 days.
 4. Negative air pressure shall be maintained inside the building.
 5. Doors and windows shall remain closed, except for the minimum length of time needed to allow people to ingress or egress the building.
 6. The filtration system shall be designed by an engineer licensed in the State of Oregon. The engineer shall stamp the design and certify that it complies with Subsection 841.02(I).
 7. An alternative odor control system is permitted if the applicant submits a report by an engineer licensed in the State of Oregon demonstrating that the alternative system will control odor as well or better than the activated carbon filtration system otherwise required.
- J. Noise: The applicant shall submit a noise study by an engineer licensed in the State of Oregon. The study shall demonstrate that generators used in association with marijuana production, as well as mechanical equipment used for heating, ventilating, air conditioning, or odor control in association with marijuana production, will not cumulatively produce sound that, when measured at any lot line of the subject tract, exceeds 50 dB(A). Only generators used in association with marijuana production and mechanical equipment used in association with marijuana production are subject to this standard.
- K. Security Cameras: If used, security cameras shall be directed to record only the subject tract and may be directed to public rights-of-way as applicable, except as required to comply with licensing requirements of the OLCC or registration requirements of the OHA.
- L. Water: The applicant shall submit proof of a legal source of water as evidenced by:
1. A copy of a water right permit, certificate, or other water use authorization from the Oregon Water Resources Department (OWRD);
 2. A statement from a public or private water provider that water is supplied by that water provider. The statement shall include the name and contact information of the water provider; or

3. Proof from the OWRD that the water to be used for marijuana production is from a source that does not require a water right.
- M. Waste Management: Marijuana waste shall be stored in a secured waste receptacle in the possession of and under the control of the OLCC licensee or OHA registrant.
- N. Residency: In the FF-10 and RRFF-5 Districts, a minimum of one of the following shall reside in a dwelling unit on the subject tract:
 1. An owner of the subject tract;
 2. A holder of an OLCC license for marijuana production, provided that the license applies to the subject tract; or
 3. A person registered with the OHA as a person designated to produce marijuana by a registry identification cardholder, provided that the registration applies to the subject tract.
- O. Fencing: The maximum height of any fencing on the subject tract shall be 10 feet. Fences, walls, or other barriers shall not be electrified, or use barbed wire, razor wire, concertina coils, anti-climb spikes or any other similar security feature designed to discourage ingress through the potential of causing bodily harm.
- P. Exceptions: Marijuana production, provided such production is done pursuant to registration with the OHA, is not required to comply with Subsections 841.02(H)(3) and (I) through (O), provided that the minimum front, rear, and side setbacks for any structure used for marijuana production shall be 100 feet.

841.03 MARIJUANA PROCESSING

Marijuana processing shall be subject to the following standards and criteria:

- A. Maximum Number of Licensed Premises/Registered Sites: Only one premises licensed for marijuana processing by the OLCC or one medical marijuana processing site registered by the OHA may be located on the subject lot of record.
- B. Minimum Lot of Record Size: The subject lot of record shall be a minimum of 10 acres.
- C. Minimum Setbacks: The minimum front, rear, and side setbacks for any structure used for marijuana processing shall be 100 feet.
- D. Enclosed Buildings: Marijuana processing shall be located entirely within one or more completely enclosed buildings.

- E. Access: If the subject lot of record takes access via a private road or access drive that also serves other properties, evidence shall be provided, in the form of a petition, that all other property owners who have access rights to the private road or access drive agree to allow the specific marijuana processing described in the application. Such evidence shall include any conditions stipulated in the agreement.
- F. Lighting: Lighting shall be regulated as follows:
1. Light cast by light fixtures inside any building used for marijuana processing shall not be visible outside the building from 7:00 p.m. to 7:00 a.m. the following day.
 2. Light cast by exterior light fixtures (e.g., security lights, driveway lights) shall not be directed skyward and shall be directed within the boundaries of the subject lot of record.
- G. Odor: As used in Subsection 841.03(G), building means the building, or portion thereof, used for marijuana processing.
1. The building shall be equipped with an activated carbon filtration system for odor control to ensure that air leaving the building through an exhaust vent first passes through an activated carbon filter.
 2. The filtration system shall consist of one or more fans and activated carbon filters. At a minimum, the fan(s) shall be sized for cubic feet per minute (CFM) equivalent to the volume of the building (length multiplied by width multiplied by height) divided by three. The filter(s) shall be rated for the applicable CFM.
 3. The filtration system shall be maintained in working order and shall be in use. The filters shall be changed a minimum of once every 365 days.
 4. Negative air pressure shall be maintained inside the building.
 5. Doors and windows shall remain closed, except for the minimum length of time needed to allow people to ingress or egress the building.
 6. The filtration system shall be designed by an engineer licensed in the State of Oregon. The engineer shall stamp the design and certify that it complies with Subsection 841.03(G).
 7. An alternative odor control system is permitted if the applicant submits a report by an engineer licensed in the State of Oregon demonstrating that the alternative system will control odor as well or better than the activated carbon filtration system otherwise required.

- H. Noise: The applicant shall submit a noise study by an engineer licensed in the State of Oregon. The study shall demonstrate that generators used in association with marijuana production or processing, as well as mechanical equipment used for heating, ventilating, air conditioning, or odor control in association with marijuana production or processing, will not cumulatively produce sound that, when measured at any lot line of the subject lot of record, exceeds 50 dB(A). Only generators used in association with marijuana production or processing and mechanical equipment used in association with marijuana production or processing are subject to this standard.
- I. Security Cameras: If used, security cameras shall be directed to record only the subject lot of record and may be directed to public rights-of-way as applicable, except as required to comply with licensing requirements of the OLCC or registration requirements of the OHA.
- J. Water: The applicant shall submit proof of a legal source of water as evidenced by:
1. A copy of a water right permit, certificate, or other water use authorization from the Oregon Water Resources Department (OWRD);
 2. A statement from a public or private water provider that water is supplied by that water provider. The statement shall include the name and contact information of the water provider; or
 3. Proof from the OWRD that the water to be used for marijuana processing is from a source that does not require a water right.
- K. Waste Management: Marijuana waste shall be stored in a secured waste receptacle in the possession of and under the control of the OLCC licensee or OHA registrant.
- L. Fencing: The maximum height of any fencing on the subject lot of record shall be 10 feet. Fences, walls, or other barriers shall not be electrified, or use barbed wire, razor wire, concertina coils, anti-climb spikes or any other similar security feature designed to discourage ingress through the potential of causing bodily harm.
- M. Exceptions: Marijuana processing, provided such processing is done pursuant to registration with the OHA, is not required to comply with Subsections 841.03(F)(2) and (G) through (L).

841.04 MARIJUANA RETAILING

Marijuana retailing shall be subject to the following standards and criteria:

- A. Odor: As used in Subsection 841.04(A), building means the building, or portion thereof, used for marijuana retailing.
 1. The building shall be equipped with an activated carbon filtration system for odor control to ensure that air leaving the building through an exhaust vent first passes through an activated carbon filter.
 2. The filtration system shall consist of one or more fans and activated carbon filters. At a minimum, the fan(s) shall be sized for cubic feet per minute (CFM) equivalent to the volume of the building (length multiplied by width multiplied by height) divided by three. The filter(s) shall be rated for the applicable CFM.
 3. The filtration system shall be maintained in working order and shall be in use. The filters shall be changed a minimum of once every 365 days.
 4. Negative air pressure shall be maintained inside the building.
 5. Doors and windows shall remain closed, except for the minimum length of time needed to allow people to ingress or egress the building.
 6. The filtration system shall be designed by an engineer licensed in the State of Oregon. The engineer shall stamp the design and certify that it complies with Subsection 841.04(A).
 7. An alternative odor control system is permitted if the applicant submits a report by an engineer licensed in the State of Oregon demonstrating that the alternative system will control odor as well or better than the activated carbon filtration system otherwise required.
- B. Window Service: The use shall not have a walk-up window or drive-thru window service.
- C. Waste Management: Marijuana waste shall be stored in a secured waste receptacle in the possession of and under the control of the OLCC licensee or OHA registrant.
- D. Minors: No one under the age of 21 shall be permitted to be present in the building space occupied by the marijuana retailer, except as allowed by state law.

- E. Co-Location of Related Activities and Uses: Marijuana and tobacco products shall not be smoked, ingested, or otherwise consumed in the building space occupied by the marijuana retailer. In addition, marijuana retailing shall not be co-located on the same lot of record or within the same building with any marijuana social club or marijuana smoking club.
- F. Minimum Separation Distances: Minimum separation distances shall apply as follows:
1. The use shall be located a minimum of:
 - a. 2000 feet from a public elementary or secondary school for which attendance is compulsory under Oregon Revised Statutes (ORS) 339.020, including any parking lot appurtenant thereto and any property used by the school; or a private or parochial elementary or secondary school, teaching children as described in ORS 339.030(1)(a), including any parking lot appurtenant thereto and any property used by the school;
 - b. 1500 feet from a public park, public playground, government-owned recreational use, public library, substance use disorder service provider licensed by the OHA under Oregon Administrative Rules Chapter 415, Division 12, light rail transit station, or a multifamily dwelling owned by a public housing authority.
 - c. 500 feet from a licensed daycare facility or licensed preschool, including any parking lot appurtenant thereto and any property used by the daycare facility or preschool;
 - d. 100 feet from a zoning district listed in Section 300, *Urban and Rural Residential Districts*; however, this provision shall not apply if the subject property has street frontage on a principal interstate, principal expressway, principal arterial, or major arterial, as identified on Comprehensive Plan Map 5-4a, *Road Functional Classification Urban*, or 5-4b, *Road Functional Classification Rural*.
 2. If the use is licensed by the OLCC pursuant to ORS ~~475C.097~~~~475B.110~~, it shall be located a minimum of 1,000 feet from any other marijuana retailer so licensed by the OLCC.
 3. If the use is registered with the OHA pursuant to ORS ~~475C.833~~~~475B.450~~, it shall be located a minimum of 1,000 feet from any other marijuana retailer so registered with the OHA.

4. For purposes of Subsection 841.04(F)(1), distance shall be measured from the lot line of the affected property (e.g., a school) to the closest point of the building space occupied by the marijuana retailer. For purposes of Subsections 841.04(F)(2) and (3), distance shall be measured from the closest point of the building space occupied by one marijuana retailer to the closest point of the building space occupied by the other marijuana retailer.
5. A change in use (including a zone change) to another property to a use identified in Subsection 841.04(F) after a complete Type I application for marijuana retailing has been filed shall not result in the marijuana retailer being in violation of Subsection 841.04(F).
6. Subsection 841.04(F) does not apply to any marijuana retailer that obtained full, unconditional approval of a registration from the OHA on or before March 31, 2015, that is operating in a building space where marijuana retailing activities approved by the OHA have been continuously occurring in that building space since May 31, 2014, except during the effective dates of the Medical Marijuana Facility Moratorium adopted pursuant to Clackamas County Ordinance 01-2014.
7. In case of a conflict under Subsection 841.04(F)(2) or (3), any person who has received approval of a Type I land use permit for marijuana retailing, shall be deemed to have established marijuana retailing at the approved location, so long as the marijuana retailer begins operation within one year of the date of the County's final decision on the Type I land use permit application. If more than one Type I application is in process with the County at one time, the County shall issue decisions in the order in which complete applications were filed.

841.05 APPROVAL PERIOD

- A. Approval of a permit under Subsection 841.02 or 841.03 is valid for ~~six~~four years from the date of the final decision. If the County's final decision is appealed, the approval period shall commence on the date of the final appellate decision. During this ~~six~~four-year period, the approval shall be implemented, or the approval will become void.
 1. Implemented means all major development permits shall be obtained and maintained for the approved marijuana production or marijuana processing, or if no major development permits are required to complete the development contemplated by the approved marijuana production or marijuana processing, implemented means all other necessary County development permits (e.g., grading permit, building permit for an accessory structure) shall be obtained and maintained. A major development permit is:
 - a. A building permit for a new primary structure that was part of the approved development; or

- b. A permit issued by the County for parking lot or road improvements required by the approved development.
- B. Approval of a permit under Subsection 841.04 is valid for one year from the date of the County's final decision. During this one-year period, the approval shall be implemented, or the approval will become void. Implemented means that the marijuana retailer has begun operation. Notwithstanding this one-year implementation period, a complete application for a marijuana retailing license shall be filed with the OLCC, or a complete application for a medical marijuana dispensary registration shall be filed with the OHA, within three months of the date of the County's final decision, or the approval will become void.

[Added by Ord. ZDO-254, 1/4/16; Amended by Ord. ZDO-254, 3/1/16; Amended by Ord. ZDO-263, 5/23/17; Amended by Ord. ZDO-264, 8/22/17; Amended by Ord. ZDO-271, 3/1/19; Amended by Ord. ZDO-276, 10/1/20]

845.01 GENERAL STANDARDS

- A. Minimum Lot Size: The subject lot shall be a minimum of:
1. 5,000 square feet for a triplex, except in the VR-4/5 and VR-5/7 Districts, where there is no minimum; and
 2. 7,000 square feet for a quadplex or a cottage cluster.
- B. Exemptions: Subsections 845.02 through 845.04 do not apply to middle housing created through a conversion of the following, provided the conversion does not add any building square footage to the existing structure:
1. An existing detached single-family dwelling;
 2. An existing detached single-family dwelling with an attached accessory dwelling unit; or
 3. An existing duplex.
- C. Prohibition: Development of triplexes, quadplexes, townhouses, and cottage clusters, either through new construction or through a conversion of a detached, single-family dwelling, is prohibited in the Floodplain Management District.

845.02 TRIPLEXES AND QUADPLEXES

Triplexes and quadplexes shall comply with the following standards:

- A. Windows: A minimum of 15 percent of the area of all street-facing facades shall include windows or entrance doors. Facades separated from a street by a dwelling are exempt from compliance with this standard (see Figure 845-1, *Window Coverage*).
- B. Entry Orientation: At least one external door that enters into a common room of the triplex or quadplex shall comply with the standards of Subsections 845.02(B)(1) and (2). Any triplex or quadplex for which more than 50 percent of its street-facing facade is separated from the street by a dwelling is exempt from meeting these standards.
1. The entrance shall be within eight feet of the longest street-facing wall of the dwelling unit; and
 2. The entrance shall either:
 - a. Face the street (see Figure 845-2, *Entrance Facing the Street*);

- b. Be at an angle of up to 45 degrees from the street (see Figure 845-3, *Entrance at 45-Degree Angle from the Street*);
- c. Face a common outdoor area that is adjacent to the street and is abutted by dwellings on at least two sides (see Figure 845-4, *Entrance Facing Common Outdoor Area*); or
- d. Open onto a porch (see Figure 845-5, *Entrance Opening onto a Porch*) that:
 - i. Is a minimum of 25 square feet in area; and
 - ii. Either has at least one entrance facing the street or has a roof.

C. Driveway Entries: Driveway entries shall comply with the following:

- 1. The total width of all driveway entries shall not exceed 32 feet.(see Figure 845-6, *Driveway Entry Width and Separation on Local Street*).
- 2. Driveway entries may be separated when located on a local street (see Figure 845-6). If entries are separated, they shall comply with the driveway spacing standards of the *Clackamas County Roadway Standards*.
- 3. Unless an exception is available under the *Clackamas County Roadway Standards*, lots of record with more than one street frontage shall access only the street with the lowest functional classification from which the lot has legal access. For lots abutting an improved alley that complies with Comprehensive Plan Figure 5-1e or 10-SV-6, access shall be taken only from the alley.

D. Garages and Off-Street Parking Areas: Garages and off-street parking areas shall not be located between a building and a public street (other than an improved alley that complies with Comprehensive Plan Figure 5-1e or 10-SV-6), except in compliance with Subsections 845.02(1) and (2).

- 1. The garage or off-street parking area is separated from the street by a dwelling; or
- 2. The combined width of all garages and off-street parking areas located between a building and a public street does not exceed a total of 50 percent of the street frontage (see Figure 845-7, *Width of Garages and Parking Areas*)

845.03 TOWNHOUSES

Townhouses shall comply with the following standards:

- A. Setbacks: No minimum side setbacks shall be required from any side lot line where two townhouses share a common wall. No minimum rear setbacks shall be required from any rear lot line where two townhouses share a common wall.

B. Entry Orientation: At least one external door that enters into a common room of each townhouse shall:

1. Be within eight feet of the longest street-facing wall of the dwelling unit, if the lot has public street frontage; and
2. Either:
 - a. Face the street (see Figure 845-2, *Entrance Facing the Street*);
 - b. Be at an angle of up to 45 degrees from the street (see Figure 845-3, *Entrance at 45-Degree Angle from the Street*);
 - c. Face a common open space or access drive or driveway that is abutted by dwellings on at least two sides (see Figure 845-4, *Entrance Facing Common Outdoor Area*); or
 - d. Open onto a porch (see Figure 845-5, *Entrance Opening onto a Porch*) that:
 - i. Is a minimum of 25 square feet in area; and
 - ii. Either has at least one entrance facing the street or has a roof.

C. Unit Definition: Each townhouse shall include at least one of the following on at least one street-facing facade (see Figure 845-8, *Townhouse Unit Definition*). A townhouse development with 20 or more dwelling units is exempt from these design standards.

1. A roof dormer a minimum of four feet in width;
2. A balcony a minimum of two feet in depth and four feet in width and accessible from an interior room;
3. A bay window that extends from the facade a minimum of two feet;
4. An offset of the facade of a minimum of two feet in depth, either from the neighboring townhouse or within the facade of a single townhouse;
5. An entryway that is recessed a minimum of three feet;
6. A covered entryway with a minimum depth of four feet; or
7. A porch meeting the standards of Subsection 845.03(B)(2)(d).

D. Windows: A minimum of 15 percent of the area of all street-facing facades on each townhouse shall include windows or entrance doors. Fifty percent of the

window area in the door of an attached garage may count toward meeting this standard. (see Figure 845-1, *Window Coverage*)

E. Driveway Access and Parking: Townhouse lots with frontage on a public street shall comply with the following standards:

1. Attached garages, off-street parking areas, and driveways are allowed to be located between a townhouse and a public street if they meet the following standards:
 - a. Each townhouse lot for which the parking is being provided between a townhouse and a public street shall have a minimum of 15 feet of street frontage on a local street.
 - b. A maximum of one driveway entry shall be allowed for each townhouse.
 - c. Driveways and off-street parking areas shall not exceed 12 feet wide.
 - d. The garage width shall not exceed 12 feet, as measured from the inside of the garage door frame.
2. The following standards apply to driveways and parking areas for townhouse developments that do not comply with all of the standards in Subsection 845.03(E)(1).
 - a. Off-street parking areas shall not be located between a townhouse and a public street.
 - b. Townhouse developments shall consolidate access for all lots into a single driveway. The driveway and entry are not allowed in the area directly between a townhouse and the front lot line (see Figures 845-9, *Townhouses on Corner Lot with Consolidated Access*, and 845-10, *Townhouses with Consolidated Access*).
 - c. A townhouse development that includes consolidated access shall grant access easements for shared and emergency vehicle access.
3. Townhouse developments in which all townhouses take exclusive access from an improved alley that complies with Comprehensive Plan Figure 5-1e or 10-SV-6 are exempt from Subsection 845.03(E)(2).

845.04 COTTAGE CLUSTERS

Cottage clusters shall comply with the following standards:

- A. Cluster Size: Dwelling units shall be developed in clusters of four to nine per cluster sharing a common courtyard.

- B. Development Size: A lot of record may contain more than one cottage cluster.
- C. Maximum Ground Floor Area: The maximum ground floor area of each dwelling shall be 900 square feet.
- D. Garages: Each dwelling may have a maximum of 200 square feet for an attached garage that is not included in the maximum ground floor area permitted pursuant to Subsection 845.04(C). Any additional garage square footage shall be deducted from the maximum ground floor area. Dwellings may have detached garages.
- E. Maximum Average Floor Area: The average floor area of all dwellings in a cottage cluster development shall not exceed 1,400 square feet. For the purpose of this provision, floor area of a dwelling includes the area of any attached garage. If the cottage cluster development includes community buildings, the community buildings shall be included in the average floor area calculation.
- F. Maximum Detached Accessory Building Floor Area: 400 square feet per building, except as provided under Subsections 845.04(E) and 845.04(L) for a community building.
- G. Minimum Setbacks: The minimum front and rear setbacks are 10 feet. The minimum side setback is five feet.
- H. Minimum Separation Distance: The minimum distance between dwellings is six feet.
- I. Maximum Lot Coverage: There is no maximum lot coverage for a cottage cluster development.
- J. Dwelling Orientation: Dwellings in a cottage cluster shall comply with the following standards (see Figure 845-11, *Cottage Cluster Orientation and Courtyard Standards*):
 - 1. Each dwelling shall either abut the common courtyard or else it shall have a door that enters into a common room of the dwelling connected to a walkway leading to the common courtyard.
 - 2. A minimum of 50 percent of dwellings within a cluster shall:
 - a. Have a door that enters into a common room of the dwelling and faces the common courtyard;
 - b. Be within 10 feet of the common courtyard, as measured from a façade of the dwelling to the nearest edge of the common courtyard; and
 - c. Be connected to the common courtyard by a walkway.

- K. Common Courtyard Design Standards: Each common courtyard shall comply with the following standards (see Figure 845-11):
1. The common courtyard shall be a single, contiguous piece. The courtyard shall be a minimum of 15 feet wide at its narrowest dimension. A “single, contiguous piece” may include a courtyard that is divided by gardens or a pathway.
 2. Dwellings shall abut more than one side of the courtyard, unless the courtyard is rounded. If the courtyard is rounded, dwellings shall abut a minimum of 50 percent of the perimeter of the courtyard.
 3. The common courtyard shall contain a minimum of 150 square feet per dwelling within the associated cluster, as described in Subsection 845.04(A).
 4. The common courtyard shall be developed with a hard-surfaced walkway, landscaping, and a minimum of one of the following: recreational amenities, a patio, seating, or a gazebo. Impervious elements and recreational amenities of the common courtyard shall not exceed 75 percent of the total common courtyard area.
 5. The courtyard shall include a walkway. Walkways on the perimeter of or crossing the courtyard shall count toward the courtyard’s minimum dimensions and area. Parking areas, required setbacks, and driveways do not qualify as part of a common courtyard.
- L. Community Buildings: Cottage clusters may include a community building for the shared accessory uses of the cottage cluster’s residents and their guests. Community buildings shall comply with the following standards:
1. Each cottage cluster is permitted one community building.
 2. The community building shall not be used as a dwelling.
- M. Pedestrian Access: A hard-surfaced walkway a minimum of five feet wide shall connect a door that enters into a common room of each dwelling in a cottage cluster to the following:
1. The common courtyard;
 2. Any shared parking areas;
 3. The community building, if the cottage cluster contains a community building; and
 4. Sidewalks abutting the site, or roadways abutting the site if there are no sidewalks.

N. Parking Design:

1. Off-street motor vehicle parking shall be subject to the following standards:
 - a. Developments with 15 or fewer dwellings shall not have more than five contiguous spaces.
 - b. Developments with 16 or more cottages shall not have more than eight contiguous spaces.
 - c. Each group of contiguous parking spaces shall be separated from any other group of parking spaces serving a cottage cluster development by landscaping that is a minimum of four feet wide.
2. Off-street motor vehicle parking spaces and motor vehicle maneuvering areas, except driveways, shall not be located:
 - a. Within 10 feet of a front lot line, except from a front lot line that separates the lot from an improved alley that complies with Comprehensive Plan Figure 5-1e or 10-SV-6; or
 - b. Between a front lot line and the front facade of the dwelling(s) located closest to the front lot line, except from a front lot line that separates the lot from an alley.
3. Off-street motor vehicle parking spaces shall not be located within 10 feet of rear or side lot lines, except a lot line that separates the lot from an improved alley that complies with Comprehensive Plan Figure 5-1e or 10-SV-6. Motor vehicle maneuvering areas are permitted within 10 feet of rear or side lot lines.
4. Garages and carports:
 - a. Detached garages or carports shall be separated from other detached garages or carports by a minimum of six feet.
 - b. The maximum width of each garage door is 20 feet.
5. Screening: Landscaping, fencing, or walls, any of which shall be a minimum of three feet high, shall separate the off-street parking areas, garages, and carports from all common courtyards in the cottage cluster development.

O. Existing Structures: On a lot of record to be developed with a cottage cluster, an existing lawfully established detached single-family dwelling may remain within the cottage cluster under the following conditions:

1. An existing dwelling that exceeds the maximum footprint or unit size of Subsections 845.04(C) through (E) may not be expanded.

2. The floor area of the existing dwelling shall not count towards the maximum average floor area of dwellings in a cottage cluster development calculated pursuant to Subsection 845.04(E).
3. The existing dwelling shall be excluded from the calculation of orientation toward the common courtyard in Subsection 845.04(J).

[Added by Ord. ZDO-282, 7/1/22; Amended by Ord. ZDO-283, 9/5/23]

Figure 845-1: Window Coverage



Figure 845-2: Entrance Facing the Street

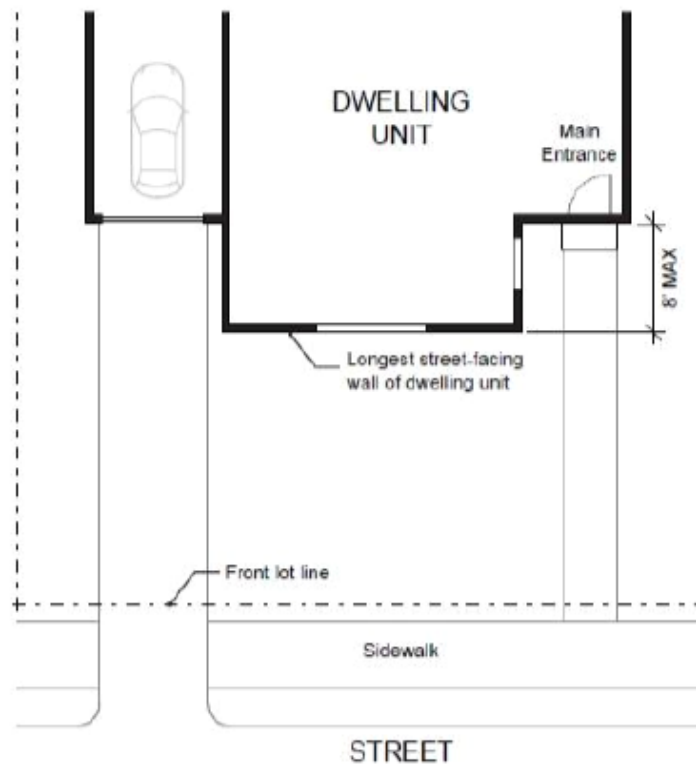


Figure 845-3: Entrance at 45-Degree Angle from the Street

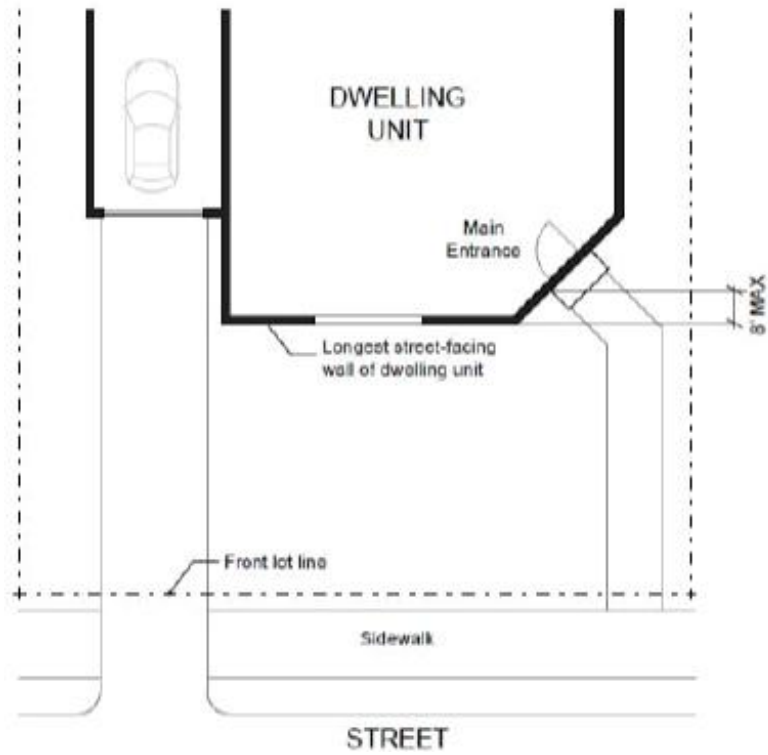


Figure 845-4: Entrance Facing Common Outdoor Area

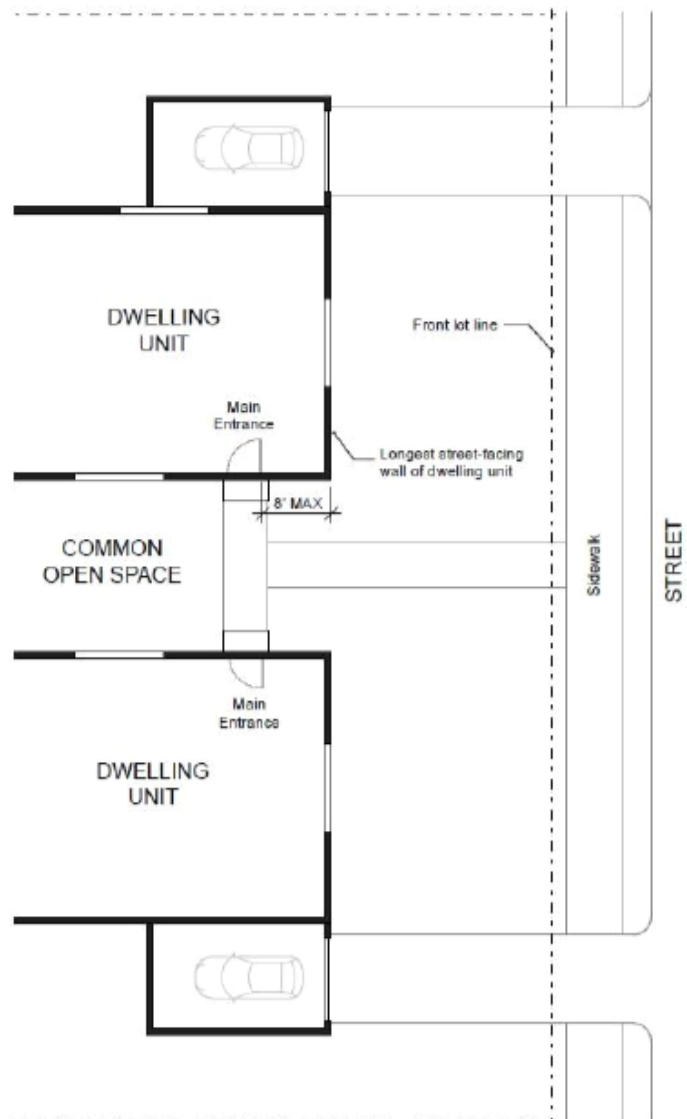


Figure 845-5: Entrance Opening onto a Porch

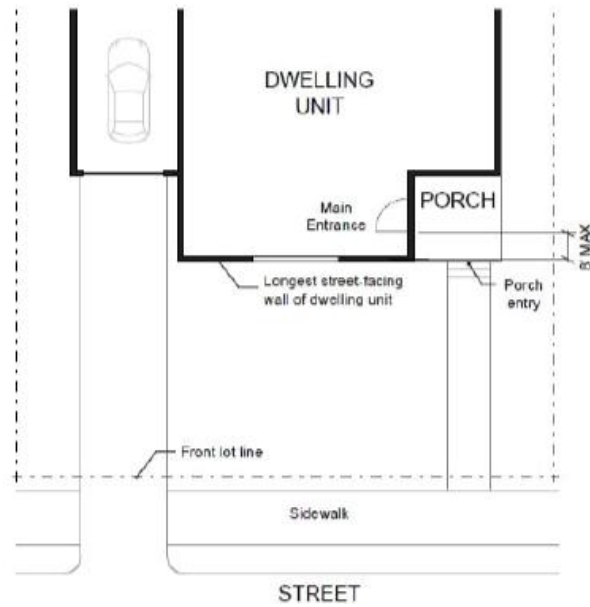
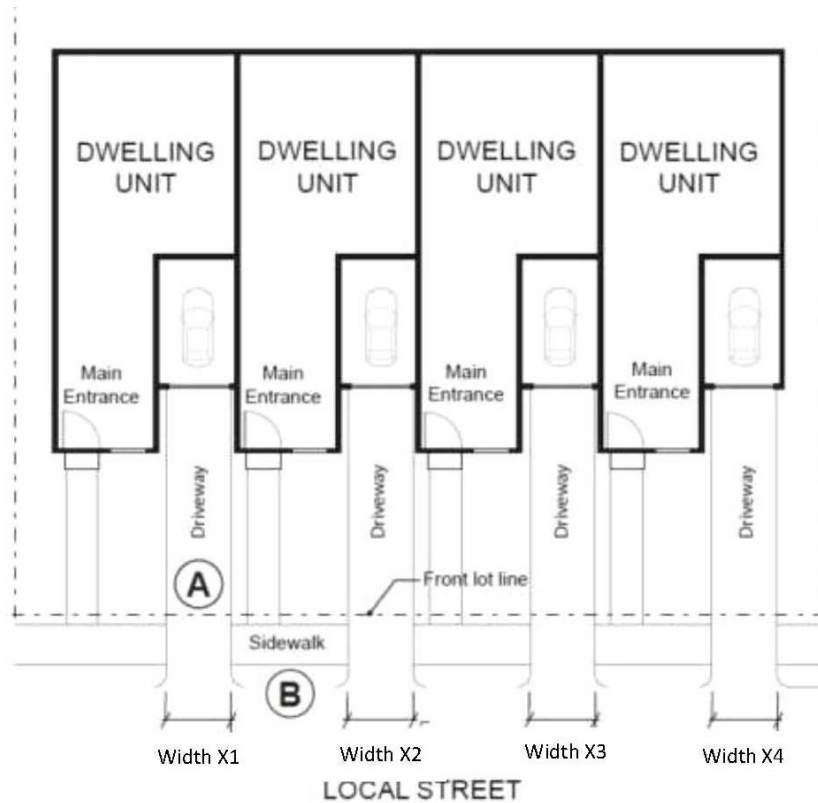
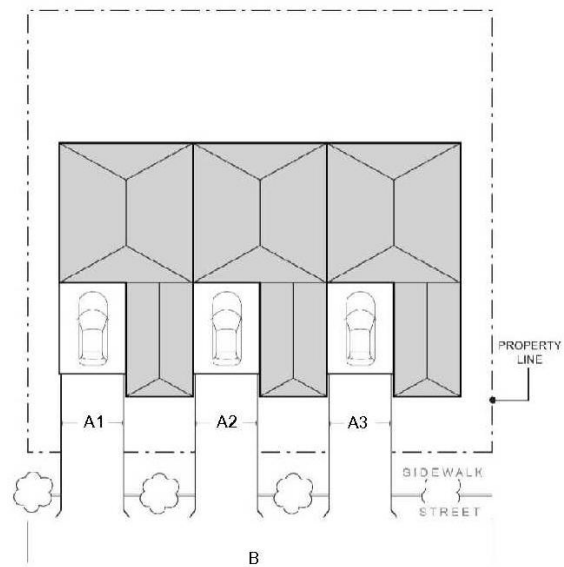


Figure 845-6: Driveway Entry Width and Separation on Local Street



- (A)** $X1 + X2 + X3 + X4$ must not exceed 32 feet per frontage
- (B)** Driveway approaches may be separated when located on a local street

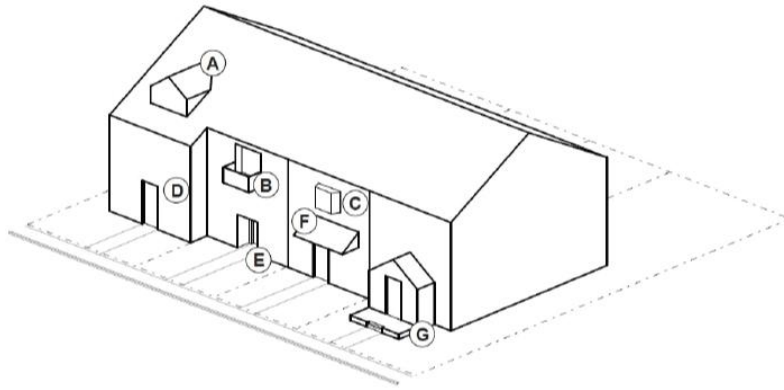
Figure 845-7: Width of Garages and Parking Areas



- Ⓐ Garage and on-site parking and maneuvering areas
- Ⓑ Total street frontage

$$\frac{A1+A2+A3}{B} \leq 50\%$$

Figure 845-8: Townhouse Unit Definition



- (A)** Roof dormer, minimum of 4 feet wide
- (B)** Balcony, minimum 2 feet deep and 4 feet wide. Accessible from interior room.
- (C)** Bay window extending minimum of 2 feet from facade
- (D)** Facade offset, minimum of 2 feet deep
- (E)** Recessed entryway, minimum 3 feet deep
- (F)** Covered entryway, minimum of 4 feet deep
- (G)** Porch, meets standards of subsection (1)(b)(iv) of section (C)

Figure 845-9: Townhouses on Corner Lot with Consolidated Access

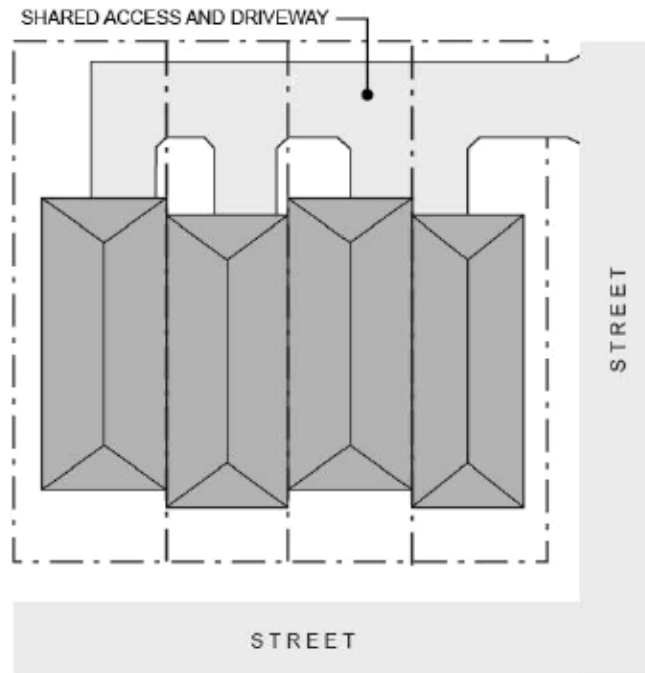


Figure 845-10: Townhouses with Consolidated Access

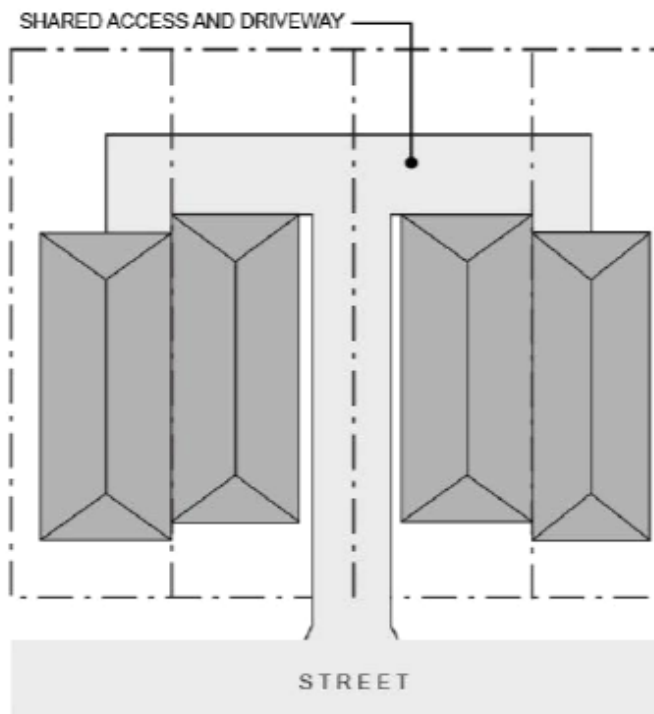
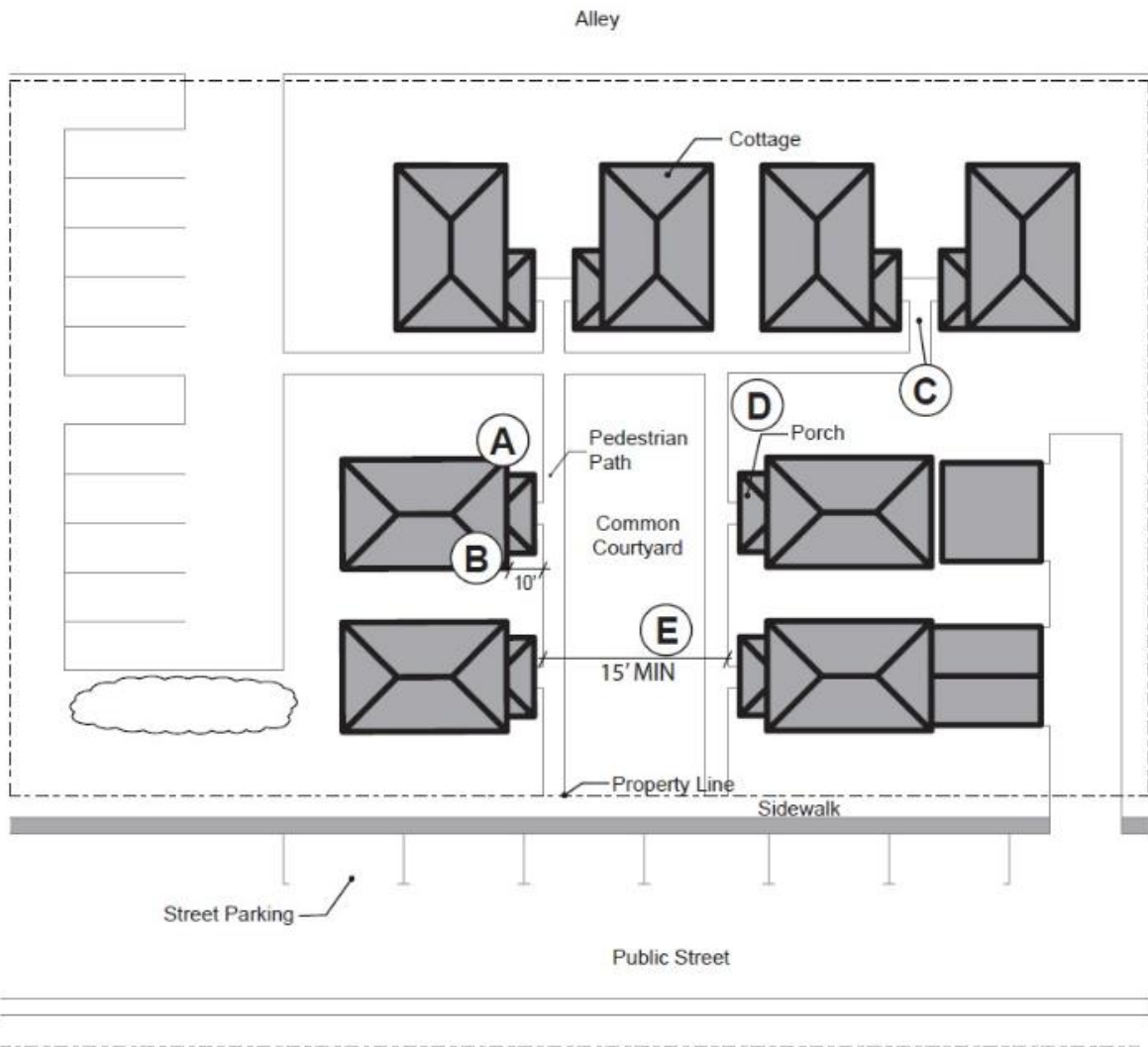


Figure 845-11: Cottage Cluster Orientation and Courtyard Standards



- (A)** A minimum of 50% of cottages must be oriented to the common courtyard.
- (B)** Cottages oriented to the common courtyard must be within 10 feet of the courtyard.
- (C)** Cottages must be connected to the common courtyard by a pedestrian path.
- (D)** Cottages must abut the courtyard on at least two sides of the courtyard.
- (E)** The common courtyard must be at least 15 feet wide at its narrowest width.

848 EMERGENCY SHELTER SITING

848.01 DEFINITION

As used in Section 848, “emergency shelter” means a building or cluster of buildings that provides shelter on a temporary basis for individuals and families who lack permanent housing.

848.02 STANDARDS

Emergency shelter siting requires review as a Type II-S application pursuant to Section 1307, *Procedures*, and must comply with the following standards:

A. The emergency shelter must be operated by:

1. A local government as defined in ORS 174.116;
2. An organization with at least two years’ experience operating an emergency shelter using best practices that is:
 - a. A local housing authority as defined in ORS 456.375;
 - b. A religious corporation as defined in ORS 65.001; or
 - c. A public benefit corporation, as defined in ORS 65.001, whose charitable purpose includes the support of homeless individuals, that has been recognized as exempt from income tax under section 501(a) of the Internal Revenue Code for at least three years before the date of the application for a shelter; or
3. A nonprofit corporation partnering with any other entity described in Subsection 848.02(A).

B. Except as described in Subsection 848.02(B)(4), an emergency shelter may be sited on any land, notwithstanding any statewide land use planning goal, rule of the Land Conservation and Development Commission, or local land use regulation, zoning ordinance, regional framework plan, functional plan, or comprehensive plan, if the emergency shelter:

1. Includes sleeping and restroom facilities for clients;
2. Will comply with applicable building codes;
3. Is located inside an urban growth boundary or is located outside an urban growth boundary and within the FF-10, RA-1, RA-2, RR, or RRFF-5 District ;
4. Will not result in the development of a new building that is sited within a mass movement hazard area regulated by Section 1003, *Hazards to Safety*, or

within the Floodplain Management District, unless the development complies with regulations directly related to the hazard;

5. Has adequate transportation access to commercial and medical services; and

6. Will not pose any unreasonable risk to public health or safety.

C. The emergency shelter:

1. May provide on-site for its clients and at no cost to the clients:

a. Showering or bathing;

b. Storage for personal property;

c. Laundry facilities;

d. Service of food prepared on-site or off-site;

e. Recreation areas for children and pets;

f. Case management services for housing, financial, vocational, educational, or physical or behavioral health care services; or

g. Any other services incidental to shelter.

2. May include youth shelters, winter or warming shelters, day shelters, and family violence shelter homes as defined in ORS 409.290.

D. The emergency shelter may also provide additional services not described in Subsection 848.02(C) to individuals who are transitioning from unsheltered homeless status. An organization providing services under Subsection 848.02(D) may charge a fee of no more than \$300 per month per client and only to clients who are financially able to pay the fee and who request the services.

E. An emergency shelter:

1. May resume its use as an emergency shelter after an interruption or abandonment of that use for two years or less, notwithstanding ORS 215.130 (7).

2. May not be used for any purpose other than as an emergency shelter except upon application for a permit demonstrating that the construction of the building and its use could be approved under current land use laws and local land use regulations.

848.03 PROCEDURES

- A. Approval of an emergency shelter is void unless the shelter is operating within two years following the approval.
- B. An application for an emergency shelter is not subject to approval under Section 848 if, at the time of filing, the most recently completed point-in-time count, as reported to the United States Department of Housing and Urban Development under 24 C.F.R. part 578, indicated that the total sheltered and unsheltered homeless population was less than 0.18 percent of the state population, based on the latest estimate from the Portland State University Population Research Center.

849 RESIDENTIAL TREATMENT FACILITIES, RESIDENTIAL TREATMENT HOMES, MENTAL OR PSYCHIATRIC HOSPITALS, AND CRISIS STABILIZATION CENTERS

849.01 RESIDENTIAL TREATMENT FACILITIES AND RESIDENTIAL TREATMENT HOMES

A. Applicability: Section 849 applies to all residential treatment facilities and residential treatment homes, except those with 15 or fewer residents, all of whom reside in a single dwelling unit in an urban Residential District or in an urban Commercial District where dwellings are an allowed use.

B. Adequate Public Services: Residential treatment facilities and residential treatment homes may only be permitted if it is determined that it can be adequately served by water, sewer, storm water drainage or streets and will be adequately served at the time that development on the property is complete. Adequately served means the development is consistent with Section 1006, *Utilities, Street Lights, Water Supply, Sewage Disposal, Surface Water Management, and Erosion Control*, and Section 1007, *Roads and Connectivity*.

C. Prohibitions: Residential treatment facilities and residential treatment homes are not permitted if development of the subject property requires a land use permit under Section 703, *Floodplain Management District*, Section 705, *Willamette River Greenway*, Section 706, *Habitat Conservation Area District*, Section 709, *Water Quality Resource Area District*, or Subsection 1003.02, *Standards and Criteria for Mass Movement Hazard Area Development*.

D. Industrial Lands: A residential treatment facility or residential treatment home may only be permitted in the LI and BP Districts if the subject property is:

1. Publicly owned or owned by a public benefit corporation as defined in ORS 65.001; and
2. Within 250 feet of lands zoned for residential use.

E. Public Lands: A residential treatment facility or residential treatment home shall not be located on public lands that are park land.

849.02 MENTAL OR PSYCHIATRIC HOSPITALS AND CRISIS STABILIZATION CENTERS

A. Adequate Public Services: Mental or psychiatric hospitals and crisis stabilization centers may only be permitted if it is determined that it can be adequately served by water, sewer, storm water drainage, or streets, and will be adequately served at the time that development on the subject property is complete. Adequately served means the development is consistent with Section 1006, *Utilities, Street Lights,*

Water Supply, Sewage Disposal, Surface Water Management, and Erosion Control, and Section 1007, Roads and Connectivity.

B. Public Lands: Mental or psychiatric hospitals shall not be located on public lands that are park land.

849.03 PROCEDURES

A residential treatment facility, residential treatment home, mental or psychiatric hospital, or crisis stabilization center requires review as a Type II-S application pursuant to Section 1307, Procedures, and is subject to the development standards in this Ordinance that are applicable to an institutional use.

903 SETBACK EXCEPTIONS**903.01 APPLICABILITY**

Section 903 applies in all zoning districts except that only the minimum setback exemptions for bus shelters apply in the BP, GI, HDR, LI, RCHDR, and SHD Districts.

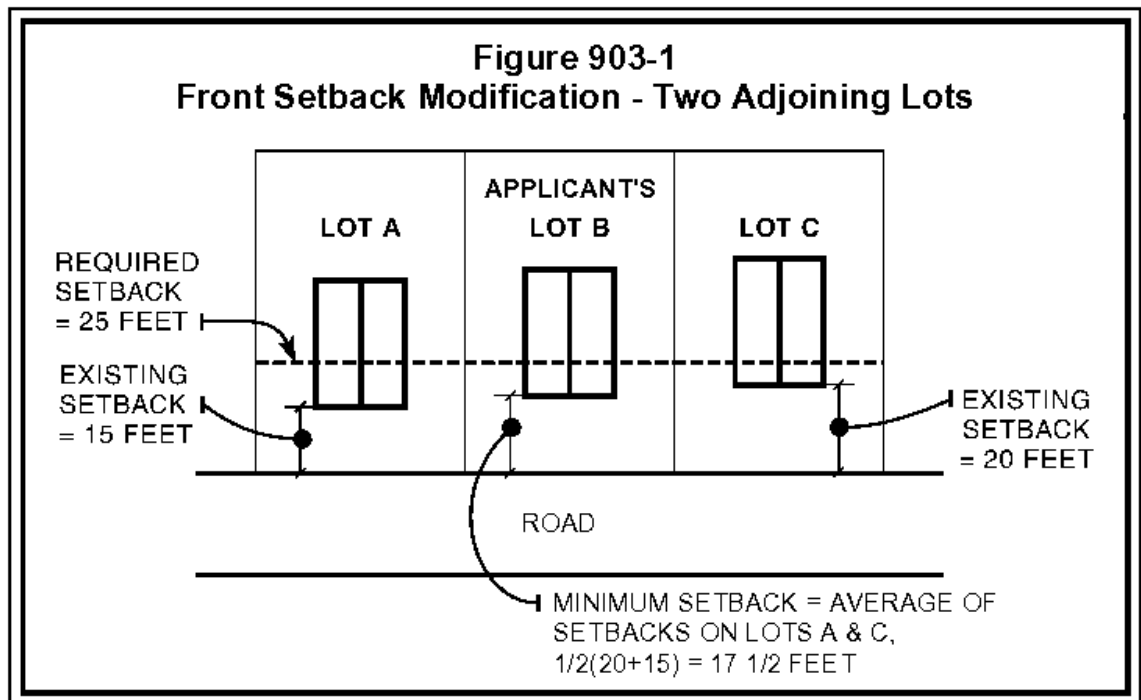
903.02 MINIMUM FRONT SETBACK MODIFICATIONS

A. The minimum front setback standard is reduced if one or both lots adjoining the subject lot, and with frontage on the same road as the subject lot, are developed with structures, other than accessory structures, whose front setback from that fronting road is lawfully nonconforming.

1. For the purpose of Subsection 903.02(A):

- a. Lawfully nonconforming does not include a structure whose front setback was reduced through approval of a front setback variance.
- b. If the adjoining lot is a flag lot, that lot is excluded, and the next lot is included.

