CLACKAMAS COUNTY

BOARD OF COUNTY COMMISSIONERS
PUBLIC SERVICES BUILDING
2051 KAEN ROAD | OREGON CITY, OR 97045

AGENDA

Thursday, September 23, 2021 - 10:00 AM
BOARD OF COUNTY COMMISSIONERS

Revised * Pulled III.E2. Added III.1, IV.F2, IV.F3, IV.G1, IV.G2
Revision 2 ** Pulled III.G2, Added III.H1

Beginning Board Order No. 2021-72

CALL TO ORDER
- Roll Call
- Pledge of Allegiance

***Wild Fire Updates**

***COVID-19 Updates**

I. **PREVIOUSLY APPROVED LAND USE ISSUE** *(No public testimony on this item)*

1. Adoption of Previously Approved Comprehensive Plan and Zoning and Development Ordinance Amendments ZDO-280 – Minor and Time Sensitive Comprehensive Plan and Zoning and Development Ordinance Amendments (Nate Boderman, County Counsel)

II. PRESENTATION *(Following are items of interest to the citizens of the County)*

1. September – Suicide Prevention Awareness Month (Galli Murray, H3S)

III. BOARD DISCUSSION ITEMS *(The following items will be individually discussed by the Board only, followed by Board action.)*

1. *Draft Resolution In the Matter of Addressing the Inadequate Workforce that Delivers Health, Safety, and Emergency Services.

IV. CONSENT AGENDA *(The following Items are considered to be routine, and therefore will not be allotted individual discussion time on the agenda. Many of these items have been discussed by the Board in Work Sessions. The items on the Consent Agenda will be approved in one motion unless a Board member requests, before the vote on the motion, to have an item considered at its regular place on the agenda.)*

A. Health, Housing & Human Services

1. Approval of Intra-Agency Agreement with Clackamas Health Centers Division for School Based Health Centers (SBHC) operating funds maximum agreement value is $180,000. No County General Funds are involved. – Public Health
2. Approval of Inter-Agency Agreement with Clackamas County Health Centers Division for School Based Health Centers (SBHC) - Building Mental Health Services Capacity

Maximum Agreement Value is $185,000. No County General Funds are involved. – Public Health

3. Approval of a HOME Loan Amendment #1 with Green Line Affordable Development Limited Partnership for the Fuller Station Affordable Housing in Happy Valley, Oregon. Total Contract Amount $950,000. No County General Funds are involved. – Community Development

4. Approval of H3S Community Development Division HUD Grant Agreements for signature $3,485,810 total HUD Funds. No County General Funds are involved. – Community Development

5. Approval of an Intergovernmental Agreement (IGA) with Oregon Health Authority Covid-19 Vaccination Operations Maximum Contract Value to $1,200,000 funded through OHA. No County General Funds are involved. – Public Health

B. Transportation & Development

1. Approval to Apply and Letter of Support for a Federal Land Access Program Grant to Provide a Pavement Overlay on Barlow Trail Road. Grant value is $4,994,254 with matching funds of $565,892 from Road Fund. No County General Funds are involved.

2. Approval of 2019-2021 HB 2001 and HB 2003 Planning Assistance Grant Agreement with Department of Land Conservation and Development: DLCD Grant Number: HA 23-160. No matching funds required.

C. Elected Officials

1. Approval of Previous Business Meeting Minutes – *BCC*

D. Public and Government Affairs

1. Approval of a Board Order Renewing the Cable Television Franchise Agreement for use of the County Rights-of-Way by Beaver Creek Cooperative Telephone Company through September 23, 2031. This agreement provides Franchise Fee revenue totaling 5% of the Gross Revenues for the cable operator. No County General Funds are involved.

E. Resolution Services

1. Approval of an Intergovernmental Agreement with the Oregon Department of Human Services for Adoption and Guardianship Mediation services. Total agreement value is $300,000 through July 31, 2024 funded through Oregon Department of Human Services

~~2. *Approval of an annual Revenue distribution to Clackamas County Resolution Services from the State of Oregon via the Oregon Judicial Department for Family Law Mediation and Conciliation services in Clackamas County. Total funding is $506,395 funded through Oregon Judicial Department. No County General Funds are involved.~~

F. Disaster Management

1. Certification of Designation of Agent Resolution for FEMA Hazard Mitigation Grant Program – 5327. Total cost is $85,000 with a 25% Local Match at $21,250. Monthly Service Fees are $630. 25% funded through County General Funds budgeted in Disaster Management.

2. *Approval to Apply for FEMA 2021 Building Resilient Infrastructure for Communities (BRIC) Grant Funds to Sponsor Portland General Electric (PGE) Hwy 26 Electric Utility Project – Stage 1. Estimated total project cost is between $400 and $600 million. Grant will seek $50 million a year for three (3) years, to cover 75% of federal grant share. PGE will cover 25% local match fund. No County General Funds are involved.

3. *Approval of Memorandum of Agreement between Clackamas County and the Molalla United Methodist Church for Emergency/Disaster Related Use of the Church. This MOA has no monetary value.

G. Finance

1. *Approval of Purchase of Annual Software Support Service from Oracle America, Inc. for PeopleSoft Software. Annual cost is $506,304.10 funded through Technology Services, which receives County General Funds.

~~2.~~ **~~Approval of a Clackamas County Supplemental Budget Resolution for FY21-22. The effect is an increase in appropriations of $7,995,368.~~ **(This item will be a Public Hearing on 9/30)**

H. Business and Community Services

1. *Approval of Local Grant Agreement Amendment #5 between Clackamas County and Micro Enterprise Services of Oregon (MESO) for MESO to Provide a Small Grants Program on Behalf of Clackamas County in Support of the Local Business Community Impacted by the COVID-19 Pandemic. $2,467,500 through CARES Act and $51,600 through State Lottery dollars. No County General Funds are involved.

V. WATER ENVIRONMENT SERVICES

1. Approval of a Joint Funding Agreement between Water Environment Services and the US Geological Survey for Johnson Creek Water Quality and Flow Monitoring. Valued at $10,000 from WES Surface Water Operating Fund. No County General Funds are involved.

2. Approval of a Joint Funding Agreement between Water Environment Services and the US Geological Survey for Tualatin River Water Quality and Flow Monitoring. Valued at $5,800 from WES Surface Water Operating Fund. No County General Funds are involved.

VI. PUBLIC COMMUNICATION

(The Chair of the Board will call for statements from citizens regarding issues relating to County government. It is the intention that this portion of the agenda shall be limited to items of County business which are properly the object of Board consideration and may not be of a personal nature. Testimony is limited to three (3) minutes. Comments shall be respectful and courteous to all.)

Please note, the ideas expressed during public communication do not necessarily reflect the ideas or beliefs of Clackamas County or the Board of County Commissioners.

VII. COUNTY ADMINISTRATOR UPDATE

VIII. COMMISSIONERS COMMUNICATION

NOTE: ***Regularly scheduled Business Meetings are televised and broadcast on the Clackamas County Government Channel. These programs are also accessible through the County's Internet site. DVD copies of regularly scheduled BCC Thursday Business Meetings are available for checkout at the Clackamas County Library in Oak Grove. You may also order copies from any library in Clackamas County or the Clackamas County Government Channel.*** https://www.clackamas.us/meetings/bcc/business

CLACKAMAS COUNTY

OFFICE OF COUNTY COUNSEL
PUBLIC SERVICES BUILDING
2051 KAEN ROAD | OREGON CITY, OR 97045

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September 23, 2021

Board of County Commissioners
Clackamas County

Members of the Board:

Adoption of Previously Approved Comprehensive Plan and Zoning and Development Ordinance Amendments
ZDO-280 – Minor and Time Sensitive Comprehensive Plan and Zoning and Development Ordinance Amendments

Purpose/Outcomes	Amend the Clackamas County Comprehensive Plan and the Zoning and Development Ordinance
Dollar Amount and Fiscal Impact	N/A
Funding Source	N/A
Duration	Indefinitely
Previous Board Action	Board of County Commissioners held a public hearing on August 18, 2021
Strategic Plan Alignment	The item helps to **grow a vibrant economy** by: expressly allowing metal as exterior building material; allowing for commercial drive-thru signs; extending the "pre-app" validity period; and clarifying existing rules/procedures. It also helps to **utilize our natural resources** by repealing the County's own restrictions on property line adjustments in natural resource zones. Further, it helps to **build public trust through good government** by completing a project in the adopted 2019-2021 Long-Range Planning Work Program and by responding to specific public requests to: allow government offices as a conditional use in all urban residential zones; recognize limited and charitable healthcare services as an allowable use accessory to places of worship; and recognize existing allowances under state law for sewer systems/service outside of urban growth boundaries.
Counsel Review	9/13/21 - NB
Procurement Review	1. *Was the item processed through Procurement?* yes ☐ no ☒ 2. *If no, provide brief explanation:* The item is an amendment of the Comprehensive Plan and zoning code and does not involve any procurement activities.
Contact Person	Nate Boderman, Assistant County Counsel; 503-655-8364
Contract No.	N/A

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BACKGROUND:

ZDO-280 is a package of legislative amendments to the Clackamas County Comprehensive Plan and Zoning and Development Ordinance (ZDO), which would make relatively minor changes that are necessary to comply with existing laws, clarify existing language, correct errors, and adopt optional provisions that required only minimal staff analysis. More specifically, the amendments would:

1. Expressly allow metal as an exterior building material for new institutional, commercial, and industrial development, multifamily dwellings, and developments of more than one two- or three-family dwellings in all areas of the County, including but not limited to the Fuller Road Station Community, Sunnyside Village, and Government Camp;

2. Repeal limitations on property line adjustments (PLAs) in natural resource zones that are optional for the County, and align PLA requirements with state law;

3. Allow approved commercial drive-thrus to have signs that are no taller than eight feet and that are oriented toward drive-thru lanes, in addition to the sign allowances they and any other commercial business are already allowed to have;

4. Extend the validity period of pre-application conferences from one to two years;

5. Allow offices for government uses as a conditional use in all urban residential zones;

6. Allow charitable healthcare services accessory to a place of worship approved as a conditional use, subject to standards, and recognize existing allowances in state law for other uses associated with a place of worship;

7. Align the implementation period for hospitals and public facilities approved as a conditional use with all other approved conditional uses, including places of worship;

8. Establish times for when a time extension on an approved land use decision can be requested, and clarify how a time extension's approval period is calculated;

9. Clarify that, when a modification is approved for a land use permit that is still within its implementation period, the implementation period for the project, as modified, restarts;

10. Identify commercial dog boarding, dog daycare, and dog grooming facilities as already permitted uses in the Community Commercial (C-2) District;

11. Recognize existing allowances in Oregon Revised Statutes (ORS) for sewer system components, and for extension of sewer service, outside an urban growth boundary (UGB); and

12. Make other minor/non-substantive "housekeeping" changes to the ZDO.

To achieve all this, ZDO-280 includes amendments to Chapters 4 and 7 of the Clackamas County Comprehensive Plan and amendments to Sections 202, 315, 316, 317, 401, 406, 510, 511, 512, 513, 602, 604, 707, 804, 835, 1003, 1005, 1010, 1012, 1105, 1107, 1203, 1307, 1309, and 1310 of the Clackamas County Zoning and Development Ordinance (ZDO).

A public hearing was held on July 26, 2021, for Planning Commission consideration of the proposed Plan and ZDO amendments. The Planning Commission's unanimous (vote of 6-0) recommendation was for adoption of all of the amendments as now listed in Attachment A, including additional clarifying amendments to ZDO Section 1107, *Property Line Adjustments*, except that on a separate motion (vote of 4-2) the Planning Commission voted to recommend that the amendments:

- As recommended by staff, modify Comprehensive Plan Policy 4.F.3 to clarify that healthcare services accessory to places of worship are permitted in rural reserves; and

- Do not include a cap on the amount of total floor area that a charitable healthcare service can occupy and still be considered "accessory to" a place of worship.

These additional amendments are not reflected in Exhibits A and B, for the following reasons:

1. Following the Planning Commission hearing, staff concluded that it is not necessary to amend Comprehensive Plan Policy 4.F.3, because ZDO-280 is not proposing any "new" land use be allowed in rural (or urban) reserves. Rather, the amendments related to charitable healthcare services accessory to a place of worship are, in effect, an expansion of existing, non-exclusive lists of examples of uses that may already be determined to be permitted accessory to a place of worship;

2. Capping the amount of total floor area that charitable healthcare services can occupy helps ensure that the proposed healthcare services are indeed accessory and subordinate to a place of worship on the same property, as would be required;

3. Even with the caps in Exhibit A, an applicant can still follow an existing process for consideration of *more* floor area for healthcare services accessory to a place of worship; and

4. Expressly listing charitable healthcare services of a specific, smaller size as an allowable accessory use provides some regulatory certainty and removes a potentially complex step of an applicant needing to demonstrate in a formal land use application that such healthcare services are indeed accessory and subordinate to the place of worship.

A public hearing was held on August 18, 2021, for the BCC's consideration of this recommendation. Following the public hearing, the BCC voted 5-0 to approve ZDO-280 with the amendments in Exhibits A and B.

The attached Exhibits A and B reflect the amendments, as approved by the BCC.

RECOMMENDATION:

Staff respectfully requests that the BCC adopt the proposed ordinance.

Respectfully submitted,

Nate Boderman
Assistant County Counsel

Attachments:
Proposed Ordinance with Exhibits A and B
Findings in Exhibit C

ORDINANCE NO. ZDO-280

An Ordinance Amending Chapters 4 and 7 of the Clackamas County Comprehensive Plan and Amending Sections 202, 315, 316, 317, 401, 406, 510, 511, 512, 513, 602, 604, 707, 804, 835, 1003, 1005, 1010, 1012, 1105, 1107, 1203, 1307, 1309, and 1310 of the Clackamas County Zoning and Development Ordinance (ZDO)

WHEREAS, the adopted Long-Range Planning Work Program for 2019-2021 includes a project intended to make relatively minor changes to the County's land use regulations that are necessary to comply with state laws, clarify existing language, correct errors, and adopt optional provisions that require only minimal analysis; and

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

WHEREAS, it is consistent with that policy and the Work Program to: expressly allow metal as an exterior building material for new development; reduce regulatory barriers to property line adjustments in natural resource zones; allow for commercial drive-thru signs; extend the pre-application conference validity period; identify limited and charitable healthcare services as an allowed use accessory to a place of worship, and to identify other already permitted uses and existing requirements related to places of worship, sewer facilities outside of urban growth boundaries, dog services, and other land uses, in the County's land use regulations; establish a uniform implementation period for all conditional uses; allow for offices for government uses as a conditional use in urban residential zones; and make certain other clarifications and corrections, including those related to replats, time extensions, and modifications, as would all be achieved with the amendments to the Comprehensive Plan and ZDO in Attachments A and B, hereto attached; and

WHEREAS, the amendments are also consistent with Statewide Planning Goals and Guidelines, the Metro Urban Growth Management Functional Plan, the Clackamas County Comprehensive Plan, and the ZDO, as found in Exhibit C, hereto attached; and

WHEREAS, after a duly-noticed public hearing on August 18, 2021, and after considering a recommendation by the Planning Commission following their public hearing on July 26, 2021, the Board of County Commissioners orally approved the amendments; now therefore

The Board of Commissioners of Clackamas County ordains as follows:

Section 1: Chapters 4 and 7 of the Clackamas County Comprehensive Plan and Sections 202, 315, 316, 317, 401, 406, 510, 511, 512, 513, 602, 604, 707, 804, 835, 1003, 1005, 1010, 1012, 1105, 1107, 1203, 1307, 1309, and 1310 of the Clackamas County Zoning and Development Ordinance (ZDO) are hereby amended, as shown in Exhibits A and B, hereto attached.

Section 2: The Board of County Commissioners adopts as its own, the findings and conclusions contained in the written report attached hereto as Exhibit C.

Section 3: This ordinance shall be effective on October 23, 2021.

ADOPTED this 23rd day of September, 2021

BOARD OF COUNTY COMMISSIONERS

_____
Chair

_____
Recording Secretary

Exhibit A
Ordinance ZDO-280
Comprehensive Plan Amendments

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

Chapter 4: LAND USE

When the pioneers settled Clackamas County, the land resource appeared infinite. They cleared forest, carved towns from the wilderness, and used waterways as the arterials of commerce. Some lands were valued for certain uses. The alluvial valley of the Willamette River was among the first areas to be cleared for agriculture. The falls at Oregon City was one of the first industrial sites. From the earliest days, the value of strategic location for various uses of the land was recognized and exploited for man's benefit. The best sites were usually used first.

Now we realize that not only is land finite, but also that sites with desirable characteristics for certain types of development are scarce. A growing population is increasing demand for land of all types. It is increasingly important to evaluate characteristics of remaining sites to determine their optimum use.

The Oregon Legislature has provided for land use to be determined at the local level through a rational process of balancing state and local goals, human needs, and the site characteristics of land. Generally, the factors for designating land use categories in this plan include the following:

- Physical site conditions such as soils, slope, and drainage
- Present and projected needs of the people
- Character of existing development
- Financial impacts on the County and its residents
- Community livability
- Capacities of streets, sewers, water systems, and other facilities
- Estimated market demand
- Parcel sizes
- Availability of transit
- Proximity to jobs, shopping and cultural activities
- Providing an adequate balance between various uses

The above factors alone are insufficient for planning a community. A planning process reflecting community values is needed to weigh various factors. This systematic approach involves identifying issues, developing alternative ways of dealing with the issues and choosing the most desirable alternative.

ISSUES

The major issues affecting future development in the County are:

- Supply and location of land for urban uses
- Density of residential uses
- Intensity of commercial and industrial uses
- Proximity of mutually supporting land uses
- The cost impacts of various land uses
- Compatibility or conflict between land uses
- Competing demands for land having certain characteristics
- Compatibility of city and County plans
- Supply and location of land for rural uses
- Preservation of land for agricultural and forestry uses
- The character and appearance of neighborhoods
- Compatibility of land use with supportive systems such as transportation and sew~~er~~age
- Protection of natural features and waterways from the impact of development
- Provision of open spaces within the urban environment.

LAND USE DEFINITIONS

This Plan divides the County into six principal land use categories: Urban, Urban Reserve, Unincorporated Communities, Rural, Agriculture, and Forest. This Plan also establishes one or more land use plan designations within each of these categories. Table 4-1 identifies all of the land use plan designations established by this Plan and the zoning districts that implement each designation.

Urban

Urban areas include all land inside urban growth boundaries. Urban areas are either developed or planned to be developed with adequate supportive public services provided by cities or by special districts. Urban areas have concentrations of people, jobs, housing, and commercial activity.

Urban Growth Boundaries: Urban growth boundaries are designated on the land use plan maps. They separate Urban areas from Urban Reserve areas, Unincorporated Communities, and Rural, Agriculture, and Forest areas. An urban growth boundary encompasses existing urban development and lands to accommodate urban growth forecasted for a 20-year horizon.

Immediate Urban Areas: Immediate urban areas are lands that are within urban growth boundaries, are planned and zoned for urban uses, and meet at least one of the following conditions:

- Served by public facilities, including sanitary sewage treatment, water, storm drainage, and transportation facilities;
- Included within boundaries of cities or within special districts capable of providing public facilities and planned to be served in the near future; or
- Substantially developed or surrounded by development at urban densities.

Future Urban Areas: Future urban areas are lands within urban growth boundaries but outside immediate urban areas. Future urban areas are planned to be provided with public facilities, but currently lack providers of those facilities. Future urban areas are substantially underdeveloped and will be retained in their current use to ensure future availability for urban needs. Future urban areas are planned for urban uses but zoned for large-lot, limited development.

Future Urban Study Areas: Future urban study areas are lands that have been brought into an urban growth boundary but for which urban plan designations have not been applied. Planning will be conducted to determine urban plan designations and apply future urban zoning.

Urban Reserve

Urban Reserve areas lie outside an urban growth boundary and have been designated as highest priority for inclusion in an urban growth boundary when additional urban land is needed. Urban Reserve areas may be established pursuant to OAR Chapter 660, Division 21, or pursuant to OAR 660, Division 27. Metro designates Urban Reserve areas in the Portland metropolitan area. The cities of Sandy, Molalla, Estacada, and Canby, in coordination with the County, may designate other Urban Reserve areas.

Rural Reserve

Rural Reserve areas are intended to provide long-term protection for large blocks of agricultural land and forest land, and for important natural landscape features that limit urban development or define natural boundaries of urbanization. Rural Reserve areas shall not be included in an urban growth boundary or Urban Reserve area. Rural Reserves may be established pursuant to OAR Chapter 660, Division 27.

Unincorporated Communities

Unincorporated Communities, as defined in Chapter 660, Division 22 of the Oregon Administrative Rules, are settlements located outside urban growth boundaries in which concentrated residential development is combined with limited commercial, industrial, or public uses. Unincorporated Communities may have limited public facilities and services.

Rural

Rural lands are exception lands, as defined in Oregon Administrative Rules 660-004-0005(1),

that are outside urban growth boundaries and Unincorporated Communities and are suitable for sparse settlement such as small farms, wood lots or acreage home sites. They lack public facilities or have limited facilities and are not suitable, necessary, or intended for urban, agricultural, or forest use.

Agriculture

Agriculture areas are those of predominantly Class I through IV soils as identified by the United States Natural Resources Conservation Service or as identified in more detailed data; and other lands that are suitable for farm use due to soil fertility, suitability for grazing, climatic conditions, existing or future potential for irrigation, land use patterns, or accepted farming practices or are necessary to permit farming practices to be undertaken on adjacent or nearby lands.

Forest

Forest areas are composed of existing and potential forestlands that are suitable for commercial forest uses. Also included are other forested lands needed for watershed protection, wildlife and fish habitat, and recreation, lands where extreme conditions of climate, soil, and topography require maintenance of vegetative cover, and forested lands in urban and agricultural areas which provide urban buffers, wind breaks, wildlife habitat, scenic corridors, and recreational use.

Land Use Maps Section

Map 4-1 displays the unincorporated land within the Portland Metropolitan Urban Growth Boundary. Map 4-2 provides an index for the land use plan maps. Maps 4-3, 4-4, and 4-5 are land use plan maps for areas where the county has adopted land use plan designations by agreement with adjoining cities. As these cities adopt amendments to their maps, the county will consider adoption. County land use plan designations are shown on Maps 4-6 and 4-7. Land use plan maps adopted as part of a Community Plan or Design Plan in Chapter 10 automatically amend Maps 4-6 and 4-7. Map 4-9 displays urban and rural reserves designated pursuant to OAR 660, Division 27, and urban and rural reserves are also illustrated in greater detail on Map 4-7.

URBANIZATION

The goals and policies in the following section address the designation of lands for urban uses, conversion of lands from Urban Reserve to Future Urban plan designations, and County actions regarding Future Urban Study areas and Urban Reserve areas.

URBANIZATION GOALS

- Clearly distinguish Urban and Urban Reserve areas from non-urban areas.
- Encourage development in areas where adequate public services and facilities can be provided in an orderly and economic way.
- Insure an adequate supply of land to meet immediate and future urban needs.
- Provide for an orderly and efficient transition to urban land use.
- Distinguish lands immediately available for urban uses from Future Urban areas within Urban Growth Boundaries.

4.A General Urbanization Policies

4.A.1 Coordinate with Metro in designating urban areas within Metro's jurisdiction. Recognize the statutory role of Metro in maintenance of and amendments to the Portland Metropolitan Urban Growth Boundary.

4.A.2 Coordinate with affected cities in designating urban areas outside of Metro. Land designated as a Rural Reserve, as shown on Map 4-9, shall not be designated as an Urban Reserve or added to an urban growth boundary. The following areas may be designated as Urban:

- 4.A.2.1 Land needed to accommodate 20 years of future urban population growth.
- 4.A.2.2 Land needed for increased housing, employment opportunities and livability from both a regional and subregional view.
- 4.A.2.3 Land to which public facilities and services can be provided in an orderly and economic way.
- 4.A.2.4 Land which insures efficient utilization of land within existing urban areas.
- 4.A.2.5 Land which is best suited for urban uses based on consideration of the environmental, energy, economic and social consequences.
- 4.A.2.6 Agricultural land only after considering retention of agricultural land as defined, with Class I having the highest priority for retention and Class VI the lowest priority.
- 4.A.2.7 Land needed after considering compatibility of proposed urban uses with nearby agriculture activities.
- 4.A.2.8 Land where the strategic location of employment and living opportunities can minimize commuting distance, traffic congestion, pollution and energy needs.

4.A.3 Land use planning for urban areas shall integrate all applicable policies found throughout the Plan including the following:

4.A.3.1 Locate land uses of higher density or intensity to increase the effectiveness of transportation and other public facility investments.

4.A.3.2 Encourage infilling of Immediate Urban Areas with a minimum of disruption of existing neighborhoods (see infill policies in the Housing Chapter).

4.A.3.3 Enhance energy conservation and transportation system efficiency by locating opportunities for housing near work and shopping areas.

4.A.3.4 Integrate developments combining retailing, office, and medium and high density housing at places with frequent transit service and pedestrian facilities.

4.A.4 Establish Urban Growth Management Areas and Urban Growth Management Agreements to clarify planning responsibilities between the County and cities for areas of mutual interest.

4.A.5 Establish agreements with cities and service districts to clarify service and infrastructure responsibilities for areas of mutual interest.

4.B Immediate Urban Policies

The following policies apply to Immediate Urban areas:

4.B.1 An area may be designated Immediate Urban consistent with the definition.

4.B.2 Use the following guidelines when evaluating proposed changes in zoning designations that convert an area from Future Urban to Immediate Urban status:

4.B.2.1 Capital improvement programs, sewer and water master plans, and regional public facility plans shall be reviewed to ensure that orderly, economic provision of public facilities and services can be provided.

4.B.2.2 Sufficient vacant Immediate Urban land should be permitted to ensure choices in the market place.

4.B.3 Apply urban zoning districts that implement the Plan through a legislative or quasi-judicial zone change process consistent with applicable state, Metro and local requirements.

4.B.4 Control land uses in Immediate Urban areas through the Zoning and Development Ordinance.

4.B.5 Place conditions on development to ensure adequate services and facilities prior to or concurrent with development.

4.C Future Urban Policies

The following policies apply to Future Urban lands:

4.C.1 Control premature development (before services are available) by:

4.C.1.1 Applying a future urban zone with a 10-acre minimum lot size within the Portland Metropolitan UGB except those lands identified in Policy 4.C.1.2.

4.C.1.2 Applying a future urban zone with a 20-acre minimum lot size or greater for areas planned for employment, industrial and commercial uses within the Portland Metropolitan UGB.

4.C.1.3 Applying within the urban growth boundaries of Canby, Estacada, Sandy, and Molalla, a five-acre minimum lot size or larger in rural, agricultural, and forest zones.

4.C.2 Review subdivision and partition applications to ensure that the location of proposed easements and road dedications, structures, wells, and on-site wastewater treatment systems are consistent with the orderly future development of the property at urban densities.

4.C.3 For land within the urban growth boundaries of Canby, Estacada, Sandy, and Molalla, require annexation to a city as a requirement for conversion to Immediate Urban unless otherwise agreed to by the City and County.

4.C.4 Implement dimensional and development standards to address compatibility, function, and aesthetics.

4.D Future Urban Study Area Policies

The following policies apply to Future Urban Study Areas:

4.D.1 Conduct a planning process consistent with the policies of Chapter 11 of this Plan, that coordinates with affected service providers, agencies, and jurisdictions, and meets pertinent state, regional and local requirements.

4.D.2 In the Portland Metropolitan Urban Area, develop Comprehensive Plan designations that are consistent with Regional Urban Growth Goals and Objectives and the Regional Urban Growth Management Functional Plan, including Title 11, and the following.

When areas are brought into the Urban Growth Boundary, the following actions shall be undertaken:

4.D.2.1 Control premature development (before services are available) within the Portland Metropolitan Urban Growth Boundary by applying a 20-acre minimum lot size to lands within the boundary that have the following plan designations: Unincorporated Community Residential, Rural Commercial, Rural Industrial, and Rural.

4.D.2.2 The County shall enter into discussion with nearby cities, agencies that provide public facilities and services, and area citizens, to determine how services and governance will be provided for the area.

4.D.2.3 Agreements shall be developed with affected cities and service providers to cooperate in development of a Concept Plan for the area, and to consider the Concept Plan in development of future Plans.

4.D.2.4 A Concept Plan shall be developed meeting state and regional requirements. Opportunity shall be provided to citizens and affected public agencies to participate in the development of the Concept Plan. In the Damascus area, the Damascus Concept Planning Study Report shall be used to provide background information and guidance for the Concept Planning process.

4.D.2.5 A request shall be made to revise state and regional transportation plans to reflect the Concept Plan.

4.D.2.6 Public facilities plans shall be developed or revised to accommodate the Concept Plan.

4.D.2.7 The Comprehensive Plan, Comprehensive Plan Maps, Zoning and Development Ordinance and zoning maps shall be revised according to the Concept Plan.

4.D.3 Develop and adopt urban comprehensive plan designations that meet applicable state planning requirements and balance County planning goals adopted in the Comprehensive Plan. This will convert Future Urban Study Areas to Future Urban or Immediate Urban areas.

4.D.4 During development of Comprehensive Plan provisions pursuant to Title 11 of the Urban Growth Management Functional Plan, consider the feasibility of providing and funding adequate infrastructure.

4.E Urban Reserve Area Policies

4.E.1 The following policies apply to Urban Reserve areas established pursuant to OAR 660, Division 21:

4.E.1.1 Clackamas County shall recommend to Metro land in Clackamas County which should be designated Urban Reserve, when Urban Reserve amendments to the Region 2040 Urban Growth Management Functional Plan are considered by Metro. The cities of Sandy, Molalla, Estacada and Canby, in coordination with Clackamas County, may designate and adopt other urban reserve areas in a manner consistent with OAR 660-021-0000.

4.E.1.2 Clackamas County will consider the following characteristics of each area when recommending Urban Reserve areas to Metro: potential for providing jobs within near proximity to housing; the feasibility and cost effectiveness of extending urban infrastructure; the suitability of an area to accommodate urban level densities; and, the relationship and implications to existing areas designated urban.

4.E.1.3 When considering the designation of Urban Reserve areas near Sandy, Molalla, Estacada and Canby, the County, in cooperation with the City, shall make findings and conclusions based on the requirements of OAR 660-021-0030.

4.E.1.4 Urban Reserve areas designated by Metro will be depicted on Metro's Region 2040 Growth Concept map. Designated Urban Reserve areas near Sandy, Molalla, Estacada and Canby shall be defined within the Urban Growth Management agreements with each city.

4.E.1.5 Lands within a designated Urban Reserve area shall continue to be planned and zoned for rural uses in a manner that ensures a range of opportunities for the orderly, economic and efficient provision of urban services when these lands are included in the Urban Growth Boundary. Planning and zoning shall be done in a manner consistent with OAR 660-021-0000 and the Metro Code, in areas where Metro has jurisdiction.

4.E.2 The following policies apply to Urban Reserve areas established pursuant to OAR 660, Division 27, as shown on Map 4-9:

4.E.2.1 The County will review the designation of Urban Reserve areas, in coordination with Metro, Multnomah and Washington Counties, within 20 years after the initial designation of these Urban Reserve Areas.

4.E.2.2 The County will participate in the development of concept plans for areas within Urban Reserve areas that are being considered for addition to the Portland Metropolitan Urban Growth Boundary.

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.E.2.3.2 To allow within Urban Reserve areas, the creation of new lots or parcels smaller than allowed on the date Urban Reserve areas were designated, except as authorized by amendments to the Oregon Revised Statutes or Oregon Administrative Rules enacted after designation of Urban Reserve areas.

4.F Rural Reserve Area Policies

The following policies apply to Rural Reserve areas established pursuant to OAR 660, Division 27, as shown on Map 4-9:

4.F.1 Land established as a Rural Reserve area shall not be included in an urban growth boundary.

4.F.2 Land established as a Rural Reserve area shall not be included in an Urban Reserve area established pursuant to either OAR 660, Division 21, or OAR 660, Division 27.

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.

4.F.3.2 To allow within Rural Reserve areas, the creation of new lots or parcels smaller than 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 designation of Rural Reserve areas.

4.G Population Coordination Policies

The following policies apply to population planning and coordination.

4.G.1 Pursuant to OAR 660-024-0030, counties are required to adopt and maintain a coordinated 20-year population forecast for each urban area within the county and consistent with the applicable statutory requirements of ORS 195.025 to 195.036. The cities within the county are required to adopt a 20-year population forecast for the urban area consistent with the coordinated county forecast, except for those urban areas located within the Metropolitan Service District (Metro) that must also coordinate with Metro's 20-year population forecast.

4.G.2 The County and its cities located inside the Metro boundary shall coordinate with Metro in establishing 20-year population projections in order to evaluate and provide sufficient lands necessary for housing and employment needs within each jurisdiction's planning boundary.

4.G.3 The County and its cities located outside the Metro boundary shall coordinate in establishing 20-year population projections in order to evaluate and provide sufficient lands necessary for housing and employment needs within each city's urban growth boundary.

4.G.4 Clackamas County adopts the following population forecasts, as identified in the "Clackamas County Rural Cities Population Coordination Background Report and Forecasts, Final: March 12, 2013," adopted by Ordinance ZDO-242 and found in Appendix B. These projections have been coordinated with the identified cities.

City	**2012 population**	**2032 population**	***Net growth 2012-2032***	***Avg. Annual Growth Rate (AAGR) 2012-2032***
Barlow	136	146	*10*	*0.4%*
Canby	16,820	26,730	*9,910*	*2.3%*
Estacada	2,845	4,345	*1,500*	*2.1%*
Molalla	8,532	12,760	*4,228*	*2.0%*
Sandy	10,322	17,960	*7,628*	*2.8%*

URBAN GROWTH CONCEPT

This section of the Land Use Chapter addresses the implementation of the Region 2040 Growth Concept as it applies to Clackamas County. It provides for design type areas that are consistent with the general locations shown on the Region 2040 Growth Concept Map.

Clackamas County, with approximately 67% of its population inside the Portland Metropolitan Urban Growth Boundary, is a partner in the region's efforts to efficiently utilize the land inside the boundary. This will minimize the need to expand the boundary and protect the land available for agricultural, forest and rural uses. The intent of the Urban Growth Concept is to focus increased development in appropriate locations, such as existing commercial centers and along transportation corridors with existing or planned high quality transit service. It also encourages increased employment densities in industrial and employment areas.

The provisions of the Urban Growth Concept apply in addition to other requirements identified in the Clackamas County Comprehensive Plan. The Urban Growth Concept is designed to provide guidance for Comprehensive Plan and Zoning Development Ordinance changes, as well as to identify specific development review requirements. All provisions except Green Corridors apply to lands inside the Portland Metropolitan Urban Growth Boundary. Green Corridors apply to rural, agricultural and forest areas. Future Urban Study Areas are areas in transition. When concept planning is completed for these areas, growth concept design types will be adopted as appropriate.

DEFINITIONS

Growth Concept Design Types

The locations of the following design types are identified on the Clackamas County Urban Growth Concept Map: (Map 4-8) or as described below:

Regional Center: An area that is the focus of compact development, redevelopment, high quality transit service and multi-modal street networks. The intent of the Regional Center is to provide an area for the most intense development and highest densities of employment and housing.

Corridors: Areas located along streets which have existing or planned high quality transit service and feature a high quality pedestrian environment, convenient access to transit and increased residential and employment densities. The intent of the Corridor designation is to encourage increased densities by facilitating zone and plan changes in specific locations. In addition, it provides guidance for development review to implement a high quality pedestrian environment.

The streets where the Corridor design type designation is applied are: McLoughlin Blvd. (from Milwaukie to Gladstone), 82nd Avenue (within the Clackamas Regional Center Design Plan Area), Johnson Creek Boulevard (within the Clackamas Regional Center Design Plan Area), and Sunnyside Road (from 82nd Avenue to 139th Avenue).

Station Community: Areas centered around a light-rail or high capacity transit station that feature housing, offices and other employment, and a variety of shops and services that are easily accessible to pedestrians, bicyclists and transit users as well as vehicles. The intent of the Station Community designation is to encourage transit oriented development with a mix of high density housing and employment uses, a high quality pedestrian environment and other features designed to encourage high transit ridership.

Employment Areas: Employment centers mixing various types of employment and including some residential development as well. These areas include limited retail commercial uses primarily to serve the needs of the people working or living in the immediate area.

Industrial Areas: Areas set aside primarily for industrial activities. Supporting uses, including some retail uses, may be allowed if limited to sizes and locations intended to serve the primary industrial uses.

Regionally Significant Industrial Areas: Areas near the region's most significant transportation facilities for the movement of freight and other areas most suitable for movement and storage of goods. These areas, like Industrial Areas, are set aside primarily for industrial activities. Supporting uses, including some retail uses, may be allowed if limited to sizes and locations intended to serve the primary industrial uses. Supporting uses are limited to an even greater degree than in Industrial Areas.

Neighborhoods: Primarily residential areas that are accessible to jobs and neighborhood businesses. This broad category includes areas set aside for homes, parks and open space, schools, public services, and neighborhood business uses. The intent is to facilitate the Region 2040 "Inner Neighborhood" design type.

Green Corridors: Areas outside the Urban Growth Boundary adjacent to major transportation routes to neighboring cities where the rural character of the landscape and agricultural economy shall be maintained. The intent is to preserve the view sheds and maintain the rural character between urban areas along the major transportation routes.

Future Urban Study Areas: Areas brought within the Urban Growth Boundary for which the required planning has not yet been completed. The intent is to identify the areas where Title 11 of the Urban Growth Management Functional Plan and Metro code specify that concept planning and other requirements must be completed before other Urban Growth Concept design types and urban plan designations can be applied. Future Urban Study Areas include areas identified on Map 4-8 and areas brought into the Portland Metropolitan UGB after the adoption of Map 4-8.

URBAN GROWTH CONCEPT GOALS

- Provide for a compact urban form, integrating the built environment, transportation network, and open space, that:
  - Minimizes the amount of Urban Growth Boundary expansion required to accommodate expected population and employment growth in the next 20 years.
  - Efficiently uses public services including transportation, transit, parks, schools, sewer and water.
  - Distinguishes areas for intensive development from areas appropriate for less intensive development.
  - Preserves existing stable and distinct neighborhoods by focusing commercial and residential growth in mixed use centers and corridors.
  - Develops mixed use centers and corridors at a pedestrian scale and with design features and public facilities that support pedestrian, bicycle and transit trips.
- Maintain the rural character of the landscape between the Urban Growth Boundary and neighboring cities.

4.H Regional Center Policies

The Regional Center design type designation is applied to the Clackamas Regional Center, as identified on Map 4-8. The goals and policies applicable to the Clackamas Regional Center are located in Chapter 10: Clackamas Regional Center Area Design Plan.

4.I Corridor Policies

The Corridor design type designation is applied to sites adjoining the Corridor streets shown on Map 4-8. Corridor design type areas may be either continuous or development nodes. The areas of application for the Corridor design type are specified in Chapter 10 for all of the Corridor streets.

4.I.1 Policies that apply to all Corridor design type areas include:

4.I.1.1 Provide for both employment and housing, including mixed use.

4.I.1.2 Provide for a high level of bus usage, with land uses and transportation facilities to support bus use.

4.I.1.3 Encourage and support pedestrian travel with supportive land uses, frequent street connections, and sidewalks and pedestrian-ways.

4.I.1.4 Provide for vehicular traffic and auto-oriented uses, while expanding the share of trips via transit and other modes.

4.I.1.5 Enhance connectivity between neighborhoods adjacent to the Corridor Design Type Area and the Corridor Street.

4.I.2 Specific policies for the SE 82nd Ave, SE Johnson Creek Boulevard and SE Sunnyside Road (from 82nd Ave to approximately SE 117th Ave.) Corridor design type areas are located in Chapter 10: Clackamas Regional Center Area Design Plan.

4.I.3 Specific policies for the Sunnyside Road (from approximately SE 117th Ave to SE 139th Avenue) Corridor design type area are located in Chapter 10: The Sunnyside Corridor Community Plan.

4.I.4 Specific policies for the McLoughlin Boulevard Corridor design type area are located in Chapter 10: McLoughlin Corridor Design Plan.

4.J Station Community Policies

The Station Community design type designation is applied to sites surrounding a light rail or other high capacity transit station as shown on Map 4-8. The areas of application for the Station Community design type are specified in Chapter 10. Policies that apply to all Station Community design type areas include:

4.J.1. Provide for transit oriented development with land uses that support a high level of transit usage, such as a mix of high density employment and housing uses.

4.J.2. Provide a high quality pedestrian and bicycle environment with frequent street connections, walkways and bikeways.

4.J.3. Enhance connectivity between neighborhoods adjacent to the Station Community.

Specific policies for the Fuller Road Station Community are located in Chapter 10: Clackamas Regional Center Area Design Plan.

4.K Employment Area Policies

The Employment Area design type designation is applied as shown on Map 4-8. Policies that apply to Employment design type areas include:

4.K.1 Employment design type areas shall be developed to provide for a mix of employment and residential uses, including:
- 4.K.1.1 Industry, office and service uses,
- 4.K.1.2 Residential development,
- 4.K.1.3 Low traffic generating, land consumptive commercial uses with low parking demand which have community or region-wide market,
- 4.K.1.4 Limited retail uses appropriate in type and size to serve the needs of businesses, employees, and residents of the immediate Employment design type area.

4.K.2 The following are prohibited in an Employment design type area: a retail use with more than 60,000 square feet of gross leasable area in a single building; and retail uses with a total of more than 60,000 square feet of retail sales area on a single lot or parcel, or on contiguous lots or parcels, including those separated only by transportation right-of-way. These prohibitions do not apply:

4.K.2.1 To sites designated General Commercial on or before January 1, 2003; or

4.K.2.2 When allowed by zoning if: the Zoning and Development Ordinance authorized those uses on January 1, 2003; transportation facilities adequate to serve the retail uses will be in place at the time the uses begin operation; and the Comprehensive Plan provides for transportation facilities adequate to serve other uses planned for the immediate Employment design type area over the planning period.

4.K.2.3 When allowed by zoning if the uses: generate no more than a 25-percent increase in site-generated vehicle trips above permitted non-industrial uses; and meet the Maximum Permitted Parking—Zone A requirements set forth in Table 3.08-3 of Title 4 of the Regional Transportation Functional Plan.

4.L Industrial Area Policies

The Industrial Area design type designation is applied as shown on Map 4-8. Policies that apply to Industrial Areas include:

4.L.1 Limit the size of buildings for retail commercial uses, as well as retail and professional services that cater to daily customers, to 5,000 square feet of sales or service area in a single outlet, or multiple outlets that occupy more than 20,000 square feet of sales or service area in a single building or in multiple buildings that are part of the same development project. This limitation does not apply to training facilities, the primary purpose of which is to provide training to meet industrial needs.

4.M Regionally Significant Industrial Area Policies

The Regionally Significant Industrial Areas Design Type designation is applied as shown on Map 4-8. Policies that apply to Regionally Significant Industrial Areas include:

4.M.1 Limit the size of buildings for retail commercial uses, as well as retail and professional services that cater to daily customers, to 3,000 square feet of sales or service area in a single outlet, or multiple outlets that occupy more than 20,000 square feet of sales or service area in a single building or in multiple buildings that are part of the same development project. This limitation does not apply to training facilities, the primary purpose of which is to provide training to meet industrial needs.

4.M.2 Prohibit the siting of schools, places of assembly larger than 20,000 square feet, or parks intended to serve people other than those working or residing in the Regionally Significant Industrial Area.

4.N Neighborhood Policies

The Neighborhood design type designation is applied as shown on Map 4-8. Policies that apply to the Neighborhoods include:

4.N.1 Development of areas planned for residential, commercial and industrial uses within Neighborhood design type areas shall be guided by the urban land use policies of Chapter 4.

4.N.2 Areas designated as Low Density Residential shall achieve the densities outlined in the Low Density Residential policies of Chapter 4.

4.O Future Urban Study Area Policies

The Future Urban Study Area design type designation is applied as shown on Map 4-8. The goals and policies applicable to Future Urban Study Areas are located in the Urbanization section of Chapter 4.

4.P Green Corridor Policies

The goals and policies for Green Corridors shall be defined through a separate study as outlined in the Intergovernmental Agreements on Green Corridor and Rural Reserve and Population Coordination, signed by Clackamas County, City of Sandy, City of Canby, ODOT and Metro.

RESIDENTIAL

This section of the Land Use Chapter primarily addresses the location and density of housing. Chapter 6, *Housing*, establishes policies for other aspects of housing such as structure type, affordability, and design.

Low Density Residential areas are those planned primarily for single-family residential development, with a range of lot sizes from 2,500 square feet for attached single-family dwellings to 30,000 square feet for sites with environmental constraints.

Medium Density Residential areas are those planned for up to 12 units per gross acre (exclusive of density bonuses and conditional uses).

Medium High Density Residential areas are those planned for up to 18 units per gross acre (exclusive of density bonuses and conditional uses).

High Density Residential areas are those planned for up to 25 units per gross acre (exclusively of density bonuses and conditional uses).

Special High Density Residential areas are planned for high-rise multifamily housing up to 60 units per gross acre.

RESIDENTIAL GOALS

- Protect the character of existing low-density neighborhoods.
- Provide a variety of living environments.
- Provide for development within the carrying capacity of hillsides and environmentally sensitive areas.
- Provide opportunities for those who want alternatives to the single-family house and yard.
- Provide for lower-cost, energy-efficient housing.
- Provide for efficient use of land and public facilities, including greater use of public transit.

4.Q General Residential Policies

4.Q.1 Determine permitted uses and the density of development through zoning. Zoning of Residential areas shall be consistent with this Plan. Timing of zoning district application shall be in accord with the orderly development of the County.

4.Q.2 Implement dimensional and development standards to address compatibility, function, and aesthetics.

4.Q.3 Require dedication of designated Open Space areas where appropriate for purposes of developing the urban park or trails program.

4.Q.4 Establish minimum densities to help meet regional and local housing needs.

4.Q.5 Allow the Neighborhood Commercial zoning district to implement the Low Density Residential, Medium Density Residential, Medium High Density Residential, and High Density Residential land use plan designations according to the criteria in the Commercial Section of this Chapter.

4.Q.6 Require all Medium, Medium High, High, and Special High Density Residential developments to be subject to a design review process.

4.Q.7 When necessary, require improvements to existing streets and/or development of new streets to County standards prior to or concurrent with Medium, Medium High, High, and Special High Density Residential development.

4.Q.8 In Medium, Medium High, High, and Special High Density Residential areas, require pedestrian access to nearby schools, transit stations, commercial areas, recreational areas, and employment areas to be convenient and improved to standards determined through a design review process.

4.Q.9 Develop all Medium, Medium High, High, and Special High Density Residential areas with public sewer, public water, curbs, drainage controls, pedestrian/bikeway facilities, underground utilities, and street lighting.

4.R Low Density Residential Policies

4.R.1 The following areas may be designated Low Density Residential if any of the following criteria are met:

- 4.R.1.1 Areas where a need for this type of housing exists.
- 4.R.1.2 Areas which are currently developed at low density and where little need exists for redevelopment.
- 4.R.1.3 Areas where transportation is limited to collectors and local streets.
- 4.R.1.4 Areas where sensitivity to the natural environment or natural hazards indicates a reduced density.

4.R.2 Zoning of Immediate Urban Low Density Residential areas and conversion of Future Urban areas to Immediate Urban Low Density Residential shall include zones of 2,500; 5,000; 7,000; 8,500; 10,000; 15,000; 20,000, and 30,000 square feet (R-2.5 through R-30). The following factors guide the determination of the most appropriate zone:

- 4.R.2.1 Physical site conditions such as soils, slope, and drainage:

4.R.2.1.a Land with soils subject to slippage, compaction or high shrink-swell characteristics shall be zoned for larger lots.

4.R.2.1.b Land with slopes of:

- Less than 20 percent shall be considered for the R-2.5 through R-8.5 zoning districts.
- 20 percent and over shall be considered for the R-10 through R-30 zoning districts.

4.R.2.1.c Land with hydrological conditions such as flooding, high water table or poor drainage shall be zoned for larger lots.

4.R.2.2 Capacity of facilities such as streets, sewers, water, and storm drainage systems.

4.R.2.3 Availability of transit: Land within walking distance (approximately one-quarter mile) of a transit stop should be zoned for smaller lots implemented by the R-2.5, R-5, R-7, and R-8.5 zoning districts.

4.R.2.4 Proximity to jobs, shopping, and cultural activities: Areas in proximity to trip generators shall be considered for smaller lots implemented by the R-2.5, R-5, R-7, and R-8.5 zoning districts.

4.R.2.5 Location of 2,500- and 5,000-square-foot lots: Location of 2,500 and 5,000 square foot lots, implemented by the R-2.5 and R-5 zoning districts, may be allowed in Corridor design type areas and where permitted by Community and Design Plans located in Chapter 10.

4.R.2.6 Need for neighborhood preservation and variety: Areas that have historically developed on large lots where little vacant land exists should remain zoned consistent with the existing development pattern. Otherwise, unless physical or service problems indicate to the contrary, areas of vacant land shall be zoned for lots of 8,500 square feet or smaller.

4.R.2.7 Density average: To achieve an average of 7,500 square feet or less per lot in low density Future Urban areas when conversion to Immediate Urban low density residential occurs, the R-10 zone shall be limited to areas with 20 percent slope and greater. Flexible-lot-size land divisions and other buffering techniques shall be encouraged in those areas immediately adjacent to developed subdivisions with lots of 20,000 square feet or more to protect neighborhood character, while taking full advantage of allowed densities.

4.R.3 Permit transfer of density within a development even if different zoning districts or land use plan designations are involved. Encourage the transfer of dwelling units from hazardous or environmentally sensitive areas to areas which are less hazardous or less expensive to develop. Resulting density on the developed portion of a given site shall not exceed the density allowed in the next-highest-density residential land use plan designation. Buffering from lower-density adjacent uses shall be considered in the review process.

4.R.4 Establish special development criteria and density standards in the following areas (see Policy 3.L.6 in the Natural Hazards section of Chapter 3, *Natural Resources and Energy*):

4.R.4.1 On slopes over 20 percent, the following development criteria shall be met:

4.R.4.1.a Avoid major hazard areas

4.R.4.1.b Maintain the stability of the slope

4.R.4.1.c Grade without large or successive pads or terraces and without creating road grades in excess of County standards

4.R.4.1.d Maintain vegetation and natural terrain features to sustain slope stability

4.R.4.1.e Ensure that existing natural rates of run-off and erosion are not exceeded

4.R.4.1.f Protect visually significant slopes, ravines, ridgelines, or rock outcroppings in their natural state

4.R.4.2 In flood hazard areas or wetlands, the following development criteria, as well as the specifications in Chapter 3, shall be met:

4.R.4.2.a Avoid major flood hazard areas

4.R.4.2.b Maintain water quality and the natural function of the area to reduce or absorb flood runoff and to stabilize water flow

4.R.4.2.c Protect wildlife habitats, significant vegetation, and trees

4.R.4.2.d Protect any associated recreational values

4.R.4.3 Density standards in these areas shall be as follows:

4.R.4.3.a Land in the flood fringe and land with slopes over 20 percent shall be allowed to develop at no more than 50 percent of the density of the zone. If these lands are not developed, then up to 100 percent of the density may be transferred to more suitable land within the site, depending upon its characteristics. Density should be reduced as slope increases above 20 percent, with development discouraged on slopes over 35 percent.

4.R.4.3.b Land in the floodway and land on landslides shall not be allowed to develop, except on a lot of record and only after having met the provisions stated in Policies 4.R.4.1 and 4.R.4.2, and other relevant Plan requirements. However, 100 percent of the dwelling units allowed in the zoning district may be transferred to more suitable land within the site.

4.R.5 Ensure adequate provisions for schools, churches, and recreational facilities which are integral parts of all residential neighborhoods. The siting of these facilities shall be subject to conditions ensuring adequate design and safety, particularly with regard to vehicular and pedestrian access.

4.R.6 Encourage retention of natural landscape features such as topographic variations, trees, and water areas, and allow variation in housing type and design.

4.R.7 Require a site analysis for each development in areas designated as Open Space or where the County has identified the potential for significant impacts. This requirement may be waived in the event all development is transferred to more suitable land outside of areas designated as Open Space.

4.R.8 Require roads in land divisions to be County roads and connected directly with an improved County road, state road, or city street. Half streets and private roads may be allowed where appropriate.

4.R.9 Develop all land divisions in urban areas with public sewer, public water, drainage controls, pedestrian/bikeway facilities, and underground utilities. Street lighting and street trees may be required. Implementing ordinances shall set standards in which street lighting and street trees will be encouraged or required.

4.R.10 Determine the net density in planned unit developments recognizing that up to 15 percent of the gross area is for roadways.

4.R.11 Encourage subdivision design to eliminate direct vehicular access from individual lots onto major or minor arterials. Frontage roads should be used wherever possible.

4.R.12 Require stub streets in land divisions where necessary to provide access to adjacent property.

4.R.13 Develop residential land divisions as planned unit developments whenever one or more of the following criteria apply:

- 4.R.13.1 Any part of the site is designated Open Space on Map 4-6, *North Urban Area Land Use Plan Map*
- 4.R.13.2 More than 20 percent of the dwelling units are to be attached or condominiums
- 4.R.13.3 Sites are large enough to warrant on-site provision of substantial open and/or recreation space
- 4.R.13.4 A large area is specifically identified by the County as needing greater design flexibility, increased open space, or a wider variety of housing types

4.R.14 Require a minimum of 20 percent of the total land area in all planned unit developments to be devoted to open space or outdoor recreational areas. Development for any other uses shall not be allowed. Parkland dedications may be part of the 20-percent open space requirement.

4.R.15 Require provisions for adequate maintenance prior to final plat approval to ensure the designated park area will be a community asset.

4.R.16 Allow flexible-lot-size land divisions provided that the average lot size is consistent with the base zone, as adjusted by density bonuses (see the Density Bonus section of Chapter 6, *Housing*).

4.R.16.1 For detached single-family dwellings, the smallest lot size allowable shall be 80 percent of the minimum average lot size allowed by the base density.

4.R.16.2 For attached single-family dwellings, the smallest lot size allowable shall be 2,000 square feet.

4.R.16.3 In planned unit development land divisions, the individual lot size is unrestricted.

4.S Medium Density Residential Policies

4.S.1 The following areas may be designated Medium Density Residential when at least the first two criteria are met:

4.S.1.1 Areas where a need for this type of housing exists.

4.S.1.2 Areas with access to a major or minor arterial or collector. Siting should not result in significant traffic increase on local streets serving low density residential areas.

4.S.1.3 Areas located near or adjacent to commercial areas, employment concentrations, or transit stops.

4.S.1.4 Areas of deteriorating dwellings or structures in neighborhoods to stimulate private investment, infilling, and redevelopment, as long as one or more of the preceding criteria apply.

4.S.2 Limit the Planned Medium Density (PMD) zoning district to areas currently zoned PMD.

4.S.3 In Medium Density Residential zoning districts, provide for reduced density on hazardous land or steep slopes as stipulated in Policy 4.R.4.3.

4.S.4 Encourage variations in density on different parts of a large site and promote a variety in housing type, ownership, and design.

4.S.5 Require in all Medium Density Residential developments a minimum of 25 percent of the total gross areas to be landscaped, natural, and/or recreational areas. This landscaping requirement may be reduced during the design review process when pedestrian amenities or amenities that provide opportunities for passive or active recreation within the development are substituted for gross land area.

4.S.6 Existing mobile home parks which are designated Medium Density Residential shall not have the designation changed unless a plan for relocation of the existing tenants is submitted and approved. This plan shall demonstrate that existing tenants will be relocated prior to redevelopment of the property.

4.T Medium High Density Residential Policies

4.T.1 The following areas may be designated Medium High Density Residential when the first two and at least one of the remaining criteria are met:

- 4.T.1.1 Areas where a need for this type of housing exists.
- 4.T.1.2 Areas with access to a street designated as a major or minor arterial or collector. Siting should not result in significant traffic increase on local streets serving low density residential areas.
- 4.T.1.3 Areas adjacent to or within walking distance of a significant educational, cultural, recreational, or open space facility or area.
- 4.T.1.4 Areas located adjacent or in proximity to a designated commercial or industrial area on the Comprehensive Map.
- 4.T.1.5 Areas within 800 feet of a transit line or transit station or within one-quarter mile of such transit facility if easily accessible due to pedestrian amenities such as sidewalks, pedestrian ways, and streetlights.

4.T.2 In Medium High Density Residential zoning districts, provide for reduced density on hazardous land or steep slopes as stipulated in Policy 4.R.4.3.

4.T.3 Encourage variations in density on different parts of a large site and promote a variety in housing type, ownership, and design.

4.T.4 Require in all Medium High Density Residential developments a minimum of 25 percent of the total gross area to be landscaped, natural, and/or recreational areas.

4.U High Density Residential Policies

4.U.1 The following areas may be designated High Density Residential when at least the first three criteria are met:

- 4.U.1.1 Areas located either adjacent to or within proximity to major shopping centers, employment concentrations, and/or major transit centers.
- 4.U.1.2 Areas with access to a street designated as a major or minor arterial or collector. Siting should not result in significant traffic increase on local streets serving low density residential areas.
- 4.U.1.3 Areas free from known geologic hazards, flooding, or soils subject to slippage.
- 4.U.1.4 Areas adjacent to permanently protected open space or bodies of water as long as the above criteria apply.

4.U.2 In High Density Residential zoning districts, provide for reduced density on hazardous land or steep slopes as stipulated in Policy 4.R.4.3.

4.U.3 Encourage variations in density on different parts of a site and promote a variety of housing type, ownership, and design.

4.U.4 If the minimum residential density standard is achieved, allow office, retail, and commercial service uses with limits on floor area and standards to ensure compatibility with residential uses permitted in High Density Residential areas.

4.U.5 Allow existing commercial uses to remain or improve in High Density Residential areas as long as such uses are integrated with surrounding development.

4.U.6 Require all High Density Residential developments to provide a minimum of 25 percent of the total gross area to be landscaped, natural, and/or recreational areas. This landscaping requirement may be reduced during the design review process when pedestrian amenities or amenities that provide opportunities for passive or active recreation within the development are substituted for gross land area.

4.U.7 Encourage understructure parking.

4.V Special High Density Residential Policies

4.V.1 The following areas may be designated Special High Density Residential when all of the criteria are met:

- 4.V.1.1 Areas located either adjacent or close to employment concentrations in excess of 2,000 employees.
- 4.V.1.2 Areas within walking distance (approximately one-quarter mile) of a major transit station, and with good access to a major or minor arterial.
- 4.V.1.3 Areas where impact on adjacent neighborhoods will be minimal.
- 4.V.1.4 Areas free from known geologic hazards, flooding, or soils subject to slippage.

4.V.2 Encourage variations of density on different parts of a site through high-rise construction.

4.V.3 If the minimum residential density standard is achieved, allow office, retail, and commercial service uses with limits on floor area and standards to ensure compatibility with residential uses permitted in Special High Density Residential areas.

4.V.4 Allow existing commercial uses to remain or improve in Special High Density Residential areas as long as such uses are integrated with surrounding development.

4.V.5 Require all Special High Density Residential developments to provide a minimum of 40 percent of the total gross area to be landscaped, natural, and/or recreation areas. This landscaping requirement may be reduced during the design review process when pedestrian amenities or amenities that provide opportunities for active or passive recreation are substituted for gross land area.

4.V.6 Understructure or underground parking may be required.

COMMERCIAL

This section of Chapter 4 addresses the location of commercial land and the physical development of commercial zoning districts. Chapter 8, *Economics*, establishes policies for other aspects of commerce, such as commercial growth, economic diversity, and employment.

The Neighborhood Commercial zoning district is intended to allow for uses that provide goods and services to residential neighborhoods in locations easily accessible to these neighborhoods with minimal negative impacts. Neighborhood Commercial uses are compatible with residential areas and may be located in residential areas.

Community Commercial areas are designated for local shopping and services, including large grocery stores and other frequently patronized community services. Sale of a limited range of goods and services is allowed. Trade areas may encompass several neighborhoods. Uses are generally compatible with adjacent neighborhoods. Professional offices are allowed in this land use category.

Office Commercial areas are designated for a mix of offices; clean, light manufacturing; multifamily residential uses; and other compatible uses. Commercial service and retail uses are allowed on a limited basis.

Office Apartment areas are intended to provide for: a mix of office uses and compatible uses, such as residential uses; a high standard of architectural design and landscaping; and pedestrian improvements and pedestrian-oriented site and building design to support non-auto trips. Office Apartment areas are designated as mixed-use areas with an emphasis on office and multifamily residential uses. Compatible land uses may be allowed on a limited basis. This land use category includes uses generally compatible with development within designated Corridors.

General Commercial areas are designated for sale of a wide range of goods and services. Trade areas for establishments within this district may be extensive. This category includes uses which may be incompatible with residential areas. Outdoor storage and display are permitted. Manufacturing (excluding primary processing of raw materials, but not excluding manufacturing of edible or drinkable products retailed on the same site), professional offices, and multifamily residential uses are allowed in this land use category.

Retail Commercial areas are also designated for sale of a wide range of goods and services. Trade areas for establishments within this district may be very extensive. This category provides for intensive retail development, with limits on some land extensive uses, and also limits on outdoor storage. Professional offices and multifamily residential uses are allowed in this land use category.

COMMERCIAL GOALS

- Provide opportunities for a wide range of commercial activity ranging from convenience establishments close to neighborhoods to major regional shopping centers.
- Ensure that access, siting, and design of commercial developments are suitable for the type of commercial activity.
- Provide for the efficient utilization of commercial areas while protecting adjacent properties and surrounding neighborhoods.
- Ensure that the minimum operational requirements of development are provided on-site.
- Encourage attractive, compact shopping areas offering a wide range of goods and services.
- Ensure that traffic attracted to commercial development will not adversely affect neighborhoods.
- Limit expansion of commercial strips and encourage better design of existing strips to make them more functional and attractive.
- Allow mixed use.

4.W Neighborhood Commercial and All Urban Commercial Plan Designation Policies

4.W.1 Determine permitted uses through zoning. Zoning of Commercial areas shall be consistent with this Plan. Timing of zoning district application shall be in accord with the orderly development of the County.

4.W.2 Require all developments to be subject to a design review process.

4.W.3 Implement dimensional and development standards to address compatibility, function, and aesthetics.

4.X Neighborhood Commercial Policies

4.X.1 Implement a Neighborhood Commercial zoning district, which may be applied to sites with a land use plan designation of Low Density Residential, Medium Density Residential, Medium High Density Residential, or High Density Residential. The Neighborhood Commercial zoning district may be applied to sites within residential areas which either have an historical commitment to neighborhood commercial uses, or satisfy all the following criteria:

4.X.1.1 The conditional use criteria of the Zoning and Development Ordinance.

4.X.1.2 The new site, or expanded site, is necessary to provide convenience commercial uses which are not currently available within the service area. "Service area", for purposes of this policy, shall be either:

4.X.1.2.a The readily accessible area within 2,000 feet of the proposed site; or

4.X.1.2.b A defined area with a minimum of 500 existing or potential dwelling units which are closer to the proposed site, and have as good or better access to the proposed site, than to existing commercial sites considering distance and topographical barriers. Potential dwelling units shall be determined on the basis of existing zoning.

4.X.1.3 Each Neighborhood Commercial site should be a maximum of one acre in size. To allow clustering of convenience uses, additional area may be added up to a maximum total area of two acres.

4.X.1.4 Sites shall have direct access to a street of at least a collector classification and preferably an arterial.

4.X.1.5 Sites should not include more than one quadrant of an intersection. If more than one quadrant is approved, it shall be shown that undue traffic congestion will not result.

4.X.2 Cluster buildings in Neighborhood Commercial areas to prevent strip development and require buildings to be compatible in design and scale with the surrounding neighborhood.

4.X.3 Require that improvements to streets be made when necessary prior to or concurrent with development. Bicycle/pedestrian facilities shall be provided.

4.Y Community Commercial Policies

4.Y.1 The following areas may be designated Community Commercial when the first criterion is met or all of the other criteria are met:

4.Y.1.1 Areas having an historical commitment to commercial uses.

4.Y.1.2 Areas which are separated from similar commercial uses by a least one-half mile. Each Community Commercial area should not exceed 10 acres.

4.Y.1.3 Areas having direct access to a street of at least a minor arterial classification. Siting should not result in significant traffic increase on local streets serving residential areas.

4.Y.1.4 Areas which do not increase an existing commercial strip.

4.Y.2 Require improvements to streets and/or transit access when necessary prior to or concurrent with development.

4.Y.3 Require sidewalks and bicycle facilities.

4.Y.4 Limit and define access to facilitate efficient and safe traffic movements. Joint access and provisions for vehicular and pedestrian movement between developments shall be required when necessary.

4.Y.5 Require curbs, drainage controls, underground utilities, and street lighting.

4.Z Office Commercial Policies

4.Z.1 The following areas may be designated Office Commercial:

4.Z.1.1 Properties or areas currently developed with office commercial uses or committed to such uses, or which are adjacent to properties developed or committed to such uses, and are required in order to protect such uses from incompatible development.

4.Z.1.2 Properties offering high visibility from a major highway or arterial which will not draw traffic through single-family neighborhoods.

4.Z.1.3 Properties or areas which provide a buffer between residential and commercial or industrial properties.

4.Z.2 Allow, as primary uses, institutional and cultural facilities, high-density housing, and bed and breakfast establishments.

4.Z.3 Allow service commercial uses with limits on the percent of floor area to be occupied.

4.Z.4 Require improvements to streets and/or pedestrian and transit access when necessary prior to or concurrent with development.

4.Z.5 Limit and define access to facilitate efficient and safe traffic movements. Joint access provisions for vehicular and pedestrian movement between developments shall be required when uses are complementary or compatible.

4.Z.6 Provide for high-quality building and site design through the application of strict development standards.

4.Z.7 Protect and promote Office Commercial areas for developments which project a positive image.

4.Z.8 Require sidewalks, drainage controls, underground utilities, and street lighting.

4.AA Office Apartment Policies

4.AA.1 Areas may be designated Office Apartment when they meet Policy 4.AA.1.1 or 4.AA.1.2:

4.AA.1.1 The area to be considered by the land use application is located in a Corridor design type area as defined in the Urban Growth Concept section of this Chapter.

4.AA.1.2 The area to be considered by the land use application is located on a Corridor street and the majority of the area is within 150 feet of the Corridor street right-of-way, and meets the following criteria:

4.AA.1.2.a Access to the site will meet transportation safety standards and not cause an unacceptable level of service on the Corridor street; and

4.AA.1.2.b The site can be developed consistent with access management plans that have been prepared for the Corridor street, e.g., Map 10-SC-5, and consistent with access management requirements implemented by the Zoning and Development Ordinance and the County Roadway Standards.

4.AA.2 Allow multifamily or attached single-family dwelling uses in mixed-use buildings as part of developments that include office uses.

4.AA.3 Allow congregate housing facilities and nursing homes as limited uses.

4.AA.4 Allow compatible land uses as limited uses with limits on the amount of floor space used by the limited use.

4.AA.5 For each Office Apartment site area, a master plan for the entire contiguous site area designated Office Apartment shall be submitted for approval with any land use application. The master plan shall include a plan for consolidation of vehicular accesses for the entire site area. Master plan approval for Office Apartment site areas shall be required prior to allowing development or land divisions.

4.AA.6 Development shall comply with the following design requirements:

- 4.AA.6.1 Developments shall be designed at a pedestrian scale, with pedestrian amenities provided and pedestrian-oriented design used to support non-auto trips to the facility.
- 4.AA.6.2 Developments shall be designed in a series of low-rise buildings.
- 4.AA.6.3 Buildings shall be oriented towards streets.
- 4.AA.6.4 Development shall be integrated with the neighborhood using secondary accesses or, at minimum, pedestrian-only access to adjacent residential areas.
- 4.AA.6.5 Strict development standards shall be applied to provide for high-quality building and site design.
- 4.AA.6.6 Sidewalks, drainage controls, underground utilities, and street lighting shall be required.
- 4.AA.6.7 Improvements to streets and/or pedestrian and transit access shall be required when necessary, prior to, or concurrent with development.
- 4.AA.6.8 Access shall be limited and defined to facilitate efficient and safe traffic movements. Joint access provisions for vehicular and pedestrian movement between developments shall be required when uses are complementary or compatible.

4.BB General Commercial Policies

4.BB.1 The following areas may be designated General Commercial when either the first criterion is met or all of the other criteria are met:

- 4.BB.1.1 Areas having an historical commitment to commercial uses.
- 4.BB.1.2 Areas necessary to serve the shopping needs of County residents.
- 4.BB.1.3 Areas having access to a street of at least a major arterial classification or to a high capacity transit corridor. Siting should not result in significant traffic increase on local streets serving residential areas.
- 4.BB.1.4 Areas which do not increase an existing commercial strip or create new strips.
- 4.BB.1.5 Areas where adverse effects, such as traffic and noise, will have a minimal effect on adjacent neighborhoods or can be minimized through on-site improvements.
- 4.BB.1.6 Areas near employment centers.

4.BB.2 Require improvements to streets and/or transit access when necessary prior to or concurrent with development.

4.BB.3 Require sidewalks and bicycle facilities.

4.BB.4 Limit and define access to facilitate efficient and safe traffic movements. Joint access and provisions for vehicular and pedestrian movement between developments shall be required when necessary.

4.BB.5 Require curbs, drainage controls, underground utilities, and street lighting.

4.BB.6 Allow manufacturing (excluding primary processing of raw materials) and high-density housing within General Commercial areas.

4.CC Retail Commercial Policies

4.CC.1 Provide for retail commercial areas incorporating high standards and an attractive image, to meet regional shopping needs for a wide range of goods and services accessible by transit and automobile in areas such as the Clackamas Town Center.

4.CC.2 Provide for development oriented toward mass transit and pedestrian amenities.

4.CC.3 The following areas may be designated Retail Commercial when either the first criterion is met or all of the other criteria are met:

- 4.CC.3.1 Areas having an historical commitment to commercial uses.
- 4.CC.3.2 Areas necessary to serve the shopping needs of County residents.

4.CC.3.3 Areas having access to a street of at least a major arterial classification or to a high capacity transit corridor. Siting should not result in significant traffic increase on local streets serving residential areas.

4.CC.3.4 Areas which do not increase an existing commercial strip or create new strips.

4.CC.3.5 Areas where adverse effects, such as traffic and noise, will have a minimal effect on adjacent neighborhoods or can be minimized through on-site improvements.

4.CC.3.6 Areas near employment centers.

4.CC.4 Require improvements to streets and/or transit access when necessary prior to or concurrent with development.

4.CC.5 Require sidewalks and bicycle facilities.

4.CC.6 Limit and define access to facilitate efficient and safe traffic movements. Joint access and provisions for vehicular and pedestrian movement between developments shall be required when necessary.

4.CC.7 Require curbs, drainage controls, underground utilities, and street lighting.

4.CC.8 Allow high-density housing within Retail Commercial areas.

INDUSTRIAL

This section of the Land Use Chapter addresses the location of industrial land and the physical development of industrial districts. Other aspects of industry such as industrial growth, diversity and employment are addressed in Chapter 8, *Economics*.

Business Park, Light Industrial and General Industrial areas are designated to accommodate manufacturing, processing, storage, wholesale distribution, and research facilities, as well as other compatible uses. Primary uses in Business Park areas generate no outdoor processing, storage, or display. Primary uses in Light Industrial areas generate minimal outdoor storage and no outdoor processing or display. General Industrial areas are intended to allow outdoor processing, storage, and display, with design and operational criteria to mitigate impacts on adjacent uses. In all industrial areas, development standards, including site planning, building type, truck and traffic circulation, landscaping, buffering, and screening shall be satisfied to ensure compatibility with, and an attractive appearance from, adjacent land uses.

INDUSTRIAL GOALS

- Provide areas for general industry that meet the locational requirements of prospective industries and protect designated industrial areas from encroachment of incompatible uses.
- Protect Industrial areas from the transportation impacts of residential and commercial development.
- Protect areas adjacent to industrial areas from potential blighting effects of noise, dust, odor or high truck traffic volumes.
- Conserve the supply of industrial land.

4.DD Business Park Policies

4.DD.1 Areas may be designated Business Park when all of the following criteria are met:

4.DD.1.1 Areas with good access to an existing or planned four-lane major arterial, expressway, or better road.

4.DD.1.2 Areas adjacent to a street of at least a collector status.

4.DD.1.3 Areas with significant natural or man-made amenities, as long as other criteria apply.

4.DD.2 The Business Park zoning district implements this designation.

4.DD.3 Require landscaping and strictly limit outdoor processing, outdoor storage and outdoor display, to enhance the appearance on site and from off site.

4.DD.4 Require all Business Park uses to be subject to development standards intended to maintain high aesthetics in the area.

4.DD.5 Require curbs, sidewalks, drainage controls, underground utilities and street lighting.

4.EE Light Industrial Policies

4.EE.1 The following areas may be designated Light Industrial when either the first or all of the other criteria are met:

- 4.EE.1.1 Areas having an historical commitment to industrial uses.
- 4.EE.1.2 Areas with excellent access to the regional transportation network.
- 4.EE.1.3 Areas with access to a street of at least a minor arterial classification.
- 4.EE.1.4 Areas with sites large enough for several industries to cooperatively design an industrial park.

4.EE.2 The Light Industrial zoning district implements this designation.

4.EE.3 Determine permitted uses through zoning. Zoning of Light Industrial areas shall be consistent with this Plan and the stated purpose of compatible zoning districts. Timing of zoning district application shall be in accord with the orderly development of the County.

4.EE.4 Limit land uses other than industrial or industrially related uses but balance these limits with the need to provide locations for certain governmental, recreational or social service uses that may prove challenging to locate elsewhere.

4.EE.5 Clearly identify entrances and exits to facilitate efficient traffic movement. The internal circulation system should have broad lanes and turnarounds large enough to accommodate truck traffic. Access streets should include curbs and gutters.

4.EE.6 Require landscaping and limit outdoor processing, outdoor storage and outdoor display to enhance the appearance on site and from off site.

4.EE.7 Provide for pedestrian and bicycle access to adjacent transit corridors and, where applicable, to nearby residential areas. Require sidewalks when appropriate.

4.EE.8 Require storm drainage control measures as an integral part of all industrial area development to compensate for large roofs and paved parking areas within industrial areas.

4.EE.9 Require underground utilities and street lighting.

4.EE.10 Require all Light Industrial developments to be subject to the design review process.

4.EE.11 Encourage coordinated utility and traffic improvements in industrial land divisions.

4.FF General Industrial Policies

4.FF.1 The following areas may be designated General Industrial when either the first or all of the following criteria are met:

- 4.FF.1.1 Areas having an historical commitment to industrial uses.
- 4.FF.1.2 Areas with availability of rail service, access to navigable water, known mineral deposits or freeway access.
- 4.FF.1.3 Areas where buffering land uses or physical features provide protection for lower intensity land uses, particularly Low Density Residential areas.
- 4.FF.1.4 Areas having access to a street of at least a major arterial classification. Sites within the broader district may be accessed by roads of a lower classification. Designation shall not result in significant traffic increase on streets of less than a collector status serving residential areas.
- 4.FF.1.5 Areas with sites large enough to accommodate expansion of individual establishments or serve several establishments within one district.

4.FF.2 The General Industrial zoning district implements this designation.

4.FF.3 Determine permitted uses through zoning. Zoning of General Industrial areas shall be consistent with this Plan and the stated purpose of compatible zoning districts. Timing of zoning district application shall be in accord with the orderly development of the County.

4.FF.4 Limit land uses other than industrial or industrially related uses.

4.FF.5 Clearly identify entrances and exits to facilitate efficient traffic movement. The internal circulation system should have broad lanes and turnarounds large enough to accommodate truck traffic. Access streets should include curbs and gutters.

4.FF.6 Require landscaping to enhance the appearance on site and from off site.

4.FF.7 Provide for pedestrian and bicycle access to adjacent transit corridors and, where applicable, to nearby residential areas.

4.FF.8 Require storm drainage control measures to be an integral part of the site design and improvements if site development includes large roof and paved parking areas.

4.FF.9 Require sidewalks, when appropriate.

4.FF.10 Require curbs, underground utilities and street lighting.

4.FF.11 Require all General Industrial developments to be subject to the design review process.

OPEN SPACE AND FLOODPLAINS

The protection of open space resources is an important objective, but the designation of an area as Open Space does not mean development is prohibited. Development can occur within the framework of preservation of essential open space elements, and the functioning of natural systems. Open space preservation also need not mean public ownership or public access. Many alternatives and methods of open space protection are available. An open space network must be established through early acquisition, where appropriate, or the imposition of clear, consistent controls on land containing significant natural resources or hazards.

Open space often coincides with areas subject to natural hazards, including the undeveloped 100-year floodplain. Floodplains consist of areas which are periodically inundated from stream flows, causing damage to property and threatening the lives of residents. The 100-year floodplain has an average flood frequency of at least once every 100 years, or a one-percent probability of flooding in any particular year. A distinct set of policies has been formulated to deal with the special problems associated with flood hazard areas.

OPEN SPACE AND FLOODPLAINS GOALS

- Protect the significant natural features and systems of the County for the enjoyment of all residents and visitors.
- Protect a network of open space to balance development within the urban area and provide needed contrast in the urban landscape.
- Provide opportunities for needed recreation facilities.
- Protect the lives and property of County residents from natural hazards.

4.GG Open Space Policies

4.GG.1 Designate as Open Space areas of land or water substantially free of buildings or other significant structures which also are one of the following:

4.GG.1.1 Natural resource areas with recognized unique or significant value, primarily those associated with stream/river corridors and hillsides.

4.GG.1.2 Areas with some constraint or degree of hazard for development, such as landslides, steep slope, or flooding.

4.GG.1.3 Existing parks and other committed open areas, such as golf courses, playgrounds, and cemeteries.

4.GG.2 Establish three categories of Open Space within the northwest urban area: Resource Protection, Major Hazards, and Public and Community Use.

4.GG.2.1 The purpose of Resource Protection Open Space is to protect natural resources and the open character of designated areas while allowing development according to the Plan. Resource Protection Open Space is land in one the following categories:

4.GG.2.1.a The flood fringe of 100-year floodplains

4.GG.2.1.b Areas within 100 feet of mean low water on all major rivers and 50 feet of any other permanent stream
4.GG.2.1.c Land within the Willamette River Greenway
4.GG.2.1.d Wetland areas
4.GG.2.1.e Distinctive urban forests
4.GG.2.1.f Hillsides of more than 20 percent slope
4.GG.2.1.g Areas of high visual sensitivity
4.GG.2.1.h Other distinctive or unique natural areas (see Natural Resources Chapter)
4.GG.2.1.i Undeveloped public land with potential for recreation.

4.GG.2.2 The purpose of Major Hazards Open Space is to protect the public from natural hazards. Major Hazards Open Space is land in any of the following categories:
4.GG.2.2.a The floodway of 100-year floodplains
4.GG.2.2.b Areas of known landslide hazard
4.GG.2.2.c Areas of severe erosion, unstable soil, or earth movement

4.GG.2.3 The purpose of Public and Community Use Open Space is to preserve community open space and its associated benefits, such as recreation. Public and Community Use Open Space is land in any of the following categories:
4.GG.2.3.a Parks and other recreation facilities
4.GG.2.3.b Cemeteries
4.GG.2.3.c Other publicly or commonly owned lands which function as open space

4.GG.3 Require that all residential developments over one acre in size and having 10 percent or more of designated Open Space, be Planned Unit Developments or flexible lot land divisions.
4.GG.3.1. Protect open space features by clustering development away from the more sensitive areas within a site, assembling adjacent parcels into a larger development, transferring density within the development, and reviewing design, landscaping, color and materials for compatibility with the site and natural features.
4.GG.3.2. Development on land which includes wetlands shall be designed to (1) maintain water quality and the natural function of wetlands, (2) reduce and absorb flood runoff and stabilize water flow, and (2) protect wildlife habitats.
4.GG.3.3. Apply to Major Hazard Open Space areas a Low Density Residential zone consistent with the area for the purpose of computing density transfer.

4.GG.4 Require that industrial and commercial development not disturb land designated as Open Space, unless unavoidable for the reasonable development of the site. Develop criteria for land coverage and development intensity to guide site planning and reduce impacts on open space features. Dedication of land for purposes of developing the urban parks and trail program shall be required as appropriate.

4.GG.5 Prepare, in a timely manner, a site analysis for any development in the northwest urban area affecting land designated as Open Space. In addition, the County may prepare an analysis for development in an area of high visual sensitivity for any development having significant impact upon the County.

4.GG.5.1 The County's analysis will supplement the applicant's environmental assessment and include the following:

4.GG.5.1.a An evaluation of the proposed development's impact on the relevant natural systems or features of the open space network.

4.GG.5.1.b Identification of applicable provisions or criteria of this Plan.

4.GG.5.1.c Alternatives to the proposal which might better achieve the optimum siting or design layout and protect the site's open space values.

4.GG.5.1.d An evaluation of the potential for public acquisition or dedication as part of the urban park or trail system.

4.GG.6 Prohibit development of areas designated Major Hazard Open Space except as provided in Policy 3.L.2.1 of the Natural Resources and Energy chapter, Natural Hazards Section, and Policy 4.R.4.3.b.

4.GG.7 Implement Public and Community Use Open Space through an Open Space zone. Public recreation or other compatible private or public uses and structures should be allowed, including golf pro shops, school play equipment, or park restrooms.

4.GG.8 Permit public acquisition of land intended for Public and Community Use Open Space purposes in all land use categories and amend the Land Use Plan Map accordingly.

4.GG.9 Use the best available data to make decisions on the extent to which a site may be developed in areas designated Open Space.

4.GG.10 Conversion of land designated Public and Community Use open space may occur when an alternate use proposal is accompanied by suitable retention or replacement of open space, developed recreation or other suitable compensating actions.

4.HH Floodplains Policies

4.HH.1. Designate as Floodplains the areas within 100-year floodplains. Refine Floodplain designations upon completion of detailed floodplain information including floodway and flood fringe.

4.HH.2. Encourage floodplains to be retained as open space in order to protect their ability to convey and store water. The use of Floodplains shall conform to the requirements of the Floodplain Management Zoning District.

4.HH.2.1. Restrict development and/or fill in the flood fringe to insure that danger to life and property will not result. The natural flow of water shall not be restricted, nor shall development which would significantly increase flood elevations be permitted.

4.HH.2.2. Prohibit development and/or fill in the floodway due to risk to life and property, flow diversion and increased flood elevations. Possible exceptions to this policy are commercial or industrial activities of a water-dependent nature approved by the U.S. Army Corps of Engineers and/or Division of State Lands.

4.HH.2.3. Allow riprap or other streambank protection measures only when they comply with river management policies in the Natural Resources and Energy chapter.

4.HH.2.4. Prohibit storage of toxic or hazardous materials in the floodplain. Materials used for construction which may be inundated shall be of such strength and quality that they will not deteriorate, and shall be able to withstand water pressure or the high velocity of flowing water.

4.HH.2.5. Require structures in the floodplain to be secured to prevent flotation. Septic tank lids shall be sealed to prevent loss of contents during flooding.

4.HH.2.6. Require the lowest floor of buildings designed for human occupancy to be at least one foot above the 100-year flood elevation.

UNINCORPORATED COMMUNITIES

Unincorporated Communities, as defined in Chapter 660, Division 22 of the Oregon Administrative Rules, are settlements located outside urban growth boundaries in which concentrated residential development is combined with limited commercial, industrial, or public uses. Unincorporated Communities may have limited public facilities and services.

There are four types of Unincorporated Communities:

Rural Community: an Unincorporated Community consisting primarily of residential uses but also including a minimum of two commercial, industrial, or public land uses. Redland, Beavercreek, Colton, Boring, Wildwood/Timberline, and Zigzag Village are Rural Communities.

Rural Service Center: an Unincorporated Community consisting primarily of commercial and industrial uses providing goods and services to the surrounding rural area or persons traveling through. Mulino and Rhododendron are Rural Service Centers.

Resort Community: an Unincorporated Community that was established primarily for, and continues to be used primarily for, recreation or resort purposes. A Resort Community includes residential and commercial uses as well as overnight lodging. Wemme/Welches is a Resort Community.

Urban Unincorporated Community: an Unincorporated Community that includes at least 150 permanent dwelling units and a mixture of other land uses, including three or more commercial, industrial, or public land uses. An Urban Unincorporated Community includes areas served by community water and sewer. Government Camp is an Urban Unincorporated Community.

UNINCORPORATED COMMUNITY GOALS

- Provide for commercial and industrial development necessary to serve surrounding Agriculture, Forest, and Rural areas.
- Provide residential areas supportive of the commercial and industrial uses.
- Recognize and protect communities and their historic character.
- Provide a balance of residential, commercial, and industrial uses conducive to a healthy economy for the community.
- Provide employment opportunities for residents of the Unincorporated Community and surrounding non-urban areas.

4.II General Unincorporated Community Policies

4.II.1 The following areas may be designated Unincorporated Communities:

4.II.1.1 Land which has been acknowledged as a Statewide Planning Goal 3 or 4 exception area and historically considered to be part of the community provided the land only includes existing, contiguous concentrations of:

4.II.1.1.a commercial, industrial, or public uses; and/or

4.II.1.1.b dwelling units and associated residential lots at a greater density than exception lands outside Unincorporated Communities;

4.II.1.2 Lands planned and zoned for farm or forest use provided such land:

4.II.1.2.a is contiguous to Statewide Planning Goal 3 or 4 exception lands included in the community boundary;

4.II.1.2.b was occupied as of October 28, 1994 by one or more of the following uses: church, cemetery, school, park, playground, community center, fire station, museum, golf course, or utility facility;

4.II.1.2.c includes only that portion of the lot or parcel that is occupied by the use(s) above; and

4.II.1.2.d remains planned and zoned for farm or forest use.

4.II.2 Prohibit the expansion of Unincorporated Communities into areas of natural hazards.

4.II.3 Guide management of land use patterns in Unincorporated Communities by policies in this Plan and by those in community plans which are prepared as part of the County's continuing planning program as described in Chapter 11, *The Planning Process*.

4.II.4 Require development to be contingent upon the ability to provide public services (e.g., school, water, fire, telephone).

4.II.5 Develop roads in a manner and to a level compatible with Unincorporated Communities.

4.II.6 Residential uses should be allocated in a manner and to a level that supports the commercial and industrial uses and provides housing opportunities to meet needs while maintaining compatibility with adjacent land use designations.

4.II.7 Limit industrial uses to:

4.II.7.1. Uses authorized under Statewide Planning Goals 3 and 4;

4.II.7.2. Expansion of a use existing on December 5, 1994;

4.II.7.3. Small-scale, low- impact industrial uses, as defined in Oregon Administrative Rules (OAR) 660-022-0030(11);

4.II.7.4. Uses that require proximity to a rural resource, as defined in OAR 660-004-0022(3)(a);

4.II.7.5. New uses that will not exceed the capacity of water and sewer service available to the site on December 5, 1994, or, if such services are not available to the site, the capacity of the site itself to provide water and

absorb sewage;

4.II.7.6. New uses more intensive than those allowed under Policies 4.JJ.7.1 through 7.JJ.7.5, provided an analysis set forth in this Plan demonstrates, and land use regulations ensure:

4.II.7.6.a That such uses are necessary to provide employment that does not exceed the total projected work force within the community and the surrounding rural area;

4.II.7.6.b That such uses would not rely upon a work force employed by uses within urban growth boundaries; and

4.II.7.6.c That the determination of the work force of the community and surrounding rural area considers the total industrial and commercial employment in the community and is coordinated with employment projections for nearby urban growth boundaries; and

4.II.7.7. Industrial uses, including accessory uses subordinate to industrial development, sited on an abandoned or diminished industrial mill site, as defined in the Clackamas County Zoning and Development Ordinance, provided the uses will be located only on the portion of the mill site that is zoned for industrial uses.

4.II.8 Limit commercial uses to:

4.II.8.1. Uses authorized under Statewide Planning Goals 3 and 4;

4.II.8.2. Small-scale, low-impact uses as defined in OAR 660-022-0030(10); and

4.II.8.3. Uses intended to serve the community and surrounding rural area or the travel needs of people passing through the area.

4.II.9 Encourage commercial and industrial uses to locate in Unincorporated Communities to provide employment opportunities to residents of the communities and the surrounding non-urban area.

4.II.10 Require design review for commercial and industrial development.

4.II.11 Public facilities in Unincorporated Communities should be expanded or developed only when consistent with maintaining the rural character of the community.

4.II.12 Increased water service to an area shall not be used in and of itself to justify reduced lot sizes.

4.II.13 Sew~~er~~age systems shall be contained within ~~urban growth boundaries or~~ Unincorporated Community boundaries, and shall not be allowed to expand to land outside of such boundaries, except as provided by the Oregon Revised Statutes for abandoned or diminished mill sites or otherwise consistent with Policy 7.A.9.

4.JJ Unincorporated Community Residential Policies

4.JJ.1 Apply a plan designation of Unincorporated Community Residential to residential areas in Unincorporated Communities, except as modified by Chapter 10.

4.JJ.2 Implement the Unincorporated Community Residential plan designation through application of the Rural Area Residential 1-Acre (RA-1) zoning district.

4.JJ.3 Implement dimensional and development standards to address compatibility, function, and aesthetics.

RURAL COMMERCIAL

Rural Commercial lands are those that are outside urban growth boundaries and that are suitable based on specific factors for commercial development on a rural scale.

RURAL COMMERCIAL GOALS

- To provide for the continuation of commercial uses in non-urban areas having an historical commitment to such uses.
- To implement the goals and policies of this Plan for commercial development in Unincorporated Communities.

4.KK Rural Commercial Policies

4.KK.1 The Rural Commercial plan designation may be applied in non-urban areas to provide for commercial uses that are necessary for, and on a scale commensurate with, rural development.

4.KK.2 The Rural Commercial (RC) zoning district implements the Rural Commercial plan designation.

4.KK.3 Areas may be designated Rural Commercial when either the first or both of the other criteria are met:

- 4.KK.3.1 Areas shall have an historical commitment to commercial uses; or
- 4.KK.3.2 Areas shall be located within an Unincorporated Community; and
- 4.KK.3.3 The site shall have direct access to a road of at least a collector classification.

4.KK.4 Implement dimensional and development standards to address compatibility, function, and aesthetics.

RURAL INDUSTRIAL

RURAL INDUSTRIAL GOALS

- To provide for the continuation of industrial uses in non-urban areas having an historical commitment to such uses.
- To provide for the industrial redevelopment of abandoned or diminished mill sites.
- To implement the goals and policies of this Plan for industrial development in Unincorporated Communities.

4.LL Rural Industrial Policies

4.LL.1 The Rural Industrial plan designation may be applied in non-urban areas to provide for industrial uses that are not labor-intensive and are consistent with rural character, rural development, and rural facilities and services.

4.LL.2 The Rural Industrial (RI) zoning district implements the Rural Industrial plan designation.

4.LL.3 Areas may be designated Rural Industrial when the first, the second, or both of the other criteria are met:

- 4.LL.3.1 Areas shall have an historical commitment to industrial uses; or
- 4.LL.3.2 The site shall be an abandoned or diminished mill site, as defined in the Zoning and Development Ordinance, provided that only the portion of the site that was improved for the processing or manufacturing of wood products may be designated Rural Industrial; or
- 4.LL.3.3 Areas shall be located within an Unincorporated Community; and
- 4.LL.3.4 The site shall have direct access to a road of at least an arterial classification.

RURAL

Rural lands are exception lands, as defined in Oregon Administrative Rules 660-004-0005(1), that are outside urban growth boundaries and Unincorporated Communities and are suitable for sparse settlement, such as small farms, woodlots, or acreage home sites. They lack public facilities or have limited facilities and are not suitable, necessary, or intended for urban, agricultural, or forest use.

RURAL GOALS

- To provide a buffer between urban and agricultural or forest uses.
- To perpetuate the rural atmosphere while maintaining and improving the quality of air, water, and land resources.
- To conserve open space and protect wildlife habitat.

4.MM Rural Policies

4.MM.1 Areas may be designated Rural if they are presently developed, built upon, or otherwise committed to sparse settlement or small farms with limited, if any, public services available.

4.MM.2 Designation of additional Rural lands shall be based on findings that shall include, but not be limited to:

- 4.MM.2.1 Reasons why additional Rural land is needed or should be provided;
- 4.MM.2.2 An evaluation of alternative areas in the County that should be designated Rural and a statement of why the chosen alternative is more suitable;
- 4.MM.2.3 An evaluation of the long-term environmental, economic, social, and energy consequences to the locality, region, or state of designating the area Rural; and
- 4.MM.2.4 Reasons why designating the area Rural will be compatible with other adjacent uses;

4.MM.3 Areas impacted by major transportation corridors, adjacent to urban growth boundaries or areas designated Rural, and for which public services are committed or planned shall be given priority in designating additional Rural areas.

4.MM.4 Residential lot sizes shall be based upon:

- 4.MM.4.1 Parcelization;
- 4.MM.4.2 Level of existing development;
- 4.MM.4.3 Topography;
- 4.MM.4.4 Soil conditions;
- 4.MM.4.5 Compatibility with the types and levels of available public facilities;
- 4.MM.4.6 Proximity to Unincorporated Communities or an incorporated city; and
- 4.MM.4.7 Capacity and level of service of the road network

4.MM.5 Existing large lots should be reduced to meet future rural housing needs prior to expanding the areas designated as Rural.

4.MM.6 Areas with marginal or unsuitable soils for agricultural or forest use shall be given a higher priority for conversion to rural development than areas with more suitable soils.

4.MM.7 Public facilities should be expanded or developed only when consistent with maintaining the rural character of the area.

4.MM.8 Increased water service to an area shall not be used in and of itself to justify reduced lot sizes.

4.MM.9 The County shall encourage grouping of dwelling units with lot sizes less than the minimum allowed by the zoning district when such development is compatible with the policies in this Plan and the overall density of the zoning district.

4.MM.10 Lawfully established nonconforming structures and uses that are destroyed by fire, other casualty, or natural disaster shall be allowed to reconstruct, as provided by the Zoning and Development Ordinance.

4.MM.11 The Rural Area Residential 2-Acre (RA-2), Rural Residential Farm/Forest 5-Acre (RRFF-5), and Farm/Forest 10-Acre (FF-10) zoning districts implement the goals and policies of the Rural plan designation. These zoning districts shall be applied in Rural areas as follows:

- 4.MM.11.1 The RA-2 zoning district shall be applied when all the following criteria are met:
  - 4.MM.11.1.a Parcels are generally two acres or smaller.
  - 4.MM.11.1.b The area is significantly affected by development.
  - 4.MM.11.1.c There are no natural hazards, and the topography and soil conditions are well suited for the location of homes.
  - 4.MM.11.1.d A public or private community water system is available.
  - 4.MM.11.1.e Areas are in proximity or adjacent to an Unincorporated Community or incorporated city.
  - 4.MM.11.1.f In areas adjacent to urban growth boundaries, RA-2 zoning shall be limited to those areas in which virtually all existing lots are two acres or less.
- 4.MM.11.2 The RRFF-5 zoning district shall be applied when all the following criteria are met:
  - 4.MM.11.2.a Parcels are generally five acres.
  - 4.MM.11.2.b The area is affected by development.
  - 4.MM.11.2.c There are no serious natural hazards, and the topography and soils are suitable for development.

4.MM.11.2.d Areas are easily accessible to an Unincorporated Community or incorporated city.

4.MM.11.3 The FF-10 zoning district shall be applied when one or more of the following criteria are met:

4.MM.11.3.a Parcels are generally ten acres.

4.MM.11.3.b The area is developed with a mixture of uses not consistent with extensive commercial agriculture or forestry uses.

4.MM.11.3.c Access to an Unincorporated Community or an incorporated city is generally poor.

4.MM.12 Implement dimensional and development standards to address compatibility, function, and aesthetics.

AGRICULTURE

Agriculture areas are those of predominantly Class I through IV soils as identified by the United States Natural Resources Conservation Service or as identified in more detailed data; and other lands that are suitable for farm use due to soil fertility, suitability for grazing, climatic conditions, existing or future potential for irrigation, land use patterns, or accepted farming practices or are necessary to permit farming practices to be undertaken on adjacent or nearby lands.

AGRICULTURE GOALS

- Preserve agricultural use of agricultural land.
- Protect agricultural land from conflicting uses, high taxation and the cost of public facilities unnecessary for agriculture.
- Maintain the agricultural economic base of the County and increase the County's share of the agricultural market.
- Increase agricultural 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 and open space.
- Protect wildlife habitats.

4.NN Agriculture Policies

4.NN.1 The following areas shall be designated Agriculture:

- 4.NN.1.1 Areas with predominantly Class I through IV agricultural soil as defined by the United States Natural Resources Conservation Service or identified as agricultural soil by more detailed data;
- 4.NN.1.2 Areas generally in parcels of 20 acres or larger;
- 4.NN.1.3 Areas primarily in agricultural use;
- 4.NN.1.4 Areas necessary to permit farming practices on adjacent lands or necessary to prevent conflicts with the continuation of agricultural uses;
- 4.NN.1.5 Other areas in soil classes different from NRCS I through IV when the land is suitable for farm use as defined in Oregon Revised Statutes 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 farm practices.

4.NN.2 Agriculturally related industries shall be encouraged.

4.NN.3 Land uses that conflict with agricultural uses shall not be allowed.

4.NN.4 New sewer facilities shall not be allowed in Agricultural areas, except when consistent with Policy 7.A.11 of Chapter 7, *Public Facilities and Services*.

4.NN.5 Roads shall be developed in a manner and to a level compatible with maintaining Agricultural areas.

4.NN.6 Education and dissemination of information on agricultural crops, methods, and technology; special tax assessment programs; and new land-use techniques should be encouraged.

4.NN.7 Lawfully established nonconforming structures and uses that are destroyed by fire, other casualty, or natural disaster shall be allowed to reconstruct, as provided by the Zoning and Development Ordinance.

4.NN.8 The Exclusive Farm Use (EFU) zoning district implements the goals and policies of the Agriculture plan designation and should be applied in Agriculture areas.

4.NN.9 Forest zoning districts which require a minimum lot size of 80 acres or larger may be applied in Agriculture areas provided the primary uses are forest and forest-related and that permitted uses will not conflict with agricultural uses.

4.NN.10 Except on lands within urban growth boundaries or as provided by the Oregon Revised Statutes for abandoned or diminished mill sites, exceptions to Statewide Planning Goals 3 and 4 shall be required for a plan amendment from the Agriculture designation to any designation other than Forest.

FOREST

Forest areas are composed of existing and potential forestlands that are suitable for commercial forest uses. Also included are other forested lands needed for watershed protection, wildlife and fish habitat, and recreation, lands where extreme conditions of climate, soil, and topography require maintenance of vegetative cover, and forested lands in urban and agricultural areas which provide urban buffers, wind breaks, wildlife habitat, scenic corridors, and recreational use.

FOREST GOALS

- To conserve forestlands.
- To protect the state's forest economy by making possible economically efficient forest practices that assure the continuous growing and harvesting of timber as the leading use on forestland.
- To conserve, protect, and enhance watersheds, wildlife and fisheries resources, agriculture, and recreational opportunities that are compatible with the primary intent of the plan designation.
- To minimize wildfire hazards and risks.
- To enhance and protect other environmentally sensitive areas.

4.OO Forest Policies

4.OO.1 The following areas shall be designated Forest:

- 4.OO.1.1 Lands suitable for forest use;
- 4.OO.1.2 Lands predominantly capable of generating at least 85 cubic feet of timber per acre per year;
- 4.OO.1.3 Areas generally in forest uses;
- 4.OO.1.4 Areas which are environmentally sensitive or otherwise require protection (watersheds, areas subject to erosion, landslides, etc.) should be designated Forest;
- 4.OO.1.5 Forested areas which buffer more intense land uses from areas of less intense use may be designated Forest.

4.OO.2 Encourage forest-related industries.

4.OO.3 Prohibit land uses that conflict with forest uses.

4.OO.4 Housing should be limited in Forest areas because it is generally incompatible with forest uses due to fire danger and accepted forest practices such as herbicide spraying and slash burning.

4.OO.5 Prohibit commercial and industrial development in Forest areas.

4.OO.6 Prohibit new sewer facilities in Forest areas , except when consistent with Policy 7.A.11 of Chapter 7, *Public Facilities and Services*.

4.OO.7 Encourage use of a Homestead provision that allows retention of a homesite with an existing dwelling and transfer of the remaining property as long as the transfer is compatible with Forest policies.

4.OO.8 Lawfully established nonconforming structures and uses that are destroyed by fire, other casualty, or natural disaster shall be allowed to reconstruct, as provided by the Zoning and Development Ordinance.

4.OO.9 Apply zoning districts consistent with state, regional, and County goals and United States Forest Service land allocation and management plans to the Mt. Hood and Willamette National Forests.

4.OO.10 This Plan and implementing ordinance provisions shall not conflict with the Oregon Forest Practices Act.

4.OO.11 The Timber (TBR) and Ag/Forest (AG/F) zoning districts implement the goals and policies of the Forest plan designation. The TBR zoning district shall be applied to areas predominantly in forest use. The AG/F zoning district shall be applied to areas having such a mixture of agricultural and forest uses that neither Statewide Planning Goal 3 nor Goal 4 applies alone.

4.OO.12 Except on lands within urban growth boundaries or as provided by the Oregon Revised Statutes for abandoned or diminished mill sites, exceptions to Statewide Planning Goals 3 and 4 shall be required for a plan amendment from the Forest designation to any designation other than Agriculture.