2. If both adjoining lots qualify under Subsection 903.02(A), then the minimum front setback for the subject lot is the average of the setbacks on the two adjoining lots. (See Figure 903-1.)



3. If only one adjoining lot qualifies under Subsection 903.02(A), then the minimum front setback for the subject lot is the average of the setback that would be required without an exception and the setback on the adjoining lot with the nonconforming setback.

~~B. The minimum front setback standard is reduced for additions to an existing structure if the existing structure has a lawfully nonconforming front setback, subject to the following criteria. For the purpose of Subsection 903.02(B), lawfully nonconforming does not include a structure whose front setback was reduced through approval of a front setback variance.~~

- ~~1. The minimum front setback for the addition is equal to the front setback of the existing structure; and~~
- ~~2. The total floor area of all additions made pursuant to this provision shall not exceed 40 percent of the ground floor area of the original lawfully nonconforming structure. Only the floor area of the portion of the addition that is located closer to the front lot line than the current minimum setback standard counts toward the 40 percent maximum.~~

BE. Bus shelters are exempt from minimum front setback standards.

903.03 PUBLIC DEDICATIONS

Minimum setback standards do not apply to existing structures whose setback is reduced by a public dedication. Additions to such structures that do not comply with the minimum front setback shall be allowed pursuant to Subsection 903.02(B).

903.04 REAR AND SIDE SETBACK EXEMPTIONS

The following structures are exempt from minimum rear and side setback standards:

- A. Underground structures, except there is no exemption where the perimeter wall of the structure is above finished grade or for openings into the structure, including doors, windows, skylights, plumbing, intake vents, and exhaust vents;
- B. Ground-mounted solar energy systems extending less than six feet above finished grade;
- C. Rainwater collection facilities extending less than six feet above finished grade; and
- D. Bus shelters.

903.05 PROJECTIONS INTO REQUIRED SETBACKS

Architectural features and certain structures may project into minimum setbacks, as follows:

- A. Architectural features may project a maximum of one-third the distance of the minimum setback, and a maximum of 40 inches into a minimum front setback.
- B. Open, unenclosed fire escapes may project a maximum of four feet.

903.06 DECKS AND SIMILAR STRUCTURES

Unless the subject zoning district provides for a lesser setback, the minimum setbacks for a deck, patio, porch, terrace, or underground structure are 10 feet from front and rear lot lines and three feet from side lot lines, provided:

- A. The structure shall not be covered; and
- B. The structure shall not extend more than 30 inches above finished grade.

903.07 FENCES AND WALLS

Minimum setback standards do not apply to fences or walls unless the standard explicitly refers to fences or walls.

903.08 FLAG LOTS

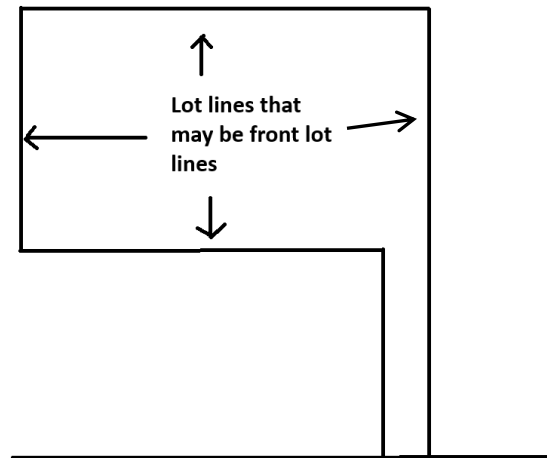
A. ~~On flag lots,~~ The location of front, side, and rear, ~~and front~~ lot lines of a flag lot may be modified, for the purpose of determining the minimum setbacks, if:

1. The subject property does not have more than one front lot line; and
2. One of the following applies:
 - a. The flagpole through which the property takes motor vehicle access does not enter the property parallel to any lot line that intersects the lot line at which the flagpole terminates;
 - b. Properties located adjacent to the subject property and further from the road from which the subject property takes motor vehicle access are developed at the maximum density feasible under the current zoning designation as calculated pursuant to Section 1012, *Lot Size and Density*, and have lawful motor vehicle access from other than the same access as the flag lot;
 - c. A natural feature (being a slope regulated pursuant to Section 1002, *Protection of Natural Features*; a mass movement hazard area regulated pursuant to Section 1003, *Hazards to Safety*; a river, stream, wetland, or other water body as mapped by the Department of State Lands; a Special Flood Hazard Area pursuant to Section 703, *Floodplain Management District*; a Habitat Conservation Area pursuant to Section 706, *Habitat Conservation Area District*; or mapped Open Space, as identified on any Comprehensive Plan Map) exists on the subject property and would

preclude access being extended across the subject property to serve an adjacent lot or lots.

- B. For a flag lot eligible for setback modification pursuant to Subsection 903.08(A), the property owner can choose which lot line is to be the front lot line, so long as it is one of the lot lines that makes up the flag portion of the lot. The rear lot line is the lot line most distant from, and opposite from, the chosen front lot line. See Figure 903-2.

Figure 903-2



- ~~A. It is not possible to extend a motor vehicle access easement to serve additional properties due to physical conditions such as topographic barriers or existing structures; or~~
- ~~B. It is not necessary to extend a motor vehicle access easement to serve additional properties because such properties are already fully developed or have access from other existing roads or easements.~~

[Amended by Ord. ZDO-224, 05/31/2011; Amended by Ord. ZDO-249, 10/13/2014; Amended by Ord. ZDO-252, 06/01/2015; Amended by Ord. ZDO-266, 05/23/2018; Amended by Ord. ZDO-268, 10/02/2018; Amended by Ord. ZDO-285, 09/03/2024]

1005 SITE AND BUILDING DESIGN

1005.01 PURPOSE

Section 1005 is adopted to ensure sites are developed and buildings designed to:

- A. Efficiently utilize the land used in development, particularly urban land in centers, corridors, station communities and employment areas;
- B. Create lively, safe, attractive and walkable centers, corridors, station communities, employment areas and neighborhoods;
- C. Support the use of non-auto modes of transportation, especially pedestrian trips to and between developments;
- D. Support community interaction by creating lively, safe and attractive public use spaces within developments and on the street;
- E. Reduce impacts of development on natural features and vegetation;
- F. Utilize opportunities arising from a site's configuration or natural features;
- G. Encourage use of green building technologies and green site development practices, energy conservation and use of renewable energy resources;
- H. Design illumination so that dark skies are maintained to the extent possible, balanced with the lighting needs of safe and functional developments; and
- I. Accommodate the needs of the users to be located in developments.

1005.02 GENERAL SITE DESIGN STANDARDS

The following site design standards apply:

- A. Where feasible, cluster buildings within single and adjacent developments for efficient sharing of walkways, on-site vehicular circulation, connections to adjoining sites, parking, loading, transit-related facilities, plazas, recreation areas, and similar amenities.
- B. Where feasible, design the site so that so that the longest building elevations can be oriented within 20 degrees of true south in order to maximize the south-facing dimensions.
- C. Minimum setbacks may be reduced by up to 50 percent as needed to allow improved solar access when solar panels or other active or passive solar use is incorporated into the building plan.
- D. A continuous, interconnected on-site walkway system meeting the following standards shall be provided.

1. Walkways shall directly connect each building public entrance accessible to the public to:
 - a. ~~T~~the nearest sidewalk or pedestrian pathway, and to all adjacent streets, including streets that dead-end at the development or to which the development is not oriented; ~~;~~ and
 - b. Accessible parking spaces.
2. Walkways shall connect each building to outdoor activity areas including parking lots, transit stops, children's play areas, and plazas.
3. Walkways shall be illuminated. Separate lighting shall not be required if existing lighting adequately illuminates the walkway.
4. Walkways shall be constructed with a well-drained, hard-surfaced material or porous pavement and shall be at least five feet in unobstructed width.
5. Standards for walkways through vehicular areas:
 - a. Walkways crossing driveways, parking areas, and loading areas shall be constructed to be clearly identifiable to motorists through the use of different paving material, raised elevation, warning signs, or other similar methods.
 - b. Where walkways are adjacent to driveways, they shall be separated by a raised curb, bollards, landscaping, or other physical barrier.
 - c. Inside the Portland Metropolitan Urban Growth Boundary (UGB), if the distance between the building public entrance and street is 75 feet or greater and located adjacent to a driveway or in a parking lot, the walkway shall be raised, with curbs, a minimum four-foot-wide landscape strip and shade trees planted a maximum of 30 feet on center.
 - d. The exclusive use of a painted crossing zone to make walkways identifiable to motorists may be used only for portions of walkways which are shorter than 30 feet and located across driveways, parking lots, or loading areas.
 - e. Walkways bordering parking spaces shall be at least seven feet wide or a minimum of five feet wide when concrete bumpers, bollards, curbing, landscaping, or other similar improvements are provided which prevent parked vehicles or opening doors from obstructing the walkway.
6. The interconnected onsite walkway system shall connect to walkways in adjacent developments, or stub to the adjacent property line if the adjacent land is vacant or is developed without walkways.

- a. Walkway stubs shall be located in consideration of topography and eventual redevelopment of the adjacent property.
 - b. Notwithstanding the remainder of Subsection 1005.02(D)(6), walkway linkages to adjacent development shall not be required within industrial developments, to industrial developments, or to vacant industrially zoned land.
- E. Inside the UGB, except for industrial developments, a minimum of 50 percent of the street frontage of the development site shall have buildings located at the minimum front setback line.
 - 1. If the minimum front setback standard is less than 20 feet, the front setback may be increased to a maximum of 20 feet provided pedestrian amenities are developed within the front setback area.
 - 2. Primary building entrances for buildings used to comply with Subsection 1005.02(E), shall:
 - a. Face the street;
 - b. Be located at an angle facing both the street and a parking lot; or
 - c. Be located to the side of the building, provided that the walkway connecting to the street is a minimum of eight feet wide and is developed with landscaping and pedestrian amenities.
 - 3. If a development has frontage on more than one street, Subsection 1005.02(E) must be met on only one frontage, as follows:
 - a. If one of the streets is a major transit street, the standard shall be met on that street.
 - b. If neither or both are a major transit street, then the standard shall be met on the street with the higher functional classification.
 - c. If neither 1005.02(E)(3)(a) or (b) applies, then the standard shall be met on the longest frontage.
- F. Inside the UGB, parking lots larger than three acres in size shall be built with internal streets that include raised walkways with curbs, a minimum four-foot-wide landscape strip, and shade trees planted a maximum of 30 feet on center.
- G. New retail, office, mixed use, and institutional buildings located on major transit streets shall have at least one public entrance facing a major transit street, or street intersecting a major transit street.

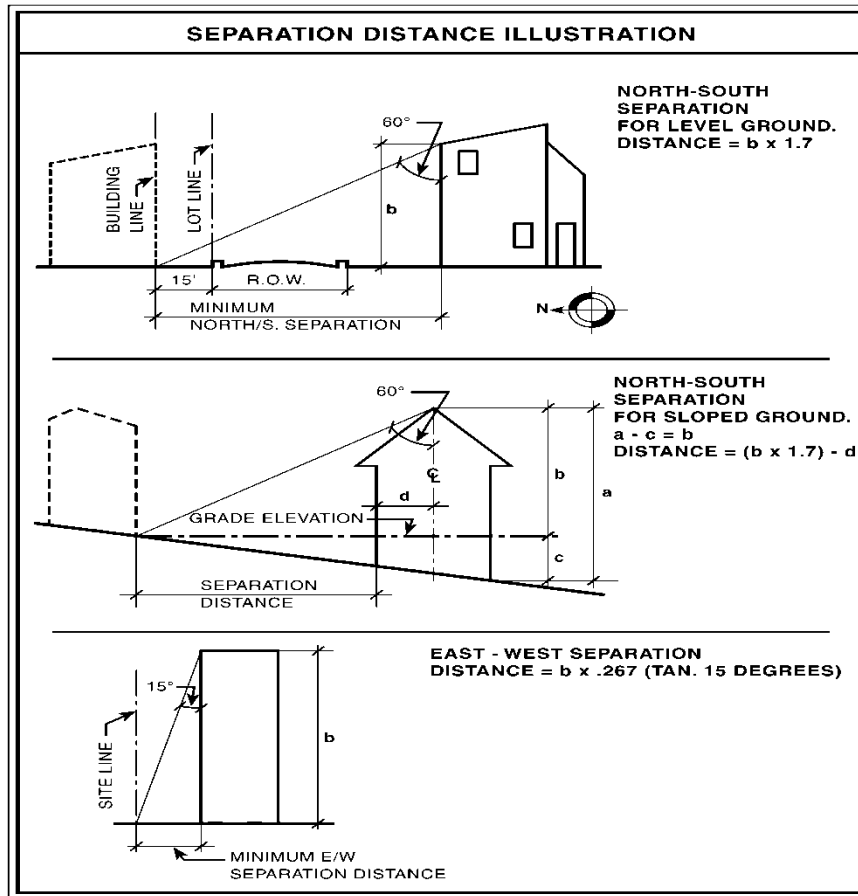
1. A private street used to meet the standards in Subsection 1005.02(G) must have raised walking surfaces on both sides, street trees, curbs, and pedestrian-scale street lighting, and must connect at both ends to an existing or proposed street.
 2. If a development has frontage on more than one major transit street, this orientation requirement needs to be met on only one side.
 3. The public entrance orientation requirement does not apply to warehouses or industrial buildings with less than 5,000 square feet of attached offices.
- H. New retail, office, mixed use, multifamily, and institutional buildings located at a major transit stop shall be set back a maximum of 20 feet from at least one of the following: the major transit stop, the major transit street or an intersecting street, or a pedestrian plaza at the major transit stop or a street intersection.
1. For the purpose of Subsection 1005.02(H), a building is located at a major transit stop, if:
 - a. The building is located on a lot that has frontage on the major transit street or an intersecting street; and
 - b. Any portion of the building is within a 200-foot radius of the major transit stop.
 2. Lawfully established buildings that do not comply with the maximum setback standard may have additional height added as an expansion without being brought into conformance with the standard.
 3. The maximum setback standard does not apply to warehouses or industrial buildings with less than 5,000 square feet of attached offices.
- I. In the PMU District, there shall be no vehicular parking or circulation within the front setback area.
- J. In the OC District, the design and siting of structures shall control public access points into office buildings, utilizing a central lobby design, entrance courtyard, internal pedestrian walkway or mall, or similar designs that protect business/professional uses from the disturbances of direct public access.
- K. Where a minimum floor area ratio (FAR) is required by the standards of the applicable zoning district, it shall be calculated as follows:
1. Calculate the building floor area by determining the square footage of all buildings in the proposed development, including:
 - a. Gross floor area of all commercial structures (except parking structures), including storage and mechanical equipment;

- b. Square footage of commercial uses in a parking structure; and
 - c. Square footage of the footprint of a multifamily residential structure.
 - 2. Calculate the net site area by subtracting from the gross site area the following:
 - a. Right-of-way dedications;
 - b. Off-road (except sidewalks) trails, bikeways, or multi-purpose trails;
 - c. Stormwater detention facilities;
 - d. Design elements (plazas, greenways, transit stations, etc.);
 - e. Parks;
 - f. Civic spaces;
 - g. Stream buffers;
 - h. Wetlands; and
 - i. 100-year floodplain (undeveloped portion)
 - 3. Divide the building floor area by the net site area. The result is the FAR. For example, if the building floor area is 20,000 square feet and the net site area is 40,000 square feet, the FAR is 0.5.
- L. The following standards apply in the HDR, RCHDR, and SHD Districts:
- 1. The minimum distance on a north-south axis between any building and a site area line north of said building shall be the horizontal distance calculated by drawing a 60-degree angle line from the top of the structure to the natural ground elevation north of the structure. For purposes of this provision, the "top of the structure" shall be that part of projection of the structure which first intersects a 60-degree angle line projecting toward the ground north of the building. (See Figure 1005-0.) This provision shall be modified as follows:
 - a. Intervening streets and 15 feet of setback into the property on the north side of said street may be included in the required separation distance.
 - b. If an area on the adjacent site north of a proposed structure is developed or committed for use as a circulation drive or parking structure or lot, that area may be included in the required separation distance, provided no existing or proposed primary use structure on the adjacent site shall fall within the required separation distance.

- c. If the owner of the site area to the north grants a north-south separation easement, as provided under Subsection 1005.02(L)(2), that area may be included in the required separation distance.
- 2. An owner, or owners, of a site area may grant a north-south separation easement to the owner, or owners, of a site area to the south provided that:
 - a. Documentation and a map of the easement is submitted with the development plans for the site areas in question;
 - b. The development plans for the two or more site areas in question are coordinated to the maximum extent possible; and
 - c. Buildings are sited to minimize the loss of solar access to primary use structures. However, this provision shall not preclude or restrict the use or development of any north-south separation easement area.
- 3. The minimum distance on an east-west axis between any building and a site area line, except when abutting a public, County or state road, shall be the horizontal distance calculated by drawing a 15-degree angle line from the top of the structure to the natural ground elevation east and west of the structure. (See Figure 1005-0.)

Formula: Separation = $b \times .267 (\tan 15 \text{ degrees})$

- 4. The north-south and east-west separation distance requirements shall not preclude structurally connecting two or more buildings on separate site areas provided that the proposed connection is approved as part of the development plans for the affected site areas.

Figure 1005-0: Separation Distance Illustration

5. The standards of Subsection 1005.02(L) are not subject to modification pursuant to Section 904, *Height Exceptions*. However, these standards may be modified if the modification requested is necessary to allow development of primary uses at densities allowed for the site area.

1005.03 BUILDING DESIGN

- A. The following standards apply to building facades visible from a public or private street or accessway and to all building facades where the primary entrance is located.
 1. Building facades shall be developed with architectural relief, variety and visual interest and shall avoid the effect of a single, long or massive wall with no relation to human size. Examples of elements that subdivide the wall: change in plane, texture, masonry pattern or color, or windows.
 2. Building facades shall have particular architectural emphasis at entrances and along sidewalks and walkways.

3. Provide visual interest through use of articulation, placement and design of windows and entrances, building trim, detailing, ornamentation, planters, or modulating building masses.
4. Utilize human scale, and proportion and rhythm in the design and placement of architectural features.
5. Use architectural features which are consistent with the proposed use of the building, level and exposure to public view, exposure to natural elements, and ease of maintenance.
6. When uses between ground-level spaces and upper stories differ, provide differentiation through use of bays or balconies for upper stories, and awnings, canopies, trim, and other similar treatments for lower levels.

B. Requirements for building entries:

1. Public entries shall be clearly defined, highly visible, and sheltered with an overhang or other architectural feature, with a depth of at least four feet.
2. Commercial, mixed-use and institutional buildings sited to comply with 1005.02(E) shall have public entries that face streets and are open to the public during all business hours.

C. The street-facing facade of commercial, mixed-use and institutional buildings sited to comply with 1005.02(E) shall meet the following requirements:

1. Facades of buildings shall have transparent windows, display windows, entry areas, or arcades occupying a minimum of 60 percent of the first floor linear frontage.
2. Transparent windows shall occupy a minimum of 40 percent of the first floor linear frontage. Such windows shall be designed and placed for viewing access by pedestrians.
3. For large-format retail buildings greater than 50,000 square feet, features to enhance the pedestrian environment, other than transparent window, may be approved through design review. Such items may include, but are not limited to display cases, art, architectural features, wall articulation, landscaping, or seating, provided they are attractive to pedestrians, are built to human scale, and provide safety through informal surveillance.

D. Requirements for roof design:

1. For buildings with pitched roofs:
 - a. Eaves shall overhang at least 24 inches.

- b. Roof vents shall be placed on the roof plane opposite the primary street.
 - 2. For buildings, other than industrial buildings, with flat roofs or without visible roof surfaces, a cornice or other architectural treatment shall be used to provide visual interest at the top of the building.
- E. Requirements for exterior building materials:
- 1. Use architectural style, concepts, colors, materials, and other features that are compatible with the neighborhood's intended visual identity.
 - 2. Building materials shall be durable and consistent with the proposed use of the building, level and exposure to public view, exposure to natural elements, and ease of maintenance.
 - 3. Walls shall be surfaced with brick, tile, masonry, stucco, stone or synthetic equivalent, pre-cast masonry, gypsum reinforced fiber concrete, wood lap siding, architecturally treated concrete, glass, wood, metal, or a combination of these materials.
 - 4. The surfaces of metal exterior building materials that are subject to rust or corrosion shall be coated to inhibit such rust and corrosion, and the surfaces of metal exterior building materials with rust or corrosion shall be stabilized and coated to inhibit future rust and corrosion.
- F. Additional building design requirements for multifamily dwellings and middle housing, except middle housing developed pursuant to Section 845, Triplexes, Quadplexes, Townhouses, and Cottage Clusters:
- 1. Facades of buildings that are two or more stories in height shall have a minimum of one balcony or bay per four dwelling units.
 - 2. Windows shall be frequent and coordinate with bays and balconies.
 - 3. Where feasible, place the buildings to minimize the potential of windows facing directly toward primary living areas of other dwelling units.
 - 4. For buildings that are one or two stories in height, roofs shall be hipped, gambrel, or gabled to provide visual interest. Flat roofs shall be allowed in areas of these buildings where mechanical equipment is mounted or where they are used for roof gardens or other outdoor activities.
 - 5. For multifamily developments, convenient areas shall be provided for storage of articles such as bicycles, barbecues, and outdoor furniture. These areas shall be completely enclosed and easily accessible to respective dwelling units.

G. Requirements to increase safety and surveillance:

1. Locate buildings and windows to maximize potential for surveillance of entryways, walkways, and parking, recreation, and laundry areas.
2. Provide adequate lighting for entryways, walkways, and parking, recreation, and laundry areas.
3. Locate parking and automobile circulation areas to permit easy police patrol.
4. Design landscaping to allow for surveillance opportunities.
5. Locate mail boxes where they are easily visible and accessible.
6. Limit fences, walls and, except for trees, landscaping between a parking lot and a street to a maximum of 30 inches in height.
7. Locate play areas for clear parental monitoring.

H. Solar access requirements:

1. Except for uses with greater cooling needs than heating needs, such as many retail uses, concentrate window areas on the south side of buildings (within 20 degrees of due south) where there is good southern exposure.
2. Provide overhangs, balconies, or other shading devices to prevent excessive summer heat gains.
3. Use architectural features, shape of buildings, fences, natural landforms, berms, and vegetation to catch and direct summer breezes for natural cooling, and minimize effects of winter winds.

I. Requirements for compatibility with the intent of the design type or with the surrounding area. For purposes of Subsection 1005.03(I), design types are Centers, Station Communities or Corridor Streets as identified on Comprehensive Plan Map IV-8, *Urban Growth Concept*; X-CRC-1, *Clackamas Regional Center Area Design Plan, Regional Center, Corridors and Station Community*; X-SC-1, *Sunnyside Corridor Community Plan, Community Plan Area and Corridor Design Type Location*; or X-MC-1, *McLoughlin Corridor Design Plan, Design Plan Area*. The intent of these design types is stated in Chapter 4 or 10 of the Comprehensive Plan.

1. Use shapes, colors, materials, textures, lines, and other architectural design features that enhance the design type area and complement the surrounding area and development.

2. Use colors, materials, and scale, as appropriate, to visually connect building exteriors to adjoining civic/public spaces such as gateways, parks, plazas, and transit stations.
 3. Use building orientation and physical design, including setbacks and modulations, to ensure a development is compatible with other activities onsite, nearby properties, intended uses, and the intent of the design type.
 4. Orient loading and delivery areas and other major service activity areas of the proposed project away from existing dwellings. Loading areas shall be located to the side or rear of buildings unless topography, natural features, rail service, or other requirements of this Ordinance dictate loading bays to the front of buildings.
 5. In industrial zoning districts, site areas used for vehicular operations, outdoor storage, and outdoor processing to minimize the impacts on adjacent dissimilar uses.
 6. Inside the Portland Metropolitan Urban Growth Boundary, use colors, materials and architectural designs to visually reduce the impact of large buildings.
 7. In unincorporated communities, design structures to reflect and enhance the local character and to be in scale with surrounding development.
 8. In rural and natural resource areas, use materials, colors and shapes that imitate or complement those in the surrounding areas, such as those used in typical farm structures.
 9. In open space or scenic areas, use natural color tones, lines, and materials which blend with the natural features of the site or site background.
- J. Requirements for screening mechanical equipment:
1. Rooftop mechanical equipment, except for solar energy systems, shall be screened from view by the use of parapet walls or a sight-obscuring enclosure around the equipment. The screen shall be constructed of one of the primary materials used on the primary facades, and shall be an integral part of the building's architectural design.
 2. Ground mounted mechanical equipment shall be located away from the intersection of two public streets, to the extent practicable, and shall be screened by ornamental fences, screening enclosures, or landscaping that blocks at least 80 percent of the view.

3. Wall mounted mechanical equipment shall not be placed on the front of a building or on a facade that faces a street. Wall mounted mechanical equipment that extends six inches or more from the outer building wall shall be screened from view from the streets; from residential, public, and institutional properties; and from public areas of the site or adjacent sites through one of the screening techniques used in Subsection 1005.03(J)(1) or (2).

K. Requirements for specialized structures in industrial zoning districts:

1. In the BP, LI, and GI Districts, silos, towers, and other specialized storage or processing structures are permitted if:

a. They are enclosed in a building that complies with the other applicable standards of Subsection 1005.03;

b. They are approved as part of a conditional use; or

c. They are:

i. Less than 12 feet in height;

ii. Located behind the building, to the rear of the site, and not adjacent to front lot lines; and

iii. Screened from adjacent properties with a sight-obscuring fence a minimum of six feet in height.

21. In the GI District, silos, towers, and other specialized storage or processing structures that do not comply with Subsection 1005.03(K)(1) are permitted as part of a primary use ~~only if such structures are enclosed in a building that complies with the other applicable standards of Subsection 1005.03, or~~ if such structures have the following characteristics:

- a. Provide windows and canopies, awnings, wood or masonry siding, or other exterior treatment to highlight accessory office areas within the same building, when applicable;
- b. Use exterior colors which blend with the landscape, such as brown, green, tan, or, in the case of tall structures, such as silos or towers, use light colors that blend with the sky; and
- c. Do not use bright colors, white, or multiple colors, except as specifically approved pursuant to Section 1102, Design Review, for trim, accents, or to provide visual interest to equipment or structures that are unique to the particular use.

~~2. In the BP and LI Districts, silos, towers, and other specialized storage or processing structures are prohibited unless they are enclosed in a building that complies with the other applicable standards of Subsection 1005.03, or unless they are approved as part of a conditional use.~~

L. Facades in the OA District: In the OA District, facades are subject to the following standards:

1. Building facades facing public streets shall be designed with windows and entries or bays. Sides or rears of buildings shall not consist of an undifferentiated wall when facing a public street, accessway, or a residential area.
2. Arcades are encouraged along public street rights-of-way or along walkways within the complex of buildings.
3. Consistent design elements shall be used throughout the office area to ensure that the entire complex is visually and functionally unified.

1005.04 OUTDOOR LIGHTING

A. Outdoor lighting devices:

1. Shall be architecturally integrated with the character of the associated structures, site design, and landscape.
2. Shall not direct light skyward.
3. Shall direct downward and shield light; or direct light specifically toward walls, landscape elements, or other similar features, so that light is directed within the boundaries of the subject property;
4. Shall be suitable for the use they serve (e.g. bollard lights along walkways, pole mounted lights for parking lots);
5. Shall be compatible with the scale and intensity of uses they are serving. The height of pole-mounted fixtures shall not exceed 25 feet or the height of the tallest structure onsite, whichever is less; and
6. At entrances, shall be glare-free. Entrance lighting may not exceed a height of 12 feet and must be directed downward.

B. The following are exempt from Subsection 1005.04(A):

1. Temporary lights used for holiday decorations;
2. Street lights regulated in Section 1006, *Utilities, Street Lights, Water Supply, Sewage Disposal, Surface Water Management, and Erosion Control*; and

3. Lighting associated with outdoor recreation uses such as ball fields or tennis courts.

1005.05 ADDITIONAL REQUIREMENTS

Development shall comply with a minimum of one of the following techniques per 20,000 square feet of site area. Regardless of site size, a minimum of one and a maximum of five techniques are required. Partial site area numbers shall be rounded.

- A. Install a solar energy system in the development.
- B. Use passive solar heating or cooling techniques to reduce energy consumption.
Examples of techniques:
 1. Modulate building masses to maximize solar access.
 2. For developments with more than one structure, locate taller structures to minimize negative impacts on solar access for the development site and adjacent sites.
 3. Locate buildings to maximize windbreaks.
 4. Locate structures and landscaping to avoid winter shading on the south side and optimize summer shading on the west and southwest sides of buildings.
 5. Utilize deciduous trees to provide summer shade and allow winter sun.
 6. Utilize deciduous vines on fences, trellises, and arbors to provide summer shade.
 7. Locate and form berms to protect buildings and exterior use spaces against winter winds or utilize dense evergreens or conifers to screen winter wind and protect against hostile winter elements.
 8. Provide skylights or clerestory windows to provide natural lighting, and/or solar heating of interior spaces.
- C. Use highly reflective (high albedo) materials on roof surfaces.
- D. Place major outdoor use areas such as plazas, playgrounds, gardens, etc. on the south side of buildings.
- E. Construct a minimum of 75 percent of walkway area of porous pavement.
- F. Construct a minimum of 75 percent of all parking spaces with porous pavement.
- G. Provide additional landscaping area at least 10 percent above the requirement for the site pursuant to Table 1009-1, *Minimum Landscaped Area*. For example, if the minimum area requirement is 20 percent, then 22 percent shall be provided.

Credit shall be given for green roofs or other areas of vegetation that exceed the minimum area requirements.

- H. Include additional swales in development landscaping, pursuant to Section 1009, *Landscaping*. Credit shall be given for additional swale(s) that exceed the requirements of Subsection 1009.0403(A)(2) by at least 10 percent of area. For example, if 1009.04(A)(2) requires 200 square feet of swale area, then an additional 20 square feet of swale area would be required.
- I. Collect rainwater from roofs and/or other impervious surfaces and use it for irrigation.
- J. Apply other techniques for onsite storm water treatment identified by the surface water management regulatory authority.
- K. Lay out sites and locate buildings and on-site vehicular circulation to create functional open areas such as plazas, courtyards, outdoor recreation areas, mini-parks, and accessways that are open to the general public.
- L. Enhance sidewalks and/or walkways by providing additional width, using higher quality materials; shielding from vehicular traffic with enhanced planting strips, street trees and on-street parking, and/or providing pedestrian amenities that are compatible with the design of the development as well as the neighborhood as a whole.
- M. Coordinate development between adjacent uses to provide for a more attractive and lively streetscape, enhance connections, minimize conflicts, and provide common-use areas.
- N. Enhance the pedestrian connection between the development and neighborhood shopping areas, nearby transit, trails, bikeways, or parks. Examples include additional width or pedestrian amenities.
- O. Provide functional and accessible rooftop gardens.
- P. For multifamily dwelling units that face the street, raise first floor units a minimum of two feet above street level.
- Q. Provide structured or under-structure parking to meet all or part of the parking need.
- R. Provide no more than the minimum number of surface parking spaces set out in Table 1015-1, *Automobile Parking Space Requirements*, or 1015-2, *Minimum Automobile Parking Space Requirements for Dwellings*, all of which shall be no greater than the minimum dimensions allowed in Subsection 1015.02(A)(2).
- S. Lay out sites or orient structures, to maximize significant vistas.

- T. Locate and design structures to protect scenic views or vistas from adjacent properties and public thoroughfares. Setbacks, building height, and bulk should be considered.
- U. Utilize rail service opportunities abutting the site.
- V. Inside the Portland Metropolitan Urban Growth Boundary (UGB), a minimum of 75 percent of the street frontage of the development site shall have buildings located at the minimum front setback line. If the minimum front setback standard is less than 20 feet, the front setback may be increased to a maximum of 20 feet provided pedestrian amenities are developed within the front setback area.
- W. Outside the UGB, or for industrial developments, a minimum of 25 percent of the street frontage of the development site shall have buildings located at the minimum front setback line. Up to 20 feet of additional front setback area may be provided where pedestrian amenities are located.
- X. Locate buildings at the minimum side setback line or within 10 feet of the side lot line, whichever is greater.

1005.06 MODIFICATIONS

Modification of any standard identified in Subsections 1005.02 and 1005.03 may be approved as part of design review if the proposed modification will result in a development that achieves the purposes stated in Subsection 1005.01 as well or better than the requirement listed.

1005.07 CLACKAMAS REGIONAL CENTER AREA DESIGN STANDARDS

Subsection 1005.07 applies in the Clackamas Regional Center Area, including the Regional Center and the Fuller Road Station Community, as identified on Comprehensive Plan Map X-CRC-1, *Clackamas Regional Center Area Design Plan Regional Center, Corridors, and Station Community*. Where these standards conflict with other provisions in Section 1000, Subsection 1005.07 shall take precedence.

- A. Clackamas Regional Center Area Design Plan: Development is subject to the Clackamas Regional Center Area Design Plan in Chapter 10 of the Comprehensive Plan.
- B. Urban Design Elements: New development is subject to the urban design elements shown on Comprehensive Plan Map X-CRC-3, *Clackamas Regional Center Area Design Plan Urban Design Elements*. The urban design elements are described in the Clackamas Regional Center Area Design Plan in Chapter 10 of the Comprehensive Plan.
 - 1. Urban design elements provided in a development may be used to reduce gross site area for calculating minimum density requirements in Subsection

1012.08, and to meet minimum landscaping requirements in Section 1009, *Landscaping*.

2. For phased development approved through a master plan, requirements for the urban design elements may be roughly proportional to the amount of the master planned approved development being developed in any one phase.
- C. Parking Structure Orientation: Entrances for ground-level retail uses in parking structures located within 20 feet of a street shall be oriented to a street.
- D. Corner Lot Buildings:
1. A corner lot is a lot, parcel, tax lot, or land area created by a lease agreement at the intersection of two streets.
 2. Buildings on street corners shall have corner entrances or other architectural features to enhance the pedestrian environment at the intersection.
 3. Development on lots at a Gateway intersection as shown on Comprehensive Plan Map X-CRC-3, and Comprehensive Plan Figure X-CRC-7, *Clackamas Regional Center Area Design Plan Gateway Intersection (Boulevard and Main Street)*, shall be designed to accommodate future Gateway improvements.
- E. Building Setbacks from Private Streets: Where a setback from a private street, as defined in Subsection 1005.07(G), is required by the standards of the applicable zoning district, the setback shall be measured from the back edge of the sidewalk.
- F. Parking Structures: If a parking structure, including understructure parking, abuts a street, appropriate features shall be provided to create a transition between the parking structure, or the entrance to understructure parking, and the abutting street. Examples of appropriate features include, but are not limited to, landscape planters and trellises, awnings, canopies, building ornamentation, and art. As used in Subsection 1005.07(F), a parking structure “abuts a street” if no other building is sited between the parking structure and the street.
- G. Private Streets: Private streets used to meet the structure orientation or setback standards shall include:
1. Sidewalks or raised walking surfaces on both sides;
 2. Curbs;
 3. Street trees, pursuant to Subsection 1007.06; and
 4. Pedestrian-scale lighting.

5. Private streets may also provide on-street parking and at-grade loading zones, as applicable.

H. Internal Streets:

1. Internal streets may be required to connect to adjacent properties to increase connectivity and provide grid patterns that allow for future development.
 2. Internal streets shall be designed to allow for future development when applicable.
 3. Development shall provide, when applicable, direct street and pedestrian connections between developments and schools, parks, open space, shopping areas, employment areas, and transit stops.
- I. New development shall not be sited such that it precludes the construction of the new walkways, or eliminates the existing walkways, that are shown on Comprehensive Plan Map X-CRC-7a, *Clackamas Regional Center Area Design Plan Walkway Network*, or identified in the *Clackamas Regional Center Pedestrian/Bicycle Plan* adopted by reference in Appendix A of the Comprehensive Plan, unless an alternative walkway location that provides a similar connection is established. An alternative walkway location shall not be deemed “similar” to a planned or existing location unless:
1. It provides comparably safe, direct, and convenient pedestrian access to significant destinations, such as transit facilities, major employers, multifamily dwelling complexes, and retail and service establishments; and
 2. It fulfills a comparable function in terms of filling gaps in the pedestrian circulation system planned for the Clackamas Regional Center Area.

1005.08 REGIONAL CENTER DESIGN STANDARDS

Subsection 1005.08 applies in the Regional Center, as identified on Comprehensive Plan Map X-CRC-1, *Clackamas Regional Center Area Design Plan Regional Center, Corridors, and Station Community*. Where these standards conflict with other provisions in Section 1000, Subsection 1005.08 shall take precedence.

- A. Freestanding parking structures located within 20 feet of pedestrian facilities, including public or private streets, pedestrian ways, greenways, a transit station or shelter, or plaza, shall provide a quality pedestrian environment on the facade facing the pedestrian facility. Techniques to use may include:
1. Provide retail or office uses on the ground floor of the parking structure facing the pedestrian facility;

2. Provide architectural features that enhance the first floor of the parking structure adjacent to the pedestrian facility, such as building articulation, awnings, canopies, building ornamentation, and art; and
 3. Provide pedestrian amenities in the transition area between the parking structure and pedestrian facility, including landscaping, trellises, seating areas, kiosks, water features with seating, plazas, outdoor eating areas, and drinking fountains.
- B. New buildings shall have at least one public entrance oriented to a street. Private streets used to meet this standard shall include the elements identified in Subsection 1005.07(G).
- C. Pedestrian amenities are required between the building and the front lot line. The following guidelines apply to pedestrian amenities used to meet this requirement:
1. Pedestrian areas include plazas, courtyards, outdoor seating areas for restaurants, pocket parks, and atriums when there is direct access for pedestrians. Pedestrian areas in front of buildings should be visible from the street.
 2. Pedestrian areas must include landscape planters and at least two of the following amenities for every 100 square feet of pedestrian area: lawn areas with trees and seating; awnings or other weather protection; kiosks; outdoor eating areas with seating; water features with seating; and drinking fountains.
- D. In the RCHDR District, pedestrian amenities are required in the front setback area, except landscaping for privacy may also be provided as an option in the setback area for residential buildings.
- E. Internal streets and driveways are prohibited between buildings and the street to which building entrances are oriented.

1005.09 FULLER ROAD STATION COMMUNITY DIMENSIONAL AND DESIGN STANDARDS

Subsection 1005.09 applies in the Fuller Road Station Community, as shown on Comprehensive Plan Map X-CRC-1, *Clackamas Regional Center Area Design Plan Regional Center, Corridors and Station Community*. Where these standards conflict with other provisions in Section 1000, Subsection 1005.09 shall take precedence. If the text of Subsection 1005.09 is unclear as applied to a specific development, Figures 1005-1 through 1005-11, as applicable, may be used to resolve the ambiguity.

- A. Subsections 1005.09(B) through (M) do not apply in Sectors 1 and 2, as shown on Map 1005-1, until:
1. One or more additional stories are to be added to one or more existing buildings that are more than 150 feet from 82nd Avenue in either Sector 1 or

Sector 2. For the purpose of this provision, a mezzanine shall not be considered an additional story; or

2. More than 40,000 square feet of new building area is to be developed in either Sector 1 or Sector 2.
 - a. The tally of new square footage will be cumulative starting with new development after March 7, 2011.
 - b. If an existing building is expanded, the square footage of the new building outside the existing building footprint will be counted toward the total of 40,000 square feet.
 - c. If a mezzanine is added inside an existing building, the square footage of the mezzanine will be counted toward the total of 40,000 square feet.
 - d. If one or more stories are added to a building 150 feet or less from 82nd Avenue, as allowed by Subsection 1005.09(A)(1), the additional square footage will be counted toward the total of 40,000 square feet.
 - e. If a building is damaged or destroyed, regardless of the cause, and the building is restored or replaced, the square footage of the restored or new building that is constructed inside the previous building footprint will not be counted toward the total of 40,000 square feet, provided that restoration or replacement lawfully commences within three years of the occurrence of the damage or destruction. "Lawfully commenced" shall have the meaning given in Subsection 1206.03(B). However, if the new building has more stories than the previous building, Subsections 1005.09(B) through (M) will become applicable, if required pursuant to Subsection 1005.09(A)(1).
3. Subsections 1005.09(A)(1) and (2) apply separately to Sectors 1 and 2, meaning that compliance with Subsections 1005.09(B) through (M) will not be required in Sector 1 or 2 until that particular sector exceeds the development threshold established by Subsection 1005.09(A)(1) or (2).
4. Prior to the point at which Subsections 1005.09(B) through (M) become applicable, new development in Sectors 1 and 2 shall not be sited such that it:
 - a. Precludes establishment of the "conceptual street grid" identified on Map 1005-2, or eliminates or reduces existing elements of that grid. All streets shown on the grid are planned to be Type D.; or
 - b. Precludes establishment of a connection, with a Type D street cross section, between a signalized intersection at 82nd Avenue and a point on Fuller Road within the "access area" shown on Map 1005-2.

- B. Minimum Building Height: 20 feet, measured to top of parapet or roof.
- C. Minimum Side and Rear Setbacks: Five feet, except a zero setback is allowed for attached structures. (See Figure 1005-1.)
- D. Maximum Driveway Width: The maximum width of a curb cut for a driveway is 24 feet (not including sidewalks or landscaping) unless otherwise required by the Clackamas County Roadway Standards or applicable fire district. (See Figure 1005-1.)
- E. Regulating Plan: Map 1005-1 is the regulating plan for the Fuller Road Station Community. It identifies each existing or planned street in the Fuller Road Station Community as one of four street types: Type A, B, C, or D. As established by Subsections 1005.1009(G) and (L), the building frontage and landscape screening regulations for the Fuller Road Station Community are applied by street type and are thereby “keyed” to the regulating plan.
- F. Streets: Street improvements are required as follows:
 - 1. Except as set forth in Subsection 1005.09(F)(3), the locations of required new streets are shown on Map 1005-1, or will be determined pursuant to Subsection 1005.09(F)(2). New streets shown on Map 1005-1 are intended to create blocks with a perimeter no greater than 2,200 feet. Exact location of these new streets may vary up to 50 feet, provided the maximum block perimeter standard is met and provided that the new streets create the connections/intersections shown on Map 1005-1.
 - 2. In addition to the mapped streets (existing and new) illustrated on Map 1005-1, a through-block connection is required for any block face longer than 450 feet. (See Figure 1005-2.)
 - a. “Block face” means the curb to curb distance between any two streets, including Type E pedestrian/bicycle connections.
 - b. These additional connections shall:
 - i. Have a Type D street cross section or a Type E pedestrian/bicycle connection cross section;
 - ii. Be located no closer than 100 feet to an adjacent street intersection, whether existing or planned; and
 - iii. Align with other existing or planned streets or Type E pedestrian/bicycle connections where possible.
 - 3. Subsections 1005.09(F)(1) and (2) do not apply in Sectors 1 and 2 shown on Map 1005-1. Instead, compliance with either Subsection 1005.09(F)(3)(a) or Subsections 1005.09(F)(3)(b) and(c) is required.

- a. Development shall not occur until a connection with a Type D street cross section is constructed between a signalized intersection at 82nd Avenue and a point on Fuller Road within the “access area” shown on Map 1005-2. In addition:
 - i. New development shall not be sited such that establishment of the “conceptual street grid” identified on Map 1005-2 is precluded, or existing elements of that grid are eliminated or reduced. All streets shown on the grid are planned to be Type D.
 - ii. New development is required to complete frontage improvements for all streets upon which it has street frontage, as necessary to achieve consistency with Subsection 1005.09(F)(4).
- b. In lieu of compliance with Subsection 1005.09(F)(3)(a), development shall not occur until an alternative connectivity plan is approved for Sectors 1 and 2 shown on Map 1005-1. This connectivity plan shall:
 - i. Connect the on-site transportation system to the existing and planned facilities shown on Map 1005-1;
 - ii. Provide pedestrian, bicycle, and motor vehicle circulation that meets the needs of future residents and visitors;
 - iii. Emphasize pedestrian mobility and accessibility, demonstrating an effective and convenient system of pedestrian walkways leading through the subject site;
 - iv. Provide for bicycle connections and efficient motor vehicle movements through the site;
 - v. Except where precluded by existing development, existing interests in real property, natural features, or topography, provide for block faces that do not exceed 450 feet between any two streets;
 - vi. Include a minimum of three street connections to 82nd Avenue and a minimum of two street connections to Fuller Road. These connections must be Type D streets, and one must connect to Fuller Road within the “access area” shown on Map 1005-2;
 - vii. Include a phasing plan for completion of the connectivity plan based on the submitted development application or conceptual future development, as appropriate. This phasing plan shall ensure that at no point is the overall connectivity in Sectors 1 and 2 reduced and that at least one connection from 82nd Avenue to Fuller Road is constructed to a Type D street cross section in conjunction with the first phase of new development; and

- viii. Comply with the Clackamas County Roadway Standards and the requirements of the Oregon Department of Transportation, as applicable.
- c. Once an alternative connectivity plan is approved:
 - i. New development shall not be sited such that establishment of the connections identified on the connectivity plan are precluded, or existing elements of that plan are eliminated or reduced.
 - ii. New development shall not occur until at least one connection from 82nd Avenue to Fuller Road is constructed to a Type D street cross section. The other connections required by the connectivity plan shall be constructed in a manner consistent with the approved phasing plan. However, at a minimum, if an existing connection is removed as allowed by the connectivity plan, a new connection that provides at least the same degree of connectivity shall be constructed.
 - iii. New development is required to complete frontage improvements for all streets upon which it has street frontage, as necessary to achieve consistency with Subsection 1005.09(F)(4). Frontage shall be determined based on the approved connectivity plan.
- 4. Streets and Type E pedestrian/bicycle connections shall be designed in conformance with the design standards shown in Comprehensive Plan Figures X-CRC-8 through X-CRC-11, unless an alternative design is required pursuant to the Clackamas County Roadway Standards or to accommodate fire access, necessary truck circulation, or other engineering factors. An alternative design shall not change the designated street type for purposes of applying the building frontage and landscape screening regulations. Cross section designs for SE Johnson Creek Boulevard and SE 82nd Avenue shall be determined by Clackamas County and the Oregon Department of Transportation.
- G. Building Frontage Types: Four building frontage types are established, each of which is allowed on one or more of the four street types allowed in the Fuller Road Station Community. Subsection 1005.09(G) applies to existing or future Type A, B, C, and D streets, regardless of whether they are shown on Map 1005-1. Table 1005-1 establishes which building frontage types are permitted on each street type. Figure 1005-3 summarizes the four building frontage types.

Table 1005-1: Permitted Building Frontage Type by Street Type

Permitted Building Frontage Type:	Street Type:
Landscape	A Street
Linear	A, B, C, and D Streets
Forecourt	A, B, C, and D Streets
Porch/Stoop/Terrace	B, C, and D Streets

1. Buildings, except parking structures, located wholly or partially within 40 feet of a Type A, B, C, or D street are required to comply with the standards for a building frontage type permitted on the applicable street type.
2. The entire length of street frontage designated on Map 1005-1 as “building frontage required,” or “required retail opportunity area,” excluding walkway cuts with a maximum width of eight feet and driveway cuts, shall be developed with one or more buildings that comply with the standards of a building frontage type permitted on the abutting street type.
 - a. Except along Otty Road, where the building frontage requirement extends the entire length of the street, the “building frontage required” designation extends a distance of 60 feet from the street intersection, and the “required retail opportunity area” designation extends a distance of 100 feet from the street intersection. The beginning point for measurement is the outside edge of the right-of-way, or in the case of a private street, the outside edge of the improved street surface, including any landscape strip or sidewalk.
3. A minimum of 50 percent of the length of street frontage not designated as “building frontage required” or “required retail opportunity area” shall be developed with one or more buildings that comply with the standards of a building frontage type permitted on the abutting street type. The 50-percent building frontage requirement is calculated for each lot individually, rather than in the aggregate for an entire street.
 - a. If part of the street frontage is designated as “building frontage required” or “required retail opportunity area,” buildings developed pursuant to Subsection 1005.09(G)(2) may be counted toward meeting the 50-percent requirement for the entire street frontage.
4. If a lot has street frontage on more than one street:

- a. Compliance with Subsection 1005.09(G)(2) is required for all street frontage designated as “building frontage required” or “required retail opportunity area.”
 - b. Compliance with Subsection 1005.09(G)(3) is required for only one street frontage, unless one of the frontages is on Otty Road, in which case compliance with Subsection 1005.09(G)(3) is not required.
5. Lots developed solely with parks and open space uses are exempt from Subsection 1005.09(G)(2) and (3).
- H. Landscape Building Frontage Type: Landscape Building Frontage, which is permitted on Type A Streets, shall comply with the following standards (see Figure 1005-4):
- 1. Front Setback: The street-facing facade of the building shall be set back a minimum of 10 feet and a maximum of 15 feet.
 - a. If it is not possible for a development to comply with the maximum setback standard and the intersection sight distance and roadside clear zone standards of the County Roadway Standards, the setback may be increased to the minimum extent necessary.
 - b. The front setback area shall be landscaped with plants, or paved with masonry pavers or stamped concrete.
 - c. No parking, storage, or display of motorized vehicles or equipment is allowed in the front setback area.
 - d. Building service and utility equipment and outdoor storage of garbage or recycling is not permitted along the street-facing building facade or in the front setback area, except:
 - i. Garbage and recycling receptacles for public use are permitted, provided that they do not exceed 35 gallons in size and are clad in stone or dark-colored metal.
 - e. Fences: Fences and walls are permitted in the front setback area, subject to the following standards:
 - i. The fence or wall shall be a maximum of three feet high.
 - ii. A fence shall be wrought iron, steel, or a similar metal and shall be dark in color. Chain-link fences are prohibited.
 - iii. A wall shall be wood, masonry, concrete, or a combination thereof.

- iv. A fence shall be a minimum of 20 percent transparent. The transparent portions of the fence shall be distributed along the length of the fence in a recognizable pattern (e.g., two-inch gaps alternating with eight-inch solid sections).
- 2. Minimum Ground Floor Height: The ground floor of the building shall measure a minimum of 15 feet from floor to ceiling.
- 3. Minimum Building Depth: Buildings shall be a minimum of 40 feet deep.
- 4. Building Entrances: Building entrances shall either be covered by an awning or canopy, or be covered by being recessed behind the front building facade. If an awning or canopy is provided, it shall have a minimum vertical clearance of eight feet and a maximum vertical clearance of 13 ½ feet. If only a recessed entry is provided, it shall be recessed behind the front facade a minimum of three feet.
- 5. Primary Building Entrances: Each building shall have at least one building entrance that faces the street and is directly connected to a public sidewalk by a walkway that is a minimum of five feet wide.
 - a. If the entrance serves a business (other than a home occupation), the entrance must be open to the public during regular business hours.
 - b. If a fence or wall is within the front setback area as provided in Subsection 1005.09(H)(1)(e), a pedestrian opening a minimum of five feet wide shall be provided for the walkway.
- 6. Windows: Transparent ground-floor windows shall be provided along a minimum of 60 percent of the ground-floor, street-facing facade area.
- 7. Building Materials: Exterior building materials and finishes shall be masonry, architecturally treated tilt-up concrete, glass, wood, stucco, metal, or a combination of these materials. The surfaces of metal exterior building materials that are subject to rust or corrosion shall be coated to inhibit such rust and corrosion, and the surfaces of metal exterior building materials with rust or corrosion shall be stabilized and coated to inhibit future rust and corrosion..
- I. Linear Building Frontage Type: Linear Building Frontage, which is permitted on all street types, shall comply with the following standards (see Figure 1005-5):
 - 1. Front Setback: The street-facing facade of the building shall be set back a maximum of five feet. There is no minimum front setback.
 - a. If it is not possible for a development to comply with the maximum setback standard and the intersection sight distance and roadside clear

zone standards of the County Roadway Standards, the setback may be increased to the minimum extent necessary.