Chapter 7: PUBLIC FACILITIES AND SERVICES

The provision of public facilities and services is a key ingredient in the development of Clackamas County and the implementation of this Plan. All development requires a certain level of public facilities and services. The objective of this Plan element is to provide the level of public facilities and services to support the land use designations in this Plan, and to provide those facilities and services at the proper time to serve development in the most cost effective way.

This chapter addresses, in part, the requirements of the Land Conservation and Development Commission's (LCDC's) Goal 11, also known as Oregon Administrative Rule 660, Division 11. It requires planning for sanitary sewage treatment, water, storm drainage and transportation. Adequate levels of those public facilities and services must be available before urban levels of development can be built in a manner consistent with the land use designations in this Plan. (Transportation facilities and services are addressed in Chapter 5 of this Comprehensive Plan). Further detail, particularly with regard to necessary facility improvements and their costs, can be found in the County's Public Facilities Plan.

Failure to plan for public facilities properly could result in unnecessary financial costs, if the services are provided in excess of needed levels. Unnecessary environmental degradation and ultimately more financial cost could result if services are not properly designed to accommodate the anticipated level of development.

The public facilities and services policies of this Plan provide a logical framework for the timely, orderly and efficient arrangement of facilities and services required to meet the population and economic needs of this County. The following policies will be used to guide and coordinate the provision of future facilities and services with development activities in Clackamas County. Other policies that may pertain to public facilities and services are included in the Natural Resources, Transportation, and Land Use Chapters of this Plan.

ISSUES

Several critical issues stand out among the others when planning for the provision of new public facilities and services. These issues are:

- The type of services provided,
- The appropriate level of each service,
- The arrangement or pattern of services,
- The timing of the necessary services,
- Who should provide the services,
- Who should benefit from and pay for the necessary services,

- The differential cost of providing services in different geographic areas.

SUMMARY OF FINDINGS AND CONCLUSIONS

Sanitary Sewage Treatment

- Twenty different management agencies either collect, treat, plan or regulate existing sew~~er~~age facilities serving the urban portions of Clackamas County.
- The County's approved Sewerage Facilities Master Plan is the guiding planning document for the development and operation of wastewater facilities in Clackamas County.
- Improving sew~~er~~age facilities is highly capital intensive. Current rates and charges, including either user rates or system development charges, will likely need to be increased over the next twenty-year period to fund major capital improvement programs.
- All future sanitary facilities must comply with federal, state and regional water quality goals and regulations.
- Provision of sanitary facilities must be coordinated with other essential facilities and services.

Water

- At present, a sufficient supply and source of drinking water exists to serve the projected urban population needs of Clackamas County.
- The County Health Department has identified 232 public water districts serving four or more households.
- The primary sources of water are Bull Run, Clackamas River, Molalla River and groundwater. Wilsonville has recently decided to use the Willamette River as a municipal water source.
- Although the Clackamas River is an excellent source of water, there is a potential problem of "over-allocating" individual water rights relative to the available water supply.
- Many purveyors will need to expand their in-system storage capacity to meet 20-year demands. This storage is needed to meet short-term emergency fire demands in excess of transmission facility capacity and peak demand.
- Many of the smaller private purveyors have inadequate treatment systems and little storage capacity to meet 20-year demands.
- Information concerning groundwater is incomplete. At present data are incomplete on quantities of groundwater withdrawn by private users. (See Natural Resources and Energy chapter, Groundwater Section.)

- The Regional Water Providers Consortium provides a forum for water purveyors serving the urban areas of the County to discuss regional water issues, including revision of service areas. Final decisions regarding actual services will continue to be made by local service providers.

Storm Drainage

- Storm drainage basin planning is substantially complete for the urban areas of Clackamas County using a 20-year planning period, and that planning is in process for Urban Reserves.
- The County currently lacks a comprehensive stormwater system and lacks mechanisms for upgrading inadequate sections for the urban areas. The service providers are working on planning and building regional facilities for water quality and quantity.
- The County has stormwater improvement requirements that include on-site detention and provide options for regional detention and the service providers are working on water quality requirements.
- The Endangered Species Act and the listing of Steelhead and Salmon as threatened species are critical considerations in the formulation of surface water management policy.
- Implementation of any storm drainage program requires a major financial investment. Federal and state revenue sources are insufficient to support major storm drainage improvements. Local methods of finance will be more heavily relied upon to develop storm drainage improvements.

Solid Waste

- Disposal of solid waste materials is a regional problem necessitating a regional solution. Metro is the regional planning authority charged with the responsibility of overall planning, siting and management of solid waste disposal in the metropolitan area. Metro is also responsible for state-mandated recycling and recovery in the tri-county region.
- Metro has made arrangements with a private firm to construct a new landfill in Arlington, Oregon to accept the region's solid wastes.
- Solid Waste facilities in Clackamas County are the Metro South Transfer Station, Sandy Transfer Station and Mt. Hood Refuse Center, and the Canby Transfer and Recycling Station. The only mixed waste processing center in Clackamas County is KB Recycling, although other centers in adjacent Counties serve Clackamas County as well. Several yard debris processors and composting facilities are located in Clackamas County.

Fire and Emergency Medical

- The level of fire safety in any community depends upon several factors, including: water supply and pressure, fire station staffing, condition of transportation routes, travel times, distance between vegetation and buildings, fire agency capabilities, and housing densities.
- Nine fire districts provide fire and emergency medical services to the unincorporated portions of Clackamas County.
- An intergovernmental agreement between the fire agencies and the County establishes one Fire Code for all agencies (implemented by the Building Department and at Development Review).
- Each fire agency's response standard and its capabilities are established by its governing body and vary based on community taxpayer support.
- Automatic and mutual assistance agreements exist countywide that address routine to catastrophic incident response, and are updated on a regular basis, or as needed under the auspices of the Clackamas Fire Defense Board.

Law Enforcement

- Police services are provided by nine agencies in Clackamas County. Clackamas County's Sheriff's Department serves by far the largest geographic area including contractual patrol services to Happy Valley, Johnson City, Rivergrove, Wilsonville and Estacada.
- The Sheriff's Department operates and maintains the only County jail facility, which is located on the Red Soils complex in Oregon City.
- The County operates and maintains a radio system and dispatch facilities that provide communication services for the fire, emergency medical system, and law enforcement providers in the County. The cities of Lake Oswego and Gladstone maintain separate dispatch facilities for fire, emergency medical system, and police services. The City of Milwaukie provides its own police dispatch center.
- There is an "enhanced" 9-1-1 telephone system that serves all of Clackamas County.

Schools

- Ten separate school districts operate 105 public primary and secondary schools in Clackamas County.
- Coordination between the County Planning Division and school district administrations can be improved, particularly in reviewing new subdivisions and reviewing the location of additional school facilities. Due to state land use law, schools cannot be compensated for the impact of development, nor can the County limit development based on inadequate school capacity.

County Government

- During the past decade, Clackamas County has experienced significant population growth, resulting in expanded levels of governmental services. As a consequence, the County has leased space in a number of locations. A Master Facility and Space Consolidation Plan should be implemented by the County.
- Clackamas County, in its role of coordinator for public facilities as required by the Land Conservation and Development Commission's (LCDC's) Goal 11, has adopted a Public Facilities Plan for the North Clackamas Urban Area. It describes facilities for sanitary sewage treatment, storm drainage, public water, and transportation. It describes the existing facilities, future needs for 5-year and 20-year periods, the cost of meeting those needs, and the sources of funding expected to pay for the expansions.

PUBLIC FACILITIES

Clackamas County adopts as supporting documents to this Plan the public facilities plans titled, "Transportation Element", "Sanitary Sewerage Services", "Water Systems", and "Storm Drainage Element", including the public facility project titles contained therein. The public facility projects' locations or service areas are shown on maps contained within the above reports. Additional supporting documents are the master plans for Cow and Sieben Creeks, Kellogg/Mt. Scott Creek, and Rock and Richardson Creeks.

PUBLIC FACILITIES GOALS

- Maintain and improve the quality of Clackamas County's streams, lakes, waterways and groundwater.
- Provide for the location and development of sanitary sewage treatment, collection and reuse facilities to support existing and future land use development in all urban areas of the County.
- Provide for the location and development of drinking water facilities to support existing and future land development.
- Protect the quantity and quality of drinking water supplies.
- Coordinate the location and size of drinking water facilities with appropriate water purveyors.
- Minimize stormwater runoff, water pollution, siltation, soil erosion and flooding.
- Improve fish habitat and support recovery of aquatic species.
- Require adequate storm drainage, public sanitary sewer and public water service concurrent with development in areas that require these services.
- Provide a systematic control for the collection, transport, storage, separation, processing, recycling, resource recovery and disposal of solid waste.
- Minimize the impact on air, land and water quality and neighborhoods when siting sanitary landfills.

7.A Sanitary Sewage Treatment Policies

7.A.1 Recognize County responsibility for operating, planning and regulating wastewater systems as designated in the approved Sewerage Facilities Master Plan.

7.A.2 Recognize that Clackamas County Service District No. 1, Tri-City Service District, Oak Lodge Sanitary District, the Unified Sewerage Agency and the City of Portland have responsibility for operating, planning, and regulating wastewater systems as designated in the approved Sewerage Facilities Master Plan.

7.A.3 Require all agencies that provide sewer treatment and collection services in Clackamas County to be consistent with a DEQ approved Sewerage Facilities Master Plan.

7.A.4 Ensure that sew~~er~~age facilities in Clackamas County are developed and maintained by the appropriate sanitary district, county service district or city.

7.A.5 Require, if necessary, provision of sanitary sewers prior to development in areas identified as "health hazards" by the State of Oregon.

7.A.6 Require sanitary sew~~er~~age service agencies to coordinate extension of sanitary services with other key facilities, i.e., water, transportation, and storm drainage systems, which are necessary to serve additional lands.

7.A.7 Require the timely and orderly provision of sanitary sewers in all Immediate Urban areas except those identified as Floodplain and other hazard areas.

7.A.8 Prohibit new on-site sewage disposal systems within Urban Growth Boundaries except for:

- 7.A.8.1 A lot of record outside of a sew~~er~~age service district, legally recorded prior to January 31, 1980~~,~~; or
- 7.A.8.2 Parcels of ten acres or larger in Future Urban areas inside the Metro Urban Growth Boundary (UGB)~~,~~; or
- 7.A.8.3 Outside the Metro UGB on lots that conform to the minimum lot size of the zone~~,~~; or
- 7.A.8.4 Parcels inside a sew~~er~~age service district having unique topographic or other natural features that make sewer extension impractical as determined on a case by case basis by the sewer service provider.

7.A.9 Except as provided by the Oregon Revised Statutes for abandoned or diminished mill sites in “Rural” designated areas, and except as provided in OAR 660-011-0060(3), (4), (8), and (9) and consistent with Statewide Planning Goal 11, prohibit:~~Allow sewerage systems in "Rural" designated areas only to alleviate a public health hazard or water pollution problem that has been identified by the State of Oregon or Clackamas County.~~

- 7.A.9.1 The establishment of new sewer systems, as defined in OAR 660-011-0060(1), outside urban growth boundaries or unincorporated communities;
- 7.A.9.2 The extension of sewer lines from within urban growth boundaries or unincorporated community boundaries in order to serve uses on land outside those boundaries;
- 7.A.9.3 The extension of sewer systems, as defined in OAR 660-011-0060(1), that currently serve land outside urban growth boundaries and

unincorporated community boundaries in order to serve uses that are outside such boundaries and are not served by the system on July 28, 1998.

7.A.10 Allow sewerage systems in the Wildwood/Timberline, Zigzag Village, Rhododendron, Wemme/Welches, Government Camp and Boring Unincorporated Communities, provided such systems are not allowed to expand outside the boundaries of these communities, except as provided by the Oregon Revised Statutes for abandoned or diminished mill sites or as otherwise provided by Policies 7.A.9 or 7.A.11.

7.A.11 Allow DEQ approved sewage disposal systems in "Agricultural" and "Forest" designated areas if:

7.A.11.1 Necessary to alleviate a public health hazard or water pollution problem that has been identified by the State of Oregon.

7.A.11.2 Necessary for parks or recreation lands when consistent with the protection of forests and agriculture, or for housing necessary for the conduct of forest or agriculture related activities.

7.A.12 Coordinate the review of development applications with the appropriate sanitary sewer service provider to ensure that approval is not granted in the absence of adequate sanitary sewer facilities or a mechanism to provide them concurrently with development.

7.B Water Policies

7.B.1 Develop a Countywide program for domestic water source development.

7.B.2 Require all public water purveyors to design the extension of water facilities at levels consistent with the land use element of the Comprehensive Plan. Capacity suitable for fire protection needs to be included.

7.B.3 Require water purveyors in urban areas to coordinate the extension of water services with other key facilities, i.e., transportation, sanitary sewers, and storm drainage facilities, necessary to serve additional lands.

7.B.4 Encourage development in urban areas where adequate urban water facilities already exist.

7.B.5 Require water service purveyors to provide water services for non-urban areas at levels appropriate for non-urban use.

7.B.6 Coordinate the review of development applications with the appropriate water service provider to ensure that approval is not granted in the absence of

adequate water facilities or a mechanism to provide them concurrently with development.

7.C Storm Drainage Policies

7.C.1 Require all new developments to meet the development standards of the appropriate service provider.

7.C.2 Require submission of storm drainage, water quality and erosion control plans prior to approval of all new development, and implementation of such plans.

7.C.3 Require that urban stormwater runoff be minimized by nonstructural controls, where feasible, to maintain the quality and quantity of runoff in natural drainage ways. These areas may be calculated as part of the required open space.

7.C.4 Require runoff from impervious surfaces to be collected and treated, as required by the appropriate service provider, prior to discharge to a natural drainage way capable of accepting the discharge.

7.C.5 Require control measures to minimize erosion and sedimentation during construction. The method of retention and control shall be approved by the appropriate service provider.

7.C.6 Stabilize drainage ways as necessary below drainage and culvert discharge points for a distance sufficient to minimize erosion created by the discharge.

7.C.7 Determine the responsibility for installation of storm drainage systems prior to final approval of all new developments.

7.C.8 Coordinate the review of development applications with the appropriate storm drainage service provider to ensure that approval is not granted in the absence of adequate storm drainage facilities or a mechanism to provide them concurrently with development.

7.D Solid Waste Policies

7.D.1 Coordinate with Metro in the proper siting and operation of solid waste facilities in Clackamas County.

7.D.2 Require future sanitary landfill sites to meet appropriate State and regional siting criteria and regulations.

7.D.3 Ensure that the operation of solid waste facilities and services is consistent

with County Solid Waste and Waste Management Ordinances.

7.D.4 The guiding policy for waste management in the County should be based on the following priorities:

- 7.D.4.1 Reduce the amount of solid waste generated.
- 7.D.4.2 Reuse material for the purpose for which it was originally intended.
- 7.D.4.3 Recycle material that cannot be reused.
- 7.D.4.4 Compost material that cannot be reused or recycled.
- 7.D.4.5 Recover energy from solid waste that cannot be reused, recycled, or composted so long as the energy recovery facility preserves the quality of air, water, and land resources.
- 7.D.4.6 Dispose of, by landfilling, any solid waste that cannot be reused, recycled, composted or from which energy cannot be recovered.

7.E Street Lighting Policies

7.E.1 Encourage provision of street lighting for all new and existing developments inside the Urban Growth Boundary.

7.E.2 Outside urban growth boundaries, discourage installation of street lighting except in Unincorporated Communities and in subdivisions with lots of one acre or less. This policy is not intended to prevent installation of individual lights necessary for security or public safety.

PUBLIC SERVICES

PUBLIC SERVICES GOALS

- Support a sufficient level of fire safety and prevention in all areas of the County in order to minimize the risk of fire damage to the life and property of all residents.
- Develop and maintain County law enforcement and correction services to provide safety to all County residents.
- Coordinate proposed land use actions and Plan amendments with school districts.
- Coordinate the location and size of future school sites with appropriate school districts.
- Support school facilities as focal points of community activity subject to available funding and interest.
- Locate County governmental facilities to maximize service to all County residents in the most cost efficient manner.

7.F Fire Policies

7.F.1 Facilitate coordination between fire districts and developers prior to approval of future development to insure appropriate levels of fire safety.

7.F.2 Encourage all public water purveyors to maintain a sufficient amount of water storage and pressure within the system to maintain minimum fire flow.

7.F.3 Coordinate with fire and water districts in locating fire hydrants in new development.

7.G Law Enforcement Policies

7.G.1 Encourage provision of the appropriate level of Sheriff services in urban and rural areas.

7.G.2 Review proposals for additional law enforcement and correction facilities to assure that such proposals are consistent with the Comprehensive Plan and policies.

7.H Education Policies

7.H.1 Encourage maximum use of school facilities.

7.H.2 Support proposals that recommend using school facilities or portions of school facilities for senior citizen, day-care, or preschool age children activities.

7.H.3 Encourage development of portions of school property or adjacent property as neighborhood park and recreation facilities in park deficient areas.

7.H.4 Require notification to school districts of all subdivision applications.

7.H.5 Encourage the location of schools in the urban areas within a safe walking distance for students.

7.H.6 Encourage barrier free elementary school service areas, i.e., minimize service areas bisected by major arterials, highways, railroads, waterways, commercial or industrial areas.

7.H.7 Encourage junior and senior high schools to be centrally located on, or near, an arterial within its service area.

7.I County Government Policies

7.I.1 Promote consolidation of County services and facilities whenever possible.

7.I.2 Work toward developing a major centralized facility for County Government.

7.I.3 Encourage the location of Human Resource services in locations convenient to the citizens of the County.

Exhibit B
Ordinance ZDO-280
Zoning and Development Ordinance Amendments

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

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.

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

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

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

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

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

amounts transported in or out in any single shipment. Processors of hazardous substances will generally be at this level. -Uses which produce hazardous substances as a by-product or accessory to another product are not in this category.

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 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 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 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) 571.300.

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 FACILITY: As defined in ~~Oregon Revised Statutes~~ORS 329A.250 but excluding a family child care home.

CLACKAMAS REGIONAL CENTER: The regional center identified on Comprehensive Plan Map X-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 X-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 daycare, entertainment, private recreational, professional, and similar uses.

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

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 multifamily, three-family, two-family, or single-family dwellings. Regular on-premise supervision by a registered physician, registered nurse, or other health care provider may be included.

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

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 yard depth; 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.

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

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

DWELLING, 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, ATTACHED SINGLE-FAMILY: A building, or portion thereof, that contains only one dwelling unit; shares at least one wall, or portion thereof, with another attached single-family dwelling; and is located on a separate lot of record

from any other dwelling, except where otherwise permitted for an accessory dwelling unit. -A manufactured dwelling or residential trailer is not an attached single-family dwelling.

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

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

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

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

DWELLING UNIT: A building, or portion thereof, with one or more rooms designed for residential occupancy by one family. A dwelling unit may be occupied by one family or, except as otherwise provided in this Ordinance, may be used for residential occupancy by no more than 15 persons for a period that does not exceed 30 consecutive nights by any one person.

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

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

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

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

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

FLOOR AREA RATIO (FAR): A measurement of density expressed as the ratio of 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 .25:1, or .25; adding a second floor of equal area to the same building increases the FAR to .5:1, or .5.

GOVERNMENT CAMP: The unincorporated community of Government Camp, as identified on Comprehensive Plan Map X-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, interconnecting transmission lines, substations, access roads, offices or commercial and industrial structures proposed to be built in connection with the energy facility; and activities involved in their construction and operation.

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

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

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

INSTITUTIONAL USE: The use of land and/or structures for activities such as child care, 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.

LOT, CORNER: A lot with street frontage on two streets intersecting at a corner of the lot. A lot within the radius curve of a single street is not a corner lot. A lot may be both a corner lot and a through lot.

LOT COVERAGE: The area of a lot covered by a building or buildings expressed as a percentage of the total lot area. Swimming pools are not considered buildings for the purpose of this definition.

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

lot line of a lot.

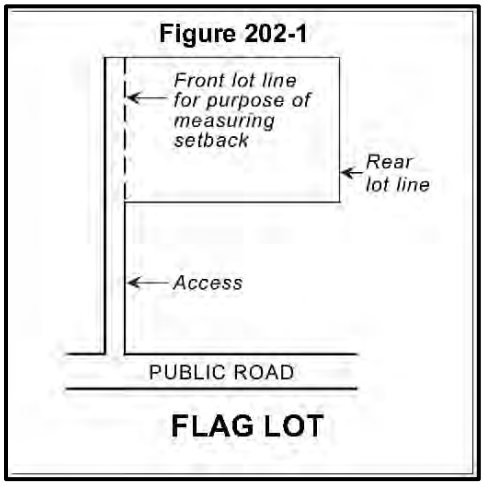
LOT, FLAG: A lot that has access to a road by means of a narrow strip of lot or easement.

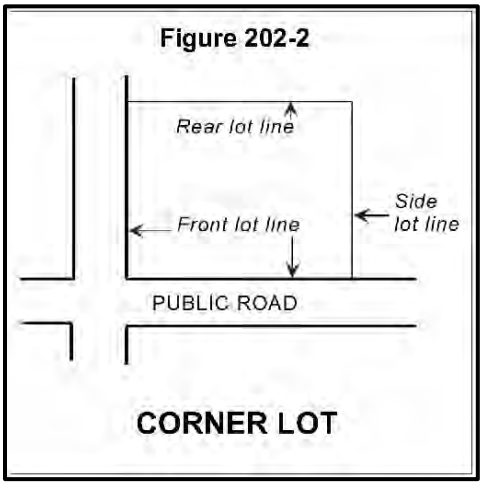
LOT LINE, FRONT: Any boundary line separating a lot from a County, public, state, or private road, or from an access drive. Exceptions are:

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 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.





LOT LINE, REAR: 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.

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

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

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

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 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 ~~Oregon Revised Statutes~~ORS 571.300.

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 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, cultivation, growing, trimming, harvesting, or drying of marijuana, provided that the marijuana producer is licensed by the Oregon Liquor 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 RETAILING: The sale of marijuana items to a consumer, provided that the marijuana retailer is licensed by the Oregon Liquor 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 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.

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.

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

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

OVERHEAD SPRINKLER IRRIGATION: 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 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 ~~Oregon Revised Statutes~~ORS 475B.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 ~~Oregon Revised Statutes~~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 ~~Oregon Revised Statutes~~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.

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 ~~of a~~ 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 ~~a boundary~~the division line between two abutting lots of record.

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

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

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

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

RECREATIONAL VEHICLE: A vehicle licensed by the 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, 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, in accordance with federal manufactured housing construction and safety standards and regulations in effect at the time of construction and is greater than 400 square feet and less than 700 square feet.

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

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

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

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

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

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

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

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

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

SALVAGE, 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.

SIDEWALK: A concrete pedestrian facility adjacent to a curb along a public road or setback 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.

SMALL POWER PRODUCTION FACILITY: A facility that produces energy primarily by use of biomass, waste, solar energy, wind power, water power, geothermal energy, or any combination thereof; is more than 50 percent owned by a person who is not an electric utility, an electric utility holding company, an affiliated interest, or any combination thereof; and has a power production capacity that, together with any other small power production facility located at the same site and owned by the same person, is not greater than 80 megawatts.

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.

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".

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 X-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.

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.

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 Chapter 660, Division 22 of the Oregon Administrative Rules. The County's unincorporated communities are identified in Chapter 4 of the Comprehensive Plan and shown on Map IV-7 of the Comprehensive Plan.

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

UTILITY CARRIER CABINETS: A small enclosure used to house utility equipment intended for 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.

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 IV-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 IV-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 IV-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, 5/31/11; Amended by Ord. ZDO-231, 1/31/12; Amended by Ord. ZDO-232, 3/12/12; Amended by Ord. ZDO-234, 6/7/12; Amended by Ord. ZDO-243, 9/9/13; Amended by Ord. ZDO-246, 3/1/14; Amended by Ord. ZDO-249, 10/13/14; Amended by Ord. ZDO-248, 10/13/14; Amended by Ord. ZDO-252, 6/1/15; Amended by Ord. ZDO-253, 6/1/15; Amended by Ord. ZDO-254, 1/4/16 and 3/1/16; Amended by Ord. ZDO-258, 1/18/17; Amended by Ord. ZDO-263, 5/23/17; Amended by Ord. ZDO-267, 8/28/17; 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 automatic repeal of Ord. ZDO-267, 8/28/19; Amended by Ord. ZDO-273, 1/17/21]

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*; Subsection 315.05, *Development 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.*

315.05 DEVELOPMENT STANDARDS

The following development standards apply:

A. Condominiums: Except in the VR-5/7 and VR-4/5 Districts, any of the following types of dwellings, if permitted in the subject zoning district, may be platted as condominiums: detached single-family dwellings, attached single-family dwellings, two-family dwellings, three-family dwellings, and multifamily dwellings. In the case of single-family dwellings, condominium platting supersedes the requirement that each dwelling unit be on a separate lot of record; however, attached single-family dwellings must be attached at a wall (as they would be if a lot line separated the dwellings) rather than ceiling to floor.

B. Resource Protection Areas in the VR 4/5 and VR 5/7 Districts: Development of primary dwellings and accessory structures within a Resource Protection Area shown on Comprehensive Plan Map X-SV-1, *Sunnyside Village Plan, Land Use Plan Map*, shall be subject to design review, pursuant to Section 1102, *Design Review*, and the following criteria:

1. Disturbance of natural features, including slopes in excess of 20 percent, trees and treed areas, wetlands, and stream corridors, shall be minimized.

2. Compliance with Subsection 1002.03 shall be demonstrated.

3. The maximum disturbed area shall be 5,000 square feet. All buildings and yard areas shall be contained within this area. Driveways and required trails and utility construction shall be excluded from calculation of the disturbed area.

4. Driveways shall be designed to be as narrow as possible, consistent with the requirements of the fire district.

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 Dwelling Units, subject to Section 839	A	A	A	A	X	X	X	X	X	X	X
Accessory Kitchens	A[1]	A[1]	A[1]	A[1]	X	A[1]	A[1]	X	X	X	X
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, television antennas	A	A	A	A	A	A	A	A	A	A	A

Use	R-5 – R-30	VR-4/5 & VR-5/7	R-2.5	VTH	PMD	MR-1	MR-2	HDR	VA	SHD	RCHDR
and receivers, transit amenities, trellises, and utility service equipment											
Bed and Breakfast Inns, subject to Section 832	C	X	C	X	X	P	P	P	X	L[2],C[3]	L[4]
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	C	C	C	C	C	C	C	L[5],C	C	L[2],C[3]	L[4]
Civic and Cultural Facilities, including art galleries, museums, and visitor centers	X	X	X	X	X	X	X	L[5],C[6]	X	L[2],C[3]	L[4]
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
Congregate Housing Facilities	X	X	X	P	P	P	P	P	P	P	P
Daycare Services, Adult	C	C	C	C	C	C	C	L[5],C	C	L[2],C[3]	L[4]
Dwellings, Attached Single-Family	P[7,8]	P[7,9],C[7,10]	P	P	X	P[11]	P[11]	X	X	X	X
Dwellings, Clustered Single-Family	X	X	X	X	P	X	X	X	X	X	X
Dwellings, Detached Single-Family	P[7]	P[7]	X	X	X	X	X	X	X	X	X
Dwellings, Multifamily	X	X	X	P[12]	P	P	P	P	P	P	P
Dwellings, Three-Family	C[7]	C[7]	X	P	P	P	P	P	P	X	X
Dwellings, Two-Family	C[7]	C[7]	X	P	P	P	P	P	P	X	X

Use	R-5 – R-30	VR-4/5 & VR-5/7	R-2.5	VTH	PMD	MR-1	MR-2	HDR	VA	SHD	RCHDR
Entertainment Facilities, including arcades, billiard halls, bowling alleys, miniature golf courses, and movie theaters	X	X	X	X	X	X	X	X	X	C[3]	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[5],C[6]	X	L[2],C[3]	L[4]
Fitness Facilities, including athletic clubs, exercise studios, gymnasiums, and health clubs	X	X	X	X	X	X	X	L[5],C	X	L[2,13],C	L[4],C
Fraternal Organization Lodges	C[14]	X	C[14]	X	C[14]	C[14]	C[14]	C[14]	X	C[14]	C[14]
Government Uses, unless such a use is specifically listed as a primary, accessory, limited, conditional, or prohibited use in the applicable zoning district	C[14]	X	C[14]	X	C[14]	C[14]	C[14]	C[14]	X	C[14]	C[14]
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[15]	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

Use	R-5 – R-30	VR-4/5 & VR-5/7	R-2.5	VTH	PMD	MR-1	MR-2	HDR	VA	SHD	RCHDR
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[16]	L[4],C
Hydroelectric Facilities	C	X	C	X	X	C	C	C	X	C	X
Libraries	CPUD	CPUD	CPUD	CPUD	CPUD	CPUD	CPUD	L[5],C[6], CPUD	CPUD	L[2],C[3], CPUD	L[4], CPUD
Livestock, subject to Section 821	A	A	A	X	X	X	X	X	X	X	X
Manufactured Dwelling Parks, subject to Sections 824 and 825	C	X	C	X	C	P	X	X	X	X	X
Manufactured Homes, subject to Section 824	P[7]	P[7]	X	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
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

Use	R-5 – R-30	VR-4/5 & VR-5/7	R-2.5	VTH	PMD	MR-1	MR-2	HDR	VA	SHD	RCHDR
Offices, including accounting services, administrative, business, corporate, ~~governmental,~~ 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, ~~governmental 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[5],C[6]	X	L[2],C[3]	L[4]
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[5],C[6]	X	L[2],C[3]	L[4]
Parking Structures	X	X	X	X	X	A	A	A	X	A	A
Pedestrian Amenities	P	P	P	P	P	P	P	P	P	P	P
Places of Worship, subject to Section 804	C	C	C	CPUD	C	C	C	C	CPUD	C	C

Use	R-5 – R-30	VR-4/5 & VR-5/7	R-2.5	VTH	PMD	MR-1	MR-2	HDR	VA	SHD	RCHDR
Produce Stands, subject to Section 815	A	A	A	X	X	X	X	X	X	X	X
Public Utility Facilities[17]	C[14]	X	C[14]	X	C[14]	C[14]	C[14]	C[14]	X	C[14]	C[14]
Radio and Television Studios, excluding transmission towers	X	X	X	X	X	X	X	X	X	L[2],C[3]	X
Radio and Television Transmission and Receiving Towers and Earth Stations[18]	C[14]	X	C[14]	X	X	C[14]	C[14]	C[14]	X	C[14]	C[14]
Recreational Vehicle Camping Facilities, subject to Section 813	X	X	X	X	X	C[14]	C[14]	C[14]	X	X	X

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[20]	P[20]	P[20]	P[21]	P[21]	P[21]	P[21]	P[21]	P[21]	P[21]	P[21]
Recreational Uses, Government-Owned Golf Courses[19]	P[20]	X	P[20]	X	C[14]	P[21]	P[21]	C[14]	X	C[14]	C[14]
Recreational Uses, including boat moorages, country clubs, equine facilities, gymnastics facilities, golf courses, parks, and swimming pools[19]	C[14]	X	C[14]	X	C[14]	C[14]	C[14]	C[14]	X	C[14]	C[14]
Recyclable Drop-Off Sites, subject to Section 819	A[22]	A[22]	A[22]	A[22]	A[22]	A[22]	A[22]	A[22]	A[22]	A[22]	A[22]

Use	R-5 – R-30	VR-4/5 & VR-5/7	R-2.5	VTH	PMD	MR-1	MR-2	HDR	VA	SHD	RCHDR
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[23]	CPUD[23]	CPUD[23]	CPUD[23]	CPUD[23]	CPUD[23]	CPUD[23]	L[5],C[6], CPUD[23]	CPUD[23]	L[2],C[3], CPUD[23]	L[4], CPUD[23]
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[5,24],C[6,24], CPUD	CPUD	L[2,24],C[3,24], CPUD	L[4,24], CPUD

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[5],C[6]	X	L[3],C[4]	L[2]
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[3]	X
Services, Commercial—Food and Beverage, including catering and eating and drinking establishments	CPUD[23]	CPUD[23]	CPUD[23]	CPUD[23]	CPUD[23]	CPUD[23]	CPUD[23]	L[5],C[6], CPUD[23]	CPUD[23]	L[2],C[3], CPUD[23]	L[4], CPUD[23]
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[5],C[6]	X	L[2],C[3]	L[4]
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[3]	X

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[5],C[6]	X	L[2],C[3]	L[4]
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[23]	CPUD[23]	CPUD[23]	CPUD[23]	CPUD[23]	CPUD[23]	CPUD[23]	L[5],C[6], CPUD[23]	CPUD[23]	L[2],C[3], CPUD[23]	L[4], CPUD[23]
Services, Commercial—Studios of the following types: art, craft, dance, music, and photography	CPUD[23]	CPUD[23]	CPUD[23]	CPUD[23]	CPUD[23]	CPUD[23]	CPUD[23]	L[5],C[6], CPUD[23]	CPUD[23]	L[2],C[3], CPUD[23]	L[4], CPUD[23]
Signs, subject to Section 1010	A[25]	A[25]	A[25]	A[25]	A[25]	A[25]	A[25]	A[25]	A[25]	A[25]	A[25]
Telephone Exchanges	C[14]	X	C[14]	X	C[14]	C[14]	C[14]	C[14]	X	C[14]	C[14]
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

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 Carrier Cabinets, subject to Section 830	P,C[26]	P,C[26]	P,C[26]	P,C[26]	P,C[26]	P,C[26]	P,C[26]	P,C[26]	P,C[26]	P,C[26]	P,C[26]
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] An accessory kitchen is permitted only in an attached single-family dwelling, a detached single-family dwelling, or a manufactured home, to the extent that these dwelling types are permitted in the applicable zoning district. Only one accessory kitchen is permitted in each single-family dwelling or manufactured home.

[2] 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.

[3] 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.

[4] 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.

[5] 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.

[6] 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.

[7] Except as limited by Note 1(b) to Table 315-2 or as allowed by Subsection 315.05(A) or Section 1204, *Temporary Permits*, each lot of record may be developed with only one of the following: attached single-family dwelling—if permitted by Note 8, 9, or 10—detached single-family dwelling, or manufactured home. The development of two- and three-family dwellings is subject to Subsection 1012.07, and, if a lot of record is also to be developed with a single-family dwelling or manufactured home, the entire development is subject to Section 1012, *Lot Size and Density*.

[8] Attached single-family dwellings are permitted on 100 percent of the lots in a planned unit development and 20 percent of the lots in a subdivision that is not a planned unit development.

[9] As a primary use, only two attached single-family dwellings may be attached in succession except in the VR-4/5 District when transferring density from a Resource Protection Area—as shown on Comprehensive Plan Map X-SV-1, *Sunnyside Village Plan Land Use Plan Map*—in which case this limit does not apply.

[10] Attached single-family dwellings that do not comply with Note 9 are a conditional use.

[11] For an attached single-family dwelling, 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 attached single-family dwellings. 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.

[12] Multifamily dwellings are limited to those containing four dwelling units.

[13] Only indoor facilities are permitted.

[14] Uses similar to this use may be authorized pursuant to Section 106.

[15] 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] Hotels in the SHD District are limited to a maximum of 80 units per gross acre.

[17] Public utility facilities shall not include shops, garages, or general administrative offices.

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

[19] This use may include concessions, restrooms, maintenance facilities, and similar support uses.

[20] 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] Any principal building or swimming pool shall be located a minimum of 30 feet from any other lot in a residential zoning district.

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

[23] 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.

[24] Only commercial schools are permitted, and such schools are not subject to Section 805, *Schools*.

[25] Temporary signs regulated under Subsection 1010.13(A) are a primary use.

[26] Utility carrier cabinets are a conditional use if the combined volume of all cabinets located on a single lot exceeds the applicable maximum established pursuant to Subsection 830.01(A).

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 for Calculating Density Pursuant to Section 1012/Minimum Lot Size[1,2]	2,500/2,000 square feet	5,000[3]/4,000 square feet	7,000[3]/5,600 square feet	8,500[3]/6,800 square feet	10,000[3]/8,000 square feet	15,000[3]/12,000 square feet	20,000[3]/16,000 square feet	30,000[3]/24,000 square feet
Maximum Lot Coverage	50 percent[4]		40 percent[4,5]					
Maximum Building Height	Accessory building larger than 500 square feet and accessory to a primary dwelling: 20 feet or the height of the primary dwelling, whichever is greater All other buildings: 35 feet							
Minimum Front Setback	15 feet, except 20 feet to garage and carport motor vehicle entries[6]							
Minimum Rear Setback	20 feet[6,7,8,9]							
Minimum Side Setback	5 feet[6,7,8,9]							
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)							

Standard	R-2.5	R-5	R-7	R-8.5	R-10	R-15	R-20	R-30
Building Design Standards for Single-Family Dwellings and Manufactured Homes[10]	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 façade as the front door unless the feature is unrelated to a façade (e.g., roofing material).							
Building Design Standards for Buildings Accessory to a Single-Family Dwelling or Manufactured Home	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:

a. Minimum lot size standards of Section 800 apply; and

b. Except in an R-2.5 District, a lot of record smaller than 3,000 square feet may not be developed with a dwelling unless the lot of record was created as part of a planned unit development or pursuant to Subsection 1012.02(A), (B), (D), (E), or (F).

[2] In a planned unit development, there is no minimum lot size. However, the district land area standard applies pursuant to Section 1012.

[3] For two- and three-family dwellings, the minimum lot area standard of Table 1012-2, *Minimum Lot Area per Dwelling Unit*, applies in lieu of the district land area standard.

[4] Maximum lot coverage in a planned unit development is 65 percent.

[5] Outside a planned unit development, maximum lot coverage is 50 percent for a lot of record that is:

a. 6,000 square feet or less in area, was created prior to the application of an Urban Low Density Residential District to the subject lot of record, and is developed with a detached single-family dwelling; or

b. Developed with an attached single-family dwelling.

[6] 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.

[7] 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 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. Where either of these standards applies, it supersedes any other rear or side setback standard in Table 315-2.

[8] 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 is 10 feet.

b. The minimum side setback for a detached single-family dwelling 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.

[9] 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 Height			
Building Area	≤ 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 ≤ to 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

[10] These building design standards do not apply to temporary dwellings approved pursuant to Section 1204, *Temporary Permits*, or to manufactured homes in manufactured dwelling parks.

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	4,000/2,000 square feet	2,000/2,000 square feet[2]
Maximum Lot Size[1]	7,000 square feet[3,4]	5,000 square feet[3,5]	3,000 square feet[2,6]
Maximum Lot Coverage	50 percent[7]		65 percent
Maximum Height for Fences and Sight-Obscuring Plantings	6 feet at or behind the building line of the main building; 4 feet forward of the building line 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[7,8]		See Subsection 1005.12(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[7]		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.[8,9,10]	All garages and carports shall be recessed.[7,9]	See Subsection 1005.12(B).

Standards for Primary Dwellings			
Standard	**VR-5/7**	**VR-4/5**	**VTH**
Maximum Building Height	35 feet[8]		
Minimum Front Setback	10 feet for a dwelling with a recessed garage; 19½ feet to the garage door/carport motor vehicle entry for a dwelling with a non-recessed garage/carport[8,9,10,11,12]	10 feet[7,11,12]	10 feet[13,14,15]
Maximum Front Setback	18 feet for a dwelling with a recessed garage; 20½ feet to the garage door/carport motor vehicle entry for a dwelling with a non-recessed garage/carport[8,9,10,11,16,17,18]	18 feet[7,11,16,17,18]	18 feet[13]
Minimum Rear Setback	15 feet[7,8,11,19]		15 feet[19]
Minimum Side Setback	0 on one side; 5 feet on all other sides[7,8,11,19]		5 feet[19,20]
Building Design Standards[7,8]	• 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 1005.04(F) and 1005.12(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[21]		
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)[8,22]		
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.[8]		

Minimum Rear and Side Setback Standards for Buildings Accessory to a Primary Dwelling in the VR-5/7, VR-4/5, and VTH Districts[9,19]			
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[23]	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[23]
> 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[23]		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[23,24]

[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] The minimum and maximum lot size standards apply only to lots or parcels for attached single-family dwellings.

[3] The maximum lot size standard applies only to lots or parcels for single-family dwellings or manufactured homes.

[4] Alternatively, the average size of all lots in a subdivision, partition, or replat shall not exceed 6,500 square feet.

[5] Alternatively, the average size of all lots in a subdivision, partition, or replat shall not exceed 5,000 square feet.

[6] Alternatively, the average size of all lots in a subdivision, partition, or replat shall not exceed 2,500 square feet.

[7] The VTH District standard applies in lieu of this standard for primary-use attached single-family dwellings if three or more dwelling units are attached in succession.

[8] Development on lots in the plat of Sieben Creek Estates (plat no. 3039) is not required to comply with this standard.

[9] 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 façade of the primary dwelling living area (not including porches, patios, bays, and architectural features).

[10] 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 façade of the primary dwelling living area (not including porches, patios, bays, and architectural features).

[11] 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*.

[12] A porch or patio, whether covered or not, may extend a maximum of four feet into the minimum front yard depth.

[13] Frontage on an accessway shall be considered a front lot line.

[14] 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.

[15] Awnings, porches, bays, and overhangs may extend a maximum of four feet into the minimum front setback.

[16] 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.

[17] Dwellings located on lots with less than 35 feet of street frontage shall be exempt from the maximum front setback standard.

[18] 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.

[19] 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.

[20] Frontage on a pedestrian connection shall be considered a side lot line.

[21] The maximum building height standard applies only to accessory buildings larger than 100 square feet.

[22] A garage may be required to be recessed, as defined by Note 10, in order to comply with the standard for garage/carport design for primary dwellings.

[23] Frontage on a pedestrian connection shall be considered a side lot line, and the minimum setback is five feet.

[24] 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 1005.03(E) and (H).	See Subsections 1005.03(E) and (H).	See Subsections 1005.03(E) and (H).	See Subsections 1005.03(E) and (H).	18 feet[6]	See Subsections 1005.03(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 1005.03(L)[5]	None[6,7]	See Subsection 1005.03(L)	See Subsection 1005.03(L)[13]

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 1005.03(L)[5]	None	See Subsection 1005.03(L)	See Subsection 1005.03(L)[16]
Maximum Building Height	None	None	None	None	45 feet	None	None
Minimum Building Separation	10 feet	None	None	See Subsection 1005.03(L)	20 feet between multifamily dwellings	See Subsection 1005.03(L)	See Subsection 1005.03(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 an attached single-family dwelling, 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 Height		
Building Area	≤ 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 an attached single-family dwelling is five feet from any side lot line where two attached single-family dwellings 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, 10/13/14; Amended by Ord. ZDO-250, 10/13/14; Amended by Ord. ZDO-252, 6/1/15; Amended by Ord. ZDO-253, 6/1/15; Amended by Ord. ZDO-254, 1/4/16; Amended by Ord. ZDO-266, 5/23/18; Amended by Ord. ZDO-268, 10/2/18]

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.
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. "CPUD" means the use is allowed as a conditional use in a planned unit development.
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. 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, television antennas and receivers, transit amenities, trellises, and utility service equipment	A	A	A	A	A	A
Accessory Dwelling Units, subject to Section 839	A[1]	A[1]	X	A[1]	A[1]	A[1]
Accessory Historic Dwellings, subject to Section 843	A[2]	A[2]	A[2]	A[2]	A[2]	X

Use	RA-1	RA-2	RR	RRFF-5	FF-10	FU-10
Accessory Kitchens	A[3]	A[3]	A[3]	A[3]	A[3]	A[3]
Aircraft Land Uses	X	X	X	C	C	C
Aircraft Landing Areas	X	C	C[4]	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
Cemeteries, subject to Section 808	C	C	X	C	C	C
Child Care Facilities	C	C	C	C	C	C[5]
Commercial or Processing Activities that are in Conjunction with Farm or Forest Uses[6]	X	X	X	C	C	X
Community Halls	CPUD	CPUD	CPUD	CPUD	CPUD	X[7]
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[8]
Dwellings, Detached Single-Family	P[9]	P[9]	P[9]	P[9]	P[9]	P[9]
Dwellings, Two-Family	C[9]	X	X	X	X	X
Energy Source Development	X	X	C	X	X	X
Farmers' Markets, subject to Section 840	A	A	A	A	A	A
Farm Uses, including[6]**:**						
Raising, harvesting, and selling crops	P	P	P[10]	P	P	P
Feeding, breeding, management and sale of, or the produce of, livestock, poultry, fur-bearing animals, or honeybees	X[11]	P	X[11]	P	P	P
Dairying and the sale of dairy products	X[11]	P	X[11]	P	P	P
Any other agricultural or horticultural use or animal husbandry or any combination thereof	X[11]	P	X[11]	P	P	P

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[10]	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[11]	P	X[11]	P	P	P
Growing cultured Christmas trees	P	P	P[10]	P	P	P
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[12]	P[12]	P	P[12]	P[12]	P[12]
Fraternal Organization Lodges	C[13]	C[13]	C[13]	C[13]	C[13]	C[13]
Government Uses, unless such a use is specifically listed as a primary, accessory, conditional, or prohibited use in the applicable zoning district	C[13]	C[13]	C[13]	C[13]	C[13]	C[13]
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[14]	A	A	A	A	A	A
Home Occupations to Host Events, subject to Section 806	C	C	C	C	C	C
Hydroelectric Facilities	C	C	C	C	C	C
Kennels	C[15]	C[15]	X	C[15]	C[15]	X
Libraries	CPUD	CPUD	CPUD	CPUD	CPUD	X[7]
Livestock, subject to Section 821	P	X[11]	A	X[11]	X[11]	X[11]

Use	RA-1	RA-2	RR	RRFF-5	FF-10	FU-10
Manufactured Dwellings, subject to Section 824	P[9]	P[9]	P[9]	P[9]	P[9]	P[9]
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	C	C	C	C	C	C[16]
Produce Stands	A[17]	A[17]	A[17]	A[17]	A[17]	A[17,18]
Public Utility Facilities	C[13,19]	C[13,19]	C[13,19]	C[13,19]	C[13,19]	C[13,19]
Radio and Television Transmission and Receiving Towers and Earth Stations	C[13,20]	C[13,20]	C[13,20]	C[13,20]	C[13,20]	C[13,20]
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[21]	C[13]	C[13,22]	C[13]	C[13,22]	C[13,22]	C[13,22]

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[21]	P[23]	P[23]	P[23]	P	P	P
Recreational Uses, Government-Owned Golf Courses[21]	P[23]	P[23]	P[23]	P	P	P
Recreational Vehicle Camping Facilities, subject to Section 813	C[13]	C[13]	C	C[13]	C[13]	X
Recyclable Drop-Off Sites, subject to Section 819	A[24]	A[24]	A[24]	A[24]	A[24]	A[24]

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]	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[26]	C[26]	C	C[26]	C[26]	C[27]
Services, Commercial—Food and Beverage, including catering and eating and drinking establishments	CPUD[25]	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]	X	X	X	X	X
Services, Commercial—Studios of the following types: art, craft, dance, music, and photography	CPUD[25]	X	X	X	X	X

Use	RA-1	RA-2	RR	RRFF-5	FF-10	FU-10
Sewer System Components that Serve Lands Inside an Urban Growth Boundary, subject to ORS 660-011-0060(3)	Type II[28]	Type II[28]	Type II[28]	Type II[28]	Type II[28]	Type II[28]
Sewer Systems and Extensions of Sewer Systems to Serve Land Outside an Urban Growth Boundary and Unincorporated Community, subject to ORS 660-011-0060(4)	Type II[29]	Type II[29]	Type II[29]	Type II[29]	Type II[29]	Type II[29]
Signs, subject to Section 1010	A[~~28~~30]	A[~~28~~30]	A[~~28~~30]	A[~~28~~30]	A[~~28~~30]	A[~~28~~30]
Surface Mining, subject to Section 818	X	X	X	C	C	X
Telephone Exchanges	C[13]	C[13]	C[13]	C[13]	C[13]	C[13]
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 Carrier Cabinets, subject to Section 830	P,C[~~29~~31]	P,C[~~29~~3 1]	P,C[~~29~~3 1]	P,C[~~29~~31]	P,C[~~29~~3 1]	P,C[~~29~~31]
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 This use is permitted only inside of an urban growth boundary.

2 This use is permitted only outside of both an urban growth boundary and an urban reserve.

3 An accessory kitchen is permitted only in a detached single-family dwelling or a manufactured dwelling. -Only one accessory kitchen is permitted in each single-family dwelling or manufactured dwelling.

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

[5] This use is limited to alteration or expansion of a lawfully established child care facility.

[6] 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.

[7] Even though it is prohibited in this category, this use is included in the "government use" category.

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

[9] Except as limited by Note 1(b) to Table 316-2 or as allowed by Section 1204, *Temporary Permits* or Section 839, *Accessory Dwelling Units*, each lot of record may be developed with only one of the following: detached single-family dwelling, two-family dwelling (only if approved as a conditional use in the RA-1 District), or manufactured dwelling.

[10] This use is permitted only on lots larger than five acres.

[11] In the RA-2, RRFF-5, FF-10, and FU-10 Districts, livestock is 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.

[12] 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.

[13] Uses similar to this may be authorized pursuant to Section 106, *Authorizations of Similar Uses*.

[14] 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.

[15] The portion of the premises used shall be located a minimum of 200 feet from all property lines.

[16] This use is limited to alteration or expansion of a lawfully established place of worship.

[17] A produce stand shall be subject to the parking requirements of Section 1015, *Parking and Loading*.

[18] 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.

[19] Public utility facilities shall not include shops, garages, or general administrative offices.

[20] The base of such towers shall not be closer to the property line than a distance equal to the height of the tower.

[21] This use may include concessions, restrooms, maintenance facilities, and similar support uses.

[22] 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.

[23] Any principal building or swimming pool shall be located a minimum of 45 feet from any other lot in a residential zoning district.

[24] Recyclable drop-off sites are permitted only if accessory to an institutional use.

[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 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.

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

[27] This use is limited to alteration or expansion of a lawfully established school.

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

[29] 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 ORS 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.

~~28~~30 Temporary signs regulated under Subsection 1010.13(A) are a primary use.

~~29~~31 Utility carrier cabinets are a conditional use if the combined volume of all cabinets located on a single lot exceeds the applicable maximum established pursuant to Subsection 830.01(A).

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

Standard	RA-1	RA-2	RR	RRFF-5	FF-10	FU-10
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:

a. Minimum lot size standards of Section 800 apply; and

b. A lot of record smaller than 3,000 square feet may not be developed with a dwelling unless the lot of record was created as part of a planned unit development in the RA-1 District or pursuant to Subsection 1012.02(B), (D), or (F).

[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 two-family dwelling, 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, 6/1/15; Amended by Ord. ZDO-253, 6/1/15; Amended by Ord. ZDO-254, 1/4/16; Amended by Ord. ZDO-263, 5/23/17; Amended by Ord. ZDO-266, 5/23/18; Amended by Ord. ZDO-269, 9/6/18; Amended by Ord. ZDO-268, 10/2/18]

317 MOUNTAIN RECREATIONAL RESORT (MRR) AND HOODLAND RESIDENTIAL (HR) DISTRICTS

317.01 PURPOSE

Section 317 is adopted to implement the policies of the Comprehensive Plan for Mountain Recreation areas and Low Density Residential areas regulated by the Mount Hood Community Plan.

317.02 APPLICABILITY

Section 317 applies to land in the Mountain Recreational Resort (MRR) and Hoodland Residential (HR) Districts.

317.03 USES PERMITTED

A. Uses permitted in the MRR and HR Districts are listed in Table 317-1, *Permitted Uses in the MRR and HR Districts*. Uses not listed are prohibited, except that in the MRR District, uses similar to one or more of the listed limited uses may be authorized pursuant to Section 106, *Authorizations of Similar Uses*.

B. As used in Table 317-1:

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. "Type II" means the use requires review of a Type II application, pursuant to Section 1307, *Procedures*.
8. Numbers in superscript correspond to the notes that follow Table 317-1.

C. Permitted uses are subject to the applicable provisions of Subsection 317.04, *Dimensional Standards*; Subsection 317.05, *Development Standard*; Section 1000, *Development Standards*; and Section 1100, *Development Review Process.*

317.04 DIMENSIONAL AND BUILDING DESIGN STANDARDS

A. General: Dimensional and building design standards applicable in the MRR and HR Districts are listed in Table 317-2, *Dimensional and Building Design*

Standards in the MRR and HR Districts. As used in Table 317-2, numbers in superscript correspond to the notes that follow the table.

B. Modifications: Modifications to the standards in Table 317-2 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*.

317.05 DEVELOPMENT STANDARD

Any of the following types of dwellings, if permitted in the subject zoning district, may be platted as condominiums: detached single-family dwellings, attached single-family dwellings, two-family dwellings, three-family dwellings, and multifamily dwellings. In the case of single-family dwellings, condominium platting supersedes the requirement that each dwelling unit be on a separate lot of record; however, attached single-family dwellings must be attached at a wall (as they would be if a lot line separated the dwellings) rather than ceiling to floor.

Table 317-1: Permitted Uses in the MRR and HR Districts

Use	MRR	HR
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, television antennas and receivers, transit amenities, trellises, and utility service equipment	A	A
Accessory Dwelling Units, subject to Section 839	A	A
Accessory Kitchens	A[1]	A[1]
Airports, Personal-Use	C	C
Bed and Breakfast Inns, subject to Section 832	P	C
Bed and Breakfast Residences, subject to Section 832	P	C
Bus Shelters	P	P
Campgrounds	C	C
Child Care Facilities	C	C
Civic and Cultural Facilities, including art galleries, museums, and visitor centers	L[2]	X
Community Halls	CPUD	CPUD
Composting Facilities	X	X
Congregate Housing Facilities	P	X
Daycare Services, Adult	C	C
Dwellings, Attached Single-Family	P[3]	P[3,4]
Dwellings, Detached Single-Family	P[3]	P[3]
Dwellings, Multifamily	P	X
Dwellings, Three Family	P	X
Dwellings, Two-Family	P	X
Energy Source Development	C	C
Farmers' Markets, subject to Section 840	A	A
Fraternal Organization Lodges	C[5]	C[5]
Government Uses, unless such a use is listed elsewhere in this table as a primary, accessory, limited, conditional, or prohibited use in the applicable zoning district	C[5]	C[5]
Guest Houses, subject to Section 833	X	A
Guest Ranches and Lodges	X	C
Helistops, Personal-Use	C	C

Use	MRR	HR
Home Occupations, including bed and breakfast homestays, subject to Section 822[6]	A	A
Hosting of Weddings, Family Reunions, Class Reunions, Company Picnics, and Similar Events	C	C
Hotels[7]	P[8]	X
Hydroelectric Facilities	C	C
Libraries	L[2], CPUD	CPUD
Livestock, subject to Section 821	A	A
Manufactured Homes, subject to Section 824	P[3]	P[3]
Manufactured Dwelling Parks, subject to Sections 824 and 825	C	X
Marijuana Processing	X	X
Marijuana Production	X	X
Marijuana Retailing	X	X
Marijuana Wholesaling	X	X
Mobile Vending Units, subject to Section 837	L[2,9]	X
Motels[7]	P[8]	X
Multi-Use Developments, subject to Section 844	C	C
Nursing Homes	P	C
Parking Structures	A	X
Places of Worship, subject to Section 804	C	C
Produce Stands, subject to Section 815	A	A
Public Utility Facilities	C[5]	C[5,10]
Radio and Television Transmission and Receiving Towers and Earth Stations	C[5,11]	C[5,11]
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[12]	C[5]	C[5]
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[12]	P[13]	P[14]
Recreational Uses, Government-Owned Golf Courses[12]	P[13]	P[14]
Recreational Vehicle Camping Facilities, subject to Section 813	C[5]	C[5]
Recyclable Drop-Off Sites, subject to Section 819	A[15]	A[15]

Use	MRR	HR
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.	L[2], CPUD[16]	CPUD[16]
Roads	P	P
Services, Commercial—Food and Beverage, including catering and eating and drinking establishments	L[2], CPUD[16]	CPUD[16]
Services, Commercial—Maintenance and Repair, of any of the following: bicycles and sporting goods	L[2], CPUD[16]	CPUD[16]
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.	L[2], CPUD[16]	CPUD[16]
Services, Commercial—Studios of the following types: art, craft, dance, music, and photography	L[2], CPUD[16]	CPUD[16]
Sewer Systems and Extensions of Sewer Systems to Serve Land Outside an Urban Growth Boundary and Unincorporated Community, subject to ORS 660-011-0060(4)	Type II[17]	Type II[17]
Schools, subject to Section 805	C	C
Signs, subject to Section 1010	A[~~17~~18]	A[~~17~~18]
Surface Mining, subject to Section 818	X	X
Telephone Exchanges	C[5]	C[5]
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
Temporary Buildings for Uses Incidental to Construction Work. Such buildings shall be removed upon completion or abandonment of the construction work.	A	A
Transit Park-and-Rides	P	P
Transfer Stations, subject to Section 819	C	C
Utility Carrier Cabinets, subject to Section 830	P,C[~~18~~19]	P,C[~~18~~19]
Wireless Telecommunication Facilities, subject to Section 835	See Table 835-1	See Table 835-1

[1] An accessory kitchen is permitted only in a detached single-family dwelling or a manufactured dwelling. Only one accessory kitchen is permitted in each single-family dwelling or manufactured dwelling.

[2] The limited use is permitted subject to the following criteria:

a. The use shall be incidental to a primary use.

b. The use shall be provided for as an integral part of the general plan of the development.

c. The use shall not, by reason of its location, construction, manner or timing of operations, signs, lighting, parking arrangements, or other characteristics, have adverse effects on residential uses within or adjoining the MRR District or create traffic congestion or hazards to vehicular or pedestrian traffic.

[3] Except as allowed by Subsection 317.05 or Section 1204, *Temporary Permits*, each lot of record may be developed with only one of the following: attached single-family dwelling, detached single-family dwelling, or manufactured home.

[4] Attached single-family dwellings are permitted on a maximum of 100 percent of the lots in a planned unit development and a maximum of 20 percent of the lots in a subdivision that is not a planned unit development.

[5] Uses similar to this may be authorized pursuant to Section 106.

[6] 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 317-1.

[7] Also permitted are associated convention facilities.

[8] A new hotel or motel in Rhododendron shall be limited to a maximum of 35 units. A new hotel or motel in Government Camp shall be limited to a maximum of 100 units.

[9] Only level three and four mobile vending units are permitted.

[10] Public utility facilities shall not include shops, garages, or general administrative offices.

[11] The base of such towers shall not be closer to the property line than a distance equal to the height of the tower.

[12] This use may include concessions, restrooms, maintenance facilities, and similar support uses.

[13] Any principal building or swimming pool shall be located a minimum of 30 feet from any other lot in a residential zoning district.

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

[15] Recyclable drop-off sites are permitted only if accessory to an institutional use.

[16] 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 15 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.

[17] The use is limited to sewer systems designed and constructed so that their capacity does not exceed the minimum necessary to serve the area within the boundaries described under ORS 660-011-0060(4)(b)(B), except for urban reserve areas as provided under OAR 660-021-0040(6). 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 ORS 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.

~~[17]~~[18] Temporary signs regulated under Subsection 1010.13(A) are a primary use.

~~[18]~~[19] Utility carrier cabinets are a conditional use if the combined volume of all cabinets located on a single lot exceeds the applicable maximum established pursuant to Subsection 830.01(A).

Table 317-2: Dimensional and Building Design Standards in the MRR and HR Districts

Standard	MRR	HR
District Land Area for Calculating Density Pursuant to Section 1012	See Table 317-3	10,890 square feet
Minimum Front Setback	15 feet, except 20 feet to garage and carport motor vehicle entries[1]	15 feet, except 20 feet to garage and carport motor vehicle entries[2]
Minimum Rear Setback	10 feet[3,4,5,6]	15 feet[3,4]
Minimum Side Setback	10 feet[3,4,5,6]	5 feet[3,4]
Maximum Lot Coverage	None	40 percent[7]
Maximum Building Height	40 feet[8,9]	40 feet[8]
Minimum Building Separation above 3,500 Feet in Elevation	20 feet between buildings with contiguous snow slide areas	20 feet between buildings with contiguous snow slide areas
Maximum Building Floor Space per Commercial Use	4,000 square feet, except 8,000 square feet in Government Camp[10]	4,000 square feet, except 8,000 square feet in Government Camp[10]
Building Design Standards for Single-Family Dwellings and Manufactured Homes[11]	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 façade as the front door unless the feature is unrelated to a façade (e.g., roofing material).	

[1] In Government Camp, the minimum front setback is 10 feet, except 20 feet to garage and carport motor vehicle entries.

[2] For a corner lot in Government Camp, one of the minimum front setbacks is 10 feet, except 20 feet to garage and carport motor vehicle entries.

[3] If the lot line abuts a national forest, there is no minimum setback. If Note 3 and Note 4 conflict, Note 3 prevails.

[4] 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.

[5] Except as established by Note 3, 4, or 6, if a rear lot line or a side lot line abuts an HR District or abuts a lot in the MRR District developed with a single-family dwelling or a manufactured home, the applicable minimum setback standard for a building is based on the height of that building, as follows:

Building Height	Minimum Setback
≤ 20 feet	10 feet
> 20 feet and ≤ 30 feet	15 feet
> 30 feet and ≤ 40 feet	20 feet
> 40 feet and ≤ 50 feet	25 feet
> 50 feet	30 feet

[6] The minimum rear and side setback standards applicable in the HR District apply to detached single-family dwellings and manufactured homes, as well as to structures that are accessory to such detached single-family dwellings and manufactured homes. The minimum side setback standard applicable in the HR District applies to attached single-family dwellings, as well as to structures that are accessory to such attached single-family dwellings.

[7] Maximum lot coverage is 50 percent for a lot of record that is developed with an attached single-family dwelling.

[8] The maximum building height may be increased to 50 feet to accommodate understructure parking.

[9] For a hotel in Government Camp, the maximum building height shall be 70 feet and may be increased to 87.5 feet to accommodate understructure parking or to preserve natural features or views.

[10] No maximum applies to hotels and motels; 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.

[11] These building design standards do not apply to temporary dwellings approved pursuant to Section 1204, *Temporary Permits*.

Table 317-3: District Land Area Standards in the MRR District

Location/Dwelling Unit Size	District Land Area
Government Camp	
Dwelling unit of any size	1,980
Rhododendron	
Dwelling unit of 1200 square feet or greater	10,890
Dwelling unit of 1000 to 1199 square feet	8,712
Dwelling unit of 800 to 999 square feet	7,260
Dwelling unit of 600 to 799 square feet	5,445
Dwelling unit of 400 to 599 square feet	3,630
Dwelling unit of less than 400 square feet	1,980
Wemme/Welches	
Dwelling unit of 1200 square feet or greater	7,260
Dwelling unit of 1000 to 1199 square feet	6,223
Dwelling unit of 800 to 999 square feet	5,445
Dwelling unit of 600 to 799 square feet	4,356
Dwelling unit of 400 to 599 square feet	3,111
Dwelling unit of less than 400 square feet	1,361

[Added by Ord. ZDO-252, 6/1/15; Amended by Ord. ZDO-253, 6/1/15; Amended by Ord. ZDO-254, 1/4/16; Amended by Ord. ZDO-266, 5/23/18; Amended by Ord. ZDO-269, 9/6/18; Amended by Ord. ZDO-268, 10/2/18]

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.

B. Agricultural Land: As defined in Oregon Administrative Rules (OAR) 660-33-0020.

C. Biofuel: As defined in Oregon Revised Statutes (ORS) 315.141.

D. 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.

E. 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.

F. Dwelling: Unless otherwise provided in Section 401, a dwelling is a detached single-family dwelling or a manufactured dwelling.

G. Facility for the Processing of Farm Products: A facility or establishment for:

1. Processing farm crops, including the production of biofuel, if at least one-quarter of the farm crops come from the farm operation containing the facility; or

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

H. Farm Operator: A person who resides on and actively manages a "farm unit".

I. 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.

K. Golf Course: As defined in OAR 660-033-0130(20).

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

M. 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.

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

O. Noncommercial Farm: A parcel where all or part of the land is used for production of farm products for use or consumption by the owners or residents of the property, or which provides insignificant income.

P. Owner: For purposes of a lot of record dwelling, owner includes the spouses in a marriage, son, daughter, parent, brother, brother-in-law, sister, sister-in-law, son-in-law, daughter-in-law, parent-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.

Q. 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.

R. 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.

S. Processing Area: The floor area of a building dedicated to farm product processing, not including the floor area designated for preparation, storage, or other farm use.

T. Relative: For purposes of a Temporary Dwelling for Care, relative means a child, parent, stepparent, grandchild, grandparent, stepgrandparent, sibling, stepsibling, niece, nephew, or first cousin.

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

401.04 USES PERMITTED

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 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, *Procedures*.

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

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~~1~~" means the use is not allowed except as set forth in Subsection 401.05(J)(1).

~~9. "*NA2" means the use is not allowed except as set forth in Subsection 401.05(J)(1) or 401.05(J)(2) and (3).~~

~~10~~9. "HV" means High Value Farmland.

~~11~~10. "LV" means Low Value Farmland.

~~12~~11. 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; Section 1000, *Development Standards*; and Section 1100, *Development Review Process*.

Table 401-1: Permitted Uses in the EFU District

	HV	LV	Use	Subject To
FARM AND FOREST USES	A	A	Propagation or harvesting of a forest product.	
	A	A	Farm use as defined in Oregon Revised Statutes (ORS) 215.203. Marijuana production is subject to Section 841.	
	A	A	Other buildings customarily provided in conjunction with farm use.	
	TYPE II	TYPE II	A facility for the processing of farm products. Marijuana processing is subject to Section 841.[1]	401.05(B)(1) & (2)
	C	C	A facility for the primary processing of forest products.	401.05(B)(3)
	HV	**LV**	**Use**	**Subject To**
NATURAL RESOURCE USES	A	A	Creation of, restoration of, or enhancement of wetlands.	
	TYPE II	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)
	HV	**LV**	**Use**	**Subject To**
RESIDENTIAL USES	A	A	Uses and structures customarily accessory and incidental to a dwelling, only if a lawfully established dwelling exists.	
	A	A	Alteration or restoration of a lawfully established dwelling.	401.05(C)(1)
	TYPE II	TYPE II	Replacement of a lawfully established dwelling.	401.05(A)(3) & (C)(1)
	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 and listed on the National Register of Historic Places.[2]	401.05(A)(3)
	N	TYPE II	Lot of record dwelling on Low Value Farmland.	401.05(A)(2), (3), (4) & (C)(2)
	TYPE II	N	Lot of record dwelling on Class III or IV High Value Farmland.	401.05(A)(2), (3), (4) & (C)(3)
	TYPE III	N	Lot of record dwelling on Class I or II High Value Farmland.	401.05(A)(2), (3), (4) & (C)(4)
	TYPE II	N	Dwelling customarily provided in conjunction with a farm use on High Value Farmland.[2]	401.05(A)(3) & (C)(5)
	N	TYPE II	Dwelling customarily provided in conjunction with a farm use on Low Value Farmland.[2]	401.05(A)(3) & (C)(6)
	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.[2]	401.05(A)(3), (4) & (C)(8)
	N	TYPE II	Capability test for a dwelling.[2]	401.05(A)(3), (4) & (C)(9)

RESIDENTIAL USES (cont.)	TYPE II	TYPE II	A single-family dwelling not provided in conjunction with farm use; a nonfarm dwelling.	401.05(A)(3), (4) & (C)(10)
	TYPE II	TYPE II	Relative farm help dwelling.[2]	401.05(A)(3) & (C)(11)
	TYPE II	TYPE II	Accessory dwelling in conjunction with farm use.[2]	401.05(A)(3) & (C)(12)
	TYPE II	TYPE II	Dwelling on Low or High Value Farmland to be operated by a different farm operator on at least 80 acres.[2]	401.05(A)(3) & (C)(13)
	TYPE II	TYPE II	Temporary dwelling for care, subject to Subsection 1204.04.	401.05(A)(1), (3) & (C)(14)
	TYPE II	TYPE II	Room and board arrangements for a maximum of five unrelated persons in existing dwellings.	401.05(A)(1) & (3)
	TYPE II	TYPE II	Residential home as defined in ORS 197.660, in existing dwellings.	401.05(A)(1) & (3)
	HV	**LV**	**Use**	**Subject To**
COMMERCIAL USES	A	A	Family child care home.	
	A	A	Dog training classes.	401.05(D)(8)
	A	A	Dog testing trials.	401.05(D)(9)
	TYPE I	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	TYPE II	Farm stands	401.05(D)(10)
	TYPE II	TYPE II	Home occupations, subject to Section 822.	401.05(A)(1) & (D)(1)
	TYPE II	TYPE II	A landscape contracting business.	401.05(A)(1) & (D)(2)
	TYPE II	TYPE II	Agri-tourism single event.	401.05(A)(1) & (D)(3)
	TYPE II	TYPE II	Agri-tourism for up to 6 events or activities.	401.05(A)(1) & (D)(4)
	TYPE II	TYPE II	A cider business as described in and subject to ORS 215.451.	
	TYPE II	TYPE II	A farm brewery as described in and subject to ORS 215.449.	
	TYPE II	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	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)

COMMERCIAL USES (cont.)	TYPE II	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)(5)
	TYPE II	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: 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	TYPE II	Equine and equine-affiliated therapeutic and counseling activities.[3]	401.05(A)(1) & (D)(11)
	C	C	Home occupation to host events, subject to Section 806.	401.05(A)(1) & (D)(1)
	C	C	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)
	C	C	Agri-tourism additional events not to exceed 18 events on a minimum of 80 acres.	401.05(A)(1) & (D)(6)
	C	C	An aerial fireworks display business.	401.05(A)(1) & (D)(7)
	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)(8) or (9).	401.05(A)(1)
	A	A	Operations for the exploration for, and production of, geothermal resources as defined by ORS 522.005 and oil and gas as defined by ORS 520.005, including the placement and operation of compressors, separators, and other customary production equipment for an individual well adjacent to a wellhead. Any activities or construction relating to such operations shall not be a basis for an exception under ORS 197.732(1)(a) or (b).	
	A	A	Operations for the exploration for minerals as defined by ORS 517.750. Any activities or construction relating to such operations shall not be a basis for an exception under ORS 197.732(1)(a) or (b).	
	C	C	Operations conducted for mining, crushing, or stockpiling of aggregate and other mineral and other subsurface resources subject to ORS 215.298.	401.05(A)(1), (E)(1) & (E)(1)(a)

COMMERCIAL USES (cont.)	C	C	Processing as defined by ORS 517.750 of aggregate into asphalt or Portland cement.	401.05(A)(1), (E)(1) & (E)(1)(b)
	C	C	Processing of other mineral resources and other subsurface resources.	401.05(A)(1), (E)(1) & (E)(1)(c)
	C	C	Operations conducted for mining and processing of geothermal resources as defined by ORS 522.005 and oil and gas as defined by ORS 520.005 not otherwise permitted under Section 401.	401.05(A)(1), (E)(1) & (E)(1)(d)
	HV	**LV**	**Use**	**Subject To**
TRANSPORTATION USES	A	A	Climbing and passing lanes within the right of way existing as of July 1, 1987.	
	A	A	Reconstruction or modification of public roads and highways, including the placement of utility facilities overhead and in the subsurface of public roads and highways along the public right-of-way, but not including the addition of travel lanes, where no removal or displacement of buildings would occur, or no new land parcels result.	
	A	A	Temporary public road and highway detours that will be abandoned and restored to original condition or use at such time as no longer needed.	
	A	A	Minor betterment of existing public road and highway related facilities such as maintenance yards, weigh stations, and rest areas, within right of way existing as of July 1, 1987, and contiguous public-owned property utilized to support the operation and maintenance of public roads and highways.	
	TYPE II	TYPE II	Parking of no more than seven log trucks, subject to ORS 215.311	401.05(A)(1)
	TYPE II	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)
	TYPE II	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)

TRANSPORTATION USES (cont.)	A	A	Minor betterment of existing public road and highway related facilities such as maintenance yards, weigh stations, and rest areas, within right of way existing as of July 1, 1987, and contiguous public-owned property utilized to support the operation and maintenance of public roads and highways.	
	TYPE II	TYPE II	Parking of no more than seven log trucks, subject to ORS 215.311	401.05(A)(1)
	TYPE II	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)
	TYPE II	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)
	TYPE II	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, subject to Oregon Administrative Rules (OAR) 660-012-0065.	
	HV	**LV**	**Use**	**Subject To**
UTILITY AND SOLID WASTE DISPOSAL FACILITY USES	A	A	Irrigation reservoirs, canals, delivery lines, and those structures and accessory operational facilities, not including parks or other recreational structures and facilities, associated with a district as defined in ORS 540.505.	
	A	A	Solar energy system as an accessory use.	
	A	A	Rainwater collection systems as an accessory use.	
	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 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.	
	HV	**LV**	**Use**	**Subject To**
UTILITY AND SOLID WASTE DISPOSAL FACILITY USES (cont.)	TYPE II	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)
	TYPE II	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, *Permitted Uses in the EFU District*.	401.05(G)(2)
	TYPE II	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)
	*NA~~1~~	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)
	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 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)
	*NA~~1~~	C	A site for the disposal of solid waste approved by the governing body of a city or county or both and for which a permit has been granted under ORS 459.245 by the Department of Environmental Quality together with equipment, facilities, or buildings necessary for its operation.	401.05(A)(1)

	HV	LV	Use	Subject To
PARKS, PUBLIC, AND QUASI-PUBLIC USES	A	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	A	Onsite filming and activities accessory to onsite filming for 45 days or less.	
	TYPE II	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	TYPE II	Public parks and playgrounds.	401.05(A)(1), (5) & (H)(2)
	TYPE II	TYPE II	Fire service facilities providing rural fire protection services.	
	TYPE II	TYPE II	Community centers.	401.05(A)(1), (5) & (H)(3)
	TYPE II	TYPE II	Living history museum.	401.05(A)(1), (5) & (H)(4)
	TYPE II	TYPE II	Firearms training facility as provided in ORS 197.770(2).	401.05(A)(5)
	TYPE II	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	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)
	*NA~~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)
	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)
	*NA~~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)

PARKS, PUBLIC, AND QUASI-PUBLIC USES (cont.)	TYPE II	TYPE II	Expansion of a public or private ~~secondary~~ 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(J)(~~1~~2) & (~~2~~3)
	*NA~~1~~	C	Private parks, playgrounds, hunting and fishing preserves, and campgrounds.	401.05(A)(1), (5) & (H)(5)
	*NA~~1~~	C	Golf courses.	401.05(A)(1), (5) & (H)(6)
	HV	**LV**	**Use**	**Subject To**
OUTDOOR GATHERINGS	A	A	An outdoor mass gathering or other gathering described in ORS 197.015(10)(d).	401.05(I)(1)
	TYPE III	TYPE III	Any outdoor gathering subject to review of the Planning Commission under ORS 433.763.	401.05(I)(2)

[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.)

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.

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 exception:

    a. For purposes of evaluating a lot of record dwelling application on high value farmland, the applicant may submit a report from a professional soils classifier whose credentials are acceptable to the Oregon Department of Agriculture that the soil class, soil rating or other soil designation should be changed; and submits a statement from the Oregon Department of Agriculture that the Director of Agriculture or the director's designee has reviewed the report and finds the analysis in the report to be soundly and scientifically based.

3. The landowner for the dwelling shall sign and record in the deed records for the County a document binding the landowner, and the landowner's successors in interest, prohibiting them from pursuing a claim for relief or cause of action alleging injury from farming or forest practices for which no action or claim is allowed under 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(T) that was in existence as of June 17, 2010.

    b. Existing facilities wholly within a farm use zone may be maintained, enhanced, or expanded on the same tract, subject to other requirements of law, but enclosed existing structures within a farm use zone within three miles of an urban growth boundary may not be expanded beyond the requirements of Subsection 401.05(A)(5).

B. Farm and Forest Uses

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

a. Use less than 10,000 square feet for its processing area and comply with all applicable siting standards, but the standards may not be applied in a manner that prohibits the siting of the processing facility or establishment; or

b. Notwithstanding any applicable siting standard, use less than 2,500 square feet for its processing area.

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.

C. Residential Uses

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

a. When an application is submitted, the County finds to its satisfaction, based on substantial evidence, that the dwelling to be altered, restored or replaced has, or formerly had:

i. Intact exterior walls and roof structure;

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

iii. Interior wiring for interior lights; and

iv. A heating system; and

b. A dwelling to be replaced meets one of the following conditions:

i. If the dwelling was removed, destroyed or demolished, the dwelling's tax lot does not have a lien for delinquent ad valorem taxes and any removal, destruction or demolition occurred on or after January 1, 1973;

ii. If the dwelling is currently in such a state of disrepair that the dwelling is unsafe for occupancy or constitutes an attractive nuisance, the

dwelling's tax lot does not have a lien for delinquent ad valorem taxes; or

iii. A dwelling not described in Subsection 401.05(C)(1)(b)(i) or 401.05(C)(1)(b)(ii) was assessed as a dwelling for purposes of ad valorem taxation for the previous five property tax years; or from the time when the dwelling was erected upon or affixed to the land and became subject to assessment as described in ORS 307.010.

c. For replacement of a lawfully established dwelling:

i. The dwelling to be replaced must be removed, demolished or converted to an allowable nonresidential use: within one year from the date the replacement dwelling is certified for occupancy pursuant to ORS 455.055; or, if the dwelling to be replaced is in such a state of disrepair that the structure is unsafe for occupancy or constitutes an attractive nuisance, the dwelling to be replaced must be removed within 90 days from the date a replacement permit is issued; and

ii. The applicant must cause to be recorded in the deed records of the County a statement that the dwelling to be replaced has been removed, demolished or converted.

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 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, or the director's designee, places a statement of release in the deed records of the County to the effect that the provisions of 2019 Oregon Laws, chapter 440, section 1 and ORS 215.283 regarding replacement dwellings have changed to allow the lawful siting of another dwelling.

e. A replacement dwelling under Subsection 401.05(C) 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. However, the standards may not be applied in a manner that prohibits the siting of the replacement dwelling.

f. The replacement dwelling must be sited on the same lot or parcel:

i. Using all or part of the footprint of the replaced dwelling or near a road, ditch, river, property line, forest boundary or another natural boundary of the lot of record; and

ii. If possible, for the purpose of minimizing the adverse impacts on resource use of land in the area, within a concentration or cluster of structures or within 500 yards of another structure.

g. If an applicant is granted a deferred replacement permit, the deferred replacement permit does not expire but, notwithstanding Subsection 401.05(C)(1)(c)(i), 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.

2. Lot of record dwelling when determined to be located on Low Value Farmland, subject to the following criteria:

a. The lot of record on which the dwelling will be sited was lawfully created prior to January 1, 1985.

b. The lot of record has been under the continuous ownership of the present owner who either,

i. Acquired the lot of record prior to January 1, 1985, or

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

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

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

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

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

g. The dwelling either will not seriously interfere with the preservation of big game winter range areas identified on Comprehensive Plan Map III-2, *Scenic and Distinctive Resource Areas*, or can be adequately mitigated. Estimated impacts and appropriate mitigation measures shall be submitted by the applicant and based on the best available data and assessment methods from the appropriate agency. The Oregon Department of Fish and

Wildlife (ODFW) suggests to the County that in the absence of mitigation measures, winter range is seriously impacted by residential densities which exceed one unit per 80 acres or one unit per 40 acres, if clustered within 200 feet.

3. Lot of record dwelling when determined to be located on High Value Farmland consisting predominantly of Class III and IV Soil, subject to the following criteria:

   a. The lot of record on which the dwelling will be sited was lawfully created prior to January 1, 1985.

   b. The lot of record has been under the continuous ownership of the present owner who either,

      i. Acquired the lot of record prior to January 1, 1985, or

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

   c. The tract on which the dwelling will be sited does not include a dwelling.

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

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

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

   g. The tract is no more than 21 acres.

   h. The tract is bordered on at least 67 percent of its perimeter by tracts that are smaller than 21 acres, and at least two such tracts had dwellings on January 1, 1993; or, the tract is bordered on at least 25 percent of its perimeter by tracts that are smaller than 21 acres, and at least four dwellings existed on January 1, 1993, within one-quarter mile of the center of the subject tract. Up to two of the four dwellings may lie within an urban growth boundary, but only if the subject tract abuts an urban growth boundary.

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

4. Lot of record dwelling when determined to be located on High Value Farmland consisting predominantly of Prime, Unique, Class I or II Soils, subject to the following criteria:

   a. The lot of record on which the dwelling will be sited was lawfully created prior to January 1, 1985.

   b. The lot of record has been under the continuous ownership of the present owner who either,

      i. Acquired the lot of record prior to January 1, 1985, or

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

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

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

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

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

g. The lot of record cannot practicably be managed for farm use, by itself or in conjunction with other land, due to extraordinary circumstances inherent in the land or its physical setting that do not apply generally to other land in the vicinity. Extraordinary circumstances include very steep slopes, deep ravines, rivers, streams, roads, railroads or utility lines or other similar natural or physical barriers that by themselves or in combination, separate the subject property from adjacent agricultural land and prevent it from being practicably managed for farm use by itself or together with adjacent or nearby farms. A parcel that has been put to farm use despite the proximity of a natural barrier or since the placement of a physical barrier shall be presumed manageable for farm use.

h. The dwelling will not materially alter the stability of the overall land use pattern in the area.

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

5. Dwelling in conjunction with a farm use on High Value Farm Land: A primary farm dwelling for the farm operator may be allowed subject to the following criteria:

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

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

c. Except for seasonal farmworker housing approved prior to 2001, there is no other dwelling on lands designated for exclusive farm use or for mixed farm/forest use 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;

e. The dwelling will be occupied by a person or persons who produced the commodities which generated the income;

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

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

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

i. Only a lot of record zoned for farm use in Clackamas County or a contiguous county may be used to meet the gross income requirements.

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

6. Dwelling in conjunction with a farm use on Low Value Farmland: A primary farm dwelling for the farm operator may be allowed on low value farmland subject to the following criteria:

   a. The subject tract is currently employed in farm use on which the farm operator earned at least $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;

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

   c. Except seasonal farmworker housing approved prior to 2001, there is no other dwelling on lands designated for exclusive farm use or for mixed farm/forest use 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;

   e. The dwelling will be occupied by a person or persons who produced the commodities which generated the income;

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

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

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

i. Only lots of record zoned for farm use in Clackamas County or a contiguous county may be used to meet the gross income requirements.

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

7. A dwelling customarily provided in conjunction with a commercial dairy farm, which is a dairy operation that owns a sufficient number of producing dairy animals capable of earning the gross annual income 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;

   a. The subject tract will be employed as a commercial dairy; and

   b. The dwelling is sited on the same lot of record as the buildings required by the commercial dairy; and

   c. Except for a replacement of a lawfully established dwelling, there is no other dwelling on the subject tract; and

   d. The dwelling will be occupied by a person or persons who will be principally engaged in the operation of the commercial dairy farm, such as the feeding, milking or pasturing of the dairy animals or other farm use activities necessary to the operation of the commercial dairy farm; and

   e. The building permits, if required, have been issued for and construction has begun for the buildings and animal waste facilities required for a commercial dairy farm; and

   f. The Oregon Department of Agriculture has approved the following:

      i. A permit for a "confined animal feeding operation" under ORS 468B.050 and 468B.200 to 468B.230; and

ii. A Producer License for the sale of dairy products under ORS 621.072.

8. 160 acre test, subject to the following criteria:

   a. The parcel on which the dwelling will be located is at least 160 acres.

   b. The subject tract is currently employed in a farm use.

   c. The dwelling will be occupied by a person or persons who will be principally engaged in the farm use of the land, such as planting, harvesting, marketing or caring for livestock at a commercial scale.

   d. Except ~~as permitted in Subsection 401.05(C)(12)~~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 ~~as permitted in Subsection 401.05(C)(12)~~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).

10. Dwelling not in conjunction with a farm use: A dwelling for a nonfarm use may be allowed subject to the following criteria:

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

b. The dwelling will be sited on a lot of record that is predominantly composed of Class IV through Class VIII soils that would not, when irrigated, be classified as prime, unique, Class I or Class II soils;

c. The dwelling will be sited on a lot of record lawfully created before January 1, 1993.

d. The dwelling shall not materially alter the stability of the overall land use pattern of the area. 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 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 (10), including identification of predominant soil classifications, the parcels created prior to January 1, 1993, and the parcels larger than the minimum lot size that may be divided to create new parcels for nonfarm dwellings under ORS 215.263(4). The findings shall describe the existing land use pattern of the study area, including the distribution and arrangement of existing uses and the land use pattern that could result from approval of the possible nonfarm dwellings;

iii. Determine whether approval of the proposed nonfarm dwelling together with existing nonfarm dwellings will materially alter the stability of the land use pattern in the area. The stability of the land use pattern will be materially altered if the cumulative effect of existing and potential nonfarm dwellings will make it more difficult for the existing types of farms in the area to continue operation due to diminished opportunities to expand, purchase or lease farmland, acquire water rights or diminish the number of tracts or acreage in farm use in a manner that will destabilize the overall character of the study area.

e. The dwelling shall comply with such other conditions as the County considers necessary.

f. Prior to Planning Director approval for issuance of a building or manufactured dwelling permit, the applicant shall notify the County Assessor that the lot of record is no longer being used for farmland and; request the County Assessor to disqualify the lot of record for special assessment under ORS 308.370, 308.765, 321.257 to 321.381, 321.730 or 321.815 and; pay any additional tax imposed upon disqualification from special assessment. A lot of record that has been disqualified pursuant to Subsection 401.05(C)(10)(f) shall not requalify for special assessment unless, when combined with another contiguous lot of record, it constitutes a qualifying parcel.

11. Relative farm help dwelling: A relative farm help dwelling for a relative of the farm operator may be allowed subject to the following criteria:

a. A relative farm help dwelling 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;

b. The accessory farm dwelling shall be located on a lawfully created lot of record;

c. The accessory farm dwelling shall be occupied by child, parent, stepparent, grandchild, grandparent, stepgrandparent, sibling, stepsibling, niece, nephew or first cousin, of the farm operator or the farm operator's spouse, whose assistance in the management and farm use of the existing commercial farming operation, such as planting, harvesting, marketing or caring for livestock, is required by the farm operator.

d. The farm operator shall continue to play the predominant role in the management and farm use of the farm. A farm operator is a person who operates a farm, doing the work and making the day-to-day decision about such things as planting, harvesting, feeding and marketing.

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

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

g. There are no other dwellings on the lot of record that are vacant or currently occupied by persons not working on the subject farm unit that could reasonably be used as an accessory farm dwelling.

~~h. Any lot of record land division or property line adjustment which results in the location of any accessory farm dwelling on a lot of record separate from the farm use property for which it has been established is prohibited.~~

12. Accessory 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 allowed subject to the following criteria:

a. The accessory farm dwelling shall be occupied by a person or persons who will be principally engaged in the farm use of the land and whose seasonal or year-round assistance in the management of the farm use, such as planting, harvesting, marketing or caring for livestock, is or will be required by the farm operator on the farm unit.

b. The accessory farm dwelling shall be located on a lawfully created lot of record;

c. The accessory farm dwelling shall be located:

i. On the same lot of record as the primary farm dwelling; or

ii. On the same tract as the primary farm dwelling when the lot of record on which the accessory farm dwelling will be sited is consolidated into a single parcel with all other contiguous lots of record in the tract; or

iii. On a lot of record on which the primary farm dwelling is not located, when the accessory farm dwelling is a manufactured dwelling and a deed restriction is filed with the County Clerk. The deed restriction shall require the manufactured dwelling to be removed when the lot of record is conveyed to another party. The manufactured dwelling may remain if it is re-approved pursuant to Section 401; or

iv. On any lot of record, when the accessory farm dwelling is limited to only attached multi-unit residential structures allowed by the applicable state building code or similar types of farmworker housing as that existing on farm 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)(12)(c)(iv) shall be removed, demolished, or converted to a nonresidential use when farm worker housing is no longer required.

v. On a lot of record on which the primary farm dwelling is not located, when the accessory farm dwelling is located on a lot of record at least the size of the applicable minimum lot size and the lot of record complies with the gross farm income requirements of Subsection 401.05(C)(12)(f)(i) or 401.05(C)(12)(f)(ii), whichever is applicable.

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

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

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

i. On Low Value Farmland, the primary farm dwelling is located on a farm operation that is currently employed for farm use, as defined in ORS 215.203, on which the farm operator earned the lower of at least $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 High Value Farmland, the primary farm dwelling is located on a farm operation that is currently employed for farm use, as defined in ORS 215.203, on which the farm operator earned at least $80,000 in gross annual income from the sale of farm products in each of the last two years or three of the last five years or in an average of three of the last five years.

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

~~h. Any proposed land division or property line adjustment of a lot of record for an accessory farm dwelling approved pursuant to Subsection 401.05(C)(12) shall not be approved. If it is determined that an accessory farm dwelling satisfies the requirements for a dwelling in conjunction with a farm use under Subsection 401.05(C)(5) or (6), a parcel may be created consistent with the minimum parcel size requirements in Subsection 401.07(A).~~

~~i~~h. An accessory farm dwelling approved pursuant to Subsection 401.05(C)(12) shall not later be used to satisfy the requirements for a dwelling not provided in conjunction with farm use pursuant to Subsection 401.05(C)(10).

~~j~~i. "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.

~~k~~j. "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.

~~l~~k. "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.

~~m~~l. "Farmworker Housing Owner", means a person that owns farmworker housing. It does not mean a person whose interest in the farmworker housing is that of a holder of a security interest in the housing.

13. 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 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.

    b. The subject 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 as provided in 401.05(C)(5)(a) or 401.05(C)(6)(a); 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)(13)(a).

    e. In determining the gross income the cost of purchased livestock shall be deducted from the total gross income attributed to the tract.

    f. Only gross income from land owned, not leased or rented, shall be counted.

14. One manufactured dwelling, residential trailer, or recreational vehicle, in conjunction with an existing dwelling as a temporary use for the term of a hardship suffered by the existing resident or a relative of the resident. Within three months of the end of the hardship, the manufactured dwelling, residential trailer, or recreational vehicle shall be removed or demolished. A temporary residence approved under Subsection 401.05(C)(14) is not eligible for replacement under Subsection 401.05(C)(1) as a permanent dwelling. On-site sewage disposal system review and removal requirements through the Septic and Onsite Wastewater Program also apply.

D. Commercial Uses

1. The home occupation shall not unreasonably interfere with other uses permitted in the EFU zoning district and shall not be used as justification for a zone change.

2. A landscape contracting business, as defined in ORS 671.520, or a business providing landscape architecture services, as described in ORS 671.318, if the business is pursued in conjunction with the growing and marketing of nursery stock on the land that constitutes farm use.

3. A single agri-tourism or other commercial event or activity in a calendar year that is personal to the applicant and is not transferrable by sale of the tract, subject to ORS 215.239, 215.283(4)(a), and (6) and the following:

   a. Agri-tourism events shall not include any mass gatherings or other outdoor gatherings; and

   b. Agri-tourism events 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; and

   c. "Agri-tourism", means a commercial event or activity that is logically, physically, and/or economically connected to and supports an existing on-site farm operation and promotes the practice of agriculture.

4. Agri-tourism for up to six events or other commercial events or activities in a calendar year that is personal to the applicant and is not transferrable by sale of the tract, subject to ORS 215.239, 215.283(4)(c), and (6) and the following:

   a. Agri-tourism events shall not include any mass gatherings or other outdoor gatherings; and

b. Agri-tourism events 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; and

c. "Agri-tourism", means a commercial event or activity that is logically, physically, and/or economically connected to and supports an existing on-site farm operation and promotes the practice of agriculture.

5. A 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.

6. Up to 18 agri-tourism or other commercial events or activities in a calendar year, on a minimum 80 acre lot of record, subject to ORS 215.239, 215.283(4)(d), (5), and (6) and the following:

   a. Agri-tourism events shall not include any mass gatherings or other outdoor gatherings, and

   b. Agri-tourism events 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; and

   c. "Agri-tourism", means a commercial event or activity that is logically, physically and/or economically connected to and supports an existing on-site farm operation and promotes the practice of agriculture.

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

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

8. Dog training classes, which may be conducted outdoors or in preexisting farm buildings that existed on January 1, 2013, when:

   a. The number of dogs participating in training does not exceed 10 dogs per training class; and

   b. The number of training classes to be held on-site does not exceed six per day.

9. Dog testing trials, which may be conducted outdoors or in preexisting farm buildings that existed on January 1, 2013, when:

   a. The number of dogs participating in a testing trial does not exceed 60; and

   b. The number of testing trials to be conducted on-site is limited to four or fewer trials per calendar year.

10. Farm stands 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)(10), "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)(10)(c), "processed crops and livestock" includes jams, syrups, apple cider, animal products and other similar farm crops and livestock that have been processed and converted into another product but not prepared food items.

d. Farm stands may not be used for the sale, or to promote the sale, of marijuana items.

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

a. The activities 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 are acting within the proper scope of any licenses required by the state.

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

i. New uses that batch and blend mineral and aggregate into asphalt cement may not be authorized within two miles of a planted vineyard. Planted vineyard means one or more vineyards totaling 40 acres or more that are planted as of the date the application for batching and blending is filed.

c. Processing of other mineral resources and other subsurface resources.

d. Operations conducted for mining and processing of geothermal resources as defined by ORS 522.005 and oil and gas as defined by ORS 520.005 not otherwise permitted under Section 401.

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 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. 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. A power generation facility may include on-site and off-site facilities for temporary workforce housing for workers constructing a power generation facility. Such facilities must be removed or converted to an allowed use under OAR 660-033-0130(19) (a private campground) or other statute or rule when the project construction is complete. Temporary workforce housing facilities not included in the initial approval may be considered through a minor amendment request. A minor amendment request shall be subject to 401.05(A)(1) and shall have no effect on the original approval.

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.

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. Private parks, playgrounds, hunting and fishing preserves, and campgrounds. A campground is an area devoted to overnight temporary use for vacation, recreational, or emergency purposes, but not for residential purposes and is established on a site or is contiguous to lands with a park or other outdoor natural amenity that is accessible for recreational use by the occupants of the campground.

    a. Except on a lot of record contiguous to a lake or reservoir, private campgrounds shall not be allowed within three miles of an urban growth boundary unless an exception is approved pursuant to ORS 197.732 and OAR chapter 660, division 4.

    b. A campground shall be designed and integrated into the rural agricultural and forest environment in a manner that protects the natural amenities of the site and provides buffers of existing native trees and vegetation or other natural features between campsites.

    c. Campsites may be occupied by a tent, travel trailer, yurt, or recreational vehicle.

d. Separate sewer, water, or electric service hook-ups shall not be provided to individual campsites except that electrical service may be provided to yurts allowed for by Subsection 401.05(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.

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

I. Outdoor Gatherings

1. An outdoor mass gathering as defined in ORS 433.735 or other gathering of 3,000 or fewer persons that is not anticipated to continue for more than 120 hours in any three-month period. Agri-tourism and other commercial events or activities may not be permitted as mass gatherings under ORS 215.283(4).

2. Any outdoor gathering of more than 3,000 persons that is anticipated to continue for more than 120 hours in any three-month planning period is subject to review by the Planning Commission under the provisions of ORS 433.763. Outdoor gatherings may not include agri-tourism events or activities.

J. 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(J)(2) may be expanded without regard to:

   a. ~~Capacity~~ A maximum capacity of people in the structure or group of structures;

   b. ~~Distance~~ A maximum distance between structures; or

   c. ~~Density~~ 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. Land divisions that are prohibited under Oregon Administrative Rules (OAR) 660-033-0100(8) and (9):~~

~~1. A land division that separates a temporary dwelling for care, relative farm help dwelling, home occupation or processing facility from a parcel on which the primary residential or other primary use exists is prohibited.~~

~~2. A land division of a parcel created before January 1, 1993, on which a nonfarm dwelling was approved is prohibited.~~

A. A land division shall not separate a temporary dwelling for care, 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)(11) 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)(12) from the lot of record on which the primary farm dwelling exists, except as provided in OAR 660-033-0010(24)(B).

D. A land division of a lot of record created before January 1, 1993, on which a nonfarm dwelling was approved pursuant to Subsection 401.05(C)(1) is prohibited.

~~B~~E. Land divisions are permitted, if consistent with ~~one of the following options and~~ Subsections 1105.01(A) and 1105.07. A land division pursuant to Subsection 401.08(~~C~~F) shall require review of a Type I application pursuant to Section 1307, *Procedures*. A land division pursuant to Subsection 401.08(~~D~~F), (~~E~~H), (~~F~~I), (~~G~~J), or (~~H~~K) shall require review of a Type II application pursuant to Section 1307.

~~C~~F. 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).

~~D~~G. Nonfarm Use Land Divisions:

1. A land division creating parcels less than 80 acres in size may be approved for the following uses, if the parcel for the use is not larger than the minimum size necessary for the use:

   a. A fire service facility;

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

   c. 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(~~D~~G)(1)(c) may not later be rezoned for retail, commercial, industrial, or other nonresource use, except as provided under the statewide planning goals or under ORS 197.732.

~~E~~H. Nonfarm Dwelling Land Divisions: Lots of record less than 80 acres in size may be approved, subject to the following criteria:

1. The originating lot of record is at least 80 acres, and is not stocked to the requirements under ORS 527.610 to 527.770;

2. The lot of record is composed of at least 95% Class VI through Class VIII agricultural soils, and composed of at least 95% soils not capable of producing 50 cubic feet per acre per year of wood fiber;

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

4. No new lot of record may be created until the criteria in Subsections 401.05(C)(10)(a), (b), (d), (e), and (f) for a dwelling are satisfied.

~~F~~I. Parks/Open Space/Land Conservation Land Divisions: A land division for a provider of public parks or open space, or a not-for-profit land conservation organization, may be approved subject to ORS 215.263(10) and Subsection 401.05(A)(1). In addition, the owner of any 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.

~~G~~J. 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 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.

~~H~~K. 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, 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 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.

401.10 APPROVAL PERIOD AND TIME EXTENSION

A. Approval Period: Approval of a Type I, II, or III application, except approval of a Type II application for a replacement dwelling 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:

1. For a land division, the final plat shall be recorded with the County Clerk. If a final plat is not required under Oregon Revised Statutes chapter 92, deeds

with the legal descriptions of the new parcels shall be recorded with the County Clerk; or

2. For all other applications, 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.

B. Time Extension: If the approval of a Type I, II, or III application is not implemented within the initial approval period established by Subsection 401.~~11~~10(A), a two-year time extension may be approved pursuant to Section 1310.

C. Subsections 401.10(A) and (B) do not apply to home occupations or conditional uses, which shall be subject to any applicable approval period and time extension provisions of Sections 822 or 1203, respectively.

[Amended by Ord. ZDO-224, 5/31/11; Amended by Ord. ZDO-230, 9/26/11; Amended by Ord. ZDO-234, 6/7/12; Amended by Ord. ZDO-241, 1/1/13; Amended by Ord. ZDO-247, 3/1/14; Amended by Ord. ZDO-248, 10/13/14; Amended by Ord. ZDO-254, 1/4/16; Amended by Ord. ZDO-262, 5/23/17; Amended by Ord. ZDO-263, 5/23/17; Amended by Ord. ZDO-264, 8/22/17; Amended by Ord. ZDO-266, 5/23/18; Amended by Ord. ZDO-268, 10/2/18; Amended by Ord. ZDO-276, 10/1/20]

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 or a manufactured dwelling.

F. Firearms Training Facility: An indoor facility only, that provides training courses and issues certifications required for law enforcement personnel, by the Oregon Department of Fish and Wildlife, or by nationally recognized programs that promote shooting matches, target shooting, and safety.

G. Forest Operation: Any commercial activity relating to the growing or harvesting of any forest tree species as defined in Oregon Revised Statutes 527.620(6).

H. Navigation: References an instrument within a waterway or flightway that assists in traveling to a destination for water vessels and aircraft.

I. Owner: For purposes of a lot of record dwelling, "owner" includes the spouses in a marriage, son, daughter, parent, brother, brother-in-law, sister, sister-in-law, son-in-law, daughter-in-law, parent-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.

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

K. 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.

L. 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.

M. Relative: For purposes of a Temporary Dwelling for Care, "relative" means a child, parent, stepparent, grandchild, grandparent, stepgrandparent, sibling, stepsibling, niece, nephew, or first cousin of the owner.

N. 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.

O. 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 allowed.

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

3. "Type III" means the use requires review of a Type III application, pursuant to Section 1307.

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.