- b. The front setback area, if any, shall be landscaped with plants, or paved with masonry pavers or stamped concrete.
 - c. No parking, storage, or display of motorized vehicles or equipment is allowed in the front setback area.
 - d. Building service and utility equipment and outdoor storage of garbage or recycling is not permitted along the street-facing building facade or in the front setback area, except:
 - i. Garbage and recycling receptacles for public use are permitted, provided that they do not exceed 35 gallons in size and are clad in stone or dark-colored metal.
 - e. Fences: Fences and walls are permitted in the front setback area, subject to the following standards:
 - i. The fence or wall shall be a maximum of three feet high.
 - ii. A fence shall be wrought iron, steel, or a similar metal and shall be dark in color. Chain-link fences are prohibited.
 - iii. A wall shall be wood, masonry, concrete, or a combination thereof.
 - iv. A fence shall be a minimum of 20 percent transparent. The transparent portions of the fence shall be distributed along the length of the fence in a recognizable pattern (e.g., two-inch gaps alternating with eight-inch solid sections).
2. Minimum Ground Floor Height: The ground floor of the building shall measure a minimum of 15 feet from floor to ceiling, except when the building is designed to accommodate residential uses, in which case the minimum floor-to-floor height shall be 12 feet.
3. Ground Floor Construction Type: In areas designated “required retail opportunity area” on Map 1005-1, the ground floor construction type shall meet at least the minimum requirements for a commercial use, as set forth in the current edition of the Oregon Structural Specialty Code.
4. Minimum Building Depth: In areas designated “required retail opportunity area” on Map 1005-1, buildings shall be a minimum of 40 feet deep.
5. Weather Protection: Awnings or canopies shall be provided for a minimum of 50 percent of the linear distance of the street-facing building facade and shall comply with the following:

- a. Awnings and canopies shall project a minimum of five feet and a maximum of eight feet over the sidewalk.
 - b. Awnings and canopies shall have a minimum vertical clearance of eight feet and a maximum vertical clearance of 13 ½ feet.
6. Building Entrances: Building entrances shall either be covered by an awning or canopy, or be covered by being recessed behind the front building facade. If an awning or canopy is provided, it shall have a minimum vertical clearance of 8 feet and a maximum vertical clearance of 13 ½ feet. If only a recessed entry is provided, it shall be recessed behind the front facade a minimum of three feet.
7. Primary Building Entrances: Primary building entrances shall face the street and be a minimum of 40 percent transparent. The minimum amount of transparency is measured as a percentage of the total area of the entrance.
- a. Primary building entrances shall open onto an abutting public sidewalk, or be directly connected to a public sidewalk by a walkway that is a minimum of five feet wide.
 - b. If the entrance serves a business (other than a home occupation), the entrance must be open to the public during regular business hours.
 - c. If a fence or wall is within the front setback as provided in Subsection 1005.09(I)(1)(e), a pedestrian opening a minimum of five feet wide shall be provided for the walkway.
8. Windows: Transparent ground-floor windows shall be provided along a minimum of 60 percent of the ground-floor, street-facing facade area.
9. Building Materials: Exterior building materials and finishes shall be masonry, architecturally treated tilt-up concrete, glass, wood, stucco, metal, or a combination of these materials. The surfaces of metal exterior building materials that are subject to rust or corrosion shall be coated to inhibit such rust and corrosion, and the surfaces of metal exterior building materials with rust or corrosion shall be stabilized and coated to inhibit future rust and corrosion.
- J. Forecourt Building Frontage Type: Forecourt Building Frontage, which is permitted on all street types, shall comply with the following standards (see Figure 1005-6):
- 1. Front Setback: The street-facing facade of the building shall be set back a maximum of five feet. There is no minimum front setback. Except for the portion of the facade located behind a recessed courtyard, as required by Subsection 1005.09(J)(2), the street-facing facade of the building shall be built to the chosen setback line.

- a. If it is not possible for a development to comply with the maximum setback standard and the intersection sight distance and roadside clear zone standards of the County Roadway Standards, the setback may be increased to the minimum extent necessary.
 - b. No parking, storage, or display of motorized vehicles or equipment is allowed in the front setback area or in the required courtyard. Bicycle parking may be permitted in the courtyard, subject to compliance with Section 1015, *Parking and Loading*.
 - c. Building service and utility equipment and outdoor storage of garbage or recycling is not permitted along the street-facing building facade, in the front setback area, or in the required courtyard, except:
 - i. Garbage and recycling receptacles for public use are permitted, provided that they do not exceed 35 gallons in size and are clad in stone or dark-colored metal.
2. Courtyard: A recessed courtyard is required and shall comply with the following standards:
 - a. The courtyard shall be set back from the street-facing building facade a minimum of 10 feet and a maximum of 30 feet.
 - b. The courtyard shall not be covered.
 - c. The courtyard shall be landscaped with plants, or paved with masonry pavers or stamped concrete.
 - d. The courtyard shall span a minimum of 20 feet along the street-facing building facade and a maximum of 50 percent of the street-facing building facade. As a result, the building must have a street-facing building facade of at least 40 feet wide.
3. Incorporation of Linear Building Frontage Type: The street facing-building facade not located behind a recessed courtyard shall comply with the standards for the Linear Building Frontage Type in Subsection 1005.09(I).
4. Minimum Ground Floor Height: The ground floor of the building shall measure a minimum of 15 feet from floor to ceiling, except when the building is designed to accommodate residential uses, in which case the minimum floor-to-floor height shall be 12 feet.
5. Ground Floor Construction Type: In areas designated “required retail opportunity area” on Map 1005-1, the ground floor construction type shall meet at least the minimum requirements for a commercial use, as set forth in the current edition of the Oregon Structural Specialty Code.

6. Primary Building Entrances: Primary building entrances shall face the street or the courtyard and be a minimum of 40 percent transparent. The minimum amount of transparency is measured as a percentage of the total area of the entrance.
 - a. Primary building entrances facing the street shall open onto an abutting public sidewalk, or be directly connected to a public sidewalk by a walkway that is a minimum of five feet wide.
 - b. If the entrance serves a business (other than a home occupation), the entrance must be open to the public during regular business hours.
7. Windows: Transparent ground-floor windows shall be provided along a minimum of 50 percent of the ground-floor, courtyard-facing facade area. See the Linear Building Frontage Type for window requirements for the street-facing facade.
8. Building Materials: Exterior building materials and finishes shall be high-image, such as masonry, architecturally treated tilt-up concrete, glass, wood, stucco, metal, or a combination of these materials. The surfaces of metal exterior building materials that are subject to rust or corrosion shall be coated to inhibit such rust and corrosion, and the surfaces of metal exterior building materials with rust or corrosion shall be stabilized and coated to inhibit future rust and corrosion.
9. Fences: Fences and walls are permitted in the courtyard setback area, subject to the following standards:
 - a. The fence or wall shall be a maximum of three feet high.
 - b. A fence shall be wrought iron, steel, or a similar metal and shall be dark in color. Chain-link fences are prohibited.
 - c. A wall shall be wood, masonry, concrete, or a combination thereof.
 - d. A fence shall be a minimum of 20 percent transparent. The transparent portions of the fence shall be distributed along the length of the fence in a recognizable pattern (e.g., two-inch gaps alternating with eight-inch solid sections).
 - e. A minimum of one pedestrian opening per courtyard street frontage shall be provided in the fence or wall. Required pedestrian openings shall be a minimum of five feet wide.
- K. Porch/Stoop/Terrace Building Frontage Type: Porch/Stoop/Terrace Building Frontage, which is permitted on Type B, C, and D Streets, shall comply with the following standards (see Figure 1005-7):

1. Front Setback: The street-facing facade of the building shall be set back a minimum of five feet and a maximum of 15 feet. Entry thresholds, including roofs over the thresholds and steps to the thresholds, may extend to the front property line.
 - a. If it is not possible for a development to comply with the maximum setback standard and the intersection sight distance and roadside clear zone standards of the County Roadway Standards, the setback may be increased to the minimum extent necessary.
 - b. The front setback area shall be landscaped with plants. Hardscaping is permitted only to provide access to the threshold and shall consist of masonry pavers or concrete.
 - c. No parking, storage, or display of motorized vehicles or equipment is allowed in the front setback area.
 - d. Building service and utility equipment and outdoor storage of garbage or recycling is not permitted along the street-facing building facade or in the front setback area, except:
 - i. Garbage and recycling receptacles for public use are permitted, provided that they do not exceed 35 gallons in size and are clad in stone or dark-colored metal.
 - e. Fences: Fences and walls are permitted in the front setback area, subject to the following standards:
 - i. The fence or wall shall be a maximum of three feet high.
 - ii. A fence shall be wrought iron, steel, or a similar metal and shall be dark in color. Chain-link fences are prohibited.
 - iii. A wall shall be wood, masonry, concrete, or a combination thereof.
 - iv. A fence shall be a minimum of 50 percent transparent. The transparent portions of the fence shall be distributed along the length of the fence in a recognizable pattern (e.g., two-inch gaps alternating with two-inch solid sections).
2. Entry Threshold: An entry threshold, such as a porch, stoop, terrace, patio, or light court, is required and shall comply with the following standards:
 - a. The entry threshold shall have a minimum depth of five feet from the street-facing building facade to the front of the threshold.

- b. The entry threshold height shall be no more than six feet above finished grade. An additional threshold may be provided to access a lower level and shall be no more than five feet below finished grade.
 - c. The entry threshold may be covered by a roof no larger than the threshold.
- 3. **Primary Building Entrances:** Primary building entrances shall face the street and be a minimum of 10 percent transparent. The minimum amount of transparency is measured as a percentage of the total area of the entrance. Each ground-floor dwelling unit, if any, shall have an individual entrance that complies with this requirement.
- 4. **Windows:** Transparent windows shall be provided along a minimum of 20 percent of the street-facing facade area. Windows shall be vertically oriented, but vertical windows may be grouped together to create square or horizontally-oriented rectangular windows.
- 5. **Building Materials:** Exterior building materials and finishes shall be high-image, such as masonry, architecturally treated tilt-up concrete, glass, wood, stucco, metal, or a combination of these materials. The surfaces of metal exterior building materials that are subject to rust or corrosion shall be coated to inhibit such rust and corrosion, and the surfaces of metal exterior building materials with rust or corrosion shall be stabilized and coated to inhibit future rust and corrosion.
- L. **Landscape Screening Types:** Street frontage not developed with a building compliant with one of the four building types established by Subsections 1005.09(H) through (K), a walkway cut with a maximum width of eight feet, or a driveway cut, shall be developed with one of three landscape screening types, each of which is allowed on one or more of the four street types allowed in the Fuller Road Station Community. Table 1005-2 establishes which landscape screening types are permitted on each street type. Figure 1005-8 summarizes the three landscape screening types. If the subject property abuts an existing or future Type A, B, C, or D Street -- regardless of whether it is shown on Map 1005-1 -- compliance is required with the standards for a landscape screening type permitted on the applicable street type.

Table 1005-2: Permitted Landscape Screening Type by Street Type

Permitted Landscape Screening Type:	Street Type:
Low Wall and Trellis	A, B, C, and D Streets
Urban Fence or Wall	A, B, C, and D Streets
Landscaped Setback	A, B, and C Streets

1. Low Wall and Trellis Landscape Screening Type: Low Wall and Trellis Screening, which is permitted on all street types, shall comply with the following standards (see Figure 1005-9):
 - a. The low wall and the support structure for the trellis shall be set back a maximum of five feet from the front lot line. The trellis itself may extend to the front lot line, or may overhang an abutting sidewalk or walkway if permitted by the County Engineering Division.
 - b. Any area between the back edge of the sidewalk or walkway and the low wall shall be planted with ground cover or shrubs, or paved with masonry pavers or stamped concrete. Shrubs at maturity shall not exceed the height of the low wall.
 - c. The underside of the trellis portion of a Low Wall and Trellis shall be a minimum of eight feet above grade and a maximum of 13½ feet above grade.
 - d. The trellis shall be heavy timber or steel (or a similar metal) and shall consist of an open structure with no decking or awning material. The trellis shall have masonry, heavy timber, or steel (or similar metal) supporting columns spaced no more than 30 feet on center.
 - e. The low wall portion of a Low Wall and Trellis shall be a minimum of 18 inches high and a maximum of three feet high (30 inches if it is between a parking lot and a street) and have a minimum depth of 16 inches. The low wall shall be wood, masonry, concrete, or a combination thereof.
 - f. Surface parking and loading areas shall be set back a minimum of five feet from the Low Wall and Trellis. Low shrubs, groundcover, and climbing plants shall be provided in this setback area, in lieu of trees ordinarily required pursuant to Section 1009 for perimeter surface parking and loading area landscaping. Climbing plants shall be planted at each support column.
 - g. Openings in the Low Wall and Trellis Screening are permitted for plazas that comply with Subsection 1005.09(M).
2. Urban Fence or Wall Screening Type: Urban Fence or Wall Screening, which is permitted on all street types, shall comply with the following standards (see Figure 1005-10):
 - a. The fence or wall shall be set back a maximum of five feet from the front lot line.
 - b. Any area between the back edge of the sidewalk or walkway and the fence or wall shall be paved with masonry pavers or stamped concrete.

- c. The fence or wall shall be a minimum of two feet high and a maximum of three feet high (30 inches if it is between a parking lot and a street).
 - d. A fence shall be wrought iron, steel, or a similar material and shall be dark in color. Chain-link fences are prohibited. A fence shall be a minimum of 50 percent transparent. The transparent portions of the fence shall be distributed along the length of the fence in a recognizable pattern (e.g., two-inch gaps alternating with two-inch solid sections).
 - e. A wall shall be wood, masonry, concrete, or a combination thereof.
 - f. Surface parking and loading areas shall be set back a minimum of five feet from the Urban Fence or Wall. This area shall be landscaped as follows:
 - i. One large tree is required a minimum of every 30 linear feet, except where a waiver is necessary to comply with the intersection sight distance and roadside clear zone standards of the County Roadway Standards.
 - ii. A minimum of six shrubs is required every 30 linear feet along the fence or wall. The minimum shrub height at maturity shall be the same as the height of the fence or wall, and the maximum shall be six feet.
 - iii. Ground cover plants must fully cover any remaining area at maturity.
 - g. Openings in the Urban Fence or Wall Screening are permitted for plazas that comply with Subsection 1005.09(M).
3. Landscaped Setback Screening Type: Landscaped Setback Screening, which is permitted on Type A, B, and C Streets, shall include a landscape strip a minimum of 10 feet wide adjacent to the property line. This area shall be landscaped as follows (see Figure 1005-11):
- a. A continuous row of shrubs shall be planted at the inside edge of the landscape strip. The shrubs shall be a minimum of three feet high (maximum 30 inches between a parking lot and a street), and shall be mostly opaque year round.
 - b. One large tree is required a minimum of every 30 linear feet except where a waiver is necessary to comply with the intersection sight distance and roadside clear zone standards of the County Roadway Standards. The required shrub row may be interrupted with a gap of up to two feet wide, in order to accommodate each tree.
 - c. Ground cover plants must fully cover any remaining area at maturity.

- d. A three-foot-high masonry wall (30 inches between a parking lot and a street) may be substituted for the shrub row, but the trees and groundcover plants are still required.
- e. Openings in the Landscaped Setback Screening are permitted for plazas that comply with Subsection 1005.09(M).

M. Plazas: Openings in required landscape screening are permitted for plazas, subject to the following standards:

- 1. The plaza shall be permanent space open to the public.
- 2. The plaza shall be integrated in the development and be accessible from and visible from the street(s) upon which it fronts.
- 3. The plaza shall be surfaced with masonry pavers or stamped concrete.
- 4. Ten percent of the total plaza area shall be landscaped. Landscape planters may count toward this requirement.
- 5. If the plaza abuts a surface parking or loading area, it shall be separated from that area by a landscape strip that complies with Subsection 1009.04(B).

1005.10 PMU DISTRICT STANDARDS

Subsection 1005.10 applies in the PMU District. Where these standards conflict with other provisions of Section 1000, Subsection 1005.10 shall take precedence.

A. Access and Circulation: Onsite circulation shall meet the minimum requirements shown on Comprehensive Plan Map X-CRC-3, *Clackamas Regional Center Area Design Plan, Urban Design Elements*, and in addition:

- 1. An internal circulation system shall include a network of public, private, and internal streets subject to Subsection 1005.07(G) through (I). Private streets shall function like local streets, with curbs, sidewalks, or raised walking surfaces on both sides, street trees, pedestrian scale lighting, and connections to state, county, or public streets. This internal street network shall create developable sites defined by streets.

In addition, the internal circulation system may include a range of secondary facilities, including service roads, driveways, drive aisles, and other similar facilities. The overall intent is to provide a pattern of access and circulation that provides a clear and logical network of primary streets that have pedestrian orientation and amenities. A secondary network of pedestrian ways and vehicular circulation will supplement this system.

- 2. Internal driveways shall not be located between buildings and the streets to which building entrances are oriented.

B. Building Siting and Design:

1. New buildings shall have at least one public entrance oriented to a state, county, public, or private street.
2. Buildings shall have first floor windows with views of internal activity or display cases, and the major entrance on the building facade facing the street the building is oriented to. Entrances and windows on the street-side facade shall not be blocked, or entrances locked during operation hours. Additional major entrances may also be allowed facing minor streets and parking areas.
3. Buildings on street corners shall have corner entrances or other architectural features to enhance the pedestrian environment at the intersection.
4. First floor windows or display cases are required on building facades facing and adjacent to public and private streets, plazas, walkways, and pedestrian areas. Windows and doorways shall not be blocked or entrances locked during operation hours.
5. Parking structures located within 20 feet of pedestrian facilities including public or private streets, pedestrian ways, greenways, a transit station or shelter, or plaza, shall provide a quality pedestrian environment on the facade facing the pedestrian facility. Techniques to use include, but are not limited to:
 - a. Provide retail, office or similar uses on the ground floor of the parking structure with windows and activity facing the pedestrian facility; or,
 - b. Provide architectural features that enhance the first floor of the parking structure adjacent to the pedestrian facility, such as building articulation, awnings, canopies, building ornamentation, and art; or,
 - c. Provide pedestrian amenities in the transition area between the parking structure and the pedestrian facility, including landscaping, trellises, trees, seating areas, kiosks, water features with a sitting area, plazas, outdoor eating areas, and drinking fountains.
 - d. The above listed techniques and features, and others of similar nature, must be used so that blank walls are not created.

- C. Buffering: When existing residential uses are located adjacent to a PMU site, such uses shall be buffered from the PMU site with landscaped buffers or by the location of streets, parks, plazas, greenways, or low density residential uses in the PMU District.

1005.11 SUNNYSIDE VILLAGE STANDARDS

Subsection 1005.11 applies in Sunnyside Village, as identified on Comprehensive Plan Map X-SV-1, *Sunnyside Village Plan Land Use Plan Map*. Where these

standards conflict with other provisions in Section 1000, Subsection 1005.11 shall take precedence.

A. Primary Dwellings in the VTH District: In the VTH District, the following standards apply to primary dwellings:

1. Primary entries shall be accessed directly from a street right-of-way and shall be visible from the street.
2. Porches are required for each unit and shall be located immediately adjacent to the primary entry. Porches shall cover a minimum of 50 percent of the primary facade (not including the garage) with a minimum net depth of six feet.
3. Front facades shall be designed with balconies and/or bays. Facades facing a street right-of-way or designated accessway shall not consist of a blank wall.
4. Window trim shall not be flush with exterior wall treatment. Windows shall be provided with an architectural surround at the jamb, head, and sill.
5. Hipped, gambrel, or gabled roofs are required. Flat roofs are prohibited.
6. Townhouses shall orient to and line streets with a series of attached “rowhouse” units.

B. Garages and Driveways in the VTH District: In the VTH District, the following standards apply:

1. A detached garage may be placed at the rear of a lot.
2. A front-access garage attached to the dwelling structure shall be recessed a minimum of two feet behind the front facade (not including porches, bays, and architectural features) and a minimum of 20 feet from the street right-of-way.
3. A minimum two-foot-deep trellis or bay window shall be placed above the garage opening. The trellis shall extend the full width of the garage, and the bay window shall be a minimum of eight feet in width.
4. If located in the front, the garage opening and the driveway shall not exceed a width of 10 feet.
5. If a lot abuts an alley, then garage access from the street is prohibited.

C. Site Design in the VA District: Except on Sunnyside Road, multifamily dwellings shall orient to and line the streets.

D. Entries in the VA District: In the VA District, entries are subject to the following standards:

1. Primary entries shall be accessed directly from a street right-of-way and shall be visible from the street.
 2. Secondary entries may face parking lots or loading areas.
 3. Ground floor units should have entries directly from the street; upper story units may share one or more entries.
- E. Facades in the VA District: In the VA District, facades are subject to the following standards:
1. Building facades shall be designed, at a minimum, with windows, entries, balconies, and bays. Towers, or other special vertical elements, may be used in a limited fashion to focus views to the area from surrounding streets. Facades facing a street right-of-way or pedestrian path shall not consist of a blank wall.
 2. Windows shall be frequent and coordinate with bays and balconies. Vertical proportions and divided lights are preferred. Window trim shall not be flush with exterior wall treatment. Windows shall be provided with an architectural surround at the jamb, head, and sill. All windows facing the front street shall be double-hung or casement windows.
- F. Roofs in the VA District: In the VA District, hipped, gambrel, or gabled roofs are required. Flat roofs are prohibited except for mechanical equipment areas.
- G. Building Materials in the VA District: In the VA District, exterior finishes shall be primarily wood and/or masonry. Human-scaled building elements and finishes are encouraged.
- H. Site Design in the VCS District: In the VCS District, the following standards shall apply:
1. The buildings occupying areas adjacent to the village green shall face the village green and traffic circle to better integrate with the surrounding neighborhood. Parking shall be to the rear of the buildings.
 2. Circulation facilities, architectural features, signing, and landscaping shall be designed for pedestrian safety and convenience.
- I. Site Design in the VO District: In the VO District, the following standards shall apply:
1. Driveway access from 142nd Avenue and Sunnyside Road shall be prohibited. Access shall be off of 145th Avenue and Princeton Village Way.

2. A group of small low-rise buildings shall be required, oriented toward the primary surrounding streets and the adjacent multifamily dwellings and townhouses, to better integrate with the neighborhood.
 3. Circulation facilities, architectural features, signing, and landscaping shall be designed for pedestrian safety and convenience.
- J. Facades in the VCS District: In the VCS District, facades are subject to the following standards:
1. Building facades shall be designed with windows, entries, and/or bays. Sides or rears of buildings shall not consist of an undifferentiated wall when facing a public street.
 2. Towers, or other special vertical elements, may be used in a limited fashion to focus views to the area from surrounding streets.
 3. Consistent design elements shall be used throughout the VCS area to ensure that the entire complex is visually and functionally unified.
 4. Windows shall be placed with no more than six feet of blank non-window wall space in every 25 feet of frontage and shall be coordinated with bays and balconies. Square or vertical proportions are preferred. Window trim shall not be flush with exterior wall treatment. Windows shall be provided with an architectural surround at the jamb, head, and sill. All windows shall be placed so that their sills are at least two feet above floor level. Glass walls and reflective glass are prohibited.
 5. Awnings shall have clearance of a minimum eight feet above sidewalks and walkways for pedestrian access.
- K. Facades in the VO District: In the VO District, facades are subject to the following standards:
1. Building facades shall be designed with windows, entries, or bays. Sides or rears of buildings shall not consist of an undifferentiated wall when facing a public street, an accessway, or a residential area.
 2. Towers, or other special vertical elements, may be used in a limited fashion to focus views to the area from surrounding streets.
 3. Consistent design elements shall be used throughout the office area to ensure that the entire complex is visually and functionally unified.
 4. There shall be no more than six feet of blank non-window wall space in every 25 feet of frontage. Windows shall be coordinated with bays and balconies. Square or vertical proportions are preferred. Windows shall not be flush with exterior wall treatment. Windows shall be provided with an architectural

surround at the jamb, head, and sill. All windows shall be placed so that their sills are at least two feet above floor level. Glass walls and reflective glass are prohibited.

5. Awnings shall have clearance of a minimum eight feet above sidewalks and walkways for pedestrian access.
6. Arcades may be used along public street rights-of-way or along walkways within the complex of buildings.
- L. Roofs in the VCS and VO Districts: In the VCS and VO Districts, hipped, gambrel or gabled roofs are required. Flat roofs are not permitted except for mechanical equipment areas.
- M. Building Materials in the VCS and VO Districts: In the VCS and VO Districts, exterior finishes of buildings shall be primarily of materials such as masonry, wood siding or shingles, stucco, metal, or similar material. The surfaces of metal exterior finishes that are subject to rust or corrosion shall be coated to inhibit such rust and corrosion, and the surfaces of metal exterior finishes with rust or corrosion shall be stabilized and coated to inhibit future rust and corrosion. Cinder block and T1-11 are prohibited as exterior wall material.

1005.12 GOVERNMENT CAMP STANDARDS

Subsection 1005.12 applies in Government Camp. Where these standards conflict with other provisions in Section 1000, Subsection 1005.12 shall take precedence.

- A. MRR District: In the MRR District, the following standards shall apply to commercial developments.
 1. Exterior Building Materials: Primary and accessory structures shall use wood, stone, stone veneer, or stucco in exterior construction. Stucco and textured concrete may be used as secondary materials. Stucco must be acrylic-based and combined with heavy timber, wood, or stone cladding. A rock, rock veneer, or textured concrete base shall be provided around building exteriors visible from roadways. No exposed plywood, particle board, plain concrete, cinder block, or grooved T1-11 is permitted.
 2. Roofing Materials: No composition shingles are allowed. Metal roofing materials that are subject to rust or corrosion shall be coated to inhibit such rust and corrosion, and metal roofing materials with rust or corrosion shall be stabilized and coated to inhibit future rust and corrosion.
 3. Design: Building design shall meet the design intent of mountain architecture as described in the Government Camp Design Guidelines Handbook. Examples of mountain architecture include "Cascadian", "Oregon Rustic", and the "National Park Style".

B. RTC District: In the RTC District, the following standards shall apply to all new development and, where reasonable, to remodels.

1. Main Entrance Siting: Properties with street frontage on Government Camp Loop shall locate the main entrance and pedestrian amenities on Government Camp Loop.
2. Walkways: Walkways parallel to Government Camp Loop are not required; however, if a walkway is extended from the existing 10-foot-wide sidewalk fronting Government Camp Loop, it shall be constructed of materials consistent with the existing 10-foot-wide sidewalk. Covered walkways may be provided along the building frontage of development on properties with street frontage on Government Camp Loop from Wy'East Trail to Olive Street and on Little Trail from Olive Street to Church Street. When a covered walkway is constructed, it shall be a permanent structure at a minimum of 8 feet in width and attached to the building, shall not project beyond the lot lines, and shall be consistent with the building design and materials and existing 10-foot-wide sidewalk fronting Government Camp Loop. A covered walkway shall extend along the entire frontage of the building.
3. Exterior Building Materials: Building and accessory structures shall use wood, stone, stone veneer, or stucco in exterior construction. Stucco and textured concrete may be used as secondary materials. Stucco must be acrylic-based and combined with heavy timber, wood, or stone cladding. A rock, rock veneer, or textured concrete base shall be provided around building exteriors with street frontage. No exposed plywood, particle board, plain concrete, cinder block, or grooved T1-11 is permitted.
4. Roofing Materials: No non-architectural composition shingles are allowed. Metal roofing materials that are subject to rust or corrosion shall be coated to inhibit such rust and corrosion, and metal roofing materials with rust or corrosion shall be stabilized and coated to inhibit future rust and corrosion.
5. Design: Building design shall meet the design intent of mountain architecture styles as described in the Government Camp Village Design Guidelines Handbook. Examples of mountain architecture include "Cascadian", "Oregon Rustic", and the "National Park Style".
6. Loading: Loading and delivery shall not be located on Government Camp Loop unless there is no other access.

[No changes are made to Maps 1005-1 or 1005-2 or Figures 1005-1 through 1005-11.]

[Amended by Ord. ZDO-224, 05/31/2011; Amended by Ord. ZDO-243, 09/09/13; Amended by Ord. ZDO-246, 03/01/14; Amended by Ord. ZDO-249, 10/13/2014; Amended by Ord. ZDO-250, 10/13/2014; Amended by Ord. ZDO-252, 06/01/2015; Amended by Ord. ZDO-266, 05/23/2018; Amended by Ord. ZDO-268, 10/02/2018; Amended by Ord. ZDO-280, 10/23/2021; Amended by Ord. ZDO-282, 07/01/2022; Amended by Ord. ZDO-283, 09/05/2023]

1009 LANDSCAPING

1009.01 GENERAL PROVISIONS

- A. Landscaping materials shall be selected and sited to produce a hardy and low-maintenance landscaped area with an emphasis on fast-growing plants. Selection shall include consideration of soil type and depth, spacing, exposure to sun and wind, slope and contours of the subject property, building walls and overhangs, and compatibility with existing vegetation to be preserved. Notwithstanding the requirement for hardiness, annuals are permitted as provided in Subsection 1009.01(B).
- B. A variety of plants, intermixed throughout landscaped areas, shall be provided, as follows:
 - 1. Evergreen and deciduous;
 - 2. Trees, shrubs, and groundcover;
 - 3. Plants of varying textures;
 - 4. Plants of varying widths and heights at maturity; and
 - 5. Plants with seasonal color interest (e.g., foliage, flowering perennials, annuals).
- C. The planting of invasive non-native or noxious vegetation shall be prohibited, and existing invasive non-native or noxious vegetation shall be removed.
- D. Landscaped areas shall not be used for other purposes, such as storage or display of automobiles, equipment, merchandise, or materials.
- E. Landscaping of the unimproved area between a lot line and the improved portion of an adjacent road right-of-way shall be required when there are no immediate plans to develop or otherwise disturb the unimproved area, and one or more of the following apply:
 - 1. The subject property is located inside the Portland Metropolitan Urban Growth Boundary;
 - 2. Landscaping is necessary to present an appearance consistent with the proposed development as viewed from the road;
 - 3. Landscaping is necessary to reduce dust, noise, erosion, or fire hazard; or
 - 4. The road is designated as a scenic road on Comprehensive Plan Map 5-1, *Scenic Roads*.

- F. Landscaping shall be used to highlight public entrances to buildings. If—due to the depth of a front setback, a required walkway, or both—there is insufficient area to permit a typical, in-ground landscaping bed between a public entrance and a front lot line, this requirement may be met with trellises, hanging baskets, or planters, any of which shall include plants.
- G. Where feasible, landscaping shall be required adjacent to walkways and other areas intended for pedestrian use.
- H. Existing significant plants, terrain, and other natural features shall be incorporated into the landscaping design and development if such features are required to be retained by other provisions of this Ordinance or if otherwise feasible.

1009.02 MINIMUM AREA STANDARDS

- A. Table 1009-1, *Minimum Landscaped Area*, establishes the minimum percentage of the area of the subject property that shall be landscaped.
 - 1. The minimum landscaped area shall be calculated after subtracting any public dedications from the area of the subject property.
 - 2. Landscaping in adjacent rights-of-way shall not count toward compliance with the minimum landscaped area.
 - 3. Requirements for surface parking and loading area landscaping, screening and buffering, scenic roads landscaping, landscaping strips, and recreational areas and facilities set forth in Section 1009 apply regardless of whether compliance with those requirements results in landscaping a greater percentage of the subject property than is required by Table 1009-1.

Table 1009-1: Minimum Landscaped Area

Zoning District	Minimum Landscaped Area
CC, PMU, RCC, RCO, RTL	10 percent
RTC	• 15 percent outside Government Camp • 10 percent in Government Camp
SCMU	• 15 percent for developments of triplexes, quadplexes, or multifamily dwellings, including mixed-use developments that include these uses • 10 percent for all other developments
BP, C-2, C-3, GI, LI, NC, RC, RI, VCS, VO	15 percent
OA, OC, RCHDR	20 percent
HDR, MR-1, MR-2, MRR, PMD, VA, VTH	25 percent except 20 percent for townhouses in the MR-1 and MR-2 Districts
HR	• 25 percent for conditional uses • 20 percent for townhouses if three or more dwelling units are attached in succession
FF-10, FU-10, R-2.5 through R-30, RA-1, RA-2, RR, RRFF-5, VR-4/5, and VR-5/7	25 percent for conditional uses
SHD	40 percent

4. A minimum of 75 percent of the minimum landscaped area required by Table 1009-1—excluding any area occupied by pedestrian amenities, active recreational areas, or edible gardens—shall be landscaped with native or drought-tolerant plants.
5. Outdoor recreational areas required by Subsection 1009.08(A), as well as outdoor recreational areas in the MRR District, shall count toward the minimum landscaped area required by Table 1009-1, except that impervious surface area exceeding 25 percent of the outdoor recreational area shall be excluded.

6. Edible gardens may comprise a maximum of 10 percent of the minimum landscaped area required by Table 1009-1.
7. Green roofs may comprise a maximum of 25 percent of the minimum landscaped area required by Table 1009-1.
8. Turf lawn may comprise a maximum of 10 percent of the minimum landscaped area required by Table 1009-1. However, this limitation shall not apply to active recreational areas, provided that no other areas of the subject property are planted in turf lawn, and it shall not apply to cemeteries.
9. Pedestrian amenities may comprise a maximum of one-third of the minimum landscaped area required by Table 1009-1. However, no more than 15 percent of the minimum landscaped area required by Table 1009-1 and developed with pedestrian amenities shall have an impervious surface.
10. Area occupied by walls, fences, or trellises constructed to comply with Subsections 1009.03 and 1009.04 shall count toward the minimum landscaped area required by Table 1009-1.
11. In the PMD, MR-1, MR-2, and HDR Districts, the following may comprise a maximum of 20 percent of the minimum landscaped area required by Table 1009-1: interior courtyards, atriums, solar greenhouses, solariums, roof gardens, indoor recreational areas, and other comparable amenities.
12. In the RCHDR and SHD Districts, the minimum landscaped area required by Table 1009-1 shall be met with shared outdoor surface areas, including the following: landscaping, courtyards, pedestrian plazas, areas dedicated for parks, onsite walkways and bikeways, recreational areas and facilities, yards, decks, terraces, patios, and roof gardens. In addition, indoor recreational facilities identified in Subsection 1009.08(B), and over and above the minimum standard set forth in Subsection 1009.08(B), may be counted toward the minimum landscaped area required by Table 1009-1. Also, private outdoor areas may be counted toward meeting the minimum landscaped area required by Table 1009-1, as follows:
 - a. A maximum of 25 percent of the minimum landscaped area required by Table 1009-1 may be comprised of usable private outdoor space, except that the 25-percent cap does not apply to usable private open space facing streets and accessory to residential development.
 - b. When living areas face the street, usable balcony space may be applied toward achieving the minimum landscaped area required by Table 1009-1 on a 1:2 ratio (one square foot of credit for every two square feet of balcony space facing the street). The balconies must have non-opaque sides and be designed to incorporate landscaping or other decorative features.

B. Exceptions: Notwithstanding Table 1009-1:

1. If a commercial, industrial, or institutional development is lawfully nonconforming with regard to compliance with the minimum landscaped area standard, less than 5,000 square feet of building floor space may be added without bringing the subject property into full compliance with the standard, as follows:
 - a. Additions of less than 1,000 square feet of building floor space do not require increased compliance with the minimum landscaped area standard.
 - b. Additions of 1,000 to 1,999 square feet of building floor space require either an additional five percent of the subject property to be landscaped or compliance with Table 1009-1, whichever is less.
 - c. Additions of 2,000 to 4,999 square feet of building floor space require either an additional 10 percent of the subject property to be landscaped or compliance with Table 1009-1, whichever is less.
 - d. If a series of additions occur, the landscaped area shall increase until compliance with Table 1009-1 is reached.
2. In the RTC District in Government Camp, the minimum landscaped area standard will be waived for lots or tracts with street frontage on Government Camp Loop from Wy'East Trail to Olive Street and on Little Trail from Olive Street to Church Street, if plaza space that complies with the following standards is provided:
 - a. Plaza space shall be permanent space open to the public.
 - b. Plaza space shall be integrated into the development and be both accessible and visible from Government Camp Loop or Little Trail.
 - c. A minimum of 100 square feet of plaza space shall be provided for developments of up to 1,999 square feet of building floor space, and a minimum of 150 square feet of plaza space shall be provided for developments of 2,000 square feet of building floor space or more. This shall be developed as one contiguous space, except that developments of 5,000 square feet of building floor space or more may develop two separate plazas.
 - d. Plaza space surface materials shall consist of textured concrete, concrete mixed with aggregate, rock, rock veneer, pavers, bricks, or wood. Asphalt is prohibited.
 - e. A minimum of ten percent of the plaza space area shall be landscaped with planters or hardy native vegetation.

- f. A minimum of three permanent seating spaces shall be provided in the plaza space for developments of up to 1,999 square feet of floor space. One additional permanent seating space shall be provided for each additional 1,000 square feet of floor space. Seating spaces shall be constructed of textured concrete, rock, rock veneer, wood, or wrought iron.
- g. A minimum of one garbage receptacle shall be provided in each plaza, and all plaza space receptacles shall be clad in wood or stone.

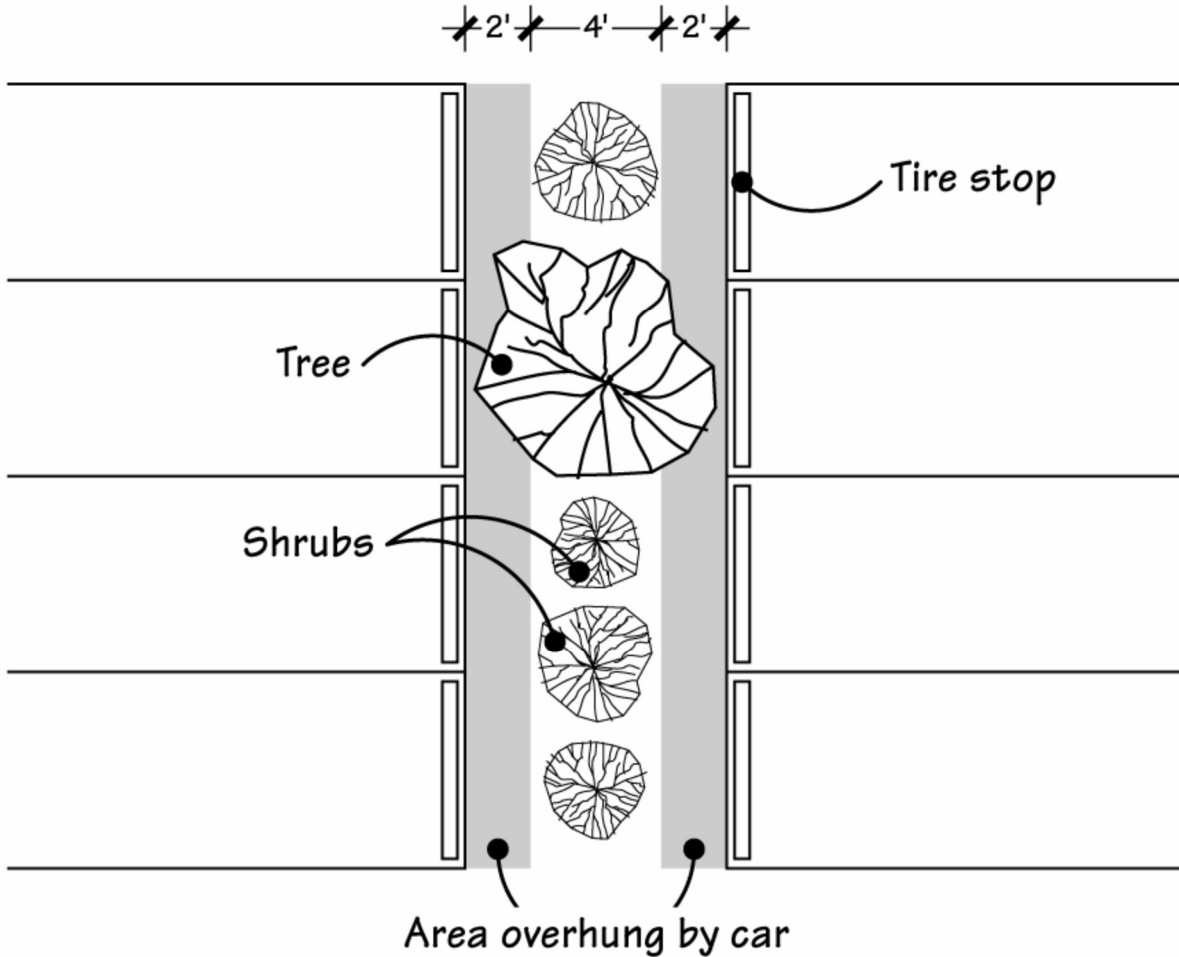
1009.03 SURFACE PARKING AND LOADING AREA LANDSCAPING

Surface parking and loading areas shall be landscaped as follows:

- A. Surface parking areas that include more than 15 parking spaces shall comply with the following landscaping requirements:
 - 1. Twenty-five square feet of landscaping per parking space, excluding perimeter parking spaces, shall be provided, except that the standard shall be reduced to 20 square feet for each parking space developed entirely with porous pavement.
 - 2. One landscape swale located between two rows of parking spaces, as shown in Figure 1009-1, is required for every six rows of parking spaces, unless all parking spaces are developed entirely with porous pavement. Additional swales beyond the minimum requirement are allowed.
 - a. For the purpose of Subsection 1009.03(A)(2), a “row” of parking spaces is one space deep, meaning that where two spaces abut at their ends, it is considered two “rows”.
 - b. Parking spaces separated by pedestrian or vehicle crossings perpendicular to the row of parking spaces are considered to be part of a single row.
 - c. The first required swale shall be developed for the entire length of the longest row of parking spaces.
 - d. Gaps in a required swale are permitted only to provide for pedestrian and vehicle crossings.
 - e. The parking lot shall be graded to allow surface water to flow into a swale. Curbs shall not separate parking spaces from the swale, and gaps between parking space tire stops are required to allow surface water to flow into a swale.
 - f. Swales shall be a minimum of four feet wide.

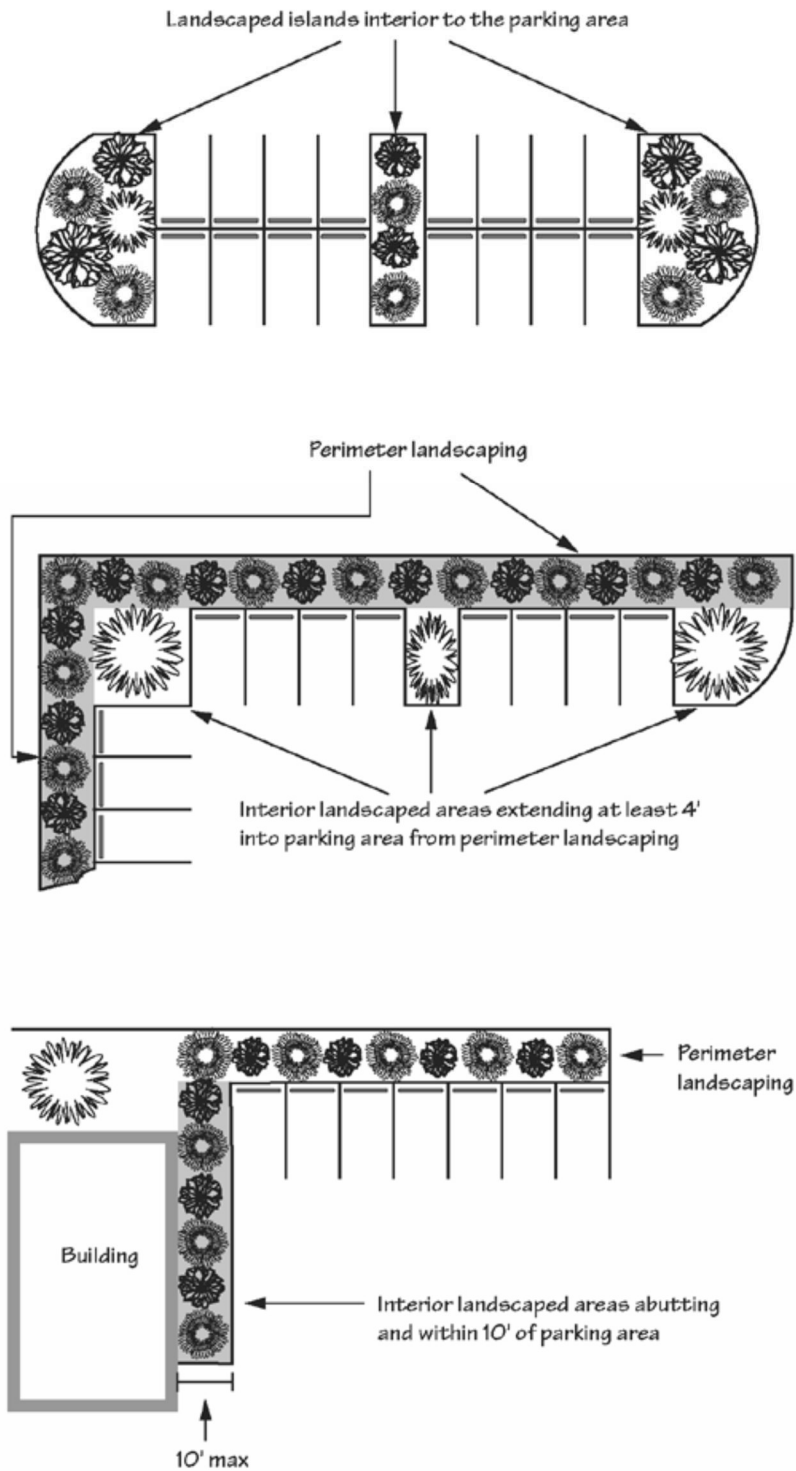
- g. If the front portions of parking spaces are landscaped as allowed by Subsection 1015.02(A)(10), the landscaped portion of the parking space shall be adjacent and in addition to the swale, as shown in Figure 1009-1.
- h. Turf lawn is prohibited in swales.

Figure 1009-1: Parking Lot Swale



3. Interior landscaping not developed as swales pursuant to Subsection 1009.03(A)(2) shall comply with the following standards:
 - a. It shall be arranged in areas at the ends of rows of parking or between parking spaces within rows of parking. See Figure 1009-2.
 - b. It may join perimeter landscaping as long as the interior landscape area extends at least four feet into the parking area from the perimeter landscape line. See Figure 1009-2.
 - c. Landscaping that abuts, but does not extend into, the parking area may be included as interior landscaping if all of the following are met:
 - i. The abutting landscaped area must be in addition to required perimeter landscaping;
 - ii. Only the first 10 feet of the abutting landscaped area, measured from the edge of the parking area, may be included as interior landscaping; and
 - iii. The landscaped area is not abutting and parallel to required perimeter landscaping. See Figure 1009-2.
 - d. The interior length and width of landscaped areas shall be a minimum of four feet.

Figure 1009-2: Interior Landscaping



4. Interior landscaped areas, including swales, shall include a minimum of one tree located every eight interior parking spaces, or fraction thereof, except in the OA, VA, VCS, and VO Districts, where a minimum of one tree shall be located every six interior parking spaces.
 - a. Where necessary to accommodate other design considerations, variable spacing of the trees required by Subsection 1009.03(A)(4) is allowed, but in no case shall there be less than one tree planted in every 12 parking spaces.
 - b. The species of trees required shall be determined on the basis of the growth habit and the need to provide maximum shading of surface parking areas.
- B. Perimeter landscaping requirements for surface parking and loading areas adjacent to abutting lots or rights-of-way are as follows:
 1. A landscaping strip with a minimum width of five feet shall be provided adjacent to the perimeter of the surface parking or loading area, except:
 - a. In the OA, VA, VCS, and VO Districts, the minimum width shall be 10 feet;
 - b. In the BP and LI Districts, the minimum width shall be 15 feet abutting a front lot line; and
 - c. In the GI District, the minimum width shall be 10 feet abutting a front lot line.
 2. The required landscaping strips shall comply with the following standards:
 - a. Sufficient low shrubs shall be planted to form a continuous screen three feet high and 95 percent opaque, year-round; or a three-foot-high masonry wall or berm may be substituted for the shrubs. When applied along front lot lines, the screen or wall is to be placed along the interior side of the landscaping strip and shall be 30 inches high instead of three feet high.
 - b. In addition, one tree is required for every 30 linear feet of landscaping strip, or as otherwise required to provide a tree canopy over the landscaping strip.
 - c. Ground cover plants must fully cover the remainder of the landscaped area.
 3. A perimeter landscape strip is not required for a surface parking or loading area adjacent to an abutting lot if one or more interior driveways connect the two lots and if the abutting lot also is developed with a surface parking or loading area adjacent to the shared lot line.

4. Required walkways may cross perimeter landscaping strips.

C. Inside the Portland Metropolitan Urban Growth Boundary (UGB), a development that includes more than one-half acre of new off-street surface parking shall include the following. A new parking area shall be measured based on the perimeter of all new off-street parking spaces, maneuvering lanes, and maneuvering areas, including driveways and drive aisles.

1. Climate mitigation action, which shall include at least one of the following:

- a. Installation of solar panels with a generation capacity of at least 0.5 kilowatts per new off-street parking space. Panels may be located anywhere on the property;
- b. Tree canopy covering at least 40 percent of the new parking lot area at maturity but no more than 15 years after planting; or
- c. A mixture of actions under Subsection 1009.03(C)(a) and (b) that include solar panels with a generation capacity of at least 0.25 kilowatts per new off-street parking space plus tree canopy covering at least 20 percent the new parking lot area at maturity but no more than 15 years after planting.

2. Tree canopy. Developments must provide tree canopy. Developments shall provide either trees along all internal streets or a minimum of 30 percent tree canopy coverage over new parking areas. The tree spacing and species planted shall be designed to maintain a continuous canopy except when interrupted by driveways, drive aisles, and other site design considerations. Trees shall be planted at a distance no greater than the average diameter of the tree canopy at maturity, for the trees chosen. Developments providing 40 percent tree canopy to comply with Subsection 1009.03(C)(1) comply with Subsection 1009.03(C)(2).

3. Development of a tree canopy plan under Subsection 1009.03(C) shall be done in coordination with the local electric utility, including pre-design, design, building, and maintenance phases. In providing trees under Subsections 1009.03(C)(1) and (2), the standards in Subsection 1009.10 shall be met.

1009.04 SCREENING AND BUFFERING

- A. Screening shall be used to eliminate or reduce the visual impacts of the following:

1. Service areas and facilities, such as loading areas and receptacles for solid waste or recyclable materials;
2. Storage areas;
3. Ground-mounted rainwater collection facilities with a storage capacity of

more than 100 gallons;

4. Parking lots within or adjacent to an Urban Low Density Residential, VR-5/7, VR-4/5, RA-1, RA-2, RR, RRFF-5, FF-10, FU-10, or HR District; and
 5. Any other area or use, as required by this Ordinance.
- B. Screening shall be accomplished by the use of sight-obscuring evergreen plantings, vegetated earth berms, masonry walls, sight-obscuring fences, proper siting of disruptive elements, building placement, or other design techniques.
- C. Screening shall be required to substantially block any view of material or equipment from any point located on a street or accessway adjacent to the subject property. Screening from walkways is required only for receptacles for solid waste or recyclable materials. A sight-obscuring fence at least six feet in height and up to a maximum of 10 feet in height shall be required around the material or equipment.
- D. Buffering shall be used to mitigate adverse visual impacts, dust, noise, or pollution, and to provide for compatibility between dissimilar adjoining uses. Special consideration shall be given to buffering between residential uses and commercial or industrial uses, and in visually sensitive areas.
- E. Buffering shall be accomplished by one of the following:
1. A landscaping strip with a minimum width of 15 feet and planted with:
 - a. A minimum of one row of deciduous and evergreen trees staggered and spaced a maximum of 30 feet apart;
 - b. A perennial, evergreen planting with sufficient foliage to obscure vision and which will grow to form a continuous hedge a minimum of six feet in height within two years of planting; and
 - c. Low-growing evergreen shrubs and evergreen ground cover covering the balance of the area;
 2. A berm with a minimum width of ten feet, a maximum slope of 40 percent on the side away from the area screened from view, and planted with:
 - a. A perennial, evergreen planting with sufficient foliage to obscure vision and which will grow to form a continuous hedge within two years of planting. The minimum combined height of the berm and planting shall be six feet; and
 - b. Low-growing evergreen shrubs and evergreen ground cover covering the balance of the area;

3. A landscaping strip with a minimum width of five feet and including:
 - a. A masonry wall or sight-obscuring fence a minimum of six feet in height. The wall or fence is to be placed along the interior side of the landscaping strip;
 - b. Evergreen vines, evergreen trees, or evergreen shrubs, any of which shall be spaced not more than five feet apart; and
 - c. Low-growing evergreen shrubs and evergreen ground cover covering the balance of the area; or
 4. Another method that provides an adequate buffer considering the nature of the impacts to be mitigated.
- F. Required walkways shall be accommodated, even if such accommodation necessitates a gap in required screening or buffering.

1009.05 SCENIC ROADS

In the RA-1, RA-2, RRFF-5, FF-10, FU-10, MRR, and HR Districts, buildings in developments adjacent to roads designated as scenic roads on Comprehensive Plan Map 5-1, *Scenic Roads*, shall be set back a sufficient distance from the right-of-way to permit a landscaped or natural buffer zone.

1009.06 LANDSCAPING STRIPS

- A. In the BP and LI Districts, a landscaping strip a minimum of 15 feet wide shall be provided abutting front lot lines.
- B. In the GI District, a landscaping strip a minimum of 10 feet wide shall be provided abutting front lot lines.
- C. In all other zoning districts, except SCMU, a landscaping strip a minimum of five feet wide shall be provided abutting front lot lines. (See Subsection 1005.09(L) for additional SCMU landscaping requirements.)
 1. This requirement will be waived or reduced in the NC, PMU, and VCS Districts, which are districts that have no minimum front setback standard, to the extent necessary to accommodate a building with a front setback of less than five feet.
 2. If—due to the depth of a front setback and the need to accommodate a required walkway, required pedestrian amenities, or both—there is insufficient area to permit a five-foot-wide landscaping strip, the landscaping strip may be reduced in width or the landscaping requirement may be met with a linear arrangement of trellises, hanging baskets, or planters, any of which shall include plants.

1009.07 FENCES AND WALLS

- A. Fences and walls shall be of a material, color, and design complementary to the development.
- B. In the BP and LI Districts, the minimum front setback for fences and walls is 15 feet.
- C. In the GI District, the minimum front setback for fences and walls is 10 feet.

1009.08 RECREATIONAL AREAS AND FACILITIES

- A. An outdoor recreational area shall be provided in developments of duplexes, triplexes, quadplexes, or multifamily dwellings in the MR-1, MR-2, and HDR Districts, and in developments of triplexes, quadplexes, or multifamily dwellings, including mixed-use developments that include these uses, in the SCMU District, as follows:
 - 1. A minimum of 200 square feet of usable outdoor recreational space per dwelling unit shall be provided for studio, one- bedroom, and two-bedroom units. The minimum shall be increased to 300 square feet per dwelling unit for units with three or more bedrooms. However, in the SCMU District:
 - a. The requirement shall apply only to the first 20 dwelling units per acre, or prorated equivalent thereof; and
 - b. The amount of required outdoor recreational area may be reduced, to the minimum extent necessary, if—when combined with the minimum landscaping requirements of Subsections 1005.09(L), 1009.03, and 1009.04—full compliance would result in landscaping more than 15 percent of the lot.
 - 2. Outdoor recreational areas may be designed for passive or active recreation, including edible gardening.
 - 3. Outdoor recreational areas shall be designed for adequate surveillance opportunities.
 - 4. Outdoor recreational areas shall be conveniently located and accessible to all dwelling units.
- B. In the SHD and RCHDR Districts, a residential development shall provide at least one of the following recreational facilities for the first 60 dwelling units, or portion thereof, and at least one additional facility for every additional 120 dwelling units, or portion thereof.
 - 1. An 800-square-foot or larger heated swimming pool;

2. A minimum 1,000-square-foot exercise room with exercise equipment and mats;
3. Two handball/racquetball courts;
4. Whirlpool and sauna or steam bath rooms;
5. Minimum 1,200-square-foot game room with pool and ping pong tables, folding tables and chairs, and kitchenette;
6. An 800-square-foot shop equipped with hand tools, work benches, storage shelves, lockers, and ventilation;
7. A 400-square-foot greenhouse with all-season solar exposure, equipped with benches, water, ventilation, summer shading materials, and storage areas for pots, tools, potting soil, fertilizers, etc;
8. 3,000 square feet of hard-surface play area, such as a tennis court, basketball court, or roller-skating area;
9. 4,200 square feet of soft surface play area with equipment provided for lawn games such as volleyball, badminton, croquet, and horseshoes; and
10. Any other similar facility.

1009.09 EROSION CONTROL

- A. Graded areas shall be re-vegetated with suitable plants to ensure erosion control.
- B. Netting shall be provided, where necessary, on sloped areas while ground cover is being established.

1009.10 PLANTING AND MAINTENANCE

- A. Impervious weed barriers (e.g, plastic sheeting) are prohibited.
- B. Plants shall not cause a hazard. Plants over walkways, sidewalks, pedestrian pathways, and seating areas shall be pruned to maintain a minimum of eight feet below the lowest hanging branches. Plants over streets, bikeways, accessways, and other vehicular use areas shall be pruned to maintain a minimum of 15 feet below the lowest hanging branches.
- C. Plants shall be of a type that, at maturity, typically does not interfere with above- or below-ground utilities or paved surfaces.
- D. Plants shall be installed to current nursery industry standards.
- E. Plants shall be properly guyed and staked to current nursery industry standards as necessary. Stakes and guys shall not interfere with vehicular or pedestrian traffic,

shall be loosened as needed to prevent girdling of trunks, and shall be removed as soon as sufficient trunk strength develops, typically one year after planting.

- F. Landscaping materials shall be guaranteed for a period of one year from the date of installation. The developer shall either submit a signed maintenance contract for the one-year period or provide a performance surety pursuant to Section 1311, *Completion of Improvements, Sureties, and Maintenance*, covering the landscape maintenance costs for the one-year period.
- G. Plants shall be suited to the conditions under which they will be growing. As an example, plants to be grown in exposed, windy areas that will not be irrigated shall be sufficiently hardy to thrive under these conditions. Plants shall have vigorous root systems, and be sound, healthy, and free from defects and diseases.
- H. When planted, deciduous trees shall be fully branched, have a minimum caliper of two inches, and have a minimum height of eight feet.
- I. When planted, evergreen trees shall be fully branched, have a minimum height of eight feet, and have only one leader.
- J. Shrubs shall be supplied in minimum one-gallon containers or eight-inch burlap balls with a minimum spread of 12 inches.
- K. Ground cover shall be planted a maximum of 30 inches on center with a maximum of 30 inches between rows. Rows of plants shall be staggered. Ground cover shall be supplied in minimum four-inch containers, except that the minimum shall be reduced to two and one-quarter inches or equivalent if the ground cover is planted a minimum of 18 inches on center.
- L. Plants shall be spaced so that ground coverage three years after planting is expected to be 90 percent, except where pedestrian amenities, rainwater collection systems, or outdoor recreational areas count as landscaping pursuant to Subsection 1009.02. Areas under tree drip lines count as ground coverage.
- M. Irrigation of plants shall be required, except in wooded areas, wetlands, and in river and stream buffers. The irrigation system shall be automatic, except that hose bibs and manually operated methods of irrigation may be permitted in small landscaped areas close to buildings. Automatic irrigation systems are subject to the following standards:
 - 1. An automatic irrigation controller shall be required for irrigation scheduling.
 - 2. The system shall be designed to prevent runoff, low head drainage, overspray, or other similar conditions where irrigation water flows onto non-targeted areas, such as adjacent property, non-irrigated areas, hardscapes, roadways, or structures.
 - 3. In mulched planting areas, the use of low volume irrigation is required to

maximize water infiltration into the root zone.

4. Narrow or irregularly shaped areas, including turf lawn, less than eight feet in width in any direction shall be irrigated with subsurface or low volume irrigation.
5. Overhead sprinkler irrigation is prohibited within two feet of any impervious surface unless:
 - a. The landscaped area is adjacent to permeable surfacing and no runoff occurs; or
 - b. The adjacent impervious surfaces are designed and constructed to drain entirely to landscaping; or
 - c. The irrigation designer specifies an alternative design or technology that complies with Subsection 1009.10(M)(2).
- N. Appropriate methods of plant care and landscaping maintenance shall be provided by the property owner. Pruning shall be done to current nursery industry standards.
- O. Plants shall be protected from damage due to heavy foot traffic or vehicular traffic by protective tree grates, pavers, or other suitable methods.

[Amended by Ord. ZDO-224, 05/31/2011; Amended by Ord. ZDO-243, 09/09/2013; Amended by Ord. ZDO-246, 03/01/2014; Amended by Ord. ZDO-249, 10/13/2014; Amended by Ord. ZDO-250, 10/13/2014; Amended by Ord. ZDO-252, 06/01/2015; Amended by Ord. ZDO-253, 06/01/2015; Amended by Ord. ZDO-266, 05/23/2018; Amended by Ord. ZDO-276, 10/01/2020; Amended by Ord. ZDO-282, 07/01/2022; Amended by Ord. ZDO-283, 09/05/2023]

1010 SIGNS

1010.01 PURPOSE

The provisions of Section 1010 are intended to maintain a safe and pleasing environment for the people of Clackamas County by regulating the size, height, number, location, type, structure, design, lighting, and maintenance of signs.

1010.02 GENERAL PROVISIONS

- A. Permits Required: If a sign other than one named in Subsection 1010.03 is to be placed, constructed, erected, or modified, a sign permit shall be secured.
- B. Along State Highways: All off-premises signs which are visible from a state highway are subject to approval by the Oregon State Highway Division pursuant to the Oregon Motorists Information Act.
- C. Oregon State Structural Specialty Code Compliance: All signs shall comply with the applicable provisions of the Oregon State Structural Specialty Code, except as otherwise provided in Section 1010.
- D. Address Display: The signing program for a multifamily, commercial, or industrial development shall include the display of the street number(s) for the development on the sign or building where it can be seen from adjacent roads and meet fire district standards.
- E. Sign Clearances: A minimum of eight feet above sidewalks and 15 feet above driveways shall be provided under freestanding and projecting signs.
- F. Sight Distance: All signs shall comply with the intersection sight distance standards of the Department of Transportation and Development.
- G. Setbacks: Unless otherwise specified, all signs shall observe the yard setback requirements of the zoning districts in which they are located.
- H. Blanketing: No sign shall be situated in a manner which results in the visual obstruction from an adjoining roadway or pedestrian way of an existing sign on adjacent property.
- I. Illuminated Signs:
 - 1. Internally illuminated signs, or external lights used to illuminate signs, shall be placed, shielded, or deflected so they do not shine into dwellings or impair the vision of the driver of any vehicle.
 - 2. The light intensity of an illuminated sign shall conform to or be less than the accepted standards of the sign industry, as provided by the Oregon Electric Sign Association.

3. Except for an electronic message center sign approved pursuant to Subsection 1010.14, no sign or illuminating devices shall have blinking, flashing, or fluttering lights.
- J. Signs or displays containing any electrical components or parts or illuminated by electrical lighting must be approved under the National Electrical Code as modified by the State of Oregon Rules and Regulations. Lights and illuminated signs requiring an outside power source shall use a state-approved power outlet.
- K. Moving Signs: No sign, sign structure, or portion thereof, except flags (as per Subsection 1010.12) and temporary displays (as per Subsection 1010.13(B)) shall be designed to rotate, flutter, or appear to move.
- L. Maintenance: All signs, together with all of their supports, braces, guys, and anchors, shall be maintained in a safe condition, in compliance with all building and electrical codes, and in conformance with Section 1010, at all times.
- M. Preexisting Signs: Notwithstanding Section 1206, *Nonconforming Uses and Vested Rights*, signs and sign structures existing prior to September 12, 1996, which complied with applicable regulations existing when the sign was established, but which do not comply with one or more of the requirements of Section 1010 shall be subject to the following provisions:
 1. Alterations to a nonconforming sign which reduce or do not increase its noncompliance with the provisions of this Ordinance, including changes in display surface, sign areas, height, and setback, may be allowed subject to review under Subsection 1010.05, and
 2. Failure to use the copy area of a nonconforming sign for purposes permitted under Section 1010 for a period of more than 12 consecutive months shall constitute a "discontinuation of use" as provided under Subsection 1206.042 and such sign shall be removed or modified to satisfy all applicable requirements of Section 1010 and the underlying zoning district.
- N. Hazards: No sign, light, electrical cord, streamer, flag, or other apparatus shall be situated or used in a manner which creates a hazard.
- O. Sign Structure: When visible, the supporting structure of the sign shall be incorporated into the overall sign design, and shall be in scale with the sign.
- P. Site: For purposes of Section 1010, a "site" shall be the entire "site area" of the development as it is defined in Subsection ~~601.08(B)~~844.05(B)(1)(a), and onsite signs shall be those permanent signs which are oriented towards internal circulation roads, driveways, and walkways, or which direct the flow of traffic to and from the site from adjacent roads or walkways.
- Q. Incidental signs shall not exceed three square feet per side.

1010.03 EXEMPT SIGNS:

- A. The following signs do not require a sign permit, but must meet other provisions of Section 1010:
 - 1. Signs having an area three square feet or less;
 - 2. Signs listed as temporary under Subsection 1010.13; and
 - 3. Government owned or posted signs in the public right-of-way.
- B. The following signs are not regulated by this Ordinance:
 - 1. Incidental signs;
 - 2. Product dispensers, such as beverage, newspaper, and recycling machines;
 - 3. Window signs
 - 4. Signs painted on or attached to a level one mobile vending unit. A level one mobile vending unit is one that complies with Subsection 837.02.

1010.04 PROHIBITED SIGNS:

The following signs and sign characteristics are prohibited:

- A. Temporary signs, except as provided by Subsection 1010.13;
- B. Portable signs, except as provided by Subsection 1010.07(A)(2)(d), 1010.09(C)(2), or 1010.13;
- C. Animated signs, except as provided by Subsection 1010.14;
- D. Roof signs, except integral roof signs in Commercial and Industrial zoning districts;
- E. Signs that obstruct free and clear vision of a traffic sign or signal from intended users, or otherwise constitute a traffic impediment;
- F. Signs imitating or resembling official traffic signs or signals;
- G. Any sign imitating or resembling an official county street or road sign, unless the sign is approved pursuant to Chapter 7.05, *Addressing and Road Naming*, of the Clackamas County Code;
- H. Colored lights which might in any way be confused with or construed to be traffic signals or lights on emergency vehicles;
- I. Strobe lights and signs containing strobe lights;

- J. Any sign that emits sound, odor, or visible matter; and
- K. Multiple reader signs designed to be read as a continued statement.

1010.05 DESIGN REVIEW

The size, materials, design, color, lighting, and location of signs and supporting structures for all permanent signs greater than 60 square feet in area, shall be subject to design review pursuant to Section 1102, Design Review, and the following criteria:

- A. Design: Signs shall be designed to be compatible with other development on the site, other nearby signs, other elements of street and site furniture, and adjacent structures. Compatibility shall be determined by the relationships of the elements of form, proportion, scale, color, materials, surface treatment, overall sign size, and the size and style of lettering.
- B. Scale: The scale of the sign, letter size, and design shall be appropriate for roadway or walkway visibility.

1010.06 RESIDENTIAL SIGNS IN URBAN AND RURAL RESIDENTIAL DISTRICTS AND FUTURE URBAN DISTRICTS

A. Residential Signs in Urban Low Density and Future Urban Districts:

- 1. Shall not exceed three square feet.
- 2. Shall be located inside the dwelling or located flat against the dwelling.
- 3. Only one such sign shall be permitted upon the premises.
- 4. May be illuminated by internal or external lighting subject to Subsections 1010.02(I)(1) and (2).
- 5. No moving parts, noisemaking or musical devices, banners, or other attractions or displays shall be used, except as provided in Subsection 1010.13.

B. Signs in Rural Residential Districts:

- 1. Shall not exceed eight square feet per side or six feet in height.
- 2. Only one such sign shall be permitted upon the premises.
- 3. May be located within the required setback area of the district provided it is situated in a manner so as not to adversely affect safety, corner vision, or other similar conditions.
- 4. May be illuminated by internal or external lighting subject to Subsections 1010.02(I)(1) and (2).

5. No moving parts, noisemaking or musical devices, banners, flags, or other attractions or displays shall be used, except as provided in Subsection 1010.13.

C. Freestanding signs for multifamily developments or subdivisions:

1. Maximum total sign area: 32 square feet per side.
2. Maximum number: No more than one freestanding sign shall be allowed for a development or complex, even when more than one tax lot or ownership is included in the development, except as follows:
 - a. When an additional sign is located at a major public access point located on a different public road, or
 - b. When two single-faced signs oriented in two different directions are proposed in lieu of a two-sided identification sign, or
 - c. In mixed-use developments, a separate monument sign, not to exceed 32 square feet, may be allowed for the multifamily portion of the development.
 - d. In the case of signs permitted under Subsection 1010.06(C)(2)(a) or (b), neither sign shall exceed the maximum sign size allowed.
3. Maximum top-of-sign height: Five feet above the finished ground elevation (not including berms or mounds specifically created for the sign).
4. Setbacks: Behind property line.

D. MRR District: In the MRR District, permanent identification signs shall be subject to Subsections 1010.09(A)(1) through (5). Signs may be indirectly illuminated and shall be complementary to the unique character of the Mount Hood Community in the use of graphics, symbols, and natural materials. Onsite directional signing shall be sensitive to the needs of tourists. Where these standards conflict with other provisions in Section 1010, except Subsection 1010.15, Subsection 1010.06(D) shall take precedence. Where these standards conflict with Subsection 1010.15, Subsection 1010.15 shall take precedence.

E. Signs for Produce Stands that are subject to Section 815, *Produce Stands*:

1. Shall not exceed a total of three square feet in area, distributed among any number of signs.
2. Shall have no illumination.
3. Shall be attached to, and shall not extend above a roof of, the produce stand.

1010.07 SIGNS IN NATURAL RESOURCE DISTRICTS

A. Commercial signs:

1. Shall not exceed 32 square feet. Signs may be two sided.
2. Freestanding commercial signs:
 - a. Maximum top-of-sign height: Eight feet above finished ground elevation (not including berms or mounds specifically created for the sign).
 - b. Maximum number: The maximum number of signs shall be four.
 - c. Setback: Behind front property line.
 - d. May include portable signs when anchored in accordance with Subsection 1010.13(A)(5).
 - e. May be illuminated by internal or external lighting, subject to Subsection 1010.02(I).
3. Building commercial signs:
 - a. Maximum number: One
 - b. May be illuminated by internal or external lighting, subject to Subsection 1010.02(I).

B. Residential signs as per Subsection 1010.06(B).

C. Institutional uses as per Subsection 1010.08.

1010.08 SIGNS FOR ~~SERVICE~~, RECREATIONAL, INSTITUTIONAL, AND GOVERNMENTAL USES

- A. In residential and natural resource zoning districts, the following standards shall apply to signs for recreational vehicle camping facilities regulated by Section 813, Recreational Vehicle Camping Facilities, other uses regulated by Section 813 prior to June 1, 2015, and institutional uses.
 1. Maximum Area: 32 square feet per side. Neither a freestanding nor a building sign shall exceed this standard.
 2. Illumination: Signs may be illuminated by internal or external lighting, subject to Subsection 1010.02(I).
 3. Maximum Number: One freestanding and one building sign shall be permitted upon the premises.
 4. Maximum Top-of-Sign Height: Five feet for a freestanding sign.

5. Setback: Behind front property line.
- B. Notwithstanding Subsection 1010.08(A), in residential and natural resource zoning districts outside the Portland Metropolitan Urban Growth Boundary, the following standards shall apply to signs for governmental uses.
1. Maximum Area: 60 square feet per side. Neither a freestanding nor a building sign shall exceed this standard.
 2. Illumination: Signs may be illuminated by internal or external lighting, subject to Subsection 1010.02(I).
 3. Maximum Number: One freestanding and one building sign shall be permitted upon the premises, except if the subject property has frontage on two different streets, an additional sign may be permitted under the following conditions:
 - a. If the subject property has a driveway entrance on each street frontage, one freestanding sign may be oriented to each street frontage; or
 - b. If one of the street frontages abuts a state highway, one freestanding sign may be oriented to each street frontage; or
 - c. A second building sign oriented to the second street frontage may be permitted in lieu of a second freestanding sign allowed pursuant to Subsection 1010.08(B)(3)(a) or (b).
 4. Maximum Top-of-Sign Height: 20 feet for a pole sign, five feet for a monument sign.
 5. Setback: Behind front property line.

1010.09 ~~COMMERCIAL~~ SIGNS IN COMMERCIAL AND INDUSTRIAL DISTRICTS

A. ~~Commercial~~ Freestanding Signs:

1. Number: Only one sign shall be allowed for a development or complex, even when more than one tax lot or ownership is included in the development, unless through design review pursuant to Section 1102, Design Review, the following is determined:
 - a. An additional sign is needed to provide identification of the development at major public access points located on two different public roads, and/or
 - b. When two single-faced signs oriented in two different directions are proposed in lieu of a two-sided identification sign.
 - c. In mixed use developments a separate freestanding sign, not to exceed 32 square feet, may be allowed for the multifamily portion of the development.

- d. In the case of signs permitted under Subsection 1010.09(A)(1)(a) or (b), neither sign shall exceed the maximum sign size allowed.
 - e. In the C-3 and RTL Districts, one additional freestanding sign may be allowed on a public, county, or state road when the frontage on that road exceeds 450 feet. In no case shall the number of freestanding signs exceed four for any development. The additional signs shall be a maximum of 60 square feet. This provision for an additional freestanding sign shall not allow an additional sign on any site located on a corner which qualifies for an additional sign by reason of that corner location under Subsection 1010.09(A)(1)(a).
 - f. In the BP, LI, and GI Districts, one sign oriented toward offsite traffic may be provided at each public access point from a county or state road.
2. Maximum top-of-sign height:
 - a. Pole signs: In C-3 and RTL Districts, 25 feet. In all other commercial zoning districts, 20 feet.
 - b. Monument signs: In all commercial zoning districts, six feet. In all industrial zoning districts, five feet.
 3. Maximum Sign Area: 60 square feet. Signs may be two sided. For developments of more than one use included on the same site, a sign area may be increased above this requirement an additional 10 square feet per tenant, up to a maximum of 200 square feet, subject to Subsection 1010.05. Additionally, multiple-tenant signs shall use a common background.
 4. Setbacks: Behind property line.
 5. The sign supporting structure shall not be counted for purposes of determining sign area.
 6. Illumination: Such signs may be internally or externally illuminated, subject to Subsection 1010.02(I).
- B. ~~Commercial~~ Building Signs:
1. Number: The maximum sign area may be distributed among any number of signs.
 2. Maximum size:
 - a. If there is not a freestanding sign on the same site frontage, then one and one-half square feet of sign area per linear footage of the occupant's primary building wall.

- b. If there is a freestanding sign on the same site frontage, then one square foot of sign area per linear footage of the occupant's primary building wall.
 - c. Wall signs based on the sign rights of a primary building wall may be placed on a secondary building wall; they may not be placed onto another primary building wall.
 - d. Each tenant shall be allowed a minimum 32 square feet of building sign area.
 - e. In no case shall a building sign exceed 200 square feet.
- 3. Design: Building signs shall be incorporated into the design of the building, and shall not be placed in locations which interrupt, detract from, or change the architectural lines of the building.
 - 4. Illumination: Building signs may be internally or externally illuminated, subject to Subsection 1010.02(I).

C. Mobile Vending Unit Signs:

- 1. The number and area of signs on a mobile vending unit are unrestricted. However, such signs shall be located flat against the unit, and no portion of any sign shall extend above the roof of the unit. These signs may be internally or externally illuminated, provided that any required utility connections for such illumination comply with Section 837.
- 2. Each mobile vending unit may have one portable menu or sandwich board sign a maximum of six square feet in area. This sign shall be located within 10 feet of the mobile vending unit and shall be located outside the unit only during unit operating hours.

D. Drive-Thru Signs: In addition to signage permitted by Subsections 1010.09(A) or (B), drive-thru window services approved pursuant to Section 827, *Drive-Thru Window Services*, may have any number of drive-thru signs, of any total area.

E. NC District: In the NC District, only drive-thru, projecting, building, or low freestanding or ground-mounted signs, graphics, or symbols shall be used. Where these standards conflict with other provisions in Section 1010, Subsection 1010.09(E) shall take precedence.

F. VCS District: In the VCS District, signs shall be subject to the following standards. Where these standards conflict with other provisions in Section 1010, Subsection 1010.09(F) shall take precedence.

- 1. Signs shall have a maximum of two colors in addition to black and white.
- 2. Only hanging, building, or monument signs shall be used.

3. Signs shall not exceed 24 square feet in size.

- G. RTC District: In the RTC District, all signs shall be complementary to the unique historic character of the Mount Hood corridor in the use of graphics, symbols, lighting, and natural materials. In addition, identification and onsite directional signing shall be sensitive to the needs of tourists. Identification signing may be provided for each distinctive village or area designated in the Mt. Hood Community Plan subject to approval by the State Highway Division and the Design Review Committee. Where these standards conflict with other provisions in Section 1010, except Subsection 1010.15, Subsection 1010.09(H) shall take precedence. Where these standards conflict with Subsection 1010.15, Subsection 1010.15 shall take precedence.
- H. RC District: In the RC District, all signs except drive-thru signs shall be complementary to the historic character and rural scale of the unincorporated community in the use of graphics, symbols, lighting, and natural materials. Where these standards conflict with other provisions in Section 1010, Subsection 1010.09(I) shall take precedence.

1010.10 ONSITE TRAFFIC CONTROL AND IDENTIFICATION SIGNS

- A. Directories oriented primarily toward vehicle circulation shall be limited in area to a maximum of two square feet per tenant, use, or building specifically identified, up to a maximum of 40 square feet.
- B. Directories, including those attached to buildings, that are oriented toward pedestrian circulation areas shall be a maximum of 24 square feet in area, and a maximum of eight feet in top-of-sign height.
- C. An onsite monument sign for an individual building within a development may be allowed as an alternative to a building sign, provided such sign shall:
1. Be located adjacent to the building being identified.
 2. Not exceed 12 square feet in area.
 3. Not exceed four feet in top-of-sign height.
 4. Use materials and colors that are the same, or substantially the same, as those used on the building identified by the sign.

~~D. In the CI District, identification signs may be allowed within a perimeter setback area that fronts on a public, county, or state road, and onsite directional signs may be allowed within perimeter setback areas that are adjacent to other site areas.~~

1010.11 OFFSITE TRAFFIC CONTROL AND IDENTIFICATION SIGNS IN NATURAL RESOURCE DISTRICTS

- A. A temporary permit may be approved, renewable after five years. Criteria for approval:
 - 1. Shall be allowed only in Natural Resource zoning districts.
 - 2. The sign shall provide the actual registered name of a business and directions to the business (e.g., left or right, an arrow, one-quarter mile, etc.).
 - 3. A maximum of three offsite traffic control identification signs are allowed for each business.
 - 4. Maximum distance of business from offsite traffic control identification sign: Five miles.
 - 5. A maximum of two offsite traffic control signs shall be located at any one site.
- B. Development Standards
 - 1. Maximum size: Shall not exceed four square feet per side.
 - 2. Setback: Behind the front property line.
 - 3. Illumination: Offsite traffic control and identification signs shall not be illuminated.

1010.12 FLAGS

Flags are allowed in all zoning districts and, except for drive-thru signs, are subject to the following:

- A. Number: Three flags per site.
- B. Maximum size: No flag shall exceed 40 square feet.
- C. Height: Top of pole supporting flag shall not exceed 35 feet above finished ground elevation (not including berms or mounds specifically created for the sign).
- D. All flags shall be located on one pole.

1010.13 TEMPORARY DISPLAYS AND SIGNS

- A. Temporary signs that are not drive-thru signs may be displayed under the following conditions and limitations:
 - 1. Number: Only one temporary sign shall be displayed for a site.

2. Time Period and Duration: Shall not be displayed for a total time period exceeding 60 days in any calendar year.
 3. Size and Height Limits: Same size and height limits as a permanent sign for the same site.
 4. Setbacks: Behind front property line.
 5. Anchoring: All signs approved under this provision shall be physically attached to the premises in a manner which both prevents the sign from being moved or blown from its location, and allows the prompt removal of the sign.
 6. Exceptions: No temporary sign shall be allowed under this provision for any business or development which has a changeable copy sign incorporated into its permanent sign.
- B. Temporary displays (pennants, banners, streamers, strings of lights, and beacon lights) that are not drive-thru signs may be displayed according to Subsections 1010.13(A)(2) and (5) and 1010.02(N).

1010.14 CHANGEABLE COPY SIGNS

Electronic message center signs and other changeable copy signs may be incorporated into permanent signs permitted pursuant to Subsections 1010.08 or 1010.09. Except for drive-thru signs, approval shall not be granted unless the following criteria are satisfied:

- A. Only one such sign shall be used in a development.
- B. The changeable copy sign or electronic message center sign shall be included in the maximum sign area allowed under Subsections 1010.09(A)(3) or 1010.09(B)(2), and Subsections 1010.08 (A)(1) or (B)(1), and shall not exceed 80 percent of the total sign area.
- C. The changeable copy sign or electronic message center sign shall be integrated into the design of the sign.
- D. All segments of a message shall be completed within 12 seconds.

1010.15 GOVERNMENT CAMP SIGN STANDARDS

- A. Area of Application: Subsection 1010.15 shall apply to all permanent identification signs for commercial developments in the RTC and MRR Districts in Government Camp and in the HR District on properties with frontage on Government Camp Loop. The purpose of these sign standards is to provide a consistent design theme in the commercial areas.

- B. Conformance: Signs shall comply with the other applicable provisions of Section 1010, except as otherwise provided in Subsection 1010.15. Where there are conflicts, Subsection 1010.15 shall govern. A sign plan must be submitted to the Design Review Committee which shows:
1. Total signage allowed for the proposed sign frontage, face area of existing signage, and face area of proposed signage;
 2. The design of the sign and sign support including dimensions, materials, colors, sign copy, lighting, and graphics; and
 3. A site plan and building elevation showing placement of existing and proposed signs on the site.
- C. Preexisting Signs: Signs and sign structures existing prior to February 10, 1993, that complied with applicable regulations existing when the sign was established but do not comply with one or more of the requirements of Section 1010 shall be subject to the provisions of Section 1206, Nonconforming Uses and Vested Rights, and Subsection 1010.02(M), except:
1. Any permanent sign which is nonconforming in any manner other than individual size shall be brought into conformance with the provisions of this Ordinance prior to any expansion or change in use which requires design review or a conditional use permit. Total signage area of existing and new signs may not exceed the maximum established in these standards. No occupancy permit shall be issued until a sign plan is submitted.
 2. Should any permanent nonconforming sign be damaged by any means to an extent of more than 50 percent of its replacement costs at the time of damage, it shall be reconstructed or replaced in conformance with these sign standards.
 3. Placement of a new sign where existing signage is greater than the total allowed, or where the new sign will make the total greater, requires removal of an amount of existing signage to keep the total signage area under the limit.
 4. Where a Clackamas County Development Agency incentive program is in effect, all nonconforming signs, except those that are nonconforming in size alone, must be brought into conformance or removed by February 10, 1996.
- D. Design Standards: Signs shall comply with Subsection 1010.05 and the following conditions:
1. Design: Sign design and support structure shall uphold the rustic, mountain environment of Government Camp through a Cascadian design theme.

2. Materials:

- a. Signs and support structures are limited to wood or wood exterior, stone, brick, etched or stained glass, wrought iron, or non-shiny metal. Plywood may be used for signs only if it is heavily painted and/or edged to obscure the plywood texture and the surface is sealed to keep it from delaminating.
- b. Neon signs are permitted inside windows only.
- c. Plastic may be used only in the letters of sign copy or the portion of a sign with changeable copy.
- d. Signs in the RTC-zoned properties at the east and west entries of Government Camp visible from U.S. Highway 26 or with frontage on U.S. Highway 26 may be constructed of plastic if the design intent is upheld.

3. Colors: No reflective or fluorescent colors shall be used on signs or support structures.

4. Lighting: The source of the lighting shall be external and obscured from the pedestrian. Internally lit signs are permitted only where the letters of the copy are illuminated or in RTC-zoned properties at the east and west entries of Government Camp visible from U.S. Highway 26, or in signs on U.S. Highway 26 frontage.

5. Changeable Copy: Electronic message center sign area or changeable copy sign area is limited to no more than 20 percent of total signage allowed.

6. Scale: Signs shall be kept in scale with pedestrians and buildings.

7. Placement: Signs shall be incorporated into the design of the building and shall not be placed in locations which interrupt, detract from, or change the architectural lines of the building.

E. Total Signage Area:

1. Developments less than three acres in size:

- a. Total signage area shall be determined by the lineal feet of building frontage per street. This shall be a minimum of 30 square feet of signage plus one square foot for every five feet of building frontage greater than 30 lineal feet.
- b. Buildings two stories or taller may increase the total signage allowed by 50 percent.
- c. Only frontages on streets shall be used to determine total signage per frontage per development.

- d. Signage shall not be transferred between frontages.
- 2. Developments over three acres in size:
 - a. Total signage area shall be determined by lineal street frontage. This shall be a minimum of 30 square feet of signage plus one square foot of signage per five lineal feet of street frontage greater than 30 feet.
 - b. Internal signs not readily visible from the street shall not be subject to total signage area restrictions in Subsection 1010.15(E)(2)(a).
- 3. Developments with U.S. Highway 26 frontage: Such signs serve a unique purpose in attracting high speed traffic from the Highway and are also subject to Oregon Department of Transportation sign regulations. One sign shall be allowed per development per U.S. Highway 26 frontage and will be handled on a case-by-case basis. Signage shall conform to the Government Camp design intent to the degree possible.

F. Types of Signs Permitted:

- 1. Freestanding or monument signs:
 - a. Shall be situated within setback.
 - b. Shall have a maximum of one ground mounted sign per 50 feet of lineal building frontage.
 - c. Shall have a maximum face area of 24 square feet.
 - d. Shall have a maximum top-of-sign height of 12 feet.
 - e. Shall be on a base or wooden supports; poles are permitted only if integrated into a base. Any metal poles must be free of peeling paint and rust.
- 2. Building signs:
 - a. Shall have a maximum face area of 24 square feet.
 - b. Shall not extend more than 10 inches from the wall.
 - c. Sign or components shall not exceed top of roofline or extend beyond the face area of the building.
- 3. Projecting signs:
 - a. Shall not extend more than two feet into the public right-of-way, project farther than five feet from the building, or exceed top of roofline immediately above.

- b. Shall not exceed one projecting sign per 25 feet of lineal building frontage.
 - c. Shall have a maximum face area of 12 square feet; buildings over two stories may have signs of up to 24 square feet.
 - d. Supporting structure may not exceed sign's height or width by more than two feet or extend higher than roofline.
4. Window signs readily visible from outside the building:
- a. Shall have a maximum face area of 30 percent of total window area per frontage; maximum sign size per individual window sign is 12 square feet.
 - b. Interior neon window signs readily visible from the street shall not exceed 10 percent of the total window area per street frontage. No more than 20 percent of an individual window should be covered with neon. Neon signs within these limits shall not be counted toward the total signage area.
5. Awning/overhead or walkway covering signs:
- a. Shall be completely positioned on awning, overhead, or covered walkway.
 - b. Shall have a maximum face area of 24 square feet.

1010.16 SUNNYSIDE VILLAGE SIGN STANDARDS

In the Sunnyside Village, as identified on Comprehensive Plan Map X-SV-1, *Sunnyside Village Plan, Land Use Plan Map*, freestanding signs shall be constructed of brick, masonry, wood, or other materials that are compatible with the development. Where these standards conflict with other provisions in Section 1010, Subsection 1010.16 shall take precedence.

1010.17 SCMU DISTRICT SIGN STANDARDS

The following standards shall apply in the SCMU District. Where these standards conflict with other provisions in Section 1010, Subsection 1010.17 shall take precedence.

- A. Townhouses and triplexes shall be subject to Subsection 1010.06(A).
- B. Developments of quadplexes and multifamily dwellings shall be subject to Subsection 1010.06(C).
- C. All other developments, including mixed-use developments, shall be subject to Subsection 1010.09, except:

1. Pole signs, electronic message center signs, and other changeable copy signs are prohibited.
2. Monument signs shall not exceed a height of six feet or an area of 60 square feet, regardless of the number of tenants.
3. Building signs may be projecting signs, and projecting signs shall be subject to the following standards:
 - a. A maximum of one projecting sign per entrance per tenant shall be permitted.
 - b. A projecting sign shall project no more than four feet from the building or one-third the width of an abutting sidewalk or walkway, whichever is less. However, if there is no wall sign on the same building façade, the sign shall project no more than six feet from the building.
 - c. A projecting sign shall not exceed 12 square feet per side, excluding the support brackets. However, if there is not wall sign on the same building façade, the sign shall not exceed 24 square feet per side, excluding the support brackets.

1010.18 FARMERS' MARKET SIGNS

The following sign standards apply to a farmers' market approved pursuant to Section 840, *Farmers' Markets*:

- A. The farmers' market may display 20 square feet of sign area on each street frontage of the tract on which the market is located.
- B. Each farmers' market stall may display 10 square feet of sign area at the stall.
- C. Signs shall be subject to Subsection 1010.13(A)(5).
- D. Signs may be displayed only during the hours of farmers' market operation.

1010.19 MULTI-USE DEVELOPMENTS

The following sign standards apply to multi-use developments approved pursuant to Section 844, *Multi-Use Developments*. Where these standards conflict with other provisions in Section 1010, Subsection 1010.19 shall take precedence.

- A. Freestanding Signs: One freestanding sign may be provided on each public road, county road, or state highway from which the development takes access. One additional freestanding sign may be allowed on a public road, county road, or state highway when the frontage on that road exceeds 1,000 feet and two or more major access points are provided. In no case shall the number of freestanding signs exceed four for any multi-use development. The maximum size and height for each freestanding sign shall be determined pursuant to Subsection 1010.05(A)(3).
- B. Building Signs: Individual building tenant identification signs shall be allowed pursuant to Subsection 1010.05(B).
- C. Ground-Mounted Signs: Ground-mounted signs may be used to identify an individual building within a multi-use development provided that:
 - 1. No building sign with the same message is facing in the same direction;
 - 2. The sign area does not exceed 30 square feet;
 - 3. The sign does not exceed five feet in height; and
 - 4. Architectural features may be added to the sign structure provided the sign area and height are not increased by more than one-third of the above requirements.
- D. Road Signs: If interior circulation roads are named, directional signs to various uses within the development may be included on the road signs.

[Amended by Ord. ZDO-224, 05/31/2011; Amended by Ord. ZDO-231, 01/31/2012; Amended by Ord. ZDO-245, 07/01/2013; Amended by Ord. ZDO-243, 09/09/2013; Amended by Ord. ZDO-250, 10/13/2014; Amended by Ord. ZDO-252, 06/01/2015; Amended by Ord. ZDO-268, 10/02/2018; Amended by Ord. ZDO-280, 10/23/2021; Amended by Ord. ZDO-282, 07/01/2022; Amended by Ord. ZDO-283, 09/05/2023]

1015 PARKING AND LOADING

1015.01 GENERAL STANDARDS

- A. Inside the Portland Metropolitan Urban Growth Boundary (UGB), parking, loading, and maneuvering areas shall be hard-surfaced, unless a permeable surface is required for surface water management pursuant to the regulations of the surface water management authority or in order to comply with Subsection 1006.06.
- B. Outside the UGB, areas used for parking, loading, and maneuvering of vehicles shall be surfaced with screened gravel or better, and shall provide for suitable drainage.
- C. Parking and loading requirements for uses and structures not specifically listed in Tables 1015-1, *Automobile Parking Space Requirements*; 1015-2, *Minimum Automobile Parking Space Requirements for Dwellings*; 1015-3, *Minimum Required Bicycle Parking Spaces*; and 1015-4, *Minimum Required Off-Street Loading Berths* shall be subject to the requirements for the most similar use.
- D. Motor vehicle parking, bicycle parking, and loading areas shall be separated from one another.
- E. Required parking spaces and loading berths shall not be:
 - a. Rented, leased, or assigned to any other person or organization, except as provided for under Subsection 1015.02(D)(3)(a) for shared parking or Subsection 1015.04(C) for shared loading berths.
 - b. Used for storing or accumulating goods or storing a commercial or recreational vehicle, camper, or boat, rendering the space(s) useless for parking or loading operations.
 - c. Occupied by the conducting of any business activity, except for permitted temporary uses (e.g., farmers' markets).

1015.02 MOTOR VEHICLE PARKING AREA STANDARDS

- A. Off-street parking areas shall be designed to meet the following requirements:
 - 1. Off-street motor vehicle parking areas shall be provided in defined areas of the subject property. No area shall be considered a parking space unless it can be shown that the area is accessible and usable for that purpose and has required maneuvering area for vehicles. Required backing and maneuvering areas shall be located entirely onsite.

2. Automobile parking spaces shall be a minimum of 8.5 feet wide and 16 feet long, except that parallel spaces shall be a minimum of 8.5 feet wide and 22 feet long.
3. A minimum of 25 percent of required parking spaces shall be no larger than 8.5 feet wide and 16 feet long. If no parking spaces are required but parking spaces are provided, a minimum of 25 percent of provided parking spaces shall meet this standard.
4. Parking areas shall comply with minimum dimensions for curb length, stall depth, and aisle width established by the Clackamas County Roadway Standards; these dimensions are based on the orientation (e.g., 45-degree, 90-degree), length, and width of the spaces.
5. Double-loaded, 90-degree angle parking bays shall be utilized where possible.
6. A minimum of one parking space or five percent of the required spaces, whichever is greater, shall be marked and signed for use as carpool/vanpool spaces. These spaces shall be the closest employee automobile parking spaces to the building entrances normally used by employees but shall not take priority over any spaces required for individuals with disabilities. If no parking spaces are required but parking spaces are provided, a minimum of one parking space or five percent of the provided parking spaces, whichever is greater, shall comply with these standards.
7. In parking lots greater than one acre, ~~major onsite circulation drive aisles~~ internal streets, including those that cross -and lanes crossing to adjacent developments, ~~shall not have parking spaces accessing directly onto them~~ provide direct access to parking spaces.
8. Where feasible, shared driveway entrances, shared parking and maneuvering areas, and interior driveways between adjacent parking lots shall be required.
9. Except for parallel spaces, parking spaces heading into landscaped areas or along the perimeter of a parking lot shall be provided with a sturdy tire stop at least four inches high and located two feet within the space to prevent any portion of a car within the lot from extending over the property line.
10. For parking spaces heading into a landscaped area, the area in front of the tire stop that is included in the parking space dimension may be landscaped instead of paved or graveled according to the following standards:
 - a. Landscaping shall be ground cover plants only;

- b. The area in front of the tire stop that is included in the parking space dimension shall be in addition to the required minimum dimension for a landscape planter; and
- c. The landscaped area in front of the tire stop may count toward overall site landscaping requirements established in Table 1009-1, *Minimum Landscaped Area*. However, it may not count toward perimeter landscaping requirements established in Subsection 1009.03(B)(1).

B. Parking Minimums:

1. Within the Portland Metropolitan Urban Growth Boundary (UGB), no minimum off-street parking spaces are required for any development in any zoning district that is regulated by Section 315, Urban Low Density Residential (R-2.5, R-5, R-7, R-8.5, R-10, R-15, R-20, and R-30), Village Standard Lot Residential (VR-5/7), Village Small Lot Residential (VR-4/5), Village Townhouse (VTH), Planned Medium Density Residential (PMD), Medium Density Residential (MR-1), Medium High Density Residential (MR-2), High Density Residential (HDR), Village Apartment (VA), Special High Density Residential (SHD), and Regional Center High Density Residential (RCHDR) Districts; Section 510, Neighborhood Commercial (NC), Community Commercial (C-2), Regional Center Commercial (RCC), Retail Commercial (RTL), Corridor Commercial (CC), General Commercial (C-3), Planned Mixed Use (PMU), Station Community Mixed Use (SCMU), Office Apartment (OA), Office Commercial (OC), and Regional Center Office (RCO) Districts; Section 511, Village Community Service District (VCS); Section 512, Village Office District (VO); Section 602, Business Park (BP), Light Industrial (LI), and General Industrial (GI) Districts; or Section 702, Open Space Management District (OSM).

2. In all other zoning districts, tThe minimum number of parking spaces listed in Tables 1015-1, *Automobile Parking Space Requirements*, and 1015-2, *Minimum Automobile Parking Space Requirements for Dwellings*, applies unless modified in Subsection 1015.02(D).

a1. In case of expansion of a building or use that, prior to the expansion, does not meet the minimum parking space requirements in Table 1015-1 or 1015-2, the following provisions shall apply:

ia. The minimum number of additional parking spaces required shall be based only on the floor area or capacity added and not the area or capacity existing prior to the expansion.

iib. If the enlargement covers any of the pre-expansion parking spaces, lost parking spaces shall be replaced, in addition to any required additional spaces.

b2. In the event more than one use occupies a single structure or

parcel, the total minimum requirement for parking shall be the sum of the minimum requirements of the several uses computed separately.

C. Parking Maximums:

1. Within the UGB, the parking maximums listed for Urban Zone A in Table 1015-1 and Note 4 of Table 1015-2 apply within the Clackamas Regional Center and to properties within three-quarters of a mile walking distance of a light rail stop or within one-half of a mile walking distance of a corridor with transit service arriving with a scheduled frequency of at least four times an hour during peak service, when an area has 20-minute peak hour transit service within one-quarter mile walking distance for bus transit or one-half mile walking distance for light rail transit.
2. Within the UGB, areas not meeting the requirements of Subsection 1015.02(C)(1), are subject to the parking maximums listed in Table 1015-1, Urban Zone B.
3. In case of expansion of a building or use with more parking spaces than the maximum allowed by Table 1015-1:
 - a. Existing parking spaces may be retained, replaced, or eliminated, provided that after the expansion, the total number of remaining spaces complies with the minimum parking space requirement of Table 1015-1 for the entire development; and
 - b. Additional parking spaces are allowed only if required to comply with the minimum parking space requirement of Table 1015-1 for the entire development after the expansion.

Table 1015-1: Automobile Parking Space Requirements¹

Land Use Category	Minimum Parking Spaces²	Maximum Parking Spaces (Urban Zone A)	Maximum Parking Spaces (Urban Zone B)
Amusement Parks, Riding Academies, and Camps (per 1000 square feet of serving area)	0.8	None	None
Bank with Drive-in	4.3	~~5.4~~ 5.0	6.5
Bed and Breakfast Residences and Inns	1 for each guest room and 1 for the operator	None	None
Bowling Alleys (per alley)	3	None	None
Child Care ~~Facilities~~ <u>Centers</u>	0.5 In addition, a passenger- loading area shall be provided on the site.	None	None
Dwellings (see Table 1015-2)			
Home Occupations for Canine Skills Training	1 per canine handler, based on the maximum number of handlers permitted for any single training session. An additional space shall be provided for each employee.	None	None

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Land Use Category	Minimum Parking Spaces²	Maximum Parking Spaces (Urban Zone A)	Maximum Parking Spaces (Urban Zone B)
Home Occupations to Host Events	1 space per 3 guests based on the maximum number of guests permitted for any single event. An additional space shall be provided for each employee.	None	None
Hospitals	0.5	None	None
Hotels and Motels (per unit)	1	None	None
Industrial, Manufacturing, and Processing Facilities			
Zero to 24,999 square feet	1.5	None	None
25,000 to 49,999 square feet	1.42	None	None
50,000 to 79,999 square feet	1.25	None	None
80,000 square feet and greater	1	None	None
Medical and Dental Clinics	3.5	4.9	5.9
Movie Theaters (per seat)	0.3	0.4	0.5
Nursing Homes, Welfare or Correctional Institutions, and Institutions for Children (per bed)	0.2	None	None
Office Uses (includes Office Park, “Flex-Space”, Government Office and Miscellaneous Services)	2.7	3.4	4.1

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Land Use Category	Minimum Parking Spaces²	Maximum Parking Spaces (Urban Zone A)	Maximum Parking Spaces (Urban Zone B)
Places of Worship (per seat located in main assembly room, or 1 per 100 sq. ft. in main assembly room, exclusive of chancel or stage). If a school, child care facility, or similar facility is proposed in conjunction with primary use, it shall have separate parking requirement.	0.25	0.6	0.8
Produce Stands (per stand)	4	None	None
Recreational Vehicle Camping Facilities	1 per campsite (in addition to the space required for parking the recreational vehicle) and 1 per employee at peak employment period	None	None
Restaurants: Fast Food with drive-thru window service	9.0	12.4	14.9
Restaurants: With no drive-thru window service, Taverns	15.0	19.1	23
Retail/Commercial, including shopping centers	4.1, except in the Clackamas Regional Center Area, 3.0	~~5.1~~ <u>5.0</u>	6.2
Retail stores with bulky merchandise, such as furniture, appliances, automobiles, service/repair shops	2	~~5.1~~ <u>5.0</u>	6.2
Schools: Colleges, Universities, and High Schools (per student or staff member)	0.2	0.3	0.3

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Land Use Category	Minimum Parking Spaces²	Maximum Parking Spaces (Urban Zone A)	Maximum Parking Spaces (Urban Zone B)
Schools: Elementary and Junior High Schools (per school)	15, or 2 per classroom, whichever is less	None	None
Service Stations (per employee at peak employment period)	1	None	None
Sports Clubs/Recreation Facilities	4.3	5.4	6.5
Surface Mining	On-site vehicular parking for employees, customers and visitors, determined through Conditional Use process.	None	None
Tennis and Racquetball Courts	1	1.3	1.5
Theaters, Dance Halls, Community Clubs, Skating Rinks, Public Meeting Places (per seat, or 1 per 100 sq. ft. exclusive of stage)	0.25	None	None
Warehouse and Storage Distribution, and Terminals (air, rail, truck, water, etc.) **Maximum parking requirements apply only to warehouses 150,000 gross square feet or greater.			
Zero to 49,999 square feet	0.3	None	None
50,000 square feet and over	0.2	0.4**	0.5**

¹ Parking requirements are expressed as number of spaces per 1,000 square feet of gross leasable area, unless otherwise stated.

² No minimum off-street parking is required for any development in any zoning district within the UGB that is regulated by Section 315, 510, 511, 512, 602, or 702.

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Table 1015-2: Minimum Automobile Parking Space Requirements for Dwellings¹

Dwelling Type	Zoning District								
	~~R-5— R-30~~	~~VR-4/5 & VR-5/7~~	~~VTH~~	~~MR-1 & MR-2~~	~~SCMU All Urban Zoning Districts within the Portland Metropolitan Urban Growth Boundary^{2,3}~~	HR ²	MRR	RA-1 & RA-2	All Other Zoning Districts
Accessory Dwelling Unit	0	0	0	N/A	N/A 0	1	1	0	0
Accessory Historic Dwelling	N/A	N/A	N/A	N/A	N/A 0	N/A	N/A	0	0
Congregate Housing Facility (per resident)	N/A	N/A	0.25	0.25	0.25 0	N/A	0.25	N/A	0.25
Cottage Cluster	1	1	N/A	N/A	N/A 0	N/A	N/A	N/A	0
Detached Single-Family Dwelling or Manufactured Dwelling (located on an individual lot)	1, located behind the front setback line	1, located behind the front setback line	N/A	N/A	N/A 0	1 per dwelling unit 800 square feet or less 2 per dwelling unit greater than 800 square feet	1 per 600 square feet of residential building area	1, located behind the front setback line	0
Duplex or Triplex	1 ³	1 ³	1.5	1.5	1.5 0	N/A	1 per 600 square feet of residential building area	Duplex in RA-1: 1.5	1.5
								All others: N/A	

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Dwelling Type	Zoning District								
	~~R-5~~ ~~R-30~~	~~VR-4/5 &~~ ~~VR-5/7~~	~~VTH~~	~~MR-1 &~~ ~~MR-2~~	~~SCMU~~ ~~All Urban Zoning Districts within the Portland Metropolitan Urban Growth Boundary~~ ^{2,3}	HR ²	MRR	RA-1 & RA-2	All Other Zoning Districts
Manufactured Dwelling (located in a manufactured dwelling park)	~~2~~	~~N/A~~	~~N/A~~	~~2, if located in MR-1~~	~~N/A~~ <u>0</u>	N/A	2	N/A	2
				~~N/A, if located in MR-2~~					
Multifamily Dwelling: Per studio/zero-bedroom or one-bedroom dwelling unit	~~N/A~~	~~N/A~~	~~N/A~~	~~1~~	~~1~~ <u>0</u>	N/A	1	N/A	1
Per two-bedroom dwelling unit	~~N/A~~	~~N/A~~	~~N/A~~	~~1.25~~	~~1.25~~ <u>0</u>	N/A	1.25	N/A	1.25
Per three-bedroom dwelling unit	~~N/A~~	~~N/A~~	~~N/A~~	~~1.5~~	~~1.5~~ <u>0</u>	N/A	1.5	N/A	1.5
Quadplex	~~1³~~	~~1³~~	~~Same as multifamily dwelling in all other zoning districts~~	~~Same as multifamily dwelling~~	~~Same as multifamily dwelling~~ <u>0</u>	N/A	Same as multifamily dwelling	N/A	Same as multifamily dwelling

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Dwelling Type	Zoning District								
	~~R-5— R-30~~	~~VR-4/5 & VR-5/7~~	~~VTH~~	~~MR-1 & MR-2~~	~~SCMU~~ <u>All Urban Zoning Districts within the Portland Metropolitan Urban Growth Boundary</u> ^{2,3}	HR ²	MRR	RA-1 & RA-2	All Other Zoning Districts
Townhouse	~~1~~	~~1~~	~~1, located in a garage~~	~~2~~	~~0~~ ^{4,5}	1 per dwelling unit 800 square feet or less 2 per dwelling unit greater than 800 square feet	1 per 600 square feet of residential building area	N/A	1 ⁵

¹ Minimum parking requirement is expressed as number of spaces per dwelling unit, unless otherwise stated. N/A means the dwelling type is not allowed in the applicable zoning district.

² ~~List urban zones here~~Urban zoning districts are those regulated by Sections 315, 510, 511, 512, 602, and 702.

³ ~~Maximum parking for multifamily dwellings in the Clackamas Regional Center is 1.2 off-street spaces per studio unit and two off-street parking spaces per non-studio dwelling unit.~~

^{4,2} On land above 3,500 feet in elevation, covered parking shall be provided for structures containing three or more dwelling units.

³⁻ ~~No additional parking spaces shall be required for conversion of a detached single-family dwelling to middle housing.~~

^{5,4} ~~The parking exception in Subsection 1015.02(D)(3)(b) does not apply to townhouses.~~ Maximum parking for townhouses in Urban Zone A is two spaces per townhouse.