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	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 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 a primary farm or forest use exists.	
	TYPE II	Temporary portable facility for the primary processing of forest products.	406.05(B)(1)
	C	Permanent facility for the primary processing of forest products.	406.05(A)(1), (6) & (B)(2)
	C	Permanent facilities for logging equipment repair and storage.	406.05(A)(1) & (6)
	C	Log scaling and weigh stations.	406.05(A)(1) & (6)

	Type	Use	Subject To
NATURAL RESOURCE USES	A	Uninhabitable structures accessory to fish and wildlife enhancement.	
	C	Forest management research and experimentation facilities.	406.05(A)(1) & (C)(1)
	Type	**Use**	**Subject To**
RESIDENTIAL USES	A	Uses and structures customarily accessory and incidental to a dwelling, only if a lawfully established dwelling exists.	
	A	Alteration, restoration, or replacement of a lawfully established dwelling.	406.05(D)(1)
	TYPE II	Forest lot of record dwelling.	406.05(A)(3), (4), (5) & (D)(2)
	TYPE II	Forest template test dwelling.	406.05(A)(3), (4), (5) & (D)(3)
	TYPE II	160 acre forest dwelling.	406.05(A)(3), (4), (5) & (D)(4)
	TYPE II	200 acre noncontiguous tract forest dwelling	406.05(A)(3), (4), (5) & (D)(5)
	TYPE II	Caretaker residences for public parks and public fish hatcheries.	406.05(A)(2) & (5)
	TYPE II	Temporary forest labor camp for a period not to exceed one year.	
	TYPE II	Temporary dwelling for care, subject to Subsection 1204.04.	406.05(A)(1), (2) & (D)(6)
	TYPE II	Accessory dwelling supporting family forestry.	406.05(D)(7)
	Type	**Use**	**Subject To**
COMMERCIAL USES	A	Family child care home.	
	TYPE II	Home occupation, subject to Section 822, *Home Occupations*.	406.05(A)(1), (2), (5) & (E)(1)
	C	Home occupation to host events, subject to Section 806, *Home Occupations to Host Events*.	406.05(A)(1), (2), (5) & (E)(1)
	C	Home occupation for canine skills training, subject to Section 836, *Home Occupations for Canine Skills Training*.	406.05(A)(1), (2) (5) & (E)(1)
	C	Private accommodations for fishing on a temporary basis.	406.05(A)(1), (2), (5) & (E)(2)
	C	Private seasonal accommodations for fee based hunting.	406.05(A)(1), (5) & (E)(3)
	Type	**Use**	**Subject To**
MINERAL, AGGREGATE, OIL, AND GAS USES	A	Exploration for mineral and aggregate resources as defined in ORS chapter 517 and subject to the requirements of the Department of Geology and Mineral Industries.	
	C	Mining and processing of oil, gas, or other subsurface resources.	406.05(A)(1), (6) & (F)(1)
	C	Exploration for and production of geothermal, gas, and oil.	406.05(A)(1), (6) & (F)(2)

	Type	Use	Subject To
TRANSPORTATION USES	A	Widening of roads within existing rights-of-way in conformance with Chapter 5, *Transportation System Plan*, 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	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)
	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)
	TYPE II	Parking of up to seven dump trucks and seven trailers, subject to ORS 215.311.	406.05(A)(1)
	C	Aids to navigation and aviation.	406.05(A)(1) & (6)
	C	Expansion of existing airports.	406.05(A)(1)
	C	Temporary asphalt and concrete batch plants as accessory uses to specific highway projects.	406.05(A)(1)
	C	Roads, highways, and other transportation facilities and improvements not otherwise allowed under this Ordinance.	406.05(A)(1) & (G)(1)

	Type	Use	Subject To
UTILITY AND SOLID WASTE DISPOSAL FACILITY USES	See Table 835-1	Wireless telecommunication facilities, subject to Section 835, *Wireless Telecommunication Facilities*.	
	A	Local distribution lines (i.e., electric, telephone, natural gas) and accessory equipment (i.e., electric distribution transformers, poles, meter cabinets, terminal boxes, pedestals), or equipment which provides service hookups, including water service hookups.	
	A	Water intake facilities, canals and distribution lines for farm irrigation and ponds.	
	A	Solar energy systems as an accessory use.	
	A	Rainwater collection systems as an accessory use.	
	A	Electric vehicle charging stations for residents and their nonpaying guests.	
	A	Meteorological towers.	
	TYPE II	Wind energy power production systems as an accessory use.	406.05(H)(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)
	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, *Composting Facilities*.	406.05(A)(1) & (6)
	C	Commercial utility facilities for the purpose of generating power.	406.05(A)(1), (6) & (H)(2)
	C	New electric transmission lines.	406.05(A)(1) & (H)(3)
	C	Television, microwave, and radio communication facilities.	406.05(A)(1), (6) & (H)(4)
	Type	**Use**	**Subject To**
PARKS AND PUBLIC/QUASI-PUBLIC USES	A	Private hunting and fishing operations without any lodging accommodations.	
	A	Towers and fire stations for forest fire protection.	
	C	Fire stations for rural fire protection.	406.05(A)(1) & (6)
	C	Youth camps on 40 acres or more, subject to OAR 660-006-0031.	406.05(A)(1) & (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) & (I)(1)
	C	Public parks including only those uses specified under OAR 660-034-0035 or 660-034-0040, whichever is applicable.	406.05(A)(1) & (6)

	Type	Use	Subject To
OUTDOOR GATHERINGS	A	An outdoor mass gathering as defined in ORS 433.735 or other gathering of fewer than 3,000 persons that is not anticipated to continue for more than 120 hours in any three-month period.	406.05(J)(1)
	TYPE III	An outdoor mass gathering of more than 3,000 persons that continues or can reasonably be expected to continue for more than 120 hours within any three-month period and any part of which is held in open spaces.	406.05(A)(1) & (J)(2)

406.05 APPROVAL CRITERIA FOR SPECIFIC USES

The following criteria apply to some of the uses listed in Table 406-1, *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.

2. 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.

D. Residential Uses

1. Alteration, restoration, or replacement of a lawfully established dwelling that:

   a. Has intact exterior walls and roof structure;

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

   c. Has interior wiring for interior lights;

   d. Has a heating system; and

e. In the case of replacement, is removed, demolished, or—if not a manufactured dwelling or residential trailer—converted to an allowable use within 90 days from the occupancy of the new dwelling. Manufactured dwellings and residential trailers to be replaced shall be removed from the property within 30 days from the occupancy of the new dwelling.

2. Lot of record dwelling, subject to the following criteria:

   a. The lot of record on which the dwelling will be sited was lawfully created prior to January 1, 1985.

   b. The lot of record on which the dwelling will be sited was acquired by the present owner:

      i. Prior to January 1, 1985; or

      ii. By devise or intestate succession from a person who acquired the lot or parcel prior to January 1, 1985.

   c. The tract on which the dwelling will be sited does not include a dwelling.

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

   e. The property is not capable of producing 5,000 cubic feet per year of commercial tree species.

   f. The property is located within 1,500 feet of a public road, as defined under ORS 368.001 that provides or will provide access to the subject tract. The road shall be maintained and either paved or surfaced with rock and shall not be a BLM road, or a USFS road unless the road is paved to a minimum width of 18 feet, there is at least one defined lane in each direction, and a maintenance agreement exists between the USFS and the landowners adjacent to the road, a local government, or a state agency.

   g. The proposed dwelling is not prohibited by this Ordinance or the Comprehensive Plan, or any other provisions of law.

   h. When the lot or parcel on which the dwelling will be sited is part of a tract, the remaining portions of adjacent common ownership land shall remain in common ownership as long as the dwelling remains as approved.

   i. The County Assessor's Office shall be notified of all approvals granted under Subsection 406.05(D)(2).

3. Forest template dwelling, subject to the following criteria:

a. No dwellings are allowed on other lots of record that make up the tract~~The tract on which the dwelling will be sited does not include a dwelling.~~ ;

b. ~~No dwellings are allowed on other lots of record that make up the tract~~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. ~~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~~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 ~~created~~established.

e. Any property line adjustment to the lot of record complied with the applicable property line adjustment provisions in Section 1107, *Property Line Adjustments*;

~~d.~~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(D)(3).

~~e.~~g. The County Assessor's Office shall be notified of all approvals granted under Subsection 406.05(D)(3).

~~f.~~h. 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, ~~at least~~all or part of ~~a minimum of~~at least three lots of record that existed on January 1, 1993, shall ~~fall~~ be within the template, and ~~a minimum of~~at least three lawfully established dwellings shall have existed on the other lots of record within the template area on January 1, 1993; or

B) 50 ~~–~~to 85 cubic feet per acre per year of wood fiber production, ~~at least~~all or part of ~~a minimum of~~at least seven lots of record that existed on January 1, 1993, shall ~~fall~~ be within the template, and ~~a minimum of~~at least four lawfully established dwellings shall have existed on the other lots of record within the template area on January 1, 1993; or

C) Greater than 85 cubic feet per acre per year of wood fiber production, ~~at least~~all or part of ~~a minimum of~~at least 11 lots of record that existed on January 1, 1993, shall ~~fall~~ be within the template, and ~~a minimum of~~at least five lawfully established dwellings shall have existed on the other lots of record within the template area on January 1, 1993.

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

A) Lots of record larger than 80 acres;

~~B) Lots of record created on or after January 1, 1993;~~

~~C~~B) Dwellings on lots of record larger than 80 acres;

~~D) Dwellings constructed on or after January 1, 1993;~~

~~E~~C) Lots of record or dwellings located within an urban growth boundary;

~~F~~D) Temporary dwellings; and

~~G~~E) The subject ~~property~~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(D)(3)(f)(ii) shall be located on the same side of the road or stream as the subject tract and shall either be located within the template or within one-quarter mile of the edge of the subject tract and not outside the length of the template. If a road crosses the tract on which the dwelling will be sited, a minimum of one of the dwellings required by Subsection 406.05(D)(3)(f)(ii) shall be located on the same side of the road as the proposed dwelling.

4. 160 acre minimum forest dwelling, subject to the following criteria:

   a. The tract on which the dwelling is to be sited is at least 160 acres.

   b. The tract on which the dwelling will be sited does not include a dwelling.

   c. The lot of record upon which the dwelling is to be located was lawfully created.

   d. The County Assessor's Office shall be notified of all approvals granted under Subsection 406.05(D)(4).

5. 200 acre noncontiguous dwelling, subject to the following criteria:

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

   b. An owner of tracts that are not contiguous but are in Clackamas County adds together the acreage of two or more tracts that total 200 acres or more;

c. The owner submits proof of an irrevocable deed restriction, recorded in the deed records of the county, for the tracts in the 200 acres. The deed restriction shall preclude all future rights to construct a dwelling on the tracts not supporting the proposed dwelling, or to use the tracts to total acreage for future siting of dwellings for present and any future owners unless the tract is no longer subject to protection under goals for agricultural and forest lands;

d. None of the lots of record or tracts used to total 200 acres may already contain a dwelling.

e. All lots of record or tracts used to total a minimum of 200 acres must have a Comprehensive Plan designation of Forest;

f. The lot of record upon which the dwelling is to be located was lawfully created;

g. The County Assessor's Office shall be notified of all approvals granted under Subsection 406.05(D)(5).

6. 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 suffered by the existing resident or a relative of the resident. Within three months of the end of the hardship, the manufactured dwelling, residential trailer, or recreational vehicle shall be removed or demolished. A temporary residence approved under Subsection 406.05(D)(6) is not eligible for replacement under Subsection 406.05(D)(1) as a permanent dwelling. On-site sewage disposal system review and removal requirements through the Septic and Onsite Wastewater Program also apply.

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(D)(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(D)(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.

E. Commercial Uses

1. The home occupation shall not unreasonably interfere with other uses permitted in the zoning district in which the subject property is located and shall not be used as justification for a zone change.

2. Private accommodations for fishing occupied on a temporary basis may be allowed subject to the following:

   a. Accommodations limited to no more than 15 guest rooms as that term is defined in the Oregon Structural Specialty Code; and

   b. Only minor incidental and accessory retail sales are permitted; and

   c. Accommodations occupied temporarily for the purpose of fishing during fishing seasons authorized by the Oregon Fish and Wildlife Commission; and

   d. Accommodations must be located within one-quarter mile of fish bearing Class I waters.

3. Private seasonal accommodations for fee hunting operations may be allowed subject to the following:

   a. Accommodations are limited to no more than 15 guest rooms as that term is defined in the Oregon Structural Specialty Code; and

   b. Only minor incidental and accessory retail sales are permitted; and

   c. Accommodations are occupied temporarily for the purpose of hunting during game bird and big game hunting seasons authorized by the Oregon Fish and Wildlife Commission.

F. Mineral, Aggregate, Oil, and Gas Uses

1. Mining and processing of oil, gas, or other subsurface resources, as defined in ORS chapter 520 and mining and processing of aggregate and mineral resources as defined in ORS chapter 517;

2. Exploration for and production of geothermal, gas, oil, and other associated hydrocarbons, including the placement and operation of compressors, separators, and other customary production equipment for an individual well adjacent to a well head;

G. Transportation Uses

1. Roads, highways, and other transportation facilities and improvements not otherwise allowed under this Ordinance, with:

a. The adoption of an exception to the goal related to forest lands and to any other applicable goal with which the facility or improvement does not comply; or

b. Compliance with ORS 215.296 for those uses identified by rule of the Oregon Land Conservation and Development Commission as provided in Oregon Laws 1993, chapter 529, section 3.

H. Utility and Solid Waste Disposal Facility Uses

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

a. The system is not a commercial power generating facility;

b. No turbine has an individual rated capacity of more than 100kW, nor does the cumulative total rated capacity of the turbines comprising the installation exceed 100 kW;

c. The system complies with the Oregon Department of Environmental Quality noise standards otherwise applicable to commercial and industrial uses for quiet areas, measured at the nearest property line of the noise-sensitive use. This may be demonstrated through information provided by the manufacturer;

d. The system is prohibited if tower lighting for aviation safety is required;

e. The system will be located outside an urban growth boundary on a minimum of one acre;

f. The system does not exceed 150 feet in height from base to the height of the tower plus one blade;

g. The system is set back a distance not less than the tower height plus one blade from all property lines; and

h. Roof mounted system towers shall extend no more than an additional five feet above the highest ridge of a building's roof or 15 feet above the highest eave, whichever is higher, but shall not exceed 150 feet in height from finished grade.

2. Commercial utility facilities for the purpose of generating power. A power generation facility shall not preclude more than 10 acres from use as a commercial forest operation unless an exception is taken pursuant to OAR 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.

4. Television, microwave, and radio communication facilities and transmission towers, provided the base of such structure shall not be closer to the property line than a distance equal to the height of the tower.

I. Parks, Public, and Quasi-Public Uses

1. Private parks and campgrounds: Campgrounds in private parks shall only be those allowed by Subsection 406.05(I)(1). A campground is an area devoted to overnight temporary use for vacation, recreational, or emergency purposes, but not for residential purposes and is established on a site or is contiguous to lands with a park or other outdoor natural amenity that is accessible for recreational use by the occupants of the campground, subject to the following:

   a. Except on a lot of record contiguous to a lake or reservoir, campgrounds shall not be allowed within three miles of an urban growth boundary unless an exception is approved pursuant to ORS 197.732 and OAR chapter 660, division 4.

   b. A campground shall be designed and integrated into the rural agricultural and forest environment in a manner that protects the natural amenities of the site and provides buffers of existing native trees and vegetation or other natural features between campsites.

   c. Campsites may be occupied by a tent, travel trailer, yurt, or recreational vehicle.

   d. Separate sewer, water, or electric service hook-ups shall not be provided to individual campsites except that electrical service may be provided to yurts allowed for by Subsection 406.05(I)(1)(g).

   e. Campgrounds authorized by Subsection 406.05(I)(1) shall not include intensively developed recreational uses such as swimming pools, tennis courts, retail stores, or gas stations.

   f. Overnight temporary use in the same campground by a camper or camper's vehicle shall not exceed a total of 30 days during any consecutive six-month period.

g. A private campground may provide yurts for overnight camping. No more than one-third or a maximum of 10 campsites, whichever is smaller, may include a yurt. The yurt shall be located on the ground or on a wood floor with no permanent foundation. As used in Subsection 406.05(I)(1), "yurt" means a round, domed shelter of cloth or canvas on a collapsible frame with no plumbing, sewage disposal hook-up, or internal cooking appliance.

J. Outdoor Gatherings

1. An outdoor mass gathering as defined in ORS 433.735 or other gathering of fewer than 3,000 persons that is not anticipated to continue for more than 120 hours in any three-month period, subject to ORS 433.735 through 433.760.

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

406.06 PROHIBITED USES

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:

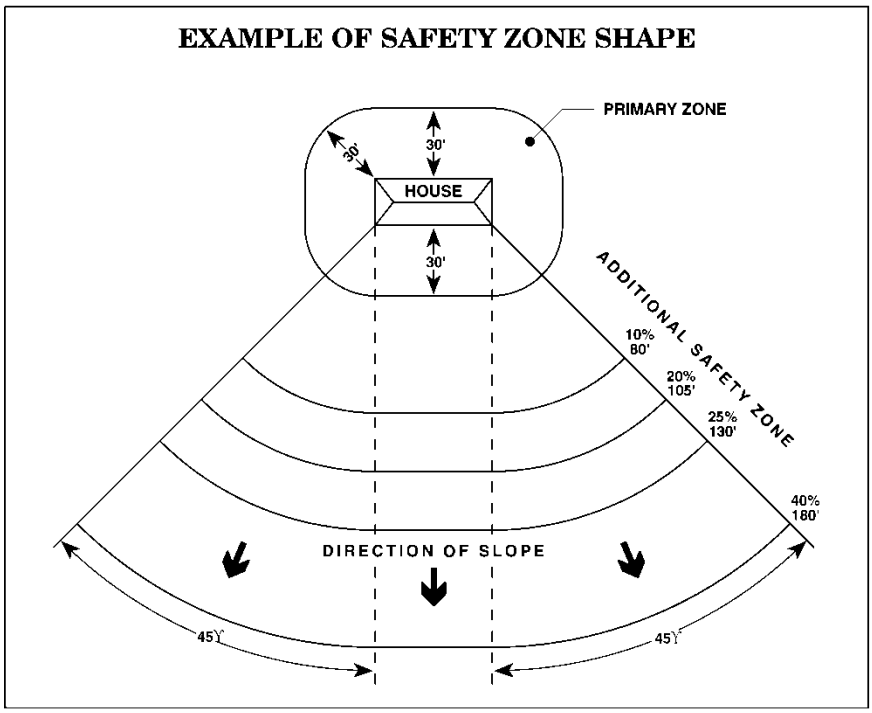
1. A primary fuel-free break area shall be maintained surrounding any new structure, including any new dwelling.

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.

406.09 LAND DIVISIONS

Land divisions are permitted, if consistent with one of the following options and Subsections 1105.01(A) and 1105.07. 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(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.

406.11 APPROVAL PERIOD AND TIME EXTENSION

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

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

2. For all other applications, 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.

B. Time Extension: 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*.

C. Subsections 406.11(A) and (B) do not apply to home occupations or conditional uses, which shall be subject to any applicable approval period and time extension provisions of Sections 822, *Home Occupations* or 1203, *Conditional Uses*, respectively.

[Amended by Ord. ZDO-224, 5/31/11; Amended by Ord. ZDO-230, 9/26/11; Amended by Ord. ZDO-234, 6/7/12; Amended by Ord. ZDO-245, 7/1/13; Amended by Ord. ZDO-247, 3/1/14; Amended by Ord. ZDO-248, 10/13/14; Amended by Ord. ZDO-254, 1/4/16; Amended by Ord. ZDO-262, 5/23/17; Amended by Ord. ZDO-266, 5/23/18; Amended by Ord. ZDO-268, 10/2/18; Amended by Ord. ZDO-276, 10/1/20]

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 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 an attached single-family dwelling, 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.

L. Condominiums: Any of the following types of dwellings, if permitted in the subject zoning district, may be platted as condominiums: detached single-family dwellings, attached single-family dwellings, two-family dwellings, three-family dwellings, and multifamily dwellings. In the case of attached single-family dwellings, condominium platting supersedes the requirement that each dwelling unit be on a separate lot of record.

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 , television antennas and receivers, transit amenities, trellises, and utility service equipment	A	A	A	A	A	A	A	A	A	A	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	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
Child Care Facilities	P	P	P	P	P	P	P	P	P	L[5],C	L[6],C

Use	NC	C-2	RCC	RTL	CC	C-3	PMU[1]	SCMU	OA[2,3]	OC	RCO
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
Congregate Housing Facilities	X	X	P[7,8]	P[9]	P[9]	P[9]	P	P	L	P[9]	P[7,8]
Daycare Services, Adult	P	P	P	P	P	P	P	P	P	L[5],C	L[6],C
Dog Services, including boarding, daycare, and grooming	S	P	S	S	S	S	S	S	S	S	S
Drive-Thru Window Services, subject to Section 827	C	A	A[10]	A	A	A	A[11]	X	X	A[11]	A[11]
Dwellings, Attached Single-Family	X	A	X	A	X	A	P	P	L[12]	X	X
Dwellings, Detached Single-Family	A	A	X	A	X	A	X	X	X	X	X
Dwellings, Multifamily	X	X	P[7]	P[9]	P[9]	P[9]	P	P	L[13]	P[9]	P[7]
Dwellings, Three-Family	X	X	X	P	P	P	P	P	L[13]	P	X
Dwellings, Two-Family	X	A	X	P	P	P	P	P	L[13]	P	X
Electric Vehicle Charging Stations	A,C	P	A	A,C	P	P	A	A	A	A	A
Employee Amenities, such as cafeterias, clinics, child care facilities, fitness facilities, lounges, and recreational facilities	A	A	A	A	A	A	A	A	A[14]	A[14]	A[14]
Entertainment Facilities, including arcades, billiard halls, bowling alleys, miniature golf courses, and movie theaters	C[15]	P[15]	P[15]	P	P	P	P[15]	P[15,16]	S	C[15,17]	L[6,15]
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

Use	NC	C-2	RCC	RTL	CC	C-3	PMU[1]	SCMU	OA[2,3]	OC	RCO
Fitness Facilities, including athletic clubs, exercise studios, gymnasiums, and health clubs	P[15]	P[15]	P[15]	P	P	P	P[15]	P[15,16]	L[15,18]	C[15]	L[15,19]
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[20]	C	C	C	X	X	X	C[20]	C[20]
Helistops	X	X	C[20]	C	C	C	C	C	X	C[20]	C[20]
Home Occupations, including bed and breakfast homestays, subject to Section 822	A	A	A	A	A	A	A	A	A	A	A
Hospitals	X	X	X	X	X	X	X	X	X	C	C
Hotels	P	P	P	P	P	P	P	P[16]	S	L[5,21],C[21]	P[21]
Hydroelectric Facilities	X	C	X	C	X	C	X	X	X	X	X
Libraries	P	P	P	P	P	P	P	P	P	P	P
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[22]	S[23]	S	S	P	P	S	P[24,25]	S	P[26]	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[24,25]	S	P[26]	S
Marijuana Processing	X	X	X	X	P[27]	P[27]	X	P[24,27]	X	P[26,27]	X

Use	NC	C-2	RCC	RTL	CC	C-3	PMU[1]	SCMU	OA[2,3]	OC	RCO
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[16]	X	P[17]	L[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[28]	A[28]	A[28]
Motels	P	P	P	P	P	P	P	P[16]	S	L[5,29],C[29]	L[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
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[30]	A
Parking Structures	X	A[31]	P[30]	P[30]	P	P	A	A	A[31]	P[30]	P[30]

Use	NC	C-2	RCC	RTL	CC	C-3	PMU[1]	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
Public Utility Facilities	S	C	C[32]	C[32]	C	C	S	S	S	S	S
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 Stations[33]	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

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[15]	P[15]	P[15]	P	P	P	P[15]	P[15,16]	S	C[15]	L[15,19]
Recyclable Drop-Off Sites, subject to Section 819	A	A	A[34]	A[34]	A	A	A[34]	A[34]	A[34]	A[34]	A[34]
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[26]	P	P[35]	P[35]	P[26]
Retailing—whether by sale, lease, or rent—of new or used products	S	S	P	P	P	P	P	P[16]	S	C[17]	L[6]
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[16]	L[18,36],S	L[5,36],C[17]	L[6]

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: all-terrain vehicles, automobiles, light trucks, motorcycles, and snowmobiles	S	S	P	P	P	P	X	X	X	C[17]	L[6]
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
Roads	P	P	P	P	P	P	P	P	P	P	P
Schools	P[37]	P[37]	P	P	P	P	P	P	L[38]	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[16]	S	C[17]	L[6]
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[17]	L[6]

Use	NC	C-2	RCC	RTL	CC	C-3	PMU[1]	SCMU	OA[2,3]	OC	RCO
Services, Commercial—Food and Beverage, including catering and eating and drinking establishments	P	P	P	P	P	P	P	P[16]	L[18]	L[5],C[39]	L[6,40]
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[16]	S	C[17]	L[6]
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[17]	L[6]
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[16]	S	C[17]	L[6]

Use	NC	C-2	RCC	RTL	CC	C-3	PMU[1]	SCMU	OA[2,3]	OC	RCO
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[16]	L[18]	L[5]	L[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
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[16]	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[24]	P	P	P
Signs, subject to Section 1010	A[41]	A[41]	A[41]	A[41]	A[41]	A[41]	A[41]	A[41]	A[41]	A[41]	A[41]
Stadiums, Outdoor	X	X	X	X	X	C	X	X	X	X	X

Use	NC	C-2	RCC	RTL	CC	C-3	PMU[1]	SCMU	OA[2,3]	OC	RCO
Telephone Exchanges	S	C	C	C	C	C	S	S	S	S	S
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
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 Carrier Cabinets, subject to Section 830	P,C[42]	P,C[42]	P,C[42]	P,C[42]	P,C[42]	P,C[42]	P,C[42]	P,C[42]	P,C[42]	P,C[42]	P,C[42]
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 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.

6 The use is permitted only:

a. 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

b. On the ground-level floor of a freestanding parking structure.

[7] Freestanding congregate housing facilities and freestanding multifamily dwellings are subject to the development and dimensional standards applicable to congregate housing facilities and multifamily dwellings in the RCHDR District. ~~-~~This requirement does not apply to congregate housing facilities or multifamily dwellings in a mixed-use building.

[8] A congregate housing facility shall have a minimum of four dwelling units.

[9] Freestanding congregate housing facilities and freestanding multifamily dwellings are subject to the development and dimensional standards applicable to congregate housing facilities and multifamily dwellings in the HDR District. ~~-~~With the exception of compliance with the maximum density standard, this requirement does not apply to congregate housing facilities or multifamily dwellings in a mixed-use building.

[10] 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*.

[11] 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.

[12] Attached single-family dwellings, subject to the density standards of the VTH District, may be developed in the same building as a primary use.

[13] Two-family, three-family and multifamily dwellings, subject to the density standards of the MR-2 District, may be developed in the same building as a primary use.

[14] Employee amenities shall be located in the same structure as the use to which they are accessory.

[15] Only indoor facilities are permitted.

[16] 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 ~~18~~ 16 shall not exceed 40,000 square feet in a single building.

[17] The maximum combined building floor area of the use, any limited uses, and any other uses subject to Note ~~19~~17, shall be 20 percent of the building floor area of primary uses in the same development.

[18] 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 ~~20~~18, shall be 10 percent of the total building floor area in the same development.

[19] 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.

[20] This use is permitted only in conjunction with a primary or another conditional use.

[21] 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.

[22] In the NC District, sign production is a conditional use.

[23] In the C-2 District, sign production is a permitted use.

[24] 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 ~~26~~24, does not exceed 25 percent of the building floor area of the mixed-use development.

[25] Manufacturing of the following is prohibited: explosive devices; incendiary devices; and renewable fuel resources, such as alcohol, biomass, and methanol.

[26] 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.

[27] 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.

[28] Only level one mobile vending units are permitted.

[29] 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.

[30] The parking is permitted to serve only developments located in the same zoning district as the subject property.

[31] This use is limited to understructure parking.

[32] Only substations are permitted.

[33] The base of such towers shall not be closer to the property line than a distance equal to the height of the tower.

[34] Recyclable drop-off sites are permitted only if accessory to an institutional use.

[35] No operation shall be conducted or equipment used which would create hazards and/or noxious or offensive conditions.

[36] 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 ~~19~~17, in the OC District.

[37] Only commercial schools are permitted.

[38] Schools shall be limited to no more than 30 percent of the total building floor area on a site.

[39] 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:

a. Has a minimum seating capacity of 75;

b. Specializes in gourmet, ethnic, or specialty cuisine;

c. Includes banquet facilities and services;

d. Provides live entertainment at least two nights a week;

e. Utilizes custom architectural design and/or collections of artistic, cultural, or historic items to produce a distinctive thematic decor or atmosphere;

f. Has an 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.

[40] Notwithstanding Note ~~10~~6, 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 ~~26~~ 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.

[41] Temporary signs regulated under Subsection 1010.13(A) are a primary use.

[42] Utility carrier cabinets are a conditional use if the combined volume of all cabinets located on a single lot exceeds the applicable maximum established pursuant to Subsection 830.01(A).

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 1005.10	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 1005.10	10 feet	15 feet	5 feet[9]

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 1005.10	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 1005.10	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

Standard	NC	C-2	RCC	RTL	CC	C-3	PMU	SCMU	OA	OC	RCO
Minimum 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]	None	None	None	See Table 510-3	20 dwelling units per net acre for residential development; none for mixed-use development[24]	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 or with a limited use other than a fitness facility or a freestanding restaurant[24]

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 an attached single-family dwelling and uses accessory to that dwelling.

[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 an attached single-family dwelling, and uses accessory to that dwelling, 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 1005.03(H). However, see Subsection 1005.03(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 1005.08(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 1005.03(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).

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 1005.03(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 1005.03(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, 10/13/14; Amended by Ord. ZDO-252, 6/1/15; Amended by Ord. ZDO-253, 6/1/15; Amended by Ord. ZDO-254, 1/4/16; Amended by Ord. ZDO-266, 5/23/18; Amended by Ord. ZDO-268, 10/2/18; Amended by Ord. ZDO-276, 10/1/20]

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, and transit amenities	A
Assembly Facilities, including auditoriums, community centers, and senior centers	P
Athletic Clubs	C
Bus Shelters	A
Child Care Facilities	P
Civic and Cultural Facilities, including art galleries and museums	P[1],C[2]
Community Gardens	P
Composting Facilities	X
Daycare Services, Adult	P
Electric Vehicle Charging Stations	A
Employee Amenities, including cafeterias, clinics, daycare facilities, fitness facilities, lounges, and recreational facilities	A[3]
Farmers' Markets, subject to Section 840	P
Government Uses, including fire stations, police stations, and post offices	P
Libraries	P
Marijuana Processing	X
Marijuana Production	X
Marijuana Retailing	X
Marijuana Wholesaling	X
Offices, including developer sales offices and professional offices	C
Offices, including government offices and utility offices	P
Pedestrian Amenities	P
Public Recreation Facilities	P

Use	VCS
Recyclable Drop-off Sites, subject to Section 819	A
Roads	P
Schools	P
Signs, subject to Section 1010	A[4]
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[5]
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] Employee amenities shall be located in the same structure as the use to which they are accessory.

[4] Temporary signs regulated under Subsection 1010.13(A) are a primary use.

[5] Utility carrier cabinets are a conditional use if the combined volume of all cabinets located on a single lot exceeds the applicable maximum established pursuant to Subsection 830.01(A).

[Added by Ord. ZDO-250, 10/13/14; Amended by Ord. ZDO-253, 6/1/15; Amended by Ord. ZDO-254, 1/4/16; Amended by Ord. ZDO-266, 5/23/18; Amended by Ord. ZDO-268, 10/2/18]

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, storage of building maintenance and landscape maintenance equipment, and transit amenities	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 Facilities	L[3,4],C[5]
Civic and Cultural Facilities, including art galleries and museums	C[1]
Composting Facilities	X
Daycare Services, Adult	L[3,6],C[5]
Educational Institutes	C[7]
Electric Vehicle Charging Stations	A
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

Use	VO
Fitness Facilities, including athletic clubs, exercise studios, gymnasiums, and health clubs	C
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[9]
Marijuana Processing	P[9,10]
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
Research Facilities and Laboratories, including medical laboratories, medical research, product design and testing, and product research and development	P[11]
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

Use	VO
Services, Commercial—Food and Beverage, including catering and eating and drinking establishments	L[3]
Services, Information, including blueprinting, bookbinding, photo processing, photo reproduction, printing, and publishing	P
Signs, subject to Section 1010	A[12]
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 Carrier Cabinets, subject to Section 830	P,C[13]
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] 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.

[6] The use shall be integrated within office buildings and shall neither exceed 1,500 square feet nor serve more than 13 adults.

[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] 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.

[10] The processing, compounding, or conversion of marijuana into cannabinoid concentrates or cannabinoid extracts is prohibited.

[11] No operation shall be conducted, or equipment used, that would create any of the following: hazards, noxious conditions, or offensive conditions.

[12] Temporary signs regulated under Subsection 1010.13(A) are a primary use.

[13] Utility carrier cabinets are a conditional use if the combined volume of all cabinets located on a single lot exceeds the applicable maximum established pursuant to Subsection 830.01(A).

[Added by Ord. ZDO-250, 10/13/14; Amended by Ord. ZDO-253, 6/1/15; Amended by Ord. ZDO-254, 1/4/16; Amended by Ord. ZDO-266, 5/23/18; Amended by Ord. ZDO-268, 10/2/18]

513 RURAL TOURIST COMMERCIAL (RTC) AND RURAL COMMERCIAL (RC) DISTRICTS

513.01 PURPOSE

Section 513 is adopted to implement the policies of the Comprehensive Plan for Community Commercial areas regulated by the Mount Hood Community Plan and for Rural Commercial areas.

513.02 APPLICABILITY

Section 513 applies to land in the Rural Tourist Commercial (RTC) and Rural Commercial (RC) Districts.

513.03 USES PERMITTED

A. Uses permitted in the RTC and RC Districts are listed in Table 513-1, *Permitted Uses in the RTC and RC 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*.

B. As used in Table 513-1:

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. "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.
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. ~~6~~7. Numbers in superscript correspond to the notes that follow Table 513-1.

C. Permitted uses are subject to the applicable provisions of Subsection 513.04, *Dimensional Standards*; Section 1000, *Development Standards*; and Section 1100, *Development Review Process.*

513.04 DIMENSIONAL STANDARDS

A. General: Dimensional standards applicable in the RTC and RC Districts are listed in Tables 513-2, *Dimensional Standards in the RTC and RC Districts, Except in Government Camp*, and 513-3, *Dimensional Standards in Government Camp*. As used in Tables 513-2 and 513-3, numbers in superscript correspond to the notes that follow the tables.

B. Modifications: Modifications to the standards in Tables 513-2 and 513-3 are established by Sections 800, *Special Use Requirements*; 903, *Setback Exceptions*; 904, *Height Exceptions;* 1107, *Property Line Adjustments*; and 1205, *Variances*.

Table 513-1: Permitted Uses in the RTC and RC Districts

Use	RTC	RC
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 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, television antennas and receivers, transit amenities, trellises, and utility service equipment	A	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	P	P,C[1]
Bed and Breakfast Inns, subject to Section 832	P	P
Bed and Breakfast Residences, subject to Section 832	P	P
Bus Shelters	P	P
Child Care Facilities	P	P
Civic and Cultural Facilities, including art galleries, libraries, museums, and visitor centers	P	P
Composting Facilities	X	X
Contractors, Logging	P	P
Daycare Services, Adult	P	P
Drive-Thru Window Services, subject to Section 827	X	A
Dwellings, Detached Single-Family	P[2],A	A
Electric Vehicle Charging Stations	P	P
Employee Amenities, including cafeterias, clinics, child care facilities, fitness facilities, lounges, and recreational facilities	A	A
Entertainment Facilities, including arcades, billiard halls, and movie theaters	P	P
Farmers' Markets, subject to Section 840	P	P
Financial Institutions, including banks, brokerages, credit unions, loan companies, and savings and loan associations	P	P
Fitness Facilities, including athletic clubs, exercise studios, gymnasiums, and health clubs	P	P

Use	RTC	RC
Government Uses, including fire stations, police stations, and post offices	P	P
Government Uses, unless such a use is listed elsewhere in this table as a primary, accessory, conditional, or prohibited use in the applicable zoning district	S	C
Home Occupations, including bed and breakfast homestays, subject to Section 822	A	A
Hosting of Weddings, Family Reunions, Class Reunions, Company Picnics, and Similar Events	C	C
Hotels	P[3]	S[4]
Hydroelectric Facilities	C	C
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, but excluding the processing, production, and wholesaling of marijuana products.	P	S
Marijuana Processing	X	X
Marijuana Production	X	X
Marijuana Retailing, subject to Section 841	P[5]	P[5]
Marijuana Wholesaling	P[6]	P[6]
Mobile Vending Units, subject to Section 837	P	P
Motels	P[3]	S[4]
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
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
Parking Lots	A	A
Parking Structures, Community	P[7]	X
Pedestrian Amenities	P	P
Public Utility Facilities	S	C
Radio and Television Transmission and Receiving Towers and Earth Stations	S[8]	C[8]

Use	RTC	RC
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[9]	C	C
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[9]	P	P
Recreational Uses, Government-Owned Golf Courses[9]	P	P
Recreational Vehicle Camping Facilities, subject to Section 813	P	X
Recycling Centers, subject to Section 819	C	C
Recyclable Drop-Off Sites, subject to Section 819	A	A
Resort Accommodations	P[10]	S
Retailing—whether by sale, lease, or rent—of any of the following new or used products: Class I, III, and IV all-terrain vehicles, as defined by Oregon Revised Statutes Chapter 801; motorcycles; and snowmobiles	S	P
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
Retailing—whether by sale, lease, or rent—of any of the following new or used products: animal feed, building materials, farm equipment, forestry equipment, and livestock supplies	P	P
Roads	P	P
Schools	P	P,C[2,11]
Service Stations	P	P
Services, Commercial—Construction and Maintenance, including contractors engaged in construction and maintenance of buildings, electrical systems, and plumbing systems	P	P

Use	RTC	RC
Services, Commercial—Food and Beverage, including catering and eating and drinking establishments	P[12]	P[12]
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
Services, Commercial—Maintenance and Repair of any of the following: all-terrain vehicles, automobiles, light trucks, motorcycles, and snowmobiles	P	P
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; and recreational vehicles	S	P
Services, Commercial—Miscellaneous, including food lockers, interior decorating, locksmith, upholstering, and veterinary	P	P
Services, Commercial—Mini-Storage/Self-Storage Facilities	C[13]	C
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
Services, Commercial—Storage of any of the following: all-terrain vehicles, automobiles, light trucks, motorcycles, and snowmobiles	S	C
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; and recreational vehicles	S	C
Services, Commercial—Studios of the following types: art, craft, dance, music, and photography	P	P
Sewer System Components that Serve Lands Inside an Urban Growth Boundary, subject to ORS 660-011-0060(3)	Type II[14]	Type II[14]
Sewer Systems and Extensions of Sewer Systems to Serve Land Outside an Urban Growth Boundary and Unincorporated Community, subject to ORS 660-011-0060(4)	Type II[15]	Type II[15]
Signs, subject to Section 1010	A[~~14~~16]	A[~~14~~16]
Telephone Exchanges	S	C
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

Use	RTC	RC
Temporary Buildings for Uses Incidental to Construction Work. Such buildings shall be removed upon completion or abandonment of the construction work.	A	A
Theme Parks and Amusement Parks	C	S
Transfer Stations, subject to Section 819	C	C
Transit Park-and-Rides	P	P
Utility Carrier Cabinets, subject to Section 830	P,C~~15~~17	P,C~~15~~17
Wholesaling—whether by sale, lease, or rent—of any of the following new or used products: animal feed, farm equipment, farm materials, farm products, fertilizer, forestry equipment, forestry materials, forestry products, mulch, nursery stock, seeds, and seedlings	P	P
Wireless Telecommunication Facilities, subject to Section 835	See Table 835-1	See Table 835-1

[1] A fraternal organization lodge, place of worship, or school is a conditional use if the building floor space exceeds 4,000 square feet.

[2] On a lot of record created on or before December 7, 1983, one detached single-family dwelling is a primary use. Otherwise, detached-single family dwellings are permitted only as an accessory use.

[3] A new hotel or motel in Rhododendron shall be limited to a maximum of 35 units. A new hotel or motel in Government Camp shall be limited to a maximum of 100 units.

[4] If a hotel or motel is authorized as a similar use inside an unincorporated community, it shall be subject to Oregon Administrative Rules 660-022-0030(5).

[5] Marijuana retailing is permitted only inside an unincorporated community.

[6] Marijuana wholesaling shall be located entirely within one or more completely enclosed buildings. A maximum of 4,000 square feet of building floor space may be used for all activities associated with marijuana wholesaling on a lot of record.

[7] Parking structures are permitted only in Government Camp and only if they are consistent with a community parking plan adopted by the Board of County Commissioners.

[8] The base of such towers shall not be closer to the property line than a distance equal to the height of the tower.

[9] This use may include concessions, restrooms, maintenance facilities, and similar support uses.

[10] A resort accommodations development in Government Camp shall be limited to a maximum of 50 units per acre. A resort accommodations development in Rhododendron or Wemme/Welches shall be limited to a maximum number of units per acre calculated pursuant to Table 317-3, *District Land Area Standards in the MRR District*, but is not subject to Section 1012, *Lot Size and Density*.

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

[12] Drive-in eating and drinking establishments are prohibited.

[13] No outside storage shall be permitted.

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

[15] 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 ORS 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.

~~14~~16 Temporary signs regulated under Subsection 1010.13(A) are a primary use.

~~15~~17 Utility carrier cabinets are a conditional use if the combined volume of all cabinets located on a single lot exceeds the applicable maximum established pursuant to Subsection 830.01(A).

Table 513-2: Dimensional Standards in the RTC and RC Districts, Except in Government Camp

Standard	RTC	RC
Minimum Lot Size	None	None[1]
Minimum Front Setback	25 feet[2]	30 feet[2]
Minimum Rear Setback	10 feet[3,4,5]	10 feet[4,6]
Minimum Side Setback	10 feet[3,4,5]	10 feet[4,6]
Maximum Building Floor Space per Commercial Use in an Unincorporated Community	4,000 square feet[7]	
Maximum Building Floor Space per Commercial Use outside an Unincorporated Community	Not Applicable	3,000 square feet[8]
Maximum Building Floor Space per Industrial Use in an Unincorporated Community	40,000 square feet[9]	

[1] The minimum lot size inside the Portland Metropolitan Urban Growth Boundary shall be 20 acres. The 20-acre minimum lot size is applicable to a subdivision or partition, but not to a property line adjustment.

[2] In a planned unit development, the minimum front setback is 20 feet.

[3] If the lot line abuts a national forest, there is no minimum setback. If Note 3 and Note 4 conflict, Note 3 prevails.

[4] 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.

[5] If the lot line abuts an RR or HR District, the minimum is 20 feet except as established by Note 3 or 4.

[6] If the lot line abuts a residential zoning district, the minimum is 20 feet except as established by Note 3 or 4.

[7] No maximum applies to hotels and motels; 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.

[8] A lawfully established commercial use that existed on December 20, 2001, may expand to occupy a maximum of 3,000 square feet of building floor space or 25 percent more building floor space than was occupied by the use on December 20, 2001, whichever is greater.

[9] No maximum applies to uses authorized under Statewide Planning Goals 3 and 4; expansion of a use that existed on December 5, 1994; uses that require proximity to a rural resource, as defined in Oregon Administrative Rules 660-004-0022(3)(a); new uses that will not exceed the capacity of water and sewer service available to the site on December 5, 1994, or, if such services are not available to the site, the capacity of the site itself to provide water and absorb sewage; and uses sited on abandoned or diminished mill sites.

Table 513-3: Dimensional Standards in Government Camp

Standard	RTC
Minimum Front Setback unless the Front Lot Line abuts Government Camp Loop	10 feet, except 20 feet to garage and carport motor vehicle entries
Minimum Front Setback if the Front Lot Line abuts Government Camp Loop	4 feet[1]
Maximum Front Setback if the Front Lot Line abuts Government Camp Loop	10 feet[2]
Minimum Rear Setback	10 feet[3,4,5]
Minimum Side Setback	None

Maximum Building Height	70 feet[6]
Minimum Building Separation above 3,500 Feet in Elevation	20 feet between buildings with contiguous snow slide areas
Maximum Building Floor Space per Commercial Use	8,000 square feet[7]
Maximum Building Floor Space per Industrial Use	60,000 square feet[8]

[1] There is no minimum front setback for building cantilevers with a minimum vertical clearance of eight feet above any pedestrian pathway, sidewalk, or walkway. Structures less than 10 feet from the front lot line shall be designed to include measures to protect the public and vehicles from snow slide incidents.

[2] The maximum front setback may be exceeded to the minimum extent necessary to accommodate public plaza space. Detached single-family dwellings are exempt from complying with the maximum front setback.

[3] If the rear lot line abuts a national forest, there is no minimum rear setback. If Note 3 and Note 4 conflict, Note 3 prevails.

[4] In a planned unit development, there is no minimum rear setback except from rear lot lines on the perimeter of the final plat.

[5] If the rear lot line abuts an HR District, the minimum rear setback is 20 feet except as established by Note 3 or 4.

[6] The maximum building height may be increased to 87.5 feet to accommodate understructure parking or to preserve natural features or views.

[7] No maximum applies to hotels and motels; 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.

[8] No maximum applies to uses authorized under Statewide Planning Goals 3 and 4; expansion of a use that existed on December 5, 1994; uses that require proximity to a rural resource, as defined in Oregon Administrative Rules 660-004-0022(3)(a); new uses that will not exceed the capacity of water and sewer service available to the site on December 5, 1994, or, if such services are not available to the site, the capacity of the site itself to provide water and absorb sewage; and uses sited on abandoned or diminished mill sites.

[Added by Ord. ZDO-252, 6/1/15; Amended by Ord. ZDO-253, 6/1/15; Amended by Ord. ZDO-254, 1/4/16; Amended by Ord. ZDO-266, 5/23/18; Amended by Ord. ZDO-268, 10/2/18; Amended by Ord. ZDO-276, 10/1/20]

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, television antennas and receivers, transit amenities, trellises, and utility service equipment	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
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
Electrical Power Production Facilities	X	X	C
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[2]	C[2]	C[2]
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

Use	BP	LI	GI
Heliports	C	C	C
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
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[3]	P[3]	P[3]
Marijuana Production	P[3]	P[3]	P[3]
Marijuana Retailing	X	X	X

Use	BP	LI	GI
Marijuana Wholesaling	P[3]	P[3]	P[3]
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
Public Utility Facilities	C	C	C
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]

Use	BP	LI	GI
Recyclable Drop-Off Sites, subject to Section 819	A[4]	A[4]	A[4]
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
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[5,6,7]	P[5,6,7]	A[8]
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[9]	A[9]	A[9]
Surface Mining, subject to Section 818	X	C	C[10]
Telephone Exchanges	C	C	C
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

Use	BP	LI	GI
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 Carrier Cabinets, subject to Section 830	P,C[11]	P,C[11]	P,C[11]
Warehouse Event Retail Sales	A[12]	A[12]	A[12]
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] 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.

[3] 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.

[4] Recyclable drop-off sites are permitted only if accessory to an institutional use.

[5] 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.

[6] 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.

[7] 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.

[8] 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.

[9] Temporary signs regulated under Subsection 1010.13(A) are a primary use.

[10] Aggregate batch plant operations are a primary use in the GI District.

[11] Utility carrier cabinets are a conditional use if the combined volume of all cabinets located on a single lot exceeds the applicable maximum established pursuant to Subsection 830.01(A).

[12] 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 Yard Setback	See Subsections 1005.03(E) and (H).		
Minimum Front Setback	20 feet[3]	20 feet[3]	20 feet[3]
Minimum Rear Setback	0[3,4]	0[3,4]	0[3,4,5]
Minimum Side Yard Depth	0[3,6]	0[3,6]	0[3,4,6]

Notes to Table 602-2:

[1] The minimum lot size standards apply as established by Sections 1012 and 1107, 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 5, 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 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.

[6] Except as established by Notes 3 and 5, if the side lot line abuts a commercial zoning district, the minimum setback is 15 feet, and if the side lot line abuts a residential or natural resource zoning district, the minimum setback is 35 feet.

[Amended by Ord. ZDO-224, 5/31/11; Amended by Ord. ZDO-231, 1/31/12; Amended by Ord. ZDO-235, 5/14/12; Amended by Ord. ZDO-243, 9/9/13; Amended by Ord. ZDO-249, 10/13/14; Amended by Ord. ZDO-250, 10/13/14; Amended by Ord. ZDO-253, 6/1/15; Amended by Ord. ZDO-254, 1/4/16; Amended by Ord. ZDO-267, 8/28/17; Amended by Ord. ZDO-266, 5/23/18; Amended by Ord. ZDO-268, 10/2/18; Amended by automatic repeal of Ord. ZDO-267, 8/28/19]

604 RURAL INDUSTRIAL DISTRICT (RI)

604.01 PURPOSE

Section 604 is adopted to implement the policies of the Comprehensive Plan for Rural Industrial areas.

604.02 APPLICABILITY

Section 604 applies to land in the Rural Industrial (RI) District.

604.03 USES PERMITTED

Uses permitted in the RI District are listed in Table 604-1, *Permitted Uses in the RI 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 604-1:

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

~~5~~6. Numbers in superscript correspond to the notes that follow Table 604-1.

B. Permitted uses are subject to the applicable provisions of Subsection 604.04, *Dimensional Standards*, Section 1000, *Development Standards*, and Section 1100, *Development Review Process*.

604.04 DIMENSIONAL STANDARDS

A. General: Dimensional standards applicable in the RI District are listed in Table 604-2, *Dimensional Standards in the RI District*. As used in Table 604-2, numbers in superscript correspond to the notes that follow Table 604-2.

B. Modifications: Modifications to the standards in Table 604-2 are established by Sections 800, *Special Use Requirements*; 903, *Setback Exceptions*; 1107, *Property Line Adjustments*; and 1205, *Variances*.

Table 604-1: Permitted Uses in the RI District

Use	RI
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, television antennas and receivers, transit amenities, trellises, and utility service equipment	A
Accessory Uses permitted in the RA-2 District listed in Table 316-1, *Permitted Uses in the Rural Residential and Future Urban Residential Zoning Districts*, provided that such uses are accessory to a single-family dwelling that is a nonconforming use	A
Animal Slaughtering and Rendering, Distillation of Bones, and Leather Tanning	C
Auto Wrecking Yards and Junkyards, subject to Section 817	C
Bus Shelters	A
Composting Facilities, subject to Section 834	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
Dwellings	A
Employee Amenities, such as cafeterias, clinics, child care facilities, fitness facilities, lounges, and recreational facilities	A
Farmers' Markets, subject to Section 840	P
Fraternal Organization Lodges	C
Government Uses, unless such a use is listed elsewhere in this table as a primary or accessory use	C
Heliports	C
Hosting of Weddings, Family Reunions, Class Reunions, Company Picnics, and Similar Events	C
Incineration and Reduction of Offal, Dead Animals, and Solid Waste	C
Level One Mobile Vending Units, subject to Section 837	A

Use	RI
Light Metal and Fiberglass Fabrication	P
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 are 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[1]
Manufacturing, Transportation, Distribution, Warehousing, and Wholesale Trade of the Following: Explosive Materials and Devices, Fertilizer, Natural Gas, Pesticides, Petroleum, and Petroleum Products	C
Marijuana Processing	P[2]
Marijuana Production	P[2]
Marijuana Retailing	X
Marijuana Wholesaling	P[2]
Offices	A
Parking, Storage, Repair, and Servicing of Fleet Vehicles	A
Pedestrian Amenities	P
Plant Nurseries	P
Public Utility Facilities without Shops, Garages, or General Administrative Offices	C
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
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.	P
Recreational Uses, including boat moorages, community gardens, country clubs, equine facilities, golf courses, gymnastics facilities, horse trails, lodges, pack stations, parks, playgrounds, sports courts, swimming pools, ski areas, and walking trails[3]	C
Recyclable Drop-Off Sites, subject to Section 819	A
Recycling Centers and Transfer Stations, subject to Section 819	C
Repair and Refinishing of Furniture and Household Goods	P

Use	RI
Repair of Motor Vehicles	P
Retail Sales of Lumber and Building Materials	P
Roads	P
Retail Sales of Products that are Manufactured on the Subject Property, Distributed from the Subject Property, Warehoused on the Subject Property, or Sold on a Wholesale Basis from the Subject Property	A
Sales, Rental, Storage, Repair, and Servicing of Equipment and Materials Associated with Farm and Forest Uses, Road Maintenance, Mineral Extraction, and Construction	P
Sewer System Components that Serve Lands Inside an Urban Growth Boundary, subject to ORS 660-011-0060(3)	Type II[4]
Sewer Systems and Extensions of Sewer Systems to Serve Land Outside an Urban Growth Boundary and Unincorporated Community, subject to ORS 660-011-0060(4)	Type II[5]
Sheet Metal and Machine Shops	P
Signs, subject to Section 1010	A[46]
Small Power Production Facilities	P
Surface Mining, subject to Section 818	C
Telephone Exchanges	C
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
Upholstery Shops	P
Utility Carrier Cabinets, subject to Section 830	P,C[57]
Veterinary Hospitals	P

Use	RI
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. Included are the transportation and distribution of cargo using motor vehicles or rail spurs, loading docks, and parking of cargo transport vehicles. Mini-storage facilities are not included.	P[1]
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[1]
Wireless Telecommunication Facilities, subject to Section 835	P

Notes to Table 604-1:

[1] Manufacturing, transportation, distribution, warehousing, and wholesale trade of certain products are conditional uses, when specifically listed as such in Table 604-1.

[2] 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.

[3] This use may include concessions, restrooms, maintenance facilities, and similar support uses.

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

[5] 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 ORS 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.

[~~4~~6] Temporary signs regulated under Subsection 1010.13(A) are a primary use.

[~~5~~7] Utility carrier cabinets are a conditional use if the combined volume of all cabinets located on a single lot exceeds the applicable maximum established pursuant to Subsection 830.01(A).

Table 604-2: Dimensional Standards in the RI District

Standard	RI
Minimum Lot Size	None[1]
Minimum Front Setback	30 feet
Minimum Rear Setback	0[2,3]
Minimum Side Setback	0[2,3]
Maximum Building Floor Space per Commercial Use in an Unincorporated Community	4,000 square feet[4]
Maximum Building Floor Space per Industrial Use in an Unincorporated Community	40,000 square feet[5]
Maximum Building Floor Space per Industrial Use outside an Unincorporated Community	39,500 square feet[6]

1 The minimum lot size inside the Portland Metropolitan Urban Growth Boundary is 20 acres. The 20-acre minimum lot size is applicable to a subdivision or partition, but not to a property line adjustment.

2 If the lot line abuts a residential zoning district, the minimum is 30 feet plus five feet for each 10-foot increase in building height over 35 feet. Height increments of less than 10 feet shall be rounded up to the nearest 10-foot increment. For example, if the building height is 49 feet, the minimum rear setback shall be 40 feet. If the lot line abuts a commercial zoning district, the minimum shall be 10 feet plus five feet for each 10-foot increase in building height over 35 feet. Height increments of less than 10 feet shall be rounded up to the nearest 10-foot increment. For example, if the building height is 49 feet, the minimum rear setback shall be 20 feet.

3 Notwithstanding Note 2, the minimum rear and side setback standards applicable in the RA-2 District apply to dwellings that are nonconforming uses, as well as to uses that are accessory to such dwellings.

4 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.

5 No maximum applies to uses authorized under Statewide Planning Goals 3 and 4; expansion of a use that existed on December 5, 1994; uses that require proximity to a rural resource, as defined in Oregon Administrative Rules 660-004-0022(3)(a); new uses that will not exceed the capacity of water and sewer service available to the site on December 5, 1994, or, if such

services are not available to the site, the capacity of the site itself to provide water and absorb sewage; and uses sited on abandoned or diminished mill sites.

6 No maximum applies to the primary processing of raw material produced in rural areas, or uses sited on abandoned or diminished mill sites. -Also, any lawfully established industrial use that existed on December 20, 2001, may expand to occupy a maximum of 40,000 square feet of building floor space or 25 percent more building floor space than was occupied by the use on December 20, 2001, whichever is greater.

[Amended by Ord. ZDO-224, 5/31/11; Amended by Ord. ZDO-231, 1/31/12; Amended by Ord. ZDO-235, 5/14/12; Amended by Ord. ZDO-243, 9/9/13; Amended by Ord. ZDO-252, 6/1/15; Amended by Ord. ZDO-253, 6/1/15; Amended by Ord. ZDO-254, 1/4/16; Amended by Ord. ZDO-266, 5/23/18; Amended by Ord. ZDO-268, 10/2/18]

707 HISTORIC LANDMARK (HL), HISTORIC DISTRICT (HD), AND HISTORIC CORRIDOR (HC)

707.01 PURPOSE

Section 707 is adopted to:

A. Implement the goals and policies of the Comprehensive Plan for Historic Landmarks, Districts, and Corridors;

B. Promote the public health, safety, and general welfare by safeguarding the County's heritage as embodied and reflected in its historic resources;

C. Provide for the identification, protection, enhancement, and use of sites, structures, corridors, objects, and buildings within the County that reflect special elements of the County's architectural, archeological, artistic, cultural, engineering, aesthetic, historical, political, social, and other heritage;

D. Facilitate restoration and upkeep of historic buildings, structures or other physical objects or geographical areas;

E. Encourage public knowledge, understanding and appreciation of the County's history and culture;

F. Foster community and neighborhood pride and sense of identity based on recognition and use of cultural resources;

G. Promote the enjoyment and use of historic and cultural resources appropriate for the education and recreation of the people of the County;

H. Preserve diverse architectural styles reflecting phases of the County's history; and encourage complimentary design and construction impacting cultural resources;

I. Enhance property values and increase economic and financial benefits to the County and its inhabitants;

J. Identify and resolve conflicts between the preservation of cultural resources and alternative land uses; and

K. Integrate the management of cultural resources and relevant data into public and private land management and development processes.

707.02 APPLICABILITY

A. Section 707 applies to designated Historic Landmarks, Historic Districts, and Historic Corridors.

B. Historic Landmark: A site, structure, or object may be zoned Historic Landmark if it is listed on the National Register of Historic Places, or if it is rated as significant under the County's procedure for evaluating historic resources under the specific architectural, environmental, and historic association criteria. A site or structure must receive a minimum of 40 points under the following criteria to be considered for Historic Landmark status:

1. Architectural Significance

   a. It is an early (50 years or older), or exceptional, example of a particular architectural style, building type, or convention. (up to 10 points)

   b. It possesses a high quality of composition, detailing, and craftsmanship. (up to 4 points)

   c. It is a good, or early, example of a particular material or method of construction. (up to 4 points)

   d. It retains, with little or no change, its original design features, materials, and character. (up to 7 points)

   e. It is the only remaining, or one of the few remaining, properties of a particular style, building type, design, material, or method of construction. (up to 10 points)

2. Environmental Significance

   a. It is a conspicuous visual landmark in the neighborhood or community. (up to 10 points)

   b. It is well-located considering the current land use surrounding the property, which contributes to the integrity of the pertinent historic period. (up to 4 points)

   c. It consists of a grouping of interrelated elements including historic structures, plant materials and landscapes, viewsheds and natural features. (up to 10 points)

   d. It is an important or critical element in establishing or contributing to the continuity or character of the street, neighborhood, or community. (up to 7 points)

3. Historical Significance

   a. It is associated with the life or activities of a person, group, organization, or institution that has made a significant contribution to the community, state, or nation. (up to 10 points)

b. It is associated with an event that has made a significant contribution to the community, state, or nation. (up to 10 points)

c. It is associated with, and illustrative of, broad patterns of cultural, social, political, economic, or industrial history in the community, state, or nation. (up to 10 points)

d. It possesses the potential for providing information of a prehistoric or historic nature. (up to 10 points)

C. Historic District: Criteria for designation of a Historic District on the County zoning and Comprehensive Plan maps are as follows:

1. The area is listed as a National Register Historic District; or

2. The area includes a significant concentration or linkage of sites, buildings, structures, objects or landscapes which are unified visually by style, plan, or physical development and distinguished by association with historic periods, events, people, or cultural trends; and

3. The area is of sufficient size and scope, and the component parts are cohesive enough to adequately represent, demonstrate, or commemorate the significant historic period, event, people, or trend; and

4. A substantial number of the component parts within the area are exceptionally well preserved.

D. Historic Corridor: Property designated as a Historic Corridor on the County zoning and Comprehensive Plan maps shall satisfy one or both of the following criteria:

1. The property, site, trail, roadway, or rail corridor is associated with events that have made a significant contribution to the broad patterns of our history or are likely to yield additional information in the future, categorized under one or more of the following theme areas:

a. archeology and prehistory;

b. exploration;

c. western migration;

d. settlement;

e. agriculture;

f. commerce and industry;

g. transportation technology;

h. government, politics, and military activities; and

i. culture.

2. The property or site is necessary to provide for the continuity of, or future use of, the historic trail, roadway, or rail corridor.

E. Contributing Resource:

1. Criteria for designation of a site, object, structure, or landscape feature as a contributing resource are as follows:

a. The resource is or, at the time the designation becomes effective, will be within a Historic District or Historic Corridor; and

b. The resource is 50 years old or older, may have received alterations, but retains its overall physical integrity, or is of special architectural or environmental or cultural significance; and

c. The resource contributes to the integrity of the Historic District or Historic Corridor; and

d. The resource does not merit landmark designation; and

e. The resource is compatible with landmarks in the district or corridor considering overall proportions, scale, architectural detail and materials.

2. Contributing resources shall be identified upon the creation of a Historic District or Historic Corridor and a list shall be created containing the same information for each resource as is required for landmarks.

707.03 BARLOW ROAD HISTORIC CORRIDOR

A. Intent: Subsection 707.03 is intended to provide for the preservation and protection of the Barlow Road Historic Corridor. The intent is to preserve the privacy of private property owners along the Barlow Road Historic Corridor. There is no intent by the County to condemn private property now or in the future.

B. The Barlow Road Historic Corridor is defined by the Barlow Road Background Report and Management Plan maps and shown on Comprehensive Plan Map 3-2. Within the corridor, the following provisions shall apply:

1. The Barlow Road Historic Corridor is defined as a 40-foot-wide historic corridor as shown on the Clackamas County assessor maps, identified through the Barlow Road Survey Project 1991-1992, and adopted through the historic corridor designation process within the provisions of Section 707. In the Government Camp area, north of Highway 26, the historic corridor width is 20 feet.

2. Third priority property segments shall be allowed to develop for primary uses allowed in the underlying zoning district. Significant development shall be reviewed as described in Subsection 707.03(B)(3). Where physical evidence of the Barlow Road exists, property owners are encouraged to preserve the evidence.

3. The Historic Review Board shall review and make recommendations pertaining to proposed significant development within the historic corridor. Significant development shall include: zone change, conditional use, and subdivision applications; commercial, industrial, and multifamily development applications; and mining and gravel extraction. The recommendation shall be made to the review authority, identified pursuant to Table 1307-1, for the significant development. A site analysis shall be submitted for any significant development by the applicant indicating potential impacts to the historic corridor. To the maximum practicable extent, the historic corridor shall be protected as open space. Where physical evidence of the Barlow Road exists, such as wagon ruts, such evidence shall not be disturbed by development unless it is shown that the property cannot be developed if the historic corridor is preserved.

4. Where road segments include portions of a County road, the Historic Review Board shall review and make recommendations to the County about any proposed right-of-way expansion or realignment to ensure that original features of the Barlow Road are retained where possible.

5. Where State Highways are aligned with the Barlow Road Historic Corridor, proposed right-of-way expansion or realignment will be reviewed as outlined under Subsection 707.06, when historic resource sites identified in the Clackamas County Cultural Resources Inventory, Barlow Road Survey Project or other identified potential sites may be impacted.

6. Within the Highest and Secondary Priority Barlow Road Historic Corridor as defined on the Clackamas County assessor maps, the following activities are prohibited: structural development, mining, highway or road building, cultivation, utility line/pipeline development, vehicular use, and other uses which would cause major surface disturbance to the road remains. Limited disturbance to the corridor shall be allowed when necessary to service the underlying use, such as sewer and utility lines.

   Where the corridor has been used by vehicles, continued use is allowed. Maintaining driveways by repairing the driving surface is allowed. All attempts to preserve the historic road contour should be made when undergoing maintenance activities.

Where Highest and Secondary priority road segments include portions of a County or State road, the Historic Review Board shall review any proposed right-of-way expansion or realignment. To the maximum practicable extent, the Barlow Road alignment and historic landscape should be retained.

A variance application can be made to allow development in rare cases under Subsection 1205.02.

Normal maintenance activities are allowed such as clearing brush and fallen trees from the historic corridor and removing other objects foreign to the route.

707.04 USES PERMITTED

A. Primary Uses: A Historic Landmark or properties within a Historic District or Historic Corridor may be used for any use which is allowed in the underlying zoning district, including home occupations, provided such use is not detrimental to the preservation of the historic resource, subject to the specific requirements for the use, and all other requirements of Section 707.

B. Conditional Uses: In urban and rural zoning districts, uses listed in Subsection 707.04(B)(2), which are not otherwise allowed in the underlying zoning district, are conditional uses, approval of which is subject to Section 1203, *Conditional Use*

1. In addition, the following criteria apply:

   a. The use will preserve or improve a resource which would probably not be preserved or improved otherwise;

   b. The use will not require the extension or development of urban services in rural areas;

   c. The use will not adversely affect surrounding natural resource uses; and

   d. The use will utilize existing structures rather than new structures, except where new structures are determined by the Historic Review Board to be in the best interest of preserving the historic resource. All structures of any form or size, including new structures, shall satisfy Subsection 707.06.

2. The following conditional uses may be permitted. In addition, uses similar to one or more of the listed uses may be authorized pursuant to Section 106, *Authorizations of Similar Uses*.

   a. Art and music studios;

   b. Galleries;

c. Offices;

d. Craft shops;

e. Bed and breakfast residences and inns, subject to Section 832;

f. Gift shops;

g. Museums;

h. Catering services;

i. Book stores;

j. Boutiques;

k. Restaurants;

l. Antique shops;

m. Community centers for civic or cultural events; and

n. In the RA-1 District, replacement of a historic landmark dwelling with an additional dwelling on the same site and continued use of the existing dwelling for residential purposes, provided:

   i. The existing dwelling is listed individually on the National Register of Historic Places or on state and local registers as a Historic Landmark;

   ii. The existing dwelling is maintained under an approved plan for rehabilitation (e.g. Secretary of Interior guidelines); and

   iii. There is a recorded deed recognition statement with the County that the additional dwelling is authorized only for the duration of the historic resource and to inform subsequent purchasers.

707.05 HISTORIC REVIEW BOARD

A Historic Review Board shall be established pursuant to Subsection 1307.03 and shall have the following responsibilities:

A. Carry out the duties described for it in Section 707 and otherwise assist the Board of County Commissioners on historic preservation matters;

B. Review and make recommendations on proposals to alter the exterior of a Historic Landmark or primary, secondary, or contributing structure within a Historic District or Historic Corridor, subject to Subsection 707.06;

C. Review and make recommendations on all proposed new construction within a Historic District or Corridor, or on property on which a Historic Landmark is located, subject to Subsection 707.06;

D. Review and make recommendations on all applications referred by the Board of County Commissioners, Hearings Officer, Planning Commission, or Design Review Committee;

E. Review and make recommendations on all applications for zoning of a Historic Landmark, a Historic District, or a Historic Corridor, subject to Subsections 707.02 and 707.06;

F. Review and make recommendations on all requests for moving or demolition of a Historic Landmark, subject to Subsection 707.06;

G. Review and make recommendations to the Hearings Officer on all conditional use applications under Subsection 707.04(B);

H. Review and make recommendations on all partitions and subdivisions of designated properties, subject to Subsection 707.06;

I. Disseminate information to educate the public as to state and federal laws protecting antiquities and historic places;

J. Act as a coordinator for local preservation groups, educational workshops, signing and monumentation projects, and other similar programs;

K. Advise interest groups, agencies, boards, commissions, and ~~citizens~~ community members on matters relating to historic preservation within the County;

L. Ensure that information on inventoried historic properties is updated and maintained; and

M. Continue to add to the Clackamas County Cultural Resources Inventory when appropriate.

707.06 THE REVIEW PROCESS

Subsection 707.06 applies to all Historic Landmarks, properties within Historic Districts and Historic Corridors, and contributing resources therein.

A. Designation and Zoning: Comprehensive Plan designation and zoning of a Historic Landmark, Historic District, or Historic Corridor shall be subject to the procedures identified in Section 1307 for Comprehensive Plan amendments and zone changes, respectively. In addition:

1. The Historic Review Board shall evaluate proposed designation and zoning of a Historic Landmark, Historic District, or Historic Corridor and shall make a recommendation to the Board of County Commissioners.

2. Pending Permits: No building permit for altering or moving any proposed Historic Landmark or any building within an area proposed for designation as a Historic Landmark, Historic District, or Historic Corridor, shall be issued while any advertised public hearing or any appeal affecting the proposed designation of the area or building is pending. In addition, demolition of a building affected by a pending public hearing or appeal under Subsection 707.06(A) shall be a violation of this Ordinance.

B. Application Requirements:

In addition to the submittal requirements identified in Subsection 1307.07(C), applications for alteration and development shall include:

1. A written description of the boundaries of the proposed Historic District, if applicable, or the location of the site;

2. A map illustrating the boundaries of the proposed Historic District, if applicable, or the location of the site;

3. A list of exterior materials pertinent to the application request;

4. Drawings of elevations of affected structure(s):

   a. Drawings shall indicate dimensions and be to scale.

   b. Photographs may be used in lieu of drawings for small projects.

5. Floor plans of affected structure(s); and

6. Site plan showing relationship of structure(s) to roadways, parking areas, access drives, landscape features, plant materials, fences, and other pertinent elements, drawn to scale.

C. Alteration and Development:

1. Maintenance: The normal responsibilities of the property owner to care, repair, and replace with like materials shall be reviewed as a Type I application pursuant to Section 1307. Normal maintenance may include but not be limited to:

   a. Painting and related preparation of the structure. Original paint colors or colors appropriate to the historic period should be used on Historic Landmark buildings;

b. Repair and/or replacement of roofing materials with the same kind of roof materials existing;

c. Grounds care and maintenance required or the permitted use on the property;

d. Replacement of fences, shrubs, or other yard fixtures or landscaping with like type and/or style;

e. Existing materials may be replaced in kind for a small portion of either building or grounds because of damage or decay of materials; and

f. Installation and maintenance of irrigation systems.

2. Minor Alterations: Minor alterations shall be reviewed as Type II applications pursuant to Section 1307. In addition, the review authority may consult with the Historic Review Board, or any member thereof, in applying the provisions of Subsection 707.06(C)(2). An alteration shall be considered minor when the result of the proposed action is to restore portions of the exterior to the original historic appearance while performing repairs, such as:

   a. Addition of gutters and downspouts;

   b. Repairing or providing a compatible new foundation that does not result in raising or lowering the building elevation;

   c. Change in material to match original type of material on the structure or grounds;

   d. Change in type of roof material in character with the original roofing material; and

   e. Replacement of storm windows or doors.

3. Major Alterations: Major alterations shall be reviewed as Type II applications pursuant to Section 1307. Approval of an application for a major alteration shall be subjectto the following criteria for rehabilitation:

   a. A property shall be used for its historic purpose or be placed in a new use that requires minimal change to the defining characteristics of the building and its site and environment.

   b. The historic character of a property shall be retained and preserved. The removal of historic materials or alteration of features and spaces that characterize a property shall be avoided.

c. Each property shall be recognized as a physical record of its time, place, and use. Changes that create a false sense of historical development, such as adding conjectural features or architectural elements from other buildings, shall not be undertaken.

d. Most properties change over time; those changes that have acquired historic significance in their own right shall be retained and preserved.

e. Distinctive features, finished, and construction techniques or examples of craftsmanship that characterize a historic property shall be preserved.

f. Deteriorated historic features shall be repaired rather than replaced. Where the severity of deterioration requires replacement of a distinctive feature, the new feature shall match the old in design, color, texture, and other visual qualities and, where possible, materials. Replacement of missing features shall be substantiated by documentary, physical, or pictorial evidence.

g. Chemical or physical treatments, such as sandblasting, that cause damage to historic materials shall not be used. The surface cleaning of structures, if appropriate, shall be undertaken using the least damaging or gentlest means possible.

h. Significant archeological resources affected by a project shall be protected and preserved. If such resources must be disturbed, mitigation measures shall be undertaken.

i. New additions, exterior alterations, or related new construction shall not destroy historic materials that characterize the property. The new work shall be differentiated from the old and shall be compatible with the massing, size, scale, and architectural features to protect the historic integrity of the property and its environment.

j. New additions and adjacent or related new construction shall be undertaken in such a manner that if removed in the future, the essential form and integrity of the historic property, including historic plant materials, and its environment would be unimpaired.

4. New Construction: Applications for proposed structures on a Historic Landmark site, or within a Historic District or Historic Corridor shall be reviewed as Type II applications pursuant to Section 1307. Approval of an application shall be subject to the following criteria:

   a. The design of the proposed structure is compatible with the design of the landmark building(s) on the site or in the district or corridor considering scale, style, height, and architectural detail, materials, and colors.

b. The location and orientation of the new structure on the site is consistent with the typical location and orientation of similar structures on the site or within the district or corridor, considering setbacks, distances between structures, location of entrances, and similar siting considerations.

c. Changes to yard areas including planters, fences, ponds, walkways and landscape materials should be compatible with the overall historic setting.

d. Scale of commercial use: Individual permitted uses shall be of a scale appropriate to serve properties surrounding the historic overlay.

5. Maximum Building Floor Space: Commercial uses approved pursuant to Subsection 707.04(B)(2) are subject to the following standards:

a. In an unincorporated community other than Government Camp, the maximum building floor space per commercial use shall be 4,000 square feet except that no maximum applies to uses intended to serve the community and surrounding rural area or the travel needs of people passing through the area.

b. In Government Camp, the maximum building floor space per commercial use shall be 8,000 square feet except that no maximum applies to uses intended to serve the community and surrounding rural area or the travel needs of people passing through the area

c. Outside both an unincorporated community and an urban growth boundary, the maximum building floor area per commercial use shall be 3,000 square feet. However, a lawfully established commercial use that existed on December 20, 2001, may expand to occupy a maximum of 3,000 square feet of building floor space or 25 percent more building floor space than was occupied by the use on December 20, 2001, whichever is greater.

6. Partitions and Subdivisions: The Historic Review Board shall review and make recommendations on proposed partitions or subdivisions of sites designated as a Historic Landmark site or located within a Historic District or Historic Corridor. The recommendation shall be made to the review authority, identified pursuant to Table 1307-1, for the partition or subdivision application. Review of proposed subdivisions or partitions shall be subject to the following criteria:

a. The partition or subdivision does not allow a significant feature of the original site, as identified in the designation action and inventory, to be located on a separate site from the landmark.

b. The partition or subdivision allows adequate setbacks from landmark improvements to provide for buffering and mitigation of impacts associated with development of the new parcels.

c. Yard and landscaped areas including large trees and shrubs associated with the Historic Landmark structure shall be retained with the structure whenever possible.

7. Modifications to Certain Regulations: Regulations pertaining to signs, fence and wall provisions, general provisions regarding height, yards, area, lot width, frontage, depth, coverage, number of off-street parking spaces required, and regulations prescribing setbacks may be modified, if the modifications:

   a. Are necessary to preserve the historic character, appearance or integrity of the proposed Historic Landmark, Historic District or Historic Corridor; and

   b. Are in accordance with the purposes of the zoning and sign regulations.

D. Moving or Demolition of a Historic Landmark or Contributing Resource: No building identified as a primary, secondary, or contributing structure within a Historic District or Corridor, or designated as a Historic Landmark, shall be intentionally moved or demolished, unless approval is granted pursuant to Subsection 707.06(D). Moving or demolition of a Historic Landmark or Contributing Resource shall be reviewed as a Type II application pursuant to Section 1307. In addition:

   1. The applicant shall prepare and submit a plan for preservation of the Historic Landmark prior to filing an application for moving or demolition.

      a. The preservation plan shall include a narrative describing how the applicant will accomplish the following:

         i. Advertise the resource in local, regional, and historic preservation newspapers of general circulation in the area once per week during the pre-application period and shall provide evidence of such advertising;

         ii. Give public notice by placing a sign on the subject property informing the public of intended action which will remove or demolish the structure and including the County department and telephone number to call for further information. The sign shall remain on the subject property until a permit is issued.;

         iii. Prepare and make available information related to the history and sale of the subject property to all who inquire;

         iv. Provide information regarding the proposed use for the Historic Landmark site; and

v. Keep a record of the parties who have expressed an interest in purchasing or relocating the structure. To ensure that an adequate effort has been made to secure a relocation site, the applicant shall provide a list of property locations and owners who were contacted regarding purchase of a relocation site.

b. Following receipt of the preservation plan, the Planning Director shall issue a media release to local and state newspapers of general circulation in the County. The media release shall include, but not be limited to, a description of the significance of the Historic Landmark, the reasons for the proposed moving or demolition, and the possible options for preserving the Historic Landmark.

2. Approval of an application to move a Historic Landmark or contributing resource shall be subject to the following criteria:

a. Relocation is the only alternative for preservation of the Historic Landmark or contributing resource;

b. The proposed relocation site will not greatly reduce the historical and/or architectural significance of the Historic Landmark or contributing resource; the site is a contextually appropriate setting; it is within the County and preferably within the neighborhood within which it is currently located;

c. The designated resource cannot reasonably be used in conjunction with the proposed use;

d. The continued location of the landmark or contributing resource on the proposed development site precludes development on the site which would provide a greater community benefit;

e. The designated landmark or contributing resource is structurally capable of relocation;

f. If the landmark or contributing resource is relocated within the County, the owner of the relocation site agrees, as a condition of the purchase agreement, to apply within 90 days of relocation to the County for designation as a Historic Landmark, to be protected under the provisions of Section 707;

g. The loss of the landmark or contributing resource will not affect the integrity of the Historic District or Historic Corridor; and

h. Adequate effort has been made to seek a relocation site within the Historic District or Corridor.

3. The review authority for an application to demolish a Historic Landmark or contributing resource within a Historic District or Historic Corridor shall consider the following:

   a. All plans, drawings, and photographs submitted by the applicant;

   b. Information presented at the public hearing concerning the proposed work; proposal;

   c. The Comprehensive Plan;

   d. The purposes of Section 707 as set forth in Subsection 707.01;

   e. The criteria used in the original designation of the Historic Landmark, Historic District, or Historic Corridor in which the property under consideration is situated;

   f. The historical and architectural style, the general design, arrangement, materials of the structure in question, or its appurtenant fixtures; the relationship of such features to the other buildings within the district or corridor; and the position of the building in relation to public rights-of-way and to other buildings and structures in the area;

   g. The effects of the proposed work upon the protection, enhancement, perpetuation, and use of the district or corridor which cause it to possess a special character or special historical or aesthetic interest or value;

   h. Whether suspension of the proposed demolition will involve substantial hardship to the applicant, and whether approval of the request would act to the substantial detriment of the public welfare and would be contrary to the intent and purposes of Section 707; and

   i. When applicable, the findings of the building official in determining the status of the subject building as a dangerous building under County Code Chapter 9.01, *Uniform Code for the Abatement of Dangerous Buildings*, and the feasibility of correcting the deficiencies to meet the requirements of the building official rather than demolishing the building.

4. The application may be approved in consideration of Subsections 707.06(D)(2) and (3).

5. The application may be suspended, if, in the interest of preserving historic values for public benefit, the building should not be moved or demolished.

6. If the application is suspended, the written decision shall be transmitted to the building official along with a request that the enforcement of any applicable Notice and Order of the building official be stayed during the pendency of an appeal, or for a period of not more than 60 days from the date of the suspension decision. During this stay of moving or demolition, the following actions may be taken:

    a. The building official may require the owner or other party responsible for the subject building to take appropriate actions, other than demolition, to protect the public from hazardous conditions associated with the building.

    b. The applicant may be required to continue to carry out the pre-application plan activities through the entire stay of moving or demolition.

    c. The Historic Review Board may research programs or projects underway which could result in public or private acquisition of the subject building and site, and assess the potential for the success of these programs or projects.

        i. If the Historic Review Board determines that there are reasonable grounds to believe that such program or project may be successful, it may extend the suspension period up to 30 additional days per extension, not to exceed a total of 120 days from the date of the decision suspending the application.

        ii. If the Historic Review Board determines that all such programs or projects are unlikely to be successful, and the applicant has not withdrawn his application or taken appropriate alternative action to correct the hazards associated with the subject building as provided in a Notice and Order of the building official, then, at the end of the suspension period, the Planning Director may issue a permit for moving or demolition, subject to all other applicable regulations.

7. When moving or demolition is imminent, whether by direct approval or if efforts during the pre-application preservation plan and suspension period are unsuccessful, the following complete documentation of the structure(s) is required to be submitted to the County by the applicant:

    a. Floor plans to scale of the structure(s) and related structures;

    b. Site plan to scale showing surrounding roadways, landscaping, natural features, structure(s), and related structures;

    c. Drawings to scale or photographs of all exterior elevations;

    d. Photographs of architectural detail not shown in elevation photographs; and

e. The Historic Preservation League of Oregon or local preservation group to be given opportunity to salvage and record the resource.

8. A moving or demolition permit for a landmark found to comply with Subsection 707.06(D) shall not be issued until all development permit applications for the new use or development have been approved by the County.

[Amended by Ord. ZDO-235, 5/14/12; Amended by Ord. ZDO-248, 10/13/14; Amended by Ord. ZDO-252, 6/1/15; Amended by Ord. ZDO-266, 5/23/18]

804 PLACES OF WORSHIP

804.01 STANDARDS

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, but not including private or parochial school education for prekindergarten 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, 5/31/11; Amended by Ord. ZDO-252, 6/1/15; Amended by Ord. ZDO-268, 10/2/18]

835 WIRELESS TELECOMMUNICATION FACILITIES

835.01 DEFINITIONS

The following definitions apply to Section 835:

A. Antenna: A transmitting or receiving device used in telecommunications that radiates or captures electromagnetic waves, including, but not limited to, directional antennas, such as panel and microwave dish antennas, and omni-directional antennas, such as whip antennas.

B. Collocation: The use of a single support structure by more than one wireless telecommunications provider.

C. Essential Public Communication Services: Police, fire, and other emergency communications networks.

D. Equipment Shelter: A structure that houses power lines, cable, connectors, and other equipment ancillary to the transmission and reception of telecommunications.

E. Existing Wireless Telecommunication Facility: A wireless telecommunication facility that received land use approval prior to March 14, 2002.

F. Small Wireless Facility: A wireless telecommunication facility that enables provision of wireless services and meets the conditions in Subsections 835.02(A)(1) through (4).

G. Support Structure: A wireless telecommunication tower, building, or other structure that supports an antenna used for wireless telecommunications.

H. Wireless Telecommunication Facility: An unmanned facility for the transmission of radio frequency (RF) signals, consisting of an equipment shelter, cabinet, or other enclosed structure containing electronic equipment, a support structure, antennas or other transmission and reception devices. Freestanding point-to-point microwave dishes, high-power television and FM transmission facilities, AM facilities, amateur (Ham) radio antennas and towers, and citizen band transmitters and antennas are not wireless telecommunication facilities.

I. Wireless Telecommunication Tower: A freestanding support structure, including monopole and lattice tower, designed and constructed primarily to support antennas and transmitting and receiving equipment. Wireless telecommunication towers include:

   1. Lattice tower: A tower characterized by an open framework of lateral cross members that stabilize the tower; and

2. Monopole: A single upright pole, engineered to be self-supporting, that does not require guy wires or lateral cross supports.

J. Wireless Telecommunication Tower Height: The distance from the finished grade at the antenna tower base to the highest point of the tower, including the base pad, mounting structures, and panel antennas, but not including lightning rods and whip antennas.

835.02 SMALL WIRELESS FACILITIES

A. Small wireless facilities, consistent with 47 CFR 1.6002(l)(1), are facilities that meet each of the following conditions:

1. The facilities:

a. Are mounted on structures 50 feet or less in height including their antennas as defined in 47 CFR 1.1320(d); or

b. Are mounted on a structure no more than 10 percent taller than other adjacent structures; or

c. Do not extend existing structures on which they are located to a height of more than 50 feet or by more than 10 percent, whichever is greater;

2. Each antenna associated with the deployment, excluding associated antenna equipment, is no more than three cubic feet in volume;

3. All other wireless equipment associated with the structure, including the wireless equipment associated with the antenna and any pre-existing associated equipment on the structure, is no more than 28 cubic feet in volume; and

4. The facilities comply with Federal Communications Commission (FCC) requirements for registration, as well as FCC radio frequency emissions standards specified in 47 CFR 1.1307(b) and other applicable standards in 36 CFR 800.16(x) related to location on Tribal Lands.

B. Notwithstanding any otherwise applicable definition in Section 202, *Definitions*, or Subsection 835.01, terms used in Subsection 835.02 have the meanings provided in 47 CFR 1.6002, which includes the following definitions:

1. Antenna: Consistent with 47 CFR 1.1320(d), an apparatus designed for the purpose of emitting radiofrequency (RF) radiation, to be operated or operating from a fixed location pursuant to FCC authorization, for the provision of personal wireless service and any commingled information services. For purposes of this definition, the term antenna does not include an unintentional radiator, mobile station, or device authorized under Part 15, *Radio Frequency Devices* of CFR Title 47, *Telecommunication*.

2. Antenna equipment: Consistent with 47 CFR 1.1320(d), equipment, switches, wiring, cabling, power sources, shelters, or cabinets associated with an antenna, located at the same fixed location as the antenna, and, when collocated on a structure, is mounted or installed at the same time as such antenna.

3. Deployment: Placement, construction, or modification of a personal wireless service facility.

4. Structure: A pole, tower, base station, or other building, whether or not it has an existing antenna facility, that is used or to be used for the provision of personal wireless service (whether on its own or comingled with other types of services).

835.03 EXEMPTIONS

A. Wireless telecommunication facilities are exempt from section 1102, *Design Review*, except that Section 1102 applies to essential public communication services in zoning districts listed in Subsections 1102.01(A) through (C), if such essential public communication services are not small wireless facilities.

B. Small wireless facilities in public rights-of-way or in easements under Clackamas County jurisdiction are exempt from Section 835.

835.04 SUBMITTAL REQUIREMENTS

An application for a Type I permit for a wireless telecommunication facility shall include the submittal requirements identified in Subsection 1307.07(C). In addition to the submittal requirements identified in Subsections 1203.02 (for conditional uses only) and 1307.07(C), an application for a Type II or conditional use permit for a wireless telecommunication facility, or for an adjustment pursuant to Subsection 835.07, shall include:

A. A site plan, drawn to scale, that includes:

1. Existing and proposed improvements;

2. Adjacent roads;

3. Parking, circulation, and access;

4. Areas of vegetation to be added, retained, replaced, or removed;

5. Setbacks of all existing and proposed structures; and

6. If an adjustment is proposed pursuant to Subsection 835.06, the distance from the proposed location of the wireless telecommunication tower to off-site structures that are closer to the proposed location than a distance equal to the height of the proposed tower.

B. A vicinity map showing lots, land uses, zoning, and roadways within 500 feet of the proposed antenna site;

C. Elevations showing antennas, wireless telecommunication towers, equipment shelters, area enclosure, and other improvements related to the proposed facility;

D. For all new antennas, color simulations of the site after construction;

E. A map of existing wireless telecommunication facilities within one mile of the subject property; and

F. An alternatives analysis demonstrating compliance with Subsection 835.06(D)(1)(a).

835.05 USES PERMITTED

A. The types of wireless telecommunication facilities permitted in each zoning district are listed in Table 835-1, *Permitted Wireless Telecommunication Facilities*. Except for essential public communication services and small wireless facilities, wireless telecommunication facilities are classified as level one or two.

B. As used in Table 835-1:

1. "P" means the classification of wireless telecommunication facility is a primary use.

2. "C" means the classification of wireless telecommunication facility is a conditional use, approval of which is subject to Section 1203, *Conditional Uses*.

3. "X" means the classification of wireless telecommunication facility is prohibited.

4. Numbers in superscript correspond to the note that follows Table 835-1.

C. Wireless telecommunication facilities, except small wireless facilities, are subject to the applicable provisions of Subsections 835.06(A through D) and 835.08, and an adjustment may be approved pursuant to Subsection 835.07. Small wireless facilities are subject only to Subsection 835.06(E) and are not eligible for an adjustment pursuant to Subsection 835.07.

Table 835-1: Permitted Wireless Telecommunication Facilities

Use	Zoning District				Review Process pursuant to Section 1307
	FU-10, HR, MRR, and Zoning Districts Regulated by Section 315	AG/F, EFU, FF-10, NC, RA-1, RA-2, RR, RRFF-5, TBR, and VCS	Commercial and Industrial Zoning Districts except NC, VCS, and SCMU	SCMU	
Essential Public Communication Services	P	P[1]	P	P	Type I[2]
Level One Collocation	X	P	P	P	Type I[3]
Level One Placement on a Utility Pole	P	P	P	P	Type I[3]
Level Two Collocation	P	P	P	X	Type II[3]
Level Two Placement on a Utility Pole	P	P	P	X	Type II[3]
Level Two Wireless Telecommunication Facilities not included in any other category	C	C[1]	P	X	Type II if use is P[3], Type III if use is C
Small Wireless Facilities	P	P	P	P	Type I

[1] In the AG/F and TBR Districts, the use is subject to Subsection 406.05(A)(1).

[2] In the AG/F, EFU, and TBR Districts, essential public communication services require review as a Type II application pursuant to Section 1307.

[3] If an adjustment is proposed pursuant to Subsection 835.07, the wireless telecommunication facility requires review as a Type III application pursuant to Section 1307, *Procedures*.

835.06 STANDARDS

A. Level One Collocation: A level one collocation of antennas on a previously approved wireless telecommunication facility shall be subject to the following standards:

1. Collocation proposals involving an existing wireless telecommunication facility must have an approved and implemented landscaping plan that complies with Subsection 835.06(D)(5).

2. There shall be no increase in the height of the existing wireless telecommunication support structure.

3. The proposed collocated antennas shall be no more than 20 feet higher than the existing support structure.

4. All collocation improvements shall be located within a previously approved fenced lease area.

5. The collocation shall not involve the removal of any previously approved landscaping or buffering.

B. Level One Placement on a Utility Pole: Level one placements of wireless telecommunication facilities on utility poles (electric, cable, telephone, etc.) shall be subject to the following standards:

1. The wireless telecommunication facility shall be placed on an existing utility pole or, if it is necessary to replace the existing pole with a pole that is suitable for wireless telecommunication, the new pole shall be no taller than the pole that is being replaced.

2. The existing utility pole shall be within a public right-of-way, and, if the pole is to be replaced pursuant to Subsection 835.06(B)(1), the replacement pole shall remain within the public-right-of-way.

3. Any equipment shelters for the wireless telecommunication facility shall be located on the utility pole and within the public right-of-way.

C. Level Two Placement on a Utility Pole: Level two placements of wireless telecommunication facilities on replacement utility poles (electric, cable, telephone, etc.) shall be subject to the following standards:

1. The height of the replacement utility pole shall not exceed the height of the pole being replaced by more than 20 feet.

2. The existing utility pole shall be within a public right-of-way, and the replacement pole shall remain within the public-right-of-way.

D. Level Two Wireless Telecommunication Facilities: A level two wireless telecommunication facility (including a level two collocation or placement on a utility pole) shall be subject to the following standards:

1. New Towers: If a new wireless telecommunication tower is proposed:

a. No new tower will be permitted unless no existing support structure can accommodate the proposed antenna. All proposals for new wireless telecommunication facilities must be accompanied by a statement from a qualified person that the necessary telecommunication service cannot be provided by collocation for one or more of the following reasons:

i. No existing support structures, or approved but not yet constructed support structures, are located within the geographic area required to meet the applicant's engineering requirements;

ii. Existing support structures are not of sufficient height to meet the applicant's engineering requirements;

iii. Existing support structures do not have sufficient structural strength to support the applicant's proposed antenna and related equipment;

iv. The applicant's proposed antenna would cause electromagnetic interference with the antenna on the existing support structure, or the existing antenna would cause interference with the applicant's proposed antenna; or

v. The applicant demonstrates that there are other limiting factors that render existing support structures unsuitable.

b. If the tower is inside the Portland Metropolitan Urban Growth Boundary, it shall be a monopole.

c. The tower shall be designed and built to accommodate collocation or additional loading. This means that the tower shall be designed specifically to accommodate no less than the following equipment, in addition to the applicant's proposed equipment:

i. Twelve antennas with a float plate wind-loading of not less than four square feet per antenna;

ii. A standard mounting structure, standoff arms, platform, or other similar structure designed to hold the antennas;

iii. Cable ports at the base and antenna levels of the tower; and

iv. Sufficient room within or on the tower for 12 runs of 7/8-inch coaxial cable from the base of the tower to the antennas.

d. The tower shall be painted or coated in a manner that blends with the surrounding area. The finished coloring shall result in a non-reflective surface that makes the tower as visually unobtrusive as possible unless state or federal regulations require different colors.

e. If the proposed wireless telecommunication facility requires approval of a conditional use permit, placement of the tower in an alternate location on the tract may be required, if the alternate location would result in greater compliance with the criteria in Section 1203, *Conditional Uses*, than the proposed location. In order to avoid relocating the proposed tower, the applicant shall demonstrate that the necessary wireless telecommunication service cannot reasonably be provided from the alternate location.

2. Equipment shelters shall be entirely enclosed. They may be painted or coated with a finish that best suits the operational needs of the facility, including the ability to reflect heat and to resist accumulations of dirt. If there is a conflict between acceptable colors and the operational needs of the facility, the use of architectural screen panels may be required.

3. No lighting shall be permitted on a wireless telecommunication tower, except as required by state or federal regulations. If lighting is required, the light shall be shielded or deflected from the ground, public rights-of-way, and other lots, to the extent practicable.

4. Unless the wireless telecommunication facility is located entirely on a utility pole, it shall be located within an area that is enclosed on all sides. The enclosure shall be a minimum of six feet tall and sight-obscuring.

5. Landscaping shall be placed outside of the enclosed area required pursuant to Subsection 835.06(D)(4) and shall include ground cover, shrubs, and trees that are reflective of the natural surrounding vegetation in the area. However, if a portion of the wireless telecommunication facility is screened from points off-site by a building with a height of at least eight feet, landscaping is not required for the screened area. In addition, Subsection 1009.10 applies.

6. Noise generated by the wireless telecommunication facility shall not exceed the maximum levels established by the Oregon Department of Environmental Quality (DEQ). If lots adjacent to the subject property have a lower DEQ noise standard than the subject property, the lower standard shall be applicable.

7. Dimensional Standards: Dimensional standards applicable to wireless telecommunication towers are listed in Table 835-2, *Dimensional Standards for Wireless Telecommunication Towers*.

E. Small Wireless Facilities: Small wireless facilities, including all related equipment and appurtenances, shall:

1. Not be affixed to trees, shrubs, or other vegetation;

2. If attached to or mounted on a building, be the same or substantially similar color or colors as the portions of the building they are attached to or mounted on;

3. Use only non-reflective materials on their exterior; and

4. Have all of their lights shrouded from view from adjacent residential properties.

Table 835-2: Dimensional Standards for Wireless Telecommunication Towers

Zoning District	Maximum Height	Minimum Tower Separation	Minimum Front, Side, and Rear Setbacks
All zoning districts inside the Portland Metropolitan Urban Growth Boundary (UGB), HR, MRR, RR, and RTC	100 feet	1000 feet	The minimum setbacks generally applicable in the subject zoning district, or a distance equal to the height of the tower, whichever is greater
FF-10, RA-1, RA-2, RC, RI, and RRFF-5, provided that the tower is outside the UGB	150 feet	2000 feet	
AG/F, EFU, and TBR, provided that the tower is outside the UGB	250 feet	2,640 feet	

835.07 ADJUSTMENTS

Adjustments to the standards of Section 835 may be granted under either of the following circumstances:

A. A gap in the applicant's service exists and that gap can only be alleviated through the adjustment of one or more of the standards of this section. If an adjustment is to be approved, the applicant must demonstrate the following:

1. A gap in coverage or capacity exists in the wireless telecommunication provider's service network that results in network users being regularly unable to connect, or maintain connection, with the provider's network;

2. The proposed wireless telecommunication facility will fill the existing service gap. Filled means the proposed facility would substantially reduce the frequency with which users of the network are unable to connect, or maintain connection, with the provider's network; and

3. The gap cannot be filled through collocation on existing facilities, or establishment of facilities that are consistent with the standards of this section on properties other than the proposed site or on the proposed site in a manner which does not require an adjustment.

B. The proposed adjustment would utilize existing site characteristics to minimize demonstrated or potential impacts on the use of surrounding lots. Site characteristics include, but need not be limited to, those identified in Subsection 1203.03(B). The adjustment must result in a lower level of impact on surrounding lots than would result if the standard were not adjusted. In considering the requested adjustment, the following may be considered:

1. Visual impacts;

2. Impacts on view;

3. Impacts on property values; and

4. Other impacts that can be mitigated by an adjustment so that greater compliance with Subsection 1203.03(D) occurs.

835.08 ABANDONMENT

A. Wireless telecommunication facilities will be considered abandoned when there has not been a provider licensed or recognized by the Federal Communications Commission operating on the facility for a period of 365 consecutive days. Determination of abandonment will be made by the Planning Director, who shall have the right to demand documentation from the facility owner regarding the tower or antenna use.

B. Upon determination of abandonment, the facility owner shall have 60 calendar days to reuse the facility or transfer the facility to another owner who will reuse it within 60 calendar days of the determination of abandonment.

C. If the facility is not reused within 60 calendar days of the determination of abandonment, county authorization for the use shall expire. Once authorization for the use has expired, the facility operator shall remove the facility from the property within 90 calendar days. If the facility operator does not remove the facility within 90 calendar days, the county may remove the facility at the expense of the facility operator, or, in the alternative, at the property owner's expense.

[Amended by Ord. ZDO-224, 5/31/11; Amended by Ord. ZDO-248, 10/13/14; Amended by Ord. ZDO-268, 10/2/18; Amended by Ord. ZDO-276, 10/1/20]

1003 HAZARDS TO SAFETY ~~(3/24/05)~~

1003.01 PURPOSE

A. To protect lives and property from natural or man-induced geologic or hydrologic hazards and disasters.

B. To protect property from damage due to soil hazards.

C. To protect lives and property from forest and brush fires.

D. To avoid financial loss resulting from development in hazard areas.

1003.02 STANDARDS AND CRITERIA FOR MASS MOVEMENT HAZARD AREA~~S~~ DEVELOPMENT ~~(3/24/05)~~

~~A. And engineering geologic study shall be required for development proposed on slopes of twenty (20) percent or greater. The study shall include items under subsection 1003.02(B) (2).~~

~~B~~A. No development or grading shall be allowed in areas of land movement, slump or earth flow, ~~and~~ or mud or debris flow, unless approved in a Type II application pursuant to Section 1307, *Procedures.* Unless the criteria for such development as listed in Subsection 1003.02(B) are satisfied in the review of another approved Type II application pursuant to Section 1307, a mass movement hazard area development permit is required for development in areas of land movement, slump or earth flow, or mud or debris flow.

B. Approval Criteria~~except under one of the following conditions~~:

1. An engineering geologic study shall be required for development proposed on slopes of twenty (20) percent or greater.

2. An engineering geologic study shall be required, regardless of the slope of the site proposed for development, unless there is ~~Stabilization~~ stabilization of the identified hazardous condition based on established and proven engineering techniques which ensure protection of public and private property. ~~-~~Appropriate conditions of approval of development approved under this subsection may be attached by the County.

~~2~~3. ~~An~~ The engineering geologic study ~~approved by the County establishing~~required by Subsections 1003.02(B)(1) and (2) shall establish that the site is stable for the proposed use and development. ~~-~~The study shall include the following:

a. Index map;

b. Project description, to include: Location; topography; drainage; vegetation; discussion of previous work; and discussion of field exploration methods~~.~~;

c. Site geology, to include: Site geologic map; description of bedrock and surficial materials including artificial fill; location of any faults, folds, etc.; and structural data including bedding, jointing, and shear zones~~.~~; and

d. Discussion and analysis of any slope stability problems.

e. Discussion of any offsite geologic conditions that may pose a potential hazard to the site or that may be affected by onsite development.

f. Suitability of site for purposed development from geologic standpoint.

g. Specific recommendations for cut slope stability, seepage and drainage control, or other design criteria to mitigate geologic hazards.

h. If deemed necessary by the engineering geologist to establish whether an area to be affected by the proposed development is stable, additional studies and supportive data shall include: cross sections showing subsurface structure; graphic logs of subsurface explorations; results of laboratory test; and references.

i. Signature and certification number of an engineer or engineering geologist registered in the State of Oregon.

j. Additional information analyses as necessary to evaluate the site.

C. Vegetative cover shall be maintained or established for stability and erosion control purposes.

D. Diversion of storm water into these areas shall be prohibited.

E. The principal source of information for determining mass movement hazards is the State Department of Geology and Mineral Industries (DOGAMI) Bulletin 99 and accompanying maps. ~~-~~Approved ~~site~~ site-specific engineering geologic studies shall be used to identify the extent and severity of the hazardous conditions on the site, and to update the mass movement hazards data base.~~ (3/24/05)~~

1003.03 STANDARDS FOR FLOOD HAZARD AREAS

A. Development proposed in flood hazard areas, in addition to provisions of

Section 703, shall be limited to the extent that:

1. Clearing, stripping of vegetation and coverage of the site by roads and structures shall be no more than necessary to maintain water quality and meet the provisions of Section 1011.

2. Site buildings to minimize alteration of terrain and other natural features.

1003.04 STANDARDS FOR SOIL HAZARD AREAS

A. Appropriate siting and design safeguards shall insure structural stability and proper drainage of foundation and crawl space areas for development on land with any of the following soil conditions: Wet/high water table; high shrink-swell capability; compressible/organic; and shallow depth-to-bedrock.

B. The principal source of information for determining soil hazards is the State DOGAMI Bulletin 99 and accompanying maps. ~~-~~Approved site specific soil studies shall be used to identify the extent and severity of the hazardous conditions on the site, and to update the soil hazards data base accordingly.

1003.05 STANDARDS FOR FIRE HAZARD AREAS

A. Development in areas with the potential for forest or brush fires shall be designed:

1. To provide adequate water storage and pressure for purposes of maintaining minimum flows for fire protection.

2. To provide, in cooperation with local fire districts, fire hydrants appropriate to the intensity and type of development.

3. So that dwellings are not sited in areas subject to extreme fire hazard, such as areas of heavy fuel concentration, draws, etc.~~ (3/24/05)~~

4. To provide for other methods of fire protection and prevention appropriate to the location and type of development, utilizing techniques recommended by the Oregon State Forestry Department.

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 APPLICABILITY

Section 1005 applies to institutional, commercial, and industrial development; multifamily dwellings; and developments of more than one two- or three-family dwelling. Subsections 1005.04 (F) and 1005.12 also apply to attached single-family dwellings. Subsection 1005.12 also applies to developments of a single two- or three-family dwelling.

1005.03 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 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.

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 1005.03(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 yard depth line.

1. If the minimum front yard depth standard is less than 20 feet, the front yard depth may be increased to 20 feet provided pedestrian amenities are developed within the yard.

2. Primary building entrances for buildings used to comply with Subsection 1005.03(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 1005.03(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 1005.03(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 major on-site vehicular circulation ways 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 1005.03(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 1005.03(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 yard setback.

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 1005.03(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

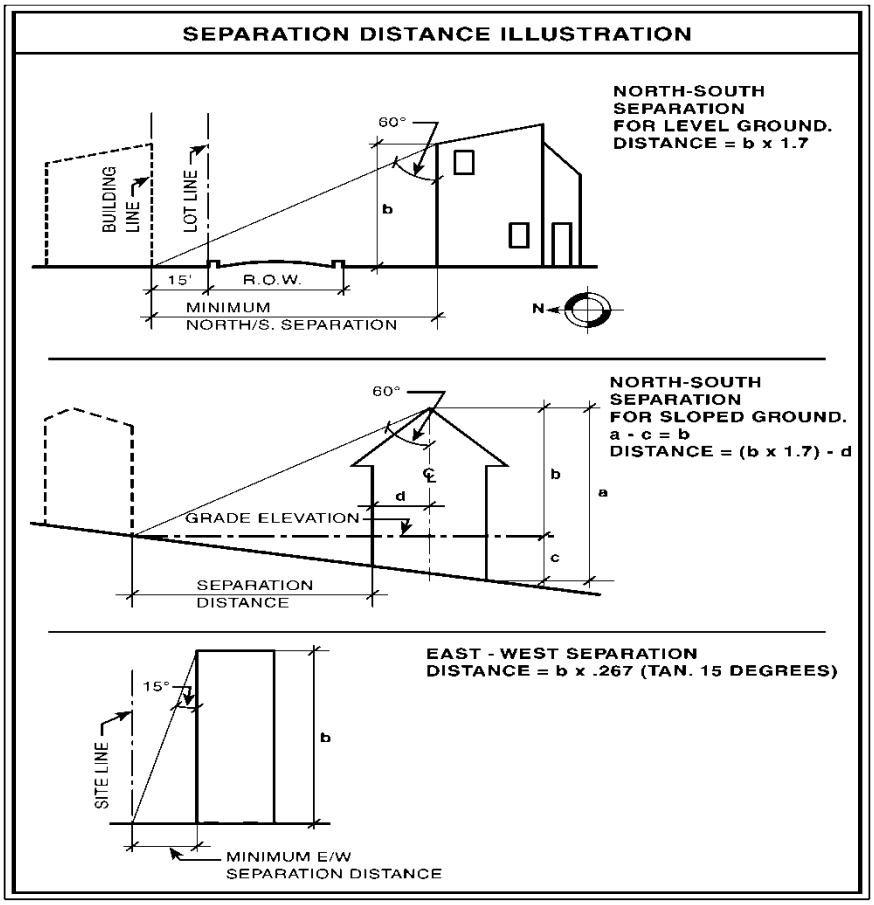
   c. Buildings are sited to minimize the loss of solar access to primary use structures. However, this provision shall not preclude or restrict the use or development of any north-south separation easement area.

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 x .267 (tan 15 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 1005.03(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.

1005.04 BUILDING DESIGN

A. The following standards apply to building facades visible from a public or private street or accessway and to all building façades 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 1005.03(E) shall have public entries that face streets and are open to the public during all business hours.

C. The street-facing façade of commercial, mixed-use and institutional buildings sited to comply with 1005.03(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 ~~or other high-image~~ materials.

4. ~~Notwithstanding Subsection 1005.04(E)(3) metal may be approved as an exterior building material through design review pursuant to Section 1102 for specific high-image surfaces, canopies, awnings, doors, screening of roof-mounted fixtures, or other architectural features~~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, two- and three-family dwellings, and attached single-family dwellings:

1. Façades 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. In Urban Low Density Residential Districts, the roof of each attached single-family dwelling shall be distinct from the other through either separation of roof pitches or direction, or other variation in roof design.

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, parking, recreation and laundry areas.

2. Provide adequate lighting for entryways, walkways, 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 1005.04(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 front-yard loading bays.

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% of the view.

3. Wall mounted mechanical equipment shall not be placed on the front of a building or on a façade 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 1005.04(J)(1) or (2).

K. Requirements for specialized structures in industrial zoning districts:

1. In the GI District, silos, towers, and other specialized storage or processing structures~~, including metal-sided structures,~~ 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 1005.04, 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 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 1005.04, 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.

1005.05 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. 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 1005.05(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.

1005.06 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 requirements for the site pursuant to Table 1009-1. 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. Credit shall be given for additional swale(s) that exceed the requirements of Subsection 1009.04(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 1015-2, all of which shall be no greater than the minimum dimensions allowed in Subsection 1015.04(B)(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 UGB, a minimum of 75 percent of the street frontage of each lot shall have buildings located at the minimum front yard depth line. If the minimum front yard depth standard is zero, up to 20 feet of additional front yard depth may be provided where plazas, outdoor seating, or other pedestrian amenities are located.

W. Outside the UGB, or for industrial developments, a minimum of 25 percent of the street frontage of each lot shall have buildings located at the minimum front yard depth line. Up to 20 feet of additional front yard depth may be provided where plazas, outdoor seating, or other pedestrian amenities are located.

X. Locate buildings at the minimum side yard setback or within 10 feet of the side setback line, whichever is greater.

1005.07 MODIFICATIONS

Modification of any standard identified in Subsections 1005.03 and 1005.04 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.

1005.08 CLACKAMAS REGIONAL CENTER AREA DESIGN STANDARDS

Subsection 1005.08 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 1005.08 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 1005.08(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 1005.08(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 and/or yard depth standards shall include:

1. Sidewalks or raised walking surfaces on both sides;

2. Curbs;

3. Street trees, pursuant to Subsection 1007.08; 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.

1005.09 REGIONAL CENTER DESIGN STANDARDS

Subsection 1005.09 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 1005.09 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 façade 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 1005.08(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 yard 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.

1005.10 FULLER ROAD STATION COMMUNITY DIMENSIONAL AND DESIGN STANDARDS

Subsection 1005.10 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 1005.10 shall take precedence. If the text of Subsection 1005.10 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 1005.10(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 1005.10(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 1005.10(B) through (M) will become applicable, if required pursuant to Subsection 1005.10(A)(1).

3. Subsections 1005.10(A)(1) and (2) apply separately to Sectors 1 and 2, meaning that compliance with Subsections 1005.10(B) through (M) will not be required in Sector 1 or 2 until that particular sector exceeds the development threshold established by Subsection 1005.10(A)(1) or (2).

4. Prior to the point at which Subsections 1005.10(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 Yard 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 1005.10(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 1005.10(F)(3), the locations of required new streets are shown on Map 1005-1, or will be determined pursuant to Subsection 1005.10(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 1005.10(F)(1) and (2) do not apply in Sectors 1 and 2 shown on Map 1005-1. Instead, compliance with either Subsection 1005.10(F)(3)(a) or Subsections 1005.10(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 1005.10(F)(4).

b. In lieu of compliance with Subsection 1005.10(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 1005.10(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 1005.10(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 1005.10(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 1005.10(G)(2) is required for all street frontage designated as "building frontage required" or "required retail opportunity area."

   b. Compliance with Subsection 1005.10(G)(3) is required for only one street frontage, unless one of the frontages is on Otty Road, in which case compliance with Subsection 1005.10(G)(3) is not required.

5. Lots developed solely with parks and open space uses are exempt from Subsection 1005.10(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 Yard 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 yard 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 yard 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 yard 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 yard 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 yard setback as provided in Subsection 1005.10(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 ~~high-image, such as~~ masonry, architecturally treated tilt-up concrete, glass, wood, ~~or~~ 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.~~Metal siding is prohibited, except as approved through design review pursuant to Section 1102 for specific high-image materials, canopies, awnings, doors, screening for roof-mounted fixtures, and other architectural features~~.

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 Yard Setback: The street-facing facade of the building shall be set back a maximum of five feet. ~~-~~There is no minimum front yard 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 yard 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 yard 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 yard 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 yard 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 façade. 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 façade 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 yard setback as provided in Subsection 1005.10(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 façade area.

9. Building Materials: Exterior building materials and finishes shall be ~~high-image, such as~~ masonry, architecturally treated tilt-up concrete, glass, wood, ~~or~~ 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.~~Metal siding is prohibited, except as approved through design review pursuant to Section 1102 for specific high-image materials, canopies, awnings, doors, screening for roof-mounted fixtures, and other architectural features.~~

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 Yard Setback: The street-facing facade of the building shall be set back a maximum of five feet. ~~-~~There is no minimum front yard setback. ~~-~~Except for the portion of the façade located behind a recessed courtyard, as required by Subsection 1005.10(J)(2), the street-facing façade 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 yard setback area or in the required courtyard. Bicycle parking may be permitted in the courtyard, subject to compliance with Section 1015.

c. Building service and utility equipment and outdoor storage of garbage or recycling is not permitted along the street-facing building façade, in the front yard 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 façade 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 façade and a maximum of 50 percent of the street-facing building facade. As a result, the building must have a street-facing building façade of at least 40 feet wide.

3. Incorporation of Linear Building Frontage Type: The street facing-building façade not located behind a recessed courtyard shall comply with the standards for the Linear Building Frontage Type in Subsection 1005.10(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 façade area. ~~-~~See the Linear Building Frontage Type for window requirements for the street-facing façade.

8. Building Materials: Exterior building materials and finishes shall be high-image, such as masonry, architecturally treated tilt-up concrete, glass, wood, ~~or~~ 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.~~Metal siding is prohibited, except as approved through design review pursuant to Section 1102 for specific high-image materials, canopies, awnings, doors, screening for roof-mounted fixtures, and other architectural features.~~

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 Yard 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 yard 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 yard 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 yard 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 yard 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 façade 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 façade 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, ~~or~~ 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.~~Metal siding is prohibited, except as approved through design review pursuant to Section 1102 for specific high-image materials, canopies, awnings, doors, screening for roof-mounted fixtures, and other architectural features.~~

L. Landscape Screening Types: Street frontage not developed with a building compliant with one of the four building types established by Subsections 1005.10(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 1005.10(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 1005.10(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 1005.10(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).

1005.11 PMU DISTRICT STANDARDS

Subsection 1005.11 applies in the PMU District. Where these standards conflict with other provisions of Section 1000, Subsection 1005.11 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 1005.08(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 façade 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 façade 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.

1005.12 SUNNYSIDE VILLAGE STANDARDS

Subsection 1005.12 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 1005.12 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. Attached single-family dwellings 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 attached single-family dwellings, 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. ~~Sheet metal, c~~Cinder block~~,~~ and T1-11 are prohibited as exterior wall material.

1005.13 GOVERNMENT CAMP STANDARDS

Subsection 1005.13 applies in Government Camp. Where these standards conflict with other provisions in Section 1000, Subsection 1005.13 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 ~~for~~ 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 ~~or galvanized or corrugated metal roofs~~ 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 ~~for~~ 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 ~~or galvanized or corrugated metal roofs~~ 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.

[Amended by Ord. ZDO-224, 5/31/11; Amended by Ord. ZDO-243, 9/9/13; Amended by Ord. ZDO-246, 3/1/14; Amended by Ord. ZDO-249, 10/13/14; 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-268, 10/2/18]

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, 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 1206.02 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), 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 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. ~~(11/6/97)~~

   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, 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, 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. ~~Building~~ 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.

~~D~~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(~~D~~E) shall take precedence.

~~E~~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(~~E~~F) shall take precedence.

1. Except for drive-thru signs, ~~Signs~~ signs shall have a maximum of two colors in addition to black and white.

2. Only hanging, ~~on~~ building, ~~or~~ monument, or drive-thru signs shall be used.

3. Except for drive-thru signs, ~~Signs~~ signs shall not exceed 24 square feet in size.

~~F~~G. VO District: In the VO District, signs shall be subject to the following standards. ~~-~~Where these standards conflict with other provisions in Section 1010, Subsection 1010.09(~~F~~G) shall take precedence.

1. Except for drive-thru signs, ~~Signs~~ signs shall have a maximum of two colors in addition to black and white.

2. Only hanging, ~~on~~ building, ~~or~~ monument, or drive-thru signs shall be used.

3. Hanging signs shall not exceed eight square feet in size, and shall have eight-foot pedestrian clearance.

4. Monument and ~~on~~ building signs that are not drive-thru signs shall not exceed 24 square feet in size.

5. Except for neon signs and drive-thru signs, all illumination shall be external.

~~G~~H. RTC District: In the RTC District, all signs except drive-thru 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(~~G~~H) shall take precedence. ~~-~~Where these standards conflict with Subsection 1010.15, Subsection 1010.15 shall take precedence.

~~H~~I. 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(~~H~~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~~ 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 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. Attached single-family dwellings and three family dwellings shall be subject to Subsection 1010.06(A).

B. Developments of 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, 5/31/11; Amended by Ord. ZDO-231, 1/31/12; Amended by Ord. ZDO-245, 7/1/13; Amended by Ord. ZDO-243, 9/9/13; Amended by Ord. ZDO-250, 10/13/14; Amended by Ord. ZDO-252, 6/1/15; Amended by Ord. ZDO-268, 10/2/18]

1012 LOT SIZE AND DENSITY

1012.01 APPLICABILITY

Section 1012 applies to the following land use permit applications in any zoning district that has a minimum lot size standard, district land area standard, or minimum density standard, except AG/F, EFU, and TBR:

A. Subdivisions;

B. Partitions;

C. Replats;

D. Design review for manufactured home parks, congregate housing facilities, and dwellings, including residential condominiums; and

E. Conditional uses for manufactured home parks and dwellings.

1012.02 MINIMUM LOT SIZE EXCEPTIONS

In subdivisions, partitions, and replats, lots and parcels shall comply with the minimum lot size standards, if any, of the applicable zoning district, except as established by Subsections 1012.02(A) through (H).

A. Bonus Density: If a smaller lot size is necessary to provide bonus density dwelling units awarded under Subsection 1012.05(E), the minimum lot size standard of the applicable zoning district is waived. Demonstrating compliance with this standard shall not require the proposed development to be a planned unit development or require that attached-single-family dwellings be developed in lieu of detached single-family dwellings.

B. Two or More Lawfully Established Dwellings on One Lot of Record: If a lot of record is not large enough to be divided in compliance with the minimum lot size standard of the applicable zoning district, the standard is waived if there are two or more lawfully established dwellings located on one lot of record with a Comprehensive Plan land use plan designation of Low Density Residential, Unincorporated Community Residential, or Rural. At least one of the lawfully established dwellings shall be located on each lot or parcel created pursuant to Subsection 1012.02(B). Subsection 1012.02(B) does not apply to the creation of separate lots or parcels for:

1. Accessory dwelling units;

2. Accessory farm dwellings on a lot of record with a land use plan designation of Rural if the accessory farm dwelling was established after October 4, 2000;

3. Manufactured dwellings and residential trailers established under a temporary permit;

4. Manufactured dwellings and residential trailers established within a manufactured dwelling park or a manufactured home park; and

5. Dwellings established as a "replacement" for a historic landmark dwelling, where the continued use of the historic landmark dwelling for residential purposes was permitted as a conditional use in an HL, HD, or HC overlay zoning district.

C. Conditional Use: If the subject property is developed, or approved to be developed, with a conditional use, the minimum lot size standards of the applicable zoning district are waived, provided:

1. If a minimum lot size for the conditional use is established by Section 800, *Special Use Requirements*, it remains applicable.

2. The proposed lot size requires approval pursuant to Section 1203, *Conditional Uses*. However, approval pursuant to Section 1203 does not waive the requirement to also receive approval pursuant to Section 1105, *Subdivisions, Partitions, Replats, Condominium Plats, and Vacations of Recorded Plats*.

3. The minimum lot size waiver applies only to a lot or parcel developed with the conditional use and not to any other lots or parcels in the proposed subdivision, partition, or replat.

4. A deed restriction limiting development of an undersized lot or parcel to the approved conditional use shall be recorded in conjunction with the recording of the final plat.

5. This lot size exception does not apply in the RA-2 or RR Districts, and the minimum lot size for the lot or parcel developed with the conditional use is two acres in the RRFF-5 and FF-10 Districts. In addition, two- and three-family dwellings in an R-5, R-7, R-8.5, R-10, R-15, R-20, R-30, or RA-1 District are subject to Subsection 1012.02(F) in lieu of Subsection 1012.02(C).

D. Comprehensive Plan Boundary: If through a Type IV Comprehensive Plan map amendment, a lot of record is divided by a Comprehensive Plan land use plan designation boundary, the lot of record may be partitioned along that boundary (access strips and parcels of less than one acre are excluded). If the boundary separates an Agriculture or Forest designation from an Urban, Unincorporated Community, or Rural designation, or if the boundary separates an Agriculture designation from a Forest designation, the exception to the minimum lot size standards does not apply to ~~the~~ any portion of the subject property designated Agriculture or Forest, except to the extent that Subsection 401.~~09~~08(~~H~~K) or 406.09(G) also applies.

E. Attached Single-Family Dwellings: In an R-5, R-7, R-8.5, R-10, R-15, R-20, or R-30 District, the minimum lot size for a lot or parcel to be developed with an attached single-family dwelling is 2,000 square feet, except in a planned unit development where there is no minimum lot size. Notwithstanding this minimum lot size exception, the maximum density standards of Subsection 1012.05 continue to apply.

F. Two- and Three-Family Dwellings: In an R-5, R-7, R-8.5, R-10, R-15, R-20, R-30, or RA-1 District, there is no minimum lot size for a lot or parcel to be developed with a two- or three-family dwelling pursuant to Section 1203, *Conditional Uses*. However, the maximum density standards of Subsection 1012.07 apply to the entire property proposed for development with two- or three-family dwellings prior to the creation of new lots or parcels. This has the effect of implementing an average lot size for a development of two- or three-family dwellings of two or three times, respectively, the minimum lot area per dwelling unit established by Table 1012-2, except to the extent that Subsections 1012.07(C) and (D) allow a reduction in this average.

G. The minimum lot size standards of the applicable zoning district are waived for a designated nonresidential tract for a private road, open space, or similar support purpose.

H. Notwithstanding Subsections 1012.02(B) through (D), the minimum lot size inside the Portland Metropolitan Urban Growth Boundary is 20 acres in the FF-10, RA-1, RA-2, RC, RI, and RRFF-5 Districts, except as provided by Subsection 3.07.1130(c) of the Code of the Metropolitan Service District.

1012.03 MAXIMUM LOT SIZE

In subdivisions, partitions, and replats in the VR-5/7, VR-4/5, and VTH Districts, lots and parcels shall comply with the maximum lot size standards of the applicable zoning district, except as established by Subsections 1012.03(A) through (C) for the VR-5/7 and VR-4/5 Districts.

A. A portion of the subject property may be excluded when calculating average lot size for the subdivision, partition, or replat pursuant to Note 4 or 5 of Table 315-3, *Dimensional and Building Design Standards in the VR-5/7, VR-4/5, and VTH Districts*, or when calculating maximum individual lot size, provided that a master plan for the excluded portion of the subject property demonstrates that the maximum lot size standards can be met for the entire property through future land division.

B. Unless a master plan is provided pursuant to Subsection 1012.03(A), the maximum size of a lot or parcel created for a dwelling lawfully established prior to being zoned VR-5/7 or VR-4/5 is 15,000 square feet unless the dwelling is in a resource protection area, as shown on Comprehensive Plan Map X-SV-1, *Sunnyside Village Plan Land Use Plan Map*, in which case there is no maximum lot size standard. Such a lot or parcel is excluded when calculating average lot size for the subdivision, partition, or replat pursuant to Note 4 or 5 of Table 315-3.

C. Resource protection area, as shown on Comprehensive Plan Map X-SV-1, is excluded when calculating average lot size for the subdivision, partition, or replat pursuant to Note 4 or 5 of Table 315-3 or when calculating maximum individual lot size.

1012.04 GENERAL DENSITY PROVISIONS

A. Density is a measurement of the number of dwelling units in relationship to a specified amount of land. In the context of a partition, subdivision, replat, or manufactured home park, density typically relates to potential dwelling units in the form of lots, parcels, or manufactured home park spaces. Density often is expressed as dwelling units per acre; however, this Ordinance implements density standards in many zoning districts by assigning a district land area (DLA), which is the starting point for determining the maximum number of dwelling units allowed on a particular site. In general, the DLA is the minimum lot area required per dwelling unit; however, the DLA is subject to adjustment for density bonuses, restricted area development limitations, and limits on the extent of new road area that must be subtracted.

B. The DLA and the minimum lot size standard applicable to a particular zoning district are seldom the same. Often this is because the maximum density derived from the DLA standard is calculated over the entire site prior to any platting of new lots or parcels. The minimum lot size standard then typically permits flexibility in determining where on the site the allowed dwelling units will be developed. For example, some lots may be relatively large while others are smaller, or open space tracts may be platted while all lot sizes are relatively small. Regardless of allowed flexible sizing of individual lots or parcels, however, the maximum density allowed for the entire site remains the same.

C. If the subject property is currently developed with one or more dwelling units that will be retained, such dwelling units shall be included in demonstrating compliance with the maximum and minimum density standards of Section 1012. Notwithstanding this provision, accessory dwelling units and temporary dwellings approved pursuant to Section 1204, *Temporary Permits*, are not included in demonstrating compliance with the density standards, provided that these dwellings will continue to comply with the requirements for accessory dwelling units or temporary dwellings, respectively.

D. If a subdivision, partition, or replat is proposed on property currently developed with two-family, three-family, or multifamily dwellings (or with a current design review approval for such development), maximum and minimum density shall be calculated separately for each proposed lot or parcel, except in a planned unit development or a development of two- or three- family dwellings approved pursuant to Subsection 1012.07, in which case maximum and minimum density shall be calculated for the entire property proposed for development prior to the creation of new lots or parcels.

E. In a zoning district that does not allow new detached single-family dwellings, a lot created for a nonconforming detached single-family dwelling shall not be included in the gross site area used to calculate minimum and maximum density for the remaining lot(s).

1012.05 MAXIMUM DENSITY

If this Ordinance establishes a district land area (DLA) for the applicable zoning district, the proposed development shall be limited to a maximum density. Except as necessary to implement a minimum lot size exception granted pursuant to Subsection 1012.02 or as established by Subsections 1012.06 and 1012.07, maximum density shall be calculated as follows.

A. Calculate the land area of the subject property. The result is gross site area (GSA).

B. Subtract the following from GSA to determine net site area (NSA). In the event of an overlap between categories requiring a subtraction, the area of overlap shall be classified in the most restrictive category.

1. The land area of new county, public, or private roads (NR) in the HR, MRR, Urban Low Density Residential, VR-4/5, VR-5/7, and VTH Districts, except:

   a. If NR exceeds 15 percent of the GSA, only 15 percent of the GSA shall be subtracted.

   b. No subtraction shall be made for strips of land adjacent to existing road rights-of-way when such strips are required to be dedicated as a condition of approval;

2. In a zoning district other than HR and MRR, any land area of the GSA in the following highly restricted areas (HRA), except that no subtraction shall be made for HRA that will remain undeveloped, in which case density accruing to these areas may be transferred to unrestricted areas:

   a. Slopes greater than 50 percent;

b. Mass movement hazards regulated by Section 1003, *Hazards to Safety*;

c. The floodway of the Floodplain Management District regulated by Section 703, *Floodplain Management District*;

d. The Willamette River and the required buffer area regulated by Section 705, *Willamette River Greenway*;

e. Habitat Conservation Areas regulated by Section 706, *Habitat Conservation Area District (HCAD)*; and

f. Water Quality Resource Areas regulated by Section 709, *Water Quality Resource Area District*; and

3. In a zoning district other than HR and MRR, fifty percent of the land area of any portions of the GSA in the following moderately restricted areas (MRA), except that no subtraction shall be made for MRA that will remain undeveloped, in which case density accruing to these areas may be transferred to unrestricted areas.:

   a. Slopes equal to or greater than 20 percent and less than or equal to 50 percent; and

   b. Areas outside the floodway but within the Floodplain Management District regulated by Section 703.

4. In the HR and MRR Districts, any land area of the GSA in the following highly restricted area (HRA). Residential development is prohibited in the HRA.

   a. The Floodplain Management District regulated by Section 703; and

5. In the HR and MRR Districts, 50 percent of the land area of the GSA in the following moderately restricted areas (MRA). Residential development is prohibited in the MRA.

   a. Slopes greater than 25 percent;

   b. Mass movement hazards regulated by Section 1003; and

   c. Wetlands and required buffer areas regulated by Subsection 1002.06 or another public agency.

6. In the HR and MRR Districts, although no subtraction is required for stream corridor areas, residential development is prohibited in these areas.

C. Divide the NSA by the DLA of the applicable zoning district. The result is base density (BD). The calculations that result in a determination of BD are represented by the following formula:

{GSA – [NR + HRA + (MRA x 0.5)]} / DLA = BD*

* Except in the HR and MRR Districts, HRA and MRA may be reduced to zero as provided by Subsections 1012.05(B)(2) and (3).

D. In the MRR District, the calculation in Subsection 1012.05(C) shall be done separately for each proposed unit size category identified in Table 317-3. This requires the applicant to identify the square footage of the NSA that is attributed to each unit size category. The results of each separate calculation shall be added to determine BD.

E. Add any applicable density bonuses to BD. Bonus density shall be allowed subject to the following criteria:

1. The proposed development shall include a minimum of four dwelling units, excluding accessory dwelling units and temporary dwellings approved pursuant to Section 1204, *Temporary Permits*.

2. The bonus density categories and corresponding maximum increases to BD, as well as the zoning districts to which the bonus density categories are applicable, are identified in Table 1012-1, *Bonus Density*.

3. In the MRR District, dwelling units allowed through the bonus density provisions shall be developed with the same unit size mixture as provided in the BD. For example, if a development is proposed with a BD of 50 units of 700 square feet and 50 units of 500 square feet, and a bonus density of 10 units is allowed, the 10 bonus units shall include 5 units of 700 square feet and 5 units of 500 square feet.

Table 1012-1: Bonus Density

Bonus Category	Maximum Increase in the HR and Urban Low Density Residential Districts	Maximum Increase in the HDR, MR-1, MR-2, MRR, and PMD Districts
Affordable Housing: Dwelling units qualifying and approved for housing for low-income families or for the elderly under a federal, state, or local program will be provided in the development.	One dwelling unit per affordable dwelling unit up to 5 percent of the base density	One dwelling unit per affordable dwelling unit up to 8 percent of the base density
Park Dedication: Land will be dedicated as a park and accepted by a government agency pursuant to Subsection 1011.04.	10 percent of the base density	10 percent of the base density
Habitat Conservation Area: At least 75 percent of the HCA on the subject property will be protected from development by a restrictive covenant or a public dedication.	Not applicable	25 percent of the base density; This bonus density provision is also applicable in the SHD and VA Districts.
MAXIMUM TOTAL INCREASE	**15 percent of the base density**	**43 percent of the base density**

F. Any partial figure of one-half or greater shall be rounded up to the next whole number, except partial figures shall be rounded down for a subdivision, partition, or replat of 10 lots or fewer in an Urban Low Density Residential, VR-4/5, or VR-5/7 District.

G. The result is maximum density, except that the result shall be reduced as necessary to:

1. Comply with the minimum lot size standards, if any, of the applicable zoning district, as modified by Subsection 1012.02;

2. Ensure that, in an R-2.5 District, the density of the developed portion of the subject property does not exceed one dwelling unit per 2,420 square feet of land area; and

3. Ensure that, in all other Urban Low Density Residential Districts, the density of the developed portion of the subject property does not exceed one dwelling unit per 3,630 square feet of land area.

1012.06 MAXIMUM DENSITY IN THE VA, VTH, VR-4/5, AND VR-5/7 DISTRICTS

In the VA, VTH, VR-4/5, and VR-5/7 Districts, maximum density shall be calculated pursuant to Subsection 1012.05, except if any restricted areas, as identified in Subsections 1012.05(B)(2) and (3), are to be developed, in which case:

A. A district land area of one acre shall apply to the restricted areas proposed for development, and such areas shall not be developed at a density greater than one dwelling unit per acre.

B. The steps identified in Subsections 1012.05(B)(2) and (3) shall be omitted when completing the calculations for the restricted areas to be developed.

1012.07 MAXIMUM DENSITY FOR TWO- AND THREE-FAMILY DWELLINGS IN URBAN LOW DENSITY RESIDENTIAL DISTRICTS

In the R-5, R-7, R-8.5, R-10, R-15, R-20, R-30, and RA-1 Districts, developments of two- or three-family dwellings approved pursuant to Section 1203, *Conditional Uses*, shall be limited to a maximum density, which shall be calculated as follows:

A. Calculate the land area of the subject property. The result is gross site area (GSA).

B. Divide GSA by the minimum lot area per dwelling unit (MLA) of the applicable zoning district as shown in Table 1012-2, *Minimum Lot Area per Dwelling Unit*. The result is base density (BD).

Table 1012-2: Minimum Lot Area per Dwelling Unit

Zoning District	Minimum Lot Area per Dwelling Unit (in square feet)
R-5	3,333
R-7	4,662
R-8.5	5,661
R-10	6,660
R-15	9,990
R-20	13,320
R-30	19,980
RA-1	43,560

C. Except in the RA-1 District, add any applicable density bonuses to BD. Bonus density shall be allowed pursuant to Subsection 1012.05(E). However, if affordable housing is provided pursuant to Table 1012-1, *Bonus Density*, but affordability requirements are not specified by a federal, state, or local program as required by Table 1012-1, an affordability covenant or other mechanism to ensure affordability, deemed acceptable by the County, shall instead be attached to the affordable dwelling units.

D. Any partial figure of one-half or greater shall be rounded up to the next whole number, except partial figures shall be rounded down in a subdivision, partition, or replat of 10 lots or fewer.

E. The result is maximum density.

1012.08 MINIMUM DENSITY

A minimum density standard applies in the Urban Low Density Residential, HDR, MR-1, MR-2, PMD, RCHDR, SHD, and VA Districts. Minimum density shall be calculated as follows:

A. Calculate the land area of the subject property. The result is gross site area (GSA).

B. Subtract the following land area from GSA to determine net acreage:

1. New county, public, or private roads and strips of land dedicated adjacent to existing road rights-of-way;

2. Slopes equal to or greater than 20 percent;

3. Mass movement hazards regulated by Section 1003, *Hazards to Safety*;

4. Areas in the Floodplain Management District regulated by Section 703, *Floodplain Management District*;

5. The Willamette River and the required buffer area regulated by Section 705, *Willamette River Greenway*;

6. Habitat Conservation Areas (HCA) regulated by Section 706, *Habitat Conservation Area District (HCAD)*, provided that the HCA, or portion thereof, to be subtracted is protected from development by a restrictive covenant or a public dedication, and provided that the subject property was inside the Portland Metropolitan Urban Growth Boundary on January 1, 2002;

7. Water Quality Resource Areas regulated by Section 709, *Water Quality Resource Area District (WQRAD)*; and

8. Land to be dedicated to the public for park or open space use.

C. In the RCHDR District, the minimum density is 30 dwelling units per net acre. Otherwise, divide by the district land area of the applicable zoning district and multiply the result:

1. By 80 percent in Urban Low Density Residential Districts. However, partitions in these districts have no minimum density requirement provided that a master plan demonstrates that the minimum density for the entire property can be met through future land division;

2. By 80 percent in the PMD and MR-1 Districts, except in the case of a manufactured home park where the result shall be multiplied by 50 percent;

3. By 90 percent in the MR-2, HDR, and SHD Districts; or

4. By 50 percent in the VA District.

D. Any partial figure of one-half or greater shall be rounded up to the next whole number.

E. The result is minimum density.

[Amended by Ord. ZDO-245, 7/1/13; Amended by Ord. ZDO-249, 10/13/14; Amended by Ord. ZDO-250, 10/13/14; Amended by Ord. ZDO-252, 6/1/15; Amended by Ord. ZDO-266, 5/23/18]

1105 SUBDIVISIONS, PARTITIONS, REPLATS, 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, 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 401.09, 406.09, or 407.08, 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 1105.07; and

B. Subdivisions for cemetery purposes pursuant to Oregon Revised Statutes Chapter 97 are exempt from Section 1105.

1105.02 SUBMITTAL REQUIREMENTS FOR SUBDIVISIONS, PARTITIONS, AND REPLATS

In addition to the submittal requirements identified in Subsection 1307.07(C), an application for a subdivision, partition, or replat 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. 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;

   5. Locations, dimensions, and area of each lot, parcel, and tract;

6. 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;

7. Date the preliminary plat was prepared;

8. North arrow;

9. Identification of each lot or parcel by number;

10. Locations and widths of all roads abutting the subject property, including road names, direction of drainage, approximate grades, and whether public or private;

11. Locations and widths of all proposed roads, including proposed names, approximate grades, radii of curves, and whether public or private;

12. Location and width of legal access to the subdivision or partition, other than public or County roads, if applicable;

13. 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;

14. Locations of all seasonal and perennial drainage channels, including their names, if known, and direction of flow;

15. Locations and widths of all existing and proposed easements, to whom they are conveyed and for what purpose;

16. Locations and dimensions of all existing and proposed driveways and walkways;

17. Locations and dimensions of existing structures and their setbacks from existing and proposed lot lines;

18. Locations and dimensions of all areas to be offered for public dedication and the intended use of such areas;

19. Boundaries and type of restricted areas identified in Subsection 1012.05, as applicable;

20. Locations of all significant vegetative areas, including, but not limited to, major wooded areas, specimen trees, and bearing trees; and

21. 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

E. For a proposed subdivision, a phasing plan and schedule, if the applicant proposes to have final plat review, pursuant to Subsection 1105.07, occur in two or more phases pursuant to Subsection 1105.03(C).

F. A master plan if required pursuant to Section 1012.

1105.03 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 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.

1105.04 ADDITIONAL STANDARDS AND APPROVAL CRITERIA FOR REPLATS

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. Notwithstanding this provision, a lot of record that is larger than 3,000 square feet shall not be reduced to less than 3,000 square feet, unless such a reduction complies with the minimum lot size standard of the applicable zoning 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 1105.04(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 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 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 lawfully established unit of land 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 reviewed as a Type II application pursuant to Section 1307 shall not be approved~~The number of lots or parcels in the replatted area shall not exceed the number previously approved for the area~~, unless:

~~A.~~ 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;

~~B.~~ 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;

~~C.~~ 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

~~D.~~ 4. All open space requirements of the original plat, if applicable, are satisfied by the replatted subdivision or partition, or portion thereof.

1105.05 CONDOMINIUM PLATS

If condominium platting is proposed as part of a design review application pursuant to Section 1102, *Design Review*, a separate condominium plat application is not required. ~~-~~Otherwise, a condominium plat requires review as a Type I application pursuant to Section 1307, *Procedures*. ~~-~~A proposed condominium plat shall comply with the applicable provisions of the section of this Ordinance that regulates the subject zoning district and with Section 1000, *Development Standards*.

1105.06 APPROVAL PERIOD AND TIME EXTENSION

A. Approval of a preliminary plat is valid for 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 four-year period, the final plat shall be recorded with the County Clerk, or the approval will become void.

B. If a final plat is not recorded within the initial approval period established by Subsection 1105.06(A), a two-year time extension may be approved 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.

C. If a phasing plan and schedule are approved pursuant to Subsection 1105.03(C), the following shall apply in lieu of Subsections 1105.06(A) and (B):

1. The phasing schedule may provide a preliminary plat approval period for the first phase not to exceed four years from the date of the final written decision. If the County's final decision is appealed, the approval period shall commence on the date of the final appellate decision.

2. The phasing schedule may provide a preliminary plat approval period for each subsequent phase not to exceed two years from the end of the prior phase approval period.

3. Each phase shall be recorded with the County Clerk within the applicable approval period, or the approval of that phase and all subsequent phases will become void.

4. 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.

5. 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.

1105.07 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.

1105.08 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.

1105.09 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, 5/31/11; 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; Amended by Ord. ZDO-268, 10/2/18]

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~~(C)(2)(b), 1107.04(C)(2)(c), or 1107.04(D)(3)~~ 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~~, or AG/F~~ District. Notwithstanding this provision, a lot of record that is larger than 3,000 square feet shall not be reduced to less than 3,000 square feet, unless such a reduction complies with the minimum lot size standard of the applicable zoning 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~~, or AG/F~~ 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 required pursuant to Subsection 1107.06, 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 ~~EFU, TBR, AND~~ 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~~, or AG/F~~ 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 lawfully established unit of land 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. ~~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~~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 660-033-0010(24)(B).

~~A. A property line adjustment shall not be used to reconfigure a lot of record or tract, the effect of which is to qualify a lot of record or tract for the siting of a dwelling.~~

~~B. A property line adjustment 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 dwelling or other primary use exists.~~

~~C. A property line adjustment for a lot of record without an approved homestead, nonfarm use, nonforest use, farm management plan, or forest management plan may be approved pursuant to the following provisions:~~

~~1. A property line adjustment for a lot of record larger than 80 acres may be approved if the adjustment does not reduce the lot of record to less than 80 acres.~~

~~2. A property line adjustment for a lot of record smaller than 80 acres may be~~

~~approved pursuant to the following provisions:~~

~~a. The property line adjustment will:~~

~~i. Not reduce the size of the lot of record by more than five percent; and~~

~~ii. Only one reduction is approved pursuant to this provision; or~~

~~b. Both lots of record are in the EFU District and the resulting configuration (size) is determined to be at least as appropriate for the continuation of the existing commercial agricultural enterprise on each lot of record, as compared to the original configuration; or~~

~~c.~~a. ~~Both lots of record are in the EFU District and the adjustment complies with the provisions for siting a dwelling not in conjunction with a farm use as required by Oregon Administrative Rules (OAR) 660-033-100(7) and Section 401, *Exclusive Farm Use District*.~~

~~D. A property line adjustment for a lot of record with an approved homestead, nonfarm use, or nonforest use may be approved pursuant to the following provisions:~~

~~1. Both lots of record have an approved homestead, nonfarm use, or nonforest use; or~~

~~2. The adjustment does not result in an increase in the size of the homestead, nonfarm use, or nonforest use lot of record; or~~

~~3. Both lots of record are in the EFU District and the adjustment complies with the provisions for siting a dwelling not in conjunction with a farm use as required by OAR 660-033-100(7) and Section 401.~~

1107.05 APPROVAL PERIOD

Approval of a property line adjustment is valid for 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 requirements of Subsection 1107.06 and Chapter 11.01.040 of the Clackamas County Code 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 ~~Oregon Revised Statutes~~ORS ~~Chapters~~ 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.

1107.06 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]

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[1]

A. Except as set forth in Subsections 1203.05(B) ~~and (C)~~, approval of a conditional use is valid for 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 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. Approval of a conditional use for the following uses is valid for 10 years from the date of the final decision. With the exception of the length of the approval period, Subsection 1203.05(A) applies to these uses. Conditional use approval of these uses shall not have the effect of reserving vehicle trips for purposes of evaluating transportation concurrency for other developments. Instead, the vehicle trips these facilities are expected to generate shall be reserved when the approval is implemented pursuant to Subsection 1203.05(A).~~

~~1. Public roads;~~

~~2. Public schools, including colleges and universities;~~

~~3. Public parks;~~

~~4. Public safety facilities, including fire and police facilities;~~

~~5. Public libraries;~~

~~6. Public sanitary sewer facilities;~~

~~7. Public surface water management facilities;~~

~~8. Public water supply facilities; and~~

~~9. Hospitals.~~

~~C~~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*.

~~D~~C. If the approval of a conditional use is not implemented within the initial approval period established by Subsection 1203.05(B), a five-year time extension may be approved pursuant to Section 1310.

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]

1307 PROCEDURES

1307.01 PURPOSE

Section 1307 is adopted to:

A. Implement the goals and policies of the Comprehensive Plan for ~~citizen~~ 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 permits are ministerial in nature and involve land use actions governed by non-discretionary standards and clear and objective approval criteria. Approval of a Type I permit may require imposition of conditions of approval to ensure compliance with this Ordinance. The Type I procedure is an administrative review process, where the review authority reviews the application for conformance with the applicable standards and approval criteria and issues a decision.

2. Type II permits are administrative in nature and involve land use actions governed by standards and approval criteria that generally require the exercise of limited discretion. Impacts associated with the land use action may require imposition of conditions of approval to minimize those impacts and to ensure compliance with this Ordinance. The Type II procedure is an administrative review process, where the review authority reviews the application for conformance with the applicable standards and approval criteria and issues a decision.

3. Type III permits are quasi-judicial in nature, and involve land use actions governed by standards and approval criteria that require the use of discretion and judgment. The issues associated with the land use action may be complex and the impacts significant, and conditions of approval may be imposed to mitigate the impacts and ensure compliance with this Ordinance and the Comprehensive Plan. The Type III procedure is a quasi-judicial review process where the review authority receives testimony, reviews the application for conformance with the applicable standards and approval criteria, and issues a decision.

4. Type IV proposals are legislative in nature, and involve the creation, broad-scale implementation, or revision of public policy. These include amendments to the text of the Comprehensive Plan or this Ordinance. Large-scale changes in the Comprehensive Plan Land Use Plan maps and zoning maps also may be characterized as legislative where a larger number of property owners are directly affected.

B. Table 1307-1, *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 Type

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)(3)]	III	No	HO	No County-Level Appeal
AG/F District, Permits not Otherwise Listed in Table 1307-1 but Identified as Type II in Table 407-1, *Permitted Uses in the AG/F District*	II	No	PD	HO
Comprehensive Plan Map Amendment[1]	III or IV	Type III Only	BCC	No County-Level Appeal
Comprehensive Plan Text Amendment	IV	No	BCC	No County-Level Appeal
Conditional Use	III	Yes	HO	No County-Level Appeal

Land Use Permit	Procedure Type	Pre-Application Conference Required	Initial Decision Review Authority	Appeal Review Authority
Condominium Plat[2]	I	No	PD	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[3]	II	Yes	PD	HO
EFU District, Land Division, 80-acre Minimum Lot Size [pursuant to Subsection 401.08(C)]	I	No	PD	No County-Level Appeal
EFU District, Land Division [pursuant to Subsections 401.08(D) through (H)]	II	No	PD	HO
EFU District, Lot of Record Dwelling on High Value Farmland [pursuant to Subsection 401.05(C)(4)]	III	No	HO	No County-Level Appeal
EFU District, Permits not Otherwise Listed in Table 1307-1 but Identified as Type II in Table 401-1, *Permitted Uses in the EFU District*	II	No	PD	HO
Farmers' Market	II	No	PD	HO
Floodplain Development	II	No	PD	HO
~~Floodway, Fish Enhancement Project [pursuant to Subsection 703.07(F)]~~	~~I~~	~~No~~	~~PD~~	~~No County-Level Appeal~~
Gathering subject to review under Oregon Revised Statutes 433.763	III	Yes	PC	BCC

Land Use Permit	Procedure Type	Pre-Application Conference Required	Initial Decision Review Authority	Appeal Review Authority
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[4]	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[4]	II	Yes	PD	HO
Historic Landmark, Historic District, and Historic Corridor, New Construction[4]	II	Yes	PD	HO
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

Land Use Permit	Procedure Type	Pre-Application Conference Required	Initial Decision Review Authority	Appeal Review Authority
Interpretation, Comprehensive Plan[5]	II	No	PD	PC
Interpretation, Zoning and Development Ordinance[6]	II	No	PD	HO
Marijuana Processing in the AG/F and EFU Districts	II	No	PD	HO
Marijuana Production, if regulated by Section 841, *Marijuana Production, Processing, and Retailing*	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
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

Land Use Permit	Procedure Type	Pre-Application Conference Required	Initial Decision Review Authority	Appeal Review Authority
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	II	Yes	PD	HO
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~~(C)(2)(b), 1107.04(C)(2)(c), or 1107.04(D)(3)~~]	I	No	PD	No County-Level Appeal

Land Use Permit	Procedure Type	Pre-Application Conference Required	Initial Decision Review Authority	Appeal Review Authority
Property Line Adjustment [pursuant to Subsection 1107.04~~(C)(2)(b), 1107.04(C)(2)(c), or 1107.04(D)(3)~~]	II	No	PD	HO
Replat (number of lots or parcels proposed to increase)	II	Yes	PD	HO
Replat (number of lots or parcels proposed to decrease or remain the same)	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

Land Use Permit	Procedure Type	Pre-Application Conference Required	Initial Decision Review Authority	Appeal Review Authority
Stream Conservation Area	II	No	PD	HO
Subdivision, Major	III	Yes	HO	No County-Level Appeal
Subdivision, Minor	II	Yes	PD	HO
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, *Permitted Uses in the TBR District*	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 1310.01(A)	II	No	PD	HO

Land Use Permit	Procedure Type	Pre-Application Conference Required	Initial Decision Review Authority	Appeal Review Authority
Time Extension approved pursuant to Subsection 1310.01(B)	I	No	PD	No County-Level Appeal
Variance	II	No	PD	HO
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, *Permitted Wireless Telecommunication Facilities*, 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 ~~a Primary Use~~Type II in Table 835-1, but with an Adjustment	III	No	HO	No County-Level Appeal
Zone Change[7]	III or IV	Type III Only	HO, Type III BCC, Type IV	No County-Level Appeal

Land Use Permit	Procedure Type	Pre-Application Conference Required	Initial Decision Review Authority	Appeal Review Authority
Zoning and Development Ordinance Text Amendment	IV	No	BCC	No County-Level Appeal

Notes to Table 1307-1:

[1] 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.

[2] If condominium platting is proposed as part of a design review application, a separate condominium plat application is not required.

[3] 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.

[4] 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.

[5] 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 1307.13(E)(1).

[6] 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 1307.13(E)(2).

[7] 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 1307.13(E)(2).

1307.05 PRE-APPLICATION CONFERENCE

A. Purpose: Pre-application conferences are intended to familiarize applicants with the requirements of this Ordinance; to provide applicants with an opportunity to meet with County staff to discuss proposed projects in detail; and to identify standards, approval criteria, and procedures prior to filing a land use permit application. The pre-application conference is intended to be a tool to orient applicants and assist them in navigating the land use review process, but is not intended to be an exhaustive review that identifies or resolves all potential issues, and does not bind or preclude the County from enforcing all applicable regulations or from applying regulations in a manner differently than may have been indicated at the time of the pre-application conference.

B. Applicability: Table 1307-1, *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 1307.15.

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 ~~one year~~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, II, and III land use permit applications may be initiated by:

1. The owner of the subject property;

2. The contract purchaser of the subject property, if the application is accompanied by proof of the purchaser's status as such;

3. The agent of the owner or contract purchaser of the subject property, if the application is duly authorized in writing by the owner or the contract purchaser, and accompanied by proof of the agent's authority; or

4. If the application is for Comprehensive Plan designation or zoning of a Historic District or Historic Corridor, the owners or contract purchasers of at least 60 percent of the property within the area to be so designated or zoned.

B. Initiation of Legislative Proposals: Type IV legislative land use proposals may be initiated by the Board of County Commissioners, the Planning Commission, or the Planning Director. However, initiation of a legislative proposal does not obligate the County to further processing of the proposal pursuant to Subsection 1307.11, or prevent the County from discontinuing the processing of the proposal at any point prior to decision.

C. Application Submittal: Type I, II, and III land use permit applications are subject to the following submittal requirements:

1. The following shall be submitted for an application to be complete:

a. A completed application form, such form to be prescribed by the Planning Director, and containing, at a minimum, the following information:

i. The names, mailing addresses, and telephone numbers of the applicant(s), the owner(s) of the subject property, and any authorized representative(s) thereof;

ii. The address of the subject property, if any, and its assessor's map and tax lot number;

iii. The size of the subject property;

iv. The Comprehensive Plan designation and zoning district of the subject property;

v. The type of application being submitted;

vi. A brief description of the proposal; and

vii. Signature(s) of the applicant(s) and all owners or all contract purchasers of the subject property, or the duly authorized representative(s) thereof, authorizing the filing of the application.

b. A completed supplemental application form, such form to be prescribed by the Planning Director, or a written statement addressing each applicable approval criterion and standard and each item on the supplemental application form;

c. Any additional information required under this Ordinance for the specific land use permit sought; and

d. Payment of the applicable fee, pursuant to Subsection 1307.15.

2. The Planning Director, at his or her 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 Application: If a Type I application is not complete when submitted, and the applicant does not make it complete within 60 days of submittal, the application is void.

E. Completeness Review for Type II and III Applications: After it is submitted, a Type II or III land use permit application shall be reviewed for completeness, as follows:

1. Except as otherwise provided under Oregon Revised Statutes 215.427, the Planning Director shall review an application for completeness within 30 days of its receipt.

2. Determination of completeness shall be based upon the submittal requirements of Subsection 1307.07(C)(1) and shall not be based on opinions as to quality or accuracy. A determination that an application is complete indicates only that the application is ready for review on its merits, not that the County will make a favorable decision on the application.

3. If an application is determined to be complete, review of the application shall commence.

4. If an application is determined to be incomplete, written notice shall be provided to the applicant within 30 days of receipt of the application, identifying the specific information that is missing and allowing the applicant the opportunity to submit the missing information. The application shall be deemed complete upon receipt by the Planning Director of:

   a. All of the missing information;

   b. Some of the missing information and written notice from the applicant that no other information will be provided; or

   c. Written notice from the applicant that none of the missing information will be provided.

5. If the application was complete when first submitted, or the applicant submits additional information, as described in Subsection 1307.07(E)(4), within 180 days of the date the application was first submitted, approval or denial of the application shall be based upon the standards and criteria that were applicable at the time the application was first submitted.

6. On the 181st day after first being submitted, the application is void, if the applicant has been notified of the missing information as required under Subsection 1307.07(E)(4) and has not submitted the missing information or otherwise responded, as provided in Subsection 1307.07(E)(4).

1307.08 TYPE I MINISTERIAL PROCEDURES

Type I land use permit applications are subject to the following procedure:

A. Notice of Application: Notice of application is not provided.

B. Decision: The review authority shall approve, approve with conditions, or deny the application based on the applicable standards and criteria. The review authority shall issue a written decision.

C. Notice of Decision: A copy of the decision shall be mailed to the applicant(s), the owner(s) of the subject property, and any authorized representative(s) thereof.

D. Appeal: The review authority's decision is the final decision of the County.

1307.09 TYPE II ADMINISTRATIVE PROCEDURES

Type II land use permit applications are subject to the following procedures:

A. Notice of Application: Notice of application shall be provided as follows:

1. A minimum of 20 days prior to the issuance of a decision, written notice of application shall be mailed to:

   a. The applicant(s), the owner(s) of the subject property, and any authorized representative(s) thereof;

   b. All property owners of record, pursuant to Subsection 1307.16(C), within 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. If the application is for a replat of a recorded plat, all owners of lots or parcels in the original plat.

d. Any active community planning organization, hamlet, or village that is recognized by the County, if the subject property lies wholly or partially inside the boundaries of such organization, hamlet, or village;

e. Cities, as prescribed in applicable urban growth management agreements;

f. Those special districts and government agencies deemed by the Planning Director to have an interest in the application;

g. The Oregon Department of Agriculture, if the subject property is in the EFU or AG/F District and the application is for the propagation, cultivation, maintenance, and harvesting of aquatic species that are not under the jurisdiction of the Oregon Fish and Wildlife Commission;

h. Metro and any watershed council recognized by the Oregon Watershed Enhancement Board and whose boundaries include the subject property, if the application is for Habitat Conservation Area map verification; and

i. The airport owner and the Oregon Department of Aviation, if required by Oregon Revised Statutes (ORS) 197.183, 215.223, or 215.416.

2. At a minimum, notice of application shall include:

a. An explanation of the nature of the application and the proposed use or uses that could be authorized;

b. A list of the applicable criteria from this Ordinance and the Comprehensive Plan that apply to the application;

c. The street address or other easily understood geographical reference to the subject property;

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 decision will be issued and mailed to everyone entitled to the initial notice of the application.

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)(d) through (i).

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, 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 the complete application file is 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;

8. 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

9. A statement that a person who is mailed written notice of the decision cannot appeal the decision directly to the Land Use Board of Appeals under ORS 197.830.

C. Notice of Decision: A copy of the decision shall be mailed to those identified in Subsection 1307.09(A)(1).

D. Appeal: The review authority's decision is the final decision of the County, unless an appeal is filed pursuant to Subsection 1307.13.

1307.10 TYPE III QUASI-JUDICIAL PROCEDURES

Type III land use permit applications are subject to the following procedures:

A. Notice of Application and Public Hearing: Notice of application and public hearing shall be provided as follows:

1. Notice shall be provided to the Oregon Department of Land Conservation and Development (DLCD), if required pursuant to 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; and

   f. The airport owner and the Oregon Department of Aviation, if required by ORS 197.183, 215.223, or 215.416.

3. A minimum of 20 days prior to the first evidentiary hearing of each review authority on the application, written notice of the application and hearing shall be mailed to:

a. The applicant(s), the owner(s) of the subject property, and any authorized representative(s) thereof;

b. All property owners of record, pursuant to Subsection 1307.16(C), within 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 1307.16(C), within 1,000 feet from the outer boundary of the proposed impact area under Section 708, *Mineral and Aggregate Overlay District*;

d. If the application is for a replat of a recorded plat, all owners of lots or parcels in the original plat;

e. 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;

f. Cities, as prescribed in applicable urban growth management agreements;

g. Those special districts and government agencies deemed by the Planning Director to have an interest in the application;

h. 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;

i. 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;

j. The airport owner and the Oregon Department of Aviation, if required by ORS 197.183, 215.223, or 215.416; 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; and

j. A statement that subsequent to the close of the public hearing, a decision will be issued and mailed as required by Subsection 1307.10(E).

5. If the application is for a Comprehensive Plan amendment, notice of the date, time, location, and purpose of the Planning Commission's hearing and the Board of County Commissioner's hearing shall be given a minimum of 10 days prior to the date of each review authority's first evidentiary hearing, by publication in a newspaper of general circulation in the County. However, if the application applies to only a part of the County, the notice may instead be published in a newspaper of general circulation in that part of the County.

B. Application Review and Staff Report: The Planning Director shall review the application, written comments, and evidence submitted prior to the public hearing; prepare a staff report summarizing the application, comments received to-date, and relevant issues associated with the application; and make a recommendation to the review authority. The staff report shall be made available to the public for review a minimum of seven days prior to the first evidentiary hearing.

C. Public Hearing: A public hearing shall be held before the review authority, for the purpose of receiving testimony regarding the application.

D. Decision: The review authority shall consider the record and approve, approve with conditions, or deny the application based on the applicable standards and criteria. The review authority shall issue a written decision that explains the standards and criteria considered relevant to the decision, states the facts relied upon in rendering the decision, and explains the justification for the decision based on the standards, criteria, and facts set forth. The decision also shall include:

1. An explanation of the nature of the application and the use or uses that were proposed and, if applicable, are authorized by the decision;

2. The conditions of approval, if any;

3. The street address or other easily understood geographical reference to the subject property;

4. The date the review authority's decision becomes effective, unless appealed; and

5. A statement that any person who presented evidence, argument, or testimony as part of the record may appeal the decision by filing a written appeal; the date by which an appeal must be filed, the location for filing, a brief statement explaining how to file an appeal, and where further information may be obtained concerning the appeal process;

E. Notice of Decision: A copy of the decision shall be mailed to:

1. Those identified in Subsections 1307.10(A)(3)(a) and (e) through (j);

2. Anyone who provided evidence, argument, or testimony as part of the record;

3. Anyone who made a written request for notice of decision; and

4. DLCD, if required pursuant to ORS 197.615. Procedures for the giving of the required notice to DLCD shall be those established by ORS 197.615 and Oregon Administrative Rules chapter 660, division 18.

F. Appeal: The review authority's decision is the final decision of the County, except as may be provided for interpretation applications pursuant to Subsection 1307.13(E). Appeal of the County's final decision is to the Oregon Land Use Board of Appeals.

1307.11 TYPE IV LEGISLATIVE PROCEDURES

Type IV legislative land use proposals are subject to the following procedures:

A. Notice of Proposal and Public Hearing: Notice of proposal and hearing shall be provided as follows:

1. Notice shall be provided to the Oregon Department of Land Conservation and Development, if required pursuant to 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.

1307.12 PUBLIC HEARINGS

Subsection 1307.12 applies to public hearings held pursuant to Section 1307, except that only Subsections 1307.12(A), (B), (E) through (H), and (J) apply to public hearings in a Type IV proceeding.

A. Procedure, Generally: Public hearings shall be conducted in accordance with Oregon Revised Statutes (ORS) 197.763, Subsection 1307.12, and any bylaws or rules of procedure adopted by the review authority. Subsection 1307.12 authorizes the Hearings Officer, Planning Commission, and Board of County Commissioners to adopt rules of procedure for the conduct of hearings.

B. Parties: Any interested party shall be entitled to participate in a public hearing.

C. Order of Proceeding: The order of proceeding for a hearing will depend in part on the nature of the hearing. The following shall be supplemented by the adopted bylaws or rules of procedure of the review authority, as appropriate.

1. Jurisdictional Objections: Before receiving the staff report or testimony on the application, any objections on jurisdictional grounds shall be noted in the record and if there is objection, the review authority has the discretion to proceed or terminate the hearing.

2. Disclosure Statement: The review authority (or individual member thereof), or its designee, shall read the land use disclosure statement, which shall include:

a. A list of the applicable substantive criteria, or a reference to the staff report, where a list of the criteria can be found;

b. A statement that testimony, argument, and evidence must be directed toward the criteria described in Subsection 1307.12(C)(2)(a) or other criteria in the Comprehensive Plan or land use regulation which the person believes to apply to the decision;

c. A statement that failure to raise an issue accompanied by statements or evidence sufficient to afford the decision maker and the parties an opportunity to respond to the issue precludes appeal to the Oregon Land Use Board of Appeals (LUBA) based on that issue; and

d. If applicable, a statement that a failure to raise constitutional issues relating to proposed conditions of approval precludes an action for damages in circuit court.

3. Call for Ex Parte Contacts: If the review authority is the Planning Commission or the Board of County Commissioners, the presiding officer, or designee, shall inquire whether any member has had ex parte contacts. Any member announcing an ex parte contact shall state for the record the nature and content of the contact. If the review authority is the Hearings Officer, ~~he or she~~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, ~~he or she~~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 1307.12(D)(1), or that such individual has a legal conflict of interest as defined by ORS 244.020(1) or ORS 244.120. A challenge and the decision thereon by the review authority shall be entered in the record of the application.

3. While every effort must be made to avoid ex parte contact, no decision of the review authority shall be invalid due to ex parte contact or bias resulting from ex parte contact, as described under Subsection 1307.12(D)(1), if the review authority (or individual member thereof) receiving the contact:

   a. Places on the record the substance of any written or oral ex parte communication concerning the decision or action; and

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

4. A communication between County staff and the 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 1307.12(D)(1).

E. Evidence and Exhibits:

1. All evidence may be received unless excluded by the review authority on its own motion. Evidence received at any hearing shall be of the quality that reasonable persons rely upon in the conduct of their everyday affairs. Relevant evidence is any evidence having a tendency to make the existence or non-existence of a fact that is of consequence to the approval of the land use permit or legislative land use proposal more or less probable than it would without the evidence. Evidence may be received subject to a later ruling regarding its admissibility.

2. The review authority may exclude cumulative, repetitious, or immaterial evidence, but erroneous admission of evidence by the review authority shall not preclude action by the review authority or cause reversal on appeal unless shown to have substantially prejudiced the rights of a party.

3. All evidence shall be offered and made a part of the record in the application or legislative proceeding; and, except for matters stipulated to and except as provided in Subsection 1307.12(E)(4), no other factual information or evidence shall be considered in the recommendation or decision.

4. The review authority may take notice of judicially cognizable facts, and may take notice of general, technical, or scientific facts within specialized knowledge. Except in a Type IV proceeding, interested parties shall be notified at any time during the proceeding, but in any event prior to the final decision, of the material so noticed, and they shall be afforded an opportunity to contest the facts so noticed. The review authority may utilize experience, technical competence, and specialized knowledge in evaluation of the evidence presented.

5. All exhibits received shall be marked so as to provide identification upon review. Such exhibits may be returned when the period for review has expired, but shall otherwise be preserved by the Planning Director.

F. Time Limits: The review authority may set consistent, reasonable time limits for oral presentations to the end that parties are encouraged to submit as much evidence as possible in writing prior to the hearing. No person may speak more than once without obtaining permission from the review authority.

G. Questioning: The review authority (or individual member thereof) or County staff may question any person who testifies. The applicant and other parties to the proceeding shall not have the right to question or cross-examine any person who testifies.

H. Scope of Testimony: Except in a Type IV proceeding, testimony shall be directed towards the applicable standards and criteria that apply to the proposal. The review authority may exclude or limit cumulative, repetitious, or immaterial testimony. To expedite hearings, the review authority may call for those in favor and those in opposition to rise, and the review authority shall note the numbers of such persons for the record.

I. Continuances and Open Record Periods:

1. All documents or evidence relied upon by the applicant shall be submitted to the County and be made available to the public. Any staff report used at the hearing shall be available at least seven days prior to the hearing. If additional documents or evidence are provided by any party, the review authority may allow a continuance or leave the record open to allow the parties a reasonable opportunity to respond. Any continuance or extension of the record requested by the applicant shall result in a corresponding extension of the time limitations of ORS 215.427 and ORS 215.429.

2. Prior to the conclusion of the initial evidentiary hearing, any participant may request an opportunity to present additional evidence, argument, or testimony regarding the application. The review authority shall either continue the public hearing, pursuant to Subsection 1307.12(I)(2)(a), or leave the record open for additional written evidence, argument, or testimony, pursuant to Subsection 1307.12(I)(2)(b).

a. If the review authority grants a continuance, the hearing shall be continued to a date, time, and place certain at least seven days from the date of the initial evidentiary hearing. An opportunity shall be provided at the continued hearing for persons to present and rebut new evidence, argument, or testimony. If new written evidence is submitted at the continued hearing, any person may request, prior to the conclusion of the continued hearing, that the record be left open for at least seven days to submit additional written evidence, argument, or testimony for the purpose of responding to the new written evidence. Only one continuance is available of right under Subsection 1307.12(I)(2)(a); provided, however, nothing in Subsection 1307.12(I)(2)(a) shall restrict the review authority, in its discretion, from granting additional continuances.

b. If the review authority leaves the record open for additional written evidence, argument, or testimony, the record shall be left open for at least seven days. The review authority may leave the record open for an additional period of at least seven days for any participant to respond to new evidence submitted during the prior open-record period. However, if the review authority has not provided for this additional open-record period, any participant may file a written request with the Planning Director for an opportunity to respond to new evidence submitted during the period the record was left open. Any such request shall be filed no later than the end of the last business day the record is left open. If such a request is filed, the review authority may reopen the record pursuant to Subsection 1307.12(I)(4).

c. A continuance or extension granted pursuant to Subsection 1307.12(I)(2) shall be subject to the limitations of ORS 215.427 and ORS 215.429, unless the continuance or extension is requested or agreed to by the applicant.

3. Additional notice of a continued hearing is not required, unless the hearing is continued without announcing a date, time, and place certain, in which case notice of the continued hearing shall be given as though it were the initial hearing.

4. If the record is reopened to admit new evidence, argument, or testimony, any person may raise new issues which relate to the new evidence, argument, testimony, or criteria for decision-making which apply to the matter at issue. Notice of the reopened record shall be provided to any person who presented evidence, argument, or testimony as part of the record prior to the date the record was reopened.

5. Unless waived by the applicant, the review authority shall allow the applicant at least seven days after the record is closed to all other parties to submit final written argument in support of the application. The applicant's final submittal shall be considered part of the record, but shall not include any new evidence. This seven-day period shall not be subject to the limitations of ORS 215.427 and ORS 215.429.

J. Record of Hearing:

1. A verbatim record of the proceeding shall be made by written, mechanical, or electronic means, which record need not be transcribed except upon review on the record.

2. The record of proceedings is comprised of:

   a. The Comprehensive Plan and this Ordinance, all of which shall be automatically incorporated into the record;

   b. The application or legislative proposal that initiated the proceeding;

   c. All testimony, argument, evidence, and exhibits submitted prior to the close of the record of the proceeding;

   d. Any staff reports submitted prior to the close of the record of the proceeding;

   e. Any electronic presentation used by either staff, applicant, or other participant in the proceeding;

   f. The verbatim record, as provided in Subsection 1307.12(J)(1);

   g. Minutes, if any, of the hearing;

   h. A verbatim record, as provided in Subsection 1307.12(J)(1), of any public meeting after the close of the hearing at which the proceeding is discussed by or acted upon by the review authority;

   i. Minutes, if any, of any public meeting after the close of the hearing at which the proceeding is discussed by or acted upon by the review authority; and

   j. The written decision.

1307.13 APPEALS

Subsection 1307.13 applies to all appeals processed by the County of decisions issued under Section 1307. Table 1307-1, *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 1307.13(A) and (B). The Planning Director's determination that an appellant has failed to comply with Subsections 1307.13(A) and (B) shall be final.

D. Appeal Procedures; Scope: Appeals are subject to the following procedures:

   1. De Novo Review: Appeals shall be de novo. In a de novo review, all issues of law and fact are heard anew, and no issue of law or fact decided by the lower-level review authority is binding on the parties in the hearing. New parties may participate, and any party may present new evidence and legal argument by written or oral testimony. The record of the initial proceeding shall be made a part of the record of the appeal. For purposes of Subsection 1307.13(D)(1), the record of the initial proceeding consists of

      a. Those items listed in Subsections 1307.12(J)(2)(a) through (d) and (j); and

      b. Those items listed in Subsections 1307.12(J)(2)(e) through (i), to the extent that any prior hearing(s) or public meeting(s) were conducted in reaching the decision that is being appealed.

2. Notice of Public Hearing: Notice of public hearing shall be provided as follows:

   a. A minimum of 20 days prior to the first evidentiary hearing on the appeal, written notice of the appeal and hearing shall be mailed to:

      i. Those who were entitled to notice pursuant to Subsection 1307.09(A)(1); 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 1307.16(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 1307.10(A)(4), except that 1307.10(A)(4)(i) will reference the appealed decision, rather than the staff report.

3. Public Hearing: A public hearing shall be held before the appeal review authority, for the purpose of receiving testimony regarding the application.

4. Decision: The appeal review authority shall consider the record and affirm the decision, affirm the decision with additional conditions or modifications, or reverse the decision. The appeal review authority shall issue a written decision in the form of an order, which shall be signed and dated, that explains the standards and criteria considered relevant to the decision, states the facts relied upon in rendering the decision, and explains the justification for the decision based on the standards, criteria, and facts set forth. The decision also shall include the elements identified in Subsection 1307.10(D)(1) through (5).

5. Notice of Decision: A copy of the written order shall be mailed to:

   a. Those identified in Subsection 1307.10(E); and

   b. The appellant.

6. Appeal: Except where an additional County-level appeal is provided pursuant to Subsection 1307.13(E), the appeal review authority's decision is the final decision of the County. Appeal of the County's final decision is to the Oregon Land Use Board of Appeals.

E. Review of an Interpretation by the Board of County Commissioners:

1. A second County-level appeal is provided for applications for an interpretation of the Comprehensive Plan, where the Board of County Commissioners shall review the decision of the Planning Commission on appeal. Processing of the appeal shall comply with Subsections 1307.13(A) through (D), except that notice of the public hearing shall be given to:

   a. Those identified in Subsections 1307.09(A)(1)(a), (d) through (f), and (i);

   b. The appellant;

   c. Anyone who provided evidence, argument, or testimony as part of the record; and

   d. Anyone who made a written request for notice of decision.

2. A second County-level appeal is provided for applications for an interpretation of this Ordinance, where the Board of County Commissioners may choose to review the decision of the Hearings Officer on appeal but is not required to do so.

   a. If the Board of County Commissioners accepts the appeal, processing of the appeal shall comply with Subsections 1307.13(A) through (D), except that notice of the public hearing shall be given pursuant to Subsection 1307.13(E)(1).

   b. If the Board of County Commissioners denies a request for review, it shall do so in writing. Notice of the denial shall be given pursuant to Subsection 1307.13(E)(1). If the Board of County Commissioners denies a request for review, the decision of the Hearings Officer stands as the final decision of the County. The period for appeal to the Oregon Land Use Board of Appeals commences on the date of mailing of the Board of County Commissioners' denial of review.

F. Effect of Judicial or Administrative Review: Except as provided by law or order of a court or administrative tribunal having jurisdiction, a decision of the County shall remain valid and effective notwithstanding the initiation of judicial or administrative review of such decision; provided, however, that any development permit dependent upon such decision shall be issued only with the applicant's written acknowledgement in a form approved by County Counsel, that such review has been initiated and may result in the reversal of the decision, in which event the permit shall be revoked, as well as any temporary occupancy permit, and the premises shall thereafter be brought into conformity with the applicable standards and criteria by appropriate means. No permanent occupancy certificate shall be issued by the building official until such review has concluded through the adoption of a decision making such occupancy in all respects lawful.

G. Remand from the Land Use Board of Appeals: 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).

1307.14 CONDITIONS OF APPROVAL

Approval of a Type I, II, or III land use permit may be granted subject to conditions. The following limitations shall be applicable to conditional approvals:

A. Conditions shall be fulfilled within the time limitations set forth in the approval thereof, or, if no time is set forth, within a reasonable time. Failure to fulfill any conditions within the time limitations provided shall be grounds for the Planning Director to initiate revocation of the approved land use permit pursuant to Subsection 1307.16(L).

B. Conditions shall be imposed to ensure compliance with the standards and approval criteria applicable to the land use permit, or shall be reasonably calculated to fulfill public needs emanating from the proposed land uses as set forth in the application, in the following respects:

1. Protection of the public from the potentially deleterious effects of the proposed use; or

2. Fulfillment of the need for public services created by the proposed use.

C. The review authority may find compliance with an applicable approval criterion by imposing conditions necessary to ensure compliance and finding that it is feasible for the conditions to be satisfied. Notwithstanding this provision, where conditions require state agency permits to be obtained, the review authority need only find substantial evidence to demonstrate that the applicant is not precluded from obtaining such state agency permits as a matter of law.

D. A 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*.

1307.15 FEES

Fees are for the purposes of defraying administrative costs and are subject to the following:

A. Fees payable at the time of application or appeal are established by separate order of the Board of County Commissioners.

B. The failure to submit the required fee with an application or appeal, including return of checks unpaid or other failure of consideration, shall be a jurisdictional defect.

C. An active community planning organization that is recognized by the County may file appeals without fee, provided the decision to file an appeal is made at a public meeting held in compliance with Oregon Revised Statutes 192.610 to 192.690.

D. Appeal fees shall be refunded if the appellant prevails. Any other fee refund policy shall be established by separate order of the Board of County Commissioners.

E. The County Administrator or designee may reduce or waive fees upon showing of just cause to do so.

1307.16 GENERAL PROVISIONS

A. Calculation of Time: For the purposes of this Ordinance, unless otherwise specifically provided, days mean calendar days. In calculating a specific time period, the day on which the period begins to run shall not be included; and the day on which the period ends shall be included. In the event the last day falls on a day on which the County is not open for business, the period of time shall end on the next day on which the County is open for business.

B. Property Owner's Signature: When any person signs as the owner of property or as an officer of a public or private corporation owning the property, or as an attorney in fact or agent of any owner, or when any person states that ~~he or she is~~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.

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) 197.763, 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, or III land use permit application becomes effective on:

1. The day the final decision is issued, if no appeal at the County level is allowed;

2. The day after the appeal period expires, if an appeal at the County level is allowed, but no notice of appeal is timely filed;

3. The day the decision is issued by the final County appeal body, if an appeal is allowed and notice of appeal is timely filed. However, if the appeal is withdrawn prior to decision, the effective date of the County's final decision shall revert to the day after the appeal period would have expired had an appeal not been timely filed; or

4. The date of mailing of the Board of County Commissioners' denial of review, pursuant to Subsection 1307.13(E)(2)(b).

J. Reissuing a Decision: The review authority may reissue a Type I, II, or III decision as a result of a clerical error, a misstatement of facts, or the erroneous imposition or omission of conditions of approval. A decision may not be reissued after the expiration of the appeal period, if any, or after the filing of an appeal. Notice of the reissued decision shall be given in the same manner as notice of the original decision. A new appeal period equal to that of the original decision shall be provided from the date of mailing of the amended decision.

K. Re-filing an Application: If a Type II or III land use permit application is denied, or a Type II or III land use permit is revoked pursuant to Subsection 1307.16(L), an applicant may re-file for consideration of the same or substantially similar application only if:

1. At least two years have passed after either final denial of an application by the County or revocation of a permit; or

2. The review authority finds that one or more of the following circumstances render inapplicable all of the specific reasons for the denial:

a. A change, which is material to the application, has occurred in this Ordinance, the Comprehensive Plan, or other applicable law; for the purposes of this provision, "change" includes amendment to the applicable provisions or a modification in accepted meaning or application caused by an interpretation filed pursuant to Section 1308;

b. A mistake in facts, which was material to the application, was considered by the review authority;

c. There have been changes in circumstances resulting in new facts material to the application;

d. A change has occurred in the zoning of the subject property, or adjacent property, that substantially affects the merits of the application; or

e. There have been substantial changes in the surrounding area, or on the subject property, such as availability of services or improvements to public facilities, that affect the merits of the application.

L. Revocation of Approval: An approval of a Type II or III land use permit may be revoked, as follows:

1. The Planning Director may initiate a public hearing for revocation of a prior approval of a land use permit when there is a violation of conditions attached to the previous approval sufficient to merit such revocation.

2. Revocation of approval shall be reviewed using the Type III procedure. The Hearings Officer shall be the review authority, and the decision of the Hearings Officer shall be the final decision of the County.

3. Revocation is in addition to, and not in lieu of, any other remedy provided by law or equity, and is not a condition precedent to any such remedy.

M. Modifications: Except as permitted pursuant to Section 1309:

1. A modification to an approved Type I, II, or III land use permit, or conditions thereto, shall be processed as a new application; and

2. A modification to conditions of approval for a Type II or III land use permit shall be considered only if one or more of the circumstances identified in Subsection 1307.16(K)(2) apply.

[Added by Ord. ZDO-248, 10/13/14; Amended by Ord. ZDO-253, 6/1/15; Amended by Ord. ZDO-254, 1/4/16; Amended by Ord. ZDO-262, 5/23/17; 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]

1309 MODIFICATION

1309.01 APPROVAL CRITERIA

A modification to an approved Type II or III land use permit, or conditions thereto, requires review as a Type II application pursuant to Section 1307, *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 begins the day of the County's final decision on the modification application.

[Added by Ord. ZDO-248, 10/13/14]

1310 TIME EXTENSION

1310.01 APPROVAL CRITERIA

A time extension may be permitted only when specified elsewhere in this Ordinance for specific land use permit types.

A. 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:

1. 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;

2. The proposed development as originally approved, or as modified pursuant to Section 1309~~, *Modification*~~, shall be consistent with the relevant provisions of this Ordinance in effect on the date the application for a time extension is submitted, provided that the application is complete when submitted or is made complete pursuant to Subsection 1307.07(E)(4); and

3. 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.~~11~~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 noncontiguous 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.

1310.02 PROCEDURE

If more than one land use permit (e.g. a partition and a variance) was approved for the same, or substantially similar, proposed development, time extension requests for these land use permits may be consolidated as one application, at the applicant's discretion.

1310.03 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.

[Added by Ord. ZDO-248, 10/13/14; Amended by Ord. ZDO-276, 10/1/20]

Exhibit C
Ordinance ZDO-280
Findings of Consistency with Statewide Planning Goals and Guidelines, the Metro Urban Growth Management Functional Plan, the Clackamas County Comprehensive Plan, and the Zoning and Development Ordinance (ZDO)

BACKGROUND

The adopted 2019-2021 Long-Range Planning Work Program includes a project titled "Minor and Time-Sensitive ZDO Amendments". This project is intended to focus annually on relatively minor changes to the County's Comprehensive Plan and Zoning and Development Ordinance (ZDO) to comply with any new state and federal mandates, clarify existing language, correct errors, or adopt optional provisions that require only minimal analysis.[1]

This year, Ordinance ZDO-280 includes a number of such amendments that were identified as priorities for Fiscal Year (FY) 2021 during a study session with the Planning Commission on April 12, 2021, in a policy session with the Board of County Commissioners (BCC) on May 4, 2021, and in subsequent directives by members of the BCC.

There were two advertised public hearings on this ordinance: one before the Planning Commission on Monday, July 26, 2021, and another before the BCC on Wednesday, August 18, 2021. The Planning Commission provided a recommendation to the BCC, who ultimately voted 5-0 to adopt the amendments in ZDO-280 Exhibits A and B.

AMENDMENTS

ZDO-280 includes text amendments to Comprehensive Plan Chapter 4, *Land Use*, Comprehensive Plan Chapter 7, *Public Facilities and Services*, and to 25 separate sections of the ZDO[2].

The amendments in Exhibits A and B of ZDO-280 accomplish **12 actions**. Following is a list of those 12 actions, as well as brief explanations of the context behind each action and how the actions are accomplished with the amendments.

[1] The last package of such "minor amendments" was Ordinance ZDO-276, which was adopted by the BCC in September 2020.
[2] The ZDO sections amended by ZDO-280 are Sections: 202, *Definitions*; 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*; 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*; 317, *Mountain Recreational Resort (MRR) and Hoodland Residential (HR) Districts*; 401, *Exclusive Farm Use District (EFU)*; 406, *Timber District (TBR)*; 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*; 511, *Village Community Service District (VCS)*; 512, *Village Office District (VO)*; 513, *Rural Tourist Commercial (RTC) and Rural Commercial (RC) Districts*; 602, *Business Park, Light Industrial, and General Industrial Districts (BP, LI and GI)*; 604, *Rural Industrial District (RI)*; 707, *Historic Landmark (HL), Historic District (HD), and Historic Corridor (HC)*; 804, *Places of Worship*; 835, *Wireless Telecommunications Facilities*; 1003, *Hazards to Safety*; 1005, *Site and Building Design*; 1010, *Signs*; 1012, *Lot Size and Density*; 1105, *Subdivisions, Partitions, Replats, Condominium Plats, and Vacations of Recorded Plats*; 1107, *Property Line Adjustments*; 1203, *Conditional Uses*; 1307, *Procedures*; 1309, *Modification*; and 1310, *Time Extension*.

1. **Expand allowances for metal as an exterior building material for certain types of new development in all areas of the County, including but not limited to the Fuller Road Station Community, Sunnyside Village, and Government Camp.**

   Prior to the adoption of ZDO-280, ZDO Section 1005 limited the type of exterior building materials that can be used for new institutional, commercial, and industrial development, multifamily dwellings, and developments of more than one two- or three-family dwellings (i.e., multiple duplexes or triplexes on the same lot).

   The limitations differed slightly depending on the particular area of the County where the development is located, but they generally allowed the use of brick, tile, masonry, stucco, stone or synthetic equivalent, pre-cast masonry, gypsum reinforced fiber concrete, wood lap siding, architecturally treated concrete, glass, and/or wood, while prohibiting the use of metal as an exterior building material, unless:

   - The particular proposed exterior, including the metal siding, were found to be "high-image", a term which is not defined in the ZDO; or
   - The developer showed that their proposed metal exterior would result in a development that achieves stated purposes for the site and building design standards as well or better than other allowed exterior materials. (This option was available in most but not all areas of the County.)

   ZDO-280 amends Section 1005 to repeal these existing limitations on metal and expressly identify metal as an acceptable exterior building material in all areas of the County. ZDO-280 also repeals limitations in Section 1005 on the use of galvanized or corrugated metal roofing in Government Camp. With the adoption of ZDO-280, the surfaces of metal exterior building materials that are subject to rust or corrosion have to be coated to inhibit such rust and corrosion, and the surfaces of metal exterior building materials with rust or corrosion as an intentional design element have to be stabilized and coated to inhibit future rust and corrosion.

2. **Repeal limitations on property line adjustments (PLAs) in natural resource zones that are optional for the County, and align PLA requirements with state law.**

   "Natural resource zones" are the Ag/Forest (AG/F), Exclusive Farm Use (EFU), and Timber (TBR) zoning districts. The ZDO previously includes limitations on how property lines can be adjusted between existing lots of record that are in a natural resource zone that were not imposed by the state, but were rather the County's own limitations that were in addition to others of the state. For example, the County chose to limit how much land area a lot of record in a natural resource zone can be made smaller by to no more than five percent of the lot of record's existing size, and allowed a reduction in the same lot of record's size through a PLA only once, despite these limitations not being in state statute or regulation.

   ZDO-280 amends ZDO Section 1107 to repeal the County's limitations on PLAs in natural resource zones that are optional and not required by the state. It also incorporates the state's rules for natural resource zone PLAs[3], which already apply in the County, in the ZDO for user clarity. Amendments to Section 1307 require a Type II[4] application process for reviewing all natural resource zone PLAs because the standards and criteria for approval are not strictly clear and objective and analysis

[3] Oregon Revised Statutes (ORS) 92.192(4), ORS 215.283(1)(d), Oregon Administrative Rules (OAR) 660-006-0026(7), and OAR 660-033-0100(8)

[4] Per ZDO Subsection 1307.07(A)(2), Type II permits are administrative in nature and involve land use actions governed by standards and approval criteria that generally require the exercise of limited discretion. Impacts associated with the land use action may require imposition of conditions of approval to minimize those impacts and to ensure compliance with state law and the ZDO. The Type II procedure is an administrative review process, where the review authority reviews the application for conformance with the applicable standards and approval criteria and issues a decision.

generally requires the exercise of limited staff discretion, therefore warranting the public notice and the opportunity for appeal the Type II process provides.

3. **Allow approved commercial drive-thrus to have signs that are no taller than eight feet and that are oriented toward drive-thru lanes, in addition to the sign allowances they and any other commercial business are already allowed to have.**

   ZDO Section 1010 regulates the type, amount, and location of signage that a commercial development can have. Previously, the ZDO did not specifically provide drive-thru businesses with any additional signage allowances than other commercial uses, despite drive-thrus generally needing additional signs in their drive-thru lanes to display menus and other information to customers.

   ZDO-280 amends Section 1010 to allow approved commercial drive-thrus to have signs that are no taller than eight feet and that are oriented toward drive-thru lanes, in addition to the sign allowances they and any other commercial business are already allowed to have.

4. **Extend the validity period of pre-application conferences from one to two years.**

   ZDO Section 1307 states that, before an application can be submitted for certain types of land use permits, including applications for conditional uses, partitions, subdivisions, design review, and zone changes, the applicant must have completed a pre-application conference ("pre-app"). The pre-app is an informal meeting with County staff and representatives of other interested agencies to provide the prospective applicant information on development regulations, policies, procedures, and fees relevant to their specific project. At the pre-app, prospective applicants are provided a preliminary review of their proposal for compliance with applicable development standards; significant issues and design alternatives are identified; and project-specific questions are answered.

   Section 1307 previously limited the validity of a pre-app to one year. If a complete land use permit application for the prospective development was not submitted within one year of the pre-app, a new pre-app had to be paid for, scheduled, and held with the prospective applicant, even if the development proposal had not changed.

   ZDO-280 amends Section 1307 in order to extend the validity period from one year to two years, thereby giving members of the public more time to submit an application following their pre-app.

5. **Allow offices for government uses as a conditional use in all urban residential zones.**

   In most urban residential zones, the ZDO allows a broad range of governmental uses, such as fire stations, libraries, public schools, public utility facilities, and public parks, as well as accessory offices that are clearly ancillary to and necessary to support an approved government use on the same property, such as an office for fire station staff or for a school principal.

   In contrast to most other zones, however, ZDO Section 315 previously did not allow offices for governmental uses in most urban residential zones when those offices were *not* ancillary to and necessary for the operation of another permitted government use on the same property. For example, a fire district could not co-locate offices for the entire fire district on the same site as a neighborhood fire station or establish just the office use on the site.

   ZDO-280 amends Section 315 to allow government offices as a conditional use in all residential zones.

   Before a conditional use permit can be approved, there must be at least one public hearing. Per existing requirements in Section 1203, a conditional use permit can only be approved with a finding that:

- The characteristics of the subject property are suitable for the proposed use;
- Safety of the transportation system is adequate to serve the proposed use; and
- 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.

6. Allow charitable healthcare services accessory to a place of worship approved as a conditional use, subject to standards, and recognize existing allowances in state law for other uses accessory to a place of worship.

ZDO-280 amends ZDO Section 804 to identify that healthcare services, including counseling, are an allowed use when accessory to a place of worship, 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
- Are operated by a charitable organization that is tax-exempt under section 501(c)(3) of the Internal Revenue Code.

ZDO-280 also expressly lists in Section 804 land uses that are already allowed under state law[5] when accessory to places of worship, such as weddings, funerals, religion classes, and meal programs.

7. Align the implementation period for approved places of worship with the implementation period for approved hospitals and public facilities.

The federal *Religious Land Use and Institutionalized Persons Act of 2000* (RLUIPA) includes protections for places of worship (e.g., churches, gurdwaras, mosques, synagogues, temples, or other religious assemblies) from discrimination in zoning laws. RLUIPA prohibits zoning laws that substantially burden places of worship, except for when they are the least restrictive means of furthering a compelling governmental interest.

The ZDO generally requires a conditional use permit for places of worship, as well as for hospitals and certain public facilities, such as public schools, libraries, police stations, and utilities. However, ZDO Section 1203 previously allowed hospitals and public facilities to be implemented within 10 years of receiving approval, while requiring places of worship to be implemented within four years. The shorter timeframe allowed for establishing an approved place of worship could have been a violation of RLUIPA if it was not the least restrictive means the County had for furthering a compelling governmental interest.

To avoid the potential for a RLUIPA violation, ZDO-280 amends Section 1203 to require that hospitals and public facilities approved with a conditional use permit be implemented within the same four-year period as places of worship approved with a conditional use permit.

8. Establish times for when a time extension on an approved land use decision can be requested, and clarify how a time extension's approval period is calculated.

Except for hospitals and certain public facilities as described above, development approved in a land use permit generally must be implemented within four years of approval, though permit applicants are allowed to have two more years to implement certain land use approvals with an approved time extension. However, there had been no standard for when a request for a time extension can be made. The ZDO also did not specify when the time extension's two-year approval period began.

[5] ORS 215.441(1)

ZDO-280 amends ZDO Section 1310 to allow a time extension to be requested within one year of the expiration of the initial approval period. If a modification to the initial approval is approved before the initial approval is implemented, a time extension could be requested within one year of the expiration of the modification's implementation period. ZDO-280 also clarifies that a time extension 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.

9. Clarify that, when a modification is approved for a land use permit that is still within its implementation period, the implementation period for the project, as modified, restarts.

An applicant can request a modification to certain land use approvals, even before those approvals are fully implemented. The time period for implementing an approved modification is the same as the implementation period for the initial approval. ZDO-280 clarifies in ZDO Section 1309 that, when a modification is approved for a land use permit that is still within its (typically four-year) implementation period, the implementation period for the project, as modified, restarts.

10. Identify commercial dog boarding, dog daycare, and dog grooming facilities as already permitted uses in the Community Commercial (C-2) District.

While not previously listed in the ZDO as a permitted use in the C-2 zoning district, the County already determined in a formal, binding 2016 land use decision[6] that commercial dog boarding/daycare/wash and grooming facilities are similar to one or more other land uses allowed in that zoning district and are, therefore, also allowable in the zoning district today. ZDO-280 amends ZDO Table 510-1*: Permitted Uses in the Urban Commercial and Mixed-Use Zoning Districts*, to identify that these uses are indeed already permitted in the C-2 District. To be sure, the amendments do not newly allow any particular land use, but rather to codify an existing allowance for clarity.

11. Recognize existing allowances in Oregon Revised Statutes (ORS) for sewer system components, and for extension of sewer service, outside an urban growth boundary (UGB).

ORS chapter 660, division 11 allows for sewer system components in rural areas to serve lands in UGBs, and for sewer systems and extensions of sewer systems to serve lands outside a UGB and unincorporated community, subject to certain standards and criteria. For clarity, ZDO-280 recognizes this allowance with text amendments to Comprehensive Plan Chapters 4 and 7 and relevant sections of the ZDO, and amends the ZDO to provide a Type II approval pathway consistent with statute.

12. Make minor/non-substantive changes to the ZDO:

ZDO-280 also makes non-substantive "housekeeping" amendments to ZDO Sections 202, 316, 317, 401, 406, 510, 511, 512, 513, 602, 604, 707, 835, 1003, 1012, 1105, 1107, and 1307 accomplishing the following:

- Identify the full list of currently required permit types;
- Simplify existing regulatory language related to replats;
- Clarify that a property line adjustment (PLA) or replat cannot separate certain accessory uses from the primary use on the same property;
- Clarify: that an adjustment of a common property line between two undersized lots is permissible, subject to standards; that two lots can be consolidated through a PLA process; and that a replat is needed/possible to modify more than one platted property line at once and to increase the number of lots in a recorded plat;

[6] The determination was made in a Similar Use Authorization, a type of Planning Director Interpretation, with file number Z0621-16-I.

- Clarify that a Type II land use application is needed for development on identified mass movement hazards when not associated with another application;
- Clarify that land divisions along a boundary between Forest and Agriculture Comprehensive Plan land use designation boundaries are prohibited under state law, unless the resulting parcels meet the applicable minimum lot size or certain exceptions to the minimum lot size;
- Reiterate that roads are allowed outright in urban and rural zones pursuant to existing Comprehensive Plan polices; and
- Correct typographic errors, inconsistent terminology, and outdated references and citations.

ANALYSIS & FINDINGS

1. Statewide Planning Goals:

This section of Exhibit C includes findings on ZDO-280's consistency with Statewide Planning Goals. However, Actions 7-12, and Action 6 recognizing existing allowances in state law for other uses accessory to a place of worship, are necessary to conform to state or federal mandates, codify or clarify existing rules, or otherwise do not warrant findings for consistency with Statewide Planning Goals.

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.

ZDO-280 does not make any change to the *Citizen Involvement* chapter (Chapter 2) of the County's Comprehensive Plan. The only Comprehensive Plan amendments that are made by ZDO-280 are to Chapter 4, *Land Use*, and Chapter 7, *Public Facilities and Services*, in order to incorporate existing allowances in OAR 660-011-0060 for sewer systems and their components in Rural designated areas and to repeal redundant provisions.

ZDO Section 1307 implements policies of Comprehensive Plan Chapter 2, and contains adopted and acknowledged procedures for citizen involvement and public notification of land use applications. Notice of ZDO-280 was provided consistent with the requirements of 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 ordinance and its public hearings was published in *The Oregonian* more than 10 days in advance and was posted on County websites. Before a final decision on ZDO-280 was made, there were two public hearings: one before the Planning Commission and another before the BCC.

The amendments in ZDO-280 themselves respond to requests for consideration made by members of the public through development and adoption of the Work Program, as well as by the Planning Commission and BCC during public meetings in April and May.

ZDO-280 is 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, but Goal 2 also provides a process by which exceptions can be made to certain Goals.

ZDO-280 does not require an exception to any Statewide Planning Goal. With the ordinance's amendments, the County's adopted and acknowledged Comprehensive Plan will continue to be

consistent with Statewide Planning Goals, and the implementing regulations in the ZDO will continue to be consistent with those Goals and with the Comprehensive Plan.

ZDO-280 is consistent with Goal 2.

Goal 3 – *Agricultural Lands*:
ZDO-280 does not amend Comprehensive Plan policies related to agricultural lands, nor does it change any property's land use plan designation or expand any UGB into agricultural lands (i.e., those zoned EFU). ZDO-280 does not permit new land uses in agricultural lands. For clarity, the ordinance codifies in the ZDO existing state limitations on PLAs and land divisions in natural resource zones that already apply.

The only substantive amendments included with ZDO-280 that impact agricultural lands are those repealing County-imposed limitations in Subsection 1107.04 on PLAs in a natural resource zone. The repealed limitations include those prohibiting a PLA that results in a reduction of a natural resource zoned lot of record by more than five percent of existing size and prohibiting more than one reduction in the size of a natural resource zoned lot of record with a PLA. Repealing these limitations, which are not required by Goal 3 or any other state law, could have the effect of helping to ensure sufficient land in the County for agricultural uses, as it enables a property owner who is not using their agriculture lands for agricultural uses to transfer that land to a neighboring property owner who would use it for agricultural uses.

ZDO-280 is consistent with Goal 3.

Goal 4 – *Forest Lands*:
ZDO-280 does not amend Comprehensive Plan policies related to forest lands (i.e., those zoned AG/F or TBR), nor does it change any property's land use plan designation or expand any UGB into forest lands. ZDO-280 does not permit new land uses in forest lands. For clarity, the ordinance codifies in the ZDO existing state limitations on PLAs and land divisions in natural resource zones that already apply.

The only substantive amendments that impact forest lands are those mentioned above regarding the repeal of County-imposed limitations in Subsection 1107.04 on PLAs in a natural resource zone. Repealing these limitations, which are not required by Goal 4 or any other state law, could have the effect of helping to ensure sufficient land in the County for forest uses, as it enables a property owner who is not using their forest lands for forest uses to transfer that land to a neighboring property owner who would use it for forest uses

ZDO-280 is 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.

ZDO-280 does not make any change to the County's Comprehensive Plan goals, policies, or inventories, or to ZDO provisions, related to the protection of natural resources, or scenic, historic, or open space resources.

ZDO-280 is 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. ZDO-280 does not change any Comprehensive Plan goal or policy, or implementing regulation, affecting a Goal 6 resource, nor does it modify the mapping of any protected resource.

ZDO-280 is consistent with Goal 6.

Goal 7 – *Areas Subject to Natural Hazards*:
Goal 7 requires the County's Comprehensive Plan to address Oregon's natural hazards. ZDO-280 does not change the County's acknowledged Comprehensive Plan policies regarding natural disasters and hazards, nor does it modify the mapping of any hazard. ZDO-280 does amend ZDO Sections 1003 and 1307 to clarify that approval of a Type II application is required for development on identified mass movement hazards when such development is not reviewed in another land use permit application.

ZDO-280 is consistent with Goal 7.

Goal 8 – *Recreational Needs*:
Goal 8 requires relevant jurisdictions to plan for the recreational needs of their residents and visitors. ZDO-280 does not change any existing, state-acknowledged County Comprehensive Plan policy or implementing regulation regarding recreational needs, nor does it reduce or otherwise modify a mapped recreational resource.

ZDO-280 is 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. As noted earlier, ZDO-280 does not change the Comprehensive Plan or zoning designation of any property. It also does not add any new restriction to land uses in areas of the County reserved for commercial and industrial development.

Rather, the ordinance includes ZDO amendments that lessen the restrictions on the use of metal as an exterior building material for new commercial and industrial developments, and provide additional signage allowances for commercial drive-thrus, thereby providing greater flexibility to businesses. Increasing the pre-app validity period from one year to two years, as accomplished by ZDO-280, also provides commercial and industrial developers more time to submit required land use applications without necessitating a new pre-app, potentially reducing their project costs.

ZDO-280 is consistent with Goal 9.

Goal 10 – *Housing*:
The purpose of Goal 10 is to meet housing needs. ZDO-280 neither reduces nor expands the County's housing land supply, nor does it add new restrictions to housing development.

ZDO-280 instead lessens the restrictions on the use of metal as an exterior building material for new multifamily dwellings and developments of more than one two- or three-family dwelling, thereby providing greater flexibility to housing developers. Because two- and three-family dwellings and multifamily dwellings generally require a pre-app ahead of design review and/or a conditional use permit application, increasing the pre-app validity period to two years provides housing developers more time to submit their required land use applications without necessitating a new pre-app, potentially reducing costs to developing new housing in the County.

ZDO-280 is 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. ZDO-280 does not make any change to adopted plans for the provision of water, sewer, or other public services. The amendments to Comprehensive Plan Chapters 4 and 7, and corresponding amendments to the ZDO, codify existing allowances in ORS chapter 660, division 11 for sewer system components in rural areas to serve lands in UGBs, and for sewer systems and extensions of sewer systems to serve lands outside a UGB and unincorporated community, subject to certain standards and criteria consistent with statute.

ZDO-280 is consistent with Goal 11.

Goal 12 – *Transportation*:
The purpose of Goal 12 is to ensure that the County's transportation system is adequate to serve land uses. ZDO-280 does not amend the County's Transportation System Plan, nor does it change the land use plan designation or zoning of any property.

ZDO-280 recognizes commercial dog boarding, dog daycare, and dog grooming facilities as already permitted uses in the Community Commercial (C-2) District and provides an opportunity for consideration of government offices in more urban residential zoning districts through the conditional use permit application process, which requires project-specific review of transportation impacts; ZDO-280 does not allow any new land use "outright" (i.e., without review of transportation system impacts).

Notice of ZDO-280 was provided to ODOT, who has not provided comments.

ZDO-280 is consistent with Goal 12.

Goal 13 – *Energy Conservation*:
Goal 13 encourages land use plans to consider lot size, building height, density, and other measures in order to help conserve energy. The amendments do not change any policy or implementing regulation regarding energy conservation.

ZDO-280 is 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 urban growth boundaries, 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.

ZDO-280 does not modify any UGB or the status or boundaries of any unincorporated community. The ordinance does 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 the land use plan designation or zoning of any property, or allow any new uses in exception lands in a manner inconsistent with state law.

ZDO-280 is consistent with Goal 14.

Goal 15 – *Willamette River Greenway*:
ZDO-280 does not change any existing requirement related to development in the Willamette River Greenway.

ZDO-280 is consistent with Goal 15.

Goals 16-19:
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. OAR 660-027-0070(5)

This administrative rule reads as follows:

Notwithstanding the prohibition in sections (2) through (4) of this rule a county may amend its comprehensive plan or land use regulations as they apply to land in an urban or rural reserve that is subject to an exception to Goals 3 or 4, or both, acknowledged prior to designation of the subject property as urban or rural reserves, in order to authorize an alteration or expansion of uses or lot or parcel sizes allowed on the land under the exception provided:

a) The alteration or expansion would comply with the requirements described in ORS 215.296, applied whether the land is zoned for farm use, forest use, or mixed farm and forest use;
b) The alteration or expansion conforms to applicable requirements for exceptions and amendments to exceptions under OAR chapter 660, division 4, and all other applicable laws;
c) The alteration or expansion would not expand the boundaries of the exception area unless such alteration or expansion is necessary in response to a failing on-site wastewater disposal system; and
d) An alteration to allow creation of smaller lots or parcels than was allowed on the land under the exception complies with the requirements of OAR chapter 660, division 29.

The rule allows the County to amend its Comprehensive Plan or ZDO as they apply to land in an urban or rural reserve that is subject to an exception to Goals 3 or 4, or both, acknowledged prior to designation of the subject property as urban or rural reserves, in order to authorize an alteration or expansion of uses on the land under the exception, provided the alteration or expansion complies with the requirements described in ORS 215.296, applied whether the land is zoned for farm use, forest use, or mixed farm and forest use.

ZDO-280 effectively clarifies that charitable healthcare services are allowed when accessory to a place of worship (Action 6) in urban and rural residential zones, when such operations occupy a minimal footprint of the place of worship (i.e., no more than 10 percent of the combined floor area of all structures associated with places of worship on the same property) and when they are operated by a charitable organization that is tax-exempt under section 501(c)(3) of the Internal Revenue Code.

Urban areas are not designated as urban or rural reserves. Those rural residential exception lands within reserves generally are not the subject of "reasons" exceptions that limit uses. As such, they are eligible for all allowed uses in the zone, including places of worship.

Staff is not aware of any land zoned for farm use, forest use, or mixed farm and forest use (i.e., the EFU, TBR, and AG/F zoning districts, respectively) that is subject to an exception to Goals 3 or 4; thus, it does not appear there could be any conflict with Subsection (a) of this administrative rule. However, even if such lands do exist, the expressed allowance for accessory healthcare services are being listed by ZDO-280 in ZDO Section 804, and places of worship on land zoned EFU, TBR, AG/F are not subject to Section 804, nor are they made to be by this ordinance.

Even prior to the adoption of ZDO-280, the state-acknowledged ZDO already allowed places of worship as a conditional use in various rural zones, which are lands that have received an exception to Goals 3 and 4. Therefore, ZDO-280's expressed allowance for charitable healthcare services

accessory to a place of worship is also a rural land use and does not require any additional exception to Goals 3 or 4.

Further, ORS 215.441 mandates that the county allow "activities customarily associated with the practices of the religious activity" in conjunction with an allowed place of worship. The statute includes an enumerated list of uses but is not limited to those. In effect, ZDO-280 expressly designates healthcare services, as limited by the proposed text, a customary accessory use to a place of worship. Likewise, the ZDO previously and continues to allow "customarily permitted" accessory uses for a place of worship, and the list of allowed uses provides examples but has not been an exclusive list.