⁵⁻ ~~In the R-2.5 District, the required parking shall be located behind the front setback line.~~

D. Exceptions to Parking Requirements:

1. Parking maximums in Table 1015-1 and Note 4 to Table 1015-2 may be increased for the following:
 - a. Parking spaces in parking structures;
 - b. Fleet parking spaces;
 - c. Designated employee carpool spaces;
 - d. User-paid spaces; and
 - e. Parking spaces for vehicles for sale, lease, or rent.
- ~~2. Parking minimums in Table 1015-2 may be reduced by 40 percent for multifamily dwelling units on sites within a one-quarter mile walking distance of a light rail station. Walking distance is measured along public roads, walkways, or accessways.~~
- ~~3.2.~~ Parking minimums in Tables 1015-1 and 1015-2, ~~or as calculated pursuant to Subsection 1015.02(D)(2),~~ may be reduced for the following:
 - a. The total minimum requirement for parking spaces may be reduced up to 20 percent per use when shared parking is utilized.
 - b. In commercial and industrial zoning districts, available permitted on-street parking spaces on a development's street frontage may be counted toward required parking. To count as an on-street parking space, the space must comply with the minimum dimensions for a parking space established by Subsections 1015.02(A)(2) and (4).
 - c. Motorcycle parking may substitute for required automobile parking spaces as follows:
 - i. Up to five spaces or five percent of required automobile parking, whichever is less, may be utilized.
 - ii. For every four motorcycle parking spaces provided, the automobile parking requirement is reduced by one space.
 - iii. Each motorcycle space must be at least four feet wide and eight feet deep.
 - d. Electric vehicle charging stations may be installed according to the following standards:

- i. Two spaces or five percent of the minimum required parking spaces, whichever is greater, may be utilized for electric vehicle charging stations and identified exclusively for such use.
 - ii. Additional parking spaces of the minimum required parking may be utilized for electric vehicle charging stations, provided they are not identified exclusively for such use.
 - iii. Any portion of parking spaces provided that are beyond the required minimum number of parking spaces may be utilized for electric vehicle charging stations, regardless of whether they are identified exclusively for such use.
4. A parking cap applies in the SCMU District. The total number of parking spaces provided for nonresidential development (either onsite or offsite) shall not exceed the parking cap, regardless of the number of pre-existing parking spaces. Parking maximums and minimums established by Tables 1015-1 and 1015-2 shall be adjusted to the extent necessary to comply with the parking cap. The parking cap shall be calculated by the following formula:

$\text{Parking Cap} = \text{Gross Acres of the Development Site} \times 67 \text{ Parking Spaces}$

1015.03 BICYCLE PARKING STANDARDS

A. Bicycle parking areas shall meet the following on-site locational requirements:

1. Bicycle parking racks shall be located in proximity to an entrance but shall not conflict with pedestrian needs.
2. At least 75 percent of the bicycle parking spaces shall be located within 50 feet of a public entrance to the building.
3. Bicycle parking may be provided within a building, if the location is easily accessible for bicycles.
4. Bicycle parking for multiple uses, or a facility with multiple structures, may be clustered in one or several locations within 50 feet of each building's entrance.
5. If the bicycle parking is not easily visible from the street or main building entrance, then a sign must be posted near the building entrance indicating the location of the parking facilities.

B. Bicycle parking shall be designed to meet the following requirements:

1. When more than seven bicycle parking spaces are required, a minimum of 50 percent of the spaces shall be covered. All of the required bicycle spaces for schools, park-and-ride lots, congregate housing facilities, quadplexes, and multifamily dwellings shall be covered.
2. Cover for bicycle parking may be provided by building or roof overhangs, awnings, bicycle lockers, bicycle storage within buildings, or freestanding shelters.
3. When more than 15 covered bicycle parking spaces are required, 50 percent of the required covered spaces shall be enclosed and offer a high level of security, e.g., bicycle lockers or a locked cage or room with locking facilities inside, to provide safe long-term parking.
4. Required bicycle parking spaces shall be illuminated.
5. Required bicycle parking areas shall be clearly marked and reserved for bicycle parking only.
6. Bicycle parking space dimensions and standards:
 - a. Bicycle parking spaces must be at least six feet long and two feet wide, and in covered situations the overhead clearance must be at least seven feet.
 - b. An aisle a minimum of five feet wide must be provided for bicycle maneuvering.
 - c. Bicycle racks must hold bicycles securely by the frame and be securely anchored.
 - d. Hanging bicycle racks and/or enclosed, stackable bike lockers may be substituted for surface racks if comparable dimensions, maneuvering, and clearance are provided to the user.
 - e. Bicycle racks must accommodate both:
 - i. Locking the frame and one wheel to the rack with a high-security U-shaped shackle lock; and
 - ii. Locking the frame and both wheels without removal of wheels to the rack with a chain or cable not longer than six feet.

7. The minimum number of bicycle parking spaces listed in Table 1015-3, *Minimum Required Bicycle Parking Spaces*, are required. If a listed use is located with the Portland Metropolitan Urban Growth Boundary (UGB), it shall have a minimum of two bicycle parking spaces or the number required by Table 1015-3, whichever is greater.
8. Within the UGB, quadplexes not developed pursuant to Section 845, *Triplexes, Quadplexes, Townhouses, and Cottage Clusters*, and multifamily residential, commercial, and institutional developments shall designate short-term bicycle parking (less than four hours) and long-term bicycle parking (four or more hours) spaces as needed for the development.

Table 1015-3: Minimum Required Bicycle Parking Spaces

Land Use Category	Minimum Bicycle Parking Spaces¹
Elementary Schools, Junior High Schools, Middle Schools, Senior High Schools, and Colleges (per classroom)	2 (maximum required spaces – 100)
Quadplexes not approved pursuant to Section 845 and Multifamily Dwellings (per dwelling unit)	0.5
Park-and-Ride Lots, Transit Centers, and Community Parks (per acre)	5
Preschools	4
Residential Care Facilities, Nursing Homes, and Hospitals (per 8 beds)	1
Retail and Commercial including offices and clinics	
Per 2,500 square feet, up to 50,000 square feet	1
Per each additional 5,000 square feet	1
Theaters, Places of Worship, Auditoriums, Dance Halls and other Public Assembly Places (per 40 seats or per 40 persons of design capacity, whichever is greater)	1
Warehouses and industrial buildings without attached offices, automotive service uses such as service stations and tire stores, and businesses selling large items such as major appliances, furniture, cars, or boats (per 10,000 square feet of building area)	1

¹ Minimums outside the UGB are 20 percent of the requirement listed in Table 1015-3.

1015.04 OFF-STREET LOADING STANDARDS

- A. No area shall be considered a loading berth unless it can be shown that the area is accessible and usable for that purpose, and has maneuvering area for vehicles.
- B. In cases of expansion of a building or use, that prior to the expansion, does not meet the minimum loading berth requirements in Table 1015-4, *Minimum Required Off-Street Loading Berths*, the following provisions shall apply:
 - 1. The minimum number of additional loading berths required shall be based only on the floor area or capacity added and not on the area or capacity existing prior to the expansion.
 - 2. If the expansion covers any pre-expansion loading berths, lost loading berths shall be replaced, in addition to any required additional berths.
- C. In the event several uses occupy a single structure or parcel of land and share the same loading berths, the total requirement for off-street loading shall be reduced by up to 25 percent of the sum of the requirements of the several uses computed separately.
- D. The minimum off-street loading berths listed in Table 1015-4 are required.

Table 1015-4: Minimum Required Off-Street Loading Berths

Land Use Category	Unit of Measurement	Number of Loading Berths	Minimum Required Dimension
Multifamily Dwellings	Number of Dwelling Units		25 feet x 12 feet x 14 feet high
	Below 50	None	
	50 to 100	1	
	101 to 200	2	
	201 or more	3	
Hotels and Motels	Square feet of floor area		35 feet x 12 feet x 14 feet high
	Under 5,000	None	
	5,000 to 50,000	1	
	50,001 to 150,000	2	
	150,001 to 300,000	3	
	300,001 to 500,000	4	
	For each additional 200,000	1 additional berth	

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Land Use Category	Unit of Measurement	Number of Loading Berths	Minimum Required Dimension
Institutional Uses			
Nursing Homes, Welfare or Correctional Institutions, and Institutions for Children	Number of beds		35 feet x 12 feet x 14 feet high
	Less than 25	0	
	More than 25	1	
Assisted Living Facilities	Square feet of floor area		
	Below 10,000	None	
	10,000 to 60,000	1	
	60,001 to 160,000	2	
	160,001 to 264,000	3	
	388,001 to 520,000	5	
	520,001 to 652,000	6	
	652,001 to 784,000	7	
	784,001 to 920,000	8	
	For each additional 140,000	1 additional berth	
Schools	Per each school bus	0.5	

CLACKAMAS COUNTY ZONING AND DEVELOPMENT ORDINANCE

Land Use Category	Unit of Measurement	Number of Loading Berths	Minimum Required Dimension
Hospitals	Square feet of floor area		35 feet x 12 feet x 14 feet high
	Under 5,000	None	
	5,000 to 16,000	1	
	16,001 to 40,000	2	
	40,001 to 64,000	3	
	64,001 to 96,000	4	
	96,001 to 128,000	5	
	128,001 to 160,000	6	
	160,001 to 196,000	7	
	For each additional 36,000	1 additional berth	
Commercial Uses	Square feet of floor area		35 feet x 12 feet x 14 feet high
	Under 5,000	None	
	5,000 to 24,999	1	
	25,000 to 49,999	2	
	50,000 to 100,000	3	
	Each additional 50,000	1	

CLACKAMAS COUNTY ZONING AND DEVELOPMENT ORDINANCE

Land Use Category	Unit of Measurement	Number of Loading Berths	Minimum Required Dimension
Industrial, Manufacturing, Warehousing, Storage, Processing, and Terminals	Square feet of floor area		60 feet x 12 feet x 14 feet high
	Under 5,000	None	
	5,000 to 16,000	1	
	16,001 to 40,000	2	
	40,001 to 64,000	3	
	64,001 to 96,000	4	
	96,001 to 128,000	5	
	128,001 to 160,000	6	
	160,001 to 196,000	7	
	For each additional 36,000	1 additional berth	

[Added by Ord. ZDO-224, 5/31/11; Amended by Ord. ZDO-231, 1/31/12; Amended by Ord. ZDO-243, 9/9/13; Amended by Ord. ZDO-246, 3/1/14; Amended by Ord. ZDO-250, 10/13/14; Amended by Ord. ZDO-252, 6/1/15; Amended by Ord. ZDO-266, 5/23/18; Amended by Ord. ZDO-269, 9/6/18; Amended by Ord. ZDO-268, 10/2/18; Amended by Ord. ZDO-276, 10/1/20; Amended by Ord. ZDO-277, 1/1/22; Amended by Ord. ZDO-282, 7/1/22; Amended by Ord. ZDO-287, 8/3/23]

1102 DESIGN REVIEW

1102.01 PURPOSE AND APPLICABILITY

Section 1102 is adopted to provide standards, criteria, and procedures under which design review may be approved.

A. Design review is required for:

1. Development, redevelopment, expansions, and improvements in:
 - a. Commercial zoning districts;
 - b. Industrial zoning districts;
 - c. HDR, MR-1, MR-2, MRR, PMD, RCHDR, SHD, VA, and VTH Districts;
2. Institutional uses in all zoning districts~~Urban Low Density Residential, VR-4/5, and VR-5/7 Districts;~~
3. Townhouses ~~and institutional uses~~ in the HR District; and
4. Other uses as required by the Planning Director, the Hearings Officer, or the Board of County Commissioners.

B. Notwithstanding Subsection 1102.01(A)(1), design review is not required for detached single-family dwellings, manufactured dwellings, prefabricated structures, and uses accessory to detached single-family dwellings, manufactured dwellings, and prefabricated structures.

C. Notwithstanding Subsection 1102.01(A), design review is not required for stormwater management facilities permitted as an accessory or primary use; utility cabinets that comply with Section 830, *Utility Cabinets*; utility facilities in road rights-of-way; and utility lines.

1102.02 SUBMITTAL REQUIREMENTS

In addition to the submittal requirements identified in Subsection 1307.07(C), an application for design review shall include:

- A. A narrative describing the proposed use;
- B. An engineering geologic study, if required pursuant to Section 1002, *Protection of Natural Features*, or 1003, *Hazards to Safety*;
- C. Preliminary statements of feasibility, if required pursuant to Section 1006, *Utilities, Street Lights, Water Supply, Sewage Disposal, Surface Water Management, and Erosion Control*;

- D. A transportation impact study, if required pursuant to Section 1007, *Roads and Connectivity*;
- E. Calculations demonstrating compliance with Section 1012, *Lot Size and Density*, if applicable;
- F. A vicinity map showing the location of the subject property in relation to adjacent properties, roads, bikeways, pedestrian access, utility access, and manmade or natural site features that cross the boundaries of the subject property;
- G. An existing conditions map, drawn to a scale of not less than one inch equals 50 feet, showing:
 - 1. Contour lines at two-foot intervals for slopes of 20 percent or less within an urban growth boundary; contour lines at five-foot intervals for slopes exceeding 20 percent within an urban growth boundary; contour lines at 10-foot intervals outside an urban growth boundary; source of contour information.
 - 2. Slope analysis designating portions of the site according to the following slope ranges and identifying the total land area in each category: zero to 20 percent, greater than 20 percent to 35 percent, greater than 35 percent to 50 percent, and greater than 50 percent;
 - 3. Drainage;
 - 4. Potential hazards to safety, including areas identified as mass movement, flood, soil, or fire hazards pursuant to Section 1003;
 - 5. Natural features, such as rivers, streams, wetlands, underground springs, wildlife habitat, earth mounds, and large rock outcroppings;
 - 6. Wooded areas, significant clumps or groves of trees, and specimen conifers, oaks, and other large deciduous trees. Where the site is heavily wooded, an aerial photograph, at a scale of not more than 1 inch equals 400 feet, may be submitted and only those trees that will be affected by the proposed development need be sited accurately;
 - 7. Overlay zoning districts regulated by Section 700, *Special Districts*;
 - 8. Noise sources;
 - 9. Sun and wind exposure;
 - 10. Significant views;

11. Structures, impervious surfaces, utilities, onsite wastewater treatment systems, landscaping, driveways and easements (e.g., access, utility, storm drainage). Note whether these will remain or be removed and provide dimensions of driveways and easements; and
 12. All of the following that are on or adjacent to the subject property, including dimensions and, if applicable, names: existing roads, platted unconstructed roads, railroad rights-of-way, bikeways, curbs, sidewalks, pedestrian pathways, accessways, and trails.
- H. A proposed site plan, drawn to a scale of not less than one inch equals 50 feet, showing:
1. The subject property, including contiguous property under the same ownership as the subject property, and adjacent properties;
 2. Property lines and dimensions for the subject property. Indicate any proposed changes to these;
 3. Natural features to be retained;
 4. Location, dimensions, and names of all existing or platted roads or other public ways, easements, and railroad rights-of-way on or adjacent to the subject property;
 5. The location of at least one temporary benchmark and spot elevations;
 6. Location and dimensions of structures, impervious surfaces, and utilities, whether proposed or existing and intended to be retained. For phased developments, include future buildings;
 7. Approximate location and size of storm drainage facilities;
 8. Relation to transit; parking and loading areas, including dimensions and number of individual parking and loading spaces and drive aisles; bicycle racks; walkways; and pedestrian crossings;
 9. Orientation of structures showing windows and doors;
 10. Location and type of lighting;
 11. Service areas for waste disposal, recycling, loading, and delivery;
 12. Location of mail boxes;
 13. Freestanding signs; and

14. Pedestrian amenities;
- I. A grading plan, drawn to a scale of not less than one inch equals 50 feet, showing location and extent of proposed grading, general contour lines, slope ratios, slope stabilization proposals, and natural resources protection consistent with Sections 1002 and 1003;
- J. Architectural drawings, including:
1. Building elevations, including any building signs. Identify the dimensions, area, color, materials, and means of illumination of such signs. Identify and show dimensions of any electronic message center or other changeable copy sign areas;
 2. Building sections;
 3. Floor plans;
 4. Color and type of building materials; and
 5. Elevation of freestanding sign(s). Identify the dimensions—including total height and height between bottom of sign and ground, area, color, materials, and means of illumination. Identify and show dimensions of any electronic message center or other changeable copy sign areas; and
 6. Gross floor area, in square feet, of each structure; floor area ratio if a minimum floor area ratio standard applies; and number of dwelling units;
- K. A general landscaping plan, drawn to a scale of not less than one inch equals 50 feet, showing the elements required on the proposed site plan and:
1. Existing plants and groups of plants proposed;
 2. Description of soil conditions; plans for soil treatment such as stockpiling of topsoil or addition of soil amendments; and plant selection requirements relating to soil conditions;
 3. Erosion controls, including plant materials and soil stabilization, if any;
 4. Irrigation system;
 5. Landscape-related structures such as fences, terraces, decks, patios, shelters and play areas; and
 6. Open space and recreational areas and facilities, if applicable.

- L. A transportation improvement plan that includes proposed cross-sections for roads to be constructed or improved, including widths of travel lanes, bikeways, sidewalks, curbs, pedestrian pathways, and landscape strips. Identify proposed landscape plan for landscape strips, including street tree type, size and location. Identify proposed dedication of right-of-way.

1102.03 APPROVAL CRITERIA

Design review requires review as a Type II application pursuant to Section 1307, *Procedures*, and shall be subject to the following standards and criteria:

- A. The proposed development shall be subject to Section 1000, *Development Standards*, and the standards of the applicable zoning district.
- B. As part of design review in the PMU and RCO Districts, a master plan shall be required if the proposed development does not meet the minimum floor area ratio for the entire site (where phased compliance is permitted by Table 510-2, *Dimensional Standards in the Urban Commercial and Mixed-Use Zoning Districts*) or if compliance with Table 510-3: *Site-Specific Requirements for the PMU District*, is not being achieved for the entire PMU site. The master plan shall demonstrate that it is feasible to achieve full compliance with a future phase of development that is not reliant upon adding additional stories to existing or proposed structures or demolishing structures built after the PMU or RCO District was applied to the subject property.
- C. As part of design review of development of any portion of the OA District, a master plan shall be required for the subject property and all contiguous lots with a Comprehensive Plan land use designation of Office Apartment. The master plan shall include a plan for consolidation of motor vehicle accesses for the entire Office Apartment site that complies with the access targets of Comprehensive Plan Map X-SC-5, *Sunnyside Corridor Community Plan Sunnyside Road Access Management Targets*.

1102.04 DESIGN REVIEW COMMITTEE

A Design Review Committee shall be established pursuant to Subsection 1307.03 and shall have the responsibilities assigned to it by Subsection 1102.04.

- A. The Planning Director may review and render a decision on a Type II application for design review or forward the application to the Design Review Committee for review and recommendation prior to rendering a decision. In deciding whether to forward an application to the Design Review Committee, the Planning Director shall consider:

1. The size of the project, including mass of buildings, site area, landscaping, and parking requirements;
 2. The presence of natural features, such as wetlands, steep slopes, treed area, and riparian corridors;
 3. Visual significance; and
 4. Impact on neighboring properties, particularly where a project is adjacent to a residential area.
- B. An application shall be forwarded to the Design Review Committee for review and recommendation if requested by the applicant or required by the Hearings Officer or the Board of County Commissioners.
- C. The Planning Director may consult with individual members of the Design Review Committee at any point during the evaluation of a design review application or in determining compliance with conditions of design review approval.

1102.05 APPROVAL PERIOD ~~AND TIME EXTENSION~~

- A. Approval of design review is valid for ~~six~~six years from the date of the final decision. If the County's final decision is appealed, the approval period shall commence on the date of the final appellate decision. During this ~~six~~six-year period, the approval shall be implemented, or the approval will become void.
1. Implemented means all major development permits shall be obtained and maintained for the approved development, or if no major development permits are required to complete the development contemplated by the design review approval, implemented means all other necessary County development permits (e.g., grading permit, building permit for an accessory structure) shall be obtained and maintained. A major development permit is:
 - a. A building permit for a new primary structure that was part of the design review approval; or
 - b. A permit issued by the County for parking lot or road improvements required by the design review approval.

~~B. If the design review approval is not implemented within the initial approval period established by Subsection 1102.05(A), a two-year time extension may be approved pursuant to Section 1310, Time Extension.~~

BE. If the design review approval is implemented, a master plan approved as part of the design review approval remains applicable to future development of the subject property unless a modification to the master plan, or a new master plan, is approved or the requirement for master planning no longer applies to the subject property.

[Amended by Ord. ZDO-224, 5/31/2011; Amended by Ord. ZDO-230, 9/26/2011; Amended by Ord. ZDO-249, 10/13/2014; Amended by Ord. ZDO-250, 10/13/2014; Amended by Ord. ZDO-248, 10/13/2014; Amended by Ord. ZDO-252, 6/1/2015; Amended by Ord. ZDO-266, 5/23/2018; Amended by Ord. ZDO-282, 7/1/2022; Amended by Ord. ZDO-283, 9/5/2023; Amended by Ord. ZDO-285, 9/3/2024; Amended by Ord. ZDO-288, 9/9/2024]

1103 OPEN SPACE REVIEW

1103.01 APPLICABILITY

Section 1103 applies to development that affects an open space resource described in Section 1011, Open Space and Parks, and shown generally on Comprehensive Plan Map IV-6, *North Urban Area Land Use Plan Map*, as Resource Protection, Major Hazards, or Public and Community Use Open Space.

1103.02 PROCEDURE

Open space review shall require a Type II application pursuant to Section 1307, Procedures, and shall be subject to the following:

- A. The required site analysis and development plans shall be reviewed to ensure that all Comprehensive Plan policies, Ordinance, and development standards relevant to the open space resource designation are being satisfied.
- B. The probable impact of the proposed development on relevant natural systems or features, in particular on resources of area-wide significance, shall be evaluated.
- C. The potential for conservation easements, public acquisition, dedication, or any other available means of securing parts of the site as a park, trail, or other open space resource shall be evaluated.
- D. Alternative development proposals that better protect the open space resources through the appropriate use of such techniques as density transfers, commonwall structures, multistory buildings, parking structures, under-structure parking, and reduced parking requirements near transit lines, shall be identified. The intent of this is to assist the applicant in using the various provisions of the Comprehensive Plan, Ordinance, and development standards to achieve the best possible balance of development and open space protection.

1103.03 APPROVAL PERIOD AND TIME EXTENSION

- A. Open space review approval is valid for ~~six~~four years from the date of the final written decision. If the County's final written decision is appealed, the approval period shall commence on the date of the final appellate decision. During this ~~six~~four-year period, the approval shall be implemented, or the approval will become void.

1. “Implemented” means all major development permits shall be obtained and maintained for the approved development, or if no major development permits are required to complete the development contemplated by the open space review approval, “implemented” means all other necessary County development permits (e.g. grading permit, building permit for an accessory structure) shall be obtained and maintained. A “major development permit” is:
 - a. A building or manufactured dwelling placement permit for a new primary structure that was part of the open space review approval; or
 - b. A permit issued by the County Engineering Division for parking lot or road improvements required by the open space review approval.

~~B. If the open space review approval is not implemented within the initial approval period established by Subsection 1103.03(A), a two-year time extension may be approved pursuant to Section 1310.~~

1103.04 SUBMITTAL REQUIREMENTS

In addition to the submittal requirements identified in Subsection 1307.07(C), an application for open space review shall include:

- A. Building or manufactured dwelling placement permit submittal requirements for single-family dwellings on lots of record created prior to January 31, 1980, shall include any materials reasonably necessary for adequate review of the project's impact on the open space resource. Examples are:
 1. A site plan showing existing natural features of the subject property and existing development, as well as proposed development, tree cutting activity, or other modification of open space resources; and
 2. Cross-section of any area within the open space resource where terrain modifications will occur.
- B. Submittal requirements for subdivisions and partitions shall be those identified in Section 1105, *Subdivisions, Partitions, Replats, Middle Housing Land Divisions, Condominium Plats, and Vacations of Recorded Plats*.
- C. Submittal requirements for commercial, industrial, and multifamily developments shall be those identified in Section 1102, *Design Review*.

[Amended by Ord. ZDO-230, 9/26/11; Amended by Ord. ZDO-248, 10/13/14; Amended by Ord. ZDO-253, 6/1/15]

1105 SUBDIVISIONS, PARTITIONS, REPLATS, MIDDLE HOUSING LAND DIVISIONS, CONDOMINIUM PLATS, AND VACATIONS OF RECORDED PLATS

1105.01 PURPOSE AND APPLICABILITY

Section 1105 is adopted to provide standards, criteria, and procedures under which a subdivision, partition, replat, middle housing land division, condominium plat, or vacation of a recorded plat may be approved, except:

- A. In the EFU, TBR, and AG/F Districts, land divisions that are approved pursuant to Subsections 401.0~~89~~⁸⁹, 406.09, or 407.0~~58~~⁵⁸, respectively, are exempt from review pursuant to Section 1105. However, all subdivisions, as well as all partitions containing any parcel of 80 acres or smaller (based on the best available records), require completion of a final plat pursuant to Subsection 1105.11; and
- B. Subdivisions for cemetery purposes pursuant to ~~Oregon Revised Statutes~~ Chapter 97 are exempt from Section 1105.

1105.02 GENERAL SUBMITTAL REQUIREMENTS FOR SUBDIVISIONS, PARTITIONS, REPLATS, AND MIDDLE HOUSING LAND DIVISIONS

In addition to the submittal requirements identified in Subsection 1307.07(C), an application for a subdivision, partition, replat, or middle housing land division shall include:

- A. Five copies of a preliminary plat. The preliminary plat shall be drawn to a scale of not less than one inch equals 20 feet and not more than one inch equals 200 feet. If the preliminary plat is larger than 11 inches by 17 inches, five reduced-sized, legible copies of the preliminary plat shall be submitted on eight-and-one-half-inch by 14-inch or 11-inch by 17-inch paper. The following information shall be included on the preliminary plat or by separate attachment:
 - 1. Source of domestic water and location of any existing and proposed wells;
 - 2. Method of wastewater disposal and location of any existing and proposed on-site wastewater treatment systems;
 - 3. Existing and proposed utility lines and facilities;
 - 4. Locations, dimensions, and area of each lot, parcel, and tract;
 - 5. Date the preliminary plat was prepared;
 - 6. North arrow;
 - 7. Identification of each lot or parcel by number;

8. Locations and widths of all roads abutting the subject property, including road names, direction of drainage, approximate grades, and whether public or private;
 9. Locations and widths of all proposed roads, including proposed names, approximate grades, radii of curves, and whether public or private;
 10. Location and width of legal access to the subdivision or partition, other than public or County roads, if applicable;
 11. Contour lines at two-foot intervals if 10 percent slope or less or five-foot intervals if exceeding 10 percent slope within an urban growth boundary; contour lines at 10-foot intervals outside an urban growth boundary; source of contour information;
 12. Locations of all seasonal and perennial drainage channels, including their names, if known, and direction of flow;
 13. Locations and widths of all existing and proposed easements, to whom they are conveyed and for what purpose;
 14. Locations and dimensions of all existing and proposed driveways and walkways;
 15. Locations and dimensions of existing structures and their setbacks from existing and proposed lot lines;
 16. Locations and dimensions of all areas to be offered for public dedication and the intended use of such areas;
 17. Boundaries and type of restricted areas identified in Subsection 1012.05, as applicable;
 18. Locations of all significant vegetative areas, including, but not limited to, major wooded areas, specimen trees, and bearing trees; and
 19. For a proposed subdivision, a plat name approved by the County Surveyor pursuant to ~~Oregon Revised Statutes~~ 92.090;
- B. Preliminary statements of feasibility required pursuant to Section 1006, *Utilities, Street Lights, Water Supply, Sewage Disposal, Surface Water Management, and Erosion Control*;
- C. If the subject property includes land designated Open Space by the Comprehensive Plan, a vicinity map showing the location of the subject property in relation to adjacent properties, roads, bikeways, pedestrian access, utility access, and manmade or natural site features that cross the boundaries of the subject property;

D. If the subject property includes land designated Open Space by the Comprehensive Plan, an existing conditions map of the subject property showing:

1. Contour lines at two-foot intervals for slopes of 20 percent or less within an urban growth boundary; contour lines at five-foot intervals for slopes exceeding 20 percent within an urban growth boundary; contour lines at 10-foot intervals outside an urban growth boundary; source of contour information.
2. Slope analysis designating portions of the site according to the following slope ranges and identifying the total land area in each category: zero to 20 percent, greater than 20 percent to 35 percent, greater than 35 percent to 50 percent, and greater than 50 percent;
3. Drainage;
4. Potential hazards to safety, including areas identified as mass movement, flood, soil, or fire hazards pursuant to Section 1003, *Hazards to Safety*;
5. Marsh or wetland areas, underground springs, wildlife habitat areas, and surface features such as earth mounds and large rock outcroppings;
6. Location of wooded areas, significant clumps or groves of trees, and specimen conifers, oaks, and other large deciduous trees. Where the subject property is heavily wooded, an aerial photograph, at a scale of not more than one inch equals 400 feet, may be submitted and only those trees that will be affected by the proposed development need be sited accurately;
7. Location of any overlay zoning districts regulated by Section 700, *Special Districts*;
8. Noise sources;
9. Sun and wind exposure;
10. Significant views; and
11. Existing structures, impervious surfaces, utilities, landscaping, and easements; and

1105.03 ADDITIONAL SUBMITTAL REQUIREMENTS FOR SUBDIVISIONS, PARTITIONS, AND REPLATS

An application for a subdivision, partition, or replat shall include the following additional information:

- A. Calculations demonstrating that the proposed density complies with the minimum and maximum density standards of Section 1012, *Lot Size and Density*, or for zoning districts not subject to Section 1012, demonstrating compliance with the minimum lot size in the applicable zoning district;
- B. The north-south dimension and front-lot-line orientation of each proposed lot or parcel, except for lots or parcels for which an exception from the solar design standard of Subsection 1017.03 is requested pursuant to Subsection 1017.04. For the purpose of this submittal requirement, north-south dimension and front lot line are defined in Subsection 1017.02;
- C. For a proposed subdivision, a phasing plan and schedule, if the applicant proposes to have final plat review, pursuant to Subsection 1105.412, occur in two or more phases pursuant to Subsection 1105.05(C); and
- D. A master plan if required pursuant to Section 1012.
- E. If an applicant is requesting review and approval as an expedited land division, the applicant shall submit evidence that each of the criteria identified in Subsection 1105.08 is met by the proposal.

1105.04 ADDITIONAL SUBMITTAL REQUIREMENTS FOR MIDDLE HOUSING LAND DIVISIONS

An application for a middle housing land division shall include the following additional information:

- A. Demonstration that the property to be divided is developed or proposed to be developed with middle housing that complies with the standards applicable to middle housing on or after July 1, 2022. ~~If middle housing development is proposed, a copy of building permit applications and construction plans that have been submitted to or approved by the Building Codes Division shall be included in the application;~~
- B. Locations of the easements necessary for:
 - 1. Locating, accessing, replacing, and servicing all dwelling units;
 - 2. Pedestrian access from each dwelling unit to a private or public road;
 - 3. Any common areas or shared building elements; and
 - 4. Any shared driveways or parking; and
- C. Location of each middle housing dwelling unit, any other development on the lot or parcel, and location of all areas to be retained under common ownership.

1105.05 APPROVAL CRITERIA FOR SUBDIVISIONS, PARTITIONS, AND REPLATS

A major subdivision requires review as a Type III application pursuant to Section 1307, *Procedures*. A minor subdivision or a partition requires review as a Type II application pursuant to Section 1307. A replat of property partially or wholly in the AG/F, EFU, or TBR District, or that proposes to increase the number of lots or parcels in the recorded subdivision or partition plat, requires review as a Type II application pursuant to Section 1307. Otherwise, a replat requires review as a Type I application pursuant to Section 1307. A subdivision, partition, or replat shall be subject to the following standards and criteria:

- A. The proposed subdivision, partition, or replat shall comply with the applicable provisions of the section of this Ordinance that regulates the subject zoning district and Section 1000, *Development Standards*.
- B. In an Urban Low Density Residential District, the applicant may designate the proposed subdivision, partition, or replat as a zero-lot-line development. In a zero-lot-line development, there are no minimum rear and side setbacks for single-family dwellings, manufactured homes, and structures accessory to single-family dwellings and manufactured homes, except from rear and side lot lines on the perimeter of the final plat.
- C. As part of preliminary plat approval for a subdivision, approval of a phasing plan and schedule to allow final plat review to occur in two or more phases, each of which includes a portion of the subject property, may be granted in consideration of such factors as the size of the proposed subdivision, complexity of development issues, required improvements, and other factors deemed relevant. If a phasing plan and schedule is approved, such approval shall be subject to the following:
 - 1. The total number of lots in all recorded phases of the subdivision shall not exceed the maximum density allowed pursuant to Section 1012, *Lot Size and Density*, for the gross site area included in all such phases.
 - 2. If one or more open space tracts are required as a condition of subdivision approval, the first phase shall include all required open space tracts for the entire subdivision.
 - 3. Future phases shall be shown upon the initial and subsequent final plats as a "Tract Reserved for Future Development."
 - 4. As deemed necessary by the County or special districts, dedication of rights-of-way or easements into or through future phases may be required with the initial or subsequent phases, prior to platting of the final phase.

- D. A nonprofit, incorporated homeowners association, or an acceptable alternative, shall be required for ownership of, improving, operating, and maintaining common areas and facilities, including, but not limited to, open space, private roads, access drives, parking areas, and recreational uses, and for snow removal and storage in Government Camp.
1. The homeowners association shall continue in perpetuity unless the requirement is modified pursuant to either Section 1309, *Modification*, or the approval of a new land use permit application provided for by this Ordinance.
 2. Membership in the homeowners association shall be mandatory for each lot or parcel owner.
 3. The homeowners association shall be incorporated prior to recording of the final plat.
 4. Acceptable alternatives to a homeowners association may include, but are not limited to, ownership of common areas or facilities by the government or a nonprofit conservation organization.
- E. If the subject property is in a future urban area, as defined by Chapter 4 of the Comprehensive Plan, the location of proposed easements, road dedications, structures, wells, and on-site wastewater treatment systems shall be consistent with the orderly future development of the subject property at urban densities.

1105.06 ADDITIONAL APPROVAL CRITERIA FOR REPLATS

A replat shall be subject to the following additional standards and criteria:

- A. A replat is subject to the minimum and maximum lot size standards of the applicable zoning district, except as follows:
1. If a lot of record is smaller than the minimum lot size standard, its size may be reduced, provided that it is not in an AG/F, EFU, or TBR District.
 2. If a lot of record is larger than the maximum lot size standard, its size may be reduced even if the reduction is not sufficient to comply with the maximum lot size standard.
 3. If a lot of record in an AG/F, EFU, or TBR District is smaller than the minimum lot size standard, its size may be reduced subject the following standards and criteria:

- a. As used in Subsection 1105.06(A)(3), “ground water restricted area”, “high-value farmland”, “high-value forestland”, and “waiver” have the meanings given those terms in ORS 195.300.
- b. A replat for a lot of record that is larger than 80 acres may be approved if the adjustment does not reduce the lot of record to less than 80 acres.
- c. A replat may not be used to:
 - i. Decrease the size of a lot of record that, before the relocation or elimination of a common property line, is smaller than 80 acres and contains an existing dwelling or is approved for the construction of a dwelling, if another lot of record affected by the property line adjustment would be increased to a size as large as or larger than the minimum lot or parcel size required to qualify the other affected lot of record for a dwelling;
 - ii. Decrease the size of a lot of record that contains an existing dwelling or is approved for construction of a dwelling to a size smaller than 80 acres, if another lot of record affected by the replat would be increased to a size as large as or larger than the minimum lot or parcel size required to qualify the other lot of record for a dwelling;
 - iv. Allow an area of land used to qualify a lot of record for a dwelling based on an acreage standard to be used to qualify another lot of record for a dwelling if the land use approval would be based on an acreage standard;
 - v. Replat a property line that resulted from a subdivision or partition authorized by a waiver so that any lot of record affected by the property line adjustment is larger than: two acres if the lot of record is, before the adjustment, two acres in size or smaller and is high-value farmland, high-value forestland, or within a ground water restricted area; or five acres if the lot of record is, before the adjustment, five acres in size or smaller and is not high-value farmland, high-value forestland, or within a ground water restricted area;
 - vi. Separate a temporary dwelling for care, home occupation, relative farm help dwelling, or processing facility from the lot of record on which the primary residential use or other primary use exists; or
 - vii. Separate an accessory dwelling in conjunction with farm use approved pursuant to Subsection 401.05(C)(12), except as provided in OAR 660-033-0010(24)(B).

B. Replats that propose to increase the number of lots or parcels shall not be approved, unless:

1. The gross site area of the affected plat is increased, or is of sufficient size to allow additional lots or parcels, or the zoning on the subject property has been changed since the existing plat was approved, permitting a greater density on all, or part, of the original platted area;
2. The allowed density is recalculated pursuant to Section 1012, *Lot Size and Density*, on the basis of the gross site area of the original platted area and any additions to the gross site area, and, if applicable, on the basis of the new zoning;
3. All existing lots or parcels within the plat that are not affected by the replat, including additional lots or parcels that may be created by subdivision or partition under existing zoning, are subtracted from the maximum density of the original plat area in determining allowed density for the replatted portion; and
4. All open space requirements of the original plat, if applicable, are satisfied by the replatted subdivision or partition, or portion thereof.

1105.07 APPROVAL CRITERIA FOR MIDDLE HOUSING LAND DIVISIONS

A middle housing land division requires review as a Type II or Type II-E application pursuant to Section 1307, *Procedures*. Review as a Type II-E application is by the request of the applicant at time of application submittal. If an applicant submits for a middle housing land division to be reviewed concurrently with the subdivision or partition, the middle housing land division shall be reviewed under the procedure for the subdivision or partition.

A middle housing land division shall be subject to the following standards and criteria:

- A. The ~~property lot or parcel~~ to be divided shall be within the R-5, R-7, R-8.5, R-10, R-15, R-20, R-30, VR-4/5, or VR-5/7 District and developed or proposed to be developed with middle housing that complies with the standards applicable to middle housing on or after July 1, 2022. ~~Proposed to be developed means that building permits have been submitted for the middle housing dwelling units.~~

1. The lot or parcel to be divided may be a proposed lot or parcel in an application for a partition or subdivision that is being reviewed concurrently with an application for a middle housing land division.

- B. An application for a middle housing land division may be submitted before, after, or concurrently with an application for building permits for the middle housing unit(s). The middle housing proposal may consist of a single duplex, triplex, quadplex, cottage cluster, or structure containing townhouses.

- CB. Each middle housing lot shall contain exactly one dwelling unit, except that a tract used as a common area may not contain a dwelling unit.

DE. Buildings or structures on a resulting lot or parcel shall comply with applicable provisions in the Oregon Residential Specialty Code, including with respect to newly created lot lines.

ED. Utilities for each middle housing dwelling unit shall be provided so that:

1. Each middle housing dwelling unit ~~shall have~~ has separate utilities for all utilities other than water or wastewater; and-
2. Each middle housing dwelling unit may have separate water and sanitary sewer utilities, as required by the adopted standards of the applicable service district or company.

FE. Easements shall be provided, as necessary, for each dwelling unit for:

1. Locating, accessing, replacing, and servicing all utilities;
2. Pedestrian access from each dwelling unit to a private or public road;
3. Any common areas or shared building elements;
4. Any shared driveways or parking; and

GF. A homeowners association, or an acceptable alternative, shall be required pursuant to Subsection 1105.05(D).

HG. Each middle housing lot shall be prohibited from further division and shall be prohibited from development with additional dwelling units, including accessory dwelling units.

IH. The type of middle housing developed on the original lot of record is not altered by a middle housing land division (e.g., a duplex remains a duplex even if it is divided along the common wall).

1105.08 ADDITIONAL APPROVAL CRITERIA FOR EXPEDITED LAND DIVISIONS

An expedited land division requires review as a Type II-E application pursuant to Section 1307, Procedures. An expedited land division shall be subject to the following standards and criteria in addition to those listed under Subsections 1105.05 and 1105.06 as applicable:

A. If requested by the applicant, a partition or subdivision application made under ORS 92.010 to 92.192, 92.205 to 92.245 or 92.830 to 92.845 shall be processed as an expedited land division if the land division:

1. Includes only land that is zoned for residential uses and is within an urban growth boundary;

2. Is solely for the purpose of residential use, including recreational or open space uses accessory to residential use;
3. Does not provide for dwellings or accessory buildings to be located on land that is mapped and designated in the Comprehensive Plan or Zoning and Development Ordinance for full or partial protection of natural features under the following:
 - a. Comprehensive Plan Maps 3-1e, 3-2, 4-6, 4-7b, 10-MH-1, 10-MH-2, 10-MH-3, or 10-MH-5; or
 - b. Sections 702, 704, 705, 706, 707, 708, 710, 711, 1002, 1004, 1007.02(A)(3), or 1011.
4. Satisfies minimum street or other right-of-way connectivity standards established by the Comprehensive Plan, this Ordinance, or the Roadway Standards.
5. Will result in development that either:
 - a. Creates enough lots or parcels to allow building residential units at 80 percent or more of the maximum net density permitted by the zoning designation of the subject property; or
 - b. Will be sold or rented to households with incomes below 120 percent of the area median income (AMI) as defined by the U.S. Department of Housing and Urban Development.

1105.~~08~~09 CONDOMINIUM PLATS

If detached single-family dwellings are proposed to be developed as condominiums on the same lot of record rather than as part of a subdivision or partition where each detached single-family dwelling is on its own lot or parcel, the development shall be subject to the same standards, criteria, review procedures, and application fee as would apply to a land division of the same property and resulting in the same number of potential detached single-family dwellings. This allowance for condominiums in lieu of the same development on separate lots of record supersedes provisions of this Ordinance that otherwise require each detached single-family dwelling to be on its own lot of record.

1105.~~09~~10 APPROVAL PERIOD ~~AND TIME EXTENSION~~

Except for a middle housing land division:

- A. Approval of a preliminary plat is valid for ~~six~~four years from the date of the final decision. If the County's final decision is appealed, the approval period shall commence on the date of the final appellate decision. During this ~~six~~four-year

period, the final plat shall be recorded with the County Clerk, or the approval will become void.

~~B. If a final plat is not recorded within the initial approval period established by Subsection 1105.09(A), a two-year time extension may be approved pursuant to Section 1310, *Time Extension*, except for a replat reviewed as a Type I application pursuant to Section 1307, which may not be approved for a time extension.~~

BC. If a phasing plan and schedule are approved pursuant to Subsection 1105.05(C), the following shall apply in lieu of Subsections 1105.~~1009~~(A) and (B):

1. The phasing schedule may provide a preliminary plat approval period for the first phase not to exceed ~~six~~four years from the date of the final written decision. If the County's final decision is appealed, the approval period shall commence on the date of the final appellate decision.
2. The phasing schedule may provide a preliminary plat approval period for each subsequent phase not to exceed ~~four~~two years from the end of the prior phase approval period.
3. Each phase shall be recorded with the County Clerk within the applicable approval period, or the approval of that phase and all subsequent phases will become void.
- ~~4. If a final plat for any phase is not recorded within the initial approval period for that phase, a two-year time extension for that phase and all subsequent phases may be approved pursuant to Section 1310.~~
- ~~45.~~ In no case shall a phasing schedule ~~or any time extensions~~ permit the recording of any phase more than 10 years after the date of preliminary plat approval.

1105.~~1011~~ APPROVAL PERIOD FOR MIDDLE HOUSING LAND DIVISIONS

Approval of a preliminary plat for a middle housing land division is valid for three years from the date of the final decision. If the County's final decision is appealed, the approval period shall commence on the date of the final appellate decision. During this three-year period, the final plat shall be recorded with the County Clerk, or the approval will become void.

1105.~~1112~~ FINAL PLAT REVIEW

If a preliminary plat is approved, finalizing the approval requires the completion of a final plat, except that a final plat is not required for a partition or partition replat in which all parcels are larger than 80 acres. The applicant shall comply with the following:

- A. The form and content of the final plat shall comply with the County's final decision approving the preliminary plat and applicable provisions of Chapters 11.01 and 11.02 of the Clackamas County Code and ~~Oregon Revised Statutes~~ Chapters 92, 94, 100, and 209.
- B. The final plat shall be submitted to the County for review. If a homeowners association is required, the declaration for a planned community, articles of incorporation, and bylaws shall be submitted to the County with the final plat. If the final plat and, if a homeowners association is required, the declaration for a planned community, articles of incorporation, and bylaws are consistent with the approved preliminary plat and the conditions of approval included in the County's final decision on the application have either been satisfied or guaranteed pursuant to Section 1311, *Completion of Improvements, Sureties, and Maintenance*, the Planning Director shall sign the plat.
- C. If the final plat is for a middle housing land division, it shall contain a notation that the lots shown on the plat were created pursuant to a middle housing land division and may not be further divided.

1105.~~12~~13 VACATIONS OF RECORDED PLATS

A recorded plat, or portion thereof, may be vacated pursuant to ~~Oregon Revised Statutes (ORS)~~ 92.205 through 92.245, ORS 368.326 through 368.366, or other applicable statutes.

1105.~~13~~14 SUBDIVISIONS OF MANUFACTURED DWELLING PARKS AND MOBILE HOME PARKS

The conversion of an existing or approved manufactured dwelling park or mobile home park to a subdivision requires review as a Type I application pursuant to Section 1307, *Procedures*, and shall be subject to the submittal, review, and platting requirements of ~~Oregon Revised Statutes (ORS)~~ 92.830 through 92.845. Where ORS 92.830 through 92.845 conflict with the provisions of this Ordinance, ORS 92.830 through 92.845 shall take precedence.

[Amended by Ord. ZDO-224, 5/31/2011; Amended by Ord. ZDO-230, 9/26/2011; Amended by Ord. ZDO-248, 10/13/2014; Amended by Ord. ZDO-253, 6/1/2015; Amended by Ord. ZDO-266, 5/23/2018; Amended by Ord. ZDO-268, 10/2/2018; Amended by Ord. ZDO-280, 10/23/2021; Amended by Ord. ZDO-282, 7/1/2022; Amended by Ord. ZDO-283, 9/5/2023; Amended by Ord. ZDO-285, 9/3/2024]

1107 PROPERTY LINE ADJUSTMENTS

1107.01 PURPOSE AND APPLICABILITY

Section 1107 is adopted to provide standards, criteria, and procedures under which a property line adjustment may be approved.

1107.02 SUBMITTAL REQUIREMENTS

In addition to the submittal requirements identified in Subsection 1307.07(C), an application for a property line adjustment shall include a tentative plan for the proposed property line adjustment. The plan shall be drawn to a scale of not less than one inch equals 20 feet and not more than one inch equals 200 feet and shall include the following information:

- A. Lot line dimensions and size in square feet or acres of the two lots of record that are the subject of the application;
- B. Identification of the area(s) proposed to be adjusted from one lot of record to the other;
- C. North arrow;
- D. Adjacent roads (noting whether public or private), including road names and road rights-of-way or easement widths;
- E. Locations and dimensions of existing and proposed driveways;
- F. Location of wells or name of water district;
- G. Location of on-site wastewater treatment systems or name of sanitary sewer district;
- H. Easements, including widths and types, labeled as existing or proposed, specifically noting whom they serve; and
- I. Existing structures and the distance from each structure to existing and proposed lot lines.

1107.03 GENERAL APPROVAL CRITERIA

A property line adjustment requires review as a Type I application pursuant to Section 1307, *Procedures*, except that an application filed pursuant to Subsection 1107.04 requires review as a Type II application pursuant to Section 1307. A property line adjustment shall be subject to the following standards and criteria:

- A. A property line adjustment is subject to the minimum and maximum lot size standards of the applicable zoning district, except as follows:
 - 1. If a lot of record is smaller than the minimum lot size standard, its size may be reduced, provided that it is not in an AG/F, EFU, or TBR District.
 - 2. If a lot of record is larger than the maximum lot size standard, its size may be reduced even if the reduction is not sufficient to comply with the maximum lot size standard.
 - 3. If a lot of record in an AG/F, EFU, or TBR District is smaller than the minimum lot size standard, its size may be reduced subject to Subsection 1107.04.
- B. Subsequent subdivision or partition (or development of dwelling units subject to Section 1012, *Lot Size and Density*) of a lot of record that was the subject of a property line adjustment shall be limited as follows:
 - 1. A property line adjustment shall not be used to later permit development that exceeds the maximum density established by Section 1012. In calculating density, all lots or parcels (or dwelling units subject to Section 1012) within both lots of record that were the subject of the property line adjustment shall be included.
 - 2. In the RA-1, RRFF-5 and FF-10 Districts, where averaging of lot sizes may be permitted pursuant to Table 316-2, *Dimensional Standards in the Rural Residential and Future Urban Residential Zoning Districts*, a property line adjustment shall not be used to later permit a subdivision or partition that reduces the minimum average lot size below the minimum average lot size standard. In calculating the minimum average lot size, all lots or parcels within both lots of record that were the subject of the property line adjustment shall be included.
- C. A property line adjustment is subject to the minimum setback standards of the applicable zoning district, except that if a lawfully established nonconforming setback exists, the property line adjustment may be approved if it does not reduce that depth. Prior to Planning Director approval of the final property line adjustment record of survey map or final plat required pursuant to Subsection 1107.06 or 1107.07, respectively, setbacks from the proposed relocated property line for all existing structures on the subject property shall be verified by a site plan prepared and stamped by an Oregon registered professional land surveyor. If no structures exist, the surveyor may submit a stamped letter so stating.

- D. A property line adjustment is prohibited between lots of record separated by a Comprehensive Plan land use plan designation boundary, as identified on Comprehensive Plan Map IV-3, *Lake Oswego Land Use Plan Map*, IV-4, *West Linn Land Use Plan Map*, IV-5, *Oregon City Land Use Plan Map*, IV-6, *North Urban Area Land Use Plan Map*, or IV-7, *Non-Urban Area Land Use Plan*, and *Mt. Hood Corridor Land Use Plan*, if the boundary separates an Urban, Unincorporated Community, or Rural Plan designation from an Agriculture or Forest Plan designation, except an adjustment may be granted when it results in an increase in the size of the lot of record with the Agriculture or Forest Plan designation. However, such an adjustment shall not be used to reconfigure a lot of record, the effect of which is to qualify the lot of record for a land division pursuant to Subsection 1012.02(D).
- E. A property line adjustment is prohibited between lots of record separated by the Portland Metropolitan Urban Growth Boundary or the unincorporated community boundary of Government Camp, Rhododendron, Wemme/Welches, Wildwood/Timberline, or Zigzag Village.
- F. A property line adjustment shall not result in the adjustment of a dwelling from one lot of record to the other unless the lot of record receiving the dwelling otherwise complies with all applicable standards of this Ordinance for the siting of a dwelling.

1107.04 AG/F, EFU, AND TBR DISTRICT APPROVAL CRITERIA

In addition to the standards and criteria in Subsection 1107.03, a property line adjustment in the AG/F, EFU, or TBR District shall be subject to the following standards and criteria:

- A. As used in Subsection 1107.04, “ground water restricted area”, “high-value farmland”, “high-value forestland”, and “waiver” have the meanings given those terms in Oregon Revised Statutes (ORS) 195.300.
- B. A property line adjustment for a lot of record in the AG/F, EFU, or TBR District that is larger than 80 acres may be approved if the adjustment does not reduce the lot of record to less than 80 acres.
- C. A property line adjustment may not be used to:
 - 1. Decrease the size of a lot of record that, before the relocation or elimination of the common property line, is smaller than 80 acres and contains an existing dwelling or is approved for the construction of a dwelling, if another lot of record affected by the property line adjustment would be increased to a size as large as or larger than the minimum lot or parcel size required to qualify the other affected lot of record for a dwelling;

2. Decrease the size of a lot of record that contains an existing dwelling or is approved for construction of a dwelling to a size smaller than 80 acres, if another lot of record affected by the property line adjustment would be increased to a size as large as or larger than the minimum lot or parcel size required to qualify the other lot of record for a dwelling;
3. Allow an area of land used to qualify a lot of record for a dwelling based on an acreage standard to be used to qualify another lot of record for a dwelling if the land use approval would be based on an acreage standard;
4. Adjust a property line that resulted from a subdivision or partition authorized by a waiver so that any lot of record affected by the property line adjustment is larger than:
 - a. Two acres if the lot of record is, before the adjustment, two acres in size or smaller and is high-value farmland, high-value forestland, or within a ground water restricted area; or
 - b. Five acres if the lot of record is, before the adjustment, five acres in size or smaller and is not high-value farmland, high-value forestland, or within a ground water restricted area;
5. Separate a temporary dwelling for care, home occupation, relative farm help dwelling, or processing facility from the lot of record on which the primary residential use or other primary use exists; or
6. Separate an accessory dwelling in conjunction with farm use approved pursuant to Subsection 401.05(C)(12), except as provided in OAR 660-033-0130(24)(B).

1107.05 APPROVAL PERIOD

Approval of a property line adjustment is valid for ~~six~~^{sixty} years from the date of the final decision. If the County's final decision is appealed, the approval period shall commence on the date of the final appellate decision. During this ~~six~~^{sixty}-year period, the requirements of Chapter 11.01.040 of the Clackamas County Code and Subsection 1107.06 or 1107.07 shall be satisfied, or the approval will become void.

1107.06 RECORD OF SURVEY MAP REVIEW

If a property line adjustment application is approved, finalizing the adjustment requires the filing of a record of survey map, unless the County Surveyor waives this requirement or unless the adjustment constitutes a replat under ORS chapter 92. The applicant shall comply with the following:

- A. The form and content of the record of survey map shall comply with the County's final decision approving the tentative plan and applicable provisions of Chapter 11.01 of the Clackamas County Code and ORS chapters 92 and 209.
- B. Final Planning Director Approval of the Record of Survey Map: The final record of survey map shall be submitted to the County for review. If it is consistent with the approved tentative plan and the conditions of approval included in the County's final decision on the application have been satisfied, the Planning Director shall sign the record of survey map.