Subsections (c) and (d) are inapplicable, as ZDO-280 does not expand the boundaries of an exception area or allow smaller lot sizes in an exception area.

ZDO-280 is consistent with OAR 660-027-0070(5).

3. Metro Urban Growth Management Functional Plan

The purpose of the Functional Plan is to implement certain regional goals and objectives adopted by the Metro Council as the Regional Urban Growth Goals and Objectives (RUGGO), including the Metro 2040 Growth Concept and the Regional Framework Plan. Notice of ZDO-280 was provided to Metro, who did not submitted a comment.

ZDO-280 does not change the County's residential, commercial, or industrial land supply or to modify any UGB. The ordinance does not change the housing density standards in any part of the County or allow any new retail use in any zoning district. The ordinance also does not change the boundaries of an urban or rural reserve, the dimensional standards of any use in an urban area, or any provision governing water resources, flood management areas, or open spaces.

ZDO-280 is consistent with the Functional Plan.

4. Clackamas County's Comprehensive Plan

The following four chapters of the County's Comprehensive Plan are applicable to this ZDO-280.

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 Community Planning Organization (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.*

ZDO-280 fulfills a commitment in the 2019-2021 Long-Range Planning Work Program to annually consider minor and time-sensitive amendments to the Comprehensive Plan and ZDO, with the Work Program itself having been adopted after a broad public input process and upon recommendations of the public. The amendments in ZDO-280 related to the use of metal as an exterior building material (Action 1), natural resource zone PLAs (Action 2), government offices in urban residential zones (Action 5), and charitable healthcare services accessory to a place of

worship (Action 6) address specific priorities identified by the Planning Commission or BCC during public meetings, or otherwise respond to direct input from members of the public.

The government offices made allowable by this ordinance in additional residential zones can only be approved through the conditional use permit application process, which requires public notice to property owners and other interested parties, and at least one public hearing where any party can provide input, before receiving approval. The ordinance's Type II review procedure for PLAs in natural resource zoning districts, as well the existing design review permit application process that is necessary for institutional, commercial, industrial, multifamily and developments of more than one two- or three-family dwelling that may include metal as an exterior building material, also requires public notice before approval and the opportunity for appeal by any party.

Consideration of ZDO-280 has proceeded according to the noticing and public hearing requirements of ZDO Section 1307.

ZDO-280 is consistent with Chapter 2.

Chapter 4 – *Land Use*:
Chapter 4 of the Comprehensive Plan generally includes goals and policies for how land in Clackamas County should be designated and zoned, and goals and policies for what land uses should be allowed in those designations and their implementing zoning districts.

ZDO-280 does not change the Comprehensive Plan land use designation or zoning district of any property.

Comprehensive Plan Policy 4.5.5 prohibits the County from amending the ZDO to allow in these reserves new uses that were not allowed when the reserves were designated, except as authorized by amendments to the ORSs or OARs enacted after the designation. ZDO-280 does not allow any new land use to an urban or rural reserve. The ordinance does, however, clarify that charitable healthcare services accessory to places of worship are allowed, even in urban and rural reserves, with amendments to ZDO Section 804.

ZDO-280 also expands allowances for the use of metal as an exterior building material for institutional, commercial, and industrial development, multifamily dwellings, and developments of more than one two- or three-family dwelling (Action 1). There are no goals or policies in Chapter 4 that prohibit such development, where allowed, from using metal as an exterior building material.

Rather, expanding the allowances for the types of exterior building materials that can be used for such development is consistent with existing Residential land goals to provide "a variety of living environments" and for "lower-cost" housing, as it enables greater diversity in the appearance of residential structures and allow housing developers to choose metal exterior building materials that may be cheaper in certain instances than other building materials. ZDO-280 is consistent with Commercial land goals to ensure "attractive" shopping areas, Policy 4.Z.6 for Office Commercial designated areas to "provide for high-quality building and site design", and Policy 4.DD.4 for Business Park designated areas to "require all Business Park uses to be subject to development standards intended to maintain high aesthetics in the area", because metal exterior building materials can have an attractive, high-quality appearance and because the ordinance specifically requires that metals be coated to prevent future rust and corrosion.

ZDO-280 also expands allowances for signs for commercial drive-thrus (Action 3). This is consistent with the existing Chapter 4 goal for Commercial lands to ensure "design of commercial developments are suitable for the type of commercial activity", as it enables commercial drive-thru businesses to establish signs that improve their business operations (e.g., menu boards for

drive-thru customers). The ordinance's requirements that commercial drive-thru signs be no taller than eight feet and oriented toward drive-thru lanes are consistent with the existing Chapter 4 goal to "provide for the efficient utilization of commercial areas while protecting adjacent properties and surrounding neighborhoods", as they reduce the off-site aesthetic impacts of drive-thru signs.

ZDO-280 also repeals certain County-imposed restrictions on PLAs in natural resource zones and requires that PLAs in natural resource zones only comply with existing PLA requirements in state law. Doing so, including by repealing a limitation on the amount of land that can be transferred between natural resource zoned-properties through a PLA, is consistent with Chapter 4 goals to: "preserve agricultural use of agriculture land"; "maintain the agricultural economic base of the County"; create "conditions that further the growth and expansion of agriculture"; "conserve forestlands"; and make possible "economically efficient forest practices, because, as explained above in response to Statewide Planning Goals 3 and 4, it allows the transfer of more unused agricultural and forestlands to neighboring property owners who could use those lands for their agricultural or forest uses.

Further, the ordinance includes amendments that clarify existing allowances and review procedures and codify existing state laws that apply regardless of policies in Chapter 4 of the Comprehensive Plan. These amendments do not warrant additional written findings of consistency with Chapter 4.

ZDO-280 is consistent with Chapter 4.

Chapter 10 – *Community Plans and Design Plans*:
Chapter 10 of the Comprehensive Plan has specific goals and policies, including design guidelines, for the Mount Hood area, Sunnyside Village, the Clackamas Industrial Area, the North Bank of the Clackamas River, Clackamas Regional Center Area, the Sunnyside Corridor Community, and the McLoughlin Corridor. ZDO-280 includes amendments expressly allowing the use of metal as an exterior building material in certain types of new development in these areas. These amendments do not conflict with any goals or polices in Chapter 10.

Rather, the amendments expansion of the types of exterior building materials that can be used for certain residential development (Action 1) could help to forward existing goals for Sunnyside Village, the Clackamas Regional Center Area, and the Sunnyside Corridor Community to provide for a mix of housing types.

ZDO-280 is consistent with Chapter 10.

Chapter 11 – *The Planning Process*:
Chapter 11 of the Comprehensive Plan includes policies requiring inter-governmental and inter-agency coordination, public involvement, and noticing. As explained previously here in Exhibit C, all required entities have been notified in accordance with law and have been invited to participate in duly-advertised public hearings.

Chapter 11 of the Comprehensive Plan also contains the specific requirement that the Comprehensive Plan and ZDO be consistent with Statewide Planning Goals and with Metro's Urban Growth Management Functional Plan; Chapter 11 is what requires the ZDO itself to be consistent with the Comprehensive Plan. This exhibit's *Analysis & Findings* outline how ZDO-280 is consistent with all of these requirements.

ZDO-280 is consistent with Chapter 11.

5. Zoning and Development Ordinance (ZDO):

ZDO-280's text amendments are legislative. Section 1307 of the ZDO establishes procedural requirements for legislative amendments, which have been followed in the proposal and review of ZDO-280. Notice was provided at least 35 days before the first scheduled public hearing to DLCD, all cities in the County, and active CPOs, Hamlets, and Villages, as well as 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 BCC 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.

Health, Housing & Human Services
CLACKAMAS COUNTY

Rodney A. Cook
Director

September 23, 2021

Board of Commissioners
Clackamas County

Members of the Board:

Presentation of
September – Suicide Prevention Awareness Month

Purpose/Outcomes	In honor of Suicide Prevention Awareness in September, Health, Housing and Human Services Department's Suicide Prevention Coordinator has prepared a presentation to the Board and citizens of Clackamas County in hopes of increasing awareness around the prevalence of suicide and, more importantly, the intentional work being done to decrease rates.
Dollar Amount and Fiscal Impact	No fiscal impact to the County
Funding Source	N/A
Duration	The month of September is dedicated to Suicide Prevention Awareness, but programming occurs throughout the year.
Previous Action	The Board has been supportive of addressing mental health and suicide prevention awareness in our community as well as supporting and participating in strategies that increase awareness of mental health.
Strategic Plan Alignment	Department's Strategic Business Plan goals" "By 2025, there will be no suicides in Clackamas County"(H3S Director's Office, Behavioral Health Division, Health Centers Division) County's Performance Clackamas goals: "Ensure Safe, Healthy and Secure Communities"
Counsel Review	N/A
Procurement Review	No procurement needed – information for presentation purposes only
Contact Person	Rod Cook, H3S Director – (503) 650-5677
Contract No.	N/A

BACKGROUND:
Health, Housing and Human Services Department is presenting on the prevalence of suicide and the role that H3S is playing to reduce these numbers. In 2015, H3S committed to being intentional and strategic about how to provide care for those we serve that is suicide safe.

This presentation will highlight the prevalence of suicide on national, state and local levels as well as prevention efforts being undertaken by H3S and others to decrease these rates.

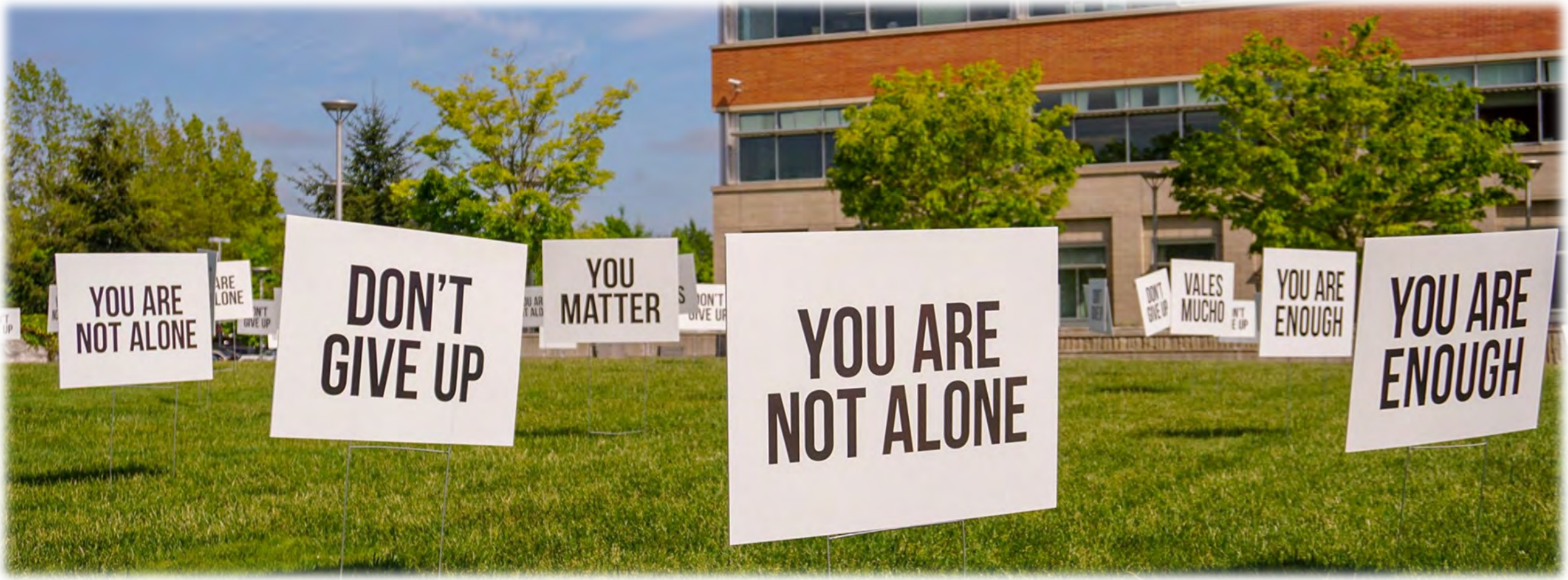
The presentation will include:

- National Suicide Prevention Awareness Month – September 2021 by Galli Murray, Suicide Prevention Coordinator with Health, Housing and Human Services Department

Respectfully submitted

For Rodney A. Cook
Rodney A. Cook, Director
Health, Housing & Human Services

Attachments:
1) *National Suicide Prevention Awareness Month – September 2021* presentation slide deck



PRESENTATION TO THE BOARD OF COUNTY COMMISSIONERS:

SUICIDE PREVENTION AWARENESS MONTH

Rodney Cook, Director
Health, Housing and Human Services

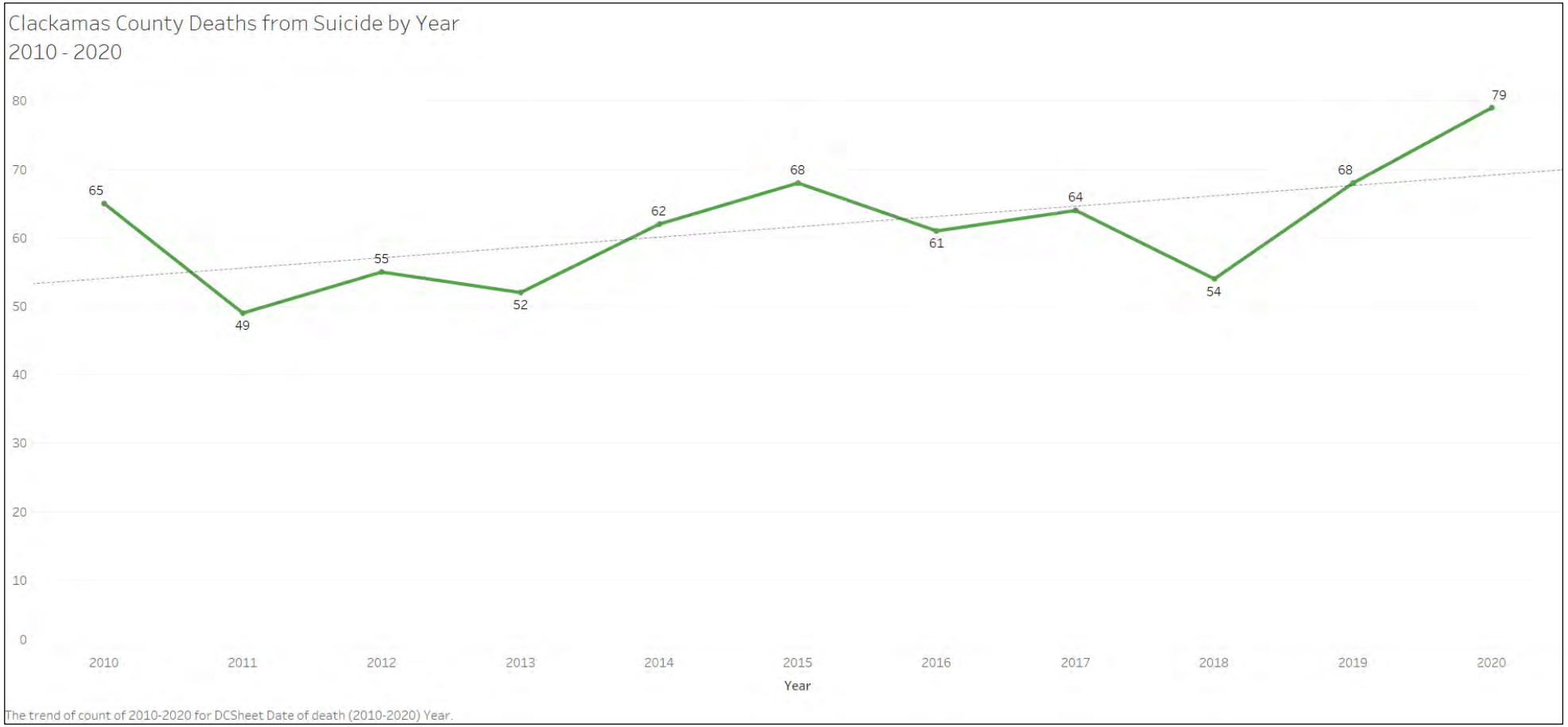
Galli Murray, Suicide Prevention Coordinator
Health, Housing and Human Services

September 23, 2021

A BRIEF REVIEW . . .

- We believe that suicide is preventable.
- Many factors lead individuals to try to end their lives. Feeling hopeless is a common theme.
- Suicide attempts (whether fatal or nonfatal) rarely occur "out of the blue." Attempters typically face multiple problems-some long term, some short term. The moment when they take action, however, is often during a brief period of heightened vulnerability.
- One of the most powerful risk factors for suicide deaths is the ready availability of highly lethal methods.
- Nine out of ten people who attempt suicide and survive will not go on to die by suicide at a later date. Getting people supports, infusing them with hope is crucial.

CLACKAMAS COUNTY SUICIDE DEATHS 2010 – 2020



THE WORK OF SUICIDE PREVENTION

- 21, 933 total individuals seen so far in 2021 in our Primary Care Clinics
- 19, 418 individuals completed the Patient Health Questionnaire
- 984 individuals identified as Positive (Endorsed Question #9 on Questionnaire)*
- 687 individuals completed the Columbia Suicide Severity Rating Scale Screening if Positive PHQ

This is 21,933 individuals who were asked about suicide.

**"How often have they been bothered by the following over the past 2 weeks? Thoughts that you would be better off dead, or thoughts of hurting yourself in some way?" (PHQ #9)*

THE WORK OF SUICIDE PREVENTION

Human Resources Department

Provide ongoing consultation to Human Resources as to how our County can be even more intentional about supporting our workforce after a death of a client, colleague or a stressful event.

Clackamas County Sheriff's Office

Provide suicide prevention training at CCSO's Crisis Intervention Training (CIT) and ongoing consultation as to how to be even more intentional about suicide prevention in the jail and other touchpoints.

School Districts

Each of the 10 districts have received technical support in developing a district wide suicide intervention and prevention protocol as well as committed to training every staff member.

THE WORK OF SUICIDE PREVENTION

Clackamas County Juvenile Department

- Juvenile Department has and will continue to train all staff in suicide prevention

Law Enforcement Agencies

- Lake Oswego Police department trained all police officers in Applied Suicide Intervention Skills Training (ASIST)
- Clackamas County Sheriff's Office has committed to training all jail staff

Domestic Violence Agencies

- Clackamas Women's Services is training all staff in Applied Suicide Intervention Skills Training (ASIST)

THE WORK OF SUICIDE PREVENTION

Clackamas County Coalition to Prevent Suicide

- Improve Equitable Access & Coordination for Treatment, Services & Supports
- Creating awareness through community outreach

Clackamas County Suicide Fatality Review

- Partnership with Medical Examiner's Office and H3S
- A multidisciplinary group of professionals and community members that meets to evaluate the circumstances leading to and causing suicides in order to improve community and service systems and to take action to prevent suicide.

THE WORK OF SUICIDE PREVENTION

Clackamas County Behavioral Health Provides Postvention Support for Those Impacted by a Death from Suicide to:

1) create space for existing emotions; hold space for those impacted

2) inform individuals about various resources that exist if and when they should want or need them; assist with linking to resources if needed

3) inquire about any one else who may need postvention support so calls can be made

4) assess risk of suicide

WE NEED TO CONTINUE TO CHANGE OUR APPROACH

- Individuals that we know to be at risk for suicide shall be put on an intentional pathway for care. Being intentional about this work is the only way to decrease deaths.

- Instead of believing that this work belongs to mental health professionals, help us to shift the paradigm that everyone has a role and responsibility.

QUESTIONS?

Galli Murray, LCSW

Suicide Prevention Coordinator

Clackamas County Health, Housing and Human Services

Gallimur@Clackamas.us

BEFORE THE BOARD OF COUNTY COMMISSIONERS
OF CLACKAMAS COUNTY, STATE OF OREGON

In the Matter of Addressing the Inadequate Workforce that Delivers Health, Safety and Emergency Services

Resolution No. _____

Whereas, all Clackamas County employers are concerned about the welfare of their valued workforce and the customers, constituents and patrons they serve at all times; and

Whereas, the ongoing COVID-19 pandemic has exhausted many providers of core public services, including first responders, health care providers, public safety, educators and related staff; and

Whereas, the recent surge of COVID-19 cases, due to the Delta variant, has further strained the delivery of those public services and has filled regional hospitals with COVID-19 patients; and

Whereas, in an effort to address this new surge, the State of Oregon has attempted to further increase the percentage of Oregonians who are vaccinated against COVID-19 by imposing vaccine mandates for certain sectors, including education, healthcare, emergency services, public safety and state workers; and

Whereas, Clackamas County as the local public health authority has undertaken extensive efforts to vaccinate over 70% of county adults and continue to provide COVID-19 vaccines to anyone in coordination with partners; and

Whereas, the state mandate of COVID-19 vaccinations could result in the loss of employment and income to Clackamas County families causing further hardships; and

Whereas, the Board of County Commissioners anticipates that the state mandate of COVID-19 vaccinations could have a detrimental impact on the delivery of healthcare, education, public safety and emergency services within Clackamas County if individuals are terminated from the workforce; and

Whereas, the Board of County Commissioners recognizes that another state shutdown due to lack of workforce that delivers critical services or continued lack of hospital capacity would be devastating for the mental health and economic viability of its residents and businesses.

NOW THEREFORE, the Clackamas County Board of Commissioners do hereby resolve and affirm that:

1. Clackamas County Public Health continues to offer free and accessible COVID-19 vaccinations to anyone in coordination with our partners.

BEFORE THE BOARD OF COUNTY COMMISSIONERS
OF CLACKAMAS COUNTY, STATE OF OREGON

In the Matter of Addressing the Inadequate Workforce that Delivers Health, Safety and Emergency Services

Resolution No. _____

.

2. The Board of Commissioners requests that the State of Oregon immediately reevaluate the terms of its vaccine mandate to consider all options and alternatives that could prevent further exhaustion and departure of core public service providers, for example:
    a. Extension of the deadline to be fully vaccinated
    b. Regular COVID testing
    c. Religious exemption
    d. Medical exemption
    e. Recognition of effective, proven technologies in the workplace

3. The Board of Commissioners will advocate that the Oregon Legislature take action that allows for easy, transferrable licensure agreements between states for healthcare providers.

4. The Board of Commissioners encourages the Governor to engage in listening sessions with the business community and public immediately to hear directly about workforce issues and concerns related to the pandemic from the shared constituency.

DATED this 23rd day of September, 2021

BOARD OF COUNTY COMMISSIONERS

_____
Chair

_____
Recording Secretary

Health, Housing & Human Services
CLACKAMAS COUNTY

Rodney A. Cook
Director

September 23, 2021

Board of County Commissioners
Clackamas County

Members of the Board:

Approval of Intra-Agency Agreement with Clackamas Health Centers Division for School Based Health Centers (SBHC) operating funds maximum agreement value is $180,000
No County General Funds

Purpose/Outcomes	This Agreement provides the basis for a cooperative working relationship for SBHC primary care services at the Rex Putnam, Oregon City, and Sandy SBHC's.
Dollar Amount and Fiscal Impact	The maximum Agreement value is $180,000.
Funding Source	Public Health is receiving grant funds from the State Public Health Authority – No County General Funds will be used.
Duration	Effective July 01, 2021 and terminates on June 30, 2022
Previous Board Action	No Previous Board Actions have been taken.
Strategic Plan Alignment	1. Improved Community Safety and Health 2. Ensure safe, healthy and secure communities
Counsel Review	County counsel has reviewed and approved this document on June 28, 2021 by Kathleen Rastetter
Procurement Review	Was the item processed through Procurement? NO This is grant funded and Health Centers is a named party in the grant.
Contact Person	Kim La Croix, Access to Preventative Health Program Manager (971) 334-0593
Contract No.	10149

BACKGROUND:
The Clackamas County Public Health Division (CCPHD) of the Health, Housing & Human Services Department requests the approval of an Intra-Agency Agreement with Clackamas County Health Centers Division (CCHCD) for primary care services at the Rex Putnam, Oregon City, and Sandy SBHC's. This will provide the basis for a cooperative working relationship and the provision of primary care services at the SBHC's. This agreement is funded with grant money received through the Local Public Health Authority (LPHA).

This Agreement has a maximum value of $180,000. This Agreement is effective July 1, 2021 and continues through June 30, 2022

RECOMMENDATION:
Staff recommends the Board of County Commissioners approve this Agreement.

Respectfully submitted,
Mary Rumbaugh
Rodney A. Cook, Director
Health, Housing, and Human Services

INTRA-AGENCY AGREEMENT

BETWEEN

CLACKAMAS COUNTY PUBLIC HEALTH DIVISION

AND

CLACKAMAS HEALTH CENTERS DIVISION

Contract # 10149

I. Purpose

This agreement provides the basis for a cooperative working relationship between the **Clackamas County Public Health Division** herein referred to as "CCPHD," and the **Clackamas Health Centers Division**, herein referred to as "CHCD," with the common goal of successfully operating a School Based Health Center (SBHC) program. The funds provided under this agreement shall only be used to support activities related to oversight, maintenance, administration, operation, and delivery of services within the SBHC.

II. Scope of Work and Cooperation

A. CHCD agrees to:

1. Provide primary healthcare to students within Oregon City High School, Rex Putnam High School, and Sandy High School according to Oregon Health Authority SBHC protocols and certification requirements and CHCD Policies.

2. All primary healthcare services must be delivered in accordance with the guidelines set forth in the 2017 Standards for Certification. The Standards for Certification includes administrative, operations and reporting guidance, and minimum standards and/or requirements in the areas of: certification process, sponsoring agency/facility, operations/staffing, laboratory, clinical services, data collection/reporting and quality assurance.

3. Maintain an operations agreement with Oregon City High School, Rex Putnam High School, and Sandy High School, , for the delivery of SBHC services by Clackamas County Health Centers. Provide a copy of the operations agreements with the CCPHD annually.

4. Prepare SBHC facilities and staff for recertification site visits with Oregon Health Authority (OHA). Appoint SBHC leadership to participate in site visit and address items identified by OHA.

5. Participate in quarterly OHA SBHC meetings.

6. Designate a staff person to maintain the State Operational Profile (online portal) and submit data in accordance with OHA requirements.

7. Participate in OHA sponsored trainings and webinars.

8. Collaborate with CCPHD on grant proposals to support the SBHC when funding opportunities arise that align with the SBHC mission or improve population health that align with the SBHC and Health Centers mission and SBHC Strategic Plan.

9. Write and submit narrative and financial reports required by the grant funder. Share the narrative and financial reports with CCPHD.

10. Facilitate School districit wide collaboration with SBHC staff, school district staff, public health services, other county departments, and community agencies in order to develop, implement, and maintain SBHC services for school-age children as opportunities arise.

11. Upon request, share de-identified electronic health record (EPIC) data with CCPHD.

12. Conduct communication activities (e.g. website) that promote Oregon City, Rex Putnam, and Sandy SBHC clinics.

B. CCPHD agrees to:

1. Upon request, provide the oversight and technical assistance so that each SBHC in its jurisdiction meet the 2017 Standards for Certification for SBHC.

2. Assure to the OHA State Program Office (SPO) that all certification documentation and subsequent follow-up items are completed by the requested date(s) in accordance with the certification review cycle.

3. Connect with leadership team at least two times per year to facilitate communication and program development.

4. Upon receipt of proper invoice, distribute SBHC funding on behalf of the OHA to CHCD for provision of healthcare services between July 1, 2021 and June 30, 2022.

5. Develop and distribute updated SBHC agreements as needed.

6. Analyze school based health center related data, from a population health perspective, and share with CHCD annually.

7. Conduct county-wide communications regarding SBHC services. CCPHD will notify and collaborate with CHCD about communications related to the SBHCs where CHCD is the medical sponsor.

8. Monitor fiscal and programmatic compliance, of CHCD with this contract, by regualrly reviewing invoices and participating in biennial state certification exit interviews.

III. Liaison Responsibility

Aria Baker will act as liaison from CCPHD: ABaker@clackamas.us
Carol Kepp will act as liaison from CHCD: CKepp@clackamas.us

IV. Compensation

CCPHD's obligations under this agreement are subject to receipt of grant funds from the State of Oregon for Program Element #44: School Based Health Centers.

The maximum amount available for CHCD under this agreement shall not exceed $180,000. The funds shall be distributed as follows:

Up to $ 60,000 for Oregon City SBHC
Up to $ 60,000 for Rex Putnam SBHC
Up to $ 60,000 for Sandy SBHC

At fiscal year-end Clackamas County Public Health Division (CCPHD), fiscal department will do a true up of monies spent. Any remaining balances will be redistributed amongst School Based Health Centers that have expenditures exceeding their contract balances. Redistribution of funds will be at CCPHD discretion.

CHCD shall submit monthly expenditure reimbursement interfund transfer request invoices by the tenth day of the month following that in which service was performed for true and verifiable costs and expenses related to implementation of the services outlined in this agreement. The invoice must be itemized and reference contract # 10149, dates of service, number of hours billed, and the total amount due for all service provided during the month. Invoices shall be submitted to:

Clackamas County Public Health Division
Attn: Accounts Payable
2051 Kaen Road, # 367
Oregon City, Oregon 97045
PublichHealthFiscalAP@clackamas.us

When submitting electronically, designate CHCD name and contract # 10149 in the subject of the e-mail.

Within thirty (30) days after receipt of the bill, provided COUNTY has approved the service specified on the invoice, COUNTY shall pay the amount requested to CONTRACTOR.

Withholding of Contract Payments: Notwithstanding any other payment provision of this agreement, should CHCD fail to submit required reports when due, or submit reports which appear patently inaccurate or inadequate on their face, or fail to perform or document the performance of contracted services, CCPHD shall immediately withhold payments hereunder. Such withholding of payment for cause may continue until CHCD submits required reports, performs required services, or establishes to CCPHD's satisfaction that such failure arose out of causes beyond the control, and without the fault or negligence, of CHCD.

V. Reporting Requirements

A. Fiscal Reports

1. CHCD shall submit year to date expense reports to CCPHD on January 15th and July 15th.

2. Reports will be itemized and will include all operational expenses to include, but not limited to: staff, supplies, lease, and maintenance.

3. Based on year end reconciliation, all monies not allocated by expense reports shall be returned to CCPHD.

4. CHCD will submit Fiscal Reports to:

Clackamas County Public Health Division
Attn: Sherry Olson
2051 Kaen Road, #367
Oregon City, Oregon 97045

OR

SOlson4@clackamas.us

B. Performance Reporting

1. Submit annual Client encounter data in a form acceptable to the OHA SPO and in accordance with the 2017 Certification Standards at two times during the year, no later than January 31, 2022 for the previous calendar year (July 1, 2021 – December 31, 2021) and no later than July 15, 2022 for the preceding service year (July 1, 2021 – June 30, 2022).

2. Submit annual SBHC Key Performance Measure (KPM) data in a form acceptable to the OHA SPO and in accordance with the certification standards no later than October 1, 2022 for the preceding service year (July 1, 2021 – June 30, 2022).

3. Submit annual SBHC Billing, Revenue and Funding data in the form acceptable to the OHA SPO no later than October 1, 2022 for the preceding service year (July 1, 2021 – June 30, 2022).

4. Submit annual SBHC hours of operation and staffing in the form acceptable to the OHA SPO no later than October 1, 2022 for the current service year (July 1, 2021 – June 30, 2022).

5. Submit completed annual patient satisfaction survey data no later than January 31, 2022 and June 30, 2022.

6. Complete online national census survey every year.

7. CHCD will submit Performance Reports to:

Clackamas County Public Health Division
Attn: Aria Baker
999 Library Ct
Oregon City, OR 97045
ABaker@clackamas.us

And

School-Based Health Center Program
800 NE Oregon, Suite 805
Portland, OR 97232
E-mail: SBHC.program@state.or.us
Phone: (971) 673-0871

VI. Amendments

This agreement may be amended at any time with the concurrence of both parties. Amendments become a part of this agreement only after the written amendment has been signed by both parties and the Department Director.

VII. Term of Agreement

This agreement becomes effective **July 1, 2021** and is scheduled to terminate **June 30, 2022.**

This agreement is subject to cancellation by either of the parties when thirty (30) days' written notice has been provided.

Termination. This contract may be terminated by mutual consent of both parties, or by either party, upon 30 days' notice, in writing and delivered by certified mail or in person.

If sufficient funds are not provided in future approved budgets of County (or from applicable federal, state, or other sources) to permit County in the exercise of its reasonable administrative discretion to continue this Contract, or if the program for which this Contract was executed is abolished, County may terminate this Contract without further liability by giving Contractor not less than thirty (30) days' notice.

This agreement consists of seven (7) sections.

IN WITNESS WHEREOF, the parties hereto have caused this agreement to be executed by their duly authorized officers.

CLACKAMAS HEALTH CENTERS DIVISION

Deborah Cockrell Digitally signed by Deborah Cockrell Date: 2021.08.31 10:25:43 -07'00'

Deborah Cockrell, Director

8/31/21

Date

CLACKAMAS COUNTY PUBLIC HEALTH DIVISION

Philip Mason-Joyner Digitally signed by Philip Mason-Joyner Date: 2021.08.31 11:51:42 -07'00'

Philip Mason-Joyner, Director

8/31/21

Date

HEALTH, HOUSING AND HUMAN SERVICES DEPARTMENT

Rodney A. Cook, Director

Date

Health, Housing & Human Services
CLACKAMAS COUNTY

Rodney A. Cook
Director

September 23, 2021

Board of County Commissioners
Clackamas County

Members of the Board:

Approval of Inter-Agency Agreement with Clackamas County Health Centers Division for School Based Health Centers (SBHC) - Building Mental Health Services Capacity Maximum Agreement Value is $185,000 No County General Funds Are Involved

Purpose/Outcomes	This Agreement provides the basis for a cooperative working relationship for building Mental Health Services capacity at the Rex Putnam, Oregon City, and Sandy SBHC's.
Dollar Amount and Fiscal Impact	The maximum Agreement value is $185,000.
Funding Source	Public Health is receiving Grant funds from the State Public Health Authority – No County General Funds will be used.
Duration	Effective July 01, 2021 and terminates on June 30, 2022
Previous Board Action	No Previous Board Actions have been taken.
Strategic Plan Alignment	1. Improved Community Safety and Health 2. Ensure safe, healthy and secure communities
Counsel Review	County counsel has reviewed and approved this document on June 28, 2021. Kathleen Rastetter
Procurement Review	Was the item processed through Procurement? NO This is grant funded and Health Centers is a named party in the grant.
Contact Person	Kim La Croix, Access to Preventative Health Program Manager (971) 334-0593
Contract No.	10188

BACKGROUND:
The Clackamas County Public Health Division (CCPHD) of the Health, Housing & Human Services Department requests the approval of an Intra-Agency Agreement with Clackamas County Health Centers Division (CCHCD) for mental health expansion services at the Rex Putnam, Oregon City, and Sandy SBHC's. This will provide the basis for a cooperative working relationship and the provision of mental health services at the SBHC's. This agreement is funded with grant money received through the Local Public Health Authority (LPHA).

This Agreement has a maximum value of $185,000. This Agreement is effective July 1, 2021 and continues through June 30, 2022

RECOMMENDATION:
Staff recommends the Board of County Commissioners approve this Agreement.

Respectfully submitted,

Mary Rumbaugh

Rodney A. Cook, Director
Health, Housing, and Human Services

INTRA-AGENCY AGREEMENT

BETWEEN

CLACKAMAS COUNTY PUBLIC HEALTH DIVISION
AND

CLACKAMAS HEALTH CENTERS DIVISION

Contract # 10188

I. Purpose

This agreement provides the basis for a cooperative working relationship between the Clackamas County Public Health Division herein referred to as "CCPHD," and the Clackamas Health Centers Division, herein referred to as "CHCD," with the common goal of building capacity of Mental Health services to the School Based Health Center (SBHC) program. The funds provided under this agreement shall only be used to support activities related to the Mental Health Expansion Project within the SBHC.

II. Scope of Work and Cooperation

A. CHCD agrees to:

1. Provide a .8 FTE mental health specialist 2 at Oregon City High School, Rex Putnam High School, and Sandy High School, School-Based Health Centers.

2. Provide services that are culturally and linguistically appropriate for their target population.

3. Track data related to mental health encounters as outlined in the SBHC Certification standards.

4. Submit mental health encounter data to the State Program Office (SPO) two times during the contract period (January 15, 2022 and July 15, 2023)

5. Participate in regular check-in meetings via phone or email with the SPO.

6. Submit 2 mid-project reports in December 2021, and a final report in June 2022. Final reports are due no later than July 15, 2022. Guidance will be given on expected report content.

7. Create and implement an evaluation plan for their projects in collaboration with the SPO. The SPO will provide technical assistance throughout this process.

8. Facilitate County wide collaboration with SBHC staff, school district staff, public health services, other county departments, and community agencies in order to develop, implement, and maintain SBHC services for school age children as opportunities arise.

9. Facilitate communication and cooperation between the CHCD and school districts to provide mental health services in the SBHC's.

10. Designate at least one mental health provider to participate in biannual SBHC community of practice meetings hosted by CCPHD.

B. CCPHD agrees to:

1. Serve as liaison to SPO.

2. Participate in regular check-in meetings via phone or email with the SPO.

3. Provide the oversight and technical assistance so that each SBHC in its jurisdiction meet the 2017 Standards for Certification for SBHC.

4. Assure to the OHA State Program Office (SPO) that all certification documentation and subsequent follow-up items are completed by the requested date(s) in accordance with the certification review cycle.

5. Meet with CCHCD Mental Health Manager and Mental Health Program Supervisor at least once per year to facilitate communication and program development.

6. Upon receipt of proper invoice, distribute SBHC funding on behalf of the OHA to CHCD for provision of healthcare services between July 1, 2021 and June 30, 2022.

7. Develop and distribute updated SBHC agreements as needed.

III. Liaison Responsibility

A. Complete the scope of work as outlined under Section II.

Liaison from CCPHD is Aria Baker: ABaker@clackamas.us
Liaison from CHCD is Carol Kepp: CKepp@clackamas.us

IV. Compensation

CCPHD's obligations under this agreement are subject to receipt of grant funds from the State of Oregon for Program Element #44: School Based Health Centers.

The maximum amount available for CHCD under this agreement shall not exceed $185,000. The funds shall be distributed as follows:

Description	Dates	Sandy HS	Rex Putnam	Oregon City HS	TOTAL
Funding	July 1, 2021 – June 30,2022	Up to $80,000	Up to $25,000	Up to $80,000	Up to $185,000

CHCD shall submit monthly expenditure reimbursement interfund transfer request invoices by the tenth day of the month following that in which service was performed for true and verifiable costs and expenses related to implementation of the services outlined in this agreement. The invoice must be itemized and reference contract # 10188, dates of service, number of hours billed, and the total amount due for all service provided during the month. Invoices shall be submitted to:

Clackamas County Public Health Division
Attn: Accounts Payable
2051 Kaen Road, # 367
Oregon City, Oregon 97045
PublichHealthFiscalAP@clackamas.us

When submitting electronically, designate CHCD name and contract # 10188 in the subject of the e-mail.

Within thirty (30) days after receipt of the bill, provided COUNTY has approved the service specified on the invoice, COUNTY shall pay the amount requested to CONTRACTOR.

Withholding of Contract Payments: Notwithstanding any other payment provision of this agreement, should CHCD fail to submit required reports when due, or submit reports which appear patently inaccurate or inadequate on their face, or fail to perform or document the performance of contracted services, CCPHD shall immediately withhold payments hereunder. Such withholding of payment for cause may continue until CHCD submits required reports, performs required services, or establishes to CCPHD's satisfaction that such failure arose out of causes beyond the control, and without the fault or negligence, of CHCD.

At fiscal year-end Clackamas County Public Health Division (CCPHD), fiscal department will do a true up of monies spent. Any remaining balances will be redistributed amongst School Based Health Centers that have expenditures exceeding their contract balances. Redistribution of funds will be at CCPHD discretion.

V. Reporting Requirements

A. Fiscal Reports

1. CHCD shall submit monthly expenditure reimbursement invoices for true and verifiable costs and expenses related to implementation of the Mental Health Expansion Project. Invoices must be itemized and reference contract # 10188. Invoices shall be submitted to CCPHD by the 10th of the month following expenditures.

2. Annual expenditure report is to COUNTY by July 10, 2022.

3. CHCD will submit Fiscal Reports to:

Clackamas County Public Health Division
Attn: Sherry Olson
2051 Kaen Road, #367
Oregon City, Oregon 97045
SOlson4@clackamas.us
(503) 742-5342

B. Performance Reporting

1. CHCD must submit qualitative and quantitative data based on reporting requirements set forth by the SPO.

2. CHCD will submit Performance Reports to:

Clackamas County Public Health Division
Attn: Aria Baker
2051 Kaen Road, #367
Oregon City, Oregon 97045
ABaker@clackamas.us

VI. Amendments

This agreement may be amended at any time with the concurrence of both parties. Amendments become a part of this agreement only after the written amendment has been signed by both parties and the Department Director.

VII. Term of Agreement

This agreement becomes effective **July 1, 2021** and is scheduled to terminate **June 30, 2022**.

This contract may be terminated by mutual consent of both parties, or by either party, upon 30 days' written notice.

This agreement in its entirety consists of seven (7) sections.

IN WITNESS WHEREOF, the parties hereto have caused this agreement to be executed by their duly authorized officers.

CLACKAMAS HEALTH CENTERS DIVISION

Deborah Cockrell Digitally signed by Deborah Cockrell Date: 2021.08.31 10:48:51 -07'00'

Deborah Cockrell, Director

8/31/21

Date

CLACKAMAS COUNTY PUBLIC HEALTH DIVISION

Philip Mason-Joyner Digitally signed by Philip Mason-Joyner Date: 2021.08.31 11:52:11 -07'00'

Philip Mason-Joyner, Director

8/31/21

Date

HEALTH, HOUSING, AND HUMAN SERVICES

Rodney A. Cook, Director

Date

Health, Housing & Human Services
CLACKAMAS COUNTY

Rodney A. Cook
Director

September 23, 2021

Board of County Commissioners
Clackamas County

Members of the Board:

Approval of a HOME Loan Amendment #1 with
Green Line Affordable Development Limited Partnership
for the Fuller Station Affordable Housing in Happy Valley. OR
Total Contract Amount $950,000 No County General Funds.

Purpose/Outcomes	Request to reduce term of loan length from 60 years to 55 years for the HOME loan for Fuller Station Affordable Housing (development of 100 affordable rental housing units in Happy Valley).
Dollar Amount and Fiscal Impact	No fiscal impact with County General Fund or HOME funding with this Amendment to reduce loan term length.
Funding Source	HOME Investment Partnerships Program from the US Department of Housing and Urban Development (HUD). No County General Funds are involved.
Duration	The term of the loan would be reduced by five (5) years; totaling 55 years instead of 60 years. The HOME Period of Affordability remains unchanged (60 years from date of project completion).
Previous Board Action	January 14, 2021 BCC Business meeting
Strategic Plan Alignment	Increasing housing choice and housing opportunity for low to moderate income households.
Contact Person	Pamela Anderson, Manager, Community Development (971) 804-3464
Contract No.	9795

BACKGROUND:

HOME funds have been approved by the BCC on January 14, 2021 to assist in the creation of one multi-family housing apartment building: Fuller Station Affordable Housing. It will include 100-units of multi-family, transit-oriented, mixed-income housing at the Fuller Road Station Park & Ride.

This request is to reduce the HOME Loan term from 60 years to 55 years. No proposed changes to the Affordability Period and HOME funding.

RECOMMENDATION:

We recommend the approval of this Amendment to the Fuller Station HOME loan.

Respectfully submitted,
Mary Rumbaugh
Rodney A. Cook, H3S Director

Attached: Modification to Promissory Note, 1st Amendment to Trust Deed & Modification to Loan Agreement

MODIFICATION TO PROMISSORY NOTE

THIS MODIFICATION TO PROMISSORY NOTE ("***Modification***") is made by and between GREEN LINE AFFORDABLE DEVELOPMENT LIMITED PARTNERSHIP, an Oregon limited partnership ("***Borrower***"), and CLACKAMAS COUNTY, a political subdivision of the state of Oregon ("***Lender***"), and is effective upon signature of both parties.

Recitals

A. The Borrower is the owner of a 100-unit low income housing tax credit project to be constructed on certain real property located in Clackamas County, Oregon, and to be known as Fuller Station (the "***Project***").

B. The Borrower executed and delivered that certain Promissory Note dated January 8, 2021, in the original principal amount of Nine Hundred Fifty Thousand and No/100 Dollars ($950,000.00) (the "***Note***").

C. The current outside maturity date of the Note is the sixtieth (60^{th}) anniversary of the effective date ("***Maturity Date***").

D. The parties desire to amend the Note to decrease the maturity date by five years.

E. All capitalized terms not otherwise defined in this Modification shall have the same meanings ascribed thereto in the Note.

Agreement

NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged by each of the parties hereto, and in further consideration of the agreements hereinafter set forth, the parties for themselves and for their respective successors and assigns, do hereby agree and covenant as follows:

1. The foregoing recitals are hereby incorporated by reference as if set forth fully herein

2. Section 1(b) of the Note is hereby amended and restated in its entirety to read as follows: "b. The term of the loan is 55 years."

3. Section 1(c) of the Note is hereby amended and restated in its entirety to read as follows: "c. The Maturity Date is 55 years from the date on this Note shown above."

4. All of the terms, provisions and conditions of the Note, as amended, shall remain in full force and effect to the extent they are not modified herein; and the Note as modified hereby, shall continue in full force and effect.

5. Borrower and Lender agree to execute such other documents as may be necessary to implement the terms and provisions of this Modification, and the transaction evidenced thereby.

6. The Note, as amended by this Modification, may not be further amended except by an instrument in writing executed by each of the parties hereto.

7. This Modification shall be binding upon and shall inure to the benefit of the parties hereto and their respective successors and assigns.

8. This Modification may be executed in any number of counterparts and all counterparts shall be construed together and shall constitute but one agreement.

[*Signatures on following pages*]

SIGNATURE PAGE OF BORROWER

BORROWER:

GREEN LINE AFFORDABLE DEVELOPMENT LIMITED PARTNERSHIP,
an Oregon limited partnership

By: GM Fuller Station LLC,
an Oregon limited liability company,
its General Partner

By: Guardian Development LLC,
an Oregon limited liability company,
its Manager

By: Guardian Real Estate Services LLC,
an Oregon limited liability company,
its Manager

By: Guardian Holding, Inc.,
an Oregon corporation,
its Manager

By: _____
Thomas B. Brenneke, President

SIGNATURE PAGE OF LENDER

LENDER:

CLACKAMAS COUNTY,
a political subdivision of the State of Oregon

By:_____
Authorized Representative

AFTER RECORDING RETURN TO:
Clackamas County Community Development Division
2051 Kaen Road, Suite 245
Oregon City, OR 97045

STATUTORY NOTICE:
The name and address of the entity holding a lien or other interest created by this instrument are set forth below, and the tax account number of the property subject to the lien or in which the interest is created is: Clackamas County Community Development Division

Legal Description – Exhibit "A" Attached

FIRST AMENDMENT TO TRUST DEED, ASSIGNMENT OF RENTS, SECURITY AGREEMENT AND FIXTURE FILING

THIS FIRST AMENDMENT TO TRUST DEED, ASSIGNMENT OF RENTS, SECURITY AGREEMENT AND FIXTURE FILING (this "Amendment"), is made and entered into by and between GREEN LINE AFFORDABLE DEVELOPMENT LIMITED PARTNERSHIP, an Oregon limited partnership ("Grantor" and "Borrower"), and CLACKAMAS COUNTY, a political subdivision of the state of Oregon ("County"), and is effective upon signature of both parties.

RECITALS

A. Pursuant to that certain Loan Agreement by and between Borrower and the County dated as of January 8, 2021, the County agreed to extend to Borrower a loan in the maximum principal amount of Nine Hundred Fifty Thousand and No/100 Dollars ($950,000.00) (the "Loan").

B. The Loan is secured by a certain Trust Deed, Assignment of Rents, Security Agreement and Fixture Filing granted by Grantor in favor of Fidelity National Title as Trustee for the benefit of County, dated April 9, 2021 and recorded in the Official Records of Clackamas County on April 9, 2021 as Document No. 2021-037061 (the "Trust Deed"). The Trust Deed encumbers the real estate more particularly described on Exhibit A attached hereto and made a part hereof.

C. Grantor and County mutually desire to amend the Trust Deed in accordance with the provisions set forth herein in order to reduce the Maturity Date on which the Note is due and payable in full from the date originally set forth in the Note to 55 years from the date of the Note pursuant to the terms set forth in that certain Modification to Note ("**Modification to Note**") made between County and Borrower.

AGREEMENT

NOW, THEREFORE, for and in consideration of the foregoing, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto agree as follows:

1. **Definitions**. All capitalized terms used herein, but not defined herein, shall have the meaning ascribed thereto in the Trust Deed, as amended.

2. **Amendment**. The third paragraph of the Trust Deed is hereby amended and restated in its entirety to read as follows:

> "The loan is due and payable in full at the earliest of: (i) the Maturity Date which is exactly **fifty-five (55) years from the executed date of this Trust Deed** except as otherwise provided in the Loan Agreement, (ii) the date the property is sold, (iii) title is transferred, or (iv) the Borrower defaults on any of its obligations under the Loan Documents (see Article 5.01 below). The Initial HUD-required Period of Affordability shall be 20 years, without regard to the term of the loan or the transfer of ownership."

3. **Deed of Trust**. Grantor acknowledges that it is still bound by the original Trust Deed, which remains in full force and effect in accordance with its respective terms except as modified herein. Except as expressly amended herein, all other terms and provisions of the Trust Deed remain in full force and effect. The lien of the Trust Deed is in no manner impaired hereby.

4. **Waiver**. No provision hereof shall constitute a waiver of any of the terms or conditions of the Trust Deed, other than those terms or conditions expressly amended hereby.

IN WITNESS WHEREOF, the parties hereto have executed this First Amendment to Trust Deed by their duly authorized representatives.

[THE REMAINDER OF THIS PAGE IS INTENTIONALLY LEFT BLANK]

BORROWER'S SIGNATURE PAGE TO FIRST AMENDMENT TO TRUST DEED, ASSIGNMENT OF RENTS, SECURITY AGREEMENT AND FIXTURE FILING

"BORROWER"

GREEN LINE AFFORDABLE DEVELOPMENT LIMITED PARTNERSHIP,
an Oregon limited partnership

By: GM Fuller Station LLC,
an Oregon limited liability company,
its General Partner

By: Guardian Development LLC,
an Oregon limited liability company,
its Manager

By: Guardian Real Estate Services LLC,
an Oregon limited liability company,
its Manager

By: Guardian Holding, Inc.,
an Oregon corporation,
its Manager

By: _____
Thomas B. Brenneke, President

STATE OF OREGON)
) ss:
COUNTY OF Multnomah)

The foregoing instrument was acknowledged before me this 26th day of August, 2021, by Thomas B. Brenneke, the President of Guardian Holding, Inc., the Manager of Guardian Real Estate Services LLC, the Manager of Guardian Development LLC, the Manager of GM Fuller Station LLC, the General Partner of Green Line Affordable Development Limited Partnership on behalf of said Partnership.

Sheila Robertson
Notary Public for Oregon
My commission expires: January 15, 2023

OFFICIAL STAMP
SHEILA RENE ROBERTSON
NOTARY PUBLIC-OREGON
COMMISSION NO. 982861
MY COMMISSION EXPIRES JANUARY 15, 2023

COUNTY'S SIGNATURE PAGE TO FIRST AMENDMENT TO TRUST DEED, ASSIGNMENT OF RENTS, SECURITY AGREEMENT AND FIXTURE FILING

CLACKAMAS COUNTY,
a political subdivision of the State of Oregon

By:_____
Authorized Representative

STATE OF OREGON)
) ss:
COUNTY OF _____)

The foregoing instrument was acknowledged before me this ____ day of _____, 2021, by _____, the Authorized Representative of Clackamas County, on behalf of said County.

_____
Notary Public for _____
My commission expires:_____

EXHIBIT A

LEGAL DESCRIPTION

PARCEL 1
PARTTION PLAT NO. 2020-098
LEGAL DESCRIPTION

PARCEL 1, PARTITION PLAT NO. 2020-098, IN THE COUNTY OF CLACKAMAS AND STATE OF OREGON.

ALSO BEING DESCRIBED BY METES AND BOUNDS AS FOLLOWS:

BEGINNING AT THE SOUTHWEST CORNER OF PARCEL 1, PARTITION PLAT NO. 2020-098, IN THE COUNTY OF CLACKAMAS AND STATE OF OREGON, AND SITUATED IN THE SOUTHWEST QUARTER OF SECTION 28, TOWNSHIP 1 SOUTH, RANGE 2 EAST, WILLAMETTE MERIDIAN, SAID CLACKAMAS COUNTY; THENCE, ALONG THE WEST, NORTH, EAST AND SOUTH LINES OF SAID PARCEL 1 THE FOLLOWING SIX COURSES; NORTH 12°52'03" EAST A DISTANCE OF 172.23 FEET; THENCE, SOUTH 87°33'25" EAST A DISTANCE OF 490.03 FEET; THENCE, ALONG THE ARC OF A NON-TANGENT 32.16 FOOT RADIUS CURVE TO THE RIGHT THROUGH A CENTRAL ANGLE OF 33°59'55" (THE CHORD OF WHICH BEARS SOUTH 47°44'41" EAST A DISTANCE OF 18.81 FEET) AN ARC DISTANCE OF 19.08 FEET; THENCE, SOUTH 09°17'39" EAST A DISTANCE OF 122.04 FEET; THENCE, SOUTH 02°28'43" WEST A DISTANCE OF 38.28 FEET; THENCE, NORTH 87°30'52" WEST A DISTANCE OF 560.44 FEET TO THE POINT OF BEGINNING.

MODIFICATION TO LOAN AGREEMENT

THIS MODIFICATION TO LOAN AGREEMENT ("***Modification***") is made by and between GREEN LINE AFFORDABLE DEVELOPMENT LIMITED PARTNERSHIP, an Oregon limited partnership ("***Borrower***"), and CLACKAMAS COUNTY, a political subdivision of the state of Oregon ("***Lender***"), and is effective upon signature of both parties.

Recitals

A. The Borrower is the owner of a 100-unit low income housing tax credit project to be constructed on certain real property located in Clackamas County, Oregon, and to be known as Fuller Station (the "***Project***").

B. The Borrower executed and delivered that certain Promissory Note dated January 8, 2021, in the original principal amount of Nine Hundred Fifty Thousand and No/100 Dollars ($950,000.00) (the "***Note***") pursuant to that certain Loan Agreement between Borrower and Lender dated January 8, 2021 (the "***Loan Agreement***").

C. The Loan Agreement provides that the current outside maturity date of the Note is 60 years from the effective date ("***Maturity Date***").

D. The parties desire to amend the Loan Agreement to reflect the decrease in the maturity date of the Note by five years.

E. All capitalized terms not otherwise defined in this Modification shall have the same meanings ascribed thereto in the Loan Agreement.

Agreement

NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged by each of the parties hereto, and in further consideration of the agreements hereinafter set forth, the parties for themselves and for their respective successors and assigns, do hereby agree and covenant as follows:

1. The foregoing recitals are hereby incorporated by reference as if set forth fully herein

2. Section 2(b)(i) of the Loan Agreement is hereby amended and restated in its entirety to read as follows:

> "The HOME Funds will be provided as a **0.0% interest deferred payment loan, with a maturity date of 55 years from the Effective Date**. Loan repayment, satisfaction, or conveyance shall not relieve Owner of any

performance, affordability or programmatic obligations and requirements of the HOME program."

3. All of the terms, provisions and conditions of the Loan Agreement, as amended, shall remain in full force and effect to the extent they are not modified herein; and the Loan Agreement as modified hereby, shall continue in full force and effect.

4. Borrower and Lender agree to execute such other documents as may be necessary to implement the terms and provisions of this Modification, and the transaction evidenced thereby.

5. The Loan Agreement, as amended by this Modification, may not be further amended except by an instrument in writing executed by each of the parties hereto.

6. This Modification shall be binding upon and shall inure to the benefit of the parties hereto and their respective successors and assigns.

7. This Modification may be executed in any number of counterparts and all counterparts shall be construed together and shall constitute but one agreement.

[*Signatures on following pages*]

SIGNATURE PAGE OF BORROWER

BORROWER:

GREEN LINE AFFORDABLE DEVELOPMENT LIMITED PARTNERSHIP,
an Oregon limited partnership

By: GM Fuller Station LLC,
an Oregon limited liability company,
its General Partner

By: Guardian Development LLC,
an Oregon limited liability company,
its Manager

By: Guardian Real Estate Services LLC,
an Oregon limited liability company,
its Manager

By: Guardian Holding, Inc.,
an Oregon corporation,
its Manager

By: _____
Thomas B. Brenneke, President

SIGNATURE PAGE OF LENDER

LENDER:

CLACKAMAS COUNTY,
a political subdivision of the State of Oregon

By:_____
Authorized Representative

Health, Housing & Human Services
CLACKAMAS COUNTY

Rodney A. Cook
Director

September 23, 2021

Board of County Commissioners
Clackamas County

Members of the Board:

Approval of H3S Community Development Division
HUD Grant Agreements for signature $3,485,810 total HUD Funds No County General Funds

Purpose/Outcomes	Signatures on annual HUD Grant Agreements.
Dollar Amount and Fiscal Impact	$2,286,218 in Community Development Block Grant (CDBG) funds, $1,006,963 in HOME funds, and $ 192,629 in Emergency Solutions Grant (ESG) funds $3,485,810 total HUD grant funds
Funding Source	U.S. Department of Housing and Urban Development (HUD) grant funds. No County General Funds are involved.
Safety Impact	N/A
Duration	Effective July 1, 2021 and terminates on June 30, 2023
Previous Board Action	Public Hearing on April 8, 2021. BCC approval on May 6, 2021 and May 17.
Strategic Plan Alignment	1. Ensure safe, healthy and secure communities 2. Build a strong infrastructure
Counsel Review	NA
Contact Person	Mark Sirois, CD Manager - (503)-351-7240 or marksir@clackamas.us
Contract No.	NA

BACKGROUND: The Board reviewed the funding recommendations on April 8, 2021 and provided a final approval to apply for these grant funds on May 6, 2021. The Board approved the increased CDBG 2021 grant amount of $2,286,218 on May 17, 2021.

HUD sent Clackamas County a Grant Agreement Transmittal letter on August 6. See attached. This request is to authorize signature of the 3 grant agreements listed above. After signature, the grant agreements will be submitted to HUD to confirm acceptance.

RECOMMENDATION: We recommend the signature approval of these 3 HUD grants.

Respectfully submitted,

Mary Rumbaugh

Rodney, A. Cook, Director

Attachments:

- HUD Grant Agreement Transmittal
- 2021 CDBG Grant Agreement
- 2021 HOME Grant Agreement
- 2021 ESG Grant Agreement

Funding Approval/Agreement

Title I of the Housing and Community Development Act (Public Law 930383)
HI-00515R of 20515R

U.S. Department of Housing and Urban Development
Office of Community Planning and Development
Community Development Block Grant Program

OMB Approval No. 2506-0193
exp 5/31/2018

1. Name of Grantee (as shown in item 5 of Standard Form 424)	3a. Grantee's 9-digit Tax ID Number	3b. Grantee's 9-digit DUNS Number
Clackamas County	936002286	096992656
2. Grantee's Complete Address (as shown in item 5 of Standard Form 424) 2051 Kaen Rd Oregon City, OR 97045-4035	4. Date use of funds may begin (mm/dd/yyyy) 07/01/2021	
	5a. Project/Grant No. 1 B-21-UC-41-0001	6a. Amount Approved $2,286,218
	5b. Project/Grant No. 2	6b. Amount Approved

Grant Agreement: This Grant Agreement between the Department of Housing and Urban Development (HUD) and the above named Grantee is made pursuant to the authority of Title I of the Housing and Community Development Act of 1974, as amended, (42 USC 5301 et seq.). The Grantee's submissions for Title I assistance, the HUD regulations at 24 CFR Part 570 (as now in effect and as may be amended from time to time), and this Funding Approval, including any special conditions, constitute part of the Agreement. Subject to the provisions of this Grant Agreement, HUD will make the funding assistance specified here available to the Grantee upon execution of the Agreement by the parties. The funding assistance specified in the Funding Approval may be used to pay costs incurred after the date specified in item 4 above provided the activities to which such costs are related are carried out in compliance with all applicable requirements. Pre-agreement costs may not be paid with funding assistance specified here unless they are authorized in HUD regulations or approved by waiver and listed in the special conditions to the Funding Approval. The Grantee agrees to assume all of the responsibilities for environmental review, decision making, and actions, as specified and required in regulations issued by the Secretary pursuant to Section 104(g) of Title I and published in 24 CFR Part 58. The Grantee further acknowledges its responsibility for adherence to the Agreement by sub-recipient entities to which it makes funding assistance hereunder available.

U.S. Department of Housing and Urban Development (By Name)		Grantee Name (Contractual Organization)	
Bryan G. Guiney		Clackamas County (Clackamas County)	
Title CPD Director		Title	
Signature X BRYAN GUINEY Digitally signed by BRYAN GUINEY Date: 2021.08.06 11:03:08 -07'00'	Date (mm/dd/yyyy) 08/06/2021	Signature X	Date (mm/dd/yyyy)

7. Category of Title I Assistance for this Funding Action:	8. Special Conditions (check one)	9a. Date HUD Received Submission (mm/dd/yyyy) 05/11/2021	10. check one
Entitlement, Sec 106(b)	☐ None ☒ Attached	9b. Date Grantee Notified (mm/dd/yyyy) 08/06/2021 9c. Date of Start of Program Year (07/01/2021)	☒ a. Orig. Funding Approval ☐ b. Amendment Amendment Number

11. Amount of Community Development Block Grant

	FY 2021		
a. Funds Reserved for this Grantee	$2,286,218		
b. Funds now being Approved			
c. Reservation to be Cancelled (11a minus 11b)			

12a. Amount of Loan Guarantee Commitment now being Approved
N/A

Loan Guarantee Acceptance Provisions for Designated Agencies:
The public agency hereby accepts the Grant Agreement executed by the Department of Housing and Urban Development on the above date with respect to the above grant number(s) as Grantee designated to receive loan guarantee assistance, and agrees to comply with the terms and conditions of the Agreement, applicable regulations, and other requirements of HUD now or hereafter in effect, pertaining to the assistance provided it.

12b. Name and complete Address of Public Agency
Clackamas County
2051 Kaen Rd
Oregon City, OR 97045-4035

12c. Name of Authorized Official for Designated Public Agency

Title

Signature
X

HUD Accounting use Only

Batch	TAC	Program	Y	A	Reg	Area	Document No.	Project Number	Category	Amount	Effective Date (mm/dd/yyyy)	F
	153 176											
			Y					Project Number		Amount		
			Y					Project Number		Amount		

Date Entered PAS (mm/dd/yyyy)	Date Entered LOCCS (mm/dd/yyyy)	Batch Number	Transaction Code	Entered By	Verified By

8. Special Conditions.

(a) The period of performance for the funding assistance specified in the Funding Approval ("Funding Assistance") shall begin on the date specified in item 4 and shall end on September 1, 2028. The Grantee shall not incur any obligations to be paid with such assistance after September 1, 2028.

(b) The Recipient shall attach a schedule of its indirect cost rate(s) in the format set forth below to the executed Agreement that is returned to HUD. The Recipient shall provide HUD with a revised schedule when any change is made to the rate(s) described in the schedule. The schedule and any revisions HUD receives from the Recipient shall be incorporated herein and made a part of this Agreement, provided that the rate(s) described comply with 2 CFR part 200, subpart E.

Administering Department/Agency	Indirect cost rate	Direct Cost Base
_____	_____%	_____
_____	_____%	_____
_____	_____%	_____
_____	_____%	_____
_____	_____%	_____

Instructions: The Recipient must identify each agency or department of the Recipient that will carry out activities under the grant, the indirect cost rate applicable to each department/agency (including if the de minimis rate is used per 2 CFR §200.414(f)), and the type of direct cost base to which the rate will be applied (for example, Modified Total Direct Costs (MTDC)). Do not include indirect cost rates for subrecipients.

(c) In addition to the conditions contained on form HUD 7082, the grantee shall comply with requirements established by the Office of Management and Budget (OMB) concerning the Dun and Bradstreet Data Universal Numbering System (DUNS); the System for Award Management (SAM.gov.); the Federal Funding Accountability and Transparency Act as provided in 2 CFR part 25, Universal Identifier and General Contractor Registration; and 2 CFR part 170, Reporting Subaward and Executive Compensation Information.

(d) The grantee shall ensure that no CDBG funds are used to support any Federal, State, or local projects that seek to use the power of eminent domain, unless eminent domain is employed only for a public use. For the purposes of this requirement, public use shall not be construed to include economic development that primarily benefits private entities. Any use of funds for mass transit, railroad, airport, seaport or

highway projects as well as utility projects which benefit or serve the general public (including energy-related, communication-related, water-related and wastewater-related infrastructure), other structures designated for use by the general public or which have other common-carrier or public-utility functions that serve the general public and are subject to regulation and oversight by the government, and projects for the removal of an immediate threat to public health and safety or brownfield as defined in the Small Business Liability Relief and Brownfields Revitalization Act (Public Law 107–118) shall be considered a public use for purposes of eminent domain.

(e) The Grantee or unit of general local government that directly or indirectly receives CDBG funds may not sell, trade, or otherwise transfer all or any such portion of such funds to another such entity in exchange for any other funds, credits or non-Federal considerations, but must use such funds for activities eligible under title I of the Act.

(f) E.O. 12372-Special Contract Condition - Notwithstanding any other provision of this agreement, no funds provided under this agreement may be obligated or expended for the planning or construction of water or sewer facilities until receipt of written notification from HUD of the release of funds on completion of the review procedures required under Executive Order (E.O.) 12372, Intergovernmental Review of Federal Programs, and HUD's implementing regulations at 24 CFR Part 52. The recipient shall also complete the review procedures required under E.O. 12372 and 24 CFR Part 52 and receive written notification from HUD of the release of funds before obligating or expending any funds provided under this agreement for any new or revised activity for the planning or construction of water or sewer facilities not previously reviewed under E.O. 12372 and implementing regulations.

(g) CDBG funds may not be provided to a for-profit entity pursuant to section 105(a)(17) of the Act unless such activity or project has been evaluated and selected in accordance with Appendix A to 24 CFR 570 - "Guidelines and Objectives for Evaluating Project Costs and Financial Requirements." (Source - P.L. 113-235, Consolidated and Further Continuing Appropriations Act, 2015, Division K, Title II, Community Development Fund).

Funding Approval and HOME Investment Partnerships Agreement

Title II of the National Affordable Housing Act

Assistance Listings #14.239 – HOME Investment Partnerships Program

1. Grantee Name (must match name associated with 3b.) and Address Clackamas County 2051 Kaen Road Oregon City, OR 97045-4035	2. Grant Number (Federal Award Identification Number (FAIN) M21-UC410201	
	3a Tax Identification Number 936002286	3b. Unique Entity Identifier (formerly DUNS) 096992656
	4. Appropriation Number 861/40205	5. Budget Period Start and End Date FY 2021 through FY 2029

6. Previous Obligation (Enter "0" for initial FY allocation)		$0.00
a. Formula Funds	$	
b. Community Housing Development Org. (CHDO) Competitive	$	
7. Current Transaction (+ or -)		$1,006,963
a. Formula Funds	$1,006,963	
1. CHDO (For deobligations only)	$	
2. Non- CHDO (For deobligations only)	$	
b. CHDO Competitive Reallocation or Deobligation	$	
8. Revised Obligation		$
a. Formula Funds	$	
b. CHDO Competitive Reallocation	$	

9. Special Conditions (check applicable box)

☒ Not applicable ☐ Attached

10. **Federal Award Date (HUD Official's Signature Date)**
(mm/dd/yyyy) 08/06/2021

11. Indirect Cost Rate*

Administering Agency/Dept.	Indirect Cost Rate	Direct Cost Base
	%	
	%	
	%	
	%	

12. Period of Performance
Date in Box #10 - 09/01/2029

* If funding assistance will be used for payment of indirect costs pursuant to 2 CFR 200, Subpart E-Cost Principles, provide the name of the department/agency, its indirect cost rate (including if the de minimis rate is charged per 2 § CFR 200.414), and the direct cost base to which the rate will be applied. Do not include cost rates for subrecipients.

This Agreement between the Department of Housing and Urban Development (HUD) and the Grantee is made pursuant to the authority of the HOME Investment Partnerships Act (42 U.S.C. 12701 et seq.). The Grantee's approved Consolidated Plan submission/Application, the HUD regulations at 24 CFR Part 92 (as is now in effect and as may be amended from time to time) and this HOME Investment Partnership Agreement, form HUD-40093, including any special conditions, constitute part of this Agreement. Subject to the provisions of this Agreement, HUD will make the funds for the Fiscal Year specified, available to the Grantee upon execution of this Agreement by the parties. All funds for the specified Fiscal Year provided by HUD by formula reallocation are covered by this Agreement upon execution of an amendment by HUD, without the Grantee's execution of the amendment or other consent. HUD's payment of funds under this Agreement is subject to the Grantee's compliance with HUD's electronic funds transfer and information reporting procedures issued pursuant to 24 CFR 92.502. To the extent authorized by HUD regulations at 24 CFR Part 92, HUD may, by its execution of an amendment, deobligate funds previously awarded to the Grantee without the Grantee's execution of the amendment or other consent. The Grantee agrees that funds invested in affordable housing under 24 CFR Part 92 are repayable when the housing no longer qualifies as affordable housing. Repayment shall be made as specified in 24 CFR Part 92. The Grantee agrees to assume all of the responsibility for environmental review, decision making, and actions, as specified and required in regulation at 24 CFR 92.352 and 24 CFR Part 58.

The Grantee must comply with the applicable requirements at 2 CFR part 200 that are incorporated by the program regulations, as may be amended from time to time. Where any previous or future amendments to 2 CFR part 200 replace or renumber sections of part 200 that are cited specifically in the program regulations, activities carried out under the grant after the effective date of the part 200 amendments will be governed by the 2 CFR part 200 requirements as replaced or renumbered by the part 200 amendments.

The Grantee shall comply with requirements established by the Office of Management and Budget (OMB) concerning the Universal Numbering System and System for Award Management (SAM) requirements in Appendix I to 2 CFR part 200, and the Federal Funding Accountability and Transparency Act (FFATA) in Appendix A to 2 CFR part 170.

The Period of Performance for the funding assistance shall begin on the date specified in item 12 and shall end on September 1st of the 5th fiscal year after the expiration of the period of availability for obligation. Funds remaining in the account will be cancelled and thereafter not available for obligation or expenditure for any purpose. Per 31 U.S.C. 1552. The Grantee shall not incur any obligations to be paid with such assistance after the end of the Period of Performance.

13. For the U.S. Department of HUD (Name and Title of Authorized Official) Bryan G. Guiney, CPD Director	14. Signature BRYAN GUINEY Digitally signed by BRYAN GUINEY Date: 2021.08.06 11:18:53 -07'00' X	15. Date 08/06/2021
16. For the Grantee (Name and Title of Authorized Official)	17. Signature X	18. Date

19. Check one:

☒ Initial Agreement ☐ Amendment #

20. Funding Information: *HOME*

Source of Funds	Appropriation Code	PAS Code	Amount
2021	861/40205	HMF (J)	$1,000,231
2020	860/30205	HMF (H)	$6,097
2019	869/20205	HMF (G)	$ 635

Funding Approval/Agreement

Emergency Solutions Grants Program
Subtitle B of Title IV of the McKinney-Vento Homeless Assistance Act, 42 U.S.C. 11371 et seq.
Assistance Listing Number 14.231

U.S. Department of Housing and Urban Development
Office of Community Planning and Development

1. Recipient Name and Address Clackamas County 2051 Kaen Road Oregon City, OR 97045-4035	2. Unique Federal Award Identification Number: E-21-UC-41-0001
	3. Tax Identification Number: 936002286
	4. Unique Entity Identifier (DUNS): 096992656

5. Fiscal Year (yyyy): 2021	
6. Previous Obligation (Enter "0" for initial Fiscal Year allocation)	$ 0
7. Amount of Funds Obligated or Deobligated by This Action (+ or -)	$192,629
8. Total Amount of Federal Funds Obligated	$192,629
9. Total Required Match	
10. Total Amount of Federal Award Including Match	

11. Start Date of Recipient's Program Year (mm/dd/yyyy)	12. Date HUD Received Recipient's Consolidated Plan Submission (mm/dd/yyyy)	13. Period of Performance and Budget Period Start Date/Federal Award Date (the date listed in Box 19 for initial Fiscal Year allocation) (mm/dd/yyyy)
07/01/2021	05/11/2021	08/06/2021

14. Type of Agreement (check applicable box)
- ☒ Initial Agreement (Purpose #1 – Initial Fiscal Year allocation)
- ☐ Amendment (Purpose #2 – Deobligation of funds)
- ☐ Amendment (Purpose #3 – Obligation of additional funds)

15. Special Conditions and Requirements
☐ Not applicable ☒ Attached

16. Period of Performance and Budget Period End Date (24 months after the date listed in Box 13) (mm/dd/yyyy)
08/06/2023

General Terms and Conditions: This Agreement between the U.S. Department of Housing and Urban Development (HUD) and the Recipient is made pursuant to the authority of Subtitle B of Title IV of the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11371 et seq.) and is subject to the applicable annual appropriations act. The Recipient's Consolidated Plan submissions (including the Recipient's approved annual Action Plan and any amendments completed in accordance with 24 CFR Part 91), the Emergency Solutions Grants Program regulations at 24 CFR Part 576 (as now in effect and as may be amended from time to time), and this Agreement, including any special conditions attached to this Agreement, constitute part of this Agreement. Subject to the terms and conditions of this Agreement, HUD will make the funds for the specified Fiscal Year available to the Recipient upon execution of this Agreement by the Recipient and HUD. The funds may be used for costs incurred before the Budget Period under the conditions specified in HUD Notice CPD-21-02 or another prior written approval by HUD, or if the Recipient is not covered by Notice CPD-21-02, under the condition that the costs are otherwise allowable and were incurred on or after the dates listed in box 11 and box 12 or 90 calendar days before the date in box 13 (whichever is later). The Recipient agrees to assume responsibility for environmental review, decision making, and action under 24 CFR Part 58, except where the Recipient is a state and distributes funds to a unit of general local government, the Recipient must require the unit of general local government to assume that responsibility and must comply with the state's responsibilities under 24 CFR 58.4. Without the Recipient's execution of an amendment or other consent, HUD may amend this Agreement to provide additional funds to the Recipient for the specified Fiscal Year or to deobligate funds under this Agreement in accordance with applicable law. The Recipient must comply with the applicable requirements at 2 CFR part 200, as may be amended from time to time. Where any previous or future amendments to 2 CFR part 200 replace or renumber sections of part 200 that are cited specifically in 24 CFR part 576, activities carried out under the grant after the effective date of the part 200 amendments will be governed by the part 200 requirements as replaced or renumbered by the part 200 amendments. If the amount in Box 8 exceeds $500,000, the Recipient must comply with Appendix XII to 2 CFR part 200—Award Term and Condition for Recipient Integrity and Performance Matters. Nothing in this Agreement shall be construed as creating or justifying any claim against the federal government or the Recipient by any third party.

17. For the U.S. Department of HUD (Name, Title, and Contact Information of Authorized Official)	18. Signature	19. Date (mm/dd/yyyy)
Bryan G. Guiney, CPD Director	X BRYAN GUINEY Digitally signed by BRYAN GUINEY Date: 2021.08.06 11:06:39 -07'00'	08/06/2021
20. For the Recipient (Name and Title of Authorized Official)	21. Signature X	22. Date (mm/dd/yyyy)

Funding Information (HUD Accounting Use Only):

PAS Code: 21HAES	Region: 10	Program Code: SOE
Appropriation: 00192	Office: (Portland)	Allotment: 868
Appro Symbol: H		

Special Conditions and Requirements for FY 2021 ESG Program

Indirect Cost Rate

The Recipient shall attach a schedule of its indirect cost rate(s) in the format set forth below to the executed Agreement that is returned to HUD. The Recipient shall provide HUD with a revised schedule when any change is made to the rate(s) described in the schedule. The schedule and any revisions HUD receives from the Recipient shall be incorporated herein and made a part of this Agreement, provided that the rate(s) described comply with 2 CFR part 200, subpart E.

Instructions: The Recipient must identify each agency or department of the Recipient that will carry out activities under the grant, the indirect cost rate applicable to each department/agency (including if the de minimis rate is used per 2 CFR §200.414(f)), and the type of direct cost base to which the rate will be applied (for example, Modified Total Direct Costs (MTDC)). Do not include indirect cost rates for subrecipients.

Recipient Department/Agency	Indirect cost rate	Direct Cost Base
_____	_____%	_____
_____	_____%	_____
_____	_____%	_____

Special Conditions and Requirements for FY 2021 ESG Program

Serving Youth Who Lack 3rd Party Documentation or Live in Unsafe Situations

Notwithstanding any contrary requirements under the McKinney-Vento Homeless Assistance Act or 24 CFR part 576, youth aged 24 and under who seek assistance (including shelter, services or rental assistance) shall not be required to provide third-party documentation that they meet the homeless definition in 24 CFR 578.3 as a condition for receiving assistance; and unaccompanied youth aged 24 and under (or families headed by youth aged 24 and under) who have an unsafe primary nighttime residence and no safe alternative to that residence shall be considered homeless for purposes of assistance provided by any private nonprofit organization whose primary mission is to provide services to youth aged 24 and under and families headed by youth aged 24 and under.

Health, Housing & Human Services
CLACKAMAS COUNTY

Rodney A. Cook,
Director

September 23, 2021

Board of County Commissioners,
Clackamas County

Members of the Board:

Approval of an Intergovernmental Agreement (IGA) with Oregon Health Authority Covid-19 Vaccination Operations Maximum Contract Value to $1,200,000 Funded through OHA – No County General Funds are involved

Purpose/Outcomes	Amendment #01 provides additional funding for COVID Vaccination Services
Dollar Amount and Fiscal Impact	Adds $200,000. bringing the Maximum Contract Value to $1,200,000.
Funding Source	This is funded by OHA No County General Funds are involved
Duration	December 1, 2020 through December 31, 2021
Strategic Plan Alignment	1. Improved Community Safety and Health 2. Ensure safe, healthy and secure communities.
Previous Board Action	The Board previously viewed this Agreement on June 20, 2021
Counsel Review	County counsel has reviewed and approved this document on August 25, 2021 AN
Procurement Review	1. Was the item processed through Procurement? yes ☐ no ☑ 2. This is an IGA.
Contact Person	Philip Mason-Joyner, Public Health Director – 503-742-5456
Contract No.	10156-01

BACKGROUND:

Clackamas County Public Health Division (CCHPD) of the Health, Housing & Human Services Department requests the approval of Amendment #1 to an Intergovernmental Agreement (IGA) with Oregon Health Authority for vaccination operations.

Amendment #01 adds $200,000. Bringing the Maximum Contract Value to $1,200,000.

Recommendation

We recommend the Board of County Commissioners approve this Amendment.

Respectfully submitted

Mary Rumbaugh

Rodney A. Cook, Director
Health, Housing, and Human Services

Agreement Number 170117

AMENDMENT TO
STATE OF OREGON
INTERGOVERNMENTAL AGREEMENT

In compliance with the Americans with Disabilities Act, this document is available in alternate formats such as Braille, large print, audio recordings, Web-based communications and other electronic formats. To request an alternate format, please send an e-mail to dhs-oha.publicationrequest@state.or.us or call 503-378-3486 (voice) or 503-378-3523 (TTY) to arrange for the alternative format.

This is amendment number **1** to Agreement Number **170117** between the State of Oregon, acting by and through its Oregon Health Authority, hereinafter referred to as "OHA" and

Clackamas County
2051 Kaen Road, Suite 367
Oregon City, OR 97045-4035
Attn: Philip Mason-Joyner
Phone: (503) 742-5300
Email: PMason@clackamas.us;
Karen Webb: KWebb@clackamas.us

hereinafter referred to as "County."

1. Upon approval of this Amendment by the parties, and when required, the Department of Justice, this Agreement shall become effective on **December 1, 2020** regardless of the date this Agreement has been fully executed by every party.

2. The Agreement is hereby amended as follows:

a. The contact information for OHA listed on Page 1 is deleted and replaced with the following:

Public Health Division
800 NE Oregon Street, Suite 930
Portland, OR 97232
Agreement Administrator: Cara Biddlecom or delegate
Telephone: 971-673-1222
E-mail address: cara.m.biddlecom@dhsoha.state.or.us

b. **Section 1. Effective Date and Duration** is amended to change the expiration date of the Agreement to **December 31, 2021**.

c. Section 2.6 of Exhibit A, Part 1 Statement of Work is amended as follows: language to be deleted or replaced is ~~struck through~~; new language is **underlined and bold**:

2.6 Catalogue various expenses related to vaccination services. (*See Vaccination Service Expense Report table below under Section* ***4.*** ~~*3.*~~ *Reporting Requirements.*)

d. **Section 3. Consideration** is amended to increase the maximum compensation payable under this Agreement from $1,000,000 to **$1,200,000**.

e. **Section 3. Reporting Requirements of Exhibit A, Part 1 – Statement of Work** is renumbered as Section 4. and amended as follows: language to be deleted or replaced is ~~struck through~~; new language is **underlined and bold**:

~~3.~~4. Reporting Requirements

To support County's invoices County shall collect the following reports and submit them to ohacovid.fema@dhsoha.state.or.us as follows:

Report type	Reporting requirement	Report Periods	Report Due Dates
Project outcome reports	County's summary of outcomes for the report period: site locations, stakeholders participating, vaccination throughput rate, and populations served (including race / ethnicity and age).	December 1, 2020 through Agreement execution	30 days after Agreement execution.
		Each month of the Agreement from Agreement execution through ~~June 30~~ **December 31**, 2021	The 15th day of the month following the Report Period
Cost - expenditure reports	County's cost - expenditure reports shall include a summary of expenditures for the report period, including: a completed *Vaccination Service Expense Report* (see report form below*), and supporting documentation for expenses as requested by OHA, which Contractor shall maintain in accordance with Exhibit B, Section 15. Records Maintenance; Access. In addition, County shall complete and submit any required FEMA cost – expenditure reports that OHA provides County for completion.	December 1, 2020 through Agreement execution	30 days after Agreement execution.
		Each month of the Agreement from Agreement execution through ~~June 30~~ **December 31**, 2021	The 15th day of the month following the Report Period

*Vaccination Service Expense Report		
LPHA Name:		
Report Period:		
Vaccination Service Expense Type		**Reimbursement Request**
☐	Staff time for management, coordination, planning	$
☐	Staff time for volunteer recruitment, management	$
☐	Staff time for outreach and/or communications	$
☐	Staff time for quality assurance and improvement	$
☐	Staff time for greeters, registration, patient flow	$
☐	Staff time for public health reporting, data entry	$
☐	Workforce recruitment and training	$
☐	Volunteer mileage, parking, per diem	$
☐	Public education campaigns	$
☐	Translation services and/or capabilities	$
☐	Vaccine site space rental	$
☐	Scheduling planning and technology solutions	$
☐	Supplies and equipment not supplied by federal government: personal protective equipment, storage, patient/traffic flow, signage	$
☐	Security services	$
☐	Transportation for patients and/or workforce	$
☐	Transport of vaccine and/or supplies	$
☐	Legal and compliance services	$
☐	EMS on-site (note – cannot include cost of treatment)	$
☐	Additional expenses approved by OHA in writing (list additional expense types).	$
	TOTAL REQUEST	**$**

Note: OHA will not reimburse the following costs under this Agreement:

- Costs of the vaccine and ancillary supplies supplied by the federal government; and
- Other costs that are expected to be reimbursed by third party insurance.

f. Section 2. Travel and Other Expenses of Exhibit A, Part 2 Payment and Financial Reporting is amended as follows: language to be deleted or replaced is ~~struck through~~; new language is **underlined and bold**:

2. Travel and Other Expenses. OHA will not reimburse County for any travel or other expenses not listed in the *Vaccination Service Expense Report* form listed in Exhibit A, Part 1, Section ~~3.~~ **4.** Reporting Requirements or approved in writing by OHA.

3. Except as expressly amended above, all other terms and conditions of the original Agreement and any previous amendments are still in full force and effect. County certifies that the representations, warranties and certifications contained in the original Agreement are true and correct as of the effective date of this amendment and with the same effect as though made at the time of this amendment.

4. Certification. Without limiting the generality of the foregoing, by signature on this Agreement, the County hereby certifies under penalty of perjury that:

a. The County is in compliance with all insurance requirements of Exhibit C of the original Agreement and notwithstanding any provision to the contrary, County shall deliver to the OHA Agreement Administrator (see page 1 of this Agreement) the required Certificate(s) of Insurance for any extension of the insurance coverage required by Exhibit C of the original Agreement, within 30 days of execution of the original Agreement Amendment. By certifying compliance with all insurance as required by this Agreement, County acknowledges it may be found in breach of the Agreement for failure to obtain required insurance. County may also be in breach of the Agreement for failure to provide Certificate(s) of Insurance as required and to maintain required coverage for the duration of the Agreement;

b. The County acknowledges that the Oregon False Claims Act, ORS 180.750 to 180.785, applies to any "claim" (as defined by ORS 180.750) that is made by (or caused by) the County and that pertains to this Agreement or to the project for which the Agreement work is being performed. The County certifies that no claim described in the previous sentence is or will be a "false claim" (as defined by ORS 180.750) or an act prohibited by ORS 180.755. County further acknowledges that in addition to the remedies under this Agreement, if it makes (or causes to be made) a false claim or performs (or causes to be performed) an act prohibited under the Oregon False Claims Act, the Oregon Attorney General may enforce the liabilities and penalties provided by the Oregon False Claims Act against the County;

c. The information shown in County Data and Certification, of original Agreement or as amended is County's true, accurate and correct information;

d. To the best of the undersigned's knowledge, County has not discriminated against and will not discriminate against minority, women or emerging small business enterprises certified under ORS 200.055 in obtaining any required subcontracts;

e. County and County's employees and agents are not included on the list titled "Specially Designated Nationals" maintained by the Office of Foreign Assets Control of the United States Department of the Treasury and currently found at: *https://www.treasury.gov/resource-center/sanctions/SDN-List/Pages/default.aspx*;

f. County is not listed on the non-procurement portion of the General Service Administration's "List of Parties Excluded from Federal procurement or Nonprocurement Programs" found at: *https://www.sam.gov/portal/public/SAM/*;

g. County is not subject to backup withholding because:

(1) County is exempt from backup withholding;

(2) County has not been notified by the IRS that County is subject to backup withholding as a result of a failure to report all interest or dividends; or

(3) The IRS has notified County that County is no longer subject to backup withholding.

h. County Federal Identification Number (FEIN) provided to OHA is true and accurate. If this information changes, County is also required to provide OHA with the new FEIN within 10 days.

5. Signatures.

COUNTY: YOU WILL NOT BE PAID FOR SERVICES RENDERED PRIOR TO THE EFFECTIVE DATE OF THIS AGREEMENT.

Clackamas County
By:

Authorized Signature	Printed Name
Title	Date

State of Oregon acting by and through its Oregon Health Authority
By:

Authorized Signature	Printed Name
Title	Date

Approved for Legal Sufficiency:

Via email by Jeff Wahl, AAG	*July 2, 2021 & July 30, 2021*
Department of Justice	Date

OHA Program Review:

Via email by Cara Biddlecom	*Cara Biddlecom*
Authorized Signature	Printed Name
Deputy Public Health & Policy & Partnerships Director	*July 1, 2021 & July 30, 2021*
Title	Date

CLACKAMAS COUNTY

DAN JOHNSON
DIRECTOR

DEPARTMENT OF TRANSPORTATION AND DEVELOPMENT

DEVELOPMENT SERVICES BUILDING
150 BEAVERCREEK ROAD | OREGON CITY, OR 97045

September 23, 2021

Board of Commissioners
Clackamas County

Members of the Board:

Approval to Apply and Letter of Support for a Federal Land Access Program Grant
to provide a pavement overlay on Barlow Trail Road

Purpose/ Outcomes	Approval to apply for a Federal Land Access Program (FLAP) Grant to provide a 2" pavement overlay on Barlow Trail Road.
Dollar Amount and Fiscal Impact	$4.94 million in grant funds will be requested. Matching funds in the amount of $565,892 (10.27%) will be provided from County Road Use Funds.
Funding Source	Federal Highway Administration Federal Land Access Program funds and Clackamas County Road Use Funds. No county general funds will be involved.
Duration	Grant award would occur no later than January 2022. Project development would begin in 2024 and be complete no later than September 2026.
Previous Board Action	Discussion item at issues 9/14/21
Strategic Plan Alignment	-This project will help meet the goal to provide travelers safe roads that are in good condition. -This project aligns with the Performance Clackamas Goal that by 2026,100% of county residents and businesses have access to safe and affordable infrastructure including multimodal transportation facilities.
Counsel Review	This items does not require Counsel Review. Finance has reviewed the lifecycle form.
Procurement Review	1. Was this item processed through Procurement? No 2. If no, provide brief explanation: This project is a grant application. If funds are awarded it will be processed through procurement.
Contact Person	Stephen Williams, Principal Transportation Planner - 742-4696

The Federal Highway Administration, Western Federal Lands offers discretionary grants through the Federal Land Access Program (FLAP) for improvements to transportation facilities providing access to federal lands. This application seeks funding to conduct pavement rehabilitation on Barlow Trail Road that will repair rutting and surface damage and provide a 2" asphalt overlay. Barlow Trail Road is scheduled for pavement rehabilitation in 2026, this proposed grant will fund the proposed pavement improvement. Barlow Trail Road is an important minor arterial road that provides access to the Bureau of Land Management (BLM) Sandy Ridge Trail System, and the Barlow Wayside Park which is operated by County Parks Department but is located on BLM property. Applications for FLAP funds are due on October 7, 2021.

RECOMMENDATION:
Staff respectfully recommends approval to apply for the FLAP grant in the amount of $4.94 million and submit the attached Letter of Support.

Respectfully submitted,

Stephen Williams

Stephen Williams - Principal Transportation Planner

Financial Assistance Application Lifecycle Form

Use this form to track your potential grant from conception to submission.
Sections of this form are designed to be completed in collaboration between department program and fiscal staff.

**** CONCEPTION ****

Note: The processes outlined in this form are not applicable to disaster recovery grants.

Section I: Funding Opportunity Information - To be completed by Requester

Lead Department & Fund: Transportation and Development

Application for: ☐ Subrecipient Assistance ☑ Direct Assistance

Grant Renewal? ☐ Yes ☑ No

If renewal, complete sections 1, 2, & 4 only
If Disaster or Emergency Relief Funding, EOC will need to approve prior to being sent to the BCC

Name of Funding Opportunity: Federal Lands Access Program

Funding Source: Federal ☑ State ☐ Local ☐

Requestor Information (Name of staff person initiating form): Stephen Williams, Principal Transportation Planner

Requestor Contact Information: swilliams@clackamas.us, (971) 280-2725

Department Fiscal Representative: Diedre Landon

Program Name or Number (please specify): Federal Lands Access Program

Brief Description of Project:

The Federal Lands Access Program provides funding to improve state and local roads that provide access for the public directly to federal lands. Barlow Trail Road provides access directly to the Sandy Ridge Trail System located on Bureau of Land Management (BLM) property. Sandy Ridge Trail System is one of top five most popular BLM recreation sites and received over 132,000 visitors per year prior to the COVID-19 pandemic. The same BLM property also hosts the Barlow Wayside, a county park with hiking trails. This project will improve Barlow Trail Road with a 2" asphalt overlay and a leveling course to fill existing ruts and faults in the road. This will greatly extend the expected life of the road and improve access for both vehicles and bicyclists.

Name of Funding Agency: Federal Highway Administration, Western Federal Lands Highway Division

Agency's Web Address for funding agency Guidelines and Contact Information:

https://highways.dot.gov/federal-lands/programs-access/or/

OR

Application Packet Attached: ☐ Yes ☐ No

Completed By: Stephen Williams — August 27, 2021 (Date)

**** NOW READY FOR SUBMISSION TO DEPARTMENT FISCAL REPRESENTATIVE ****

Section II: Funding Opportunity Information - To be completed by Department Fiscal Rep

Competitive Application ☑ Non-Competing Application ☐ Other ☐

CFDA(s), if applicable:	20.224	Funding Agency Award Notification Date:	January 2022
Announcement Date:	July 13, 2021	Announcement/Opportunity #:	
Grant Category/Title:	Federal Lands Access Program	Max Award Value:	No maximum
Allows Indirect/Rate:	Yes	Match Requirement:	10.27%
Application Deadline:	October 7, 2021	Other Deadlines:	
Award Start Date:	October 1, 2024	Other Deadline Description:	
Award End Date:	September 30, 2029		
Completed By:	Stephen Williams	Program Income Requirement:	No program income requirement
Pre-Application Meeting Schedule:			

Section III: Funding Opportunity Information - To be completed at Pre-Application Meeting by Dept Program and Fiscal Staff

Mission/Purpose:

1. How does the grant/funding opportunity support the Department and/or Division's Mission/Purpose/Goals?

A goal in Performance Clackamas is to Build Strong Infrastructure and this project will fund a full pavement overlay and other rehabilitation for the entire 6.73 mile length of Barlow Trail Road, significantly extending the life of the road.

2. What, if any, are the community partners who might be better suited to perform this work?

Barlow Trail Road is a county maintained road and there are no community partners who are better suited to undertake this project.

3. What are the objectives of this funding opportunity? How will we meet these objectives?

The pavement management system used by county Transportation Maintenance shows that surface rehabilitation must take place on Barlow Trail Road by 2026. This funding will complete the surface rehabilitation by 2025 and provide a significant extension of life of the road surface.

4. Does the grant/financial assistance fund an existing program? If yes, which program? If no, what is the purpose of the program?

The grant funds will not be used for an existing program, they will be targeted to a specific project and will be used only for the proposed pavement improvements on Barlow Trail Road.

Organizational Capacity:

1. Does the organization have adequate and qualified staff? If no, can staff be hired within the grant/financial assistance funding opportunity timeframe?

Clackamas County Department of Transportation and Development has a Capital Projects Division that is staffed with professionals that have extensive experience in the development of transportation projects using federal funds.

2. Are there partnership efforts required? If yes, who are we partnering with and what are their roles and responsibilities?

Clackamas County will be the lead organization for this project and will have several partners: The Oregon Department of Transportation will be an important partner as the administrator of the grant and also by providing technical support. The Bureau of Land Management will be an important partner providing support for the project.

3.If this is a pilot project, what is the plan for sunsetting the project and/or staff if it does not continue (e.g. making staff positions temporary or limited duration, etc.)?

This is not a pilot project and will only secure funding for the pavement overlay on Barlow Trail Road. There will be no need for sunsetting either the project or staff upon completion of this project.

4. If funded, would this grant/financial assistance create a new program, does the department intend for the program to continue after initial funding is exhausted? If yes, how will the department ensure funding (e.g. request new funding during the budget process, supplanted by a different program, etc.)?

This grant will not create a new program, but simply provide funding for the pavement overlay of Barlow Trail Road.

Collaboration

1. List County departments that will collaborate on this award, if any.

The Finance Department will be an important partner in this project for grant reimbursements, procurement of professional design services and also bid letting of the project.

Reporting Requirements

1. What are the program reporting requirements for this grant/funding opportunity?

This program requires submission of quarterly invoices for reimbursement that must be accompanied by a written progress report.

2. How will performance be evaluated? Are we using existing data sources? If yes, what are they and where are they housed? If not, is it feasible to develop a data source within the grant timeframe?

A project schedule will be developed and used by project management staff to track the progress of consultants and contractors.

3. What are the fiscal reporting requirements for this funding?

A full finance report must be submitted monthly with the invoices identifying all expenditures and the percent completion for all contracts.

Fiscal

1. Will we realize more benefit than this financial assistance will cost to administer?

Yes, the proposed pavement overlay of Barlow Trail Road will provide access to Sandy Ridge Trail System and the Barlow Wayside for at least 20 years, supporting the economic vitality of the during that time. The benefits from increased recreational use of the area will far exceed the cost to administer this grant.

2. Are other revenue sources required? Have they already been secured?

Road Fund will be used for a match on this project; if awarded this grant, we will budget the necessary funds to meet the match requirement. No other funding is required to support this project.

3. For applications with a match requirement, how much is required (in dollars) and what type of funding will be used to meet it (CGF, In-kind, Local Grant, etc.)?

This project requires a cash match of $565,892 which will be funded using Clackamas County Road Funds that are available and will be committed by the Board of County Commissioners when this grant application is approved.

4. Does this grant/financial assistance cover indirect costs? If yes, is there a rate cap? If no, can additional funds be obtained to support indirect expenses and what are they?

This grant will cover indirect costs. Clackamas County has an approved indirect rate through ODOT, and that rate will apply to progress billings.

Program Approval:

Karen Buehrig	8/27/21	Karen Buehrig Digitally signed by Karen Buehrig Date: 2021.08.27 15:04:12 -07'00'
Name (Typed/Printed)	Date	Signature

***** NOW READY FOR PROGRAM MANAGER SUBMISSION TO DIVISION DIRECTOR*****

*****ATTACH ANY CERTIFICATIONS REQUIRED BY THE FUNDING AGENCY. COUNTY FINANCE OR ADMIN WILL SIGN.*****

Section IV: Approvals

DIVISION DIRECTOR (or designee, if applicable)		
Mike Bezner	09/07/2021	Mike Bezner Digitally signed by Mike Bezner Date: 2021.09.07 21:15:10 -07'00'
Name (Typed/Printed)	Date	Signature

DEPARTMENT DIRECTOR (or designee, if applicable)		
Dan Johnson	09/07/2021	Dan Johnson Digitally signed by Dan Johnson Date: 2021.09.07 21:15:32 -07'00'
Name (Typed/Printed)	Date	Signature

FINANCE ADMINISTRATION		
Elizabeth Comfort	9.8.2021	Elizabeth Comfort Digitally signed by Elizabeth Comfort Date: 2021.09.08 08:11:38 -07'00'
Name (Typed/Printed)	Date	Signature

EOC COMMAND APPROVAL *(DISASTER OR EMERGENCY RELIEF APPLICATIONS ONLY)*		
NA		
Name (Typed/Printed)	Date	Signature

Section V: Board of County Commissioners/County Administration

*(Required for all grant applications. If your grant is awarded, all grant **awards** must be approved by the Board on their weekly consent agenda regardless of amount per local budget law 294.338.)*

For applications less than $150,000:

COUNTY ADMINISTRATOR	Approved: ☐	Denied: ☐
Name (Typed/Printed)	Date	Signature

For applications greater than $150,000 or which otherwise require BCC approval:

BCC Agenda item #: _____ Date: _____

OR

Policy Session Date: _____

_____

County Administration Attestation

County Administration: re-route to department contact when fully approved.
Department: keep original with your grant file.

September 23, 2021

Neal Christiansen, Oregon FLAP Program Manager
Western Federal Lands Hwy Division
610 East 5th Street
Vancouver, WA 98661

Re: 2021 FLAP Application for Pavement Rehabilitation of Barlow Trail Road in Clackamas County, Oregon

Mr. Christiansen:

The Clackamas County Board of County Commissioners strongly supports the 2021 Federal Land Access Program Grant application to conduct pavement rehabilitation on Barlow Trail Road in Clackamas County, Oregon. At our September 23, 2021 meeting, the Board of County Commissioners approved the submission of a FLAP grant for this important project. Our FLAP grant request is for $4,944,254. By approving this grant proposal we are also committing up to $565,892 in cash matching funds to be provided from Clackamas County Road Use Funds. Barlow Trail Road is a very important minor arterial that provides access to the Bureau of Land Management Sandy Ridge Trail System and the Barlow Wayside Park, a Clackamas County Park located on the same BLM property through an agreement between the BLM and Clackamas County.

The Sandy Ridge Trail System provides trail opportunities specifically designed for mountain bikers on the west slope of Mt. Hood. Sandy Ridge is best characterized as a pedal assisted bike park, mixing traditional backcountry riding elements with modernized trail characteristics. This model trail system provides an experience for riders of every skill level, with 17 miles of trails ranging from beginner level trails with ample opportunities to play on mountain bike features such as rollers and table tops to double black diamond expert level opportunities characterized by narrow technical terrain, dynamic mountain bike moves and high levels of exposure. The Sandy Ridge Trail System is one of the top five most popular BLM sites nationally and prior to the COVID-19 pandemic, annual visitor days exceeded 132,000.

The pavement rehabilitation proposed in this project will resurface Barlow Trail Road with a two inch asphalt overlay, with additional material applied to level ruts and fill surface damage on the existing road. This project will overlay the existing road without additional ground disturbance which will avoid any environmental impacts. The improvement road surface will provide a smooth ride for both vehicles and bicyclists and will preserve high quality access to Sandy Ridge Trail System and Barlow Wayside Park for many years to come.

Thank you for your time and consideration of this project proposal.

Sincerely

CLACKAMAS COUNTY BOARD OF COMMISSIONERS

Tootie Smith, Chair
On Behalf of the Clackamas County Board of Commissioners

CLACKAMAS COUNTY

DAN JOHNSON
DIRECTOR

DEPARTMENT OF TRANSPORTATION AND DEVELOPMENT
DEVELOPMENT SERVICES BUILDING
150 BEAVERCREEK ROAD OREGON CITY, OR 97045

September 23, 2021

Board of Commissioners
Clackamas County

Members of the Board:

Approval of 2019-2021 HB 2001 & HB 2003 Planning Assistance Grant Agreement with Department of Land Conservation and Development: DLCD Grant Number: HA 23-160

Purpose/ Outcomes	Approval of 2021-2023 HB 2001 & HB 2003 Planning Assistance Grant Agreement with Department of Land Conservation and Development: DLCD Grant Number: HA 23-160 that will provide funds to contract with a consultant to gather multicultural input from the public and engage, inform, and build understanding of the code amendments proposed to comply with HB 2001 and the required implementation of middle housing.
Dollar Amount and Fiscal Impact	The grant award is for $60,000.
Funding Source	2021-2023 HB 2001 & HB 2003 Planning Assistance Grant. No matching funds are required.
Duration	September 2021 – June 2022
Previous Board Action	BCC Issues – Grant Letter of Support for HB2001 Implementation, June 29, 2021;
Strategic Plan Alignment	1. How does this item align with your department's Strategic Business Plan goals? The project aligns with the DTD Strategic Plan in that it supports the completion of a project in the adopted Long Range Planning Work Program. 2. How does this item align with the County's Performance Clackamas goals? The grant funding will support community engagement of a project that is focused on the production of a greater variety of housing. It aligns with the goal to "ensure safe, healthy, and secure communities" by providing more opportunities for the development of middle housing that will be appropriate, safe and more affordable, and it will help the county achieve the housing targets in the Board's Performance Clackamas strategic plan, which identifies a 5-year goal for DTD to provide zoning/places for 700 new dwelling units affordable to households between 60% and 110% of the area's median income (AMI).
Counsel Review	Reviewed and approved by Counsel on 08/23/21 - NB
Procurement Review	1. Was this item process through Procurement? No 2. If no, provide a brief explanation: This is an approval for an IGA. Procurement will be engaged during the process of developing the specific consultant contract.
Contact Person	Joy Fields, Senior Planner, DTD 503-742-4510
Contract No.	N/A

BACKGROUND:

Clackamas County applied for a 2021-2023 HB 2001 & HB 2003 Planning Assistance Grant from DLCD (Department of Land Conservation & Development) to enable the county to engage consultants to provide a more robust, inclusive and innovative public engagement process. On August 4, 2021, Clackamas County received notice that it was awarded a grant funding in the amount of $60,000 for the proposed project.

In 2019 the Oregon Legislature passed House Bill 2001, which requires the county to amend the Zoning & Development Ordinance (ZDO) to allow for “middle housing”, including duplexes, triplexes, quadplexes, townhomes and cottage clusters, in urban single-family zoning districts. Staff from the Department of Transportation and Development (DTD) Planning and Zoning Division has begun the technical work necessary to amend the ZDO. In the spring of 2021, an initial grant from DLCD was used to provide funding for a consultant team to develop a framework for the public engagement program. In order to implement elements of this framework, this second DLCD grant will provide the funding to actively engage with a diverse array of community members during the ZDO amendment process. The consultant team is expected to support county staff to engage, inform, build understanding, and gather input from the public regarding housing needs, including how the code amendments considered for HB 2001 compliance can meet those needs.

Attachment 1 outlines the scope of the project; general terms for the grant award; and the reimbursements the County receives for completion of the project milestones. County staff expects to engage one consultant to complete the majority of the work identified in the scope and reimbursement will be distributed in two lump-sum payments.

RECOMMENDATION:

Staff respectfully request that the Board of County Commissioners approve the 2021-2023 HB 2001 & HB 2003 Planning Assistance Grant; Contract HA 23-160.

Respectfully submitted,

Joy Fields

Joy Fields, Senior Planner
Transportation and Development

ATTACHMENT:

1. 2021-2023 HB 2001 & HB 2003 Planning Assistance Grant

STATE OF OREGON
DEPARTMENT OF LAND CONSERVATION AND DEVELOPMENT

2021-2023 HB 2001 & HB 2003 PLANNING ASSISTANCE GRANT

AGREEMENT COVER SHEET **This cover sheet is informational and not a part of the agreement**	
Offer Date: August 4, 2021	
Grantee Clackamas County 150 Beavercreek Road Oregon City, OR 97045	**Grant No.** HA-23-160
Project Title: Continued Multicultural Public Engagement Assistance for Middle Housing Code Updates – Clackamas County	
Grantee Representative Martha Fritzie, Principal Planner 503-742-4529 mfritzie@clackamas.us	**DLCD Grant Manager** Sean Edging 971-375-5362 sean.edging@dlcd.oregon.gov
GRANT AMOUNT: $60,000	**CLOSING DATE:** June 30, 2022
Last day to amend agreement: March 1, 2022	

Signature
Grantee shall return a signed agreement to DLCD by e-mail within thirty (30) days of the Offer Date. If not signed and returned without modification by Grantee within thirty (30) days of the Offer Date, the DLCD Grant Program Manager may terminate this offer of the grant award. Upon receipt of the Agreement signed by Grantee, the DLCD Grant Program Manager shall sign and return a digital copy of the signed document via e-mail.

List of Products
Preliminary report: Project staff with contact information, and refinement of scope by September 30, 2021 (Project Requirement 8)
Signed agreement: between the Grantee and consultant, no later than three business days after both parties have signed the agreement. (Project Requirement 7)

Task 1: Public Engagement Preparation
Task 2: Public Engagement Implementation
Task 3: Project Close-Out – "Closing the Loop"

Grantee and the consultant will provide all draft and final products, including memos, reports, and maps produced by this grant agreement in a digital media format. The term "digital media" means a compact disc, digital video disc, USB flash drive, e-mail, or FTP submittal authorized by DLCD.

STATE OF OREGON
DEPARTMENT OF LAND CONSERVATION AND DEVELOPMENT

2021-2023 HB 2001 & HB 2003 PLANNING ASSISTANCE GRANT
AGREEMENT

DLCD Grant Number: HA-23-160 **Clackamas County**

This agreement ("Agreement") is made and entered into by and between the **State of Oregon**, **acting by and through its Department of Land Conservation and Development**, hereinafter referred to as "DLCD," and **Clackamas County**, hereinafter referred to as "Grantee," and collectively referred to as the "Parties."

1. **Effective Date and Availability of Grant Funds.** This Agreement is effective on the date on which every party has signed this Agreement and all required State approvals have been obtained ("Effective Date"). Grant Funds under this Agreement are available for eligible costs as defined in Sections 4 and 6 incurred beginning on the Effective Date and ending on the earlier of the termination of this Agreement or the Project End Date provided in Attachment A. DLCD's obligation to disburse Grant Funds under this Agreement ends 60 days after the earlier of termination of this Agreement or the Project End Date.

2. **Agreement Documents.** The Agreement consists of this agreement (without any attachments) and the following Attachments, all of which are attached hereto and incorporated by reference:

   Attachment A: **Project Description and Budget**
   Attachment B: **DLCD Contact Names and Addresses**
   Attachment C: **Request for Product Reimbursement Form and Instructions**

   In the event of a conflict between two or more of the documents comprising this Agreement, the language in the document with the highest precedence shall control. The precedence of each of the documents comprising this Agreement is as follows: this Agreement without Attachments; Attachments as listed, in descending order of precedence.

3. **Grant Funds.** The maximum, not-to-exceed, grant amount that the DLCD will pay to Grantee is **$60,000** (the "Grant Funds"). Disbursements will be made only in accordance with the schedule and requirements contained in this Agreement, including Attachment A.

4. **Project.** The Project is described in Attachment A. Grant Funds may be used solely for the Project described in Attachment A and may not be used for any other purpose. No Grant Funds will be disbursed for any changes to the Project unless such changes are approved by DLCD by amendment pursuant to Section 9 hereof. Grantee agrees to implement the Project in accordance with the terms and conditions of this Agreement and complete the Project no later than the Project End Date.

5. **Reports.** Grantee shall submit the reports required by this section to the DLCD Grant Manager and Grants Administrative Specialist in writing by personal delivery, e-mailing, or mailing at the address or number set forth in Attachment B or to such other addresses or numbers as DLCD may specify by notice to Grantee in accordance with Section 8 hereof.

   a. **Progress Reports.** Grantee will submit a written status report at the request of the DLCD Grant Manager or as required in the Project Requirements in Attachment A.

b. **Financial Reimbursement Reports.** In order to receive reimbursement, Grantee must submit to DLCD requests for reimbursement of eligible costs incurred in producing Product(s), as provided in Attachment A, on the form provided in Attachment C. Grantee shall submit a closeout report to DLCD within 30 days after the termination of the Agreement or the Project End Date, whichever is earlier**.** Reimbursements for products will be reduced or withheld if Progress or Closeout Reports have not been timely submitted or are incomplete.

6. **Disbursement and Recovery of Grant Funds.**

a. **Disbursement Generally.** DLCD will disburse the Grant Funds as reimbursement for eligible costs incurred to produce Products in carrying out the Project, up to the amount provided in Section 3, and subject to the timelines and limits for each Task, as specified in Exhibit A. Grantee may request a reimbursement after completion of a Product. Reimbursements will be made by DLCD within 30 days of DLCD's approval of a request for reimbursement. Eligible costs are the reasonable and necessary costs incurred by Grantee, during the period specified in Section 1, in performance of the Project and that are not excluded from reimbursement by DLCD, either by this Agreement or by exclusion as a result of financial review or audit.

b. **Conditions Precedent to Disbursement.** DLCD's obligation to disburse Grant Funds to Grantee is subject to satisfaction, with respect to each disbursement, of each of the following conditions precedent:

i. DLCD has received funding, appropriations, limitations, allotments or other expenditure authority sufficient to allow DLCD, in the exercise of its reasonable administrative discretion, to make the disbursement.

ii. Grantee is in compliance with the terms of this Agreement.

iii. Grantee's representations and warranties set forth in Section 7 hereof are true and correct on the date of disbursement with the same effect as though made on the date of disbursement.

iv. Grantee has provided to DLCD a request for reimbursement in accordance with Section 5.b hereof. Grantee must submit its final request for reimbursement no later than 30 days after the earlier of termination of this Agreement or the Project End Date. Grantee will not disburse Grant Funds in response to reimbursement requests submitted after that date.

7. **Representations and Warranties of Grantee.** Grantee represents and warrants to DLCD as follows:

a. **Organization and Authority.** Grantee is duly organized and validly existing under the laws of the State of Oregon and is eligible to receive the Grant Funds. Grantee has full power, authority, and legal right to make this Agreement and to incur and perform its obligations hereunder, and the making and performance by Grantee of this Agreement (1) have been duly authorized by all necessary action of Grantee and (2) do not and will not violate any provision of any applicable law, rule, regulation, or order of any court, regulatory commission, board, or other administrative agency or any provision of Grantee's organizational documents, (3) do not and will not result in the breach of, or constitute a default or require any consent under any other agreement or instrument to which Grantee is a party or by which Grantee or any of its properties may be bound or affected. No authorization, consent, license, approval of, filing or

registration with or notification to any governmental body or regulatory or supervisory authority is required for the execution, delivery or performance by Grantee of this Agreement.

b. **Binding Obligation.** This Agreement has been duly executed and delivered by Grantee and constitutes a legal, valid and binding obligation of Grantee, enforceable in accordance with its terms subject to the laws of bankruptcy, insolvency, or other similar laws affecting the enforcement of creditors' rights generally.

The warranties set in this section are in addition to, and not in lieu of, any other warranties set forth in this Agreement or implied by law.

8. **Notices.** Except as otherwise expressly provided in this Agreement, any notices to be given hereunder shall be given in writing by personal delivery, e-mailing, or mailing the same by registered or certified mail, postage prepaid, to the Grantee's Grant Representative or DLCD's Grant Manager, as the case may be, at the address or number set forth in Attachment B, or to such other addresses or numbers as either party may indicate pursuant to this section. Any notice delivered by e-mail shall be effective on the day the party receives the transmission if the transmission was during normal business hours of the receiving party, or on the next business day if transmission was outside normal business hours of the receiving party. Any notice given by personal delivery shall be effective when actually delivered. Any notice given by mail shall be effective three days after deposit in the mail.

9. **Amendments.** The terms of this Agreement will not be waived, altered, modified, supplemented, or amended, in any manner whatsoever, except by written instrument signed by the Parties (or in the case of a waiver, by the party against whom the waiver is sought to be enforced). If the Grantee wishes to amend the Agreement, the Grantee must submit a written request, including a justification for any amendment, to the DLCD Grant Manager at least 90 calendar days before the Project End Date.

10. **Default.** Reimbursements to Grantee may be withheld or reduced if DLCD determines that Project performance under this Agreement is unsatisfactory, or if one or more terms or conditions of this Agreement have not been met. The amount of Grant Funds withheld will be based on the best professional judgment of the DLCD Grant Manager and Grant Program Manager. Reimbursement will not be unreasonably withheld.

11. **Ownership of Product(s)**.
    a. **Definitions.** As used in this Section 11 and elsewhere in this Agreement, the following terms have the meanings set forth below:

        i. **"Grantee Intellectual Property"** means any intellectual property owned by Grantee and developed independently from the Project.

        ii. **"Third Party Intellectual Property"** means any intellectual property owned by parties other than DLCD or Grantee.

        iii. **"Product(s)"** means every invention, discovery, work of authorship, trade secret or other tangible or intangible item and all intellectual property rights therein that Grantee is required to deliver to DLCD or create pursuant to the Project, including but not limited to any Product(s) described in Attachment A.

    b. **Non-Exclusive License**. Grantee hereby grants to DLCD, under Grantee Intellectual Property and under intellectual property created by Grantee pursuant to the Project, an irrevocable, non-

exclusive, perpetual, royalty-free license to use, reproduce, prepare derivative works based upon, distribute copies of, perform and display the Product(s) for governmental purposes, and to authorize others to do the same on DLCD's behalf. If a Product(s) created by Grantee pursuant to the Project is a derivative work based on Third Party Intellectual Property, or is a compilation that includes Third Party Intellectual Property, Grantee shall use commercially reasonable efforts to secure on DLCD's behalf and in the name of DLCD an irrevocable, non-exclusive, perpetual, royalty-free license to use, reproduce, prepare derivative works based upon, distribute copies of, perform and display, for governmental purposes, the pre-existing elements of the Third Party Intellectual Property employed in the Product(s), and to authorize others to do the same on DLCD's behalf. If a Product(s) is Third Party Intellectual Property, Grantee shall use commercially reasonable efforts to secure on DLCD's behalf and in the name of DLCD, an irrevocable, non-exclusive, perpetual, royalty-free license to use, reproduce, prepare derivative works based upon, distribute copies of, perform and display, for governmental purposes, the Third Party Intellectual Property, and to authorize others to do the same on DLCD's behalf.

12. **Indemnity.**
    a. **GENERAL INDEMNITY**. SUBJECT TO THE LIMITS OF THE OREGON CONSTITUTION AND STATE OF OREGON TORT CLAIMS ACT, IF APPLICABLE TO GRANTEE, GRANTEE SHALL INDEMNIFY, DEFEND AND HOLD HARMLESS DLCD, THE STATE OF OREGON AND THEIR AGENCIES, SUBDIVISIONS, OFFICERS, DIRECTORS, EMPLOYEES AND AGENTS FROM AND AGAINST ALL CLAIMS, SUITS, ACTIONS, LOSSES, DAMAGES, LIABILITIES, COSTS AND EXPENSES OF ANY NATURE WHATSOEVER, INCLUDING ATTORNEY FEES, ARISING OUT OF, OR RELATING TO THE ACTS OR OMISSIONS OF GRANTEE OR ITS OFFICERS, EMPLOYEES, SUBCONTRACTORS, OR AGENTS UNDER THIS AGREEMENT.

    b. **CONTROL OF DEFENSE AND SETTLEMENT**. GRANTEE SHALL HAVE CONTROL OF THE DEFENSE AND SETTLEMENT OF ANY CLAIM THAT IS SUBJECT TO SECTIONS 12.a; HOWEVER, NEITHER GRANTEE NOR ANY ATTORNEY ENGAGED BY GRANTEE SHALL DEFEND THE CLAIM IN THE NAME OF THE STATE OF OREGON OR ANY AGENCY OF THE STATE OF OREGON, NOR PURPORT TO ACT AS LEGAL REPRESENTATIVE OF THE STATE OF OREGON OR ANY OF ITS AGENCIES, WITHOUT FIRST RECEIVING FROM THE OREGON ATTORNEY GENERAL, IN A FORM AND MANNER DETERMINED APPROPRIATE BY THE ATTORNEY GENERAL, AUTHORITY TO ACT AS LEGAL COUNSEL FOR THE STATE OF OREGON. NOR SHALL GRANTEE SETTLE ANY CLAIM ON BEHALF OF THE STATE OF OREGON WITHOUT THE APPROVAL OF THE ATTORNEY GENERAL. THE STATE OF OREGON MAY, AT ITS ELECTION AND EXPENSE, ASSUME ITS OWN DEFENSE AND SETTLEMENT IN THE EVENT THAT THE STATE OF OREGON DETERMINES THAT GRANTEE IS PROHIBITED FROM DEFENDING THE STATE OF OREGON, OR IS NOT ADEQUATELY DEFENDING THE STATE OF OREGON'S INTERESTS, OR THAT AN IMPORTANT GOVERNMENTAL PRINCIPLE IS AT ISSUE AND THE STATE OF OREGON DESIRES TO ASSUME ITS OWN DEFENSE.

13. **Recovery of Grant Moneys.** Any Grant Funds disbursed to Grantee under this Agreement that are expended in violation or contravention of one or more of the provisions of this Agreement ("Misexpended Funds") or that remain unexpended on the earlier of termination of this Agreement or the Project End Date must be returned to DLCD. Grantee shall return all Misexpended Funds to DLCD promptly after DLCD's written demand and no later than fifteen (15) days after DLCD's

written demand. Grantee shall return all Unexpended Funds to DLCD within fifteen (15) days after the earlier of termination of this Agreement or the Project End Date.

14. **Termination:**
    a. **DLCD's Right to Terminate at its Discretion.** At its sole discretion, DLCD may terminate this Agreement:

        i. **For its convenience** upon thirty (30) days' prior written notice by DLCD to Grantee; however, DLCD shall reimburse Grantee for any expenses incurred or contracted before the date of termination;

        ii. **Immediately upon written notice** if DLCD fails to receive funding, appropriations, limitations, allotments or other expenditure authority at levels sufficient to allow DLCD, in the exercise of its reasonable administrative discretion, to continue to make disbursement under this Agreement; or

        iii. **Immediately upon written notice** if federal or state laws, regulations, or guidelines are modified or interpreted in such a way that the Project is no longer allowable or no longer eligible for funding under this Agreement.

    b. **DLCD's Right to Terminate for Cause.** In addition to any other rights and remedies DLCD may have under this Agreement, DLCD may terminate this Agreement immediately upon written notice by DLCD to Grantee, or at such later date as DLCD may establish in such notice, after the occurrence of any of the following events:

        i. **Grantee is in default** because Grantee institutes or has instituted against it insolvency, receivership or bankruptcy proceedings, makes an assignment for the benefit of creditors, or ceases doing business on a regular basis;

        ii. **Grantee is in default** because Grantee commits any material breach or default of any covenant, warranty, obligation or agreement under this Agreement, fails to perform any of its obligations under this Agreement within the time specified herein or any extension thereof, or so fails to pursue its work hereunder as to endanger Grantee's performance under this Agreement in accordance with its terms, and such breach, default or failure is not cured within fourteen (14) calendar days after DLCD's notice, or such longer period as DLCD may specify in such notice.

    c. **Grantee's Right to Terminate for Cause.** Grantee may terminate this Agreement by written notice to DLCD if DLCD is in default because DLCD fails to pay Grantee any amount due pursuant to the terms of this Agreement, and DLCD fails to cure such failure within thirty (30) calendar days after Grantee's notice or such longer period as Grantee may specify in such notice; or

    d. **Termination** under Section 14 shall be without prejudice to any claims, obligations, or liabilities either party may have incurred prior to such termination.

15. **Accounting and Fiscal Records:** Grantee shall maintain its fiscal records related to this Agreement in accordance with generally accepted accounting principles. The Grantee shall maintain records of the receipt and expenditure of all funds subject to this Agreement for a period of six (6) years after the Project End Date, or for such longer period as may be required by applicable law or until the conclusion of any audit, controversy or litigation arising out of or related

to this Agreement, whichever date is later. Accounting records related to this Agreement will be separately maintained from other accounting records.

16. **Governing Law, Consent to Jurisdiction.** This Agreement shall be governed by and construed in accordance with the laws of the State of Oregon without regard to principles of conflicts of law. Any claim, action, suit or proceeding (collectively, "Claim") between DLCD (or any other agency or department of the State of Oregon) and Grantee that arises from or relates to this Agreement shall be brought and conducted solely and exclusively within the Circuit Court of Marion County in the State of Oregon. In no event shall this section be construed as a waiver by the State of Oregon of any form of defense or immunity, whether sovereign immunity, governmental immunity, immunity based on the eleventh amendment to the Constitution of the United States or otherwise, from any Claim or from the jurisdiction of any court. Each party hereby consents to the exclusive jurisdiction of such court, waives any objection to venue, and waives any claim that such forum is an inconvenient forum.

17. **Audit.** The Oregon Secretary of State, Attorney General of the State of Oregon and the Director of DLCD or any other duly authorized representative of DLCD shall have access to and the right to examine any records of transactions related to this Agreement for six (6) years after the final disbursement of Grant Funds under this Agreement is authorized by DLCD.

18. **Counterparts.** This Grant Agreement may be executed in any number of counterparts, and any single counterpart or set of counterparts signed, in either case, by all the parties hereto shall constitute a full and original instrument, but all of which shall together constitute one and the same instrument.
19. **Survival.** All agreements, representations, and warranties of Grantee shall survive the execution and delivery of this Agreement, any investigation at any time made by DLCD or on its behalf and the making of the Grant.

20. **Successors and Assigns.** Recipient may not assign this Agreement or any right hereunder or interest herein, in whole or in part, without the prior written consent of DLCD. This Agreement shall be binding upon and shall inure to the benefit of the parties and their respective permitted successors and assigns.

21. **Validity and Severability.** If any provision of this Agreement is held to be invalid, such event shall not affect, in any respect whatsoever, the validity of the remainder of this Agreement and the remainder shall be construed without the invalid provision so as to carry out the intent of the parties to the extent possible without the invalid provision.

22. **Relationship of the Parties.** Nothing contained in this Agreement or any acts of the parties hereto shall be deemed or construed to create the relationship of principal and agent, or of partnership, or of joint venture or of any other association other than that of independent contracting parties.

23. **No Third Party Beneficiary Rights.** No person not a party to this Agreement is an intended beneficiary of this Agreement, and no person not a party to this Agreement shall have any right to enforce any term of this Agreement.

24. By signing this Agreement the Parties each represents and warrants that it has the power and authority to enter into this Agreement and that the Agreement is executed by its duly authorized representative. By signing the document, Grantee agrees to comply with the terms of this Agreement.

Print Name of Authorized Official For the Grantee	Title	Date
Signature of Authorized Official For the Grantee		

Grantor: State of Oregon, acting by and through its Department of Land Conservation and Development

Print Name of DLCD Grant Program Manager **Gordon Howard**	Title **Community Services Division Manager**	Date
Signature of DLCD Grant Program Manager		

PROJECT PURPOSE STATEMENT

The primary objective of this Project is to prepare a hearings-ready development code or recommendations for comprehensive plan and development code amendments for cities to comply with the provisions of House Bill 2001 (2019 Legislative Session) regarding middle housing by June 30, 2022. This Project will specifically enable Clackamas County staff to deepen connections and continue outreach with multicultural communities that are not usually involved with land use planning processes, and to implement the identified engagement activities during development and adoption of the HB 2001 code amendments into the county's Zoning & Development Ordinance (ZDO).

PROJECT OVERVIEW AND MANAGEMENT

Overall management of the Project will be the responsibility of the Grantee as assisted by the DLCD Grant Manager. Specific Project management duties of Grantee will include:

a. Selecting a consultant and contracting for consultant services;
b. Overseeing consultant work described in this Project Description;
c. Scheduling and managing meetings, including activities such as, preparing and distributing meeting notices, agendas, and summaries; and assisting the consultant with meeting facilitation.

Agency Role
DLCD will provide financial, administrative and technical assistance to the Project. DLCD supports the collaborative, regional approach envisioned in the Project and agrees to work equally and fairly with each jurisdiction to help assure that state and local interests are optimized. DLCD recognizes the Middle Housing Public Engagement Project will inform, but will not bind, future land use decisions of the cooperating jurisdictions.

Consultant Role
The Project will use consultant services to perform outreach and engagement services related to HB 2001 Code Amendments. The consultant is expected to implement a Multicultural Public Engagement Plan for the final phase of HB 2001 implementation and provide county staff with a summary report of outreach and findings.

Project Meeting Materials
Written Project documents or memorandum prepared by the consultant shall be provided to Grantee in digital format at least one week prior to any scheduled meeting.

Project Schedule
The schedule identified in "Schedule, Products, and Budget" section of this Project Description will be observed. DLCD may require an amendment to this Agreement if the timeframes in the schedule are not satisfied. The Project End Date is June 30, 2022.

Expectations for All Written and Graphic Products
All reports and Products will be delivered to the DLCD Grant Manager according to the schedule provided in this Project Description.

All reports, studies, and other documents produced under the Project must bear the statement in Project Requirement 3, below.

Grantee and the consultant will provide all draft and final Products, including memos, reports, and maps produced by this Agreement in a digital media format. The term "digital media" means a compact disc, digital video disc, USB flash drive, e-mail, or FTP submittal authorized by DLCD.

PROJECT REQUIREMENTS

Grantee agrees to carry out the Project and submit Products in accordance with the requirements in this section.

1. Grantee will produce and submit to DLCD those Products as specified in this Agreement and this Project Description and Budget.

2. Grantee will provide copies of all final Product(s) produced under this Agreement to DLCD in the manner described in this Project Description.

3. All reports, studies, and other documents produced under the Project must indicate on the cover or the title page an acknowledgement of the financial assistance provided by DLCD by bearing the following statement: "This project is funded by Oregon general fund dollars through the Department of Land Conservation and Development. The contents of this document do not necessarily reflect the views or policies of the State of Oregon."

4. Grantee will identify the location of the originals of any Product(s) if a copy is submitted to DLCD or if the product is one-of-a-kind document.

5. Grantee will provide all letters, memos, reports, charts, products and maps produced under this Agreement in a digital media format.

6. Grantee will obtain DLCD approval of any chosen facilitator, contractor, or consultant before signing an agreement or contract to perform all or a portion of the Project.

7. Grantee will provide a legible copy of the signed agreement between the jurisdiction and the contractor no later than three business days after both parties have signed the agreement.

8. Grantee will complete the following by October 31, 2021:

    a. Identify the name, address, telephone number, and e-mail address of those persons who will be completing the project and which of tasks listed under the Project Description for this Agreement they will work on.

    b. List the steps that will be taken to complete each Task and any Product(s) delivered in connection with the Task(s).

9. A draft Product may be accepted for approval instead of an adopted Product when requested in writing and received in the DLCD Salem office at least 60 days prior to Project End Date. The request will be reviewed and approved in writing by DLCD if substantial progress has been made toward adoption and adoption is scheduled to occur on or before the date that is 120 days after the Project End Date.

10. Any notice issued by Grantee that is eligible for reimbursement under ORS 227.186 – Notice to city property owners for costs incurred for Measure 56 – is not reimbursable under this Agreement.

11. Any notice issued by Grantee that is eligible for reimbursement under ORS 215.503 – Notice to county property owners for costs incurred for Measure 56 – is not reimbursable under this Agreement.

12. Grantee will coordinate and provide notice to DLCD, affected departments and special districts within Clackamas County, and any other agencies and organizations affected by HB 2001 code amendments of public meetings, workshops, work sessions, and hearings to develop, review or approve products prepared under this Agreement.

13. Grantee will consult with the DLCD Grant Manager and any other entities in the development of Products and provide an opportunity for timely review of all draft Products.

14. Grantee will submit a written status report quarterly and at the request of the DLCD Grant Manager at any time outside of the reimbursement schedule in addition to the reports required in section 5 of this Agreement or submitted with Attachment C. Quarterly reports shall be submitted in, September 2021, December 2021 (or with interim reimbursement), and March 2022.

15. DLCD will provide no more than one interim payment before the Project End Date and a final payment. Payments will be made only upon submittal of qualifying Product(s) and progress report(s) in accordance with the terms of this Agreement and Attachment C. The report(s) must describe the progress to date on each Task(s) or Product(s) undertaken during the billing period. Other written or verbal progress reports will be provided upon reasonable request by the DLCD Grant Manager.

16. Payments under this Agreement may be reduced if Product(s) scheduled to be completed are not completed by the timeline provided in the Project Description. DLCD's payment obligations under this Agreement are conditioned upon DLCD receiving funding, appropriations, limitations, allotments or other expenditures authority sufficient to allow DLCD in the exercise of its reasonable administrative discretion, to meet its payment obligations under this Agreement.

SCHEDULE, PRODUCTS, AND BUDGET

Pre-Task Submittals

The contract in Project Requirement 7 and the report in Project Requirement 8 in this Project Description and Budget will be submitted.

Pre-Task Timeline: By the dates specified in those requirements.

Pre-task report budget: $0

Task 1: Public Engagement Preparation

A. Develop Multicultural Public Engagement Plan for the final phase of HB2001 implementation that identifies how the outreach tools and community networks will be utilized to create the desired impact of successful multicultural outreach in the code amendment and adoption process.
B. Coordinate with county staff conducting the more traditional, broad outreach efforts for this project, to identify strengths and resources provided by both the county and the consultant to clearly define what each entity will provide for the community outreach.

C. Gather resources and develop any tools that are needed to effectively reach out to communities in Clackamas County including those that have been important audiences for multicultural outreach.
D. Identify community leaders to be engaged and/or hired for outreach implementation to create the necessary framework for successful multicultural outreach.

Task 1 Products:
As detailed above, the product for Task 1 will be a Multicultural Public Engagement Plan and outreach materials for engaging with a variety of communities in urban unincorporated Clackamas County and supports their engagement in the development of code amendments responsive to HB 2001.

Task 1 Timeline: September 1, 2021 to December 1, 2021

Task 1 budget: $8,000

P1 – Interim Payment – Task 1
Reimbursement **up to $8,000** upon submittal of pre-task reports and the Product(s) listed in Task 1. Submit Product(s) and a signed Attachment C, Request for Reimbursement Form on digital media to the Grant Manager and the Grant Administrative Specialist to the e-mail addresses listed in Attachment B, DLCD Contact Information.

Task 2: Public Engagement Implementation

A. Share information using social media and other methods accessible by the various audiences through Clackamas County accounts and potentially community partner accounts to expand the audience for the outreach
B. Lead implementation of the Multicultural Public Engagement Plan, including:
    a. Managing partnerships with other county divisions and with community-based organizations involved in the project.
    b. Scheduling, arranging for, facilitating, attending and documenting public engagement events and community meetings. Include several strategic outreach and engagement event(s) and activities for residents and local affinity, cultural and other interest groups to develop an understanding of the upcoming changes due to HB2001 and to identify their interests and concerns.
    c. Conducting at an online survey(s) and/or online open house(s) and providing a summary of results and findings from these activities.
    d. Hold other engagement events (online and/or in person) to meet the desired audiences where they are and when they are available.
C. Listen and note concerns and suggestions for potential zoning code revisions to support the removal of real or perceived barriers that would impede the implementation of HB2001 in all urban unincorporated communities.

Task 2 Products:
As detailed above, the products for Task 2 will include a variety of visually appealing, informative, and accessible outreach materials that are designed to engage multiple audiences in multiple languages, as well as summaries of meetings and results of other outreach events. At least one online, interactive survey will be developed and conducted through Task 2.

Task 2 Timeline: November 1, 2021 to June 30, 2022

Task 2 budget: $43,000

Task 3 – Project Close-Out – Closing the Loop"

A. Report back to community through a report or presentation that documents what was heard during the multicultural outreach and how the concerns of the community are addressed in the draft code
B. Thank the participants through recognition of their contributions and financial reimbursement for their time.
C. Provide county staff with a summary report of outreach and findings obtained through the implementation of the Multicultural Public Engagement Plan. Include recommendations that can help ensure multicultural communities will continue to be aware of future opportunities to participate in panning projects at the county.

Task 3 Products:
As detailed above, the products for Task 3 will include a final summary report of outreach findings and recommendations for continued outreach to multicultural communities, as well as a report-back to the communities involved in this HB 2001 implementation project.

Task 3 Timeline: June 1, 2022 to June 30, 2022

Task 3 budget: $9,000

FP – Final Payment
Reimbursement of **up to $52,000** and the balance of previously unused grant funds from P1 upon submittal of Product(s) listed in Tasks 2 and 3. Submit the Product(s) and a signed Attachment C, Final Closeout Form acceptable to DLCD on digital media to the Grant Manager and the Grants Administrative Specialist listed in Attachment B, DLCD Contact Information **no later than June 30, 2022.**

Budget Summary

Task 1 – Public Engagement Preparation	$ 8,000
Task 2 – Public Engagement Implementation	$ 43,000
Task 3 – Project Close-Out – "Closing the Loop"	$ 9,000
TOTAL	**$ 60,000***

*Note: The budget for "Project Management" is distributed throughout the three tasks.

DLCD TA Grant Agreement
Contact Information

For questions regarding your grant, please contact:

Grant Manager:
Sean Edging
DLCD Salem Office
635 Capitol Street N.E., Suite 150
Salem, Oregon 97301

Office: 971-375-5362
Email: sean.edging@dlcd.oregon.gov

OR

Grant Program Manager:
Gordon Howard
DLCD Salem Office
635 Capitol Street N.E., Suite 150
Salem, Oregon 97301-2540

Office: 503-856-6935
E-mail: gordon.howard@dlcd.oregon.gov

Payment requests should be sent to:

Grants Administrative Specialist
Angela Williamson
DLCD Salem Office
635 Capitol Street N.E., Suite 150
Salem, Oregon 97301-2540

Office: 971-345-1987
E-mail: DLCD.GFGrant@dlcd.oregon.gov

Department of Land Conservation and Development (DLCD)
2021-2023 Request for Interim Reimbursement / Final Closeout

Grantee Name	Grant No. assigned by DLCD	Final Payment
Clackamas County	**HA-23-160**	Yes No

Grant Agreement Start Date	Grant Agreement Close Date	Period covered by this Payment	Period covered by this Payment
From: **Execution**	To: **June 30, 2022**	From:	To:

DLCD Grant Expenditures	***DLCD Grant Expenditures***	***DLCD Grant Expenditures***	***DLCD Grant Expenditures***
Transactions	**Previously Reported**	**This Payment**	**Cumulative**
1. Salaries and Benefits			
2. Supplies and services			
3. Contracts (see instructions)			
4. Other (provide list & explain)			
5. **Total (add lines 1–4)**			
Local Contributions (if applicable)			
6. Salaries and Benefits			
7. Supplies and services			
8. Contracts			
9. Other			
10. **Total (add lines 6–9)**			
11. Payment requested (from line 5)	**DO NOT WRITE IN THIS SPACE**		**DO NOT WRITE IN THIS SPACE**

12. Certification: **I certify to the best of my knowledge and belief that this report is correct and complete and that all expenditures are for the purposes set forth in the award document. I further certify that all records are available upon request, and the financial records will be retained for six years after the final payment.**

13. Typed or Printed Name and Title	14. Address where payment is to be sent
15. Signature of Authorized Certifying Official	16. Date Payment Submitted

Do Not Write Below This Line **FOR DLCD USE ONLY** **Do Not Write Below This Line**

DLCD CERTIFICATION

I certify as a representative of the Department of Land Conservation and Development (DLCD), that the Grantee:

_____ Has met the terms and conditions of the grant and that payment in the amount of $ _____ should be issued

_____ Has not met the terms and conditions of the grant for the reasons stated on the attached sheet, and payment in the amount of $ _____ should be issued.

Signature of DLCD Grant Manager	Date
Signature of DLCD Program Manager	Date

BATCH #	**DATE**	**VOUCHER#**	**DATE**
PCA#	**OBJECT #**	**VENDOR #**	**AMOUNT**

Department of Land Conservation and Development
2021-2023 Planning Technical Assistance Grant Agreement
Interim Reimbursement and Closeout Form Instructions

General and line-by-line instructions for completing the Request for Interim Reimbursement/Final Closeout form are provided herein.

General Instructions and Reminders

- This form may be completed by hand or typed on paper or completed in Microsoft Word. If you need a Word file, please contact the Grants Administrative Specialist at DLCD.GFGrant@dlcd.oregon.gov. In any case, submit the form with the grant Product(s) electronically, as called for in the Agreement.
- This form is used for all reimbursement requests – interim or final.
- It is important that you retain documentation of expenditures as provided in paragraph 16 of the Agreement, which provides that records be maintained for at least six years after the final payment has been received by the grantee.
- Interim and final reimbursement requests must not include work performed prior to the Effective Date of this Agreement (generally the date the Agreement is signed by DLCD) and not after the Closing Date of this Agreement.

Completing the Form

Please show *total actual expenditures only* of DLCD grant award and local contributions.

First row: DLCD will complete the Grantee Name and Grant Number. In the Final Payment box, highlight or circle "No" for interim payments and "Yes" for final closeouts.

Second row: DLCD will complete Agreement start and close dates. Complete the "Period covered by this payment" The form includes separate boxes for "from" and "to." Please complete both. These dates must accurately depict the dates the work for the reimbursable expenditure was incurred. If there are any applicable limits on these dates, they will be provided in the payment descriptions in the "Schedule, Products, and Budget" section of the Agreement.

The next section of the form includes columns for itemizing each expense category:

- **"DLCD Grant Expenditures, Previous Reported"** column -- should be blank if the submission is Payment 1. If the request is for a second or later interim payment or final closeout, enter the sum of previous payments in this "Previously Reported" column.
- **"DLCD Grant Expenditures, This Payment"** column – captures and identifies expenditures for the products that are currently being submitted for review and payment.
- **"DLCD Grant Expenditures, Cumulative"** column – simply the total of the two previous columns.
- **"DLCD Grant Expenditures, Transactions"** – Complete items 1–4 as applicable and item 5, total in the "Previously Reported" column if applicable and in the 'This Payment" column. Complete previous and current local contributions in items 6–9 and the total on line 10 if applicable. Local contribution does not include expenses reimbursed by the grant. It is included to provide DLCD with accurate information regarding the cost of projects and/or products completed in compliance with this grant. This category includes both in-kind and cash contributions.

- **1. Salary and Benefits** includes the grantee's staff time, including Other Personnel Expenses. Receipts are not required with this report submission.
- **2. Supplies and Services** include allowable grantee supplies used for completion of grant products**.** Receipts are not required with this report submission.
- **3. Contracts** include consultants, attorneys, and any company or individual hired by the grantee to conduct grant work. This category does not include employees of the grantee, but rather an individual or entity that invoices the grantee for services rendered. Information required for the closeout report includes name, address, phone number, and e-mail address of the payee. If there are multiple entities, please provide the amount of grant funds allocated for the reimbursement of each.
- **4. Other -** Provide a brief explanation and cost breakdown for amounts listed as "Other." Receipts are not required. Note: Grantee travel expenses are not eligible for reimbursement.
- **5. Totals** – Sum the categories of grant expenditures in the Previously Reported, This Payment, and Cumulative columns. The Total payments at closeout cannot exceed the maximum amount in paragraph 3 of the Agreement.

- Re-enter the payment request from line 5 "DLCD Grant Expenditures This Payment" on line 11.

Certification: Be sure to read and understand the information in item 12 prior to signing the form.

- A legible name and title is required in cell 13.
- A mailing address, including city and zip code, where payment should be sent must be provided in cell 14.
- The signature under "Signature of Authorized Certifying Official" must be of the person taking responsibility for the accuracy of the information contained in the form.

Before a payment can be issued, *all grant products, required documentation, and the signed reimbursement request form* must be received, accepted, and reviewed by the grant manager and grant program manager, subject to the requirements contained in the Agreement.

Please follow the payment schedule as identified in the Grant Agreement when submitting a request for payment or closeout.

A **signed cover letter**, completed and signed **reimbursement request form**, and completed **Products** can be submitted in one of the following ways: (1) the preferred method – an e-mail with PDF files sent to the Grants Administrative Specialist at DLCD.GFGrant@dlcd.oregon.gov, or (2) via the DLCD FTP site (contact the Grants Administrative Specialist for instructions at 971-345-1987) or (3) a CD or DVD mailed to the address for the Grants Administrative Specialist in Attachment B of the Agreement. If none of these options are possible, mail the relevant documents to:

Grants Administrative Specialist
Department of Land Conservation and Development
635 Capitol St. NE Suite 150
Salem, OR 97301

Draft

Approval of Previous Business Meeting Minutes:
September 9, 2021

BOARD OF COUNTY COMMISSIONERS BUSINESS MEETING MINUTES

A complete video copy and packet including staff reports of this meeting can be viewed at https://www.clackamas.us/meetings/bcc/business

Thursday, September 9, 2021 – 10:00 AM

Virtual Meeting via Zoom and in Person

PRESENT: **Chair Tootie Smith**
Commissioner Sonya Fischer
Commissioner Mark Shull
Commissioner Paul Savas
Commissioner Martha Schrader

CALL TO ORDER

- Roll Call
- Pledge of Allegiance

*****Wildfire Updates**

~Board Discussion~

*****COVID-19 Updates**

~Board Discussion~

I. CONSENT AGENDA https://www.clackamas.us/meetings/bcc/business

A. Elected Officials

1. Approval of Previous Business Meeting Minutes – *BCC*

B. Human Resources

1. Approval of a contract with Compelling Reason, LLC for benefit delivery consulting work. Contract value is $487,045 funded through Department monthly benefit administration fees some of which are County General Fund dollars.

Read Consent Agenda

Commissioner Shull: I move for approval of the consent agenda
Commissioner Schrader: Second
Clerk called the Poll
Commissioner Schrader: Aye
Commissioner Shull: Aye.
Commissioner Savas: Aye
Chair Smith: Aye.–the motion carries 4-0

Commissioner Fischer stepped back into room and voted Aye
Chair Smith: the motion carries 5-0

II. PUBLIC COMMUNICATION https://www.clackamas.us/meetings/bcc/business

Opened Public Communication

General Public Comment in Person:

1. Yvonne Lazarus - Clackamas County

~Board Discussion~

2. Gina Tallerino – Happy Valley – Vaccines
3. Les Poole – Gladstone

General Public Comment Zoom:

1. Leah Robbins – Jennings Lodge – Public Communication

~Board Discussion~

2. Bill Wehr - Clackamas County - public policy

~Board Discussion~

3. Christine Kennedy – Lake Oswego - Covid - support of public Health Department recommendations

Closed Public Communication

III. COUNTY ADMINISTRATOR UPDATE https://www.clackamas.us/meetings/bcc/business

IV. COMMISSIONERS COMMUNICATION https://www.clackamas.us/meetings/bcc/business

Adjourned 11:36 AM

Terwilliger, Christina

From: Leah Robbins <leah.n.robbins@gmail.com>
Sent: Thursday, September 9, 2021 11:10 AM
To: Schmidt, Gary; Madkour, Stephen; BCCMail; Savas, Paul
Subject: Fwd: Permitting Pop-Up Retailers in Public ROW
Attachments: county commission comments 09092021.pdf

Follow Up Flag: Follow up
Flag Status: Flagged

Good morning,

I've attached my comments from this morning which were cut off by the Chair before I utilized my 3 minutes. Please make sure to read my last paragraph that was cut off by the Chair ostensibly trying to answer my questions, but it limited my opportunity to speak. And I am frustrated that this continues to happen to folks calling in from zoom.

When I stated in my comments that I understood the trickiness of the land use and overlapping ownership of ROW it's because I've worked in the public realm for my entire career and tried to use your processes. I fully understand that:

- ODOT owns the underlying ROW of McLoughlin Blvd. which includes public sidewalk and
- private property owners adjacent to the sidewalk are typically required to maintain their sidewalk.
- Clackamas County is the land use organization that sets and implements land use restrictions in commercial zones (signage, private use of public property/etc)

Before sending the email in July, I spoke with code enforcement about this. She suggested I reach out to County Counsel as she could not answer. I had also reached out to the property owner.

If the County is not able to answer the question, I'd certainly like the Board's support for future local control of the area as a separate city. Until then, these questions will be directed your way.

Regards,
Leah Robbins
Jennings Lodge
503-957-9030

---------- Forwarded message ---------
From: **Leah Robbins** <leah.n.robbins@gmail.com>
Date: Mon, Jul 26, 2021 at 12:42 PM
Subject: Fwd: Permitting Pop-Up Retailers in Public ROW
To: <bcc@clackamas.us>, <smadkour@clackamas.us>, <codeenforcement@clackamas.us>

Hi,

I'm hoping for a follow up for this email. Appreciate the coordination that may take.

Thanks
Leah Robbins

---------- Forwarded message ---------
From: **Leah Robbins** <leah.n.robbins@gmail.com>
Date: Wed, Jul 21, 2021 at 3:59 PM
Subject: Permitting Pop-Up Retailers in Public ROW
To: <smadkour@clackamas.us>
Cc: <codeenforcement@clackamas.us>

Hello,

I'm interested in your legal team's response to internal questions from code enforcement related to regulating short term (one-day) pop ups in the public right of way.

In my community, Jennings Lodge, unincorporated Clackamas County, we often find people setting up tables, tents and flags along the sidewalk of McLoughlin Blvd to sell political merchandise.

I understand the trickiness of all the overlapping jurisdictional lines. I understand that the county in this area has land use authority while the property owner (public or private) has specific controls on their property. This trickiness makes it very difficult for the general public to know who to contact and how to regulate what feels like an inundation of political propagandists using the common public ROW for their commercial benefit.

Today's example:

- a group set up tables, tents, flags in the strip between the curb line and sidewalk on McLoughlin just north of Jennings. (public ROW likely owned by ODOT)
- they parked their vehicles in the parking lot of the commercial property at 18040 etc (Sherwin Williams etc). They used the parking lot to load, unload, and mill about
- Their presence ellicted honks, shouts, etc from traffic and the only way for people to access their stand was to park in the commercial parking lot.
- After contacting the property manager, they were not aware of a permitted use for that.

I'm a fervent believer in the 1st Amendment. All of the Bill of Rights really. But I seriously doubt that the County wants to allow for pop up tents all along the ROW for any other uses. And I doubt the private properties that maintain and rely on the public to view their storefronts want to have these groups take up their parking spaces and compete for their business.

Can you please respond with answers to a few questions below:

1. Does the County have code enforcement policy to cover this situation?
2. How does a member of the community effectively advocate for the fair enforcement of these policies?
3. Is this a subject that the Board of Commissioners would be weighing in on?
4. Which set of County offices are prime contacts for this (i.e. Planning, Code Enforcement, ?_

Thanks in advance. Please contact me if you need any clarification.

Leah Robbins
Jennings Lodge
503-957-9030
leah.n.robbins@gmail.com

Good morning Chair Smith and Commissioners. Thank you for the opportunity to speak.

My name is Leah Robbins from Jennings Lodge.

Many of your constituents aren't able to be at your meetings and like me have watched or listened to them to keep aware of the state of your work.

However I was dismayed to see what looks like the result of staff being bullied, much like they were a decade ago under different leadership. When asked by the public about Commissioner's Shull involvement in the shutdown of a vaccine clinic in Molalla (in August), County administrator Gary Schmidt responded by parsing his words carefully to say, 'Commissioner Shull was not involved in the **decision** to shut it down.' And yet we know from comments of the Molalla mayor and others that were it not for his influence this would not have happened at all.

And I've heard the Chair on repeat occasions describe a fear of public information requests that effectively limits her use of email or response to email, and admonishment of others for their sensitive discussions over email.

I wonder if that's why I have yet to receive a response to this email from July 21 (and 26th) to Stephen Madkour which in part read:

> I'm interested in your legal team's response to internal questions from code enforcement related to regulating short term (one-day) pop ups in the public right of way.
>
> In my community, Jennings Lodge, unincorporated Clackamas County, we often find people setting up tables, tents and flags along the sidewalk of McLoughlin Blvd to sell political merchandise.
>
> I understand the trickiness of all the overlapping jurisdictional lines. I understand that the county in this area has land use authority while the property owner (public or private) has specific controls on their property. This trickiness makes it very difficult for the general public to know who to contact and how to regulate what feels like an inundation of political propagandists using the common public ROW for their commercial benefit.
>
> Today's example:
>
> - a group set up tables, tents, flags in the strip between the curb line and sidewalk on McLoughlin just north of Jennings. (public ROW likely owned by ODOT)
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Can you please respond with answers to a few questions below:

1. Does the County have code enforcement policy to cover this situation?
2. How does a member of the community effectively advocate for the fair enforcement of these policies?
3. Is this a subject that the Board of Commissioners would be weighing in on?
4. Which set of County offices are prime contacts for this (i.e. Planning, Code Enforcement, ?_

Thanks in advance. Please contact me if you need any clarification.

I'm still interested in a response. If you prefer to call so as not to have a public record you can do so with my contact information.

My hope is that this Commission begin to reflect its duty to represent the entire County, and all its diverse people. Even those in the urban unincorporated area with its complex upcoming local governance discussions and continued support for utilizing housing authority funds to purchase available local motels for housing the homeless.

Thanks again for the time.

Terwilliger, Christina

From: Hill, Caroline on behalf of Shull, Mark
Sent: Monday, September 13, 2021 10:26 AM
To: BCC - Policy Advisors
Subject: FW: Covid

Did this come through BCCmail and directly to each Commissioner? Or just to Mark?

Caroline

From: Connie Lee <connie21@aol.com>
Sent: Sunday, September 12, 2021 2:35 PM
To: Shull, Mark <MShull@clackamas.us>
Subject: Covid

Dear Commissioner Shull,

I missed the last BCC meeting, but below is the testimony I planned to give.

Connie Lee, Lake Oswego

BCC 9/9/21
Connie Lee, Lake Oswego

Several weeks ago Rachel Prusak, a State Representative from Clackamas County, who is also a frontline healthcare worker shared on Facebook a letter sent to ALL legislators from the Oregon Chapter of the American College of Emergency Physicians. Here is part of that letter.

"The surge of patients in the emergency department has been escalating since April and Oregon is now at a crisis point. OHA's most recent report on COVID-19 breakthrough cases for the last two weeks found that over 85 percent of infections are occurring in people who are unvaccinated.The tragedy is that most of these are preventable with vaccination.

One emergency physician from the pandemic epicenter reports that for the last three days all the ICU beds in his hospital are full with about 90 percent COVID patients and 95 percent of them unvaccinated. The five percent that are not are immunocompromised.

Regional hospitals are sending ICU patients to San Francisco and Utah.

Elective surgeries are on hold.

People are at risk of dying from trauma, heart attacks, and strokes, because unvaccinated people are utilizing all available ICU capacity, shutting down our operating rooms and delaying elective surgeries."

Unfortunately, things have gotten much worse since that letter was written.

What we don't need in this climate are commissioners who encourage misinformation about the Covid situation. Chair Smith has been very good about bringing in experts when she sees that testimony contains misinformation except when her supporters are talking about covid. From where I stand, that looks like playing politics with a life and death situation. Let's do better. I'm sure a Clackamas Public Health employee would be happy to set the record straight when misinformation comes up about covid at these meetings. Let's do that!

Please consider this suggestion.

Sue Hildick
Director
Public & Government Affairs 503-655-8751
2051 Kaen Road
Oregon City, OR 97045 clackamas.us

September 23, 2021

Board of County Commissioners
Clackamas County

Members of the Board:

A Board Order Approving the Renewal of the Cable Television Franchise Agreement for use of the County Rights-of-Way By Beaver Creek Cooperative Telephone Company

Purpose/Outcome	Approve the renewal of the cable television franchise agreement for a ten (10)-year term.
Dollar Amount and Fiscal Impact	N/A
Funding Source	N/A
Duration	Effective September 23, 2021 through September 23, 2031.
Previous Board Action/Review	The original franchise was approved for a ten (10)-year agreement by the BCC in March 2008. Franchise negotiations began in April 2018 and have been extended for six months to one-year intervals to continue negotiations. The final franchise extension was submitted to the BCC in May 2020, with an expiration date of May 7, 2021.
Strategic Plan Alignment	Building public trust through good government.
Counsel Review	This Franchise Agreement has been reviewed and approved by County Counsel on 8-12-21. JM
Procurement Review	No, because this item is a franchise agreement.
Contact Person	Sue Hildick, Public and Government Affairs, 503-742-5900
Contract No.	N/A

BACKGROUND:
The County has concluded negotiations with Beaver Creek Cooperative Telephone Company (Beaver Creek), with terms and conditions for use of the County's rights-of-way to provide a cable communications system to residents in unincorporated Clackamas County. A map of the area to be served is represented as Exhibit A in the Franchise Agreement. Beaver Creek will pay franchise fees, the same as other cable providers, of 5% of gross revenues.

Provisions of the Franchise Agreement include broadcast of the following Public, Educational and Government (PEG) Access Channels: Clackamas County Government Channel, Clackamas

Community College Channel, and Willamette Falls Studios Channel in the Beaver Creek service area. The cable company has also agreed to support PEG Access Channels with a monthly contribution of $1.00 per subscriber. Customer service standards and interconnection requirements with all other contiguous cable systems in Clackamas County are included.

The franchise document is current with recent FCC standards. Beaver Creek has agreed to all terms and conditions of the franchise grant with the County.

RECOMMENDATION:
Staff respectfully recommends the Board approve the Cable Television Franchise Renewal Agreement with Beaver Creek, for a term of ten (10) years from the effective date of September 23, 2021. County Counsel has reviewed and approved the attached Board Order.

Respectfully submitted,

Sue Hildick, Director
Public and Government Affairs

BEFORE THE BOARD OF COUNTY COMMISSIONERS
OF CLACKAMAS COUNTY, STATE OF OREGON

In the Matter of a Renewal of the Cable Television Franchise Agreement for Use of The County Rights-of-Way by Beaver Creek Cooperative Telephone Company

Order No. _____

This matter coming on at this time, and it appearing that Beaver Creek Cooperative Telephone Company (Beaver Creek) has been providing cable television service utilizing the County rights-of-way pursuant to a Franchise Agreement Extension, approved by the BCC, that expired on May 7, 2021 and;

It further appearing that the County and Beaver Creek have conducted negotiations as provided by federal law concerning the franchise renewal; and

It further appearing that the issuance of a renewal subject to the terms and conditions of the attached Franchise Agreement would be in the best interests of the citizens of the County;

NOW, THEREFORE, IT IS HEREBY ORDERED that the attached Franchise Agreement be approved and executed, and be subject to the terms and conditions as specified in the Agreement for a term of ten (10) years as specified in Section 3.3.

DATED this _____ day of September, 2021.

CLACKAMAS COUNTY BOARD OF COMMISSIONERS

_____
Chair

_____
Recording Secretary

CABLE TELEVISION
FRANCHISE AGREEMENT
between
CLACKAMAS COUNTY, OREGON
and
BEAVER CREEK COOPERATIVE TELEPHONE COMPANY

September 23, 2021

TABLE OF CONTENTS

1. PURPOSE AND INTENT.

1.1 Clackamas County, Oregon (hereafter Grantor) is authorized to and by this Franchise Agreement does grant to Beaver Creek Cooperative Telephone Company (BCT), (hereafter Grantee) a non-exclusive 10-year Franchise, revocable as provided herein, to offer cable services over the Grantee's Cable System in the County, in the service area depicted on the attached map, marked as Exhibit A.

1.2 The purpose of this Franchise Agreement is to create a binding, enforceable contract between Grantor and Grantee.

1.3 Implementation of Reserved Rights - The parties acknowledge that certain rights have been reserved by Grantor in the event it subsequently obtains jurisdiction over the several matters and, in such event, Grantor agrees to provide Grantee not less than 60 days prior written notice of the first reading of any proposed modification to the County Code that effects this franchise.

2. DEFINITIONS.

For the purposes of this Franchise Agreement and all attachments included hereto, the following words, terms, phrases, and their derivations shall have the meanings given herein. When not inconsistent with the context, words used in the present tense include the future tense, words in the plural number include the singular number, and words in the singular number include the plural number. The word "shall" is always mandatory and not merely directory. Words used in this Franchise which are not defined hereunder but are defined in the Cable Communications Policy Act of 1984, as amended by the Cable Consumer Protection and Competition Act of 1992 and the Telecommunications Act of 1996 (Cable Act) shall have the meaning specified in the Cable Act definition.

a. "Access" or "Community Access" or "Public, Educational and Government (PEG) Access" means the availability for use by various agencies, institutions, organizations, groups and individuals in the community, including the County and its designees, of the Cable System to acquire, create, and distribute non-commercial Programming not under the Grantee's editorial control.

b. "Access Channel" or "Public, Educational or Government Access (PEG) Channel" means any channel or portion of a channel utilized for non-commercial programming, where any member of the general public or any organization may be a programmer, without charge by the Grantee, on a non-discriminatory basis.

"Educational Access Channel" means any channel or portion of a channel available for educational programming by individuals or institutions.

"Government Access Channel" means any channel or portion of a channel available for programming by government agencies.

"Public Access Channel" means any channel or portion of a channel where any member of the general public or any non-commercial organization may be a programmer on a non-discriminatory basis, subject to operating rules formulated by the Grantor or its designee. Such rules shall not be designed to control the content of public access programming.

Nothing in this Franchise shall prevent the Grantor or its designee from carrying out fundraising activities to supplement access capital or operating funds, and such fundraising activity shall not in itself constitute a commercial use of access channels, facilities and equipment.

c. "Affiliate" when used in relation to any person, means another person who owns or controls, is owned or controlled by, or is under common ownership or control with, such person.

d. "Availability of Service" means the ability of a subscriber to obtain a service within 7 business days by requesting the service and paying applicable installation and/or usage charges.

e. "Basic Cable Service" means that tier of cable service which is required as a condition of access to all other video services and which includes but is not limited to a) the retransmission of local broadcast station signals, and b) public, educational and government access channels. Basic Cable Service includes video service over Grantee's Cable System

f. "Broadcast Signal" means a television or radio signal that is transmitted over-the-air to a wide geographic audience and is received by the cable communications system and retransmitted to subscribers, regardless of the means used by Grantee to receive the signal (off-the-air, microwave link, fiber optically, satellite receiver, by other means, etc.).

g. "Cable Act" means collectively the federal Cable Communications Policy Act of 1984, the Cable Television Consumer Protection and Competition Act of 1992, and the Telecommunications Act of 1996, as amended.

h. "Cable Operator" means any Person or group of Persons, including Grantee, who provide Cable Service over a Cable System and directly or through one or more Affiliates own a significant interest in such Cable System or who otherwise control or are responsible for, through any arrangement, the management and operation of such a Cable System.

i. "Cable Service" means a) the one-way transmission to subscribers of video programming or other programming service; and b) subscriber interaction, if any, which is required for the

selection or use of such video programming or other programming service covered by the Cable Act.

j. "Cable Communications System" or "Cable System" or "System" shall have the meaning specified in the definition of "Cable System" in the Cable Act. In every case of its use in this Franchise, unless otherwise specified, the term shall refer to the Cable System constructed and operated by the Grantee in the County under this Franchise.

k. "Channel" means a time or frequency slot or technical equivalent on the Cable System, discretely identified and capable of carrying full motion color video and audio and may include other non-video subcarriers and digital information.

l. "County" means Clackamas County, an Oregon statutory County, and all of the territory within its boundaries.

m. "County Commission" means the governing body of the Grantor.

n. "Commercial Subscriber" means a subscriber receiving cable services in a business or other commercial enterprise, where the services are to be used primarily in conjunction with the enterprise and the rates for services are individually negotiated with the subscriber.

o. "Converter" means a consumer electronic interface device for changing the television signal, transported by the Cable System, to a suitable channel or format which the television receiver is able to tune.

p. "FCC" means the Federal Communications Commission.

q. "Franchise" or "Franchise Agreement" means the authorization granted by this document, or renewal thereof (including renewal of an authorization which has been granted subject to Section 626 of the Cable Act), issued by a franchising authority, whether such authorization is designated as a franchise, permit, license, resolution, contract, certificate, agreement, or otherwise, which authorizes the construction or operation of a cable system. Unless otherwise specified, "Franchise" shall designate this agreement, including all referenced material, adopted in the appropriate manner by the Grantor.

r. "Franchise Area" means all territory within Clackamas County, depicted on the attached Exhibit A.

s. "Grantee" or "Franchisee" means Beaver Creek Cooperative Telephone Company (BCT) and its lawful and permitted successors, transferees, or assignees thereof.

t. "Grantor" means Clackamas County, a statutory County in the State of Oregon.

u. "Gross Revenue" means, and shall be construed broadly to include, all amounts in whatever form and from all sources derived directly or indirectly by Grantee and/or an Affiliate from the operation of Grantee's Cable System to provide Cable Services within the Franchise Area. Gross revenues include, by way of illustration and not limitation:

- Fees for Cable Services, regardless of whether such Cable Services are provided to residential or Commercial Subscribers, including revenues derived from the provision of all Cable Services including but not limited to:
    - Basic Service fees and on all service tiers above Basic Service;
    - Fees charged for digital video tiers and on optional, per-channel, such as pay or premium services or per-program Cable Service such as Video-on-Demand and Pay-per-View;
    - Broadcast retransmission fees;
    - Regional sports programming fees;
    - Fees for any and all Cable music services
- Installation, disconnection, reconnection, downgrade, upgrade, maintenance, repair, or similar charges associated with Subscriber Cable Service;
- Inside wiring service plans and maintenance charges;
- Convenience fees related to Cable Service;
- Early termination fees on Cable Services;
- Fees paid to Grantee for Channels designated for commercial/leased access use; which shall be allocated on a pro rata basis using total Cable Service Subscribers within the Franchise Area;
- Converter, remote control, and other Cable Service equipment rentals, leases, or sales;
- Payments for pre-paid Cable Services and/or equipment;
- Advertising Revenues as defined herein;
- Fees including, but not limited to: (1) late fees, Non-sufficient funds fees, convenience fees and administrative fees which shall be allocated on a pro rata basis using Cable Services revenue as a percentage of total Grantee revenues within the Franchise Area; (2) Franchise fees; (3) the FCC user fee and (4) PEG fees if included on Subscriber billing statements;
- Revenues from program guides; and
- Commissions from home shopping channels and other Cable Service revenue sharing arrangements which shall be allocated on a pro rata basis using total Cable Service Subscribers within the Franchise Area.

"Gross Revenues" shall not be net of: (1) any operating expense; (2) any accrual, including without limitation, any accrual for commissions to Affiliates; or (3) any other expenditure, regardless of whether such expense, accrual, or expenditure reflects a cash payment. "Gross Revenues", however, shall not be double counted. Revenues of both Grantee and an Affiliate that represent a transfer of funds between the Grantee and the Affiliate, and that would otherwise constitute Gross Revenues of both the Grantee and the Affiliate, shall be counted only once for purposes of determining Gross Revenues. Similarly, operating expenses of the Grantee which are payable from Grantee's revenue to an Affiliate and which may otherwise constitute revenue of the Affiliate, shall not constitute additional Gross Revenues for the purpose of this Franchise. "Gross Revenues" shall include amounts earned by Affiliates only to the extent that Grantee could, in concept, have earned such types of revenue in connection with the operation of Grantee's Cable System to provide Cable Services in the Franchise Area and recorded such types of revenue in its books and Records directly, but for the existence of Affiliates. "Gross Revenues" shall not include sales taxes imposed by law on Subscribers that the Grantee is obligated to collect. With the exception of recovered bad debt, "Gross Revenues" shall not include bad debt.

"Advertising Revenues" shall mean amounts derived from sales of advertising that are made available to Grantee's Cable System Subscribers within the Franchise Area and shall be allocated on a pro rata basis using total Cable Service Subscribers reached by the advertising. Whenever Grantee acts as the principal in advertising arrangements involving representation firms and/or advertising Interconnects and/or other multichannel video providers, Advertising Revenues subject to Franchise fees shall include the total amount from advertising that is sold, and not be reduced by any operating expenses (e.g., "revenue offsets" and "contra expenses" and "administrative expenses" or similar expenses), or by fees, commissions, or other amounts paid to or retained by National Cable Communications or similarly affiliated advertising representation fi1ms to Grantee or their successors involved with sales of advertising on the Cable System within the Franchise Area.

"Gross Revenues" shall **not** include:

- actual Cable Services bad debt write-offs, except any portion which is subsequently collected which shall be allocated on a *pro rata* basis using Cable Services revenue as a percentage of total Grantee revenues within the Franchise Area;
- any taxes and/or fees on services furnished by Grantee imposed on Subscribers by any municipality, state or other governmental unit, provided that the Franchise fee, the FCC user fee and PEG fee shall not be regarded as such a tax or fee;
- launch fees and marketing co-op fees; and,
- revenues associated with the provision of managed network services provided under

separate business contract

- Unaffiliated third-party advertising sales agency fees or commissions which are reflected as a deduction from revenues, except when Grantee acts as a principal as specified in paragraph (A) immediately above.

To the extent revenues are derived by Grantee for the provision of a discounted bundle of services which includes Cable Services and non-Cable Services, Grantee shall calculate revenues to be included in Gross Revenues using a methodology that allocates revenue on a *pro rata* basis when comparing the bundled service price and its components to the sum of the published rate card prices for such components. Except as required by specific federal, state or local law, it is expressly understood that equipment may be subject to inclusion in the bundled price at full rate card value. This calculation shall be applied to every bundled service package containing Cable Service from which Grantee derives revenues in the Franchise Area. The Grantor reserves its right to review and to challenge Grantee's calculations.

Example: Prior to any bundle-related price reduction, if Cable Service is valued at 50% of the total of the services to be offered in a bundle, then Cable Service is to be valued and reported as being no less than fifty percent (50%) of the price of the bundled service total.

Grantee reserves the right to change the allocation methodologies set forth in paragraph (C) above to meet standards mandated by the Financial Accounting Standards Board ("FASB"), Emerging Issues Task Force ("EITF") and/or the U.S. Securities and Exchange Commission ("SEC"). Grantee agrees to explain and document the source of any change it deems required by FASB, EITF and SEC concurrently with any Franchise-required document at the time of submittal, identifying each revised Section or line item.

v. "Institutional Service" means video, audio, data and other services provided to institutional subscribers on an individual application, private channel basis. These services may include, but are not limited to, two-way video, audio or digital signals among institutions, or between institutions and residential subscribers.

w. "Institutional Network" means that part of a communications network designed principally for the provision of non-entertainment, interactive services to schools, public agencies or other non-profit agencies for use in connection with the ongoing operations of such institutions.

x. "Institutional Subscriber" means a place of business, public agency, school or non-profit corporation receiving institutional services on the institutional subscriber network.

y. "Interactive Services" means services provided to subscribers where the subscriber either (a) both receives information consisting of either television or other signals and transmits signals generated by the subscriber or equipment under the subscriber's control for the purpose of

selecting what information shall be transmitted to the subscriber or for any other purpose; or (b) transmits signals to any other location for any purpose.

z. "Leased Channel" means any channel or portion of a channel available for programming by persons or entities other than Grantee for a fee or charge.

aa. "Monitoring" means observing a one-way communications signal, or the absence of a signal, where the observer is neither the subscriber nor the programmer, whether the signal is observed by visual or electronic means, for any purpose whatsoever.

bb. "Non-Broadcast Signal" means a signal that is transmitted by the cable communications system and that is not involved in an over-the-air broadcast transmission path.

cc. "Pay Channel" or "Premium Channel" means a channel on which television signals are delivered to subscribers for a special fee or charge over and above the regular charges for standard subscriber service, on a per program, per channel, or other subscription basis.

dd. "Person" means any corporation, partnership, proprietorship, individual, organization, or other entity doing business in the State of Oregon, or any natural person.

ee. "Programmer" means any person or entity who or which produces or otherwise provides program material or information for transmission by video, audio, digital or other storage methods or media, to subscribers, by means of the cable communications system.

ff. "Programming" means the process of causing television programs or other patterns of signals in video, voice or data formats to be transmitted on the Cable System, and includes all programs or patterns of signals transmitted or capable of being transmitted, on the Cable System.

gg. "Record" means written or graphic materials, however produced or reproduced, or any other tangible permanent record, including, without limitation, all letters, correspondence, memoranda, minutes, notes, summaries or accounts of telephone conversations, magnetic and laser disk files, opinions or reports of consultants or experts, invoices, billings, statements of accounts, studies, appraisals, analyses, contracts, agreements, charts, graphs, and photographs to the extent related to the enforcement or administration of this Franchise.

hh. "Resident" means any natural person residing within the Franchise Area.

ii. "Residential Service" means services delivered on the residential subscriber network.

jj. "Residential Subscriber" means a subscriber who receives services on the residential subscriber network.

kk. "Residential Network" means a cable communications network designed principally for the delivery of entertainment, community access, or interactive services to individual dwelling units.

ll. "School" means any public educational institution, including primary and secondary schools, community colleges, colleges, universities and extension centers, and all similarly situated private and parochial educational institutions which have received the appropriate accreditation from the State of Oregon and, where required, from other authorized accrediting agencies.

mm. "Section" means any section, subsection, or provision of this Franchise Agreement.

nn. "Streets and Public Ways" means the surface of and the space above and below any public street, sidewalk, alley, or other public way of any type whatsoever, now or hereafter existing as such within the Franchise Area, and any easements, rights of way or other similar means of access to the extent Grantor has the right to allow Grantee to use them.

oo. "Subscriber" means any person who elects to subscribe to, for any purpose, a service provided by the Grantee by means of, or in connection with, the cable communications system whether or not a fee is paid for such service.

pp. "Tapping" means observing a two-way communications signal exchange where the observer is neither of the communicating parties, whether the exchange is observed by visual or electronic means, for any purpose whatsoever.

qq. "Year" means a full twelve-month calendar year, unless designated otherwise, such as a "fiscal year".

3. GRANT OF FRANCHISE.

3.1 Grant.

Grantor hereby grants to the Grantee a non-exclusive, revocable Franchise for a 10-year period from and after the effective date hereof, revocable as provided herein, to construct, operate and maintain a Cable System within the Franchise Area. This Franchise constitutes the authority, right, privilege and obligation to provide Cable Services over the Cable System as required by the provisions of this Franchise Agreement.

This Franchise is subject to the laws of the United States and the State of Oregon, and to the general ordinances of the Grantor affecting matters of general County concern and not merely existing contractual rights of Grantee, whether now existing or hereinafter enacted. In

particular, this Agreement supersedes any of Grantor's subsequently adopted Ordinances in any matter in which this Agreement and the Ordinance are in conflict. The Grantor shall make a good faith effort to notify the Grantee of any County proceedings which would substantially affect the Grantee's operations, and shall upon request supply the Grantee with copies of any County laws or regulations affecting Grantee's operations.

Grantee promises and guarantees as a condition of exercising the privileges granted by this Agreement, that any Affiliate or joint venture or partner of the Grantee directly involved in the offering of Cable Service in the Franchise Area, or directly involved in the management or operation of the Cable System in the Franchise Area, will also comply with the terms and conditions of this Agreement.

3.2 Use of Streets and Public Ways.

For the purpose of constructing, operating and maintaining a cable communications system in the Franchise Area, the Grantee may erect, install, audit, construct, repair, replace, reconstruct, and retain in, on, over, under, upon, across, and along the public streets and ways within the Franchise Area such wires, cables, conductors, ducts, conduits, vaults, manholes, amplifiers, appliances, pedestals, attachments, and other property and equipment as are necessary, convenient and appurtenant to the operation of the cable communications system. Prior to construction or alteration, however, the Grantee shall in each case file plans as required with the appropriate agencies of Grantor and in accordance with any agreements with utility providers and companies, pay applicable fees, and receive approval as necessary before proceeding. Nothing in this section shall relieve the Grantee of the obligations of Section 4.6 regarding the trimming of trees and other vegetation.

Grantee, through this Agreement, is granted extensive and valuable rights to operate its Cable System for profit using Grantor's public rights-of-way and public utility easements within the Franchise Area in compliance with all applicable Grantor construction codes and procedures. As trustee for the public, Grantor is entitled to fair compensation to be paid for these valuable rights throughout the term of this Agreement.

3.3 Duration and Effective Date of Franchise/Franchise Review.

Except as otherwise provided herein for revocation, the term of this Franchise and all rights, privileges, obligations and restrictions pertaining thereto shall be 10 years from the effective date of this agreement, at which time the Franchise shall expire and be of no force and effect. The effective date of the Franchise shall be September 23, 2021, unless the Grantee fails to file the Franchise acceptance in accordance with Section 3.7 herein, in which event this Franchise shall be null and void.

During the six-month period beginning five (5) years after the effective date of this Franchise,

the Grantor may, and Grantee shall actively participate in a review of Grantee's system and performance to date, in order to determine whether the Franchise should continue in effect for the full ten (10) year term or should terminate early at the end of five (5) years from the effective date. The Grantor may terminate the Franchise early if the Grantee has been guilty of a pattern of material violations of the Franchise; or refuses by the end of the six-month period to make provision for the effective resolution of any evident patterns of customer service problems unanticipated in provisions of the Franchise.

Any proposal by the Grantor to terminate the Franchise early shall be subject to the same procedural requirements as for a revocation under Section 11.1 hereof. If the Grantor does not terminate the Franchise early as provided herein, the Franchise shall continue for its full ten (10) year term.

3.4 Franchise Area

The franchise area shall be that area designated on the attached map, Exhibit A. Any future expansions of franchise area as shown on Exhibit A must be approved by the Board of Commissioners, as an amendment to this franchise.

Except for any annexations or incorporations of the franchise area, any future modifications of the franchise area must be approved by the Board of Commissioners, as an amendment to this franchise. Any expansion area beyond that shown in Exhibit A, as granted must include terms for initiation of construction within twelve (12) months and coverage of area with complete service availability by eighteen (18) months after initial construction.

3.5 Franchise Not Exclusive.

The Franchise granted herein is not exclusive. This Franchise shall not be construed as any limitation upon the right of the Grantor, through its proper officers, to grant to other persons or corporations, rights, privileges or authority the same as, similar to or different from the rights, privileges or authority herein set forth, in the same or other streets and public ways or public places by franchise, permit or otherwise, subject to the provisions of Section 13.11 herein.

3.6 Franchise Non-Transferable.

This Franchise shall not be sold, leased, assigned or otherwise transferred, nor shall any of the rights or privileges herein granted or authorized be leased, assigned, sold or transferred, either in whole or in part, nor shall title hereto, either legal or equitable, or any right, interest or property herein, pass to or vest in any person, except the Grantee, either by act of the Grantee or by operation of law, without the consent of the Grantor, expressed in writing. The granting

of such consent in one instance shall not render unnecessary any subsequent consent in another instance.

If the Grantee wishes to transfer this Franchise, the Grantee and Grantor shall proceed pursuant to Section 617 of the Cable Act and related rulemakings of the FCC. Grantee shall give Grantor written notice of the proposed transfer, and shall request consent of the transfer by the Grantor. For the purpose of determining whether it will consent to such transfer, Grantor may inquire into the qualifications of the prospective transferee to perform the obligations of the Grantee under this Franchise Agreement. The Grantee shall assist Grantor in any such inquiry, and shall provide all information requested in writing by the Grantor that is reasonably necessary to determine the legal, financial and technical qualifications of the proposed transferee in order to determine whether it will consent to the proposed transfer. The Grantor may condition its consent upon such terms and conditions as it deems appropriate, related to the qualifications of the prospective transferee to perform the obligations of the Grantee under this Franchise. Consent to the transfer shall not be unreasonably withheld. Any transfer of ownership effected without the written consent of the Grantor shall render this Franchise subject to revocation. The Grantor shall have one hundred and twenty (120) days to act upon any request for approval of a transfer that contains or is accompanied by such information as is required in accordance with FCC regulations and by the Grantor. If the Grantor fails to render a final decision on the request within said 120 days, the request shall be deemed granted unless the Grantee and the Grantor agree to an extension of time.

The Grantee, upon any transfer as heretofore described, shall within thirty (30) days thereafter file with the Grantor a copy of the deed, agreement, mortgage, lease, or other written instrument evidencing such sale, lease, mortgage, assignment or transfer, certified and sworn to as correct by the Grantee.

Every such transfer as heretofore described, whether voluntary or involuntary, shall be deemed void and of no effect unless Grantee shall within thirty (30) days after the same shall have been made, file such certified copy as is required.

The requirements of this section shall not be deemed to prohibit the use of the Grantee's property as collateral for security in financing the construction or acquisition of all or part of a cable communications system of the Grantee or any Affiliate of the Grantee. However, the cable communications system franchised hereunder, including portions thereof used as collateral, shall at all times continue to be subject to the provisions of this Franchise.

The requirements of this section shall not be deemed to prohibit sale of tangible assets of the cable system in the ordinary conduct of the Grantee's business without the consent of the Grantor. The requirements of this section shall not be deemed to prohibit, without the consent of the Grantor, a transfer to a transferee whose primary business is cable system operation and

having a majority of its beneficial ownership held by the Grantee, a parent of the Grantee, or an Affiliate a majority of whose beneficial ownership is held by a parent of the Grantee.

3.7 Change in Control.

The Grantee shall promptly notify the Grantor of any proposed change in, transfer of, or acquisition by any other party of control of the Grantee or of Grantee's interest in the Cable System. There shall be no change of control of the Cable System without prior approval of the Grantor. Such change in control shall make this Franchise subject to revocation unless and until the Grantor shall have given written consent thereto.

If the Grantee wishes to operate the Franchise under a change of control, the Grantee shall give the Grantor written notice of the proposed change, and shall request approval of the change by the Grantor. The Grantor shall have one hundred and twenty (120) days to act upon the request, following the receipt of the request and of all information required in accordance with FCC regulations, as well as all information required in writing by the Grantor prior to or subsequent to the request for approval. If the Grantor fails to render a final decision on the request within said one hundred and twenty (120) days, the request shall be deemed granted unless the Grantee and the Grantor agree to an extension of time.

For the purpose of determining whether it will consent to such change, transfer, or acquisition of control, Grantor may inquire into the qualifications of the prospective controlling party to perform the obligations of the Grantee under this Franchise Agreement. The Grantee shall assist Grantor in any such inquiry. Consent to the change of control shall not be unreasonably withheld.

3.8 Franchise Acceptance.

a. The Grantee, within sixty (60) days after the tender by the Grantor to Grantee of the Franchise Agreement adopted by the Grantor, shall file in the office of the Grantor's cable franchise manager a written acceptance executed by Grantee, in the form attached hereto as Exhibit C. In the event Grantee fails to file the acceptance as required herein, then this Franchise shall be null and void.

4. CONSTRUCTION AND SERVICE REQUIREMENTS.

4.1 General.

As of the Effective Date of this Agreement, the Cable System utilizes a Hybrid Fiber Coaxial (HFC) system architecture. All active electronics are 750 MHz capable equipment, or equipment of higher bandwidth. Grantee agrees to maintain and improve upon this architecture

as demand requires.

Prior to beginning any construction, Grantee shall provide Grantor with a construction schedule for work in the Streets. All construction shall be performed in compliance with this Agreement and all applicable Grantor Ordinances and Codes. When obtaining a permit, Grantee shall inquire in writing about other construction currently in progress, planned or proposed, in order to investigate thoroughly all opportunities for joint trenching or boring. Whenever it is possible and reasonably practicable to joint trench or share bores or cuts, Grantee shall work with other providers, grantees, permittees, and franchisees so as to reduce as far as possible the number of Street cuts.

4.2 Right of Inspection of System Construction and Maintenance.

Grantor shall have the right to inspect all construction or installation work performed within the Franchise Area, The County or its agents may, at the County's cost, inspect the Cable System at any time to ensure compliance with this Agreement and applicable law. If a condition creating a serious, clear, and immediate danger to the health, welfare, or safety of the public is found to exist, the County, in addition to taking any other action permitted under applicable law, may alert Grantee, verbally or in writing, of the unsafe condition and require Grantee to make the necessary repairs and alterations to correct the unsafe condition immediately or within a reasonable time established by the County.

4.3 Right to Conduct Compliance Review.

Not more than once every thirty-six (36) months during the term of this Agreement, the County or its representatives may conduct a full compliance review with respect to whether Grantee has complied with the material terms and conditions of this Agreement, so long as it provides Grantee with sixty (60) days written notice in advance of the commencement of any such review or public hearing. Such notice shall specifically reference the section(s) or subsection(s) of the Agreement that is (are) under review, so that Grantee may organize the necessary records and documents for appropriate review by the County. The period for any such review shall be for not more than thirty-six (36) months immediately previous to the notice. Within thirty (30) days of a written request, Grantee shall provide the County with copies of records and documents reasonably requested and related to the cable compliance review. Any confidential or proprietary information provided by Grantee shall be subject to the conditions set forth in Section 12.1 below. Within thirty (30) days after the conclusion of the cable compliance review, the County shall provide Grantee with its written determination, including substantiating documentation, regarding Grantee's compliance with the terms and conditions of this Agreement.

4.4 Provision of Residential Service.

a. In General. It is the County's general policy that all potential Residential Subscribers in the Grantee's Franchise Area should have equivalent Service Availability from Grantee's Cable System under non-discriminatory rates and reasonable terms and conditions. Grantee shall not arbitrarily refuse to provide Cable Services to any Person within its Franchise Area. Except as otherwise provided in this section, Grantee shall provide Cable Service within 7 business days of a request by any Person within its Franchise Area that can be connected by a standard installation. For purposes of this Section, a request shall be deemed made on the date of signing a service agreement, receipt of funds by the Grantee, receipt of a written request by the Grantee or receipt by the Grantee of a verified oral request.

Except as otherwise provided in Section 10.1(e), Grantee shall provide such service:

At non-discriminatory monthly rates for Residential Subscribers; and

i. Notwithstanding Section 4.4.(a), Grantee may establish different and nondiscriminatory rates and charges and classes of services for Commercial Subscribers. For the purposes of Section 4.4.(a), "Commercial Subscribers" means any Subscribers other than Residential Subscribers.

ii. At a non-discriminatory installation charge for a standard installation, consisting of a 125-foot drop connecting to an outside wall for Residential Subscribers and a 125-foot drop for Commercial Subscribers, with additional charges for non-standard installations computed according to a non-discriminatory methodology for such installations, adopted by the Grantee and provided in writing to the County;

iii. The subscriber and the Grantee shall share equally the actual cost of the extension for the distance over 125 (one-hundred twenty-five) feet but less than five hundred (500) feet.

iv. The subscriber shall pay all costs for the extension for the distance greater than five hundred (500) feet.

v. The amount of cable extension as measured in feet, which is the basis for the cost sharing, will be computed as follows:

vi. The starting point shall be a point at the nearest reasonably usable existing cable plant using public right-of-way, provided that the Grantee shall make a reasonable effort to secure and use private rights of way if the use of such rights of way reduces

the cost of the line extension to the subscriber. The actual length of cable needed from the starting point to the subscriber's home shall be the total number of feet. The cost of the project from the starting point to the home shall be divided by the total number of feet. The resultant cost per foot shall be used to compute each party's share. Street bores or crossings needed to bring the existing cable plant to the requesting subscriber's side of the street shall be included as part of any line extension greater than 125 (one-hundred twenty-five) feet, otherwise these costs shall not be charged to the subscriber.

b. Transferred Franchising Jurisdiction. In the event that cable franchising jurisdiction is transferred to the County from another jurisdiction, then the terms of this Franchise shall apply within the area, so long as the application of this Franchise in that area is acknowledged in the governmental actions which implement the transfer of franchising authority. In the event that cable franchising jurisdiction is transferred from the County to another jurisdiction (e.g., annexation into a municipality), then the terms of this Franchise shall only apply if the area in question is not covered by a franchise agreement with the new jurisdiction. If the area in question is covered by a franchise agreement with the new jurisdiction, this Franchise shall no longer apply to such area, but shall continue to apply to all areas outside of such jurisdiction.

c. New Subdivisions. In new subdivisions, service will be made available no more than 60 days from first occupancy or from the date of completion of final construction grading, whichever comes first.

4.5 Erection of Poles.

If additional poles in an existing aerial utility system route are required, Grantee shall negotiate with the utility company or provider for the installation of the needed poles. Grantee shall not erect, for any reason, any pole on or along any street or public way in an existing aerial utility system unless approved by the Grantor. The Grantee shall negotiate the lease of pole space and facilities from the existing pole owners for all aerial construction, under mutually acceptable terms and conditions, and shall comply with all applicable ordinances, resolutions, rules and regulations of the Grantor.

4.6 Trimming of Trees or other Vegetation.

In the conduct of its business, it may be necessary for Grantee to trim trees or other vegetation in order to provide space for its facilities. Tree or vegetation trimming shall be done only in accordance with the ordinances and other rules and regulations of Grantor and if the tree or vegetation is located on private property, with the permission of the owner of the property on which the tree or vegetation stands. Nothing contained in this Franchise Agreement shall be

deemed to empower or authorize Grantee to cut, trim or otherwise disturb any trees or other vegetation, whether ornamental or otherwise.

4.7 Repair and Restoration of Streets and Public Ways.

Whenever the Grantee shall disturb the surface or otherwise damage any street, alley, public highway, or other public way for any purpose mentioned herein, it shall repair and restore the same to the condition in which it was prior to the opening or other damage thereof. When any opening is made by the Grantee in any hard surface pavement, in any street, alley, public highway or other way, the Grantee shall promptly refill the opening and restore the pavement to its original condition. The Grantor may refill and/or repave in case of neglect of the Grantee, at Grantee's cost and expense, provided that Grantor first notifies and provides Grantee five (5) business days to cure. The cost thereof, including the cost of inspection, supervision and administration shall be paid by the Grantee. All excavations made by the Grantee in the streets, alleys, public highways or other ways shall be properly safeguarded for the prevention of accidents. The work hereby required shall be done in strict compliance with the rules, regulations and ordinances of Grantor as now or hereafter in effect.

4.**8 Construction Codes.**

The Grantee shall strictly adhere to all applicable building, zoning or other laws and codes currently or hereafter in force in Grantor's jurisdiction. The Grantee shall arrange its lines, cables and other appurtenances, on both public and private property, in such a manner as to cause no unreasonable interference, as determined by the Grantor, with the use of said public or private property by any person. In the event of such interference, Grantor may require the removal of Grantee's lines, cables and appurtenances from the property in question.

4.**9 Reservations of Street Rights.**

Nothing in this Franchise Agreement shall be construed to prevent any public work of the Grantor, including without limitation constructing sewers, grading, paving, repairing and/or altering any street, alley, or public highway, or laying down, repairing or removing water mains or maintaining, repairing, constructing or establishing any other public property. If any property of the Grantee shall interfere with the construction or repair of any street or public improvement, whether it be construction, repair or removal of a sewer or water main, the improvement of a street or any other public improvement, then on reasonable notice from the Grantor all such property including poles, wires, conduits or other appliances and facilities shall be removed, replaced or relocated in a timely manner as shall be directed by the Grantor, so that the same shall not interfere with the said public work of the Grantor, and such removal, replacement or relocation shall be at the expense of the Grantee. In the event of failure, neglect or refusal of the Grantee, to repair, restore, or reconstruct such street, the Grantor may do such work or cause it to be done, and the cost thereof to the Grantor shall be paid by the Grantee.

4.10 Street Vacation and Abandonment.

In the event any street, alley, public highway or portion thereof used by the Grantee shall be vacated by the Grantor, or the use thereof discontinued by the Grantee, during the term of this Franchise, the Grantee shall forthwith remove its facilities therefrom unless specifically permitted in writing to continue the same by the new controlling jurisdiction or property owner, as appropriate. At the time of removal thereof the Grantee shall restore, repair or reconstruct the street area where such removal has occurred, and place the street area where such removal has occurred in such condition as may be reasonably required by Grantor. In the event of failure, neglect or refusal of the Grantee, to repair, restore, or reconstruct such damage. The Grantor may do such work or cause it to be done provided that Grantor first provides Grantee five (5) business days to cure, unless additional time is granted by Grantor. The cost incurred by Grantor, including cost of inspection, supervision and administration in conducting such work, shall be paid by the Grantee.

4.11 Movement of Facilities.

In the event it is necessary temporarily to move or remove any of the Grantee's wires, cables, poles or other facilities placed pursuant to this Franchise, in order to lawfully move a large object, vehicle, building or other structure over the streets, alleys or highways of the Grantor, Grantee, upon reasonable notice, shall move at the expense, paid in advance, of the person requesting the temporary removal such of its facilities as may be required to facilitate such movements; provided that, if the Grantor is the party requesting the removal, for movement of buildings or structures or other public purposes of the Grantor, then the removal shall be done at the expense of the Grantee. Should Grantee fail to remove or relocate any such facilities by the date established by Grantor, Grantor may effect such removal or relocation, and the expense thereof shall be paid by Grantee.

If public funds, other than the funds of the Grantor, including pass through funds, are available to any Person using such street or public right-of-way for the purpose of defraying the cost of any of the relocation of facilities as provided under Sections 4.8, 4.9 and 4.10, hereof. Grantee shall be afforded equal treatment subject to applicable law and regulations and Grantor shall, upon written request of the Grantee, use commercially reasonable efforts to support Grantee's application for such funds; provided, however, that (1) Grantor may decline if such application would compete with Grantor or a component unit thereof for such monies, and (2) such efforts will be at Grantee's sole cost and expense, including Grantor's staff time.

4.12 Easements.

When Grantee secures easements in its own name, as in the case of construction in multiple dwelling units, it shall use a standard easement form that has been provided to the Grantor

upon request or, if not a standard form, shall provide a copy of the easement document to the Grantor, upon request.

4.13 Undergrounding.

a. Cable must be installed underground where:

i. all existing utilities are placed underground,

ii. statute, ordinance, policy or other regulation of Grantor requires utilities to be placed underground,

iii. overhead utility lines are moved underground (Grantee shall bear the cost of such movement of its facilities unless specific exemption is given by Grantor in any individual case or unless preemptive state or federal law or regulation provides otherwise),

iv. Grantee is unable to get pole clearance,

v. underground easements are obtained from developers of new residential areas, or

vi. utilities are overhead but residents prefer underground (service to be provided at cost to resident).

b. Grantee shall use conduit or its functional equivalent on 100% of undergrounding, except for drops from pedestals to subscribers' homes and for cable on other private property where the owner requests that conduit not be used. Cable and conduit shall be utilized which meets the industry standards for electronic performance and resistance to interference or damage from environmental factors. Grantee shall use, in conjunction with other utility companies or providers, common trenches for underground construction wherever available.

4.14 As-Builts.

Grantee shall maintain strand map drawings or the functional equivalent of the Cable System and make them available to the Grantor for inspection upon request. Said drawings or their functional equivalent shall be updated as changes occur in the Cable System. The Grantee shall provide the Grantor, on request, a copy of as-builts or GIS map layers showing the location and nature of Grantee’s facilities in the streets and public ways.

4.15 Emergency.

In the event of an emergency, or when the cable system creates or is contributing to an imminent danger to health, safety or property, the Grantor may remove or relocate Grantee's cable system without prior notice. Subject to the limits of the Oregon Torts Claims Act and the Oregon Constitution, and exemptions available for emergency actions, Grantor will defend, indemnify and hold Grantee harmless for any negligent actions or gross negligence by Grantor's employees or agents pursuant to this Section 4.15.

5. SYSTEM DESIGN AND PERFORMANCE REQUIREMENTS.

5.1 System Configuration.

a. Grantee has designed, constructed and shall maintain a Cable System that has been built for digital television standards. Grantee's Cable System shall remain at least equivalent to the existing HFC 750 MHz two-way activated capability for all programming services throughout all parts of the system. The Cable System shall be capable of supporting video and audio, including HD and SD video, on the Effective Date of the Agreement. The Cable System shall be two-way activated and able to support two-way interactive services such as Video On Demand (VOD) and high speed internet access via the Cable System. Grantee's Cable System shall provide consistent, high-quality reception to Subscribers in the System in accordance with the FCC technical standards and other technical standards contained in this Agreement.

b. The Cable Service provided by the Cable System shall be delivered in accordance with applicable FCC standards, as amended. The Cable System shall meet or exceed any and all technical performance standards of the FCC and shall comply with all current applicable codes including the National Electrical Safety Code, the National Electrical Code and any other applicable federal laws and regulations and the laws, ordinances and construction standards of the State of Oregon and the generally applicable laws, ordinances and construction standards of the County.

5.2 Satellite Earth Stations.

Grantee shall provide a sufficient number of earth stations to receive signals from enough operational communications satellites or equivalent transport, such as fiber optic, systems that carry cable television services accessible to the Grantee throughout the life of the Franchise to enable Grantee to carry out its obligations under this Franchise.

5.3 Interconnection.

a. Grantee shall continue without limitation all Interconnections in effect on the effective date of this Franchise, including the interconnections listed in Exhibit B.

b. Initially, Grantee shall Interconnect the Cable System with all other major, contiguous cable systems in Clackamas County, specifically including but not limited to Oregon City, unincorporated Clackamas County and Clackamas Community College. The Grantor shall not direct interconnection in this case except under circumstances where it can be accomplished without undue burden or excessive cost to the Subscribers. Grantee shall not be required to interconnect with the other cable systems unless the cable operator of that system is willing to do so and pay for its own costs of constructing and maintaining the interconnect to the demarcation point, which shall be at a meet point located at or near the border of the neighboring jurisdictions, except as may otherwise be agreed by the parties. Grantee shall use reasonable efforts to agree with the other cable operator upon mutually convenient, cost effective and technically viable interconnections of the PEG Access Channel signals. Grantee agrees to not object to or impede any connection established by a Grantor designated access provider, whether on the property of the Grantor, a designated access provider, or another cable operator, by means of which another cable operator obtains access to the PEG Access Channels, and not to object or impede the transmission of such signals by any other cable operator. The Grantee shall not charge the other party a fee for PEG programming in connection with transporting PEG signals or programming on Grantee's Cable System to the meet point or other location agreed upon between Grantee and the other cable operator if Grantee is not required to pay a fee to obtain such programming

The system shall provide the capability to transmit Upstream Channels and Downstream Channels, in a capacity, format and quality to ensure no degradation across the Interconnect, in each direction, together with data, telemetry, audio, and other non-video signals. The Interconnection shall be capable of receiving and delivering, among other things: selected Local Origination Programming produced by Grantor and other major, contiguous cable systems in Clackamas County; selected Access Programming carried on those cable systems; and the exchange of selected Institutional Network video and data communications applications by local and state public and nonprofit organizations, including forward and reverse applications between and among the Grantee and contiguous cable systems as shall in the future have significant institutional network capacity or services determined by the Grantor through an ascertainment of community needs and interests to warrant interconnection.

c. Grantee shall ensure that all interconnections on its own property are securely housed and maintained and shall establish and continue in effect a routing system satisfactory to the Grantor for carriage of signals for Institutional Network and PEG access signals.

With respect to installing the capacity required under this Section, the Grantor understands that interconnection may require cooperation from other cable system operators as to engineering, design, and technical operation issues. In addition, Grantee's interconnection obligation, with respect to equipment and construction, shall be limited to providing equipment needed, and performing construction work required, within Grantee's Franchise Area in order to enable the required interconnections to occur. In order to actually establish the interconnections, it may be necessary for the operators of cable systems interconnecting with the Grantee's system to provide equipment needed, and perform construction work required, within their respective Franchise Areas; and the provision of such equipment and performance of such construction work shall be the obligation of Grantee only within its own Franchise Area. Therefore, Grantor shall make every reasonable effort to assist Grantee in achieving the cooperation of interconnecting cable system operators necessary to establish the interconnections, and Grantee's interconnection obligations hereunder shall be subject to such cooperation being obtained.

All interconnections shall be accomplished in a manner that permits the transmission of signals meeting the technical standards of this Franchise on all interconnected Channels.

d. Grantee's interconnect obligation is partially conditioned upon the consent of the cable operators in the affected neighboring jurisdictions. Grantee shall not charge a fee for the transmission of programming from adjacent systems if Grantee is not required to pay a fee to obtain such programming.

5.4 Emergency Alert Capability.

Grantee shall provide Emergency Alert capability in full compliance with applicable FCC requirements. Grantee and the County shall establish procedures to override video and audio on all Channels of the Cable System to provide emergency messages consistent with the FCC's directives.

5.5 Standby Power.

Grantee acknowledges that it was not compliant with the standby power requirements of the previous franchise. Within three years of the Effective Date of this Franchise Grantee shall provide continuous standby power generating capacity at the Cable System control center or headend, capable of powering all headend equipment for at least twenty-four (24) hours and

indefinitely with a continuous or replenished fuel supply. Grantee shall maintain standby power system supplies, rated with six (6) hours or more of standby capability at each node or remote location. In addition, Grantee shall have in place and have filed with the Grantor throughout the Franchise term a plan, and all resources necessary for implementation of the plan, for dealing with outages of more than six hours.

5.6 Parental Control Lock.

Grantee shall provide subscribers (by sale or lease or otherwise), upon request, with a manual or electronic parental control locking device that permits inhibiting the viewing of any Channel. Any charge for such device shall be consistent with applicable rate regulations.

5.7 Technical Standards.

The Grantee shall install all aerial and underground cables and wires in a manner consistent with County requirements and in compliance with all applicable laws, ordinances, and safety requirements including but not limited to the Federal Communications Commission, Federal Aviation Administration, National Electrical Code (NEC), National Electrical Safety Code (NESC), and National Cable Television Association and Society of Cable Telecommunications Engineers Standards of Good Engineering Practices. The Cable System shall meet or exceed all applicable technical and performance standards of the International Telecommunications Union (ITU) and the Federal Communications Commission or its successor agency, and any and all other applicable technical and performance standards.

5.8 Performance Testing.

a. Grantee shall be responsible for ensuring that its Cable System is designed, installed, and operated in a manner that fully complies with 47 C.F.R. §76.640 and other applicable FCC standards as amended. Pursuant to this Section 5.8, Grantee shall conduct and document complete performance tests of its Cable System, to show the level of compliance with applicable FCC standards, upon request by the Grantor as needed to resolve consumer complaints or issues, or issues raised by County Commissioners or staff. . The performance tests shall be directed at determining the extent to which the Cable System complies with applicable FCC technical standards regarding the transmission and reception capabilities of digital Cable Systems.

b. All testing required in this Section 5.8 may be observed by representatives of the Grantor. Grantee shall provide reasonable notice to the Grantor in advance of the scheduled testing date(s), and the Grantor shall then notify Grantee before such testing is scheduled to occur if it desires to observe such test(s).

c. Copies of system performance tests shall be maintained by the Grantee and made

available to the Grantor upon request within ten (10) days. In addition, the Grantee shall retain written reports of the results of any tests required to demonstrate compliance with FCC standards, and such reports shall be submitted to the Grantor upon the Grantor's request.

d. If any test required hereunder indicates that any part or component of the System fails to meet applicable requirements, the Grantee, without requirement of additional notice or request from the Grantor, shall take corrective action, retest the locations and advise the Grantor of the action taken and results achieved.

6. SERVICES AND PROGRAMMING

6.1 Programming Categories.

The Grantee shall provide video programming services in at least the following broad categories:

a. News & Information
b. Sports
c. General Entertainment
d. Arts, Culture, Performing Arts
e. Children / Family
f. Science
g. Travel Information
h. Weather Information
i. Governmental and Educational Programming
j. Movies
k. Religious Programming
l. Foreign language / Ethnic Programming

The Grantor acknowledges that identification of these broad categories of programming in no way infers regulatory authority by the Grantor over specific programming services or networks which may be carried on the Cable System.

6.2 Changes in Video Programming Services.

Subject to the provisions of the Cable Act, no category of services as referred to in section 6.1 may be deleted, or so limited as effectively to be deleted by the Grantee without Grantor approval, which approval shall not be unreasonably withheld. In the event any applicable law or regulation materially alters the terms and conditions under which Grantee carries programming within the broad programming categories described in Section 6.1, then the

Grantee shall be obligated to carry such programming only upon reasonable terms and conditions.

6.3 Interactive Residential Services.

The Grantee shall make Interactive Services available to residential subscribers consistent with other cable systems in the Portland metropolitan area.

6.4 Leased Channel Service.

The Grantee shall offer leased Channel service to the extent required by 47 U.S.C. Section 532 (Section 612 of the Cable Act), or regulations adopted thereunder.

6.5 Obscenity.

The Grantee shall not transmit over the Cable System programming which is obscene or otherwise unprotected by the Constitution of the United States, or the State of Oregon, provided, however, Grantee shall in no way be responsible for programming over which it has no editorial control, including public, educational and governmental access programming.