1107.07 FINAL PLAT REVIEW FOR REPLATS

If an application is approved for a property line adjustment that constitutes a replat under ORS chapter 92, finalizing the adjustment requires the filing of a final plat, except that a final plat is not required for a replat in which all parcels are larger than 80 acres. The applicant shall comply with the following:

- A. The form and content of the final plat shall comply with the County's final decision approving the adjustment and applicable provisions of Chapters 11.01 and 11.02 of the Clackamas County Code and ORS chapters 92, 94, 100, and 209.
- B. The final plat shall be submitted to the County for review. If a homeowners association is required, the declaration for a planned community, articles of incorporation, and bylaws shall be submitted to the County with the final plat. If the final plat and, if a homeowners association is required, the declaration for a planned community, articles of incorporation, and bylaws are consistent with the approved adjustment and the conditions of approval included in the County's final decision on the application have either been satisfied or guaranteed pursuant to Section 1311, *Completion of Improvements, Sureties, and Maintenance*, the Planning Director shall sign the plat.

[Amended by Ord. ZDO-230, 9/26/11; Amended by Ord. ZDO-248, 10/13/14; Amended by Ord. ZDO-253, 6/1/15; Amended by Ord. ZDO-262, 5/23/17; Amended by Ord. ZDO-266, 5/23/18; Amended by Ord. ZDO-280, 10/23/21; Amended by Ord. ZDO-283, 9/5/23]

1203 CONDITIONAL USES

1203.01 PURPOSE AND APPLICABILITY

Section 1203 is adopted to provide standards, criteria, and procedures under which a conditional use may be approved.

1203.02 SUBMITTAL REQUIREMENTS

In addition to the submittal requirements identified in Subsection 1307.07(C), an application for a conditional use shall include:

- A. Preliminary statements of feasibility required pursuant to Section 1006, *Utilities, Street Lights, Water Supply, Sewage Disposal, Surface Water Management, and Erosion Control*;
- B. A vicinity map showing the relationship of the proposed use to the surrounding area;
- C. A site plan of the subject property showing existing and proposed improvements; and
- D. Building profiles of proposed new and remodeled structures.

1203.03 GENERAL APPROVAL CRITERIA

A conditional use requires review as a Type III application pursuant to Section 1307, *Procedures*, and shall be subject to the following standards and criteria:

- A. The use is listed as a conditional use in the zoning district in which the subject property is located.
- B. The characteristics of the subject property are suitable for the proposed use considering size, shape, location, topography, existence of improvements, and natural features.
- C. The proposed use complies with Subsection 1007.07, and safety of the transportation system is adequate to serve the proposed use.
- D. The proposed use will not alter the character of the surrounding area in a manner that substantially limits, impairs, or precludes the use of surrounding properties for the primary uses allowed in the zoning district(s) in which surrounding properties are located.
- E. The proposed use is consistent with the applicable goals and policies of the Comprehensive Plan.

- F. The proposed use complies with any applicable requirements of the zoning district and any overlay zoning district(s) in which the subject property is located, Section 800, *Special Use Requirements*, and Section 1000, *Development Standards*.

1203.04 VCS DISTRICT APPROVAL CRITERIA

In addition to the standards and criteria in Subsection 1203.03, a conditional use—except a wireless telecommunication facility—in the VCS District shall be subject to the following standards and criteria:

- A. The proposed use shall provide community facilities, such as meeting rooms, recreation rooms, gymnasiums, or performance facilities.
- B. The community facilities required by Subsection 1203.04(A) shall be made available on an ongoing basis to the whole community for little or no cost.
- C. The community facilities required by Subsection 1203.04(A) shall be a minimum of 3,000 square feet or one-third of the usable floor area built, whichever is greater.

1203.05 APPROVAL PERIOD ~~AND TIME EXTENSION~~

- A. Approval of a conditional use is valid for ~~six~~six~~four~~ years from the date of the final decision. If the County's final decision is appealed, the approval period shall commence on the date of the final appellate decision. During this ~~six~~six~~four~~-year period, the approval shall be implemented, or the approval will become void.

- 1. Implemented means all major development permits shall be obtained and maintained for the approved conditional use, or if no major development permits are required to complete the development contemplated by the approved conditional use, implemented means all other necessary County development permits (e.g., grading permit, building permit for an accessory structure) shall be obtained and maintained. A major development permit is:
 - a. A building permit for a new primary structure that was part of the conditional use approval; or
 - b. A permit issued by the County for parking lot or road improvements required by the conditional use approval.

~~B. If the approval of a conditional use is not implemented within the initial approval period established by Subsection 1203.05(A), a two-year time extension may be approved pursuant to Section 1310, *Time Extension*.~~

1203.06 DISCONTINUATION

If a conditional use is implemented pursuant to Subsection 1203.05 and later discontinued for a period of more than five consecutive years, the conditional use shall become void.

[Amended by Ord. ZDO-224, 5/31/11; Amended by Ord. ZDO-230, 9/26/11; Amended by Ord. ZDO-249, 10/13/14; Amended by Ord. ZDO-250, 10/13/14; Amended by Ord. ZDO-248, 10/13/14; Amended by Ord. ZDO-253, 6/1/15; Amended by Ord. ZDO-267, 8/28/17; Amended by Ord. ZDO-266, 5/23/18; Amended by automatic repeal of Ord. ZDO-267, 8/28/19; Amended by Ord. ZDO-280, 10/23/21; Amended by Ord. ZDO-283, 9/5/23]

1205 VARIANCES

1205.01 PURPOSE AND APPLICABILITY

Section 1205 is adopted to provide standards, criteria, and procedures under which a variance to a dimensional standard of this Ordinance may be approved. However, a variance is prohibited to the following dimensional standards:

- A. The minimum lot size standards in the RA-2, RR, FU-10, EFU, TBR, and AG/F Districts;
- B. The two-acre minimum lot size standard in the RRFF-5 District and the two-acre minimum lot size standard for planned unit developments in the FF-10 District;
- C. The 20-acre minimum lot size standard inside the Portland Metropolitan Urban Growth Boundary in the RA-1, RA-2, RRFF-5, FF-10, RC, and RI Districts.
- D. The fuel-free break standards of Subsection 406.08;
- E. The maximum building floor space standards in the HC, HD, HL, HR, MRR, RTC, RC, and RI Districts;
- F. Dimensional standards established in Sections 703 through 710, 712, and 713.

1205.02 APPROVAL CRITERIA

A variance to a dimensional standard of this Ordinance requires review as a Type II application pursuant to Section 1307, *Procedures*, and shall be subject to the following standards and criteria:

- A. If the proposed variance is to any of the following standards, it shall not reduce the minimum by more than 10 percent; however, the 10-percent limit does not apply to the partition of a lot of record that is divided by a public road:
 - 1. Minimum lot size;
 - 2. Minimum average lot size; and
 - 3. District land area.
- B. Compliance with the applicable dimensional standard of this Ordinance would create a hardship due to one or more of the following conditions:
 - 1. The physical characteristics of the land, improvements, or uses are not typical of the area. When the requested variance is needed to correct an existing violation of this Ordinance, that violation shall not be considered as a condition "not typical of the area".

2. The subject property cannot be developed to an extent comparable with other similar properties in the area if the standard is satisfied.
 3. The subject property is an Urban Low Density Residential, RA-1, RRFF-5, FF-10, or HR District, the requested variance is to the minimum lot size standard, and more than 50 percent of the lots of record that are within one-half mile of the subject property and located in the same zoning district as the subject property are smaller than the minimum lot size standard.
 4. Compliance with the standard would eliminate a significant natural feature of the subject property.
 5. Compliance with the standard would reduce or impair the use of solar potential on the subject property or adjacent properties.
- C. Strict adherence to the dimensional standard is unnecessary because the proposed variance from the standard will reasonably satisfy all the following objectives:
1. Will not adversely affect the function or appearance of the development and use on the subject property;
 2. Will not impose limitations on other properties and uses in the area, including uses that would be allowed on vacant or underdeveloped properties; and
 3. Will result in the minimum variance needed to alleviate the hardship.
- D. The proposed variance is consistent with the applicable goals and policies of the Comprehensive Plan.

1205.03 APPROVAL PERIOD ~~AND TIME EXTENSION~~

- A. Approval of a variance is valid for ~~sixfour~~ years from the date of the final decision. If the County's final decision is appealed, the approval period shall commence on the date of the final appellate decision. During this ~~sixfour~~-year period, the approval shall be implemented, or the approval will become void.
1. For a variance directly related to an application for a partition or subdivision, implemented means that the final plat of the partition or subdivision shall be recorded with the County Clerk.
 2. For any other variance, implemented means all major development permits shall be obtained and maintained, or if no major development permits are required to complete the development contemplated by the approved variance, implemented means all other necessary County development permits (e.g., grading permit, building permit for an accessory structure) shall be obtained and maintained. A major development permit is:

- a. A building or manufactured dwelling placement permit for a new primary structure that was part of the variance approval; or
- b. A permit issued by the County for parking lot or road improvements that were part of the variance approval.

~~B. If the approval of a variance is not implemented within the initial approval period established by Subsection 1205.03(A), a two-year time extension may be approved pursuant to Section 1310, *Time Extension*.~~

[Amended by Ord. ZDO-230, 9/26/11; Amended by Ord. ZDO-248; 10/13/14; Amended by Ord. ZDO-253, 6/1/15; Amended by Ord. ZDO-266, 5/23/18]

1206 NONCONFORMING USES AND VESTED RIGHTS

1206.01 PURPOSE AND APPLICABILITY

Section 1206 is adopted to provide standards, criteria, and procedures under which a nonconforming use may be continued, maintained, verified, restored, replaced, and altered and under which a vested right may be determined.

1206.02 STATUS

A nonconforming use may be continued although not in conformity with the regulations for the zoning district in which the use is located. Nonconforming use status applies to the lot(s) of record on which the nonconforming use is located and may not be expanded onto another lot of record, except as provided under Subsection 1206.07(B)(3)(a) and (b) or, in the case of nonconforming premises for marijuana production, with an alteration approved pursuant to Subsection 1206.07(C). A change in ownership or operator of a nonconforming use is permitted.

1206.03 MAINTENANCE

Normal maintenance of a nonconforming use necessary to maintain a nonconforming use in good repair is permitted provided there are not significant use or structural alterations. Normal maintenance may include painting; roofing; siding; interior remodeling; re-paving of access roads, parking areas, or loading areas; replacement of landscaping elements; and similar actions.

1206.04 DISCONTINUATION

- A. If a nonconforming use is discontinued for a period of more than 24 consecutive months, the use shall not be resumed unless the resumed use conforms to the requirements of this Ordinance and other regulations applicable at the time of the proposed resumption.
- B. Notwithstanding Subsection 1206.04(A) and pursuant to Oregon Revised Statutes (ORS) 215.130(7)(b), a nonconforming surface mining use shall not be deemed to be discontinued for any period after July 1, 1972, provided:
 - 1. The owner or operator was issued and continuously renewed a state or local surface mining operating permit, or received and maintained a state or local exemption from surface mining regulation; and
 - 2. The surface mining use was not inactive for a period of 12 consecutive years or more. Inactive means no aggregate materials were excavated, crushed, removed, stockpiled, or sold by the owner or operator of the surface mine.

- C. Notwithstanding Subsection 1206.04(A), marijuana production may not be resumed on a premises for which a marijuana producer holds a production license issued under ORS 475B.070 and which is nonconforming to the regulations for the zoning district in which the production is located if the premises is not used for marijuana production for a period of at least 12 calendar months, unless the marijuana production conforms to any zoning requirements or regulations applicable at the time of the proposed resumption.

1206.05 VERIFICATION

Verification of nonconforming use status requires review as a Type II application pursuant to Section 1307, *Procedures*, and shall be subject to the following standards and criteria:

- A. The nonconforming use lawfully existed at the time of the adoption of zoning regulations, or a change in zoning regulations, which prohibited or restricted the use, and the nonconforming use has not been subsequently abandoned or discontinued. Once an applicant has verified that a nonconforming use was lawfully established, an applicant need not prove the existence, continuity, nature, and extent of the nonconforming use for a period exceeding 20 years immediately preceding the date of application for verification; or
- B. The existence, continuity, nature, and extent of the nonconforming use for the 10-year period immediately preceding the date of the application is proven. Such evidence shall create a rebuttable presumption that the nonconforming use, as proven, lawfully existed at the time of, and has continued uninterrupted since, the adoption of restrictive zoning regulations, or a change in the zoning or zoning regulations, that have the effect of prohibiting the nonconforming use under the current provisions of this Ordinance.

1206.06 RESTORATION OR REPLACEMENT FOLLOWING DAMAGE OR DESTRUCTION

If a nonconforming use is damaged or destroyed by fire, other casualty, or natural disaster, such use may be restored or replaced consistent with the nature and extent of the use or structure lawfully established at the time of loss, subject to the following conditions:

- A. Alterations or changes to the nature and extent of the nonconforming use as lawfully established prior to the fire, other casualty, or natural disaster shall not be permitted under Subsection 1206.06, but may be permitted pursuant to Subsection 1206.07.

- B. Physical restoration or replacement of the nonconforming use shall be lawfully commenced within one year of the occurrence of the damage or destruction. Lawfully commenced means the lawful resumption of the nonconforming use or the issuance of a land use, building, on-site wastewater treatment system, grading, manufactured dwelling placement, residential trailer placement, plumbing, electrical, or other development permit required by the County or other appropriate permitting agency that is necessary to begin restoration or replacement of the nonconforming use or structures and resumption of the nonconforming use.
- C. The nonconforming use status of the use to be restored or replaced, and the nature and extent of the nonconforming use, shall be verified pursuant to Subsection 1206.05.

1206.07 ALTERATION

A. Alterations Required by Law:

- 1. The alteration of any nonconforming use shall be permitted when necessary to comply with any lawful requirement for alteration of the use or structure, subject to building, plumbing, sanitation, and other specialty code permit requirements in effect at the time the alteration is commenced. Additional conditions shall not be imposed upon the continuation of a nonconforming use when an alteration is required to comply with local or state health or safety requirements, except as provided in Oregon Revised Statutes (ORS) 215.215 pertaining to the re-establishment of nonfarm uses in the EFU District.
- 2. Alterations to a premises for which a marijuana producer holds a production license issued under ORS 475B.070 shall be permitted when necessary to comply with a lawful requirement for alteration in production.

B. Alterations Not Required by Law: Except as provided in Subsection 1206.07(C), an alteration of a nonconforming structure or other physical improvements, or a change in the use, requires review as a Type II application pursuant to Section 1307, *Procedures*, and shall be subject to the following standards and criteria:

- 1. The alteration or change will, after the imposition of conditions pursuant to Subsection 1206.07(B)(4), have no greater adverse impact to the neighborhood than the existing structure, other physical improvements, or use.
- 2. The nonconforming use status of the existing use, structure(s), and/or physical improvements is verified pursuant to Subsection 1206.05.
- 3. The alteration or change will not expand the nonconforming use from one lot of record to another unless:

- a. The lot of record on which expansion is proposed and the lot of record on which the nonconforming use currently is established have been part of the same tract continuously since the date the nonconforming use became nonconforming; or
 - b. The expansion would allow only for facilities necessary to support the nonconforming use, such as driveways, storm water management facilities, and on-site wastewater treatment systems.
4. Conditions of approval may be imposed on any alteration of a nonconforming structure or other physical improvements, or a change in the use, permitted under Subsection 1206.07(B), when deemed necessary to ensure the mitigation of any adverse impacts.
- C. Alterations to Nonconforming Marijuana Production Premises Not Required by Law: Alterations in production or in a building, structure, or physical improvement associated with a nonconforming premises for which a marijuana producer holds a production license issued under ORS 475B.070 requires review as a Type II application pursuant to Section 1307 and shall be subject to the following standards and criteria:
1. The alterations will have no greater adverse impact to the surrounding area than the premises' existing production or its existing associated buildings, structures, and physical improvements; and
 2. The number of calendar months in which the premises have not been used for marijuana production since the premises became nonconforming does not exceed 12.

1206.08 ALTERATION APPROVAL PERIOD ~~AND TIME EXTENSION~~

- A. Approval Period: Approval of an alteration of a nonconforming use, pursuant to Subsection 1206.07(B) or (C), is valid for a period of two years from the date of the final decision. If the County's final decision is appealed, the approval period shall commence on the date of the final appellate decision. During this two-year period, the approval shall be implemented, or the approval will become void.
1. Implemented means all major development permits shall be obtained and maintained for the approved alteration of a nonconforming use, or if no major development permits are required to complete the development contemplated by the approved alteration of a nonconforming use, implemented means all other necessary County development permits (e.g., grading permit, building permit for an accessory structure) shall be obtained and maintained.
 - a. A major development permit is:

- i. A building or manufactured dwelling placement permit for a new primary structure that was part of the alteration of a nonconforming use approval; or
 - ii. A permit issued by the County for parking lot or road improvements required by the alteration of a nonconforming use approval.
2. Notwithstanding Subsection 1206.04(A), the allowed discontinuance period for a nonconforming use approved for an alteration pursuant to Subsection 1206.07(B) is extended to 24 consecutive months from the date of implementation of the alteration pursuant to Subsection 1206.08(A)(1). In no event shall the total period of discontinuance exceed 48 consecutive months (i.e., any discontinuance period preceding the filing of an application for an alteration, plus the period during which the alteration application is under review, plus the approval period allowed by Subsection 1206.08(A), plus the 24 consecutive months from the date of implementation).

~~B. Time Extension: If the approval of an alteration of a nonconforming use is not implemented within the initial approval period established by Subsection 1206.08(A), a two-year time extension may be approved pursuant to Section 1310, *Time Extension*. However, in no event may the total period of discontinuance exceed 48 months, inclusive of those discontinuance periods identified in Subsection 1206.08(A)(2).~~

1206.09 VESTED RIGHT DETERMINATION

A vested right determination shall require review as a Type II application pursuant to Section 1307, *Procedures*, and shall be approved if the requested use was vested under common law.

[Amended by Ord. ZDO-230, 9/26/11; Amended by Ord. ZDO-243, 9/9/13; Amended by Ord. ZDO-249, 10/13/14; Amended by Ord. ZDO-250, 10/13/14; Amended by Ord. ZDO-248, 10/13/14; Amended by Ord. ZDO-253, 6/1/15; Amended by Ord. ZDO-276, 10/1/20; Amended by Ord. ZDO-283, 9/5/23]

1307 PROCEDURES

1307.01 PURPOSE

Section 1307 is adopted to:

- A. Implement the goals and policies of the Comprehensive Plan for community involvement and the planning process;
- B. Establish uniform procedures for the review of land use applications and legislative land use proposals;
- C. Facilitate timely review of land use applications by the County;
- D. Clarify the land use application review process for applicants; and
- E. Enable the public to effectively participate in the County's land use permit decision-making process.

1307.02 APPLICABILITY

Section 1307 applies to all land use permit applications and all legislative land use proposals under this Ordinance.

- A. No person shall engage in or cause development to occur without first obtaining the necessary land use permit approvals required by, and according to the procedures in, Section 1307.
- B. Where the provisions of Section 1307 conflict with other provisions of this Ordinance, the more specific provisions shall control.

1307.03 REVIEW AUTHORITIES

- A. Review Authorities, Generally: Review authorities are those who are designated to make recommendations or decisions regarding land use permit applications and legislative land use proposals. Table 1307-1, *Land Use Permits by Procedure Type*, lists the land use permits and legislative land use proposals that are provided for by this Ordinance and establishes:
 - 1. The review authority charged with making the initial decision;
 - 2. The review authority charged with making the decision on the initial County-level appeal, if any;
 - 3. The review authority charged with making the decision on the second County-level appeal, if any; and

4. Those circumstances where an additional review authority is charged with making a recommendation on the application or proposal to the decision-maker.
- B. Planning Director: Pursuant to Oregon Revised Statutes (ORS) 215.042, the Planning Director is the County official designated to administer land use planning in the County. In this role, the Planning Director administers the Comprehensive Plan and this Ordinance, issues decisions on certain land use permit applications, and provides administrative support to other review authorities. As used in this Ordinance, the term Planning Director includes any County staff member authorized by the Planning Director to fulfill the responsibilities assigned to the Planning Director by this Ordinance.
- C. Hearings Officer: Pursuant to ORS 215.406, the Hearings Officer is appointed by the Board of County Commissioners to conduct public hearings and issue decisions on certain land use permit applications.
- D. Historic Review Board: The Historic Review Board is designated as an advisory body on matters pertaining to the Historic Landmark, Historic District, and Historic Corridor overlay zoning district and has the powers and duties described in Sections 707 and 1307.
 1. The Historic Review Board shall be composed of seven members, appointed by and serving at the pleasure of the Board of County Commissioners.
 2. Historic Review Board members shall have demonstrated an interest in historic preservation and have experience or special expertise or knowledge in the field of historic preservation. Three positions on the Historic Review Board shall be filled as follows:
 - a. One architect, with knowledge in historic restoration;
 - b. One contractor, with expertise in construction techniques applied to historic structures; and
 - c. One representative from a historic group in the County.
 3. Unless otherwise provided for, members of the Historic Review Board shall serve four-year terms, beginning on May 1st of the year in which they are appointed. Terms may be renewed by the Board of County Commissioners.
 4. If a member of the Historic Review Board does not complete his or her term, the Board of County Commissioners shall appoint a replacement to serve the remainder of that term.

5. A member whose term has ended may continue to serve on the Historic Review Board until the Board of County Commissioners renews that term or appoints a new member. The new term shall be considered to have begun on the date it would have under Subsection 1307.03(D)(3).
 6. The Historic Review Board shall adopt bylaws governing its proceedings and appoint a chair and vice chair to manage those proceedings according to those bylaws, and County, state, and federal law.
 7. In the event of a conflict between the bylaws and any provision of this Ordinance, this Ordinance shall govern. In the event of a conflict between the bylaws and a non-mandatory provision of state law, the bylaws shall govern.
- E. Design Review Committee: The Design Review Committee is designated as an advisory body on matters pertaining to the design review process and has the powers and duties described in Sections 1102 and 1307.
1. The Design Review Committee shall be composed of seven members, appointed by and serving at the pleasure of the Board of County Commissioners.
 2. Five positions on the Design Review Committee shall be filled as follows:
 - a. One landscape architect;
 - b. One architect;
 - c. One registered engineer;
 - d. One graphic design representative; and
 - e. One representative from the field of finance or the construction and development industry.
 3. Unless otherwise provided for, members of the Design Review Committee shall serve four-year terms, beginning on May 1st of the year in which they are appointed. Terms may be renewed by the Board of County Commissioners.
 4. If a member of the Design Review Committee does not complete his or her term, the Board of County Commissioners shall appoint a replacement to serve the remainder of that term.
 5. A member whose term has ended may continue to serve on the Design Review Committee until the Board of County Commissioners renews that term or appoints a new member. The new term shall be considered to have begun on the date it would have under Subsection 1307.03(E)(3).

6. The Design Review Committee shall adopt bylaws governing its proceedings and appoint a chair and vice chair to manage those proceedings according to those bylaws, and County, state, and federal law.
 7. In the event of a conflict between the bylaws and any provision of this Ordinance, this Ordinance shall govern. In the event of a conflict between the bylaws and a non-mandatory provision of state law, the bylaws shall govern.
- F. Planning Commission: The Planning Commission is designated as the land use planning advisory body to the Board of County Commissioners and acts as the decision-maker on an initial appeal of the Planning Director's interpretation of the Comprehensive Plan. The Planning Commission shall have the powers and duties described in Section 1307 and such other powers and duties as may be imposed on it by County, state, or federal law.
1. The Planning Commission shall be composed of nine members, designated in positions labeled 1 through 9, appointed by and serving at the pleasure of the Board of County Commissioners.
 2. Members of the Planning Commission shall be residents of the various geographic areas of the County. No more than two voting members shall be engaged principally in the buying, selling, or developing of real estate for profit, as individuals, or be members of any partnership or officers or employees of any corporation that is engaged principally in the buying, selling, or developing of real estate for profit. No more than two voting members shall be engaged in the same kind of occupation, business, trade, or profession.
 3. Unless otherwise provided for, members of the Planning Commission shall serve four-year terms, beginning on May 1st of the year in which they are appointed. Terms may be renewed by the Board of County Commissioners.
 4. If a member of the Planning Commission does not complete his or her term, the Board of County Commissioners shall appoint a replacement to serve the remainder of that term.
 5. A member whose term has ended may continue to serve on the Planning Commission until the Board of County Commissioners renews that term or appoints a new member. The new term shall be considered to have begun on the date it would have under Subsection 1307.03(F)(3).
 6. The Planning Commission shall adopt bylaws governing its proceedings and appoint a chair and vice chair to manage those proceedings according to those bylaws, and County, state, and federal law.

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

G. Board of County Commissioners: The Board of County Commissioners is the governing body of the County and is the final County decision-maker on legislative land use proposals and certain land use permit applications.

1307.04 REVIEW PROCEDURE TYPES

A. Land use permits and legislative land use proposals provided for under this Ordinance are classified as one of four types, each of which is subject to a corresponding review procedure. The four types are described as follows:

1. Type I ~~and Type I-H~~ permits are ministerial in nature and involve land use actions governed by non-discretionary standards and clear and objective approval criteria. Approval of a Type I ~~or Type I-H~~ permit may require imposition of conditions of approval to ensure compliance with this Ordinance. The Type I ~~and Type I-H~~ procedures ~~is an~~are administrative review processes, where the review authority reviews the application for conformance with the applicable standards and approval criteria and issues a decision.
2. Type II, ~~and~~ Type II-E, ~~and Type II-S~~ permits are administrative in nature and involve land use actions governed by standards and approval criteria that generally require the exercise of limited discretion. Impacts associated with the land use action may require imposition of conditions of approval to minimize those impacts and to ensure compliance with this Ordinance. The Type II, ~~and~~ Type II-E, ~~and Type II-S~~ procedures ~~is an~~are administrative review processes, where the review authority reviews the application for conformance with the applicable standards and approval criteria and issues a decision.
3. Type III permits are quasi-judicial in nature, and involve land use actions governed by standards and approval criteria that require the use of discretion and judgment. The issues associated with the land use action may be complex and the impacts significant, and conditions of approval may be imposed to mitigate the impacts and ensure compliance with this Ordinance and the Comprehensive Plan. The Type III procedure is a quasi-judicial review process where the review authority receives testimony, reviews the application for conformance with the applicable standards and approval criteria, and issues a decision.
4. Type IV proposals are legislative in nature, and involve the creation, broad-scale implementation, or revision of public policy. These include amendments to the text of the Comprehensive Plan or this Ordinance. Large-scale changes

in the Comprehensive Plan Land Use Plan maps and zoning maps also may be characterized as legislative where a larger number of property owners are directly affected.

- B. Table 1307-1, *Land Use Permits by Procedure Type*, lists the land use permits and legislative land use proposals that are provided for by this Ordinance and assigns a procedure type to each. In the event that the procedure type for a land use permit application is not identified in Table 1307-1, specified elsewhere in this Ordinance, or otherwise required by law, the Planning Director shall determine the applicable procedure based on the guidelines in Subsection 1307.04(A). Questions as to the appropriate procedure shall be resolved in favor of the procedure type providing the greatest notice and opportunity to participate by the public.
1. As used in Table 1307-1:
 - a. “PD” means Planning Director.
 - b. “HO” means Hearings Officer.
 - c. “PC” means Planning Commission.
 - d. “BCC” means Board of County Commissioners.
 - e. Numbers in superscript correspond to the notes that follow Table 1307-1.

Table 1307-1: Land Use Permits by Procedure Type¹

Land Use Permit	Procedure Type	Pre-Application Conference Required	Initial Decision Review Authority	Appeal Review Authority
Accessory Historic Dwelling	I	No	PD	No County-Level Appeal
AG/F District, Land Division, 80-acre Minimum Lot Size [pursuant to Subsection 406.09(A)]	I	No	PD	No County-Level Appeal
AG/F District, Land Division [pursuant to Subsections 406.09(B) through (G)]	II	No	PD	HO
AG/F District, Lot of Record Dwelling on High-Value Farmland [pursuant to Subsection 401.05(C)(~~23~~)(j)]	III	No	HO	No County-Level Appeal
AG/F District, Permits not Otherwise Listed in Table 1307-1 but Identified as Type I in Table 401 ~~7~~ -1, <i>Permitted Uses in the EFU~~AG/F~~ District or Table 406-1, Permitted Uses in the TBR District</i>	I	No	PD	No County-Level Appeal
AG/F District, Permits not Otherwise Listed in Table 1307-1 but Identified as Type II in Table 401 ~~7~~ -1, <i>Permitted Uses in the EFU~~AG/F~~ District or Table 406-1, Permitted Uses in the TBR District</i>	II	No	PD	HO
Comprehensive Plan Map Amendment ²⁴	III or IV	Type III Only	BCC	No County-Level Appeal

CLACKAMAS COUNTY ZONING AND DEVELOPMENT ORDINANCE

Land Use Permit	Procedure Type	Pre-Application Conference Required	Initial Decision Review Authority	Appeal Review Authority
Comprehensive Plan Text Amendment	IV	No	BCC	No County-Level Appeal
Conditional Use	III	Yes	HO	No County-Level Appeal
Conversion of a Manufactured Dwelling Park or a Mobile Home Park to a Subdivision	I	No	PD	No County-Level Appeal
Design Review ³²	II	Yes	PD	HO
EFU District, Land Division, 80-acre Minimum Lot Size [pursuant to Subsection 401.08(~~GE~~)]	I	No	PD	No County-Level Appeal
EFU District, Land Division [pursuant to Subsections 401.08(~~HD~~) through (~~NH~~)]	II	No	PD	HO
EFU District, Lot of Record Dwelling on High Value Farmland [pursuant to Subsection 401.05(C)(~~24~~)(~~j~~)]	III	No	HO	No County-Level Appeal
EFU District, Permits not Otherwise Listed in Table 1307-1 but Identified as Type I in Table 401-1, <i>Permitted Uses in the EFU District</i>	I	No	PD	No County-Level Appeal
EFU District, Permits not Otherwise Listed in Table 1307-1 but Identified as Type II in Table 401-1, <i>Permitted Uses in the EFU District</i>	II	No	PD	HO

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Land Use Permit	Procedure Type	Pre-Application Conference Required	Initial Decision Review Authority	Appeal Review Authority
<u>Emergency Shelter Siting</u>	<u>II-S</u>	<u>No</u>	<u>PD</u>	<u>No County-Level Appeal</u>
<u>Expedited Land Division</u>	<u>II-E</u>	<u>Yes</u>	<u>PD</u>	<u>No County-Level Appeal</u>
Farmers' Market	II	No	PD	HO
Floodplain Development	II	No	PD	HO
Gathering subject to review under Oregon Revised Statutes 433.763	III	Yes	HO	BCC
Habitat Conservation Area District	See Subsection 706.06	No	See Subsection 706.06	See Subsection 706.06
Historic Landmark, Historic District, and Historic Corridor, Maintenance	I	No	PD	No County-Level Appeal
Historic Landmark, Historic District, and Historic Corridor, Major Alteration ⁴³	II	Yes	PD	HO
Historic Landmark, Historic District, and Historic Corridor, Minor Alteration	II	Yes	PD	HO
Historic Landmark, Historic District, and Historic Corridor, Moving or Demolition ⁴³	II	Yes	PD	HO
Historic Landmark, Historic District, and Historic Corridor, New Construction ⁴³	II	Yes	PD	HO

CLACKAMAS COUNTY ZONING AND DEVELOPMENT ORDINANCE

Land Use Permit	Procedure Type	Pre-Application Conference Required	Initial Decision Review Authority	Appeal Review Authority
Home Occupation, Major, New, with an Exception	III	Yes	HO	No County-Level Appeal
Home Occupation, Major, New, without an Exception	II	No	PD	HO
Home Occupation, Major, Renewal, with a New Exception	III	Yes	HO	No County-Level Appeal
Home Occupation, Major, Renewal, without a New Exception	II	No	PD	HO
Interpretation, Comprehensive Plan ⁵⁴	II	No	PD	PC
Interpretation, Zoning and Development Ordinance ⁶⁵	II	No	PD	HO
Marijuana Processing in the AG/F and EFU Districts	II	No	PD	HO
Marijuana Production, if regulated by Section 841, <i>Marijuana Production, Processing, and Retailing</i>	I	No	PD	No County-Level Appeal
Marijuana Retailing	I	No	PD	No County-Level Appeal
Mass Movement Hazard Area Development, Not Reviewed in Another Type II Application [pursuant to Subsection 1003.02]	II	No	PD	HO

CLACKAMAS COUNTY ZONING AND DEVELOPMENT ORDINANCE

Land Use Permit	Procedure Type	Pre-Application Conference Required	Initial Decision Review Authority	Appeal Review Authority
Middle Housing Land Division	II-E	Yes	PD	~~No~~ ~~County-Level~~ ~~Appeal~~ HO
Mineral and Aggregate Overlay District, Extraction Area Permit	I	No	PD	No County-Level Appeal
Mineral and Aggregate Overlay District, Impact Area Permit	I	No	PD	No County-Level Appeal
Mobile Vending Unit, Level Two	I	No	PD	No County-Level Appeal
Mobile Vending Unit, Level Three	II	Yes	PD	HO
Modification	II	No	PD	HO
Nonconforming Use Alteration, not Required by Law	II	No	PD	HO
Nonconforming Use Verification	II	No	PD	HO
Open Space, Conflict Resolution for Wetlands and Significant Natural Areas	II	No	PD	HO
Open Space Review	II	No	PD	HO
Partition ²	II	Yes	PD	HO

CLACKAMAS COUNTY ZONING AND DEVELOPMENT ORDINANCE

Land Use Permit	Procedure Type	Pre-Application Conference Required	Initial Decision Review Authority	Appeal Review Authority
Pre-FIRM Structure Reconstruction, Repair, Rehabilitation, Addition, or Other Improvement [pursuant to Subsection 703.06(A)]	I	No	PD	No County-Level Appeal
Principal River Conservation Area	II	No	PD	HO
Private Use Airport and Safety Overlay Zone, Expansion of Existing Use [pursuant to Subsection 712.05(B)]	II	No	PD	HO
Private Use Airport and Safety Overlay Zone, New Use [pursuant to Subsection 712.06]	III	No	HO	No County-Level Appeal
Public Use Airport and Safety Overlay Zones, Use Permitted Subject to Review [pursuant to Subsection 713.05]	III	No	HO	No County-Level Appeal
Property Line Adjustment [except pursuant to Subsection 1107.04]	I	No	PD	No County-Level Appeal
Property Line Adjustment [pursuant to Subsection 1107.04]	II	No	PD	HO
Recreational Vehicles as Second Dwellings	I	No	PD	No County-Level Appeal
Replat [number of lots or parcels proposed to increase or the subject property is partially or wholly in the AG/F, EFU, or TBR District]	II	Yes	PD	HO

CLACKAMAS COUNTY ZONING AND DEVELOPMENT ORDINANCE

Land Use Permit	Procedure Type	Pre-Application Conference Required	Initial Decision Review Authority	Appeal Review Authority
Replat [number of lots or parcels proposed to decrease or remain the same and the subject property is not partially or wholly in the AG/F, EFU, or TBR District]	I	No	PD	No County-Level Appeal
Sensitive Bird Habitat District, Alteration or Development	II	No	PD	HO
Sewer System Components that Serve Lands Inside an Urban Growth Boundary [pursuant to Tables 316-1, 317-1, 513-1, or 604-1]	II	No	PD	HO
Sewer Systems and Extensions of Sewer Systems to Serve Land Outside an Urban Growth Boundary and Unincorporated Community [pursuant to Tables 316-1, 317-1, 513-1, or 604-1]	II	No	PD	HO
Sign Permit	I	No	PD	No County-Level Appeal
Slopes, Development [pursuant to Subsection 1002.01(A)]	I	No	PD	No County-Level Appeal
Slopes, Development [pursuant to Subsection 1002.01(B)]	II	No	PD	HO
Stream Conservation Area	II	No	PD	HO
Subdivision, Major ⁷	III	Yes	HO	No County-Level Appeal
Subdivision, Minor ⁷	II	Yes	PD	HO

CLACKAMAS COUNTY ZONING AND DEVELOPMENT ORDINANCE

Land Use Permit	Procedure Type	Pre-Application Conference Required	Initial Decision Review Authority	Appeal Review Authority
TBR District, Land Division, 80-acre Minimum Lot Size [pursuant to Subsection 406.09(A)]	I	No	PD	No County-Level Appeal
TBR District, Land Division [pursuant to Subsections 406.09(B) through (G)]	II	No	PD	HO
TBR District, Permits not Otherwise Listed in Table 1307-1 but Identified as Type II in Table 406-1, <i>Permitted Uses in the TBR District</i>	II	No	PD	HO
Temporary Dwelling for Care	II	No	PD	HO
Temporary Dwelling while Building	I	No	PD	No County-Level Appeal
Temporary Structure for Emergency Shelter	I	No	PD	No County-Level Appeal
Temporary Use Otherwise Prohibited	II	No	PD	HO
Time Extension ~~approved~~ [pursuant to Subsection <u>401.09(C)(3), (D)(3), or (D)(4); Subsection 406.10(C)(3), (D)(2), or (D)(3); or Section 1310.01(A)</u>]	II	No	PD	HO
~~Time Extension approved pursuant to Subsection 1310.01(B)~~	~~I~~	~~No~~	~~PD~~	~~No County-Level Appeal~~
Variance ⁷	II	No	PD	HO

CLACKAMAS COUNTY ZONING AND DEVELOPMENT ORDINANCE

Land Use Permit	Procedure Type	Pre-Application Conference Required	Initial Decision Review Authority	Appeal Review Authority
Vested Right Determination	II	No	PD	HO
Water Quality Resource Area District	See Subsection 709.06	No	See Subsection 709.06	See Subsection 709.06
Willamette River Greenway	II	No	PD	HO
Willamette River Greenway, Timber Harvest [pursuant to Subsection 705.03(I)]	II	No	PD	HO
Wireless Telecommunication Facility, Identified as Type I in Table 835-1, <i>Permitted Wireless Telecommunication Facilities</i> , without an Adjustment	I	No	PD	No County-Level Appeal
Wireless Telecommunication Facility, Identified as Type II in Table 835-1, without an Adjustment	II	No	PD	HO
Wireless Telecommunication Facility, Identified as Type II in Table 835-1, but with an Adjustment	III	No	HO	No County-Level Appeal
Zone Change ^{67.8}	III or IV	Type III Only	HO, Type III BCC, Type IV	No County-Level Appeal
Zoning and Development Ordinance Text Amendment	IV	No	BCC	No County-Level Appeal

Notes to Table 1307-1:

¹ For any land use application for housing that is subject to ORS 197A.400(5), as described in Section 17, HB 4037 [2026], and that is utilizing only clear & objective standards for review (as opposed to any optional discretionary standards), the Type I-H procedure shall be used, unless the application qualifies for and the applicant requests a Type II-E procedure.

²⁴ The Type III procedure shall be modified to include Planning Commission public hearing and recommendation to the Board of County Commissioners prior to the initial Board of County Commissioners public hearing. In the case of a Comprehensive Plan amendment related to the designation of a Historic Landmark, Historic District, or Historic Corridor, both the Type III and Type IV procedures shall be modified to replace the Planning Commission public hearing and recommendation to the Board of County Commissioners with Historic Review Board review and recommendation to the Board of County Commissioners.

³² The Type II procedure may be modified, pursuant to Subsection 1102.04(A) or (B), to include Design Review Committee review and recommendation to the Planning Director prior to issuance of the Planning Director's decision.

⁴³ The Type II procedure shall be modified to include Historic Review Board review and recommendation to the Planning Director prior to issuance of the Planning Director's decision.

⁵⁴ The Type II procedure shall be modified to allow the Planning Commission's decision on initial appeal to be further appealed to the Board of County Commissioners, pursuant to Subsection 1307.1⁵⁴(E)(1).

⁶⁵ The Type II procedure shall be modified to allow the Hearings Officer's decision on initial appeal to be further appealed to the Board of County Commissioners, pursuant to Subsection 1307.1⁵⁴(E)(2).

⁷ Within an urban growth boundary, a partition or subdivision that is developed as a planned unit development; a variance; or a zone change may be reviewed as an urban housing application through a Type II-S procedure, if the requirements under ORS 197A.146(1) through (3) are met.

⁸⁶ In the case of a zone change related to the Historic Landmark, Historic District, and Historic Corridor overlay zoning district, the Type III procedure shall be modified to designate the Board of County Commissioners as the initial decision review authority and to include Historic Review Board review and recommendation to the Board of County Commissioners prior to the initial Board of County Commissioners public hearing, and the Type IV procedure shall be modified to replace the Planning Commission public hearing and recommendation to the Board of County Commissioners with Historic Review Board review and recommendation to the Board of County Commissioners.

- C. Notwithstanding any other provision in Section 1307, except for an application for an interpretation of the Comprehensive Plan, an applicant may choose to process a Type II land use permit application using the Type III procedure, and the Hearings Officer shall be the review authority for the initial decision. The decision of the Hearings Officer shall be the final decision of the County, except for an application for an interpretation of this Ordinance, in which case appeal to the Board of County Commissioners is allowed pursuant to Subsection 1307.1~~5~~⁴(E)(2).

1307.05 PRE-APPLICATION CONFERENCE

- A. Purpose: Pre-application conferences are intended to familiarize applicants with the requirements of this Ordinance; to provide applicants with an opportunity to meet with County staff to discuss proposed projects in detail; and to identify standards, approval criteria, and procedures prior to filing a land use permit application. The pre-application conference is intended to be a tool to orient applicants and assist them in navigating the land use review process, but is not intended to be an exhaustive review that identifies or resolves all potential issues, and does not bind or preclude the County from enforcing all applicable regulations or from applying regulations in a manner differently than may have been indicated at the time of the pre-application conference.
- B. Applicability: Table 1307-1, *Land Use Permits by Procedure Type*, identifies the land use permit applications for which pre-application conferences are mandatory. Pre-application conferences are voluntary for all other land use permit applications.
- C. Submittal Requirements: Pre-application conference requests shall include:
1. A completed application form, such form to be prescribed by the Planning Director, and containing, at a minimum, the following information:
 - a. The names, mailing addresses, and telephone numbers of the applicant(s);
 - b. The address of the subject property, if any, and its assessor's map and tax lot number;
 - c. The size of the subject property;
 - d. The Comprehensive Plan designation and zoning district of the subject property;
 - e. The type of application for which the pre-application conference is requested;
 - f. A brief description of the proposal for which the pre-application

conference is requested; and

- g. Signature(s) of the applicant(s), authorizing the filing of the pre-application request.
- 2. Additional information necessary to demonstrate the nature and scope of the proposal in sufficient detail to allow County staff to review and comment; and
- 3. Payment of the applicable fee, pursuant to Subsection 1307.1~~76~~.
- D. Scheduling: Upon receipt of a complete application, the Planning Director will schedule the pre-application conference. The Planning Director will coordinate the involvement of other County departments, as appropriate, in the pre-application conference. Pre-application conferences are not open to the general public.
- E. Summary: Subsequent to the pre-application conference, the Planning Director will provide the applicant with a written summary of the conference. The purpose of the written summary is to provide a preliminary assessment of the proposal, but shall not be deemed to be a recommendation by the County or any other outside agency or service provider on the merits of the proposal.
- F. Validity Period for Mandatory Pre-Application Conferences; Follow-Up Conferences: A follow-up pre-application conference is required for those mandatory pre-application conferences that have already been held when:
 - 1. A complete application relating to the proposed development has not been submitted within two years of the pre-application conference; or
 - 2. The proposed use, layout, or design of the proposed development has changed significantly.

1307.06 REVIEW OF MULTIPLE APPLICATIONS

When multiple land use permits for the same property are required or proposed by an applicant, all of the applications may be filed concurrently. Each application shall be processed separately using the procedure identified in Table 1307-1, *Land Use Permits by Procedure Type*, for that application, except that applications filed concurrently shall be processed through a consolidated procedure if:

- A. One of the applications is a Type III application for a Comprehensive Plan map amendment, in which case the Type III Comprehensive Plan map amendment procedure shall be used;
- B. Multiple land use permit applications are subject to the same procedure type with the same initial decision and appeal review authorities. Applications for an interpretation of this Ordinance are excluded from this consolidation provision; or

- C. The applicant elects to process multiple applications through a consolidated procedure, if such consolidation is consistent with Subsection 1307.04(C).

1307.07 APPLICATION SUBMITTAL AND COMPLETENESS REVIEW

- A. Initiation of Applications: Type I, I-H, II, II-E, II-S, and III land use permit applications may be initiated by:

1. ~~An~~The owner of each tax lot that comprises the subject property;
2. The contract purchaser of the subject property, if the application is accompanied by proof of the purchaser's status as such;
3. The agent of the owner or contract purchaser of the subject property, if the application is duly authorized in writing by the owner or the contract purchaser, and accompanied by proof of the agent's authority; or
4. If the application is for Comprehensive Plan designation or zoning of a Historic District or Historic Corridor, the owners or contract purchasers of at least 60 percent of the property within the area to be so designated or zoned.

- B. Initiation of Legislative Proposals: Type IV legislative land use proposals may be initiated by the Board of County Commissioners, the Planning Commission, or the Planning Director. However, initiation of a legislative proposal does not obligate the County to further processing of the proposal pursuant to Subsection 1307.1~~32~~, or prevent the County from discontinuing the processing of the proposal at any point prior to decision.

- C. Application Submittal: Type I, I-H, II, II-E, II-S, and III land use permit applications are subject to the following submittal requirements:

1. The following shall be submitted for an application to be complete:
 - a. A completed application form, such form to be prescribed by the Planning Director, and containing, at a minimum, the following information:
 - i. The names, mailing addresses, and telephone numbers of the applicant(s), the owner(s) of the subject property, and any authorized representative(s) thereof;
 - ii. The address of the subject property, if any, and its assessor's map and tax lot number;
 - iii. The size of the subject property;
 - iv. The Comprehensive Plan designation and zoning district of the subject property;

- v. The type of application being submitted;
 - vi. A brief description of the proposal; and
 - vii. Signature(s) of the applicant(s) and ~~an~~all owners ~~or all contract purchasers of each tax lot that comprises~~ the subject property, or the duly authorized representative(s) thereof, authorizing the filing of the application.
- b. A completed supplemental application form, such form to be prescribed by the Planning Director, or a written statement addressing each applicable approval criterion and standard and each item on the supplemental application form;
 - c. An accurate site plan drawn to scale on eight-and-one-half-inch by 11-inch or eight-and-one-half-inch by 14-inch paper, showing the subject property and proposal;
 - ~~de~~. Any additional information required under this Ordinance for the specific land use permit sought; and
 - ~~ed~~. Payment of the applicable fee, pursuant to Subsection 1307.1~~7~~6.
- 2. The Planning Director, at their sole discretion, may waive a submittal requirement of Subsection 1307.07(C)(1)(b) or (c), if the Planning Director determines that the requirement is not material to the review of the application.
 - 3. Each application, when received by the Planning Director, shall be date-stamped with the date the application was received.
- D. Completeness of a Type I or I-H Application: If a Type I ~~or I-H~~ application is not complete when submitted, and the applicant does not make it complete within ~~60~~180 days of submittal, the application is void.
 - E. Completeness Review for Type II, II-E, II-S, and III Applications: Except as amended by Subsection 1307.11, aAfter it is submitted, a Type II, II-E, II-S, or III land use permit application shall be reviewed for completeness, as follows:
 - 1. Except as otherwise provided under ~~Oregon Revised Statutes~~ 215.427, the Planning Director shall review a Type II, II-E, II-S, or ~~Type~~ III application for completeness within 30 days of its receipt.
 - ~~2. The Planning Director shall review a Type II-E application for completeness within 21 days of its receipt.~~
 - 32. Determination of completeness shall be based upon the submittal

requirements of Subsection 1307.07(C)(1) and shall not be based on opinions as to quality or accuracy. A determination that an application is complete indicates only that the application is ready for review on its merits, not that the County will make a favorable decision on the application.

43. If an application is determined to be complete, review of the application shall commence.

54. If an application is determined to be incomplete, written notice shall be provided to the applicant identifying the specific information that is missing and allowing the applicant the opportunity to submit the missing information. This written notice shall be provided within 30 days of receipt of a Type II, II-E, II-S, or ~~Type-III~~ application ~~and within 21 days of receipt of a Type II-E application.~~ The application ~~shall be~~ deemed complete upon receipt by the Planning Director of:

- a. All of the missing information;
- b. Some of the missing information and written notice from the applicant that no other information will be provided; or
- c. Written notice from the applicant that none of the missing information will be provided.

6. If the application was complete when first submitted, or the applicant submits additional information, as described in Subsection 1307.07(E)(5), within 180 days of the date the application was first submitted, approval or denial of the application shall be based upon:

a. The standards and criteria that were applicable at the time the application was first submitted; or

b. For an application for housing development within an urban growth boundary, upon the request of the applicant, those standards and criteria that are operative at the time of the request. If an applicant requests review under different standards as provided by Subsection 1307.07(E)(6)(b):

- i. Any applicable timelines for completeness review and final decision restart as if a new application were submitted on the date of the request.
- ii. The application is not deemed complete until either the County determines that additional information is not required for review under different standards, or the county requests additional information, pursuant to Subsection 1307.07(E)(4), and the applicant makes a submission in response.

iii. A request under Subsection 1307.07(E)(6)(b) may be denied if the County has issued public notice of the application; or if a request under this subsection was previously made.

iv. The County may not require that the applicant:

A) Pay a fee, except to cover additional costs incurred by the County to accommodate the request;

B) Submit a new application or duplicative information, unless information resubmittal is required because the request affects or changes information in other locations in the application or additional narrative is required to understand the request in context; or

C) Repeat redundant processes or hearings that are inapplicable to the change in standards or criteria.

7. On the 181st day after first being submitted, a Type II, II-E, II-S, or III application is void, if the applicant has been notified of the missing information as required under Subsection 1307.07(E)(5) and has not submitted the missing information or otherwise responded, as provided in Subsection 1307.07(E)(5).

1307.08 TYPE I AND TYPE I-H MINISTERIAL PROCEDURES

A. Type I land use permit applications are subject to the following procedures:

1A. Notice of Application: Notice of application is not provided.

2B. Decision: The review authority shall approve, approve with conditions, or deny the application based on the applicable standards and criteria. The review authority shall issue a written decision.

3C. Notice of Decision: A copy of the decision shall be mailed to the applicant(s), the owner(s) of the subject property, and any authorized representative(s) thereof.

4D. Appeal: The review authority's decision is the final decision of the County.

B. Type I-H land use permit applications are subject to the following procedures:

1. Notice of Application: Notice of application shall be provided as follows:

a. Written notice of the application shall be mailed to:

i. The applicant(s), the owner(s) of the subject property, and any authorized representative(s) thereof; and

ii. All property owners of record, pursuant to Subsection 1307.18(C), within the noticing distance listed below, as measured from the subject property and contiguous properties under the same ownership:

A) 100 feet for proposed developments with fewer than 20 dwelling units; or

B) 500 feet for proposed developments with 20 or more dwelling units.

2. Decision: The review authority shall approve, approve with conditions, or deny the application based on the applicable standards and criteria. The review authority shall issue a written decision

3. Notice of Decision: A copy of the decision shall be mailed to the applicant(s), the owner(s) of the subject property, and any authorized representative(s) thereof and to those identified in Subsection 1307.08(B)(1).

4. Appeal: The review authority's decision is the final decision of the County and the applicant is the only party that may appeal the decision to the Land Use Board of Appeals.

1307.09 TYPE II ADMINISTRATIVE PROCEDURES

Type II land use permit applications are subject to the following procedures:

A. Notice of Application: Notice of application shall be provided as follows:

1. A minimum of 20 days prior to the issuance of a decision, written notice of application shall be mailed to:
 - a. The applicant(s), the owner(s) of the subject property, and any authorized representative(s) thereof;
 - b. All property owners of record, pursuant to Subsection 1307.1~~8~~7(C), within the noticing distance listed in Table 1307-2, *Noticing Distances for Type II Land Use Permit Applications*, as measured from the subject property and contiguous properties under the same ownership:

Table 1307-2: Noticing Distances for Type II Land Use Permit Applications

Zoning District of Subject Property	Noticing Distance

BP, C-2, C-3, CC, GCOSM, GI, HDR, HR, LI, MR-1, MR-2, MRR, NC, OA, OC, OSM, PMD, PMU, RCC, RCHDR, RCO, RTC, RTL, SCMU, SHD, Urban Low Density Residential, VA, VCS, VO, VR-4/5, VR-5/7, or VTH	300 feet
FF-10, FU-10, RA-1, RA-2, RC, RI, RR, or RRFF-5	500 feet ¹
AG/F, EFU, or TBR	750 feet ¹

Note to Table 1307-2:

¹ If the application is for a nonconforming use verification, nonconforming use alteration, or vested right determination, the noticing distance shall be 2,640 feet (½ mile).

- c. Any active community planning organization, hamlet, or village that is recognized by the County, if the subject property lies wholly or partially inside the boundaries of such organization, hamlet, or village;
- d. Cities, as prescribed in applicable urban growth management agreements;
- e. Those special districts and government agencies deemed by the Planning Director to have an interest in the application;
- f. The Oregon Department of Agriculture, if the subject property is in the EFU or AG/F District and the application is for the propagation, cultivation, maintenance, and harvesting of aquatic species that are not under the jurisdiction of the Oregon Fish and Wildlife Commission;
- g. Metro and any watershed council recognized by the Oregon Watershed Enhancement Board and whose boundaries include the subject property, if the application is for Habitat Conservation Area map verification; and
- h. The airport owner and the Oregon Department of Aviation, if required by Oregon Revised Statutes (ORS) 197.183, 215.223, or 215.416.
- i. The Oregon Department of Agriculture if the application is for the propagation, cultivation, maintenance, and harvesting of insect species in the AG/F or EFU District.