6.6 Community Access and Local Programming.

a. Designated PEG Access Providers.

i. The County may designate Public, Educational and Government "PEG" Access Providers, including itself for Government Access purposes, to control and manage the use of any or all Access Facilities provided by the Grantee under this Franchise, including, without limitation, the operation of Interconnected Access Channels. To the extent of such designation by the County, as between the Designated Access Provider and the Grantee, the Designated Access Provider shall have sole and exclusive responsibility for operating and managing such Access Facilities. The Grantor or its designee may formulate rules for the operation of the Public Access Channel, consistent with this Franchise; such rules shall not be designed to control the content of public access programming.

ii. Grantee shall cooperate with Designated PEG Access providers in the use of the Cable System and Access Facilities for the provision of PEG Access. Grantee shall enter into such operating agreements with designated PEG Access providers as may be necessary to facilitate and coordinate the provision of PEG Access, provided that all such operating agreements shall not be inconsistent with the terms of this Franchise.

iii. Except as provided in this Franchise, the County shall allocate Access Resources to Designated Access Providers only. Grantee shall cooperate with the County in such allocations, in such manner as the County shall direct.

iv. For the purpose of Section 6.6:

1. "Access Facilities" means the Channel capacity (and portions thereof), services, facilities, equipment, and/or technical components used or useable by PEG Access; and

2. "Access Resources" means all operating support and other financial means by which PEG Access is exercised, including, but not limited to, Access Capital Cost support under Section 6.5.

v. The requirements of this Section 6.6 shall be subject to the Franchise Review provided for in Section 13.11.

b. Channel Capacity.

i. Downstream Channels. Grantee shall provide 4 Downstream Video Channels for distribution of PEG Access programming to all Residential Subscribers. Grantee shall simultaneously carry each Access Channel in both a high definition (HD) format and a standard digital (SD) format, unless and until Grantee ceases to carry channels on its system in SD, at which time the Access Channels may be provided in only an HD format, for a total of 8 Activated PEG Access Channels, four SD Access Channels and four HD Access Channels. Grantor acknowledges that receipt of HD format Access Channels may require Subscribers to pay additional HD charges applicable to receiving other comparable HD programming services.

c. Access Programming Information in Programming Guides.

i Grantee shall include the PEG Access Channels and programming information in any program guides, navigation systems and search functions accessible through Grantee's set-top box and remote controls, or their successor technologies, provided to its Subscribers, including, but not limited to on-screen, print and on-line program guides which include channel and program listings of any local Broadcast Channels. Grantee shall bear all capital, implementation and operating costs to include the PEG Access Channels and programming information in the programming guides.

ii. Inclusion of PEG channels on the programming menu, and subsequent provision of program information by the entity(s) responsible for providing the information, shall then afford all functionality offered for all other services on the system. This includes, specifically, the ability to record PEG programming via the Digital Video Recording (DVR) system in place and auto-tuning abilities.

iii. The Designated Access Providers shall provide to the Grantee's designee, the Access Channel programming information in an appropriate format and within the appropriate timeframe for insertion into the programming guides.

d. Support for Access Costs.

i. Grantee Financial Support

Beginning with the effective date of this Agreement, and continuing throughout its term, Grantee shall provide $1.00 per subscriber per month as support for PEG access. This contribution shall be payable to Grantor or its designated access provider, at Grantor's discretion, beginning 60 days after the effective date of this agreement. Grantee shall provide 30 days' prior notice to Grantee's Subscribers of the contribution. The content of such notice shall be provided to the Grantor for review.

The Grantee shall make such payments quarterly, following the effective date of this agreement for the preceding quarter ending March 31, June 30, September 30, and December 31. Each payment shall be due and payable no later than forty-five (45) days following the end of the quarter. The Grantor recognizes that these commitments are external costs as defined under the Federal Communications Commission rate regulations in force at the time of adoption of this Agreement, and that the Grantee has the right to include these costs on the bills of cable customers.

The Grantor shall provide a report annually to the Grantee on the use of the funds provided to the Grantor under this Section 6.5.d. The annual report shall be submitted to Grantee within 120 days of the close of the Grantor's fiscal year, which fiscal year runs for twelve consecutive months from July 1 to and including June 30. Grantee may review records of Grantor regarding the use of funds described in such report. The Grantor agrees that the report shall document the amounts spent or encumbered for operating support for PEG access.

ii. If requested, the Grantee shall provide both the institutional network service and connections for institutional purposes at Grantee's sole expense within six (6) months of a request for interconnection by each public facility to the extent the facility is within the service area outlined in Exhibit A and including areas of expanded service during the term of the franchise.

iii. PEG Access Support Not Franchise Fees

Grantee agrees that although the sum of Franchise fees and the payments set forth in this section may total more than five percent (5%) of Grantee's Gross Revenue in any 12-month period, the additional commitments are not to be offset or otherwise credited in any way against any Franchise fee payments due under this Franchise.

The Grantor recognizes franchise fees and financial support for PEG Access are external costs as defined under the Federal Communications Commission rate regulations in force at the time of adoption of this Agreement and, in accordance with federal law, the Grantee has the right and ability to include franchise fees and financial support for PEG Access on the bills of customers.

e. Hardwired Origination Points.

Grantor shall install, maintain and activate a hardwired programming origination point using digital fiber optic-based signal transport for each facility listed in Exhibit B. Grantor shall ensure that Access channel origination signals are delivered to its headend and on to Subscribers without deterioration in quality.

f. Cable Service to Public Facilities.

The Grantee, upon request, shall provide without charge, a Standard Installation and one (1) outlet of Basic Cable, expanded Basic Service, and Internet access services to those administrative buildings owned and occupied by the County, fire station(s), police station(s), and K-12 public school(s) that are within the Service Area including areas of expanded service during the term of the Franchise and passed by its Cable System; provided, however, those buildings or portions of buildings housing or occupied by prison/jail populations or already served by another cable provider shall be excluded. Initially, such installations shall be provided to facilities to the extent the facility is within the service area outlined in Exhibit A within sixty (60) days of Grantee's commercial launch of Cable Services. The Cable Service provided shall not be distributed beyond the originally installed outlet without authorization from the Grantee provided, however, Grantor may distribute the Cable Service throughout the building for County purposes at Grantor's cost including necessary equipment to

maintain signal quality so long as Grantor's use does not adversely affect Grantee's signals outside of any such building. The Cable Service provided shall not be used for commercial or public viewing purposes of any channels except PEG channels.

Grantor shall take reasonable precautions to prevent any use of the Grantee's Cable System in any manner that results in the inappropriate use thereof or any loss or damage to the Cable System. The Grantee shall not be required to provide an outlet to such buildings where a non-Standard Installation is required, unless the County or building owner/occupant agrees to pay the incremental cost of any necessary Cable System extension and/or non-Standard Installation.

g. Access Interconnections.

i. The Grantee shall install and maintain all access interconnections of PEG access channels in accord with the requirements of Section 5.3.

ii. In addition, Grantee shall, continue to cooperate with the Grantor, other cable franchisees, and Designated Access Providers to establish an interconnection point at Clackamas Community College, to allow for the receipt and delivery of programming from participating access centers. Grantor shall coordinate with the Designated Access Provider for distribution on the existing access channel.

h. Impact of Technology Change on Programmers.

In the event Grantee makes any change in the Cable System and related equipment and Facilities or in Grantee's signal delivery technology, which directly or indirectly substantially affects the signal quality or transmission of Access Programming, Grantee shall at its own expense take necessary technical steps or provide necessary technical assistance, including the acquisition of all necessary equipment, not including customer premises equipment, to ensure that the capabilities of Access Providers or Access Programmers are not diminished or adversely affected by such change. Changes in technology shall not require subscribers to obtain equipment not otherwise needed for receiving any other channels on the system.

i. Technical Quality.

i. Grantee shall maintain all Upstream and Downstream Access Channels and Interconnections of Access Channels at the same level of technical quality and reliability provided for local Broadcast Channels and as required by this Franchise and all other applicable laws, rules and regulations for Residential Subscriber Channels.

ii. Grantee shall have no responsibility for the technical production quality of the Access Programming distributed on the Access Channels.

iii. The Grantee shall not cause any programming other than emergency alert signals to override Access Programming on any Access Channel, except by specific written permission from the Access Provider.

7. FRANCHISE REGULATION AND CUSTOMER SERVICE STANDARDS

7.1 Intent.

It is the intent of the Grantor to administer and enforce the provisions of this Franchise. Grantor may delegate all or a part of its administrative and regulatory authority under this Franchise to an entity designated by the Grantor.

7.2 Areas of Regulation and Administration.

The Grantor (or its designee) has authority for regulation in the following areas:

a. Administering and enforcing the provisions of this Franchise Agreement, including the adoption of administrative rules and regulations to carry out this responsibility.

b. Coordination of the operation of public, government, and educational access channels.

c. Interfacing the Grantee's technical, programming and operational assistance and support to public agency users, such as County departments, schools and health care institutions;

d. Formulating and recommending long-range cable communications policy for the Franchise Area;

e. Disbursing and utilizing Franchise revenues paid to the Grantor.

f. Regulating rates, to the extent permitted by law.

g. Customer service, to the extent permitted by law.

h. Planning and facilitating development of public uses of the cable system on the residential and institutional networks, both within the County and through interconnection with adjacent systems;

7.3 Rate regulation.

a. Rate Regulation Right Reserved. Grantor reserves the right to regulate Grantee's rates and charges to the full extent authorized by applicable federal, state and local law, as these may change during the period of the Franchise; and to establish rate regulation policies and guidelines for carrying out its authority.

b. Notice of Change in Rates and Charges. Throughout the term of this Franchise, Grantee shall give all subscribers within the Franchise Area at least thirty (30) day notice of proposed rate changes, as required by the FCC. Nothing in this subsection shall be construed to prohibit the reduction or waiving of rates or charges in conjunction with promotional campaigns.

c. Rate Discrimination Prohibited. Grantee shall apply non-discriminatory rates and charges to all subscribers purchasing similar services, regardless of race, color, creed, sex, marital or economic status, age, national origin, sexual preference, or neighborhood of residence, except as otherwise provided herein; provided that nothing in this Franchise shall prevent the Grantee from establishing discounted rates and charges for low-income or elderly subscribers, or from temporarily reducing or waiving rates and charges in connection with promotional campaigns.

The provisions of this Section 7.3 shall be subject to the provisions of 47 U.S.C. Section 543 (Section 623 of the Cable Communications Policy Act of 1984), as amended from time to time. It is not intended that this Section expand or diminish the rights of the Grantor in relation to regulation of rates and charges under those provisions of the Act, and any provision of this Section or of any other provision of this Franchise that purports to expand or diminish such rights shall be deemed superseded by those provisions of the Act.

7.4 Remedies for Franchise Violations.

a. In addition to any other remedies as specified in this Franchise, the Grantor has the right to and may impose penalties not to exceed $1,000, per day, per incident, not to exceed a total of $50,000 per incident, in the event Grantee violates any other material provision of this Franchise Agreement, subject to Section 7.4(c), below. In addition to any other remedies as specified in this Franchise and in the event that Grantor determines that Grantee has violated any material provision of this Agreement, subject to Section 7.4(c) below, Grantor may impose as liquidated damages, and not as a penalty, up to five hundred dollars ($500) per incident for non-continuing violations and up to one thousand dollars $1,000 per incident for continuing violations, not to exceed a total of ten thousand dollars $10,000 per incident. For purposes of this Section, the term "per incident" means a single occurrence of a violation without regard to number of customers.

b. If Grantor believes that Grantee has failed to perform any obligation under this Agreement or has failed to perform in a timely manner, Grantor shall notify Grantee in writing, stating with reasonable specificity the nature of the alleged violation.

The date of the violation will be the date of the event and not the date Grantee receives notice of the violation except in cases where Grantee did not know and could not reasonably have been expected to know that a violation occurred, in which case penalties shall accrue from the date Grantee knew or should have known of the violation. Without limiting the foregoing, Grantee is presumed to know whether it violated a customer service standard that is measured based upon aggregate performance.

Grantee shall have thirty (30) calendar days from the date of receipt of such notice to:

i. Respond to Grantor, contesting Grantor's assertion that a violation has occurred, and request a hearing in accordance with subsection (e) below, or;

ii. Cure the violation, or;

iii. Notify Grantor that Grantee cannot cure the violation within the thirty (30) days, and notify the Grantor in writing of what steps the Grantee shall take to cure the violation including the Grantee's projected completion date for such cure. In such case, Grantor shall set a hearing date within thirty (30) days of receipt of such response in accordance with subsection (c) below.

c. In the event that the Grantee notifies the Grantor that it cannot cure the violation within the thirty (30) day cure period, Grantor shall, within thirty (30) days of Grantor's receipt of such notice, set a hearing. At the hearing, Grantor shall review and determine whether the Grantee has taken reasonable steps to cure the violation and whether the Grantee's proposed plan and completion date for cure are reasonable. In the event such plan and completion date are found in Grantor's sole discretion to be reasonable, the same may be approved by the Grantor, who may waive all or part of the penalties for such extended cure period in accordance with the criteria set forth in subsection (f) of this section. Following the hearing, Grantor may also in its sole discretion, modify Grantee's proposed extended cure period.

d. In the event that the Grantee fails to cure the violation within the thirty (30) day basic cure period, or within an extended cure period approved by the Grantor pursuant to subsection (c), the Grantor shall set a hearing to determine what penalties, if any, shall be applied.

e. In the event that the Grantee contests the Grantor's assertion that a violation has occurred, and requests a hearing in accordance with subsection (b)(i) above, the Grantor shall set a hearing within sixty (60) days of the Grantor's receipt of the hearing request to determine whether the violation has occurred, and if a violation is found, what penalties shall be applied.

f. In the case of any hearing pursuant to this section, Grantor shall notify Grantee of the hearing in writing and at the hearing, Grantee may be provided an opportunity to be heard and to present evidence in its defense. The Grantor may also hear any other Person interested in the subject, and may provide additional hearing procedures as Grantor deems appropriate.

g. The penalties set forth in this section of this Agreement may be reduced at the discretion of the Grantor, taking into consideration the nature, circumstances, extent and gravity of the violation as reflected by one or more of the following factors:

i. Whether the violation was unintentional;

ii. The nature of any harm which resulted;

iii. Whether there is a history of overall compliance, and/or;

iv. Whether the violation was voluntarily disclosed, admitted or cured.

h. If, after the hearing, Grantor determines that a violation exists, Grantor may utilize one or more of the following remedies:

i. Order Grantee to correct or remedy the violation within a reasonable time frame as Grantor shall determine;

ii. Establish the amount of penalties, taking into consideration the criteria provided for in subsection (g) of this Section as appropriate in Grantor's discretion;

iii. Revoke this Agreement, and/or

iv. Pursue any other legal or equitable remedy available under this Agreement or any applicable law.

i. The determination as to whether a violation of this Agreement has occurred shall be within the sole discretion of the Grantor and shall be reviewable only consistent with the dispute resolution provisions of this Agreement.

j. Notwithstanding other language to the contrary in this agreement:

i. In cases where either intermittent or repeated violations of any single franchise standard occur, Grantor may in its discretion give one initial thirty (30) day notice and opportunity to cure and no subsequent notices of each individual violation; and

7.5 Remedies Not Exclusive.

The Grantor has the right to apply any one or any combination of the remedies provided for in this Franchise, including without limitation all remedies provided for in this Section 7, and may without limitation pursue any rights, remedies or actions that it may have in law or equity regardless of whether they are specifically mentioned in this Franchise.

7.6 Consumer Protection Standards.

The following customer service and consumer protection standards shall apply. Nothing in this Section shall limit the rights of the Grantor to establish additional or different standards in accordance with federal law and regulations.

a. Customer Service and Telephone Responsiveness.

i. The Grantee shall maintain an office within the area of the County served under this Franchise. The office must be adequately staffed and able to respond to subscribers and the public not less than 50 hours per week, with a minimum of nine (9) hours per day on weekdays and five (5) hours on Saturdays. consistent with federal law.

ii. As used herein, "adequately staffed" means toll-free telephone lines are open and customer service representatives are available to respond in at least the following ways: to accept payments; to exchange or accept returned converters or other company equipment; to respond to inquiries; and to schedule and conduct service or repair calls.

iii. Toll-free telephone lines, either staffed or with answering capability, providing at least emergency referral information, must be operational 24 hours a day, including weekends and holidays.

iv. The Grantee shall maintain:

1. Sufficient customer service staff and telephone line capacity to handle normal call volume with a minimum of delay to customers. Under

normal operating conditions, the customer will receive a busy signal less than 3% of the time.

2. Under normal operating conditions, telephone answer time by a customer representative, including wait time, shall not exceed thirty (30) seconds. Grantee may use an Automated Response Unit ("ARU") or Voice Response Unit ("VRU") in answering and distributing calls from customers and the wait time not to exceed thirty (30) seconds will commence once the ARU or VRU forwards the call to a queue for a live representative. If a call needs to be transferred, transfer time shall not exceed thirty (30) seconds. These standards shall be met no less than ninety (90) percent of the time under normal operating conditions, measured on a quarterly basis.

b. Service and Repair Calls.

i. Under normal operating conditions, at least 95% of the time measured on a quarterly basis, requests from subscribers for repair and maintenance service must be acknowledged by the Grantee within 24 hours or prior to the end of the next business day, whichever is earlier. Repair and maintenance for service interruptions or other repairs not requiring on-premises work must be completed within 24 hours under normal circumstances. All other repairs should be completed within 72 hours under normal circumstances.

ii. Under normal operating conditions, at least 95% of the time measured on a quarterly basis, as a normal operating procedure, upon subscriber request the Grantee shall offer either a specific appointment time or else a pre-designated block of time (not to exceed four hours) for subscriber service appointments to be scheduled Monday through Saturday in the morning, the afternoon, or, during daylight savings time, after 5:00 p.m. (repair only).

The Grantee shall not cancel an appointment with a customer after the close of business on the business day prior to the scheduled appointment.

If a Grantee representative is running late for an appointment with a customer and will not be able to keep the appointment as scheduled, the customer will be contacted. The appointment will be rescheduled, as necessary, at a time which is convenient for the customer.

iii. As a normal operating procedure, and with particular regard to the needs of working or mobility-limited customers, upon subscriber request the Grantee shall arrange for pickup and/or replacement of

converters or other company equipment at the subscriber's address, or else a satisfactory equivalent (such as the provision of a postage-prepaid mailer).

iv. Under normal operating conditions, at least 95% of the time measured on a quarterly basis, where the service requested is installation of service, standard installations shall be performed by the Grantee within seven (7) business days after an order has been placed. "Standard" installations, for the purposes of this section, shall mean those that are located up to 125 feet from the existing distribution system.

c. Disconnection.

i. The Grantee may disconnect a subscriber if:

1. At least 30 days have elapsed without payment after the due date for payment of the bill of the affected subscriber; and

2. The Grantee has provided at least ten (10) days written notice to the affected subscriber prior to disconnection, specifying the effective date after which cable services are subject to disconnection.

ii. Regardless of subsection 1. hereof, the Grantee may disconnect a subscriber for cause at any time if the Grantee in good faith determines that the subscriber has tampered with or abused company equipment, is abusive or threatening to employees or representatives, or is or may be engaged unlawfully in theft of cable services, or is causing a system violation of FCC rules or regulations.

iii. The Grantee shall promptly disconnect any subscriber who so requests from the Grantee's cable system. No period of notice prior to voluntary termination of service may be required of subscribers by the Grantee. No charge may be imposed by the Grantee for any cable services delivered after the date of the disconnect request. Upon the later of the date of actual disconnection or the return of all company equipment to Grantee, the Grantee shall under normal operating conditions, within thirty days return to such subscriber the amount of the deposit, if any, collected by Grantee from such subscriber, less any undisputed amounts owed to Grantee for cable services or charges prior to the date of disconnection.

d. Credits Upon Outage.

Except for planned outages where subscribers are provided reasonable notification in advance, power outages caused by Grantee, acts of God and vehicular damage to

facilities, upon a subscriber's request the Grantee shall provide a pro-rated 24-hour credit to the subscriber's account for any period of four hours or more during which that subscriber experienced the effective loss or substantial impairment of video or audio service on the system.

e. Downgrade Charges.

Grantee may impose Downgrade Charges only if:

i. The Subscriber has been notified, at the time of initiating Cable Services, of Grantee's Downgrade Charges; and

ii. The Downgrade Charge does not exceed the Grantee's costs of performing the downgrade as determined under FCC rate regulation rules, subject to applicable law.

f. Billing Information Required.

The Grantee bill to subscribers shall itemize each category of service, equipment, or other applicable fees, and state clearly the charge therefor. The Grantee shall make its best effort to inform subscribers as clearly as possible when payments are due and when late fees and disconnection may occur.

g. Information to Subscribers.

i. Upon installing initial service to or reconnecting each customer, and upon request thereafter, the Grantee shall advise the customer, in writing, of:

1. The equipment and services currently available (including parental lock-out devices) and the rates and charges which apply;

2. The amount and criteria for any deposit required by Grantee, if applicable, and the manner in which the deposit will be refunded;

3. The Grantee's policies and procedures by which complaints or inquiries of any nature will be addressed;

4. The toll-free telephone number and address of the Grantee's office to which complaints and inquiries may be reported;

5. The company's practices and procedures for protecting against invasions of subscriber privacy; and

6. The notice and referral information, as set forth in subsection 2. hereof.

7. Clearly explained billing procedures and in addition, the Grantee's phone number for information, complaints, and inquiries shall be placed on the part of the bill retained by customers;

8. liability specifications;

9. converter/subscriber terminal policy; and

10. Breach of agreement policy.

ii. Notice to Subscribers.

1. The Grantee shall inform the Grantor and subscribers within 30 days, prior to any changes in programming or increases in rates, costs, or charges to subscribers, or any channel repositioning within the control of Grantee.

2. All Grantee promotional materials, announcements, and advertising of residential cable services to subscribers and the general public, where price information is listed in any manner, shall clearly and accurately disclose price terms. In the case of pay-per-view or pay-per-event programming, all Grantee-prepared promotional materials must clearly and accurately disclose price terms and any restrictions for use. Likewise, in the case of telephone orders, the Grantee shall take appropriate steps to ensure that Grantee customer service representatives clearly and accurately disclose price terms and any restrictions for use to potential customers in advance of taking the order.

3. The Grantee shall, upon request by the Grantor and no more often than annually, send written notice approved by the Grantor to all subscribers that any complaints or inquiries not satisfactorily handled by the Grantee may be referred to the Grantor or its designee, giving the address and phone number of the appropriate Grantor office. Such notification may be included with a billing statement. The Grantor or its designee shall bear the cost of the printing and production of such notice; the Grantee shall be responsible for inserting and mailing out the notice.

iii. Written Complaint Acknowledgment.

Within ten (10) days following receipt of a formal complaint, as defined in subsection (h)(ii) below whether received by telephone, email, in writing or any other means, from a subscriber. The Grantee shall provide an acknowledgment to the subscriber of receipt of the complaint and of any action the Grantee has taken or intends to take in response to the complaint. This requirement does not apply to complaints submitted for processing by a regulatory agency other than the County, such as the FCC.

h. Complaint Resolution.

i. The Grantor may take all necessary steps to ensure that all subscribers and members of the general public have recourse to a satisfactory hearing of any complaints, where there is evidence that the Grantee has not attempted to reasonably settle the complaint.

ii. For purposes of this section, a "complaint" is a grievance related to the service of the cable communications system within the Franchise Area that is reasonably remediable by the Grantee, but does not include grievances regarding the content of programming or information services other than grievances regarding broad categories of programming, and does not include customer contacts resulting in routine service calls that resolve the customer's problem satisfactorily to the customer.

8. GENERAL FINANCIAL AND INSURANCE PROVISIONS.

8.1 Compensation.

a. Franchise Fee.

As compensation for the Franchise to be granted, and in consideration of permission to use the streets and public ways of the Grantor for the construction, operation, and maintenance of a cable communications system within the Franchise Area and to defray the costs of Franchise regulation, the Grantee shall pay to Grantor an amount equal to five percent (5%) of the Gross Revenues generated in any manner through the operation of the cable system to provide cable services as defined in this Franchise. In the event any law or valid rule or regulation applicable to this Franchise limits franchise fees below the five percent (5%) of Gross Revenues required herein, the Grantee agrees to and shall pay the maximum permissible amount and, if such law or valid rule or regulation is later repealed or amended to allow a higher permissible

amount, then Grantee shall pay the higher amount up to the maximum allowable by law, not to exceed five percent (5%).

Any bad debts or other accrued amounts deducted from Gross Revenues shall be included in Gross Revenues at such time as they are actually collected.

The Grantee shall at all times during the term of this Franchise maintain on file with the County an up-to-date list of all entities receiving Gross Revenues as such revenues are defined in this Franchise.

In the event the obligation of Grantee to compensate Grantor through franchise fees is lawfully suspended or eliminated, in whole or in part, then the Grantee shall pay to Grantor compensation equivalent to the compensation paid to Grantor by other similarly situated users of the streets for Grantee's use of the Streets, to the extent Grantor has the legal right to require such compensation.

b. Bundling.

If Grantee's subscribers are offered a pricing discount for Cable Services, information services, or Telecommunications Services offered over Grantee's Cable System where the Subscriber requests and receives more than one of these services, then the calculation of the discount of Gross Revenues for Cable Services shall be applied in a reasonably proportionate manner to Cable Services and other services. The existence and amount of a discount shall be determined on the basis of the sum of the lowest generally available standalone rates for each of the services. This apportionment of revenues shall apply only for the purpose of calculation of franchise fees payable to Grantor pursuant to the franchise agreement.

Grantee shall not allocate revenue between Cable Services and non-Cable Services for the purpose or with the intent of evading or substantially reducing Grantee’s Franchise fee obligations to Grantor.

c. Payment of Franchise Fees.

i. Payments due under this provision shall be computed and paid quarterly, for the preceding quarter, as of March 31, June 30, September 30, and December 31. Each quarterly payment shall be due and payable no later than forty-five (45) days after the dates listed in the previous sentence. At the time of quarterly payment, the Grantee shall submit a written report to the Grantor, verified by an officer of Grantee, which shall contain an accurate statement of all Gross Revenues related to operation of the cable system franchised hereunder, in sufficient detail to enable the Grantor to verify the accuracy of franchise fee

payments.

ii. No acceptance of any payment shall be construed as accord that the amount paid is in fact the correct amount, nor shall such acceptance of payment be construed as a release of any claim Grantor may have for further or additional sums payable under the provisions of this Franchise. All amounts paid shall be subject to audit and recomputation by Grantor.

iii. In the event that a franchise fee payment or other sum is not received by the Grantor on or before the due date, or is underpaid, the Grantee shall pay in addition to the payment, or sum due, interest from the due date at a rate equal to the legal interest rate in the State of Oregon.

iv. Payment of the franchise fees under this Agreement shall not exempt Grantee from the payment of any generally applicable license, permit fee or other generally applicable fee, tax or charge on the business, occupation, property or income of Grantee that may be imposed by Grantor.

8.2 Faithful Performance Bond.

a. Upon the effective date of this Franchise, the Grantee shall furnish proof of the posting of a faithful performance bond running to the County with good and sufficient surety approved by the County, in the penal sum of Fifty Thousand Dollars ($50,000.00), or the deposit of $50,000 in a restricted account satisfactory to the County, conditioned that the Grantee shall well and truly observe, fulfill and perform each term and condition of this Franchise. Such bond shall be maintained by the Grantee throughout the term of this Franchise.

b. Grantee shall pay all premiums charged for any bond required under Section 8.2(a) and unless the County Commission specifically directs otherwise, shall keep the same in full force and effect at all times through the later of either:

i. The remaining term of this Franchise; or

ii. If required by the County, the removal of all of Grantee's system installed in the County's Streets and Public Ways.

c. The bond shall contain a provision that it shall not be terminated or otherwise allowed to expire without 30 days written notice first being given to the County. The bond shall be subject to the approval of the County Attorney as to its adequacy under the requirements of Section 8.2. During the term of the bond, Grantee shall file with the County a duplicate copy of the bond along with written evidence of payment of the

required premiums unless the bond otherwise provides that the bond shall not expire or be terminated without 30 days prior written notice to the County.

d. In a form approved by the County, the Grantee may provide an irrevocable letter of credit, guaranty in lieu of bond, or other form of financial assurance in lieu of a faithful performance bond. The alternative form of financial assurance shall give the County substantially the same rights and guarantees provided by a faithful performance bond.

8.3 Damages and Defense.

a. The Grantee shall defend, indemnify and hold harmless the County, and its officers, agents, and employees, from and against all claims, damages and penalties, including but not limited to attorney fees, as a result of any actions of the Grantee under this Franchise. These claims, damages and penalties shall include, but shall not be limited to: damages arising out of copyright infringement; defamation or anti-trust actions; and all other damages arising out of the Grantee's actions under the Franchise or the construction, operation, maintenance or reconstruction of the cable communications system authorized herein, whether or not any act or omission complained of is authorized, allowed, or prohibited by this Franchise.

b. If the Grantee fails to defend as required in Section 8.3(a), above, then the Grantee agrees to and shall pay all expenses incurred by the County and its officers, agents, and employees, in defending itself with regard to all claims, damages and penalties mentioned in section 8.3(a) above. These expenses shall include all out-of-pocket expenses, such as attorney fees, and shall also include the reasonable value of any services rendered by any employees of the Grantor.

8.4 Liability Insurance and Indemnification.

a. Grantee shall maintain automobile and Worker's Compensation insurance, as well as public liability and property damage insurance, that protects the Grantee and the County, its officers, agents and employees, from any and all claims for damages or personal injury including death, demands, actions and suits brought against any of them arising from operations under this Franchise or in connection therewith, as follows:

b. The insurance shall provide coverage at all times for not less than $1,000,000 for personal injury to each person, $2,000,000 aggregate for each occurrence, and $1,000,000 for each occurrence involving property damages, plus costs of defense; or a single limit policy of not less than $2,000,000 covering all claims per occurrence, plus costs of defense. The limits of the insurance shall be subject to statutory changes as to the maximum limits of liability imposed on municipalities of the State of Oregon

during the term of this Franchise. The insurance shall be equal to or better than commercial general liability insurance.

The minimum amounts of insurance set out in subsection b of this section shall be increased from time to time to the extent necessary to provide coverage at least as great as the limits on the County's liability under the Oregon Tort Claims Act.

The evidence of coverage for Workers' Compensation shall show that it includes State of Oregon Statutory Limits, and Employer's Liability limits of at least $1,000,000.

Any insurance carrier shall have an A.M. Best rating of A or better, and be authorized to do business in the State of Oregon.

c. The insurance shall be without prejudice to coverage otherwise existing and shall name as additional insureds the County and its officers, agents, and employees. Notwithstanding the naming of additional insureds, the insurance shall protect each insured in the same manner as though a separate policy had been issued to each, but nothing herein shall operate to increase the insurer's liability as set forth elsewhere in the policy beyond the amount or amounts for which the insurer would have been liable if only one person or interest had been named as insured. The coverage must apply as to claims between insureds on the policy.

d. The insurance shall provide that the insurance shall not be canceled or materially altered so as to be out of compliance with the requirements of this Section 8.4 without thirty (30) days written notice first being given to the County. If the insurance is canceled or materially altered so as to be out of compliance with the requirements of this Section 8.4 within the term of this Franchise, Grantee shall provide a replacement policy. Grantee agrees to maintain continuous uninterrupted insurance coverage, in the amounts required, for the duration of this Franchise.

e. Grantee shall file prior to the effective date of this Franchise and shall maintain on file with the County a certificate of insurance certifying the coverage required above, which certificate shall be subject to the approval of the County Attorney as to the adequacy of the certificate and of the insurance certified under the requirements of Section 13.2. At a minimum, the certificate shall be signed by a representative with authority to bind the insurance carrier.
The certificate shall show that the general liability portion of the insurance includes:

i. Broad form property damage;

ii. Products and completed operations;

iii. Explosion, collapse, and underground exposures;

iv. Contractual liability; and

v. Owner's and contractors' protective coverage.

f. Failure to maintain adequate insurance as required under Section 13.2 shall be cause for immediate termination of this Franchise by the County.

g. The Grantee shall also indemnify, defend and hold harmless the County and its officers, agents and employees for any and all claims for damages or personal injury which exceed the limits of insurance provided for in this Section.

9. RIGHTS RESERVED TO GRANTOR.

9.1 Right to Purchase the System.

Grantor shall have the right to purchase the Cable System, consistent with applicable law.

a. In the event Grantor has declared a forfeiture for cause or otherwise revoked for cause this Franchise Agreement, or in the event of expiration of the initial term of this Franchise Agreement without the Franchise being renewed or extended, the Grantee shall continue its operations for a period of two hundred and seventy (270) days under the terms and conditions of this Franchise Agreement and as required by Section 11 herein, following the date of the forfeiture or revocation or expiration of the initial term, if such continuation of operations is ordered by the Grantor.

During any period of continued operation under this section, except as provided in section 3.5 of this Franchise, the Grantee shall not sell, assign, transfer, or lease to any other persons, firm or corporation, any portion of the system used by it in its operations without the prior written consent of the Grantor.

b. The parties shall be subject to the provisions of 47 U.S.C. 547 (Section 627 of the Cable Act), as amended from time to time. It is not intended that this Agreement diminish the rights of either Grantor or Grantee under Section 627 of the Act, and any provision of the Agreement that purports to diminish such right shall be deemed superseded by the Act.

9.2 Condemnation.

The County may condemn all of any portion of Grantee's Cable System only consistent with applicable law.

9.3 Right of Inspection of Records.

In order to assist the Grantor in keeping adequate records of the activities of the Grantee under this Franchise, the Grantee shall provide the following information in such form as may be required by the Grantor for its records:

a. With respect to the cable system and its operation to provide cable service, authorized under this Franchise, and to the extent deemed necessary by the Grantor for the enforcement of this Franchise, information pertaining to the operations of the Grantee as it relates to providing Cable Service over the Cable System and not as it relates to providing telecommunications services, and, for the specific purpose of a bona fide Franchise enforcement effort the operations of any parent company, and any Affiliate or Cable Operator, including but not limited to: the true and entire cost of construction, upgrade and replacement of plant and equipment for the cable system authorized under this Franchise, and of the maintenance and of the administration and operation thereof; the amount of stock issued, if any; the amount of cash paid in; the number and par value of shares; the amount and character of indebtedness, if any; interest on debt; wear and tear or depreciation; and all amounts and sources of income.

b. The amount collected by the Grantee or any parent or Affiliate of the Grantee from users of services of the Grantee's cable communications system under this Franchise, but only to the extent that it relates to providing Cable Services and the character and extent of the service rendered therefor to them.

The information, along with any further data which may be required by the Grantor to adequately understand the information, shall be furnished by the Grantee to the Grantor upon request, and at the Grantee's own cost and expense.

9.4 Right to Perform Franchise Fee Audit.

In addition to all rights granted under section 9.3, the Grantor shall have the right to perform, or cause to have performed, a formal audit of the Grantee's books and records and, for the specific purposes of a bona fide Franchise enforcement effort, the books and records of any parent or Affiliate company, for the purpose of determining the Gross Receipts of the Grantee generated in any manner through the operation of the cable system under this Franchise and the accuracy of amounts paid as franchise fees to the Grantor by the Grantee, provided that any audit must be commenced not later than three (3) years after the date on which franchise fees for any period being audited were due. The cost of any such audit shall be borne by the Grantor, except that if through the audit it is established that the Grantee has made underpayment of three percent (3%) or more in franchise fees than required by this Franchise, then the Grantee shall, within thirty (30) days of being requested to do so by the Grantor, reimburse the Grantor for the full cost of the audit up to $15,000.

9.5 Right of Inspection of Construction.

The Grantor or its representatives shall have the right to inspect all construction or installation work performed pursuant to the provision of this Franchise Agreement.

9.6 Intervention.

The Grantee shall not object to the Grantor's lawful intervention in any suit or proceeding to which the Grantee is party which may have an effect upon the construction, upgrade, maintenance or operation of the system.

9.7 Right to Require Removal of Property.

Grantor shall not have the right to require the removal of any portion of the Cable System in the event of a forfeiture or revocation as provided herein to the extent that Grantee continues to use the Cable System to provide Telecommunications Services pursuant to a lawful grant of authority from the appropriate jurisdiction.

9.8 Inspection of Facilities.

Grantor may inspect upon request any of the Grantee's facilities and equipment on Grantee's property to confirm compliance with this Agreement at any time upon at least Twenty-four (24) hours' notice, or in case of an emergency, upon demand without prior notice.

10. RIGHTS OF INDIVIDUALS PROTECTED.

10.1 Discriminatory Practices Prohibited.

a. The Grantee shall not deny service, deny access, or otherwise unlawfully discriminate against subscribers, programmers, or persons on the basis or race, color, religion, national origin, sex, age, disability, income, or, except as otherwise provided herein, the area in which such person lives. The Grantee shall strictly adhere to the equal employment opportunity requirements of the federal government, as expressed in Section 76.13(a) (8) and 76.311 of Chapter 1 of Title 47 of the Code of Federal Regulations, as now or hereafter constituted. The Grantee shall comply at all times with all applicable federal, state, or local laws, rules and regulations relating to non-discrimination.

b. The Grantee shall use best efforts to assure maximum practical availability of Grantee services and facilities to all subscribers, regardless of disability, including the

provision of a remote-control device to those subscribers who are mobility limited, or where a member of the subscriber's household is mobility limited.

c. For hearing impaired customers, the Grantee shall provide information concerning the cost and availability of equipment to facilitate the reception of all basic services for the hearing impaired. In addition, The Grantee must have TDD/TTY (or equivalent) equipment at the company office, and a publicly listed telephone number for such equipment, that will allow hearing impaired customers to contact the company.

d. Upon request by a subscriber or potential subscriber, the Grantee shall make a reasonable effort to provide information required under Section 7.6(e) and 7.6(f), or otherwise provided in the normal course of business, in both English and the primary language of the requestor.

e. Nothing in this Section shall be construed to prohibit: 1) the temporary reduction or waiving of rates and charges in conjunction with promotional campaigns; or 2) Grantee from offering reasonable discounts to senior citizens or discounts to economically disadvantaged citizens.

10.2 Unauthorized Monitoring or Cable Tapping Prohibited.

The Grantee shall not, nor shall Grantee allow any other person, agency, or entity to tap, or arrange for the tapping, of any cable, line, signal input device, or subscriber outlet or receiver for any purpose whatsoever, without the subscriber's written consent or a valid court order permitting the tapping.

10.3 Privacy and Other Rights.

The Grantee and the Grantor shall maintain constant vigilance with regard to possible abuses of the right of privacy and any other civil right of any subscriber, programmer, or person resulting from any device or signal associated with the cable communications system. The Grantee shall not place in the building, structure or any facility of any subscriber any equipment capable of two-way communications without the written consent of the subscriber, revocable at the discretion of the subscriber, and shall not utilize the two-way communications capability of the system for unauthorized or illegal subscriber surveillance of any kind. For purposes of this subsection, tenants who occupy premises shall be deemed to be subscribers, regardless of who actually pays for the service. Written consent, as required herein, shall not be required of any subscriber by Grantee as a condition of receiving any other cable service.

10.4 Permission of Property Owner Required.

No cable, line, wire, amplifier, converter, or other piece of equipment owned by the Grantee shall be installed by the Grantee without first securing the written permission of the owner or tenant of any property involved except where there is an existing utility easement or other easement reserved by plat or other conveyance. If such permission or easement is later lawfully revoked, whether by the original or a subsequent owner or tenant or Grantor, the Grantee shall remove forthwith on request of the owner or tenant any of its equipment and promptly restore the property to its original condition. The Grantee shall perform all installations and removals in a workmanlike manner and shall be responsible for any damage to residences or other property caused by the installation.

10.5 Sale of Subscriber Lists and Personalized Data Prohibited.

The Grantee shall be subject to 47 U.S.C Section 631 (Section 551 of the Cable Act), as amended from time to time, regarding limitations on the cable company's collection and use of personally identifiable information, and other issues involving the protection of subscriber privacy.

10.6 Landlord - Tenant.

Grantee shall provide to individual units of a multiple housing facility, such as a duplex, apartment or condominium unit, all services offered to other dwelling units within the Franchise Area, providing the owner of the facility consents in writing, if requested by Grantee, as follows:

a. To Grantee's providing of the services to units of the facility;

b. To reasonable conditions and times for installation, maintenance and inspection of the system on facility premises;

c. To reasonable conditions promulgated by Grantee to protect Grantee's equipment and to encourage widespread use of the system; and

d. To not demand payment from Grantee for permitting Grantee to provide service to the facility and to not discriminate in rental charges, or otherwise, between tenants who receive cable service and those who do not.

e. However, Grantee shall have no obligation to provide service if the average cost of installation per unit exceeds the Grantee's standard per foot rate for line extension construction multiplied by one hundred twenty-five (125) feet. To determine unit costs, the total project cost is divided by the number of units. The total project cost

shall include only the costs of cable installed on the property including line extension and pre/post wiring of the units.

11. TERMINATION AND EXPIRATION.

11.1 Revocation.

In addition to any rights set out elsewhere in this document, the Grantor reserves the right to declare a forfeiture or otherwise revoke this Franchise, and all rights and privileges pertaining thereto, in the event that:

a. the Grantee is in violation of any material provision of the Franchise Agreement after application by the Grantor of a remedy lesser than franchise revocation pursuant to this Franchise Agreement, and fails to correct the violation after written notice of the violation and proposed forfeiture and a reasonable opportunity thereafter to correct the violation;

b. the Grantee or the Guarantor becomes insolvent, unable or unwilling to pay its debts, or is adjudged a bankrupt;

c. the Grantee is found to have engaged in fraud or deceit upon the Grantor, persons or subscribers;

d. the Grantee fails to obtain and maintain any permit required by any federal or state regulatory body, relating to the construction, maintenance and operation of the system; provided, however, that the Grantee shall be allowed a reasonable time to cure failure to obtain any permit; or

e. the Grantee fails to maintain the full amount of its insurance or to post a performance bond as required under the terms of this Franchise.

Upon the occurrence of one of the events set out above, following 10 days written notice to Grantee of the occurrence and the proposed forfeiture and an opportunity for Grantee to be heard, Grantor may by ordinance declare a forfeiture. In a hearing of the Grantee, the Grantee shall be afforded due process rights as if the hearing were a contested case hearing subject to ORS Chapter 183, including the right to subpoena and cross-examine witnesses, to subpoena documents, and to require that all testimony be on the record. Findings from the hearing shall be written, and shall stipulate the reasons for the Grantor's decision. In the event that the Grantee believes that the Grantor improperly has declared a forfeiture, the Grantee may file such proceeding as is appropriate in a court of competent jurisdiction to determine whether

the Grantor properly has declared a forfeiture. If a forfeiture is lawfully declared, all rights of the Grantee shall immediately be divested without a further act upon the part of the Grantor.

11.2 Receivership.

In addition to its other rights and remedies as set forth in this Franchise, the County shall have the right, subject to federal law, to declare a forfeiture of this Franchise one hundred and twenty (120) days after the appointment of a receiver or trustee to take over and conduct the Grantee's business, whether in receivership, reorganization, bankruptcy or other similar action or proceeding, unless such receivership or trusteeship shall have been vacated prior to the expiration of said one hundred and twenty (120) days, or unless:

a. Within one hundred and twenty (120) days after such appointment, the receiver or trustee shall have fully complied with all provisions of this Franchise and remedied any and all violations or defaults, as approved by a County Commission resolution; and

b. Within said one hundred and twenty (120) days, such receiver or trustee shall have executed an agreement with the County, duly approved by the County and the court having competent jurisdiction, in which such receiver or trustee assumes and agrees to be bound by each and every provision of this Franchise.

11.3 Expiration.

Upon expiration of the Franchise, Grantor shall abide by the franchise renewal provisions of the Cable Act, as amended from time to time.

11.4 Continuity of Service Mandatory.

It shall be the right of all subscribers to receive all available services available for the section of the Cable System that the subscriber's connection to the Cable System is located within 24 months of the effective date of this franchise agreement insofar as their financial and other obligations to the Grantee are honored. In the event that the Grantee elects to upgrade, overbuild, rebuild, modify, or sell the system, or Grantor revokes or fails to renew the Franchise, the Grantee shall make its commercially reasonable best efforts to ensure that all subscribers receive continuous uninterrupted service, regardless of the circumstances, during the lifetime of the Franchise.

If this Agreement terminates for any reason, the Grantee shall file with the Grantor within ninety (90) calendar days of the date of the termination, a financial statement, certified by an independent certified public accountant, showing the Gross Revenues received by the Grantee since the end of the previous fiscal year. The Grantor reserves the right to satisfy any

remaining financial obligations of the Grantee to the Grantor by utilizing the funds available in the security provided by the Grantee.

12. OPERATION AND MAINTENANCE.

12.1 Open Books and Records.

The Grantee shall maintain a business office within the County for managing the cable system, and, subject to the provisions of Section 10 of this Franchise and, to such privileges as may be established under Oregon law, shall manage all of its operations in accordance with a policy of accessible open books and records to the Grantor. The Grantor shall have the right as necessary or desirable for effectively administering and enforcing the Franchise, to inspect at any time during normal business hours upon five (5) business days' notice, all records of the Grantee and also of any parent company, Affiliate or any Cable Operator, which relate to the operation of the Franchise. Access to the aforementioned records shall not be denied by the Grantee to representatives of the Grantor on the basis that said records contain "proprietary information," nor on the basis that they contain trade secrets unless the Grantor cannot protect the trade secrets from disclosure under Oregon law. To the greatest extent allowed under Oregon law, the Grantor shall protect proprietary information including trade secrets of the Grantee from disclosure. The franchisee shall not be required to maintain books and records for Franchise compliance purposes longer than six (6) years.

Upon ten (10) days written notice from the County, Grantee shall provide the Grantor access to computer files related to compliance with obligations contained in the Franchise. Such access shall be carried out in a manner that does not violate requirements regarding personally identifiable subscriber information, as referenced in Section 631 of the Cable Act, and shall exclude access to computer files containing no information related to Grantee's Franchise obligations. Computer record access shall be provided in one of the following manners:

a. Grantee shall upload the file to a secure, password-protected site that Grantor or its representatives or agents may access to view; or

b. print the file.

12.2 Communications with Regulatory Agencies.

A list of all material written petitions, applications, communications, and reports submitted by the Grantee, and also by any Affiliate or any Cable Operator of the system authorized by this Franchise, to the Federal Communications Commission, Securities and Exchange Commission, or any other federal or state regulatory commission or agency having jurisdiction in respect to any matters affecting cable communications operations authorized

pursuant to this Franchise agreement, shall be submitted to the Grantor each year with Grantee's annual report, and copies of any such documents and their replies from respective agencies shall also be made available to the Grantor. In addition, copies of any communications to and from any regulatory agency pertaining to any alleged, apparent or acknowledged violation of an applicable rule or law of the agency related to or affecting operations within the Franchise Area, shall be immediately submitted to the Grantor, if the communications are to or from the Grantee, or upon written request from the Grantor if the communications are to or from an Affiliate or Cable Operator of the Cable System authorized by this Franchise.

12.3 Reports.

a. Quarterly Reports. Within thirty (30) calendar days after the end of each fiscal quarter of the Grantee, Grantee shall, upon request of the Grantor, submit to the Grantor a report of all complaints received by or referred to Grantee within the report quarter. The reports shall contain, as a minimum, the specific nature of the complaint, remedial action taken, if any, and the current status of the complaint. Upon request by the Grantor, Grantee shall also provide trouble call and outage reports and summary statistics on patterns of complaints or service problems, installation requests and other customer service information, provided that such information may be reasonably generated by the Grantee.

b. Annual Report. No later than June 1 following the end of the Grantee's fiscal year each year, Grantee shall present a written report to the Grantor which shall include:

i. Audited financial reports (or if audited reports are not available, then reviewed reports) for the previous fiscal year, including Gross Revenues from all sources, gross subscriber revenues from each category of service, as well as an income statement, statement of cash flow, and a balance sheet; a financial report for the metropolitan area system of which the Franchise is a part with reviewed Gross Revenues and receipts as well as statements of expenses, balance sheet and capital expenditures reviewed by an independent certified public accountant; and a financial report for the Franchise Area with audited Gross Revenues and receipts. In the event any audited financial report has not been published by the date due under this section, then the audited financial report and, if the audited financial report is for the Grantee then also the accompanying reviewed report and the audited report for the Franchise Area, shall be deemed presented on time if presented within thirty (30) days after publication.

All financial reports required under this section shall be presented to the Grantor accompanied by such notes and explanations as are required to fully understand the reports. Such notes and explanations shall include, but not be

limited to, an explanation of any and all deductions made from Gross Revenues in order to arrive at Gross Receipts for the calculation of franchise fees to be paid to the Grantor.

ii. A summary of the previous year's activities including, but not limited to, subscriber totals in each category and new services.

c. Monitoring and Compliance Reports. No later than April 15 of each year, the Grantee shall provide a written report of any technical performance tests for the residential network required to show that Grantee is meeting the standards provided in FCC Rules and Regulations as now or hereinafter constituted. In addition, the Grantee shall provide reports of the test and compliance procedures established by this Franchise Agreement, no later than thirty (30) days after the completion of each series of tests.

d. Additional Reports. The Grantee shall prepare and furnish to the Grantor, at the times and in the form prescribed, such additional reports with respect to its operation, affairs, transactions, or property, as may be reasonably necessary and appropriate to the performance of any of the rights, functions or duties of the Grantor in connection with this Franchise.

e. All reports and records required under this or any other Section shall be furnished to Grantor at the sole expense of Grantee.

f. In addition to what is specified herein, Grantee shall only be required to develop or create reports that are not a part of its normal business procedures and reporting or that have not been defined specifically within this Franchise, if needed in order to meet the requirements of this Franchise.

12.4 Safety.

a. The Grantee shall, at all times, employ the standard of care attendant to the risks involved and shall install and maintain in use commonly accepted methods and devices for preventing failures and accidents which are likely to cause damage, injury, or nuisance to the public or to employees of the Grantor.

b. The Grantee shall install and maintain its wires, cable, fixtures, and other equipment in accordance with the requirements of the National Electrical Safety Code, National Electrical Code, and Occupational Safety and Health Administration (OSHA) standards, and in such manner that they shall not interfere with the installations of any public utility.

c. All lines, equipment and connections in, over, under, and upon either the streets and public ways of Grantor or private property within boundaries of Grantor, wherever situated or located, shall at all times be kept and maintained in a safe and suitable condition, and in good order and repair.

13. MISCELLANEOUS PROVISIONS.

13.1 Compliance with Laws.

The Grantee shall comply with all federal and state laws and regulations, including regulations of any administrative agency thereof, as well as all general ordinances, resolutions, rules and regulations of the Grantor heretofore or hereafter adopted or established during the entire term of this Franchise, provided that any such ordinances, resolutions, rules and regulations of the Grantor hereafter adopted or established shall not conflict or interfere with the existing rights of the Grantee hereunder. The Grantor shall make a good faith effort to provide copies to the Grantee of all general ordinances, resolutions, rules, regulations, and codes, and any amendments thereto, to which the Grantee is subject under this Franchise.

13.2 Severability and Preemption.

Except as provided in Section 13.7 below, if any section, subsection, clause, phrase, term, provision, condition, covenant or portion of this Franchise is for any reason held invalid or unenforceable by any court of competent jurisdiction, or superseded by state or federal legislation, rules, regulations or decision, the remainder of this Franchise shall not be affected thereby but shall be deemed as a separate, distinct and independent provision, and such holding shall not affect the validity of the remaining portions hereof, and each remaining section, subsection, sentence, clause, phrase, provision, condition, covenant and portion of this Franchise shall be valid and enforceable to the fullest extent permitted by law.

If any material provision of this Franchise is for any reason held invalid or unenforceable by any court of competent jurisdiction, or superseded by state or federal law, rules, regulations or decision so that the intent of these provisions is frustrated, the parties agree to immediately negotiate replacement provisions to fulfill the purpose and intent of the superseded provisions consistent with applicable law.

In the event that federal or state laws, rules or regulations preempt a provision or limit the enforceability of a provision of this Franchise, then the provision shall be read to be preempted to the extent and for the time required by law. In the event such federal or state law, rule or regulation is subsequently repealed, rescinded, amended or otherwise changed so that the provision hereof that had been preempted is no longer preempted, such provision shall thereupon return to full force and effect, and shall thereafter be binding on the parties hereto,

without the requirement of further action on the part of the County, and any amendments to this Franchise negotiated pursuant to this section as a result of such provision being preempted shall no longer be of any force or effect.

13.3 Captions.

The captions to sections throughout this Franchise Agreement are intended solely to facilitate reading and reference to the sections and provisions contained herein. Such captions shall not affect the meaning or interpretation of this Franchise Agreement.

13.4 No Recourse Against the Grantor.

The Grantee shall have no recourse whatsoever against the Grantor or its officials, boards, commissions, or employees for any loss, costs, expense, or damage arising out of any provision or requirement contained herein, or in the event this Franchise Agreement or any part thereof is determined to be invalid.

13.5 Nonenforcement by Grantor.

The Grantee shall not be relieved of its obligations to comply with any of the provisions of this Franchise Agreement by reason of any failure of the Grantor to enforce prompt compliance.

13.6 Force Majeure.

If by reason of force majeure the Grantee is unable in whole or in part to carry out its obligations hereunder, the Grantee shall not be deemed in violation or default during the continuance of such inability. The term "force majeure" as used herein shall mean the following: acts of God; strikes, lockouts or other industrial disturbances; acts of public enemies; orders of the government of the United States of America, or of the State of Oregon, or their departments, agencies, political subdivisions, or officials; acts of any civil or military authority; insurrections; riots; epidemics; landslides; earthquakes; lightning; fires; hurricanes; volcanic activity; floods; washouts; restraint of government and people; civil disturbances; explosions; entire failure of utilities; and similar occurrences outside the control of the Grantee. The Grantee agrees, however to give its best efforts to remedy as soon as possible, under the circumstances, the cause or causes preventing Grantee from carrying out its responsibilities and duties under this Franchise Agreement.

13.7 Entire Agreement.

This Franchise Agreement contains the entire agreement between the parties, supersedes all prior agreements or proposals except as specifically set forth herein, and cannot be changed orally but only by an instrument in writing executed by the parties.

13.8 Consent.

Wherever the consent or approval of either the Grantee or the Grantor is specifically required in this agreement, such consent or approval shall not be unreasonably withheld.

13.9 Notices and Time Limit for Grantee Communications.

All communications with the County by the Grantee referred to in this Franchise shall be made through the Administrative Services Manager in the Public and Government Affairs Department, unless otherwise specified in this Franchise. Grantee shall provide any written communication required by this Franchise within sixty (60) days of being requested to do so by the Grantor, in each case in which no other specific minimum time limit for a communication is identified in the Franchise.

13.10 Consistency of Franchise with Cable Act.

The parties intend and believe that all of the provisions hereof are consistent with and permitted by the Cable Communications Policy Act of 1984, as amended in 1992 and 1996.

13.11 Comparability of Other Cable Franchises.

a. If the Grantor issues a franchise to a Cable Operator to enter upon the streets and public ways for the purpose of operating a Cable System to provide Cable Service to any part of the Franchise Area, the Grantor shall ensure that, considering all the circumstances, including any limitations on its regulatory authority, the material provisions of such other franchise are, taken together, reasonably comparable to the material provisions of this Franchise; providing, however, that the Grantor shall not be prohibited from granting any franchise containing requirements which are, taken together, greater than those of this Franchise, nor from granting any franchise containing individual requirements which are greater or lesser than the requirements of this Franchise.

b. The Grantee agrees that its sole remedy under this provision, other than testimony before the County Commission, is to seek injunctive relief to prevent the issuance of a franchise which would violate the first paragraph.

13.13 Notice.

Any notice provided for under this Franchise shall be sufficient if in writing and delivered personally to the following addressee or deposited in the United States mail, postage prepaid, certified mail, return receipt requested, addressed as follows, or to such address as the receiving party specifies in writing:

If to the County: Administrative Services Manager
Public and Government Affairs Department
2051 Kaen Road, 4th Floor, Suite 426
Oregon City, Oregon 97045

If to the Grantee: President
Beaver Creek Cooperative Telephone Company
15223 S Henrici Road
Oregon City, Oregon 97045

13.14 Future Changes in Law.

If future changes to binding federal or state law affect any material provision of the Franchise, including but not limited to the scope of Grantor's authority to regulate Grantee and its activities within the Franchise Area and the streets and public ways, the parties agree that they will take any action necessary, or revise this Agreement where applicable, to be consistent with the scope of such change in law. In the event the parties are unable to agree to a modification of this Franchise within sixty (60) days, either party may seek appropriate legal remedies to amend the Franchise. Each party agrees to participate in up to sixteen (16) hours of negotiation during the sixty (60) day period.

13.15 Public Disclosure.

Subject to the Oregon Public Records Law, whenever, pursuant to this Franchise Agreement, Grantee shall make available for inspection by the Grantor or submit to the Grantor reports containing information considered proprietary by the Grantee, the Grantor shall not disclose or release such reports or information to the public without Grantee's prior written consent.

13.16 Time is of the Essence.

Whenever this Agreement sets forth a time for any act to be performed by Grantee, such time shall be deemed to be of the essence, and any failure of Grantee to perform within the allotted time may be considered a material violation of this Agreement and sufficient grounds for Grantor to invoke any relevant provision of this Agreement. However, in the event that Grantee is prevented or delayed in the performance of any of its obligations under this

Agreement by reason of force majeure, Grantee's performance shall be excused during the affected time periods and Grantee thereafter shall, under the circumstances, promptly perform the affected obligations under this Agreement or procure a substitute for performance which is satisfactory to Grantor. Grantee shall not be excused by mere economic hardship or by misfeasance or malfeasance of its directors, officers, employees or agents.

IN WITNESS WHEREOF, the COUNTY has caused these presents to be executed by its Board of County Commissioners and Beaver Creek Cooperative Telephone Company has caused these presents to be signed by its CEO/President.

BOARD OF COUNTY COMMISSIONERS	BEAVER CREEK COOPERATIVE TELEPHONE COMPANY
_____	_____
Tootie Smith, Chair	Paul Hauer, President
_____	_____
Recording Secretary	Title:
_____	_____
Date	Date

EXHIBIT A

SERVICE AREA MAP

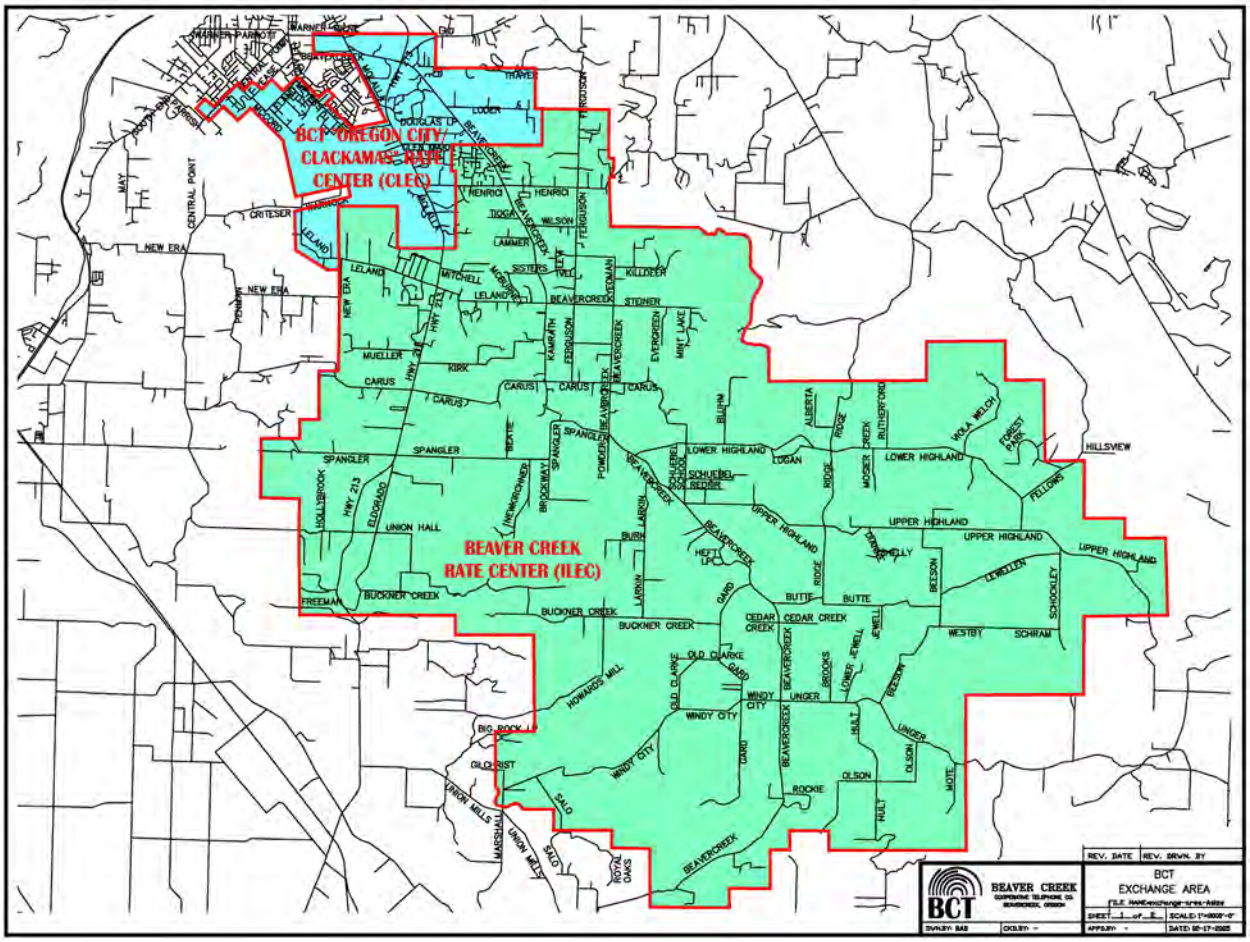

EXHIBIT B

HARDWIRED PROGRAMMING 2-WAY ORIGINATION POINTS

Clackamas Community College	19600 S. Molalla Avenue Oregon City, OR 97045
Clackamas County PGA/Cable Communications	2051 Kaen Road, Suite 426 Oregon City, OR 97045
Willamette Falls Media Center	1101 Jackson Street Oregon City, OR 97045

EXHIBIT C

ACCEPTANCE

Administrative Services Manager
Public and Government Affairs Department
Clackamas County
2051 Kaen Road, 4th Floor, Suite 426
Oregon City, OR 97045

This is to advise the County that Beaver Creek Cooperative Telephone Company (the "Grantee") hereby accepts the terms and provisions of Order No. _____, passed by the County Commission on _____, 2021 (the Franchise) granting a Franchise for ten (10) years to Beaver Creek Cooperative Telephone Company. The Grantee agrees to abide by each and every term of the Franchise.

BEAVER CREEK COOPERATIVE TELEPHONE COMPANY

BY: _____

TITLE: _____

DATE: _____

EXHIBIT D

Public Facilities

Fire Station# 10 (Beavercreek)	22310 South Beavercreek Road
Fire Station# 13 (Clarkes)	25675 South Beavercreek Road.

Lauren MacNeill
Director

CLACKAMAS COUNTY

RESOLUTION SERVICES
Public Services Building
2051 Kaen Road, PSB #210 / Oregon City, OR 97045

September 23, 2021

Board of County Commissioners
Clackamas County

Consent Agenda item to approve IGA between Clackamas County Resolution Services and the Oregon Dept. of Human Services for Adoption and Guardianship mediation services

Purpose/Outcome	Intergovernmental Agreement (IGA) to provide mediation services in cases referred to Resolution Serivces by the Oregon Department of Human Services/Child Welfare/Child Permenancy Program for Adoption and Guardianship issues.
Dollar Amount and Fiscal Impact	Not to exceed $300,000.00 during the term of the contract.
Funding Source	Oregon Dept. of Human Services
Duration	August 1, 2021 or upon date of final signatures to July 31, 2024
Previous Board Action/Review	BCC Study Session Sept. 14, 2021
Strategic Plan Alignment	This item aligns with our department plan by helping to address the issue of Family Structure, and offers families an opportunity to experience accessible, understandable, compassionate and successful conflict resolution services for adoption and guardianship cases. Parties to adoption cases in Clackamas County will have access to mediation services that allow open dialogue and the opportunity to reach mutual agreement and permenant placement of children. This item aligns with the BCC goal to provide safe, healthy, and secure communities by focusing on the well-being of all our families and will help ensure the safety, health, and security of children.
Counsel Review	1. Date of Counsel review: 8/16/2021 2. Initials of County Counsel performing review: AN
Procurement Review	No Item is an IGA
Contact Person	Lauren Mac Neill or Amy Herman
Contract No.	NA

BACKGROUND: Resolution Services has been providing mediation services in adoption and guardianship cases referred by Oregon Dept. of Human Services since 2016. This IGA is a renewal for FY 21-24.

RECOMMENDATION: Staff recommends approval of this Intergovernmental Agreement (IGA), and to authorize the department director to sign on behalf of the County.

Respectfully submitted,

Amy Herman
Sr. Management Analyst
Resolution Services

Financial Assistance Application Lifecycle Form

Use this form to track your potential grant from conception to submission.

Sections of this form are designed to be completed in collaboration between department program and fiscal staff.

**** CONCEPTION ****

Note: The processes outlined in this form are not applicable to disaster recovery grants.

Section I: Funding Opportunity Information - To be completed by Requester

Lead Department & Fund: Resolution Services LOB 2801

Application for: ☐ Subrecipient Assistance ☑ Direct Assistance

Grant Renewal? ☑ Yes ☐ No

If renewal, complete sections 1, 2, & 4 only

If Disaster or Emergency Relief Funding, EOC will need to approve prior to being sent to the BCC

Name of Funding Opportunity: Oregon Dept of Human Services - Intergovernmental Agreement #171005 for Adoption Mediation Services

Funding Source: Federal ☐ State ☑ Local ☐

Requestor Information (Name of staff person initiating form): Amy Herman

Requestor Contact Information: aherman@clackamas.us 971-291-4758 cell

Department Fiscal Representative: Amy Herman

Program Name or Number (please specify): Resolution Services LOB 2801

Brief Description of Project:

Oregon Dept. of Human Services contracts with Clackamas County Resolution Services to provide mediation services to clients involved in DHS Adoption and Guardianship cases. DHS cases are referred to mediation where clients may benefit from participating in a collaborative process. The term of this contract is from 8/1/2021 to 7/31/2024, not to exceed $300,000.00.

Name of Funding Agency: Oregon Department of Human Services

Agency's Web Address for funding agency Guidelines and Contact Information:

https://www.oregon.gov/dhs/CHILDREN/Pages/index.aspx

OR

Application Packet Attached: ☐ Yes ☐ No

Completed By: Amy Herman 8/10/2021 (Date)

**** NOW READY FOR SUBMISSION TO DEPARTMENT FISCAL REPRESENTATIVE ****

Section II: Funding Opportunity Information - To be completed by Department Fiscal Rep

Competitive Application ☐ Non-Competing Application ☑ Other ☐

CFDA(s), if applicable:	n/a State Contract	Funding Agency Award Notification Date:	
Announcement Date:		Announcement/Opportunity #:	Contract #171005
Grant Category/Title:	DHS Intergovernmental Agreements	Max Award Value:	$300,000.00
Allows Indirect/Rate:	n/a	Match Requirement:	none
Application Deadline:		Other Deadlines:	
Award Start Date:	8/1/2021	Other Deadline Description:	
Award End Date:	7/31/2024		
Completed By:		Program Income Requirement:	n/a
Pre-Application Meeting Schedule:			

Section III: Funding Opportunity Information - **To be completed at Pre-Application Meeting by Dept Program and Fiscal Staff**

Mission/Purpose:

1. How does the grant/funding opportunity support the Department and/or Division's Mission/Purpose/Goals?

2. What, if any, are the community partners who might be better suited to perform this work?

3. What are the objectives of this funding opportunity? How will we meet these objectives?

4. Does the grant/financial assistance fund an existing program? If yes, which program? If no, what is the purpose of the program?

Organizational Capacity:

1. Does the organization have adequate and qualified staff? If no, can staff be hired within the grant/financial assistance funding opportunity timeframe?

2. Are there partnership efforts required? If yes, who are we partnering with and what are their roles and responsibilities?

3.If this is a pilot project, what is the plan for sunsetting the project and/or staff if it does not continue (e.g. making staff positions temporary or limited duration, etc.)?

4. If funded, would this grant/financial assistance create a new program, does the department intend for the program to continue after initial funding is exhausted? If yes, how will the department ensure funding (e.g. request new funding during the budget process, supplanted by a different program, etc.)?

Collaboration

1. List County departments that will collaborate on this award, if any.

Reporting Requirements

1. What are the program reporting requirements for this grant/funding opportunity?

2. How will performance be evaluated? Are we using existing data sources? If yes, what are they and where are they housed? If not, is it feasible to develop a data source within the grant timeframe?

3. What are the fiscal reporting requirements for this funding?

Fiscal

1. Will we realize more benefit than this financial assistance will cost to administer?

2. Are other revenue sources required? Have they already been secured?

3. For applications with a match requirement, how much is required (in dollars) and what type of funding will be used to meet it (CGF, In-kind, Local Grant, etc.)?

4. Does this grant/financial assistance cover indirect costs? If yes, is there a rate cap? If no, can additional funds be obtained to support indirect expenses and what are they?

Program Approval:

Lauren Mac Neill	8-11-2021	Lauren M. MacNeill
Name (Typed/Printed)	Date	Signature

***** NOW READY FOR PROGRAM MANAGER SUBMISSION TO DIVISION DIRECTOR*****

*****ATTACH ANY CERTIFICATIONS REQUIRED BY THE FUNDING AGENCY. COUNTY FINANCE OR ADMIN WILL SIGN.*****

Section IV: Approvals

DIVISION DIRECTOR (or designee, if applicable)		
Name (Typed/Printed)	Date	Signature

DEPARTMENT DIRECTOR (or designee, if applicable)		
Lauren Mac Neill	8-11-2021	Lauren M. MacNeill
Name (Typed/Printed)	Date	Signature

FINANCE ADMINISTRATION		
Elizabeth Comfort	8.11.2021	Elizabeth Comfort
Name (Typed/Printed)	Date	Signature

EOC COMMAND APPROVAL *(DISASTER OR EMERGENCY RELIEF APPLICATIONS ONLY)*		
Name (Typed/Printed)	Date	Signature

Section V: Board of County Commissioners/County Administration

*(Required for all grant applications. If your grant is awarded, all grant **awards** must be approved by the Board on their weekly consent agenda regardless of amount per local budget law 294.338.)*

For applications less than $150,000:

COUNTY ADMINISTRATOR	Approved: ☐	Denied: ☐
Name (Typed/Printed)	Date	Signature

For applications greater than $150,000 or which otherwise require BCC approval:

BCC Agenda item #: _____ Date: _____

OR

Policy Session Date: _____

_____

County Administration Attestation

County Administration: re-route to department contact when fully approved.
Department: keep original with your grant file.

Agreement Number 171005

STATE OF OREGON INTERGOVERNMENTAL AGREEMENT

In compliance with the Americans with Disabilities Act, this document is available in alternate formats such as Braille, large print, audio recordings, Web-based communications and other electronic formats. To request an alternate format, please send an e-mail to dhs- oha.publicationrequest@state.or.us or call 503-378-3486 (voice) or 503-378-3523 (TTY) to arrange for the alternative format.

This Agreement is between the State of Oregon, acting by and through its Oregon Department of
Human Services, hereinafter referred to as "**ODHS**" and

Clackamas County
Acting by and through its Resolution Services Program
2051 Kaen Road Oregon City, OR 97045 Contact: Emily K. Shannon
Telephone: 503-650-5652 Fax: 503-650-5656
E-mail address: EShannon@clackamas.us

hereinafter referred to as "**County**."

Work to be performed under this Agreement relates principally to ODHS'

Child Welfare Child Permanency Program 500 Summer St. NE, E-71
Salem, OR 97301 Contract Administrator: Gail Schelle or delegate
Telephone: 503-449-4186 E-mail address:
Gail.A.Schelle@dhsoha.state.or.us

1. **Effective Date and Duration.** Upon signature by all applicable parties, this Contract shall be effective on the later of: (i) August 1, 2021 or, (ii) when required, the date this Contract is approved by Department of Justice, regardless of the date it is actually signed by all other parties per the authority under OAR 125-247-0288. Unless extended or terminated earlier in accordance with its terms, this Contract shall expire on

   July 31, 2024. Contract termination shall not extinguish or prejudice DHS' right to enforce this Contract with respect to any default by Contractor that has not been cured.

2. **Agreement Documents.**

a. This Agreement consists of this document and includes the following listed exhibits which are incorporated into this Agreement:

(1) Exhibit A, Part 1: Statement of Work
(2) Exhibit A, Part 2: Payment and Financial Reporting
(3) Exhibit A, Part 3: Special Provisions
(4) Exhibit B: Standard Terms and Conditions
(5) Exhibit C: Subcontractor Insurance Requirements
(6) Exhibit D: Federal Terms and Conditions
(7) Attachment 1: Mediation Authorization Form
(8) Attachment 2: ODHS Mediation Referral
(9) Attachment 3: Agreement to Mediate

This Agreement constitutes the entire agreement between the parties on the subject matter in it; there are no understandings, agreements, or representations, oral or written, regarding this Agreement that are not specified herein.

b. In the event of a conflict between two or more of the documents comprising this Agreement, the language in the document with the highest precedence shall control. The precedence of each of the documents comprising this Agreement is as follows, listed from highest precedence to lowest precedence: this Agreement without Exhibits and Attachments, Exhibits D, B, A, C, and Attachments.

3. Consideration.

a. The maximum not-to-exceed amount payable to County under this Agreement, which includes any allowable expenses, is **$300,000.00**. ODHS will not pay County any amount in excess of the not-to-exceed amount for completing the Work, and will not pay for Work until this Agreement has been signed by all parties.

b. ODHS will pay only for completed Work under this Agreement, and may make interim payments as provided for in Exhibit A. For purposes of this Agreement,
"Work" means specific work to be performed or services to be delivered by County as set forth in Exhibit A.

4. Contractor or Subrecipient Determination. In accordance with the State Controller's Oregon Accounting Manual, policy 30.40.00.104, ODHS' determination is that:

☐ County is a subrecipient ☒ County is a contractor ☐ Not applicable
Catalog of Federal Domestic Assistance (CFDA) #(s) of federal funds to be paid through this Agreement: 93.603, 93.659, & 93.658

5. County Data and Certification.

a. **County Information.** This information is requested pursuant to ORS 305.385 and OAR 125-246-0330(1). **PLEASE PRINT OR TYPE THE FOLLOWING INFORMATION:**

County Name (exactly as filed with the IRS): County of Clackamas

Street address: 2051 Kaen Rd
City, state, zip code: Oregon City, OR 97045
Email address:
Telephone: ( ) Facsimile: ( ) .

Proof of Insurance: County shall provide the following information upon submission of the signed Agreement. All insurance listed herein must be in effect prior to Agreement execution.

If County is self-insured for any of the Insurance Requirements specified in Exhibit C of this Agreement, County may so indicate by writing "Self-Insured" on the appropriate line.
Workers' Compensation Insurance Company: Self-Insured
Policy #: Expiration Date:

b. Certification. Without limiting the generality of the foregoing, by signature on this Agreement, County hereby certifies under penalty of perjury that:

(1) County acknowledges that the Oregon False Claims Act, ORS 180.750 to 180.785, applies to any "claim" (as defined by ORS 180.750) that is made by (or caused by) County and that pertains to this Agreement or to the project for which the Agreement work is being performed. County certifies that no claim described in the previous sentence is or will be a "false claim" (as defined by ORS 180.750) or an act prohibited by ORS 180.755. County further acknowledges that in addition to the remedies under this Agreement, if it makes (or causes to be made) a false claim or performs (or causes to be performed) an act prohibited under the Oregon False Claims Act, the Oregon Attorney General may enforce the liabilities and penalties provided by the Oregon False Claims Act against County;

(2) The information shown in Section 5a. "County Information", is County's true, accurate and correct information;

(3) To the best of the undersigned's knowledge, County has not discriminated against and will not discriminate against minority, women or emerging small business enterprises certified under ORS 200.055 in obtaining any required subcontracts;

(4) County and County's employees and agents are not included on the list titled "Specially Designated Nationals" maintained by the Office of Foreign Assets Control of the United States Department of the Treasury and currently found at: https://www.treasury.gov/resource- center/sanctions/SDN-List/Pages/default.aspx;

(5) County is not listed on the non-procurement portion of the General Service Administration's "List of Parties Excluded

from Federal procurement or Non-procurement Programs" found at:
https://www.sam.gov/SAM;

(6) County is not subject to backup withholding because:

(a) County is exempt from backup withholding;

(b) County has not been notified by the IRS that County is subject to backup withholding as a result of a failure to report all interest or dividends; or

(c) The IRS has notified County that County is no longer subject to backup withholding; and

(7) County's Federal Employer Identification Number (FEIN) provided is true and accurate. If this information changes, County is required to provide ODHS with the new FEIN within 10 days.

EACH PARTY, BY EXECUTION OF THIS AGREEMENT, HEREBY ACKNOWLEDGES THAT IT HAS READ THIS AGREEMENT, UNDERSTANDS IT, AND AGREES TO BE BOUND BY ITS TERMS AND CONDITIONS.
COUNTY: YOU WILL NOT BE PAID FOR WORK PERFORMED PRIOR TO NECESSARY STATE APPROVALS

6. Signatures. This Agreement and any subsequent amendments may be executed in several counterparts, all of which when taken together shall constitute one agreement binding on all parties, notwithstanding that all parties are not signatories to the same counterpart. Each copy of the Agreement and any amendments so executed shall constitute an original.

Clackamas County
Acting by and through its Resolution Services Program By:

Authorized Signature	Printed Name
Title	Date

State of Oregon, acting by and through its Oregon Department of Human Services By:

Authorized Signature	Printed Name
Title	Date

Approved for Legal Sufficiency:

Approved via e-mail by Jeffrey J. Wahl	July 30, 2021
Assistant Attorney General	Date
Department of Justice	

EXHIBIT A

Part 1 Statement of Work

County shall provide mediation services to ODHS referred Participants. Services shall be provided in accordance with this Contract.

1. Definitions. For the purpose of the Contract, the terms below shall have the following meanings:

a. **Communication Agreement** means a written agreement for post-adoption or post-guardianship communication, signed by all Participants to the mediation, which is based on an informed decision making process by the mediation Participants and in the best interest of the child.

b. **Participants** mean those persons listed on the Mediation Participants sections of the CF 0437 Mediation Referral form. The term "Participants" is used here to avoid confusion with the term "Party" which in this Contract refers to the parties to this Contract. For the purposes of mediation confidentiality, "Participants" and ODHS shall be considered "parties" to the mediation as defined in ORS 36.234.

c. **Primary Service Area** is defined as an area within a 50-mile driving distance, using the most direct driving route, beginning from the County's official work site. For the purpose of this Contract, "using the most direct driving route" shall be determined by using an internet-based mileage and direction service, such as MapQuest. Only one "official work site" is allowed.

2. Work to Be Performed. Work to be performed under this Contract includes, but is not limited to, County responsibilities described in sections 3 through 7 when providing mediation services for adoption and guardianship cases.

3. Authorization for Mediation.

a. County shall be available to ODHS prior to receipt of the Mediation Authorization form at no cost to ODHS for a brief consultation to determine the appropriateness of the authorization request and schedule availability.

b. Services must be authorized by receipt of an email from ODHS containing a
Mediation Authorization (Attachment 1) and a ODHS Mediation Referral (Attachment 2). Attachment 1 and Attachment 2 are considered to be confidential documents by ODHS and must not be disclosed by County with the exception of the safety concerns in Attachment 2, Section 3, which shall be shared with mediation Participants. Receipt of these two forms by County, approved by ODHS, constitutes ODHS' authorization to begin providing mediation services to the Participants listed.

c. The completed Mediation Authorization form and the ODHS Mediation Referral form must be signed and approved by an

authorized ODHS Central Office Child Permanency Program employee.

d. County's authorized mediation services must be completed within 120 calendar days of receipt of the Mediation Authorization Form (Attachment 1) and the ODHS Mediation Referral (Attachment 2). County's mediation services are limited to no more than 24 service hours per Mediation Authorization (Attachment 1) unless extended per Sections 3.d.(4) and 3.d.(5) below. County shall consult with the ODHS caseworker if County expects to exceed 120 calendar days for completion of mediation services or require more than 24 service hours for completion of the mediation. County's consultation with ODHS must assess whether or not the mediation should continue based on criteria that includes the following:

(1) Whether a mediated agreement remains possible;

(2) The level of participation by the birth and adoptive or guardian parent(s) in working towards resolution; and

(3) If continuing mediation remains in the best interest of the child.

(4) If County requires more than the 120 calendar days or the 24 service hours to complete the mediation, County shall submit the following in email to Adoptions.Mediation@state.or.us:

(a) An accurate and current list of services provided on the case to date, including dates and duration of contact, with whom, and for what purpose;

(b) A brief statement on the reasons for the extension and an estimated completion date and/or number of additional service hours needed.

(c) If approved by ODHS, the increase in the number of days and/or service hours shall be documented by receipt by the County of an amended Mediation Authorization form (Attachment 1). An additional ODHS Mediation Referral (Attachment 2) will not be required.

(d) ODHS may deny payment for any mediation services that exceed either the 120 days or 24 service hour limits if not preauthorized.

(5) ODHS retains the right to deny any extension request, and at its sole discretion and on a non-precedent basis, to terminate or reassign the mediation to another contractor. Factors considered by ODHS for extension of time include the unique nature, if any, of the mediation case; the complexity of issues surrounding the specific mediation; or other mitigating factors ODHS determines to be relevant.

e. County may be requested by ODHS, and may accept to provide services, on a case-by-case basis at locations outside County's Primary Service Area. County shall only accept assignments or perform services outside the Primary Service Area with specific pre-authorization from ODHS documented on the Mediation Authorization Form (Attachment 1).

f. County shall immediately notify the ODHS caseworker if interpreter or translation services are required. ODHS will coordinate the assignment of an interpreter or translator, and ODHS will pay for all costs of the interpreter and translation services under separate agreement with the provider of the interpreter and translation service. Exceptions to this provision may be granted in writing by the ODHS Contract Administrator at ODHS' sole discretion on a non-precedent basis. ODHS retains the right to reject any provider of interpreter or translation services that are not under direct agreement with ODHS Child Welfare.

g. ODHS retains the right, at its sole discretion and on a non-precedent basis, to terminate or reassign to another contractor, at any time, the mediation service if
ODHS determines that it is in the child's best interest or in the best interest of
ODHS.

4. Mediation Services.

a. County shall obtain from ODHS a copy of the signed MSC 2099 "Authorization for Use and Disclosure of Information" form which has been signed by all Participants. A tribal representative is not required to sign an MSC 2099 if the mediation is with a Tribe.

b. County shall, as the initial step in the mediation process, within 14-calendar days of receiving the Mediation Authorization Form (Attachment 1) and the ODHS Mediation Referral (Attachment 2) authorizing the beginning of services, contact the child's ODHS caseworker (and ODHS adoption worker, if the mediation is regarding adoption and a ODHS adoption worker is assigned) to consult and review the case, including all safety parameters. County shall seek direction on communication with the Participants and must explain the confidentiality of the mediation. County shall, after contacting ODHS, but within that same 14- calendar day period contact the Participants to the mediation.

c. County shall meet with each of the Participants to discuss the child's and family's needs; to assure that each Participant is aware of the mediation process; to explain their rights and responsibilities during the process; to inform the Participants regarding the extent to which the discussions must be kept confidential; and to determine whether each Participant wishes to continue with mediation services. Each Participant wishing to continue mediation services must sign the document entitled "Agreement to Mediate" (Attachment 3).

d. County shall meet with the child, as appropriate or applicable, to discuss the child's desires and concerns.

e. County shall, based on the information received from all Participants, make a decision whether, in the professional opinion of County, mediation is viable. If mediation is determined to be viable, County may continue mediation services. If County determines that mediation is not viable, County shall submit a statement to that effect, along with the invoice for payment for services provided to date, to the ODHS Central Office Child Permanency Program.at the email or USPS address provided in Exhibit A, Part 2, "Payment and Financial Reporting, Section 2.f. No further services are required from County on a case that is not viable.

f. County shall, after receipt of signed MSC 2099 "Authorization for Use and Disclosure of Information" form, make collateral contact with professionals involved in the case as permitted by the Contact Information for Mediator section of the Mediation Referral Form (Attachment 2). This contact may be a significant factor in establishing a safe and appropriate Communication Agreement. Professionals who may be contacted include, but are not limited to, the child's Court Appointed Special Advocate (CASA), the child's attorney, and any attorneys for the birth parent(s), guardian(s) or adoptive parent(s).

g. County shall make appropriate appointments for mediation sessions with the
Participants. Mediation must not include other persons who are not listed on the Mediation Participants section of the Mediation Referral (Attachment 2) or those who are not approved in writing by ODHS.

h. County shall provide services at locations and times mutually agreed upon by County and Participants. Allowances must be made for the scheduling needs and location of the mediation Participants. County shall consider Participants' accessibility issues, including access to public transportation systems and compliance with the Americans with Disabilities Act when scheduling locations and times for mediation.

i. County shall, if the Participants reach agreement on the terms for communication, create a written Communication Agreement that reflects those terms. County shall provide the Communication Agreement to the Participants for signature.
County shall submit the signed Communication Agreement to the child's ODHS caseworker. County shall provide a signature line on the Communication
Agreement for ODHS' review and concurrence that the Communication Agreement meets the best interest of the child. The fully executed
Communication Agreement must accompany the final invoice to ODHS to be eligible for payment. County shall, if mediation service is

no longer a viable course, provide ODHS with a written statement, in a format acceptable to ODHS, documenting that a Communication Agreement could not be agreed upon. The statement must accompany the final invoice for mediation services.

j. Any Communication Agreement executed as a result of the mediation should resolve only issues pertaining to the Participants. No attempt shall be made to bind or obligate non-Participants.

k. County shall encourage the Participants to seek legal representation to review the Communication Agreement prior to signing and must clarify with all Participants that County cannot give legal advice.

5. County shall attend training or mentoring sessions and other meetings as required by ODHS.

6. County shall, if requested by ODHS, develop and/or provide training and mentoring sessions for selected ODHS mediation contractors (e.g. contractors experienced with providing adoption and guardianship mediation services providing training and mentoring for contractors less experienced with providing adoption and guardianship mediation services). County shall, if requested by ODHS, develop and/or provide training

for other individuals including but not limited to ODHS staff, community partners, mediation participants, or potential ODHS mediation contractors.

7. All adoption mediation services provided under this Contract must adhere to Child Welfare Oregon Administrative Rule "Openness and Post Adoption Communication" through Adoption Mediation Services (OAR 413-120-0600 through 413-120-0635), mediation confidentiality OAR 407-014-0200, and other rules and statutes as they are revised or implemented.

EXHIBIT A

Part 2 Payment and Financial Reporting

1. Payment Provisions:

a. **Mediation Services**. ODHS will pay County at the rate of $140.00 per hour for direct client services performed. County shall invoice for services in 10-minute increments. The direct mediation service rate is inclusive of all costs associated with performing mediation services under the terms and conditions of this Contract, including, but not limited to, rent, clerical support, document scanning, faxing, copying, local telephone charges and fees, and other routine and normal costs of doing business. Reasonable expenses above and beyond what would be considered routine and normal may be reimbursed by ODHS at cost upon presentation of receipt if the charge was pre-authorized by the ODHS Contract Administrator.

b. **Mentoring and Training Services. O**DHS will pay County at the rate of $140.00 per hour for providing mentoring services and developing and/or providing training services as provided for in Exhibit A, Part 1 "Statement of Work", section 6. These services require prior authorization by the ODHS Contract Administrator. ODHS will pay County at the rate of $140.00 per hour for participating in training prior authorized by ODHS Contract Administrator as provided for in Exhibit A, Part 1 "Statement of Work", section 5.

c. **Mileage. O**DHS will reimburse County for actual travel mileage using the most direct driving route as determined by using an internet-based mileage and direction service, such as MapQuest. The terms and mileage rates are subject to the provisions of the Oregon Accounting Manual (OAM), State-wide Policy 40.10.00, issued by the Department of Administrative Services (DAS) that sets such terms and rates for agencies of Oregon State government. County's claims for mileage reimbursement must adhere to Section .118 and the mileage rate as established in Appendix A of the OAM. The current policy and rates are posted at the following website:
https://www.oregon.gov/das/Financial/Acctng/Pages/OAM.aspx#chapter40.

d. **Travel Time.**

(1) ODHS will pay County for travel time within the Primary Service Area at the rate of $70.00 per hour billed in 10-minute increments.

County may request to bill $140.00 per hour in special circumstances (e.g. high traffic areas requiring extended time) and with prior authorization from ODHS Contract Administrators.

(2) ODHS' Contract Administrator may, in writing and on a non-precedent basis, at its discretion pre-approve travel outside the Primary Service Area to be paid at the rate of $140.00 per hour billed in 10-minute increments. Extenuating circumstances warranting additional travel time include situations when specific expertise is needed in a Primary Service Area and is unavailable, a mediator is unavailable in a Primary Service Area or in other unusual, extraordinary, or exceptional circumstances.

e. **Service Outside the Primary Service Area. O**DHS Contract Administrator must pre-authorize, in writing and prior to County providing services, all assignments for services to be provided outside the Primary Service Area and any overnight stay regardless of location. ODHS will, for such pre-authorized assignments, reimburse County for mileage and travel time at the rates and terms defined in the mileage rate and travel time sections listed above. ODHS will pay County a meal per diem and lodging costs, if assignment travel qualifies, subject to the provisions of the Oregon Accounting Manual (OAM) and State-wide Policy 40.10.00.PO issued by the Department of Administrative Services (DAS), that sets such terms and rates for agencies of Oregon State government. Meal per diem shall adhere to Sections .112 and .114 of the OAM; lodging terms and conditions shall adhere to Sections .115 and .116 of the OAM; and, if appropriate, Section .123 of the OAM shall apply if the County is combining personal time with service provision under the terms and conditions of this Contract. Other conditions and rates are established in Appendix A of the OAM. For all appropriate travel under this Section, County shall adhere to Section .123. 129. 130 of the OAM establishing Receipt Requirements. The current policy and rates are posted at the following website: http://egov.oregon.gov/DAS/SCD/SARS/policies/oam/40.10.00.PO.pdf.

f. **Terms and Conditions for Travel.** Terms and conditions for transportation listed above in paragraphs (c) through (e) are for automobile transportation only. The terms and conditions for all other forms of transportation must be negotiated separately between County and the ODHS Contract Administrator, including, but not limited to: the type and manner of transportation; the rate of reimbursement for travel time; transportation reimbursement; meal and per diem costs; lodging costs; and other costs associated with the alternative transportation.

g. Under no circumstances will ODHS pay County any amount in excess of the total amount listed on the Mediation Authorization Form, as amended.

2. Records and Invoice Requirements.

a. County shall maintain records of all mediation services as outlined here and make the records available to ODHS upon request. County shall submit a Mediation Invoice form, provided by Central Office ODHS Child Permanency Program to County, for reimbursement for services provided and shall include no more thanone case on each Mediation Invoice form submitted. County shall complete all sections of the Mediation Invoice form.

b. County shall attach to the Mediation Invoice form a separate itemized statement which provides a description of services performed which are itemized by date and duration of service in 10-minute increments; the type of Participants involved in each service performed (e.g. birth mother, birth father); costs per activity listed; detailed mileage and travel time, invoiced in 10-minute increments; and per diem claimed, when allowed as applicable, with receipts attached. Reasonable expenses above and beyond what would be considered routine and normal may be reimbursed by ODHS at cost upon presentation of receipt if the charge was pre-authorized by the ODHS Contract Administrator or designee. The Mediation Invoice form and separate itemized statement shall both include the mediation referral number indicated in the Mediation Authorization form. The Mediation Invoice form and separate itemized statement shall both include the sub-total of each service category: direct service hours and costs; travel time and mileage costs, pre-authorized lodging and per diem costs; and other costs in which County is requesting reimbursement as well as the total dollar amount of reimbursement being requested by County.

c. County must provide a minimum of eight hours of direct service hours, unless billing for final payment, in order to submit the Mediation Invoice form and separate itemized statement for payment. County may, if direct service hours for ongoing mediation are less than eight hours, make a "request for an interim payment" based on unusual, extraordinary or exceptional circumstances or conditions by submitting the Mediation Invoice form and separate itemized statement to the ODHS Contract Administrator with a brief explanation. ODHS reserves the right, on a case by case, non-precedent basis, to approve or deny the request for interim payment.

d. County shall clearly mark all invoices submitted by County for ongoing mediation services "Ongoing," on the Mediation Invoice form and the separate itemized statement.

e. County shall clearly mark the final invoice submitted on each case "Final Invoice," both on the separate itemized statement and on the Mediation Invoice form. In all cases, in addition to other requirements, one of the following documents must also accompany each "Final Invoice":

(1) The fully executed Communication Agreement; or

(2) A written statement, consistent with the rules of confidentiality and other provisions in this Contract, indicating that a Communication Agreement could not be reached. The written statement shall include the name(s) of the child(ren) addressed in the mediation.

f. ODHS will pay County subject to receipt and approval by ODHS of the ODHS Mediation Invoice form and separate itemized statement, requested reports and documentation, and submitted to the ODHS Central Office Child Permanency Program at:

Adoptions.Mediation@state.or.us or
Oregon Department of Human Services
Child Welfare Programs – Child Permanency Program
Attention: Adoption Support
500 Summer Street NE E-71
Salem, Oregon 97301-1068

EXHIBIT A

Part 3 Special Provisions

1. Confidentiality of Client Information.

a. All information as to personal facts and circumstances obtained by County on the client shall be treated as privileged communications, shall be held confidential, and shall not be divulged without the written consent of the client, his or her guardian, or the responsible parent when the client is a minor child, or except as required by other terms of this Agreement. Nothing prohibits the disclosure of information in summaries, statistical, or other form, which does not identify particular individuals.

b. The use or disclosure of information concerning clients shall be limited to persons directly connected with the administration of this Agreement. Confidentiality policies shall be applied to all requests from outside sources.

c. ODHS, County and any subcontractor will share information as necessary to effectively serve ODHS clients.

2. Amendments.

a. ODHS reserves the right to amend or extend the Agreement under the following general circumstances:

(1) ODHS may extend the Agreement for additional periods of time up to a total Agreement period of 5 years, and for additional money associated with the extended period(s) of time. The determination for any extension for time may be based on ODHS' satisfaction with performance of the work or services provided by County under this Agreement.

(2) ODHS may periodically amend any payment rates throughout the life of the Agreement proportionate to increases in Portland Metropolitan Consumer Price Index; and to provide Cost Of Living Adjustments (COLA) if ODHS so chooses. Any negotiation of increases in rates to implement a COLA will be as directed by the Oregon State Legislature.

b. ODHS further reserves the right to amend the Statement of Work for the following:

(1) Programmatic changes/additions or modifications deemed necessary to accurately reflect the original scope of work that may not have been expressed in the original Agreement or previous amendments to the Agreement;

(2) Implement additional phases of the Work; or

(3) As necessitated by changes in Code of Federal Regulations, Oregon Revised Statutes, or Oregon Administrative Rules which, in part or in combination, govern the provision of services provided under this Agreement.

c. Upon identification, by any party to this Agreement, of any circumstance which may require an amendment to this Agreement, the parties may enter into negotiations regarding the proposed modifications. Any resulting amendment must be in writing and be signed by all parties to the Agreement before the modified or additional provisions are binding on either party. All amendments must comply with Exhibit B, Section 22 "Amendments" of this Agreement.

3. County Requirements to Report Abuse of Certain Classes of Persons.

a. County shall comply with, and cause all employees to comply with, the applicable laws for mandatory reporting of abuse for certain class of persons in Oregon, including:

Children (ORS 419B.005 through 419B.045)

b. County shall make reports of suspected abuse of persons who are members of the classes established in Section 3.a. above to Oregon's Statewide Abuse Reporting Hotline: 1-855-503-SAFE (7233), as a requirement of this Agreement.

c. County shall immediately report suspected child abuse, neglect or threat of harm to ODHS' Child Protective Services or law enforcement officials in full accordance with the mandatory Child Abuse Reporting law (ORS 419B.005 through 419B.045). If law enforcement is notified, County shall notify the referring ODHS caseworker within 24 hours. County shall immediately contact the local ODHS Child Protective Services office if questions arise as to whether or not an incident meets the definition of child abuse or neglect.

d. If known, the abuse report should contain the following:

(1) The name and address of the abused person and any people responsible for their care;

(2) The abused person's age;

(3) The nature and the extent of the abuse, including any evidence of previous abuse;

(4) The explanation given for the abuse;

(5) The date of the incident; and

(6) Any other information that might be helpful in establishing the cause of the abuse and the identity of the abuser.

4. Background Checks.

a. The County shall ensure that all employees, volunteers and subcontractors who perform services under this Contract, or who have access to any information about clients served under this Contract, are approved by the Agency's Background Check Unit in accordance with Oregon Administrative Rules (OAR) 407-007-0200 through 407-007-0370.

b. In addition to potentially disqualifying conditions under OAR 407-007-0290, all employees, volunteers, and subcontractors who perform services under this Contract are subject to OAR 407-007-0290(11)(b).

c. An employee, volunteer, or subcontractor may be hired on a preliminary basis, in accordance with the requirements and limits described in OAR 407-007-0315, prior to final approval by the Agency's Background Check Unit. An employee, volunteer, or subcontractor hired on a preliminary basis may not have unsupervised contact with individuals receiving services under this Contract and may only participate in the limited activities described in OAR 407-007-0315. An employee, volunteer, or subcontractor hired on a preliminary basis must be actively supervised at all times as described in OAR 407-007-0315.

d. Any current employee hired for a new position with the County to perform services under this Contract, or any current employee, volunteer, or subcontractor who will have access to any information about clients served under this Contract must be approved by the Agency's Background Check Unit at the time the employee, volunteer, or subcontractor accepts the new position or Work. Notwithstanding the requirements of paragraph c. of this Section, a current employee or volunteer who accepts a new position with the County to perform services under this Contract, may be hired for the new position on a preliminary basis without active supervision in accordance with the limits and requirements described in OAR 407-007-0315.

e. There are only two possible fitness determination outcomes of a background check: approval or denial. If the employee, volunteer, or subcontractor is denied, she or he may not have contact with Agency clients under this Contract and may not have access to information about Agency clients. Employees, volunteers, or subcontractors who are denied do have the right to contest the denial. The process for contesting a denial is described in OAR 407-007-0330.

f. For purposes of compliance with OAR 407-007-0200 through 407-007-0370, the County is a "Qualified Entity", as that term is defined in OAR 407-007-0210, and must comply with all the provisions pertaining to Qualified Entities contained in OAR 407-007-0200 through 407-007-0370.

g. The criminal records check procedures listed above also apply to County, its owners, managers, and board members regardless if any individual has access to Agency clients, client information or client funds. County shall establish a personal personnel file and place each criminal records check in named file for possibility of future Agency review and shall be maintained pursuant to Exhibit B, "Standard Terms and Conditions", Section 14, "Records, Maintenance, Access."

5. Equal Access to Services. County shall provide equal access to covered services for both males and females under 18 years of age, including access to appropriate facilities, services and treatment, to achieve the policy in ORS 417.270.

6. **Media Disclosure.** County will not provide information to the media regarding a recipient of services purchased under this Agreement without first consulting the ODHS office that referred the child or family. County will make immediate contact with the ODHS office when media contact occurs. The ODHS office will assist County with an appropriate follow-up response for the media.

7. **Nondiscrimination.** County must provide services to ODHS clients without regard to race, religion, national origin, sex, age, marital status, sexual orientation or disability (as defined under the Americans with Disabilities Act). Contracted services must reasonably accommodate the cultural, language and other special needs of clients.

EXHIBIT B

Standard Terms and Conditions

1. **Governing Law, Consent to Jurisdiction.** This Agreement shall be governed by and construed in accordance with the laws of the State of Oregon without regard to principles of conflicts of law. Any claim, action, suit or proceeding (collectively, "Claim") between the parties that arises from or relates to this Agreement shall be brought and conducted solely and exclusively within a circuit court for the State of Oregon of proper jurisdiction. THE PARTIES, BY EXECUTION OF THIS AGREEMENT, HEREBY CONSENT TO THE IN PERSONAM JURISDICTION OF SAID COURTS. Except as provided in this section, neither party waives any form of defense or immunity, whether sovereign immunity, governmental immunity, immunity based on the eleventh amendment to the Constitution of the United States or otherwise, from any Claim or from the jurisdiction of any court. The parties acknowledge that this is a binding and enforceable agreement and, to the extent permitted by law, expressly waive any defense alleging that either party does not have the right to seek judicial enforcement of this Agreement.
2. **Compliance with Law.** Both parties shall comply with laws, regulations, and executive orders to which they are subject and which are applicable to the Agreement or to the Work. Without limiting the generality of the foregoing, both parties expressly agree to comply with the following laws, regulations and executive orders to the extent they are applicable to the Agreement: (a) all applicable requirements of state civil rights and rehabilitation statutes, rules and regulations; (b) all state laws requiring reporting of client abuse; (c) ORS 659A.400 to 659A.409, ORS 659A.145 and all regulations and administrative rules established pursuant to those laws in the construction, remodeling, maintenance and operation of any structures and facilities, and in the conduct of all programs, services and training associated with the Work. These laws, regulations and executive orders are incorporated by reference herein to the extent that they are applicable to the Agreement and required by law to be so incorporated. All employers, including County and ODHS, that employ subject workers who provide services in the State of Oregon shall comply with ORS 656.017 and provide the required Workers' Compensation coverage, unless such employers are exempt under ORS 656.126. Nothing in this Agreement shall require County or ODHS to act in violation of state or federal law or the Constitution of the State of Oregon.
3. **Independent Contractors.** The parties agree and acknowledge that their relationship is that of independent contracting parties and that County is not an officer, employee, or agent of the State of Oregon as those terms are used in ORS 30.265 or otherwise.
4. **Representations and Warranties.**
   - **a.** County represents and warrants as follows:
     - (1) Organization and Authority. County is a political subdivision of the State of Oregon duly organized and validly existing under the laws of the State of Oregon. County has full power, authority and legal right to make this Agreement and to incur and perform its obligations hereunder.