- 2. At a minimum, notice of application shall include:

- a. An explanation of the nature of the application and the proposed use or uses that could be authorized;
 - b. A list of the applicable criteria from this Ordinance and the Comprehensive Plan that apply to the application;
 - c. The street address or other easily understood geographical reference to the subject property;
 - d. The name and telephone number of the County staff member to contact where additional information may be obtained;
 - e. A statement that a copy of the application, all documents and evidence submitted by or on behalf of the applicant and applicable criteria are available for inspection at no cost and will be provided at a cost established by the Board of County Commissioners;
 - f. A general explanation of when, where, how, and to whom written comments on the application may be submitted; and
 - g. A statement that subsequent to the closing of the public comment period, a notice of decision will be issued and mailed to everyone entitled to the initial notice of the application, except for an application reviewed under Subsection 1307.11(D), which shall include a statement that subsequent to the closing of the public comment period, a notice of decision will be issued and mailed to everyone who provided comments during the 14-day comment period.
 - h. For an application reviewed under Subsection 1307.11(D), a statement that issues which may be the basis for appeal to the Land Use Board of Appeals must be raised in writing prior to the expiration of the comment period and such issues must be raised with sufficient specificity to enable the decision maker to respond to the issue.
3. A minimum of 20 days prior to the issuance of a decision, a copy of the submitted application shall be mailed to those identified in Subsections 1307.09(A)(1)(c) through (h).
- B. Decision: The review authority shall consider the record of the application and approve, approve with conditions, or deny the application based on the applicable standards and criteria. The review authority shall issue a written decision that explains the standards and criteria considered relevant to the decision; states the facts relied upon in rendering the decision; explains the justification for the decision based on the standards, criteria, and facts set forth; and lists the conditions of approval, if any. The decision also shall include:

1. A description of the nature of the decision and an explanation of the nature of the application and the use or uses that were proposed and, if applicable, are authorized by the decision;
2. The street address or other easily understood geographical reference to the subject property;
3. The name and telephone number of the County staff member to contact where additional information may be obtained;
4. A statement that a copy of the application, all documents and evidence submitted by or on behalf of the applicant, and applicable criteria are available for inspection at no cost and will be provided at a cost established by the Board of County Commissioners;
5. The date the review authority's decision becomes effective, unless appealed;
6. A statement that the decision will not become final until the period for filing an appeal with the County has expired without the filing of an appeal;
7. A statement that any person who is adversely affected or aggrieved or who is entitled to written notice under Subsection 1307.09(C) may appeal the decision by filing a written appeal, and including the date and time by which an appeal must be filed, the location for filing, a brief statement explaining how to file an appeal, the appeal fee, and where further information may be obtained concerning the appeal process; and
8. A statement that a person who is mailed written notice of the decision cannot appeal the decision directly to the Land Use Board of Appeals under ORS 197.830.

C. Notice of Decision:

1. A copy of the decision shall be mailed to those identified in Subsections 1307.09(A)(1)(a) and (c) through (h).
2. A notice of decision shall be mailed to those identified in Subsections 1307.09(A)(1)(b). The notice shall include the information in Subsections 1307.09(B)(1) through (8) and directions on how to obtain a copy of the decision.

D. Appeal: The review authority's decision is the final decision of the County, unless an appeal is filed pursuant to Subsection 1307.154.

1307.10 TYPE II-E ADMINISTRATIVE PROCEDURES

Type II-E land use permit applications are subject to the following procedures:

A. Notice of Application: Notice of application ~~is not~~shall be provided ~~as follows:~~.

~~1. A minimum of 14 days prior to the issuance of a decision, written notice of application shall be mailed to:~~

~~—a. The applicant(s), the owner(s) of the subject property, and any authorized representative(s) thereof;~~

~~b. All property owners of record, pursuant to Subsection 1307.17(C), within 100 feet, as measured from the subject property and contiguous properties under the same ownership;~~

~~c. Any active community planning organization that is recognized by the County, if the subject property lies wholly or partially inside the boundaries of such organization;~~

~~d. Cities, as prescribed in applicable urban growth management agreements;~~

~~e. Those special districts and government agencies deemed by the Planning Director to have an interest in the application;~~

~~—f. The airport owner and the Oregon Department of Aviation, if required by Oregon Revised Statutes (ORS) 197.183, 215.223, or 215.416.~~

~~2. At a minimum, notice of application shall include:~~

~~a. An explanation of the nature of the application and the proposed use or uses that could be authorized;~~

~~b. A list of the applicable criteria from this Ordinance and the Comprehensive Plan that apply to the application;~~

~~c. The street address or other easily understood geographical reference to the subject property;~~

~~d. The name and telephone number of the County staff member to contact where additional information may be obtained;~~

~~e. A statement that a copy of the application, all documents and evidence submitted by or on behalf of the applicant and applicable criteria are available for inspection at no cost and will be provided at a cost established by the Board of County Commissioners;~~

~~f. A general explanation of when, where, how, and to whom written comments on the application may be submitted;~~

~~g. A statement that issues that may provide the basis for an appeal must be raised in writing prior to the expiration of the comment period and that issues must be raised with sufficient specificity to enable the local government to respond to the issue; and~~

~~h. A statement that subsequent to the closing of the public comment period, a decision will be issued and mailed to everyone entitled to the initial notice of the application.~~

~~3. A minimum of 14 days prior to the issuance of a decision, a copy of the submitted application shall be mailed to those identified in Subsections 1307.10(A)(1)(e) through (f).~~

B. Decision: Within 63 days of receiving a completed application, the review authority shall consider the record of the application and approve, approve with conditions, or deny the application based on the applicable standards and criteria. The review authority shall issue a written decision that explains the standards and criteria considered relevant to the decision, states the facts relied upon in rendering the decision, and explains the justification for the decision based on the standards, criteria, and facts set forth. The decision also shall include:

1. An explanation of the nature of the application and the use or uses that were proposed and, if applicable, are authorized by the decision;
2. The conditions of approval, if any;
3. The street address or other easily understood geographical reference to the subject property;
4. The name and telephone number of the County staff member to contact where additional information may be obtained;
5. A statement that a copy of the application, all documents and evidence submitted by or on behalf of the applicant, and applicable criteria are available for inspection at no cost and will be provided at a cost established by the Board of County Commissioners;
6. The date the review authority's decision becomes effective, unless appealed;

~~7. A statement that the decision will not become final until the period for filing an appeal with the County has expired without the filing of an appeal;~~

~~78. An explanation of appeal rights under ORS 197.375830 to 197.855.~~

~~C. After seven days' notice to the applicant, the Board of County Commissioners, at a regularly scheduled public meeting, may take action to extend the 63-day time period identified in Subsection 1307.10(B) to a date certain for one or more applications for an expedited land division or a middle housing land division prior to the expiration of the 63-day period, based on a determination that an unexpected or extraordinary increase in applications makes action within 63 days impracticable. In no case shall an extension be to a date more than 120 days after the application was deemed complete.~~

~~CD.~~ Notice of Decision: ~~A:~~ A copy of the decision shall be mailed to ~~those identified in Subsection 1307.10(A)(1);~~ the applicant. It may not be required that notice is given to any other person.

~~DE.~~ Appeal: ~~The review authority's decision is the final decision of the County, unless an appeal is filed pursuant to Subsection 1307.14.~~ No third party may be allowed to intervene to oppose the application, and no hearing may be held on the application.

1307.11 TYPE II-S ADMINISTRATIVE PROCEDURES

Type II-S land use permit applications are subject to the Type II procedures in Subsections 1307.07 and 1307.09, except as follows:

A. Emergency Shelter Siting, subject to Section 848:

1. Notice of Application: Notice of application is not provided.
2. Decision: The decision is not subject to Subsections 1307.09(B)(4), (6), (7), and (8).
3. Notice of Decision: A copy of the decision shall be mailed to:
 - a. The applicant(s), the owner(s) of the subject property, and any authorized representative(s) thereof; and
 - b. All property owners of record, pursuant to Subsection 1307.18(C), within 300 feet, as measured from the subject property and contiguous properties under the same ownership.
3. Timelines: The application is not subject to the review procedures in Subsection 1307.07(E).
4. Appeal: The decision may only be appealed by writ of review under ORS 34.010 to 34.100.

B. Residential Treatment Facilities and Residential Treatment Homes, subject to Section 849:

1. Appeal: The decision is not a land use decision as defined in ORS 197.015 and is not subject to the jurisdiction of the Land Use Board of Appeals. The decision may only be appealed by writ of review under ORS 34.010 to 34.100.

C. Mental or Psychiatric Hospitals and Crisis Stabilization Centers, subject to Section 849:

1. Decision: Within 30 days of receiving a completed application, the review

authority shall consider the record of the application and approve, approve with conditions, or deny the application based on the applicable standards and criteria.

2. Appeal: The decision is not a land use decision as defined in ORS 197.015 and is not subject to the jurisdiction of the Land Use Board of Appeals. The decision may only be appealed by writ of review under ORS 34.010 to 34.100.

D. Urban Housing Applications, pursuant to ORS 197A.146:

1. Notice of Application: A minimum of 14 days prior to the issuance of a decision, written notice of application shall be mailed to those identified in Subsections 1307.09(A)(1)(a) through (h).
2. Notice of Decision: Notice of decision shall be provided to the applicant and any person who submits comments during the 14-day comment period.
3. Notice Affidavit: The county shall provide an affidavit or other certification describing the notice given under this subsection.
4. Appeal: The review authority's decision is the final decision of the County, unless an appeal is filed pursuant to Subsection 1307.15.

~~1307.11~~ 12 TYPE III QUASI-JUDICIAL PROCEDURES

Type III land use permit applications are subject to the following procedures:

- A. Notice of Application and Public Hearing: Notice of application and public hearing shall be provided as follows:
 1. Notice shall be provided to the Oregon Department of Land Conservation and Development (DLCD), if required pursuant to Oregon Revised Statutes (ORS) 197.610. Procedures for the giving of the required notice shall be those established by ORS 197.610 and Oregon Administrative Rules Chapter 660, Division 18.
 2. A minimum of 35 days prior to the first evidentiary hearing on the application, a copy of the submitted application shall be mailed to:
 - a. Any active community planning organization, hamlet, or village that is recognized by the County, if the subject property lies wholly or partially inside the boundaries of such organization, hamlet, or village;
 - b. Cities, as prescribed in applicable urban growth management agreements;
 - c. Those special districts and government agencies deemed by the Planning Director to have an interest in the application;

- d. The Oregon Department of Agriculture, if the subject property is in the AG/F or EFU District and the application is for the propagation, cultivation, maintenance, and harvesting of aquatic species that are not under the jurisdiction of the Oregon Fish and Wildlife Commission;
 - e. Metro and any watershed council recognized by the Oregon Watershed Enhancement Board and whose boundaries include the subject property, if the application is for Habitat Conservation Area map verification;
 - f. The airport owner and the Oregon Department of Aviation, if required by ORS 197.183, 215.223, or 215.416; and
 - g. The State Department of Fish and Wildlife, the State Department of Energy, the State Historic Preservation Officer, the Oregon Department of Aviation, the United States Department of Defense, and federally recognized Indian tribes that may be affected by the application, if the application is for a renewable energy facility pursuant to ORS 215.446.
3. A minimum of 20 days prior to the first evidentiary hearing of each review authority on the application, written notice of the application and hearing shall be mailed to:
 - a. The applicant(s), the owner(s) of the subject property, and any authorized representative(s) thereof;
 - b. All property owners of record, pursuant to Subsection 1307.187(C), within the noticing distance listed in Table 1307-3, *Noticing Distances for Type III Land Use Permit Applications*, as measured from the subject property and contiguous properties under the same ownership:

Table 1307-3: Noticing Distances for Type III Land Use Permit Applications

Zoning District of Subject Property	Noticing Distance
BP, C-2, C-3, CC, GCOSM, GI, HDR, HR, LI, MR-1, MR-2, MRR, NC, OA, OC, OSM, PMD, PMU, RCC, RCHDR, RCO, RTC, RTL, SCMU, SHD, Urban Low Density Residential, VA, VCS, VO, VR-4/5, VR-5/7, or VTH	300 feet

AG/F, EFU, FF-10, FU-10, RA-1, RA-2, RC, RI, RR, RRFF-5, or TBR	2,640 feet (½ mile)

- c. If the application is for a zone change to apply the MAO District, all property owners of record, pursuant to Subsection 1307.1~~87~~(C), within 1,000 feet from the outer boundary of the proposed impact area under Section 708, *Mineral and Aggregate Overlay District*;
- d. Any active community planning organization, hamlet, or village that is recognized by the County, if the subject property lies wholly or partially inside the boundaries of such organization, hamlet, or village;
- e. Cities, as prescribed in applicable urban growth management agreements;
- f. Those special districts and government agencies deemed by the Planning Director to have an interest in the application;
- g. The Oregon Department of Agriculture, if the subject property is in the AG/F or EFU District and the application is for the propagation, cultivation, maintenance, and harvesting of aquatic species that are not under the jurisdiction of the Oregon Fish and Wildlife Commission;
- h. Metro and any watershed council recognized by the Oregon Watershed Enhancement Board and whose boundaries include the subject property, if the application is for Habitat Conservation Area map verification;
- i. The airport owner and the Oregon Department of Aviation, if required by ORS 197.183, 215.223, or 215.416;
- j. The State Department of Fish and Wildlife, the State Department of Energy, the State Historic Preservation Officer, the Oregon Department of Aviation, the United States Department of Defense, and federally recognized Indian tribes that may be affected by the application, if the application is for a renewable energy facility pursuant to ORS 215.446; and
- k. Tenants of a mobile home or manufactured dwelling park, as defined in ORS 446.003, when property that includes all or part of such mobile home or manufactured dwelling park is the subject of an application for a Comprehensive Plan map amendment, zone change, or both. Notice to such tenants shall be mailed no more than 40 days before the first evidentiary hearing.

4. At a minimum, notice of application and hearing shall include:

- a. An explanation of the nature of the application and the proposed use or uses that could be authorized;
 - b. A list of the applicable criteria from this Ordinance and the Comprehensive Plan that apply to the application;
 - c. The street address or other easily understood geographical reference to the subject property;
 - d. Date, time, and location of the hearing;
 - e. A statement that failure of an issue to be raised in a hearing, in person or by letter, or failure to provide statements or evidence sufficient to afford the review authority an opportunity to respond to the issue precludes appeal to the Oregon Land Use Board of Appeals on that issue;
 - f. The name and telephone number of the County staff member to contact where additional information may be obtained;
 - g. A statement that a copy of the application, all documents and evidence submitted by or on behalf of the applicant and applicable criteria are available for inspection at no cost and will be provided at a cost established by the Board of County Commissioners;
 - h. A statement that a copy of the staff report will be available for inspection at no cost at least seven days prior to the hearing and will be provided at a cost established by the Board of County Commissioners;
 - i. A general explanation of the requirements for submission of testimony and the procedure for conduct of hearings;
 - j. A statement that subsequent to the close of the public hearing, a decision will be issued and mailed as required by Subsection 1307.1~~2~~1(E); and
 - k. If the application is for a renewable energy facility pursuant to ORS 215.446, a description of the proposed renewable energy facility and the contact information for the Board of County Commissioners and the applicant.
5. If the application is for a Comprehensive Plan amendment, notice of the date, time, location, and purpose of the Planning Commission's hearing and the Board of County Commissioner's hearing shall be given a minimum of 10 days prior to the date of each review authority's first evidentiary hearing, by publication in a newspaper of general circulation in the County. However, if the application applies to only a part of the County, the notice may instead be published in a newspaper of general circulation in that part of the County.

- B. Application Review and Staff Report: The Planning Director shall review the application, written comments, and evidence submitted prior to the public hearing; prepare a staff report summarizing the application, comments received to-date, and relevant issues associated with the application; and make a recommendation to the review authority. The staff report shall be made available to the public for review a minimum of seven days prior to the first evidentiary hearing.
- C. Public Hearing: A public hearing shall be held before the review authority, for the purpose of receiving testimony regarding the application.
- D. Decision: The review authority shall consider the record and approve, approve with conditions, or deny the application based on the applicable standards and criteria. The review authority shall issue a written decision that explains the standards and criteria considered relevant to the decision, states the facts relied upon in rendering the decision, explains the justification for the decision based on the standards, criteria, and facts set forth, and lists the conditions of approval, if any. The decision also shall include:
1. An explanation of the nature of the application and the use or uses that were proposed and, if applicable, are authorized by the decision;
 2. The street address or other easily understood geographical reference to the subject property;
 3. The date the review authority's decision becomes effective, unless appealed; and
 4. A statement that any person who presented evidence, argument, or testimony as part of the record may appeal the decision by filing a written appeal; the date by which an appeal must be filed, the location for filing, a brief statement explaining how to file an appeal, and where further information may be obtained concerning the appeal process.
- E. Notice of Decision:
1. A copy of the decision shall be mailed to those identified in Subsections 1307.1~~21~~(A)(3)(a) and (d) through (j).
 2. A notice of decision, which shall include the information in Subsections 1307.1~~21~~(D)(1) through (4) and directions on how to obtain a copy of the decision, shall be mailed to:
 - a. Anyone who provided evidence, argument, or testimony as part of the record; and

- b. Anyone who made a written request for notice of decision.
3. A copy of the decision shall be submitted to DLCD, as required by ORS 197.615. Procedures for submitting the decision to DLCD shall be those established by ORS 197.615 and Oregon Administrative Rules chapter 660, division 18.
- F. Appeal: The review authority's decision is the final decision of the County, except as may be provided for interpretation applications pursuant to Subsection 1307.1~~54~~⁵⁴(E). Appeal of the County's final decision is to the Oregon Land Use Board of Appeals.

1307.1~~2~~¹³ TYPE IV LEGISLATIVE PROCEDURES

Type IV legislative land use proposals are subject to the following procedures:

- A. Notice of Proposal and Public Hearing: Notice of proposal and hearing shall be provided as follows:
 1. Notice shall be provided to the Oregon Department of Land Conservation and Development, if required pursuant to Oregon Revised Statutes (ORS) 197.610. Procedures for the giving of the required notice shall be those established by ORS 197.610 and Oregon Administrative Rules chapter 660, division 18.
 2. Notice shall be provided to the Metropolitan Service District, if required pursuant to Section 3.07.820 of the Code of the Metropolitan Service District. Procedures for the giving of the required notice shall be those established by Section 3.07.820 of the Code of the Metropolitan Service District.
 3. For proposed amendments to the text of the Comprehensive Plan or this Ordinance, a minimum of 35 days prior to the first public hearing, a copy of the text, showing proposed additions and deletions, shall be made available to the public for review. All active community planning organizations, hamlets, and villages that are recognized by the County shall be notified when it becomes available.
 4. A minimum of 20 days prior to the first public hearing of each review authority on the proposal, written notice of the proposal and hearing shall be mailed to:
 - a. For proposed amendments to the text of the Comprehensive Plan or this Ordinance, all active community planning organizations, hamlets, and villages that are recognized by the County;
 - b. For proposed Comprehensive Plan Land Use Plan map amendments and

zone changes, any active community planning organization, hamlet, or village that is recognized by the County, if the subject property lies wholly or partially inside the boundaries of such organization, hamlet, or village;

- c. Cities, as prescribed in applicable urban growth management agreements; and
 - d. Those special districts and government agencies deemed by the Planning Director to have an interest in the proposal.
5. At a minimum, notice of proposal and hearing shall include:
- a. An explanation of the nature of the proposal;
 - b. Date, time, and location of the hearing;
 - c. The name and telephone number of the County staff member to contact where additional information may be obtained; and
 - d. For Comprehensive Plan Land Use Plan map amendments and zone changes, a copy of the proposed map change(s).
6. Notice of the date, time, location, and purpose of the Planning Commission's hearing and the Board of County Commissioner's hearing shall be given a minimum of 10 days prior to the date of each review authority's first public hearing, by publication in a newspaper of general circulation in the County. However, if the legislative land use proposal applies to only a part of the County, the notice may instead be published in a newspaper of general circulation in that part of the County.
- B. Proposal Review and Staff Report: The Planning Director shall consider the proposal, written comments, and evidence submitted prior to each public hearing and prepare staff reports summarizing the proposal, comments received to-date, and the relevant issues associated with the proposal. Each staff report shall make a recommendation to the review authority.
- C. Planning Commission Public Hearing: A public hearing shall be held before the Planning Commission, for the purpose of receiving testimony regarding the proposal.
- D. Planning Commission Recommendation: The Planning Commission shall consider the record and may make a recommendation to the Board of County Commissioners to adopt, adopt with modifications, or decline to adopt the proposal. If no recommendation is made by the Planning Commission and no extension is granted by the Board of County Commissioners, the Board of County Commissioners may act upon the proposal notwithstanding the lack of a

recommendation.

- E. Board of County Commissioners Public Hearing: A public hearing shall be held before the Board of County Commissioners, for the purpose of receiving testimony regarding the proposal.
- F. Decision: The Board of County Commissioners shall consider the record and may adopt, adopt with modifications, or decline to adopt the proposal; remand the matter back to the Planning Commission for further consideration; or table the matter. The decision of the Board of County Commissioners to adopt or adopt with modifications shall be by ordinance.
- G. Notice of Decision: Notice of decision shall be provided as follows:
 - 1. A maximum of 20 days after the decision is made it shall be submitted to the Oregon Department of Land Conservation and Development (DLCD). Procedures for the giving of the required notice shall be those established by ORS 197.615 and Oregon Administrative Rules Chapter 660, Division 18.
 - 2. On the same day the decision is submitted to DLCD, the County shall mail, or otherwise deliver, notice to persons who both participated in the County proceedings that led to the decision to adopt the change to the Comprehensive Plan or this Ordinance and requested in writing that the County give notice of the change. The notice shall:
 - a. State how and where the materials described in ORS 197.615(2) may be obtained;
 - b. Include a statement by the individual delivering the notice that identifies the date on which the notice was delivered and the individual delivering the notice;
 - c. List the locations and times at which the public may review the decision and findings; and
 - d. Explain the requirements for appealing the land use decision under ORS 197.830 to 197.845.
- H. Appeal: The Board of County Commissioners' decision is the final decision of the County. Appeal of the County's final decision is to the Oregon Land Use Board of Appeals or the Oregon Land Conservation and Development Commission, as determined by state law.

1307.~~13~~14 PUBLIC HEARINGS

Subsection 1307.1~~43~~ applies to public hearings held pursuant to Section 1307, except that only Subsections 1307.1~~43~~(A), (B), (E) through (H), and (J) apply to public hearings in a Type IV proceeding.

- A. Procedure, Generally: Public hearings shall be conducted in accordance with Oregon Revised Statutes (ORS) 197.797, Subsection 1307.1~~32~~, and any bylaws or rules of procedure adopted by the review authority. Subsection 1307.1~~43~~ authorizes the Hearings Officer, Planning Commission, and Board of County Commissioners to adopt rules of procedure for the conduct of hearings.
- B. Parties: Any interested party shall be entitled to participate in a public hearing.
- C. Order of Proceeding: The order of proceeding for a hearing will depend in part on the nature of the hearing. The following shall be supplemented by the adopted bylaws or rules of procedure of the review authority, as appropriate.
 - 1. Jurisdictional Objections: Before receiving the staff report or testimony on the application, any objections on jurisdictional grounds shall be noted in the record and if there is objection, the review authority has the discretion to proceed or terminate the hearing.
 - 2. Disclosure Statement: The review authority (or individual member thereof), or its designee, shall read the land use disclosure statement, which shall include:
 - a. A list of the applicable substantive criteria, or a reference to the staff report, where a list of the criteria can be found;
 - b. A statement that testimony, argument, and evidence must be directed toward the criteria described in Subsection 1307.1~~43~~(C)(2)(a) or other criteria in the Comprehensive Plan or land use regulation which the person believes to apply to the decision;
 - c. A statement that failure to raise an issue accompanied by statements or evidence sufficient to afford the decision-maker and the parties an opportunity to respond to the issue precludes appeal to the Oregon Land Use Board of Appeals (LUBA) based on that issue; and
 - d. If applicable, a statement that a failure to raise constitutional issues relating to proposed conditions of approval precludes an action for damages in circuit court.
 - 3. Call for Ex Parte Contacts: If the review authority is the Planning Commission or the Board of County Commissioners, the presiding officer, or designee, shall inquire whether any member has had ex parte contacts. Any member announcing an ex parte contact shall state for the record the nature and content of the contact. If the review authority is the Hearings Officer, they shall

declare any ex parte contacts and state for the record the nature and content of the contact.

4. Call for Abstentions: If the review authority is the Planning Commission or the Board of County Commissioners, the presiding officer, or designee, shall inquire whether any member must abstain from participation in the hearing due to conflicts of interest. Any member announcing a conflict of interest shall state the nature of the conflict, and shall not participate in the proceeding, unless the vote is necessary to meet a requirement of a minimum number of votes necessary to take official action; provided, however, that the member shall not participate in any discussion or debate on the issue out of which the conflict arises. If the review authority is the Hearings Officer, they shall declare any potential conflicts of interest. The Hearings Officer shall state the nature of the conflict, and if the nature of the conflict is such that the Hearings Officer cannot fulfill his or her duty to be a fair and impartial decision-maker, the Hearings Officer shall recuse himself or herself from hearing the matter.
5. Staff Report: The Planning Director shall present a report and recommendation concerning the proposal.
6. Presentation of the Application:
 - a. Applicant's case;
 - b. Community planning organizations, hamlets, and villages. Appearance by a representative from any active community planning organization, hamlet, or village that is recognized by the County, if the subject property lies wholly or partially inside the boundaries of such organization, hamlet, or village, to present the organization's position on the proposal;
 - c. Public testimony; and
 - d. Rebuttal. Rebuttal may be presented by the applicant. The scope of rebuttal is limited to matters that were introduced during the hearing.
7. Close of Hearing: No additional testimony, evidence, or argument shall be accepted after the close of the hearing unless the record is held open by the review authority.
8. Reopened Hearing: The hearing may be reopened by the review authority, prior to decision, to receive additional testimony, evidence, or argument. Notice shall be provided to the same persons who received notice of the original hearing and to anyone who provided evidence, argument, or testimony as part of the record.

9. Deliberations: If the review authority is the Planning Commission or Board of County Commissioners, deliberations shall immediately follow the hearing, except that deliberations may be delayed to a subsequent date and time certain. If the review authority is the Hearings Officer, deliberations will not occur, and the Hearings Officer will instead take the matter under advisement.
10. Remand: The Board of County Commissioners may remand any matter previously considered by the Planning Commission back to the Planning Commission for further review.
11. Recommendation or Decision: When the review authority is the Planning Commission or Board of County Commissioners, the recommendation or decision, as applicable, will be voted on and announced during a public meeting.

D. Ex Parte Contact:

1. The review authority shall not do any of the following:
 - a. Communicate, directly or indirectly, with any party or their representatives in connection with any issue involved, except upon notice and opportunity for all parties to participate;
 - b. Take notice of any communications, reports, staff memoranda, or other materials prepared in connection with a particular application, unless the parties are afforded an opportunity to contest the material so noted; or
 - c. Inspect the site with any party or his representatives unless all parties are given an opportunity to be present. Individuals representing the review authority may inspect the site alone but must put the circumstances of the inspection on record.
2. A party may challenge the review authority, or individual member thereof, on the grounds of Subsection 1307.1~~43~~(D)(1), or that such individual has a legal conflict of interest as defined by ORS 244.020(1) or ORS 244.120. A challenge and the decision thereon by the review authority shall be entered in the record of the application.
3. While every effort must be made to avoid ex parte contact, no decision of the review authority shall be invalid due to ex parte contact or bias resulting from ex parte contact, as described under Subsection 1307.1~~43~~(D)(1), if the review authority (or individual member thereof) receiving the contact:
 - a. Places on the record the substance of any written or oral ex parte communication concerning the decision or action; and

- b. Has a public announcement made of the content of the communication, and of the parties' right to rebut the substance of the communication, at the first hearing following the communication where action will be considered or taken on the subject to which the communication related.
4. A communication between County staff and the Historic Review Board, Design Review Committee, Planning Commission, or Board of County Commissioners shall not be considered an ex parte contact for purposes of Subsection 1307.1~~43~~(D)(1).

E. Evidence and Exhibits:

1. All evidence may be received unless excluded by the review authority on its own motion. Evidence received at any hearing shall be of the quality that reasonable persons rely upon in the conduct of their everyday affairs. Relevant evidence is any evidence having a tendency to make the existence or non-existence of a fact that is of consequence to the approval of the land use permit or legislative land use proposal more or less probable than it would without the evidence. Evidence may be received subject to a later ruling regarding its admissibility.
2. The review authority may exclude cumulative, repetitious, or immaterial evidence, but erroneous admission of evidence by the review authority shall not preclude action by the review authority or cause reversal on appeal unless shown to have substantially prejudiced the rights of a party.
3. All evidence shall be offered and made a part of the record in the application or legislative proceeding; and, except for matters stipulated to and except as provided in Subsection 1307.1~~43~~(E)(4), no other factual information or evidence shall be considered in the recommendation or decision.
4. The review authority may take notice of judicially cognizable facts, and may take notice of general, technical, or scientific facts within specialized knowledge. Except in a Type IV proceeding, interested parties shall be notified at any time during the proceeding, but in any event prior to the final decision, of the material so noticed, and they shall be afforded an opportunity to contest the facts so noticed. The review authority may utilize experience, technical competence, and specialized knowledge in evaluation of the evidence presented.
5. All exhibits received shall be marked so as to provide identification upon review. Such exhibits may be returned when the period for review has expired, but shall otherwise be preserved by the Planning Director.

- F. Time Limits: The review authority may set consistent, reasonable time limits for oral presentations to the end that parties are encouraged to submit as much

evidence as possible in writing prior to the hearing. No person may speak more than once without obtaining permission from the review authority.

- G. Questioning: The review authority (or individual member thereof) or County staff may question any person who testifies. The applicant and other parties to the proceeding shall not have the right to question or cross-examine any person who testifies.
- H. Scope of Testimony: Except in a Type IV proceeding, testimony shall be directed towards the applicable standards and criteria that apply to the proposal. The review authority may exclude or limit cumulative, repetitious, or immaterial testimony. To expedite hearings, the review authority may call for those in favor and those in opposition to rise, and the review authority shall note the numbers of such persons for the record.
- I. Continuances and Open Record Periods:
 - 1. All documents or evidence relied upon by the applicant shall be submitted to the County and be made available to the public. Any staff report used at the hearing shall be available at least seven days prior to the hearing. If additional documents or evidence are provided by any party, the review authority may allow a continuance or leave the record open to allow the parties a reasonable opportunity to respond. Any continuance or extension of the record requested by the applicant shall result in a corresponding extension of the time limitations of ORS 215.427 and ORS 215.429.
 - 2. Prior to the conclusion of the initial evidentiary hearing, any participant may request an opportunity to present additional evidence, argument, or testimony regarding the application. The review authority shall either continue the public hearing, pursuant to Subsection 1307.1~~43~~(I)(2)(a), or leave the record open for additional written evidence, argument, or testimony, pursuant to Subsection 1307.1~~43~~(I)(2)(b).
 - a. If the review authority grants a continuance, the hearing shall be continued to a date, time, and place certain at least seven days from the date of the initial evidentiary hearing. An opportunity shall be provided at the continued hearing for persons to present and rebut new evidence, argument, or testimony. If new written evidence is submitted at the continued hearing, any person may request, prior to the conclusion of the continued hearing, that the record be left open for at least seven days to submit additional written evidence, argument, or testimony for the purpose of responding to the new written evidence. Only one continuance is available of right under Subsection 1307.1~~43~~(I)(2)(a); provided, however, nothing in Subsection 1307.1~~43~~(I)(2)(a) shall restrict the review authority, in its discretion, from granting additional continuances.

- b. If the review authority leaves the record open for additional written evidence, argument, or testimony, the record shall be left open for at least seven days. The review authority may leave the record open for an additional period of at least seven days for any participant to respond to new evidence submitted during the prior open-record period. However, if the review authority has not provided for this additional open-record period, any participant may file a written request with the Planning Director for an opportunity to respond to new evidence submitted during the period the record was left open. Any such request shall be filed no later than the end of the last business day the record is left open. If such a request is filed, the review authority may reopen the record pursuant to Subsection 1307.1~~43~~(I)(4).
 - c. A continuance or extension granted pursuant to Subsection 1307.1~~43~~(I)(2) shall be subject to the limitations of ORS 215.427 and ORS 215.429, unless the continuance or extension is requested or agreed to by the applicant.
 3. Additional notice of a continued hearing is not required, unless the hearing is continued without announcing a date, time, and place certain, in which case notice of the continued hearing shall be given as though it were the initial hearing.
 4. If the record is reopened to admit new evidence, argument, or testimony, any person may raise new issues which relate to the new evidence, argument, testimony, or criteria for decision-making which apply to the matter at issue. Notice of the reopened record shall be provided to any person who presented evidence, argument, or testimony as part of the record prior to the date the record was reopened.
 5. Unless waived by the applicant, the review authority shall allow the applicant at least seven days after the record is closed to all other parties to submit final written argument in support of the application. The applicant's final submittal shall be considered part of the record, but shall not include any new evidence. This seven-day period shall not be subject to the limitations of ORS 215.427 and ORS 215.429.
- J. Record of Hearing:
 1. A verbatim record of the proceeding shall be made by written, mechanical, or electronic means, which record need not be transcribed except upon review on the record.
 2. The record of proceedings is comprised of:
 - a. The Comprehensive Plan and this Ordinance, all of which shall be

automatically incorporated into the record;

- b. The application or legislative proposal that initiated the proceeding;
- c. All testimony, argument, evidence, and exhibits submitted prior to the close of the record of the proceeding;
- d. Any staff reports submitted prior to the close of the record of the proceeding;
- e. Any electronic presentation used by either staff, applicant, or other participant in the proceeding;
- f. The verbatim record, as provided in Subsection 1307.1~~43~~(J)(1);
- g. Minutes, if any, of the hearing;
- h. A verbatim record, as provided in Subsection 1307.1~~43~~(J)(1), of any public meeting after the close of the hearing at which the proceeding is discussed by or acted upon by the review authority;
- i. Minutes, if any, of any public meeting after the close of the hearing at which the proceeding is discussed by or acted upon by the review authority; and
- j. The written decision.

1307.~~44~~15 APPEALS

Subsection 1307.1~~54~~ applies to all appeals processed by the County of decisions issued under Section 1307, except for appeals of Type II-E decisions, which shall be processed pursuant to ORS 197.375. Table 1307-1, *Land Use Permits by Procedure Type*, identifies those land use permit decisions that may be appealed at the County level and the applicable review authority for those appeals.

- A. Filing an Appeal: An appeal shall be in writing and must be received by the Planning Director within 12 days of the date of mailing of the notice of decision, or if the 12th day falls on a day on which the County is not open for business, by the next day on which the County is open for business.
- B. Notice of Appeal: Notice of appeal shall be made on a form prescribed by the Planning Director and shall be accompanied by the appeal fee. The notice of appeal shall contain:
 - 1. Identification of the decision sought to be appealed, including its assigned file number, the name of the applicant, and the decision date;

2. The name, mailing address, and telephone number of the appellant;
3. The nature of the decision being appealed and the grounds for appeal; and
4. Signature(s) of the appellant(s), or the duly authorized representative(s) thereof, authorizing the filing of the appeal.

C. Proper Filing of Notice of Appeal: The failure to file a timely and complete notice of appeal is a jurisdictional defect, and the Planning Director shall not accept a notice of appeal that does not comply with Subsections 1307.1~~54~~(A) and (B). The Planning Director's determination that an appellant has failed to comply with Subsections 1307.1~~54~~(A) and (B) shall be final.

D. Appeal Procedures; Scope: Appeals are subject to the following procedures:

1. De Novo Review: Appeals shall be de novo. In a de novo review, all issues of law and fact are heard anew, and no issue of law or fact decided by the lower-level review authority is binding on the parties in the hearing. New parties may participate, and any party may present new evidence and legal argument by written or oral testimony. The record of the initial proceeding shall be made a part of the record of the appeal. For purposes of Subsection 1307.1~~54~~(D)(1), the record of the initial proceeding consists of
 - a. Those items listed in Subsections 1307.1~~43~~(J)(2)(a) through (d) and (j); and
 - b. Those items listed in Subsections 1307.1~~43~~(J)(2)(e) through (i), to the extent that any prior hearing(s) or public meeting(s) were conducted in reaching the decision that is being appealed.
2. Notice of Public Hearing: Notice of public hearing shall be provided as follows:
 - a. A minimum of 20 days prior to the first evidentiary hearing on the appeal, written notice of the appeal and hearing shall be mailed to:
 - i. Those who were entitled to notice pursuant to Subsection 1307.09(A)(1); however, notwithstanding Table 1307-2, *Noticing Distances for Type II Land Use Permit Applications*, if the subject property is in the AG/F, EFU, FF-10, FU-10, RA-1, RA-2, RC, RI, RR, RRFF-5, or TBR Districts, notice of the public hearing shall be provided to all property owners of record, pursuant to Subsection 1307.1~~87~~(C), within 2,640 feet (½ mile) of the subject property and all contiguous properties under the same ownership;
 - ii. The appellant; and

- iii. Anyone who previously provided evidence, argument, or testimony as part of the record.
 - b. At a minimum, notice of hearing shall include those elements identified in Subsection 1307.1~~24~~(A)(4), except that 1307.1~~24~~(A)(4)(i) will reference the appealed decision, rather than the staff report.
3. Public Hearing: A public hearing shall be held before the appeal review authority, for the purpose of receiving testimony regarding the application.
4. Decision: The appeal review authority shall consider the record and affirm the decision, affirm the decision with additional conditions or modifications, or reverse the decision. The appeal review authority shall issue a written decision in the form of an order, which shall be signed and dated, that explains the standards and criteria considered relevant to the decision, states the facts relied upon in rendering the decision, and explains the justification for the decision based on the standards, criteria, and facts set forth. The decision also shall include the elements identified in Subsection 1307.1~~24~~(D)(1) through (5).
5. Notice of Decision: A copy of the written order shall be mailed to:
- a. Those identified in Subsection 1307.1~~54~~(E); and
 - b. The appellant.
6. Appeal: Except where an additional County-level appeal is provided pursuant to Subsection 1307.1~~54~~(E), the appeal review authority's decision is the final decision of the County. Appeal of the County's final decision is to the Oregon Land Use Board of Appeals.
- E. Review of an Interpretation by the Board of County Commissioners:
- 1. A second County-level appeal is provided for applications for an interpretation of the Comprehensive Plan, where the Board of County Commissioners shall review the decision of the Planning Commission on appeal. Processing of the appeal shall comply with Subsections 1307.1~~54~~(A) through (D), except that notice of the public hearing shall be given to:
 - a. Those identified in Subsections 1307.09(A)(1)(a), (c) through (e), and (h);
 - b. The appellant;
 - c. Anyone who provided evidence, argument, or testimony as part of the record; and
 - d. Anyone who made a written request for notice of decision.

2. A second County-level appeal is provided for applications for an interpretation of this Ordinance, where the Board of County Commissioners may choose to review the decision of the Hearings Officer on appeal but is not required to do so.
 - a. If the Board of County Commissioners accepts the appeal, processing of the appeal shall comply with Subsections 1307.1~~54~~(A) through (D), except that notice of the public hearing shall be given pursuant to Subsection 1307.1~~54~~(E)(1).
 - b. If the Board of County Commissioners denies a request for review, it shall do so in writing. Notice of the denial shall be given pursuant to Subsection 1307.1~~54~~(E)(1). If the Board of County Commissioners denies a request for review, the decision of the Hearings Officer stands as the final decision of the County. The period for appeal to the Oregon Land Use Board of Appeals commences on the date of mailing of the Board of County Commissioners' denial of review.
- F. Effect of Judicial or Administrative Review: Except as provided by law or order of a court or administrative tribunal having jurisdiction, a decision of the County shall remain valid and effective notwithstanding the initiation of judicial or administrative review of such decision; provided, however, that any development permit dependent upon such decision shall be issued only with the applicant's written acknowledgement in a form approved by County Counsel, that such review has been initiated and may result in the reversal of the decision, in which event the permit shall be revoked, as well as any temporary occupancy permit, and the premises shall thereafter be brought into conformity with the applicable standards and criteria by appropriate means. No permanent occupancy certificate shall be issued by the building official until such review has concluded through the adoption of a decision making such occupancy in all respects lawful.
- G. Remand from the Land Use Board of Appeals: Except as set forth in Oregon Revised Statutes (ORS) 215.435(4), the County shall take final action on decisions remanded by the Oregon Land Use Board of Appeals within the time frame established by ORS 215.435(1) and (2).

1307.1~~516~~ CONDITIONS OF APPROVAL

Approval of a Type I, II, II-E, or III land use permit may be granted subject to conditions. The following limitations shall be applicable to conditional approvals:

- A. Conditions shall be fulfilled within the time limitations set forth in the approval thereof, or, if no time is set forth, within a reasonable time. Failure to fulfill any conditions within the time limitations provided shall be grounds for the Planning Director to initiate revocation of the approved land use permit pursuant to Subsection 1307.1~~87~~(L).

- B. Conditions shall be imposed to ensure compliance with the standards and approval criteria applicable to the land use permit, or shall be reasonably calculated to fulfill public needs emanating from the proposed land uses as set forth in the application, in the following respects:
 - 1. Protection of the public from the potentially deleterious effects of the proposed use; or
 - 2. Fulfillment of the need for public services created by the proposed use.
- C. The review authority may find compliance with an applicable approval criterion by imposing conditions necessary to ensure compliance and finding that it is feasible for the conditions to be satisfied. Notwithstanding this provision, where conditions require state agency permits to be obtained, the review authority need only find substantial evidence to demonstrate that the applicant is not precluded from obtaining such state agency permits as a matter of law.
- D. A surety may be required from the applicant, in an amount sufficient to ensure compliance with one or more conditions of approval, subject to Section 1311, *Completion of Improvements, Sureties, and Maintenance*.

1307.~~16~~17 FEES

Fees are for the purposes of defraying administrative costs and are subject to the following:

- A. Fees payable at the time of application or appeal are established by separate order of the Board of County Commissioners.
- B. The failure to submit the required fee with an application or appeal, including return of checks unpaid or other failure of consideration, shall be a jurisdictional defect.
- C. An active community planning organization that is recognized by the County may file appeals without fee, provided the decision to file an appeal is made at a public meeting held in compliance with Oregon Revised Statutes 192.610 to 192.690.
- D. Appeal fees shall be refunded if the appellant prevails. Any other fee refund policy shall be established by separate order of the Board of County Commissioners.
- E. The County Administrator or designee may reduce or waive fees upon showing of just cause to do so.

1307.~~17~~18 GENERAL PROVISIONS

- A. Calculation of Time: For the purposes of this Ordinance, unless otherwise

specifically provided, days mean calendar days. In calculating a specific time period, the day on which the period begins to run shall not be included; and the day on which the period ends shall be included. In the event the last day falls on a day on which the County is not open for business, the period of time shall end on the next day on which the County is open for business.

B. Signatures:

1. When any person signs as the owner of property, as an officer of a public or private corporation owning the property, or as an attorney in fact or agent of any owner, or when any person states that they are buying the property under contract, the Planning Director and the review authority, if other than the Planning Director, may accept these statements to be true, unless the contrary be proved, and except where otherwise in this Ordinance more definite and complete proof is required. Nothing herein shall prevent the Planning Director or the review authority, if other than the Planning Director, from demanding proof that the signer is the owner, officer, attorney in fact, or agent.
2. As used in Section 1307, the word “signature” includes a signature affixed by electronic means.

C. Property Owner Notice: Where notice to property owners of record is required by Section 1307, the records of the County Assessor shall be used to identify the owners and their mailing addresses. Persons whose names and addresses are not on file at the time of the filing of the applicable land use permit application or appeal need not be notified of the application, decision, or hearing. If a property within the notification area is located outside the County, the records of the applicable County Assessor shall be used. The failure of a property owner to receive notice as provided in Section 1307 shall not invalidate the proceedings, if the County can demonstrate by affidavit that such notice was given.

D. Method of Mailing: When mailing is required by Section 1307, first-class mail shall be used, except that for mailing to any of the following, either first-class mail or electronic mail may be used: community planning organizations, hamlets, villages, cities, special districts, and government agencies.

E. Burden of Proof: Except in a Type IV proceeding, the proponent has the burden of proof on all elements of the proposal. The proposal must be supported by a preponderance of evidence that it conforms to all applicable standards and criteria. The preponderance of evidence standard is often described as enough evidence to make the proponent’s point more likely than not.

F. Argument and Evidence: For the purposes of Section 1307:

1. Argument means assertions and analysis regarding the satisfaction or violation of legal standards or policy believed relevant by any party. Argument does not

include facts.

2. Evidence means facts, documents, data, or other information offered to demonstrate compliance or noncompliance with the standards and criteria believed by any party to be relevant to the proposal.
- G. Withdrawal: Prior to the issuance of the written decision, the applicant may submit a written notice of withdrawal of the application. Upon receipt of a written notice of withdrawal, the application shall be deemed dismissed without further action by the review authority. A withdrawal shall not bar filing a new application; withdrawal shall not be deemed a final decision for any purpose. A withdrawal cannot be appealed. If an application is withdrawn after the mailing of notice of application or public hearing, the Planning Director shall mail written notice stating the application has been withdrawn to all persons who were provided mailed notice of the application or public hearing.
- H. Final Action Deadline: Except as modified by Oregon Revised Statutes (ORS) 197.365 through 197.380, 197.797, or 197A.470, the County shall take final action on a land use permit application that is subject to ORS 215.427, including resolution of all County appeals, within the time period specified by ORS 215.427, unless the applicant provides written request for an extension of such period pursuant to ORS 215.427(5).
- I. Effective Date of Decision: The County's final decision on a Type I, II, II-E, or III land use permit application becomes effective on:
1. The day the final decision is issued, if no appeal at the County level is allowed;
 2. The day after the appeal period expires, if an appeal at the County level is allowed, but no notice of appeal is timely filed;
 3. The day the decision is issued by the final County appeal body, if an appeal is allowed and notice of appeal is timely filed. However, if the appeal is withdrawn prior to decision, the effective date of the County's final decision shall revert to the day after the appeal period would have expired had an appeal not been timely filed; or
 4. The date of mailing of the Board of County Commissioners' denial of review, pursuant to Subsection 1307.154(E)(2)(b).
- J. Reissuing a Decision: The review authority may reissue a Type I, II, II-E, or III decision as a result of a clerical error, a misstatement of facts, or the erroneous imposition or omission of conditions of approval. A decision may not be reissued after the expiration of the appeal period, if any, or after the filing of an appeal. Notice of the reissued decision shall be given in the same manner as notice of the

original decision. A new appeal period equal to that of the original decision shall be provided from the date of mailing of the amended decision.

K. Re-filing an Application: If a Type II, II-E, II-S, or III land use permit application is denied, or a Type II, II-E, II-S, or III land use permit is revoked pursuant to Subsection 1307.17(L), an applicant may re-file for consideration of the same or substantially similar application only if:

1. At least two years have passed after either final denial of an application by the County or revocation of a permit; or
2. The review authority finds that one or more of the following circumstances render inapplicable all of the specific reasons for the denial:
 - a. A change, which is material to the application, has occurred in this Ordinance, the Comprehensive Plan, or other applicable law; for the purposes of this provision, “change” includes amendment to the applicable provisions or a modification in accepted meaning or application caused by an interpretation filed pursuant to Section 1308;
 - b. A mistake in facts, which was material to the application, was considered by the review authority;
 - c. There have been changes in circumstances resulting in new facts material to the application;
 - d. A change has occurred in the zoning of the subject property, or adjacent property, that substantially affects the merits of the application; or
 - e. There have been substantial changes in the surrounding area, or on the subject property, such as availability of services or improvements to public facilities, that affect the merits of the application.

L. Revocation of Approval: An approval of a Type II, II-E, or III land use permit may be revoked, as follows:

1. The Planning Director may initiate a public hearing for revocation of a prior approval of a land use permit when there is a violation of conditions attached to the previous approval sufficient to merit such revocation.
2. Revocation of approval shall be reviewed using the Type III procedure. The Hearings Officer shall be the review authority, and the decision of the Hearings Officer shall be the final decision of the County.
3. Revocation is in addition to, and not in lieu of, any other remedy provided by law or equity, and is not a condition precedent to any such remedy.

M. Modifications: Except as permitted pursuant to Section 1309, Modifications:

1. A modification to an approved Type I, I-H, II, II-E, II-S, or III land use permit, or conditions thereto, shall be processed as a new application; and
2. A modification to conditions of approval for a Type II, II-E, II-S, or III land use permit shall be considered only if:
 - a. Two years have passed since final approval of the land use permit proposed for modification; or
 - b. One or more of the circumstances identified in Subsection 1307.17(K)(2) apply.

[Added by Ord. ZDO-248, 10/13/2014; Amended by Ord. ZDO-253, 06/01/2015; Amended by Ord. ZDO-254, 01/04/2016; Amended by Ord. ZDO-262, 05/23/2017; Amended by Ord. ZDO-266, 05/23/2018; Amended by Ord. ZDO-269, 09/06/2018; Amended by Ord. ZDO-268, 10/02/2018; Amended by Ord. ZDO-276, 10/01/2020; Amended by Ord. ZDO-280, 10/23/2021; Amended by Ord. ZDO-282, 07/01/2022; Amended by Ord. ZDO-283, 09/05/2023; Amended by Ord. ZDO-285, 09/03/2024]

1309 MODIFICATION~~S~~

1309.01 APPROVAL CRITERIA

A modification to an approved Type II or III land use permit, or conditions thereto, requires review as a Type II application pursuant to Section 1307, *Procedures*, and shall be subject to the following standards and criteria:

- A. A modification shall be consistent with the prior approval;
- B. A modification shall be consistent with all Ordinance provisions in effect on the date the modification request is submitted; and
- C. A modification shall not result in any of the following:
 - 1. A change in the type of use (e.g. commercial, industrial, institutional);
 - 2. An increase of greater than 25 percent of the original approved building floor area;
 - 3. An increase of greater than 25 percent of the original approved lot coverage;
 - 4. An increase in the density of development (residential or recreational uses), or intensity of use, as demonstrated by a change in occupancy rating requiring substantial modifications to structures;
 - 5. An increase in traffic congestion or use of public facilities;
 - 6. A reduction in approved open space;
 - 7. A reduction of off-street parking spaces or loading berths, except as provided under Section 1015; or
 - 8. A reduction in required pavement widths or a change in major access locations, except as required by the County.

1309.02 APPROVAL PERIOD ~~AND TIME EXTENSION~~

~~A.~~ Approval of a modification shall be subject to the same approval period ~~and time extension provisions~~ as the application type modified by the approval.

~~B.~~ The ~~modification's~~ approval period ~~shall commence~~ begins on the dateday of the ~~County's~~ final decision on the modification ~~application~~. If the County's final decision is appealed, the approval period shall commence on the date of the final appellate decision. During the approval period, the approval shall be implemented, or the approval will become void.

“Implemented” shall have the same meaning as it does for the application type for which the modification is approved.

[Added by Ord. ZDO-248, 10/13/14; Amended by Ord. ZDO-280, 10/23/21]

1310 TIME EXTENSIONS**1310.01 PURPOSE AND APPLICABILITY**

Section 1310 is adopted to provide standards, criteria, and procedures under which the initial approval period for a land use permit may be extended. Section 1310 applies only if:

- A. The subject property is not zoned AG/F, EFU, or TBR;
- B. The land use application for which the time extension is requested was submitted prior to *[insert the effective date of ZDO-293]*;
- C. A time extension under Subsection 1310.02 was an available option for the land use permit type prior to *[insert the effective date of ZDO-293]*; and
- D. No previous time extension of the land use permit has been approved.

1310.02 APPROVAL CRITERIA

~~A time extension may be permitted only when specified elsewhere in this Ordinance for specific land use permit types.~~

~~A. Type II Time Extensions: Except as set forth in Subsection 1310.02, A time extension requires review as a Type II application pursuant to Section 1307, *Procedures*, and shall be subject to the following standards and criteria:~~

A1. The time extension application shall be submitted prior to, but not sooner than one year prior to, the expiration of the initial approval period for the land use permit. However, if the land use permit was modified pursuant to Section 1309, *Modification*, the application for a time extension shall be submitted prior to, but not sooner than one year prior to, the expiration of the approval period for the modification;

B2. The proposed development as originally approved, or as modified pursuant to Section 1309, shall be consistent with the relevant provisions of this Ordinance in effect on the date the application for a time extension is submitted, provided that the application is complete when submitted or is made complete pursuant to Subsection 1307.07(E)(~~45~~); and

C3. There shall have been no changes on the subject property or in the surrounding area that would be cause for reconsideration of the original decision.

~~B. Type I Time Extensions: Notwithstanding Subsection 1310.01(A), a time extension authorized by Subsections 401.10(B), 406.11(B), or 407.10 for~~

~~one of the following types of residential development located outside of an urban growth boundary requires review as a Type I application pursuant to Section 1307, and the time extension application shall be submitted prior to the expiration of the initial approval period for the land use permit:~~

- ~~1. Lot of record dwelling on Low Value Farmland in the AG/F or EFU Districts;~~
- ~~2. Lot of record dwelling on High Value Farmland consisting predominantly of Class III and IV Soil in the AG/F or EFU Districts;~~
- ~~3. Lot of record dwelling on High Value Farmland consisting predominantly of Prime, Unique, Class I or II Soils in the AG/F or EFU Districts;~~
- ~~4. Dwelling not in conjunction with a farm use in the AG/F or EFU Districts;~~
- ~~5. Lot of record dwelling in the AG/F or TBR Districts;~~
- ~~6. Forest template dwelling in the AG/F or TBR Districts;~~
- ~~7. 160 acre minimum forest dwelling in the AG/F or TBR Districts;~~
- ~~8. 200 acre nonecontiguous dwelling in the AG/F or TBR Districts;~~
- ~~9. Caretaker residence for public parks and public fish hatcheries in the AG/F or TBR Districts.~~

1310.0~~32~~ PROCEDURE

If more than one land use permit (e.g. a partition and a variance) was approved for the same, or substantially similar, proposed development, time extension requests for these land use permits may be consolidated as one application, at the applicant's discretion.

1310.0~~43~~ APPROVAL PERIOD

Approval of a time extension ~~application approved under Section 1310~~ is valid for two years from the date of the final ~~written~~ decision on the time extension, or for two years from the date of expiration of the initial approval period for the land use permit, whichever is longer. If the County's final decision is appealed, the approval period shall commence on the date of the final appellate decision. During this two-year period, the approval shall be implemented, or the approval will become void. "Implemented" shall have the same meaning as it does for the application type for which the time extension is approved.

CLACKAMAS COUNTY ZONING AND DEVELOPMENT ORDINANCE

[Added by Ord. ZDO-248, 10/13/2014; Amended by Ord. ZDO-276, 10/01/2020; Amended by Ord. ZDO-280, 10/23/2021; Amended by Ord. ZDO-283, 09/05/2023]

Exhibit C

Ordinance ZDO-293

Findings of Consistency with the Oregon Revised Statutes, Oregon Administrative Rules, Statewide Planning Goals, Metro Urban Growth Management Functional Plan and Regional Transportation Functional Plan, Clackamas County Comprehensive Plan, and Clackamas County Zoning and Development Ordinance

BACKGROUND

The 2025-2027 Long-Range Planning Work Program includes a project titled “*Minor and Time-Sensitive Comprehensive Plan and Zoning and Development Ordinance Amendments*.” Since 2020, a package of amendments has been developed annually or biennially to focus on relatively minor changes to the Comprehensive Plan and Zoning and Development Ordinance (ZDO) to comply with any new Metro, state, or federal mandates; clarify existing language; correct errors; or adopt optional provisions that require only minimal analysis. The last such package was adopted in 2024. Ordinance ZDO-293 includes the “minor and time-sensitive” amendments for fiscal year 2026.

Ordinance ZDO-293 includes amendments to accomplish the following five actions, which are discussed in more detail in the “*Amendments*” section below:

1. Implement state mandates, which were adopted through legislation or administrative rulemaking, and that are currently in effect;
2. Align the requirements in the County’s Natural Resource Districts with state law;
3. Amend certain height limit and dock prohibition standards within the Willamette River Greenway (WRG);
4. Clarify how to identify front, rear, and side lot lines for the purpose of structure setback measurement; and
5. Make minor changes to the Comprehensive Plan and ZDO to clarify provisions, reduce administrative barriers, and correct citations and typographical errors.

There were two public hearings on the amendments: one before the Planning Commission on May 11, 2026, and another before the Board on June 16, 2026. The Planning Commission voted 6-1 to recommend approval to the Board, which ultimately voted 5-0 to approve the amendments.

AMENDMENTS

Ordinance ZDO-293 amends one chapter of the Comprehensive Plan and 40 sections of the ZDO, and adds two new sections to the ZDO.¹ What follows is a list of the five actions that Ordinance ZDO-293 accomplishes, as well as brief explanations of the context behind each action and how the action is accomplished by the amendments.

- 1. Implement state mandates, which were adopted through legislation or administrative rulemaking, and that are currently in effect.** Generally, these mandates relate to urban housing procedures, on-site parking regulations for the urban area, and requirements to allow certain uses outright, including childcare centers, emergency shelters, residential treatment facilities and homes, mental and psychiatric hospitals, and crisis stabilization

¹The Comprehensive Plan chapter and ZDO sections amended and added by Ordinance ZDO-293 are listed on the last pages of this document.

centers. Many of these changes are limited to the urban area. Ordinance ZDO-293 includes amendments to the ZDO that are necessary to implement these changes, which include:

- Amending the Middle Housing Land Division (MHL) process to allow shared water/wastewater facilities; allow MHLs before, during, and after middle housing building permits; and offer concurrent review of MHLs and partitions or subdivisions.
- Adding the Expedited Land Division (ELD) process—previously implemented directly from state statute—to the ZDO, and ensuring that the regulations reflect new requirements for no public notice, no public hearing, no allowance for any party to intervene in opposition, and no notice of decision or eligibility to appeal for any party other than the applicant.
- Exempting housing developments that include 20 or more units of new single-family dwellings, manufactured dwellings, or middle housing within the Metro urban growth boundary (UGB) from design standards related to façade materials; roof decorations, form, or materials; and other architectural features.
- Allowing applicants for housing within the UGB to “opt in” to new standards that become effective after the application is submitted, if public notice has not been issued.
- Including standards for a new type of application—called an “urban housing application”—for a residential zone change, planned unit development, or variance. The process for this application includes notice to property owners within 300 feet and a comment window of 14 days, but limited appeal rights.
- Including standards for another new type of application for housing in urban and certain rural areas that are reviewed under only clear and objective standards. The process for this application includes notice to property owners within 100 or 500 feet, depending on the size of the proposed development, but only the applicant may appeal a decision to the Land Use Board of Appeals.
- Allowing by right:
 - A residential treatment facility or residential home within the UGB on certain publicly owned lands and lands zoned for residential, commercial, employment, and industrial uses.
 - A mental or psychiatric hospital and adjacent crisis stabilization center within the UGB on certain commercial, industrial, or publicly owned lands.
 - A preschool or pre-kindergarten with a place of worship (does not apply if the place of worship is a nonconforming use).
 - An emergency shelter that meets certain defined criteria on land within a UGB or on rural residential land. This requirement sunsets if the sheltered and unsheltered homeless population falls below a defined threshold.
 - A childcare center in multifamily residential, commercial, and light industrial zones.

Ordinance ZDO-293 adds these specific uses as “primary uses” in the applicable zones and adds two new sections to the ZDO: one with state-mandated development standards for emergency shelters (Section 848) and another for residential treatment facilities, residential treatment homes, mental or psychiatric hospitals, and crisis stabilization centers (Section 849).

- Implementing recent changes related to off-street parking and parking lots within the UGB. These rules are currently in effect but are being administered directly from state law. In August 2022, the Land Conservation and Development Commission (LCDC) adopted changes to the Transportation Planning Rule (TPR) that were designed to better support climate friendly and equitable communities. These new rules apply to the urban, unincorporated areas of the County and include various compliance dates for the different types of changes required. While many of the changes will take effect when the County’s Transportation System Plan (TSP) is updated, mandatory changes in off-street

parking requirements took effect in two phases, the first on December 31, 2022, and the second on June 30, 2024. Because the County has not yet adopted the changes that took effect in 2024 into the ZDO, staff have been implementing the rules directly from state law. Ordinance ZDO-293 includes the amendments necessary to implement the state's parking rules through the ZDO, rather than continuing to implement them directly from state law. This will reduce confusion for applicants and make administration of the rules more efficient for staff. These amendments will apply to property in urban zones within the UGB and generally include the following:

- Removal of references to minimum off-street parking requirements.
- Amended off-street parking maximums for certain locations.
- New tree canopy and other design standards for parking lots over one-half acres.

The amendments in Ordinance ZDO-293 do not change the policy, practice, or standards related to parking in the urban area. They simply align the ZDO with state law.

2. Align the requirements in the County's Natural Resource Districts with state law.

Ordinance ZDO-293 includes amendments resulting from an audit of the Exclusive Farm Use (EFU), Timber (TBR), and Ag/Forest (AG/F) Districts to ensure that they are consistent with, and not more restrictive than, state law. The amendments:

- Incorporate amendments from recent state rulemaking that codified certain common law standards related to:
 - Farm impacts test analyses.
 - Agri-tourism events standards.
 - Transportation facilities subject to the farm impacts test.
 - Private park definition and clarifications.
- Allow childcare facilities in farm zones, subject to criteria related to serving children in rural areas and only if collocated with a community center or school.
- Repeal fire hardening construction standards for replacement dwellings.
- Add land division allowances that are not currently in the ZDO.
- Amend the approval periods for various types of land use applications.
- Repeal the "capability test" provisions for farm dwellings in the EFU District because the County has not prepared the required gross sales figures. If that work is completed, the provisions can be added back, but they currently create confusion for staff and the public.
- Remove the extensive table of uses in the AG/F District and replace with a statement that uses permitted in the AG/F District are those allowed in the EFU District, subject to the standards in the EFU District, and those allowed in the TBR District, subject to the standards in the TBR District, and subject to certain limitations. This is not a substantive change but is intended to add clarity and to ensure that future amendments do not inadvertently create inconsistency between AG/F and EFU or TBR.
- Reorganize some standards to be more consistent with the structure of state law to make future amendments easier.
- Include numerous other edits for consistency with the requirements of state law.

3. Amend certain height limit and dock prohibition standards within the WRG. The WRG, established through Statewide Planning Goal 15, is a corridor of water and land in which development is planned and built with recognition of the unique qualities of the Willamette River. Ordinance ZDO-293 includes two specific amendments to standards that implement the County's plan for the WRG.

- **Repeal an unnecessary dock prohibition affecting certain areas of the WRG.** There are two stretches of the Willamette River—called Limited Use areas—in which new private, non-commercial docks are prohibited. Private, non-commercial docks are

allowed, subject to certain standards, on all other stretches of the Willamette River within the County's jurisdiction. Ordinance ZDO-293 repeals the prohibition on new docks in the Limited Use areas and allows private, non-commercial docks to be established, subject to the same standards and processes that apply to such docks elsewhere on the river.

An analysis of lots, existing dwellings, and existing docks within the Limited Use areas shows that *all but three* of the lots within the Limited Use areas that have river frontage and a dwelling already have a dock, and that none of the vacant lots with river frontage in the Limited Use areas are zoned for residential development. There is no state requirement to prohibit docks anywhere on the river, and there is no basis or evidence in the County's records to warrant the dock prohibition. As such, this prohibition appears unnecessary and creates a situation in which three property owners are precluded from using their property in the same way as many other neighboring property owners.

- **Remove the 35-foot height limit for properties located within the WRG and zoned High Density Residential (HDR).** Currently, the ZDO limits the height for all residential development within the WRG to 35 feet. Non-residential development within the WRG has no specified height limit.

Inside the UGB, most residential lots within the WRG are in a zone that has a height limit of 35 feet for development even if the development is outside the WRG. There are, however, a limited number of lots within the WRG that have HDR zoning, which is intended for multifamily development, currently has a maximum allowed density of 25 dwelling units per acre, and has no specified height limit outside the WRG.

The owner of a property zoned HDR in the WRG requested that the County consider removing the 35-foot height limit so that more housing could be developed on their site, consistent with the other regulations in the HDR District. No change is made to the height limits in other zones within the WRG. This change is expected to have little impact due largely to the fact that there are only a small number of properties affected.

4. **Clarify how to identify front, rear, and side lot lines for the purpose of structure setback measurement.** The way that setbacks are reviewed has not changed substantially since the ZDO was adopted in 1980. Since then, however, many of the standards controlling lot shape and dimensions have been repealed, nonconforming lots are no longer required to be consolidated, new access and life safety requirements outside the ZDO have changed the way developments are constructed, and changes to state and local rules regarding infill development have resulted in lot configuration and development that was not contemplated when the 1980 ZDO was drafted. As a result, the current setback rules sometimes create conflicts and confusion when applied to certain lots.

Ordinance ZDO-293 does not change required setback distances. Rather, it includes amendments to clarify how the front lot line is identified for setback purposes, thereby addressing some of the most common administrative challenges identified by staff, including private access easements, fire turnarounds, unusual flag lots, and rounded and "unintentional" corner lots.

5. **Make minor changes to the Comprehensive Plan and ZDO to clarify provisions, reduce administrative barriers, and correct citations and typographical errors.** These amendments are intended to address basic errors (e.g., incorrect citations), revise text that consistently causes confusion for staff and customers, and amend standards or processes

that create development barriers without adding significant value. To accomplish this, Ordinance ZDO-293:

- Removes references to a zone that has been repealed.
- Revises an outdated provision required by the Metro Code.
- Corrects citations and typographical errors.
- Removes the option for a two-year extension for most land use approvals and extends the original approval period by two years. Two-year extensions are rarely denied unless standards have changed during the original approval period (typically four years). Rather than require an additional fee and application that takes a substantial amount of time for staff to review, Ordinance ZDO-293 eliminates the two-year extension for most land use approvals and allows two additional years for the original approval period. This change reduces administrative burden and directly supports the Board's strategic plan priority to *review of all development regulatory processes to minimize burdens, providing an effective and timely permitting process for the community*. These amendments will apply to development applications submitted after the effective date. The current approval and time extension provisions will remain in effect for development applications submitted prior to the effective date. Time extensions in the EFU, TBR, and AG/F Districts will remain consistent with relevant state law requirements.
- Allows outdoor silos, towers, or other specialized storage and processing structures in the Business Park (BP) and Light Industrial (LI) Districts, subject to a height limit, siting standards, and screening requirements. Currently, such structures in the BP and LI Districts are allowed only if located within a building. These amendments also clarify options for such structures in the General Industrial (GI) District. These amendments originated from a specific request from a member of the public with an existing business in the LI District and a need for locating such a structure outdoors.
- Adds single-room occupancies (SROs) as an allowed housing type in commercial zones that already allow multifamily and congregate housing. State law is clear that SROs must be allowed in urban, residential areas, but is arguably not clear whether SROs must be allowed in non-residential zones that allow residential development. Legislation adopted in 2025 clarifies that SROs must be allowed in those non-residential zones. That legislation is not required to be implemented until January 1, 2027, but this change is included in Ordinance ZDO-293 to eliminate the time and expense of a "similar use" process that would otherwise be required for approval of an SRO development in the identified commercial areas.
- Clarifies provisions that routinely cause confusion for staff and customers, including by amending and adding definitions related to streets, roads, and internal circulation ways within parking lots to clarify where certain improvements are required and where front setbacks must be met.

PUBLIC NOTICE & COMMENTS

Notice of the amendments in Ordinance ZDO-293 was sent to:

- All cities within the county.
- All County Community Planning Organizations (CPOs) and Hamlets.
- The Oregon Department of Land Conservation and Development (DLCD), Metro, the Oregon Department of Transportation (ODOT), the Oregon Parks and Recreation Department (OPRD), and other interested agencies.
- An interested parties list specific to legislative land use proposals by the County.

Notice was also published in the newspaper and online.

Only one CPO—the Hoodland CPO—provided written comments on the amendments. In these comments, the CPO requested that the changes to approval periods for land use applications subject to ZDO Sections 703, *Flood Management District (FMD)*, and 704, *River and Stream Conservations Area (RSCA)*, be removed from consideration. The comments also requested changes to the standards within those ZDO sections. Two other written comments were received from members of the public, both interested in the amendments that allow certain specialized structures to be located outdoors in light industrial zones. Three members of the public provided oral testimony at the Planning Commission’s public hearing. No members of the public provided testimony at the Board’s public hearing. Generally, the issues raised in public comments included:

1. **Time extensions in river and stream corridors.** Ordinance ZDO 293 removes the option for a two-year extension for most land use approvals and extends the original approval period by two years. This means that land use approvals that currently are valid for four years, with an option for a two-year extension, will simply be valid for six years.

One member of the Planning Commission, the Hoodland CPO, and several members of the public expressed concern with increasing the approval period for proposed development in river and stream corridors, specifically along rivers in the communities on Mt. Hood. The testimony and discussion at the Planning Commission hearing was centered around the fact that rivers sometimes move, and there was concern that, in six years, the land and river could be in a different location than when the original approval was issued. They requested that the amendments to remove the two-year extension and increase the original approval period specifically exclude land use applications subject to ZDO Section 704. In their letter, the Hoodland CPO also requested that land use applications subject to ZDO Section 703 be excluded from these amendments and retain the current approval periods.

The CPO identified other concerns in their letter and suggested additional changes related to the standards within ZDO Sections 703 and 704. Those changes are beyond the scope of these “minor and time-sensitive” amendments but may be considered in another project currently underway: Ordinance ZDO-290. Staff working on Ordinance ZDO-290 have been coordinating closely with the CPO and other interested stakeholders to potentially make substantive changes within our protected resource areas.

Regarding Ordinance ZDO-293, the Board acknowledges and agrees that the movement of rivers is a significant issue. However, the Board notes that retaining the four-year approval and two-year extension for only one or two types of applications would increase the complexity of the ZDO while arguably adding little value, for several reasons:

- Development must be “set back” from the mean high water line of a river or stream by a certain distance (generally 50 to 100 feet). The mean high water line is defined in the ZDO and is intended to identify the bank of any river or stream, as established by the annual fluctuations of water. The mean high water line may change over time as river flows and volumes fluctuate, but it does not typically change multiple times throughout the year.
- Further, if development is authorized within a river or stream corridor through a land use approval, a development/building permit will be required and, at the time of permitting, a site plan will need to be provided identifying all features and structures on the site.
 - If, by the time a development/building permit is submitted, the river or stream and its mean high water line has truly moved, then the setback would need to

be measured from the new location (i.e., reflect what is actually on the ground at the time of permitting).

- If, by the time a development/building permit is submitted, a river or stream has moved so significantly that conditions on the site are substantially different, then an entirely new application would be required to determine if the proposed development could still meet all applicable requirements.
- Finally, the primary reason behind the amendments to remove the time extension is to streamline processes and remove inefficiencies to help both customers and staff. Time extensions are not particularly common—over the last five years, an average of 10 time extensions have been processed annually—and time extensions are rarely denied. However, the review of time extensions costs both time and money to customers and the County.

- 2. Specialized structures.** Ordinance ZDO 293 allows outdoor silos, towers, and other specialized storage and processing structures in the BP and LI Districts, subject to a 12-foot height limit, siting standards which would place it behind a building, and screening requirements.

As noted, such structures are currently only allowed in the BP and LI Districts if located within a building. These amendments originated from a request from a member of the public with an existing business in the LI District and a need for locating such a structure outdoors. Written testimony was received from that member of the public, requesting changes to the draft amendments. Prior to the Planning Commission hearing, staff revised the draft amendments and sent the revised draft to the member of the public who provided the testimony. No additional comments were received regarding these amendments.

The Board also notes that these amendments are intended to be minor and to respond directly to the request that the use be allowed. This issue may be revisited, and a definition of “specialized structure” may be developed, as recommended in the written testimony, when the Board proposes more substantive changes to the ZDO in response to a recent assessment of the entire code.

ANALYSIS & FINDINGS

The amendments in Ordinance ZDO-293 are legislative in nature and are subject to the relevant Oregon Revised Statutes, Oregon Administrative Rules, Statewide Planning Goals, Metro Urban Growth Management Functional Plan (UGMFP) and Regional Transportation Functional Plan (RTFP) provisions, Comprehensive Plan provisions, and ZDO procedures. Compliance with the relevant portions of each is discussed below.

- 1. Statewide Planning Goals:** This section includes findings regarding Ordinance ZDO-293’s consistency with the Statewide Planning Goals. The analysis and findings are focused on the optional changes included in actions 3 to 5 in the list above. Amendments included in Ordinance ZDO-293 to conform to state laws, including recent legislation and rulemaking, or to codify existing rules or definitions, do not warrant findings for consistency.

Goal 1 – Citizen Involvement: Goal 1 calls for “*the opportunity for citizens to be involved in all phases of the planning process*” and requires the County to have a citizen involvement program with certain features.

Ordinance ZDO-293 does not make any changes to Comprehensive Plan Chapter 2, *Citizen Involvement*. ZDO Section 1307, *Procedures*, implements Comprehensive Plan

Chapter 2 and contains adopted and acknowledged procedures for citizen involvement and public notice of land use proposals. Notice of Ordinance ZDO-293 was provided consistent with the requirements of ZDO Section 1307—including to DLCD, all cities in the county, and all active and recognized CPOs and Hamlets—35 days before the first public hearing. Notice of the amendments and their scheduled hearings was published in *The Oregonian* 10 days in advance of the first hearing and has also been posted on County websites. By the time a final decision on Ordinance ZDO-293 is made, there will have been two public hearings: one before the Planning Commission and another before the Board. These processes ensure that any interested parties have ample opportunity to participate in the planning process.

The amendments are consistent with Goal 1.

Goal 2 – Land Use Planning: Goal 2 requires the County to have and to follow a comprehensive land use plan and implementing regulations. Comprehensive Plan provisions and regulations must be consistent with Statewide Planning Goals. Goal 2 also provides a process by which exceptions can be made to certain goals.

Ordinance ZDO-293 does not require an exception to any Statewide Planning Goal. The only Comprehensive Plan amendments made by Ordinance ZDO-293 are to Chapter 3, *Natural Resources and Energy*, in order to ensure that the chapter is consistent with changes being made within the WRG. As discussed below, these amendments are consistent with Statewide Planning Goal 15, *Willamette River Greenway*. As such, with these amendments, the adopted and acknowledged Comprehensive Plan will continue to be consistent with all Statewide Planning Goals and their implementing regulations.

The amendments are consistent with Goal 2.

Goal 3 – Agricultural Lands: Ordinance ZDO-293 does not amend any Comprehensive Plan policies related to agricultural lands (i.e., lands zoned EFU), change any property's plan designation or zoning, or expand any UGB into agricultural lands. Although Ordinance ZDO-293 permits new land uses on agricultural lands, the uses are included only for consistency with allowances under state law. Care has been taken to ensure that none of these amendments exceeds the County's authority in the EFU District under state law. Ordinance ZDO-293 includes a number of amendments to ZDO Section 401, *Exclusive Farm Use*, but these amendments are either:

- Structural, including reorganizing aspects of the section and amending notations for consistency with other areas of the ZDO; or
- Substantive only to the extent that the ZDO is not currently consistent with use or procedural requirements in state law, and the amendments are necessary for compliance with state law.

The amendments are consistent with Goal 3.

Goal 4 – Forest Lands: Ordinance ZDO-293 does not amend any Comprehensive Plan policies related to forest lands (i.e., lands zoned AG/F or TBR), change any property's plan designation or zoning, expand any UGB into forest lands, or permit any new land uses on forest lands. Rather, the amendments ensure consistency with existing state law, remove redundant definitions, and make structural changes within ZDO Sections 406, *Timber*, and 407, *Ag/Forest*.

Ordinance ZDO-293 does make fairly significant structural changes to ZDO Section 407 but not substantive changes. These amendments are intended to provide clarity and consistency with state law, and create greater efficiency for future amendments by minimizing the potential for inadvertently creating inconsistencies between the uses allowed in the AG/F District and those allowed in the EFU and TBR Districts.

The amendments are consistent with Goal 4.

Goal 5 – Natural Resources, Scenic and Historic Areas, and Open Spaces: Goal 5 requires the County to have programs that will protect natural resources and conserve scenic, historic, and open space resources for present and future generations. It requires an inventory of natural features, groundwater resources, energy sources, and cultural areas, and encourages the maintenance of inventories of historic resources.

Ordinance ZDO-293 does not make any changes to the Comprehensive Plan goals, policies, or inventories, or to the ZDO provisions, related to the protection of Goal 5 resources. Any new development that might occur as a result of the amendments in Ordinance ZDO-293 will be required to meet the standards and processes that currently exist to ensure that those resources are adequately protected.

The amendments are consistent with Goal 5.

Goal 6 – Air, Water and Land Resources Quality: Goal 6 instructs the County to consider the protection of air, water, and land resources from pollution and pollutants when developing its Comprehensive Plan. Any new development that might occur as a result of the amendments in Ordinance ZDO-293 will be required to meet the standards and processes that currently exist related to Goal 6 resources.

The amendments are consistent with Goal 6.

Goal 7 – Areas Subject to Natural Hazards: Goal 7 requires the Comprehensive Plan to address Oregon’s natural hazards. Ordinance ZDO-293 does not change any acknowledged Comprehensive Plan policies regarding natural disasters and hazards, nor does it modify the mapping of any hazard. Any new development that might occur as a result of the amendments in Ordinance ZDO-293 will be required to meet the standards and processes that currently exist to ensure that Goal 7 resources are adequately addressed.

The amendments are consistent with Goal 7.

Goal 8 – Recreational Needs: Goal 8 requires the County to plan for the recreational needs of its residents and visitors. Ordinance ZDO-293 does not change any acknowledged Comprehensive Plan policy or implementing regulation regarding recreational needs, nor does it reduce or otherwise modify a mapped recreational resource.

The amendments are consistent with Goal 8.

Goal 9 – Economic Development: Goal 9 requires the County to provide an adequate supply of land for commercial and industrial development. Ordinance ZDO-293 does not change any property’s plan designation or zoning. It also does not add any new restrictions to land uses in areas of the county reserved for commercial and industrial development.

Ordinance ZDO-293 allows new uses in some commercial and industrial areas; however, as noted, the County is required to allow all of those uses, including childcare centers, emergency shelters, residential treatment facilities, residential treatment homes, mental or psychiatric hospitals, and crisis stabilization centers. In addition, the statute that requires the County to allow residential treatment facilities, residential treatment homes, mental or psychiatric hospitals, and crisis stabilization centers specifically states that these new allowances do not *“trigger any requirement that a local government consider or update an analysis as required by a statewide planning goal relating to economic development.”*

The only non-state-mandated new uses that Ordinance ZDO-293 will include in employment lands are outdoor silos, towers, and other specialized storage and processing structures in the BP and LI Districts, subject to a height limit, siting standards, and screening requirements. Adding these provisions may help support business retention and expansion in the county, as they are in direct response to a request from an existing business owner. Ordinance ZDO-293 will also support the economic development goals of Goal 9 by:

- Aligning parking requirements and standards with state law, ensuring that standards are applied consistently rather than relying on the current practice of applying state law directly and not applying the ZDO, a process that is inefficient and confusing for both the public and staff; and
- Creating more certainty for approved development by allowing a longer implementation time outright rather than requiring a new land use application and fee for a time extension.

The amendments are consistent with Goal 9.

Goal 10 – Housing: The purpose of Goal 10 is to meet housing needs. Goal 10 requires the Comprehensive Plan to *“encourage the availability of adequate numbers of needed housing units at price ranges and rent levels which are commensurate with the financial capabilities of Oregon households and allow for flexibility of housing location, type and density.”*

The amendments in Ordinance ZDO-293 will not significantly increase housing opportunities but will support and further the intent of Goal 10 by:

- Allowing SRO units in commercial districts that already allow of multifamily dwellings and congregate housing, creating consistency with allowances in multifamily zones and eliminating the need and expense for a land use application for a “similar use” determination. This allowance will create a negligible impact on housing capacity because the SRO will be subject to the same density requirements as multifamily housing in the zone, but it will directly support the goal of providing more flexibility in housing location and type.
- Removing the 35-foot height limit for HDR development within the WRG, which will allow for more housing, consistent with the standards in the underlying zone.
- Creating more certainty for approved development by allowing a longer implementation time outright, rather than requiring a new land use application and fee for a time extension.
- Incorporating into the ZDO new state-mandated processes that are intended to expedite housing development, enabling more efficient implementation.

The amendments are consistent with Goal 10.

Goal 11 – Public Facilities and Services: The purpose of Goal 11 is to ensure that local governments plan and develop a timely, orderly, and efficient arrangement of public facilities and services to act as a framework for urban and rural development. Ordinance ZDO-293 does not change adopted plans for the provision of water, sewer, or other public services. Any new development that might occur as a result of the amendments in Ordinance ZDO-293 will be required to comply with public facilities and services requirements applicable at the time of construction.

The amendments are consistent with Goal 11.

Goal 12 – Transportation: Goal 12 is implemented by OAR chapter 660, division 12. Local governments are required to adopt a TSP and implementing land use regulations. In addition, OAR 660-012-0060 requires comprehensive plan and land use regulation amendments to be evaluated for whether they will have a significant impact on the transportation system.

Ordinance ZDO-293 does not amend the County's TSP or implementing ZDO provisions. With two exceptions, the new uses allowed by Ordinance ZDO-293 are state-mandated and not subject to analysis under Goal 12. The two exceptions are:

1. SROs in certain commercial zones. However, as previously discussed, these are allowed only in commercial zones where multifamily and congregate housing is already allowed, and at the same densities as those housing types. Therefore, there will be no additional traffic impact to analyze for the SRO allowance.
2. Outdoor silos, towers, or other specialized storage and processing structures in the BP and LI Districts, subject to a height limit and siting standards. These are storage structures and, as such, are expected to have a negligible, if any, impact on traffic generation. Therefore, no additional traffic impact analysis is needed.

Notice of Ordinance ZDO-293 was provided to ODOT and County Engineering, neither of which provided comments. As such, no additional analysis of the transportation system is needed.

OAR 660-012-0405 to -0450 include regulations that the County must implement related to parking within the urban, unincorporated areas, including removing minimum off-street parking requirements for development, establishing maximum off-street parking allowances for development, and including design standards for new parking lots over one-half acre in size. As noted, since June 30, 2024, staff have been implementing these rules directly from state law. Ordinance ZDO-293 includes the amendments necessary to implement these rules through the ZDO, which will reduce confusion for applicants and make administration of the rules more efficient for staff. Specifically, these amendments will apply to property in urban zones within the UGB and generally include the following:

- Removal of references to minimum off-street parking requirements.
- Amended off-street parking maximums for certain locations.
- New tree canopy and other design standards for parking lots over one-half acres.

The amendments in Ordinance ZDO-293 do not change the policy, practice, or standards applied. They simply align the ZDO with state law and Goal 12.

The amendments are consistent with Goal 12.

Goal 13 – Energy Conservation: Goal 13 encourages the Comprehensive Plan to consider lot size, building height, density, and other measures in order to help conserve energy. Ordinance ZDO-293 does not change any Comprehensive Plan policy or ZDO provision regarding energy conservation.

The amendments are consistent with Goal 13.

Goal 14 – Urbanization: The purpose of Goal 14 is to provide for an orderly and efficient transition from rural to urban land use, to accommodate urban population and urban employment inside UGBs, to ensure efficient use of land, and to provide for livable communities. The goal primarily concerns the location of UGBs, the establishment of “urbanizable areas” and unincorporated communities, exception lands, and rural industrial uses.

Ordinance ZDO-293 does not modify any UGB or the status or boundaries of any unincorporated community. The amendments do not modify any urban or rural reserve boundary, allow any new land use in such reserve areas in a manner inconsistent with state law, change any property’s plan designation or zoning, or allow any new uses in exception lands in a manner inconsistent with state law.

The amendments are consistent with Goal 14.

Goal 15 – Willamette River Greenway: The purpose of Goal 15 is to “*protect, conserve, enhance, and maintain the natural, scenic, historical, agricultural, economic, and recreational qualities of lands along the Willamette River as the Willamette River Greenway.*”

Ordinance ZDO-293 does not change the boundaries of the WRG in the county but does change two of the standards that implement the County’s WRG Design Plan. Ordinance ZDO-293:

- Removes the County’s prohibition on private, non-commercial docks in Limited Use areas and, instead, allows such docks, subject to the same standards and processes that apply to docks in other areas of the WRG; and
- Removes the 35-foot height restriction on residential development, but only for properties within the HRD District in the WRG. The height limit will remain for residential development in other zones in the WRG, including rural zones.

The 1980 Rivers Planning Background Report of the Comprehensive Plan provides information and background on the creation of the WRG. According to that document, the WRG was initiated in 1967, but initial plans were not adopted by the state, so Goal 15 was developed and formally adopted in 1975. Then, the “*state plan showing boundaries, state and local government ownership, potential acquisition areas and proposed intensities on state land was approved by LCDC in October 1977.*” The document further notes that the “*Willamette River Greenway Law requires establishment of the Greenway, requires maximum and minimum acreages allowable within the boundary, restricts use of eminent domain, prohibits public use of scenic easements and Goal 15 limits intensification and change of use within the Greenway.*”

The WRG statute is currently found in ORS 390.310 to 390.368. The WRG statute and Goal 15 are implemented by OAR chapter 660, division 20. Based on the history, statutes, and rules, it appears that the WRG was established largely to preserve areas along the river for public use. However, they also appear to recognize that private uses, such as residences and docks, exist on the river and should be allowed to continue, and “limited” intensifications and/or changes of use should be allowed. Nothing in Goal 15 requires the County to prohibit all new development in certain areas or to maintain areas like the Limited Use portions of the WRG in Clackamas County, where new docks are prohibited.

Limited Use and Multiple Use designations are applied to various portions of the WRG above Willamette Falls. No policies or criteria are provided in the Comprehensive Plan to justify the application of these designations to specific stretches of the river, except for a very general policy related to protecting the natural character of the river. The only practical distinction between the Limited Use and Multiple Use designations is that new private, non-commercial docks are prohibited in the Limited Use areas and allowed, subject to certain standards, in the Multiple Use areas.

An analysis of lots, existing dwellings, and existing docks within the County’s two Limited Use areas shows the following:

- 41 lots within Limited Use areas have river frontage and contain a dwelling.
- 38 of those 41 lots currently have a private, non-commercial dock.
- No vacant lots with river frontage in the Limited Use areas are zoned for residential development. Vacant lots that are not parks are farm- or forest-designated land, which does not allow a dwelling outright.
- A significant portion of the river frontage within the Limited Use areas is parkland.

As noted, nothing in Goal 15 requires the County to maintain areas that prohibit new docks, and the existing prohibition on docks in the Limited Use areas is not supported by any explicit criteria in the Comprehensive Plan. As such, Ordinance ZDO-293 repeals the prohibition on private, noncommercial docks in the Limited Use areas. This removal is expected to have a negligible impact on the river, as it will allow potentially for only three more private, non-commercial docks within the Limited Use areas.

Similarly, nothing in Goal 15 requires a certain height limit for structures within the WRG. In fact, the County has no height limit for non-residential structures within the WRG. The County’s 35-foot height limit applies only to residential development.

Within the urban area, the vast majority of residential lots within the WRG have low-density residential zoning, which has a height limit of 35 feet for development even outside the WRG. There are, however, a limited number of lots within the WRG that have HDR zoning. The HDR District is intended for multifamily development, currently has a maximum allowed density of 25 dwelling units per acre, and has no specified height limit outside the WRG.

A property owner requested that the County consider removing this height limit for property in the HDR District within the WRG so that multifamily housing can be built at a density and height otherwise allowed in the zone. After considering the potential impacts of this change and the goals and policies of Goal 15, the Board finds that this change is consistent with Goal 15. The impact will be largely negligible because there are only a

few lots that will be wholly or partially affected by this change, and nearly all of them are already developed.

Considering that one of the goals of the WRG is to minimize visual impacts from the river, the Board considered whether the height limit should remain for development in the HDR District that is within a certain distance of the river (e.g., within 150 or 200 feet) or if there should be some buffering or screening requirement. Ordinance ZDO-293 does not include either of those restrictions for a number of reasons:

- Of the lots that will be wholly or partially affected by this change, most are located more than 200 feet from the river.
- Development is already visible from the river, and new development in other locations within the WRG is not required to be “screened.” Given the minimal amount of new development that could occur in the HDR District within the WRG, it is unlikely that it will create a visual impact from the river significant enough to warrant additional regulations and expense for the developer.
- Imposing more requirements on housing development is counter to recent state mandates for local governments to streamline processes for and remove barriers to housing development in order to help alleviate the housing shortage.

The amendments are consistent with Goal 15.

Goals 16 to 19: These four Statewide Planning Goals address estuarine resources, coastal shorelands, beaches and dunes, and ocean resources, respectively, and are **not applicable to Clackamas County**.

2. Metro Urban Growth Management Functional Plan and Regional Transportation

Functional Plan: The purpose of the UGMFP is to implement certain regional goals and objectives adopted by the Metro Council as the Regional Urban Growth Goals and Objectives, including the Metro 2040 Growth Concept and the Regional Framework Plan. The RTFP contains policies and guidelines to help local governments implement the policies in the Regional Transportation Plan and its modal plans, including those for active transportation, freight movement, and high-capacity transit.

Urban Growth Management Functional Plan: Ordinance ZDO-293 does not change the boundaries of the UGB or of an urban or rural reserve, allow any new retail use in any zone, change the dimensional standards of any use in an urban area, or change any provision governing open spaces. Ordinance ZDO-293 also does not explicitly change the County’s residential, commercial, or industrial land supply. As such, only three of the 11 titles of the UGMFP contain provisions relevant to these amendments:

- **Title 1** is intended to promote efficient land use within the Metro UGB by increasing the capacity to accommodate housing. Much of this title is dedicated to the circumstances under which housing density can be reduced, which is not included in Ordinance ZDO-293. Although it is likely to have only a minimal effect on housing in the urban area, adding expedited processes for housing development, removing the 35-foot height limit for HDR development within the WRG, and adding allowances for SROs in commercial areas could marginally increase housing capacity with the Metro UGB, thereby supporting the goals of this title.
- **Title 4** is intended to support a strong regional economy and to provide for and protect employment lands by limiting the types and scale of non-industrial uses in

certain employment and industrial areas. Although Ordinance ZDO-293 will allow new non-industrial uses in certain industrial areas, the uses are required by state law and are, under state law, limited on sites that are identified for “heavy industrial” development. In addition, Ordinance ZDO-293 will further the goal of this title to support businesses by allowing certain specialized structures in LI- and BP-zoned areas of the county; aligning parking requirements and standards with state law, ensuring that standards are applied consistently rather than relying on the current practice of applying state law directly; and creating more certainty for approved development by allowing a longer implementation time outright rather than requiring a new land use application and fee for a time extension.

- **Title 8** establishes a process for ensuring compliance with requirements of the UGMFP. An amendment to the Comprehensive Plan or ZDO is deemed to comply with the UGMFP only if the County provides notice to Metro as required by Metro Code 3.07.820(a). Notice of these amendments was provided to Metro on April 6, 2026, 35 days prior to the first public hearing. Metro did not submit any comments related to Ordinance ZDO-293.

The amendments are consistent with the UGMFP.

Regional Transportation Functional Plan: The majority of the RTFP relates to the planning of the transportation system. However, the RTFP does contain requirements for parking management within the urban area. As such, only one of the seven titles of the RTFP contains provisions relevant to these amendments:

- **Title 4** contains regulations for minimum and maximum off-street vehicle parking requirements, standards for bicycle parking, standards for parking lots greater than three acres in size, and requirements that local governments adopt parking policies, management plans, and regulations for Centers and Station Communities. Because recent changes in state law have required the County to remove minimum off-street parking standards in the urban unincorporated area, the minimum parking standards in the RTFP are no longer relevant to the County. However, OAR 660-012-0415 also requires maximum parking standards in certain areas of the county. Those standards were compared with the maximum parking standards in the RTFP, and the amendments in Ordinance ZDO-293 include the more restrictive of the two where they are inconsistent. In addition, both the state (OAR 660-012-0405) and Metro have requirements for “large” parking lots. The ZDO already complies with the Metro requirements, and Ordinance ZDO-293 does not change those requirements. The state requirements are included in these amendments and do not conflict with the existing RTFP requirements.

The amendments are consistent with the RTFP.

3. **Comprehensive Plan:** The following four chapters of the Comprehensive Plan contain policies that are applicable to these amendments.

Chapter 2 – Citizen Involvement: Chapter 2 aims to promote public participation in the County’s land use planning. Its policies largely focus on the County’s CPO program and methods for informing and involving the public. Chapter 2 includes these specific policies:

- 2.A.1 *Require provisions for opportunities for citizen participation in preparing and revising local land use plans and ordinances. Insure opportunities for broad representations, not only of property owners and Countywide special interests, but also of those persons within the neighborhood or areas in question.*
- 2.A.6 *Seek citizens' input not only through recognized community organizations, but also through service organizations, interest groups, granges, and other ways.*
- 2.A.13 *Insure that the County responds to citizen recommendations through appropriate mechanisms and procedures.*

Consideration of Ordinance ZDO-293 has proceeded according to the notice and public hearing requirements of ZDO Section 1307, which implements Chapter 2. In addition, the WRG and specialized structure amendments are in direct response to requests from the public. Allowing members of the public to propose amendments for County consideration is another way of providing opportunity for the County to respond to public needs and promote public participation in land use issues.

The amendments are consistent with Chapter 2.

Chapter 3 – Natural Resources and Energy: The purpose of Chapter 3 is to provide for the planning, protection, and appropriate use of the County's natural resources and energy. Chapter 3 contains eight sections addressing water resources, agriculture, forests, mineral and aggregate resources, wildlife habitats and distinctive resource areas, natural hazards, energy sources and conservation, and noise and air quality. Chapter 3 provides direction for use management within the WRG through the Design Plan depicted on Map 3-1e. Ordinance ZDO-293 does not change the Design Plan or the boundaries of the WRG. The amendments do, however, change two of the standards that implement the Design Plan, requiring amendments to Chapter 3. Ordinance ZDO-293 amends Chapter 3 to:

- Remove Policy 3.C.6.5, which prohibits private, non-commercial docks in the Limited Use areas of the WRG; and
- Amend Policy 3.B.1.2.c to allow residential development in the HDR District and within the WRG to exceed 35 feet in height.

These amendments comply with the relevant policies of Chapter 3 for the following reasons:

Willamette River Design Plan and Policies

- 3.C.6.1 *Implement the design plan for the Willamette River according to Map 3-1e, which illustrates uses. Management activities and land classifications shown on the map are consistent with land use policies and designations in the Land Use Chapter. Official maps showing precise boundaries and sites (scale 1"=2000') are on file at the Clackamas County Department of Transportation and Development.*

Two water use designations are established in the WRG Design Plan: Limited Use and Multiple Use. The general uses identified for the Limited Use designation are described as: *"Uses compatible with limited use recreation. Other uses are existing residential, commercial and industrial water dependent and water related uses..."*

The general uses identified for the Multiple Use designation are described as: *“Encourages multiple use recreation activities, Continues existing uses with no restriction on waterborne commerce...”*

Both water use designations are applied in the WRG Design Plan to various portions of the WRG above Willamette Falls. No policies or criteria are provided in the Comprehensive Plan to justify the application of these designations to specific stretches of the river, except for a very general policy related to protecting the natural character of the river.

In rural portions of the WRG, the Design Plan designates adjacent land as “Natural Resource” or “Low Intensity Rural.” However, there does not appear to be any direct correlation between the adjacent land use designation and the water use designation. Both water use designations are applied to various stretches of the river abutting Low Intensity Rural and/or Natural Resource lands, and both water use designations are applied to stretches of the river that contain larger, undeveloped lots and smaller lots with residences.

In urban portions of the WRG, the Design Plan designates adjacent land as “Low Intensity Urban” or “High Intensity Urban.” The only area that appears to be designated “High Intensity Urban” is the one area that is currently zoned HDR.

Ordinance ZDO-293 does not change any of the Design Plan water use or land use designations. However, the following policies apply to the amendments that remove the prohibition on private, non-commercial docks in the Limited Use areas and that allow for structures to potentially exceed 35 feet on the limited number of lots zoned HDR within the WRG.

3.C.6.2 Support regulation of recreational activities in the rural portion of Willamette Greenway to minimize conflicts between water-based recreational uses, manage the intensity of recreational uses, and buffer bankside uses from water-borne recreational activities including recreational noise levels. The County shall develop a joint land management program with the Oregon State Parks and Recreation Department for all County- and state-owned lands in the rural greenway.

This policy does not explicitly state what is meant by “*support regulation of recreational activities*” or “*minimize conflicts*.” The Design Plan permits both the Limited Use and Multiple Use designations in rural portions of the WRG. Installing private, noncommercial docks on the Willamette River is allowed in the Multiple Use areas of the river and are presumably consistent with this policy. Ordinance ZDO-293 allows docks within the Limited Use areas, subject to the same size and design regulations as those in the Multiple Use areas.

3.C.6.5 Prohibit private noncommercial docks and moorages in limited-use rural portions of the Greenway to protect the natural river character.

This policy will be removed by Ordinance ZDO-293. This policy appears to be the only one in the Comprehensive Plan that attempts to direct the application of the Limited Use designation, albeit using a broad, discretionary standard. Because “*protect the natural river character*” is not defined and, to the Board’s knowledge, has never been

formally interpreted, its meaning is presumably to be taken at face value, meaning that the Limited Use designation is intended for areas that have remained in a natural, undeveloped state, and docks should not be allowed to blemish those areas.

An analysis of lots, existing dwellings, and existing docks within the County's two Limited Use areas shows the following:

- 41 lots within Limited Use areas have river frontage and contain a dwelling.
- 38 of those 41 lots currently have a private, non-commercial dock.
- No vacant lots with river frontage in the Limited Use areas are zoned for residential development. Vacant lots that are not parks are farm- or forest-designated land, which does not allow a dwelling outright.
- A significant portion of the river frontage within the Limited Use areas is parkland.

Based on this analysis and aerial photography of the Limited Use areas, it is clear that the "*natural river character*" has already been impacted where dwellings exist, and the potential for additional dwellings to be constructed with river frontage in the Limited Use areas is, at best, very limited due to zoning and the presence of established public and private parks.

The policy prohibiting private, non-commercial docks is not supported by any explicit criteria in the Comprehensive Plan or Goal 15. It is not necessary to continue enforcing a prohibition that is effectively preventing only a few docks from potentially being constructed.

Other applicable policies

3.A.1 Maintain rivers and streams in their natural state to the maximum practicable extent through sound water and land management practices. Consideration shall be given to natural, scenic, historic, economic, cultural, and recreational qualities of the rivers and adjacent lands.

This policy does not explicitly prohibit development in stream corridors. Rather, it requires the natural state of rivers and streams to be protected "*to the maximum practicable extent.*" Installing private, noncommercial docks on the Willamette River is allowed in most areas within the County's jurisdiction and has been found to be consistent with this policy. Other docks allowed on the river demonstrate that this type of "water-dependent" use may be developed while maintaining these vegetated buffers. Removing a policy that is effectively prohibiting only a few docks from potentially being constructed will not change this conclusion.

Removing the 35-foot height limit for the few affected lots in the HDR District within the WRG will similarly have little effect on maintaining the river as required, in large part because the requirement that development be set back from the river by at least 100 feet will remain in effect.

The amendments are consistent with Chapter 3.

Chapter 4 – Land Use: Chapter 4 generally includes goals and policies for how land in Clackamas County should be planned and zoned and for what uses should be allowed in those designations.

Ordinance ZDO-293 does not change any property's plan designation or zoning. The amendments do change the uses allowed in some zones, but, with two exceptions, those uses are required under state law. The two exceptions are (1) allowing SROs in commercial districts that already allow other forms of multiunit housing and (2) allowing certain specialized storage structures to be located outside in the LI and BP Districts, subject to a height limitation and siting and screening requirements. Neither of these allowances conflict with or require an amendment to the policies of Chapter 4.

Ordinance ZDO-293 allows a new use—emergency shelters—in rural residential areas, some of which are located within the Metro urban and rural reserves. Although this use is required under state law, the following policies may apply to these amendments:

4.E.2.3 The County shall not amend the Comprehensive Plan or Zoning and Development Ordinance or the Comprehensive Plan Map or zoning designations:

4.E.2.3.1 To allow within Urban Reserve areas, new uses that were not allowed on the date the Urban Reserve areas were designated, except those uses authorized by amendments to the Oregon Revised Statutes or Oregon Administrative Rules enacted after designation of Urban Reserve areas.

4.F.3 The County shall not amend the Comprehensive Plan or Zoning and Development Ordinance, or the Comprehensive Plan Map or zoning designations:

4.F.3.1 To allow within the Rural Reserve areas, new uses that were not allowed on the date Rural Reserve areas were designated, except as authorized by amendments to the Oregon Revised Statutes or Oregon Administrative Rules enacted after the designation of Rural Reserve areas.

As noted, the new use that will be allowed within the urban and rural reserves is only allowed because it was “*authorized by an amendment to the Oregon Revised Statutes.*” This “authorization” occurred through legislation adopted in 2021 (House Bill 2006). The urban and rural reserves were adopted on August 5, 2010.

The amendments are consistent with Chapter 4.

Chapter 11 – The Planning Process: Chapter 11 includes policies requiring inter-governmental and inter-agency coordination, public involvement, and noticing. As explained, all required entities have been notified in accordance with the law and have been invited to participate in duly advertised public hearings. Chapter 11 also requires that the Comprehensive Plan and ZDO be consistent with the Statewide Planning Goals and the UGMFP. In addition, Chapter 11 requires that the ZDO be consistent with the Comprehensive Plan. The “*Analysis & Findings*” section above explains how Ordinance ZDO-293 is consistent with all of these requirements.

The amendments are consistent with Chapter 11.

4. **Zoning and Development Ordinance:** The amendments are legislative. Section 1307 of the ZDO establishes procedural requirements for legislative amendments, which were followed in the proposal and review of Ordinance ZDO-293. Notice was provided at least 35 days before the first public hearing to DLCD, all cities in the county, all active CPOs and Hamlets, and other interested agencies to allow them an opportunity to review and comment on the amendments. Advertised public hearings were held before the Planning Commission and the Board to consider the amendments. The ZDO contains no further specific review criteria that must be applied when considering an amendment to the text of the Comprehensive Plan or ZDO.

Comprehensive Plan Chapters and ZDO Sections Amended or Added by Ordinance ZDO-293

- (1) **Comprehensive Plan Chapter 3, Natural Resources and Energy**
- (2) **ZDO Section 202, Definitions**
- (3) **ZDO Section 315, Urban Low Density Residential (R-2.5, R-5, R-7, R-8.5, R-10, R-15, R-20, and R-30), Village Standard Lot Residential (VR-5/7), Village Small Lot Residential (VR-4/5), Village Townhouse (VTH), Planned Medium Density Residential (PMD), Medium Density Residential (MR-1), Medium High Density Residential (MR-2), High Density Residential (HDR), Village Apartment (VA), Special High Density Residential (SHD), and Regional Center High Density Residential (RCHDR) Districts**
- (4) **ZDO Section 316, Rural Area Residential 1-Acre (RA-1), Rural Area Residential 2-Acre (RA-2), Recreational Residential (RR), Rural Residential Farm Forest 5-Acre (RRFF-5), Farm Forest 10-Acre (FF-10), and Future Urban 10-Acre (FU-10) Districts**
- (5) **ZDO Section 401, Exclusive Farm Use District (EFU)**
- (6) **ZDO Section 406, Timber District (TBR)**
- (7) **ZDO Section 407, Ag/Forest District (AG/F)**
- (8) **ZDO Section 510, Neighborhood Commercial (NC), Community Commercial (C-2), Regional Center Commercial (RCC), Retail Commercial (RTL), Corridor Commercial (CC), General Commercial (C-3), Planned Mixed Use (PMU), Station Community Mixed Use (SCMU), Office Apartment (OA), Office Commercial (OC), and Regional Center Office (RCO) Districts**
- (9) **ZDO Section 511, Village Community Service District (VCS)**
- (10) **ZDO Section 512, Village Office District (VO)**
- (11) **ZDO Section 602, Business Park, Light Industrial, and General Industrial Districts (BP, LI and GI)**
- (12) **ZDO Section 703, Floodplain Management District (FMD)**
- (13) **ZDO Section 704, River and Stream Conservation Area (RSCA)**
- (14) **ZDO Section 705, Willamette River Greenway (WRG)**
- (15) **ZDO Section 706, Habitat Conservation Area District (HCAD)**
- (16) **ZDO Section 709, Water Quality Resource Area District (WQRAD)**
- (17) **ZDO Section 710, Sensitive Bird Habitat District (SBH)**
- (18) **ZDO Section 712, Private Use Airport & Safety Overlay Zone**
- (19) **ZDO Section 713, Public Use Airport & Safety Overlay Zones**
- (20) **ZDO Section 804, Places of Worship**
- (21) **ZDO Section 806, Home Occupations to Host Events**
- (22) **ZDO Section 837, Mobile Vending Units**
- (23) **ZDO Section 839, Accessory Dwelling Units**
- (24) **ZDO Section 840, Farmers' Markets**
- (25) **ZDO Section 841, Marijuana Production, Processing, and Retailing**
- (26) **ZDO Section 845, Triplexes, Quadplexes, Townhouses, and Cottage Clusters**
- (27) **(New) ZDO Section 848, Emergency Shelter Siting**
- (28) **(New) ZDO Section 849, Residential Treatment Facilities, Residential Treatment Homes, Mental or Psychiatric Hospitals, and Crisis Stabilization Centers**
- (29) **ZDO Section 903, Setback Exceptions**
- (30) **ZDO Section 1005, Site and Building Design**
- (31) **ZDO Section 1009, Landscaping**
- (32) **ZDO Section 1010, Signs**
- (33) **ZDO Section 1015, Parking and Loading**
- (34) **ZDO Section 1102, Design Review**
- (35) **ZDO Section 1103, Open Space Review**
- (36) **ZDO Section 1105, Subdivisions, Partitions, Replats, Middle Housing Land Divisions, Condominium Plats, and Vacations of Recorded Plats**

- (37) **ZDO Section 1107**, *Property Line Adjustments*
- (38) **ZDO Section 1203**, *Conditional Uses*
- (39) **ZDO Section 1205**, *Variances*
- (40) **ZDO Section 1206**, *Nonconforming Uses and Vested Rights*
- (41) **ZDO Section 1307**, *Procedures*
- (42) **ZDO Section 1309**, *Modification*
- (43) **ZDO Section 1310**, *Time Extension*