(2) Due Authorization. The making and performance by County of this Agreement (a) have been duly authorized by all necessary action by County and (b) do not and will not violate any provision of any applicable law, rule, regulation, or order of any court, regulatory commission, board, or other administrative agency or any provision of County's charter or other organizational document and (c) do not and will not result in the breach of, or constitute a default or require any consent under any other agreement or instrument to which County is a party or by which County may be bound or affected. No authorization, consent, license, approval of, filing or registration with or notification to any governmental body or regulatory or supervisory authority is required for the execution, delivery or performance by County of this Agreement.

(3) Binding Obligation. This Agreement has been duly executed and delivered by County and constitutes a legal, valid and binding obligation of County, enforceable in accordance with its terms subject to the laws of bankruptcy, insolvency, or other similar laws affecting the enforcement of creditors' rights generally.

(4) County has the skill and knowledge possessed by well-informed members of its industry, trade or profession and County will apply that skill and knowledge with care and diligence to perform the Work in a professional manner and in accordance with standards prevalent in County's industry, trade or profession;

(5) County shall, at all times during the term of this Agreement, be qualified, professionally competent, and duly licensed to perform the Work; and

(6) County prepared its proposal related to this Agreement, if any, independently from all other proposers, and without collusion, fraud, or other dishonesty.

b. ODHS represents and warrants as follows:

(1) Organization and Authority. ODHS has full power, authority, and legal right to make this Agreement and to incur and perform its obligations hereunder.

(2) Due Authorization. The making and performance by ODHS of this Agreement (a) have been duly authorized by all necessary action by ODHS and (b) do not and will not violate any provision of any applicable law, rule, regulation, or order of any court, regulatory commission, board, or other administrative agency and (c) do not and will not result in the breach of, or constitute a default or require any consent under any other agreement or instrument to which ODHS is a party or by which ODHS may be bound or affected. No authorization, consent, license, approval of, filing or registration with or notification to any governmental body or regulatory or supervisory authority is required for the execution, delivery

or performance by ODHS of this Agreement, other than approval by the Department of Justice if required by law.

(3) Binding Obligation. This Agreement has been duly executed and delivered by ODHS and constitutes a legal, valid and binding obligation of ODHS, enforceable in accordance with its terms subject to the laws of bankruptcy, insolvency, or other similar laws affecting the enforcement of creditors' rights generally.

c. **Warranties Cumulative.** The warranties set forth in this section are in addition to, and not in lieu of, any other warranties provided.

5. Funds Available and Authorized Clause.

a. The State of Oregon's payment obligations under this Agreement are conditioned upon ODHS receiving funding, appropriations, limitations, allotment, or other expenditure authority sufficient to allow ODHS, in the exercise of its reasonable administrative discretion, to meet its payment obligations under this Agreement. County is not entitled to receive payment under this Agreement from any part of Oregon state government other than ODHS. Nothing in this Agreement is to be construed as permitting any violation of Article XI, Section 7 of the Oregon Constitution or any other law regulating liabilities or monetary obligations of the State of Oregon. ODHS represents that as of the date it executes this Agreement, it has sufficient appropriations and limitation for the current biennium to make payments under this Agreement.

b. **Payment Method.** Payments under this Agreement will be made by Electronic Funds Transfer (EFT) and shall be processed in accordance with the provisions of OAR 407-120-0100 through 407-120-0380 or OAR 410-120-1260 through OAR 410-120-1460, as applicable, and any other Oregon Administrative Rules that are program-specific to the billings and payments. Upon request, County shall provide its taxpayer identification number (TIN) and other necessary banking information to receive EFT payment. County shall maintain at its own expense a single financial institution or authorized payment agent capable of receiving and processing EFT using the Automated Clearing House (ACH) transfer method. The most current designation and EFT information will be used for all payments under this Agreement. County shall provide this designation and information on a form provided by ODHS. In the event that EFT information changes or County elects to designate a different financial institution for the receipt of any payment made using EFT procedures, County shall provide the changed information or designation to ODHS on an ODHS-approved form. ODHS is not required to make any payment under this Agreement until receipt of the correct EFT designation and payment information from County.

6. Recovery of Overpayments. If billings under this Agreement, or under any other Agreement between County and ODHS, result in payments to County to which County is not entitled, ODHS, after giving to County written notification and an opportunity to object, may withhold from payments due to County such amounts, over such periods of time, as are necessary to recover the amount of the overpayment. Prior to withholding, if

County objects to the withholding or the amount proposed to be withheld, County shall notify ODHS that it wishes to engage in dispute resolution in accordance with Section 18 of this Agreement.

7. Ownership of Intellectual Property.

a. Definitions. As used in this Section 7 and elsewhere in this Agreement, the following terms have the meanings set forth below:

(1) "County Intellectual Property" means any intellectual property owned by County and developed independently from the Work.

(2) "Third Party Intellectual Property" means any intellectual property owned by parties other than ODHS or County.

b. Except as otherwise expressly provided herein, or as otherwise required by state or federal law, ODHS will not own the right, title and interest in any intellectual property created or delivered by County or a subcontractor in connection with the Work. With respect to that portion of the intellectual property that County owns, County grants to ODHS a perpetual, worldwide, non-exclusive, royalty-free and irrevocable license, subject to any provisions in the Agreement that restrict or prohibit dissemination or disclosure of information, to (1) use, reproduce, prepare derivative works based upon, distribute copies of, perform and display the intellectual property, (2) authorize third parties to exercise the rights set forth in Section 7.b.(1) on ODHS' behalf, and (3) sublicense to third parties the rights set forth in Section 7.b.(1).

c. If state or federal law requires that ODHS or County grant to the United States a license to any intellectual property, or if state or federal law requires that ODHS or the United States own the intellectual property, then County shall execute such further documents and instruments as ODHS may reasonably request in order to make any such grant or to assign ownership in the intellectual property to the United States or ODHS. To the extent that ODHS becomes the owner of any intellectual property created or delivered by County in connection with the Work, ODHS will grant a perpetual, worldwide, non-exclusive, royalty-free and irrevocable license, subject to any provisions in the Agreement that restrict or prohibit dissemination or disclosure of information, to County to use, copy, distribute, display, build upon and improve the intellectual property.

d. County shall include in its subcontracts terms and conditions necessary to require that subcontractors execute such further documents and instruments as ODHS may reasonably request in order to make any grant of license or assignment of ownership that may be required by federal or state law.

8. County Default. County shall be in default under this Agreement upon the occurrence of any of the following events:

a. County fails to perform, observe or discharge any of its covenants, agreements or obligations set forth herein;

b. Any representation, warranty or statement made by County herein or in any documents or reports relied upon by ODHS to measure the delivery of Work, the expenditure of payments or the performance by County is untrue in any material respect when made;

c. County (1) applies for or consents to the appointment of, or taking of possession by, a receiver, custodian, trustee, or liquidator of itself or all of its property, (2) admits in writing its inability, or is generally unable, to pay its debts as they become due, (3) makes a general assignment for the benefit of its creditors, (4) is adjudicated a bankrupt or insolvent, (5) commences a voluntary case under the Federal Bankruptcy Code (as now or hereafter in effect), (6) files a petition seeking to take advantage of any other law relating to bankruptcy, insolvency, reorganization, winding-up, or composition or adjustment of debts, (7) fails to controvert in a timely and appropriate manner, or acquiesces in writing to, any petition filed against it in an involuntary case under the Bankruptcy Code, or (8) takes any action for the purpose of effecting any of the foregoing; or

d. A proceeding or case is commenced, without the application or consent of County, in any court of competent jurisdiction, seeking (1) the liquidation, dissolution or winding-up, or the composition or readjustment of debts, of County, (2) the appointment of a trustee, receiver, custodian, liquidator, or the like of County or of all or any substantial part of its assets, or (3) similar relief in respect to County under any law relating to bankruptcy, insolvency, reorganization, winding-up, or composition or adjustment of debts, and such proceeding or case continues undismissed, or an order, judgment, or decree approving or ordering any of the foregoing is entered and continues unstayed and in effect for a period of sixty consecutive days, or an order for relief against County is entered in an involuntary case under the Federal Bankruptcy Code (as now or hereafter in effect).

9. ODHS Default. ODHS shall be in default under this Agreement upon the occurrence of any of the following events:

a. ODHS fails to perform, observe or discharge any of its covenants, agreements, or obligations set forth herein; or

b. Any representation, warranty or statement made by ODHS herein or in any documents or reports relied upon by County to measure performance by ODHS is untrue in any material respect when made.

10. Termination.

a. County Termination. County may terminate this Agreement:

(1) For its convenience, upon at least 30 days advance written notice to ODHS;

(2) Upon 45 days advance written notice to ODHS, if County does not obtain funding, appropriations and other expenditure authorizations from County's governing body, federal, state or other sources sufficient to

permit County to satisfy its performance obligations under this Agreement, as determined by County in the reasonable exercise of its administrative discretion;

(3) Upon 30 days advance written notice to ODHS, if ODHS is in default under this Agreement and such default remains uncured at the end of said 30-day period or such longer period, if any, as County may specify in the notice; or

(4) Immediately upon written notice to ODHS, if Oregon statutes or federal laws, regulations or guidelines are modified, changed or interpreted by the Oregon Legislative Assembly, the federal government or a court in such a way that County no longer has the authority to meet its obligations under this Agreement.

b. ODHS Termination. ODHS may terminate this Agreement:

(1) For its convenience, upon at least 30 days advance written notice to County;

(2) Upon 45 days advance written notice to County, if ODHS does not obtain funding, appropriations and other expenditure authorizations from federal, state or other sources sufficient to meet the payment obligations of ODHS under this Agreement, as determined by ODHS in the reasonable exercise of its administrative discretion. Notwithstanding the preceding sentence, ODHS may terminate this Agreement, immediately upon written notice to County or at such other time as it may determine if action by the Oregon Legislative Assembly or Emergency Board reduces ODHS' legislative authorization for expenditure of funds to such a degree that ODHS will no longer have sufficient expenditure authority to meet its payment obligations under this Agreement, as determined by ODHS in the reasonable exercise of its administrative discretion, and the effective date for such reduction in expenditure authorization is less than 45 days from the date the action is taken;

(3) Immediately upon written notice to County if Oregon statutes or federal laws, regulations or guidelines are modified, changed or interpreted by the Oregon Legislative Assembly, the federal government or a court in such a way that ODHS no longer has the authority to meet its obligations under this Agreement or no longer has the authority to provide payment from the funding source it had planned to use;

(4) Upon 30 days advance written notice to County, if County is in default under this Agreement and such default remains uncured at the end of said 30 day period or such longer period, if any, as ODHS may specify in the notice;

(5) Immediately upon written notice to County, if any license or certificate required by law or regulation to be held by County or a subcontractor to perform the Work is for any reason denied, revoked, suspended, not renewed or changed in such a

way that County or a subcontractor no longer meets requirements to perform the Work. This termination right may only be exercised with respect to the particular part of the Work impacted by loss of necessary licensure or certification; or

(6) Immediately upon written notice to County, if ODHS determines that County or any of its subcontractors have endangered or are endangering the health or safety of a client or others in performing work covered by this Agreement.

c. Mutual Termination. The Agreement may be terminated immediately upon mutual written consent of the parties or at such time as the parties may agree in the written consent.

11. Effect of Termination.

a. Entire Agreement.

(1) Upon termination of this Agreement, ODHS shall have no further obligation to pay County under this Agreement.

(2) Upon termination of this Agreement, County shall have no further obligation to perform Work under this Agreement.

b. Obligations and Liabilities. Notwithstanding Section 11.a., any termination of this Agreement shall not prejudice any obligations or liabilities of either party accrued prior to such termination.

12. Limitation of Liabilities. NEITHER PARTY SHALL BE LIABLE TO THE OTHER FOR ANY INCIDENTAL OR CONSEQUENTIAL DAMAGES ARISING OUT OF OR RELATED TO THIS AGREEMENT. NEITHER PARTY SHALL BE LIABLE FOR ANY DAMAGES OF ANY SORT ARISING SOLELY FROM THE TERMINATION OF THIS AGREEMENT OR ANY PART HEREOF IN ACCORDANCE WITH ITS TERMS.

13. Insurance. County shall require subcontractors to maintain insurance as set forth in Exhibit C, which is attached hereto.

14. Records Maintenance; Access. County shall maintain all financial records relating to this Agreement in accordance with generally accepted accounting principles. In addition, County shall maintain any other records, books, documents, papers, plans, records of shipments and payments and writings of County, whether in paper, electronic or other form, that are pertinent to this Agreement in such a manner as to clearly document County's performance. All financial records, other records, books, documents, papers, plans, records of shipments and payments and writings of County whether in paper, electronic or other form, that are pertinent to this Agreement, are collectively referred to as "Records." County acknowledges and agrees that ODHS and the Oregon Secretary of State's Office and the federal government and their duly authorized representatives shall have access to all Records to perform examinations and audits and make excerpts and transcripts. County shall retain and keep accessible all Records for a minimum of six years, or such longer period as may be required by applicable law, following final payment and termination of this Agreement, or until the conclusion of any audit, controversy or litigation arising out of or related to this Agreement, whichever date is

later. County shall maintain Records in accordance with the records retention schedules set forth in OAR Chapter 166.

15. Information Privacy/Security/Access. If the Work performed under this Agreement requires County or its subcontractor(s) to have access to or use of any ODHS computer system or other ODHS Information Asset for which ODHS imposes security

requirements, and ODHS grants County or its subcontractor(s) access to such ODHS Information Assets or Network and Information Systems, County shall comply and require all subcontractor(s) to which such access has been granted to comply with OAR 407-014-0300 through OAR 407-014-0320, as such rules may be revised from time to time. For purposes of this section, "Information Asset" and "Network and Information System" have the meaning set forth in OAR 407-014-0305, as such rule may be revised from time to time.

16. Force Majeure. Neither ODHS nor County shall be held responsible for delay or default caused by fire, civil unrest, labor unrest, natural causes, or war which is beyond the reasonable control of ODHS or County, respectively. Each party shall, however, make all reasonable efforts to remove or eliminate such cause of delay or default and shall, upon the cessation of the cause, diligently pursue performance of its obligations under this Agreement. ODHS may terminate this Agreement upon written notice to the other party after reasonably determining that the delay or breach will likely prevent successful performance of this Agreement.

17. Assignment of Agreement, Successors in Interest.

a. County shall not assign or transfer its interest in this Agreement without prior written approval of ODHS. Any such assignment or transfer, if approved, is subject to such conditions and provisions as ODHS may deem necessary. No approval by ODHS of any assignment or transfer of interest shall be deemed to create any obligation of ODHS in addition to those set forth in the Agreement.

b. The provisions of this Agreement shall be binding upon and shall inure to the benefit of the parties hereto, and their respective successors and permitted assigns.

18. Alternative Dispute Resolution. The parties should attempt in good faith to resolve any dispute arising out of this agreement. This may be done at any management level, including at a level higher than persons directly responsible for administration of the agreement. In addition, the parties may agree to utilize a jointly selected mediator or arbitrator (for non-binding arbitration) to resolve the dispute short of litigation.

19. Subcontracts. County shall not enter into any subcontracts for any of the Work required by this Agreement without ODHS' prior written consent. In addition to any other provisions ODHS may require, County shall include in any permitted subcontract under this Agreement provisions to require that ODHS will receive the benefit of subcontractor performance as if the subcontractor were County with respect to Sections 1, 2, 3, 4, 7, 15, 16, 18, 19, 20, and 22 of this Exhibit B. ODHS' consent to any subcontract shall not relieve County of any of its duties or obligations under this Agreement.

20. No Third Party Beneficiaries. ODHS and County are the only parties to this Agreement and are the only parties entitled to enforce its terms. The parties agree that County's

performance under this Agreement is solely for the benefit of ODHS to assist and enable ODHS to accomplish its statutory mission. Nothing in this Agreement gives, is intended to give, or shall be construed to give or provide any benefit or right, whether directly, indirectly or otherwise, to third persons any greater than the rights and benefits enjoyed by the general public unless such third persons are individually identified by name herein and expressly described as intended beneficiaries of the terms of this Agreement.

21. **Amendments.** No amendment, modification or change of terms of this Agreement shall bind either party unless in writing and signed by both parties and, when required, approved by the Department of Justice. Such amendment, modification, or change, if made, shall be effective only in the specific instance and for the specific purpose given.

22. **Severability.** The parties agree that if any term or provision of this Agreement is declared by a court of competent jurisdiction to be illegal or in conflict with any law, the validity of the remaining terms and provisions shall not be affected, and the rights and obligations of the parties shall be construed and enforced as if the Agreement did not contain the particular term or provision held to be invalid.

23. **Survival.** Sections 1, 4, 5, 6, 7, 10, 12, 13, 14, 15, 18, 20, 21, 22, 23, 24, 25, 26, 27, and 28 of this Exhibit B shall survive Agreement expiration or termination as well as those the provisions of this Agreement that by their context are meant to survive. Agreement expiration or termination shall not extinguish or prejudice either party's right to enforce this Agreement with respect to any default by the other party that has not been cured.

24. **Notice.** Except as otherwise expressly provided in this Agreement, any communications between the parties hereto or notices to be given hereunder shall be given in writing by personal delivery, facsimile, or mailing the same, postage prepaid to County or ODHS at the address or number set forth in this Agreement, or to such other addresses or numbers as either party may indicate pursuant to this section. Any communication or notice so addressed and mailed by regular mail shall be deemed received and effective five days after the date of mailing. Any communication or notice delivered by facsimile shall be deemed received and effective on the day the transmitting machine generates a receipt of the successful transmission, if transmission was during normal business hours of the recipient, or on the next business day if transmission was outside normal business hours of the recipient. Notwithstanding the forgoing, to be effective against the other party, any notice transmitted by facsimile must be confirmed by telephone notice to the other party. Any communication or notice given by personal delivery shall be deemed effective when actually delivered to the addressee.

ODHS: Office of Contracts & Procurement
635 Capitol Street NE, Suite 350
Salem, OR 97301
Telephone: 503-945-5818
Facsimile: 503-378-4324

25. **Headings.** The headings and captions to sections of this Agreement have been inserted for identification and reference purposes only and shall not be used to construe the meaning or to interpret this Agreement.

26. **Waiver.** The failure of either party to enforce any provision of this Agreement shall not constitute a waiver by that party of that or any other provision. No waiver or consent shall be effective unless in writing and signed by the party against whom it is asserted.

27. **Contribution.** If any third party makes any claim or brings any action, suit or proceeding alleging a tort as now or hereafter defined in ORS 30.260 ("Third Party Claim") against a party (the "Notified Party") with respect to which the other party ("Other Party") may have liability, the Notified Party must promptly notify the Other Party in writing of the

Third Party Claim and deliver to the Other Party a copy of the claim, process, and all legal pleadings with respect to the Third Party Claim. Either party is entitled to participate in the defense of a Third Party Claim, and to defend a Third Party Claim with counsel of its own choosing. Receipt by the Other Party of the notice and copies required in this paragraph and meaningful opportunity for the Other Party to participate in the investigation, defense and settlement of the Third Party Claim with counsel of its own choosing are conditions precedent to the Other Party's liability with respect to the Third Party Claim.

With respect to a Third Party Claim for which the State is jointly liable with County (or would be if joined in the Third Party Claim), the State shall contribute to the amount of expenses (including attorneys' fees), judgments, fines and amounts paid in settlement actually and reasonably incurred and paid or payable by County in such proportion as is appropriate to reflect the relative fault of the State on the one hand and of County on the other hand in connection with the events which resulted in such expenses, judgments, fines or settlement amounts, as well as any other relevant equitable considerations. The relative fault of the State on the one hand and of the County on the other hand shall be determined by reference to, among other things, the parties' relative intent, knowledge, access to information and opportunity to correct or prevent the circumstances resulting in such expenses, judgments, fines or settlement amounts. The State's contribution amount in any instance is capped to the same extent it would have been capped under Oregon law if the State had sole liability in the proceeding.

With respect to a Third Party Claim for which County is jointly liable with the State (or would be if joined in the Third Party Claim), County shall contribute to the amount of expenses (including attorneys' fees), judgments, fines and amounts paid in settlement actually and reasonably incurred and paid or payable by the State in such proportion as is appropriate to reflect the relative fault of County on the one hand and of the State on the other hand in connection with the events which resulted in such expenses, judgments, fines or settlement amounts, as well as any other relevant equitable considerations. The relative fault of County on the one hand and of the State on the other hand shall be determined by reference to, among other things, the parties' relative intent, knowledge, access to information and opportunity to correct or prevent the circumstances resulting in such expenses, judgments, fines or settlement amounts. County's contribution amount in any instance is capped to the same extent it would have been capped under Oregon law if it had sole liability in the proceeding.

28. **Indemnification by Subcontractors.** County shall take all reasonable steps to cause its contractor(s) that are not units of local government as defined in ORS 190.003, if any, to indemnify, defend, save and hold harmless the State of Oregon and its officers, employees and agents ("Indemnitee") from and against any and all claims, actions,

liabilities, damages, losses, or expenses (including attorneys' fees) arising from a tort (as now or hereafter defined in ORS 30.260) caused, or alleged to be caused, in whole or in part, by the negligent or willful acts or omissions of County's contractor or any of the officers, agents, employees or subcontractors of the contractor ("Claims"). It is the specific intention of the parties that the Indemnitee shall, in all instances, except for Claims arising solely from the negligent or willful acts or omissions of the Indemnitee, be indemnified by the contractor from and against any and all Claims.

29. Stop-Work Order. ODHS may, at any time, by written notice to County, require County to stop all, or any part of the work required by this Agreement for a period of up to 90 days after the date of the notice, or for any further period to which the parties may agree through a duly executed amendment. Upon receipt of the notice, County shall immediately comply with the Stop-Work Order terms and take all necessary steps to minimize the incurrence of costs allocable to the work affected by the stop work order notice. Within a period of 90 days after issuance of the written notice, or within any extension of that period to which the parties have agreed, ODHS shall either:

a. Cancel or modify the stop work order by a supplementary written notice; or

b. Terminate the work as permitted by either the Default or the Convenience provisions of Section 10. Termination.

If the Stop Work Order is canceled, ODHS may, after receiving and evaluating a request by County, make an adjustment in the time required to complete this Agreement and the Agreement price by a duly executed amendment.

EXHIBIT C Subcontractor Insurance Requirements

Local Government shall require its first tier contractor(s) (Contractor) that are not units of local government as defined in ORS 190.003, if any, to: i) obtain insurance specified under TYPES AND AMOUNTS and meeting the requirements under ADDITIONAL INSURED, "TAIL" COVERAGE, NOTICE OF CANCELLATION OR CHANGE, and CERTIFICATES OF INSURANCE before the contractors perform under contracts between Local Government and the contractors (the "Subcontracts"), and ii) maintain the insurance in full force throughout the duration of the Subcontracts. The insurance must be provided by insurance companies or entities that are authorized to transact the business of insurance and issue coverage in the State of Oregon and that are acceptable to Agency. Local Government shall not authorize contractors to begin work under the Subcontracts until the insurance is in full force. Thereafter, Local Government shall monitor continued compliance with the insurance requirements on an annual or more frequent basis. Local Government shall incorporate appropriate provisions in the Subcontracts permitting it to enforce contractor compliance with the insurance requirements and shall take all reasonable steps to enforce such compliance. Examples of "reasonable steps" include issuing stop work orders (or the equivalent) until the insurance is in full force or terminating the Subcontracts as permitted by the Subcontracts, or pursuing legal action to enforce the insurance requirements. In no event shall Local Government permit a contractor to work under a Subcontract when the Local Government is aware that the contractor is not in compliance with the insurance requirements. As used in this section, a "first tier" contractor is a contractor with which the county directly enters into a contract. It does not include a subcontractor with which the contractor enters into a contract.

1. WORKERS' COMPENSATION & EMPLOYERS' LIABILITY

All employers, including Contractor, that employ subject workers, as defined in ORS 656.027, shall comply with ORS 656.017 and shall provide workers' compensation insurance coverage for those workers, unless they meet the requirement for an exemption under ORS 656.126(2). Contractor shall require and ensure that each of its subcontractors complies with these requirements. If Contractor is a subject employer, as defined in ORS 656.023, Contractor shall also obtain employers' liability insurance coverage with limits not less than $500,000 each accident. If contractor is an employer subject to any other state's workers' compensation law, Contactor shall provide workers' compensation insurance coverage for its employees as required by applicable workers' compensation laws including employers' liability insurance coverage with limits not less than $500,000 and shall require and ensure that each of its out- of-state subcontractors complies with these requirements.

2. COMMERCIAL GENERAL LIABILITY:

☒ **Required**

Commercial General Liability Insurance covering bodily injury and property damage in a form and with coverage that are satisfactory to the State. This insurance shall include personal and advertising injury liability, products and completed operations, contractual liability coverage for the indemnity provided under this contract, and have no limitation of coverage to designated premises, project or operation. Coverage shall be written on an occurrence basis in an amount of not less than $1,000,000 per occurrence. Annual aggregate limit shall not be less than $2,000,000.

3. AUTOMOBILE LIABILITY INSURANCE: ☒ Required
☐ Not required

Automobile Liability Insurance covering Contractor's business use including coverage for all owned, non-owned, or hired vehicles with a combined single limit of not less than $500,000 for bodily injury and property damage. This coverage may be written in combination with the Commercial General Liability Insurance (with separate limits for Commercial General Liability and Automobile Liability). Use of personal automobile liability insurance coverage may be acceptable if evidence that the policy includes a business use endorsement is provided.

4. PROFESSIONAL LIABILITY: ☒ Required ☐ Not required

Professional Liability insurance covering any damages caused by an error, omission or any negligent acts related to the services to be provided under this Contract by the Contractor and Contractor's subcontractors, agents, officers or employees in an amount not less than $500,000 per claim. Annual aggregate limit shall not be less than $500,000. If coverage is on a claims made basis, then either an extended reporting period of not less than 24 months shall be included in the Professional Liability insurance coverage, or the Contractor shall provide Tail Coverage as stated below.

5. NETWORK SECURITY AND PRIVACY LIABILITY:
☐ Required ☒ Not required

6. POLLUTION LIABILITY:
☐ Required ☐ Not required

7. EXCESS/UMBRELLA INSURANCE:
A combination of primary and excess/umbrella insurance may be used to meet the required limits of insurance.

8. ADDITIONAL COVERAGE REQUIREMENTS:
Contractor's insurance shall be primary and non-contributory with any other insurance. Contractor shall pay for all deductibles, self-insured retention and self-insurance, if any.

ADDITIONAL INSURED:
All liability insurance, except for Workers' Compensation, Professional Liability, and Network Security and Privacy Liability (if applicable), required under this Subcontract must include an additional insured endorsement specifying the State of Oregon, its officers, employees and agents as Additional Insureds, including additional insured status with respect to liability arising out of ongoing operations and completed operations, but only with respect to Contractor's activities to be performed under this Contract. Coverage shall be primary and non-contributory with any other insurance and selfinsurance. The Additional Insured endorsement with respect to liability arising out of your ongoing operations must be on ISO Form CG 20 10 07 04 or equivalent and the Additional Insured endorsement with respect to completed operations must be on ISO form CG 20 37 07 04 or equivalent.

WAIVER OF SUBROGATION:
Contractor shall waive rights of subrogation which Contractor or any insurer of Contractor may acquire against the Agency or State of Oregon by virtue of the payment of any loss. Contractor will obtain any endorsement that may be necessary to affect this waiver of subrogation, but this provision applies

regardless of whether or not the Agency has received a waiver of subrogation endorsement from the Contractor or the Contractor's insurer(s).

TAIL COVERAGE:
If any of the required insurance is on a claims made basis and does not include an extended reporting period of at least 24 months, Contractor shall maintain either tail coverage or continuous claims made liability coverage, provided the effective date of the continuous claims made coverage is on or before the effective date of this Subcontract, for a minimum of 24 months following the later of (i) Contractor's completion and Local Government's acceptance of all Services required under this Subcontract, or, (ii) Local Government's or Contractor termination of contract, or, iii) The expiration of all warranty periods provided under this Subcontract.

CERTIFICATE(S) AND PROOF OF INSURANCE:
Local Government shall obtain from the Contractor a Certificate(s) of Insurance for all required insurance before delivering any Goods and performing any Services required under this Contract. The Certificate(s) shall list the State of Oregon, its officers, employees and agents as a Certificate holder and as an endorsed Additional Insured. The Certificate(s) shall also include all required endorsements or copies of the applicable policy language effecting coverage required by this contract. If excess/umbrella insurance is used to meet the minimum insurance requirement, the Certificate of Insurance must include a list of all policies that fall under the excess/umbrella insurance. As proof of insurance Agency has the right to request copies of insurance policies and endorsements relating to the insurance requirements in this Contract.

NOTICE OF CHANGE OR CANCELLATION:
The Contractor or its insurer must provide at least 30 days' written notice to Local Government before cancellation of, material change to, potential exhaustion of aggregate limits of, or non-renewal of the required insurance coverage(s).

INSURANCE REQUIREMENT REVIEW:
Contractor agrees to periodic review of insurance requirements by Agency under this agreement and to provide updated requirements as mutually agreed upon by Contractor and Agency.

STATE ACCEPTANCE:
All insurance providers are subject to Agency acceptance. If requested by Agency, Contractor shall provide complete copies of insurance policies, endorsements, self-insurance documents and related insurance documents to Agency's representatives responsible for verification of the insurance coverages required under this Exhibit C.

EXHIBIT D Federal Terms and Conditions

General Applicability and Compliance. Unless exempt under 45 CFR Part 87 for Faith-Based Organizations (Federal Register, July 16, 2004, Volume 69, #136), or other federal provisions, County shall comply and, as indicated, require all subcontractors to comply with the following federal requirements to the extent that they are applicable to this Agreement, to County, or to the Work, or to any combination of the foregoing. For purposes of this Agreement, all references to

federal and state laws are references to federal and state laws as they may be amended from time to time.

1. **Miscellaneous Federal Provisions.** County shall comply and require all subcontractors to comply with all federal laws, regulations, and executive orders applicable to the Agreement or to the delivery of Work. Without limiting the generality of the foregoing, County expressly agrees to comply and require all subcontractors to comply with the following laws, regulations and executive orders to the extent they are applicable to the Agreement: (a) Title VI and VII of the Civil Rights Act of 1964, as amended, (b) Sections 503 and 504 of the Rehabilitation Act of 1973, as amended, (c) the Americans with Disabilities Act of 1990, as amended, (d) Executive Order 11246, as amended, (e) the Health Insurance Portability and Accountability Act of 1996, as amended, (f) the Age Discrimination in Employment Act of 1967, as amended, and the Age Discrimination Act of 1975, as amended, (g) the Vietnam Era Veterans' Readjustment Assistance Act of 1974, as amended, (h) all regulations and administrative rules established pursuant to the foregoing laws, (i) all other applicable requirements of federal civil rights and rehabilitation statutes, rules and regulations, and (j) all federal laws requiring reporting of client abuse. These laws, regulations and executive orders are incorporated by reference herein to the extent that they are applicable to the Agreement and required by law to be so incorporated. No federal funds may be used to provide Work in violation of 42 U.S.C. 14402.
2. **Equal Employment Opportunity.** If this Agreement, including amendments, is for more than $10,000, then County shall comply and require all subcontractors to comply with Executive Order 11246, entitled "Equal Employment Opportunity," as amended by Executive Order 11375, and as supplemented in Department of Labor regulations (41 CFR Part 60).
3. **Clean Air, Clean Water, EPA Regulations.** If this Agreement, including amendments, exceeds $100,000 then County shall comply and require all subcontractors to comply with all applicable standards, orders, or requirements issued under Section 306 of the Clean Air Act (42 U.S.C. 7606), the Federal Water Pollution Control Act as amended (commonly known as the Clean Water Act) (33 U.S.C. 1251 to 1387), specifically including, but not limited to Section 508 (33 U.S.C. 1368), Executive Order 11738, and Environmental Protection Agency regulations (2 CFR Part 1532), which prohibit the use under non-exempt Federal contracts, grants or loans of facilities included on the EPA List of Violating Facilities. Violations shall be reported to ODHS, United States Department of Health and Human Services and the appropriate Regional Office of the Environmental Protection Agency. County shall include and require all subcontractors to include in all contracts with subcontractors receiving more than $100,000, language requiring the subcontractor to comply with the federal laws identified in this section.
4. **Energy Efficiency.** County shall comply and require all subcontractors to comply with applicable mandatory standards and policies relating to energy efficiency that are contained in the Oregon energy conservation plan issued in compliance with the Energy Policy and Conservation Act 42 U.S.C. 6201 et. seq. (Pub. L. 94-163).
5. **Truth in Lobbying.** By signing this Agreement, County certifies, to the best of the County's knowledge and belief that:

a. No federal appropriated funds have been paid or will be paid, by or on behalf of County, to any person for influencing or attempting to influence an officer or employee of an agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any federal contract, the making of any federal grant, the making of any federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment or modification of any federal contract, grant, loan or cooperative agreement.

b. If any funds other than federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this federal contract, grant, loan or cooperative agreement, County shall complete and submit Standard Form LLL, "Disclosure Form to Report Lobbying" in accordance with its instructions.

c. County shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients and subcontractors shall certify and disclose accordingly.

d. This certification is a material representation of fact upon which reliance was placed when this Agreement was made or entered into. Submission of this certification is a prerequisite for making or entering into this Agreement imposed by section 1352, Title 31 of the U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than $10,000 and not more than $100,000 for each such failure.

e. No part of any federal funds paid to County under this Agreement shall be used, other than for normal and recognized executive legislative relationships, for publicity or propaganda purposes, for the preparation, distribution, or use of any kit, pamphlet, booklet, publication, electronic communication, radio, television, or video presentation designed to support or defeat the enactment of legislation before the United States Congress or any State or local legislature itself, or designed to support or defeat any proposed or pending regulation, administrative action, or order issued by the executive branch of any State or local government itself.

f. No part of any federal funds paid to County under this Agreement shall be used to pay the salary or expenses of any grant or contract recipient, or agent acting for such recipient, related to any activity designed to influence the enactment of legislation, appropriations, regulation, administrative action, or Executive order proposed or pending before the United States Congress or any State government, State legislature or local legislature or legislative body, other than for normal and recognized executive-legislative relationships or participation by an agency or officer of a State, local or tribal government in policymaking and administrative processes within the executive branch of that government.

g. The prohibitions in subsections (e) and (f) of this section shall include any activity to advocate or promote any proposed, pending or future Federal, State or local tax increase, or any proposed, pending, or future requirement or restriction an any legal consumer product, including its sale or marketing, including but not limited to the advocacy or promotion of gun control.

h. No part of any federal funds paid to County under this Agreement may be used for any activity that promotes the legalization of any drug or other substance included in schedule I of the schedules of controlled substances established under section 202 of the Controlled Substances Act except for normal and recognized executive congressional communications. This limitation shall not apply when there is significant medical evidence of a therapeutic advantage to the use of such drug or other substance of that federally sponsored clinical trials are being conducted to determine therapeutic advantage.

6. Resource Conservation and Recovery. County shall comply and require all subcontractors to comply with all mandatory standards and policies that relate to resource conservation and recovery pursuant to the Resource Conservation and Recovery Act (codified at 42 U.S.C. 6901 et. seq.). Section 6002 of that Act (codified at 42 U.S.C. 6962) requires that preference be given in procurement programs to the purchase of specific products containing recycled materials identified in guidelines developed by the Environmental Protection Agency. Current guidelines are set forth in 40 CFR Part 247.

7. Audits.

a. County shall comply, and require any subcontractor to comply, with applicable audit requirements and responsibilities set forth in this Agreement and applicable state or federal law.

b. If County expends $750,000 or more in federal funds (from all sources) in a federal fiscal year, County shall have a single organization-wide audit conducted in accordance with the provisions of 2 CFR Subtitle B with guidance at 2 CFR Part 200. Copies of all audits must be submitted to ODHS within 30 days of completion. If County expends less than $750,000 in a federal fiscal year, Recipient is exempt from Federal audit requirements for that year. Records must be available as provided in Exhibit B, "Records Maintenance, Access".

8. Debarment and Suspension. County shall not permit any person or entity to be a subcontractor if the person or entity is listed on the non-procurement portion of the General Service Administration's "List of Parties Excluded from Federal Procurement or Non-procurement Programs" in accordance with Executive Orders No. 12549 and No. 12689, "Debarment and Suspension". (See 2 CFR Part 180.) This list contains the names of parties debarred, suspended, or otherwise excluded by agencies, and contractors declared ineligible under statutory authority other than Executive Order No. 12549. Subcontractors with awards that exceed the simplified acquisition threshold shall provide the required certification regarding their exclusion status and that of their principals prior to award.

9. **Pro-Children Act.** County shall comply and require all subcontractors to comply with the Pro-Children Act of 1994 (codified at 20 U.S.C. Section 6081 et. seq.).

10. **Medicaid Services. RESERVED.**

11. **Agency-based Voter Registration.** If applicable, County shall comply with the Agency-based Voter Registration sections of the National Voter Registration Act of 1993 that require voter registration opportunities be offered where an individual may apply for or receive an application for public assistance.

12. **Disclosures. RESERVED.**

13. **Federal Intellectual Property Rights Notice.** The federal funding agency, as the awarding agency of the funds used, at least in part, for the Work under this Agreement, may have certain rights as set forth in the federal requirements pertinent to these funds. For purposes of this subsection, the terms "grant" and "award" refer to funding issued by the federal funding agency to the State of Oregon. County agrees that it has been provided the following notice:

a. The federal funding agency reserves a royalty-free, nonexclusive and irrevocable right to reproduce, publish, or otherwise use the Work, and to authorize others to do so, for Federal Government purposes with respect to:

(1) The copyright in any Work developed under a grant, subgrant or agreement under a grant or subgrant; and

(2) Any rights of copyright to which a grantee, subgrantee or a contractor purchases ownership with grant support.

b. The parties are subject to applicable federal regulations governing patents and inventions, including government-wide regulations issued by the Department of Commerce at 37 CFR Part 401, "Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts and Cooperative Agreements."

c. The parties are subject to applicable requirements and regulations of the federal funding agency regarding rights in data first produced under a grant, subgrant or agreement under a grant or subgrant.

14. **Federal Whistleblower Protection.** County shall comply, and ensure the compliance by subcontractors or subgrantees, with 41 U.S.C. 4712, Enhancement of contractor protection from reprisal for disclosure of certain information.

ATTACHMENT 1

State of Oregon-Department of Human Services
Child Welfare Central Office Mediation Authorization Form Mediation Referral Number: Mediator: Mediator Contract Number:

To:		**From:**	
		Phone:	
		E-Mail:	Adoptions.Mediation@dhsoha.state.or.us
Number of Pages:	**, including cover**	**Address:**	**500 Summer St NE, E-71 Salem, OR 97301-1067**

Case #:	
Child(ren)'s Names:	**Case # (If different)**

Mediation Referral ☐		☐ **Adoption Referral**	☐ **Guardianship Referral**
Effective Date:			
Expiration Date:			
☐ **Amend Referral**		**New Expiration Date:**	
☐ **Add Child(ren) or Participants**			
☐ **Additional Hours**		**From to**	
☐ **Travel Approved**		☐ **Translation Needed (Caseworker to arrange)**	

Approved by:

Oregon Department of Human Services	**Date**

Attachment 2

ODHS

Mediation

Referral

DHS Oregon Department of Human Services

Mediation Referral

☐ For adoption or ☐ For guardianship *(check one)*

Section 1: Participant(s) information

Date: ___/___/_____ Case number: _____

Case name: _____

Participant(s) have signed MSC 2099, "Authorization for Use and Disclosure of Information":

☐ Yes ☐ No

Name(s) of child(ren) referred:	DOB:
	/ /
	/ /
	/ /
	/ /
	/ /
	/ /
	/ /

If any child(ren) referred should participate in the mediation, note name(s):

_____

_____

Mediation participants *(check all that apply)*:	
☐	Birth mother
☐	Birth father
☐	Adoptive mother
☐	Adoptive father
☐	Guardian mother
☐	Guardian father
☐	Other *(specify relationship)*:

_____

_____

_____

Who requested the mediation referral? _____

Section 2: Child(ren) placement plan

☐	Adoption general applicant	Adoption selection date:	/ /
☐	Current caretaker	Permanency committee date:	/ /
☐	Relative caregiver	Permanency committee date:	/ /
☐	Non-caregiver relative	Date adoption home study initiated:	/ /
☐	Guardianship	Permanency committee date:	/ /

Are other placement resources being considered?* ☐ Yes ☐ No

***A mediation referral should be submitted if only one resource is being considered.**

Section 3: Documented safety concerns

The child(ren)'s safety is paramount. Please note any documented safety concerns that must be addressed in a written, mediated agreement. You may check more than one and add details, if needed.

This list will be shared with mediation participants

Safety concerns:

☐ Current or past substance abuse

☐ Violence against a child or adult
☐ Sexual contact with a child
☐ Threats or intimidation toward a child's caretaker, or threats of removal of the child from his or her caretaker(s)
☐ Other concern(s): _____
☐ Additional details: _____

Section 4: Referral information

Name of mediator selected:* _____

***Worker must contact mediator before referral.**

Worker's name: _____ Date: / /

DHS local office: _____ Phone: - - ext.

Supervisor's signature: _____ Date: / /

CENTRAL OFFICE USE ONLY

LAS signature: _____ Date: / /

Date received in CO: / /

Assigned to: _____ Assigned date: / /

Section 5: Contact information for mediator

1. **Child(ren)'s caseworker:** _____
   Phone: - - ext. Email: _____
   DHS office/address: _____
   City, State, ZIP: _____
2. **Certifier/adoption worker:** _____
   Phone: - - ext. Email: _____
3. **Band or tribe:** _____
   Tribal contact person: _____
   Phone: - - ext. Email: _____
4. **Biological mother's attorney:** _____
   Phone: - - ext. Email: _____
5. **Biological father's attorney:** _____
   Phone: - - ext. Email: _____
6. **Child(ren)'s attorney:** _____
   Phone: - - ext. Email: _____
7. **Adoptive parent(s) or guardian(s) attorney:** _____
   Phone: - - ext. Email: _____
8. **CASA:** _____
   Phone: - - ext. Email: _____

Section 6: Mediation participants

1. **Biological mother:** _____
   Phone: ___ - ___ - _____ Email: _____
   Address: _____
   City, State, ZIP: _____
2. **Biological father:** _____
   Phone: ___ - ___ - _____ Email: _____
   Address: _____
   City, State, ZIP: _____
3. **Adoptive parent(s)/guardian(s):** _____
   Phone: ___ - ___ - _____ Email: _____
   Address: _____
   City, State, ZIP: _____

Other mediation participant(s):

1. **Name:** _____
   Phone: _____ Email: _____
   Address: _____
   City, State, ZIP: _____
   Relationship to the child: _____
2. **Name:** _____
   Phone: ___ - ___ - _____ Email: _____
   Address: _____
   City, State, ZIP: _____
   Relationship to the child: _____
3. **Name:** _____
   Phone: ___ - ___ - _____ Email: _____
   Address: _____
   City, State, ZIP: _____
   Relationship to the child: _____
4. **Name:** _____
   Phone: ___ - ___ - _____ Email: _____
   Address: _____
   City, State, ZIP: _____
   Relationship to the child: _____

CASEWORKER USE ONLY:

Completed/signed CF 0437 to be sent to: Adoptions.Mediation@dhsoha.state.or.us

Attachment 3

AGREEMENT TO MEDIATE

This is an Agreement among the persons who sign the Agreement. Each person who signs this agrees that the following terms and conditions apply to the mediation:

The process of mediation has been explained to me. The purpose of mediation is to reach a cooperative final mediation Agreement that is in the best interest of my child(ren) _____.

I understand that the role of the Mediator is to be impartial. The Mediator is not a decision-maker and does not represent any of the persons who sign this Agreement. The Mediator cannot force any person who signs this Agreement to agree to any plan. The Mediator has told me of any conflicts of interest that he or she may have in this matter. I understand that the Mediator follows the Code of Ethics established by the _____

I am participating voluntarily in the mediation and understand that I may choose to end the mediation at any time.

I understand that the Mediator is not an employee of ODHS. The Mediator has a professional contract with ODHS and will be paid for his/her services through that contract.

I understand that the Mediator cannot put into effect a final mediation Agreement unless all the persons who sign this Agreement say that he or she can. I understand that the Mediator will provide to all persons who sign this Agreement and their attorneys a copy of the final mediation Agreement that the participants sign. The final mediation Agreement will not be kept confidential.

The Mediator will not reveal anything that is said in mediation without the permission of all participants *except for* any information about an injury or possible injury to a child, any crime that likely will cause death or bodily injury to any person, or information that makes the Mediator concerned about the health or safety of any child.

I understand that mediation is confidential and private because it is protected by Oregon law and ODHS rules. I may request a copy of the ODHS rules from the Mediator, attorney or caseworker. "Confidential and private" means that what the participants say to the Mediator and to each other is secret unless the rules let the participants share the information with other people. The participants cannot tell people who are not a part of the mediation about what is said during the mediation. The laws that make ODHS records secret are not changed by ODHS rules. The rules will explain more about what information can and cannot be shared with other people. If I have questions or comments about the rules, I will not sign any Agreement and will talk with my attorney.

Oregon laws and rules control this Agreement, the mediation, and the final written Agreement.

I understand that the Mediator will help us reach a final mediation Agreement, but cannot give legal help or advice. I understand that I must arrange to speak with an attorney if I have legal questions about the Agreement or the mediation. I understand that if I do not qualify for a court appointed attorney, I will have to be responsible to pay for my attorney costs.

I agree to come to all scheduled appointments, to call ahead if late or rescheduling, and to notify the Mediator if I decide to end mediation.

By signing below, I am showing that I have read this Agreement and understand it and agree to its terms and conditions.

Participant	Date
Participant	Date
Participant	Date
Participant	Date
Participant	Date
Mediator	Date

CLACKAMAS COUNTY

Daniel Nibouar
Interim Director

Disaster Management
1710 Red Soils Ct., Ste. 225
Oregon City, OR 97045

T 503-655-8378
clackamas.us

September 14, 2021

Board of County Commissioners
Clackamas County

Members of the Board:

Certification of Designation of Agent Resolution
for FEMA Hazard Mitigation Grant Program (HMGP) - 5327

Purpose/Outcomes	Disaster Management (DM) requests certification of the designation of agent to the interim disaster management director to sign the grant application to upgrade the Upper Sandy River Flood Warning System.
Dollar Amount and Fiscal Impact	The purpose of this HMGP proposal is to upgrade the equipment and improve service reliability of four* of the five gauge sites of the existing warning system by establishing direct dedicated power connectivity to PGE service and with a dedicated interface to the County's fiber optic broadband service (CBX) to each station. This HMGP project would cover the service installation costs for electric and fiber connectivity, AC converter equipment, updated Campbell Scientific LoggerNet Administrative software, and the labor for an electrician to complete the installation. Disaster Management will assume the monthly recurring costs for PGE and CBX services. Total $85,000, 25% Local Match $21,250, Monthly Service Fees $630
Funding Source	General Fund for 25% local match (already in DM budget
Duration	Grant performance period is three years with ongoing monthly fees for electricity and fiber broadband services.
Previous Board Action	The Board approved the application for the FEMA HMGP-5327 on April 29, 2021. Item E.2.
Strategic Plan Alignment	1. Ensure Safe, Healthy and Secure Communities
County Counsel Review	Stephen Madkour on 3-14-21.
Procurement Review	Grant application. Procurement review is not required.
Contact Person	Jay Wilson, (503) 723-4848

BACKGROUND:
The Board previously approved Disaster Management to apply for the FEMA Hazard Mitigation Grant Program-5327 on April 29, 2021. That approval was sent to FEMA and FEMA has requested the certification as part of their process. The description of the project from the request on April 20, 2021 is below.

This proposal is to improve the service and risk reduction for the existing flood warning system that was originally installed in 2014 with HMGP#1956.0005. The function is to provide near-field monitoring of the, Salmon, Zig Zag, and upper Sandy rivers flowing through numerous

CLACKAMAS COUNTY

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residential areas. The system's original five gauge stations, designed by Campbell Scientific, uses five sonar-based sensors mounted under County-owned bridges to detect the water surface level. These stations are solar powered with battery storage and communicate the data every 15 minutes with individual station radio signals to a base station at Hoodland Fire near Welches. Following the complete installation of the system in 2017, the operational reliability has suffered due to poor radio transmission and intermittent solar charging due to snow and ice accumulation on the solar panels. Since 2019 the system has been offline.

A working flood warning system will serve approximately 500 riverside residential properties, along with several thousand properties in the broader channel migration zone, and allow County 1 and local emergency officials to track emerging flood conditions of the three rivers within the 10-mile area of the upper Sandy River Basin.

*The site along the upper Salmon River on Bridge Street is not cost effective for both PGE and CBX and will be decommissioned. The remaining four sites are: two on the upper Sandy River – Lolo Pass Road Bridge and on the Brightwood Bridge; one on the lower Salmon River – Brightwood Bridge; and one on the lower Zig Zag River Bridge on Lolo Pass Road.Clackamas County.

RECOMMENDATION:
Staff respectfully recommends the Certification of the Designation of Agent Resolution

Sincerely,

Daniel Nibouar
Interim Director

Attachments: HMGP-5327 Designation of Agent Resolution

DESIGNATION OF AGENT

RESOLUTION

BE IT RESOLVED Board of County Commissioners **OF** Clackamas County
(Governing Body) **(Public Entity)**

THAT Daniel Nibouar, Interim Director of Disaster Management
(Name) **(Title)**

is hereby authorized to execute for and in behalf of

Clackamas County,

a public entity established under the laws of the Oregon, all required forms and documents for the purpose of obtaining financial assistance for the Hazard Mitigation Grant Program (HMGP), or Hazard Mitigation Grant Program Post Fire (HMGP-PF), or the Building Resilient Infrastructure and Communities (BRIC) program under the Disaster Recovery Reform Act of 2018 (DRRA) or the Flood Mitigation Assistance (FMA) program, as pertains to federal mitigation grant programs indicated below (check all that apply):

☐ HMGP ☑ HMGP-PF ☐ BRIC ☐ FMA

Passed and approved this _____ day of _____, 20_____.

CERTIFICATION

I, _____, duly appointed and _____
(Name) (Title)

of Clackamas County, do hereby certify that the above is a true and correct copy of
(Public Entity)

a resolution passed and approved by the Board of County Commissioners
(Governing Body)

of Clackamas County on the _____ day of _____ ___.

_____ _____ _____
(Signature) (Official Position) (Date)

CLACKAMAS COUNTY

Daniel Nibouar
Interim Director

Disaster Management
1710 Red Soils Ct., Ste. 225
Oregon City, OR 97045

T 503-655-8378
clackamas.us

September 23, 2021

Board of County Commissioners
Clackamas County

Members of the Board:

Approval to Apply for FEMA 2021 Building Resilient Infrastructure for Communities (BRIC) Grant Funds to Sponsor PGE Hwy 26 Electric Utility Resilience Project - Stage 1

Purpose/ Outcome	Disaster Management requests approval to apply for 2021 BRIC funds for PGE to underground utility infrastructure along the Mt Hood Corridor.
Dollar Amount and Fiscal Impact	PGE estimates that over the next several years, the project will cost between $400 million to $600 million and they will annually seek the $50 million project maximum FEMA BRIC grant funding that covers the 75% federal grant share. With the grant eligibility of the County, PGE intends to apply every year for this funding and to cover to 25% local match and project administration. There will be no cost to Clackamas County and the county will be compensated for any time required for compliance filings.
Funding Source	FEMA BRIC grant and PGE local match - No general funds are involved.
Duration	Grant performance period is three years from award date.
Previous Board Action/Review	Board Issues 9/14/21 – Item 1. Proceed to Consent Agenda.
Strategic Plan Alignment	1. Ensure Safe, Healthy and Secure Communities – This project will foster community resilience though planning and preparedness. 2. Build a Strong Infrastructure – This will support long-term investments in strong and affordable infrastructure.
Counsel Review	Council review is not required until agreement is awarded.
Procurement Review	Grant application. Procurement review is not required.
Contact Person	Jay Wilson, 503-723-4848

BACKGROUND: As a private utility, PGE is not eligible to directly apply for the FEMA BRIC grants, but the County is eligible and can sponsor the FEMA grant for PGE's work on behalf of the Mt Hood communities. In fact, the County's 2019 Multi-Jurisdictional Natural Hazard Mitigation Plan has existing goals and actions already identified to

support public-private partnerships and encourage utilities to underground critical infrastructure.

At this time, the County will need to submit a 2021 BRIC pre-application by September 23rd to the State for review and to be ranked for approval consideration. If approved, the County will then submit the full BRIC sub-application by January 17, 2022 for nationwide competition for BRIC grant funding. There is no obligation to the County by submitting the pre-application. All necessary administrative and legal procedures can be arranged prior to the full sub-application submittal.

RECOMMENDATION:
Staff respectfully recommends the Board approve the submittal of the BRIC pre-application in partnership with PGE.

Respectfully submitted,

Daniel Nibouar,
Interim Director

Daniel Nibouar
Interim Director

Disaster Management
1710 Red Soils Ct., Ste. 225
Oregon City, OR 97045

T 503-655-8378
clackamas.us

September 23, 2021

Board of County Commissioners
Clackamas County

Members of the Board:

Approval of Memorandum of Agreement between Clackamas County and the Molalla United Methodist Church for emergency/disaster related use of the Church

Purpose/Outcomes	This Memorandum of Agreement (MOA) allows Clackamas County to use Molalla United Methodist Church post-emergency/disaster purposes such as vaccine points of distribution.
Dollar Amount and Fiscal Impact	The MOA has no monetary value. The County agrees to pay for expenses to ensure facilities are returned to their pre-use condition, as well as any facility-related expenses incurred during the time the County is making use of the facility. The County is only responsible for expenses that are additional expenses incurred by the church. If needed, those expenses will paid with from Federal grants that provide funds for that purpose.
Funding Source	None
Duration	June 30, 2022, or until terminated by either party.
Previous Board Action	The Board has approved similar agreements with other churches, school districts and local municipalities.
Strategic Plan Alignment	1. Coordination and Integration of Planning and Preparedness 2. Ensure Safe, Healthy and Secure Communities
Counsel Review	Approved by Counsel – AN on 5/3/21
Contact Person	Philip Mason-Joyner, Public Health Director, 503-742-5956
Contract No.	None

BACKGROUND:
This agreement allows the County to use Molalla United Methodist Church as a point of dispensing site for pharmaceuticals and commodities needed by county residents after a major emergency or disaster. Public Health developed this agreement for use of Molalla United Methodist Church to administer COVID-19 vaccinations through indoor community clinics.

RECOMMENDATION:
Staff respectfully recommends Board approval of the Memorandum of Understanding between Clackamas County and Molalla United Methodist Church.

Respectfully submitted,

Daniel Nibouar, Interim Director

FACILITIES USE AGREEMENT

between the

Molalla United Methodist Church

and

Clackamas County

This Facilities Use Agreement (this "Agreement") is entered into this 7 day of September 2021, by and between the Molalla United Methodist Church, hereinafter referred to as Partner, and Clackamas County, hereinafter referred to as County.

WHEREAS, Clackamas County is the Local Public Health Authority under ORS Chapter 431 for all cities and unincorporated areas within its borders; and

WHEREAS, the County is authorized by ORS Chapter 401 to establish procedures to prepare for and carry out any activity to prevent, minimize, respond to or recover from an emergency; and

WHEREAS, the County and Partner desire to establish a relationship of cooperation in the event of a natural or human-caused public health or other emergency in Clackamas County where mass care, vaccination, medication, commodity (e.g., food, water) distribution centers and/or other activities become necessary for emergency activities; and

WHEREAS, the Partner is the owner of certain real property described as [Molalla United Methodist Church, 111 S. Mathias Rd, Molalla, OR 97038] (the "Property") that can accommodate mass care, vaccination, medication, commodity distribution, and other activities that, in the event of a public health and/or other related regional emergency, would assist the County in performing its functions described above; and

WHEREAS, the County and Partner desire to establish an agreement for use of Partner's Property in advance of potential public health or natural disasters;

NOW, THEREFORE, in consideration of the mutual obligations as described in this Agreement, the parties understand that:

A. Use of Property: Partner hereby grants County the right to use the Property for the following purposes, together with any use reasonably related to the same:

- ☒ Point of distribution (vaccines, medication, commodities (e.g. food, water))
- ☐ Sheltering for community members
- ☐ Sheltering for small animals
- ☐ Sheltering for large animals
- ☐ Long-term housing trailers
- ☐ Landing zones
- ☐ Community reception / reunification / assistance centers
- ☐ Children disaster services
- ☐ Community meetings
- ☒ General emergency response/coordination

B. Term: this Agreement shall be effective upon execution and shall terminate (1) upon mutual written consent of the parties; (2) for convenience following thirty (30) days' written notice to the other party, or (3) upon breach of the terms of this Agreement.

C. Compensation: County shall compensate Partner as follows [CHECK ONE]:

X Partner agrees not to charge any fee for County's use of the Property.

☐ County will pay Partner the sum of $ [INSERT COMPENSATION SCHEDULE].

D. Dates of Use: Upon notice by County of the occurrence of an emergency or other event necessitating County's requested use of the Property, Partner shall vacate the Property, or portions thereof, at a date and time mutually agreed upon by the parties.

E. Partner's Responsibilities: Partner's responsibilities for County's use of the Property are as follows:

a) Partner makes no warranty or representation about the Property. County accepts the Property "AS IS." The parties will jointly conduct a pre-occupancy survey of the Property before County takes possession, and agree to record any existing damage or conditions.

b) Partner shall make personnel available, at County's expense, to address facility-related issues that may occur during the time the County is making use of the Property.

c) Partner shall identify and maintain a current contact list, attached hereto as Attachment A and incorporated by this reference herein, for the following applicable Property-related contacts:

1. Security systems;
2. Electrical systems;
3. Refrigeration systems;
4. Heating and cooling; and
5. Facilities Management.

d) Unless otherwise agreed to by the parties in writing, Partner shall be responsible for all utility services, and associated fees and charges, to the Property.

F. County's Responsibilities: County's responsibilities for use of the Property are as follows:

a) County agrees to leave the Property in its original, clean condition. County will remove all equipment and personal property brought onto the Property. County will use reasonable care to prevent damage to the Property. County shall be responsible for any cleaning, repair, or remediation costs arising from or related to County's use of the Property.

b) The County will not make any changes or modifications to the facilities without Partner's prior written approval.

c) The County will notify Partner as soon as practicable when the Property has been cleared and is available for re-occupancy by the Partner.

G. Indemnification: Subject to the limitations of the Oregon Tort Claims Act (ORS 30.260 – 30.300) and the Oregon Constitution, Article XI, Section 10, County agrees to defend, indemnify and hold the Partner harmless from any loss, damage, injury, claim, or demand caused by the negligent or willful acts of the County or its officers, elected officials, employees, agents, or anyone over which the County has a right to control.

H. Insurance. The parties agree to maintain levels of insurance, or self-insurance, sufficient to satisfy their obligations under this Agreement and all requirements under applicable law.

I. Oregon Law and Forum. This Agreement, and all rights, obligations, and disputes arising out of it will be governed by and construed in accordance with the laws of the State of Oregon. Any claim between County and Partner that arises from or relates to this Agreement shall be brought and conducted solely and exclusively within the Circuit Court of Clackamas County for the State of Oregon; provided, however, if a claim must be brought in a federal forum, then it shall be brought and conducted solely and exclusively within the United States District Court for the District of Oregon.

J. Compliance with Applicable Law. Both Parties shall comply with all applicable local, state and federal ordinances, statutes, laws and regulations. All provisions of law required to be a part of this Agreement, whether listed or otherwise, are hereby integrated and adopted herein. Failure to comply with such obligations is a material breach of this Agreement.

K. Debt Limitation. This Agreement is expressly subject to the limitations of the Oregon Constitution and Oregon Tort Claims Act, and is contingent upon appropriation of funds. Any provisions herein that conflict with the above referenced laws are deemed inoperative to that extent.

L. Integration, Amendment and Waiver. Except as otherwise set forth herein, this Agreement constitutes the entire agreement between the parties. There are no understandings, agreements, or representations, oral or written, not specified herein regarding this Agreement. No waiver, consent, modification or change of terms of this Agreement shall bind either party unless in writing and signed by both parties and all necessary approvals have been obtained. The failure of either party to enforce any provision of this Agreement shall not constitute a waiver by such party of that or any other provision.

M. Independent Contractor. Each of the parties hereto shall be deemed an independent contractor for purposes of this Agreement. No representative, agent, employee or contractor of one party shall be deemed to be a representative, agent, employee or contractor of the other Party for any purpose, except to the extent specifically provided herein. Nothing herein is intended, nor shall it be construed, to create between the parties any relationship of principal and agent, partnership, joint venture or any similar relationship, and each party hereby specifically disclaims any such relationship.

N. No Third-Party Beneficiary. Partner and County are the only parties to this Agreement and are the only parties entitled to enforce its terms. Nothing in this Agreement gives, is intended to give, or shall be construed to give or provide any benefit or right, whether directly, indirectly or otherwise, to third persons unless such third persons are individually identified by name herein and expressly described as intended beneficiaries of the terms of this Agreement.

O. Counterparts. This Agreement may be executed in several counterparts (electronic or otherwise), each of which shall be an original, all of which shall constitute the same instrument.

P. Necessary Acts. Each Party shall execute and deliver to the others all such further instruments and documents as may be reasonably necessary to carry out this Agreement.

Q. Successors in Interest. The provisions of this Agreement shall be binding upon and shall inure to the benefit of the parties hereto, and their respective authorized successors and assigns.

R. Contact Information

Unless specified otherwise, for purposes of this Agreement the following persons will serve as the official points of contact for each party:

Clackamas County Disaster Management
Daniel Nibouar
Interim Director
2200 Kaen Road
Oregon City, OR 97045
(503) 655-8665
dnibouar@clackamas.us

Molalla United Methodist Church
Jonathon Hughes
Pastor
111 S. Mathias Road
Molalla, OR 97038
971-900-6262
pastorjon@molallaumc.org

(Signature Page Follows)

SIGNATURE PAGE TO MEMORANDUM OF AGREEMENT BETWEEN CLACKAMAS COUNTY AND MOLALLA UNITED METHODIST CHURCH FOR USE OF MOLALLA UNITED METHODIST CHURCH FACILITY

CLACKAMAS COUNTY
BOARD OF COUNTY COMMISSIONERS

_____
Chair

ATTEST:

_____
Clerk of the Board

APPROVED AS TO FORM:

Daniel Nibouar
_____
County Counsel

MOLALLA UNITED METHODIST CHURCH

_____
By: Jonathon Hughes
Title: Pastor

ATTACHMENTS

MOLALLA UNITED METHODIST CHURCH

Facility Physical Address: 111 S Mathias Rd, Molalla OR 97038

The following are primary decision maker contacts for the above listed facility in order of first responsibility as of September 7, 2021:

Call down order	Name	Title/Role	Office Phone	Cell Phone	Email
1	Jon Hughes	Pastor	503-829-8076	971-900-6262	pastorjon@molallaumc.org
2	Ed Appleman	Pres/Trustees	503-829-3266		evappleman@gmail.com
3	Vicki Smith	Council Chair	503-263-6949		
4					
5					
6					

Contacts for key facility systems are:

System	Name	Title/Role	Office Phone	Cell Phone	Email
Security	Ed Appleman	Pres/Trustees	503-829-3266		evappleman@gmail.com
Electrical	Ed Appleman	Pres/Trustees	503-829-3266		evappleman@gmail.com
Refrigeration	Ed Appleman	Pres/Trustees	503-829-3266		evappleman@gmail.com
Heating and cooling	Ed Appleman	Pres/Trustees	503-829-3266		evappleman@gmail.com
Facilities Management	Ed Appleman	Pres/Trustees	503-829-3266		evappleman@gmail.com

Elizabeth Comfort
Finance Director

CLACKAMAS COUNTY

Department of Finance
Public Services Building
2051 Kaen Road, Suite 490 | Oregon City, OR 97045

Board of County Commissioners
Clackamas County

Members of the Board:

Approval of Purchase of Annual Software Support Service from Oracle America, Inc.
for PeopleSoft Software

Purpose/Outcome	To authorize the purchase of continued software support services for the County's finance and human resource PeopleSoft software.
Dollar Amount and Fiscal Impact	$506,304.10
Funding Source	Funded by general funds through the Tech Services Department budget. 747-18-1802-180202-45130-1801010071
Duration	September 30, 2021 through September 29, 2022.
Previous Board Action	Approval of original contract in 1998 and subsequent annual renewals thereafter.
Strategic Plan Alignment	1. Ensure Financial Transparency and Accountability 2. Builds Public Trust through Good Government
County Counsel Review	Reviewed Date: 9/15/21ARN
Procurement Review	1. Was this item processed through Procurement? ☒ yes ☐ no 2. If no, provide a brief explanation:
Contact Person	Christa Bosserman Wolfe, 503-758-4839
Contract No.	#2109189, #P-98-913-00-000—24, #18889613, #18891081

BACKGROUND:

In 1998, the County purchased licenses and technical support services from PeopleSoft USA, Inc. for its Enterprise Resource Planning and Human Resources Information Management software. Subsequently, Oracle America, Inc. purchased PeopleSoft USA along with the County's contract. To continue receiving software maintenance services for the software, the County pays an annual software support service fee. The current software support service term expires on September 29, 2021 and the County would like to continue the services for an additional annual term. These services are technical in nature and ensure that our system staff have the resources they need to keep the PeopleSoft systems operational. The annual renewal for the service contracts is $506,304.10.

Term 9/30/21 - 9/29/22:
Contract #2109189 $8,697.05;
Contract #P-98-913-00-000--24 $368,084.84.
Contract #18889613 $19,928.73;
Contract #18891081 $109,593.52.

County Counsel has reviewed and approved the documents associated with the transaction.

PROCUREMENT PROCESS:

The original procurement process contemplated the license fees and the ongoing technical support services, therefore additional procurement processes are not required. Procurement is requesting the Board's approval to issue a purchase order for a new one-year continuation of support services. There is no agreement or contract to sign for the Board to sign, as support services through Oracle are renewed through an online system and they request a purchase order in order to process the renewal.

RECOMMENDATION:
Staff recommends the Board of County Commissioners authorize Procurement to execute any necessary instruments required to continue technical support services with Oracle America, Inc. for an additional annual term.

Respectfully submitted,

Sincerely,

Elizabeth Comfort

Elizabeth Comfort
Finance Director

Placed on the BCC Agenda _____ by Procurement and Contract Services

CLACKAMAS COUNTY

BUSINESS & COMMUNITY SERVICES
150 BEAVERCREEK ROAD
OREGON CITY, OR 97045
WWW.CLACKAMAS.US/BCS
SARAH ECKMAN, INTERIM DIRECTOR

September 23, 2021

Board of County Commissioners
Clackamas County

Members of the Board:

Approval of Local Grant Agreement Amendment #5 between Clackamas County and Micro Enterprise Services of Oregon (MESO) for MESO to provide a small grants program on behalf of Clackamas County in support of the local business community impacted by the COVID-19 pandemic

Purpose/Outcomes	Approve a Local Grant Agreement Amendment #5 between Clackamas County and MESO for MESO to provide grants to the Clackamas County small business community. The amendment adds $2,467,500 in CARES Act funding (issued to County by State of Oregon Department of Administrative Services), as well as $51,600 in State Lottery dollars, to the agreement to fund administration fees and additional grants to the local small business community.
Dollar Amount and Fiscal Impact	$2,467,500 (CARES Act **CFDA 20.019**) and $51,600 (State Lottery dollars) for programmatic and administrative expenditures allocated as follows: a) $2,332,500 for grants to small businesses pursuant to the terms and conditions of the CARES Act (**CFDA 20.019**) payable upon execution. b) $135,000 administrative fee to MESO pursuant to the terms and conditions of the CARES Act (**CFDA 20.019**) payable upon execution. c) $51,600 administrative fee to MESO from State Lottery dollars payable upon execution.
Funding Source	- CARES Act funds issued to County by State of Oregon Department of Administrative Services - State Lottery dollars
Duration	**Term and Effective Date.** This Agreement and all amendments become effective on execution. Eligible **non-federal** expenses for this Agreement may be charged during the period beginning **May 21, 2020 and expiring May 31, 2021**, a total of twelve (12) months and ten (10) days. ***Additional non-federal funding provided in Amendment #5 may be charged during the period beginning July 1, 2021 and expiring December 31, 2021, a total of six months.*** Eligible **federal** expenses for this Agreement may be charged during the period beginning **May 21, 2020** and expiring **December 31, 2021**, a total of eighteen (18) months and forty (40) days.
Previous Board Action	• The original agreement with MESO was signed by the BCC on May 21, 2020, Agenda Item # E.1. • Amendment #1 was signed by the BCC on July 16, 2020, Agenda Item # C.4. • Amendment #2 was signed by BCS Director Laura Zentner on behalf of the BCC on August 26, 2020. Board agenda date August 20, 2020, Agenda Item # D.1. • Amendment #3 was signed by BCC Chair Jim Bernard on December 17, 2020. Board agenda date December 17, 2020, Agenda Item # F.1. • Amendment #4 was signed by BCC Chair Tootie Smith on June 16, 2021. Board agenda date June 16, 2021, Agenda Item # A.1.
Strategic Plan Alignment	1) This grant agreement amendment supports the BCS goal of giving businesses access to innovative tools and programs to help them locate or expand in Clackamas County. Providing grants to businesses impacted by COVID-19 will help them make it through the pandemic so they can operate/reopen under the new normal, and eventually expand as economic times improve.

	2) This grant agreement amendment supports the County strategic priority of Growing a Vibrant Economy by providing much needed assistance to Clackamas County small businesses so they can remain in business beyond the COVID-19 pandemic.
County Counsel Review	County Counsel Review Date: September 9, 2021 Counsel Initials: ARN
Procurement Review	Was the item processed through procurement? No This agreement is a grant agreement, therefore is not subject to Procurement oversight.
Contact Person	Sarah Eckman, BCS Interim Director (503) 742-4303
Contract No.	BCS-20-038

BACKGROUND:

Business and Community Services has developed a program with MESO to provide economic and social assistance to Clackamas County small businesses affected by COVID-19. A key element of this program is providing much needed cash to businesses, to assist with sustaining them through the challenges of COVID-19.

On behalf of Clackamas County, MESO has already completed multiple rounds of grants, most recently in June 2021, to hundreds of county businesses. Amending our agreement with MESO will allow us to fund 311 grant applicants who were eligible in the June application period, but were not funded due to lack of dollars. Award amounts are $7,500. Businesses eligible for these funds had to meet the following criteria, and MESO will query them to confirm they still have eligible expenses and are still open for business:

i. The business is headquartered in Clackamas County and has its principal operations in Clackamas County.
ii. If required by Oregon law to be registered with the Oregon Secretary of State to do business in Oregon, the business is so registered.
iii. The business is either for-profit or an entity tax-exempt under section 501(c)(3) of the Internal Revenue Code.
iv. During the Performance Period, the business incurred necessary expenditures due to the COVID-19 public health emergency, including those necessary expenditures incurred in response to Grantee's return to an "Extreme Risk" level effective as of April 30, 2021.

The following businesses were **ineligible** to apply for or receive funding under the Program:

1) Passive real estate holding companies and entities holding passive investments.
2) Non-profit entities that do not have federal 501(c)(3) status.
3) Businesses that experience a decline in revenues for reasons other than those caused by the COVID-19 pandemic (e.g. seasonal or cyclical businesses cycles).
4) Businesses that are delinquent on federal, state or local taxes that were due on or before the date of application.
5) Businesses that do not comply with all federal, state and local laws and regulations.
6) Businesses that have closed and do not intend to reopen.

RECOMMENDATION:
Staff respectfully recommends the BCC approve the grant agreement amendment #5 with MESO.

ATTACHMENT:
Local Grant Agreement Amendment #5 between Clackamas County and Micro Enterprise Services of Oregon (MESO)

Respectfully submitted,

Sarah Eckman

Sarah Eckman
Interim Director, Business & Community Services

Federal and State Subrecipient Agreement Amendment (FY 21-22)
Business & Community Services

Subrecipient Grant Agreement Number No. 20-038	Board Order Number:
Department/Division: Business & Community Services	Amendment No. 5
Recipient: Micro Enterprise Services of Oregon	Amendment Requested By: Business & Community Services
Changes: (X) Work Plan (X) Agreement Term	(X) Agreement Budget ( ) Other: Add federal terms and conditions

Justification for Amendment:

This Amendment #5 is entered into between Micro Enterprise Services of Oregon ("Subrecipient") and Clackamas County ("County") and shall become part of that Subrecipient Grant Agreement ("Agreement") entered into by and between both parties on May 21, 2020. This Amendment #5 adds additional funds to extend business relief payments, adding additional CARES and State Lottery dollars. This Amendment adds to the maximum compensation and extends the duration of the Agreement.

Maximum compensation is increased by $2,519,100 for a revised maximum of $8,124,942. This Amendment #5 becomes effective upon signature and extends the award period of performance to December 31, 2021. The purpose of this Amendment #5 is to make the following changes to the Agreement:

1. **AMEND Section 1. Term and Effective Date**:

   Term and Effective Date. This Agreement and all amendments become effective on execution. Eligible **non-federal** expenses for this Agreement may be charged during the period beginning **May 21, 2020 and expiring May 31, 2021**, a total of twelve (12) months and ten (10) days. Eligible **federal** expenses for this Agreement may be charged during the period beginning **May 21, 2020** and expiring **December 31, 2021**, a total of eighteen (18) months and forty (40) days.

   WITH:

   Term and Effective Date. This Agreement and all amendments become effective on execution. Eligible **non-federal** expenses for this Agreement may be charged during the period beginning **May 21, 2020 and expiring May 31, 2021**, a total of twelve (12) months and ten (10) days. ***Additional non-federal funding provided in Amendment #5 may be charged during the period beginning July 1, 2021 and expiring December 31, 2021, a total of six months.*** Eligible **federal** expenses for this Agreement may be charged during the period beginning **May 21, 2020** and expiring **December 31, 2021**, a total of eighteen (18) months and forty (40) days.

2. **Section 4, Grant Funds**, is hereby replaced with the following:

   Grant Funds. The maximum, not to exceed, grant amount COUNTY will pay is **$8,124,942**. Disbursements will be made in accordance with the schedule and requirements contained in Exhibit D: Required Financial Reporting and Payment Request. Failure to comply with the terms of this Agreement may result in withholding of payment. Funding on this award is sourced as follows:

4.1 CARES Act (Catalogue of Federal Domestic Assistance [CFDA] #: 21.019) issued to COUNTY by DAS and the U.S. Department of the Treasury (Federal Award Identification #: Unavailable) and reserved for small business grant payments: **$311,000.**

4.2 COUNTY State Lottery dollars reserved for technical assistance, online tool development, and administration fees: **$294,806.**

4.3 COVID-19 Emergency Business Assistance Program Forgivable Loan dollars entered into between the County and the State of Oregon ("State Business Assistance Loan") (Loan Agreement No. C2020197), reserved for small business grant payments: **$45,000**

4.4 Second COVID-19 Emergency Business Assistance Program Forgivable Loan dollars entered into between the County and the State of Oregon ("Second State Business Assistance Loan") (Loan Agreement No. C2020385), reserved for small business grant payments: **$155,000**

4.5 CARES Act (Catalogue of Federal Domestic Assistance [CFDA] #: 21.019) issued to County by DAS and the U.S. Department of the Treasury (Federal Award Identification #: Unavailable; State grant #2503) and reserved for small business grant payments and administration fees: **$4,179,636.**

4.6 CARES Act (Catalogue of Federal Domestic Assistance [CFDA] #: 21.019) issued to County by DAS and the U.S. Department of the Treasury (Federal Award Identification #: Unavailable) and reserved for small business grant payments and administration fees: **$672,000.** (Added via Amendment #4)

4.7 CARES Act (Catalogue of Federal Domestic Assistance [CFDA] #: 21.019) issued to County by DAS and the U.S. Department of the Treasury (Federal Award Identification #: SLT0038) and reserved for small business grant payments and administration fees: **$2,467,500.** (Added via Amendment #5)

3. **Section 5, Disbursements**, is hereby amended to add the following:

5.4 $2,467,500 (CARES Act **CFDA 20.019**) for programmatic and administrative expenditures allocated as follows:

i. Additional $2,332,500 for small grants to small businesses pursuant to the terms and conditions of the CARES Act (**CFDA 20.019**) payable upon execution.

ii. Additional $135,000 administrative fee to SUBRECIPIENT pursuant to the terms and conditions of the CARES Act (**CFDA 20.019**) payable upon execution.

SUBRECIPIENT must invoice COUNTY to receive advanced payment of the amounts listed in this section (5.4).

5.5 $51,600 in State lottery dollars for administrative fees.

4. **Exhibit A, Statement of Program Objectives**, the following language is hereby added to this Exhibit:

CARES Act funds ($2,332,500) added to this Agreement in Amendment #5 will be disbursed by SUBRECIPIENT to Clackamas County businesses via two (2) methods:

a) **Fund Unfunded Grant Applications**: Fund 311, $7,500 grant applications received under Clackamas County's prior grant application period(s) that were not funded due to applications in excess of the available grant funding. Prior grant application period

provided a simplified, $7,500 flat award amount, grant application process whereby the following are true:

4.4.1 The business is headquartered in Clackamas County and has its principal operations in Clackamas County.

4.4.2 If required by Oregon law to be registered with the Oregon Secretary of State to do business in Oregon, the business is so registered.

4.4.3 The business is either for-profit or an entity tax-exempt under section 501(c)(3) of the Internal Revenue Code.

4.4.4 During the Performance Period, the business incurred necessary expenditures due to the COVID-19 public health emergency, including those necessary expenditures incurred in response to Grantee's return to an "Extreme Risk" level effective as of April 30, 2021.

The following businesses are **ineligible** to apply for or receive funding under the Program:

1) Passive real estate holding companies and entities holding passive investments.
2) Non-profit entities that do not have federal 501(c)(3) status.
3) Businesses that experience a decline in revenues for reasons other than those caused by the COVID-19 pandemic (e.g. seasonal or cyclical businesses cycles).
4) Businesses that are delinquent on federal, state or local taxes that were due on or before the date of application.
5) Businesses that do not comply with all federal, state and local laws and regulations.
6) Businesses that have closed and do not intend to reopen.

5 **Exhibit B, Program Budget** is hereby replaced with the following amended budget:

	CARES (CFDA 21.019)	Lottery (Local funding)	State # C202197	State # C2020385	**Total**
Program Assistance	7,203,609		45,000	155,000	7,403,609
Technical Assistance		100,000			100,000
Online tools		1,500			1,500
Admin Fee	426,527	193,306			619,833
Total	7,630,136	294,806	45,000	155,000	**8,124,942**

Except as amended hereby, all other terms and conditions of the Agreement remain in full force and effect.

[Signature page follows]

IN WITNESS WHEREOF, the parties hereto have caused this Amendment #5 to be executed by their duly authorized officers.

Micro Enterprise Services of Oregon
4008 NE MLK Jr. Blvd.
Portland, OR 97212

Name: Cobi Lewis

Title: Executive Director

Signed: _____

Dated: 09 / 07 / 2021

CLACKAMAS COUNTY
Commissioner: Tootie Smith, Chair

Commissioner: Sonya Fischer
Commissioner: Mark Shull
Commissioner: Paul Savas
Commissioner: Martha Schrader

Signing on behalf of the Board:

_____
Tootie Smith, Chair

Dated: _____

HELLOSIGN

Audit Trail

TITLE	Clackamas County Amended contract
FILE NAME	20-038 A.5 - FINA...t - additiona.pdf
DOCUMENT ID	bc31e82fbbc6ae0a39bb33a06e47016ef865c49d
AUDIT TRAIL DATE FORMAT	MM / DD / YYYY
STATUS	Completed

Document History

SENT	**09 / 07 / 2021** 17:52:22 UTC	Sent for signature to Cobi Lewis (clewis@mesopdx.org) from clewis@mesopdx.org IP: 73.67.198.200
VIEWED	**09 / 07 / 2021** 17:53:16 UTC	Viewed by Cobi Lewis (clewis@mesopdx.org) IP: 73.67.198.200
SIGNED	**09 / 07 / 2021** 17:55:27 UTC	Signed by Cobi Lewis (clewis@mesopdx.org) IP: 73.67.198.200
COMPLETED	**09 / 07 / 2021** 17:55:27 UTC	The document has been completed.

CLACKAMAS
WATER ENVIRONMENT SERVICES

GREGORY L. GEIST | DIRECTOR
Water Quality Protection
Surface Water Management
Wastewater Collection & Treatment

September 16, 2020

Water Environment Services Board
Board of County Commissioners
Clackamas County

Members of the Board:

Approval of a Joint Funding Agreement between
Water Environment Services and the U.S. Geological Survey
for Johnson Creek Water Quality and Flow Monitoring

Purpose/Outcomes	This annual funding agreement between WES and the USGS supports the operation and maintenance of a continuous creek monitoring gauge on Johnson Creek.
Dollar Amount and Fiscal Impact	$10,000 of WES funds are required from the District's approved FY 2021-2022 budget.
Funding Source	WES Surface Water Operating Fund. No general fund dollars.
Duration	October 1, 2020 to September 30, 2021
Previous Board Action/Review	Presented to the Board at Issues on Tuesday, September 14, 2021. Previous Joint Funding Agreements have been signed by the Board authorizing the use of WES funds since October 1999.
Counsel Review	This JFA was reviewed and approved by Amanda Keller, County Counsel on April 16, 2021.
Strategic Plan Alignment	This action: 1. Aligns with WES's Watershed Protection program strategic result to measure and improve stream health, and the Regulatory Management program result to fully implement compliance strategy measures. 2. Aligns with the Board's goal to Honor, Utilize, Promote and Invest in our Natural Resources.
Contact Person	Ron Wierenga, WES Environmental Services Manager, 503-742-4581
Contract No.	N/A

BACKGROUND:
A cooperative, multi-jurisdictional hydrology study between the USGS and local governments in the Johnson Creek watershed is proposed to continue during Federal fiscal year 2021. In 1999, Clackamas County Service District No. 1, now a part of Water Environment Services, joined this long-term study. Other local governments who plan to participate this year include the Cities of Gresham, Milwaukie, and Portland, Multnomah County, and the East Multnomah County Soil & Water Conservation District. Funds are used by the USGS to maintain a network of several continuous creek water quality and/or flow monitoring stations, and to maintain an existing network of monitoring stations which measure groundwater levels. The benefits of the overall Project include:

- Compliance with Tualatin River Total Maximum Daily Load Implementation Plan strategy to monitor pollutant loads in the Tualatin River.

- Accurate water quality and flow data, which can be used by several county departments to: 1) revise FEMA floodplain maps and manage floodplains, 2) respond to flooding emergencies, and 3) calculate the river's pollutant mass loads (i.e. pounds of phosphorus/day) when combined with water quality data.
- Public access to real-time and historic water quality and flow conditions from various locations in the watershed via the USGS' website.

This agreement has been reviewed and approved by County Counsel.

RECOMMENDATION:
WES staff recommends that the Board, acting as the governing body of Water Environment Services, approve the Joint Funding Agreement between Water Environment Services and the U.S. Geological Survey for Johnson Creek Water Quality and Flow Monitoring.

Respectfully submitted,

Greg Geist
Director, Water Environment Services

United States Department of the Interior

U.S. GEOLOGICAL SURVEY
Oregon Water Science Center
2130 SW 5th Avenue
Portland, OR 97201

September 01, 2020

Ron Wierenga
Surface Water Manager
Water Environment Service
150 Beavercreek Road
Oregon City, Oregon 97045

Dear Mr. Wierenga,

The U.S. Geological Survey (USGS), Multnomah County, City of Gresham, City of Portland, East Multnomah Soil and Water Conservation District, City of Milwaukie, and Clackamas County's Water Environment Services (WES) collaboratively maintain the operation of the Johnson Creekhydrologic monitoring and investigation program (14211400, 14211499, 14211500, 14211550, 452753122233100, 452755122234100, 452946122255000) in the Johnson Creek Basin, Oregon. This letter and subsequent joint-funding agreement (JFA) provide the mechanism to continue this relationship and collaboration in Federal fiscal year (FFY) 2021 (October 1, 2020 through September 30, 2021).

The combined cost to maintain these gages for USGS and WES will be $15,400. The USGS will provide $5,400 of Cooperative Matching Funds and WES will provide $10,000. Enclosed is a signed original of our standard JFA for the project covering the period October 1, 2020 through September 30, 2021.

Please sign and return one fully-executed original to Peter Koestner at pkoestner@usgs.gov. The signed agreement is not a bill and no funds are required at this time; rather, the agreement is our legal authority that permits the work to be done and authorizes USGS to accept funds. The USGS Water Resources Cooperative Program operates under the authority of statute 43 USC 50, which allows us to perform this work. The Oregon Water Science Center DUNS number is 137883463.

Federal law requires that we have a signed agreement to continue this work; therefore, please return the signed agreement as soon as possible. If, for any reason, the agreement cannot be signed and returned in the near future, please contact Adam Stonewall at (503) 251-3276 or email stonewal@usgs.gov to make alternative arrangements.

This is a fixed cost agreement to be billed annually via Down Payment Request (automated Form DI-1040). We can bill you on a specific date if that is more convenient relative to your fiscal year planning and budgeting process. Please allow 30 days from the end of the billing period for issuance of the bill. If you experience any problems with your invoice(s), please contact Peter Koestner at (503) 251-3261.

The results of all work under this agreement will be available for publication by USGS in collaboration with the CWS. During the course of this jointly planned activity and partnership, USGS may provide unpublished USGS data or information to your office for scientific peer and (or) courtesy review. Guidance concerning USGS's non-disclosure policy will be provided with any review material and is further explained in USGS Fundamental Science Practices website (https://www.usgs.gov/about/organization/science-support/science-quality-and-integrity/fundamental-science-practices).

Sincerely,

Digitally signed by JAMES CRAMMOND
Date: 2020.09.02 09:20:23 -07'00'

James D. Crammond
Center Director

Form 9-1366
(May 2018)

U.S. Department of the Interior
U.S. Geological Survey
Joint Funding Agreement
FOR
Water Resource Investigations

Customer #: 6000001801
Agreement #: 21YFJFA030
Project #:
TIN #: 93-6002286

Fixed Cost Agreement YES[X] NO[ ]

THIS AGREEMENT is entered into as of October 1, 2020, by the U.S. GEOLOGICAL SURVEY, Oregon Water Science Center, UNITED STATES DEPARTMENT OF THE INTERIOR, party of the first part, and Water Environment Services, party of the second part.

1. The parties hereto agree that subject to the availability of appropriations and in accordance with their respective authorities there shall be maintained in cooperation the operation of the Johnson Creek hydrologic monitoring and investigation program (14211400, 14211499, 14211500, 14211550, 452753122233100, 452755122234100, 452946122255000) in the Johnson Creek Basin, Oregon., herein called the program. The USGS legal authority is 43 USC 36C; 43 USC 50, and 43 USC 50b.

2. The following amounts shall be contributed to cover all of the cost of the necessary field and analytical work directly related to this program. 2(b) include In-Kind-Services in the amount of $0.00

(a) $5,400 by the party of the first part during the period October 1, 2020 to September 30, 2021

(b) $10,000 by the party of the second part during the period October 1, 2020 to September 30, 2021

(c) Contributions are provided by the party of the first part through other USGS regional or national programs, in the amount of:

Description of the USGS regional/national program:

(d) Additional or reduced amounts by each party during the above period or succeeding periods as may be determined by mutual agreement and set forth in an exchange of letters between the parties.

(e) The performance period may be changed by mutual agreement and set forth in an exchange of letters between the parties.

3. The costs of this program may be paid by either party in conformity with the laws and regulations respectively governing each party.

4. The field and analytical work pertaining to this program shall be under the direction of or subject to periodic review by an authorized representative of the party of the first part.

5. The areas to be included in the program shall be determined by mutual agreement between the parties hereto or their authorized representatives. The methods employed in the field and office shall be those adopted by the party of the first part to insure the required standards of accuracy subject to modification by mutual agreement.

6. During the course of this program, all field and analytical work of either party pertaining to this program shall be open to the inspection of the other party, and if the work is not being carried on in a mutually satisfactory manner, either party may terminate this agreement upon 60 days written notice to the other party.

7. The original records resulting from this program will be deposited in the office of origin of those records. Upon request, copies of the original records will be provided to the office of the other party.

8. The maps, records or reports resulting from this program shall be made available to the public as promptly as possible. The maps, records or reports normally will be published by the party of the first part. However, the party of the second part reserves the right to publish the results of this program, and if already published by the party of the first part shall, upon request, be furnished by the party of the first part, at cost, impressions suitable for purposes of reproduction similar to that for which the original copy was prepared. The maps, records or reports published by either party shall contain a statement of the cooperative relations between the parties. The Parties acknowledge that scientific information and data developed as a result of the Scope of Work (SOW) are subject to applicable USGS review, approval, and release requirements, which are available on the USGS Fundamental Science Practices website (https://www.usgs.gov/about/organization/science-support/science-quality-and-integrity/fundamental-science-practices).

Form 9-1366
(May 2018)

U.S. Department of the Interior
U.S. Geological Survey
Joint Funding Agreement
FOR
Water Resource Investigations

Customer #: 6000001801
Agreement #: 21YFJFA030
Project #:
TIN #: 93-6002286

9. Billing for this agreement will be rendered **annually**. Invoices not paid within 60 days from the billing date will bear Interest, Penalties, and Administrative cost at the annual rate pursuant the Debt Collection Act of 1982, (codified at 31 U.S.C. § 3717) established by the U.S. Treasury.

USGS Technical Point of Contact

Name:	Adam Stonewall Hydrologist
Address:	2130 SW 5th Avenue Portland, OR 97201
Telephone:	(503) 251-3276
Fax:	(503) 251-3470
Email:	stonewal@usgs.gov

Customer Technical Point of Contact

Name:	Ron Wierenga Environmental Services Manager
Address:	Water Environmental Services 15941 S. Agness Avenue Oregon City, Oregon 97045
Telephone:	(503) 742-4581
Fax:	
Email:	rwierenga@clackamas.us

USGS Billing Point of Contact

Name:	Peter Koestner Hydrologic Technician
Address:	2130 SW 5th Avenue Portland, OR 97201
Telephone:	(503) 251-3261
Fax:	(503) 251-3470
Email:	pkoestner@usgs.gov

Customer Billing Point of Contact

Name:	Ron Wierenga Environmental Services Manager
Address:	Water Environmental Services 15941 S. Agness Avenue Oregon City, Oregon 97045
Telephone:	(503) 742-4581
Fax:	
Email:	rwierenga@clackamas.us

U.S. Geological Survey
United States
Department of Interior

Signature

Digitally signed by JAMES CRAMMOND
Date: 2020.09.02 09:21:29 -07'00'

Date:

Name: James D. Crammond

Title: Center Director

Water Environment Services

Signatures

By_____ **Date:** _____
Name:
Title:

By_____ **Date:** _____
Name:
Title:

By_____ **Date:** _____
Name:
Title:

CLACKAMAS
WATER ENVIRONMENT SERVICES

GREGORY L. GEIST | DIRECTOR
Water Quality Protection
Surface Water Management
Wastewater Collection & Treatment

September 16, 2021

Water Environment Services Board
Board of County Commissioners
Clackamas County

Members of the Board:

Approval of a Joint Funding Agreement between
Water Environment Services and the U.S. Geological Survey
for Tualatin River Water Quality and Flow Monitoring

Purpose/Outcomes	This annual funding agreement between WES and the USGS supports the operation and maintenance of a continuous creek monitoring gauge on Tualatin River.
Dollar Amount and Fiscal Impact	$5,800 of WES funds are required from the District's approved FY 2021-2022 budget.
Funding Source	WES Surface Water Operating Fund. No general fund dollars.
Duration	October 1, 2020 to September 30, 2021
Previous Board Action/Review	Presented to the Board at Issues on Tuesday, September 14, 2021. Previous Joint Funding Agreements have been signed by the Board authorizing the use of WES funds since October 1999.
Counsel Review	This JFA was reviewed and approved by Amanda Keller, County Counsel on April 16, 2021.
Strategic Plan Alignment	This action: 1. Aligns with WES's Watershed Protection program strategic result to measure and improve stream health, and the Regulatory Management program result to fully implement compliance strategy measures. 2. Aligns with the Board's goal to Honor, Utilize, Promote and Invest in our Natural Resources.
Contact Person	Ron Wierenga, WES Environmental Services Manager, 503-742-4581
Contract No.	N/A

BACKGROUND:
A cooperative, multi-jurisdictional hydrology study between the USGS and local governments in the Tualatin River watershed is proposed to continue during Federal fiscal year 2021. In 1999, the Surface Water Management Agency of Clackamas County, now a part of Water Environment Services, joined this long-term study. Other local governments who plan to participate this year include the Cities of West Linn and Lake Oswego, and Clean Water Services in Washington County. Funds are used by the USGS to maintain a network of several continuous creek water quality and/or flow monitoring stations, and to maintain an existing network of monitoring stations which measure groundwater levels. The benefits of the overall Project include:

- Compliance with Tualatin River Total Maximum Daily Load Implementation Plan strategy to monitor pollutant loads in the Tualatin River.

- Accurate water quality and flow data, which can be used by several county departments to: 1) revise FEMA floodplain maps and manage floodplains, 2) respond to flooding emergencies, and 3) calculate the river's pollutant mass loads (i.e. pounds of phosphorus/day) when combined with water quality data.
- Public access to real-time and historic water quality and flow conditions from various locations in the watershed via the USGS' website.

This agreement has been reviewed and approved by County Counsel.

RECOMMENDATION:
WES staff recommends that the Board, acting as the governing body of Water Environment Services, approve the Joint Funding Agreement between Water Environment Services and the U.S. Geological Survey for Tualatin River Water Quality and Flow Monitoring.

Respectfully submitted,

Greg Geist
Director, Water Environment Services

United States Department of the Interior

U.S. GEOLOGICAL SURVEY

Oregon Water Science Center
2130 SW 5th Avenue
Portland, OR 97201
http://or.water.usgs.gov/

May 5, 2020

Ron Wierenga
Surface Water Manager
Water Environment Service
150 Beavercreek Road
Oregon City, Oregon 97045

Dear Mr. Wierenga,

The U.S. Geological Survey (USGS), City of West Linn, City of Lake Oswego, Water Environment Services, Clackamas County (WES), and Clean Water Services (CWS) collaboratively maintain the operation of the Tualatin River gage (14207500) at West Linn, Oregon. This letter and subsequent joint-funding agreement (JFA) provide the mechanism to continue this relationship and collaboration in Federal fiscal year (FFY) 2021 (October 1, 2020 through September 30, 2021) between USGS and Clackamas County WES.

The effort to maintain and operate the gage is a collaboration between USGS, City of West Linn, City of Lake Oswego, WES, and CWS. The total cost of operating the gage is $23,200.

Below is a summary of cooperator funding totals for maintaining and operating this gage in FFY2021:

FFY 2021 Tualatin River Gage (14207500)

Cooperator	**Cooperator Funds**	**USGS CMF**	**Total**
Clean Water Services	4,350	2,650	7,000
Clackamas County Water Environment Services	6,000	3,700	9,700
City of West Linn Engineering Department	1,947	1,263	3,210
City of Lake Oswego	2,040	1,250	3,290
Total	$14,337	$8,863	$23,200

Please sign and return one fully-executed original to Peter Koestner at pkoestner@usgs.gov. The signed agreement is not a bill and no funds are required at this time; rather, the agreement is our legal authority that permits the work to be done and authorizes USGS to accept funds. The USGS Water Resources Cooperative Program operates under the authority of statute 43 USC 50, which allows us to perform this work. The Oregon Water Science Center DUNS number is 137883463.

Federal law requires that we have a signed agreement to continue this work; therefore, please return the signed agreement as soon as possible. If, for any reason, the agreement cannot be signed and returned in the near future, please contact Keith Overton at (503) 251-3246 or email koverton@usgs.gov to make alternative arrangements.

This is a fixed cost agreement to be billed annually via Down Payment Request (automated Form DI-1040). We can bill you on a specific date if that is more convenient relative to your fiscal year planning and budgeting process. Please allow 30 days from the end of the billing period for issuance of the bill. If you experience any problems with your invoice(s), please contact Peter Koestner at (503) 251-3261.

The results of all work under this agreement will be available for publication by USGS in collaboration with the CWS. During the course of this jointly planned activity and partnership, USGS may provide unpublished USGS data or information to your office for scientific peer and (or) courtesy review. Guidance concerning USGS's non-disclosure policy will be provided with any review material and is further explained in USGS Fundamental Science Practices website (https://www.usgs.gov/about/organization/science-support/science-quality-and-integrity/fundamental-science-practices).

Sincerely,

James D. Crammond
Center Director

Cc: To file, available upon request

Form 9-1366
(May 2018)

U.S. Department of the Interior
U.S. Geological Survey
Joint Funding Agreement
FOR
Water Resource Investigations

Customer #: 6000001801
Agreement #:
Project #:
TIN #: 93-6002286

Fixed Cost Agreement YES[X] NO[ ]

THIS AGREEMENT is entered into as of October 1, 2020, by the U.S. GEOLOGICAL SURVEY, Oregon Water Science Center, UNITED STATES DEPARTMENT OF THE INTERIOR, party of the first part, and Water Environment Services, party of the second part.

1. The parties hereto agree that subject to the availability of appropriations and in accordance with their respective authorities there shall be maintained in cooperation the operation of the Tualatin River gage at West Linn (14207500), herein called the program. The USGS legal authority is 43 USC 36C; 43 USC 50, and 43 USC 50b.

2. The following amounts shall be contributed to cover all of the cost of the necessary field and analytical work directly related to this program. 2(b) include In-Kind-Services in the amount of $0.00

(a) $3,700 by the party of the first part during the period October 1, 2020 to September 30, 2021

(b) $6,000 by the party of the second part during the period October 1, 2020 to September 30, 2021

(c) Contributions are provided by the party of the first part through other USGS regional or national programs, in the amount of: $0

Description of the USGS regional/national program: 4 Way split + CMF

(d) Additional or reduced amounts by each party during the above period or succeeding periods as may be determined by mutual agreement and set forth in an exchange of letters between the parties.

(e) The performance period may be changed by mutual agreement and set forth in an exchange of letters between the parties.

3. The costs of this program may be paid by either party in conformity with the laws and regulations respectively governing each party.

4. The field and analytical work pertaining to this program shall be under the direction of or subject to periodic review by an authorized representative of the party of the first part.

5. The areas to be included in the program shall be determined by mutual agreement between the parties hereto or their authorized representatives. The methods employed in the field and office shall be those adopted by the party of the first part to insure the required standards of accuracy subject to modification by mutual agreement.

6. During the course of this program, all field and analytical work of either party pertaining to this program shall be open to the inspection of the other party, and if the work is not being carried on in a mutually satisfactory manner, either party may terminate this agreement upon 60 days written notice to the other party.

7. The original records resulting from this program will be deposited in the office of origin of those records. Upon request, copies of the original records will be provided to the office of the other party.

8. The maps, records or reports resulting from this program shall be made available to the public as promptly as possible. The maps, records or reports normally will be published by the party of the first part. However, the party of the second part reserves the right to publish the results of this program, and if already published by the party of the first part shall, upon request, be furnished by the party of the first part, at cost, impressions suitable for purposes of reproduction similar to that for which the original copy was prepared. The maps, records or reports published by either party shall contain a statement of the cooperative relations between the parties. The Parties acknowledge that scientific information and data developed as a result of the Scope of Work (SOW) are subject to applicable USGS review, approval, and release requirements, which are available on the USGS Fundamental Science Practices website (https://www.usgs.gov/about/organization/science-support/science-quality-and-integrity/fundamental-science-practices).

Form 9-1366
(May 2018)

U.S. Department of the Interior
U.S. Geological Survey
Joint Funding Agreement
FOR
Water Resource Investigations

Customer #: 6000001801
Agreement #:
Project #:
TIN #: 93-6002286

9. Billing for this agreement will be rendered **annually**. Invoices not paid within 60 days from the billing date will bear Interest, Penalties, and Administrative cost at the annual rate pursuant the Debt Collection Act of 1982, (codified at 31 U.S.C. § 3717) established by the U.S. Treasury.

USGS Technical Point of Contact

Name: Keith Overton
Supv.Hydrologist Data Chief
Address: 2130 SW 5th Avenue
Portland, OR 97201
Telephone: (503) 251-3246
Fax: (503) 251-3470
Email: koverton@usgs.gov

Customer Technical Point of Contact

Name: Ron Wierenga
Environmental Services Manager
Address: Water Environmental Services 15941 S. Agness Avenue
Oregon City, Oregon 97045
Telephone: (503) 742-4581
Fax:
Email: rwierenga@clackamas.us

USGS Billing Point of Contact

Name: Peter Koestner
Address: 2130 SW 5th Avenue Portland, OR 97201
Telephone: (503) 251-3261
Fax:
Email: pkoestner@usgs.gov

Customer Billing Point of Contact

Name: Ron Wierenga
Environmental Services Manager
Address: Water Environmental Services 15941 S. Agness Avenue
Oregon City, Oregon 97045
Telephone: (503) 742-4581
Fax:
Email: rwierenga@clackamas.us

U.S. Geological Survey
United States
Department of Interior

Signature

Digitally signed by JAMES CRAMMOND
Date: 2019.05.05 09:22:19 -07'00'

Date:

Name: James D. Crammond
Title: Center Director

Water Environment Services

Signatures

By_____ **Date:** _____
Name:
Title:

By_____ **Date:** _____
Name:
Title:

By_____ **Date:** _____
Name:
Title: