



CLACKAMAS COUNTY BOARD OF COMMISSIONERS  
2051 Kaen Road, Oregon City  
BCC Hearing Room - 4th Floor

**LAND USE HEARING**

**July 12, 2023**

**10:00 AM**

The item will not begin before time noted. Interested parties may appear and be heard during the testimony phase of any hearing at the above address. If a hearing is set for decision only, the evidence phase has been completed, so interested parties may no longer be heard. Applications or comments may be inspected, and calls or correspondence directed to: Planning & Zoning Division, 150 Beaver Creek Road, Oregon City, OR 97045, (503) 742-4500.

**HEARING**

**File No.:** ZDO-283: FY 2023 Minor and Time Sensitive Amendments to the Clackamas County Comprehensive Plan and Zoning & Development Ordinance (ZDO)

**Applicants:** Clackamas County

**Proposal:** The Long-Range Planning Work Program for 2021-2023 includes a project - Minor and Time-Sensitive Comprehensive Plan and ZDO Amendments - to make relatively minor changes annually to the Comprehensive Plan and ZDO that are necessary to comply with state and federal mandates, clarify language, correct errors, and adopt optional provisions that require only minimal analysis. Planning File ZDO-283 proposes a number of such changes that were initially identified for Fiscal Year (FY) 2022; however, due to staffing changes in Planning and Zoning, this package was delayed a year.

**Staff Contact:** Martha Fritzie, Principal Planner, [MFritzie@clackamas.us](mailto:MFritzie@clackamas.us) / Jennifer Hughes, Planning Director, [JenniferH@clackamas.us](mailto:JenniferH@clackamas.us)



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**Land Use Hearing Item  
Staff Report to the Board of County Commissioners**

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**File Number:** Planning File ZDO-283, *Minor and Time-Sensitive Amendments to the Clackamas County Comprehensive Plan and Zoning and Development Ordinance (ZDO), Fiscal Year (FY) 2023*

**Staff Contact:** Martha Fritzie, Principal Planner ([mfritzie@clackamas.us](mailto:mfritzie@clackamas.us))  
Jennifer Hughes, Planning Director ([jenniferh@clackamas.us](mailto:jenniferh@clackamas.us))

**Board of County Commissioners Hearing Date:** July 12, 2023

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**PROPOSAL:**

The Long-Range Planning Work Program for 2021-2023 includes a project - *Minor and Time-Sensitive Comprehensive Plan and ZDO Amendments* - to make relatively minor changes annually to the Comprehensive Plan and ZDO that are necessary to comply with state and federal mandates, clarify language, correct errors, and adopt optional provisions that require only minimal analysis.

Planning File ZDO-283 proposes a number of such changes that were initially identified for Fiscal Year (FY) 2022; however, due to staffing changes in Planning and Zoning, this package was delayed a year.<sup>1</sup>

**Proposed Amendments:**

The proposed amendments are specifically to Comprehensive Plan Chapter 6, *Housing*, and to 32 separate sections of the ZDO, as shown with summary details in **Attachment A**. If adopted as recommended by staff, the amendments would accomplish the nine actions listed below and detailed in Pages 2-7 of the June 15, 2023, Staff Report to the Planning Commission (PC). As discussed later in this report, the Planning Commission has recommended approval of eight of these nine actions – they voted to exclude the proposed amendments to the standards for the forest template dwellings (**Action 2**).

The most substantive changes proposed in ZDO-283 are included in **Action 1 through Action 5** and are generally items that were included in response to requests from the public and specific direction given by the PC and Board to help facilitate development, provide more clarity for the public, and align the county's regulations with state regulations. The proposals in **Action 6 through Action 9** are less substantive and generally include items intended to create efficiencies, align the ZDO with the Comprehensive Plan, clarify provisions or definitions, and correct citations and other clerical errors in the ZDO. The nine actions proposed in ZDO-283 would:

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<sup>1</sup> The last package of such "minor amendments" was Ordinance ZDO-280, which was adopted by the Board of County Commissioners (BCC) in September 2021.

1. Allow “stand-alone” public restrooms in the Rural Tourist Commercial (RTC) District as a conditional use.
2. Align the County’s requirements for forest template dwellings with the minimum requirements under state law.
3. Extend the nonconforming use discontinuance period from one year to two years, while also reducing the implementation period for nonconforming use alterations from four years to two years, and include an additional two-year discontinuance allowance if an alteration to the nonconforming use is approved and implemented.
4. Modify the ZDO’s definition of “lot of record” to remove a lot consolidation requirement; clarify that platted lots are lots of record, and sunset a foreclosure provision that seemingly is inconsistent with state law.
5. Streamline and clarify development approval processes within Habitat Conservation Areas and Water Quality Resource Areas.
6. No longer require design review for detached single-family dwellings, manufactured dwellings, or uses accessory to detached single-family dwellings or manufactured dwellings in commercial and industrial districts that allow these uses.
7. Expressly allow electronic signatures on land use applications.
8. Reduce the number of printed pages automatically mailed with a notice of decision on an application
9. Make minor/non-substantive changes to the Comprehensive Plan and ZDO including clarifying standards and correcting citations.

Most of the proposed actions have generated little to no discussion since they were noticed and the Planning Commission public hearing was held, and are supported by the Planning Commission. Public testimony, Planning Commission deliberations, and questions have largely been focused on **Actions 2 through 5**, as discussed in more detail in the “Significant Issues” section of this report.

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#### **RELATED PRIOR BCC ACTION:**

The Board authorized the Long-Range Planning Work Program with this amendments project on April 27, 2021. Staff also briefed the Board on this proposal at a Policy Session on July 13, 2022, and discussed it at Issues on May 2, 2023. The most substantive items included in ZDO-283 reflect the Board’s direction at the Policy Session.

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#### **PLANNING COMMISSION ACTION:**

The Planning Commission (PC) held a public hearing on all of the proposed amendments on June 26, 2023, before voting on a recommendation to the Board. Four parties provided testimony at the PC hearing, each in support of specific portions of the proposal. The PC voted unanimously (7-0) to recommend approval of ZDO-283 as was presented, with the following changes:

1. Remove the proposed amendments to the forest template test standards, which would effectively allow for more – although it is not possible to determine how many – dwellings on forest lands (**Action 2**).

2. Further amend/clarify the lot of record definition, as recommended by staff, to ensure the definition is only accomplishing the three desired outcomes - remove a lot consolidation requirement; clarify that platted lots are lots of record; and sunset a foreclosure provision that may be inconsistent with state law (**Action 4**).
3. Make the recommended changes to the nonconforming use timeframes, but also include an allowance for a longer discontinuance period for a nonconforming use if an alteration has been approved and “implemented” for that use (**Action 3**).

All the amendments proposed under ZDO-283, including the additional amendments identified in items 2 and 3 of the Planning Commission’s recommendation are found in **Attachment A**.

Although the Planning Commission did not recommend approval of the amendments to the forest template dwelling standards, **Attachment A** still contains these proposed amendments for the following reasons:

1. In the past, the Board has supported these amendments and staff wants the Board to have a chance to weigh in on this portion of the proposal, with the understanding that the Planning Commission does not support it.
2. Making this change is consistent with the approach the Board has taken for a number of years that county regulations in Forest and Agriculture districts should track with state law, and not be more restrictive than state law.

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#### **CPO AND HAMLET RECOMMENDATIONS:**

All the County’s CPOs and Hamlets were sent notice of this proposal on May 22, 2023. No CPO or Hamlet has commented.

Several comments have been received by agencies or members of the public and are found in **Exhibits 1 through 6**. Public comments have generally been directed toward **Action 2** (forest template dwelling standards), **Action 3** (nonconforming uses), and **Action 4** (lot of record definition).

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#### **SIGNIFICANT ISSUES:**

The following four proposed actions were the focus of most of the Planning Commission’s discussion and public comments.

**(1) Action 2. Align the County’s requirements for forest template dwellings with the minimum requirements under state law:** The Ag/Forest (AG/F) and Timber (TBR) zoning districts implement the Comprehensive Plan’s Forest land use plan designation, a designation intended to: conserve forestlands for commercial forestry practices; protect watersheds, wildlife, and fisheries resources; minimize wildfire hazards and risks; and enhance and protect other environmentally sensitive areas. Residential development in the AG/F and TBR Districts is restricted and generally requires approval of a land use application showing that criteria for the limited opportunities for residential development are satisfied.

One of the pathways for approval of a forestland dwelling is through the “template test” methodology. Broadly, the template test considers the amount of parcelization and residential development that existed on January 1, 1993, in a 160-acre rectangular area centered on the subject property. If there were enough separate lots of record and dwellings within that “template” area on that date, the subject property can potentially qualify for a dwelling. The number of lots and dwellings within that 160-acre “template” area that are

needed to qualify is based on the subject property’s soil productivity, with a minimum number established by state law.

The County’s existing requirements for template dwellings exceed the minimums required by state law. ZDO-283 proposes to reduce the County’s requirements to match the minimums required by the state in ORS 215.750(2), as follows:

<b>Within “Template” Area</b>	
<b>Currently</b>	<b>Proposal</b>
<b>4 or 5 lots with dwellings</b> (depending on land productivity ) that existed January 1, 1993	<b>Just 3 such lots with dwellings</b>
Lots >80 acres, and dwellings on lots >80 acres, <b>not counted</b>	<b>Count them</b>

At their hearing, several of the Planning Commissioners expressed concerns about increasing the number of dwellings in forested areas and particularity in light of recent wildfire events. Indeed, one member of the public testified at the hearing that if the county’s standards were amended as proposed, then a lot that they own would be able to meet this portion of the template test standards and they may be allowed to build where they cannot currently.

Although it is known that this amendment would increase the number of dwellings that could be approved through a forest template test, it is not feasible to determine how many additional dwellings would be approved. Because the change is fairly minimal, however—requiring one to two fewer dwellings to exist within a template area – it is not expected to have a sizeable impact on the number of dwellings approved in the county’s forest lands. Plus, the above standards are only a portion of what is required for a dwelling to be approved on forest lands. Additional standards are in place to help reduce risks for dwellings, including requirements for retaining fuel-free safety zones around the dwelling and utilizing certain fire-retardant building materials.

As noted earlier, the Planning Commission ultimately did not recommend approval of the amendments to the forest template dwelling standards, but staff has retained these amendments in the proposal so that the Board has a chance to weigh in on them as well.

**(2) Action 3. Modify the ZDO’s definition of “lot of record”:** There are various ways to refer to a unit of land, depending on the purpose for the reference. For example, a “tax lot” is a unit of land with boundaries established by the tax assessor for tax assessment-related purposes. The ZDO, however, generally uses the term “lot of record” to refer to a unit of land for development purposes. The boundaries of a tax lot or other unit of land do not necessarily correspond to the boundaries of a lot of record; in other words, a unit of land defined for tax assessment or other purposes may not be separately developable according to the ZDO.

In order to determine whether a property is separately developable according to the ZDO, or whether it can be divided or have its boundaries adjusted, it is necessary to determine whether the property is a separate lot of record. Determining whether a given unit of land meets the current ZDO definition of a “lot of record” often requires a significant amount of research involving a review and documentation of the full ownership and zoning history of the subject property and adjacent properties, as well as an interpretation of old deed records and land use decisions.

Moreover, the County's existing lot of record definition treats some units of land differently depending on who owned them, and how they were described on deed records, decades ago. For example, under the current definition:

- If two contiguous lots were under the same ownership on the date those properties were first zoned, and if one of those two lots was smaller than that initial zone's minimum lot size, they would be consolidated as one lot of record, even if they have always been described on separate deeds;
- Conversely, if the same two contiguous lots were under separate ownership at initial zoning, they would not be consolidated and would be considered separate lots of record, even if one of the lots was undersized at initial zoning. "Separate ownership" could mean: the two lots were owned by separate unrelated parties; one of the lots was owned by one spouse and the other owned by the other spouse; or even one person owning one of the lots on their own while owning the other lot together with their spouse or anyone else.

ZDO-283 proposes to amend the ZDO definition of "lot of record" to repeal this lot consolidation requirement. This amendment could afford more uniform development rights and make the process of determining a property's lot of record status more efficient, as it would reduce the need to review the ownership history of adjacent properties.

The proposed amendments to the definition of "lot of record" would also:

- Clarify that lots or parcels in a recorded plat are lots of record
- Sunset a provision that renders certain foreclosed properties as lots of record, a provision that is seemingly inconsistent with state law
- Provide greater consistency between the ZDO and ORS Chapter 92

Public testimony and Planning Commission discussion around this item was generally supportive of the proposed changes. At the Planning Commission hearing, staff proposed to make additional technical amendments to this definition to make it more clear and to ensure it is accomplishing the three most significant desired outcomes – remove a lot consolidation requirement; clarify that platted lots are lots of record; and sunset a foreclosure provision that may be inconsistent with state law—without making unintended substantive changes. These additional amendments are included in the proposal found in **Attachment A**.

- (3) Action 4. Extend the nonconforming use discontinuance period from one year to two years, while also reducing the implementation period for nonconforming use alterations from four years to two years:** A nonconforming use is the use of any structure or land that was lawful when the use was originally established, but is now prohibited under current regulations. Both state and county laws protect these "legacy" land uses by allowing them to continue, provided the use was never interrupted or abandoned since it became prohibited.

In most cases, state law allows the County to establish its own criteria for determining when a nonconforming use has been "interrupted or abandoned". Currently, the County considers a nonconforming use to be interrupted if it has discontinued for 12 consecutive months, except in certain circumstances for surface mines, marijuana production, and nonconforming uses lost to particular wildfires, where state law establishes the discontinuance standard.

A nonconforming use that has not discontinued for 12 months can be altered (e.g., expanded or changed), subject to certain standards. Currently, the ZDO gives an applicant four years to implement an approved alteration by obtaining and maintaining certain necessary permits for development. However, this existing four-year implementation period for an alteration is longer than the 12-month discontinuance period, which can create ambiguity around whether an approved alteration can still be implemented if the nonconforming use being altered has, within that four-year implementation period, been discontinued for 12 months. Moreover, the existing 12-month discontinuance period may be too short, particularly when the law does not consider the reasons for the discontinuance in most cases.

ZDO-283 proposes to extend the nonconforming use discontinuance period from one year to two years, and to reduce the implementation period for approved nonconforming use alterations from four years to two years. Under the proposed amendments, there would still be an opportunity for one two-year time extension on an approved alteration.

At the Planning Commission hearing, testimony was heard that expressed concern about the discontinuance time period in the case of a nonconforming use that is approved for alteration and needs to discontinue for the time it may take to obtain permits and complete construction of the approved alterations. Both the Planning Commission and staff were sympathetic to this particular circumstance and agreed that it may be appropriate to allow for a longer discontinuance for that specific reason. As such, the PC recommended staff add an additional discontinuance allowance to the proposal, which has been done and is reflected in the amendments in **Attachment A**. This proposed revision would allow for an additional two years for a nonconforming use to be discontinued and then be allowed to resume, but only if an alteration has been approved and “implemented”, meaning required permits (e.g., building, access/parking lot) have been obtained and maintained. The additional time is intended to be for actual construction of the approved alterations.

**(4) Action 5. Streamline and clarify processes within Habitat Conservation Areas (HCAs) and Water Quality Resource Areas (WQRAs), including:**

- a. Streamlining administrative processes and eliminating application requirements – including a fee - for construction management plans (CMPs), without changing standards, which would be reviewed in conjunction with building or other development permits;
- b. No longer requiring an application for HCA map verification when a developer chooses to concur with the adopted HCA map, thus eliminating a cost and time associated with an unnecessary application;
- c. Allowing development that is in both a HCA and WQRA the option to comply with clear and objective development permit standards in addition to the two discretionary options available; and
- d. Allowing HCA or WQRA in an approved land division to be platted as a restricted development area (RDA) as an alternative to platting as a separate tract, to remove a potential conflict in rural residential zones and provide an option that does not necessitate a homeowner’s association or conveyance of the tract to a public or nonprofit entity.

Although the Planning Commission expressed support for these changes, there was some concern and a fair amount of discussion around the idea of allowing for restricted development areas (RDAs) on private lots and whether this method was really effective at protecting the natural resources on a property. Staff assured the Planning Commissioners that this is a standard practice, in which the RDA is identified both on the plat and the tax

map for the properties and no development (buildings, septic systems, etc) will be approved in those areas. Like nearly any other provision in the ZDO, there is no guarantee that a property owner would not attempt to disturb the RDA, but the county's Code Enforcement group would be able to enforce on any unauthorized disturbance of the RDA if it is reported. Moreover, the current requirement to plat the HCA and/or WQRA areas in a separate tract, does not necessarily provide any more protection than would an RDA and may, in some cases, create a conflict with state law and minimum lot sizes in rural residential areas. In addition, the construction management plan standards will require the RDA to be marked on the site to prevent inadvertent disturbance during development.

Ultimately, the Planning Commissioners agreed that these provisions should remain in the proposal and included staff's proposed amendments related to the HCA and WQRA standards in their motion to approve ZDO-283.

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**STAFF RECOMMENDATION:**

Staff recommends adoption of the amendments in ***Attachment A***.

Doing so would achieve the nine actions detailed in Pages 2-7 of the Staff Report to the Planning Commission,

- with the additional amendments to ZDO Section 202, *Definitions*, and ZDO Section 1206, *Nonconforming Uses and Vested Rights*, recommended by the Planning Commission; but
- without the removal of the amendments to ZDO Section 406, *Timber District (TBR)* that was recommended by the Planning Commission.



# ZDO-283: FY 2023 MINOR AND TIME- SENSITIVE AMENDMENTS



Board of County Commissioners Public Hearing  
July 12, 2023


## ZDO-283

### **Legislative amendments to the Comprehensive Plan and Zoning & Development Ordinance (ZDO) to:**

1. Comply with mandates, state law
2. Clarify existing language and correct errors
3. Adopt optional provisions requiring minimal analysis

## BACKGROUND


- Work program
- Planning Commission Study Session (June 2022)
- BCC Policy Session (July 2022)
- Community input

ZDO-280 [3] 

## PROPOSAL SUMMARY (9 ACTIONS)

### *Most substantive actions/significant issues:*


1. Allow “stand alone” restrooms in RTC (Rural Tourist Commercial) zone
2. Align forest template test dwelling requirements with state law
3. Align nonconforming use discontinuance and implementation periods
4. Modify ZDO’s definition of “lot of record”
5. Streamline and clarify processes within Habitat Conservation Areas and Water Quality Resource Areas

ZDO-280 [4] 

## PROPOSAL SUMMARY (9 ACTIONS)

### *Other actions:*

6. Exempt detached single family dwellings, manufactured dwellings and accessory uses from design review in commercial and industrial zones
7. Expressly allow electronic signatures
8. Reduce pages sent with notice of decision
9. Make minor/non-substantive changes to the Comprehensive Plan and ZDO

ZDO-280 [5] 


## (1) PUBLIC RESTROOMS

### **Allow “stand alone” public restrooms in the RTC District as a conditional use**

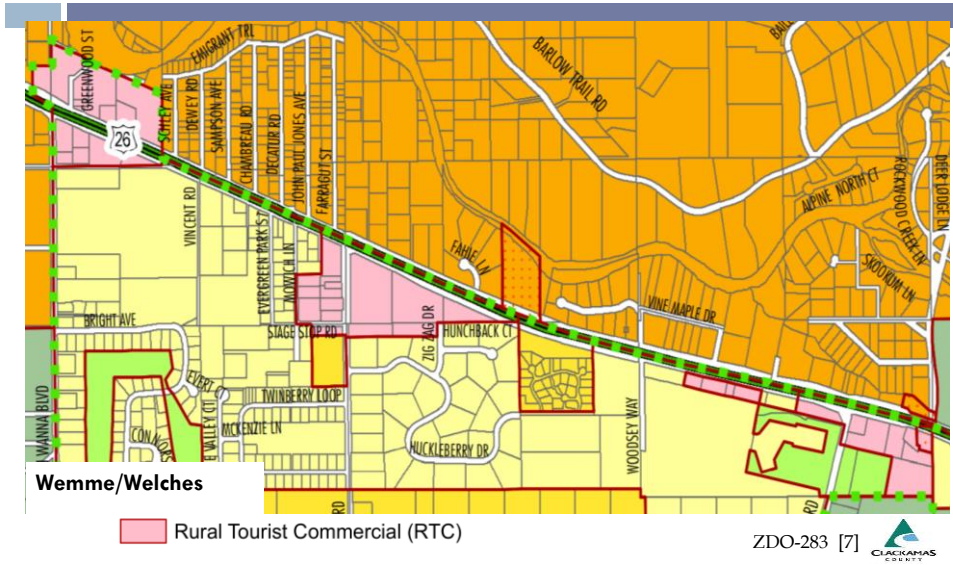


- Consideration of suitability of subject property, surrounding area, and applicable Comp Plan policies
- Consistency with existing design standards
- Public hearing

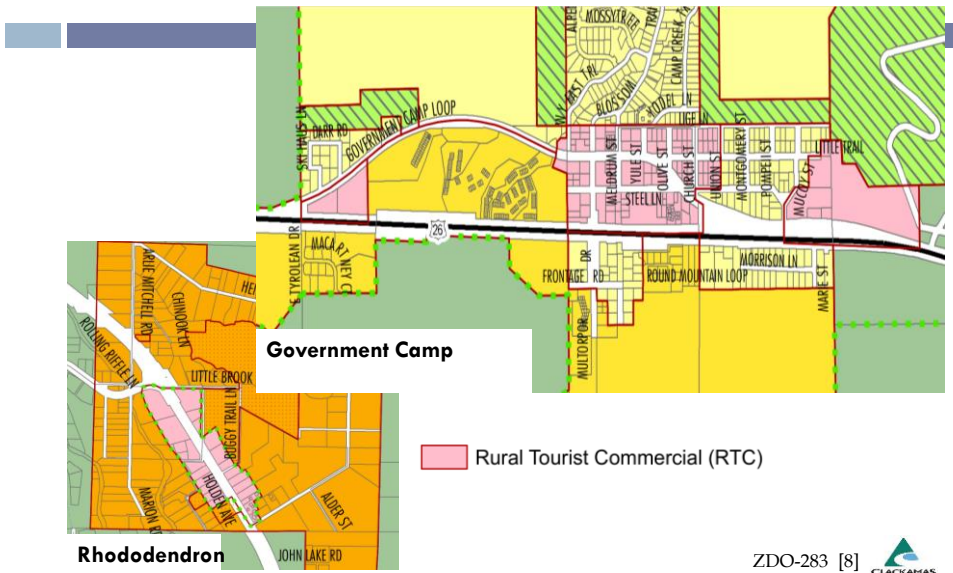


ZDO-283 [6] 

# (1) PUBLIC RESTROOMS - RTC ZONE

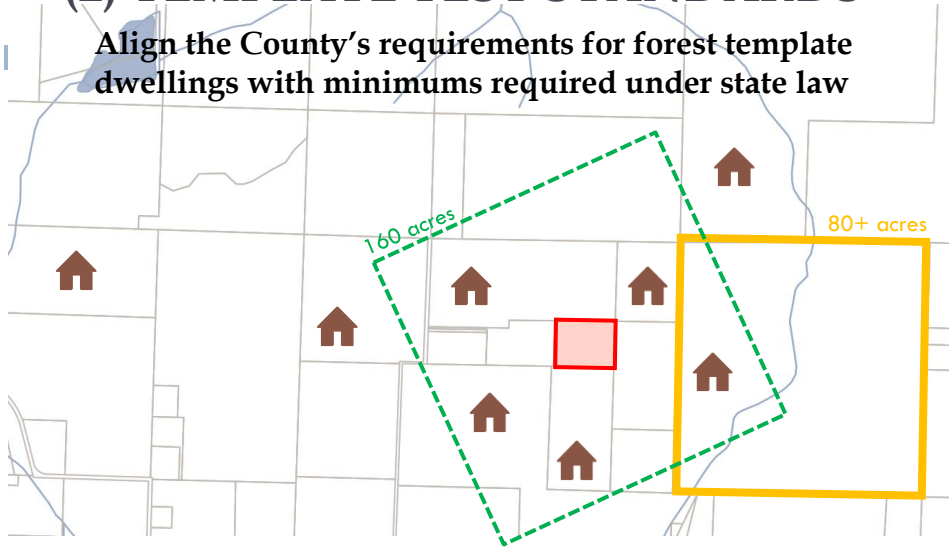


# (1) PUBLIC RESTROOMS - RTC ZONE



## (2) TEMPLATE TEST STANDARDS

Align the County's requirements for forest template dwellings with minimums required under state law



## (2) TEMPLATE TEST STANDARDS

<i>Within template, currently:</i>	<i>Proposal:</i>
<b>4 or 5 lots with dwellings</b> (depending on land productivity) that existed January 1, 1993	Just <b>3</b> such lots with dwellings
Lots >80 acres, and dwellings on lots >80 acres, <b>not counted</b>	Count them

## (2) TEMPLATE TEST STANDARDS



- Existing criteria since mid-1990s
- More forestland properties could qualify for dwelling
- How many more? Unknowable
- Consistent with county's practice in more recent years of conforming its code to state law in natural resource zones
- Concerns about approving more dwellings in forested, fire-prone areas

ZDO-283 [11]

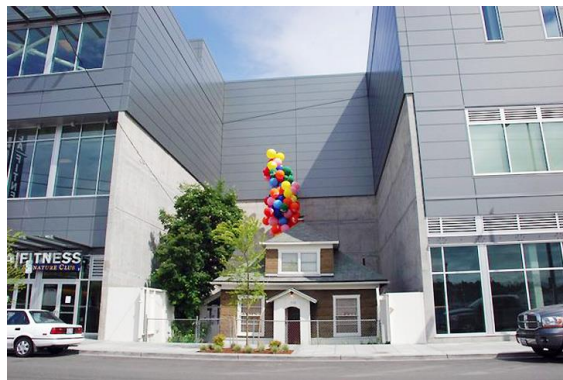


## (3) NONCONFORMING USES

**Extend  
nonconforming use  
*discontinuance*  
period from 1 year  
to 2 years**

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**Reduce  
nonconforming use  
*alteration*  
implementation  
period from 4 years  
to 2 years**

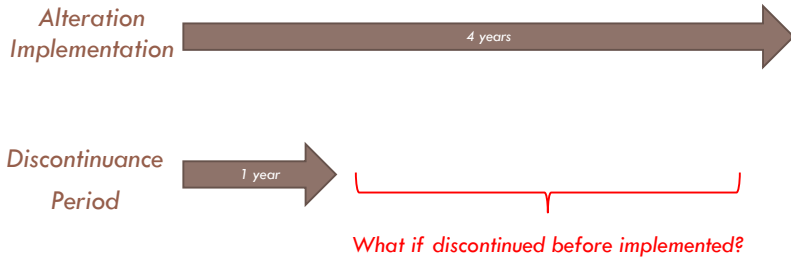



ZDO-283 [12]



### (3) NONCONFORMING USES

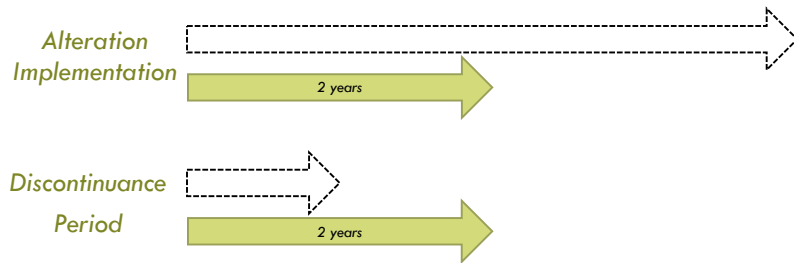
#### Current regulations




ZDO-283 [13] 

### (3) NONCONFORMING USES

#### Proposal



**Plus**, an additional 2 years of discontinuance if alteration approved and implemented

ZDO-283 [14] 

## (4) LOT OF RECORD

### Modify the definition of "lot of record"

#### *Ways to refer to a unit of land:*

*Not always  
synonymous*

- "Tax lot" (for assessment purposes)
- "Discrete parcel" (for ownership/ sale purposes)
- "Lot of record" (for development purposes)

ZDO-283 [15]



## (4) LOT OF RECORD

### Current definition

- Requires consolidation of contiguous lots under same ownership if each individually did not meet lot size requirements when initially zoned
- Includes certain foreclosed lots, inconsistent with state law
- Needs other clarity

ZDO-283 [16]





## (4) LOT OF RECORD

### **Proposed definition removes lot consolidation and foreclosure provision**

- Clarity
- Reduce research complexity, costs, and delays
- Resolve fairness question with lot consolidation provision
- Consistent with other jurisdictions and state-required minimum lot size requirements

ZDO-283 [17]



## (5) HCAD AND WQRAD PROCESSES

### **Streamline and clarify processes within Habitat Conservation Areas and Water Quality Resource Areas**

- Eliminate Construction Management Plan, address same standards through building or development permit
- No HCA map verification if agree with map
- Add clear and objective standards option for development within HCAD or WQRAD
- Allow restricted development area instead of tract in land division


ZDO-283 [18]



## ANALYSIS & FINDINGS

### Proposed amendments (Attachment A) meet applicable approval criteria


- Statewide Planning Goals
- ORS 92.010 & 215.010
- Metro Urban Growth Management Functional Plan ( UGMFP)
- Clackamas County's Comprehensive Plan
- Zoning and Development Ordinance

ZDO-280 [19] 

## PLANNING COMMISSION (PC) HEARING

### Public hearing June 26, 2023

- Four parties testified in favor of specific portions of proposal
- One party requested additional changes to nonconforming use discontinuation
- Significant Issues (**Actions 2-5**)
  - Forest template dwelling standards
  - Lot of record definition
  - Nonconforming use discontinuation
  - Habitat Conservation Area/Water Quality Resource Area amendments

ZDO-280 [20] 

## PC RECOMMENDATION

**Recommend adoption of the ZDO-283 text amendments, as presented at hearing, with changes:**

1. Remove the proposed amendments to the forest template test standards
2. Further amend/clarify the lot of record definition, as recommended by staff
3. Include longer discontinuance period for a nonconforming use if an alteration has been approved for that use

ZDO-280 [21]



## STAFF RECOMMENDATION

**Recommend adoption of the ZDO-283 text amendments included in Attachment A:**

- includes additional amendments recommended by PC
- includes the amendments to the forest template dwelling standards not supported by PC

ZDO-280 [22]





# QUESTIONS?





**STAFF REPORT TO THE PLANNING COMMISSION**

TO: Clackamas County Planning Commission

FROM: Martha Fritzie, Principal Planner ([mfritzie@clackamas.us](mailto:mfritzie@clackamas.us))  
Jennifer Hughes, Planning Director ([jenniferh@clackamas.us](mailto:jenniferh@clackamas.us))

DATE: June 15, 2023

RE: Planning File ZDO-283, *Minor and Time-Sensitive Amendments to the Clackamas County Comprehensive Plan and Zoning and Development Ordinance (ZDO), Fiscal Year (FY) 2023*

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**BACKGROUND**

The Long-Range Planning Work Program for 2021-2023 includes a project - *Minor and Time-Sensitive Comprehensive Plan and ZDO Amendments* - to make relatively minor changes annually to the Comprehensive Plan and ZDO that are necessary to comply with state and federal mandates, clarify language, correct errors, and adopt optional provisions that require only minimal analysis.

Planning File ZDO-283 proposes a number of such changes that were initially identified for Fiscal Year (FY) 2022; however, due to staffing changes in Planning and Zoning, this package was delayed a year.<sup>1</sup>

The amendments proposed in ZDO-283 are grouped into nine actions listed in the “Proposal” section below. In addition to housekeeping or required amendments identified by staff, the proposal includes several items that were identified as priorities during a study session with the Planning Commission on June 21, 2022 and in a policy session with the Board of County Commissioners (BCC) on July 13, 2022.

There will be at least two public hearings on this proposal: one before the Planning Commission (PC) on Monday, June 26, 2023, and another before the BCC on Wednesday, July 12, 2023. The PC provides a recommendation to the BCC, who would ultimately decide whether the proposal is adopted.

<sup>1</sup> The last package of such “minor amendments” was Ordinance ZDO-280, which was adopted by the Board of County Commissioners (BCC) in September 2021.

## **PROPOSAL**

ZDO-283 proposes text amendments to Comprehensive Plan Chapter 6, *Housing* and to 32 separate sections of the ZDO<sup>2</sup>. The amendments are included with summary outlines in **Attachment A**.

The proposed amendments would accomplish **nine actions**. The most substantive changes are included in **Action 1 through Action 5** and are generally items that were included in response to requests from the public and specific direction given by the PC and BCC to help facilitate development, provide more clarity for the public, and align the county's regulations with state regulations. The proposals in **Action 6 through Action 9** are less substantive and generally include items intended to create efficiencies, align the ZDO with the Comprehensive Plan, clarify provisions or definitions, and correct citations and other clerical errors in the ZDO.

Following is a list of these actions, as well as brief explanations of the context behind each action and how the action would be accomplished with the proposed amendments.

1. **Allow public restrooms in the Rural Tourist Commercial (RTC) District as a conditional use:** The RTC District is a commercial zoning district in areas of the Mt. Hood Corridor (e.g., Wemme/Welches, Rhododendron, and Government Camp). Currently, this zoning district does not expressly allow for public restroom facilities; public restroom facilities could only potentially be allowed if they are (1) accessory to some other permitted use, such as a restaurant; (2) managed by a governmental entity with a conditional use permit; or (3) if they are determined, through a formal application process, to be similar to some other use permitted in the zone.

The possibility of allowing “stand-alone” public restroom facilities that may help support local tourism was raised as part of discussions occurring with the Government Camp community, Oregon Solutions, and the BCC. Conditional uses require a public hearing and consideration of factors such as the characteristics of the subject property, potential impacts on the surrounding area, and consistency with existing goals and policies of the Comprehensive Plan.

ZDO-283 would amend the ZDO to allow public restroom facilities as a conditional use in the RTC District, regardless of whether they are accessory to another use or managed by a governmental entity.

2. **Align the County's requirements for forest template dwellings with the minimum requirements under state law:** The Ag/Forest (AG/F) and Timber (TBR) zoning districts implement the Comprehensive Plan's Forest land use plan designation, a designation intended to: conserve forestlands for commercial forestry practices; protect watersheds, wildlife, and fisheries resources; minimize wildfire hazards and risks; and enhance and protect other environmentally sensitive areas. Residential development in the AG/F and TBR Districts is restricted and generally requires approval of a land use application showing that criteria for the limited opportunities for residential development are satisfied.

One of the pathways for approval of a forestland dwelling is through the “template test” methodology. Broadly, the template test considers the amount of parcelization and residential development that existed on January 1, 1993, in a 160-acre rectangular area

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<sup>2</sup> Each ZDO section proposed for amendment is listed in the “List of Attachments” section, found on pages 18 & 19 of this report.

centered on the subject property. If there were enough separate lots of record and dwellings within that “template” area on that date, the subject property can potentially qualify for a dwelling. The number of lots and dwellings within that 160-acre “template” area that are needed to qualify is based on the subject property’s soil productivity, with a minimum number established by state law.

The County’s existing requirements for template dwellings exceed the minimums required by state law. ZDO-283 proposes to reduce the County’s requirements to the minimums required by the state in ORS 215.750(2). Specifically, ZDO-283 proposes the following:

- For a template dwelling on a property with soils capable of producing 50-85 cubic feet per acre per year of wood fiber, reduce the number of required dwellings in the template area from **four** to **three**;
- For a template dwelling on a property with soils capable of producing more than 85 cubic feet per acre per year of wood fiber, reduce the number of required dwellings in the template area from **five** to **three**; and
- Allow lots of record larger than 80 acres and dwellings on lots of record larger than 80 acres to count toward the minimum number of required lots of record and dwellings within the template area.

This issue initially was raised by the representative of a forestland property owner. Aligning the ZDO with state regulations would likely allow more AG/F- or TBR-zoned properties to qualify for residential development, but it is not possible to calculate *how many* more properties could qualify or the location of such properties.

Making this change is consistent with the approach the BCC has taken for a number of years that county regulations in Forest and Agriculture districts should track with state law, and not be more restrictive than state law.

3. **Extend the nonconforming use discontinuance period from one year to two years, while also reducing the implementation period for nonconforming use alterations from four years to two years:** A nonconforming use is the use of any structure or land that was lawful when the use was originally established, but is now prohibited under current regulations. Both state and county laws protect these “legacy” land uses by allowing them to continue, provided the use was never interrupted or abandoned since it became prohibited.

In most cases, state law allows the County to establish its own criteria for determining when a nonconforming use has been “interrupted or abandoned”. Currently, the County considers a nonconforming use to be interrupted if it has discontinued for 12 consecutive months, except in certain circumstances for nonconforming surface mines and nonconforming uses lost to particular wildfires, where state law establishes the discontinuance standard.

A nonconforming use that has not discontinued for 12 months can be altered (e.g., expanded or changed), subject to certain standards. Currently, the ZDO gives an applicant four years to implement an approved alteration by obtaining and maintaining certain necessary permits for development. However, this existing four-year implementation period for an alteration is longer than the 12-month discontinuance period, which can create ambiguity around whether an approved alteration can still be implemented if the nonconforming use being altered has, within that four-year implementation period, been discontinued for 12 months. Moreover, the existing 12-month discontinuance period may be too short, particularly when the law does not consider the reasons for the discontinuance in most cases.

ZDO-283 proposes to extend the nonconforming use discontinuance period from one year to two years, and to reduce the implementation period for approved nonconforming use alterations from four years to two years. Under the proposed amendments, there would still be an opportunity for one two-year time extension on an approved alteration. Nonconforming marijuana production uses will remain subject to a one-year discontinuance period established by state law.

4. **Modify the ZDO's definition of "lot of record":** There are various ways to refer to a unit of land, depending on the purpose for the reference. For example, a "tax lot" is a unit of land with boundaries established by the tax assessor for tax assessment-related purposes. The ZDO, however, generally uses the term "lot of record" to refer to a unit of land for development purposes. The boundaries of a tax lot or other unit of land do not necessarily correspond to the boundaries of a lot of record; in other words, a unit of land defined for tax assessment or other purposes may not be separately developable according to the ZDO.

In order to determine whether a property is separately developable according to the ZDO, or whether it can be divided or have its boundaries adjusted, it is necessary to determine whether the property is a separate lot of record. Determining whether a given unit of land meets the current ZDO definition of a "lot of record" often requires a significant amount of research involving a review and documentation of the full ownership and zoning history of the subject property and adjacent properties, as well as an interpretation of old deed records and land use decisions.

Moreover, the County's existing lot of record definition treats some units of land differently depending on who owned them, and how they were described on deed records, decades ago. For example, under the current definition:

- If two contiguous lots were under the same ownership on the date those properties were first zoned, and if one of those two lots was smaller than that initial zone's minimum lot size, they would be consolidated as one lot of record, even if they have always been described on separate deeds;
- Conversely, if the same two contiguous lots were under separate ownership at initial zoning, they would not be consolidated and would be considered separate lots of record, even if one of the lots was undersized at initial zoning. "Separate ownership" could mean: the two lots were owned by separate unrelated parties; one of the lots was owned by one spouse and the other owned by the other spouse; or even one person owning one of the lots on their own while owning the other lot together with their spouse or anyone else.

In addition, in some cases, it is not completely clear what the minimum lot size was at first zoning or County records from that era can be incomplete regarding the precise date of first zoning.

ZDO-283 proposes to amend the ZDO definition of "lot of record" to repeal this lot consolidation requirement. This amendment could afford more uniform development rights and make the process of determining a property's lot of record status more efficient, as it would reduce the need to review the ownership history of adjacent properties.

The proposed amendments to the definition of "lot of record" would also:

- Clarify that lots or parcels in a recorded plat are lots of record



- Sunset a provision that renders certain foreclosed properties as lots of record, a provision that is seemingly inconsistent with state law
- Specify that a unit of land entirely surrounded by lots of record is also a lot of record

**5. Streamline and clarify processes within Habitat Conservation Areas and Water Quality Resource Areas, including:**

- a. **Streamline administrative processes and eliminate application requirements for construction management plans (CMPs), without changing standards:** A CMP is a plan to ensure construction activities associated with proposed development will not impact certain protected areas. A CMP must include specified erosion prevention and sediment control measures and must be approved prior to development on any property with a Habitat Conservation Area (HCA) or Water Quality Resource Area (WQRA) overlay.

Currently, when a project requires CMP review, a CMP application must be made – and fee paid – to Planning & Zoning. That application addresses only clear and objective criteria, and therefore the existing application process does not include public notice or opportunity for appeal. Nonetheless, the application requirement and associated fee for CMP review can create additional project costs and delays.

ZDO-283 proposes to repeal the requirement that a separate application be made for CMP review. Under the proposal, the criteria for CMP approval would not change, but would instead be reviewed with an HCA or WQRA Development Permit, if one is required, and a building or grading permit application if one is not.

- b. **No longer require an application for HCA map verification when a developer chooses to concur with the adopted HCA map:** For development or a land division of a property with an HCA overlay, the boundaries of the HCA must be verified through a separate land use application. The County has official maps of the HCA, which can be contested or refined through the verification process. However, the ZDO currently requires HCA map verification *even when an applicant for development or a land division concurs* with the County's official maps, despite the fact that there are no approval criteria to apply. ZDO-283 would repeal this requirement.
- c. **Allow development that is in both a Habitat Conservation Area and a Water Quality Resource Area the option to comply with the clear and objective development permit standards of Subsection 706.10(A):** For housing, providing a clear and objective pathway is required by state law. Currently there are two discretionary options available, which will remain.
- d. **Allow HCA or WQRA in an approved land division to be platted as a restricted development area (RDA) as an alternative to platting as a separate tract:** Requiring a tract creates a conflict in rural zones that have a mandatory minimum lot size with no ability to include the tract in an average lot size standard.

- 6. No longer require design review for detached single-family dwellings, manufactured dwellings, or uses accessory to detached single-family dwellings or manufactured dwellings in commercial and industrial districts that allow these uses:** This change is consistent with the existing exception to design review requirements for such uses in the

Mountain Recreational Resort (MRR) District. Design review serves little purpose for this type of small-scale, single-family residential development.

7. **Expressly allow electronic signatures:** Land use applications already require certain signatures (e.g., from the owner(s) of the subject property). ZDO-283 would amend the ZDO to expressly recognize electronic signatures as an acceptable form of signature.
8. **Reduce the number of printed pages automatically mailed with a notice of decision on an application:** The ZDO requires that a copy of the written decisions on Type II land use applications be mailed to owners of property within a specified distance of the subject property. For Type III decisions, the ZDO requires that a copy of the written decision be mailed to anyone who provided oral or written testimony. In some cases, the mailing list can include hundreds of separate parties and with the length of some decisions being dozens of pages, these mailings require significant resources for staffing, materials, and postage, and the procedure may not result in public awareness commensurate with those resources. State law requires a notice of decision with certain information be mailed, but does not require mailing of a full copy of the decision.

ZDO-283 proposes amendments that would require a notice of decision, rather than a full printed copy of the decision, be mailed. The notice would include directions on how to obtain a copy of the full decision.

9. **Make minor/non-substantive changes to the Comprehensive Plan and ZDO that:**
  - a. Repeal certain duplicative and partially incorrect Comprehensive Plan policies related to manufactured dwellings, and repeal a now-inapplicable Comprehensive Plan density bonus chart;
  - b. Clarify that existing maximum lot coverage standards do not apply to architectural features that are not built for the support, occupancy, shelter, or enclosure of persons (e.g., eaves, gutters, chimneys);
  - c. Clarify that an existing single-family dwelling with an attached accessory dwelling unit (ADU), as well as an existing duplex, can be converted to other forms of “middle housing” (e.g., a triplex or quadplex), where such middle housing is allowed, without having to newly meet certain middle housing design standards if the conversion does not add any building square footage;
  - d. Clarify that a “sidewalk” includes a concrete pedestrian facility along not just a public road, but all types of roads;
  - e. Clarify that a recreational vehicle (RV) is considered a dwelling when lawfully permitted as a temporary dwelling;
  - f. Amend the standards for onsite sewage disposal systems in urban areas for consistency with the Comprehensive Plan and to address rural-zoned areas inside the Metro UGB;
  - g. Add standards to allow a waiver for hydrogeologic review in sensitive groundwater areas in cases where there is no statistical increase in water usage;
  - h. Identify that replats in a natural resource zone that do not create additional lots of record are already subject to certain state regulations necessitating a Type II application process;
  - i. Codify an existing allowance in state law for single-event agri-tourism, and existing state allowances related to outdoor mass gatherings, in natural resource zones;
  - j. Codify an additional notice requirement under state law for renewable energy facilities;
  - k. Reorganize and retitle, without substantively changing, existing provisions in the ZDO related to nonconforming uses;

- l. Align definitions of “farm operator” and “farm or ranch operation” with relevant existing definitions in state law;
- m. Conform the ZDO to the Comprehensive Plan by allowing all sites zoned Planned Mixed Use to be master planned instead of requiring full compliance with all development requirements with the first phase of new development;
- n. Conforming amendments overlooked in previously adopted Plan and ZDO amendments;
- o. Minor edits for clarity and consistency, to correct citations, or to accurately reflect state law.

## **PUBLIC NOTICE & COMMENTS**

Notice of the proposed amendments in ZDO-283 was sent to:

- All cities within the County;
- All County Community Planning Organizations (CPOs) and Hamlets;
- Oregon Department of Land Conservation & Development (DLCD), Metro, Oregon Department of Transportation (ODOT), and other interested agencies; and
- An interested parties list, specific to this planning project, which contains seven contacts who are specifically interested in amendments to the lot of record definition (Action 4) or to the amendments to the Template Test Dwelling requirements (Action 2).

Notice was also published in the newspaper and online and was the subject of a countywide press release. To date, Planning and Zoning has received two (2) written comments: (1) a letter from Metro, in support of the proposed amendments and (2) a letter from a member of the public in support of the proposed changes to the template test rules (see **Attachment B**, Exhibits 1 and 2).

## **ANALYSIS & FINDINGS**

The proposed Comprehensive Plan and ZDO text amendments are legislative in nature and are subject to the relevant Statewide Planning Goals, Oregon Revised Statutes (ORS) and Oregon Administrative Rules (OARs), the Metro Urban Growth Management Functional Plan (UGMFP), County Comprehensive Plan policies, and procedural standards identified in the county’s Zoning & Development Ordinance (ZDO). Compliance with the relevant portions of each is discussed in subsections 1 through 5, below.

### **1. Statewide Planning Goals:**

This section of the report includes findings on ZDO-283’s consistency with Statewide Planning Goals. The analysis and findings are focused on the substantive changes proposed in **Actions 1 through 5**. Proposed actions to conform to state laws, or to codify or clarify existing rules or definitions, 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-283 does not propose any change to the *Citizen Involvement* chapter (Chapter 2) of the County’s Comprehensive Plan.

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-283 has been provided consistent with the requirements of Section 1307, including to DLCDC, all cities in the County, and all active and recognized CPOs and Hamlets 35 days before the first public hearing. Notice of the proposal and its scheduled hearings was published in *The Oregonian* more than 10 days in advance and has also been posted on County websites. Before a final decision on ZDO-283 can be made, there will have been at least two public hearings: one before the Planning Commission and another before the BCC.

Many of the amendments proposed in ZDO-283 themselves respond to requests for consideration made by members of the public, as well as by the Planning Commission and BCC during public meetings within the last year.

**This proposal 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-283 does not require an exception to any Statewide Planning Goal. The only Comprehensive Plan amendments that would be made by ZDO-283 would be to Chapter 6, *Housing*, in order to repeal redundant policies and correct unintended editing errors from a previous code amendment package.

With the proposed amendments, the County's adopted and acknowledged Comprehensive Plan will continue to be consistent with Statewide Planning Goals, and the implementing regulations in state law.

**This proposal is consistent with Goal 2.**

**Goal 3 – Agricultural Lands:**

ZDO-283 would not amend Comprehensive Plan policies related to agricultural lands, nor would it change any property's land use plan designation or expand any UGB into agricultural lands (i.e., those zoned EFU). ZDO-283 would also not permit new land uses on agricultural lands. Rather, the ordinance would amend the ZDO to ensure consistency with existing state allowances for agri-tourism events and activities and outdoor mass gatherings; would amend several definitions for consistency with state law; and make other non-substantive changes, including correcting citations.

Although the amendments do add provisions for single-event agri-tourism with not more than 100 attendees or 50 vehicles, the county is required to allow this use under ORS 215.283(4)(b) and, to date, has been implementing this provision through state law since it was not explicit in the ZDO. These amendments will align the ZDO with this statute.

**This proposal is consistent with Goal 3.**

**Goal 4 – Forest Lands:**

ZDO-283 would not amend Comprehensive Plan policies related to forest lands (i.e., those zoned AG/F or TBR), nor would it change any property's land use plan designation or expand any UGB into forest lands. While ZDO-283 would not permit new land uses in forest lands, the amendments to reduce the requirements for a forest template dwelling,

would likely have the effect of allowing for *more* residential development on forest lands in the county.

Because the template test is administered on a case-by-case basis and is based on the individual circumstance of each lot, it is not possible to know how many additional dwellings might be approved though the reduced requirements for the template test, however:

- This change would simply align the county's rules with the minimum requirements under state law, which have been found to be consistent with and in fact are among the rules that specifically implement Goal 4; and
- Any dwelling approved on forest lands is currently and will continue to be required to meet certain fire siting standards and building code standards that are intended to help minimize the wildfire risks for the dwelling, thus furthering the intent of Goal 4.

The proposal would also amend the ZDO to ensure consistency with existing state allowances for outdoor mass gatherings and would make other non-substantive changes, including correcting citations.

**This proposal 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-283 would not make any change to the County's Comprehensive Plan goals, policies, or inventories, or to ZDO provisions, related to the protection of scenic, historic, or open space resources.

ZDO-283 would make changes to ZDO provisions related to the protection of certain Goal 5 natural resources and specifically to those areas with a Habitat Conservation Area District (HCAD) overlay. These changes are largely procedural, however; they do not change the criteria that development within these overlay areas needs to meet, but change the process by which compliance is reviewed. The amendments also allow for a HCA that is approved in a land division to be platted as a restricted development area, rather than a separate tract within a plat, a distinction that has no functional difference on the ground, as both methods protect the HCA area from development. Finally, the amendments ensure that all development in these areas has a clear and objective pathway to approval, which is required by state law for residential development.

**This proposal 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-283 would not change any Comprehensive Plan goal or policy, or implementing regulation, affecting a Goal 6 resource, nor would it modify the mapping of any protected resource.

ZDO-283 would make changes to ZDO provisions related to the protection of certain Goal 6 resources and specifically to those areas with Water Quality Resource Area District (WQRAD) overlay. As with the HCAD amendment discussed above, the changes proposed in WQRAD areas procedural; they do not change the criteria that development

within these overlay areas needs to meet, but change the process by which compliance is reviewed. The amendments ensure that all development in these areas has a clear and objective pathway to approval, which is required by state law for residential development.

**This proposal 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-283 would not change the County's acknowledged Comprehensive Plan policies regarding natural disasters and hazards, nor would it modify the mapping of any hazard.

**This proposal 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-283 would not change any existing, state-acknowledged County Comprehensive Plan policy or implementing regulation regarding recreational needs, nor would it reduce or otherwise modify a mapped recreational resource.

**This proposal 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-283 would not change the Comprehensive Plan or zoning designation of any property. It also would not add any new restriction to land uses in areas of the County reserved for commercial and industrial development. ZDO-283 proposes to correct an unintended result of a prior ZDO amendment that removed an allowance for dog services in certain commercial districts. This amendment does not result in a new use being allowed; rather it restores a property right that was inadvertently taken away from owners of property in certain urban commercial districts.

In addition, the proposal includes ZDO amendments that would potentially allow for more lots to be developed separately, through the amended definition of "lot of record" and would allow for public restrooms in the RTC District in the Mt. Hood corridor, which could support tourism and local businesses in that area – both actions that further the intent of Goal 9.

**This proposal is consistent with Goal 9.**

**Goal 10 – Housing:**

The purpose of Goal 10 is to meet housing needs. ZDO-283 would neither reduce nor significantly expand the County's housing land supply, nor would it add new restrictions to housing development.

The proposal includes ZDO amendments that would potentially allow for more lots to be developed separately, through the amended definition of "lot of record" which may support more housing development, if allowed in the applicable zoning district. In addition, procedures to streamline processes for development, and particularly those in and near habitat-protected areas, could help facilitate more housing development by creating a more efficient and understandable process for the public. Both of these actions further the intent of Goal 10.

**This proposal 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-283 does not propose any change in adopted plans for the provision of water, sewer, or other public services.

The proposal in ZDO-283 includes amendments to the ZDO that would remove existing conflicts with the county Comprehensive Plan regarding circumstances where onsite wastewater systems are allowed in certain urban areas. These amendments will ensure compliance with Goal 11.

**This proposal 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-282 would not amend the County’s Transportation System Plan, nor would it change the land use plan designation or zoning of any property.

The only new uses that would potentially be allowed under ZDO-283 are “stand-alone” public restrooms in the RTC District; but this use would require approval through a conditional use permit, which requires project-specific review of transportation impacts. ZDO-282 would not allow any new land use “outright” (i.e., without review of transportation system impacts).

ZDO-283 does not propose any explicit change in the County’s buildable land supply, although by amending the definitions of a “lot of record” and reducing the standards for a template test, this proposal may have the effect of somewhat increasing the supply of buildable parcels throughout the county. Nonetheless, Staff does not find that these changes would have any significant impact on the analysis of the transportation system because of the data limitations inherent in the analysis:

- There is no “map” or GIS layer that distinguishes the county’s “lots of record” from tax lots and therefore all current transportation system analysis begins at the tax lot level. If anything, the current system models probably include an *overestimate* of development potential in buildable areas, and the “lot of record” change will more closely align to the assumptions already being made in the transportation system analysis.
- A transportation system analysis is not actually done on a lot-by-lot basis. Assumptions that go into the model include general uses and population forecasts that are aggregated to the Transportation Area Zone (TAZ) level. A TAZ is similar to a Census tract in that it is a geographic area that will contain many taxlots, parcels, dwellings and/or businesses. Because of this aggregation, minimal changes to the number of buildable lots that may result from either the “lot of record” or template test amendments would amount to, at most, negligible changes in a transportation system model.

Notice of ZDO-282 was provided to ODOT and to county Engineering, neither of which have provided comments.

**This proposal 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 proposed amendments would not change any policy or implementing regulation regarding energy conservation.

**This proposal 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-283 would not modify any UGB or the status or boundaries of any unincorporated community. The ordinance would 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.

**This proposal is consistent with Goal 14.**

**Goal 15 – Willamette River Greenway:**

ZDO-283 would not change any existing requirement related to development in the Willamette River Greenway.

**This proposal 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. Oregon Revised Statutes (ORSs)**

The Oregon Revised Statutes (ORSs) contain the following direction for determining is a unit of land is lawfully established.

**ORS 92.01:**

(3)(a) “Lawfully established unit of land” means

(A) A lot or parcel created pursuant to ORS 92.010 to 92.192; or

(B) Another unit of land created:

(i) In compliance with all applicable planning, zoning and subdivision or partition ordinances and regulations; or

(ii) By deed or land sales contract, if there were no applicable planning, zoning or subdivision or partition ordinances or regulations.

(b) “Lawfully established unit of land” does not mean a unit of land created solely to establish a separate tax account.

(4) “Lot” means a single unit of land that is created by a subdivision of land.

(6) “Parcel” means a single unit of land that is created by a partition of land.

**215.010 Definitions.** As used in this chapter:

(1) The terms defined in ORS 92.010 shall have the meanings given therein, except that “parcel”:



- (a) Includes a unit of land created:*
  - (A) By partitioning land as defined in ORS 92.010;*
  - (B) In compliance with all applicable planning, zoning and partitioning ordinances and regulations; or*
  - (C) By deed or land sales contract, if there were no applicable planning, zoning or partitioning ordinances or regulations.*
- (b) Does not include a unit of land created solely to establish a separate tax account.*

In order to determine whether a property is separately developable according to the county's ZDO, or whether it can be divided or have its boundaries adjusted, it is necessary to determine whether the property is a separate lot of record. As discussed previously, determining whether a given unit of land meets the current ZDO definition of a "lot of record" often requires a significant amount of research, largely due to a provision in the county's definition that requires two contiguous lots to be "consolidated" into one legal lot of record if they were under the same ownership on the date those properties were first zoned, and if one of those two lots was smaller than that initial zone's minimum lot size. This "consolidation" provision also results in some units of land being treated differently depending on who owned them, and how they were described on deed records, decades ago.

ZDO-283 proposes to amend the ZDO definition of "lot of record" to repeal this lot consolidation requirement. This amendment could afford more uniform development rights and make the process of determining a property's lot of record status more efficient. Per ORS 92.01 and 215.010, the "consolidation" provision is not required by state law and based on staffs research, is not a provision typically found in a "lot of record" definition in other jurisdictions.

**This proposal is consistent with the relevant Oregon Revised Statutes (ORSs).**

### **3. Metro Urban Growth Management Functional Plan (UGMFP)**

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.

ZDO-283 does not propose to change the boundaries of the UGB or of an urban or rural reserve. The proposal would also not change the housing density standards in any part of the County, allow any new retail use in any zoning district, change the dimensional standards of any use in an urban area, or change any provision governing open spaces.

ZDO-283 also does not propose any explicit change to the County's residential, commercial, or industrial land supply, but by amending the definitions of a "lot of record", this proposal may have the effect of somewhat increasing the supply of buildable parcels throughout the county, including within the Metro area Urban Growth Boundary (UGB). ZDO-283 also proposes amendments that affect the county's urban riparian habitat and water quality protection areas. As such, four of the 13 sections of the UGMFP contain provisions relevant to this proposal:

- **Title 1** of the UGMFP is intended to promote efficient land use within the Metro UGB by increasing the capacity to accommodate housing. Although it is likely to only have a minimal effect, amending the "lot of record" definition may increase the supply of buildable parcels for housing as well as other uses within the UGB by allowing some parcels that had been "combined" into a lot of record to be separately buildable.

- **Title 3** of the UGMFP is intended to protect the resources within the Water Quality and Flood Management Areas by limiting or mitigating impacts on these areas from development activities. **Title 13** of the UGMFP is intended to conserve, protect, and prevent water pollution in ecologically viable streamside corridor systems. Titles 3 and 13 contains direction for cities and counties to comply with certain standards to accomplish this goal. Clackamas County has adopted standards in its ZDO that have been determined to be in compliance with the UGMFP. The proposal in ZDO-283 would not change those adopted standards, rather it would change the processes by which the county reviews certain development against those standards. ZDO-283 would allow for certain water resource areas within an approved land division to be platted as a restricted development area, rather than a separate tract within a plat. These amendments maintain the protections required under Titles 3, while creating a more efficient, cost-effective process for property owners and ensuring that all development in these areas has a clear and objective pathway to approval, as required by state law for residential development.
- **Title 8** establishes a process for ensuring compliance with requirements of the UGMFP. An amendment to the county’s comprehensive plan or land use regulations is deemed to comply with the UGMFP only if the county provided notice to Metro as required by section 3.07.820(a). Notice of this proposal was provided to Metro on May 22, 2023 - 35 days prior to the first evidentiary hearing.

In response to that notice, Metro submitted a letter in support of the amendments (Exhibit 1), noting that:

- Metro staff finds the amendments consistent with the relevant requirements of Metros’ Urban Growth Management Functional Plan; and
- With the amendments proposed to the HCAD and WQRAD Districts, the county would remain in “substantial compliance with UGMFP Titles 3 and 13.”

**The proposal is consistent with the Metro Urban Growth Management Functional Plan.**

**4. Clackamas County’s Comprehensive Plan (Plan)**

Staff finds that the following seven chapters of the County’s Comprehensive Plan contain policies that are applicable to this proposal.

**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-283 fulfills a commitment in the 2021-2023 Long-Range Planning Work Program to 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-283 related to the allowance for public restrooms in the RTC District (Action 1); reducing template test requirements (Action 2); aligning the nonconforming use discontinuation and approval periods (Action 3); and amending the lot of record definition (Action 4) address specific priorities identified by the Planning Commission or BCC during public meetings, or otherwise respond to direct input from members of the public.

Further, public restrooms in the RTC District could 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.

Other actions like streamlining processes for certain HCAD and WQRAD approvals and allowing of electronic signatures respond to feedback from the public related to creating more efficient and understandable processes.

Consideration of ZDO-283 has proceeded according to the noticing and public hearing requirements of ZDO Section 1307.

**This proposal is consistent with Chapter 2.**

**Chapter 3 – Natural Resources and Energy:** Chapter 3 generally includes goals and policies for the planning, protections of and appropriate use of the county’s natural resources an energy and includes sections addressing 1) Water Resources; 2) Agriculture; 3) Forests; 4) Mineral and Aggregate Resources; 5) Wildlife Habitats and Distinctive Resource Areas; 6) Natural Hazards; 7) Energy Sources and Conservation and; 8) Noise and Air Quality.

Chapter 3 includes these specific policies related to HCA and WQRA areas:

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

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

Clackamas County’s current ZDO regulations related to the HCA and WQRA Districts have been acknowledged to comply with Goal 5 and 6 and all other relevant State and Metro standards. The proposal in ZDO-283 would not change those adopted standards, rather it would change the processes by which the county reviews certain developments against those standards. ZDO-283 would also allow for certain water resource areas within an approved land division to be platted as a restricted development area, rather than a separate tract within a plat. These amendments maintain appropriate protections, while creating a more efficient, cost-effective process for property owners and ensuring that all development in these areas has a clear and objective pathway to approval, as required by state law for residential development.

ZDO-283 also proposes to remove the Planning Director “waiver” option from the requirement to submit a hydrogeologic review with certain land use applications because there are no criteria for granting the waiver. In its place would be clearer exemptions for certain land divisions and for new industrial, commercial, and institutional development demonstrated to have no statistical increase in water usage. This action will provide a clear and consistent process to property owners, while ensuring better consistency with Policy 3.G.4.3:

*Regulate all development and land divisions utilizing groundwater as a potable water source located in areas classified by the State of Oregon as a groundwater limited area, critical groundwater area or other area where new groundwater appropriations are restricted by the State of Oregon, to promote long-term sustainability of groundwater supplies.*

### **This proposal is consistent with Chapter 3.**

**Chapter 4 – Land Use:** Chapter 4 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-283 does not propose to change the Comprehensive Plan land use designation or zoning district of any property, but there are a number of policies applicable to the range of amendments proposed in ZDO-283:

- ZDO-283 does propose to allow a new use in one zoning district – Rural Tourist Commercial (RTC). However, this zoning district is found only in the Mt. Hood corridor and, as such, policies for that designation are included in Chapter 10 (see findings below), rather than in this Chapter.
- ZDO-283 also proposes to clarify uses related to agri-tourism events and outdoor mass gatherings and ensure those uses are consistent with state law. These amendments are consistent with Policy 4.NN.2 and 4.OO.2 to “*encourage*” agriculturally- and forest-related industries.
- ZDO-283 also proposes to amend the requirements for a template dwelling approval in Forest designated areas. While this action may somewhat increase the number of dwellings that could be approved in Forest areas, Staff does not find this inconsistent with Policy 4.OO.4, which states that “*housing should be limited in Forest areas.*” Housing will remain limited in Forest areas because residential development will remain restricted under state law, which generally requires approval of a land use application showing that criteria for the limited opportunities for residential development are satisfied.
- ZDO-283 also proposes to correct an unintended result of a prior ZDO amendment that removed an allowance for dog services in certain commercial areas. This amendment does not result in a new use allowed, rather it restores a property right that was inadvertently taken away from owners of property in certain urban commercial districts and is consistent with the commercial goal to “*provide opportunities for a wide range of commercial activity...*”

Other proposed amendments clarify existing allowances and review procedures and codify existing state laws that would apply regardless of policies in Chapter 4 of the Comprehensive Plan. Consideration of these amendments does not warrant additional written findings of consistency with Chapter 4.

### **This proposal is consistent with Chapter 4.**

**Chapter 5- Transportation System Plan:** Chapter 5 outlines policies addressing all modes of transportation and includes eight Sections: 1) Foundation and Framework; 2) Land Use and Transportation; 3) Active Transportation; 4) Roadways; 5) Transit; 6) Freight, Rail, Air, Pipelines and Water Transportation; 7) Finance and Funding; and 8) Transportation Projects and Plans.

ZDO-283 proposes two amendments that are necessary to conform the ZDO to recently adopted amendments to the Comprehensive Plan to implement the Damascus Mobility Plan, including:

- Repealing a requirement for sidewalks/pedestrian pathways/accessways in rural zones inside the Portland Metropolitan Urban Growth Boundary (UGB); and
- Stipulating that Highway 212 inside the UGB is evaluated using the urban performance standard even where the zoning remains rural.

These amendments are specifically to ensure compliance with the relevant policies and definitions in this Chapter.

**This proposal is consistent with Chapter 5.**

**Chapter 7 –Public Facilities and Services:** Chapter 7 has specific goals and policies relate to the provision of public facilities including sanitary sewerage treatment, water supply, storm drainage, solid waste, emergency and policy services, schools, and county government. The proposal in ZDO-283 includes amendments to the ZDO that would remove existing conflicts with Chapter 7 regarding circumstances where onsite wastewater systems are allowed in certain urban areas. These amendments are specifically to ensure compliance with the relevant policies in this Chapter.

**This proposal is consistent with Chapter 7.**

**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-283 proposes to allow, through a conditional use approval, “stand alone” public restrooms within the RTC District, which is found exclusively within the Mt. Hood Community Plan area. The RTC District is intended for tourist-oriented uses like resort accommodations, retail, commercial and recreational uses. Providing for public restrooms that do not need to be accessory to another use on the site but could support many tourist-related uses within the area would further the intent of the RTC District as well as polices in the Mt Hood Corridor Plan that relate to encouraging and supporting tourism and resort/recreational facilities.

ZDO-283 also proposed amendments that would allow all sites zoned Planned Mixed Use to be master-planned instead of requiring full compliance with all development requirements with the first phase of new development. Currently the ZDO is unclear about whether a master plan is required in several of the PMU zones. These amendments are ensure compliance with Policy 10.R.1, which states that “...*A mix of uses will be required to be master planned in areas designated Planned Mixed Use...*” and Policy 10.S.2, which states “...*The Planned Mixed Use designation required master planning for develop on key development sites....*”.

Amendments proposed in ZDO-283 that directly affect other Plan areas in Chapter 10 are generally non-substantive or clarifying amendments.

**This proposal 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 in this report, 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 report’s *Analysis & Findings* outline how ZDO-283 is consistent with all of these requirements.

**This proposal is consistent with Chapter 11.**

**5. Zoning and Development Ordinance (ZDO):**

The proposed text amendments are legislative. Section 1307 of the ZDO establishes procedural requirements for legislative amendments, which have been or are being followed in the proposal and review of ZDO-283. Notice of this proposal was provided at least 35 days before the first scheduled public hearing to DLCD, all cities in the County, and active CPOs and Hamlets, as well as other interested agencies, to allow them an opportunity to review and comment on the proposed amendments. Advertised public hearings are being held before the Planning Commission and the BCC to consider the proposed 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.

**RECOMMENDATION**

**Staff recommends approval of ZDO-283, as proposed in Attachment A.** Staff finds these amendments would best address the priorities identified in the adopted 2021-2023 Long-Range Planning Work Program, by the Planning Commission in its June 2022 study session, and by the BCC in its July 2022 policy session, while meeting all applicable land use rules and policies.

**LIST OF ATTACHMENTS**

- A. Proposed Comprehensive Plan and ZDO amendments (includes summary of amendments to each Plan Chapter and ZDO Section)
  - 1. ZDO Section 201, *General Provisions*
  - 2. **ZDO Section 202**, *Definitions*
  - 3. **ZDO Section 315**, *Urban Low Density Residential (R-2.5, R-5, R-7, R-8.5, R-10, R-15, R-20, and R-30), Village Standard Lot Residential (VR-5/7), Village Small Lot Residential (VR-4/5), Village Townhouse (VTH), Planned Medium Density Residential (PMD), Medium Density Residential (MR-1), Medium High Density Residential (MR-2), High Density Residential (HDR), Village Apartment (VA), Special High Density Residential (SHD), and Regional Center High Density Residential (RCHDR) Districts*
  - 4. **ZDO Section 316**, *Rural Area Residential 1-Acre (RA-1), Rural Area Residential 2-Acre (RA-2), Recreational Residential (RR), Rural Residential Farm Forest 5-Acre (RRFF-5), Farm Forest 10-Acre (FF-10), and Future Urban 10-Acre (FU-10) Districts*
  - 5. **ZDO Section 317**, *Mountain Recreational Resort (MRR) and Hoodland Residential (HR) Districts*

6. **ZDO Section 401**, *Exclusive Farm Use District (EFU)*
7. **ZDO Section 406**, *Timber District (TBR)*
8. **ZDO Section 407**, *Ag/Forest District (AG/F)*
9. **ZDO Section 510**, *Neighborhood Commercial (NC), Community Commercial (C-2), Regional Center Commercial (RCC), Retail Commercial (RTL), Corridor Commercial (CC), General Commercial (C-3), Planned Mixed Use (PMU), Station Community Mixed Use (SCMU), Office Apartment (OA), Office Commercial (OC), and Regional Center Office (RCO) Districts*
10. **ZDO Section 513**, *Rural Tourist Commercial (RTC) and Rural Commercial (RC) Districts*
11. **ZDO Section 602**, *Business Park, Light Industrial, and General Industrial Districts (BP, LI and GI)*
12. **ZDO Section 706**, *Habitat Conservation Area District (HCAD)*
13. **ZDO Section 709**, *Water Quality Resource Area District (WQRAD)*
14. **ZDO Section 806**, *Home Occupations to Host Events*
15. **ZDO Section 827**, *Drive-thru Window Services*
16. **ZDO Section 837**, *Mobile Vending Units*
17. **ZDO Section 839**, *Accessory Dwelling Units*
18. **ZDO Section 845**, *Triplexes, Quadplexes, Townhouses, and Cottage Clusters*
19. **ZDO Section 1005**, *Site and Building Design*
20. **ZDO Section 1006**, *Utilities, Street Lights, Water Supply, Sewage Disposal, Surface Water Management, and Erosion Control*
21. **ZDO Section 1007**, *Roads and Connectivity*
22. **ZDO Section 1009**, *Landscaping*
23. **ZDO Section 1010**, *Signs*
24. **ZDO Section 1012**, *Lot Size and Density*
25. **ZDO Section 1013**, *Planned Unit Developments*
26. **ZDO Section 1102**, *Design Review*
27. **ZDO Section 1105**, *Subdivisions, Partitions, Replats, Middle Housing Land Divisions, Condominium Plats, and Vacations of Recorded Plats*
28. **ZDO Section 1107**, *Property Line Adjustments*
29. **ZDO Section 1203**, *Conditional Uses*
30. **ZDO Section 1206**, *Nonconforming Uses and Vested Rights;*
31. **ZDO Section 1307**, *Procedures*
32. **ZDO Section 1310**, *Time Extension.*
33. **Comprehensive Plan Chapter 6**, *Housing*

B. Exhibits 1 and 2

**PLANNING COMMISSION  
DRAFT MINUTES**

June 26, 2023

Meeting held online via Zoom

Commissioners present: Tammy Stevens, Carrie Pak, Gerald Murphy, Tom Peterson, Louise Lopes, Michael Wilson, Kevin Moss.

Commissioners absent: Tom Middaugh, Steven Schroedl

Staff present: Martha Fritzie, Jennifer Hughes, Darcy Renhard, Ellen Rogalin

Commission Chair Murphy called the meeting to order at 6:32 pm.

General public testimony not related to agenda items: Bill Leslie commented that there is a solar farm next door to him that has not been complying with the conditions of their land use approval. He has already contacted Code Enforcement but is really frustrated at this point with the lack of response from the solar farm and the County. Jennifer Hughes said she would look into the matter and report back to the Commission.

Commission Chair Murphy opened the public hearing for Planning file number ZDO-283.

Jennifer Hughes and Martha Fritzie presented staff's report for file number ZDO-283. This is a legislative Comprehensive Plan (Comp Plan) and Zoning and Development Ordinance (ZDO) amendment package for minor and time sensitive amendments. These proposed amendments are intended to bring the Clackamas County Comp Plan and ZDO into compliance with current mandates and State law, to clarify existing language and correct errors, and to adopt optional provisions that require minimal staff analysis.

The Planning Commission held a study session for the proposed amendments in June of 2022. The Board of County Commissioners policy session for the same proposal was held in July 2022.

The most substantive changes in the amendment package would: 1. Allow "stand alone" restrooms in the RTC (Rural Tourist Commercial) zone; 2. Align forest template test dwelling requirements with those in State law; 3. Align nonconforming use discontinuance and implementation periods; 4. Modify the ZDO's definition of "lot of record"; and 5. Streamline and clarify processes within Habitat Conservation Areas and Water Quality Resource Areas. Other less substantive amendments in the proposal would 6. Exempt detached single family dwellings, manufactured dwellings, and accessory uses from design review in commercial and industrial zones; 7. Expressly allow electronic signatures on land use applications; 8. Reduce the number of pages that are mailed with notice of decision; and 9. Make minor, non-substantive changes to the Comp Plan and ZDO. Jennifer Hughes explained the most substantive amendments:

1. Standalone public restrooms in the RTC district would be permitted through the conditional use process. The County would consider the suitability of the subject property, the surrounding area, and applicable County policies. They would have to meet existing design standards. It would require a public hearing. The RTC zones are within Wemme/Welches, Government Camp, and Rhododendron.
2. Clackamas County's review for a forest template dwelling has used the same criteria since the mid 1990's. Under the new standards, more forestland properties could qualify for a dwelling (but staff can not quantify how many more). Making these revisions is consistent with the County's practice in more recent years of conforming its code to State law in natural resource zones. Under the current



template test rules, a 160 acre “square template” is placed over the property in question, with the subject property in the mathematical center of the template and rotated so that it is most advantageous to the property owner. If there are 4 or 5 lots with dwellings (the number depends on soil capabilities) within the template that existed on January 1, 1993 then the subject property would qualify for a dwelling. However, lots and dwellings on lots that are larger than 80 acres are not counted.. Under the proposed changes, a template dwelling would be allowed if there were only 3 qualifying lots within the template and lots (and dwellings on lots) that are over 80 acres in size would also be counted.

3. Staff is proposing to extend the nonconforming use discontinuance period from 1 year to 2 years, as well as reducing the nonconforming use alteration implementation period from 4 years to 2 years. A nonconforming use is a use that was at one time legally established, but that would not be allowed under current zoning regulations. Under the current ZDO, nonconforming use alterations have 4 years for implementation. There is also a discontinuance period of only 1 year, meaning that if a nonconforming use is discontinued for a period of one year or more, the nonconforming status is lost and the use may not resume. The problem is that sometimes a nonconforming use is discontinued for a period of time during the implementation period for an alteration. Staff is proposing to line these up and make each one a period of 2 years.
4. There are multiple ways to refer to a unit of land, and each has a different purpose. A “tax lot” is used for assessment purposes, a “discrete parcel” is used for the purposes of ownership and/or sale, and a “lot of record” is used for development purposes. The proposed definition would remove the lot consolidation and foreclosure provisions in the existing definition. It would make the definition clearer and reduce the research complexity, costs, and delays. It would also be consistent with other jurisdictions and state-required minimum lot size requirements.
5. The proposed amendments would eliminate the Construction Management Plan application requirement for the HCAD and WQRAD processes. The same standards would be addressed through either a building or development permit. The amendments would also add a clear and objective standards option for development within an area that is both HCAD and WQRAD and would no longer require a HCA map verification if the applicant agreed with the existing map. It would also allow for a restricted development area instead of a tract in land divisions.

Staff finds that all of the proposed amendments meet the applicable approval criteria in the Statewide Planning Goals, ORS 92.010 & 215.010, the Metro Urban Growth Management Functional Plan, Clackamas County’s Comprehensive Plan, and the Clackamas County Zoning & Development Ordinance. Therefore, staff is recommending that the Planning Commission move to forward the proposed amendments to the BCC for approval as submitted in ZDO-283, and with the changes that staff mentioned to the lot of record definition.

Commissioner Pak is concerned about the potential damage to protected areas if we change the HCAD or WQRAD standards. Jennifer explained that there would be clear and objective standards. The Restricted Development Area (RDA) that is applied to developments in these areas may actually be more protective to these areas than to place them in a tract since tracts can be affected in multiple ways (such as foreclosures and encroachment). The standards would still be the same as far as protecting the areas during development, it would just be included in the development or building permit requirements.

Commissioner Lopes asked what the history was behind not allowing the 80 acres in the counting of the lots in the forest template tests. Jennifer does not know the history on this, but Glen Hamburg did research it when he was working on the proposed amendments and did not find an answer. It would seem that they wanted to make sure these larger Forest lots (that comply with the 80-acre minimum lot size for the zone) were considered commercial forestlands before residential. Commissioner Murphy said that his sense is that

opening up these larger forest lots for residences is not very popular. If we start opening up timber land for development, we are running more power lines in, we are hardening our forest, and we are subjecting them to more fire hazards.

There were no government agencies who wished to provide testimony.

Tracy (last name not on record), Vice-Chair of Clarkes-Highland CPO: She and her husband and their neighbors are in support of the changes to the forest template dwelling standards. They are aware of the fire dangers and would be clearing underbrush and trees to protect their houses.

Ann & Jason Delfel: They bought their 20-acre property about 6 years ago. It was approved for a dwelling in 2001 with electricity and a well. They checked with the County prior to purchasing the property in 2016 and were told that it met the template test criteria when it was done with paper maps and templates. They did not renew the application right away as they decided to remain in their current school district until their children finished school. In 2020 they applied for a new template test and were told they were 40 feet shy of the eleventh property needed for the set criteria. Staff was now using GIS software to apply the template and to determine mathematical center of a property. Their application was denied, so they appealed the decision. It was once again denied. If the County were to adopt the new standards for the template test, their property would qualify.

Sarah Mitchell, Kellington Law Group (PO Box 2209, Lake Oswego, 97035): Ms. Mitchell is not appearing on behalf of any particular client, but for the good of the order. Land use practitioners like herself, and landowners as well, are often frustrated by how nonconforming use provisions can be unclear and confusing. These applications often lead to litigation because of how unclear they are. She is very supportive of the proposed amendments to simplify the language and clarify the timelines. She would also like to see a provision to the amendments that would allow an applicant to toll the time period that it takes to obtain their permits.

David Harrison, Harrison Farms, Sandy, OR: Mr. Harrison inherited their farm from his family. They have 200 acres total, but have only been able to build a single family dwelling. The proposed amendments to the lot of record definition would make his back lot developable so that he and his wife and children would be able to live near to his parents who are aging and starting to need more assistance.

Commissioner Pak moved to close public testimony, Commissioner Lopes seconded.

Commissioner Stevens asked about the idea of an applicant being able to toll the approval period for an alteration of nonconforming use. Jennifer said that she is not comfortable having it completely open-ended, but some sort of extension does seem reasonable.

Commissioner Stevens is supportive of everything that has been presented with one exception. She is not in favor of changing the template test standards. Not only does approval of a template test allow for a house, but it is a house, it's a septic tank, drain fields, fencing, barns, other outbuildings and so on. We value our resource land, whether it be farming or timber, and we need to protect it as much as we can.

Commissioner Lopes agrees with Commissioner Stevens in that we need to preserve the natural resource zones. We need to prohibit continued development in those areas and she does not support lessening the standards on the template test. She also supports what Ms. Mitchell said about the discontinuance of

nonconforming use. She suggests giving an additional year extension if the applicant has obtained their building permits.

Commissioner Moss feels that there might be some sort of compromise to opening resource lands up for development and preserving them for timber and agricultural. There is a shortage of buildable land, so opening these lands up would help bring housing prices down and allow people to get into home ownership.

Commissioner Stevens moved to advise the BCC to approve ZDO-283 as presented, with the exception of the forest template test standards, that staff amend the draft definition to the lot of record to ensure that changes are consistent with the summary that was presented, and that there be an additional 2 years granted for implementation of a nonconforming use at the point when all of the necessary permits have been obtained. Commissioner Moss seconded. (*Ayes=7; Nays=0. Motion is passed*).

Commissioner Moss moved to approve the amendments to the forest template test standards as presented. Commissioner Peterson seconded. (*Ayes=3: Wilson, Moss Peterson; Nays=4: Stevens, Lopes, Murphy, Pak. Motion fails.*)

The hearing was closed at 8:34 pm. The Planning Commission moved on to hear ZDO-287.

There was an additional hearing and other Commission discussion following the hearing on ZDO-283. This content will be added to these draft minutes for the hearing on ZDO-287.

**Summary of Proposed Amendments to Section 201, General**

1. General edits for clarity and consistency.

**201 GENERAL PROVISIONS**

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201.01 PURPOSE

The ~~following~~ terms in Section 202, *General Definitions*, are hereby defined for the purpose of clarifying the provisions of this Ordinance.

201.02 INTERPRETATIONS

When not inconsistent with the context, all words used in the present tense include the future. The singular number includes the plural and the plural, the singular. ~~The word “lot” includes parcel and plot.~~ The word “structure” includes building. The word “use” includes designed or intended to be used. The word “person” may mean “persons”, “association”, “firm”, “co-partnership”, or “corporation”. The word “shall” is always mandatory. ~~All other words shall have the following respective meanings.~~

**Summary of Proposed Amendments to Section 202, Definitions**

1. Clarify that a recreational vehicle is considered a dwelling when approved as a temporary dwelling (e.g., a temporary dwelling for care).
2. Clarify that the portion of a lot covered by architectural features is not considered in determining lot coverage.
3. Modify the definition of “lot of record” to:
  - Clarify that lots or parcels in a recorded plat are lots of record
  - Repeal a provision that consolidates contiguous lawfully established units of land in the same ownership at initial zoning when one or more such units of land did not meet the minimum lot size of that initial zoning
  - Sunset a provision that renders certain foreclosed properties as lots of record
  - More nearly conform the county’s definition with the definition of “lawfully established unit of land” in ORS chapter 92
4. Amend the definitions of “manufactured dwelling park” and “residential trailer” for consistency with Oregon Revised Statutes (ORS) 446.003.
5. Amend the definition of “sidewalk” so that it applies to concrete pedestrian facilities adjacent to a curb along any type of road, not just a public road.
6. Minor edits for clarity and consistency.

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 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 other types of dwellings. Regular on-premise supervision by a registered physician, registered nurse, or other health care provider may be included.

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

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

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

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

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

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

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

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

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

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

DISTINCTIVE URBAN FOREST: Forested or woodland areas which are visually prominent or contain unique or rare tree and plant communities. These areas are usually found in association with other open space resources within the urban area.

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

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

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

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

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

DWELLING, DETACHED SINGLE-FAMILY: A building that contains only one dwelling unit and is detached from any other dwelling, except where otherwise permitted for an accessory dwelling unit. A manufactured dwelling, residential trailer,

or dwelling unit in a cottage cluster is not a detached single-family dwelling.

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

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

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

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

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

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

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

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

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

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

FLOOR AREA: The area 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, exclusive of architectural features and swimming pools, expressed as a percentage of the total lot area. ~~Swimming pools are not considered buildings for the purpose of this definition.~~

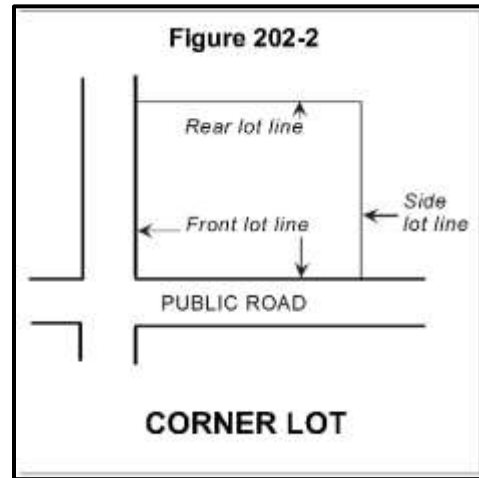
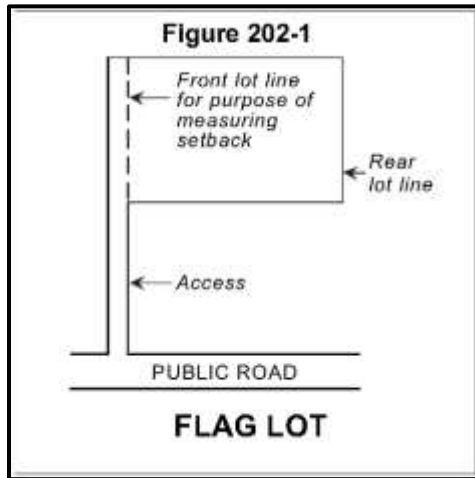
LOT DEPTH: The mean horizontal distance between the front lot line and the rear lot line of a lot.

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:**

1. A lot or parcel created by a subdivision or partition plat, as defined in ORS chapter 92, filed with the Clackamas County Surveyor and recorded with the Clackamas County Clerk;
2. A unit of land created by a recorded deed or recorded land sales contract and in compliance with all applicable planning, zoning, and subdivision or partition

ordinances and regulations, if any, in effect on the date the deed or land sales contract was signed by the parties to the deed or contract; or

- 3. A unit of land created solely to establish a separate tax account or for mortgage purposes; that did not conform to all planning, zoning, or subdivision or partition ordinances or regulations in effect on the date it was created; and that was sold prior to [insert effective date of Ordinance ZDO-283] under the foreclosure provisions of ORS chapter 88.

~~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.~~

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

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

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

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

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

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

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

MANUFACTURED DWELLING PARK: Any place where four or more manufactured dwellings or prefabricated structures, as defined in ORS 455.010, that are relocatable and more than eight and one-half feet wide, are located within 500 feet of one another on a lot, tract, or parcel of land under the same ownership, the primary purpose of which is to rent or lease space or keep space for rent or lease to any person for a charge or fee paid or to be paid for rental or lease or use of facilities or to offer space free in connection with securing the trade or patronage of such person. Manufactured dwelling park does not include a lot or lots located within a subdivision being rented or leased for occupancy by no more than one manufactured dwelling per lot.

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

MARIJUANA: The plant Cannabis family Cannabaceae, any part of the plant Cannabis family Cannabaceae, and the seeds of the plant Cannabis family Cannabaceae. Marijuana does not include industrial hemp as defined in ORS 571.300.

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.

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

MIDDLE HOUSING LAND DIVISION: A partition or subdivision of a lot of record that is developed, or proposed to be developed, with more than one middle housing dwelling unit. The type of middle housing developed on the original lot of record is not altered by a middle housing land division.

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

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

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

MOBILE HOME: A structure constructed for movement on the public highways that has sleeping, cooking, and plumbing facilities, that is intended for human occupancy by one family, that is being used for residential purposes, and that was constructed between January 1, 1962, and June 15, 1976, and met the construction requirements of Oregon mobile home law in effect at the time of construction.

MOBILE VENDING UNIT: A vehicle that is used in selling and dispensing goods or services to the customer. Notwithstanding this definition, a mobile vending unit shall not be used in selling and dispensing marijuana items. As used in this definition, a vehicle is motorized or non-motorized transportation equipment containing an axle and intended for use on public roads, including, but not limited to, a car, van, pickup, motorcycle, recreational vehicle, bus, truck, detached trailer, or a truck tractor with no more than one trailer.

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

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

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

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

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

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

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

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 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 ORS Chapter 92.

PLAT, PRELIMINARY: A clearly legible and approximate drawing of the proposed layout of streets, blocks, lots and other elements of a subdivision or partition which shall help furnish a basis for the approval or disapproval of the general layout of a partition or subdivision. As used in this Ordinance, preliminary plat shall be synonymous with tentative plan as used in ORS Chapter 92.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

RESIDENTIAL TRAILER: A structure constructed for movement on the public highways that has sleeping, cooking, and plumbing facilities, that is intended for

human occupancy by one family, that is being used for residential purposes, and that was constructed before January 1, 1962, ~~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 set back from the curb behind a planting strip.

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

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

**SIGN AREA, OR SURFACE AREA:** The area, on the largest single face of a sign, within a perimeter which forms the outside shape of a sign. If the sign consists of more than one module, the total area of all modules will constitute the sign area. The area of a sign having no such perimeter or border shall be computed by enclosing the entire copy area within the outline of either a parallelogram, triangle, circle or any

other easily recognized geometric shape and then computing the area. Where a sign is of a three-dimensional, round or irregular shape, the largest cross section shall be used in flat projection for the purpose of computing sign area.

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

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

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

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

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

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

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

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

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

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

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

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

SIGN, OFF-PREMISES: A sign which advertises goods, products or services which

are not sold, manufactured, or distributed on or from the premises or facilities on which the sign is located.

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

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

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

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

SIGN, RESIDENTIAL: Any sign associated with a dwelling.

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

SIGN, SEGMENTED MESSAGE: Any message or distinct subunit of a message presented by means of at least one display change on an electronic message center sign.

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

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

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

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

SIGNIFICANT NATURAL AREAS: Natural areas as defined in "Oregon National

Areas - Clackamas County Data Summary" published by The Nature Conservancy. This list of natural areas may be amended by the County as additional areas are identified.

**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.

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

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

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

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

TRANSIT STOP: Any posted bus or light rail stop.

TRIPLEX: A building that contains exactly three dwelling units, all of which are



located on the same lot of record or on middle housing lots.

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

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

UNINCORPORATED COMMUNITY: A settlement that conforms to the definition set forth in 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; Amended by Ord. ZDO-280, 10/23/21; Amended by Land Use Board of Appeals Remand of Ord. ZDO-273, 1/24/22; Amended by Ord. ZDO-282, 7/1/22]

**Summary of Proposed Amendments to Section 315, Urban Low Density Residential (R-2.5, R-5, R-7, R-8.5, R-10, R-15, R-20, and R-30), Village Standard Lot Residential (VR-5/7), Village Small Lot Residential (VR-4/5), Village Townhouse (VTH), Planned Medium Density Residential (PMD), Medium Density Residential (MR-1), Medium High Density Residential (MR-2), High Density Residential (HDR), Village Apartment (VA), Special High Density Residential (SHD), and Regional Center High Density Residential (RCHDR) Districts**

1. Add a clarifying note to Table 315-3, *Dimensional and Building Design Standards in the VR-5/7, VR-4/5, and VTH Districts*, regarding the minimum lot size and district land area (DLA) for townhouses approved pursuant to Section 845, Triplexes, Quadplexes, Townhouses, and Cottage Clusters; add a missing note number in the table that links to an existing note regarding maximum lot coverage for middle housing; and renumber all notes to be in order.
2. Correct citation errors to ZDO Section 1005.

## NOTICE

*Amendments to this section of the Zoning and Development Ordinance were approved by the Board of County Commissioners on December 8, 2022, and became effective on May 30, 2023. However, these amendments have not been acknowledged under state law because an appeal has been filed with the Land Use Board of Appeals. Pursuant to Oregon Revised Statutes 197.625, the County shall apply the amended regulations to land use decisions, expedited land divisions and limited land use decisions. However, if these amended regulations fail to gain acknowledgment, any permit or zone change which is approved, in whole or in part, on the basis of the change will not justify retention of the improvements that were authorized by the permit or zone change. Before proceeding with plans for development that are dependent on the amended regulations, applicants are advised to consult with Planning and Zoning Division staff and seek independent legal advice.*

**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**

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**315.01 PURPOSE**

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

**315.02 APPLICABILITY**

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

## 315.03 USES PERMITTED

- A. Uses permitted in each urban residential zoning district are listed in Table 315-1, *Permitted Uses in the Urban Residential Zoning Districts*. Uses not listed are prohibited, except:
1. In the PMD District, uses similar to one or more of the listed uses for the PMD District may be authorized pursuant to Section 106, *Authorizations of Similar Uses*; and
  2. In the HDR, SHD, and RCHDR Districts, uses similar to one or more of the listed limited uses for the applicable zoning district may be authorized pursuant to Section 106.
- B. As used in Table 315-1:
1. “P” means the use is a primary use.
  2. “A” means the use is an accessory use.
  3. “L” means the use is a limited use and shall be developed concurrently with or after a primary use is developed on the same site.
  4. “C” means the use is a conditional use, approval of which is subject to Section 1203, *Conditional Uses*.
  5. “CPUD” means the use is allowed as a conditional use in a planned unit development.
  6. “X” means the use is prohibited.
  7. Numbers in superscript correspond to the notes that follow Table 315-1.
- C. Permitted uses are subject to the applicable provisions of Subsection 315.04, *Dimensional and Building Design Standards*; Section 1000, *Development Standards*; and Section 1100, *Development Review Process*.

## 315.04 DIMENSIONAL AND BUILDING DESIGN STANDARDS

- A. General: Dimensional and building design standards applicable in the urban residential zoning districts are listed in Tables 315-2, *Dimensional and Building Design Standards in the Urban Low Density Residential Zoning Districts*; 315-3, *Dimensional and Building Design Standards in the VR-4/5, VR-5/7, and VTH Districts*; and 315-4, *Dimensional Standards in the PMD, MR-1, MR-2, HDR, VA, SHD, and RCHDR Districts*. As used in Tables 315-2 through 315-4, numbers in superscript correspond to the notes that follow each table.

Modifications: Modifications to the standards in Tables 315-2 through 315-4 are established by Sections 800, *Special Use Requirements*; 904, *Height Exceptions*; 1012, *Lot Size and Density*; 1107, *Property Line Adjustments*; and 1205, *Variances*. Except in the HDR, SHD, and RCHDR Districts, modifications to the standards in these tables also are established by Section 903, *Setback Exceptions*.

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

Use	R-5 – R-30	VR-4/5 & VR-5/7	R-2.5	VTH	PMD	MR-1	MR-2	HDR	VA	SHD	RCHDR
<b>Accessory Buildings and Uses, Customarily Permitted</b> , 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	A	A	A	A	A	A	A	A	A
<b>Accessory Kitchens</b>	A <sup>1</sup>	A <sup>1</sup>	A <sup>1</sup>	A <sup>1</sup>	X	A <sup>1</sup>	A <sup>1</sup>	X	X	X	X

	R-5 – R-30	VR-4/5 & VR-5/7	R-2.5	VTH	PMD	MR-1	MR-2	HDR	VA	SHD	RCHDR
<b>Bed and Breakfast Inns</b> , subject to Section 832	C	X	C	X	X	P	P	P	X	L <sup>2</sup> ,C <sup>3</sup>	L <sup>4</sup>
<b>Bed and Breakfast Residences</b> , subject to Section 832	C	X	C	P	X	P	P	P	P	X	X
<b>Bus Shelters</b>	A	A	A	A	P	A	A	A	A	A	A
<b>Cemeteries</b> , subject to Section 808	C	X	C	X	X	X	X	X	X	X	X
<b>Child Care Facilities</b>	C	C	C	C	C	C	C	L <sup>5</sup> ,C	C	L <sup>2</sup> ,C <sup>3</sup>	L <sup>4</sup>
<b>Civic and Cultural Facilities</b> , including art galleries, museums, and visitor centers	X	X	X	X	X	X	X	L <sup>5</sup> ,C <sup>6</sup>	X	L <sup>2</sup> ,C <sup>3</sup>	L <sup>4</sup>
<b>Community Halls</b>	CPUD	CPUD	CPUD	CPUD	CPUD	CPUD	CPUD	CPUD	CPUD	CPUD	CPUD
<b>Composting Facilities</b>	X	X	X	X	X	X	X	X	X	X	X
<b>Daycare Services, Adult</b>	C	C	C	C	C	C	C	L <sup>5</sup> ,C	C	L <sup>2</sup> ,C <sup>3</sup>	L <sup>4</sup>
<b>Dwellings, including:</b>											
Accessory Dwelling Units, subject to Section 839	A	A	A	A	X	X	X	X	X	X	X
Congregate Housing Facilities	X	X	X	P	P	P	P	P	P	P	P
Cottage Clusters	P <sup>7,8</sup>	P <sup>7,8</sup>	X	X	P	X	X	X	X	X	X
Detached Single-Family Dwellings	P <sup>7</sup>	P <sup>7</sup>	X	X	X	X	X	X	X	X	X
Duplexes	P <sup>7</sup>	P <sup>7</sup>	X	P	P	P	P	P	P	X	X
Manufactured Dwelling Parks, subject to Section 825	P <sup>9</sup> ,C	P <sup>10</sup>	C	X	C	P	X	X	X	X	X

	R-5 – R-30	VR-4/5 & VR-5/7	R-2.5	VTH	PMD	MR-1	MR-2	HDR	VA	SHD	RCHDR
Manufactured Homes	P <sup>7</sup>	P <sup>7</sup>	X	X	X	X	X	X	X	X	X
Multifamily Dwellings	X	X	X	X	P	P	P	P	P	P	P
Quadplexes	P <sup>7,8</sup>	P <sup>7,8</sup>	X	P	P	P	P	P	P	P	P
Townhouses	P <sup>7,8</sup>	P <sup>7,8</sup>	P	P	X	P <sup>11</sup>	P <sup>11</sup>	X	X	X	X
Triplexes	P <sup>7,8</sup>	P <sup>7,8</sup>	X	P	P	P	P	P	P	X	X
<b>Entertainment Facilities</b> , including arcades, billiard halls, bowling alleys, miniature golf courses, and movie theaters	X	X	X	X	X	X	X	X	X	C <sup>3</sup>	X
<b>Farmers' Markets</b> , subject to Section 840	A	A	A	A	A	A	A	A	A	A	A
<b>Fences and Retaining Walls</b>	P	P	P	P	P	P	P	P	P	P	P
<b>Financial Institutions</b> , including banks, brokerages, credit unions, loan companies, and savings and loan associations	X	X	X	X	X	X	X	L <sup>5</sup> ,C <sup>6</sup>	X	L <sup>2</sup> ,C <sup>3</sup>	L <sup>4</sup>
<b>Fitness Facilities</b> , including athletic clubs, exercise studios, gymnasiums, and health clubs	X	X	X	X	X	X	X	L <sup>5</sup> ,C	X	L <sup>2,12</sup> ,C	L <sup>4</sup> ,C
<b>Fraternal Organization Lodges</b>	C <sup>13</sup>	X	C <sup>13</sup>	X	C <sup>13</sup>	C <sup>13</sup>	C <sup>13</sup>	C <sup>13</sup>	X	C <sup>13</sup>	C <sup>13</sup>
<b>Government Uses</b> , unless such a use is specifically listed as a primary, accessory, limited, conditional, or prohibited use in the applicable zoning district	C <sup>13</sup>	X	C <sup>13</sup>	X	C <sup>13</sup>	C <sup>13</sup>	C <sup>13</sup>	C <sup>13</sup>	X	C <sup>13</sup>	C <sup>13</sup>
<b>Guest Houses</b> , subject to Section 833	A	X	A	X	X	X	X	X	X	X	X



	R-5 – R-30	VR-4/5 & VR-5/7	R-2.5	VTH	PMD	MR-1	MR-2	HDR	VA	SHD	RCHDR
<b>Home Occupations</b> , including bed and breakfast homestays, subject to Section 822 <sup>14</sup>	A	A	A	A	A	A	A	A	A	A	A
<b>Horticulture, Nurseries, Hydroponics, and Similar Uses that Exceed an Accessory Use</b>	C	X	X	X	X	X	X	X	X	X	X
<b>Hosting of Weddings, Family Reunions, Class Reunions, Company Picnics, and Similar Events</b>	C	X	C	X	X	C	C	C	X	C	X
<b>Hotels and Associated Convention Facilities</b>	X	X	X	X	X	X	X	X	X	C <sup>15</sup>	L <sup>4</sup> ,C
<b>Hydroelectric Facilities</b>	C	X	C	X	X	C	C	C	X	C	X
<b>Libraries</b>	CPUD	CPUD	CPUD	CPUD	CPUD	CPUD	CPUD	L <sup>5</sup> ,C <sup>6</sup> , CPUD	CPUD	L <sup>2</sup> ,C <sup>3</sup> , CPUD	L <sup>4</sup> , CPUD
<b>Livestock</b> , subject to Section 821	A	A	A	X	X	X	X	X	X	X	X
<b>Marijuana Processing</b>	X	X	X	X	X	X	X	X	X	X	X
<b>Marijuana Production</b>	X	X	X	X	X	X	X	X	X	X	X
<b>Marijuana Retailing</b>	X	X	X	X	X	X	X	X	X	X	X
<b>Marijuana Wholesaling</b>	X	X	X	X	X	X	X	X	X	X	X
<b>Multi-Use Developments</b> , subject to Section 844	C	X	X	X	X	C	X	C	X	C	X
<b>Nursing Homes</b>	C	C	C	P	P	P	P	P	P	P	P

	R-5 – R-30	VR-4/5 & VR-5/7	R-2.5	VTH	PMD	MR-1	MR-2	HDR	VA	SHD	RCHDR
<b>Offices</b> , including accounting services, administrative, business, corporate, and professional offices, but not including offices for governmental uses. Examples include offices for the following: architectural services, business management services, call centers, employment agencies, engineering services, income tax services, insurance services, legal services, manufacturer’s representatives, office management services, property management services, real estate agencies, and travel agencies.	X	X	X	X	X	X	X	L <sup>5</sup> ,C <sup>6</sup>	X	L <sup>2</sup> ,C <sup>3</sup>	L <sup>4</sup>
<b>Offices and Outpatient Clinics</b> —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 <sup>5</sup> ,C <sup>6</sup>	X	L <sup>2</sup> ,C <sup>3</sup>	L <sup>4</sup>
<b>Parking Structures</b>	X	X	X	X	X	A	A	A	X	A	A
<b>Pedestrian Amenities</b>	P	P	P	P	P	P	P	P	P	P	P
<b>Places of Worship</b> , subject to Section 804	C	C	C	CPUD	C	C	C	C	CPUD	C	C

	R-5 – R-30	VR-4/5 & VR-5/7	R-2.5	VTH	PMD	MR-1	MR-2	HDR	VA	SHD	RCHDR
<b>Produce Stands</b> , subject to Section 815	A	A	A	X	X	X	X	X	X	X	X
<b>Public Utility Facilities</b> <sup>16</sup>	C <sup>13</sup>	X	C <sup>13</sup>	X	C <sup>13</sup>	C <sup>13</sup>	C <sup>13</sup>	C <sup>13</sup>	X	C <sup>13</sup>	C <sup>13</sup>
<b>Radio and Television Studios</b> , excluding transmission towers	X	X	X	X	X	X	X	X	X	L <sup>2</sup> ,C <sup>3</sup>	X
<b>Radio and Television Transmission and Receiving Towers and Earth Stations</b> <sup>18</sup>	C <sup>13</sup>	X	C <sup>13</sup>	X	X	C <sup>13</sup>	C <sup>13</sup>	C <sup>13</sup>	X	C <sup>13</sup>	C <sup>13</sup>
<b>Recreational Vehicle Camping Facilities</b> , subject to Section 813	X	X	X	X	X	C <sup>13</sup>	C <sup>13</sup>	C <sup>13</sup>	X	X	X

	R-5 – R-30	VR-4/5 & VR-5/7	R-2.5	VTH	PMD	MR-1	MR-2	HDR	VA	SHD	RCHDR
<b>Recreational Uses, Government-Owned</b> , 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 <sup>18</sup>	P <sup>19</sup>	P <sup>19</sup>	P <sup>19</sup>	P <sup>20</sup>	P <sup>20</sup>	P <sup>20</sup>	P <sup>20</sup>	P <sup>20</sup>	P <sup>20</sup>	P <sup>20</sup>	P <sup>20</sup>
<b>Recreational Uses, Government-Owned Golf Courses</b> <sup>18</sup>	P <sup>19</sup>	X	P <sup>19</sup>	X	C <sup>13</sup>	P <sup>20</sup>	P <sup>20</sup>	C <sup>13</sup>	X	C <sup>13</sup>	C <sup>13</sup>
<b>Recreational Uses</b> , including boat moorages, country clubs, equine facilities, gymnastics facilities, golf courses, parks, and swimming pools <sup>18</sup>	C <sup>13</sup>	X	C <sup>13</sup>	X	C <sup>13</sup>	C <sup>13</sup>	C <sup>13</sup>	C <sup>13</sup>	X	C <sup>13</sup>	C <sup>13</sup>
<b>Recyclable Drop-Off Sites</b> , subject to Section 819	A <sup>21</sup>	A <sup>21</sup>	A <sup>21</sup>	A <sup>21</sup>	A <sup>21</sup>	A <sup>21</sup>	A <sup>21</sup>	A <sup>21</sup>	A <sup>21</sup>	A <sup>21</sup>	A <sup>21</sup>

	R-5 – R-30	VR-4/5 & VR-5/7	R-2.5	VTH	PMD	MR-1	MR-2	HDR	VA	SHD	RCHDR
<b>Retailing</b> —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 <sup>22</sup>	CPUD <sup>22</sup>	CPUD <sup>22</sup>	CPUD <sup>22</sup>	CPUD <sup>22</sup>	CPUD <sup>22</sup>	CPUD <sup>22</sup>	L <sup>5</sup> ,C <sup>6</sup> , CPUD <sup>22</sup>	CPUD <sup>22</sup>	L <sup>2</sup> ,C <sup>3</sup> , CPUD <sup>22</sup>	L <sup>4</sup> , CPUD <sup>22</sup>
<b>Roads</b>	P	P	P	P	P	P	P	P	P	P	P
<b>Schools</b> , subject to Section 805	C	C	C	CPUD	CPUD	C	C	L <sup>5,23</sup> ,C <sup>6,23</sup> , CPUD	CPUD	L <sup>2,23</sup> ,C <sup>3,23</sup> , CPUD	L <sup>4,23</sup> , CPUD

	R-5 – R-30	VR-4/5 & VR-5/7	R-2.5	VTH	PMD	MR-1	MR-2	HDR	VA	SHD	RCHDR
<b>Services, Business</b> , 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 <sup>5</sup> ,C <sup>6</sup>	X	L <sup>3</sup> ,C <sup>4</sup>	L <sup>2</sup>
<b>Services, Commercial— Construction and Maintenance</b> , including contractors engaged in construction and maintenance of electrical and plumbing systems	X	X	X	X	X	X	X	X	X	C <sup>3</sup>	X
<b>Services, Commercial—Food and Beverage</b> , including catering and eating and drinking establishments	CPUD <sup>22</sup>	CPUD <sup>22</sup>	CPUD <sup>22</sup>	CPUD <sup>22</sup>	CPUD <sup>22</sup>	CPUD <sup>22</sup>	CPUD <sup>22</sup>	L <sup>5</sup> ,C <sup>6</sup> , CPUD <sup>22</sup>	CPUD <sup>22</sup>	L <sup>2</sup> ,C <sup>3</sup> , CPUD <sup>22</sup>	L <sup>4</sup> , CPUD <sup>22</sup>
<b>Services, Commercial— Maintenance and Repair</b> 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 <sup>5</sup> ,C <sup>6</sup>	X	L <sup>2</sup> ,C <sup>3</sup>	L <sup>4</sup>
<b>Services, Commercial— Maintenance and Repair</b> of any of the following: all-terrain vehicles, automobiles, light trucks, motorcycles, and snowmobiles	X	X	X	X	X	X	X	X	X	C <sup>3</sup>	X

	R-5 – R-30	VR-4/5 & VR-5/7	R-2.5	VTH	PMD	MR-1	MR-2	HDR	VA	SHD	RCHDR
<b>Services, Commercial—Miscellaneous</b> , including food lockers, interior decorating, locksmith, upholstering, and veterinary	X	X	X	X	X	X	X	L <sup>5</sup> ,C <sup>6</sup>	X	L <sup>2</sup> ,C <sup>3</sup>	L <sup>4</sup>
<b>Services, Commercial—Personal and Convenience</b> , 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 <sup>22</sup>	CPUD <sup>22</sup>	CPUD <sup>22</sup>	CPUD <sup>22</sup>	CPUD <sup>22</sup>	CPUD <sup>22</sup>	CPUD <sup>22</sup>	L <sup>5</sup> ,C <sup>6</sup> , CPUD <sup>22</sup>	CPUD <sup>22</sup>	L <sup>2</sup> ,C <sup>3</sup> , CPUD <sup>22</sup>	L <sup>4</sup> , CPUD <sup>22</sup>
<b>Services, Commercial—Studios</b> of the following types: art, craft, dance, music, and photography	CPUD <sup>22</sup>	CPUD <sup>22</sup>	CPUD <sup>22</sup>	CPUD <sup>22</sup>	CPUD <sup>22</sup>	CPUD <sup>22</sup>	CPUD <sup>22</sup>	L <sup>5</sup> ,C <sup>6</sup> , CPUD <sup>22</sup>	CPUD <sup>22</sup>	L <sup>2</sup> ,C <sup>3</sup> , CPUD <sup>22</sup>	L <sup>4</sup> , CPUD <sup>22</sup>
<b>Short-Term Rental</b> in a dwelling unit or guest house permitted by this table	P	P	P	P	P	P	P	P	P	P	P
<b>Signs</b> , subject to Section 1010	A <sup>24</sup>	A <sup>24</sup>	A <sup>24</sup>	A <sup>24</sup>	A <sup>24</sup>	A <sup>24</sup>	A <sup>24</sup>	A <sup>24</sup>	A <sup>24</sup>	A <sup>24</sup>	A <sup>24</sup>
<b>Telephone Exchanges</b>	C <sup>13</sup>	X	C <sup>13</sup>	X	C <sup>13</sup>	C <sup>13</sup>	C <sup>13</sup>	C <sup>13</sup>	X	C <sup>13</sup>	C <sup>13</sup>
<b>Temporary Buildings for Uses Incidental to Construction Work.</b> Such buildings shall be removed upon completion or abandonment of the construction work.	A	A	A	A	A	A	A	A	A	A	A

	R-5 – R-30	VR-4/5 & VR-5/7	R-2.5	VTH	PMD	MR-1	MR-2	HDR	VA	SHD	RCHDR
<b>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</b>	A	A	A	A	A	A	A	A	A	A	A
<b>Transit Park-and-Rides</b>	X	X	X	X	X	X	X	X	X	X	A
<b>Utility Carrier Cabinets</b> , subject to Section 830	P,C <sup>25</sup>	P,C <sup>25</sup>	P,C <sup>25</sup>	P,C <sup>25</sup>	P,C <sup>25</sup>	P,C <sup>25</sup>	P,C <sup>25</sup>	P,C <sup>25</sup>	P,C <sup>25</sup>	P,C <sup>25</sup>	P,C <sup>25</sup>
<b>Wireless Telecommunication Facilities</b> , 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

<sup>1</sup> An accessory kitchen is permitted only in a townhouse, 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 townhouse, detached single-family dwelling, or manufactured home.

<sup>2</sup> 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 allowed by Section 839, *Accessory Dwelling Units*, or Section 1204, *Temporary Permits*, each lot of record may be developed with only one of the following: detached single-family dwelling, manufactured home, duplex, triplex, quadplex, townhouse, or cottage cluster development.
- 8 The development of a triplex, quadplex, townhouse, or cottage cluster is subject to Section 845, *Triplices, Quadplexes, Townhouses, and Cottage Clusters*.

- A manufactured dwelling park that also qualifies as a cottage cluster development pursuant to Section 845, *Triplexes, Quadplexes, Townhouses, and Cottage Clusters*, is a primary use. All other manufactured dwelling parks are conditional uses.
- <sup>10</sup> A manufactured dwelling park that also qualifies as a cottage cluster development pursuant to Section 845, *Triplexes, Quadplexes, Townhouses, and Cottage Clusters*, is a primary use. All other manufactured dwelling parks are prohibited.
- <sup>11</sup> For a townhouse, the minimum lot size is 3,630 square feet in the MR-1 District and 2,420 square feet in the MR-2 District unless, as part of an application filed pursuant to Section 1105, *Subdivisions, Partitions, Replats, Condominium Plats, and Vacations of Recorded Plats*, new lots or parcels are proposed for townhouses. In that case, there is no minimum lot size provided that the density of the entire development complies with the maximum density standards of Subsection 1012.05.
- <sup>12</sup> Only indoor facilities are permitted.
- <sup>13</sup> Uses similar to this use may be authorized pursuant to Section 106, *Authorizations of Similar Uses*.
- <sup>14</sup> 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.
- <sup>15</sup> Hotels in the SHD District are limited to a maximum of 80 units per gross acre.
- <sup>16</sup> Public utility facilities shall not include shops, garages, or general administrative offices.
- <sup>17</sup> The base of such towers shall not be closer to the property line than a distance equal to the height of the tower.
- <sup>18</sup> This use may include concessions, restrooms, maintenance facilities, and similar support uses.
- <sup>19</sup> Any principal building, swimming pool, or use shall be located a minimum of 45 feet from any other lot in a residential zoning district.
- <sup>20</sup> Any principal building or swimming pool shall be located a minimum of 30 feet from any other lot in a residential zoning district.
- <sup>21</sup> Recyclable drop-off sites are permitted only if accessory to an institutional use.
- <sup>22</sup> 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.

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.
- <sup>23</sup> Only commercial schools are permitted, and such schools are not subject to Section 805, *Schools*.
- <sup>24</sup> Temporary signs regulated under Subsection 1010.13(A) are a primary use.
- <sup>25</sup> 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 (DLA) for Calculating Density Pursuant to Section 1012/Minimum Lot Size <sup>1,2</sup>	2,500/2,000 square feet	5,000/4,000square feet <sup>3</sup>	7,000/5,600 square feet <sup>4</sup>	8,500/6,800 square feet <sup>4</sup>	10,000/8,000 square feet <sup>4</sup>	15,000/12,000 square feet <sup>4</sup>	20,000/16,000 square feet <sup>4</sup>	30,000/24,000 square feet <sup>4</sup>
Maximum Lot Coverage	50 percent <sup>5,6</sup>							
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 <sup>7</sup>							
Minimum Rear Setback	20 feet <sup>7,8,9,10,11</sup>							
Minimum Side Setback	5 feet <sup>7,8,9,10,11</sup>							
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 Detached Single-Family Dwellings, Duplexes, and Manufactured Homes <sup>12</sup>	A minimum of three of the following features are required: a covered porch at least two feet deep; an entry area recessed at least two feet from the exterior wall to the door; a bay or bow window (not flush with the siding); an offset on the building face of at least 16 inches from one exterior wall surface to the other; a dormer; a gable; roof eaves with a minimum projection of 12 inches from the intersection of the roof and the exterior walls; a roofline offset of at least 16 inches from the top surface of one roof to the top surface of the other; an attached garage; orientation of the long axis and front door to a street; a cupola; a tile, shake, or composition roof; and horizontal lap siding. The required features must be on the same facade as a front door unless the feature is unrelated to a facade (e.g., roofing material).							
Building Design Standards for Buildings Accessory to a Dwelling	<p>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.</p> <p>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.</p>							

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

- For development on a middle housing lot, the lot coverage is calculated on the entire parent lot that was divided through a middle housing land division.
- 7 For a swimming pool that is accessory to a dwelling, the minimum front setback is 10 feet, and the minimum side and rear setbacks are three feet.
  - 8 In a planned unit development, there are no minimum rear and side setbacks except from rear and side lot lines on the perimeter of the final plat. In a zero-lot-line development, approved pursuant to Subsection 1105.03(B), there are no minimum rear and side setbacks for detached single-family dwellings, manufactured homes, and structures accessory to such dwellings, except from rear and side lot lines on the perimeter of the final plat. Where either of these standards applies, it supersedes any other rear or side setback standard in Table 315-2.
  - 9 On a middle housing lot, there are no minimum setbacks, except from lot lines on the perimeter of the final plat or lot lines abutting a road or access drive.
  - 10 The following exceptions apply to a lot of record that is 6,000 square feet or less in area and was created prior to the application of an Urban Low Density Residential District to the subject lot of record:
    - a. The minimum rear setback for a detached single-family dwelling, a manufactured home, or a duplex is 10 feet.
    - b. The minimum side setback for a detached single-family dwelling, a manufactured home, or a duplex 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.

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

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

<sup>12</sup> 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 <sup>1</sup>	5,000/4,000 square feet <sup>2</sup>	4,000/2,000 square feet <sup>2</sup>	2,000/2,000 square feet <sup>23</sup>
Maximum Lot Size <sup>1</sup>	7,000 square feet <sup>34,45</sup>	5,000 square feet <sup>34,56</sup>	3,000 square feet <sup>23,67</sup>
Maximum Lot Coverage	50 percent <sup>8</sup>		65 percent
Maximum Height for Fences and Sight-Obscuring Plantings	6 feet at or behind the building line of the dwelling closest to front lot line(s) or, in the case of non-residential development, of the main building or 4 feet forward of the building line of the dwelling closest to front lot line(s) or, in the case of non-residential development, of the main building.		
Maximum Driveway Width	16 feet at the front lot line, unless the subject property is developed with a garage that has at least three side-by-side (as opposed to tandem) garage bays, in which case the maximum driveway width shall be 24 feet at the front lot line <sup>89</sup>		See Subsection 1005.1 <del>12</del> (B)(4).
Minimum Percentage of Lots in a Subdivision that Shall have Alley Motor Vehicle Access Only	50 percent of lots with frontage on an alley		Not Applicable
Garage/Carport Design for Primary Dwellings	A minimum of 50 percent of the primary dwellings in a development shall have a recessed garage/carport or no garage/carport. The remaining 50 percent may have a non-recessed garage/carport. <sup>89,910,1011</sup>	All garages and carports shall be recessed. <sup>910</sup>	See Subsection 1005.1 <del>12</del> (B).



Standards for Primary Dwellings			
Standard	VR-5/7	VR-4/5	VTH
Maximum Building Height	35 feet <sup>89</sup>		
Minimum Front Setback	10 feet for a dwelling with a recessed garage/carport or no garage/carport; 19½ feet to the garage door/carport motor vehicle entry for a dwelling with a non-recessed garage/carport <sup>8,9,10,11,12,13,14</sup>	10 feet <sup>11,12,13,14</sup>	10 feet <sup>14,15,16,17</sup>
Maximum Front Setback	18 feet for a dwelling with a recessed garage/carport or no garage/carport; 20½ feet to the garage door/carport motor vehicle entry for a dwelling with a non-recessed garage/carport <sup>8,9,10,11,12,13,17,18,19,20</sup>	18 feet <sup>7,11,12,13,17,18,19,20</sup>	18 feet <sup>14,15</sup>
Minimum Rear Setback	15 feet <sup>89,11,12,13,20,21</sup>		15 feet <sup>20,21</sup>
Minimum Side Setback	0 on one side; 5 feet on all other sides <sup>8,11,20,12,21</sup>		5 feet <sup>20,21,22</sup>

<p>Building Design Standards<sup>89,2223</sup></p>	<ul style="list-style-type: none"> <li>• Front facades shall be designed with balconies and/or bays. Facades facing a street shall not consist of a blank wall.</li> <li>• Window trim shall not be flush with exterior wall treatment. Windows shall be provided with an architectural surround at the jamb, head, and sill.</li> <li>• Hipped, gambrel, or gabled roofs are required. Flat roofs are prohibited.</li> <li>• 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.</li> <li>• 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.</li> </ul>	<p>See Subsections 1005.034(F) and 1005.112(A).</p>
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**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 <sup>2324</sup>		

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) <sup>89,2425</sup>		
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. <sup>89</sup>		
<b>Minimum Rear and Side Setback Standards for Buildings Accessory to a Primary Dwelling in the VR-5/7, VR-4/5, and VTH Districts<sup>910,1920</sup></b>			
<b>Building Area</b>	<b>Building Height</b>		
	≤ 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 <sup>2526</sup>	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 <sup>2526</sup>
> 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 <sup>2526</sup>		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 <sup>25,26,27</sup>

- <sup>1</sup> 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.
- <sup>2</sup> For townhouses developed pursuant to Section 845, *Triplexes, Quadplexes, Townhouses, and Cottage Clusters*, there is no minimum lot size and the DLA shall be one-third of the DLA.
- <sup>23</sup> The minimum and maximum lot size standards apply only to lots or parcels for townhouses.
- <sup>34</sup> The maximum lot size standard applies only to lots or parcels for detached single-family dwellings, manufactured homes, or middle housing, except the maximum lot size standard does not apply to a middle housing land division.
- <sup>45</sup> Alternatively, the average size of all lots in a subdivision, partition, or replat shall not exceed 6,500 square feet.
- <sup>56</sup> Alternatively, the average size of all lots in a subdivision, partition, or replat shall not exceed 5,000 square feet.
- <sup>67</sup> Alternatively, the average size of all lots in a subdivision, partition, or replat shall not exceed 2,500 square feet.
- <sup>78</sup> For development on a middle housing lot, the lot coverage is calculated on the entire parent lot that was divided through a middle housing land division.
- <sup>89</sup> Except for middle housing developed pursuant to Section 845, *Triplexes, Quadplexes, Townhouses, and Cottage Clusters*, development on lots in the plat of Sieben Creek Estates (plat no. 3039) is not required to comply with this standard.
- <sup>910</sup> A recessed garage or carport is a garage or carport with a front setback to the garage door or carport motor vehicle entry that is a minimum of five feet greater (i.e., farther from the front lot line) than the front setback to the facade of the primary dwelling living area (not including porches, patios, bays, and architectural features).
- <sup>1011</sup> A non-recessed garage or carport shall have a front setback to the garage door or carport motor vehicle entry that is a maximum of five feet less (i.e., closer to the front lot line) than the front setback to the facade of the primary dwelling living area (not including porches, patios, bays, and architectural features).
- <sup>112</sup> The minimum and maximum setback standards do not apply in a Resource Protection Area shown on Comprehensive Plan Map X-SV-1, *Sunnyside Village Plan Land Use Plan Map*. The maximum setback standards do not apply to cottage clusters developed pursuant to Section 845, *Triplexes, Quadplexes, Townhouses, and Cottage Clusters*.
- <sup>1213</sup> On a middle housing lot, there are no minimum setbacks, except from lot lines on the perimeter of the final plat or lot lines abutting a road or access drive.
- <sup>1314</sup> A porch or patio, whether covered or not, may extend a maximum of four feet into the minimum front yard depth.

- <sup>1415</sup> Frontage on an accessway shall be considered a front lot line.
- <sup>1516</sup> 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.
- <sup>1617</sup> Awnings, porches, bays, and overhangs may extend a maximum of four feet into the minimum front setback.
- <sup>1718</sup> 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.
- <sup>1819</sup> Dwellings located on lots with less than 35 feet of street frontage shall be exempt from the maximum front setback standard.
- <sup>1920</sup> 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.
- <sup>2021</sup> 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.
- <sup>2122</sup> Frontage on a pedestrian connection shall be considered a side lot line.
- <sup>2223</sup> For triplexes, quadplexes, and townhouses developed pursuant to Section 845, *Triplexes, Quadplexes, Townhouses, and Cottage Clusters*, design standards in Section 845 shall apply in addition to standards in Table 315-3.
- <sup>2324</sup> The maximum building height standard applies only to accessory buildings larger than 100 square feet.
- <sup>2425</sup> A garage may be required to be recessed, as defined by Note ~~1011~~, in order to comply with the standard for garage/carport design for primary dwellings.
- <sup>2526</sup> Frontage on a pedestrian connection shall be considered a side lot line, and the minimum setback is five feet.
- <sup>2627</sup> 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 <sup>1</sup>	None <sup>2</sup>	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 <sup>3,4</sup>	15 feet, except 20 feet to garage and carport motor vehicle entries <sup>4</sup>	15 feet <sup>5</sup>	10 feet <sup>6,7</sup>	15 feet	5 feet <sup>8</sup>
Maximum Front Setback	See Subsections 1005.0 <del>23</del> (E) and (H).	See Subsections 1005.0 <del>23</del> (E) and (H).	See Subsections 1005.0 <del>23</del> (E) and (H).	See Subsections 1005.0 <del>23</del> (E) and (H).	18 feet <sup>6</sup>	See Subsections 1005.0 <del>23</del> (E) and (H).	20 feet <sup>8,9</sup>
Minimum Rear Setback	30 feet <sup>10</sup>	20 feet <sup>5,10,11,12</sup>	20 feet <sup>5,10</sup>	See Subsection 1005.0 <del>23</del> (L) <sup>5</sup>	None <sup>6,7</sup>	See Subsection 1005.0 <del>23</del> (L)	See Subsection 1005.0 <del>23</del> (L) <sup>13</sup>

Standard	PMD	MR-1	MR-2	HDR	VA	SHD	RCHDR
Minimum Side Setback	30 feet <sup>10</sup>	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. <sup>5,10,11,12,14,15</sup>	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. <sup>5,10,14,15</sup>	See Subsection 1005.023(L) <sup>5</sup>	None	See Subsection 1005.023(L)	See Subsection 1005.023(L) <sup>16</sup>
Maximum Building Height	None	None	None	None	45 feet	None	None
Minimum Building Separation	10 feet	None	None	See Subsection 1005.023(L)	20 feet between multifamily dwellings	See Subsection 1005.023(L)	See Subsection 1005.023(L)

- <sup>1</sup> The minimum lot size for a lot developed with a detached single-family dwelling classified as a nonconforming use is 3,630 square feet.
- <sup>2</sup> The minimum lot size for a lot developed with a detached single-family dwelling classified as a nonconforming use is 2,420 square feet.
- <sup>3</sup> For a swimming pool that is accessory to a dwelling, the minimum front setback is 10 feet.
- <sup>4</sup> On a corner lot developed with a townhouse, the minimum front setback from one front lot line is 10 feet, except that the minimum shall be 20 feet to garage and carport motor vehicle entries.
- <sup>5</sup> 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.

- <sup>6</sup> 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.
- <sup>7</sup> Awnings, porches, and bays may extend a maximum of six feet into the minimum setback.
- <sup>8</sup> 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.
- <sup>9</sup> 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*.
- <sup>10</sup> 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.
- <sup>11</sup> 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.



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

<b>Building Area</b>	<b>Building Height</b>		
	$\leq 8$ feet	$> 8$ feet and $\leq 10$ feet	$> 10$ feet
$\leq 100$ 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 $\leq 200$ 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

<sup>13</sup> If the rear lot line abuts a residential zoning district other than HDR, SHD, or RCHDR, the minimum rear setback is 20 feet.

<sup>14</sup> 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.

<sup>15</sup> The minimum side setback for a townhouse is five feet from any side lot line where two townhouses do not share a common wall.

<sup>16</sup> 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; Amended by Ord. ZDO-280, 10/23/21; Amended by Ord. ZDO-282, 7/1/22; Amended by Ord. ZDO-273, on remand, 5/30/23]

**Summary of Proposed Amendments to Section 316, *Rural Area Residential 1-Acre (RA-1), Rural Area Residential 2-Acre (RA-2), Recreational Residential (RR), Rural Residential Farm Forest 5-Acre (RRFF-5), Farm Forest 10-Acre (FF-10), and Future Urban 10-Acre (FU-10) Districts***

1. Correct references in Table 316-1, *Permitted Uses in the Rural Residential and Future Urban Residential Zoning Districts*, and in a note to the table, by changing “ORS” (Oregon Revised Statutes) to “OAR” (Oregon Administrative Rules).
2. Clarify that, when a lot of record is approved for an accessory historic dwelling, it can have two dwelling units.

NOTICE

Amendments to this section of the Zoning and Development Ordinance were approved by the Board of County Commissioners on December 8, 2022, and became effective on May 30, 2023. However, these amendments have not been acknowledged under state law because an appeal has been filed with the Land Use Board of Appeals. Pursuant to Oregon Revised Statutes 197.625, the County shall apply the amended regulations to land use decisions, expedited land divisions and limited land use decisions. However, if these amended regulations fail to gain acknowledgment, any permit or zone change which is approved, in whole or in part, on the basis of the change will not justify retention of the improvements that were authorized by the permit or zone change. Before proceeding with plans for development that are dependent on the amended regulations, applicants are advised to consult with Planning and Zoning Division staff and seek independent legal advice.

**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**

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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
<b>Accessory Buildings and Uses, Customarily Permitted</b> , 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
<b>Accessory Historic Dwellings</b> , subject to Section 843	A <sup>2</sup>	A <sup>2</sup>	A <sup>2</sup>	A <sup>2</sup>	A <sup>2</sup>	X
<b>Accessory Kitchens</b>	A <sup>3</sup>	A <sup>3</sup>	A <sup>3</sup>	A <sup>3</sup>	A <sup>3</sup>	A <sup>3</sup>
<b>Aircraft Land Uses</b>	X	X	X	C	C	C
<b>Aircraft Landing Areas</b>	X	C	C <sup>4</sup>	X	X	X
<b>Bed and Breakfast Inns</b> , subject to Section 832	C	C	C	C	C	X
<b>Bed and Breakfast Residences</b> , subject to Section 832	C	C	C	C	C	C
<b>Bus Shelters</b>	P	P	P	P	P	P

Use	RA-1	RA-2	RR	RRFF-5	FF-10	FU-10
<b>Campgrounds</b>	C	C	C	C	C	C
<b>Cemeteries</b> , subject to Section 808	C	C	X	C	C	C
<b>Child Care Facilities</b>	C	C	C	C	C	C <sup>5</sup>
<b>Commercial or Processing Activities that are in Conjunction with Farm or Forest Uses<sup>6</sup></b>	X	X	X	C	C	X
<b>Community Halls</b>	CPUD	CPUD	CPUD	CPUD	CPUD	X <sup>7</sup>
<b>Composting Facilities</b> , subject to Section 834	X	X	X	C	C	X
<b>Conservation Areas or Structures for the Conservation of Water, Soil, Forest, or Wildlife Habitat Resources</b>	P	P	P	P	P	P
<b>Crematories</b> , subject to Section 808	C	C	X	X	X	X
<b>Daycare Services, Adult</b>	C	C	C	C	C	C <sup>8</sup>
<b>Dwellings, including:</b>						
Accessory Dwelling Units, subject to Section 839	A <sup>1</sup>	A <sup>1</sup>	X	A <sup>1</sup>	A <sup>1</sup>	A <sup>1</sup>
Detached Single-Family Dwellings	P <sup>9</sup>	P <sup>9</sup>	P <sup>9</sup>	P <sup>9</sup>	P <sup>9</sup>	P <sup>9</sup>
Duplexes	C <sup>9</sup>	X	X	X	X	X
Manufactured Dwellings	P <sup>9</sup>	P <sup>9</sup>	P <sup>9</sup>	P <sup>9</sup>	P <sup>9</sup>	P <sup>9</sup>
<b>Energy Source Development</b>	X	X	C	X	X	X
<b>Farm Uses, including<sup>6</sup>:</b>						
Raising, harvesting, and selling crops	P	P	P <sup>10</sup>	P	P	P
Feeding, breeding, management and sale of, or the produce of, livestock, poultry, fur-bearing animals, or honeybees	X <sup>11</sup>	P	X <sup>11</sup>	P	P	P
Dairying and the sale of dairy products	X <sup>11</sup>	P	X <sup>11</sup>	P	P	P
Any other agricultural or horticultural use or animal husbandry or any combination thereof	X <sup>11</sup>	P	X <sup>11</sup>	P	P	P
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 <sup>10</sup>	P	P	P

Use	RA-1	RA-2	RR	RRFF-5	FF-10	FU-10
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 <sup>11</sup>	P	X <sup>11</sup>	P	P	P
Growing cultured Christmas trees	P	P	P <sup>10</sup>	P	P	P
<b>Farmers' Markets</b> , subject to Section 840	A	A	A	A	A	A
<b>Fish or Wildlife Management Programs</b>	X	X	X	P	P	P
<b>Forest Practices</b> , 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 <sup>12</sup>	P <sup>12</sup>	P	P <sup>12</sup>	P <sup>12</sup>	P <sup>12</sup>
<b>Fraternal Organization Lodges</b>	C <sup>13</sup>	C <sup>13</sup>	C <sup>13</sup>	C <sup>13</sup>	C <sup>13</sup>	C <sup>13</sup>
<b>Government Uses</b> , unless such a use is specifically listed as a primary, accessory, conditional, or prohibited use in the applicable zoning district	C <sup>13</sup>	C <sup>13</sup>	C <sup>13</sup>	C <sup>13</sup>	C <sup>13</sup>	C <sup>13</sup>
<b>Guest Houses</b> , subject to Section 833	A	A	A	A	A	A
<b>Guest Ranches and Lodges</b>	X	X	C	X	X	X
<b>Home Occupations</b> , including bed and breakfast homestays, subject to Section 822 <sup>14</sup>	A	A	A	A	A	A
<b>Home Occupations to Host Events</b> , subject to Section 806	C	C	C	C	C	C
<b>Hydroelectric Facilities</b>	C	C	C	C	C	C
<b>Kennels</b>	C <sup>15</sup>	C <sup>15</sup>	X	C <sup>15</sup>	C <sup>15</sup>	X
<b>Libraries</b>	CPUD	CPUD	CPUD	CPUD	CPUD	X <sup>7</sup>
<b>Livestock</b> , subject to Section 821	P	X <sup>11</sup>	A	X <sup>11</sup>	X <sup>11</sup>	X <sup>11</sup>
<b>Marijuana Processing</b>	X	X	X	X	X	X
<b>Marijuana Production</b> , subject to Section 841	X	X	X	A	A	X

Use	RA-1	RA-2	RR	RRFF-5	FF-10	FU-10
<b>Marijuana Retailing</b>	X	X	X	X	X	X
<b>Marijuana Wholesaling</b>	X	X	X	X	X	X
<b>Operations Conducted for the Exploration, Mining, or Processing of Geothermal Resources or Other Subsurface Resources</b>	X	X	X	C	C	X
<b>Places of Worship</b> , subject to Section 804	C	C	C	C	C	C <sup>16</sup>
<b>Produce Stands</b>	A <sup>17</sup>	A <sup>17</sup>	A <sup>17</sup>	A <sup>17</sup>	A <sup>17</sup>	A <sup>17,18</sup>
<b>Public Utility Facilities</b>	C <sup>13,19</sup>	C <sup>13,19</sup>	C <sup>13,19</sup>	C <sup>13,19</sup>	C <sup>13,19</sup>	C <sup>13,19</sup>
<b>Radio and Television Transmission and Receiving Towers and Earth Stations</b>	C <sup>13,20</sup>	C <sup>13,20</sup>	C <sup>13,20</sup>	C <sup>13,20</sup>	C <sup>13,20</sup>	C <sup>13,20</sup>
<b>Recreational Uses</b> , 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 <sup>21</sup>	C <sup>13</sup>	C <sup>13,22</sup>	C <sup>13</sup>	C <sup>13,22</sup>	C <sup>13,22</sup>	C <sup>13,22</sup>
<b>Recreational Uses, Government-Owned</b> , 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 <sup>21</sup>	P <sup>23</sup>	P <sup>23</sup>	P <sup>23</sup>	P	P	P



Use	RA-1	RA-2	RR	RRFF-5	FF-10	FU-10
<b>Recreational Uses, Government-Owned Golf Courses</b> <sup>21</sup>	P <sup>23</sup>	P <sup>23</sup>	P <sup>23</sup>	P	P	P
<b>Recreational Vehicle Camping Facilities</b> , subject to Section 813	C <sup>13</sup>	C <sup>13</sup>	C	C <sup>13</sup>	C <sup>13</sup>	X
<b>Recyclable Drop-Off Sites</b> , subject to Section 819	A <sup>24</sup>	A <sup>24</sup>	A <sup>24</sup>	A <sup>24</sup>	A <sup>24</sup>	A <sup>24</sup>
<b>Retailing</b> —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 <sup>25</sup>	X	X	X	X	X
<b>Roads</b>	P	P	P	P	P	P
<b>Sanitary Landfills and Debris Fills</b>	X	X	X	C	C	X
<b>Schools</b> , subject to Section 805	C <sup>26</sup>	C <sup>26</sup>	C	C <sup>26</sup>	C <sup>26</sup>	C <sup>27</sup>
<b>Services, Commercial—Food and Beverage</b> , including catering and eating and drinking establishments	CPUD <sup>25</sup>	X	X	X	X	X

Use	RA-1	RA-2	RR	RRFF-5	FF-10	FU-10
<b>Services, Commercial—Personal and Convenience</b> , 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 <sup>25</sup>	X	X	X	X	X
<b>Services, Commercial—Studios</b> of the following types: art, craft, dance, music, and photography	CPUD <sup>25</sup>	X	X	X	X	X
<b>Sewer System Components that Serve Lands Inside an Urban Growth Boundary</b> , subject to <del>ORS-OAR</del> 660-011-0060(3)	Type II <sup>28</sup>	Type II <sup>28</sup>	Type II <sup>28</sup>	Type II <sup>28</sup>	Type II <sup>28</sup>	Type II <sup>28</sup>
<b>Sewer Systems and Extensions of Sewer Systems to Serve Land Outside an Urban Growth Boundary and Unincorporated Community</b> , subject to <del>ORS-OAR</del> 660-011-0060(4)	Type II <sup>29</sup>	Type II <sup>29</sup>	Type II <sup>29</sup>	Type II <sup>29</sup>	Type II <sup>29</sup>	Type II <sup>29</sup>
<b>Short-Term Rental</b> in a dwelling unit or guest house permitted by this table	P	P <sup>30</sup>	P	P <sup>30</sup>	P <sup>30</sup>	P <sup>30</sup>
<b>Signs</b> , subject to Section 1010	A <sup>31</sup>	A <sup>31</sup>	A <sup>31</sup>	A <sup>31</sup>	A <sup>31</sup>	A <sup>31</sup>
<b>Surface Mining</b> , subject to Section 818	X	X	X	C	C	X
<b>Telephone Exchanges</b>	C <sup>13</sup>	C <sup>13</sup>	C <sup>13</sup>	C <sup>13</sup>	C <sup>13</sup>	C <sup>13</sup>
<b>Temporary Buildings for Uses Incidental to Construction Work.</b> Such buildings shall be removed upon completion or abandonment of the construction work.	A	A	A	A	A	A
<b>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</b>	A	A	A	A	A	A

Use	RA-1	RA-2	RR	RRFF-5	FF-10	FU-10
<b>Transfer Stations</b> , subject to Section 819	X	X	C	X	X	C
<b>Utility Carrier Cabinets</b> , subject to Section 830	P,C <sup>32</sup>	P,C <sup>32</sup>	P,C <sup>32</sup>	P,C <sup>32</sup>	P,C <sup>32</sup>	P,C <sup>32</sup>
<b>Wireless Telecommunication Facilities</b> , 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 allowed by Section 839, *Accessory Dwelling Units*, [Section 843, Accessory Historic Dwellings](#), or Section 1204, *Temporary Permits*, each lot of record may be developed with only one of the following: detached single-family dwelling, duplex (only if approved as a conditional use in the RA-1 District), 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.
- <sup>26</sup> Schools are prohibited within the areas identified as Employment, Industrial, and Regionally Significant Industrial on the Metropolitan Service District's 2040 Growth Concept Map.
- <sup>27</sup> This use is limited to alteration or expansion of a lawfully established school.
- <sup>28</sup> Components of a sewer system that serve land outside urban growth boundaries or unincorporated community boundaries are prohibited.
- <sup>29</sup> 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-OAR~~ 660-011-0060(4)(b)(B), except for urban reserve areas as provided under OAR 660-021-0040(6); and do not serve any uses other than those existing or allowed in the identified service area on the date the sewer system is approved.
- <sup>30</sup> This use is not permitted in an urban or rural reserve established pursuant to OAR 660, Division 27.
- <sup>31</sup> Temporary signs regulated under Subsection 1010.13(A) are a primary use.
- <sup>32</sup> 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 <sup>1</sup>	1 acre <sup>2,3</sup>	2 acres <sup>3</sup>	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 <sup>3,4,5,6</sup>	10 acres <sup>3,4,7</sup>	10 acres <sup>4</sup>
Minimum Front Setback	30 feet <sup>8</sup>	30 feet <sup>8</sup>	15 feet, except 20 feet to garage and carport motor vehicle entries <sup>9</sup>	30 feet <sup>8</sup>	30 feet <sup>8</sup>	30 feet
Minimum Rear Setback	30 feet <sup>10,11</sup>	30 feet <sup>10,12</sup>	15 feet <sup>10</sup>	30 feet <sup>10,12</sup>	30 feet <sup>10,12</sup>	30 feet <sup>12</sup>
Minimum Side Setback	10 feet <sup>10,13</sup>	10 feet <sup>10</sup>	5 feet <sup>10</sup>	10 feet <sup>10</sup>	10 feet <sup>10</sup>	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

- <sup>1</sup> The minimum lot size standards apply as established by Sections 1012 and 1107. Notwithstanding the minimum lot size standard, a lot of record may be developed subject to other applicable standards of this Ordinance, except minimum lot size standards of Section 800 apply.
- <sup>2</sup> In a planned unit development, there is no minimum individual lot size. However, the minimum average lot size is one acre except for lots to be developed with a duplex, in which case the minimum average lot size is two acres. The average lot size is calculated by determining the lot area of the land proposed for subdivision, partition, or replat and dividing by the number of lots or parcels in the proposed planned unit development.
- <sup>3</sup> 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.
- <sup>4</sup> 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.
- <sup>5</sup> The minimum lot size inside the urban growth boundaries of the cities of Canby, Estacada, Molalla, and Sandy is five acres.
- <sup>6</sup> 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.
- <sup>7</sup> 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.
- <sup>8</sup> In a planned unit development, the minimum front setback is 20 feet.
- <sup>9</sup> 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.
- <sup>10</sup> 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.
- <sup>11</sup> The minimum rear setback for an accessory building shall be five feet except as established by Note 10.

- <sup>12</sup> The minimum rear setback for an accessory building shall be 10 feet except as established by Note 10.
- <sup>13</sup> 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; Amended by Ord. ZDO-280, 10/23/21; Amended by Ord. ZDO-282, 7/1/22; Amended by Ord. ZDO-273, on remand, 5/30/23]



**Summary of Proposed Amendments to Section 317, *Mountain Recreational Resort (MRR)* and *Hoodland Residential (HR) Districts***

1. Move the listing for schools in Table 317-1, *Permitted Uses in the MRR and HR Districts*, so that it is in the correct alphabetical order.
2. Correct references in Table 317-1 and in a note to the table, by changing “ORS” (Oregon Revised Statutes) to “OAR” (Oregon Administrative Rules).
3. Remove a duplicative sentence in Note 17 to Table 317-1.

NOTICE

Amendments to this section of the Zoning and Development Ordinance were approved by the Board of County Commissioners on December 8, 2022, and became effective on May 30, 2023. However, these amendments have not been acknowledged under state law because an appeal has been filed with the Land Use Board of Appeals. Pursuant to Oregon Revised Statutes 197.625, the County shall apply the amended regulations to land use decisions, expedited land divisions and limited land use decisions. However, if these amended regulations fail to gain acknowledgment, any permit or zone change which is approved, in whole or in part, on the basis of the change will not justify retention of the improvements that were authorized by the permit or zone change. Before proceeding with plans for development that are dependent on the amended regulations, applicants are advised to consult with Planning and Zoning Division staff and seek independent legal advice.

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

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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*; 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*.

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

Use	MRR	HR
<b>Accessory Buildings and Uses, Customarily Permitted</b> , 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
<b>Accessory Kitchens</b>	A <sup>1</sup>	A <sup>1</sup>
<b>Airports, Personal-Use</b>	C	C
<b>Bed and Breakfast Inns</b> , subject to Section 832	P	C
<b>Bed and Breakfast Residences</b> , subject to Section 832	P	C
<b>Bus Shelters</b>	P	P
<b>Campgrounds</b>	C	C
<b>Child Care Facilities</b>	C	C
<b>Civic and Cultural Facilities</b> , including art galleries, museums, and visitor centers	L <sup>2</sup>	X
<b>Community Halls</b>	CPUD	CPUD
<b>Composting Facilities</b>	X	X
<b>Daycare Services, Adult</b>	C	C
<b>Dwellings, including:</b>		
Accessory Dwelling Units, subject to Section 839	A	A
Congregate Housing Facilities	P	X
Detached Single-Family Dwellings	P <sup>3</sup>	P <sup>3</sup>
Duplexes	P	X
Manufactured Dwelling Parks, subject to Section 825	C	X
Manufactured Homes	P <sup>3</sup>	P <sup>3</sup>
Multifamily Dwellings	P	X
Quadplexes	P	X
Townhouses	P <sup>3</sup>	P <sup>3,4</sup>
Triplexes	P	X
<b>Energy Source Development</b>	C	C
<b>Farmers’ Markets</b> , subject to Section 840	A	A
<b>Fraternal Organization Lodges</b>	C <sup>5</sup>	C <sup>5</sup>

Use	MRR	HR
<b>Government Uses</b> , 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 <sup>5</sup>	C <sup>5</sup>
<b>Guest Houses</b> , subject to Section 833	X	A
<b>Guest Ranches and Lodges</b>	X	C
<b>Helistops, Personal-Use</b>	C	C
<b>Home Occupations</b> , including bed and breakfast homestays, subject to Section 822 <sup>6</sup>	A	A
<b>Hosting of Weddings, Family Reunions, Class Reunions, Company Picnics, and Similar Events</b>	C	C
<b>Hotels</b> <sup>7</sup>	P <sup>8</sup>	X
<b>Hydroelectric Facilities</b>	C	C
<b>Libraries</b>	L <sup>2</sup> , CPUD	CPUD
<b>Livestock</b> , subject to Section 821	A	A
<b>Marijuana Processing</b>	X	X
<b>Marijuana Production</b>	X	X
<b>Marijuana Retailing</b>	X	X
<b>Marijuana Wholesaling</b>	X	X
<b>Mobile Vending Units</b> , subject to Section 837	L <sup>2,9</sup>	X
<b>Motels</b> <sup>7</sup>	P <sup>8</sup>	X
<b>Multi-Use Developments</b> , subject to Section 844	C	C
<b>Nursing Homes</b>	P	C
<b>Parking Structures</b>	A	X
<b>Places of Worship</b> , subject to Section 804	C	C
<b>Produce Stands</b> , subject to Section 815	A	A
<b>Public Utility Facilities</b>	C <sup>5</sup>	C <sup>5,10</sup>
<b>Radio and Television Transmission and Receiving Towers and Earth Stations</b>	C <sup>5,11</sup>	C <sup>5,11</sup>
<b>Recreational Uses</b> , 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 <sup>12</sup>	C <sup>5</sup>	C <sup>5</sup>
<b>Recreational Uses, Government-Owned</b> , 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 <sup>12</sup>	P <sup>13</sup>	P <sup>14</sup>

Use	MRR	HR
<b>Recreational Uses, Government-Owned Golf Courses</b> <sup>12</sup>	P <sup>13</sup>	P <sup>14</sup>
<b>Recreational Vehicle Camping Facilities</b> , subject to Section 813	C <sup>5</sup>	C <sup>5</sup>
<b>Recyclable Drop-Off Sites</b> , subject to Section 819	A <sup>15</sup>	A <sup>15</sup>
<b>Retailing</b> —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 <sup>2</sup> , CPUD <sup>16</sup>	CPUD <sup>16</sup>
<b>Roads</b>	P	P
<b>Schools</b> , subject to Section 805	<u>C</u>	<u>C</u>
<b>Services, Commercial—Food and Beverage</b> , including catering and eating and drinking establishments	L <sup>2</sup> , CPUD <sup>16</sup>	CPUD <sup>16</sup>
<b>Services, Commercial—Maintenance and Repair</b> , of any of the following: bicycles and sporting goods	L <sup>2</sup> , CPUD <sup>16</sup>	CPUD <sup>16</sup>
<b>Services, Commercial—Personal and Convenience</b> , 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 <sup>2</sup> , CPUD <sup>16</sup>	CPUD <sup>16</sup>
<b>Services, Commercial—Studios</b> of the following types: art, craft, dance, music, and photography	L <sup>2</sup> , CPUD <sup>16</sup>	CPUD <sup>16</sup>
<b>Sewer Systems and Extensions of Sewer Systems to Serve Land Outside an Urban Growth Boundary and Unincorporated Community</b> , subject to <del>ORS-OAR</del> 660-011-0060(4)	Type II <sup>17</sup>	Type II <sup>17</sup>
<b>Schools</b> , subject to Section 805	€	€
<b>Short-Term Rental</b> in a dwelling unit or guest house permitted by this table	P	P
<b>Signs</b> , subject to Section 1010	A <sup>18</sup>	A <sup>18</sup>
<b>Surface Mining</b> , subject to Section 818	X	X
<b>Telephone Exchanges</b>	C <sup>5</sup>	C <sup>5</sup>
<b>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</b>	A	A
<b>Temporary Buildings for Uses Incidental to Construction Work.</b> Such buildings shall be removed upon completion or abandonment of the construction work.	A	A
<b>Transit Park-and-Rides</b>	P	P
<b>Transfer Stations</b> , subject to Section 819	C	C
<b>Utility Carrier Cabinets</b> , subject to Section 830	P,C <sup>19</sup>	P,C <sup>19</sup>

Use	MRR	HR
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 Section 839, *Accessory Dwelling Units*, or Section 1204, *Temporary Permits*, each lot of record may be developed with only one of the following: detached single-family dwelling, manufactured home, or townhouse.
- 4 Townhouses 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-OAR 660-011-0060(4)(b)(B), except for urban reserve areas as provided under OAR 660-021-0040(6); and do not serve any uses other than those existing or allowed in the identified service area on the date the sewer system is approved.
- 18 Temporary signs regulated under Subsection 1010.13(A) are a primary use.
- 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 <sup>1</sup>	15 feet, except 20 feet to garage and carport motor vehicle entries <sup>2</sup>
Minimum Rear Setback	10 feet <sup>3,4,5,6</sup>	15 feet <sup>3,4</sup>
Minimum Side Setback	10 feet <sup>3,4,5,6</sup>	5 feet <sup>3,4</sup>
Maximum Lot Coverage	None	40 percent <sup>7</sup>
Maximum Building Height	40 feet <sup>8,9</sup>	40 feet <sup>8</sup>
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 <sup>10</sup>	4,000 square feet, except 8,000 square feet in Government Camp <sup>10</sup>
Building Design Standards for Single-Family Dwellings and Manufactured Homes <sup>11</sup>	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).	

- <sup>1</sup> In Government Camp, the minimum front setback is 10 feet, except 20 feet to garage and carport motor vehicle entries.
- <sup>2</sup> 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.
- <sup>3</sup> If the lot line abuts a national forest, there is no minimum setback. If Note 3 and Note 4 conflict, Note 3 prevails.
- <sup>4</sup> 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.
- <sup>5</sup> 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:

<b>Building Height</b>	<b>Minimum Setback</b>
≤ 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

- <sup>6</sup> 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 townhouses, as well as to structures that are accessory to such townhouses.
- <sup>7</sup> Maximum lot coverage is 50 percent for a lot of record that is developed with a townhouse.
- <sup>8</sup> The maximum building height may be increased to 50 feet to accommodate understructure parking.
- <sup>9</sup> 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.

- <sup>10</sup> 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.
- <sup>11</sup> 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**

<b>Location/Dwelling Unit Size</b>	<b>District Land Area</b>
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; Amended by Ord. ZDO-280, 10/23/21; Amended by Ord. ZDO-282, 7/1/22; Amended by Ord. ZDO-273, on remand, 5/30/23]

**Summary of Proposed Amendments to Section 401, *Exclusive Farm Use District (EFU)***

1. Repeal unused or redundant definitions and relocate others to more logical locations in Section 401.
2. Amend the definition of “farm operator” to align with the definition used in Oregon Administrative Rules (OAR) 660-033-0130(9)(a).
3. Codify the already operative definition of "farm or ranch operation" used in OAR 660-033-0135(8)(b).
4. Add provisions for single-event agri-tourism with not more than 100 attendees or 50 vehicles, subject to a Type I review process. This use is allowed by ORS 215.283(4)(b).
5. Reorganize and make minor edits to the agri-tourism provisions for clarity and consistency.
6. Edit the provisions for “facilities for the processing of farm products” for consistency with state law.
7. Repeal redundant references to the requirement that a relative farm help dwelling and an accessory dwelling in conjunction with farm use be on a lot of record.
8. Reorganize and edit the approval criteria for relative farm help dwellings for clarity and consistency with state law.
9. Align standards and criteria for outdoor mass gatherings with state law.
10. Add temporary dwellings for care to the time extension exception in Subsection 401.10(C).
11. Correct citations.

**401 EXCLUSIVE FARM USE DISTRICT (EFU)**

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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.~~

~~CD. 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.

~~DE. 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.~~

~~EF. 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).~~

~~FH. Farm or Ranch Operator: A person who resides on and actively manages a “farm unit” operates a farm or ranch, doing the work, and making the day-to-day decisions about such things as planting, harvesting, feeding, and marketing.~~

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

~~HI. 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.~~

~~IJ. Farm Use: As defined in ORS 215.203.~~

~~K. Golf Course: As defined in OAR 660-033-0130(20).~~

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

~~KM. 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.~~

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

~~MO. 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.~~

~~NQ. 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.

OR. 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.~~

PU. 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” means the use is not allowed except as set forth in Subsection 401.05(~~H~~)(1).
  9. “HV” means High Value Farmland.
  10. “LV” means Low Value Farmland.
  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
<b>FARM AND FOREST USES</b>	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. <sup>1</sup>	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
<b>NATURAL RESOURCE USES</b>	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
<b>RESIDENTIAL USES</b>	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. <sup>2</sup>	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. <sup>2</sup>	401.05(A)(3) & (C)(5)
	N	TYPE II	Dwelling customarily provided in conjunction with a farm use on Low Value Farmland. <sup>2</sup>	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. <sup>2</sup>	401.05(A)(3), (4) & (C)(8)
	N	TYPE II	Capability test for a dwelling. <sup>2</sup>	401.05(A)(3), (4) & (C)(9)

<b>RESIDENTIAL USES (cont.)</b>	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. <sup>2</sup>	401.05(A)(3) & (C)(11)
	TYPE II	TYPE II	Accessory dwelling in conjunction with farm use. <sup>2</sup>	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. <sup>2</sup>	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)
	<b>HV</b>	<b>LV</b>	<b>Use</b>	<b>Subject To</b>
<b>COMMERCIAL USES</b>	A	A	Family child care home.	
	A	A	Dog training classes.	401.05(D)( <del>68</del> )
	A	A	Dog testing trials.	401.05(D)( <del>79</del> )
	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)( <del>840</del> )
	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)
	<del>TYPE I</del>	<del>TYPE I</del>	<del>Expedited license for a single agri-tourism or other commercial event or activity on a tract in a calendar year, subject to ORS 215.237 and 215.283(4)(b), (6)(a), and (6)(c)</del>	
	TYPE II	TYPE II	<del>Single a</del> Agri-tourism or other commercial single-event or activity on a tract in a calendar year, subject to ORS 215.237 and 215.283(4)(a), (6)(a), and (6)(c)-	401.05(A)(1) & (D)(3)
	TYPE II	TYPE II	<del>Agri-tourism for U</del> up to six <del>6</del> agri-tourism or other commercial events or activities on a tract in a calendar year, subject to ORS 215.237 and 215.283(4)(c) and (6)-	401.05(A)(1) & (D)( <del>34</del> )
	<del>C</del>	<del>C</del>	<del>Up to 18 agri-tourism or other commercial events or activities on a lot of record that is a minimum of 80 acres, subject to ORS 215.237 and 215.283(4)(d), (5), (6)(a), and (6)(c)</del>	<del>401.05(A)(1) &amp; (D)(3)</del>
	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)
<b>COMMERCIAL USES (cont.)</b>	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) <del>(45)</del>
	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. <sup>3</sup>	401.05(A)(1) & (D) <del>(914)</del>
	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. <sup>4</sup>	401.05(A)(1)
	<del>C</del>	<del>C</del>	<del>Agri-tourism additional events not to exceed 18 events on a minimum of 80 acres.</del>	<del>401.05(A)(1) &amp; (D)(6)</del>
	C	C	An aerial fireworks display business.	401.05(A)(1) & (D) <del>(57)</del>
	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) <del>(68)</del> or <del>(79)</del> .	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)
<b>COMMERCIAL USES (cont.)</b>	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)
	<b>HV</b>	<b>LV</b>	<b>Use</b>	<b>Subject To</b>
<b>TRANSPORTATION USES</b>	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)
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	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.	
	<b>HV</b>	<b>LV</b>	<b>Use</b>	<b>Subject To</b>
<b>UTILITY AND SOLID WASTE DISPOSAL FACILITY USES</b>	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.	
	<b>HV</b>	<b>LV</b>	<b>Use</b>	<b>Subject To</b>
<b>UTILITY AND SOLID WASTE DISPOSAL FACILITY USES</b>	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, <i>Permitted Uses in the EFU District</i> .	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	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	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)
	<b>HV</b>	<b>LV</b>	<b>Use</b>	<b>Subject To</b>
<b>PARKS, PUBLIC, AND QUASI-PUBLIC USES</b>	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	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	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)
<b>PARKS, PUBLIC, AND QUASI-PUBLIC USES (cont.)</b>	TYPE II	TYPE II	Expansion of a public or private school established on or before January 1, 2009, or expansion of buildings essential to the operation of a public or private school established on or before January 1, 2009.	401.05(J)(2) & (3)
	*NA	C	Private parks, playgrounds, hunting and fishing preserves, and campgrounds.	401.05(A)(1), (5) & (H)(5)
	*NA	C	Golf courses.	401.05(A)(1), (5) & (H)(6)



	HV	LV	Use	Subject To
<b>OUTDOOR GATHERINGS</b>	A	A	An outdoor mass gathering <del>or other gathering described in ORS 197.015(10)(d)</del> as defined in ORS 433.735, subject to ORS 433.735 to 433.770. However, an outdoor mass gathering permit under ORS 433.750 is not required for agri-tourism and other commercial events or activities permitted under ORS 215.283(4), 215.449, 215.451, and 215.452.	<del>401.05(1)(1)</del>
	TYPE III	TYPE III	Any outdoor mass gathering of more than 3,000 persons any part of which is held outdoors and which continues or can reasonably be expected to continue for a period exceeding that allowable for an outdoor mass gathering as defined in ORS 433.735, subject to <del>review of the Planning Commission under</del> ORS 433.763.	401.05(1)(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(~~PT~~) 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 siting 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. However, applicable standards and criteria pertaining to floodplains, geologic hazards, airport safety, and fire siting standards shall apply.
  - c. “Facility for the processing of farm products” means a facility for:
    - i. Processing farm crops, including the production of biofuel as defined in ORS 315.141, if at least one-quarter of the farm crops come from the farm operation containing the facility; or
    - ii. 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).
  - d. “Processing area” means the floor area of a building dedicated to farm product processing. “Processing area” does not include the floor area designated for preparation, storage, or other farm use.
2. Any division of a lot of record that separates a facility for the processing of farm products from the farm operation on which it is located is prohibited.
  3. A facility for the primary processing of forest products shall not seriously interfere with accepted farm practices and shall be compatible with farm uses described in ORS 215.203(2). Such facility may be approved for a one-year period that is renewable and is intended to be only portable or temporary in nature. The primary processing of a forest product, as used in Subsection 401.05(B)(3), means the use of a portable chipper or stud mill or other similar methods of initial treatment of a forest product in order to enable its shipment to market. Forest products as used in Subsection 401.05(B)(3) means timber grown upon a tract where the primary processing facility is located.

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.
    - iii. As used in Subsection 401.05(C)(2)(b), “owner” includes the wife, husband, son, daughter, mother, father, brother, brother-in-law, sister, sister-in-law, son-in-law, daughter-in-law, mother-in-law, father-in-law, aunt, uncle, niece, nephew, stepparent, stepchild, grandparent, or

grandchild of the owner, or a business entity owned by any one or a combination of these family members.

- c. The tract on which the dwelling will be sited does not include a dwelling;
  - d. 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.
    - iii. As used in Subsection 401.05(C)(3)(b), "owner" includes the wife, husband, son, daughter, mother, father, brother, brother-in-law, sister, sister-in-law, son-in-law, daughter-in-law, mother-in-law, father-in-law, aunt, uncle, niece, nephew, stepparent, stepchild, grandparent, or

grandchild of the owner, or a business entity owned by any one or a combination of these family members.

- c. The tract on which the dwelling will be sited does not include a dwelling.
  - d. The lot of record on which the dwelling will be sited was not part of a tract that contained a dwelling on November 4, 1993.
  - e. The proposed dwelling is not prohibited by, and will comply with, the requirements of the acknowledged Comprehensive Plan, this Ordinance and other provisions of law.
  - f. When the lot of record on which the dwelling will be sited is part of a tract, all remaining portions of the common ownership land shall remain in common ownership as long as the dwelling remains as approved.
  - 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.
  - iii. As used in Subsection 401.05(C)(4)(b), “owner” includes the wife, husband, son, daughter, mother, father, brother, brother-in-law, sister, sister-in-law, son-in-law, daughter-in-law, mother-in-law, father-in-law, aunt, uncle, niece, nephew, stepparent, stepchild, grandparent, or grandchild of the owner, or a business entity owned by any one or a combination of these family members.
- 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 for seasonal farmworker housing approved prior to 2001, there is no other dwelling on the subject tract; or

9. Capability test, subject to the following criteria:
  - a. The subject tract is at least as large as the median size of those commercial farm or ranch tracts capable of generating at least \$10,000 in annual gross sales that are located within a study area which includes all tracts wholly or partially within one mile from the perimeter of the subject tract.
  - b. Lots of record in Eastern Oregon shall not be used to qualify a dwelling under this criterion.
  - c. The subject tract is capable of producing at least the median level of annual gross sales of county indicator crops as the same commercial farm or ranch tracts used to calculate the tract size in Subsection 401.05(C)(9)(a).
  - d. The subject tract is currently employed for a farm use at a level capable of producing the annual gross sales required in Subsection 401.05(C)(9)(a).
  - e. The subject lot of record on which the dwelling is proposed is not less than 10 acres.
  - f. Except for seasonal farmworker housing approved prior to 2001, there is no other dwelling on the subject tract.
  - g. The dwelling will be occupied by a person or persons who will be principally engaged in the farm use of the land, such as planting, harvesting, marketing or caring for livestock, at a commercial scale.
  - h. If no farm use has been established at the time of application, land use approval shall be subject to a condition that no building permit may be issued prior to the establishment of the farm use required by Subsection 401.05(C)(9)(d).
  - i. In determining the gross sales capability required by Subsection 401.05(C)(9)(d):
    - i. The actual or potential cost of purchased livestock shall be deducted from the total gross sales attributed to the farm or ranch tract;
    - ii. Only actual or potential gross sales from land owned, not leased or rented, shall be counted; and
    - iii. Actual or potential gross farm sales earned from a lot of record that has been used previously to qualify another lot of record for the construction or siting of a primary farm dwelling may not be used.

- j. In order to identify the commercial farm or ranch tracts to be used in Subsection 401.05(C)(9)(a), the gross sales capability of each tract in the study area, including the subject tract, must be determined, using the gross sales figures prepared by the county pursuant to Subsection 401.05(C)(9)(k) as follows:
  - i. Identify the study area. This includes all land in the tracts wholly or partially within one mile of the perimeter of the subject tract;
  - ii. Determine for each tract in the study area the number of acres in every land classification from the county assessor's data;
  - iii. Determine the potential earning capability for each tract by multiplying the number of acres in each land class by the gross sales per acre for each land class provided by the Land Conservation and Development Commission pursuant to Subsection 401.05(C)(9)(k). Add these to obtain the potential earning capability for each tract;
  - iv. Identify those tracts capable of grossing at least \$10,000 based on the data generated in Subsection 401.05(C)(9)(j)(iii); and
  - v. Determine the median size and median gross sales capability for those tracts capable of generating at least \$10,000 in annual gross sales to use in Subsections 401.05(C)(9)(a) and 401.05(C)(9)(c).
- k. In order to review a farm dwelling pursuant to Subsection 401.05(C)(9)(a), the county may prepare, subject to review by the director of the Department of Land Conservation and Development, a table of the estimated potential gross sales per acre of each assessor land class (irrigated and nonirrigated) required by 401.05(C)(9)(j). The director shall provide assistance and guidance to the county in preparation of this table. The table shall be prepared as follows:
  - i. Determine up to three indicator crop types with the highest harvested acreage for irrigated and for nonirrigated lands in the county using the most recent OSU Extension Service Commodity Data Sheets, Report No. 790, "Oregon County and State Agricultural Estimates," or other USDA/Extension Service documentation;
  - ii. Determine the combined weighted average of the gross sales per acre for the three indicator crop types for irrigated and for nonirrigated lands, as follows: (1) Determine the gross sales per acre for each indicator crop type for the previous five years (i.e., divide each crop type's gross annual sales by the harvested acres for each crop type); (2) Determine the average gross sales per acre for each crop type for three years, discarding the highest and lowest sales per acre amounts during

the five-year period; (3) Determine the percentage each indicator crop's harvested acreage is of the total combined harvested acres for the three indicator crop types for the five year period; (4) Multiply the combined sales per acre for each crop type identified under Subsection 401.05(C)(9)(k)(ii)(2) by its percentage of harvested acres to determine a weighted sales per acre amount for each indicator crop; and (5) Add the weighted sales per acre amounts for each indicator crop type identified in Subsection 401.05(C)(9)(k)(ii)(4). The result provides the combined weighted gross sales per acre.

- iii. Determine the average land rent value for irrigated and nonirrigated land classes in the EFU District according to the annual "income approach" report prepared by the county assessor pursuant to ORS 308A.092; and
- iv. Determine the percentage of the average land rent value for each specific land rent for each land classification determined in Subsection 401.05(C)(9)(k)(iii). Adjust the combined weighted sales per acre amount identified in Subsection 401.05(C)(9)(k)(ii)(5) using the percentage of average land rent (i.e., multiply the weighted average determined in Subsection 401.05(C)(9)(k)(ii)(5) by the percent of average land rent value from Subsection 401.05(C)(9)(k)(iii)). The result provides the estimated potential gross sales per acre for each assessor land class that will be provided to the county to be used as explained under Subsection 401.05(C)(9)(j)(iii).

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. Notwithstanding ORS 92.010 to 92.192 or the minimum lot or parcel requirements under ORS 215.780, if the owner of a relative farm help dwelling obtains construction financing or other financing secured by the dwelling and the secured party forecloses on the dwelling, the secured party may also foreclose on the “homesite,” as defined in ORS 308A.250, and the foreclosure shall operate as a partition of the homesite to create a new parcel. Prior conditions of approval for the subject land and dwelling remain in effect. “Foreclosure” means only those foreclosures that are exempt from partition under ORS 92.010(9)(a).
  - ~~b. The accessory farm dwelling shall be located on a lawfully created lot of record;~~
  - c. A relative~~The accessory~~ farm help dwelling shall be occupied by relatives whose assistance in the management and farm use of the existing commercial farming operation, such as planting, harvesting, marketing, or caring for livestock, is required by the farm operator. The farm operator shall continue to play the predominant role in the management and farm use of the farm. “Relative” means a child, parent, stepparent, grandchild, grandparent, stepgrandparent, sibling, stepsibling, niece, nephew or first cousin, of the farm operator or the farm operator’s spouse,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.~~
  - ed. The size, type, and intensity of the farm operation shall be used to evaluate the need for the dwelling.



~~fe.~~ 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.

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

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;~~

~~eb.~~ 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)(~~be~~)(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)(~~ef~~)(i) or 401.05(C)(12)(~~ef~~)(ii), whichever is applicable.
- ~~dc~~. 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.
- ~~de~~. All multi-unit accessory dwellings shall be consistent with the intent of the Legislative Assembly as provided in ORS 215.243.
- ~~ef~~. 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.
- ~~fg~~. In determining the gross annual income, the cost of purchased livestock shall be deducted from the total gross income attributed to the tract.
- ~~gh~~. 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).
- ~~hi~~. “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.

ij. “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.

jk. “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.

kl. “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. “Relative” means a child, parent, stepparent, grandchild, grandparent, stepgrandparent, sibling, stepsibling, niece, nephew or first cousin. Within three months of the end of the hardship, the manufactured dwelling, residential trailer, or recreational vehicle shall be removed or demolished. Department of Environmental Quality review and removal requirements also apply. A temporary residence approved under Subsection 401.05(C)(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-D~~ 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 or other commercial events or activities shall be “incidental and subordinate” to existing farm use on the tract. “Incidental and subordinate” means that the event or activity is strictly secondary and ancillary to on-site commercial farm uses or the commercial agricultural enterprises in the area in terms of income generated, area occupied, and off-site impacts; and.~~
  - ~~e.—“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)(e), 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.~~~~
- 45. 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.~~~~

57. 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.

68. 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.

79. 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.

~~810~~. 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)(~~810~~), "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)(~~810~~)(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.

911. 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.~~

~~II. 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(H)(2) may be expanded without regard to:
- a. A maximum capacity of people in the structure or group of structures;
  - b. A maximum distance between structures; or
  - c. A maximum density of structures per acre.

401.06 PROHIBITED USES

Uses of structures and land not specifically permitted are prohibited.

401.07 DIMENSIONAL STANDARDS

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

401.08 LAND DIVISIONS

- A. A land division shall not separate a temporary dwelling for care, 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.
- E. Land divisions are permitted, if consistent with Subsections 1105.01(A) and 1105.1107. A land division pursuant to Subsection 401.08(F) shall require review of a Type I application pursuant to Section 1307, *Procedures*. A land division pursuant to Subsection 401.08(G), (H), (I), (J), or (K) shall require review of a Type II application pursuant to Section 1307.
- 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).
- 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(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.
- 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.
- 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.
- 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.
- 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 401.10(A), a two-year time extension may be approved pursuant to Section 1310.

C. Exceptions: Subsections 401.10(A) and (B) do not apply to home occupations, ~~or~~ conditional uses, or temporary dwellings for care, which shall be subject to any applicable approval period and time extension provisions of Sections 822, Home



Occupations, or 1203, Conditional Uses, or 1204, Temporary Permits,  
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; Amended by Ord. ZDO-280, 10/23/21]

**Summary of Proposed Amendments to Section 406, Timber District (TBR)**

1. Reduce the requirements for a forest template dwelling to the minimum requirements under state law.
2. Relocate two definitions to more logical locations in Section 406.
3. Align standards and criteria for outdoor mass gatherings with state law.
4. Add temporary dwellings for care to the time extension exception in Subsection 406.11(C) and remove an unnecessary reference to conditional uses.
5. Correct citations.

**406 TIMBER DISTRICT (TBR)**

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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.

JK. 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.

KL. 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.~~

LN. 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.

MO. 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
<b>FARM AND FOREST USES</b>	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, <i>Marijuana Production, Processing, and Retailing</i> .	
	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
<b>NATURAL RESOURCE USES</b>	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
<b>RESIDENTIAL USES</b>	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
<b>COMMERCIAL USES</b>	A	Family child care home.	
	TYPE II	Home occupation, subject to Section 822, <i>Home Occupations</i> .	406.05(A)(1), (2), (5) & (E)(1)
	C	Home occupation to host events, subject to Section 806, <i>Home Occupations to Host Events</i> .	406.05(A)(1), (2), (5) & (E)(1)
	C	Home occupation for canine skills training, subject to Section 836, <i>Home Occupations for Canine Skills Training</i> .	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
<b>MINERAL, AGGREGATE, OIL, AND GAS USES</b>	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
<b>TRANSPORTATION USES</b>	A	Widening of roads within existing rights-of-way in conformance with Chapter 5, <i>Transportation System Plan</i> , of the Comprehensive Plan.	
	A	Climbing and passing lanes within the right of way existing as of July 1, 1987.	
	A	Reconstruction or modification of public roads and highways, including the placement of utility facilities overhead and in the subsurface of public roads and highways along the public right of way, but not including the addition of travel lanes, where no removal or displacement of buildings would occur, or no new land parcels result.	
	A	Temporary public road and highway detours that will be abandoned and restored to original condition or use at such time as no longer needed.	
	A	Minor betterment of existing public road and highway related facilities such as maintenance yards, weigh stations, and rest areas, within right of way existing as of July 1, 1987, and contiguous public-owned property utilized to support the operation and maintenance of public roads and highways.	
	TYPE II	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
<b>UTILITY AND SOLID WASTE DISPOSAL FACILITY USES</b>	See Table 835-1	Wireless telecommunication facilities, subject to Section 835, <i>Wireless Telecommunication Facilities</i> .	
	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, <i>Composting Facilities</i> .	406.05(A)(1) & (6)
	C	Commercial utility facilities for the purpose of generating power.	406.05(A)(1), (6) & (H)(2)
	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
<b>PARKS AND PUBLIC/QUASI-PUBLIC USES</b>	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
<b>OUTDOOR GATHERINGS</b>	A	An outdoor mass gathering as defined in ORS 433.735 <del>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.</del> <u>subject to ORS 433.735 to 433.770</u>	<del>406.05(J)(1)</del>
	TYPE III	An outdoor mass gathering of more than 3,000 persons, <u>any part of which is held outdoors and which that continues or can reasonably be expected to continue for a period exceeding that allowable for an outdoor mass gathering as defined in ORS 433.735, subject to ORS 433.763</u> <del>more than 120 hours within any three-month period and any part of which is held in open spaces.</del>	406.05(A)(1) <del>&amp; (J)(2)</del>

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.
    - iii. As used in Subsection 406.05(D)(2)(b), “owner” includes the wife, husband, son, daughter, mother, father, brother, brother-in-law, sister, sister-in-law, son-in-law, daughter-in-law, mother-in-law, father-in-law, aunt, uncle, niece, nephew, stepparent, stepchild, grandparent, or grandchild of the owner, or a business entity owned by any one or a combination of these family members.
  - c. The tract on which the dwelling will be sited does not include a dwelling.
  - d. The lot of record on which the dwelling will be sited was not part of a tract that contained a dwelling on November 4, 1993.
  - e. The property is not capable of producing 5,000 cubic feet per year of commercial tree species.
  - f. The property is located within 1,500 feet of a public road, as defined under ORS 368.001 that provides or will provide access to the subject tract. The road shall be maintained and either paved or surfaced with rock and shall not be a BLM road, or a USFS road unless the road is paved to a minimum width of 18 feet, there is at least one defined lane in each direction, and a maintenance agreement exists between the USFS and the landowners adjacent to the road, a local government, or a state agency.
  - g. The proposed dwelling is not prohibited by this Ordinance or the Comprehensive Plan, or any other provisions of law.
  - h. When the lot or parcel on which the dwelling will be sited is part of a tract, the remaining portions of adjacent common ownership land shall

remain in common ownership as long as the dwelling remains as approved.

- i. The County Assessor's Office shall be notified of all approvals granted under Subsection 406.05(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;
  - b. A deed restriction shall be recorded with the County Clerk stating no other lots of record that make up the tract may have a dwelling;
  - c. The tract on which the dwelling will be sited does not include a dwelling;
  - d. The lot of record upon which the dwelling is to be located was lawfully established.
  - e. Any property line adjustment to the lot of record complied with the applicable property line adjustment provisions in Section 1107, *Property Line Adjustments*;
  - f. Any property line adjustment to the lot of record after January 1, 2019, did not have the effect of qualifying the lot of record for a dwelling under Subsection 406.05(D)(3).
  - g. The County Assessor's Office shall be notified of all approvals granted under Subsection 406.05(D)(3).
  - 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, all or part of at least three other lots of record that existed on

January 1, 1993, shall be within the template, and at least three lawfully established dwellings shall have existed on January 1, 1993, and continue to exist on the other lots of record within the template area ~~on January 1, 1993~~; or

B) 50 to 85 cubic feet per acre per year of wood fiber production, all or part of at least seven other lots of record that existed on January 1, 1993, shall be within the template, and at least ~~four~~three lawfully established dwellings shall have existed on January 1, 1993, and continue to exist on the other lots of record within the template area ~~on January 1, 1993~~; or

C) ~~Greater~~More than 85 cubic feet per acre per year of wood fiber production, all or part of at least 11 lots of record that existed on January 1, 1993, shall be within the template, and at least ~~five~~three lawfully established dwellings shall have existed on January 1, 1993, and continue to exist on the other lots of record within the template area ~~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)(~~fh~~)(ii) to pass a template test:

~~A) Lots of record larger than 80 acres;~~

~~B) Dwellings on lots of record larger than 80 acres;~~

AC) Lots of record or dwellings located within an urban growth boundary;

BD) Temporary dwellings; and

CE) The subject lot of record.

iv. If the subject tract is larger than 60 acres and abutting a road or perennial stream, a minimum of one of the dwellings required by Subsection 406.05(D)(3)(~~fh~~)(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)(~~fh~~)(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 ~~experienced~~suffered by the existing resident or a relative of the resident. “Relative” means a child, parent, stepparent, grandchild, grandparent, stepgrandparent, sibling, stepsibling, niece, nephew or first cousin. Within three months of the end of the hardship, the manufactured dwelling, residential trailer, or recreational vehicle shall be removed or demolished. Department of Environmental Quality review and removal requirements also apply. A temporary residence approved under Subsection 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*.

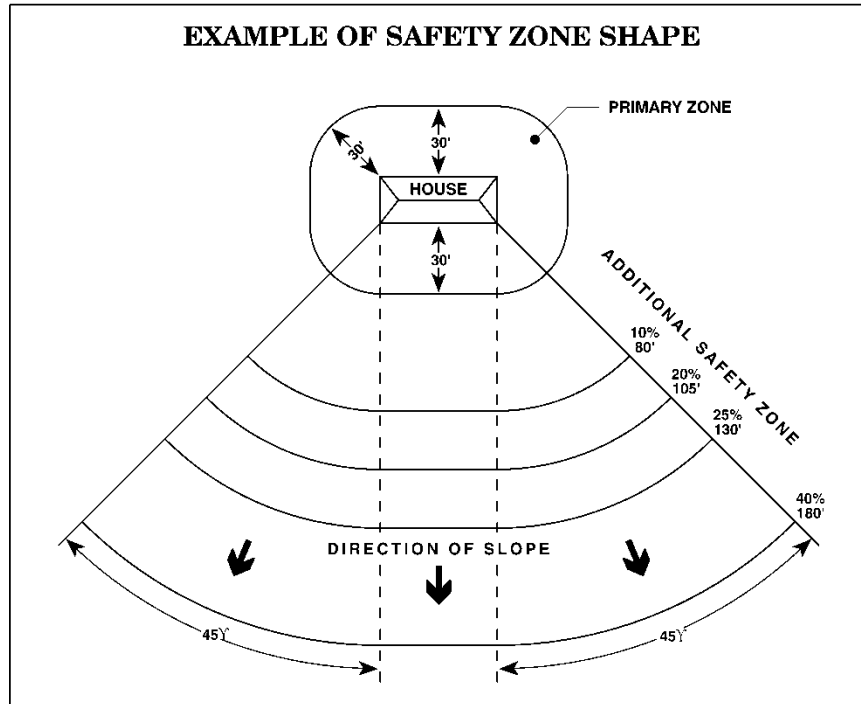
406.08 DEVELOPMENT STANDARDS

- 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 1105.1107. 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. Exceptions: Subsections 406.11(A) and (B) do not apply to home occupations or temporary dwellings for care~~conditional uses~~, which shall be subject to any applicable approval period and time extension provisions of Sections 822, *Home Occupations*, or 1204, *Temporary Permits*~~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; Amended by Ord. ZDO-280, 10/23/21]

**Summary of Proposed Amendments to Section 407, Ag/Forest District (AG/F)**

1. Simplify references to the standards that apply to establishing new or replacement dwellings in this zone.
2. Add provisions for single-event agri-tourism with not more than 100 attendees or 50 vehicles, subject to a Type I review process. This use is allowed by Oregon Revised Statutes 215.283(4)(b).
3. Reorganize and make minor edits to the agri-tourism provisions for clarity and consistency.
4. Align standards and criteria for outdoor mass gatherings with state law.

**407 AG/FOREST DISTRICT (AG/F)**

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407.01 PURPOSE

Section 407 is adopted to implement the policies of the Comprehensive Plan for Forest and Agriculture areas.

407.02 APPLICABILITY

Section 407 applies to land in the Ag/Forest (AG/F) District.

407.03 DEFINITIONS

The definitions set forth in Subsections 401.03 and 406.03 apply to Section 407. Unless specifically defined in Subsection 401.03, Subsection 406.03, or Section 202, *Definitions*, words or phrases used in Section 407 shall be interpreted to give them the same meaning as they have in common usage and to give Section 407 its most reasonable application.

407.04 USES PERMITTED

Uses permitted in the AG/F District are listed in Table 407-1, *Permitted Uses in the AG/F District*.

A. As used in Table 407-1:

1. "A" means the use is allowed.
2. "Type I" means the use requires review of a Type I application, pursuant to Section 1307, *Procedures*.
3. "Type II" means the use requires review of a Type II application pursuant to Section 1307.
4. "Type III" means the use requires review of a Type III application, pursuant to Section 1307.
5. "C" means the use is a conditional use, approval of which is subject to Section 1203, *Conditional Uses*.
6. The "Subject To" column identifies any specific provisions of Subsection 401.05 or 406.05 to which the use is subject.
7. Numbers in superscript correspond to the notes that follow Table 407-1.

B. Permitted uses are subject to the applicable provisions of Subsection 406.07, *Dimensional Standards*; Subsection 406.08, *Development Standards*; Section 1000, *Development Standards*; and Section 1100, *Development Review Process*.

C. Dwellings are subject to the applicable provisions of Section 401, *Exclusive Farm Use District (EFU)*, if the predominant use of the subject tract was agriculture on January 1, 1993. Dwellings are subject to the applicable provisions of Section 406, *Timber District (TBR)*, if the predominant use of the subject tract was forestry on January 1, 1993.

**Table 407-1: Permitted Uses in the AG/F District**

	Type	Use	Subject To
<b>FARM AND FOREST USES</b>	A	Forest operations or forest practices including, but not limited to, reforestation of forest land, road construction and maintenance, harvesting of a forest tree species, application of chemicals and disposal of slash where such uses pertain to forest uses and operations. Inside the Portland Metropolitan Urban Growth Boundary, refer to Subsection 1002.02 regarding a development restriction that may apply if excessive tree removal occurs.	
	A	Temporary on-site structures which are auxiliary to and used during the term of a particular forest operation.	
	A	Physical alterations to the land auxiliary to forest practices including, but not limited to, those made for the purposes of exploration, mining, commercial gravel extraction and processing, landfills, dams, reservoirs, road construction, or recreational facilities.	
	A	Farm use as defined in Oregon Revised Statutes (ORS) 215.203. Marijuana production is subject to Section 841, <i>Marijuana Production, Processing, and Retailing</i> .	
	A	Uses and structures customarily accessory and incidental to a farm or forest use, only if the primary farm or forest use exists.	
	TYPE II	Temporary portable facility for the primary processing of forest products.	406.05(B)(1)
	TYPE II	A facility for the processing of farm products. Marijuana processing is subject to Section 841. <sup>1</sup>	401.05(B)(1) & (2)
	C	Permanent facility for the primary processing of forest products.	406.05(A)(1), (6) & (B)(2)
	C	Permanent facilities for logging equipment repair and storage.	406.05(A)(1) & (6)
	C	Log scaling and weigh stations.	406.05(A)(1) & (6)
	<b>Type</b>	<b>Use</b>	<b>Subject To</b>
<b>NATURAL RESOURCE USES</b>	A	Uninhabitable structures accessory to fish and wildlife enhancement.	
	A	Creation of, restoration of, or enhancement of wetlands.	
	TYPE II	The propagation, cultivation, maintenance, and harvesting of aquatic species that are not under the jurisdiction of the Oregon Fish and Wildlife Commission.	401.05(A)(1)
	C	Forest management research and experimentation facilities.	406.05(A)(1) & (C)(1)
	<b>Type</b>	<b>Use</b>	<b>Subject To</b>

	Type	Use	Subject To
<b>RESIDENTIAL USES</b>	A	Uses and structures customarily accessory and incidental to a dwelling, only if a lawfully established dwelling exists.	
	<u>Varies</u>	<u>Dwellings</u>	<u>407.04(C)</u>
	A	<u>Alteration, restoration, or replacement of a lawfully established dwelling.</u>	<u>406.05(D)(1)</u>

	Type	Use	Subject To
	<del>TYPE II</del>	<del>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.<sup>2</sup></del>	<del>401.05(A)(3)</del>
	<del>TYPE II</del>	<del>Forest lot of record dwelling on land that was predominantly forest on January 1, 1993.</del>	<del>406.05(A)(3), (4), (5) &amp; (D)(2)</del>
	<del>TYPE II</del>	<del>Agricultural lot of record dwelling on Low Value Farmland that was predominantly agriculture on January 1, 1993.</del>	<del>401.05(A)(2), (3), (4) &amp; (C)(2)</del>
	<del>TYPE II</del>	<del>Agricultural lot of record dwelling on Class III or IV High Value Farmland that was predominantly agriculture on January 1, 1993.</del>	<del>401.05(A)(2), (3), (4) &amp; (C)(3)</del>
	<del>TYPE III</del>	<del>Agricultural lot of record dwelling on Class I or II High Value Farmland that was predominantly agriculture on January 1, 1993.</del>	<del>401.05(A)(2), (3), (4) &amp; (C)(4)</del>
	<del>TYPE II</del>	<del>Agricultural dwelling in conjunction with a farm use on High Value Farmland that was predominantly agriculture on January 1, 1993.<sup>2</sup></del>	<del>401.05(A)(3) &amp; (C)(5)</del>
	<del>TYPE II</del>	<del>Agricultural dwelling in conjunction with a farm use on Low Value Farmland on land that was predominantly agriculture on January 1, 1993.<sup>2</sup></del>	<del>401.05(A)(3) &amp; (C)(6)</del>
	<del>TYPE II</del>	<del>Agricultural dwelling customarily provided in conjunction with a commercial dairy farm on land that was predominantly agriculture on January 1, 1993.</del>	<del>401.05(A)(3) &amp; (C)(7)</del>
	<del>TYPE II</del>	<del>Agricultural 160-acre test on low value farmland for a dwelling on land that was predominantly agriculture on January 1, 1993.<sup>2</sup></del>	<del>401.05(A)(3), (4) &amp; (C)(8)</del>
	<del>TYPE II</del>	<del>Agricultural capability test on low value farmland for a dwelling on land that was predominantly agriculture on January 1, 1993.<sup>2</sup></del>	<del>401.05(A)(3), (4) &amp; (C)(9)</del>
	<del>TYPE II</del>	<del>Agricultural nonfarm dwelling on land that was predominantly agriculture on January 1, 1993.</del>	<del>401.05(A)(3), (4) &amp; (C)(10)</del>
	<del>TYPE II</del>	<del>Agricultural relative farm help dwelling on land that was predominantly agriculture on January 1, 1993.<sup>2</sup></del>	<del>401.05(A)(3) &amp; (C)(11)</del>
	<del>TYPE II</del>	<del>Agricultural accessory dwelling in conjunction with farm use on land that was predominantly agriculture on January 1, 1993.<sup>2</sup></del>	<del>401.05(A)(3) &amp; (C)(12)</del>
	<del>TYPE II</del>	<del>Agricultural dwelling on Low or High Value Farmland to be owned and operated by a different farm operator on at least 80 acres.</del>	<del>401.05(A)(3) &amp; (C)(13)</del>
	<del>TYPE II</del>	<del>Forest template test dwelling on land that was predominantly forest on January 1, 1993.</del>	<del>406.05(A)(3), (4), (5) &amp; (D)(3)</del>



<b>RESIDENTIAL USES (cont.)</b>	<del>TYPE II</del>	<del>160-acre forest dwelling on land that was predominantly forest on January 1, 1993.</del>	<del>406.05(A)(3), (4), (5) &amp; (D)(4)</del>
	<del>TYPE II</del>	<del>200-acre noncontiguous tract forest dwelling on land that was predominantly forest on January 1, 1993.</del>	<del>406.05(A)(3), (4), (5) &amp; (D)(5)</del>
	<del>TYPE II</del>	<del>Caretaker residences for public parks and public fish hatcheries.</del>	<del>406.05(A)(2) &amp; (5)</del>
	TYPE II	Temporary forest labor camp for a period not to exceed one year.	
	<del>TYPE II</del>	<del>Temporary dwelling for care, subject to Subsection 1204.04.</del>	<del>406.05(A)(1), (2) &amp; (D)(6)</del>
	TYPE II	Room and board arrangements for a maximum of five unrelated persons in existing dwellings.	401.05(A)(1) & (3)
	TYPE II	Residential home as defined in ORS 197.660, in existing dwellings.	401.05(A)(1) & (3)
	<del>TYPE II</del>	<del>Accessory dwelling supporting family forestry on land that was predominantly forest on January 1, 1993.</del>	<del>406.05(D)(7)</del>
<b>Type Use Subject To</b>			
<b>COMMERCIAL USES</b>	A	Family child care home.	
	A	Dog training classes.	401.05(D)( <del>68</del> )
	A	Dog testing trials.	401.05(D)( <del>79</del> )
	TYPE I	A license for an approved cider business, farm brewery, or winery to carry out the first six days of the 18-day limit for agri-tourism and other commercial events, subject to: ORS 215.451(6)(a) for a cider business; ORS 215.449(6)(a) for a farm brewery; and ORS 215.237 and 215.452(6)(a) for a winery.	
	TYPE II	Farm stands	401.05(D)( <del>840</del> )
	TYPE II	Home occupation, subject to Section 822, <i>Home Occupations</i> .	406.05(A)(1), (2), (5) & (E)(1)
	TYPE II	A landscape contracting business.	401.05(A)(1) & (D)(2)
	<del>TYPE I</del>	<del>Expedited license for a single agri-tourism or other commercial event or activity on a tract in a calendar year, subject to ORS 215.237 and 215.283(4)(b), (6)(a), and (6)(c)</del>	
	TYPE II	<del>Single a</del> Agri-tourism <del>single or other commercial event or activity on a tract in a calendar year, subject to ORS 215.237 and 215.283(4)(a), (6)(a), and (6)(c).</del>	401.05(A)(1) & (D)(3)
	TYPE II	<del>Agri-tourism for U</del> up to <del>six</del> 6 agri-tourism or other commercial events or activities on a tract in a calendar year, subject to ORS 215.237 and 215.283(4)(c) and (6).	401.05(A)(1) & (D)( <del>34</del> )
	<del>C</del>	<del>Up to 18 agri-tourism or other commercial events or activities on a lot of record that is a minimum of 80 acres, subject to ORS 215.237 and 215.283(4)(d), (5), (6)(a), and (6)(c)</del>	<del>401.05(A)(1) &amp; (D)(3)</del>
	TYPE II	A cider business as described in and subject to ORS 215.451.	
	TYPE II	A farm brewery as described in and subject to ORS 215.449.	
TYPE II	A winery as described in and subject to ORS 215.452 or 215.453, whichever is applicable, but		

		not a restaurant open more than 25 days per calendar year.	
	TYPE II	A large winery with a restaurant in conjunction with a winery as described in ORS 215.453 that is open to the public for more than 25 days in a calendar year or; agri-tourism or other commercial events in conjunction with a winery as described in ORS 215.453 that occur on more than 25 days in a calendar year.	401.05(A)(1)
	TYPE II	A bed and breakfast facility as a home occupation in association with a cider business, farm brewery, or winery, subject to: ORS 215.448 and ORS 215.451(10) for a cider business; ORS 215.448 and ORS 215.449(10) for a farm brewery; and ORS 215.448 and either ORS 215.452 or 215.453, whichever is applicable, for a winery.	401.05(A)(1) & (D) <del>(45)</del>
<b>COMMERCIAL USES (cont.)</b>	TYPE II	Cider business, farm brewery, or winery agri-tourism or other commercial events for days seven through 18 of the 18-day limit, subject to: ORS 215.451(6)(c) for a cider business; ORS 215.449(6)(c) for a farm brewery; and ORS 215.237 and 215.452(6)(c) for a winery.	
	TYPE II	Equine and equine-affiliated therapeutic and counseling activities. <sup>3</sup>	401.05(A)(1) & (D) <del>(914)</del>
	C	Home occupation to host events, subject to Section 806, <i>Home Occupation to Host Events</i> .	406.05(A)(1), (2), (5) & (E)(1)
	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. <sup>4</sup>	401.05(A)(1)
	<del>C</del>	<del>Agri-tourism additional events not to exceed 18 events on a minimum of 80 acres.</del>	<del>401.05(A)(1) &amp; (D)(6)</del>
	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)
	C	An aerial fireworks display business.	401.05(A)(1) & (D) <del>(57)</del>
	C	Commercial dog boarding kennels.	401.05(A)(1)
	C	Dog training classes or testing trials that cannot be established under Subsection 401.05(D) <del>(68)</del> or <del>(79)</del> .	401.05(A)(1)
		<b>Type</b>	<b>Use</b>
<b>MINERAL, AGGREGATE, OIL, AND GAS USES</b>	A	Exploration for mineral and aggregate resources as defined in ORS chapter 517 and subject to the requirements of the Department of Geology and Mineral Industries.	
	A	Operations for the exploration for, and production of, geothermal resources as defined by ORS 522.005 and oil and gas as defined by ORS 520.005, including the placement and operation of compressors, separators and other customary production equipment for an individual well adjacent to a wellhead. Any activities or construction relating to such operations shall not be a basis for an exception under ORS 197.732(1)(a) or (b).	

	A	Operations for the exploration for minerals as defined by ORS 517.750. Any activities or construction relating to such operations shall not be a basis for an exception under ORS 197.732(1)(a) or (b).	
	C	Operations conducted for mining, crushing, or stockpiling of aggregate and other mineral and other subsurface resources subject to ORS 215.298.	401.05(A)(1), (E)(1) & (E)(1)(a)
	C	Processing as defined by ORS 517.750 of aggregate into asphalt or Portland cement.	401.05(A)(1), (E)(1) & (E)(1)(b)
	C	Processing of other mineral resources and other subsurface resources.	401.05(A)(1), (E)(1) & (E)(1)(c)
<b>MINERAL, AGGREGATE, OIL, AND GAS USES (cont.)</b>	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 407.	401.05(A)(1), (E)(1) & (E)(1)(d)
	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)
	<b>Type</b>	<b>Use</b>	<b>Subject To</b>
<b>TRANSPORTATION USES</b>	A	Widening of roads within existing rights-of-way in conformance with Chapter 5, <i>Transportation System Plan</i> , of the Comprehensive Plan.	
	A	Climbing and passing lanes within the right of way existing as of July 1, 1987.	
	A	Reconstruction or modification of public roads and highways, including the placement of utility facilities overhead and in the subsurface of public roads and highways along the public right-of-way, but not including the addition of travel lanes, where no removal or displacement of buildings would occur, or no new land parcels result.	
	A	Temporary public road and highway detours that will be abandoned and restored to original condition or use at such time as no longer needed.	
	A	Minor betterment of existing public road and highway related facilities such as maintenance yards, weigh stations, and rest areas, within right of way existing as of July 1, 1987, and contiguous public-owned property utilized to support the operation and maintenance of public roads and highways.	
	TYPE II	Parking of up to seven dump trucks and seven trailers, subject to ORS 215.311.	406.05(A)(1)
	TYPE II	Parking of no more than seven log trucks, subject to ORS 215.311.	401.05(A)(1)
	TYPE II	Construction of additional passing and travel lanes requiring the acquisition of right-of-way but not resulting in the creation of new land parcels.	406.05(A)(1)

	TYPE II	Reconstruction or modification of public roads and highways involving the removal or displacement of buildings but not resulting in the creation of new land parcels.	406.05(A)(1)
	TYPE II	Improvement of public roads and highway-related facilities, such as maintenance yards, weigh stations, and rest areas, where additional property or right-of-way is required but not resulting in the creation of new land parcels.	406.05(A)(1)
	C	Aids to navigation and aviation.	406.05(A)(1) & (6)
	C	Personal-use airports for airplanes and helicopter pads, including associated hangar, maintenance, and service facilities.	401.05(A)(1) & (F)(2)
<b>TRANSPORTATION USES (cont.)</b>	C	Expansion of existing airports.	406.05(A)(1)
	C	Temporary asphalt and concrete batch plants as accessory uses to specific highway projects.	406.05(A)(1)
	C	Roads, highways, and other transportation facilities and improvements not otherwise allowed under this Ordinance.	401.05(F)(1)
<b>UTILITY AND SOLID WASTE DISPOSAL FACILITY USES</b>	See Table 835-1	Wireless telecommunication facilities (other than essential public communication services, as defined in Section 835, <i>Wireless Telecommunication Facilities</i> ), subject to Section 835.	
	TYPE II	Essential public communication services, as defined in Section 835.	406.05(A)(1)
	A	Local distribution lines (i.e., electric, telephone, natural gas) and accessory equipment (i.e., electric distribution transformers, poles, meter cabinets, terminal boxes, pedestals), or equipment which provides service hookups, including water service hookups.	
	A	Irrigation reservoirs, canals, delivery lines and those structures and accessory operational facilities, not including parks or other recreational structures and facilities, associated with a district as defined in ORS 540.505.	
	A	Water intake facilities, canals and distribution lines for farm irrigation and ponds.	
	A	Solar energy systems as an accessory use.	
	A	Rainwater collection systems as an accessory use.	
	A	Electric vehicle charging stations for residents and their non-paying guests.	
	A	Meteorological towers.	
	TYPE II	Wind energy power production systems as an accessory use.	406.05(H)(1)
	TYPE II	Composting operations and facilities that are accepted farming practices in conjunction with and auxiliary to farm use on the subject tract.	401.05(G)(3)
	C	Water intake facilities, related treatment facilities, pumping stations, and distribution lines.	406.05(A)(1) & (6)
	C	Reservoirs and water impoundments.	406.05(A)(1),(2) & (6)

	C	A disposal site for solid waste for which the Oregon Department of Environmental Quality has granted a permit under ORS 459.245, together with equipment, facilities, or buildings necessary for its operation. A composting facility is subject to Section 834, <i>Composting Facilities</i> .	406.05(A)(1) & (6)
	C	Commercial utility facilities for the purpose of generating power.	406.05(A)(1), (6) & (H)(2)
	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)
	<b>Type</b>	<b>Use</b>	<b>Subject To</b>
<b>PARKS, PUBLIC, AND QUASI-PUBLIC USES</b>	A	Private hunting and fishing operations without any lodging accommodations.	
	A	Towers and fire stations for forest fire protection.	
	A	Land application of reclaimed water, agricultural process or industrial process water, or biosolids for agricultural, horticultural, or forest production, or for irrigation in connection with a use allowed in the EFU zoning district, subject to the issuance of a license, permit, or other approval by the Department of Environmental Quality under ORS 454.695, 459.205, 468B.050, 468B.053, or 468B.055, or in compliance with rules adopted under ORS 468B.095.	
	A	Onsite filming and activities accessory to onsite filming for 45 days or less.	
	TYPE II	A site for the takeoff and landing of model aircraft, including such buildings or facilities as may reasonably be necessary.	401.05(H)(1)
	TYPE II	Community centers.	401.05(A)(1), (5) & (H)(3)
	TYPE II	Living history museum.	401.05(A)(1), (5) & (H)(4)
	TYPE II	Expansion of existing county fairgrounds and activities directly relating to county fairgrounds governed by county fair boards established pursuant to ORS 565.210.	401.05(A)(1)
	TYPE II	A county law enforcement facility that lawfully existed on August 20, 2002, and is used to provide rural law enforcement services primarily in rural areas, including parole and post-prison supervision, but not including a correctional facility as defined under ORS 162.135.	401.05(A)(1)
	TYPE II	Churches and cemeteries in conjunction with churches, consistent with ORS 215.441, which does not include private or parochial school education for prekindergarten through grade 12 or higher education.	401.05(A)(5)

	TYPE II	Fire service facilities providing rural fire protection services.	
	C	Operations for extraction and bottling of water.	401.05(A)(1)
	C	Onsite filming and activities accessory to onsite filming for more than 45 days as provided for in ORS 215.306.	401.05(A)(1)
	C	Public or private schools for kindergarten through grade 12, including all buildings essential to the operation of a school, primarily for residents of the rural area in which the school is located.	401.05(A)(1) & (5)
	C	Golf courses.	401.05(A)(1), (5)&(H)(6)
	C	Youth camps on 40 acres or more, subject to Oregon Administrative Rules (OAR) 660-006-0031.	406.05(A)(1) & (3)
<b>PARKS, PUBLIC, AND QUASI-PUBLIC USES (cont.)</b>	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)
	<b>Type</b>	<b>Use</b>	<b>Subject To</b>
<b>OUTDOOR GATHERINGS</b>	A	An outdoor mass gathering as defined in ORS 433.735, <del>subject to ORS 433.735 to 433.770 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. However, an outdoor mass gathering permit under ORS 433.750 is not required for agri-tourism and other commercial events or activities permitted under ORS 215.283(4), 215.449, 215.451, and 215.452.</del>	<del>406.05(J)(1)</del>
	TYPE III	An outdoor mass gathering of more than 3,000 persons <del>any part of which is held outdoors and which that</del> continues or can reasonably be expected to continue for <del>a period exceeding that allowable for an outdoor mass gathering as defined in ORS 433.735, subject to ORS 433.763</del> <del>more than 120 hours within any three-month period and any part of which is held in open spaces.</del>	<del>406.05(A)(1) &amp; (J)(2)</del>

<sup>1</sup> The processing, compounding, or conversion of marijuana into cannabinoid extracts is prohibited.

<sup>2</sup> Farming of a marijuana crop shall not be used to demonstrate compliance with the approval criteria for a dwelling. (See ORS 475B.526.)

- <sup>3</sup> The use is prohibited in an urban or rural reserve established pursuant to OAR chapter 660, division 27.
- <sup>4</sup> A commercial activity carried on in conjunction with a marijuana crop is prohibited. (See ORS 475B.526.)

407.05 PROHIBITED USES

- A. Uses of structures and land not specifically permitted are prohibited.
- B. An agricultural building, as defined in Oregon Revised Statutes 455.315, customarily provided in conjunction with farm use or forest use may not be converted to another use.

407.06 DIMENSIONAL STANDARDS

Subsection 406.07, which establishes dimensional standards in the TBR District, shall apply in the AG/F District.

407.07 DEVELOPMENT STANDARDS

Subsection 406.08, which establishes development standards in the TBR District, shall apply in the AG/F District.

407.08 LAND DIVISIONS

Subsection 406.09, which establishes land division standards in the TBR District, shall apply in the AG/F District.

407.09 SUBMITTAL REQUIREMENTS

Subsection 406.10, which establishes submittal requirements in the TBR District, shall apply in the AG/F District.

407.10 APPROVAL PERIOD AND TIME EXTENSION

Subsection 406.11, which establishes approval period and time extension standards in the TBR District, shall apply in the AG/F District.

[Amended by Ord. ZDO-224, 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-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-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]

**Summary of Proposed Amendments to Section 510, *Neighborhood Commercial (NC), Community Commercial (C-2), Regional Center Commercial (RCC), Retail Commercial (RTL), Corridor Commercial (CC), General Commercial (C-3), Planned Mixed Use (PMU), Station Community Mixed Use (SCMU), Office Apartment (OA), Office Commercial (OC), and Regional Center Office (RCO) Districts***

1. Correct an unintended result of prior ZDO amendments allowing dog services in the C-2 District by clarifying that dog services are also still allowed in the RCC, RTL, CC, C-3, PMU, and SCMU Districts as primary uses, in the OC District as a conditional use, and in the RCO District as a limited use.
2. Correct citations.



*NOTICE*

*Amendments to this section of the Zoning and Development Ordinance were approved by the Board of County Commissioners on December 8, 2022, and became effective on May 30, 2023. However, these amendments have not been acknowledged under state law because an appeal has been filed with the Land Use Board of Appeals. Pursuant to Oregon Revised Statutes 197.625, the County shall apply the amended regulations to land use decisions, expedited land divisions and limited land use decisions. However, if these amended regulations fail to gain acknowledgment, any permit or zone change which is approved, in whole or in part, on the basis of the change will not justify retention of the improvements that were authorized by the permit or zone change. Before proceeding with plans for development that are dependent on the amended regulations, applicants are advised to consult with Planning and Zoning Division staff and seek independent legal advice.*

**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**

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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 a townhouse, are prohibited.

- I. Outdoor Operations in the OA District: In the OA District, all primary and accessory uses associated with office uses, including storage of materials, products, or waste, shall be wholly contained within an approved structure. For the purposes of this provision, “office uses” include the following uses from Table 510-1, *Permitted Uses in the Urban Commercial and Mixed-Use Zoning Districts*: Business Services, Financial Institutions, Information Services, Offices, Office and Outpatient Clinics, and Research Facilities and Laboratories.
- J. Outdoor Storage and Display in the OC District: In the OC District, outdoor storage or display of materials or products is prohibited.
- K. Outdoor Sales, Storage, and Display in the RCO District: In the RCO District, outdoor sales, storage, or display of materials or products is prohibited.

**Table 510-1: Permitted Uses in the Urban Commercial and Mixed-Use Zoning Districts**

Use	NC	C-2	RCC	RTL	CC	C-3	PMU <sup>1</sup>	SCMU	OA <sup>2,3</sup>	OC	RCO
<b>Accessory Uses, Customarily Permitted</b> , 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
<b>Assembly Facilities</b> , 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 <sup>4</sup>	P	P	P	P	P	S	P,C <sup>4</sup>	P,C <sup>4</sup>
<b>Bed and Breakfast Residences and Inns</b> , subject to Section 832	P	P	X	P	P	P	X	X	X	P	X
<b>Bus Shelters</b>	A	A	P	P	P	P	P	P	A	P	P
<b>Child Care Facilities</b>	P	P	P	P	P	P	P	P	P	L <sup>5</sup> ,C	L <sup>6</sup> ,C

Use	NC	C-2	RCC	RTL	CC	C-3	PMU <sup>1</sup>	SCMU	OA <sup>2,3</sup>	OC	RCO
<b>Civic and Cultural Facilities</b> , including art galleries, museums, and visitor centers	P	P	P	P	P	P	P	P	P	P	P
<b>Composting Facilities</b>	X	X	X	X	X	X	X	X	X	X	X
<b>Daycare Services, Adult</b>	P	P	P	P	P	P	P	P	P	L <sup>5</sup> ,C	L <sup>6</sup> ,C
<b>Dog Services</b> , including boarding, daycare, and grooming	S	P	<del>P</del> <sup>S</sup>	<del>P</del> <sup>S</sup>	<del>P</del> <sup>S</sup>	<del>P</del> <sup>S</sup>	<del>P</del> <sup>S</sup>	<del>P</del> <sup>7</sup> <sup>S</sup>	S	<del>C</del> <sup>8</sup> <sup>S</sup>	<del>L</del> <sup>6</sup> <sup>S</sup>
<b>Drive-Thru Window Services</b> , subject to Section 827	C	A	A <sup>79</sup>	A	A	A	A <sup>810</sup>	X	X	A <sup>810</sup>	A <sup>810</sup>
<b>Dwellings, including:</b>											
Congregate Housing Facilities	X	X	<del>P</del> <sup>911,+012</sup>	<del>P</del> <sup>+13</sup>	<del>P</del> <sup>+13</sup>	<del>P</del> <sup>+13</sup>	P	P	L	<del>P</del> <sup>+13</sup>	<del>P</del> <sup>911,+012</sup>
Detached Single-Family Dwellings	A	A	X	A	X	A	X	X	X	X	X
Duplexes	X	A	X	P	P	P	P	P	L <sup>+214</sup>	P	X
Multifamily Dwellings	X	X	<del>P</del> <sup>911</sup>	<del>P</del> <sup>+13</sup>	<del>P</del> <sup>+13</sup>	<del>P</del> <sup>+13</sup>	P	P	L <sup>+214</sup>	<del>P</del> <sup>+13</sup>	<del>P</del> <sup>911</sup>
Quadplexes	X	X	<del>P</del> <sup>911</sup>	<del>P</del> <sup>+13</sup>	<del>P</del> <sup>+13</sup>	<del>P</del> <sup>+13</sup>	P	P	L <sup>+214</sup>	<del>P</del> <sup>+13</sup>	<del>P</del> <sup>911</sup>
Townhouses	X	A	X	A	X	A	P	P	L <sup>+315</sup>	X	X
Triplexes	X	X	X	P	P	P	P	P	L <sup>+214</sup>	P	X
<b>Electric Vehicle Charging Stations</b>	A,C	P	A	A,C	P	P	A	A	A	A	A
<b>Employee Amenities</b> , such as cafeterias, clinics, child care facilities, fitness facilities, lounges, and recreational facilities	A	A	A	A	A	A	A	A	A <sup>+416</sup>	A <sup>+416</sup>	A <sup>+416</sup>
<b>Entertainment Facilities</b> , including arcades, billiard halls, bowling alleys, miniature golf courses, and movie theaters	<del>C</del> <sup>+517</sup>	<del>P</del> <sup>+517</sup>	<del>P</del> <sup>+517</sup>	P	P	P	<del>P</del> <sup>+517</sup>	<del>P</del> <sup>+57,+617</sup>	S	<del>C</del> <sup>+58,17</sup>	<del>L</del> <sup>6,+517</sup>
<b>Farmers' Markets</b> , subject to Section 840	P	P	P	P	P	P	P	P	P	P	P

Use	NC	C-2	RCC	RTL	CC	C-3	PMU <sup>1</sup>	SCMU	OA <sup>2,3</sup>	OC	RCO
<b>Financial Institutions</b> , including banks, brokerages, credit unions, loan companies, and savings and loan associations	P	P	P	P	P	P	P	P	P	P	P
<b>Fitness Facilities</b> , including athletic clubs, exercise studios, gymnasiums, and health clubs	P <sup>4517</sup>	P <sup>4517</sup>	P <sup>4517</sup>	P	P	P	P <sup>4517</sup>	P <sup>457,467</sup>	L <sup>4517,18</sup>	C <sup>4517</sup>	L <sup>4517,19</sup>
<b>Government Uses</b> , including fire stations, police stations, and post offices	C	P	P	P	P	P	P	P	P	P	P
<b>Heliports</b>	X	X	C <sup>20</sup>	C	C	C	X	X	X	C <sup>20</sup>	C <sup>20</sup>
<b>Helistops</b>	X	X	C <sup>20</sup>	C	C	C	C	C	X	C <sup>20</sup>	C <sup>20</sup>
<b>Home Occupations</b> , including bed and breakfast homestays, subject to Section 822	A	A	A	A	A	A	A	A	A	A	A
<b>Hospitals</b>	X	X	X	X	X	X	X	X	X	C	C
<b>Hotels</b>	P	P	P	P	P	P	P	P <sup>467</sup>	S	L <sup>5,21</sup> ,C <sup>21</sup>	P <sup>21</sup>
<b>Hydroelectric Facilities</b>	X	C	X	C	X	C	X	X	X	X	X
<b>Libraries</b>	P	P	P	P	P	P	P	P	P	P	P
<b>Manufacturing</b> , 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 <sup>22</sup>	S <sup>23</sup>	S	S	P	P	S	P <sup>24,25</sup>	S	P <sup>26</sup>	S



Use	NC	C-2	RCC	RTL	CC	C-3	PMU <sup>1</sup>	SCMU	OA <sup>2,3</sup>	OC	RCO
<b>Manufacturing of Edible or Drinkable Products Retailed on the Same Site</b> , 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 <sup>24,25</sup>	S	P <sup>26</sup>	S
<b>Marijuana Processing</b>	X	X	X	X	P <sup>27</sup>	P <sup>27</sup>	X	P <sup>24,27</sup>	X	P <sup>26,27</sup>	X
<b>Marijuana Production</b>	X	X	X	X	X	X	X	X	X	X	X
<b>Marijuana Retailing</b> , subject to Section 841	P	P	P	P	P	P	P	P <sup>167</sup>	X	P <sup>178</sup>	L <sup>6</sup>
<b>Marijuana Wholesaling</b>	X	X	X	X	X	X	X	X	X	X	X
<b>Mobile Vending Units</b> , subject to Section 837	P	P	P	P	P	P	P	P	A <sup>28</sup>	A <sup>28</sup>	A <sup>28</sup>
<b>Motels</b>	P	P	P	P	P	P	P	P <sup>167</sup>	S	L <sup>5,29</sup> ,C <sup>29</sup>	L <sup>6</sup>
<b>Multi-Use Developments</b> , subject to Section 844	X	X	X	X	X	C	X	X	X	C	X
<b>Nursing Homes</b>	X	X	X	X	X	X	P	P	L	X	X
<b>Offices</b> , 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

Use	NC	C-2	RCC	RTL	CC	C-3	PMU <sup>1</sup>	SCMU	OA <sup>2,3</sup>	OC	RCO
<b>Offices and Outpatient Clinics</b> —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
<b>Parking Lots</b>	A	A	A	A	P	P	A	A	A	P <sup>30</sup>	A
<b>Parking Structures</b>	X	A <sup>31</sup>	P <sup>30</sup>	P <sup>30</sup>	P	P	A	A	A <sup>31</sup>	P <sup>30</sup>	P <sup>30</sup>
<b>Parks, Government-Owned</b> , 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
<b>Pedestrian Amenities</b>	P	P	P	P	P	P	P	P	P	P	P
<b>Public Utility Facilities</b>	S	C	C <sup>32</sup>	C <sup>32</sup>	C	C	S	S	S	S	S
<b>Race Tracks, Outdoor</b>	X	X	X	X	X	C	X	X	X	X	X
<b>Radio and Television Studios</b> , excluding transmission towers	C	P	P	P	P	P	P	P	S	P	P

Use	NC	C-2	RCC	RTL	CC	C-3	PMU <sup>1</sup>	SCMU	OA <sup>2,3</sup>	OC	RCO
<b>Radio and Television Transmission and Receiving Towers and Earth Stations</b> <sup>33</sup>	S	C	S	S	C	C	S	S	S	S	S
<b>Radio and Television Transmission and Receiving Earth Stations</b>	S	C	C	C	C	C	A	S	S	S	S
<b>Recreational Sports Facilities</b> 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 <sup>+517</sup>	P <sup>+517</sup>	P <sup>+517</sup>	P	P	P	P <sup>+517</sup>	P <sup>+57,+617</sup>	S	C <sup>+517</sup>	L <sup>+517, 19</sup>
<b>Recyclable Drop-Off Sites</b> , subject to Section 819	A	A	A <sup>34</sup>	A <sup>34</sup>	A	A	A <sup>34</sup>	A <sup>34</sup>	A <sup>34</sup>	A <sup>34</sup>	A <sup>34</sup>
<b>Research Facilities and Laboratories</b> , including medical laboratories, medical research, product design and testing, and product research and development	S	S	S	S	P	P	P <sup>26</sup>	P	P <sup>35</sup>	P <sup>35</sup>	P <sup>26</sup>
<b>Retailing</b> —whether by sale, lease, or rent—of new or used products	S	S	P	P	P	P	P	P <sup>+67</sup>	S	C <sup>+78</sup>	L <sup>6</sup>

Use	NC	C-2	RCC	RTL	CC	C-3	PMU <sup>1</sup>	SCMU	OA <sup>2,3</sup>	OC	RCO
<b>Retailing</b> —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 <sup>467</sup>	L <sup>18,36</sup> ,S	L <sup>5,36</sup> ,C <sup>478</sup>	L <sup>6</sup>
<b>Retailing</b> —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 <sup>478</sup>	L <sup>6</sup>
<b>Retailing</b> —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

Use	NC	C-2	RCC	RTL	CC	C-3	PMU <sup>1</sup>	SCMU	OA <sup>2,3</sup>	OC	RCO
<b>Roads</b>	P	P	P	P	P	P	P	P	P	P	P
<b>Schools</b>	P <sup>37</sup>	P <sup>37</sup>	P	P	P	P	P	P	L <sup>38</sup>	P	P
<b>Service Stations</b>	C	P	X	C	P	P	X	X	X	X	X
<b>Services, Business</b> , 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
<b>Services, Commercial</b>	S	S	P	P	P	P	P	P <sup>167</sup>	S	C <sup>178</sup>	L <sup>6</sup>
<b>Services, Commercial—Car Washes</b>	S	S	X	C	P	P	P	X	X	X	X
<b>Services, Commercial—Construction and Maintenance</b> , including contractors engaged in construction and maintenance of electrical and plumbing systems	C	P	P	P	P	P	P	S	S	C <sup>178</sup>	L <sup>6</sup>
<b>Services, Commercial—Food and Beverage</b> , including catering and eating and drinking establishments	P	P	P	P	P	P	P	P <sup>167</sup>	L <sup>18</sup>	L <sup>5</sup> ,C <sup>39</sup>	L <sup>6,40</sup>
<b>Services, Commercial—Maintenance and Repair</b> 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 <sup>167</sup>	S	C <sup>178</sup>	L <sup>6</sup>
<b>Services, Commercial—Maintenance and Repair</b> of any of the following: all-terrain vehicles, automobiles, light trucks, motorcycles, and snowmobiles	C	P	P	P	P	P	X	X	X	C <sup>178</sup>	L <sup>6</sup>

Use	NC	C-2	RCC	RTL	CC	C-3	PMU <sup>1</sup>	SCMU	OA <sup>2,3</sup>	OC	RCO
<b>Services, Commercial—Maintenance and Repair</b> 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
<b>Services, Commercial—Miscellaneous</b> , including food lockers, interior decorating, locksmith, upholstering, and veterinary	P	P	P	P	P	P	P	P <sup>167</sup>	S	C <sup>178</sup>	L <sup>6</sup>
<b>Services, Commercial—Personal and Convenience</b> , 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 <sup>167</sup>	L <sup>18</sup>	L <sup>5</sup>	L <sup>6</sup>
<b>Services, Commercial—Mini-Storage/Self-Storage Facilities</b>	S	S	X	C	P	P	X	X	S	X	X
<b>Services, Commercial—Storage</b> 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

Use	NC	C-2	RCC	RTL	CC	C-3	PMU <sup>1</sup>	SCMU	OA <sup>2,3</sup>	OC	RCO
<b>Services, Commercial—Storage</b> 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
<b>Services, Commercial—Studios</b> of the following types: art, craft, dance, music, and photography	P	P	P	P	P	P	P	P <sup>167</sup>	S	P	P
<b>Services, Commercial—Truck Stops</b>	X	X	X	X	P	P	X	X	X	X	X
<b>Services, Information</b> , including blueprinting, bookbinding, photo processing, photo reproduction, printing, and publishing	S	S	S	S	P	P	P	P <sup>24</sup>	P	P	P
<b>Short-Term Rental</b> in a dwelling unit permitted by this table, except for a dwelling unit that is an accessory use	X	X	P	P	P	P	P	P	P	P	P
<b>Signs</b> , subject to Section 1010	A <sup>41</sup>	A <sup>41</sup>	A <sup>41</sup>	A <sup>41</sup>	A <sup>41</sup>	A <sup>41</sup>	A <sup>41</sup>	A <sup>41</sup>	A <sup>41</sup>	A <sup>41</sup>	A <sup>41</sup>
<b>Stadiums, Outdoor</b>	X	X	X	X	X	C	X	X	X	X	X
<b>Telephone Exchanges</b>	S	C	C	C	C	C	S	S	S	S	S
<b>Temporary Buildings for Uses Incidental to Construction Work</b> , 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

Use	NC	C-2	RCC	RTL	CC	C-3	PMU <sup>1</sup>	SCMU	OA <sup>2,3</sup>	OC	RCO
<b>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</b>	A	A	A	A	A	A	A	A	A	A	A
<b>Transit Facilities</b> , including transit centers, transit park-and-rides, transit stations, and transit stops	S	S	P	P	P	P	P	P	S	P	P
<b>Utility Carrier Cabinets</b> , subject to Section 830	P,C <sup>42</sup>	P,C <sup>42</sup>	P,C <sup>42</sup>	P,C <sup>42</sup>	P,C <sup>42</sup>	P,C <sup>42</sup>	P,C <sup>42</sup>	P,C <sup>42</sup>	P,C <sup>42</sup>	P,C <sup>42</sup>	P,C <sup>42</sup>
<b>Wireless Telecommunication Facilities</b> , subject to Section 835	See Table 835-1	P	P	P	P	P	P	See Table 835-1	P	P	P

<sup>1</sup> Required primary uses for each Planned Mixed Use site are listed in Table 510-3, *Site-Specific Requirements for the PMU District*.

<sup>2</sup> A minimum of 60 percent of the total building floor area on a site shall be primary use(s).

<sup>3</sup> A maximum of 40 percent of the total building floor area on a site may be limited use(s).

<sup>4</sup> An assembly facility with a maximum capacity of more than 500 people is a conditional use.

<sup>5</sup> 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.

<sup>6</sup> 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.

<sup>7</sup> 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 7 shall not exceed 40,000 square feet in a single building.



<sup>8</sup> The maximum combined building floor area of the use, any limited uses, and any other uses subject to Note 8, shall be 20 percent of the building floor area of primary uses in the same development.

<sup>79</sup> 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*.

<sup>810</sup> 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.

<sup>911</sup> Freestanding congregate housing facilities, freestanding multifamily dwellings, and freestanding quadplexes (as opposed to congregate housing facilities, multifamily dwellings, and quadplexes in a mixed-use building) are subject to the development and dimensional standards applicable to congregate housing facilities, multifamily dwellings, and quadplexes in the RCHDR District.

<sup>1012</sup> A congregate housing facility shall have a minimum of four dwelling units.

<sup>1113</sup> Freestanding congregate housing facilities, freestanding multifamily dwellings, and freestanding quadplexes (as opposed to congregate housing facilities, multifamily dwellings, and quadplexes in a mixed-use building) are subject to the development and dimensional standards applicable to congregate housing facilities, multifamily dwellings, and quadplexes in the HDR District, except that the minimum and maximum residential density standards of Table 510-2, *Dimensional Standards in the Urban Commercial and Mixed-Use Zoning Districts*, apply.

<sup>1214</sup> Duplexes, triplexes, quadplexes, and multifamily dwellings, subject to the density standards of the MR-2 District, may be developed in the same building as a primary use.

<sup>1315</sup> Townhouses, subject to the density standards of the VTH District, may be developed in the same building as a primary use.

<sup>1416</sup> Employee amenities shall be located in the same structure as the use to which they are accessory.

<sup>1517</sup> Only indoor facilities are permitted.

~~<sup>16</sup> 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 16 shall not exceed 40,000 square feet in a single building.~~

~~<sup>17</sup> The maximum combined building floor area of the use, any limited uses, and any other uses subject to Note 17, shall be 20 percent of the building floor area of primary uses in the same development.~~

<sup>18</sup> 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 18, shall be 10 percent of the total building floor area in the same development.

<sup>19</sup> 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 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.

- <sup>35</sup> No operation shall be conducted or equipment used which would create hazards and/or noxious or offensive conditions.
- <sup>36</sup> 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 17, in the OC District.
- <sup>37</sup> Only commercial schools are permitted.
- <sup>38</sup> Schools shall be limited to no more than 30 percent of the total building floor area on a site.
- <sup>39</sup> 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.
- <sup>40</sup> Notwithstanding Note 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 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.
- <sup>41</sup> Temporary signs regulated under Subsection 1010.13(A) are a primary use.

<sup>42</sup> 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 <sup>1,2</sup>	None	1 acre <sup>2,3</sup>	½ acre <sup>2,3</sup>	None	None	PMU1: None  PMU2: 2 acres  PMU3: 3 acres  PMU4: ½ acre  PMU5: 10 acres  PMU6: 5 acres	½ acre <sup>2,4</sup>	None	1 acre <sup>2,3</sup>	2½ acres <sup>2,3</sup>
Minimum Street Frontage	None	None	None	None	None	None	None	100 feet <sup>5</sup>	None	None	None
Maximum Front Setback	20 feet <sup>6</sup>	20 feet <sup>6</sup>	20 feet <sup>7</sup>	20 feet <sup>6</sup>	20 feet <sup>6</sup>	20 feet <sup>6</sup>	20 feet <sup>7,8</sup>	See Subsection 1005. <u>0910</u>	20 feet <sup>6</sup>	20 feet <sup>6</sup>	20 feet <sup>7</sup>
Minimum Front Setback	0	15 feet	5 feet <sup>9</sup>	15 feet	15 feet	15 feet	0	See Subsection 1005. <u>0910</u>	10 feet	15 feet	5 feet <sup>9</sup>

Standard	NC	C-2	RCC	RTL	CC	C-3	PMU	SCMU	OA	OC	RCO
Minimum Rear Setback	0	0 <sup>10</sup>	0 <sup>11</sup>	0 <sup>12</sup>	0 <sup>12</sup>	0 <sup>12</sup>	0 <sup>8,10</sup>	See Subsection 1005. <del>0910</del>	10 feet <sup>13</sup>	10 feet <sup>11</sup>	0 <sup>14</sup>
Minimum Side Setback	0	0 <sup>15</sup>	0 <sup>15</sup>	0 <sup>16</sup>	0 <sup>16</sup>	0 <sup>16</sup>	0 <sup>8,15</sup>	See Subsection 1005. <del>0910</del>	6 feet <sup>17</sup>	10 feet <sup>18</sup>	0 <sup>15</sup>
Maximum Building Height	35 feet	None <sup>19</sup>	None	None	None	None	None	None	45 feet	None <sup>20</sup>	None
Minimum Floor Area Ratio	None	None	0.3 for a retail development; 0.5 for an office development <sup>21</sup>	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 <sup>21, 22, 23</sup>
Maximum Building Floor Area per Use	5,000 square feet	None	None	None	None	None	None	None	None	None	None

<b>Standard</b>	<b>NC</b>	<b>C-2</b>	<b>RCC</b>	<b>RTL</b>	<b>CC</b>	<b>C-3</b>	<b>PMU</b>	<b>SCMU</b>	<b>OA</b>	<b>OC</b>	<b>RCO</b>
Minimum Residential Density	None	None	30 dwelling units per net acre for freestanding multifamily dwellings and freestanding congregate housing facilities; none if these uses are in a building with another primary use <sup>24</sup>	20 dwelling units per net acre for residential development; none for mixed-use development <sup>24</sup>	20 dwelling units per net acre for residential development; none for mixed-use development <sup>24</sup>	20 dwelling units per net acre for residential development; none for mixed-use development <sup>24</sup>	See Table 510-3	20 dwelling units per net acre for residential development; none for mixed-use development <sup>24</sup>	None	20 dwelling units per net acre for residential development; none for mixed-use development <sup>24</sup>	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 <sup>24</sup>
Maximum Residential Density	None, but residential density may be limited because dwellings are allowed only as an accessory use.	None, but residential density may be limited because dwellings are allowed only as an accessory use.	None	60 dwelling units per acre <sup>25</sup>	60 dwelling units per acre <sup>25</sup>	60 dwelling units per acre <sup>25</sup>	None	None	Standards in MR-2 District apply. See Table 315-4.	60 dwelling units per acre <sup>25</sup>	None

Notes to Table 510-2:

- <sup>1</sup> 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.
- <sup>2</sup> 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.
- <sup>3</sup> 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.
- <sup>4</sup> The minimum is 2,000 square feet for a lot developed only with a townhouse and uses accessory to that townhouse.
- <sup>5</sup> The minimum street frontage standard applies only to subdivisions, partitions, and property line adjustments. The minimum for a lot of record on the outer radius of a curved street or the circular end of a cul-de-sac is 35 feet measured on the arc. The minimum for a lot of record developed only with a townhouse, and uses accessory to that townhouse, shall be 20 feet. A lot of record with frontage on more than one street shall meet the minimum on each street.
- <sup>6</sup> The maximum front setback standard applies only if required by Subsection 1005.023(H). However, see Subsection 1005.023(E) for a related standard.
- <sup>7</sup> 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 1005.078(G). The maximum front setback from Main Streets identified on Comprehensive Plan Map X-CRC-3 is 10 feet.
- <sup>8</sup> 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.
- <sup>9</sup> There is no minimum setback from a front lot line that abuts a Main Street identified on Comprehensive Plan Map X-CRC-3.



- <sup>10</sup> If the rear lot line abuts a residential zoning district, the minimum shall be 15 feet.
- <sup>11</sup> If the rear lot line abuts a residential zoning district, the minimum shall be 35 feet.
- <sup>12</sup> 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.
- <sup>13</sup> 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.
- <sup>14</sup> 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.
- <sup>15</sup> If the side lot line abuts a residential zoning district, the minimum shall be 15 feet.
- <sup>16</sup> 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.
- <sup>17</sup> 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.
- <sup>18</sup> If the side lot line abuts a residential zoning district, the minimum shall be 35 feet.
- <sup>19</sup> If the subject property abuts a residential zoning district, the maximum building height shall be 35 feet.
- <sup>20</sup> 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.

- <sup>21</sup> Floor area ratio shall be calculated pursuant to Subsection 1005.0~~23~~(K).
- <sup>22</sup> 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.
- <sup>23</sup> 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.
- <sup>24</sup> Net acreage shall be calculated pursuant to Subsections 1012.08(A) and (B).
- <sup>25</sup> Maximum residential density may be increased pursuant to Table 1012-1, *Bonus Density*. Any partial figure of one-half or greater shall be rounded up to the next whole number.

**Table 510-3: Site-Specific Requirements for the PMU District**

<b>Land Uses &amp; Areas Required</b>	<b>PMU1</b>
Office uses <sup>1</sup> , 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	
<b>Land Uses &amp; Areas Required</b>	<b>PMU 2, 3, 4, and 5</b>
Office uses <sup>1</sup> or residential uses <sup>2</sup> , minimum site area	50 percent
Office uses <sup>1</sup> , 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 1005.023(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 1005.023(K)
Residential density <sup>2</sup>	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:

- <sup>1</sup> 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.
- <sup>2</sup> 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; Amended by Ord. ZDO-280, 10/23/21; Amended by Ord. ZDO-277, 1/1/22; Amended by Ord. ZDO-282, 7/1/22; Amended by ZDO-273, on remand, 5/30/23]

**Summary of Proposed Amendments to Section 513, *Rural Tourist Commercial (RTC) and Rural Commercial (RC) Districts***

1. Expressly recognize that public restrooms that are accessory and incidental to another permitted use are allowed in the RTC and RC Districts.
2. Allow public restrooms that are not accessory to another permitted use (i.e., “stand-alone” public restrooms) as a conditional use in the RTC and RC Districts.
3. Remove a redundant reference to parking lots allowed as an accessory use.

NOTICE

Amendments to this section of the Zoning and Development Ordinance were approved by the Board of County Commissioners on December 8, 2022, and became effective on May 30, 2023. However, these amendments have not been acknowledged under state law because an appeal has been filed with the Land Use Board of Appeals. Pursuant to Oregon Revised Statutes 197.625, the County shall apply the amended regulations to land use decisions, expedited land divisions and limited land use decisions. However, if these amended regulations fail to gain acknowledgment, any permit or zone change which is approved, in whole or in part, on the basis of the change will not justify retention of the improvements that were authorized by the permit or zone change. Before proceeding with plans for development that are dependent on the amended regulations, applicants are advised to consult with Planning and Zoning Division staff and seek independent legal advice.

**513 RURAL TOURIST COMMERCIAL (RTC) AND RURAL COMMERCIAL (RC) DISTRICTS**

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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. 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
<b>Accessory Uses, Customarily Permitted</b> , 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
<b>Assembly Facilities</b> , 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 <sup>1</sup>
<b>Bed and Breakfast Inns</b> , subject to Section 832	P	P
<b>Bed and Breakfast Residences</b> , subject to Section 832	P	P
<b>Bus Shelters</b>	P	P
<b>Child Care Facilities</b>	P	P
<b>Civic and Cultural Facilities</b> , including art galleries, libraries, museums, and visitor centers	P	P
<b>Composting Facilities</b>	X	X

Use	RTC	RC
<b>Contractors, Logging</b>	P	P
<b>Daycare Services, Adult</b>	P	P
<b>Drive-Thru Window Services</b> , subject to Section 827	X	A
<b>Dwellings, Detached Single-Family</b>	P <sup>2</sup> ,A	A
<b>Electric Vehicle Charging Stations</b>	P	P
<b>Employee Amenities</b> , including cafeterias, clinics, child care facilities, fitness facilities, lounges, and recreational facilities	A	A
<b>Entertainment Facilities</b> , including arcades, billiard halls, and movie theaters	P	P
<b>Farmers' Markets</b> , subject to Section 840	P	P
<b>Financial Institutions</b> , including banks, brokerages, credit unions, loan companies, and savings and loan associations	P	P
<b>Fitness Facilities</b> , including athletic clubs, exercise studios, gymnasiums, and health clubs	P	P
<b>Government Uses</b> , including fire stations, police stations, and post offices	P	P
<b>Government Uses</b> , 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
<b>Home Occupations</b> , including bed and breakfast homestays, subject to Section 822	A	A
<b>Hosting of Weddings, Family Reunions, Class Reunions, Company Picnics, and Similar Events</b>	C	C
<b>Hotels</b>	P <sup>3</sup>	S <sup>4</sup>
<b>Hydroelectric Facilities</b>	C	C
<b>Manufacturing of Edible or Drinkable Products Retailed on the Same Site</b> , 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
<b>Marijuana Processing</b>	X	X
<b>Marijuana Production</b>	X	X
<b>Marijuana Retailing</b> , subject to Section 841	P <sup>5</sup>	P <sup>5</sup>
<b>Marijuana Wholesaling</b>	P <sup>6</sup>	P <sup>6</sup>
<b>Mobile Vending Units</b> , subject to Section 837	P	P
<b>Motels</b>	P <sup>3</sup>	S <sup>4</sup>
<b>Offices</b> , 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



Use	RTC	RC
<b>Offices and Outpatient Clinics</b> —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
<del>Parking Lots</del>	<del>A</del>	<del>A</del>
<b>Parking Structures, Community</b>	P <sup>7</sup>	X
<b>Pedestrian Amenities</b>	P	P
<del>Public Restrooms</del>	<del>A,C</del>	<del>A,C</del>
<b>Public Utility Facilities</b>	S	C
<b>Radio and Television Transmission and Receiving Towers and Earth Stations</b>	S <sup>8</sup>	C <sup>8</sup>
<b>Recreational Uses</b> , 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 <sup>9</sup>	C	C
<b>Recreational Uses, Government-Owned</b> , 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 <sup>9</sup>	P	P
<b>Recreational Uses, Government-Owned Golf Courses</b> <sup>9</sup>	P	P
<b>Recreational Vehicle Camping Facilities</b> , subject to Section 813	P	X
<b>Recycling Centers</b> , subject to Section 819	C	C
<b>Recyclable Drop-Off Sites</b> , subject to Section 819	A	A
<b>Resort Accommodations</b>	P <sup>10</sup>	S
<b>Retailing</b> —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

Use	RTC	RC
<b>Retailing</b> —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
<b>Retailing</b> —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
<b>Roads</b>	P	P
<b>Schools</b>	P	P,C <sup>2,11</sup>
<b>Service Stations</b>	P	P
<b>Services, Commercial—Construction and Maintenance</b> , including contractors engaged in construction and maintenance of buildings, electrical systems, and plumbing systems	P	P
<b>Services, Commercial—Food and Beverage</b> , including catering and eating and drinking establishments	p <sup>12</sup>	p <sup>12</sup>
<b>Services, Commercial—Maintenance and Repair</b> 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
<b>Services, Commercial—Maintenance and Repair</b> of any of the following: all-terrain vehicles, automobiles, light trucks, motorcycles, and snowmobiles	P	P
<b>Services, Commercial— Maintenance and Repair</b> 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
<b>Services, Commercial—Miscellaneous</b> , including food lockers, interior decorating, locksmith, upholstering, and veterinary	P	P
<b>Services, Commercial—Mini-Storage/Self-Storage Facilities</b>	C <sup>13</sup>	C
<b>Services, Commercial—Personal and Convenience</b> , 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
<b>Services, Commercial—Storage</b> of any of the following: all-terrain vehicles, automobiles, light trucks, motorcycles, and snowmobiles	S	C

Use	RTC	RC
<b>Services, Commercial—Storage</b> 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
<b>Services, Commercial—Studios</b> of the following types: art, craft, dance, music, and photography	P	P
<b>Sewer System Components that Serve Lands Inside an Urban Growth Boundary</b> , subject to ORS 660-011-0060(3)	Type II <sup>14</sup>	Type II <sup>14</sup>
<b>Sewer Systems and Extensions of Sewer Systems to Serve Land Outside an Urban Growth Boundary and Unincorporated Community</b> , subject to ORS 660-011-0060(4)	Type II <sup>15</sup>	Type II <sup>15</sup>
<b>Short-Term Rental</b> in a dwelling unit permitted by this table, except for a dwelling unit that is an accessory use	P	X
<b>Signs</b> , subject to Section 1010	A <sup>16</sup>	A <sup>16</sup>
<b>Telephone Exchanges</b>	S	C
<b>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</b>	A	A
<b>Temporary Buildings for Uses Incidental to Construction Work.</b> Such buildings shall be removed upon completion or abandonment of the construction work.	A	A
<b>Theme Parks and Amusement Parks</b>	C	S
<b>Transfer Stations</b> , subject to Section 819	C	C
<b>Transit Park-and-Rides</b>	P	P
<b>Utility Carrier Cabinets</b> , subject to Section 830	P,C <sup>17</sup>	P,C <sup>17</sup>
<b>Wholesaling</b> —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
<b>Wireless Telecommunication Facilities</b> , subject to Section 835	See Table 835-1	See Table 835-1

<sup>1</sup> A fraternal organization lodge, place of worship, or school is a conditional use if the building floor space exceeds 4,000 square feet.

<sup>2</sup> 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.

<sup>3</sup> 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.
- 16 Temporary signs regulated under Subsection 1010.13(A) are a primary use.
- 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 <sup>1</sup>
Minimum Front Setback	25 feet <sup>2</sup>	30 feet <sup>2</sup>
Minimum Rear Setback	10 feet <sup>3,4,5</sup>	10 feet <sup>4,6</sup>
Minimum Side Setback	10 feet <sup>3,4,5</sup>	10 feet <sup>4,6</sup>
Maximum Building Floor Space per Commercial Use in an Unincorporated Community	4,000 square feet <sup>7</sup>	
Maximum Building Floor Space per Commercial Use outside an Unincorporated Community	Not Applicable	3,000 square feet <sup>8</sup>
Maximum Building Floor Space per Industrial Use in an Unincorporated Community	40,000 square feet <sup>9</sup>	

<sup>1</sup> 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.

<sup>2</sup> In a planned unit development, the minimum front setback is 20 feet.

<sup>3</sup> If the lot line abuts a national forest, there is no minimum setback. If Note 3 and Note 4 conflict, Note 3 prevails.

<sup>4</sup> 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.

<sup>5</sup> If the lot line abuts an RR or HR District, the minimum is 20 feet except as established by Note 3 or 4.

<sup>6</sup> If the lot line abuts a residential zoning district, the minimum is 20 feet except as established by Note 3 or 4.

<sup>7</sup> 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 <sup>1</sup>
Maximum Front Setback if the Front Lot Line abuts Government Camp Loop	10 feet <sup>2</sup>
Minimum Rear Setback	10 feet <sup>3,4,5</sup>
Minimum Side Setback	None
Maximum Building Height	70 feet <sup>6</sup>
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 <sup>7</sup>
Maximum Building Floor Space per Industrial Use	60,000 square feet <sup>8</sup>

<sup>1</sup> 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.

- <sup>2</sup> 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.
- <sup>3</sup> 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.
- <sup>4</sup> In a planned unit development, there is no minimum rear setback except from rear lot lines on the perimeter of the final plat.
- <sup>5</sup> If the rear lot line abuts an HR District, the minimum rear setback is 20 feet except as established by Note 3 or 4.
- <sup>6</sup> The maximum building height may be increased to 87.5 feet to accommodate understructure parking or to preserve natural features or views.
- <sup>7</sup> 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.
- <sup>8</sup> 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; Amended by Ord. ZDO-280, 10/23/21; Amended by Ord. ZDO-273, on remand, 5/30/23]

**Summary of Proposed Amendments to Section 602, *Business Park (BP), Light Industrial (LI), and General Industrial (GI) Districts***

1. Make terms for setbacks in Table 602-2, *Dimensional Standards in the BP, LI, and GI Districts*, consistent.
2. Adjust the order of wording in Note 6 to Table 602-2 for consistency with Note 4.
3. Correct a citation.



**602 BUSINESS PARK (BP), LIGHT INDUSTRIAL (LI), AND GENERAL INDUSTRIAL (GI) DISTRICTS**

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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
<b>Accessory Uses, Customarily Permitted</b> , 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
<b>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</b> , provided that such uses are accessory to a single-family dwelling that is a nonconforming use	A	A	A
<b>Arenas, Exhibition Halls, and Stadiums</b>	C <sup>1</sup>	C <sup>1</sup>	C <sup>1</sup>
<b>Bus Shelters</b>	A	A	A
<b>Composting Facilities</b> , subject to Section 834	X	C	C
<b>Construction and Maintenance Contractors</b> , 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
<b>Electrical Power Production Facilities</b>	X	X	C
<b>Employee Amenities</b> , such as cafeterias, clinics, child care facilities, fitness facilities, lounges, and recreational facilities	A	A	A
<b>Farmers' Markets</b> , subject to Section 840	P	P	P
<b>Government Uses</b> , unless such a use is listed elsewhere in this table as a primary or accessory use	C <sup>2</sup>	C <sup>2</sup>	C <sup>2</sup>
<b>Heavy Truck and Heavy Equipment Uses</b> , 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
<b>Heliports</b>	C	C	C
<b>Industrial Trade Schools</b> , 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
<b>Information Services</b> , 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
<b>Large-Scale Laundry, Dry-Cleaning, and Carpet-Cleaning Plants</b>  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
<b>Level One Mobile Vending Units</b> , subject to Section 837	A	A	A
<b>Manufacturing</b> , 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
<b>Marijuana Processing</b>	P <sup>3</sup>	P <sup>3</sup>	P <sup>3</sup>
<b>Marijuana Production</b>	P <sup>3</sup>	P <sup>3</sup>	P <sup>3</sup>
<b>Marijuana Retailing</b>	X	X	X

Use	BP	LI	GI
<b>Marijuana Wholesaling</b>	P <sup>3</sup>	P <sup>3</sup>	P <sup>3</sup>
<b>Miscellaneous Industrial Uses</b> , 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
<b>Offices</b> , 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
<b>Outdoor Display of Products</b> , subject to Subsection 602.05(B)(1) or (C)(1), provided that such display is associated with a permitted use	X	C	A
<b>Outdoor Entertainment Facilities</b> , including amusement parks, circuses, carnivals, drive-in theatres, and racetracks for automobiles, dogs, horses, and motorcycles	X	X	C
<b>Outdoor Storage Areas Larger than Allowed by Subsection 602.05(B)(2)(a)</b> , provided that such storage is associated with a permitted use	X	C	A
<b>Parking, Storage, Repair, and Servicing of Fleet Vehicles</b>	A	A	A
<b>Parking Structures</b>	A	A	A
<b>Pedestrian Amenities</b>	P	P	P
<b>Public Utility Facilities</b>	C	C	C
<b>Radio and Television Transmission and Receiving Towers and Earth Stations</b> , 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
<b>Recreational Sports Facilities</b> 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 <sup>1</sup>	P <sup>1</sup>	P <sup>1</sup>

Use	BP	LI	GI
<b>Recyclable Drop-Off Sites</b> , subject to Section 819	A <sup>4</sup>	A <sup>4</sup>	A <sup>4</sup>
<b>Recycling Centers and Transfer Stations</b> , subject to Section 819	X	C	P
<b>Repair and Servicing Uses</b> , 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
<b>Research Facilities and Laboratories</b> , 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
<b>Retail and Professional Services that Cater to Daily Customers/Retail Commercial Uses</b> , 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 <sup>5,6,7</sup>	P <sup>5,6,7</sup>	A <sup>8</sup>
<b>Retail Services</b> , including auto repairing, overhauling, painting, washing, body and fender work, and reconditioning	X	X	C
<b>Roads</b>	P	P	P
<b>Signs</b> , subject to Section 1010	A <sup>9</sup>	A <sup>9</sup>	A <sup>9</sup>
<b>Surface Mining</b> , subject to Section 818	X	C	C <sup>10</sup>
<b>Telephone Exchanges</b>	C	C	C
<b>Temporary Buildings for Uses Incidental to Construction Work</b> , provided that such buildings shall be removed upon completion or abandonment of the construction work	A	A	A



Use	BP	LI	GI
<b>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</b>	A	A	A
<b>Towing Establishments and Storage of Towed Vehicles</b>	X	P	P
<b>Transportation Uses</b> , 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
<b>Utility Carrier Cabinets</b> , subject to Section 830	P,C <sup>11</sup>	P,C <sup>11</sup>	P,C <sup>11</sup>
<b>Warehouse Event Retail Sales</b>	A <sup>12</sup>	A <sup>12</sup>	A <sup>12</sup>
<b>Warehousing and Distribution</b> , 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
<b>Wholesale Trade</b> , 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
<b>Wireless Telecommunication Facilities</b> , subject to Section 835	P	P	P

## Notes to Table 602-1:

- <sup>1</sup> 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.
- <sup>2</sup> 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.
- <sup>3</sup> 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.
- <sup>4</sup> Recyclable drop-off sites are permitted only if accessory to an institutional use.
- <sup>5</sup> 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.
- <sup>6</sup> 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.
- <sup>7</sup> 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 <sup>1</sup>	3 acres	1 acre <sup>2</sup>	1 acre <sup>2</sup>
Maximum Front <del>Yard</del> Setback	See Subsections 1005.023(E) and (H).		
Minimum Front Setback	20 feet <sup>3</sup>	20 feet <sup>3</sup>	20 feet <sup>3</sup>
Minimum Rear Setback	0 <sup>3,4</sup>	0 <sup>3,4</sup>	0 <sup>3,4,5</sup>
Minimum Side <del>Setback</del> <del>Yard</del> <del>Depth</del>	0 <sup>3,6</sup>	0 <sup>3,6</sup>	0 <sup>3,4,6</sup>

Notes to Table 602-2:

<sup>1</sup> 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.

- <sup>2</sup> 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.
- <sup>3</sup> 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.
- <sup>4</sup> 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.
- <sup>5</sup> 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.
- <sup>6</sup> 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 or residential 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; Amended by Ord. ZDO-280, 10/23/21]

**706 HABITAT CONSERVATION AREA DISTRICT (HCAD)**

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706.01 PURPOSE

Section 706 is adopted to implement the policies of the Comprehensive Plan for Habitat Conservation Areas.

706.02 AREA OF APPLICATION

- A. Section 706 applies in the Habitat Conservation Area District (HCAD). The HCAD applies to all parcels containing a Habitat Conservation Area (HCA). The HCAD also applies to any area that is less than 100 feet outside the boundary of an HCA even if the area is not located on the same parcel as the HCA. HCAs are identified on maps adopted by reference in Chapter 3 of the Comprehensive Plan (hereinafter referred to as the HCA Map) and are categorized as High, Moderate, or Low HCA. Notwithstanding the HCA Map, however, Section 706 does not apply to areas that are outside both the Metropolitan Service District Boundary and the Portland Metropolitan Urban Growth Boundary.
- B. An applicant may dispute the location of an HCA by submitting an application for HCA Map Verification pursuant to Subsection 706.06(B) or by applying for a Comprehensive Plan amendment to modify the HCA Map. HCA Map Verification does not amend the Comprehensive Plan.
- C. Development within an HCA in accordance with the provisions of Section 706 shall not result in removal of such developed areas from the HCA and shall not change the applicable HCA category.

706.03 DEFINITIONS

Unless specifically defined in Subsection 706.03, words or phrases used in Section 706 shall be interpreted to give them the same meaning as they have in common usage and to give Section 706 its most reasonable application.

- A. Bankfull Stage: The stage or elevation at which water overflows the natural banks of streams or other waters of the state and begins to inundate the upland. The bankfull stage may be approximated using either the two-year recurrence interval flood elevation or one foot measured vertically above the ordinary mean high water line.

**Summary of Proposed Amendments to Section 706, *Habitat Conservation Area District***  
**(HCAD)**

1. No longer require a Type I application for review of a construction management plan and instead conduct the review in conjunction with review of an HCA Development Permit, if required, or a building or grading permit application if not.
2. No longer require a Type II application for HCA Map verification when concurring with the HCA Map.
3. Allow development that is in both a Habitat Conservation Area and a Water Quality Resource Area the option to comply with the clear and objective development permit standards of Subsection 706.10(A). Currently there are two discretionary options available, which will remain.
4. Allow HCA in an approved land division to be platted as a restricted development area (RDA) as an alternative to platting as a separate tract.
5. Correct a citation.
6. Minor edits for clarity and consistency.

- B. Building Footprint: The area that is covered by buildings or other roofed structures. A roofed structure includes any structure more than six feet above grade at any point, and that provides an impervious cover over what is below. Building footprint also includes uncovered horizontal structures such as decks, stairways, and entry bridges that are more than six feet above grade. Eaves are not included in the building footprint. Underground facilities and structures are defined based on the foundation line.
- C. Developed Areas Not Providing Vegetative Cover: Areas that do not meet the definition of Forest Canopy, Low Structure Vegetation or Open Soils, or Woody Vegetation.
- D. Developed Flood Area: A flood area (a) upon which a building or other structure has been located, or (b) that is an uncovered, hard-surfaced area or an area covered with a perforated hard surface (such as “Grasscrete”) that is able to withstand vehicular traffic or other heavy-impact uses; provided, however, that graveled areas shall not be considered developed flood areas.
- E. Development: Any manmade change defined as structures, roads, utilities, mining, dredging, paving, filling, or grading in amounts greater than 10 cubic yards. In addition, “development” is any other activity that results in the removal of more than 10 percent or 20,000 square feet of the Habitat Conservation Area vegetation on a lot of record, whichever is less. The calculation of the amount of vegetative cover removed shall be done separately for each lot of record and shall include all vegetative cover removed after January 5, 2009, regardless of whether the removal is done as one project or a series of projects. When individual trees are removed, the area contained within the tree’s drip line shall be the basis for calculating the square footage of vegetation removed.
- F. Disturb: Manmade changes to the existing physical status of the land, which are made in connection with development.
- G. Disturbance Area: An area that contains all temporary and permanent development, exterior improvements, and staging and storage areas on the site. For new development the disturbance area must be contiguous. The disturbance area does not include agricultural and pasture lands or naturalized areas.
- H. Drip Line: The outermost edge of a tree’s canopy; when delineating the drip line on the ground, it will appear as an irregularly shaped circle defining the canopy’s perimeter.

- I. Ecological Functions: The primary biological and hydrologic characteristics of healthy fish and wildlife habitat. Riparian ecological functions include microclimate and shade, streamflow moderation and water storage, bank stabilization and sediment/pollution control, sources of large woody debris and natural channel dynamics, and organic material sources. Upland wildlife ecological functions include size of habitat area, amount of habitat with interior conditions, connectivity of habitat to water resources, connectivity to other habitat areas, and presence of unique habitat types.
- J. Emergency: Any manmade or natural event or circumstance causing or threatening loss of life, injury to person or property, and includes, but is not limited to, fire, explosion, flood, severe weather, drought, earthquake, volcanic activity, spills or releases of oil or hazardous material, contamination, utility or transportation disruptions, and disease.
- K. Enhancement: The process of improving upon the natural functions and/or values of an area or water resource that has been degraded by human activity. Enhancement activities may or may not return the site to a pre-disturbance condition, but create/recreate beneficial processes and resources that occur naturally.
- L. Erosion: The movement of soil particles resulting from actions of water or wind.
- M. Fill: Any material such as, but not limited to, sand, soil, rock, or gravel that is placed in a wetland or flood area for the purposes of development.
- N. Flood Areas: Lands contained within the Floodplain Management District regulated by Section 703 and lands that were inundated in the February 1996 flood. (Note: Areas that were mapped as flood areas but were filled to a level above the base flood level prior to September 30, 2005, consistent with all applicable local, state, and federal laws shall no longer be considered habitat based on their status as flood areas.)
- O. Flood Management Areas: Flood areas and, in addition, lands that have documented evidence of flooding.
- P. Forest Canopy: Areas that are part of a contiguous grove of trees of one acre or larger in area with approximately ~~60%~~ percent or greater crown closure, irrespective of whether the entire grove is within 200 feet of the relevant water resource.



- Q. Habitat-Friendly Development: A method of developing property that has less detrimental impact on fish and wildlife habitat than do traditional development methods. Examples include clustering development to avoid habitat, using alternative materials and designs such as pier, post, or piling foundations designed to minimize tree root disturbance, managing storm water on-site to help filter rainwater and recharge groundwater sources, collecting rooftop water in rain barrels for reuse in site landscaping and gardening, and reducing the amount of effective impervious surface created by development.
- R. Invasive Non-Native or Noxious Vegetation: Plant species that are listed in the Oregon Department of Agriculture’s Noxious Weed Policy and Classification System.
- S. Low Structure Vegetation or Open Soils: Areas that are part of a contiguous area one acre or larger of grass, meadow, crop-lands, or areas of open soils located within 300 feet of a surface stream (low structure vegetation areas may include areas of shrub vegetation less than one acre in size if they are contiguous with areas of grass, meadow, crop-lands, orchards, Christmas tree farms, holly farms, or areas of open soils located within 300 feet of a surface stream and together form an area of one acre in size or larger).
- T. Mitigation: The reduction of adverse effects of proposed development by considering, in the following order
1. Avoiding the impact by not taking a certain action or parts of an action;
  2. Minimizing impacts by limiting the degree or magnitude of the action and its implementation;
  3. Rectifying the impact by repairing, rehabilitating, or restoring the affected environment;
  4. Reducing or eliminating the impact over time by preservation and maintenance operations during the life of the action by monitoring and taking appropriate measures; and
  5. Compensating for the impact by replacing or providing comparable substitute Habitat Conservation Areas.
- U. Native Vegetation: Vegetation native to the Portland metropolitan area provided that it is not invasive non-native or noxious vegetation.

- V. Open Space: Land that is undeveloped and that is planned to remain so indefinitely. The term encompasses parks, forests, and farmland. It may also refer only to land zoned as being available to the public, including playgrounds, watershed preserves, and parks.
- W. Ordinary Mean High Water Line: The line on the bank or shore to which water ordinarily rises in season.
- X. Practicable: Available and capable of being done after taking into consideration cost, existing technology, and logistics in light of overall project purpose and probable impact on ecological functions. The practicability of a development option shall include consideration of the type of HCA that will be affected by the proposed development. For example, High HCAs have been so designated because they are areas that have been identified as having lower urban development value and higher-valued habitat, so it should be more difficult to show that alternative development options that avoid the habitat are not practicable. On the other hand, Low HCAs have been so designated because they are areas that have been identified as having higher urban development value and lower-valued habitat, so it should be less difficult to show that alternative development options that avoid the habitat are not practicable.
- Y. Restoration: The process of returning a disturbed or altered area or water resource to a previously existing natural condition. Restoration activities reestablish the structure, function, or diversity to that which existed prior to impacts caused by human activity.
- Z. Riparian: Those areas associated with streams, lakes, and wetlands where vegetation communities are predominately influenced by their association with water.
- AA. Significant Detrimental Impact: An impact that affects the natural environment, considered individually or cumulatively with other impacts on the HCA, to the point where existing fish and wildlife habitat functional values are degraded.
- BB. Stormwater: The surface water runoff that results from all natural forms of precipitation.
- CC. Stormwater Pretreatment Facility: Any structure or drainage way that is designed, constructed, and maintained to collect and filter, retain, or detain surface water run-off during and after a storm event for the purpose of water quality improvement.

- DD. Stream: A body of running water moving over the earth’s surface in a channel or bed, such as a creek, rivulet, or river. A stream flows at least part of the year, including perennial and intermittent streams. Streams are dynamic in nature and their structure is maintained through build-up and loss of sediment.
- EE. Structure: A building or other major improvement that is built, constructed, or installed, not including minor improvements—such as fences, utility poles, flagpoles, or irrigation system components—that are not customarily regulated through zoning codes.
- FF. Urban Development Value: The economic value of a property lot or parcel as determined by analyzing three separate variables: assessed land value, value as a property that could generate jobs (“employment value”), and the Metro 2040 design type designation of property. The urban development value of all properties containing regionally significant fish and wildlife habitat is depicted on the Metro Habitat Urban Development Value Map.
- GG. Utility Facilities: Buildings, structures, or any constructed portion of a system that provides for the production, transmission, conveyance, delivery, or furnishing of services including, but not limited to, heat, light, water, power, natural gas, sanitary sewer, stormwater, telephone, and cable television. Utility facilities do not include stormwater pre-treatment facilities.
- HH. Water Resource: All rivers, streams (regardless of whether they carry year-round flow, i.e., including intermittent streams), springs which feed streams and wetlands and have year-round flow, flood management areas, wetlands, and all other bodies of open water.
- II. Watershed: A watershed is a geographic unit defined by the flows of rainwater or snowmelt. All land in a watershed drains to a common outlet, such as a stream, lake, or wetland.
- JJ. Wetlands: Areas that are inundated or saturated by surface water or ground water at a frequency and duration sufficient to support and under normal circumstances do support a prevalence of vegetation typically adapted for life in saturated soil conditions. Wetlands generally include swamps, marshes, bogs, and similar areas. Wetlands are those areas identified and delineated by a qualified wetland specialist as set forth in the 1987 Corps of Engineers Wetland Delineation Manual.
- KK. Woody Vegetation: Areas that are part of a contiguous area one acre or larger of shrub or open or scattered forest canopy (less than 60% percent crown closure) located within 300 feet of a surface stream.

706.04 EXEMPT USES

The following uses and activities are exempt from the requirements of Section 706, except that if the use or activity requires a building or grading permit, a Construction Management Plan shall be required pursuant to Subsection 706.06(A). Notwithstanding the requirement for HCA Map Verification under Subsection 706.06(B), the HCA Map shall be deemed reliable for the purpose of administering Subsection 706.04 unless an approved HCA Map Verification exists for the subject property, in which case the approved HCA Map Verification shall be used to administer Subsection 706.04.

- A. Uses and activities that do not constitute development, except if the use or activity is prohibited by Subsection 706.05;
- B. Development that:
  - 1. Had it been proposed prior to January 5, 2007, would not have required a land use, building, erosion prevention and sediment control, or grading permit; and
  - 2. Is located on a parcel that is developed with a dwelling for which a building or manufactured home placement permit was issued prior to January 5, 2007, or a dwelling that was lawfully established prior to the requirement to obtain such a permit;
- C. Development, authorized by a valid design review or conditional use permit for which a complete application was submitted prior to January 5, 2009, provided that the development will not result in an increase in the HCA disturbance area approved under the design review or conditional use permit;
- D. Development on a partition parcel or a subdivision lot, provided that the parcel or lot is part of a partition or subdivision approved pursuant to Subsection 706.10(A)(4) or (B);
- E. Maintenance, alteration, expansion, repair, and replacement of existing structures, provided that the building footprint is not increased;
- F. Expansion or replacement of an existing structure, provided that:
  - 1. The expansion or replacement shall not intrude more than 500 square feet into the HCA in addition to the building footprint that lawfully existed on January 5, 2007. If more than one expansion or replacement of the same structure is undertaken—regardless of whether the work is done as one project or a series of projects—the total increase in the intrusion in the HCA shall not exceed this 500-square-foot limit;

2. The new intrusion into the HCA shall be no closer to the protected water resource than the pre-existing structure; and
  3. Replacement is lawfully commenced within one year of destruction of the original structure. “Lawfully commenced” means the filing of an application for a land use, building, septic, grading, manufactured dwelling or residential trailer placement, plumbing, electrical, or other development permit required by the County or other appropriate permitting agency that is necessary to begin replacement of the structure.
- G. Development that will have a disturbance area that does not exceed 120 square feet. If more than one development is undertaken pursuant to this exemption—regardless of whether the work is done as one project or a series of projects—the total disturbance area shall not exceed this 120 square-foot limit;
- H. Temporary clearing of vegetative cover in an HCA, not to exceed 200 square feet per lot of record, for the purpose of site investigations and pits for preparing soil profiles, provided that cleared areas are replanted with native vegetation when the investigation is complete. After replanting, no open soil areas greater than 25 square feet in area shall remain. If a tree is removed, the area contained within the tree’s drip line shall be the basis for calculating the square footage of vegetative cover removed. If a tree is removed in an HCA and the tree is equal to or greater than 6 inches in diameter at breast height, it shall be replaced as set forth in Table 706-6;
- I. Maintenance of existing gardens, pastures, lawns, and landscaping, including the installation of new irrigation systems within existing gardens, pastures, lawns, and landscaping;
- J. Removal of invasive non-native or noxious vegetation and the planting or propagation of native vegetation, provided that:
1. Handheld tools are used to remove invasive non-native or noxious vegetation; and
  2. After such removal, all open soil areas greater than 25 square feet are replanted with native vegetation;
- K. Farming practices, as defined in Oregon Revised Statutes (ORS) 30.930, and farm uses, as defined in ORS 215.203, in zoning districts where agricultural uses are a primary use, except that this exemption does not apply to buildings associated with farm practices or farm uses;

- L. Forest practices, as defined in ORS 30.930, on forestlands, as defined in ORS 30.930, outside the Portland Metropolitan Urban Growth Boundary;
- M. Maintenance, alteration, repair, and replacement of existing roads, railroads, and utilities, provided that there is no additional intrusion into the HCA;
- N. Maintenance and repair of existing manmade water control facilities, such as irrigation and drainage ditches, constructed ponds and lakes, wastewater facilities, and stormwater pre-treatment facilities;
- O. Projects with the sole purpose of restoring or enhancing wetlands, streams, or fish and wildlife habitat areas, provided that the project is part of an approved local, regional, state, or federal restoration or enhancement plan;
- P. Removal of dead or diseased trees or trees that pose an imminent hazard to persons or property, provided that a consulting arborist's report, or other credible evidence, is provided by the owner of the subject property and verifies the dead, diseased, or hazardous condition of the trees proposed for removal;
- Q. Low-impact outdoor recreation facilities for public use, such as multi-use paths, trails, picnic areas, interpretive and educational displays, and overlooks, provided that:
  - 1. The facility is located outside of a Water Quality Resource Area regulated pursuant to Section 709;
  - 2. The facility includes less than 500 square feet of new impervious surface; and
  - 3. Any proposed trails are constructed using non-hazardous, pervious materials, with a maximum width of four feet;
- R. Emergency procedures or activities undertaken which are necessary to remove or abate hazards and nuisances, or for the protection of public health, safety, and welfare, provided that:
  - 1. Such remedial or preventative action must take place within a timeframe too short to allow for compliance with the requirements of Section 706; and
  - 2. After the emergency, the owner shall mitigate adverse impacts to the HCA resulting from the emergency action; and

- S. Facilities that infiltrate stormwater onsite, including the associated piping, provided that forest canopy and areas within the drip lines of trees are not disturbed and that only native vegetation is planted in these facilities. Such facilities may include, but are not limited to, vegetated swales, rain gardens, vegetated filter strips, and vegetated infiltration basins.

706.05 PROHIBITED USES

The following uses and activities are prohibited within a Habitat Conservation Area:

- A. The planting of invasive non-native or noxious vegetation; and
- B. Outside storage of materials and equipment, unless such storage began before January 5, 2009, or is approved pursuant to review under Subsection 706.06(C).

706.06 DEVELOPMENT REVIEW REQUIREMENTS

The following review requirements are applicable to development in the Habitat Conservation Area District (HCAD) unless such development is exempt pursuant to Subsection 706.04.

- A. A Construction Management Plan ~~(CMP)~~, consistent with Subsection 706.08, shall be required ~~prior to~~ development in the HCAD, regardless of whether development will occur within an HCA. However, if an area is in the HCAD solely because it is less than 100 feet outside the boundary of an HCA located on a different parcel, a Construction Management Plan shall not be required ~~Subsection 706.06(A) shall not apply~~ unless HCA Map Verification ~~required pursuant to Subsection 706.06(B)~~ determines that an HCA exists on the same parcel as the area for which development is proposed. A Construction Management Plan ~~An application for a CMP~~ shall be reviewed ~~pursuant to one of the following processes:~~
  - 1. As part of an HCA Development Permit ~~The application shall be reviewed as a Type I application pursuant to Section 1307;~~ or
  - 2. In conjunction with review of a building or grading permit, if no HCA Development Permit is required. ~~The application shall be filed concurrently with an application for review under Subsection 706.06(B) or 706.06(C), in which case the applications will be consolidated and reviewed pursuant to the process required by Subsection 706.06(B)(4) or 706.06(C)(3), respectively;~~
- B. Unless the applicant concurs with the accuracy of the HCA Map ~~In order to confirm the location of an HCA,~~ HCA Map Verification,

~~pursuant to~~consistent with Subsection 706.09, shall be required or allowed as follows:

1. HCA Map Verification shall be required for:
    - a. Development that is proposed to be either in an HCA or less than 100 feet outside of the boundary of an HCA, as shown on the HCA Map; or
    - b. A parcel that:
      - i. Either contains an HCA, or any part of which is less than 100 feet outside the boundary of an HCA, as shown on the HCA Map; and
      - ii. Is the subject of a land use application for a partition, subdivision, or any other land use application the approval of which would authorize new development on the subject parcel.
  2. An application for HCA Map Verification may be submitted even if one is not required pursuant to Subsection 706.06(B)(1).
  3. If a parcel is subject to Subsection 706.06(B)(1)(b), an application for HCA Map Verification shall be filed concurrently with the other land use application referenced in Subsection 706.06(B)(1)(b)(ii) unless a previously approved HCA Map Verification for the subject property remains valid.
  4. ~~An application for~~ HCA Map Verification shall be reviewed as a Type II application pursuant to Section 1307, Procedures, unless the application is filed concurrently with another land use application that requires review as a Type III application, in which case the applications will be consolidated and reviewed as a Type III application pursuant to Section 1307.
- C. An HCA Development Permit, consistent with Subsection 706.10, shall be required for:
1. Development in an HCA or for a parcel that:
    - a. Contains an HCA; and
    - b. Is the subject of a land use application for a partition or subdivision.



2. If a parcel is subject to Subsections 706.06(C)(1)(a) and (b), an application for an HCA Development Permit shall be filed concurrently with the application for a partition or subdivision.
  3. An application for an HCA Development Permit shall be reviewed as a Type II application pursuant to Section 1307 unless the application is filed concurrently with another land use application that requires review as a Type III application, in which case the applications will be consolidated and reviewed as a Type III application pursuant to Section 1307.
- D. Approval of HCA Map Verification or an HCA Development Permit shall be valid for 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, or the approval will become void.
1. For an HCA Development Permit directly related to an application for a partition or subdivision, “implemented” means that the final plat of the partition or subdivision shall be recorded with the County Clerk.
  2. For any other HCA Development Permit, “implemented” means all major development permits shall be obtained and maintained, or if no major development permits are required to complete the development contemplated by the approved HCA Development Permit, “implemented” means all other necessary County development permits (e.g. grading permit, building permit for an accessory structure) shall be obtained and maintained. A “major development permit” is:
    - a. A building or manufactured dwelling placement permit for a new primary structure that was part of the HCA Development Permit approval; or
    - b. A permit issued by the County Engineering Division for parking lot or road improvements that were part of the HCA Development Permit approval.
  3. For HCA Map Verification, “implemented” has the meaning set forth in Subsection 706.06(D)(1) and (2), except that under Subsection 706.06(D)(2), if the approval did not contemplate a specific development proposal, “implemented” means at least one County development permit shall be obtained and maintained.
- E. If the approval of HCA Map Verification or an HCA Development Permit is not implemented within the initial approval period

established by Subsection 706.06(D), a two-year time extension may be approved pursuant to Section 1310.

- F. HCA Map Verification that was valid on the date when the final plat for a subdivision or partition was recorded with the County Clerk shall remain valid for subsequent development on the lots or parcels created by the subdivision or partition.

706.07 SUBMITTAL REQUIREMENTS

~~In addition to the submittal requirements identified in Subsection 1307.07(C), Construction Management Plans and~~ applications filed pursuant to Section 706 shall comply with the following submittal requirements:-

- A. ~~An application for a~~ Construction Management Plan shall include:
1. A site plan of the subject property, drawn to scale and identifying the following:
    - a. Location and type of existing and proposed development, including but not limited to, building footprints, roads, driveways, parking areas, utilities, onsite sewage disposal systems, wells, landscaping, and filling or grading in an amount greater than 10 cubic yards, ~~with~~ Labels of each element as existing or proposed;
    - b. Location and width of existing adjacent roads and road rights-of-way;
    - c. Location of the Habitat Conservation Area (HCA) as shown on the HCA Map or as identified pursuant to an approved HCA Map Verification;
    - d. Drip lines outside the HCA of trees that are inside the HCA;
    - e. Distance between the HCA boundary and proposed development outside the HCA;
    - f. The site ingress and egress proposed to be used by construction vehicles;
    - g. Proposed equipment and material staging and stockpile areas; and
    - h. Proposed orange construction fencing required pursuant to Subsection 706.08(B);

2. An Erosion Prevention and Sediment Control (EPSC) plan-, which This plan may be included on the site plan if acceptable to the EPSC regulatory authority; and
3. If a modification or waiver of the construction fencing requirement of Subsection 706.08(B) is proposed, a narrative demonstrating compliance with Subsection 706.08(B)(1) or (2).

B. An application for HCA Map Verification shall include:

1. The submittal requirements identified in Subsection 1307.07(C);

21. A summer 2002 aerial photograph of the subject property, with lot lines shown, at a scale of at least one map inch equal to 50 feet for lots of 20,000 or fewer square feet, and a scale of at least one map inch equal to 100 feet for larger lots (available from the Metro Data Resource Center, 600 N.E. Grand Ave., Portland, OR 97232; 503-797-1742);

32. For an application filed pursuant to Subsection 706.09(A)(12), either:

- a. A documented demonstration of the misalignment between the HCA Map (generated from the summer 2002 aerial photographs) and the tax lot lines of the subject property. For example, the applicant could compare the road rights-of-way boundaries shown on the tax lot layer for roads within 500 feet of the subject property with the location of such roads as viewed on the summer 2002 aerial photograph of the same area to provide evidence of the scale and amount of incongruity between the HCA Map and the tax lot lines, and the amount of adjustment that would be appropriate to accurately depict habitat on the subject property; or
- b. A documented demonstration of another type of computer mapping error that was made in the creation of the HCA map;

43. For an application filed pursuant to Subsection 706.09(A)(23):

- a. A site plan of the subject property, drawn to scale and identifying the following:
  - i. Location and type of existing development, including but not limited to, building footprints, roads, driveways, parking areas, utilities, onsite sewage disposal systems, wells, landscaping, and filling or grading in an amount greater than 10 cubic yards, with -L labels of the elements that were developed after August 1, 2002;

- ii. Location and width of existing adjacent roads and road rights-of-way;
  - iii. Location of the HCA as shown on the HCA Map, including off-site HCA where review is required due to proposed development within 100 feet outside the HCA boundary and including the location of High, Moderate, and Low HCA; and
  - iv. Location of the HCA as proposed by the applicant, including the location of High, Moderate, and Low HCA;
- b. A summer 2005 aerial photograph of the subject property (or, if available, an aerial photograph taken closer to, but not after, January 5, 2009), with lot lines shown, at a scale of at least one map inch equal to 50 feet for lots of 20,000 or fewer square feet, and a scale of at least one map inch equal to 100 feet for larger lots (available from the Metro Data Resource Center, 600 N.E. Grand Ave., Portland, OR 97232; 503-797-1742);
  - c. Any approved development permits (e.g. building, grading, land use) and site plans related to the development of the property that took place between August 1, 2002, and January 5, 2009; and
  - d. A narrative that correlates with the submitted site plan and development permits and identifies the type and scope of the new development that has occurred and the previously identified habitat that no longer exists because it is now part of a developed area; and

54. For an application filed pursuant to Subsection 706.09(A)(34):

- a. A site plan of the subject property, drawn to scale and identifying the following:
  - i. Location and type of existing development, including but not limited to, building footprints, roads, driveways, parking areas, utilities, onsite sewage disposal systems, wells, landscaping, and filling or grading in an amount greater than 10 cubic yards;
  - ii. Location and width of existing adjacent roads and road rights-of-way;
  - iii. Location of the HCA as shown on the HCA Map, including off-site HCA where review is required due to proposed development within 100 feet outside the HCA boundary

and including the location of High, Moderate, and Low HCA;

- iv. Location of the HCA as proposed by the applicant, including the location of High, Moderate, and Low HCA;
  - v. Location of any rivers, streams, wetlands, and flood areas;
  - vi. Location of agricultural areas (e.g. pastures, orchards);
  - vii. Location of naturalized areas (e.g. meadows, woods); and
- b. A report prepared and signed by either a qualified natural resource professional - such as a wildlife biologist, botanist, or hydrologist - or an environmental engineer registered in Oregon. The report shall include:
- i. A description of the qualifications and experience of all persons that contributed to the report, and, for each person that contributed, a description of the elements of the analysis to which the person contributed;
  - ii. Additional aerial photographs if the applicant believes they provide better information regarding the subject property, including documentation of the date and process used to take the photographs and an expert's interpretation of the additional information they provide;
  - iii. A topographic map of the subject property, drawn to scale and shown by contour lines of two-foot intervals for slopes less than 15 percent and 10-foot intervals for slopes 15 percent or greater. On properties that are two acres or larger, such a contour map is required only for the portion of the property to be developed; and
  - iv. A narrative analysis and any additional documentation necessary to address each step of the verification process set forth in Subsection 706.09(E).

C. An application for an HCA Development Permit under Subsection 706.10(A) shall include:

1. The submittal requirements identified in Subsection 1307.07(C);

2. A site plan of the subject property, drawn to scale and identifying the following:

- a. Location and type of existing and proposed development, including but not limited to, building footprints, roads, driveways, parking areas, utilities, onsite sewage disposal systems, wells, landscaping, and filling or grading in an amount greater than 10 cubic yards, ~~with~~ Label labels of each element as existing or proposed;
- b. Location and width of existing adjacent roads and road rights-of-way;
- c. Location of the HCA as identified pursuant to a valid HCA Map Verification, and including the location of High, Moderate, and Low HCA;
- d. Location of any rivers, streams, wetlands, and flood areas;
- e. Location of agricultural areas (e.g. pastures, orchards);
- f. Location of naturalized areas (e.g. meadows, woods);
- g. Drip lines outside the HCA of trees that are inside the HCA;
- h. For a property containing less than one acre of HCA, the location of all trees within the HCA that are greater than six inches diameter at breast height (DBH), identified by DBH and species. For properties containing one acre or more of HCA, the applicant may approximate the number of trees within the HCA that are greater than six inches DBH and the DBH range, and provide a listing of the dominant species;
- i. The location of all trees with a DBH of six inches or greater that are proposed to be removed, identified by DBH and species;
- j. The site ingress and egress proposed to be used by construction vehicles;
- k. Proposed equipment and material staging and stockpile areas; and
- l. Location of any Water Quality Resource Area regulated by Section 709;

32. A mitigation plan that demonstrates compliance with Subsections 706.10(A)(6), (7), and, if applicable, (8);

43. If offsite mitigation is proposed pursuant to Subsection 706.10(A)(7)(b), the mitigation plan required by Subsection

706.07(C)(2) shall address both the subject property and the alternate mitigation site and shall document the following:

- a. The number of trees and shrubs that can be planted onsite;
- b. The onsite location where those trees and shrubs can be planted;
- c. An explanation of why it is not practicable for the remainder of the mitigation to occur onsite; and
- d. Identification of the proposed location for off-site mitigation and documentation that the applicant possesses legal authority to conduct and maintain the mitigation, such as having a sufficient ownership interest in the mitigation site, and, if the mitigation is not within an HCA, documentation that the mitigation site will be protected from development after the monitoring period expires by a restrictive covenant, conservation easement, or public dedication;

54. If the applicant proposes to vary the number and size of required trees and shrubs pursuant to Subsection 706.10(A)(8), a report, prepared and signed by a qualified professional, such as a botanist or a certified landscape architect, that:

- a. Explains why the numbers and sizes of trees and shrubs that the applicant proposes to plant will achieve, at the end of the fifth year after initial planting, comparable or better mitigation results as the results that would be achieved if the applicant complied with all of the requirements of Subsection 706.10(A)(6)(a) through (c); and
- b. Discusses site preparation, including soil additives, removal of invasive and noxious vegetation, plant diversity, plant spacing, planting season, and immediate post-planting care including mulching, irrigation, wildlife protection, and weed control;

D. An application for an HCA Development Permit under Subsection 706.10(B) shall include:

- 1. The items listed in Subsections 706.07(C)(1) and (2);
- 2. A topographic map of the subject property, drawn to scale and shown by contour lines of two-foot intervals for slopes less than 15 percent and 10-foot intervals for slopes 15 percent or greater. On properties that are two acres or larger, such a contour map is required only for the portion of the property to be developed;

3. If grading will occur within the HCA, a grading plan showing the proposed alteration of the ground at one-foot vertical contours in areas of slopes less than five percent, two-foot vertical contours in areas of slopes from five percent to 15 percent, and five-foot vertical contours in areas of slopes greater than 15 percent;
4. An Impact Evaluation and Alternatives Analysis, prepared and signed by either a qualified natural resource professional—such as a wildlife biologist, botanist, or hydrologist—or an environmental engineer registered in Oregon. The report shall include:
  - a. A description of the qualifications and experience of all persons that contributed to the analysis, and, for each person that contributed, a description of the elements of the analysis to which the person contributed;
  - b. Identification of the ecological functions of the HCA on the subject property. The ecological functions to be evaluated are those identified in Subsections 706.10(B)(2)(b)(i) through (iii);
  - c. Evaluation of alternative locations, design modifications, or alternative methods of development to determine which options reduce significant detrimental impacts on the HCA and the ecological functions provided by the HCA. At a minimum, the approaches identified in Subsections 706.10(B)(1)(a) through (g) shall be considered; and
  - d. Determination of the alternative that best meets the applicable approval criteria, and identification of unavoidable significant detrimental impacts; and
5. A mitigation plan that demonstrates compliance with Subsections 706.10(A)(6), (7), and, if applicable, (8) or an alternative mitigation plan. An alternative mitigation plan shall be prepared and signed by a qualified professional, such as a botanist or a certified landscape architect. The report shall include:
  - a. A description of the qualifications and experience of all persons that contributed to the plan, and, for each person that contributed, a description of the elements of the plan to which the person contributed;
  - b. An explanation of how the proposed mitigation will adequately compensate for the impacts to ecological functions described in the Impact Evaluation and Alternatives Analysis. The mitigation that would be required under Subsections 706.10(A)(6) and (7)(a) may be used as the baseline mitigation required to compensate for disturbance to an HCA that



provides an average level of ecological functions. The explanation shall include:

- i. If the mitigation that would be required under Subsections 706.10(A)(6) and (7)(a) is used as the baseline mitigation required to compensate for disturbance to an HCA, a calculation of the number of trees and shrubs that would be required under Subsection 706.10(A)(6)(a);
  - ii. A site plan showing where the specific mitigation activities will occur and the numbers and sizes of trees and shrubs that are proposed to be planted; and
  - iii. A discussion of site preparation, including soil additives, removal of invasive and noxious vegetation, plant diversity, plant spacing, planting season, and immediate post-planting care, including mulching, irrigation, wildlife protection, and weed control;
- c. Documentation of coordination with appropriate local, regional, special district, state, and federal regulatory agencies;
  - d. A list of all parties responsible for implementing and monitoring the mitigation plan and, if mitigation will occur offsite, the names of the owners of property where mitigation plantings will occur;
  - e. A mitigation site monitoring and reporting plan;
  - f. If the proposed mitigation will not be conducted onsite, a map and accompanying narrative that details the following:
    - i. The number of trees and shrubs that can be planted onsite;
    - ii. The onsite location where those trees and shrubs can be planted;
    - iii. An explanation of why it is not practicable for the remainder of the mitigation to occur onsite; and
    - iv. The proposed location for off-site mitigation and documentation that the applicant can carry out and ensure the success of the mitigation, including documentation that the applicant possesses legal authority to conduct and maintain the mitigation, such as having a sufficient ownership interest in the mitigation site, and, if the mitigation is not within an HCA, documentation that the mitigation site will be protected from development after the

monitoring period expires by a restrictive covenant, conservation easement, or public dedication;

- g. If the mitigation area is offsite and not within the same subwatershed (6th Field Hydrologic Unit Code) as the disturbed HCA, an explanation of why it is not practicable to conduct the mitigation within the same subwatershed and of why and how, considering the purpose of the mitigation, the mitigation will provide more ecological functional value if implemented outside of the subwatershed; and
- h. An implementation schedule, including a timeline for construction, mitigation, mitigation maintenance, monitoring, and reporting and a contingency plan. If in-stream work in fish-bearing streams is proposed as part of the mitigation plan, documentation that such work will be done in accordance with the Oregon Department of Fish and Wildlife in-stream work timing schedule shall be submitted.

- E. Except for utility facilities reviewed pursuant to Subsection 706.10(A)(1) and notwithstanding any other provisions of Subsection 706.07, for utility facilities developed by public utilities on property that is not owned by the utility, the utility shall not be required to map or provide any information about the property except for the area within 300 feet of the proposed disturbance area.

#### 706.08 CONSTRUCTION MANAGEMENT PLANS

A Construction Management Plan (CMP) shall comply with the following criteria.

- A. Erosion prevention and sediment control (EPSC) measures shall be required and shall comply with the standards of the EPSC regulatory authority.
- B. Orange construction fencing (i.e. safety fencing, snow fencing, or a comparable product) shall be installed on or outside the boundary of the HCA, except where the drip line of a protected tree extends outside the HCA, in which case the drip line shall be included inside the fencing. This requirement may be modified or waived if:
  - 1. Disturbance of the HCA is authorized pursuant to Subsection 706.04 or 706.10, in which case the fencing shall be installed in such a manner as to protect the area of the HCA not authorized for disturbance; or
  - 2. The HCA is already lawfully developed, in which case the fencing shall be installed in such a manner as to protect any water resource

that is the basis for the HCA designation and any area of the HCA where naturalized vegetative cover exists.

- C. Trees in the HCA shall not be used as anchors for stabilizing construction equipment.
- D. Native soils disturbed during development shall be conserved on the subject property.
- E. Development shall not commence until the EPSC measures and fencing required pursuant to Subsections 706.08(A) and (B) are in place.
- F. Compliance with the CMP shall be maintained until the development is complete.

706.09 HCA MAP VERIFICATION

HCA Map Verification shall be subject to the following criteria.

- A. An applicant for HCA Map Verification shall use one or more of the following methods to verify the Habitat Conservation Area (HCA) boundary and, if applicable, the boundary between High, Moderate, and Low HCA.

~~1. The applicant may concur with the accuracy of the HCA Map of the subject property;~~

12. The applicant may demonstrate that a computer mapping error was made in the creation of the HCA map (e.g., the mapped vegetative cover layer—which was derived from aerial photographs taken in the summer of 2002 and was used to establish the Vegetative Cover Map and the HCA Map—in Metro’s geographic information system database does not align precisely with the tax lot layer, thereby resulting in an HCA Map of the subject property that is also misaligned with tax lot lines);

23. The applicant may demonstrate that the subject property was developed lawfully between August 1, 2002 (when the taking of the aerial photographs used to determine the regional habitat inventory commenced) and January 5, 2009 and, therefore, that the HCA boundary or category (High, Moderate, or Low) is inaccurate; or

34. If the identified HCA is riparian habitat rather than publicly-owned upland habitat, the applicant may demonstrate that the HCA Map is inaccurate for a reason other than those described in Subsections 706.09(A)(~~12~~) and (~~23~~).

- B. The location of any HCA on the subject property shall be determined by considering information submitted by the applicant, information collected during any site visit that may be made to the subject property, information generated by prior HCA Map Verification that has occurred on adjacent properties, and any other relevant information that has been provided.
- C. For applications filed pursuant to Subsection 706.09(A)(1)~~-or (2)~~, the HCA Map shall be deemed to be accurate unless, as described in Subsection 706.09(A)(12), there was a computer mapping error (e.g., an alignment error) made in the creation of the HCA Mmap.
- D. For applications filed pursuant to Subsection 706.09(A)(23), developed areas not providing vegetative cover shall be removed from the HCA, provided that they were developed lawfully between August 1, 2002, and January 5, 2009, and are more than 50 feet from the water resource. Developed areas not providing vegetative cover that were developed lawfully between August 1, 2002, and January 5, 2009, and are 50 feet or less from the water resource, shall remain classified as HCA, but the HCA category shall be changed if necessary to remain consistent with Tables 706-1 and 706-2.
- E. For applications filed pursuant to Subsection 706.09(A)(34), the HCA boundary shall be established as follows:
  - 1. Locate the water resource that was inventoried by Metro and is the basis for the HCA designation, including: Bankfull stage of streams, rivers, and bodies of open water on or within 200 feet of the subject property; flood areas on or within 100 feet of the subject property; and wetlands on or within 150 feet of the subject property based on the 1994 Clackamas County Wetland Inventory maps adopted by reference in Chapter 3 of the Comprehensive Plan and the Metro 2002 Wetland Inventory Map (available from the Metro Data Resource Center, 600 N.E. Grand Ave., Portland, OR 97232; 503-797-1742). Identified wetlands shall be further delineated consistent with methods currently accepted by the Oregon Division of State Lands and the U.S. Army Corps of Engineers.
  - 2. Identify the vegetative cover status of all areas on the subject property that are within 200 feet of the bankfull stage of streams, rivers, and bodies of open water; are wetlands or are within 150 feet of wetlands; and are flood areas or are within 100 feet of flood areas.

- a. Vegetative cover status shall be as identified on the Metro Vegetative Cover Map (available from the Metro Data Resource Center, 600 N.E. Grand Ave., Portland, OR 97232; 503-797-1742); or
  - b. Vegetative cover status may be adjusted if the property was developed lawfully between August 1, 2002, and January 5, 2009, or an error was made at the time the vegetative cover status was determined by Metro. To assert the latter type of error, applicants shall submit an analysis of the vegetative cover on their property using summer 2002 aerial photographs and the definitions of the different vegetative cover types provided in Subsection 706.03.
3. Determine whether the degree that the land slopes upward from all streams, rivers, and bodies of open water on or within 200 feet of the subject property is greater than or less than 25 percent. A minimum of three slope measurements along the water resource shall be made on the subject property. The measurements shall be made at no more than 100-foot increments, which means that more than three measurements may be required, depending on the length of the water resource on the subject property. Slope shall be measured in 25-foot increments away from the water resource until a point 200 feet from the starting point of measurement is reached. Where the protected water resource is confined by a ravine or gully, the top of ravine is the break in the greater-than-25-percent slope; and
4. Using Table 706-1 and the data identified pursuant to Subsections 706.09(E)(1) through (3), identify all Class I and II riparian areas on the subject property. The riparian class may vary within a single property.

Table 706-1: Method for Locating Boundaries of Class I and II Riparian Areas

Distance from Water Resource	Vegetative Cover Status <sup>1</sup>			
	Developed areas not providing vegetative cover	Low structure vegetation or open soils	Woody vegetation	Forest canopy
<b>Streams</b>				
0-50'	Class II	Class I <sup>2</sup>	Class I	Class I
50'-100'		Class II <sup>3</sup>	Class I	Class I
100'-150'		Class II <sup>3</sup> if slope > 25% <del>percent</del>	Class II <sup>3</sup> if slope > 25% <del>percent</del>	Class II <sup>3</sup>
150'-200'		Class II <sup>3</sup> if slope > 25% <del>percent</del>	Class II <sup>3</sup> if slope > 25% <del>percent</del>	Class II <sup>3</sup> if slope > 25% <del>percent</del>
<b>Wetlands (Wetland itself is a Class I Riparian Area)</b>				
0-100'		Class II <sup>3</sup>	Class I	Class I
100'-150'				Class II <sup>3</sup>
<b>Flood Areas</b>				
Within 300' of river or surface stream		Class I	Class I	Class I
More than 300' from river or surface stream	See footnote 4.	Class II <sup>3</sup>	Class II <sup>3</sup>	Class I
0-100' from edge of flood area			Class II <sup>3,5</sup>	Class II <sup>3</sup>

<sup>1</sup> The vegetative cover type assigned to any particular area is based on two factors: the type of vegetation and the size of the overall contiguous area of vegetative cover to which a particular piece of vegetation belongs. For example, in order to qualify as "forest canopy," the forested area has to be part of a larger patch of forest of at least one acre in size.

<sup>2</sup> These areas shall be Class II riparian areas if the stream is a high gradient stream. High gradient streams are identified on the Metro Vegetative Cover Map. If the applicant believes the gradient of a stream was incorrectly identified, then the applicant may demonstrate the correct classification by identifying the channel type using the methodology described in the Oregon Watershed Assessment Manual, published by the Oregon Watershed Enhancement Board, and appended to the Metro's Riparian Corridor and Wildlife Habitat Inventories Report, Attachment 1 to Exhibit F to Metro Ordinance No. 05-1077C.

<sup>3</sup> Areas that have been identified as habitats of concern, as designated on the Metro Habitats of Concern Map (available from the Metro Data Resource Center, 600 N.E. Grand Ave., Portland, OR 97232; 503-797-1742), shall be Class I riparian areas, unless additional information is provided that establishes that they do not meet the criteria used to identify habitats of concern as described in Metro's Technical Report for Fish and Wildlife. Examples of habitats of concern include: Oregon white oak woodlands, bottomland hardwood forests, wetlands, native grasslands, riverine islands or deltas, and important wildlife migration corridors.

<sup>4</sup> If development prior to January 5, 2009, within a contiguous, undeveloped flood area (to include contiguous flood areas on adjacent properties) that was not mapped as having any vegetative cover has reduced the size of that contiguous flood area to less than one half of an acre in size, then the remaining flood area shall also be considered a developed flood area and shall not be identified as habitat.

<sup>5</sup> Only if within 300 feet of a river or surface stream.

5. Use the Metro Habitat Urban Development Value Map (available from the Metro Data Resource Center, 600 N.E. Grand Ave., Portland, OR 97232; 503-797-1742) to identify the urban development value of the subject property.
  - a. An upward adjustment of the subject property's urban development value designation shall be made if the Metro 2040 Design Type designation for the subject property has changed from a category designated as a lower urban development value category to one designated as a higher urban development value category. 2040 Design Type designations are identified on the Metro 2040 Applied Concept Map (available from the Metro Data Resource Center, 600 N.E. Grand Ave., Portland, OR 97232; 503-797-1742). The urban development value categories of the 2040 Design Types are identified in the footnotes to Table 706-2.
  - b. If the subject property is owned by a regionally significant educational or medical facility, as designated by Title 13 of the Metro Urban Growth Management Functional Plan, it is designated as of high urban development value.
  - c. If the subject property is located outside the Portland Metropolitan Urban Growth Boundary and therefore does not have a Metro 2040 Design Type designation, it is designated as of high urban development value.
6. Use Table 706-2 to cross-reference habitat class with urban development value in order to categorize identified HCA as High, Moderate, or Low HCA.

**Table 706-2: Method for Identifying Habitat Conservation Areas (HCA)**

<b>Fish &amp; wildlife habitat classification</b>	<b>High urban development value<sup>1</sup></b>	<b>Medium urban development value<sup>2</sup></b>	<b>Low urban development value<sup>3</sup></b>	<b>Publicly Owned Parks and Open Spaces</b>
Class I Riparian	Moderate HCA	High HCA	High HCA	High HCA <sup>4</sup>
Class II Riparian	Low HCA	Low HCA	Moderate HCA	Moderate HCA <sup>4</sup>
Class A Upland Wildlife	No HCA	No HCA	No HCA	High HCA <sup>4</sup>
Class B Upland Wildlife	No HCA	No HCA	No HCA	High HCA <sup>4</sup>

NOTE: The default urban development value of property is as depicted on the Metro Habitat Urban Development Value Map. The Metro 2040 Design Type designations provided in the following footnotes are only for use when making an adjustment pursuant to Subsection 706.09(E)(5)(a).

<sup>1</sup> Primary 2040 design type: Central City, Regional Centers, Town Centers, and Regionally Significant Industrial Areas

<sup>2</sup> Secondary 2040 design type: Main Streets, Station Communities, Other Industrial Areas, and Employment Centers

<sup>3</sup> Tertiary 2040 design type: Inner and Outer Neighborhoods and Corridors

<sup>4</sup> HCAs in publicly owned parks and open spaces designated as natural areas shall be considered High HCA+. HCAs in other publicly owned parks and open spaces shall be designated as shown in Table 706-2.

**706.10 HABITAT CONSERVATION AREA DEVELOPMENT PERMITS**

A Habitat Conservation Area (HCA) Development Permit shall be approved if the applicant provides evidence substantiating compliance with either Subsection 706.10(A) or (B). However, if the proposed development is in a Water Quality Resource Area (WQRA) regulated pursuant to Section 709, it shall comply with either Subsection 706.10(~~B~~) or 709.10, except that if the subject parcel contains an HCA and a WQRA and is the subject of a land use application for a partition or subdivision, the partition or subdivision shall comply with the requirements of Subsections 706.10 and 709.11, and if the provisions conflict, the most restrictive standard shall apply.

A. Development in an HCA shall be permitted subject to the following criteria:



1. Except as provided in Subsections 706.10(A)(2) through (5), a maximum disturbance area (MDA) shall apply to the subject property.
  - a. For property inside the Portland Metropolitan Urban Growth Boundary (UGB), the MDA shall be calculated pursuant to Table 706-3 for property with a Comprehensive Plan designation of Urban Low Density Residential and Table 706-4 for property with any other Comprehensive Plan designation.

**Table 706-3: Maximum Disturbance Area for Urban Low Density Residential Property**

HCA Type <sup>1</sup>	Maximum Disturbance Area
High	50 percent of the area of the subject property, up to a maximum of 5,000 square feet
Moderate/Low <sup>2</sup>	65 percent of the area of the subject property, up to a maximum of 6,000 square feet

<sup>1</sup> If more than one HCA Type is present on the subject property, the MDA shall be based on the predominant type. For the purpose of this provision, High HCA shall be the predominant type if at least 50 percent of the area of the HCA on the subject property is High HCA.

<sup>2</sup> For the purpose of Table 706-3, Moderate and Low HCA shall be combined as one HCA Type.

**Table 706-4: Maximum Disturbance Area for Other Property Inside the UGB**

HCA Type	Maximum Disturbance Area <sup>1</sup>
High	10 percent of High HCA on the subject property
Moderate	15 percent of Moderate HCA on the subject property
Low	50 percent of Low HCA on the subject property

<sup>1</sup> The MDA refers only to the maximum percentage of each type of HCA that may be disturbed. Table 706-4 imposes no limit on disturbance area outside an HCA.

- b. For property outside the Portland Metropolitan Urban Growth Boundary, the MDA shall be calculated pursuant to Table 706-5, except that the MDA shall be calculated pursuant to Table 706-4 for:
  - i. Commercial development;
  - ii. Industrial development;

- iii. Buildings associated with farming practices, as defined in Oregon Revised Statutes (ORS) 30.930, and farm uses, as defined in ORS 215.203, in zoning districts where agricultural uses are a primary use; and
- iv. Buildings associated with forest practices, as defined in ORS 30.930, on forestlands, as defined in ORS 30.930.

**Table 706-5: Maximum Disturbance Area Outside the UGB**

HCA Type <sup>1</sup>	Maximum Disturbance Area
High	5 percent of the area of the subject property or 5,000 square feet, whichever is greater
Moderate/Low <sup>2</sup>	5 percent of the area of the subject property or 6,000 square feet, whichever is greater

<sup>1</sup> If more than one HCA Type is present on the subject property, the MDA shall be based on the predominant type. For the purpose of this provision, High HCA shall be the predominant type if at least 50 percent of the area of the HCA on the subject property is High HCA.

<sup>2</sup> For the purpose of Table 3, Moderate and Low HCA shall be combined as one HCA Type.

- c. For property subject to Table 706-3 or 706-5, the MDA shall be located outside the HCA except:
    - i. If the MDA exceeds the non-HCA area, the excess MDA may be located in Low HCA; and
    - ii. If the MDA exceeds the area of non- and Low HCA combined, the excess MDA may be located in Moderate HCA; and
    - iii. If the MDA exceeds the area of non-, Low, and Moderate HCA combined, the excess MDA may be located in High HCA.
  - d. In determining compliance with the MDA standard, both existing and proposed disturbance area shall be included in the calculation.
2. The following disturbance area limitations shall apply to certain utility facilities. Utility facilities other than those addressed in Subsections 706.10(A)(2)(a) through (c) shall be subject to Subsection 706.10(A)(1).

- a. The disturbance area for private connections of utility lines, pipes, or cables to other utility facilities shall be no greater than 10 feet wide.
  - b. The disturbance area for the upgrade of existing utility lines, pipes, or cables shall be no greater than 15 feet wide.
  - c. The disturbance area for new underground utility lines, pipes, or cables shall be no greater than 25 feet wide and shall disturb no more than 200 linear feet of Water Quality Resource Area regulated pursuant to Section 709, within any 1,000 linear foot stretch of Water Quality Resource Area regulated pursuant to Section 709, provided that this disturbance area, with the exception of necessary access points to the utility facility, shall be restored by the planting of native vegetation.
3. A partition of a parcel that contains an HCA shall comply with one of the following options:
- a. There shall be no more than a 30 percentage point difference in the percentage of each parcel's area that is in an HCA. For example, a partition that produces two parcels, one that is 55 percent HCA and the other that is 35 percent HCA, is permissible; whereas a partition that produces two parcels, one that is 75 percent HCA and the other that is 30 percent HCA, is not permissible. In this case, development in the HCA shall be subject to further review under Section 706;
  - b. The partition shall comply with Subsection 706.10(A)(4); or
  - c. The applicant shall demonstrate, through an analysis of different possible partition plans based on the characteristics and zoning of the subject property, that it is not practicable to comply with Subsection 706.10(A)(3)(a) or (b) and that the applicant's alternate plan will result in the smallest practicable percentage point difference in the percentage of each parcel's area that is in an HCA. In this case, development in the HCA shall be subject to further review under Section 706.

4. A subdivision of property that contains an HCA shall require that a minimum of 90 percent of the subject property's High HCA and a minimum of 80 percent of its Moderate HCA shall be platted as a tract ~~or restricted development area (RDA) rather than as part of any lot.~~ Any HCA that remains outside an HCA ~~such a tract or RDA~~ may be developed, subject to compliance with the mitigation standards of Subsection 706.10(A) or (B). ~~Unless any HCA that remains outside an HCA tract is protected from development by a restrictive covenant or a conservation easement, it~~ shall be assumed that such areas ~~any HCA that remains outside an HCA tract or RDA~~ eventually will be developed, and mitigation shall be required. Mitigation shall be completed, or a performance bond in an amount sufficient to cover the cost of mitigation shall be posted with the County, prior to approval of the final plat.
  - a. If over ~~50% percent~~ percent of the HCA on the subject property is High HCA, the entire calculation is for High (i.e., ~~90% percent~~ percent of the HCA shall be placed within a separate tract or RDA).
  - b. If over ~~50% percent~~ percent of the HCA on a property is Moderate HCA, the entire calculation is for Moderate (i.e., ~~80% percent~~ percent of the HCA shall be placed within a separate tract or RDA).
  - c. ~~An HCA tract shall be protected from development by restrictive covenant, conservation easement, or public dedication. However, the tract may be subject to an easement conveying storm and surface water management rights to the surface water management authority. An HCA~~ The tract shall be designated on the final plat as one of the following ~~prior to final plat approval where development is prohibited~~:
    - i. A private natural area owned by a homeowners association or a private non-profit with the mission of land conservation; or
    - ii. A public natural area where the tract has been dedicated to a public entity.
  - d. An HCA RDA shall be designated on the final plat as a private natural area where development is prohibited.
  - e. Notwithstanding Subsections 706.10(4)(c) and (d), the tract or RDA may be subject to an easement conveying storm and surface water management rights to the surface water management authority.
5. The MDA for publicly owned parks and open spaces designated as natural areas shall be five percent of the HCA on the subject

property. Subsection 706.10(A)(5) imposes no limit on disturbance area outside an HCA for such natural areas.

6. If development in an HCA is approved pursuant to Subsection 706.10(A), compliance with the following mitigation standards shall be required, except that the mitigation standards for development in a wetland (as distinct from an HCA that is adjacent to a wetland) shall be only those required by federal and state law.
  - a. Required Plants and Plant Densities. All trees, shrubs and ground cover shall be native vegetation. An applicant shall comply with Subsection 706.10(A)(6)(a)(i) or (ii), whichever results in more tree plantings, except that where the disturbance area is one acre or more, the applicant shall comply with Subsection 706.10(A)(6)(a)(ii).
    - i. The mitigation requirement shall be calculated based on the number and size of trees that are removed from the site. Trees that are removed from the site shall be replaced as shown in Table 706-6~~5~~. Conifers shall be replaced with conifers. Bare ground shall be planted or seeded with native grasses or herbs. Non-native sterile wheat grass may also be planted or seeded, in equal or lesser proportion to the native grasses or herbs; or

**Table 706-6: Tree Replacement**

Size of Tree to be Removed (inches in diameter at breast height)	Number of Trees and Shrubs to be Planted
6 to 12	2 trees and 3 shrubs
over 12 to 18	3 trees and 6 shrubs
over 18 to 24	5 trees and 12 shrubs
over 24 to 30	7 trees and 18 shrubs
over 30	10 trees and 30 shrubs

- ii. The mitigation requirement shall be calculated based on the size of the disturbance area within the HCA. Native trees and shrubs shall be planted at a rate of five trees and 25 shrubs per every 500 square feet of disturbance area (calculated by dividing the number of square feet of disturbance area by 500, and then multiplying that result

times five trees and 25 shrubs, and rounding all fractions to the nearest whole number of trees and shrubs; for example, if there will be 330 square feet of disturbance area, then 330 divided by 500 equals 0.66, and 0.66 times five equals 3.3, so three trees shall be planted, and 0.66 times 25 equals 16.5, so 17 shrubs shall be planted). Bare ground shall be planted or seeded with native grasses or herbs. Non-native sterile wheat grass may also be planted or seeded, in equal or lesser proportion to the native grasses or herbs.

- b. **Plant Size.** Replacement trees shall be at least one-half inch in caliper, measured at six inches above the ground level for field grown trees or above the soil line for container grown trees (the one-half inch minimum size may be an average caliper measure, recognizing that trees are not uniformly round), unless they are oak or madrone which may be one-gallon size. Shrubs shall be in at least a one-gallon container or the equivalent in ball and burlap and shall be at least 12 inches in height.
- c. **Plant Spacing.** Trees shall be planted between eight and 12 feet on center, and shrubs shall be planted between four and five feet on center, or clustered in single species groups of no more than four plants, with each cluster planted between eight and 10 feet on center. When planting near existing trees, the drip line of the existing tree shall be the starting point for plant spacing measurements.
- d. **Plant Diversity.** Shrubs shall consist of at least two different species. If 10 trees or more are planted, then no more than 50 percent of the trees may be of the same genus.
- e. **Invasive Vegetation.** Invasive non-native or noxious vegetation shall be removed within the mitigation area prior to planting, and shall be removed or controlled for five years following the date that the mitigation planting is completed.
- f. **Mulching.** Mulch shall be applied around new plantings at a minimum of three inches in depth and 18 inches in diameter.
- g. **Tree and Shrub Survival.** Trees and shrubs that die shall be replaced in kind to the extent necessary to ensure that a minimum of 80 percent of the trees initially required and 80 percent of the shrubs initially required shall remain alive on the fifth anniversary of the date that the mitigation planting is completed.







8. An applicant may request to proportionally vary the number and size of trees and shrubs required pursuant to Subsections 706.10(A)(6)(a) and (b)—for example, to plant fewer larger trees and shrubs or to plant more smaller trees and shrubs—and a corresponding modification of the plant spacing requirements of Subsection 706.10(A)(6)(c). The request shall be approved if the applicant provides evidence substantiating that the proposed planting will achieve, at the end of the fifth year after initial planting, comparable or better mitigation results as the results that would be achieved if the applicant complied with all of the requirements of Subsections 705.10(A)(6)(a) through (c).
- B. Development in an HCA that does not comply with Subsection 706.10(A) shall be permitted subject to the following criteria:
1. Development in the HCA shall be avoided to the extent practicable. If there is more than one category (High, Moderate, or Low) of HCA on the subject property, then the applicant shall first avoid the intrusion of development into the higher-valued HCA, to the extent practicable. To comply with these requirements, the following approaches shall be used, to the extent practicable:
    - a. Multi-story construction;
    - b. Minimizing building and development footprint;
    - c. Maximizing the use of native landscaping materials and meeting applicable landscaping requirements by preservation of the HCA as permitted by Section 1009;
    - d. Minimal excavation foundation systems (e.g., pier, post, or piling foundation);
    - e. Transfer of density from the HCA to another part of the subject property as permitted by Section 1012;
    - f. Placing facilities that are required to infiltrate stormwater onsite, including associated piping, within the HCA, provided that such facilities comply with Subsection 706.04(R); and
    - g. Complying with the setback standards of Subsection 706.11 rather than those of the underlying zoning district.
  2. If there is no practicable alternative that will avoid disturbance of the HCA, then significant detrimental impacts to the HCA shall be minimized as follows:

- a. The proposed development shall minimize loss of habitat as compared to other practicable alternatives, including significantly different practicable alternatives that would result in less development within the HCA.
- b. The proposed development shall minimize significant detrimental impacts to ecological functions of the HCA on the subject property as compared to other practicable alternatives, including significantly different practicable alternatives that would result in less development within the HCA. The ecological functions that shall be considered are:
  - i. Connectivity of the habitat to water;
  - ii. Connectivity of the habitat to other habitat areas; and
  - iii. The functions identified in Table 706-7.

**Table 706-7: Ecological functional values of riparian corridors**

Ecological function	Landscape features providing functional values
Microclimate and shade	Forest canopy or woody vegetation within 100 feet of a stream; a wetland <sup>1</sup> ; or a flood area <sup>2</sup>
Streamflow moderation and water storage	A wetland or other water body <sup>3</sup> with a hydrologic connection to a stream; or a flood area <sup>2</sup>
Bank stabilization, sediment and pollution control	<p>All sites within 50 feet of a surface stream;</p> <p>Forest canopy, woody vegetation, or low structure vegetation/open soils within 100 feet of a stream or a wetland; or forest canopy, woody vegetation, or low structure vegetation/open soils within a flood area; and</p> <p>Forest canopy, woody vegetation, or low structure vegetation/open soils within 100-200 feet of a stream if the slope is greater than 25 percent</p>
Large wood and channel dynamics	<p>Forest canopy within 150 feet of a stream or wetland, or within a flood area; and</p> <p>The channel migration zone is defined by the flood area, but where there is no mapped flood area, a default of 50 feet is established to allow for the channel migration zone.</p>
Organic material sources	Forest canopy or woody vegetation within 100 feet of a stream or wetland, or within a flood area

<sup>1</sup> Refers to “hydrologically-connected wetlands,” which are located partially or wholly within ¼ mile of a surface stream or flood area.

<sup>2</sup> Developed flood areas are not identified as HCAs because they do not provide primary ecological functional value.

<sup>3</sup> “Other water body” could include lakes, ponds, reservoirs, or manmade water resource that is not a water quality facility or farm pond.

- c. If there is more than one category of HCA on the subject property, then development within a higher-valued HCA shall be considered more detrimental than development within a lower-valued HCA.
- d. To the extent practicable, development in the HCA shall be designed, located, and constructed to:
  - i. Minimize grading, removal of native vegetation, and disturbance and removal of native soils by using the approaches required by Subsection 706.08, reducing building footprints, and using minimal excavation foundation systems (e.g., pier, post, or piling foundation);
  - ii. Minimize adverse hydrological impacts on water resources, such as by using the techniques described in Part (a) of Table 706-8, unless their use is prohibited by an applicable and required state or federal permit issued to a unit of local government having jurisdiction in the area, such as a permit required under the federal Clean Water Act, 33 U.S.C. §§1251 et seq., or the federal Safe Drinking Water Act, 42 U.S.C. §§300f et seq., and including conditions or plans required by such permit;
  - iii. Minimize impacts on wildlife corridors and fish passage, such as by using the techniques described in Part (b) of Table 706-8; and
  - iv. Consider using the techniques described in Part (c) of Table 706-8.

**Table 706-8: Habitat-Friendly Development Practices<sup>1</sup>**

<b>Part (a): Design and Construction Practices to Minimize Hydrologic Impacts</b>
<ol style="list-style-type: none"><li>1. Amend disturbed soils to original or higher level of porosity to regain infiltration and stormwater storage capacity.</li><li>2. Use pervious paving materials for residential driveways, parking lots, walkways, and within centers of cul-de-sacs.</li><li>3. Incorporate stormwater management in road right-of-ways.</li><li>4. Landscape with rain gardens to provide on-lot detention, filtering of rainwater, and groundwater recharge.</li><li>5. Use green roofs for runoff reduction, energy savings, improved air quality, and enhanced aesthetics.</li><li>6. Disconnect downspouts from roofs and direct the flow to vegetated infiltration/filtration areas such as rain gardens.</li><li>7. Retain rooftop runoff in a rain barrel for later on-lot use in lawn and garden watering.</li><li>8. Use multi-functional open drainage systems in lieu of more conventional curb-and-gutter systems.</li><li>9. Use bioretention cells as rain gardens in landscaped parking lot islands to reduce runoff volume and filter pollutants.</li><li>10. Apply a treatment train approach to provide multiple opportunities for storm water treatment and reduce the possibility of system failure.</li><li>11. Reduce sidewalk width and grade them such that they drain to the front yard of a residential lot or retention area.</li><li>12. Reduce impervious impacts of residential driveways by narrowing widths and moving access to the rear of the site.</li><li>13. Use shared driveways.</li><li>14. Reduce width of residential streets, depending on traffic and parking needs.</li><li>15. Reduce street length, primarily in residential areas, by encouraging clustering and using curvilinear designs.</li><li>16. Reduce cul-de-sac radii and use pervious vegetated islands in center to minimize impervious effects, and allow them to be utilized for truck maneuvering/loading to reduce need for wide loading areas on site.</li></ol>

<b>Part (a): Design and Construction Practices to Minimize Hydrologic Impacts</b>
<p>17. Eliminate redundant non-ADA sidewalks within a site (i.e., sidewalk to all entryways and/or to truck loading areas may be unnecessary for industrial developments).</p> <p>18. Minimize car spaces and stall dimensions, reduce parking ratios, and use shared parking facilities and structured parking.</p> <p>19. Minimize the number of stream crossings and place crossing perpendicular to stream channel if possible.</p> <p>20. Allow narrow street right-of-ways through stream corridors whenever possible to reduce adverse impacts of transportation corridors.</p>
<b>Part (b): Design and Construction Practices to Minimize Impacts on Wildlife Corridors and Fish Passage</b>
<p>1. Carefully integrate fencing into the landscape to guide animals toward animal crossings under, over, or around transportation corridors.</p> <p>2. Use bridge crossings rather than culverts wherever possible.</p> <p>3. If culverts are utilized, install slab, arch or box type culverts, preferably using bottomless designs that more closely mimic stream bottom habitat.</p> <p>4. Design stream crossings for fish passage with shelves and other design features to facilitate terrestrial wildlife passage.</p> <p>5. Extend vegetative cover through the wildlife crossing in the migratory route, along with sheltering areas.</p>
<b>Part (c): Miscellaneous Other Habitat-Friendly Design and Construction Practices</b>
<p>1. Use native vegetation throughout the development (not just in HCA).</p> <p>2. Locate landscaping (required by other sections of this Ordinance) adjacent to HCA.</p> <p>3. Reduce light spill-off into HCAs from development.</p> <p>4. Preserve and maintain existing trees and tree canopy coverage, and plant trees, where appropriate, to maximize future tree canopy coverage.</p>

<sup>1</sup> These development practices represent the state of scientific knowledge at the time of the adoption of Section 706. If more effective habitat-friendly practices become available, they may be used.

3. If development in an HCA is approved pursuant to Subsection 706.10(B), compliance with the following mitigation standards shall be required, except that the mitigation standards for

development in a wetland (as distinct from an HCA that is adjacent to a wetland) shall be only those required by federal and state law.

- a. Compliance with Subsections 706.10(A)(6), (7), and, if applicable, (8) shall be required; or
- b. An alternative mitigation plan (e.g., a proposal to create an alternative plant community type such as an oak savannah or a low-structure plant community, or where an applicant demonstrates that a portion of identified HCA on the subject property provides only impaired ecological functions) may be approved, subject to the following criteria:
  - i. The mitigation plan shall demonstrate that it compensates for significant detrimental impacts to the ecological functions provided by the HCA on the subject property, after taking into consideration efforts to minimize such significant detrimental impacts through the use of the techniques described in Table 706-8 and through any additional or innovative techniques.
  - ii. Mitigation shall occur on the subject property, except that offsite mitigation may be approved pursuant to Subsection 706.10(A)(7)(b). In addition, off-site mitigation outside the subwatershed (6<sup>th</sup> Field Hydrologic Unit Code) in which the disturbed HCA is located—but inside the Metropolitan Service District boundary or the Portland Metropolitan Urban Growth Boundary—may be approved if it is not practicable to complete the mitigation within the same subwatershed and if, considering the purpose of the mitigation, the mitigation will provide more ecological functional value if implemented outside of the subwatershed.
  - iii. All mitigation plantings shall be native vegetation.
  - iv. All in-stream work in fish-bearing streams shall be done in accordance with the Oregon Department of Fish and Wildlife in-stream work-timing schedule.
  - v. A mitigation maintenance plan shall be included and shall be sufficient to ensure the success of the planting.
4. Municipal potable water, stormwater (drainage), and wastewater utility facilities, which may include, but are not limited to, water treatment plants, wastewater treatment plants, raw water intakes, pump stations, transmission mains, conduits or service lines,

terminal storage reservoirs, and outfall devices, shall not have to comply with Subsection 706.10(B)(1), provided that:

- a. Where practicable, the development shall not encroach closer to a water resource than existing operations and development, or for new projects where there are no existing operations or development, the development shall not encroach closer to a water resource than practicable; and
- b. Best management practices shall be employed that accomplish the following:
  - i. Account for watershed assessment information in project design;
  - ii. Minimize the trench area and tree removal within the HCA;
  - iii. Utilize and maintain erosion prevention and sediment control measures until other site stabilization measures are established, post-construction;
  - iv. Replant immediately after backfilling or as soon as effective;
  - v. Preserve wetland soils and retain soil profiles;
  - vi. Minimize compactions and the duration of the work within the HCA;
  - vii. Complete in-water construction during appropriate seasons, or as approved within requisite state or federal permits;
  - viii. Monitor water quality during the construction phases, if applicable; and
  - ix. Implement a full inspection and monitoring program during and after project completion, if applicable.

706.11 SETBACKS

For parcels that contain a Habitat Conservation Area and are inside the Portland Metropolitan Urban Growth Boundary, the minimum front, rear, and side yard setbacks shall be zero, except:

- A. Garages and carports shall comply with the minimum front yard setback of the underlying zoning district; and
- B. A greater setback may be required to comply with applicable fire or life safety requirements.

[Amended by Ord. ZDO-230, 9/26/11; Amended by Ord. ZDO-248, 10/13/14; Amended by Ord. ZDO-253, 6/1/15]



**Summary of Proposed Amendments to Section 709, Water Quality Resource Area District  
(WORAD)**

1. No longer require a Type I application for review of a construction management plan and instead conduct the review in conjunction with review of a WQRA Development Permit, if required, or a building or grading permit application if not.
2. Allow development that is in both a Water Quality Resource Area and a Habitat Conservation Area the option to comply with the clear and objective development permit standards of Subsection 706.10(A). Currently there are two discretionary options available, which will remain.
3. Allow WQRA in an approved land division to be platted as a restricted development area (RDA) as an alternative to platting as a separate tract.
4. Correct a citation.
5. Minor edits for clarity and consistency.

**709 WATER QUALITY RESOURCE AREA DISTRICT (WQRAD)**

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709.01 PURPOSE

Section 709 is adopted to implement the policies of the Comprehensive Plan for Water Quality Resource Areas.

709.02 AREA OF APPLICATION

- A. Section 709 applies in the Water Quality Resource Area District (WQRAD). The WQRAD applies to all parcels containing a Water Quality Resource Area (WQRA), provided that such parcels are inside the Metropolitan Service District Boundary or the Portland Metropolitan Urban Growth Boundary and outside the boundaries of both Clackamas County Service District No. 1 and Surface Water Management Agency of Clackamas County. WQRAs are protected water resources and adjacent vegetated corridors as established by Section 709. Protected water resources are classified as primary or secondary.
- B. A wetland shall be a primary protected water resource if the wetland meets any one of the following criteria and is not a constructed wetland:
  - 1. The wetland is fed by surface flows, sheet flows, or precipitation, has evidence of flooding during the growing season, has 60 percent or greater vegetative cover, and is over one-half acre in size;
  - 2. The wetland qualifies as having “intact water quality function” under the 1996 Oregon Freshwater Wetland Assessment Methodology;
  - 3. The wetland is in the Flood Management District, has evidence of flooding during the growing season, is five acres or more in size, and has a restricted outlet or no outlet;
  - 4. The wetland qualifies as having “intact hydrologic control function” under the 1996 Oregon Freshwater Wetland Assessment Methodology; or
  - 5. The wetland or a portion of it is within a horizontal distance of less than one-fourth mile from a water body that meets the Oregon Department of Environmental Quality’s definition of a “water quality limited water body.”
- C. Rivers, perennial streams, intermittent streams draining more than 100 acres, natural lakes, and springs that feed streams and wetlands and have year-round flow are primary protected water resources.
- D. Intermittent streams draining 100 acres or less are secondary protected water resources.

- E. The width of the vegetated corridor included within a WQRA is specified in Table 709-1. However, if an improved, public road right-of-way runs parallel to and—based on Table 709-1—would be included within a WQRA, the WQRA shall not extend beyond the improved, public road right-of-way.

**Table 709-1: Width of WQRA Vegetated Corridor**

Protected Water Resource Type	Slope Adjacent to Protected Water Resource <sup>1</sup>	Starting Point for Measurements from Water Resource	Width of Vegetated Corridor <sup>2</sup>
Primary Protected Water Resource	< 25 percent	•Edge of bankfull stage •Delineated edge of protected wetland	50 feet
Primary Protected Water Resource	≥ 25 percent for 150 feet or more	•Edge of bankfull stage •Delineated edge of protected wetland	200 feet <sup>3</sup>
Primary Protected Water Resource	≥ 25 percent for less than 150 feet	•Edge of bankfull stage •Delineated edge of protected wetland	Distance from starting point of measurement to break in 25 percent slope plus 50 feet <sup>3,4</sup>
Secondary Protected Water Resource	< 25 percent	•Edge of bankfull stage	15 feet
Secondary Protected Water Resource	≥ 25 percent	•Edge of bankfull stage	50 feet <sup>3</sup>

<sup>1</sup> At least three slope measurements along the water resource, at no more than 100-foot increments, shall be made for each property for which development is proposed. Depending on the slope measurements, the width of the vegetated corridor may vary. Slope shall be measured in 25-foot increments away from the water resource until slope is less than 25 percent or a point 150 feet from the starting point of measurement is reached, whichever occurs first. The 25-foot increments shall be measured horizontally. Where the protected water resource is confined by a ravine or gully, the top of ravine is the break in the greater-than-25-percent slope.

<sup>2</sup> The width of the vegetated corridor shall be measured horizontally.

<sup>3</sup> Vegetated corridors in excess of 50 feet for primary protected resources, or in excess of 15 feet for secondary protected resources, apply on steep slopes only in the uphill direction from the protected water resource.

<sup>4</sup> A maximum reduction of 25 feet may be permitted in the width of the vegetated corridor beyond the slope break if a geotechnical report demonstrates that the slope is stable.

- F. The text of Section 709 shall determine the boundaries of a WQRA.
1. Certain protected water resources are identified on maps adopted by reference in Chapter 3 of the Comprehensive Plan (hereinafter referred to as the WQRA Map). The WQRA Map shall be a reference for identifying areas likely to be regulated by Section 709, but the WQRA Map is not intended to provide field-verified locations of the protected resources or delineate the edge of the vegetated corridors.

2. In addition, there may be WQRAs not shown on the WQRA Map. If credible evidence (e.g. aerial photographs, topographic maps, expert studies) indicates that the subject property may contain a WQRA that is not identified on the WQRA map, the provisions of Section 709 shall apply.

#### 709.03 DEFINITIONS

Unless specifically defined in Subsection 709.03, words or phrases used in Section 709 shall be interpreted to give them the same meaning as they have in common usage and to give Section 709 its most reasonable application.

- A. Bankfull Stage: The stage or elevation at which water overflows the natural banks of streams or other waters of the state and begins to inundate the upland. The bankfull stage may be approximated using either the two-year recurrence interval flood elevation or one foot measured vertically above the ordinary mean high water line.
- B. Created Wetlands: Wetlands developed in an area previously identified as a non-wetland to replace, or mitigate, wetland destruction or displacement. A created wetland shall be regulated and managed the same as an existing wetland.
- C. Constructed Wetlands: Wetlands developed as a water quality or quantity facility, subject to change and maintenance as such. These areas must be clearly defined and separated from naturally occurring or created wetlands.
- D. Debris: Discarded manmade objects that would not occur in an undeveloped stream corridor or wetland. Debris includes, but is not limited to, tires, vehicles, litter, scrap metal, construction waste, lumber, plastic, or Styrofoam. Debris does not include objects necessary to a use allowed by Section 709, or ornamental and recreational structures. Debris does not include existing natural plant materials or natural plant materials that are left after flooding, downed or standing dead trees, or trees that have fallen into protected water resources.
- E. Development: Any manmade change defined as structures, roads, utilities, mining, dredging, paving, vegetation removal, filling, or grading in amounts greater than 10 cubic yards. In addition, “development” is any other activity that results in the removal of more than 10 percent of the Water Quality Resource Area vegetation on a lot of record. The calculation of the amount of vegetative cover removed shall be done separately for each lot of record and shall include all vegetative cover removed after January 5, 2009, regardless of whether the removal is done as one project or a series of projects. When individual trees are removed, the area contained within the tree’s drip line shall be the basis for calculating the square footage of vegetation removed.

- F. Disturb: Manmade changes to the existing physical status of the land, which are made in connection with development.
- G. Drip Line: The outermost edge of a tree’s canopy; when delineating the drip line on the ground, it will appear as an irregularly shaped circle defining the canopy’s perimeter.
- H. Emergency: Any manmade or natural event or circumstance causing or threatening loss of life, injury to person or property, and includes, but is not limited to, fire, explosion, flood, severe weather, drought, earthquake, volcanic activity, spills or releases of oil or hazardous material, contamination, utility or transportation disruptions, and disease.
- I. Enhancement: The process of improving upon the natural functions and/or values of an area or resource that has been degraded by human activity. Enhancement activities may or may not return the site to a pre-disturbance condition, but create/recreate beneficial processes and resources that occur naturally.
- J. Erosion: The movement of soil particles resulting from actions of water or wind.
- K. Fill: Any material such as, but not limited to, sand, soil, rock, or gravel that is placed in a wetland or flood area for the purposes of development.
- L. Invasive Non-Native or Noxious Vegetation: Plant species that are listed in the Oregon Department of Agriculture’s Noxious Weed Policy and Classification System.
- M. Mitigation: The reduction of adverse effects of a proposed project by considering, in the following order:
  - 1. Avoiding the impact altogether by not taking a certain action or parts of an action;
  - 2. Minimizing impacts by limiting the degree or magnitude of the action and its implementation;
  - 3. Rectifying the impact by repairing, rehabilitating, or restoring the affected environment;
  - 4. Reducing or eliminating the impact over time by preservation and maintenance operations during the life of the action by monitoring and taking appropriate measures; and
  - 5. Compensating for the impact by replacing or providing comparable substitute Water Quality Resource Areas.

- N. Native Vegetation: Vegetation native to the Portland metropolitan area provided that it is not invasive non-native or noxious vegetation.
- O. Ordinary Mean High Water Line: The line on the bank or shore to which water ordinarily rises in season.
- P. Practicable: Available and capable of being done after taking into consideration cost, existing technology, and logistics in light of overall project purpose.
- Q. Restoration: The process of returning a disturbed or altered area or water resource to a previously existing natural condition. Restoration activities re-establish the structure, function, or diversity to that which existed prior to impacts caused by human activity.
- R. Riparian: Those areas associated with streams, lakes, and wetlands where vegetation communities are predominately influenced by their association with water.
- S. Stormwater: The surface water runoff that results from all natural forms of precipitation.
- T. Stormwater Pretreatment Facility: Any structure or drainage way that is designed, constructed, and maintained to collect and filter, retain, or detain surface water runoff during and after a storm event for the purpose of water quality improvement.
- U. Stream: A body of running water moving over the earth's surface in a channel or bed, such as a creek, rivulet, or river. A stream flows at least part of the year, including perennial and intermittent streams. Streams are dynamic in nature and their structure is maintained through build-up and loss of sediment.
- V. Stream, Intermittent: A stream that flows only part of the year, or seasonally, during years of normal precipitation.
- W. Stream, Perennial: A stream that flows year-round during years of normal precipitation.
- X. Structure: A building or other major improvement that is built, constructed, or installed, not including minor improvements—such as fences, utility poles, flagpoles, or irrigation system components—that are not customarily regulated through zoning codes.
- Y. Utility Facilities: Buildings, structures, or any constructed portion of a system that provides for the production, transmission, conveyance, delivery, or furnishing of services including, but not limited to, heat, light, water, power, natural gas, sanitary sewer, stormwater, telephone, and cable television. Utility facilities do not include stormwater pretreatment facilities.

- Z. Vegetated Corridor: The area between bankfull stage of a protected water resource and the delineated edge of the Water Quality Resource Area as defined in Table 709-1.
  
- AA. Wetlands: Areas that are inundated or saturated by surface water or ground water at a frequency and duration sufficient to support and under normal circumstances do support a prevalence of vegetation typically adapted for life in saturated soil conditions. Wetlands generally include swamps, marshes, bogs, and similar areas. Wetlands are those areas identified and delineated by a qualified wetland specialist as set forth in the 1987 Corps of Engineers Wetland Delineation Manual.

709.04 EXEMPT USES

The following uses and activities are exempt from the requirements of Section 709, except that if the use or activity requires a building or grading permit, a Construction Management Plan shall be required pursuant to Subsection 709.06(A):

- A. Uses and activities that do not constitute development, except if the use or activity is prohibited by Subsection 709.05;
  
- B. Farming practices, as defined in Oregon Revised Statutes (ORS) 30.930, and farm uses, as defined in ORS 215.203, in zoning districts where agricultural uses are a primary use, except that this exemption does not apply to buildings associated with farm practices or farm uses;
  
- C. Forest practices, as defined in ORS 30.930, on forestlands, as defined in ORS 30.930, outside the Portland Metropolitan Urban Growth Boundary;
  
- D. Installation of erosion prevention and sediment control (EPSC) measures pursuant to an EPSC plan approved by the EPSC regulatory authority.
  
- E. Projects with the sole purpose of restoring or enhancing wetlands, streams, or fish and wildlife habitat areas, provided that the project is part of an approved local, regional, state, or federal restoration or enhancement plan;
  
- F. Placement of structures that do not require a grading or building permit;
  
- G. Maintenance of existing structures, roadways, driveways, utility facilities, accessory uses, and other development;
  
- H. Removal of invasive non-native or noxious vegetation and the planting or propagation of native vegetation, provided that:
  - 1. Handheld tools are used to remove invasive non-native or noxious vegetation; and

2. After such removal, all open soil areas greater than 25 square feet are replanted with native vegetation;
  - I. Removal of dead or diseased trees or trees that pose an imminent hazard to persons or property, provided that a consulting arborist's report, or other credible evidence, is provided by the owner of the subject property and verifies the dead, diseased, or hazardous condition of the trees proposed for removal;
  - J. Removal of vegetation, except trees of 1.5 inches or greater caliper, provided such removal shall not result in more than 10 percent of the area of the vegetated corridor being devoid of vegetation;
  - K. Repair, replacement, or improvement of utility facilities where the disturbed portion of the Water Quality Resource Area (WQRA) is restored and vegetation is replaced with native vegetation;
  - L. Additions, alterations, rehabilitation, or replacement of existing structures, roadways, driveways, accessory uses, and other development that do not increase existing structural footprints in the WQRA where the disturbed portion of the WQRA is restored and vegetation is replaced with native vegetation;
  - M. Measures to remove or abate nuisances, or any other violation of statute, administrative rule, or ordinance, where such measures are required by government order and the disturbed portion of the WQRA is restored and vegetation is replaced with native vegetation; and
  - N. Work necessary to protect, repair, maintain, or replace existing structures, utility facilities, roadways, driveways, accessory uses, and exterior improvements in response to emergencies, provided that after the emergency has passed, adverse impacts are mitigated in accordance with Table 709-2.

709.05 PROHIBITED USES

The following uses and activities are prohibited within a Water Quality Resource Area:

- A. The planting of invasive non-native or noxious vegetation; and
- B. Uncontained areas of hazardous materials as defined by the Oregon Department of Environmental Quality.



709.06 DEVELOPMENT REVIEW REQUIREMENTS

The following review requirements are applicable to development in the Water Quality Resource Area District (WQRAD) unless such development is exempt pursuant to Subsection 709.04.

- A. A Construction Management Plan ~~(CMP)~~, consistent with Subsection 709.08, shall be required ~~prior to~~ development in the WQRAD, regardless of whether development will occur within a Water Quality Resource Area (WQRA). A Construction Management Plan ~~An application for a CMP~~ shall be reviewed ~~pursuant to one of the following processes:~~
  - 1. ~~As part of a WQRA Development Permit~~ The application shall be reviewed as a Type I application pursuant to Section 1307; or
  - 2. ~~In conjunction with review of a building or grading permit, if no WQRA Development Permit is required~~ The application shall be filed concurrently with an application for review under Subsection 709.06(B), in which case the applications will be consolidated and reviewed pursuant to the process required by Subsection 709.06(B).
  
- B. In order to confirm the location of a WQRA, WQRA Boundary Verification, consistent with Subsection 709.09, shall be required or allowed as follows:
  - 1. WQRA Boundary Verification shall be required for:
    - a. Development that is proposed to be in the WQRAD; or
    - b. A parcel that:
      - i. Is in the WQRAD; and
      - ii. Is the subject of a land use application for a partition, subdivision, or any other land use application the approval of which would authorize new development on the subject parcel.
  - 2. Notwithstanding Subsection 709.06(B)(1)(a), if credible evidence (e.g. aerial photographs, topographic maps, expert studies) indicates that the proposed development is clearly outside a WQRA, the requirement for WQRA Boundary Verification may be waived.
  - 3. An application for WQRA Boundary Verification may be submitted even if one is not required pursuant to Subsection 709.06(B)(1).
  - 4. If a parcel is subject to Subsection 709.06(B)(1)(b), an application for WQRA Boundary Verification shall be filed concurrently with the other land use application referenced in Subsection 709.06(B)(1)(b)(ii) unless a previously approved WQRA Boundary Verification for the subject property remains valid.

5. An application for WQRA Boundary Verification shall be reviewed as a Type II application pursuant to Section 1307 unless the application is filed concurrently with another land use application that requires review as a Type III application, in which case the applications will be consolidated and reviewed as a Type III application pursuant to Section 1307.
- C. A WQRA Development Permit, consistent with Subsection 709.10, shall be required for development in a WQRA. However, if the proposed development is in a Habitat Conservation Area (HCA) regulated pursuant to Section 706, it shall comply with either Subsection 706.10~~(B)~~ or 709.10. An application for a WQRA Development Permit shall be reviewed as a Type II application pursuant to Section 1307 unless the application is filed concurrently with another land use application that requires review as a Type III application, in which case the applications will be consolidated and reviewed as a Type III application pursuant to Section 1307.
- D. Property that contains a WQRA and is the subject of a land use application for a partition or subdivision shall comply with Subsection 709.11, except that if the subject parcel contains a WQRA and an HCA, the partition or subdivision shall comply with the requirements of Subsections 706.10 and 709.11, and if the provisions conflict, the most restrictive standard shall apply.
- E. Approval of WQRA Boundary Verification or a WQRA Development Permit shall be valid for 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, or the approval will become void.
  1. For a WQRA Development Permit directly related to an application for a partition or subdivision, "implemented" means that the final plat of the partition or subdivision shall be recorded with the County Clerk.
  2. For any other WQRA Development Permit, "implemented" means all major development permits shall be obtained and maintained, or if no major development permits are required to complete the development contemplated by the approved WQRA Development Permit, "implemented" means all other necessary County development permits (e.g. grading permit, building permit for an accessory structure) shall be obtained and maintained. A "major development permit" is:
    - a. A building or manufactured dwelling placement permit for a new primary structure that was part of the WQRA Development Permit approval; or
    - b. A permit issued by the County Engineering Division for parking lot or road improvements that were part of the WQRA Development Permit approval.

3. For WQRA Boundary Verification, “implemented” has the meaning set forth in Subsection 709.06(E)(1) and (2), except that under Subsection 709.06(E)(2), if the approval did not contemplate a specific development proposal, “implemented” means at least one County development permit shall be obtained and maintained.

F. If the approval of WQRA Boundary Verification or a WQRA Development Permit is not implemented within the initial approval period established by Subsection 709.06(E), a two-year time extension may be approved pursuant to Section 1310.

G. WQRA Boundary Verification that was valid on the date when the final plat for a subdivision or partition was recorded with the County Clerk shall remain valid for subsequent development on the lots or parcels created by the subdivision or partition.

709.07 SUBMITTAL REQUIREMENTS

~~In addition to the submittal requirements identified in Subsection 1307.07(C), Construction Management Plans and~~ applications filed pursuant to Section 709 shall comply with the following submittal requirements:-

A. ~~An application for a~~ Construction Management Plan shall include:

1. A site plan of the subject property, drawn to scale and identifying the following:
  - a. Location and type of existing and proposed development, including but not limited to, building footprints, roads, driveways, parking areas, utilities, onsite sewage disposal systems, wells, landscaping, and filling or grading in an amount greater than 10 cubic yards, ~~Label~~ with each element labeled as existing or proposed;
  - b. Location and width of existing adjacent roads and road rights-of-way;
  - c. Location of the Water Quality Resource Area (WQRA) as identified pursuant to Subsection 709.09;
  - d. Drip lines outside the WQRA of trees that are inside the WQRA;
  - e. Distance between the WQRA boundary and proposed development outside the WQRA;
  - f. The site ingress and egress proposed to be used by construction vehicles;
  - g. Proposed equipment and material staging and stockpile areas; and
  - h. Proposed orange construction fencing required pursuant to Subsection 709.08(B);

2. An Erosion Prevention and Sediment Control (EPSC) plan, ~~which. This plan~~ may be included on the site plan if acceptable to the EPSC regulatory authority; and
  3. If a modification or waiver of the construction fencing requirement of Subsection 709.08(B) is proposed, a narrative demonstrating compliance with Subsection 709.08(B)(1) or (2).
- B. An application for WQRA Boundary Verification shall include ~~a site plan that complies with the following requirements:~~
1. The submittal requirements identified in Subsection 1307.07(C);
  2. A site plan that complies with the following requirements:
    - ~~a1.~~ The site plan shall be drawn at a scale of no less than one inch equaling 20 feet.
    - ~~b2.~~ The site plan shall show the location of the proposed development and the lot lines of the property on which development is proposed.
    - ~~c3.~~ The site plan shall show the location of the protected water resource. If the protected water resource is a wetland, the delineation shall be made by a qualified wetlands specialist pursuant to the Division of State Lands' recommended wetlands delineation process. ~~For all other~~ protected water resources, the location shall be established by a registered professional engineer or surveyor licensed by the State of Oregon.
    - ~~d4.~~ The site plan shall show the location of the WQRA, including slope and drainage information sufficient to classify the protected water resource under Table 709-1.
- C. An application for a WQRA Development Permit shall include ~~the following information in a report stamped by a registered professional engineer or surveyor licensed by the State of Oregon:~~
1. The submittal requirements identified in Subsection 1307.07(C);
  2. The following information in a report stamped by a registered professional engineer or surveyor licensed by the State of Oregon
    - ~~a1.~~ A topographic map of the site at contour intervals of five feet or less showing a delineation of the WQRA;
    - ~~b2.~~ The location of all existing natural features including, but not limited to, all trees of a caliper greater than six inches diameter at a height of

four feet, natural or historic drainages on the site, springs, seeps, outcroppings of rocks and boulders within the WQRA;

c3. Location of wetlands that qualify as primary protected water resources. Where such wetlands are identified, a delineation shall be made by a qualified wetlands specialist pursuant to the Division of State Lands' recommended wetlands delineation process;

d4. An inventory and location of existing debris, nuisance vegetation, and any noxious or hazardous materials;

e5. An assessment of the existing condition of the WQRA in accordance with Table 709-2;

f6. An inventory of vegetation, including percentage ground and canopy coverage;

g7. An Impact Evaluation and Alternatives Analysis that addresses the requirements of Subsections 709.1009(A) and (B); and

h8. A mitigation plan containing the following information:

ia. A description of adverse impacts that will be caused as a result of development;

iib. An explanation of how adverse impacts to resource areas will be avoided, minimized, and/or mitigated in accordance with, but not necessarily limited to, Table 709-2;

iiie. A list of all responsible parties including, but not necessarily limited to, the owner, applicant, contractor or other persons responsible for work on the subject property;

ivd. A map showing where the specific mitigation activities will occur; and

ye. An implementation schedule, including a timeline for construction, mitigation, mitigation maintenance, monitoring, and reporting and a contingency plan. -All in-stream work in fish-bearing streams shall be done in accordance with the Oregon Department of Fish and Wildlife in-stream timing schedule; and

D. Data from sources other than a field-verified delineation of the protected water resource may be used to satisfy the submittal requirements only if the protected water resource is not located on the subject property and access to the water resource is denied for the purposes of supplying the required delineation. -In order to use alternate data, an applicant shall submit the following:

1. A copy of a letter addressed to the owner of the property on which the protected water resource exists requesting access to the property for the purpose of completing a delineation of the protected water resource; and
2. A copy of a return receipt from the US Postal Service verifying that the letter was mailed certified and was received or refused.

709.08 CONSTRUCTION MANAGEMENT PLANS

A Construction Management Plan (CMP) shall comply with the following criteria.

- A. Erosion prevention and sediment control (EPSC) measures shall be required and shall comply with the standards of the EPSC regulatory authority.
- B. Orange construction fencing (i.e. safety fencing, snow fencing, or a comparable product) shall be installed on or outside the boundary of the Water Quality Resource Area (WQRA), except where the drip line of a protected tree extends outside the WQRA, in which case the drip line shall be included inside the fencing. This requirement may be modified or waived if:
  1. Disturbance of the WQRA is authorized pursuant to Subsection 709.04 or 709.1009, in which case the fencing shall be installed in such a manner as to protect the area of the WQRA not authorized for disturbance; or
  2. The WQRA is already lawfully developed, in which case the fencing shall be installed in such a manner as to protect any water resource that is the basis for the WQRA designation and any area of the WQRA where naturalized vegetative cover exists.
- C. Trees in the WQRA shall not be used as anchors for stabilizing construction equipment.
- D. Native soils disturbed during development shall be conserved on the subject property.
- E. Development shall not commence until the EPSC measures and fencing required pursuant to Subsections 709.08(A) and (B) are in place.
- F. Compliance with the CMP shall be maintained until the development is complete.

709.09 WATER QUALITY RESOURCE AREA BOUNDARY VERIFICATION

The standards of Subsection 709.02 shall be applied to an application for Water Quality Resource Area Boundary Verification and shall determine the boundary of any WQRA on the subject property.

709.10 WATER QUALITY RESOURCE AREA DEVELOPMENT PERMITS

A Water Quality Resource Area (WQRA) Development Permit shall be approved if the applicant provides evidence substantiating compliance with the following criteria. However, if the proposed development is in a Habitat Conservation Area (HCA) regulated pursuant to Section 706, it shall comply with either Subsection 706.10~~(B)~~ or 709.10, except that if the subject parcel contains an HCA and a WQRA and is the subject of a land use application for a partition or subdivision, the partition or subdivision shall comply with the requirements of Subsections 706.10 and 709.10, and if the provisions conflict, the most restrictive standard shall apply.

- A. No practicable alternative locations exist for the requested development that will not disturb the WQRA;
- B. No reasonably practicable alternative design or method of development exists that would have a lesser impact on the WQRA than the one proposed. If no such reasonably practicable alternative design or method of development exists, the development shall be conditioned to:
  - 1. Limit its disturbance and impact on the WQRA to the minimum extent necessary to achieve the proposed development; and
  - 2. Ensure that impacts to the functions and values of the water quality resource area will be mitigated or impacted areas restored to the extent practicable.
- C. The WQRA shall be restored and maintained as required by Table 709-2.
- D. To the greatest extent practicable, existing native vegetation shall be retained and protected;
- E. Walkways and bike paths shall be subject to the following standards:
  - 1. Where it is not practicable to maintain a setback of greater than 30 feet from a protected water resource, a maximum of 10 percent of the total area of a gravel, earthen, tree bark product or equivalent walkway or bike path may be within 30 feet of the protected water resource.
  - 2. For any paved walkway or bike path, the width of the water quality resource area on the subject property shall be increased by a distance equal to the width of the paved path. Where it is not practicable to maintain a setback of greater than 30 feet from a protected water resource, a maximum of 10 percent of the total area of the walkway or bike path may be within 30 feet of the protected water resource.
  - 3. A walkway or bike path approved under Subsection 709.10~~09~~(E)(1) or (2) shall not exceed 10 feet in width, shall not be constructed closer than 10

feet from the boundary of the protected water resource, and shall be constructed so as to minimize disturbance to existing vegetation.

- F. Stormwater pretreatment facilities shall be subject to the following standards:
1. A stormwater pretreatment facility may encroach a maximum of 25 feet into the outside boundary of the WQRA of a primary protected water resource.
  2. A stormwater pretreatment facility may encroach a maximum of five feet into the outside boundary of the WQRA of a secondary protected water resource.
  3. The area of encroachment shall be replaced by adding an equal area to the WQRA on the subject property.
  4. All stormwater shall be collected on-site and passed through a treatment facility, such as a detention/composting facility or filter as approved by the surface water management regulatory authority, prior to being discharged into the WQRA.



**Table 709-2: Water Quality Resource Area Mitigation Requirements**

Existing Condition of Water Quality Resource Area	Mitigation Requirements
<p><b><u>Good Existing Corridor:</u></b></p> <p>Combination of trees, shrubs and groundcover are 80 percent present, and there is more than 50 percent tree canopy coverage in the vegetated corridor.</p>	<p><b><u>If area is disturbed during construction:</u></b></p> <ol style="list-style-type: none"> <li>1. Restore and mitigate according to approved plan using native vegetation.</li> <li>2. Remove debris.</li> <li>3. Prior to construction, a qualified professional shall prepare and submit a plan for mitigating water quality impacts related to the development, including: sediments, temperature nutrients, sediment control, temperature control, or any other condition that may have caused the protected water resource to be listed on DEQ's 303(d) list.</li> <li>4. Re-vegetation must occur during the next planting season following site disturbance. Seeding may be required prior to establishing plants for site stabilization. Annual replacement of plants that do not survive is required until vegetation representative of natural conditions is established on the site.</li> </ol> <p><b><u>If area is undisturbed during construction:</u></b></p> <ol style="list-style-type: none"> <li>1. Remove debris.</li> </ol>

**Table 709-2: Water Quality Resource Area Mitigation Requirements**

<p><b><u>Marginal Existing Corridor:</u></b></p> <p>Combination of trees, shrubs and groundcover are 80 percent present, and there is 25 to 50 percent tree canopy coverage in the vegetated corridor.</p>	<p><b><u>If area is disturbed during construction:</u></b></p> <ol style="list-style-type: none"> <li>1. Restore and mitigate according to approved mitigation plan using native vegetation that would reasonably represent the vegetative composition that would naturally occur on the site.</li> <li>2. Remove debris.</li> <li>3. Re-vegetate during the next planting season following site disturbance. Seeding may be required prior to establishing plants for site stabilization. Annual replacement of plants that do not survive is required until vegetation representative of natural conditions is established on the site.</li> </ol> <p><b><u>If area is undisturbed during construction:</u></b></p> <ol style="list-style-type: none"> <li>1. Remove debris.</li> </ol>
<p><b><u>Degraded Existing Corridor:</u></b></p> <p>Less vegetation and canopy coverage than marginal vegetated corridors, and/or greater than 10-percent surface coverage of any non-native vegetation.</p>	<p><b><u>If area is disturbed during construction:</u></b></p> <ol style="list-style-type: none"> <li>1. Restore and mitigate according to approved mitigation plan using native vegetation that would reasonably represent the vegetative composition that would naturally occur on the site.</li> <li>2. Remove debris.</li> <li>3. Re-vegetate during the next planting season following site disturbance. Seeding may be required prior to establishing plants for site stabilization. Annual replacement of plants that do not survive is required until vegetation representative of natural conditions is established on the site.</li> </ol> <p><b><u>If area is undisturbed during construction:</u></b></p> <ol style="list-style-type: none"> <li>1. Vegetate bare areas with native vegetation.</li> <li>2. Remove non-native vegetation and re-vegetate with native vegetation.</li> <li>3. Remove debris.</li> </ol>

709.11 PARTITIONS AND SUBDIVISIONS

- A. A partition or subdivision of property that contains a WQRA shall require that the WQRA shall be platted as a tract or restricted development area (RDA)~~rather than as part of any lot. The tract shall be protected from development by restrictive covenant, conservation easement, or public dedication. However, the tract may be subject to an easement conveying storm and surface water management rights to the surface water management authority.~~
  
- B. A WQRA~~The tract shall be designated on the final plat as one of the following prior to final plat approval where development is prohibited:~~
  - 1. A private natural area owned by a homeowners association or a private non-profit with the mission of land conservation; or
  - 2. A public natural area where the tract has been dedicated to a public entity.
  
- C. A WQRA RDA shall be designated on the final plat as a private natural area where development is prohibited.
  
- D. Notwithstanding Subsections 709.11(B) and (C), the tract or RDA may be subject to an easement conveying storm and surface water management rights to the surface water management authority.

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

**Summary of Proposed Amendments to Section 806, *Home Occupations to Host Events***

1. Update a citation in Subsection 806.02(I) to correctly reference Subsection 1005.04(A).

**806 HOME OCCUPATIONS TO HOST EVENTS**

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806.01 DEFINITIONS

The following definitions apply to Section 806:

- A. Employee: Any on-site person, whether they work full-time or part-time in the home occupation, including, but not limited to, the operator, partners, assistants, and any other persons participating in the operation of the home occupation. Except in the EFU, TBR, and AG/F Districts, persons employed by contract to provide services for a single event, such as caterers, photographers, and florists, are not considered employees.
- B. Event: A wedding, family reunion, class reunion, company picnic, or similar gathering.
- C. Operator: The person who conducts the home occupation, has majority ownership interest in the home occupation, and is responsible for strategic decisions and day-to-day operations of the home occupation.

806.02 STANDARDS

Home occupations to host events shall comply with the following standards:

- A. Operator: The operator shall reside full-time in a lawfully established dwelling unit on the tract on which the home occupation is located.
- B. Employees: The home occupation shall have no more than five employees.
- C. Type of Buildings: Notwithstanding the definition of home occupation in Section 202, *Definitions*, in the AG/F, EFU, and TBR Districts, the home occupation shall be operated substantially in the operator’s dwelling or other buildings normally associated with uses permitted in the applicable zoning district.
- D. Tents: Temporary tents are allowed as follows:
  - 1. In the AG/F, EFU, and TBR Districts, temporary tents are permitted to the extent consistent with Subsection 806.02(C).
  - 2. In a zoning district other than AG/F, EFU, and TBR, one temporary tent is permitted, and additional temporary tents may be permitted if consistent with Subsection 1203.03.
  - 3. Temporary tents may be placed on the subject property no more than 24 hours before the event and must be removed no more than 24 hours after the event.

- E. Impacts on Dwellings: In the AG/F, EFU, and TBR Districts, the evaluation of compliance with Subsection 1203.03(D) shall include consideration of impacts on dwellings even though dwellings are not primary uses in these zoning districts.
- F. Hours of Operation: During the months of November through March, no event shall take place outside the hours of 9:00 a.m. to 10:00 p.m. During the months of April through October, no event shall take place outside the hours of 8:00 a.m. to 10:00 p.m. These time restrictions do not apply to persons involved in the set-up or clean-up of the facilities.
- G. Frequency of Events: A maximum of two events shall be allowed per day, and no more than one event shall occur at any one time. During the months of November through March, no more than five events shall be allowed per week. During the months of April through October, no more than seven events shall be allowed per week.
- H. Guests: The maximum number of guests for any single event is 300. However, to the extent necessary to comply with Subsection 1203.03, a lower limit may be imposed based on site capacity constraints.
- I. Lighting: All lighting used during events shall comply with Subsection 1005.~~0504~~(A).
- J. Noise: Noise shall be regulated as follows:
  - 1. From 7:00 a.m. until 10:00 p.m. on Friday and Saturday and until 9:00 p.m. on all other days of the week, the average peak sound pressure level, when measured off the subject property, of noise created by the home occupation shall not exceed the greater of 60 dB(A) or the ambient noise level. During all other hours, the average peak sound pressure level, when measured off the subject property, of noise created by the home occupation shall not exceed the greater of 50 dB(A) or the ambient noise level.
    - a. Noise generated by vehicles entering or exiting the subject property, but not by idling vehicles, shall be exempt from Subsection 806.02(J)(1).
    - b. Subsection 806.02(J)(1) shall not apply to noise detectable on public rights-of-way and railroad rights-of-way.
  - 2. A noise study may be required to demonstrate compliance with Subsection 806.02(J)(1). If a noise study is required, measurements shall be made with a sound level meter. The sound level meter shall be an instrument in good operating condition, meeting the requirements of a Type I or Type II meter, as specified in ANSI Standard 1.4-1971. The sound level meter shall contain at least an A-weighted scale, and both fast and slow meter response capability. Personnel making measurements shall have completed training in the use of the sound level meter, and measurement procedures consistent with that training shall be followed.

- K. Parking: The home occupation shall comply with Section 1015, *Parking and Loading*, except as modified by Subsection 806.02(K).
1. On-street parking shall be prohibited on the day of an event.
  2. An alternative to the parking area surface required pursuant to Subsection 1015.01(B) may be approved based on the following criteria:
    - a. It is appropriate considering season, duration, and intensity of use.
    - b. It shall be surfaced with hardy grasses, wood chips, or other similar organic materials sufficient to adequately stabilize the ground surface for parking.
    - c. In order to minimize tracking of soil onto the roadway, a driveway surfaced with screened gravel or better must extend a minimum of 200 feet in length from the interior edge of the roadway that provides access to the subject property. A traffic management plan must direct all vehicular traffic along the required driveway prior to such traffic entering the roadway.
- L. Portable Restrooms: Portable restroom facilities shall:
1. Include hand-sanitizing or hand-washing facilities;
  2. Comply with the standards of the service provider and the applicable regulations of the Oregon Department of Environmental Quality;
  3. Be screened from adjacent lots and rights-of-way by sight-obscuring fences or plantings; and
  4. Be located a minimum of 50 feet from all lot lines.
- M. Signs: One temporary sign shall be allowed in addition to signs permitted pursuant to Section 1010, *Signs*. The sign shall not exceed eight square feet in area; shall be placed on private property on the day of the event; shall be removed no more than 24 hours after the event; and shall be physically attached to the premises in a manner which both prevents the sign from being moved or blown from its location, and allows the prompt removal of the sign.
- N. Storage: Equipment, furniture, goods, and other amenities used for events shall be stored indoors on non-event days.

- O. Appearance: On non-event days, the use shall not take an outward appearance nor manifest any characteristics of a business or operation of a service commercial nature, except for those characteristics normally associated with or allowed for a primary use in the subject zoning district, or, in the AG/F, EFU, and TBR Districts, for a use identified as “allowed” by Table 407-1, *Permitted Uses in the AG/F District*, 401-1, *Permitted Uses in the EFU District*, or 406-1, *Permitted Uses in the TBR District*, respectively.

[Amended by Ord. ZDO-224, 5/31/11; Amended by Ord. ZDO-245, 7/1/13; Amended by Ord. ZDO-268, 10/2/18]



**Summary of Proposed Amendments to Section 827, Drive-Thru Window Services**

1. Update a citation to correctly reference Subsection 1005.08(B).

**827 DRIVE-THRU WINDOW SERVICES**

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827.01 STANDARDS

Drive-thru window services:

- A. Shall not limit the development of pedestrian-oriented or transit-supportive uses, or adversely impact such uses on adjacent lots. This criterion does not apply in the RC District;
- B. Shall create minimal conflict with pedestrian access to the building from adjacent lots and roads;
- C. Shall not attract vehicle traffic into existing or proposed pedestrian and transit service areas; and
- D. Shall not create offsite congestion due to lack of onsite vehicle queuing area commensurate with the estimated volume of traffic to be generated.
- E. In the Clackamas Regional Center Area, but outside the Clackamas Regional Center itself:
  - 1. When drive-thru window service facilities are oriented toward front lot lines or street corners, pedestrian areas shall be buffered from the noise and exhaust of drive-thru vehicles.
  - 2. When building entrances are separated from sidewalks by drive-thru window service facilities, special design features may be required to ensure safe, direct, and convenient crossings and to screen pedestrian areas from drive-thru window service facilities. These may include different paving types, raised elevation, warning signs, landscaping, walls, bollards, or other similar methods.
- F. Inside the Clackamas Regional Center, drive-thru lanes are prohibited between the building and the street to which a building public entrance is oriented pursuant to Subsection 1005.089(B).

[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]

**Summary of Proposed Amendments to Section 837, *Mobile Vending Units***

1. Update a citation to correctly reference Subsection 1005.04.

**837 MOBILE VENDING UNITS**

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837.01 EXEMPTIONS

- A. Section 837 does not apply to mobile vending units that are part of a farmers' market approved pursuant to Section 840, *Farmers' Markets*.
- B. Except as set forth in Section 837, mobile vending units are exempt from Sections 1000, *Development Standards*, and 1102, *Design Review*.

837.02 SUBMITTAL REQUIREMENTS

In addition to the submittal requirements identified in Subsection 1307.07(C):

- A. An application for a level two mobile vending unit shall include a site plan, drawn to scale, that includes:
  - 1. The lot lines;
  - 2. The location of existing structures and mobile vending units on the subject property;
  - 3. The proposed location of the mobile vending unit and any portable accessory items, such as picnic tables and trash cans;
  - 4. The dimensions of the proposed mobile vending unit;
  - 5. The proposed distance between the mobile vending unit and the lot lines of the subject property, as well as the proposed separation distance between the unit and other onsite structures or mobile vending units;
  - 6. The type and location of any proposed onsite utility connections for the mobile vending unit;
  - 7. The location of existing loading areas, driveways, onsite circulation drives, parking lot aisles, bicycle and motor vehicle parking spaces, and walkways;
  - 8. The location of windows and doors on the mobile vending unit that are proposed to be used for service to customers;
  - 9. The location of existing landscaping; and
  - 10. The dimensions, height, location, and lighting of proposed signs.
- B. An application for a level three mobile vending unit shall include the applicable items identified in Subsection 1102.02.

## 837.03 LEVEL ONE MOBILE VENDING UNITS

Except as established by Subsection 837.03, level one mobile vending units are exempt from regulation under this Ordinance. No permit to operate a level one mobile vending unit is required under this Ordinance. A level one mobile vending unit is one that complies with the following standards:

- A. The mobile vending unit shall operate on a designated route and not stop at a fixed location for more than two hours during the workday. Storage of such a unit during hours outside the workday is not regulated by Section 837, but remains subject to any other applicable provisions of this Ordinance, which may include compliance with Sections 1000 and 1102.
- B. The mobile vending unit shall be entirely self-contained with no connections to onsite utilities; no outdoor seating; and no storage outside the unit. Attachments to the mobile vending unit, such as awnings or canopies, are permitted only if they are supported entirely by the unit and do not touch the ground.

## 837.04 LEVEL TWO MOBILE VENDING UNITS

A level two mobile vending unit requires review as a Type I application pursuant to Section 1307, *Procedures*, and shall be subject to the following standards:

- A. Qualifying Site: The mobile vending unit shall be located on a developed site. A developed site is one that has previously received design review approval and where that approval has been implemented. Alternatively, if not located on a developed site, the mobile vending unit shall remain on the subject property for no more than 120 days in a calendar year. For the purpose of this standard:
  - 1. If a mobile vending unit is replaced by another, the number of days shall be calculated by adding the days spent onsite by each unit.
  - 2. If a mobile vending unit spends any portion of a day on the subject property, it shall count as one day.
- B. Maximum Number: Except as allowed under Subsection 837.03, no more than two mobile vending units may be located on a single lot of record, or on two or more lots of record that are part of a single development.
- C. Accessory Items and Structures: Portable accessory items, such as picnic tables and trash cans, are permitted. Attachments to the mobile vending unit, such as awnings or canopies, are permitted only if they are supported entirely by the unit and do not touch the ground. Neither the mobile vending unit nor any item relating to the unit shall lean against or hang from any structure or utility pole. No structure shall be attached to the mobile vending unit. New structures, such as restroom buildings, trash enclosures, and gazebos, are prohibited, except that a fence may be constructed pursuant to Subsection 837.04(Q).

- D. Accessory Storage: Except as specifically allowed by Section 837, items relating to the mobile vending unit shall be stored in, on, or under the unit.
- E. Interior Seating or Vending: Customer seating or vending inside the mobile vending unit is prohibited.
- F. Maximum Size: The mobile vending unit shall not exceed 200 square feet, measured by the outside dimensions of the unit. Attachments to the mobile vending unit, such as awnings or canopies, shall be excluded when calculating the square footage.
- G. Minimum Setbacks and Separation Distance: The mobile vending unit shall be located a minimum of:
1. Five feet from any structure or mobile vending unit;
  2. Ten feet from any front lot line, except in the RTC District in Government Camp, where the minimum front setback from a lot line abutting Government Camp Loop shall be four feet, and a corner lot with frontage on Government Camp Loop shall comply with a minimum front setback of 10 feet from the lot line abutting the other road; and
  3. Five feet from any side or rear lot line, except if such lot line abuts a residential zoning district, in which case the minimum shall be 15 feet.
- H. Utilities: To the extent that utilities are desired by the applicant or required by applicable regulations, the mobile vending unit shall have self-contained utilities, or if onsite utility connections are proposed, such utilities shall be installed underground, except where prohibited by the utility district or company. Notwithstanding this requirement:
1. If allowed by the utility district or company and any applicable Oregon Specialty Code, aboveground utility connections are permitted, when a mobile vending unit will remain on the subject property for no more than 120 days in a calendar year. For the purpose of this exception:
    - a. If a mobile vending unit is replaced by another, the number of days shall be calculated by adding the days spent onsite by each unit.
    - b. If a mobile vending unit spends any portion of a day on the subject property, it shall count as one day.
  2. If allowed by the utility district or company and the Oregon Electrical Specialty Code, aboveground power cords are permitted to connect the mobile vending unit to an approved electricity source.

3. If allowed by the utility district or company and the Oregon Plumbing Specialty Code, aboveground hoses are permitted to connect the mobile vending unit to an approved water source.
- I. Portable Sanitation Facilities: Portable toilets are prohibited. Portable hand-washing facilities are permitted but may not drain to the surface.
- J. On-Site Wastewater Treatment Systems: Inside the Portland Metropolitan Urban Growth Boundary (UGB), Government Camp, Rhododendron, Wemme/Welches, Wildwood/Timberline, and Zigzag Village, on-site wastewater treatment systems are prohibited unless allowed by Subsection 1006.05(B).
- K. Obstruction of Vehicular and Pedestrian Use Areas: Neither the mobile vending unit nor any elements associated with the mobile vending unit, such as aboveground power cords, seating areas, trash receptacles, signs, and customer queuing areas, shall occupy bicycle parking spaces, loading areas, driveways, onsite circulation drives, parking lot aisles, or walkways. However, occupying existing onsite automobile parking spaces is permitted, provided that such spaces are not simultaneously used for parking.
- L. Setback from Vehicular and Pedestrian Use Areas: Windows and doors used for service to customers shall be located a minimum of 10 feet from loading areas, driveways, onsite circulation drives, and parking lot aisles, and a minimum of five feet from bicycle parking spaces and walkways.
- M. Driveway Access: No new or modified driveway access is permitted.
- N. Intersection Sight Distance and Roadside Clear Zones: The mobile vending unit and any attachments or accessory items shall comply with the intersection sight distance and roadside clear zone standards of the Clackamas County Roadway Standards.
- O. Surfacing: Inside the UGB, the mobile vending unit shall be placed on an existing hard-surfaced area, and any associated parking, loading, and maneuvering areas for vehicles shall be on existing hard-surfaced areas, unless a permeable parking, loading, or maneuvering area surface was authorized as part of a previously implemented design review approval for the site. Outside the UGB, the mobile vending unit shall be placed on an area surfaced with screened gravel or better, and any associated parking, loading, and maneuvering areas for vehicles shall be surfaced with screened gravel or better.
- P. Drive-Thru Window Service: Drive-thru window service is prohibited.
- Q. Screening: If the mobile vending unit is located less than 20 feet from a residential zoning district, the unit shall be screened from the lot line abutting that zoning district. Required screening:
  1. May be provided by an existing structure, a fence, or a hedge;

2. Shall be sight-obscuring; and
  3. Shall have a minimum height of six feet.
- R. Obstruction of Existing Landscaping: The mobile vending unit shall not occupy landscaping areas approved as part of a prior design review or other land use application. Other elements associated with the mobile vending unit, such as seating areas, also shall not occupy such landscaping areas, unless such elements are permitted as pedestrian amenities under Subsection 1009.02(A)(9).
- S. Signs: Signs are permitted pursuant to Section 1010, *Signs*.
- T. Trash Receptacle: A trash receptacle for customer use shall be maintained no more than 10 feet from the mobile vending unit.
- U. Skirting: Skirting shall be placed around the perimeter of the mobile vending unit.

837.05 LEVEL THREE MOBILE VENDING UNITS

A level three mobile vending unit requires review as a Type II application pursuant to Section 1307, *Procedures*, and shall be subject to the following standards:

- A. Maximum Number: Except as allowed under Subsection 837.03, no more than four mobile vending units may be located on a single lot of record, or on two or more lots of record that are part of a single development.
- B. Accessory Items and Structures: Portable accessory items, such as picnic tables and trash cans, are permitted. Attachments to the mobile vending unit, such as awnings or canopies, are permitted only if they are supported entirely by the unit and do not touch the ground. Neither the mobile vending unit nor any item relating to the unit shall lean against or hang from any structure or utility pole. No structure shall be attached to the mobile vending unit. New accessory structures may be constructed, as follows:
1. A maximum of two restroom structures, provided that the combined square footage does not exceed 200;
  2. A maximum of two storage buildings, provided that the combined square footage does not exceed 200;
  3. One trash enclosure; and
  4. Outdoor seating areas, which may have roofs, floors, and railings, but no walls (e.g. decks, picnic shelters), provided that the combined square footage does not exceed 200 square feet per mobile vending unit and that no single structure exceeds 200 square feet.



- C. Accessory Storage: Except as specifically allowed by Section 837, items relating to the mobile vending unit shall be stored in, on, or under the unit.
- D. Interior Seating or Vending: Customer seating or vending inside the mobile vending unit is prohibited.
- E. Maximum Size: The mobile vending unit shall not exceed 200 square feet, measured by the outside dimensions of the unit. Attachments to the mobile vending unit that are supported entirely by the unit and do not touch the ground shall be excluded when calculating the square footage.
- F. Minimum Setbacks and Separation Distance: The mobile vending unit shall be located a minimum of:
  - 1. Five feet from any structure or another mobile vending unit;
  - 2. Ten feet from any front lot line, except in the RTC District in Government Camp, where the minimum front setback from a lot line abutting Government Camp Loop shall be four feet, and a corner lot with frontage on Government Camp Loop shall comply with a minimum front setback of 10 feet from the lot line abutting the other road; and
  - 3. Five feet from any side or rear lot line, except if such lot line abuts a residential zoning district, in which case the minimum shall be 15 feet.
- G. Structure Setbacks: Structures allowed under Subsection 837.05(B) shall comply with the setback standards of the zoning district in which the subject property is located.
- H. Hillsides, Trees and Wooded Areas, and Mass Movement Hazard Areas: The development shall be subject to Subsections 1002.01, 1002.03, and 1003.02, as applicable.
- I. Utilities: To the extent that utilities are desired by the applicant or required by applicable regulations, the mobile vending unit shall have self-contained utilities, or if onsite utility connections are proposed, such utilities shall be installed underground, except where prohibited by the utility district or company. Notwithstanding this requirement:
  - 1. If allowed by the utility district or company and any applicable Oregon Specialty Code, aboveground utility connections are permitted, when a mobile vending unit will remain on the subject property for no more than 120 days in a calendar year. For the purpose of this exception:
    - a. If a mobile vending unit is replaced by another, the number of days shall be calculated by adding the days spent onsite by each unit.

- b. If a mobile vending unit spends any portion of a day on the subject property, it shall count as one day.
- 2. If allowed by the utility district or company and the Oregon Electrical Specialty Code, aboveground power cords are permitted to connect the mobile vending unit to an approved electricity source.
- 3. If allowed by the utility district or company and the Oregon Plumbing Specialty Code, aboveground hoses are permitted to connect the mobile vending unit to an approved water source.
- J. Portable Sanitation Facilities: Portable toilets are prohibited unless they are connected to a sanitary sewer system or an on-site wastewater treatment system. Portable hand-washing facilities are permitted but may not drain to the surface.
- K. On-Site Wastewater Treatment Systems: Inside the Portland Metropolitan Urban Growth Boundary (UGB), Government Camp, Rhododendron, Wemme/Welches, Wildwood/Timberline, and Zigzag Village, on-site wastewater treatment systems are prohibited unless allowed by Subsection 1006.05(B).
- L. Lighting: Outdoor lighting shall be subject to Subsection 1005.0~~4~~<sup>5</sup>.
- M. Obstruction of Vehicular and Pedestrian Use Areas: Neither the mobile vending unit nor any elements associated with the mobile vending unit, such as aboveground power cords, seating areas, trash receptacles, signs, and customer queuing areas, shall occupy bicycle parking spaces, loading areas, driveways, onsite circulation drives, parking lot aisles, or walkways.
- N. Setback from Vehicular and Pedestrian Use Areas: Windows and doors used for service to customers shall be located a minimum of 10 feet from loading areas, driveways, onsite circulation drives, and parking lot aisles, and a minimum of five feet from bicycle parking spaces and walkways.
- O. Driveway Access: Approval of driveway access shall be subject to the Clackamas County Roadway Standards.
- P. Intersection Sight Distance and Roadside Clear Zones: The mobile vending unit and any attachments or accessory items or structures shall comply with the intersection sight distance and roadside clear zone standards of the Clackamas County Roadway Standards.

- Q. Surfacing: Inside the UGB, the mobile vending unit shall be placed on a hard-surfaced area, and any associated parking, loading, and maneuvering areas for vehicles shall be hard-surfaced unless a permeable surface is required for surface water management pursuant to the regulations of the surface water management authority. Outside the UGB, the mobile vending unit shall be placed on an area surfaced with screened gravel or better, and any associated parking, loading, and maneuvering areas for vehicles shall be surfaced with screened gravel or better and shall provide for suitable drainage.
- R. Drive-Thru Window Service: A mobile vending unit may include drive-thru window service only if drive-thru window service is a permitted accessory use in the zoning district in which the subject property is located. Drive-thru window service shall be subject to Section 827, *Drive-Thru Window Services*.
- S. Screening and Buffering: The proposed development shall be subject to the screening and buffering provisions of Subsection 1009.04.
- T. Obstruction of Existing Landscaping: The mobile vending unit shall not occupy landscaping areas approved as part of a prior design review or other land use application. Other elements associated with the mobile vending unit, such as seating areas, also shall not occupy such landscaping areas, unless such elements are permitted as pedestrian amenities under Subsection 1009.02(A)(9).
- U. Landscaping Requirements: If the subject property does not have a previously approved landscape plan, compliance with Subsections 1009.01(A) through (E), 1009.03(B), and 1009.10 shall be required.
- V. Signs: Signs are permitted pursuant to Section 1010, *Signs*.
- W. Off-Street Motor Vehicle Parking Spaces on a Developed Site: On a developed site, the mobile vending unit, attachments to the mobile vending unit, customer queuing areas, and portable accessory items may occupy existing off-street motor vehicle parking spaces, provided that such spaces are not simultaneously used for parking. A developed site is one that has previously received design review approval and where that approval has been implemented. In addition, no new off-street parking spaces are required. However, new structures may be located in existing off-street motor vehicle parking spaces only if such spaces are in excess of the minimum number required for existing development.
- X. Off-Street Motor Vehicle Parking Spaces on an Undeveloped Site: On an undeveloped site, a minimum of two off-street motor vehicle parking spaces per mobile vending unit is required. An undeveloped site is one that does not have an implemented design review approval.
- Y. Motor Vehicle Parking Area Standards: The development of new motor vehicle parking areas shall comply with Section 1015, *Parking and Loading*.

- Z. Solid Waste and Recycling Standards: A trash receptacle for customer use shall be maintained no more than 10 feet from the mobile vending unit. In addition, compliance with Section 1021, *Solid Waste and Recyclable Material Collection*, shall be required.
- AA. Skirting: Skirting shall be placed around the perimeter of the mobile vending unit.

837.06 LEVEL FOUR MOBILE VENDING UNITS

If a proposed mobile vending unit exceeds the standards of both a level two and a level three mobile vending unit, it may be approved as a level four mobile vending unit, subject to Sections 1000, *Development Standards*, and 1102, *Design Review*. In addition, compliance with Subsection 837.05 shall be required, except where a more restrictive standard is applicable pursuant to other provisions of this Ordinance.

837.07 APPROVAL PERIOD AND TIME EXTENSION

- A. A level two or three mobile vending unit approval is valid for 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, or the approval will become void. “Implemented” means all necessary County development permits shall be obtained and maintained for the approved development.
- B. If a level three mobile vending unit approval is not implemented within the initial approval period established by Subsection 837.07(A), a two-year time extension may be approved pursuant to Section 1310, *Time Extension*.
- C. A level four mobile vending unit approval is subject to the approval period and time extension provisions of Subsection 1102.05.

[Added by Ord. ZDO-231, 1/31/12; Amended by Ord. ZDO-245, 7/1/13; Amended by Ord. ZDO-248, 10/13/14; Amended by Ord. ZDO-268, 10/2/18]

**Summary of Proposed Amendments to Section 839, *Accessory Dwelling Units***

1. Update a citation to correctly reference Subsection 1005.11(A).

**839 ACCESSORY DWELLING UNITS**

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839.01 NUMBER ALLOWED

- A. Only one accessory dwelling unit shall be allowed per detached single-family dwelling or manufactured dwelling.
- B. No accessory dwelling unit shall be allowed in a cottage cluster development, or in a manufactured dwelling park, or accessory to a temporary dwelling approved pursuant to Section 1204, *Temporary Permits*.
- C. In the R-2.5 and VTH Districts, only one accessory dwelling unit shall be allowed per townhouse.

839.02 GENERAL STANDARD

Except in the VR-4/5, VR-5/7, and VTH Districts, the maximum floor area of an accessory dwelling unit shall be 900 square feet, except in the R-2.5 District, where the maximum shall be 500 square feet. In no case shall the floor area of an accessory dwelling unit be larger than that of the primary dwelling.

839.03 STANDARDS IN THE VR-4/5 AND VR-5/7 DISTRICTS

In the VR-4/5 and VR-5/7 Districts, accessory dwelling units shall comply with the following standards:

- A. An accessory dwelling unit either may be located above a detached garage, or it may be integral to a primary dwelling.
- B. If the accessory dwelling unit is located above a detached garage:
  - 1. The maximum floor area of the accessory dwelling unit shall be 900 square feet.
  - 2. The accessory dwelling unit shall be subject to the standards in Table 315-3, *Dimensional and Building Design Standards in the VR-5/7, VR-4/5, and VTH Districts*, that apply to accessory structures in the VR-4/5 and VR-5/7 Districts.
- C. If the accessory dwelling unit is integral to a primary dwelling, it shall be subject to the standards in Table 315-3 that apply to primary dwellings in the VR-4/5 and VR-5/7 Districts.

839.04 STANDARDS IN THE VTH DISTRICT

In the VTH District, accessory dwelling units shall comply with the following standards:

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- A. An accessory dwelling unit either may be located above a detached garage, or it may be integral to a primary dwelling.
- B. If the accessory dwelling unit is located above a detached garage:
  1. The maximum floor area of the accessory dwelling unit shall be 500 square feet.
  2. The accessory dwelling unit shall be subject to the dimensional standards in Table 315-3, *Dimensional and Building Design Standards in the VR-5/7, VR-4/5, and VTH Districts*, that apply to accessory structures in the VTH District.
- C. If the accessory dwelling unit is integral to a primary dwelling, it shall be subject to the standards in Table 315-3 that apply to primary dwellings in the VTH District and to Subsection 1005.1~~2~~(A).

[Added by Ord. ZDO-249, 10/13/14; Amended by Ord. ZDO-250, 10/13/14; Amended by Ord. ZDO-269, 9/6/18; Amended by Ord. ZDO-276, 10/1/20; Amended by Ord. ZDO-282, 7/1/22]

**Summary of Proposed Amendments to Section 845, Triplexes, Quadplexes, Townhouses, and Cottage Clusters**

1. Clarify that conversions of existing detached single-family dwellings with an attached accessory dwelling unit (ADU), and conversions of existing duplexes, into middle housing are exempt from certain standards required for new middle housing, provided the conversions do not add any building square footage to an existing structure.
2. Minor edits for clarity and consistency.



845 TRIPLEXES, QUADPLEXES, TOWNHOUSES, AND COTTAGE CLUSTERS

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845.01 GENERAL STANDARDS

- A. Minimum Lot Size: The subject lot shall be a minimum of:
1. 5,000 square feet for a triplex, except in the VR-4/5 and VR-5/7 Districts, where there is no minimum; and
  2. 7,000 square feet for a quadplex or a cottage cluster.
- B. Exemptions: Subsections 845.02 through 845.04 do not apply to middle housing created through a conversion of the following, provided the conversion does not add any building square footage to the existing structure:
1. ~~an~~An existing detached single-family dwelling; that does not add any building square footage to the existing dwelling.
  2. An existing detached single-family dwelling with an attached accessory dwelling unit; or
  3. An existing duplex.
- C. Prohibition: Development of triplexes, quadplexes, townhouses, and cottage clusters, either through new construction or through a conversion of a detached, single-family dwelling, is prohibited in the Floodplain Management District.

845.02 TRIPLEXES AND QUADPLEXES

Triplexes and quadplexes shall comply with the following standards:

- A. Windows: A minimum of 15 percent of the area of all street-facing facades shall include windows or entrance doors. Facades separated from a street by a dwelling are exempt from compliance with this standard (see Figure 845-1, *Window Coverage*).
- B. Entry Orientation: At least one external door that enters into a common room of the triplex or quadplex shall comply with the standards of Subsections 845.02(B)(1) and (2). Any triplex or quadplex for which more than 50 percent of its street-facing facade is separated from the street by a dwelling is exempt from meeting these standards.
1. The entrance shall be within eight feet of the longest street-facing wall of the dwelling unit; and
  2. The entrance shall either:
    - a. Face the street (see Figure 845-2, *Entrance Facing the Street*);

- b. Be at an angle of up to 45 degrees from the street (see Figure 845-3, *Entrance at 45-Degree Angle from the Street*);
- c. Face a common outdoor area that is adjacent to the street and is abutted by dwellings on at least two sides (see Figure 845-4, *Entrance Facing Common Outdoor Area*); or
- d. Open onto a porch (see Figure 845-5, *Entrance Opening onto a Porch*) that:
  - i. Is a minimum of 25 square feet in area; and
  - ii. Either has at least one entrance facing the street or has a roof.

C. Driveway Entries: Driveway entries shall comply with the following:

- 1. The total width of all driveway entries shall not exceed 32 feet.(see Figure 845-6, *Driveway Entry Width and Separation on Local Street*).
- 2. Driveway entries may be separated when located on a local street (see Figure 845-6). If entries are separated, they shall comply with the driveway spacing standards of the *Clackamas County Roadway Standards*.
- 3. Unless an exception is available under the *Clackamas County Roadway Standards*, lots of record with more than one street frontage shall access only the street with the lowest functional classification from which the lot has legal access. For lots abutting an improved alley that complies with Comprehensive Plan Figure 5-1e or 10-SV-6, access shall be taken only from the alley.

D. Garages and Off-Street Parking Areas: Garages and off-street parking areas shall not be located between a building and a public street (other than an improved alley that complies with Comprehensive Plan Figure 5-1e or 10-SV-6), except in compliance with Subsections 845.02(1) and (2).

- 1. The garage or off-street parking area is separated from the street by a dwelling; or
- 2. The combined width of all garages and off-street parking areas located between a building and a public street does not exceed a total of 50 percent of the street frontage (see Figure 845-7, *Width of Garages and Parking Areas*)

845.03 TOWNHOUSES

Townhouses shall comply with the following standards:

- A. Setbacks: No minimum side setbacks shall be required from any side lot line where two townhouses share a common wall. No minimum rear setbacks shall be required from any rear lot line where two townhouses share a common wall.

- B. Entry Orientation: At least one external door that enters into a common room of each townhouse shall:
1. Be within eight feet of the longest street-facing wall of the dwelling unit, if the lot has public street frontage; and
  2. Either:
    - a. Face the street (see Figure 845-2, *Entrance Facing the Street*);
    - b. Be at an angle of up to 45 degrees from the street (see Figure 845-3, *Entrance at 45-Degree Angle from the Street*);
    - c. Face a common open space or access drive or driveway that is abutted by dwellings on at least two sides (see Figure 845-4, *Entrance Facing Common Outdoor Area*); or
    - d. Open onto a porch (see Figure 845-5, *Entrance Opening onto a Porch*) that:
      - i. Is a minimum of 25 square feet in area; and
      - ii. Either has at least one entrance facing the street or has a roof.
- C. Unit Definition: Each townhouse shall include at least one of the following on at least one street-facing facade (see Figure 845-8, *Townhouse Unit Definition*):
1. A roof dormer a minimum of four feet in width;
  2. A balcony a minimum of two feet in depth and four feet in width and accessible from an interior room;
  3. A bay window that extends from the facade a minimum of two feet;
  4. An offset of the facade of a minimum of two feet in depth, either from the neighboring townhouse or within the facade of a single townhouse;
  5. An entryway that is recessed a minimum of three feet;
  6. A covered entryway with a minimum depth of four feet; or
  7. A porch meeting the standards of Subsection 845.03(B)(2)(d).
- D. Windows: A minimum of 15 percent of the area of all street-facing facades on each townhouse shall include windows or entrance doors. Fifty percent of the window area in the door of an attached garage may count toward meeting this standard. (see Figure 845-1, *Window Coverage*)

- E. Driveway Access and Parking: Townhouse lots with frontage on a public street shall comply with the following standards:
1. Attached garages, off-street parking areas, and driveways are allowed to be located between a townhouse and a public street if they meet the following standards:
    - a. Each townhouse lot for which the parking is being provided between a townhouse and a public street shall have a minimum of 15 feet of street frontage on a local street.
    - b. A maximum of one driveway entry shall be allowed for each townhouse.
    - c. Driveways and off-street parking areas shall not exceed 12 feet wide.
    - d. The garage width shall not exceed 12 feet, as measured from the inside of the garage door frame.
  2. The following standards apply to driveways and parking areas for townhouse developments that do not comply with all of the standards in Subsection 845.03(E)(1).
    - a. Off-street parking areas shall not be located between a townhouse and a public street.
    - b. Townhouse developments shall consolidate access for all lots into a single driveway. The driveway and entry are not allowed in the area directly between a townhouse and the front lot line (see Figures 845-9, *Townhouses on Corner Lot with Consolidated Access*, and 845-10, *Townhouses with Consolidated Access*).
    - c. A townhouse development that includes consolidated access shall grant access easements for shared and emergency vehicle access.
  3. Townhouse developments in which all townhouses take exclusive access from an improved alley that complies with Comprehensive Plan Figure 5-1e or 10-SV-6 are exempt from Subsection 845.03(E)(2).

845.04 COTTAGE CLUSTERS

Cottage clusters shall comply with the following standards:

- A. Cluster Size: Dwelling units shall be developed in clusters of four to nine per cluster sharing a common courtyard.
- B. Development Size: A lot of record may contain more than one cottage cluster.

- C. Maximum Ground Floor Area: The maximum ground floor area of each dwelling shall be 900 square feet.
- D. Garages: Each dwelling may have a maximum of 200 square feet for an attached garage that is not included in the maximum ground floor area permitted pursuant to Subsection 845.04(C). Any additional garage square footage shall be deducted from the maximum ground floor area. Dwellings may have detached garages.
- E. Maximum Average Floor Area: The average floor area of all dwellings in a cottage cluster development shall not exceed 1,400 square feet. For the purpose of this provision, floor area of a dwelling includes the area of any attached garage. If the cottage cluster development includes community buildings, the community buildings shall be included in the average floor area calculation.
- F. Maximum Detached Accessory Building Floor Area: 400 square feet per building, except as provided under Subsections 845.04(E) and 845.04(L) for a community building.
- G. Minimum Setbacks: The minimum front and rear setbacks are 10 feet. The minimum side setback is five feet.
- H. Minimum Separation Distance: The minimum distance between dwellings is six feet.
- I. Maximum Lot Coverage: There is no maximum lot coverage for a cottage cluster development.
- J. Dwelling Orientation: Dwellings in a cottage cluster shall comply with the following standards (see Figure 845-11, *Cottage Cluster Orientation and Courtyard Standards*):
  - 1. Each dwelling shall either abut the common courtyard or else it shall have a door that enters into a common room of the dwelling connected to a walkway leading to the common courtyard.
  - 2. A minimum of 50 percent of dwellings within a cluster shall:
    - a. Have a door that enters into a common room of the dwelling and faces the common courtyard;
    - b. Be within 10 feet of the common courtyard, as measured from a façade of the dwelling to the nearest edge of the common courtyard; and
    - c. Be connected to the common courtyard by a walkway.
- K. Common Courtyard Design Standards: Each common courtyard shall comply with the following standards (see Figure 845-11):

1. The common courtyard shall be a single, contiguous piece. The courtyard shall be a minimum of 15 feet wide at its narrowest dimension. A “single, contiguous piece” may include a courtyard that is divided by gardens or a pathway.
  2. Dwellings shall abut more than one side of the courtyard, unless the courtyard is rounded. If the courtyard is rounded, dwellings shall abut a minimum of 50 percent of the perimeter of the courtyard.
  3. The common courtyard shall contain a minimum of 150 square feet per dwelling within the associated cluster, as described in Subsection 845.04(A).
  4. The common courtyard shall be developed with a hard-surfaced walkway, landscaping, and a minimum of one of the following: recreational amenities, a patio, seating, or a gazebo. Impervious elements and recreational amenities of the common courtyard shall not exceed 75 percent of the total common courtyard area.
  5. The courtyard shall include a walkway. Walkways on the perimeter of or crossing the courtyard shall count toward the courtyard’s minimum dimensions and area. Parking areas, required setbacks, and driveways do not qualify as part of a common courtyard.
- L. Community Buildings: Cottage clusters may include a community building for the shared accessory uses of the cottage cluster’s residents and their guests. Community buildings shall comply with the following standards:
1. Each cottage cluster is permitted one community building.
  2. The community building shall not be used as a dwelling.
- M. Pedestrian Access: A hard-surfaced walkway a minimum of five feet wide shall connect a door that enters into a common room of each dwelling in a cottage cluster to the following:
1. The common courtyard;
  2. Any shared parking areas;
  3. The community building, if the cottage cluster contains a community building; and
  4. Sidewalks abutting the site, or roadways abutting the site if there are no sidewalks.

N. Parking Design:

1. Off-street motor vehicle parking shall be subject to the following standards:
    - a. Developments with 15 or fewer dwellings shall not have more than five contiguous spaces.
    - b. Developments with 16 or more cottages shall not have more than eight contiguous spaces.
    - c. Each group of contiguous parking spaces shall be separated from any other group of parking spaces serving a cottage cluster development by landscaping that is a minimum of four feet wide.
  2. Off-street motor vehicle parking spaces and motor vehicle maneuvering areas, except driveways, shall not be located:
    - a. Within 10 feet of a front lot line, except from a front lot line that separates the lot from an improved alley that complies with Comprehensive Plan Figure 5-1e or 10-SV-6; or
    - b. Between a front lot line and the front facade of the dwelling(s) located closest to the front lot line, except from a front lot line that separates the lot from an alley.
  3. Off-street motor vehicle parking spaces shall not be located within 10 feet of rear or side lot lines, except a lot line that separates the lot from an improved alley that complies with Comprehensive Plan Figure 5-1e or 10-SV-6. Motor vehicle maneuvering areas are permitted within 10 feet of rear or side lot lines.
  4. Garages and carports:
    - a. Detached garages or carports shall be separated from other detached garages or carports by a minimum of six feet.
    - b. The maximum width of each garage door is 20 feet.
  5. Screening: Landscaping, fencing, or walls, any of which shall be a minimum of three feet high, shall separate the off-street parking areas, garages, and carports from all common courtyards in the cottage cluster development.
- O. Existing Structures: On a lot of record to be developed with a cottage cluster, an existing lawfully established detached single-family dwelling may remain within the cottage cluster under the following conditions:
1. An existing dwelling that exceeds the maximum footprint; ~~and~~/or unit size of Subsections 845.04(C) through (E) may not be expanded.

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2. The floor area of the existing dwelling shall not count towards the maximum average floor area of dwellings in a cottage cluster development calculated pursuant to Subsection 845.04(E).
3. The existing dwelling shall be excluded from the calculation of orientation toward the common courtyard in Subsection 845.04(J).

[Added by Ord. ZDO-282, 7/1/22]



Figure 845-1: Window Coverage



Figure 845-2: Entrance Facing the Street

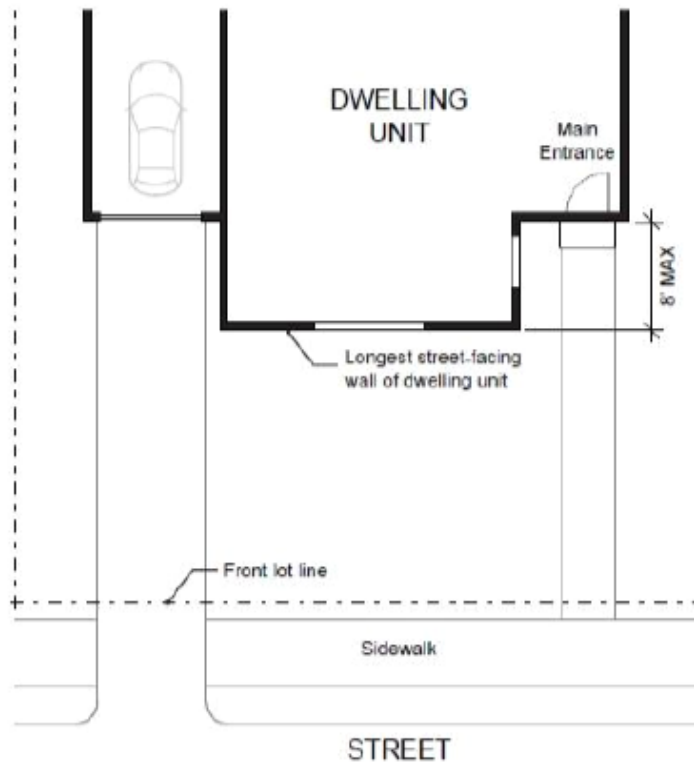


Figure 845-3: Entrance at 45-Degree Angle from the Street

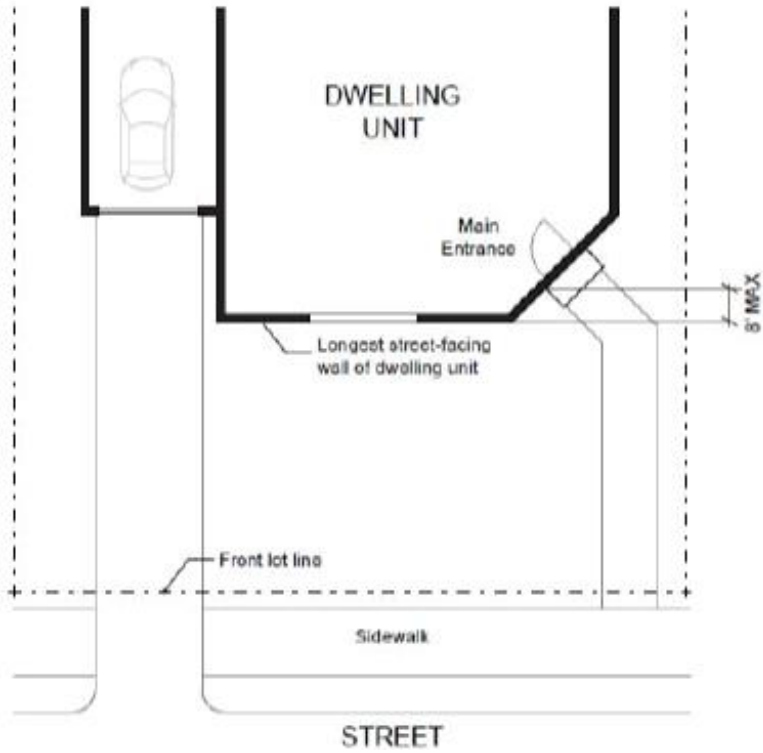


Figure 845-4: Entrance Facing Common Outdoor Area

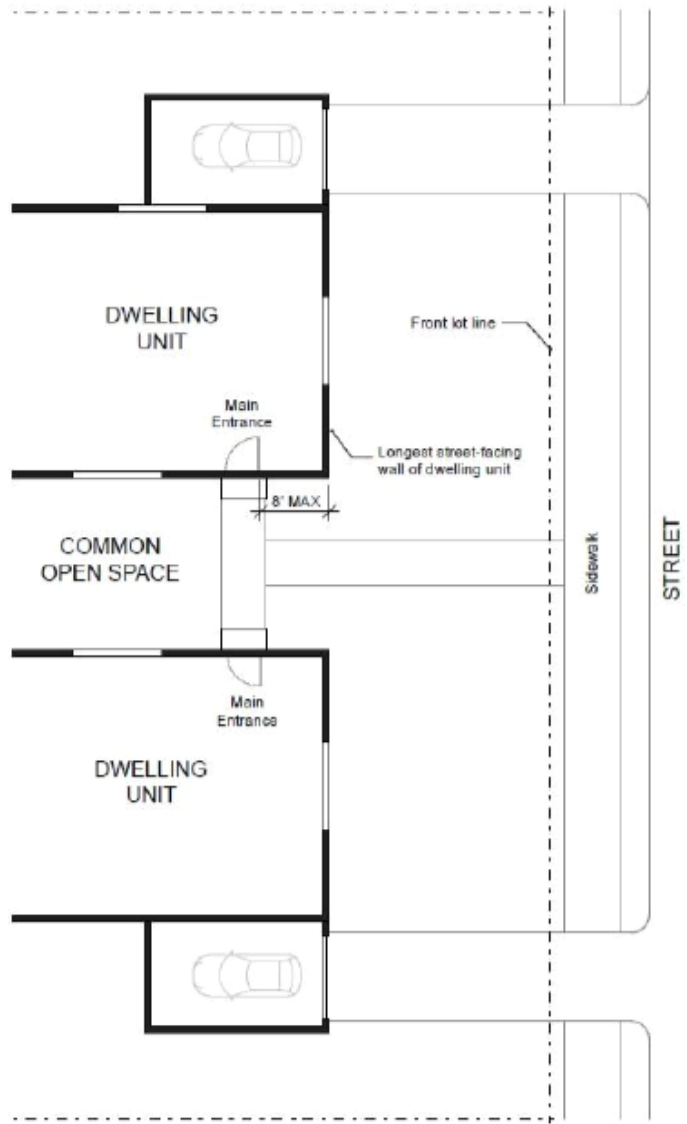


Figure 845-5: Entrance Opening onto a Porch

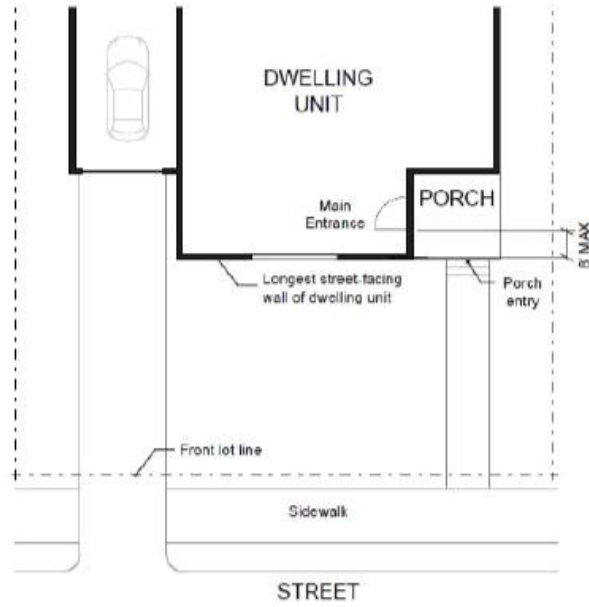
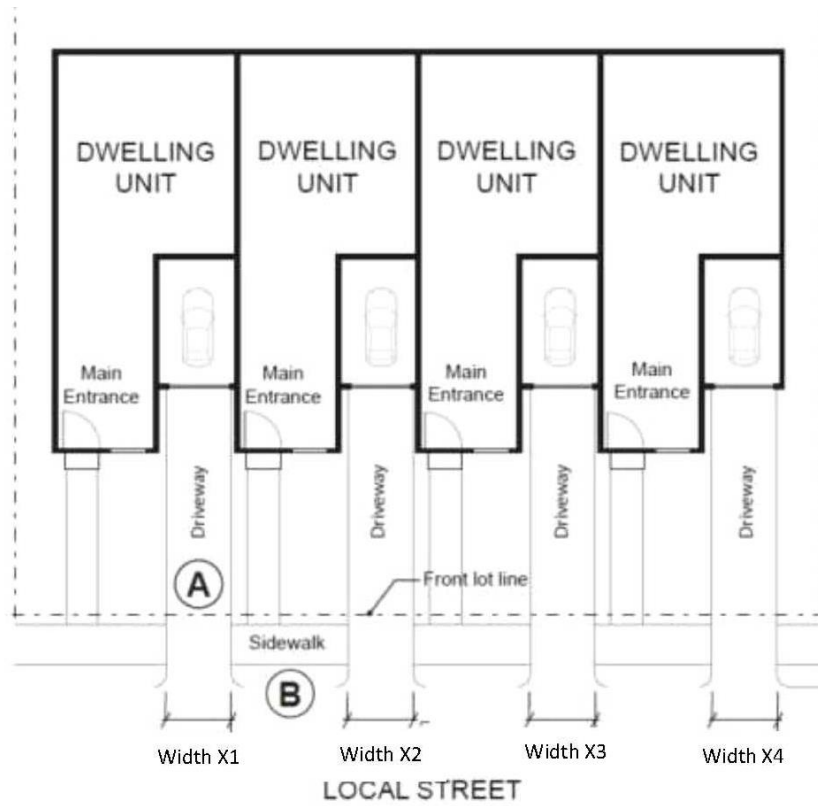
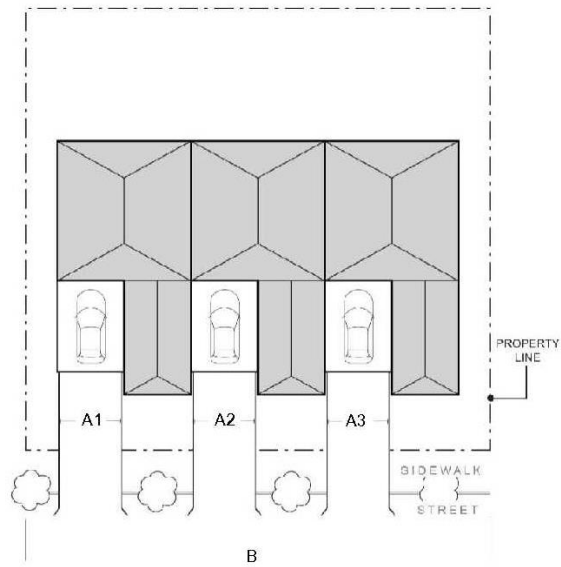


Figure 845-6: Driveway Entry Width and Separation on Local Street



- A**  $X1 + X2 + X3 + X4$  must not exceed 32 feet per frontage
- B** Driveway approaches may be separated when located on a local street

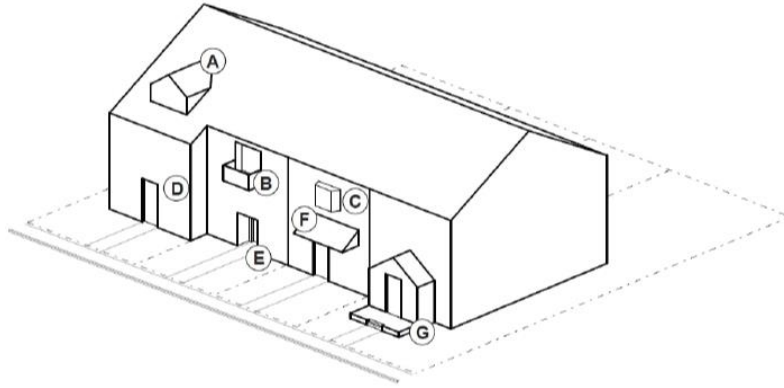
Figure 845-7: Width of Garages and Parking Areas



- (A) Garage and on-site parking and maneuvering areas
- (B) Total street frontage

$$\frac{A1+A2+A3}{B} \leq 50\%$$

Figure 845-8: Townhouse Unit Definition



- (A) Roof dormer, minimum of 4 feet wide
- (B) Balcony, minimum 2 feet deep and 4 feet wide. Accessible from interior room.
- (C) Bay window extending minimum of 2 feet from facade
- (D) Facade offset, minimum of 2 feet deep
- (E) Recessed entryway, minimum 3 feet deep
- (F) Covered entryway, minimum of 4 feet deep
- (G) Porch, meets standards of subsection (1)(b)(iv) of section (C)

Figure 845-9: Townhouses on Corner Lot with Consolidated Access

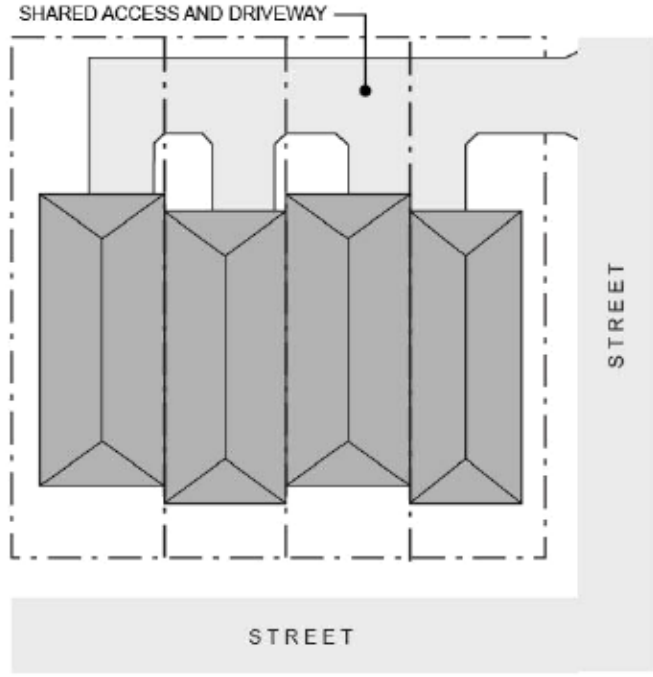


Figure 845-10: Townhouses with Consolidated Access

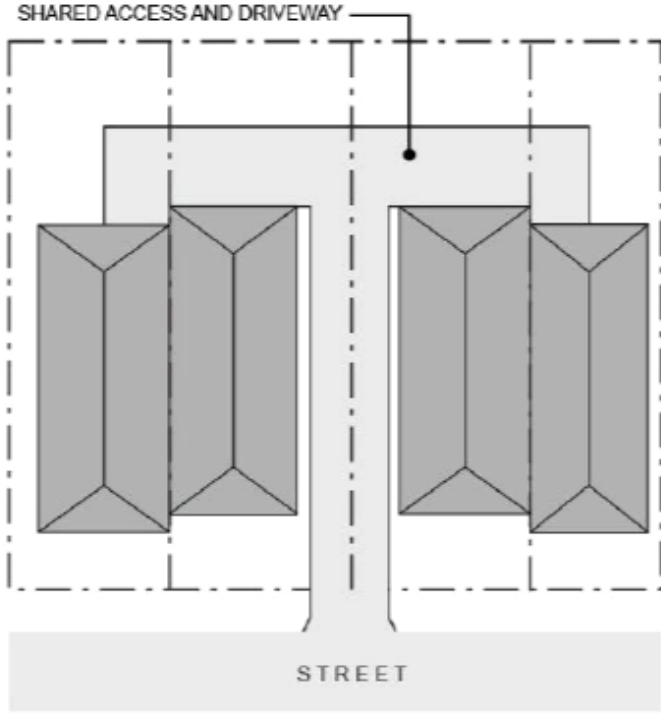
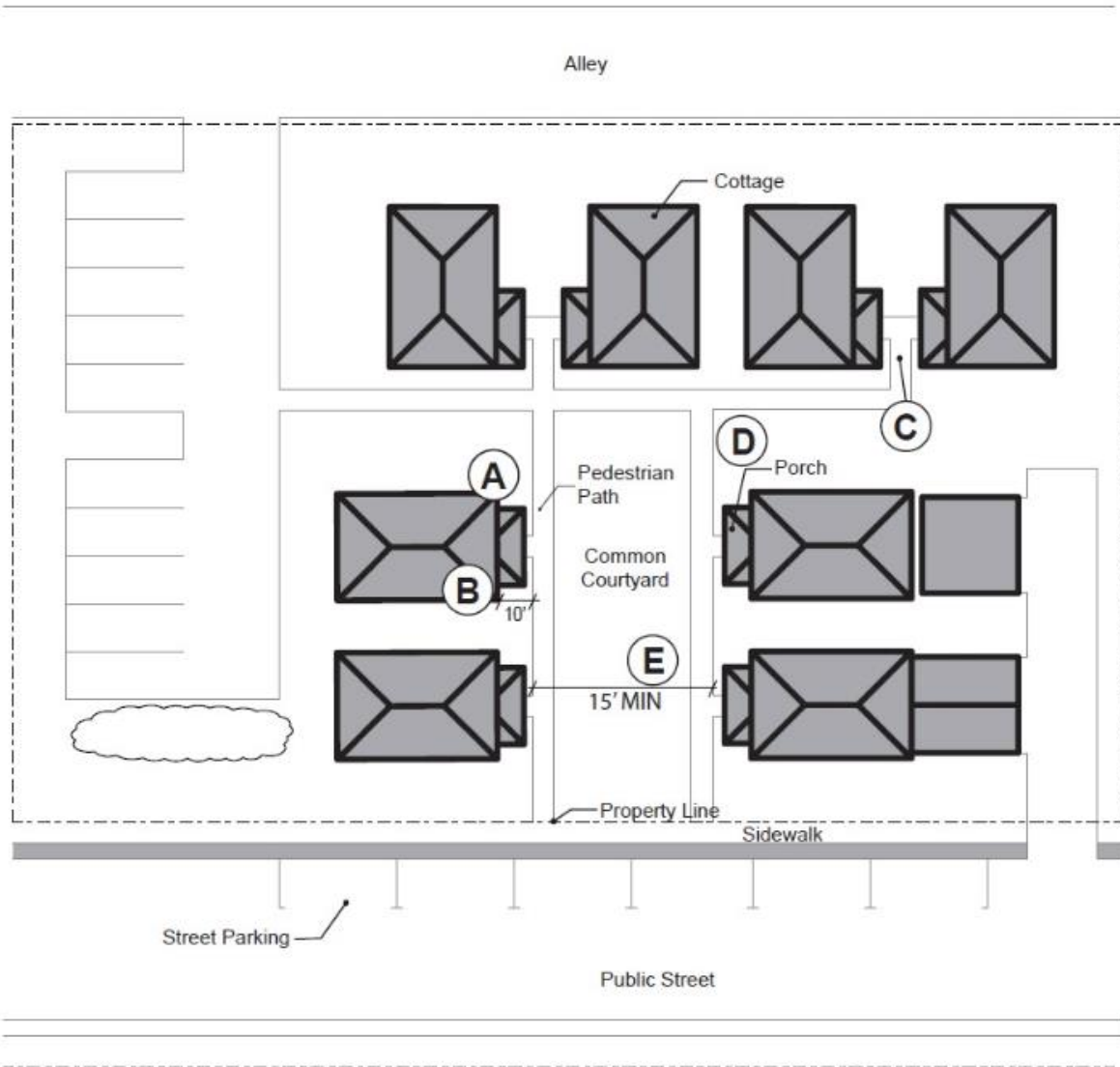




Figure 845-11: Cottage Cluster Orientation and Courtyard Standards



- (A)** A minimum of 50% of cottages must be oriented to the common courtyard.
- (B)** Cottages oriented to the common courtyard must be within 10 feet of the courtyard.
- (C)** Cottages must be connected to the common courtyard by a pedestrian path.
- (D)** Cottages must abut the courtyard on at least two sides of the courtyard.
- (E)** The common courtyard must be at least 15 feet wide at its narrowest width.

**Summary of Proposed Amendments to Section 1005, *Site and Building Design***

1. Correct citations.
2. Minor edits for clarity and consistency.

**1005 SITE AND BUILDING DESIGN**

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1005.01 PURPOSE

Section 1005 is adopted to ensure sites are developed and buildings designed to:

- A. Efficiently utilize the land used in development, particularly urban land in centers, corridors, station communities and employment areas;
- B. Create lively, safe, attractive and walkable centers, corridors, station communities, employment areas and neighborhoods;
- C. Support the use of non-auto modes of transportation, especially pedestrian trips to and between developments;
- D. Support community interaction by creating lively, safe and attractive public use spaces within developments and on the street;
- E. Reduce impacts of development on natural features and vegetation;
- F. Utilize opportunities arising from a site’s configuration or natural features;
- G. Encourage use of green building technologies and green site development practices, energy conservation and use of renewable energy resources;
- H. Design illumination so that dark skies are maintained to the extent possible, balanced with the lighting needs of safe and functional developments; and
- I. Accommodate the needs of the users to be located in developments.

1005.02 GENERAL SITE DESIGN STANDARDS

The following site design standards apply:

- A. Where feasible, cluster buildings within single and adjacent developments for efficient sharing of walkways, on-site vehicular circulation, connections to adjoining sites, parking, loading, transit-related facilities, plazas, recreation areas, and similar amenities.
- B. Where feasible, design the site so that so that the longest building elevations can be oriented within 20 degrees of true south in order to maximize the south-facing dimensions.
- C. Minimum setbacks may be reduced by up to 50 percent as needed to allow improved solar access when solar panels or other active or passive solar use is incorporated into the building plan.
- D. A continuous, interconnected on-site walkway system meeting the following standards shall be provided.

1. Walkways shall directly connect each building public entrance accessible to the public to 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 1005.02(D)(6), walkway linkages to adjacent development shall not be required within industrial developments, to industrial developments, or to vacant industrially zoned land.
- E. Inside the UGB, except for industrial developments, a minimum of 50 percent of the street frontage of the development site shall have buildings located at the minimum front ~~yard depth~~setback line.
- 1. If the minimum front ~~yard depth~~setback standard is less than 20 feet, the front ~~yard depth~~setback may be increased to a maximum of 20 feet provided pedestrian amenities are developed within the ~~yard~~front setback area.
  - 2. Primary building entrances for buildings used to comply with Subsection 1005.02(E), shall:
    - a. Face the street;
    - b. Be located at an angle facing both the street and a parking lot; or
    - c. Be located to the side of the building, provided that the walkway connecting to the street is a minimum of eight feet wide and is developed with landscaping and pedestrian amenities.
  - 3. If a development has frontage on more than one street, Subsection 1005.02(E) must be met on only one frontage, as follows:
    - a. If one of the streets is a major transit street, the standard shall be met on that street.
    - b. If neither or both are a major transit street, then the standard shall be met on the street with the higher functional classification.
    - c. If neither 1005.02(E)(3)(a) or (b) applies, then the standard shall be met on the longest frontage.
- F. Inside the UGB, parking lots larger than three acres in size shall be built with 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.

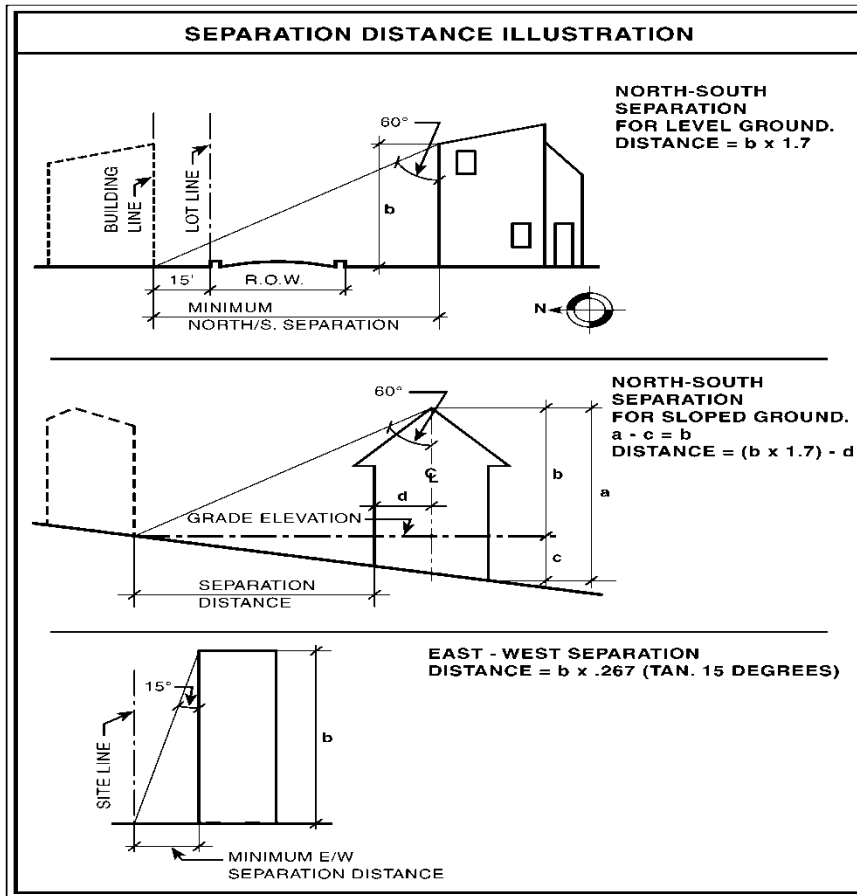
1. A private street used to meet the standards in Subsection 1005.02(G) must have raised walking surfaces on both sides, street trees, curbs, and pedestrian-scale street lighting, and must connect at both ends to an existing or proposed street.
  2. If a development has frontage on more than one major transit street, this orientation requirement needs to be met on only one side.
  3. The public entrance orientation requirement does not apply to warehouses or industrial buildings with less than 5,000 square feet of attached offices.
- H. New retail, office, mixed use, multifamily, and institutional buildings located at a major transit stop shall be set back a maximum of 20 feet from at least one of the following: the major transit stop, the major transit street or an intersecting street, or a pedestrian plaza at the major transit stop or a street intersection.
1. For the purpose of Subsection 1005.02(H), a building is located at a major transit stop, if:
    - a. The building is located on a lot that has frontage on the major transit street or an intersecting street; and
    - b. Any portion of the building is within a 200-foot radius of the major transit stop.
  2. Lawfully established buildings that do not comply with the maximum setback standard may have additional height added as an expansion without being brought into conformance with the standard.
  3. The maximum setback standard does not apply to warehouses or industrial buildings with less than 5,000 square feet of attached offices.
- I. In the PMU District, there shall be no vehicular parking or circulation within the front ~~yard~~-setback area.
- J. In the OC District, the design and siting of structures shall control public access points into office buildings, utilizing a central lobby design, entrance courtyard, internal pedestrian walkway or mall, or similar designs that protect business/professional uses from the disturbances of direct public access.
- K. Where a minimum floor area ratio (FAR) is required by the standards of the applicable zoning district, it shall be calculated as follows:
1. Calculate the building floor area by determining the square footage of all buildings in the proposed development, including:
    - a. Gross floor area of all commercial structures (except parking structures), including storage and mechanical equipment;

- b. Square footage of commercial uses in a parking structure; and
    - c. Square footage of the footprint of a multifamily residential structure.
  2. Calculate the net site area by subtracting from the gross site area the following:
    - a. Right-of-way dedications;
    - b. Off-road (except sidewalks) trails, bikeways, or multi-purpose trails;
    - c. Stormwater detention facilities;
    - d. Design elements (plazas, greenways, transit stations, etc.);
    - e. Parks;
    - f. Civic spaces;
    - g. Stream buffers;
    - h. Wetlands; and
    - i. 100-year floodplain (undeveloped portion)
  3. Divide the building floor area by the net site area. The result is the FAR. For example, if the building floor area is 20,000 square feet and the net site area is 40,000 square feet, the FAR is 0.5.
- L. The following standards apply in the HDR, RCHDR, and SHD Districts:
  1. The minimum distance on a north-south axis between any building and a site area line north of said building shall be the horizontal distance calculated by drawing a 60-degree angle line from the top of the structure to the natural ground elevation north of the structure. For purposes of this provision, the "top of the structure" shall be that part of projection of the structure which first intersects a 60-degree angle line projecting toward the ground north of the building. (See Figure 1005-0.) This provision shall be modified as follows:
    - a. Intervening streets and 15 feet of setback into the property on the north side of said street may be included in the required separation distance.
    - b. If an area on the adjacent site north of a proposed structure is developed or committed for use as a circulation drive or parking structure or lot, that area may be included in the required separation distance, provided no existing or proposed primary use structure on the adjacent site shall fall within the required separation distance.





Figure 1005-0: Separation Distance Illustration



5. The standards of Subsection 1005.02(L) are not subject to modification pursuant to Section 904, *Height Exceptions*. However, these standards may be modified if the modification requested is necessary to allow development of primary uses at densities allowed for the site area.

1005.03 BUILDING DESIGN

- A. The following standards apply to building facades visible from a public or private street or accessway and to all building facades where the primary entrance is located.
  1. Building facades shall be developed with architectural relief, variety and visual interest and shall avoid the effect of a single, long or massive wall with no relation to human size. Examples of elements that subdivide the wall: change in plane, texture, masonry pattern or color, or windows.
  2. Building facades shall have particular architectural emphasis at entrances and along sidewalks and walkways.

3. Provide visual interest through use of articulation, placement and design of windows and entrances, building trim, detailing, ornamentation, planters, or modulating building masses.
4. Utilize human scale, and proportion and rhythm in the design and placement of architectural features.
5. Use architectural features which are consistent with the proposed use of the building, level and exposure to public view, exposure to natural elements, and ease of maintenance.
6. When uses between ground-level spaces and upper stories differ, provide differentiation through use of bays or balconies for upper stories, and awnings, canopies, trim, and other similar treatments for lower levels.

B. Requirements for building entries:

1. Public entries shall be clearly defined, highly visible, and sheltered with an overhang or other architectural feature, with a depth of at least four feet.
2. Commercial, mixed-use and institutional buildings sited to comply with 1005.02(E) shall have public entries that face streets and are open to the public during all business hours.

C. The street-facing facade of commercial, mixed-use and institutional buildings sited to comply with 1005.02(E) shall meet the following requirements:

1. Facades of buildings shall have transparent windows, display windows, entry areas, or arcades occupying a minimum of 60 percent of the first floor linear frontage.
2. Transparent windows shall occupy a minimum of 40 percent of the first floor linear frontage. Such windows shall be designed and placed for viewing access by pedestrians.
3. For large-format retail buildings greater than 50,000 square feet, features to enhance the pedestrian environment, other than transparent window, may be approved through design review. Such items may include, but are not limited to display cases, art, architectural features, wall articulation, landscaping, or seating, provided they are attractive to pedestrians, are built to human scale, and provide safety through informal surveillance.

D. Requirements for roof design:

1. For buildings with pitched roofs:
  - a. Eaves shall overhang at least 24 inches.

b. Roof vents shall be placed on the roof plane opposite the primary street.

2. For buildings, other than industrial buildings, with flat roofs or without visible roof surfaces, a cornice or other architectural treatment shall be used to provide visual interest at the top of the building.

E. Requirements for exterior building materials:

1. Use architectural style, concepts, colors, materials, and other features that are compatible with the neighborhood's intended visual identity.
2. Building materials shall be durable and consistent with the proposed use of the building, level and exposure to public view, exposure to natural elements, and ease of maintenance.
3. Walls shall be surfaced with brick, tile, masonry, stucco, stone or synthetic equivalent, pre-cast masonry, gypsum reinforced fiber concrete, wood lap siding, architecturally treated concrete, glass, wood, metal, or a combination of these materials.
4. The surfaces of metal exterior building materials that are subject to rust or corrosion shall be coated to inhibit such rust and corrosion, and the surfaces of metal exterior building materials with rust or corrosion shall be stabilized and coated to inhibit future rust and corrosion.

F. Additional building design requirements for multifamily dwellings and middle housing, except middle housing developed pursuant to Section 845, Triplexes, Quadplexes, Townhouses, and Cottage Clusters:

1. Facades of buildings that are two or more stories in height shall have a minimum of one balcony or bay per four dwelling units.
2. Windows shall be frequent and coordinate with bays and balconies.
3. Where feasible, place the buildings to minimize the potential of windows facing directly toward primary living areas of other dwelling units.
4. For buildings that are one or two stories in height, roofs shall be hipped, gambrel, or gabled to provide visual interest. Flat roofs shall be allowed in areas of these buildings where mechanical equipment is mounted or where they are used for roof gardens or other outdoor activities.
5. For multifamily developments, convenient areas shall be provided for storage of articles such as bicycles, barbecues, and outdoor furniture. These areas shall be completely enclosed and easily accessible to respective dwelling units.

G. Requirements to increase safety and surveillance:

1. Locate buildings and windows to maximize potential for surveillance of entryways, walkways, and parking, recreation, and laundry areas.
2. Provide adequate lighting for entryways, walkways, and parking, recreation, and laundry areas.
3. Locate parking and automobile circulation areas to permit easy police patrol.
4. Design landscaping to allow for surveillance opportunities.
5. Locate mail boxes where they are easily visible and accessible.
6. Limit fences, walls and, except for trees, landscaping between a parking lot and a street to a maximum of 30 inches in height.
7. Locate play areas for clear parental monitoring.

H. Solar access requirements:

1. Except for uses with greater cooling needs than heating needs, such as many retail uses, concentrate window areas on the south side of buildings (within 20 degrees of due south) where there is good southern exposure.
2. Provide overhangs, balconies, or other shading devices to prevent excessive summer heat gains.
3. Use architectural features, shape of buildings, fences, natural landforms, berms, and vegetation to catch and direct summer breezes for natural cooling, and minimize effects of winter winds.

I. Requirements for compatibility with the intent of the design type or with the surrounding area. For purposes of Subsection 1005.03(I), design types are Centers, Station Communities or Corridor Streets as identified on Comprehensive Plan Map IV-8, *Urban Growth Concept*; X-CRC-1, *Clackamas Regional Center Area Design Plan, Regional Center, Corridors and Station Community*; X-SC-1, *Sunnyside Corridor Community Plan, Community Plan Area and Corridor Design Type Location*; or X-MC-1, *McLoughlin Corridor Design Plan, Design Plan Area*. The intent of these design types is stated in Chapter 4 or 10 of the Comprehensive Plan.

1. Use shapes, colors, materials, textures, lines, and other architectural design features that enhance the design type area and complement the surrounding area and development.

2. Use colors, materials, and scale, as appropriate, to visually connect building exteriors to adjoining civic/public spaces such as gateways, parks, plazas, and transit stations.
  3. Use building orientation and physical design, including setbacks and modulations, to ensure a development is compatible with other activities onsite, nearby properties, intended uses, and the intent of the design type.
  4. Orient loading and delivery areas and other major service activity areas of the proposed project away from existing dwellings. Loading areas shall be located to the side or rear of buildings unless topography, natural features, rail service, or other requirements of this Ordinance dictate ~~front-yard~~ loading bays to the front of buildings.
  5. In industrial zoning districts, site areas used for vehicular operations, outdoor storage, and outdoor processing to minimize the impacts on adjacent dissimilar uses.
  6. Inside the Portland Metropolitan Urban Growth Boundary, use colors, materials and architectural designs to visually reduce the impact of large buildings.
  7. In unincorporated communities, design structures to reflect and enhance the local character and to be in scale with surrounding development.
  8. In rural and natural resource areas, use materials, colors and shapes that imitate or complement those in the surrounding areas, such as those used in typical farm structures.
  9. In open space or scenic areas, use natural color tones, lines, and materials which blend with the natural features of the site or site background.
- J. Requirements for screening mechanical equipment:
1. Rooftop mechanical equipment, except for solar energy systems, shall be screened from view by the use of parapet walls or a sight-obscuring enclosure around the equipment. The screen shall be constructed of one of the primary materials used on the primary facades, and shall be an integral part of the building's architectural design.
  2. Ground mounted mechanical equipment shall be located away from the intersection of two public streets, to the extent practicable, and shall be screened by ornamental fences, screening enclosures, or landscaping that blocks at least ~~80%~~ percent of the view.

3. Wall mounted mechanical equipment shall not be placed on the front of a building or on a facade that faces a street. Wall mounted mechanical equipment that extends six inches or more from the outer building wall shall be screened from view from the streets; from residential, public, and institutional properties; and from public areas of the site or adjacent sites through one of the screening techniques used in Subsection 1005.03(J)(1) or (2).

K. Requirements for specialized structures in industrial zoning districts:

1. In the GI District, silos, towers, and other specialized storage or processing 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 1005.03, or if such structures have the following characteristics:
  - a. Provide windows and canopies, awnings, wood or masonry siding, or other exterior treatment to highlight accessory office areas within the same building, when applicable;
  - b. Use exterior colors which blend with the landscape, such as brown, green, tan, or, in the case of tall structures, such as silos or towers, use light colors that blend with the sky; and
  - c. Do not use bright colors, white, or multiple colors, except as specifically approved pursuant to Section 1102 for trim, accents, or to provide visual interest to equipment or structures that are unique to the particular use.
2. In the BP and LI Districts, silos, towers, and other specialized storage or processing structures are prohibited unless they are enclosed in a building that complies with the other applicable standards of Subsection 1005.03, or unless they are approved as part of a conditional use.

L. Facades in the OA District: In the OA District, facades are subject to the following standards:

1. Building facades facing public streets shall be designed with windows and entries or bays. Sides or rears of buildings shall not consist of an undifferentiated wall when facing a public street, accessway, or a residential area.
2. Arcades are encouraged along public street rights-of-way or along walkways within the complex of buildings.
3. Consistent design elements shall be used throughout the office area to ensure that the entire complex is visually and functionally unified.

1005.04 OUTDOOR LIGHTING

A. Outdoor lighting devices:

1. Shall be architecturally integrated with the character of the associated structures, site design, and landscape.
2. Shall not direct light skyward.
3. Shall direct downward and shield light; or direct light specifically toward walls, landscape elements, or other similar features, so that light is directed within the boundaries of the subject property;
4. Shall be suitable for the use they serve; (e.g. bollard lights along walkways, pole mounted lights for parking lots);
5. Shall be compatible with the scale and intensity of uses they are serving. ~~Height~~ The height of pole-mounted fixtures shall not exceed 25 feet or the height of the tallest structure onsite, whichever is less; and
6. At entrances, shall be glare-free. Entrance lighting may not exceed a height of 12 feet and must be directed downward.

B. The following are exempt from Subsection 1005.04(A):

1. Temporary lights used for holiday decorations;
2. Street lights regulated in Section 1006, *Utilities, Street Lights, Water Supply, Sewage Disposal, Surface Water Management, and Erosion Control*; and
3. Lighting associated with outdoor recreation uses such as ball fields or tennis courts.

1005.05 ADDITIONAL REQUIREMENTS

Development shall comply with a minimum of one of the following techniques per 20,000 square feet of site area. Regardless of site size, a minimum of one and a maximum of five techniques are required. Partial site area numbers shall be rounded.

A. Install a solar energy system in the development.

B. Use passive solar heating or cooling techniques to reduce energy consumption.  
Examples of techniques:

1. Modulate building masses to maximize solar access.
2. For developments with more than one structure, locate taller structures to minimize negative impacts on solar access for the development site and adjacent sites.

3. Locate buildings to maximize windbreaks.
  4. Locate structures and landscaping to avoid winter shading on the south side and optimize summer shading on the west and southwest sides of buildings.
  5. Utilize deciduous trees to provide summer shade and allow winter sun.
  6. Utilize deciduous vines on fences, trellises, and arbors to provide summer shade.
  7. Locate and form berms to protect buildings and exterior use spaces against winter winds or utilize dense evergreens or conifers to screen winter wind and protect against hostile winter elements.
  8. Provide skylights or clerestory windows to provide natural lighting, and/or solar heating of interior spaces.
- C. Use highly reflective (high albedo) materials on roof surfaces.
- D. Place major outdoor use areas such as plazas, playgrounds, gardens, etc. on the south side of buildings.
- E. Construct a minimum of 75 percent of walkway area of porous pavement.
- F. Construct a minimum of 75 percent of all parking spaces with porous pavement.
- G. Provide additional landscaping area at least 10 percent above the requirements for the site pursuant to Table 1009-1, *Minimum Landscaped Area*. For example, if the minimum area requirement is 20 percent, then 22 percent shall be provided. Credit shall be given for green roofs or other areas of vegetation that exceed the minimum area requirements.
- H. Include additional swales in development landscaping, pursuant to Section 1009, *Landscaping*. Credit shall be given for additional swale(s) that exceed the requirements of Subsection 1009.04(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 1015-1, Automobile Parking Space Requirements, or 1015-2, Minimum Automobile Parking Space Requirements for Dwellings, all of which shall be no greater than the minimum dimensions allowed in Subsection 1015.0402(BA)(2).
- S. Lay out sites or orient structures, to maximize significant vistas.
- T. Locate and design structures to protect scenic views or vistas from adjacent properties and public thoroughfares. Setbacks, building height, and bulk should be considered.
- U. Utilize rail service opportunities abutting the site.
- V. Inside the Portland Metropolitan Urban Growth Boundary (UGB), a minimum of 75 percent of the street frontage of ~~the development site~~~~each lot~~ shall have buildings located at the minimum front ~~yard depth~~~~setback~~ line. If the minimum front ~~yard depth~~~~setback~~ standard is less than 20 feet~~zero~~, up to 20 feet of additional~~the~~ front ~~yard depth~~~~setback~~ may be increased to a maximum of 20 feet provided ~~where plazas, outdoor seating, or other~~ pedestrian amenities are developed within the front setback area~~located~~.
- W. Outside the UGB, or for industrial developments, a minimum of 25 percent of the street frontage of ~~the development site~~~~each lot~~ shall have buildings located at the minimum front ~~yard depth~~~~setback~~ line. Up to 20 feet of additional front ~~yard depth~~~~setback area~~ may be provided where ~~plazas, outdoor seating, or other~~ pedestrian amenities are located.

- X. Locate buildings at the minimum side ~~yard~~-setback line or within 10 feet of the side ~~lotsetback~~ line, whichever is greater.

#### 1005.06 MODIFICATIONS

Modification of any standard identified in Subsections 1005.02 and 1005.03 may be approved as part of design review if the proposed modification will result in a development that achieves the purposes stated in Subsection 1005.01 as well or better than the requirement listed.

#### 1005.07 CLACKAMAS REGIONAL CENTER AREA DESIGN STANDARDS

Subsection 1005.07 applies in the Clackamas Regional Center Area, including the Regional Center and the Fuller Road Station Community, as identified on Comprehensive Plan Map X-CRC-1, *Clackamas Regional Center Area Design Plan Regional Center, Corridors, and Station Community*. Where these standards conflict with other provisions in Section 1000, Subsection 1005.07 shall take precedence.

- A. Clackamas Regional Center Area Design Plan: Development is subject to the Clackamas Regional Center Area Design Plan in Chapter 10 of the Comprehensive Plan.
- B. Urban Design Elements: New development is subject to the urban design elements shown on Comprehensive Plan Map X-CRC-3, *Clackamas Regional Center Area Design Plan Urban Design Elements*. The urban design elements are described in the Clackamas Regional Center Area Design Plan in Chapter 10 of the Comprehensive Plan.
1. Urban design elements provided in a development may be used to reduce gross site area for calculating minimum density requirements in Subsection 1012.08, and to meet minimum landscaping requirements in Section 1009, *Landscaping*.
  2. For phased development approved through a master plan, requirements for the urban design elements may be roughly proportional to the amount of the master planned approved development being developed in any one phase.
- C. Parking Structure Orientation: Entrances for ground-level retail uses in parking structures located within 20 feet of a street shall be oriented to a street.
- D. Corner Lot Buildings:
1. A corner lot is a lot, parcel, tax lot, or land area created by a lease agreement at the intersection of two streets.
  2. Buildings on street corners shall have corner entrances or other architectural features to enhance the pedestrian environment at the intersection.

3. Development on lots at a Gateway intersection as shown on Comprehensive Plan Map X-CRC-3, and Comprehensive Plan Figure X-CRC-7, *Clackamas Regional Center Area Design Plan Gateway Intersection (Boulevard and Main Street)*, shall be designed to accommodate future Gateway improvements.
- E. Building Setbacks from Private Streets: Where a setback from a private street, as defined in Subsection 1005.07(G), is required by the standards of the applicable zoning district, the setback shall be measured from the back edge of the sidewalk.
- F. Parking Structures: If a parking structure, including understructure parking, abuts a street, appropriate features shall be provided to create a transition between the parking structure, or the entrance to understructure parking, and the abutting street. Examples of appropriate features include, but are not limited to, landscape planters and trellises, awnings, canopies, building ornamentation, and art. As used in Subsection 1005.07(F), a parking structure “abuts a street” if no other building is sited between the parking structure and the street.
- G. Private Streets: Private streets used to meet the structure orientation ~~and/or setback yard depth~~ standards shall include:
1. Sidewalks or raised walking surfaces on both sides;
  2. Curbs;
  3. Street trees, pursuant to Subsection 1007.068; and
  4. Pedestrian-scale lighting.
  5. Private streets may also provide on-street parking and at-grade loading zones, as applicable.
- H. Internal Streets:
1. Internal streets may be required to connect to adjacent properties to increase connectivity and provide grid patterns that allow for future development.
  2. Internal streets shall be designed to allow for future development when applicable.
  3. Development shall provide, when applicable, direct street and pedestrian connections between developments and schools, parks, open space, shopping areas, employment areas, and transit stops.

- I. New development shall not be sited such that it precludes the construction of the new walkways, or eliminates the existing walkways, that are shown on Comprehensive Plan Map X-CRC-7a, *Clackamas Regional Center Area Design Plan Walkway Network*, or identified in the *Clackamas Regional Center Pedestrian/Bicycle Plan* adopted by reference in Appendix A of the Comprehensive Plan, unless an alternative walkway location that provides a similar connection is established. An alternative walkway location shall not be deemed “similar” to a planned or existing location unless:
  1. It provides comparably safe, direct, and convenient pedestrian access to significant destinations, such as transit facilities, major employers, multifamily dwelling complexes, and retail and service establishments; and
  2. It fulfills a comparable function in terms of filling gaps in the pedestrian circulation system planned for the Clackamas Regional Center Area.

#### 1005.08 REGIONAL CENTER DESIGN STANDARDS

Subsection 1005.08 applies in the Regional Center, as identified on Comprehensive Plan Map X-CRC-1, *Clackamas Regional Center Area Design Plan Regional Center, Corridors, and Station Community*. Where these standards conflict with other provisions in Section 1000, Subsection 1005.08 shall take precedence.

- A. Freestanding parking structures located within 20 feet of pedestrian facilities, including public or private streets, pedestrian ways, greenways, a transit station or shelter, or plaza, shall provide a quality pedestrian environment on the facade facing the pedestrian facility. Techniques to use may include:
  1. Provide retail or office uses on the ground floor of the parking structure facing the pedestrian facility;
  2. Provide architectural features that enhance the first floor of the parking structure adjacent to the pedestrian facility, such as building articulation, awnings, canopies, building ornamentation, and art; and
  3. Provide pedestrian amenities in the transition area between the parking structure and pedestrian facility, including landscaping, trellises, seating areas, kiosks, water features with seating, plazas, outdoor eating areas, and drinking fountains.
- B. New buildings shall have at least one public entrance oriented to a street. Private streets used to meet this standard shall include the elements identified in Subsection 1005.07(G).
- C. Pedestrian amenities are required between the building and the front lot line. The following guidelines apply to pedestrian amenities used to meet this requirement:

1. Pedestrian areas include plazas, courtyards, outdoor seating areas for restaurants, pocket parks, and atriums when there is direct access for pedestrians. Pedestrian areas in front of buildings should be visible from the street.
2. Pedestrian areas must include landscape planters and at least two of the following amenities for every 100 square feet of pedestrian area: lawn areas with trees and seating; awnings or other weather protection; kiosks; outdoor eating areas with seating; water features with seating; and drinking fountains.

D. In the RCHDR District, pedestrian amenities are required in the front ~~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.

1005.09 FULLER ROAD STATION COMMUNITY DIMENSIONAL AND DESIGN STANDARDS

Subsection 1005.09 applies in the Fuller Road Station Community, as shown on Comprehensive Plan Map X-CRC-1, *Clackamas Regional Center Area Design Plan Regional Center, Corridors and Station Community*. Where these standards conflict with other provisions in Section 1000, Subsection 1005.09 shall take precedence. If the text of Subsection 1005.09 is unclear as applied to a specific development, Figures 1005-1 through 1005-11, as applicable, may be used to resolve the ambiguity.

A. Subsections 1005.09(B) through (M) do not apply in Sectors 1 and 2, as shown on Map 1005-1, until:

1. One or more additional stories are to be added to one or more existing buildings that are more than 150 feet from 82<sup>nd</sup> 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 82<sup>nd</sup> Avenue, as allowed by Subsection 1005.09(A)(1), the additional square footage will be counted toward the total of 40,000 square feet.
  - e. If a building is damaged or destroyed, regardless of the cause, and the building is restored or replaced, the square footage of the restored or new building that is constructed inside the previous building footprint will not be counted toward the total of 40,000 square feet, provided that restoration or replacement lawfully commences within three years of the occurrence of the damage or destruction. “Lawfully commenced” shall have the meaning given in Subsection 1206.03(B). However, if the new building has more stories than the previous building, Subsections 1005.09(B) through (M) will become applicable, if required pursuant to Subsection 1005.09(A)(1).
3. Subsections 1005.09(A)(1) and (2) apply separately to Sectors 1 and 2, meaning that compliance with Subsections 1005.09(B) through (M) will not be required in Sector 1 or 2 until that particular sector exceeds the development threshold established by Subsection 1005.09(A)(1) or (2).
4. Prior to the point at which Subsections 1005.09(B) through (M) become applicable, new development in Sectors 1 and 2 shall not be sited such that it:
- a. Precludes establishment of the “conceptual street grid” identified on Map 1005-2, or eliminates or reduces existing elements of that grid. All streets shown on the grid are planned to be Type D.; or
  - b. Precludes establishment of a connection, with a Type D street cross section, between a signalized intersection at 82<sup>nd</sup> 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 1005.09(F)(3), the locations of required new streets are shown on Map 1005-1, or will be determined pursuant to Subsection 1005.09(F)(2). New streets shown on Map 1005-1 are intended to create blocks with a perimeter no greater than 2,200 feet. Exact location of these new streets may vary up to 50 feet, provided the maximum block perimeter standard is met and provided that the new streets create the connections/intersections shown on Map 1005-1.
2. In addition to the mapped streets (existing and new) illustrated on Map 1005-1, a through-block connection is required for any block face longer than 450 feet. (See Figure 1005-2.)
  - a. “Block face” means the curb to curb distance between any two streets, including Type E pedestrian/bicycle connections.
  - b. These additional connections shall:
    - i. Have a Type D street cross section or a Type E pedestrian/bicycle connection cross section;
    - ii. Be located no closer than 100 feet to an adjacent street intersection, whether existing or planned; and
    - iii. Align with other existing or planned streets or Type E pedestrian/bicycle connections where possible.
3. Subsections 1005.09(F)(1) and (2) do not apply in Sectors 1 and 2 shown on Map 1005-1. Instead, compliance with either Subsection 1005.09(F)(3)(a) or Subsections 1005.09(F)(3)(b) and(c) is required.
  - a. Development shall not occur until a connection with a Type D street cross section is constructed between a signalized intersection at 82<sup>nd</sup> Avenue and a point on Fuller Road within the “access area” shown on Map 1005-2. In addition:
    - i. New development shall not be sited such that establishment of the “conceptual street grid” identified on Map 1005-2 is precluded, or existing elements of that grid are eliminated or reduced. All streets shown on the grid are planned to be Type D.
    - ii. New development is required to complete frontage improvements for all streets upon which it has street frontage, as necessary to achieve consistency with Subsection 1005.09(F)(4).

- b. In lieu of compliance with Subsection 1005.09(F)(3)(a), development shall not occur until an alternative connectivity plan is approved for Sectors 1 and 2 shown on Map 1005-1. This connectivity plan shall:
  - i. Connect the on-site transportation system to the existing and planned facilities shown on Map 1005-1;
  - ii. Provide pedestrian, bicycle, and motor vehicle circulation that meets the needs of future residents and visitors;
  - iii. Emphasize pedestrian mobility and accessibility, demonstrating an effective and convenient system of pedestrian walkways leading through the subject site;
  - iv. Provide for bicycle connections and efficient motor vehicle movements through the site;
  - v. Except where precluded by existing development, existing interests in real property, natural features, or topography, provide for block faces that do not exceed 450 feet between any two streets;
  - vi. Include a minimum of three street connections to 82<sup>nd</sup> 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 82<sup>nd</sup> 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 82<sup>nd</sup> Avenue to Fuller Road is constructed to a Type D street cross section. The other connections required by the connectivity plan shall be constructed in a manner consistent with the approved phasing plan. However, at a minimum, if an existing connection is removed as allowed by the connectivity plan, a new connection that provides at least the same degree of connectivity shall be constructed.
  - iii. New development is required to complete frontage improvements for all streets upon which it has street frontage, as necessary to achieve consistency with Subsection 1005.09(F)(4). Frontage shall be determined based on the approved connectivity plan.
4. Streets and Type E pedestrian/bicycle connections shall be designed in conformance with the design standards shown in Comprehensive Plan Figures X-CRC-8 through X-CRC-11, unless an alternative design is required pursuant to the Clackamas County Roadway Standards or to accommodate fire access, necessary truck circulation, or other engineering factors. An alternative design shall not change the designated street type for purposes of applying the building frontage and landscape screening regulations. Cross section designs for SE Johnson Creek Boulevard and SE 82<sup>nd</sup> Avenue shall be determined by Clackamas County and the Oregon Department of Transportation.
- G. Building Frontage Types: Four building frontage types are established, each of which is allowed on one or more of the four street types allowed in the Fuller Road Station Community. Subsection 1005.09(G) applies to existing or future Type A, B, C, and D streets, regardless of whether they are shown on Map 1005-1. Table 1005-1 establishes which building frontage types are permitted on each street type. Figure 1005-3 summarizes the four building frontage types.

**Table 1005-1: Permitted Building Frontage Type by Street Type**

Permitted Building Frontage Type:	Street Type:
Landscape	A Street
Linear	A, B, C, and D Streets
Forecourt	A, B, C, and D Streets
Porch/Stoop/Terrace	B, C, and D Streets

1. Buildings, except parking structures, located wholly or partially within 40 feet of a Type A, B, C, or D street are required to comply with the standards for a building frontage type permitted on the applicable street type.
  2. The entire length of street frontage designated on Map 1005-1 as “building frontage required,” or “required retail opportunity area,” excluding walkway cuts with a maximum width of eight feet and driveway cuts, shall be developed with one or more buildings that comply with the standards of a building frontage type permitted on the abutting street type.
    - a. Except along Otty Road, where the building frontage requirement extends the entire length of the street, the “building frontage required” designation extends a distance of 60 feet from the street intersection, and the “required retail opportunity area” designation extends a distance of 100 feet from the street intersection. The beginning point for measurement is the outside edge of the right-of-way, or in the case of a private street, the outside edge of the improved street surface, including any landscape strip or sidewalk.
  3. A minimum of 50 percent of the length of street frontage not designated as “building frontage required” or “required retail opportunity area” shall be developed with one or more buildings that comply with the standards of a building frontage type permitted on the abutting street type. The 50-percent building frontage requirement is calculated for each lot individually, rather than in the aggregate for an entire street.
    - a. If part of the street frontage is designated as “building frontage required” or “required retail opportunity area,” buildings developed pursuant to Subsection 1005.09(G)(2) may be counted toward meeting the 50-percent requirement for the entire street frontage.
  4. If a lot has street frontage on more than one street:
    - a. Compliance with Subsection 1005.09(G)(2) is required for all street frontage designated as “building frontage required” or “required retail opportunity area.”
    - b. Compliance with Subsection 1005.09(G)(3) is required for only one street frontage, unless one of the frontages is on Otty Road, in which case compliance with Subsection 1005.09(G)(3) is not required.
  5. Lots developed solely with parks and open space uses are exempt from Subsection 1005.09(G)(2) and (3).
- H. Landscape Building Frontage Type: Landscape Building Frontage, which is permitted on Type A Streets, shall comply with the following standards (see Figure 1005-4):

1. Front ~~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 area as provided in Subsection 1005.09(H)(1)(e), a pedestrian opening a minimum of five feet wide shall be provided for the walkway.
  6. Windows: Transparent ground-floor windows shall be provided along a minimum of 60 percent of the ground-floor, street-facing facade area.
  7. Building Materials: Exterior building materials and finishes shall be masonry, architecturally treated tilt-up concrete, glass, wood, stucco, metal, or a combination of these materials. The surfaces of metal exterior building materials that are subject to rust or corrosion shall be coated to inhibit such rust and corrosion, and the surfaces of metal exterior building materials with rust or corrosion shall be stabilized and coated to inhibit future rust and corrosion..
- I. Linear Building Frontage Type: Linear Building Frontage, which is permitted on all street types, shall comply with the following standards (see Figure 1005-5):
1. Front ~~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 facade. If an awning or canopy is provided, it shall have a minimum vertical clearance of 8 feet and a maximum vertical clearance of 13 ½ feet. If only a recessed entry is provided, it shall be recessed behind the front facade a minimum of three feet.
- 7. Primary Building Entrances: Primary building entrances shall face the street and be a minimum of 40 percent transparent. The minimum amount of transparency is measured as a percentage of the total area of the entrance.

- a. Primary building entrances shall open onto an abutting public sidewalk, or be directly connected to a public sidewalk by a walkway that is a minimum of five feet wide.
  - b. If the entrance serves a business (other than a home occupation), the entrance must be open to the public during regular business hours.
  - c. If a fence or wall is within the front ~~yard~~-setback as provided in Subsection 1005.09(I)(1)(e), a pedestrian opening a minimum of five feet wide shall be provided for the walkway.
8. Windows: Transparent ground-floor windows shall be provided along a minimum of 60 percent of the ground-floor, street-facing facade area.
9. Building Materials: Exterior building materials and finishes shall be masonry, architecturally treated tilt-up concrete, glass, wood, stucco, metal, or a combination of these materials. The surfaces of metal exterior building materials that are subject to rust or corrosion shall be coated to inhibit such rust and corrosion, and the surfaces of metal exterior building materials with rust or corrosion shall be stabilized and coated to inhibit future rust and corrosion.
- J. Forecourt Building Frontage Type: Forecourt Building Frontage, which is permitted on all street types, shall comply with the following standards (see Figure 1005-6):
1. Front ~~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 facade located behind a recessed courtyard, as required by Subsection 1005.09(J)(2), the street-facing facade of the building shall be built to the chosen setback line.
    - a. If it is not possible for a development to comply with the maximum setback standard and the intersection sight distance and roadside clear zone standards of the County Roadway Standards, the setback may be increased to the minimum extent necessary.
    - b. No parking, storage, or display of motorized vehicles or equipment is allowed in the front ~~yard~~-setback area or in the required courtyard. Bicycle parking may be permitted in the courtyard, subject to compliance with Section 1015, Parking and Loading.
    - c. Building service and utility equipment and outdoor storage of garbage or recycling is not permitted along the street-facing building facade, in the front ~~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 facade a minimum of 10 feet and a maximum of 30 feet.
  - b. The courtyard shall not be covered.
  - c. The courtyard shall be landscaped with plants, or paved with masonry pavers or stamped concrete.
  - d. The courtyard shall span a minimum of 20 feet along the street-facing building facade and a maximum of 50 percent of the street-facing building facade. As a result, the building must have a street-facing building facade of at least 40 feet wide.
3. Incorporation of Linear Building Frontage Type: The street facing-building facade not located behind a recessed courtyard shall comply with the standards for the Linear Building Frontage Type in Subsection 1005.09(I).
4. Minimum Ground Floor Height: The ground floor of the building shall measure a minimum of 15 feet from floor to ceiling, except when the building is designed to accommodate residential uses, in which case the minimum floor-to-floor height shall be 12 feet.
5. Ground Floor Construction Type: In areas designated “required retail opportunity area” on Map 1005-1, the ground floor construction type shall meet at least the minimum requirements for a commercial use, as set forth in the current edition of the Oregon Structural Specialty Code.
6. Primary Building Entrances: Primary building entrances shall face the street or the courtyard and be a minimum of 40 percent transparent. The minimum amount of transparency is measured as a percentage of the total area of the entrance.
  - a. Primary building entrances facing the street shall open onto an abutting public sidewalk, or be directly connected to a public sidewalk by a walkway that is a minimum of five feet wide.
  - b. If the entrance serves a business (other than a home occupation), the entrance must be open to the public during regular business hours.

7. Windows: Transparent ground-floor windows shall be provided along a minimum of 50 percent of the ground-floor, courtyard-facing facade area. See the Linear Building Frontage Type for window requirements for the street-facing facade.
8. Building Materials: Exterior building materials and finishes shall be high-image, such as masonry, architecturally treated tilt-up concrete, glass, wood, stucco, metal, or a combination of these materials. The surfaces of metal exterior building materials that are subject to rust or corrosion shall be coated to inhibit such rust and corrosion, and the surfaces of metal exterior building materials with rust or corrosion shall be stabilized and coated to inhibit future rust and corrosion.
9. Fences: Fences and walls are permitted in the courtyard setback area, subject to the following standards:
  - a. The fence or wall shall be a maximum of three feet high.
  - b. A fence shall be wrought iron, steel, or a similar metal and shall be dark in color. Chain-link fences are prohibited.
  - c. A wall shall be wood, masonry, concrete, or a combination thereof.
  - d. A fence shall be a minimum of 20 percent transparent. The transparent portions of the fence shall be distributed along the length of the fence in a recognizable pattern (e.g., two-inch gaps alternating with eight-inch solid sections).
  - e. A minimum of one pedestrian opening per courtyard street frontage shall be provided in the fence or wall. Required pedestrian openings shall be a minimum of five feet wide.
- K. Porch/Stoop/Terrace Building Frontage Type: Porch/Stoop/Terrace Building Frontage, which is permitted on Type B, C, and D Streets, shall comply with the following standards (see Figure 1005-7):
  1. Front ~~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 facade to the front of the threshold.
  - b. The entry threshold height shall be no more than six feet above finished grade. An additional threshold may be provided to access a lower level and shall be no more than five feet below finished grade.
  - c. The entry threshold may be covered by a roof no larger than the threshold.
3. Primary Building Entrances: Primary building entrances shall face the street and be a minimum of 10 percent transparent. The minimum amount of transparency is measured as a percentage of the total area of the entrance. Each ground-floor dwelling unit, if any, shall have an individual entrance that complies with this requirement.

- 4. Windows: Transparent windows shall be provided along a minimum of 20 percent of the street-facing facade area. Windows shall be vertically oriented, but vertical windows may be grouped together to create square or horizontally-oriented rectangular windows.
  - 5. Building Materials: Exterior building materials and finishes shall be high-image, such as masonry, architecturally treated tilt-up concrete, glass, wood, stucco, metal, or a combination of these materials. The surfaces of metal exterior building materials that are subject to rust or corrosion shall be coated to inhibit such rust and corrosion, and the surfaces of metal exterior building materials with rust or corrosion shall be stabilized and coated to inhibit future rust and corrosion.
- L. Landscape Screening Types: Street frontage not developed with a building compliant with one of the four building types established by Subsections 1005.09(H) through (K), a walkway cut with a maximum width of eight feet, or a driveway cut, shall be developed with one of three landscape screening types, each of which is allowed on one or more of the four street types allowed in the Fuller Road Station Community. Table 1005-2 establishes which landscape screening types are permitted on each street type. Figure 1005-8 summarizes the three landscape screening types. If the subject property abuts an existing or future Type A, B, C, or D Street -- regardless of whether it is shown on Map 1005-1— compliance is required with the standards for a landscape screening type permitted on the applicable street type.

**Table 1005-2: Permitted Landscape Screening Type by Street Type**

Permitted Landscape Screening Type:	Street Type:
Low Wall and Trellis	A, B, C, and D Streets
Urban Fence or Wall	A, B, C, and D Streets
Landscaped Setback	A, B, and C Streets

- 1. Low Wall and Trellis Landscape Screening Type: Low Wall and Trellis Screening, which is permitted on all street types, shall comply with the following standards (see Figure 1005-9):
  - a. The low wall and the support structure for the trellis shall be set back a maximum of five feet from the front lot line. The trellis itself may extend to the front lot line, or may overhang an abutting sidewalk or walkway if permitted by the County Engineering Division.

- b. Any area between the back edge of the sidewalk or walkway and the low wall shall be planted with ground cover or shrubs, or paved with masonry pavers or stamped concrete. Shrubs at maturity shall not exceed the height of the low wall.
  - c. The underside of the trellis portion of a Low Wall and Trellis shall be a minimum of eight feet above grade and a maximum of 13½ feet above grade.
  - d. The trellis shall be heavy timber or steel (or a similar metal) and shall consist of an open structure with no decking or awning material. The trellis shall have masonry, heavy timber, or steel (or similar metal) supporting columns spaced no more than 30 feet on center.
  - e. The low wall portion of a Low Wall and Trellis shall be a minimum of 18 inches high and a maximum of three feet high (30 inches if it is between a parking lot and a street) and have a minimum depth of 16 inches. The low wall shall be wood, masonry, concrete, or a combination thereof.
  - f. Surface parking and loading areas shall be set back a minimum of five feet from the Low Wall and Trellis. Low shrubs, groundcover, and climbing plants shall be provided in this setback area, in lieu of trees ordinarily required pursuant to Section 1009 for perimeter surface parking and loading area landscaping. Climbing plants shall be planted at each support column.
  - g. Openings in the Low Wall and Trellis Screening are permitted for plazas that comply with Subsection 1005.09(M).
2. Urban Fence or Wall Screening Type: Urban Fence or Wall Screening, which is permitted on all street types, shall comply with the following standards (see Figure 1005-10):
- a. The fence or wall shall be set back a maximum of five feet from the front lot line.
  - b. Any area between the back edge of the sidewalk or walkway and the fence or wall shall be paved with masonry pavers or stamped concrete.
  - c. The fence or wall shall be a minimum of two feet high and a maximum of three feet high (30 inches if it is between a parking lot and a street).
  - d. A fence shall be wrought iron, steel, or a similar material and shall be dark in color. Chain-link fences are prohibited. A fence shall be a minimum of 50 percent transparent. The transparent portions of the fence shall be distributed along the length of the fence in a recognizable pattern (e.g., two-inch gaps alternating with two-inch solid sections).

- e. A wall shall be wood, masonry, concrete, or a combination thereof.
  - f. Surface parking and loading areas shall be set back a minimum of five feet from the Urban Fence or Wall. This area shall be landscaped as follows:
    - i. One large tree is required a minimum of every 30 linear feet, except where a waiver is necessary to comply with the intersection sight distance and roadside clear zone standards of the County Roadway Standards.
    - ii. A minimum of six shrubs is required every 30 linear feet along the fence or wall. The minimum shrub height at maturity shall be the same as the height of the fence or wall, and the maximum shall be six feet.
    - iii. Ground cover plants must fully cover any remaining area at maturity.
  - g. Openings in the Urban Fence or Wall Screening are permitted for plazas that comply with Subsection 1005.09(M).
3. Landscaped Setback Screening Type: Landscaped Setback Screening, which is permitted on Type A, B, and C Streets, shall include a landscape strip a minimum of 10 feet wide adjacent to the property line. This area shall be landscaped as follows (see Figure 1005-11):
- a. A continuous row of shrubs shall be planted at the inside edge of the landscape strip. The shrubs shall be a minimum of three feet high (maximum 30 inches between a parking lot and a street), and shall be mostly opaque year round.
  - b. One large tree is required a minimum of every 30 linear feet except where a waiver is necessary to comply with the intersection sight distance and roadside clear zone standards of the County Roadway Standards. The required shrub row may be interrupted with a gap of up to two feet wide, in order to accommodate each tree.
  - c. Ground cover plants must fully cover any remaining area at maturity.
  - d. A three-foot-high masonry wall (30 inches between a parking lot and a street) may be substituted for the shrub row, but the trees and groundcover plants are still required.
  - e. Openings in the Landscaped Setback Screening are permitted for plazas that comply with Subsection 1005.09(M).
- M. Plazas: Openings in required landscape screening are permitted for plazas, subject to the following standards:
- 1. The plaza shall be permanent space open to the public.

2. The plaza shall be integrated in the development and be accessible from and visible from the street(s) upon which it fronts.
3. The plaza shall be surfaced with masonry pavers or stamped concrete.
4. Ten percent of the total plaza area shall be landscaped. Landscape planters may count toward this requirement.
5. If the plaza abuts a surface parking or loading area, it shall be separated from that area by a landscape strip that complies with Subsection 1009.04(B).

#### 1005.10 PMU DISTRICT STANDARDS

Subsection 1005.10 applies in the PMU District. Where these standards conflict with other provisions of Section 1000, Subsection 1005.10 shall take precedence.

A. Access and Circulation: Onsite circulation shall meet the minimum requirements shown on Comprehensive Plan Map X-CRC-3, *Clackamas Regional Center Area Design Plan, Urban Design Elements*, and in addition:

1. An internal circulation system shall include a network of public, private, and internal streets subject to Subsection 1005.07(G) through (I). Private streets shall function like local streets, with curbs, sidewalks, or raised walking surfaces on both sides, street trees, pedestrian scale lighting, and connections to state, county, or public streets. This internal street network shall create developable sites defined by streets.

In addition, the internal circulation system may include a range of secondary facilities, including service roads, driveways, drive aisles, and other similar facilities. The overall intent is to provide a pattern of access and circulation that provides a clear and logical network of primary streets that have pedestrian orientation and amenities. A secondary network of pedestrian ways and vehicular circulation will supplement this system.

2. Internal driveways shall not be located between buildings and the streets to which building entrances are oriented.

B. Building Siting and Design:

1. New buildings shall have at least one public entrance oriented to a state, county, public, or private street.
2. Buildings shall have first floor windows with views of internal activity or display cases, and the major entrance on the building facade facing the street the building is oriented to. Entrances and windows on the street-side facade shall not be blocked, or entrances locked during operation hours. Additional major entrances may also be allowed facing minor streets and parking areas.

3. Buildings on street corners shall have corner entrances or other architectural features to enhance the pedestrian environment at the intersection.
  4. First floor windows or display cases are required on building facades facing and adjacent to public and private streets, plazas, walkways, and pedestrian areas. Windows and doorways shall not be blocked or entrances locked during operation hours.
  5. Parking structures located within 20 feet of pedestrian facilities including public or private streets, pedestrian ways, greenways, a transit station or shelter, or plaza, shall provide a quality pedestrian environment on the facade facing the pedestrian facility. Techniques to use include, but are not limited to:
    - a. Provide retail, office or similar uses on the ground floor of the parking structure with windows and activity facing the pedestrian facility; or,
    - b. Provide architectural features that enhance the first floor of the parking structure adjacent to the pedestrian facility, such as building articulation, awnings, canopies, building ornamentation, and art; or,
    - c. Provide pedestrian amenities in the transition area between the parking structure and the pedestrian facility, including landscaping, trellises, trees, seating areas, kiosks, water features with a sitting area, plazas, outdoor eating areas, and drinking fountains.
    - d. The above listed techniques and features, and others of similar nature, must be used so that blank walls are not created.
- C. Buffering: When existing residential uses are located adjacent to a PMU site, such uses shall be buffered from the PMU site with landscaped buffers or by the location of streets, parks, plazas, greenways, or low density residential uses in the PMU District.

#### 1005.11 SUNNYSIDE VILLAGE STANDARDS

Subsection 1005.11 applies in Sunnyside Village, as identified on Comprehensive Plan Map X-SV-1, *Sunnyside Village Plan Land Use Plan Map*. Where these standards conflict with other provisions in Section 1000, Subsection 1005.11 shall take precedence.

- A. Primary Dwellings in the VTH District: In the VTH District, the following standards apply to primary dwellings:
1. Primary entries shall be accessed directly from a street right-of-way and shall be visible from the street.

2. Porches are required for each unit and shall be located immediately adjacent to the primary entry. Porches shall cover a minimum of 50 percent of the primary facade (not including the garage) with a minimum net depth of six feet.
  3. Front facades shall be designed with balconies and/or bays. Facades facing a street right-of-way or designated accessway shall not consist of a blank wall.
  4. Window trim shall not be flush with exterior wall treatment. Windows shall be provided with an architectural surround at the jamb, head, and sill.
  5. Hipped, gambrel, or gabled roofs are required. Flat roofs are prohibited.
  6. Townhouses shall orient to and line streets with a series of attached “rowhouse” units.
- B. Garages and Driveways in the VTH District: In the VTH District, the following standards apply:
1. A detached garage may be placed at the rear of a lot.
  2. A front-access garage attached to the dwelling structure shall be recessed a minimum of two feet behind the front facade (not including porches, bays, and architectural features) and a minimum of 20 feet from the street right-of-way.
  3. A minimum two-foot-deep trellis or bay window shall be placed above the garage opening. The trellis shall extend the full width of the garage, and the bay window shall be a minimum of eight feet in width.
  4. If located in the front, the garage opening and the driveway shall not exceed a width of 10 feet.
  5. If a lot abuts an alley, then garage access from the street is prohibited.
- C. Site Design in the VA District: Except on Sunnyside Road, multifamily dwellings shall orient to and line the streets.
- D. Entries in the VA District: In the VA District, entries are subject to the following standards:
1. Primary entries shall be accessed directly from a street right-of-way and shall be visible from the street.
  2. Secondary entries may face parking lots or loading areas.
  3. Ground floor units should have entries directly from the street; upper story units may share one or more entries.

- E. Facades in the VA District: In the VA District, facades are subject to the following standards:
  - 1. Building facades shall be designed, at a minimum, with windows, entries, balconies, and bays. Towers, or other special vertical elements, may be used in a limited fashion to focus views to the area from surrounding streets. Facades facing a street right-of-way or pedestrian path shall not consist of a blank wall.
  - 2. Windows shall be frequent and coordinate with bays and balconies. Vertical proportions and divided lights are preferred. Window trim shall not be flush with exterior wall treatment. Windows shall be provided with an architectural surround at the jamb, head, and sill. All windows facing the front street shall be double-hung or casement windows.
- F. Roofs in the VA District: In the VA District, hipped, gambrel, or gabled roofs are required. Flat roofs are prohibited except for mechanical equipment areas.
- G. Building Materials in the VA District: In the VA District, exterior finishes shall be primarily wood and/or masonry. Human-scaled building elements and finishes are encouraged.
- H. Site Design in the VCS District: In the VCS District, the following standards shall apply:
  - 1. The buildings occupying areas adjacent to the village green shall face the village green and traffic circle to better integrate with the surrounding neighborhood. Parking shall be to the rear of the buildings.
  - 2. Circulation facilities, architectural features, signing, and landscaping shall be designed for pedestrian safety and convenience.
- I. Site Design in the VO District: In the VO District, the following standards shall apply:
  - 1. Driveway access from 142<sup>nd</sup> Avenue and Sunnyside Road shall be prohibited. Access shall be off of 145<sup>th</sup> Avenue and Princeton Village Way.
  - 2. A group of small low-rise buildings shall be required, oriented toward the primary surrounding streets and the adjacent multifamily dwellings and townhouses, to better integrate with the neighborhood.
  - 3. Circulation facilities, architectural features, signing, and landscaping shall be designed for pedestrian safety and convenience.
- J. Facades in the VCS District: In the VCS District, facades are subject to the following standards:



1. Building facades shall be designed with windows, entries, and/or bays. Sides or rears of buildings shall not consist of an undifferentiated wall when facing a public street.
  2. Towers, or other special vertical elements, may be used in a limited fashion to focus views to the area from surrounding streets.
  3. Consistent design elements shall be used throughout the VCS area to ensure that the entire complex is visually and functionally unified.
  4. Windows shall be placed with no more than six feet of blank non-window wall space in every 25 feet of frontage and shall be coordinated with bays and balconies. Square or vertical proportions are preferred. Window trim shall not be flush with exterior wall treatment. Windows shall be provided with an architectural surround at the jamb, head, and sill. All windows shall be placed so that their sills are at least two feet above floor level. Glass walls and reflective glass are prohibited.
  5. Awnings shall have clearance of a minimum eight feet above sidewalks and walkways for pedestrian access.
- K. Facades in the VO District: In the VO District, facades are subject to the following standards:
1. Building facades shall be designed with windows, entries, or bays. Sides or rears of buildings shall not consist of an undifferentiated wall when facing a public street, an accessway, or a residential area.
  2. Towers, or other special vertical elements, may be used in a limited fashion to focus views to the area from surrounding streets.
  3. Consistent design elements shall be used throughout the office area to ensure that the entire complex is visually and functionally unified.
  4. There shall be no more than six feet of blank non-window wall space in every 25 feet of frontage. Windows shall be coordinated with bays and balconies. Square or vertical proportions are preferred. Windows shall not be flush with exterior wall treatment. Windows shall be provided with an architectural surround at the jamb, head, and sill. All windows shall be placed so that their sills are at least two feet above floor level. Glass walls and reflective glass are prohibited.
  5. Awnings shall have clearance of a minimum eight feet above sidewalks and walkways for pedestrian access.
  6. Arcades may be used along public street rights-of-way or along walkways within the complex of buildings.

- L. Roofs in the VCS and VO Districts: In the VCS and VO Districts, hipped, gambrel or gabled roofs are required. Flat roofs are not permitted except for mechanical equipment areas.
- M. Building Materials in the VCS and VO Districts: In the VCS and VO Districts, exterior finishes of buildings shall be primarily of materials such as masonry, wood siding or shingles, stucco, metal, or similar material. The surfaces of metal exterior finishes that are subject to rust or corrosion shall be coated to inhibit such rust and corrosion, and the surfaces of metal exterior finishes with rust or corrosion shall be stabilized and coated to inhibit future rust and corrosion. Cinder block and T1-11 are prohibited as exterior wall material.

1005.12 GOVERNMENT CAMP STANDARDS

Subsection 1005.12 applies in Government Camp. Where these standards conflict with other provisions in Section 1000, Subsection 1005.12 shall take precedence.

- A. MRR District: In the MRR District, the following standards shall apply to commercial developments.
  - 1. Exterior Building Materials: Primary and accessory structures shall use wood, stone, stone veneer, or stucco in exterior construction. Stucco and textured concrete may be used as secondary materials. Stucco must be acrylic-based and combined with heavy timber, wood, or stone cladding. A rock, rock veneer, or textured concrete base shall be provided around building exteriors visible from roadways. No exposed plywood, particle board, plain concrete, cinder block, or grooved T1-11 is permitted.
  - 2. Roofing Materials: No composition shingles are allowed. Metal roofing materials that are subject to rust or corrosion shall be coated to inhibit such rust and corrosion, and metal roofing materials with rust or corrosion shall be stabilized and coated to inhibit future rust and corrosion.
  - 3. Design: Building design shall meet the design intent of mountain architecture as described in the Government Camp Design Guidelines Handbook. Examples of mountain architecture include "Cascadian", "Oregon Rustic", and the "National Park Style".
- B. RTC District: In the RTC District, the following standards shall apply to all new development and, where reasonable, to remodels.
  - 1. Main Entrance Siting: Properties with street frontage on Government Camp Loop shall locate the main entrance and pedestrian amenities on Government Camp Loop.

2. Walkways: Walkways parallel to Government Camp Loop are not required; however, if a walkway is extended from the existing 10-foot-wide sidewalk fronting Government Camp Loop, it shall be constructed of materials consistent with the existing 10-foot-wide sidewalk. Covered walkways may be provided along the building frontage of development on properties with street frontage on Government Camp Loop from Wy'East Trail to Olive Street and on Little Trail from Olive Street to Church Street. When a covered walkway is constructed, it shall be a permanent structure at a minimum of 8 feet in width and attached to the building, shall not project beyond the lot lines, and shall be consistent with the building design and materials and existing 10-foot-wide sidewalk fronting Government Camp Loop. A covered walkway shall extend along the entire frontage of the building.
3. Exterior Building Materials: Building and accessory structures shall use wood, stone, stone veneer, or stucco in exterior construction. Stucco and textured concrete may be used as secondary materials. Stucco must be acrylic-based and combined with heavy timber, wood, or stone cladding. A rock, rock veneer, or textured concrete base shall be provided around building exteriors with street frontage. No exposed plywood, particle board, plain concrete, cinder block, or grooved T1-11 is permitted.
4. Roofing Materials: No non-architectural composition shingles are allowed. Metal roofing materials that are subject to rust or corrosion shall be coated to inhibit such rust and corrosion, and metal roofing materials with rust or corrosion shall be stabilized and coated to inhibit future rust and corrosion.
5. Design: Building design shall meet the design intent of mountain architecture styles as described in the Government Camp Village Design Guidelines Handbook. Examples of mountain architecture include "Cascadian", "Oregon Rustic", and the "National Park Style".
6. Loading: Loading and delivery shall not be located on Government Camp Loop unless there is no other access.

[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; Amended by Ord. ZDO-280, 10/23/21; Amended by Ord. ZDO-282, 7/1/22]

**Summary of Proposed Amendments to Section 1006, Utilities, Street Lights, Water Supply, Sewage Disposal, Surface Water Management, and Erosion Control**

1. Resolve conflicts between Subsection 1006.05 and Comprehensive Plan Chapter 7, *Public Facilities and Services*, regarding circumstances where onsite wastewater systems are allowed inside certain urban areas.
2. Remove the Planning Director “waiver” option from 1006.03(E)(3), as there are no criteria for granting the waiver. In its place, adopt clearer exemptions for land divisions in which all proposed lots are already developed with the maximum number of dwellings that would be allowable following the land division, and for new industrial, commercial, and institutional development demonstrated to have no statistical increase in water usage.
3. Repeal incorrect citations.
4. Minor edits for clarity and consistency.

**1006 UTILITIES, STREET LIGHTS, WATER SUPPLY, SEWAGE DISPOSAL, SURFACE WATER MANAGEMENT, AND EROSION CONTROL**

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1006.01 GENERAL STANDARDS

- A. The location, design, installation, and maintenance of all utility lines and facilities shall be carried out with minimum feasible disturbance of soil and site consistent with the rules and regulations of the surface water management regulatory authority.
- B. All development that has a need for electricity, natural gas, and communications services shall install them pursuant to the requirements of the utility district or company serving the development. Except where otherwise prohibited by the utility district or company, all such facilities shall be installed underground.
- C. Coordinated installation of necessary water, sanitary sewer, and surface water management and conveyance facilities is required.
- D. Easements shall be provided along lot lines as deemed necessary by the County, special districts, and utility companies. Easements for special purpose uses shall be of a width deemed appropriate by the responsible agency.

1006.02 STREET LIGHTS

Street lights are required for all development inside the Portland Metropolitan Urban Growth Boundary. The following standards apply:

- A. Street lighting shall be installed pursuant to the requirements of Clackamas County Service District No. 5 and the electric company serving the development. A street light shall be installed where a new road intersects a County road right-of-way and, in the case of subdivisions, at every intersection within the subdivision.
- B. Areas outside Clackamas County Service District No. 5 shall annex to the district through petition to the district.

1006.03 WATER SUPPLY

- A. ~~All~~ Development which has a need for, or will be provided with, public or community water service shall install water service facilities and grant necessary easements pursuant to the requirements of the district or company serving the development.
- B. Approval of a development that requires public or community water service shall be granted only if the applicant provides a preliminary statement of feasibility from the water system service provider.

1. The statement shall verify that water service, including fire flows, is available in levels appropriate for the development and that adequate water system capacity is available in source, supply, treatment, transmission, storage and distribution. Alternatively, the statement shall verify that such levels and capacity can be made available through improvements completed by the developer or the system owner.
  2. If the statement indicates that water service is adequate with the exception of fire flows, the applicant shall provide a statement from the fire district serving the subject property that states that an alternate method of fire protection, such as an on-site water source or a sprinkler system, is acceptable.
  3. The statement shall be dated no more than one year prior to the date a complete land use application is filed and need not reserve water system capacity for the development.
- C. Prior to final approval of ~~any~~ partition or subdivision, the applicant shall provide evidence that any wells in the tract subject to temporary or permanent abandonment under Oregon Revised Statutes (ORS) 537.665 have been properly abandoned.
- D. The following standards apply inside the Portland Metropolitan Urban Growth Boundary, Government Camp, Rhododendron, Wemme/Welches, Wildwood/Timberline, and Zigzag Village:
1. Land divisions or other development requiring water service shall not be approved, except as provided in Subsection 1006.03(D)(4), unless they can be served by a public water system in compliance with drinking water standards as determined by the Oregon Health Authority.
  2. ~~New-De~~velopment requiring water service within the boundaries of a water service system, created pursuant to ORS chapters 264, 450, or 451, shall receive service from this system.
  3. New public water systems shall not be created unless formed pursuant to ORS chapters 264, 450, or 451.
  4. A lot of record not located within the approved boundaries of a public water system may be served by an alternative water source.
- E. The following standards apply outside the Portland Metropolitan Urban Growth Boundary, Government Camp, Rhododendron, Wemme/Welches, Wildwood/Timberline, and Zigzag Village:
1. Applicants shall specify a lawful water source for the proposed development, such as a public or community water system, certificated water right, or exempt-use well.

2. ~~All subdivisions proposing to~~ If use of an exempt-use well or wells is proposed, subdivisions—as well as the following types of development in a sensitive groundwater area: partitions, Type II replats, and all land divisions, and new industrial, commercial, or institutional development located within a sensitive groundwater area and proposing to use an exempt-use well or wells— must affirmatively demonstrate that:
  - a. The subject aquifer is capable of sustaining the proposed development with sufficient potable water.
  - b. The proposed development is not likely to unreasonably interfere with existing wells. “Unreasonably interfere” means that a proposed development will result in one or more senior groundwater appropriators being unable to obtain either the permitted or the customary quantity of groundwater, whichever is less, from a reasonably efficient well that fully penetrates the aquifer where the aquifer is relatively uniformly permeable. However, in aquifers where flow is predominantly through fractures, full penetration may not be required as a condition of finding substantial or undue interference.
  - c. The proposed development is not likely to contribute to the overdraft of the affected aquifer.
3. ~~Unless waived by the Planning Director, Except for land divisions in which all proposed lots are already developed with the maximum number of dwelling units that would be allowable following the land division (excluding potential temporary dwellings for care), and except for industrial, commercial, and institutional development demonstrated to have no statistical increase in water usage,~~ an applicant for any proposed development subject to Subsection 1006.03(E)(2) shall submit a hydrogeologic review with the subject application. The purposes of a hydrogeologic review are to provide information and professional analysis regarding the geology and hydrogeology of the area in the immediate vicinity of the proposed development for the County to determine compliance with Subsection 1006.03(E)(2). Study findings, maps, and conclusions shall be presented in a clear and understandable report.
  - a. A hydrogeologic review report shall include sufficient evidence and analysis to demonstrate compliance with Subsection 1006.03(E)(2), and at a minimum, shall include the following information:
    - i. A map showing all lots and parcels within at least one-quarter mile of the proposed development;
    - ii. The location, as determined by publicly available information, of all known wells on all lots or parcels within at least one-quarter mile of the proposed development, and the quantity of water permitted to be used;

- iii. The estimated use of groundwater within at least one-quarter mile of the proposed development, including but not limited to, 400 gallons per day of household use for each lot and parcel, 2,000 gallons per day for lawn and landscape irrigation from June through September, and water use from permitted wells. The estimated use of groundwater shall include any development or tentative land division which has been approved by the county, and shall assume development of a single-family residence on each undeveloped lot or parcel;
  - iv. The quantity of water the proposed land use will utilize. If the proposal is for residential use, water use shall be calculated as 400 gallons per day per household and 2000 gallons per day for lawn and landscape irrigation from June through September. If the proposal is for a land division for residential purposes, all proposed lots or parcels shall be included in the calculation, and the calculation shall assume that the remainder of the tract will be developed at its allowed density;
  - v. Identification of aquifers in the area of the subject property;
  - vi. Compilation and review of available geologic and hydrogeologic studies of the review area;
  - vii. Compilation and evaluation of available well deepening and replacement well information in the review area;
  - viii. Compilation and analysis of existing geologic information, including representative well logs, physical location of representative wells, and an evaluation of the local stratigraphy and geologic structure in the review area;
  - ix. Compilation and analysis of existing and available water level and pump test information including evaluation of long-term stability and sustainability of groundwater levels (heads); and
  - x. Interpretation of the information gathered for Subsections 1006.03(E)(3)(a)(i) through (ix), including preparation of geologic and hydrogeologic maps and cross sections necessary to support and/or illustrate the interpretation.
- b. A hydrogeologic review shall conclude that there is sufficient information to demonstrate compliance with Subsection 1006.03(E)(2), and may need to be based on draw down tests or other physical measurements where necessary.
  - c. The Planning Director may, at the Director's discretion, allow an applicant to modify the water use assumptions used in the hydrogeologic review where an applicant proposes enforceable water conservation and/or reuse measures, including but not limited to:
    - i. Gray water use;
    - ii. Water conserving appliances and fixtures;



- iii. Landscaping with drought resistant plants; or
- iv. Rainwater harvest and/or the use of cisterns.

To be deemed enforceable, any conservation or reuse measure must be approved by County Counsel.

- 4. All reviews and plans required by Subsection 1006.03(E) shall be reviewed by a qualified professional of the County's choice during the development review process. Such review shall include examination to ensure required elements have been completed, study procedures and assumptions are generally accepted, and all conclusions and recommendations are supported and reasonable.
- 5. Outside of sensitive groundwater areas, the Planning Director may, at the Director's discretion, waive some or all of the requirements for a hydrogeologic review where an applicant demonstrates through well logs or other evidence that the specified information is not necessary to determine compliance with Subsection 1006.03(E)(2).
- 6. Water service for partitions and subdivisions shall be provided according to the provisions of ORS 92.090. When no water is to be provided by a public or community water system, there shall be a note on the final plat indicating that no public water service is being provided, in addition to the filing and disclosure requirements of ORS 92.090.
- 7. Approved land divisions at densities requiring public water service shall include a note on the final plat indicating public water service is required for development.
- 8. For a major subdivision, all lots shall be served by a single public or community water source.

1006.04 SANITARY SEWER SERVICE

- A. All development that has a need for sanitary sewers shall install the facilities pursuant to the requirements of the district or company serving the development.
- B. Approval of a development that requires sanitary sewer service shall be granted only if the applicant provides a preliminary statement of feasibility from the sanitary sewage treatment service provider and the collection system service provider.
  - 1. The statement shall verify that sanitary sewer capacity in the wastewater treatment system and the sanitary sewage collection system is available to serve the development or can be made available through improvements completed by the developer or the system owner.

- 2. The service provider may require preliminary sanitary sewer system plans and calculations for the proposed development prior to signing a preliminary statement of feasibility.
  - 3. The statement shall be dated no more than one year prior to the date a complete land use application is filed and need not reserve sanitary sewer system capacity for the development.
- C. Hotels and motels are permitted in unincorporated communities only if served by a community sewer system as defined by Oregon Administrative Rules 660-022-0010(2).

1006.05 ONSITE WASTEWATER TREATMENT

A. All development ~~that requires~~proposing onsite wastewater treatment shall receive approval for the system from the County prior to submittal of a land use application for development. ~~Said Onsite wastewater treatment~~ systems shall be installed pursuant to: Oregon Revised Statutes 454.605 through 454.745 ~~and Chapters 171, 523, and 828~~; Oregon Administrative Rules chapter 340, divisions 71 and 73; and the policies of the County.

~~B. Development of triplexes, quadplexes, townhouses, or cottage clusters in the VR-4/5, VR-5/7, R-5, R-7, R-8.5, R-10, R-15, R-20, or R-30 Districts is prohibited if the development requires onsite wastewater treatment.~~

~~C.B.~~ \_\_\_\_\_ Inside the Portland Metropolitan Urban Growth Boundary (UGB), Government Camp, Rhododendron, Wemme/Welches, Wildwood/Timberline, and Zigzag Village, all land divisions or other development ~~not identified in Subsection 1006.05(B) that requires~~requiring onsite wastewater treatment shall be prohibited except for:

- 1. A lot of record ~~that is outside of a sewage service district and was created~~legally recorded:
  - a. ~~Prior to adoption of this Ordinance~~January 31, 1980; or
  - b. On or after January 31, 1980, and prior to inclusion in the UGB;
- 2. ~~Pareels-Lots~~ of 10 acres or larger in ~~areas designated as future urban~~the FU-10 District;
- 3. ~~Pareels-Lots~~ that do not have a sanitary sewerage system that is legally and physically available as defined in OAR 340-071-0160(4)(f)(A) and (B), including ~~pareels-lots that~~which have unique topographic or other natural features ~~that~~which make sewer extension impractical as determined on a case-by-case basis by the sewer service provider; and

4. Areas under a sewer moratorium with sewer services five years or more away if the area is annexed into a city or district ~~that~~~~which~~ can assure that future delivery of sewerage services is planned.

C. Notwithstanding Subsection 1006.05(B), development of triplexes, quadplexes, townhouses, or cottage clusters in the VR-4/5, VR-5/7, R-5, R-7, R-8.5, R-10, R-15, R-20, or R-30 Districts is prohibited if the development requires onsite wastewater treatment.

#### 1006.06 SURFACE WATER MANAGEMENT AND EROSION CONTROL

The following surface water management and erosion control standards apply:

- A. Positive drainage and adequate conveyance of surface water shall be provided from roofs, footings, foundations, and other impervious or near-impervious surfaces to an appropriate discharge point.
- B. The requirements of the surface water management regulatory authority apply. If the County is the surface water management regulatory authority, the surface water management requirements of the *Clackamas County Roadway Standards* apply.
- C. Approval of a development shall be granted only if the applicant provides a preliminary statement of feasibility from the surface water management regulatory authority. The statement shall verify that adequate surface water management, treatment and conveyance is available to serve the development or can be made available through improvements completed by the developer or the system owner.
  1. The surface water management regulatory authority may require a preliminary surface water management plan and report, natural resource assessment, and buffer analysis prior to signing the preliminary statement of feasibility.
  2. The statement shall be dated no more than one year prior to the date a complete land use application is filed and need not reserve surface water treatment and conveyance system capacity for the development.
- D. Development shall be planned, designed, constructed, and maintained to:
  1. Protect and preserve existing natural drainage channels to the maximum practicable extent;
  2. Protect development from flood hazards;
  3. Provide a system by which water within the development will be controlled without causing damage or harm to the natural environment, or to property or persons within the drainage basin;

4. Ensure that waters drained from the development are substantially free of pollutants, including sedimentary materials, through such construction and drainage techniques as sedimentation ponds, reseeded, and phasing of grading; and
  5. Ensure that waters are drained from the development in such a manner that will not cause erosion to any greater extent than would occur in the absence of development.
- E. Where culverts cannot provide sufficient capacity without significant environmental degradation, the County may require the watercourse to be bridged or spanned.
- F. If a development, or any part thereof, is traversed by any watercourse, channel, stream, creek, gulch, or other natural drainage channel, adequate easements for surface water management purposes shall be provided to the surface water management regulatory authority.
- G. Channel obstructions are not allowed, except as approved for the creation of detention, retention, or hydropower facilities approved under this Ordinance. Fences with swing gates may be utilized.
- H. The natural drainage pattern shall not be substantially altered at the periphery of the subject property. Greatly accelerated release of stored water is prohibited. Flow shall not be diverted to lands that have not previously encountered overland flow from the same upland source unless adjacent downstream owners agree.
- I. A surface water management and erosion control plan is required for significant residential, commercial, industrial, and institutional development. The plan shall include:
1. The methods to be used to minimize the amount of runoff siltation and pollution created from the development both during and after construction; and
  2. Other elements required by the surface water management authority.

1006.07 PRELIMINARY STATEMENTS OF FEASIBILITY EXCEPTIONS

- A. A land use application shall be deemed complete and may be approved without the submittal of one or more of the preliminary statements of feasibility required by Subsections 1006.03, 1006.04, and 1006.06 if the applicant demonstrates that a good faith attempt has been made to obtain the statement(s). At a minimum, demonstration of a good faith attempt shall require the applicant to submit the following:

1. A statement signed by the applicant indicating that the service provider or surface water management authority has not responded to a request for a preliminary statement of feasibility or has refused to issue one. When the refusal to issue a preliminary statement of feasibility is based upon a finding that adequate service cannot be provided, such refusal shall not qualify for an exception under this subsection; and
  2. A copy of a letter delivered to the service provider or surface water management authority clearly requesting a preliminary statement of feasibility. The letter shall be dated no less than 30 days prior to the submittal of the land use application.
- B. In the absence of evidence in the record to the contrary, it shall be presumed that the failure of a service provider or surface water management authority to respond to a request for a preliminary statement of feasibility constitutes a finding of adequacy of service. This presumption shall be for the purposes of land use application approval only and does not guarantee that service can be provided.

[Amended by Ord. ZDO-252, 6/1/15; Amended by Ord. ZDO-266, 5/23/18; Amended by Ord. ZDO-282, 7/1/22]

**Summary of Proposed Amendments to Section 1007, Roads and Connectivity**

1. Delete references to the Village Office zone and to the Village Community Service zone adjacent to the village green because these areas have been annexed to the City of Happy Valley.
2. Minor edits for clarity and consistency and to eliminate redundant text.
3. Add a reference to cottage cluster sidewalk requirements in 1007.04(F) for consistency with 1007.04(C).
4. Correct citations.
5. Repeal requirement for sidewalks/pedestrian pathways/accessways in rural zones inside the Portland Metropolitan Urban Growth Boundary (UGB) in order to conform to recently adopted amendments to the Comprehensive Plan to implement the Damascus Mobility Plan.
6. Stipulate that Highway 212 inside the UGB is evaluated using the urban performance standard even where the zoning remains rural. This is consistent with the recently adopted amendments to the Comprehensive Plan to implement the Damascus Mobility Plan.

**1007 ROADS AND CONNECTIVITY**

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## 1007.01 GENERAL PROVISIONS

- A. The location, alignment, design, grade, width, and capacity of all roads shall ~~be planned, coordinated, and controlled by the Department of Transportation and Development and shall~~ conform to Section 1007, Chapters 5 and 10 of the Comprehensive Plan, and the Clackamas County Roadway Standards. Where conflicts occur between Section 1007, the Comprehensive Plan, and the Clackamas County Roadway Standards, the Comprehensive Plan shall control.
- B. Right-of-way dedications and improvements shall be required of all new developments, including partitions, subdivisions, multifamily dwellings, duplexes, triplexes, quadplexes, townhouses, cottage clusters, detached single-family dwellings, and commercial, industrial, and institutional uses, consistent with Section 1007, Chapters 5 and 10 of the Comprehensive Plan, and the Clackamas County Roadway Standards.
- C. New developments shall have access points connecting with existing ~~private, public, county, or state~~ roads.
1. Intersection spacing and access control shall be based on Subsection 3.08.110(E) of the Metro Code (*Regional Transportation Functional Plan*); Chapters 5 and 10 of the Comprehensive Plan; and the Clackamas County Roadway Standards.
  2. For development on any portion of a contiguous site identified on Comprehensive Plan Map 5-6, *Potentially Buildable Residential Sites > 5 Acres in UGB*, the applicant shall provide a conceptual map of new streets for the entire site. The map shall identify street connections to adjacent areas to promote a logical, direct, and connected system of streets; demonstrate opportunities to extend and connect new streets to existing streets, and provide direct public right-of-way routes. Closed-end street designs shall be limited to circumstances in which barriers prevent full street extensions. Closed-end streets shall not exceed 200 feet in length and shall serve no more than 25 dwelling units. Subsequent development on the site shall conform to the conceptual street map, unless a new map is approved pursuant to Subsection 1007.01(C)(2).
  3. Access control shall be implemented pursuant to Chapter 5 of the Comprehensive Plan and the Clackamas County Roadway Standards considering best spacing for pedestrian access, traffic safety, and similar factors ~~as deemed appropriate by the Department of Transportation and Development.~~

4. Approaches to public and county roads shall be designed to accommodate safe and efficient flow of traffic and turn control where necessary to minimize hazards for other vehicles, pedestrians, and bicyclists.
5. Joint access and circulation drives utilizing reciprocal easements shall be utilized as deemed necessary by the Department of Transportation and Development. In the NC District, joint street access for adjacent commercial developments shall be required.
6. In the SCMU District, driveways shall be spaced no closer to one another than 35 feet, measured from the outer edge of the curb cut, unless compliance with this standard would preclude adequate access to the subject property as a result of existing off-site development or compliance with the Clackamas County Roadway Standards.
7. In the VA District, no direct motor vehicle access is permitted on Sunnyside Road.
- ~~8. In the VCS District, the area adjacent to the village green shall be permitted one curb cut on Oregon Trail Drive and one on Hines Drive. Curb cuts shall not exceed a width of 20 feet at the road right of way.~~
- ~~9. In the VO District, the maximum width for a single-use driveway shall be 12 feet, and the maximum width for a shared driveway shall be 20 feet.~~
810. Inside the Portland Metropolitan Urban Growth Boundary:
  - a. The development shall have no more than the minimum number of driveways required by the Department of Transportation and Development on all arterial and collector streets.
  - b. For properties having more than one street frontage, driveways shall be located on the street with the lowest functional classification, if feasible.
  - c. Driveways shall be no wider than the minimum width allowed by the Clackamas County Roadway Standards.
  - d. Driveways shall be located so as to maximize the number of allowed on-street parking spaces, the number of street trees, and optimum street tree spacing.
- D. Street alignments, intersections, and centerline deflection angles shall be designed according to the standards set forth in Chapters 5 and 10 of the Comprehensive Plan and the Clackamas County Roadway Standards.



- E. All roads shall be designed and constructed to adequately and safely accommodate vehicles, pedestrians, and bicycles according to Chapters 5 and 10 of the Comprehensive Plan and the Clackamas County Roadway Standards. Development-related roadway adequacy and safety impacts to roadways shall be evaluated pursuant to the Clackamas County Roadway Standards and also to Oregon Department of Transportation standards for state highways.
- F. Roadways shall be designed to accommodate transit services where transit service is existing or planned and to provide for the separation of motor vehicles, bicycle, and pedestrian traffic, and other modes as appropriate.
- G. The needs of all modes of transportation shall be balanced to provide for safe and efficient flow of traffic. Where practical, pedestrian crossing lengths shall be minimized and the road system shall be designed to provide frequent pedestrian connections.

1007.02 PUBLIC AND PRIVATE ROADWAYS

- A. All roadways shall be developed according to the classifications, guidelines, tables, figures, and maps in Chapters 5 and 10 of the Comprehensive Plan and the provisions of the Clackamas County Roadway Standards.
  - 1. Development along streets with specific design standards specified in Chapter 10 of the Comprehensive Plan shall improve those streets as shown in Chapter 10.
  - 2. Development along streets identified as Regional or Community Boulevards on Comprehensive Plan Map 5-5, *Metro Regional Street Design Classifications*, shall provide pedestrian, bicycle, transit, and visual amenities in the public right-of-way. Such amenities may include, but are not limited to, the following: street trees, landscaping, kiosks, outdoor lighting, outdoor seating, bike racks, bus shelters, other transit amenities, pedestrian spaces and access to the boulevard, landscaped medians, noise and pollution control measures, other environmentally sensitive uses, aesthetically designed lights, bridges, signs, and turn bays as appropriate rather than continuous turn lanes.
  - 3. Development adjacent to scenic roads identified on Comprehensive Plan Map 5-1, *Scenic Roads*, shall conform to the following design standards, as deemed appropriate by the Department of Transportation and Development:
    - a. Road shoulders shall be improved to accommodate pedestrian and bicycle traffic; and
    - b. Turnouts shall be provided at viewpoints or for recreational needs.

4. In centers, corridors, and station communities, as identified on Comprehensive Plan Map IV-8, *Urban Growth Concept*, roads shall be designed to minimize the length of street crossings and to maximize connectivity for pedestrians as deemed appropriate by the Department of Transportation and Development. Other streetscape design elements in these areas include:
    - a. On-street parking;
    - b. Street trees;
    - c. Street lighting;
    - d. Pedestrian amenities; and
    - e. Truck routes shall be specified for deliveries to local businesses.
  5. In centers, corridors, and station communities, as identified on Comprehensive Plan Map IV-8, on local streets within the Portland Metropolitan Urban Growth Boundary (UGB), and in unincorporated communities, when conflicts exist between the dimensional requirements for vehicles and those for pedestrians, pedestrians shall be afforded additional consideration in order to increase safety and walkability. In industrial areas, the needs of vehicles shall take precedence.
  6. In the NC, OA, and VCS, ~~and VO~~ Districts, landscaping, crosswalks, additional lighting, signalization, or similar improvements may be required to create safe and inviting places for pedestrians to cross streets.
- B. The layout of new public and county roads shall provide for the continuation of roads within and between the development and adjoining developments when deemed necessary and feasible by the Department of Transportation and Development.
1. When public access to adjoining property is required, this access shall be improved and dedicated to the County.
  2. Street stubs shall be provided to allow for future access to adjacent undeveloped property as deemed necessary by the Department of Transportation and Development.
  3. These standards may be deviated from when ~~the County finds that~~ safe and efficient alternate designs would better accommodate:
    - a. Sustainable development features such as “Green Streets” as described in Metro’s *Green Streets: Innovative Solutions for Stormwater and Street Crossings (2002)*, which shall be allowed within the UGB and in unincorporated communities;

- b. Sustainable surface water management solutions such as low infiltration planters and basins, swales, ponds, rain gardens, trees, porous pavement, and minimal disruption to natural drainage systems;
  - c. Preservation of existing significant trees and native vegetation;
  - d. Preservation of natural terrain and other natural landscape features;
  - e. Achievement of maximum solar benefit for new development through orientation and block sizing;
  - f. Existing forest or agricultural uses;
  - g. Existing development;
  - h. Scenic qualities;
  - i. Planned unit developments;
  - j. Local access streets less than 200 feet in length which are not extendible; and
  - k. Interior vehicular circulation for multifamily, commercial, institutional, and industrial developments.
- C. New county and public roads terminating in cul-de-sacs or other dead-end turnarounds are prohibited except where natural features (such as topography, streams, or wetlands), parks, dedicated open space, or existing development preclude road connections to adjacent properties, existing street stubs, or existing roads.
- D. Developments shall comply with the intersection sight distance and roadside clear zone standards of the Clackamas County Roadway Standards. In addition:
- 1. No planting, signing, or fencing shall be permitted which restricts motorists' vision; and
  - 2. Curbside parking may be restricted along streets with visibility problems for motorists, pedestrians, and/or bicyclists as deemed appropriate by the Department of Transportation and Development.
- E. New developments, subdivisions, and partitions may be required to dedicate land for right-of-way purposes and/or make road frontage improvements to existing rights-of-way, consistent with Section 1007, Chapters 5 and 10 of the Comprehensive Plan, and the Clackamas County Roadway Standards.
- F. Road frontage improvements within the UGB and in Government Camp, Rhododendron, and Wemme/Welches~~Mt. Hood urban villages~~ shall include:

1. Surfacing, curbing, or concrete gutters as specified in Section 1007, Chapters 5 and 10 of the Comprehensive Plan, and the Clackamas County Roadway Standards;
2. Pedestrian, bikeway, accessway, and trail facilities as specified in Subsection 1007.04;
3. Transit amenities as specified in Subsection 1007.05; and
4. Street trees as specified in Subsection 1007.06.

1007.03 PRIVATE ROADS AND ACCESS DRIVES

- A. Private roads and access drives shall be developed according to classifications and guidelines listed in Section 1007, Comprehensive Plan Figures 5-1 through 5-3, *Typical Roadway Cross Sections*, Chapters 5 and 10 of the Comprehensive Plan, and the Clackamas County Roadway Standards, except:
1. When easements or “flag-pole” strips are used to provide vehicular access to lots or parcels, the minimum width shall be 20 feet, unless a narrower width is approved by the Department of Transportation and Development and the applicable fire district’s Fire Marshal;
  2. Where the number of lots served exceeds three, a wider width may be required as deemed appropriate or necessary by the Department of Transportation and Development consistent with other provisions of Section 1007, the Comprehensive Plan, and the Clackamas County Roadway Standards;
  3. Access easements or “flag-pole” strips may be used for utility purposes in addition to vehicular access;
  4. The standards listed above may be deviated from when deemed appropriate by the Department of Transportation and Development to accommodate one-half streets or private common access drives and roads within developed urban areas providing access to not more than seven lots; and
  5. The intersection of private roads or access drives with a public or county road and intersections of two private roads or access drives shall comply with the sight distance and clear zone standards pursuant to Subsection 1007.02(D).

## 1007.04 PEDESTRIAN AND BICYCLE FACILITIES

- A. General Standards: Pedestrian and bicycle facilities shall be developed according to the classifications and guidelines listed in Section 1007, Comprehensive Plan Figures 5-1 through 5-3, *Typical Roadway Cross Sections*, Chapters 5 and 10 of the Comprehensive Plan, and the Clackamas County Roadway Standards.
- B. Pedestrian and Bicycle Facility Design: Pedestrian and bicycle facilities shall be designed to:
1. Minimize conflicts among automobiles, trucks, pedestrians, and bicyclists;
  2. Provide safe, convenient, and an appropriate level of access to various parts of the development and to locations such as schools, employment centers, shopping areas, adjacent developments, recreation areas and open space, and transit corridors;
  3. Allow for unobstructed movements and access for transportation of disadvantaged persons; and
  4. Be consistent with Chapters 5 and 10 of the Comprehensive Plan; Comprehensive Plan Maps 5-2a, *Planned Bikeway Network, Urban*, 5-2b, *Planned Bikeway Network, Rural*, and 5-3, *Essential Pedestrian Network*; North Clackamas Parks and Recreation District's (NCPRD) Park and Recreation Master Plan; and Metro's Regional Trails and Greenways Map.
- C. Requirements for Pedestrian and Bicycle Facility Construction: Within the Portland Metropolitan Urban Growth Boundary (UGB), except if the subject property is in the AG/F, EFU, FF-10, RA-1, RA-2, RC, RI, RRFF-5, or TBR District, sidewalks, pedestrian pathways, and accessways shall be constructed as required in Subsection 1007.04 for subdivisions, partitions, multifamily dwellings, triplexes, quadplexes, cottage clusters, townhouses where three or more dwelling units are attached to one another, and commercial, industrial, or institutional developments, except that for structural additions to existing commercial, industrial, or institutional buildings, development of such facilities shall be required only if the addition exceeds 10 percent of the assessed value of the existing structure, or 999 square feet.
- D. Requirement for Sidewalk Construction: Within the UGB, except if the subject property is in the AG/F, EFU, FF-10, RA-1, RA-2, RC, RI, RRFF-5, or TBR District, sidewalks shall be constructed, as required in Subsection 1007.04(F), for duplexes, detached single-family dwellings, townhouses where two dwelling units are attached to one another, and manufactured dwellings outside a manufactured dwelling park.

- E. Sidewalks or Pedestrian Pathways in Unincorporated Communities: In an unincorporated community, either a sidewalk or a pedestrian pathway shall be constructed on arterial or collector street frontage(s) of a lot upon which a subdivision, partition, multifamily dwelling, quadplex, triplex, townhouse where three or more dwelling units are attached to one another, or a commercial, industrial, or institutional development is proposed.
- F. Sidewalk Location: Sidewalks required by Subsection 1007.04(C) or (D) shall be constructed on:
1. Both sides of a new or reconstructed road, except that sidewalks may be constructed on only one side of the road if:
    - a. The road is not a through road;
    - b. The road is 350 feet or less in length and cannot be extended; or
    - c. In consideration of the factors listed in Subsection 1007.02(B)(3);
  2. The street frontage(s) of a lot upon which a subdivision, partition, multifamily dwelling, triplex, quadplex, cottage cluster, townhouse where three or more dwelling units are attached to one another, or a commercial, industrial, or institutional development is proposed; and
  3. Local, connector, or collector road street frontage(s) of a lot upon which a duplex, a detached single-family dwelling, a townhouse where two dwelling units are attached to one another, or a manufactured dwelling is proposed. This requirement shall be imposed as a condition on the issuance of a conditional use permit, building permit, or manufactured dwelling placement permit, but:
    - a. The requirement shall be waived for the replacement of a lawfully established dwelling, provided the number of dwelling units is not increased; and
    - b. The sidewalk requirement shall apply to no more than two street frontages for a single lot.
- G. Pedestrian Pathways: Within the UGB, a pedestrian pathway may be constructed as an alternative to a sidewalk on a local, connector, or collector road when it is recommended by the Department of Transportation and Development; the surface water management regulatory authority approves the design; and at least one of the following criteria is met:
1. The site has topographic or natural feature constraints that make standard sidewalk construction unusually problematic;

2. No sidewalk exists adjacent to the site;
3. Redevelopment potential along the road is limited; or
4. The road is identified for a pedestrian pathway by the River Forest Neighborhood Plan adopted by the City of Lake Oswego.

H. Sidewalk and Pedestrian Pathway Width: Sidewalks and pedestrian pathways shall be constructed to the minimum widths shown in Table 1007-1, *Minimum Sidewalk and Pedestrian Pathway Width*, and be consistent with applicable requirements of Chapters 5 and 10 of the Comprehensive Plan.

**Table 1007-1: Minimum Sidewalk and Pedestrian Pathway Width**

Street Type	Residential Sidewalk	Commercial or Institutional Sidewalk	Industrial Sidewalk
Local	5 feet	7 feet	5 feet
Connector	5 feet	7 feet	5 feet
Collector	5 feet	8 feet	5 feet
Arterial	6 feet	8 feet	6 feet

1. The entire required width of sidewalks and pedestrian pathways shall be unobstructed.
2. Sidewalks and pedestrian pathways at transit stops shall be a minimum of eight feet wide for a distance of 20 feet centered on the transit shelter or transit stop sign.
3. A sidewalk set back from the curb by at least five feet may be one foot narrower (but not less than five feet) than the standard listed above. This five-foot separation strip shall be landscaped and shall be maintained by the adjacent property owner. The landscape strip may contain fixed objects provided that sight distance and roadside clear zone standards are satisfied pursuant to the Clackamas County Roadway Standards.
4. Uses located in the Light Industrial, General Industrial, or Business Park District and containing over 5,000 square feet of office space shall comply with the requirements for Commercial and Institutional uses.

5. In Sunnyside Village, notwithstanding Table 1007-1 and Comprehensive Plan Figures X-SV-1, *Sunnyside Village Plan Connector Street with Planting Strips and Bike Lanes* and X-SV-2, *Sunnyside Village Plan Connector Street with Planting Strips*, a connector street requires nine-foot-wide sidewalks if commercial/retail is adjacent to the site.

I. Accessways: Accessways shall comply with the following standards:

1. Accessways shall be required where necessary to provide direct routes to destinations not otherwise provided by the road system and where topography permits. Developments shall not be required to provide right-of-way for accessways off-site to meet this requirement. If right-of-way is available off-site, the developer may be required to improve an accessway off-site up to 150 feet in length.
2. Accessways shall provide safe, convenient access to facilities generating substantial pedestrian or bicycle trips, such as an existing or planned transit stop, school, park, place of worship, daycare center, library, commercial area, or community center. Facilities such as these shall be accessible from dead-end streets, loops, or mid-block locations. Where required, accessways shall be constructed at intervals of no more than 330 feet, unless they are prevented by barriers such as topography, railroads, freeways, pre-existing development, or environmental constraints such as streams and wetlands.
3. An accessway shall include at least a 15-foot-wide right-of-way and an eight-foot-wide hard surface. For safety, accessways should be as straight as practicable and visible from an adjacent use if practicable. Removable bollards or other large objects may be used to bar motor vehicular access.
4. So that they may be safely used at night, accessways shall be illuminated by street lights or luminaires on shorter poles. Separate lighting shall not be required if existing lighting adequately illuminates the accessway.
5. Fences are not required, but the height of a fence along an accessway shall not exceed six feet.
6. Ownership and maintenance responsibility for accessways shall be resolved during the development review and approval process.

J. Accessways in Sunnyside Village: The following standards apply in Sunnyside Village. Where these standards conflict with Subsection 1007.04(I), Subsection 1007.04(J) shall take precedence.

1. A system of interconnecting accessways shall be provided from subdivisions, quadplexes, and multifamily developments to commercial facilities and public amenities such as existing or planned transit stop or facility, school, park, place of worship, daycare facility, children's play area, outdoor activity areas,



plazas, library, or similar facility and to a dead-end street, loop, or mid-block where the block is longer than 600 feet.

- a. An accessway shall include at least 15 feet of right-of-way and a 10-foot-wide paved surface.
- b. Accessways shall be illuminated so that they may be safely used at night.
- c. The maximum height of a fence along an accessway shall not exceed four feet.
- d. Bollards or other similar types of treatment may be required in order to prevent cars from entering the accessway.
- e. The designated east-west pedestrian accessway shall include a minimum 10-foot-wide concrete surface within a 10-foot-wide right-of-way, easement, or other legal form satisfactory to the County. Planting areas adjacent to the easement with street trees should be provided along at least one side of this accessway. However, alternatives to this standard may be considered through design review pursuant to Section 1102. If the accessway is within a parking area, it shall be lined by parking lot trees planted at a maximum of 30 feet on center along both sides.

K. Bikeways: Bikeways shall be required as follows:

1. Shoulder bikeways, bike lanes, bike paths, or cycle tracks shall be included in the reconstruction or new construction of any street if a bikeway is indicated in Chapters 5 and 10 of the Comprehensive Plan and on Comprehensive Plan Map 5-2a or 5-2b; NCPRD's Park and Recreation Master Plan; or Metro's Regional Trails and Greenways Map.
2. Shoulder bikeways, bike lanes, bike paths, or cycle tracks shall be considered in the reconstruction or new construction of any other arterial or collector.
3. Within urban growth boundaries, shoulder bikeways, bike lanes, bike paths, or cycle tracks shall be constructed from new public or private elementary, middle school, and high school facilities to off-site bikeways to provide continuous bicycle route connections within and between surrounding developments, unless precluded by existing development.

L. Trails: Trail dedications or easements shall be provided and developed as shown on Comprehensive Plan Map IX-1, *Open Space Network & Recreation Needs*; the Facilities Plan (Figure 4.3) in NCPRD's Park and Recreation Master Plan; and Metro's Regional Trails and Greenways Map.

M. Trails and Pedestrian Connections in Sunnyside Village: The following standards apply in Sunnyside Village. Where these standards conflict with other provisions in Section 1007, Subsection 1007.04(M) shall take precedence.

1. An interconnecting system of trails and accessways throughout Sunnyside Village shall be provided. The general trail locations are shown on Comprehensive Plan Map X-SV-1. The location of the trails shall be set at the time a land use application is approved. The locations of the trails are based on achieving connections to streets and/or pedestrian ways and protection of the significant features of the resource protection areas.
2. The trail system will generally occur along the creeks and resource protection areas. The accessways and/or trail system will provide connections to parks, the elementary school, and to adjacent commercial and residential developments.
3. There also shall be an east-west accessway between 142<sup>nd</sup> Avenue and 152<sup>nd</sup> Drive, south of Sunnyside Road and north of Oregon Trail Drive.
4. The trail system shall be designed to provide multiple access points for the public. The trails shall be constructed by the developer.
5. All trails and accessways within the resource protection areas shall either be dedicated or an easement granted to NCPRD in conjunction with development. These connections shall be maintained by and constructed to the standards established by NCPRD.
6. The maintenance of all pedestrian connections and trails located outside the resource protection areas as identified on Comprehensive Plan Map X-SV-1 shall be the responsibility of the property owner.

N. Pedestrian and Bicycle Circulation: The pedestrian and bicycle circulation connections shown on Comprehensive Plan Maps X-CRC-3, *Clackamas Regional Center Area Design Plan Urban Design Elements*, X-CRC-7, *Clackamas Regional Center Area Design Plan Pedestrian and Bicycle Circulation Network*, and X-CRC-7a, *Clackamas Regional Center Area Design Plan Walkway Network*, shall be provided.

#### 1007.05 TRANSIT AMENITIES

All residential, commercial, institutional, and industrial developments on existing and planned transit routes shall be reviewed by Tri-Met or other appropriate transit provider to ensure appropriate design and integration of transit amenities into the development. The design shall not be limited to streets, but shall ensure that pedestrian/bikeway facilities and other transit-supportive features such as shelters, bus pull-outs, park-and-ride spaces, and signing will be provided. The designs shall comply with Tri-Met standards and specifications.

1007.06 STREET TREES

- A. Within the Portland Metropolitan Urban Growth Boundary, except in the AG/F, EFU, FF-10, FU-10, RA-1, RA-2, RC, RI, RRFF-5, and TBR Districts, street trees are required on all road frontage—except frontage on private roads or access drives—for subdivisions, partitions, multifamily dwellings, triplexes, townhouses where three or more dwelling units are attached to one another, and commercial, industrial, or institutional developments, except that for structural additions to existing commercial, industrial, or institutional buildings, street trees are required only if the addition exceeds 10 percent of the assessed value of the existing structure, or 999 square feet. Street trees shall comply with the following standards:
  - 1. Partial or complete exemptions from the requirement to plant street trees may be granted on a case-by-case basis. Exemptions may be granted, for example, if the exemption is necessary to save existing significant trees which can be used as a substitute for street trees.
  - 2. Street trees to be planted shall be chosen from a County-approved list of street trees (if adopted), unless approval for planting of another species is given by the Department of Transportation and Development.
  - 3. Location and planting of street trees may be influenced by such conditions as topography, steep terrain, soil conditions, existing trees and vegetation, preservation of desirable views, and solar access.
  - 4. Planting of street trees shall be coordinated with other uses which may occur within the street right-of-way, such as bikeways, pedestrian paths, storm drains, utilities, street lights, shelters, and bus stops.
  - 5. Street trees at maturity shall be of appropriate size and scale to complement the width of the street or median area.
- B. Street trees required for developments in the Clackamas Regional Center Area shall comply with the following standards:
  - 1. Street trees are required along all streets, except for drive aisles in parking lots.
  - 2. When determining the location of street trees, consideration should be given to accommodating normal retail practices in front of buildings such as signage, outdoor display, loading areas, and pullout lanes.
  - 3. Street trees are required along private access streets under the following conditions:
    - a. On both sides when the access point is a signalized intersection;

- b. On both sides when the street section has four or more lanes at the access point;
  - c. On both sides when the private street is developed to comply with building orientation standards;
  - d. On a minimum of one side when the street section has one or two lanes, and the street is not at a signalized intersection or is not used to meet the structure orientation standards of Subsections 1005.078(C) and 1005.089(B); and
  - e. On a minimum of one side of the street when access is shared with adjacent property. Adjoining property shall be required to install trees on its side of the access street when the property is developed.
4. In the Fuller Road Station Community, as identified on Comprehensive Plan Map X-CRC-1, street trees are required along both sides of all street types, and as shown in Comprehensive Plan Figure X-CRC-11, *Clackamas Regional Center Area Design Plan Fuller Road Station Community, Type "E" Pedestrian/Bicycle Connection*, for Type E pedestrian/bicycle connections. Street trees shall be spaced from 25 to 40 feet on center, based on the selected tree species and any site constraints. Street trees shall otherwise comply with the other provisions of Subsections 1007.06(A) and (B).
- C. In the Business Park District, street trees are required at 30- to 40-foot intervals along periphery and internal circulation roads, except where significant trees already exist.
- D. Street trees are required for developments in Sunnyside Village along both sides of all connector and local streets, and as set forth in Subsection 1007.09. In addition:
1. One to two street trees are required per interior lot, and two to four for corner lots depending on the canopy of the tree species proposed. If a small canopy (less than or equal to 25 feet in diameter at maturity) is proposed, then two per interior lot and four per corner lot are required. If a larger canopy (greater than 25 feet in diameter at maturity) is proposed, then one per interior lot and two per corner lot are required.
  2. As each portion of a project is developed, a specific species of street tree will be chosen for each street. The developer may choose the species of street tree to be planted so long as the species is not known to cause sidewalks to buckle, does not have messy fruits or pods, is not prone to insects or having weak wood, and is not on the list of prohibited trees. The County will have final approval regarding the type of street tree to be planted.

3. Along connector streets or streets with a higher classification, metal grating, non-mortared brick, grasscrete, or similar material shall be installed at grade over the planting area around street trees, or raised planters shall be constructed to prevent soil compaction and damage to the trunk. Landscape strips or tree wells are required along streets with a classification below connector status.

1007.07 TRANSPORTATION FACILITIES CONCURRENCY

- A. Subsection 1007.07 shall apply to the following development applications: design review, subdivisions, partitions, and conditional uses.
- B. Approval of a development shall be granted only if the capacity of transportation facilities is adequate or will be made adequate in a timely manner. The following shall be exempt from this requirement:
  1. Development that is located:
    - a. In the Light Industrial, General Industrial, or Business Park District; and
    - b. North of the Clackamas River; and
    - c. West of Highway 224 (south of Highway 212) or 152<sup>nd</sup> Drive (north of Highway 212); and
    - d. South of Sunnyside Road (east of 82<sup>nd</sup> Avenue) or Harmony Road (west of 82<sup>nd</sup> Avenue) or Railroad Avenue (west of Harmony Road); and
    - e. East of Interstate 205 (south of Milwaukie Expressway) or the city limits of Milwaukie (north of the Milwaukie Expressway).
  2. Modification or replacement of an existing development (or a development that has a current land use approval even if such development has not yet been constructed) on the same property, provided that an increase in motor vehicle traffic does not result;
  3. Unmanned utility facilities, such as wireless telecommunication facilities, where no employees are present except to perform periodic servicing and maintenance;
  4. Mass transit facilities, such as light rail transit stations and park-and-ride lots;
  5. Home occupations to host events, which are approved pursuant to Section 806; and

6. Development in Government Camp that is otherwise consistent with the Comprehensive Plan land use plan designations and zoning for Government Camp.
- C. As used in Subsection 1007.07(B), adequate means a maximum volume-to-capacity ratio (v/c), or a minimum level of service (LOS), as established by Comprehensive Plan Tables 5-2a, *Motor Vehicle Capacity Evaluation Standards for the Urban Area*, and 5-2b, *Motor Vehicle Capacity Evaluation Standards for the Rural Area*. Notwithstanding the definitions of “urban” and “rural” in Chapter 5, Transportation System Plan, of the Comprehensive Plan, Highway 212 shall be evaluated under Table 5-2a, if the subject property is inside the Portland Metropolitan Urban Growth Boundary.
- D. For the purpose of calculating capacity as required by Subsections 1007.07(B) and (C), the following standards shall apply:
  1. The methods of calculating v/c and LOS are established by the Clackamas County Roadway Standards.
  2. The adequacy standards shall apply to all roadways and intersections within the impact area of the proposed development. The impact area shall be identified pursuant to the Clackamas County Roadway Standards.
- E. As used in Subsection 1007.07(B), timely means:
  1. For facilities under the jurisdiction of the County, necessary improvements are included in the Five-Year Capital Improvement Program, fully funded, and scheduled to be under construction within three years of the date land use approval is issued;
  2. For facilities under the jurisdiction of the State of Oregon, necessary improvements are included in the Statewide Transportation Improvement Program (STIP) and scheduled to be under construction within four years of the date land use approval is issued;
  3. For facilities under the jurisdiction of a city or another county, necessary improvements are included in that jurisdiction’s capital improvement plan, fully funded, and scheduled to be under construction within three years of the date land use approval is issued.
  4. Alternatively, timely means that necessary improvements will be constructed by the applicant or through another mechanism, such as a local improvement district. Under this alternative:
    - a. Prior to issuance of a certificate of occupancy for a conditional use or a development subject to design review and prior to recording of the final

plat for a subdivision or partition, the applicant shall do one of the following:

- i. Complete the necessary improvements; or
  - ii. For transportation facilities under the jurisdiction of the County, the applicant shall provide the county with a deposit, letter of credit, performance bond, or other surety satisfactory to county staff pursuant to Section 1311, *Completion of Improvements, Sureties, and Maintenance*. For transportation facilities under the jurisdiction of the state, a city, or another county, the applicant shall comply with the respective jurisdiction's requirements for guaranteeing completion of necessary improvements. This option is only available if the jurisdiction has a mechanism in place for providing such a guarantee.
5. For a phased development, the first phase shall satisfy Subsections 1007.07(E)(1) through (4) at the time of land use approval. Subsequent phases shall be subject to the following:
- a. At the time of land use approval, necessary improvements shall be identified and the phase for which they are necessary shall be specified.
  - b. Necessary improvements for a particular phase shall either:
    - i. Comply with Subsections 1007.07(E)(1) through (3) at the time of building permit approval, except that the improvements shall be scheduled to be under construction within three years of building permit approval rather than within three years of land use approval; or
    - ii. Comply with Subsection 1007.07(E)(4), in which case the improvements shall be completed or guaranteed prior to issuance of a certificate of occupancy or recording of the final plat for the applicable phase.
- F. As used in Subsection 1007.07(E), necessary improvements are:
1. Improvements identified in a transportation impact study as being required in order to comply with the adequacy standard identified in Subsection 1007.07(C).
    - a. A determination regarding whether submittal of a transportation impact study is required shall be made based on the Clackamas County Roadway Standards, which also establish the minimum standards to which a transportation impact study shall adhere.

- b. If a transportation impact study is not required, County traffic engineering or transportation planning staff shall identify necessary improvements or the applicant may opt to provide a transportation impact study.



- G. Notwithstanding Subsections 1007.07(D) and (F)(1)(a), motor vehicle capacity calculation methodology, impact area identification, and transportation impact study requirements are established by the ODOT Transportation Analysis Procedures Manual for roadways and intersections under the jurisdiction of the State of Oregon.
- H. As an alternative to compliance with Subsection 1007.07(B), the applicant may make a voluntary substantial contribution to the transportation system.
1. As used in this subsection, “substantial contribution” means construction of a roadway or intersection improvement that is all of the following:
    - a. A complete project or a segment of a roadway identified in Comprehensive Plan Table 5-3a, *20-Year Capital Projects*, 5-3b, *Preferred Capital Projects*, or 5-3c, *Long-Term Capital Projects*; the STIP; or the capital improvement plan (CIP) of a city or another county.
      - i. For a segment of a roadway to qualify as a substantial contribution, the roadway shall be on or abutting the subject property; no less than the entire segment that is on or abutting the subject property shall be completed; and there shall be a reasonable expectation that the entire project—as identified in Comprehensive Plan Table 5-3a, 5-3b, or 5-3c; the STIP; or the CIP of a city or another county—will be completed within five years;
    - b. Located within the impact area of the proposed development. The impact area shall be established by the Clackamas County Roadway Standards;
    - c. Estimated to have a minimum construction cost of \$527,000 in year 2004 dollars. The minimum construction cost shall on January 1<sup>st</sup> of each year following 2004 be adjusted to account for changes in the costs of acquiring and constructing transportation facilities. The adjustment factor shall be based on the change in average market value of undeveloped land, except resource properties, in the County according to the records of the County Tax Assessor, and the change in construction costs according to the Engineering News Record (ENR) Northwest (Seattle, Washington) Construction Cost Index; and shall be determined as follows:
      - i.  $\text{Change in Average Market Value} \times 0.50 + \text{Change in Construction Cost Index} \times 0.50 = \text{Minimum Construction Cost Adjustment Factor}$
      - ii. After the adjustment factor is applied to the previous year’s minimum construction cost, the result shall be rounded to the nearest thousand.
  2. Prior to issuance of a certificate of occupancy for a conditional use or a development subject to design review and prior to recording of the final plat for a subdivision or partition, the applicant shall do one of the following:

- a. Complete the substantial contribution; or
- b. For transportation facilities under the jurisdiction of the County, the applicant shall provide the county with a deposit, letter of credit, performance bond, or other surety satisfactory to county staff pursuant to Section 1311. For transportation facilities under the jurisdiction of the state, a city, or another county, the applicant shall comply with the respective jurisdiction's requirements for guaranteeing completion of necessary improvements. This option is only available if the jurisdiction has a mechanism in place for providing such a guarantee.

1007.08 FEE IN LIEU OF CONSTRUCTION

For all or part of the road frontage improvements required by Section 1007; located within the Portland Metropolitan Urban Growth Boundary (UGB); and required for a partition, duplex or triplex (where no more than one such dwelling is proposed), a townhouse, a detached single-family dwelling, or a manufactured dwelling (provided it is not located in a cottage cluster development); the developer may elect to pay a fee in lieu of construction as follows.

- A. The fee in lieu of construction may be paid if the road frontage improvements are located on a local, connector, or collector road that is not identified on Comprehensive Plan Map 5-3, *Essential Pedestrian Network*, and payment of the fee is deemed by the Department of Transportation and Development to be an acceptable alternative to construction of the required improvements; or
- B. The fee in lieu of construction may be paid if the road frontage improvements are located on a road that is identified on Comprehensive Plan Map 5-3; payment of the fee is deemed by the Department of Transportation and Development to be an acceptable alternative to construction of the required improvements; and at least one of the following criteria is met:
  - 1. The improvements are included in the Five-Year Capital Improvement Program;
  - 2. The improvements are located on a road where significant topographical or natural feature constraints exist; or
  - 3. The improvements are located on a local, connector, or collector road where a sidewalk or pathway does not exist within 200 feet of the required improvements.
- C. The amount of the fee in lieu of construction is established by separate order of the Board of County Commissioners.

- D. All fees in lieu of improvements collected, and interest thereon, shall be placed in a “Sidewalk Improvement Fund.” Fees shall be spent on sidewalk or pedestrian pathway construction on local, connector, or collector roads within the UGB.

1007.09 STREETS AND SIDEWALKS IN SUNNYSIDE VILLAGE

The following standards apply in Sunnyside Village. Where these standards conflict with other provisions in Section 1007, Subsection 1007.09 shall take precedence.

- A. Cul-de-sacs are permitted only when topographic conditions or existing street patterns preclude extension of streets. The maximum radius shall be 40 feet.
- B. All streets adjacent to resource protection areas shall have at least one five-foot-wide sidewalk along one side of the street. If there are no significant trees (at least eight inches in diameter) along the resource protection area adjacent to the street, then a minimum four-foot-wide planting strip is required along both sides of the street. If it is determined that a unique view is to be preserved, then the Planning Director will determine if street trees are required.
- C. New street connections along arterial streets are shown on Comprehensive Plan Map X-SV-3, *Sunnyside Village Plan Street Classifications*. New street connections to collector roadways shall be a minimum of 150 feet apart, measured road centerline to centerline.

New individual driveway connections shall not be permitted along arterial and collector roadways.

At existing or future major street intersections (existing or proposed traffic signals), no new driveways or street connections shall be allowed within the influence area of the intersection. The influence area is defined as the distance that vehicles will queue from the signalized intersection. The influence area shall be based upon traffic volumes summarized in the Sunnyside Area Master Plan (November 1994) or based upon information acceptable to the County Engineering Division. This influence area shall include an additional 100 feet beyond the queue length for back-to-back left turns.

The preferred minimum intersection spacing on minor arterials is 500 feet, measured road centerline to centerline. Major arterial intersection spacing is preferred to be between 600 feet and 1,000 feet, measured road centerline to centerline.

- D. The interior angles at intersection roadways shall be as near to 90 degrees as possible, and in no case shall it be less than 80 degrees or greater than 100 degrees. Minimum centerline radius for local roadways shall be 100 feet unless the alternative horizontal curve illustrated on Comprehensive Plan Figure X-SV-9, *Sunnyside Village Plan Alternative Horizontal Curve for Local Streets*, is used.

- E. Alleys shall be private streets with rights-of-way of 16 feet. (See Comprehensive Plan Figure X-SV-6, *Sunnyside Village Plan Alleys*.)
- F A traffic circle will mark the heart of Sunnyside Village and will provide suitable geometrics for the five radial streets that converge at this point. Travel on the circle shall occur in one direction. This shall be facilitated by traffic diverters that guide vehicles but still allow comfortable pedestrian movement. The raised diverters should consist of low raised curbs and/or special paving. The travel lane within the circle should allow for easy merging.

Special paving shall demark crosswalks. Bike lanes shall be clearly marked and shall occur at the edge of the travel lane and define the inner boundary of the crosswalks and bus loading areas. The bus loading areas shall be located adjacent to the Village Commercial area. On the other side of the circle, this added dimension shall be used for planting strips with street trees, adjacent to nine-foot-wide sidewalks.

The center island shall have a radius of at least 30 feet and shall be landscaped. A vertical feature or monument identifying the entrance to Sunnyside Village should mark the center of the circle and shall be framed by blossoming trees.

- G. Intersection dimensions should be minimized to reduce pedestrian crossing-distances and slow vehicles. Curb radiuses should not exceed 25 feet at corners.

#### 1007.10 VACATIONS

- A. Road and Access Easement Vacations: In the RTL and CC Districts, road vacations shall be prohibited in developments unless replaced with a new road or walkway that serves the same function. The replacement does not have to be in the same alignment as long as it provides access to the same areas the vacated road would have if constructed.
- B. Internal Streets: In the Clackamas Regional Center Area, to provide connectivity, existing platted roads within proposed developments shall not be vacated unless similar access is provided on the site.

[Amended by Ord. ZDO-224, 5/31/11; Amended by Ord. ZDO-230, 9/26/11; Amended by Ord. ZDO-232, 3/12/12; Amended by Ord. ZDO-246, 3/1/14; Amended by Ord. ZDO-250, 10/13/14; Amended by Ord. ZDO-253, 6/1/15; Amended by Ord. ZDO-258, 1/18/17; Amended by Ord. ZDO-266, 5/23/18; Amended by Ord. ZDO-268, 10/2/18; Amended by Ord. ZDO-276, 10/1/20; Amended by Ord. ZDO-282, 7/1/22]

**Summary of Proposed Amendments to Section 1009, *Landscaping***

1. Update two citations to correctly reference Subsection 1005.09(L).

**1009 LANDSCAPING**

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1009.01 GENERAL PROVISIONS

- A. Landscaping materials shall be selected and sited to produce a hardy and low-maintenance landscaped area with an emphasis on fast-growing plants. Selection shall include consideration of soil type and depth, spacing, exposure to sun and wind, slope and contours of the subject property, building walls and overhangs, and compatibility with existing vegetation to be preserved. Notwithstanding the requirement for hardiness, annuals are permitted as provided in Subsection 1009.01(B).
- B. A variety of plants, intermixed throughout landscaped areas, shall be provided, as follows:
  - 1. Evergreen and deciduous;
  - 2. Trees, shrubs, and groundcover;
  - 3. Plants of varying textures;
  - 4. Plants of varying widths and heights at maturity; and
  - 5. Plants with seasonal color interest (e.g., foliage, flowering perennials, annuals).
- C. The planting of invasive non-native or noxious vegetation shall be prohibited, and existing invasive non-native or noxious vegetation shall be removed.
- D. Landscaped areas shall not be used for other purposes, such as storage or display of automobiles, equipment, merchandise, or materials.
- E. Landscaping of the unimproved area between a lot line and the improved portion of an adjacent road right-of-way shall be required when there are no immediate plans to develop or otherwise disturb the unimproved area, and one or more of the following apply:
  - 1. The subject property is located inside the Portland Metropolitan Urban Growth Boundary;
  - 2. Landscaping is necessary to present an appearance consistent with the proposed development as viewed from the road;
  - 3. Landscaping is necessary to reduce dust, noise, erosion, or fire hazard; or
  - 4. The road is designated as a scenic road on Comprehensive Plan Map 5-1, *Scenic Roads*.

- F. Landscaping shall be used to highlight public entrances to buildings. If—due to the depth of a front setback, a required walkway, or both—there is insufficient area to permit a typical, in-ground landscaping bed between a public entrance and a front lot line, this requirement may be met with trellises, hanging baskets, or planters, any of which shall include plants.
- G. Where feasible, landscaping shall be required adjacent to walkways and other areas intended for pedestrian use.
- H. Existing significant plants, terrain, and other natural features shall be incorporated into the landscaping design and development if such features are required to be retained by other provisions of this Ordinance or if otherwise feasible.

1009.02 MINIMUM AREA STANDARDS

- A. Table 1009-1, *Minimum Landscaped Area*, establishes the minimum percentage of the area of the subject property that shall be landscaped.
  - 1. The minimum landscaped area shall be calculated after subtracting any public dedications from the area of the subject property.
  - 2. Landscaping in adjacent rights-of-way shall not count toward compliance with the minimum landscaped area.
  - 3. Requirements for surface parking and loading area landscaping, screening and buffering, scenic roads landscaping, landscaping strips, and recreational areas and facilities set forth in Section 1009 apply regardless of whether compliance with those requirements results in landscaping a greater percentage of the subject property than is required by Table 1009-1.

**Table 1009-1: Minimum Landscaped Area**

Zoning District	Minimum Landscaped Area
CC, PMU, RCC, RCO, RTL	10 percent
RTC	<ul style="list-style-type: none"> <li>15 percent outside Government Camp</li> <li>10 percent in Government Camp</li> </ul>
SCMU	<ul style="list-style-type: none"> <li>15 percent for developments of triplexes, quadplexes, or multifamily dwellings, including mixed-use developments that include these uses</li> <li>10 percent for all other developments</li> </ul>
BP, C-2, C-3, GI, LI, NC, RC, RI, VCS, VO	15 percent
OA, OC, RCHDR	20 percent
HDR, MR-1, MR-2, MRR, PMD, VA, VTH	25 percent except 20 percent for townhouses in the MR-1 and MR-2 Districts
HR	<ul style="list-style-type: none"> <li>25 percent for conditional uses</li> <li>20 percent for townhouses if three or more dwelling units are attached in succession</li> </ul>
FF-10, FU-10, R-2.5 through R-30, RA-1, RA-2, RR, RFFF-5, VR-4/5, and VR-5/7	25 percent for conditional uses
SHD	40 percent

4. A minimum of 75 percent of the minimum landscaped area required by Table 1009-1—excluding any area occupied by pedestrian amenities, active recreational areas, or edible gardens—shall be landscaped with native or drought-tolerant plants.
5. Outdoor recreational areas required by Subsection 1009.08(A), as well as outdoor recreational areas in the MRR District, shall count toward the minimum landscaped area required by Table 1009-1, except that impervious surface area exceeding 25 percent of the outdoor recreational area shall be excluded.



6. Edible gardens may comprise a maximum of 10 percent of the minimum landscaped area required by Table 1009-1.
7. Green roofs may comprise a maximum of 25 percent of the minimum landscaped area required by Table 1009-1.
8. Turf lawn may comprise a maximum of 10 percent of the minimum landscaped area required by Table 1009-1. However, this limitation shall not apply to active recreational areas, provided that no other areas of the subject property are planted in turf lawn, and it shall not apply to cemeteries.
9. Pedestrian amenities may comprise a maximum of one-third of the minimum landscaped area required by Table 1009-1. However, no more than 15 percent of the minimum landscaped area required by Table 1009-1 and developed with pedestrian amenities shall have an impervious surface.
10. Area occupied by walls, fences, or trellises constructed to comply with Subsections 1009.03 and 1009.04 shall count toward the minimum landscaped area required by Table 1009-1.
11. In the PMD, MR-1, MR-2, and HDR Districts, the following may comprise a maximum of 20 percent of the minimum landscaped area required by Table 1009-1: interior courtyards, atriums, solar greenhouses, solariums, roof gardens, indoor recreational areas, and other comparable amenities.
12. In the RCHDR and SHD Districts, the minimum landscaped area required by Table 1009-1 shall be met with shared outdoor surface areas, including the following: landscaping, courtyards, pedestrian plazas, areas dedicated for parks, onsite walkways and bikeways, recreational areas and facilities, yards, decks, terraces, patios, and roof gardens. In addition, indoor recreational facilities identified in Subsection 1009.08(B), and over and above the minimum standard set forth in Subsection 1009.08(B), may be counted toward the minimum landscaped area required by Table 1009-1. Also, private outdoor areas may be counted toward meeting the minimum landscaped area required by Table 1009-1, as follows:
  - a. A maximum of 25 percent of the minimum landscaped area required by Table 1009-1 may be comprised of usable private outdoor space, except that the 25-percent cap does not apply to usable private open space facing streets and accessory to residential development.
  - b. When living areas face the street, usable balcony space may be applied toward achieving the minimum landscaped area required by Table 1009-1 on a 1:2 ratio (one square foot of credit for every two square feet of balcony space facing the street). The balconies must have non-opaque sides and be designed to incorporate landscaping or other decorative features.

B. Exceptions: Notwithstanding Table 1009-1:

1. If a commercial, industrial, or institutional development is lawfully nonconforming with regard to compliance with the minimum landscaped area standard, less than 5,000 square feet of building floor space may be added without bringing the subject property into full compliance with the standard, as follows:
  - a. Additions of less than 1,000 square feet of building floor space do not require increased compliance with the minimum landscaped area standard.
  - b. Additions of 1,000 to 1,999 square feet of building floor space require either an additional five percent of the subject property to be landscaped or compliance with Table 1009-1, whichever is less.
  - c. Additions of 2,000 to 4,999 square feet of building floor space require either an additional 10 percent of the subject property to be landscaped or compliance with Table 1009-1, whichever is less.
  - d. If a series of additions occur, the landscaped area shall increase until compliance with Table 1009-1 is reached.
2. In the RTC District in Government Camp, the minimum landscaped area standard will be waived for lots or tracts with street frontage on Government Camp Loop from Wy'East Trail to Olive Street and on Little Trail from Olive Street to Church Street, if plaza space that complies with the following standards is provided:
  - a. Plaza space shall be permanent space open to the public.
  - b. Plaza space shall be integrated into the development and be both accessible and visible from Government Camp Loop or Little Trail.
  - c. A minimum of 100 square feet of plaza space shall be provided for developments of up to 1,999 square feet of building floor space, and a minimum of 150 square feet of plaza space shall be provided for developments of 2,000 square feet of building floor space or more. This shall be developed as one contiguous space, except that developments of 5,000 square feet of building floor space or more may develop two separate plazas.
  - d. Plaza space surface materials shall consist of textured concrete, concrete mixed with aggregate, rock, rock veneer, pavers, bricks, or wood. Asphalt is prohibited.
  - e. A minimum of ten percent of the plaza space area shall be landscaped with planters or hardy native vegetation.

- f. A minimum of three permanent seating spaces shall be provided in the plaza space for developments of up to 1,999 square feet of floor space. One additional permanent seating space shall be provided for each additional 1,000 square feet of floor space. Seating spaces shall be constructed of textured concrete, rock, rock veneer, wood, or wrought iron.
- g. A minimum of one garbage receptacle shall be provided in each plaza, and all plaza space receptacles shall be clad in wood or stone.

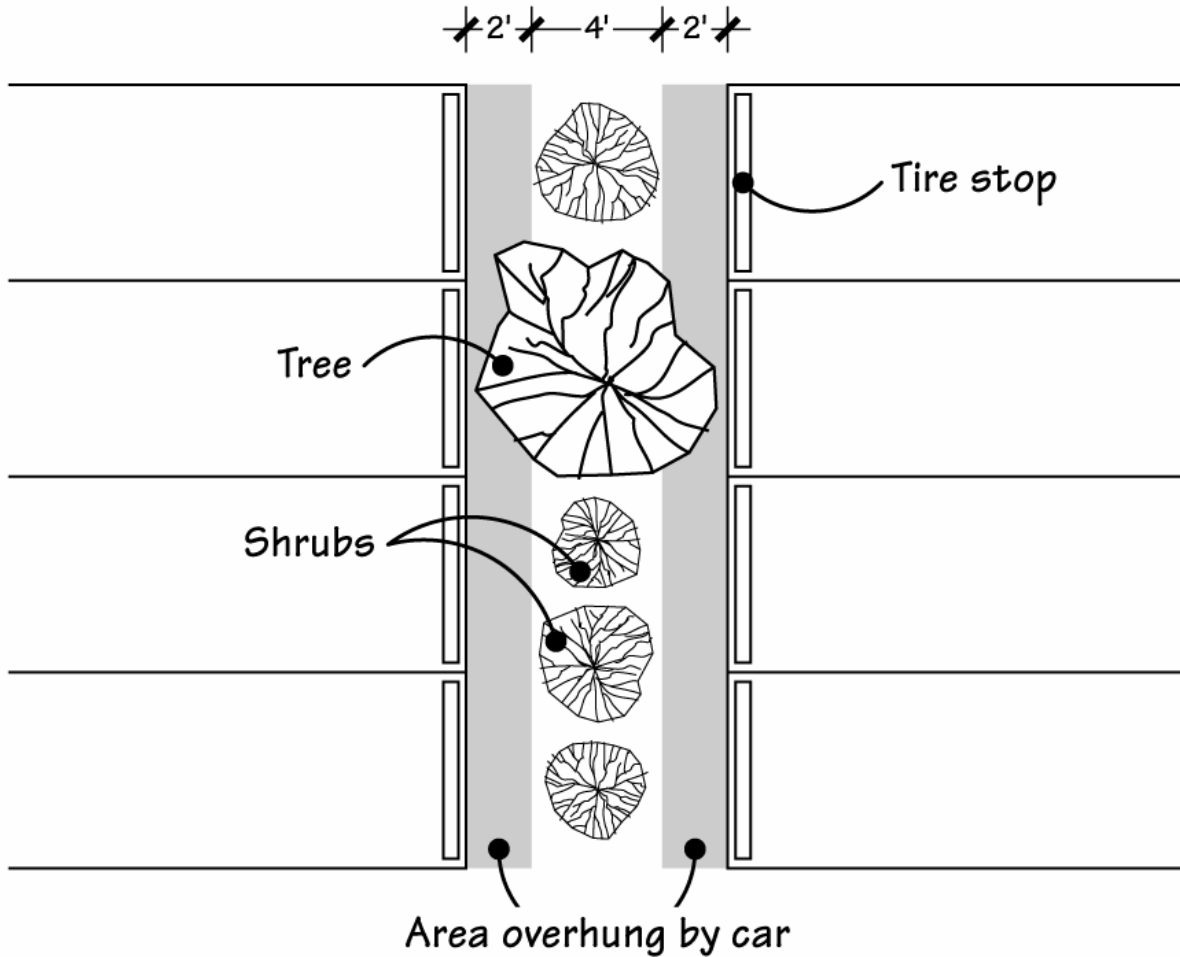
1009.03 SURFACE PARKING AND LOADING AREA LANDSCAPING

Surface parking and loading areas shall be landscaped as follows:

- A. Surface parking areas that include more than 15 parking spaces shall comply with the following landscaping requirements:
  - 1. Twenty-five square feet of landscaping per parking space, excluding perimeter parking spaces, shall be provided, except that the standard shall be reduced to 20 square feet for each parking space developed entirely with porous pavement.
  - 2. One landscape swale located between two rows of parking spaces, as shown in Figure 1009-1, is required for every six rows of parking spaces, unless all parking spaces are developed entirely with porous pavement. Additional swales beyond the minimum requirement are allowed.
    - a. For the purpose of Subsection 1009.03(A)(2), a “row” of parking spaces is one space deep, meaning that where two spaces abut at their ends, it is considered two “rows”.
    - b. Parking spaces separated by pedestrian or vehicle crossings perpendicular to the row of parking spaces are considered to be part of a single row.
    - c. The first required swale shall be developed for the entire length of the longest row of parking spaces.
    - d. Gaps in a required swale are permitted only to provide for pedestrian and vehicle crossings.
    - e. The parking lot shall be graded to allow surface water to flow into a swale. Curbs shall not separate parking spaces from the swale, and gaps between parking space tire stops are required to allow surface water to flow into a swale.
    - f. Swales shall be a minimum of four feet wide.

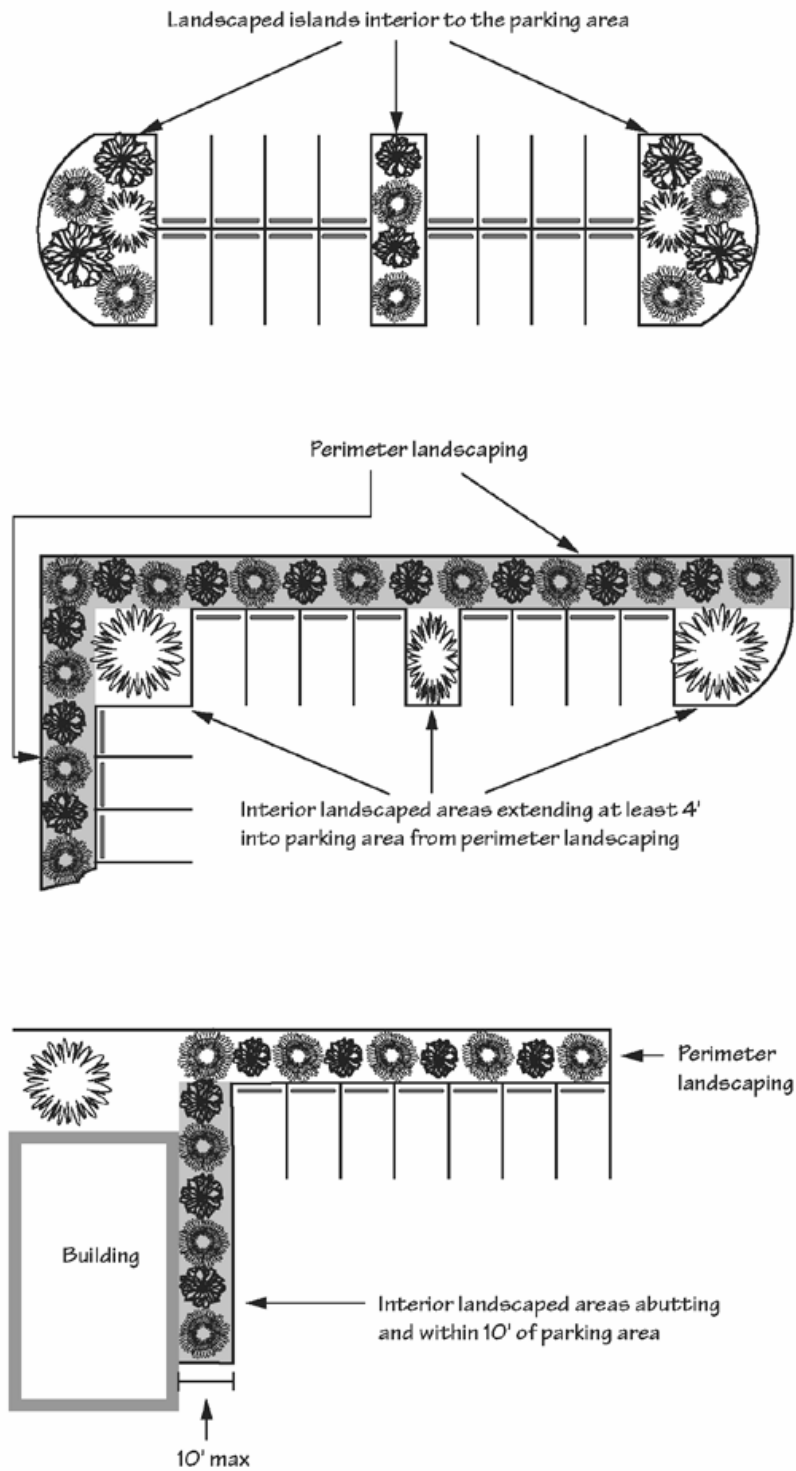
- g. If the front portions of parking spaces are landscaped as allowed by Subsection 1015.02(A)(10), the landscaped portion of the parking space shall be adjacent and in addition to the swale, as shown in Figure 1009-1.
- h. Turf lawn is prohibited in swales.

**Figure 1009-1: Parking Lot Swale**



3. Interior landscaping not developed as swales pursuant to Subsection 1009.03(A)(2) shall comply with the following standards:
  - a. It shall be arranged in areas at the ends of rows of parking or between parking spaces within rows of parking. See Figure 1009-2.
  - b. It may join perimeter landscaping as long as the interior landscape area extends at least four feet into the parking area from the perimeter landscape line. See Figure 1009-2.
  - c. Landscaping that abuts, but does not extend into, the parking area may be included as interior landscaping if all of the following are met:
    - i. The abutting landscaped area must be in addition to required perimeter landscaping;
    - ii. Only the first 10 feet of the abutting landscaped area, measured from the edge of the parking area, may be included as interior landscaping; and
    - iii. The landscaped area is not abutting and parallel to required perimeter landscaping. See Figure 1009-2.
  - d. The interior length and width of landscaped areas shall be a minimum of four feet.

Figure 1009-2: Interior Landscaping



4. Interior landscaped areas, including swales, shall include a minimum of one tree located every eight interior parking spaces, or fraction thereof, except in the OA, VA, VCS, and VO Districts, where a minimum of one tree shall be located every six interior parking spaces.
  - a. Where necessary to accommodate other design considerations, variable spacing of the trees required by Subsection 1009.03(A)(4) is allowed, but in no case shall there be less than one tree planted in every 12 parking spaces.
  - b. The species of trees required shall be determined on the basis of the growth habit and the need to provide maximum shading of surface parking areas.
- B. Perimeter landscaping requirements for surface parking and loading areas adjacent to abutting lots or rights-of-way are as follows:
  1. A landscaping strip with a minimum width of five feet shall be provided adjacent to the perimeter of the surface parking or loading area, except:
    - a. In the OA, VA, VCS, and VO Districts, the minimum width shall be 10 feet;
    - b. In the BP and LI Districts, the minimum width shall be 15 feet abutting a front lot line; and
    - c. In the GI District, the minimum width shall be 10 feet abutting a front lot line.
  2. The required landscaping strips shall comply with the following standards:
    - a. Sufficient low shrubs shall be planted to form a continuous screen three feet high and 95 percent opaque, year-round; or a three-foot-high masonry wall or berm may be substituted for the shrubs. When applied along front lot lines, the screen or wall is to be placed along the interior side of the landscaping strip and shall be 30 inches high instead of three feet high.
    - b. In addition, one tree is required for every 30 linear feet of landscaping strip, or as otherwise required to provide a tree canopy over the landscaping strip.
    - c. Ground cover plants must fully cover the remainder of the landscaped area.
  3. A perimeter landscape strip is not required for a surface parking or loading area adjacent to an abutting lot if one or more interior driveways connect the two lots and if the abutting lot also is developed with a surface parking or loading area adjacent to the shared lot line.

4. Required walkways may cross perimeter landscaping strips.

1009.04 SCREENING AND BUFFERING

A. Screening shall be used to eliminate or reduce the visual impacts of the following:

1. Service areas and facilities, such as loading areas and receptacles for solid waste or recyclable materials;
2. Storage areas;
3. Ground-mounted rainwater collection facilities with a storage capacity of more than 100 gallons;
4. Parking lots within or adjacent to an Urban Low Density Residential, VR-5/7, VR-4/5, RA-1, RA-2, RR, RRFF-5, FF-10, FU-10, or HR District; and
5. Any other area or use, as required by this Ordinance.

B. Screening shall be accomplished by the use of sight-obscuring evergreen plantings, vegetated earth berms, masonry walls, sight-obscuring fences, proper siting of disruptive elements, building placement, or other design techniques.

C. Screening shall be required to substantially block any view of material or equipment from any point located on a street or accessway adjacent to the subject property. Screening from walkways is required only for receptacles for solid waste or recyclable materials. A sight-obscuring fence at least six feet in height and up to a maximum of 10 feet in height shall be required around the material or equipment.

D. Buffering shall be used to mitigate adverse visual impacts, dust, noise, or pollution, and to provide for compatibility between dissimilar adjoining uses. Special consideration shall be given to buffering between residential uses and commercial or industrial uses, and in visually sensitive areas.

E. Buffering shall be accomplished by one of the following:

1. A landscaping strip with a minimum width of 15 feet and planted with:
  - a. A minimum of one row of deciduous and evergreen trees staggered and spaced a maximum of 30 feet apart;
  - b. A perennial, evergreen planting with sufficient foliage to obscure vision and which will grow to form a continuous hedge a minimum of six feet in height within two years of planting; and
  - c. Low-growing evergreen shrubs and evergreen ground cover covering the balance of the area;



2. A berm with a minimum width of ten feet, a maximum slope of 40 percent on the side away from the area screened from view, and planted with:
    - a. A perennial, evergreen planting with sufficient foliage to obscure vision and which will grow to form a continuous hedge within two years of planting. The minimum combined height of the berm and planting shall be six feet; and
    - b. Low-growing evergreen shrubs and evergreen ground cover covering the balance of the area;
  3. A landscaping strip with a minimum width of five feet and including:
    - a. A masonry wall or sight-obscuring fence a minimum of six feet in height. The wall or fence is to be placed along the interior side of the landscaping strip;
    - b. Evergreen vines, evergreen trees, or evergreen shrubs, any of which shall be spaced not more than five feet apart; and
    - c. Low-growing evergreen shrubs and evergreen ground cover covering the balance of the area; or
  4. Another method that provides an adequate buffer considering the nature of the impacts to be mitigated.
- F. Required walkways shall be accommodated, even if such accommodation necessitates a gap in required screening or buffering.

1009.05 SCENIC ROADS

In the RA-1, RA-2, RRF-5, FF-10, FU-10, MRR, and HR Districts, buildings in developments adjacent to roads designated as scenic roads on Comprehensive Plan Map 5-1, *Scenic Roads*, shall be set back a sufficient distance from the right-of-way to permit a landscaped or natural buffer zone.

1009.06 LANDSCAPING STRIPS

- A. In the BP and LI Districts, a landscaping strip a minimum of 15 feet wide shall be provided abutting front lot lines.
- B. In the GI District, a landscaping strip a minimum of 10 feet wide shall be provided abutting front lot lines.
- C. In all other zoning districts, except SCMU, a landscaping strip a minimum of five feet wide shall be provided abutting front lot lines. (See Subsection 1005.0910(L) for additional SCMU landscaping requirements.)

1. This requirement will be waived or reduced in the NC, PMU, and VCS Districts, which are districts that have no minimum front setback standard, to the extent necessary to accommodate a building with a front setback of less than five feet.
2. If—due to the depth of a front setback and the need to accommodate a required walkway, required pedestrian amenities, or both—there is insufficient area to permit a five-foot-wide landscaping strip, the landscaping strip may be reduced in width or the landscaping requirement may be met with a linear arrangement of trellises, hanging baskets, or planters, any of which shall include plants.

1009.07 FENCES AND WALLS

- A. Fences and walls shall be of a material, color, and design complementary to the development.
- B. In the BP and LI Districts, the minimum front setback for fences and walls is 15 feet.
- C. In the GI District, the minimum front setback for fences and walls is 10 feet.

1009.08 RECREATIONAL AREAS AND FACILITIES

- A. An outdoor recreational area shall be provided in developments of duplexes, triplexes, quadplexes, or multifamily dwellings in the MR-1, MR-2, and HDR Districts, and in developments of triplexes, quadplexes, or multifamily dwellings, including mixed-use developments that include these uses, in the SCMU District, as follows:
  1. A minimum of 200 square feet of usable outdoor recreational space per dwelling unit shall be provided for studio, one- bedroom, and two-bedroom units. The minimum shall be increased to 300 square feet per dwelling unit for units with three or more bedrooms. However, in the SCMU District:
    - a. The requirement shall apply only to the first 20 dwelling units per acre, or prorated equivalent thereof; and
    - b. The amount of required outdoor recreational area may be reduced, to the minimum extent necessary, if—when combined with the minimum landscaping requirements of Subsections 1005.0910(L), 1009.03, and 1009.04—full compliance would result in landscaping more than 15 percent of the lot.
  2. Outdoor recreational areas may be designed for passive or active recreation, including edible gardening.

3. Outdoor recreational areas shall be designed for adequate surveillance opportunities.
  4. Outdoor recreational areas shall be conveniently located and accessible to all dwelling units.
- B. In the SHD and RCHDR Districts, a residential development shall provide at least one of the following recreational facilities for the first 60 dwelling units, or portion thereof, and at least one additional facility for every additional 120 dwelling units, or portion thereof.
1. An 800-square-foot or larger heated swimming pool;
  2. A minimum 1,000-square-foot exercise room with exercise equipment and mats;
  3. Two handball/racquetball courts;
  4. Whirlpool and sauna or steam bath rooms;
  5. Minimum 1,200-square-foot game room with pool and ping pong tables, folding tables and chairs, and kitchenette;
  6. An 800-square-foot shop equipped with hand tools, work benches, storage shelves, lockers, and ventilation;
  7. A 400-square-foot greenhouse with all-season solar exposure, equipped with benches, water, ventilation, summer shading materials, and storage areas for pots, tools, potting soil, fertilizers, etc;
  8. 3,000 square feet of hard-surface play area, such as a tennis court, basketball court, or roller-skating area;
  9. 4,200 square feet of soft surface play area with equipment provided for lawn games such as volleyball, badminton, croquet, and horseshoes; and
  10. Any other similar facility.

1009.09 EROSION CONTROL

- A. Graded areas shall be re-vegetated with suitable plants to ensure erosion control.
- B. Netting shall be provided, where necessary, on sloped areas while ground cover is being established.

1009.10 PLANTING AND MAINTENANCE

- A. Impervious weed barriers (e.g, plastic sheeting) are prohibited.

- B. Plants shall not cause a hazard. Plants over walkways, sidewalks, pedestrian pathways, and seating areas shall be pruned to maintain a minimum of eight feet below the lowest hanging branches. Plants over streets, bikeways, accessways, and other vehicular use areas shall be pruned to maintain a minimum of 15 feet below the lowest hanging branches.
- C. Plants shall be of a type that, at maturity, typically does not interfere with above- or below-ground utilities or paved surfaces.
- D. Plants shall be installed to current nursery industry standards.
- E. Plants shall be properly guyed and staked to current nursery industry standards as necessary. Stakes and guys shall not interfere with vehicular or pedestrian traffic, shall be loosened as needed to prevent girdling of trunks, and shall be removed as soon as sufficient trunk strength develops, typically one year after planting.
- F. Landscaping materials shall be guaranteed for a period of one year from the date of installation. The developer shall either submit a signed maintenance contract for the one-year period or provide a performance surety pursuant to Section 1311, *Completion of Improvements, Sureties, and Maintenance*, covering the landscape maintenance costs for the one-year period.
- G. Plants shall be suited to the conditions under which they will be growing. As an example, plants to be grown in exposed, windy areas that will not be irrigated shall be sufficiently hardy to thrive under these conditions. Plants shall have vigorous root systems, and be sound, healthy, and free from defects and diseases.
- H. When planted, deciduous trees shall be fully branched, have a minimum caliper of two inches, and have a minimum height of eight feet.
- I. When planted, evergreen trees shall be fully branched, have a minimum height of eight feet, and have only one leader.
- J. Shrubs shall be supplied in minimum one-gallon containers or eight-inch burlap balls with a minimum spread of 12 inches.
- K. Ground cover shall be planted a maximum of 30 inches on center with a maximum of 30 inches between rows. Rows of plants shall be staggered. Ground cover shall be supplied in minimum four-inch containers, except that the minimum shall be reduced to two and one-quarter inches or equivalent if the ground cover is planted a minimum of 18 inches on center.
- L. Plants shall be spaced so that ground coverage three years after planting is expected to be 90 percent, except where pedestrian amenities, rainwater collection systems, or outdoor recreational areas count as landscaping pursuant to Subsection 1009.02. Areas under tree drip lines count as ground coverage.

- M. Irrigation of plants shall be required, except in wooded areas, wetlands, and in river and stream buffers. The irrigation system shall be automatic, except that hose bibs and manually operated methods of irrigation may be permitted in small landscaped areas close to buildings. Automatic irrigation systems are subject to the following standards:
1. An automatic irrigation controller shall be required for irrigation scheduling.
  2. The system shall be designed to prevent runoff, low head drainage, overspray, or other similar conditions where irrigation water flows onto non-targeted areas, such as adjacent property, non-irrigated areas, hardscapes, roadways, or structures.
  3. In mulched planting areas, the use of low volume irrigation is required to maximize water infiltration into the root zone.
  4. Narrow or irregularly shaped areas, including turf lawn, less than eight feet in width in any direction shall be irrigated with subsurface or low volume irrigation.
  5. Overhead sprinkler irrigation is prohibited within two feet of any impervious surface unless:
    - a. The landscaped area is adjacent to permeable surfacing and no runoff occurs; or
    - b. The adjacent impervious surfaces are designed and constructed to drain entirely to landscaping; or
    - c. The irrigation designer specifies an alternative design or technology that complies with Subsection 1009.10(M)(2).
- N. Appropriate methods of plant care and landscaping maintenance shall be provided by the property owner. Pruning shall be done to current nursery industry standards.
- O. Plants shall be protected from damage due to heavy foot traffic or vehicular traffic by protective tree grates, pavers, or other suitable methods.

[Amended by Ord. ZDO-224, 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-253, 6/1/15; Amended by Ord. ZDO-266, 5/23/18; Amended by Ord. ZDO-276, 10/1/20; Amended by Ord. ZDO-282, 7/1/22]

**Summary of Proposed Amendments to Section 1010, Signs**

1. Remove unnecessary standards for drive-thru signs in the Rural Tourist Commercial (RTC) and Village Community Service (VCS) Districts because those zoning districts do not allow drive-thrus.
2. Repeal the Village Office (VO) District sign provisions because the VO area has been annexed to the City of Happy Valley.

**1010 SIGNS**

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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.
  - 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. Commercial Building Signs:
- 1. Number: The maximum sign area may be distributed among any number of signs.
  - 2. Maximum size:
    - a. If there is not a freestanding sign on the same site frontage, then one and one-half square feet of sign area per linear footage of the occupant's primary building wall.

- b. If there is a freestanding sign on the same site frontage, then one square foot of sign area per linear footage of the occupant's primary building wall.
  - c. Wall signs based on the sign rights of a primary building wall may be placed on a secondary building wall; they may not be placed onto another primary building wall.
  - d. Each tenant shall be allowed a minimum 32 square feet of building sign area.
  - e. In no case shall a building sign exceed 200 square feet.
3. Design: Building signs shall be incorporated into the design of the building, and shall not be placed in locations which interrupt, detract from, or change the architectural lines of the building.
4. Illumination: Building signs may be internally or externally illuminated, subject to Subsection 1010.02(I).

C. Mobile Vending Unit Signs:

- 1. The number and area of signs on a mobile vending unit are unrestricted. However, such signs shall be located flat against the unit, and no portion of any sign shall extend above the roof of the unit. These signs may be internally or externally illuminated, provided that any required utility connections for such illumination comply with Section 837.
- 2. Each mobile vending unit may have one portable menu or sandwich board sign a maximum of six square feet in area. This sign shall be located within 10 feet of the mobile vending unit and shall be located outside the unit only during unit operating hours.

D. Drive-Thru Signs: In addition to signage permitted by Subsections 1010.09(A) or (B), drive-thru window services approved pursuant to Section 827, *Drive-Thru Window Services*, may have any number of drive-thru signs, of any total area.

E. NC District: In the NC District, only drive-thru, projecting, building, or low freestanding or ground-mounted signs, graphics, or symbols shall be used. Where these standards conflict with other provisions in Section 1010, Subsection 1010.09(E) shall take precedence.

F. VCS District: In the VCS District, signs shall be subject to the following standards. Where these standards conflict with other provisions in Section 1010, Subsection 1010.09(F) shall take precedence.

- 1. ~~Except for drive thru signs, s~~Signs shall have a maximum of two colors in addition to black and white.

- 2. Only hanging, building, or monument, ~~or drive thru~~ signs shall be used.
- 3. ~~Except for drive thru signs, s~~Signs shall not exceed 24 square feet in size.

~~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(G) shall take precedence.~~

- ~~1. Except for drive thru signs, signs shall have a maximum of two colors in addition to black and white.~~
- ~~2. Only hanging, building, 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 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.~~

GH. 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(H) shall take precedence. Where these standards conflict with Subsection 1010.15, Subsection 1010.15 shall take precedence.

HI. RC District: In the RC District, all signs except drive-thru signs shall be complementary to the historic character and rural scale of the unincorporated community in the use of graphics, symbols, lighting, and natural materials. Where these standards conflict with other provisions in Section 1010, Subsection 1010.09(I) shall take precedence.

1010.10 ONSITE TRAFFIC CONTROL AND IDENTIFICATION SIGNS

- A. Directories oriented primarily toward vehicle circulation shall be limited in area to a maximum of two square feet per tenant, use, or building specifically identified, up to a maximum of 40 square feet.
- B. Directories, including those attached to buildings, that are oriented toward pedestrian circulation areas shall be a maximum of 24 square feet in area, and a maximum of eight feet in top-of-sign height.



- C. An onsite monument sign for an individual building within a development may be allowed as an alternative to a building sign, provided such sign shall:
  - 1. Be located adjacent to the building being identified.
  - 2. Not exceed 12 square feet in area.
  - 3. Not exceed four feet in top-of-sign height.
  - 4. Use materials and colors that are the same, or substantially the same, as those used on the building identified by the sign.
- D. In the CI District, identification signs may be allowed within a perimeter setback area that fronts on a public, county, or state road, and onsite directional signs may be allowed within perimeter setback areas that are adjacent to other site areas.

1010.11 OFFSITE TRAFFIC CONTROL AND IDENTIFICATION SIGNS IN NATURAL RESOURCE DISTRICTS

- A. A temporary permit may be approved, renewable after five years. Criteria for approval:
  - 1. Shall be allowed only in Natural Resource zoning districts.
  - 2. The sign shall provide the actual registered name of a business and directions to the business (e.g., left or right, an arrow, one-quarter mile, etc.).
  - 3. A maximum of three offsite traffic control identification signs are allowed for each business.
  - 4. Maximum distance of business from offsite traffic control identification sign: Five miles.
  - 5. A maximum of two offsite traffic control signs shall be located at any one site.
- B. Development Standards
  - 1. Maximum size: Shall not exceed four square feet per side.
  - 2. Setback: Behind the front property line.
  - 3. Illumination: Offsite traffic control and identification signs shall not be illuminated.

1010.12 FLAGS

Flags are allowed in all zoning districts and, except for drive-thru signs, are subject to the following:

- A. Number: Three flags per site.
- B. Maximum size: No flag shall exceed 40 square feet.
- C. Height: Top of pole supporting flag shall not exceed 35 feet above finished ground elevation (not including berms or mounds specifically created for the sign).
- D. All flags shall be located on one pole.

1010.13 TEMPORARY DISPLAYS AND SIGNS

- A. Temporary signs that are not drive-thru signs may be displayed under the following conditions and limitations:
  - 1. Number: Only one temporary sign shall be displayed for a site.
  - 2. Time Period and Duration: Shall not be displayed for a total time period exceeding 60 days in any calendar year.
  - 3. Size and Height Limits: Same size and height limits as a permanent sign for the same site.
  - 4. Setbacks: Behind front property line.
  - 5. Anchoring: All signs approved under this provision shall be physically attached to the premises in a manner which both prevents the sign from being moved or blown from its location, and allows the prompt removal of the sign.
  - 6. Exceptions: No temporary sign shall be allowed under this provision for any business or development which has a changeable copy sign incorporated into its permanent sign.
- B. Temporary displays (pennants, banners, streamers, strings of lights, and beacon lights) that are not drive-thru signs may be displayed according to Subsections 1010.13(A)(2) and (5) and 1010.02(N).

1010.14 CHANGEABLE COPY SIGNS

Electronic message center signs and other changeable copy signs may be incorporated into permanent signs permitted pursuant to Subsections 1010.08 or 1010.09. Except for drive-thru signs, approval shall not be granted unless the following criteria are satisfied:

- A. Only one such sign shall be used in a development.

- B. The changeable copy sign or electronic message center sign shall be included in the maximum sign area allowed under Subsections 1010.09(A)(3) or 1010.09(B)(2), and Subsections 1010.08 (A)(1) or (B)(1), and shall not exceed 80 percent of the total sign area.
- C. The changeable copy sign or electronic message center sign shall be integrated into the design of the sign.
- D. All segments of a message shall be completed within 12 seconds.

1010.15 GOVERNMENT CAMP SIGN STANDARDS

- A. Area of Application: Subsection 1010.15 shall apply to all permanent identification signs for commercial developments in the RTC and MRR Districts in Government Camp and in the HR District on properties with frontage on Government Camp Loop. The purpose of these sign standards is to provide a consistent design theme in the commercial areas.
- B. Conformance: Signs shall comply with the other applicable provisions of Section 1010, except as otherwise provided in Subsection 1010.15. Where there are conflicts, Subsection 1010.15 shall govern. A sign plan must be submitted to the Design Review Committee which shows:
  - 1. Total signage allowed for the proposed sign frontage, face area of existing signage, and face area of proposed signage;
  - 2. The design of the sign and sign support including dimensions, materials, colors, sign copy, lighting, and graphics; and
  - 3. A site plan and building elevation showing placement of existing and proposed signs on the site.
- C. Preexisting Signs: Signs and sign structures existing prior to February 10, 1993, that complied with applicable regulations existing when the sign was established but do not comply with one or more of the requirements of Section 1010 shall be subject to the provisions of Section 1206 and Subsection 1010.02(M), except:
  - 1. Any permanent sign which is nonconforming in any manner other than individual size shall be brought into conformance with the provisions of this Ordinance prior to any expansion or change in use which requires design review or a conditional use permit. Total signage area of existing and new signs may not exceed the maximum established in these standards. No occupancy permit shall be issued until a sign plan is submitted.
  - 2. Should any permanent nonconforming sign be damaged by any means to an extent of more than 50 percent of its replacement costs at the time of damage, it shall be reconstructed or replaced in conformance with these sign standards.

3. Placement of a new sign where existing signage is greater than the total allowed, or where the new sign will make the total greater, requires removal of an amount of existing signage to keep the total signage area under the limit.
  4. Where a Clackamas County Development Agency incentive program is in effect, all nonconforming signs, except those that are nonconforming in size alone, must be brought into conformance or removed by February 10, 1996.
- D. Design Standards: Signs shall comply with Subsection 1010.05 and the following conditions:
1. Design: Sign design and support structure shall uphold the rustic, mountain environment of Government Camp through a Cascadian design theme.
  2. Materials:
    - a. Signs and support structures are limited to wood or wood exterior, stone, brick, etched or stained glass, wrought iron, or non-shiny metal. Plywood may be used for signs only if it is heavily painted and/or edged to obscure the plywood texture and the surface is sealed to keep it from delaminating.
    - b. Neon signs are permitted inside windows only.
    - c. Plastic may be used only in the letters of sign copy or the portion of a sign with changeable copy.
    - d. Signs in the RTC-zoned properties at the east and west entries of Government Camp visible from U.S. Highway 26 or with frontage on U.S. Highway 26 may be constructed of plastic if the design intent is upheld.
  3. Colors: No reflective or fluorescent colors shall be used on signs or support structures.
  4. Lighting: The source of the lighting shall be external and obscured from the pedestrian. Internally lit signs are permitted only where the letters of the copy are illuminated or in RTC-zoned properties at the east and west entries of Government Camp visible from U.S. Highway 26, or in signs on U.S. Highway 26 frontage.
  5. Changeable Copy: Electronic message center sign area or changeable copy sign area is limited to no more than 20 percent of total signage allowed.
  6. Scale: Signs shall be kept in scale with pedestrians and buildings.
  7. Placement: Signs shall be incorporated into the design of the building and shall not be placed in locations which interrupt, detract from, or change the architectural lines of the building.

E. Total Signage Area:

1. Developments less than three acres in size:
  - a. Total signage area shall be determined by the lineal feet of building frontage per street. This shall be a minimum of 30 square feet of signage plus one square foot for every five feet of building frontage greater than 30 lineal feet.
  - b. Buildings two stories or taller may increase the total signage allowed by 50 percent.
  - c. Only frontages on streets shall be used to determine total signage per frontage per development.
  - d. Signage shall not be transferred between frontages.
2. Developments over three acres in size:
  - a. Total signage area shall be determined by lineal street frontage. This shall be a minimum of 30 square feet of signage plus one square foot of signage per five lineal feet of street frontage greater than 30 feet.
  - b. Internal signs not readily visible from the street shall not be subject to total signage area restrictions in Subsection 1010.15(E)(2)(a).
3. Developments with U.S. Highway 26 frontage: Such signs serve a unique purpose in attracting high speed traffic from the Highway and are also subject to Oregon Department of Transportation sign regulations. One sign shall be allowed per development per U.S. Highway 26 frontage and will be handled on a case-by-case basis. Signage shall conform to the Government Camp design intent to the degree possible.

F. Types of Signs Permitted:

1. Freestanding or monument signs:
  - a. Shall be situated within setback.
  - b. Shall have a maximum of one ground mounted sign per 50 feet of lineal building frontage.
  - c. Shall have a maximum face area of 24 square feet.
  - d. Shall have a maximum top-of-sign height of 12 feet.
  - e. Shall be on a base or wooden supports; poles are permitted only if integrated into a base. Any metal poles must be free of peeling paint and rust.

2. Building signs:
  - a. Shall have a maximum face area of 24 square feet.
  - b. Shall not extend more than 10 inches from the wall.
  - c. Sign or components shall not exceed top of roofline or extend beyond the face area of the building.
3. Projecting signs:
  - a. Shall not extend more than two feet into the public right-of-way, project farther than five feet from the building, or exceed top of roofline immediately above.
  - b. Shall not exceed one projecting sign per 25 feet of lineal building frontage.
  - c. Shall have a maximum face area of 12 square feet; buildings over two stories may have signs of up to 24 square feet.
  - d. Supporting structure may not exceed sign's height or width by more than two feet or extend higher than roofline.
4. Window signs readily visible from outside the building:
  - a. Shall have a maximum face area of 30 percent of total window area per frontage; maximum sign size per individual window sign is 12 square feet.
  - b. Interior neon window signs readily visible from the street shall not exceed 10 percent of the total window area per street frontage. No more than 20 percent of an individual window should be covered with neon. Neon signs within these limits shall not be counted toward the total signage area.
5. Awning/overhead or walkway covering signs:
  - a. Shall be completely positioned on awning, overhead, or covered walkway.
  - b. Shall have a maximum face area of 24 square feet.

1010.16 SUNNYSIDE VILLAGE SIGN STANDARDS

In the Sunnyside Village, as identified on Comprehensive Plan Map X-SV-1, *Sunnyside Village Plan, Land Use Plan Map*, freestanding signs shall be constructed of brick, masonry, wood, or other materials that are compatible with the development. Where these standards conflict with other provisions in Section 1010, Subsection 1010.16 shall take precedence.

1010.17 SCMU DISTRICT SIGN STANDARDS

The following standards shall apply in the SCMU District. Where these standards conflict with other provisions in Section 1010, Subsection 1010.17 shall take precedence.

- A. Townhouses and triplexes shall be subject to Subsection 1010.06(A).
- B. Developments of quadplexes and multifamily dwellings shall be subject to Subsection 1010.06(C).
- C. All other developments, including mixed-use developments, shall be subject to Subsection 1010.09, except:
  - 1. Pole signs, electronic message center signs, and other changeable copy signs are prohibited.
  - 2. Monument signs shall not exceed a height of six feet or an area of 60 square feet, regardless of the number of tenants.
  - 3. Building signs may be projecting signs, and projecting signs shall be subject to the following standards:
    - a. A maximum of one projecting sign per entrance per tenant shall be permitted.
    - b. A projecting sign shall project no more than four feet from the building or one-third the width of an abutting sidewalk or walkway, whichever is less. However, if there is no wall sign on the same building façade, the sign shall project no more than six feet from the building.
    - c. A projecting sign shall not exceed 12 square feet per side, excluding the support brackets. However, if there is not wall sign on the same building façade, the sign shall not exceed 24 square feet per side, excluding the support brackets.

1010.18 FARMERS' MARKET SIGNS

The following sign standards apply to a farmers' market approved pursuant to Section 840, *Farmers' Markets*:

- A. The farmers' market may display 20 square feet of sign area on each street frontage of the tract on which the market is located.
- B. Each farmers' market stall may display 10 square feet of sign area at the stall.
- C. Signs shall be subject to Subsection 1010.13(A)(5).

D. Signs may be displayed only during the hours of farmers' market operation.

#### 1010.19 MULTI-USE DEVELOPMENTS

The following sign standards apply to multi-use developments approved pursuant to Section 844, *Multi-Use Developments*. Where these standards conflict with other provisions in Section 1010, Subsection 1010.19 shall take precedence.

- A. Freestanding Signs: One freestanding sign may be provided on each public road, county road, or state highway from which the development takes access. One additional freestanding sign may be allowed on a public road, county road, or state highway when the frontage on that road exceeds 1,000 feet and two or more major access points are provided. In no case shall the number of freestanding signs exceed four for any multi-use development. The maximum size and height for each freestanding sign shall be determined pursuant to Subsection 1010.05(A)(3).
- B. Building Signs: Individual building tenant identification signs shall be allowed pursuant to Subsection 1010.05(B).
- C. Ground-Mounted Signs: Ground-mounted signs may be used to identify an individual building within a multi-use development provided that:
  - 1. No building sign with the same message is facing in the same direction;
  - 2. The sign area does not exceed 30 square feet;
  - 3. The sign does not exceed five feet in height; and
  - 4. Architectural features may be added to the sign structure provided the sign area and height are not increased by more than one-third of the above requirements.
- D. Road Signs: If interior circulation roads are named, directional signs to various uses within the development may be included on the road signs.

[Amended by Ord. ZDO-224, 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; Amended by Ord. ZDO-280, 10/23/21; Amended by Ord. ZDO-282, 7/1/22]



**Summary of Proposed Amendments to Section 1012, *Lot Size and Density***

1. Clarify that Section 1012 only applies to replats reviewed through a Type II process, and not to replats reviewed through a Type I process.
2. Minor edits for clarity and consistency.

**1012 LOT SIZE AND DENSITY**

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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 the AG/F, EFU, and TBR Districts:

- A. Subdivisions;
- B. Partitions;
- C. Replats reviewed as a Type II application pursuant to Section 1307, Procedures;
- 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 (I).

- A. Limitation: Notwithstanding Subsections 1012.02(C) through (F), 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.
- B. 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 townhouses be developed.
- C. 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(C). Subsection 1012.02(C) does not apply to the creation of separate lots or parcels for:
  - 1. Accessory dwelling units;

2. Accessory historic dwellings;
  3. 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;
  4. Manufactured dwellings and residential trailers established under a temporary permit;
  5. Manufactured dwellings and residential trailers established within a manufactured dwelling park or a manufactured home park;
  6. 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 the HL, HD, or HC overlay zoning district; or
  7. Middle housing dwelling units; however, middle housing land divisions are permitted pursuant to Section 1105, *Subdivisions, Partitions, Replats, Middle Housing Land Divisions, Condominium Plats, and Vacations of Recorded Plats*.
- D. 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 RFFF-5 and FF-10 Districts. In addition, duplexes in the RA-1 District are subject to Subsection 1012.02(F) in lieu of Subsection 1012.02(D).

- E. 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 any portion of the subject property designated Agriculture or Forest, except to the extent that Subsection 401.08(K) or 406.09(G) also applies.
- F. Duplexes in the RA-1 District: In the RA-1 District, there is no minimum lot size for a lot or parcel to be developed with duplexes pursuant to Section 1203, *Conditional Uses*. However, the maximum density standards of Subsection 1012.07 apply to the entire property proposed for development with duplexes prior to the creation of new lots or parcels.
- G. Townhouses: In the R-5, R-7, R-8.5, R-10, R-15, R-20, R-30, VR-4/5, or VR-5/7 District, the minimum lot size standards are waived for townhouses.
- H. Middle Housing Land Divisions: In the R-5, R-7, R-8.5, R-10, R-15, R-20, R-30, VR-4/5, or VR-5/7 District, the minimum lot size standards are waived for middle housing land divisions approved pursuant to Section 1105, *Subdivisions, Partitions, Replats, Middle Housing Land Divisions, Condominium Plats, and Vacations of Recorded Plats*.
- I. Nonresidential Tracts: 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.

#### 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. In addition, for a duplex, triplex, quadplex, or cottage cluster in the R-5, R-7, R-8.5, R-10, R-15, R-20, R-30, VR-4/5, or VR-5/7 District, and for accessory dwelling units, DLA is not the minimum lot area required per dwelling unit.
- 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. Except for middle housing land divisions approved pursuant to Section 1105, *Subdivisions, Partitions, Replats, Middle Housing Land Divisions, Condominium Plats, and Vacations of Recorded Plats*, 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 duplexes, triplexes, quadplexes, 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:
  - 1. In a planned unit development or a development of duplexes approved pursuant to Subsection 1012.07, maximum and minimum density shall be calculated for the entire property proposed for development prior to the creation of new lots or parcels.
  - 2. Middle housing land divisions approved pursuant to Section 1105 are exempt.
  
- 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 Subsection 1012.06, 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:
- $$\{GSA - [NR + HRA + (MRA \times 0.5)]\} / DLA = BD^*$$
- \* 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**

<b>Bonus Category</b>	<b>Maximum Increase in the HR and Urban Low Density Residential Districts</b>	<b>Maximum Increase in All Other Zoning Districts</b>
Affordable Housing: Dwelling units affordable to households earning equal to or less than 80 percent of the area median income (AMI) as defined by the U.S. Department of Housing and Urban Development, adjusted for household size, and guaranteed affordable for a minimum term of 30 years through restrictive covenant or other similar guarantee.	One dwelling unit per affordable dwelling unit up to 5 percent of the base density	One dwelling unit per affordable dwelling unit up to 50 percent of the base density <sup>1</sup>
Mixed-Use Development <sup>2</sup> : Multifamily dwelling units developed as part of a mixed-use development, where a minimum of 20 percent of the total floor area on a site is developed for a non-residential use.	Not applicable	One dwelling unit per dwelling unit located in a mixed-use development up to 20 percent of the base density <sup>3</sup>
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 <sup>1</sup>
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 <sup>4</sup>
<b>MAXIMUM TOTAL INCREASE</b>	<b>15 percent of the base density</b>	<b>60 percent of the base density</b>

<sup>1</sup> Does not apply in the VA, VR-4/5, VR-5/7, or VTH Districts

<sup>2</sup> For the purposes of this provision, mixed-use development means a mix of uses located within a single building or a mix of uses located on a single site.

<sup>3</sup> May only be applied in the C-3, CC, OC, and RTL Districts

<sup>4</sup> Does not apply in the VR-4/5, VR-5/7, or VTH Districts

- 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 the 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 comply with the minimum lot size standards, if any, of the applicable zoning district, as modified by Subsection 1012.02.

1012.06 MAXIMUM DENSITY IN THE VA, VR-4/5, VR-5/7, AND VTH DISTRICTS

In the VA, VR-4/5, VR-5/7, and VTH 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 DUPLEXES IN THE RA-1 DISTRICT

In the RA-1 District, developments of duplexes 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.
- B. Divide GSA by the minimum lot area per dwelling unit of 43,560 square feet. The result is base density.
- C. 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.
- D. 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.

**Attachment A**

**ZDO-283; BCC Hearing 07/12/23**

CLACKAMAS COUNTY ZONING AND DEVELOPMENT ORDINANCE

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[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; Amended by Ord. ZDO-280, 10/23/21; Amended by Ord. ZDO-277, 1/1/22; Amended by Ord. ZDO-282, 7/1/22]

**Summary of Proposed Amendments to Section 1013, *Planned Unit Developments***

1. Repeal a reference to a requirement for a homeowners association or acceptable alternative because it is redundant with ZDO 1105.05(D).

**1013 PLANNED UNIT DEVELOPMENTS**

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1013.01 APPLICABILITY

Section 1013 applies to subdivisions, partitions, and replats as follows:

- A. A subdivision, partition, or replat may be developed as a planned unit development in residential, commercial, and industrial zoning districts, except the FU-10 District.
- B. In an Urban Low Density Residential, MRR, or HR District, a subdivision, partition, or Type II replat shall be developed as a planned unit development if the subject property is larger than one acre and at least 10 percent of the subject property is designated Open Space on Comprehensive Plan Map IV-6, *North Urban Area Land Use Plan Map*; X-MH-1, *Resource Protection Open Space*; X-MH-2, *Resource Protection Open Space*; X-MH-3, *Resource Protection Open Space*; or X-MH-5, *Government Camp Village Plan Resource Protection Open Space*.

1013.02 ACCESSORY USES

The following accessory uses are permitted in a planned unit development. As used in Subsection 1013.02, accessory use means a subordinate use, the function of which is clearly incidental to that of the main use(s) in the planned unit development.

- A. Recreational uses, such as bicycle trails, golf courses, nature preserves, playgrounds, recreation rooms, swimming pools, tennis courts, walking trails, and wildlife sanctuaries; and
- B. Offices, other buildings, and facilities required for:
  - 1. The operation, administration, and maintenance of the planned unit development;
  - 2. Recreational uses permitted pursuant to Subsection 1013.02(A); and
  - 3. Vehicle parking and storage established pursuant to Subsection 1013.03(D)

1013.03 DIMENSIONAL AND DEVELOPMENT STANDARDS

- A. Natural or Unique Features: To the maximum extent feasible, the plan and design of the planned unit development shall ensure that natural or unique features of the land and environment are preserved.
- B. Maximum Number of Lots: In the RA-2, RR, RRFF-5, and FF-10 Districts, the number of residential lots in a planned unit development shall not exceed 10.
- C. Open Space:

1. A minimum of 20 percent of the gross site area shall be platted as one or more open space tracts.
  2. Open space tracts may include recreational uses permitted pursuant to Subsection 1013.02(A), bicycle trails, walking trails, natural or landscaped buffer areas, bus shelters, and significant natural vegetation or landscape features.
  3. Open space tracts shall not include:
    - a. Parking areas or driveways, except those serving recreational uses permitted pursuant to Subsection 1013.03(C)(2) ; or
    - b. Roads.
  4. The PUD shall be designed so that no lot or parcel is located more than 1000 feet from an open space tract.
  5. All lots or parcels within the PUD shall have reasonable access to at least one open space tract.
  6. Each open space tract shall be large enough for recreational use unless the open space is intended to protect significant natural features from impacts associated with use or development.
  7. The open space restrictions shall continue in perpetuity, unless the restrictions are modified pursuant to either Section 1309, *Modification*, or the approval of a new land use permit application provided for by this Ordinance.
- D. Parking: The following may be required after consideration of street type, width, traffic volume, transit amenities, and pedestrian circulation: guest parking for dwellings and sufficient parking space for storage of residents' recreational vehicles.
1. If required, recreational vehicle parking shall be located so as to be compatible with the surrounding development. If located on the perimeter of the PUD, it shall be screened from adjacent properties.
  2. Off-street parking may be provided on each lot or parcel or in parking areas in proximity to the dwellings they serve, provided that such common parking areas shall be developed on a platted tract designated for parking.

~~E. Homeowners Association: A homeowners association, or acceptable alternative, is required pursuant to Subsection 1105.03(D).~~

[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-266, 5/23/18]

**Summary of Proposed Amendments to Section 1102, *Design Review***

1. No longer require design review for detached single-family dwellings, manufactured dwellings, or uses accessory to detached single-family dwellings or manufactured dwellings in commercial and industrial districts that allow these uses, consistent with the existing exception to design review requirements for such uses in the Mountain Recreational Resort (MRR) District.
2. Extend the master planning allowance to all sites in the PMU District, consistent with master planning allowances in ZDO Section 510 and Chapter 10 of the Comprehensive Plan.



**1102 DESIGN REVIEW**

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1102.01 PURPOSE AND APPLICABILITY

Section 1102 is adopted to provide standards, criteria, and procedures under which design review may be approved. Design review is required for:

- A. Development, redevelopment, expansions, and improvements in commercial and industrial zoning districts, except for:
  - 1. Uses approved through a zone change to NC District; and
  - 2. Detached single-family dwellings, manufactured dwellings, and uses accessory to detached single-family dwellings and manufactured dwellings;
- B. Development, redevelopment, expansions, and improvements in the following residential zoning districts: HDR, MR-1, MR-2, PMD, RCHDR, SHD, VA, and VTH;
- C. Development, redevelopment, expansions, and improvements in the MRR District, except for detached single-family dwellings, manufactured homes, and uses accessory to detached single-family dwellings and manufactured homes;
- D. Institutional uses in the Urban Low Density Residential, VR-4/5, and VR-5/7 Districts;
- E. Townhouses and institutional uses in the HR District; and
- F. Other uses as required by the Planning Director, the Hearings Officer, or the Board of County Commissioners.

1102.02 SUBMITTAL REQUIREMENTS

In addition to the submittal requirements identified in Subsection 1307.07(C), an application for design review shall include:

- A. A narrative describing the proposed use;
- B. An engineering geologic study, if required pursuant to Section 1002, *Protection of Natural Features*, or 1003, *Hazards to Safety*;
- C. Preliminary statements of feasibility, if required pursuant to Section 1006, *Utilities, Street Lights, Water Supply, Sewage Disposal, Surface Water Management, and Erosion Control*;
- D. A transportation impact study, if required pursuant to Section 1007, *Roads and Connectivity*;

- E. Calculations demonstrating compliance with Section 1012, *Lot Size and Density*, if applicable;
- F. A vicinity map showing the location of the subject property in relation to adjacent properties, roads, bikeways, pedestrian access, utility access, and manmade or natural site features that cross the boundaries of the subject property;
- G. An existing conditions map, drawn to a scale of not less than one inch equals 50 feet, showing:
  - 1. Contour lines at two-foot intervals for slopes of 20 percent or less within an urban growth boundary; contour lines at five-foot intervals for slopes exceeding 20 percent within an urban growth boundary; contour lines at 10-foot intervals outside an urban growth boundary; source of contour information.
  - 2. Slope analysis designating portions of the site according to the following slope ranges and identifying the total land area in each category: zero to 20 percent, greater than 20 percent to 35 percent, greater than 35 percent to 50 percent, and greater than 50 percent;
  - 3. Drainage;
  - 4. Potential hazards to safety, including areas identified as mass movement, flood, soil, or fire hazards pursuant to Section 1003;
  - 5. Natural features, such as rivers, streams, wetlands, underground springs, wildlife habitat, earth mounds, and large rock outcroppings;
  - 6. Wooded areas, significant clumps or groves of trees, and specimen conifers, oaks, and other large deciduous trees. Where the site is heavily wooded, an aerial photograph, at a scale of not more than 1 inch equals 400 feet, may be submitted and only those trees that will be affected by the proposed development need be sited accurately;
  - 7. Overlay zoning districts regulated by Section 700, *Special Districts*;
  - 8. Noise sources;
  - 9. Sun and wind exposure;
  - 10. Significant views;
  - 11. Structures, impervious surfaces, utilities, onsite wastewater treatment systems, landscaping, driveways and easements (e.g., access, utility, storm drainage). Note whether these will remain or be removed and provide dimensions of driveways and easements; and

12. All of the following that are on or adjacent to the subject property, including dimensions and, if applicable, names: existing roads, platted unconstructed roads, railroad rights-of-way, bikeways, curbs, sidewalks, pedestrian pathways, accessways, and trails.
- H. A proposed site plan, drawn to a scale of not less than one inch equals 50 feet, showing:
1. The subject property, including contiguous property under the same ownership as the subject property, and adjacent properties;
  2. Property lines and dimensions for the subject property. Indicate any proposed changes to these;
  3. Natural features to be retained;
  4. Location, dimensions, and names of all existing or platted roads or other public ways, easements, and railroad rights-of-way on or adjacent to the subject property;
  5. The location of at least one temporary benchmark and spot elevations;
  6. Location and dimensions of structures, impervious surfaces, and utilities, whether proposed or existing and intended to be retained. For phased developments, include future buildings;
  7. Approximate location and size of storm drainage facilities;
  8. Relation to transit; parking and loading areas, including dimensions and number of individual parking and loading spaces and drive aisles; bicycle racks; walkways; and pedestrian crossings;
  9. Orientation of structures showing windows and doors;
  10. Location and type of lighting;
  11. Service areas for waste disposal, recycling, loading, and delivery;
  12. Location of mail boxes;
  13. Freestanding signs; and
  14. Pedestrian amenities;
- I. A grading plan, drawn to a scale of not less than one inch equals 50 feet, showing location and extent of proposed grading, general contour lines, slope ratios, slope stabilization proposals, and natural resources protection consistent with Sections 1002 and 1003;

- J. Architectural drawings, including:
  - 1. Building elevations, including any building signs. Identify the dimensions, area, color, materials, and means of illumination of such signs. Identify and show dimensions of any electronic message center or other changeable copy sign areas;
  - 2. Building sections;
  - 3. Floor plans;
  - 4. Color and type of building materials; and
  - 5. Elevation of freestanding sign(s). Identify the dimensions—including total height and height between bottom of sign and ground, area, color, materials, and means of illumination. Identify and show dimensions of any electronic message center or other changeable copy sign areas; and
  - 6. Gross floor area, in square feet, of each structure; floor area ratio if a minimum floor area ratio standard applies; and number of dwelling units;
- K. A general landscaping plan, drawn to a scale of not less than one inch equals 50 feet, showing the elements required on the proposed site plan and:
  - 1. Existing plants and groups of plants proposed;
  - 2. Description of soil conditions; plans for soil treatment such as stockpiling of topsoil or addition of soil amendments; and plant selection requirements relating to soil conditions;
  - 3. Erosion controls, including plant materials and soil stabilization, if any;
  - 4. Irrigation system;
  - 5. Landscape-related structures such as fences, terraces, decks, patios, shelters and play areas; and
  - 6. Open space and recreational areas and facilities, if applicable.
- L. A transportation improvement plan that includes proposed cross-sections for roads to be constructed or improved, including widths of travel lanes, bikeways, sidewalks, curbs, pedestrian pathways, and landscape strips. Identify proposed landscape plan for landscape strips, including street tree type, size and location. Identify proposed dedication of right-of-way.

## 1102.03 APPROVAL CRITERIA

Design review requires review as a Type II application pursuant to Section 1307, *Procedures*, and shall be subject to the following standards and criteria:

- A. The proposed development shall be subject to Section 1000, *Development Standards*, and the standards of the applicable zoning district.
- B. As part of design review in the PMU and RCO Districts ~~and for the PMU1 site~~, a master plan shall be required if the proposed development does not meet the minimum floor area ratio for the entire site (where phased compliance is permitted by Table 510-2, *Dimensional Standards in the Urban Commercial and Mixed-Use Zoning Districts*) or if compliance with Table 510-3: *Site-Specific Requirements for the PMU District*, is not being achieved for the entire ~~PMU1~~ site. The master plan shall demonstrate that it is feasible to achieve full compliance with a future phase of development that is not reliant upon adding additional stories to existing or proposed structures or demolishing structures built after the PMU or RCO ~~or PMU~~ District was applied to the subject property.
- C. As part of design review of development of any portion of the OA District, a master plan shall be required for the subject property and all contiguous lots with a Comprehensive Plan land use designation of Office Apartment. The master plan shall include a plan for consolidation of motor vehicle accesses for the entire Office Apartment site that complies with the access targets of Comprehensive Plan Map X-SC-5, *Sunnyside Corridor Community Plan Sunnyside Road Access Management Targets*.

## 1102.04 DESIGN REVIEW COMMITTEE

A Design Review Committee shall be established pursuant to Subsection 1307.03 and shall have the responsibilities assigned to it by Subsection 1102.04.

- A. The Planning Director may review and render a decision on a Type II application for design review or forward the application to the Design Review Committee for review and recommendation prior to rendering a decision. In deciding whether to forward an application to the Design Review Committee, the Planning Director shall consider:
  1. The size of the project, including mass of buildings, site area, landscaping, and parking requirements;
  2. The presence of natural features, such as wetlands, steep slopes, treed area, and riparian corridors;
  3. Visual significance; and

4. Impact on neighboring properties, particularly where a project is adjacent to a residential area.
- B. An application shall be forwarded to the Design Review Committee for review and recommendation if requested by the applicant or required by the Hearings Officer or the Board of County Commissioners.
- C. The Planning Director may consult with individual members of the Design Review Committee at any point during the evaluation of a design review application or in determining compliance with conditions of design review approval.

1102.05 APPROVAL PERIOD AND TIME EXTENSION

- A. Approval of design review is valid for 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 development, or if no major development permits are required to complete the development contemplated by the design review approval, implemented means all other necessary County development permits (e.g., grading permit, building permit for an accessory structure) shall be obtained and maintained. A major development permit is:
    - a. A building permit for a new primary structure that was part of the design review approval; or
    - b. A permit issued by the County for parking lot or road improvements required by the design review approval.
  - B. If the design review approval is not implemented within the initial approval period established by Subsection 1102.05(A), a two-year time extension may be approved pursuant to Section 1310, *Time Extension*.
  - C. If the design review approval is implemented, a master plan approved as part of the design review approval remains applicable to future development of the subject property unless a modification to the master plan, or a new master plan, is approved or the requirement for master planning no longer applies to the subject property.

[Amended by Ord. ZDO-224, 5/31/11; 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-252, 6/1/15; Amended by Ord. ZDO-266, 5/23/18; Amended by Ord. ZDO-282, 7/1/22]

**Summary of Proposed Amendments to Section 1105, Subdivisions, Partitions, Replats, Middle Housing Land Divisions, Condominium Plats, and Vacations of Recorded Plats**

1. Clarify that replats in the Ag/Forest (AG/F), Exclusive Farm Use (EFU), and Timber (TBR) Districts require Type II review due to the discretionary approval criteria.
2. Conforming amendment, needed as a result of the prior adoption of Ordinance ZDO-282, to reflect the repeal of a 3,000-square-foot minimum lot size that previously applied in some cases.
3. Minor edits for clarity and consistency.

**1105 SUBDIVISIONS, PARTITIONS, REPLATS, MIDDLE HOUSING LAND DIVISIONS, CONDOMINIUM PLATS, AND VACATIONS OF RECORDED PLATS**

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**1105.01 PURPOSE AND APPLICABILITY**

Section 1105 is adopted to provide standards, criteria, and procedures under which a subdivision, partition, replat, middle housing land division, condominium plat, or vacation of a recorded plat may be approved, except:

- A. In the EFU, TBR, and AG/F Districts, land divisions that are approved pursuant to Subsections 401.09, 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 1105.11; and
- B. Subdivisions for cemetery purposes pursuant to Oregon Revised Statutes Chapter 97 are exempt from Section 1105.

**1105.02 GENERAL SUBMITTAL REQUIREMENTS FOR SUBDIVISIONS, PARTITIONS, REPLATS, AND MIDDLE HOUSING LAND DIVISIONS**

In addition to the submittal requirements identified in Subsection 1307.07(C), an application for a subdivision, partition, replat, or middle housing land division shall include:

- A. Five copies of a preliminary plat. The preliminary plat shall be drawn to a scale of not less than one inch equals 20 feet and not more than one inch equals 200 feet. If the preliminary plat is larger than 11 inches by 17 inches, five reduced-sized, legible copies of the preliminary plat shall be submitted on eight-and-one-half-inch by 14-inch or 11-inch by 17-inch paper. The following information shall be included on the preliminary plat or by separate attachment:
  - 1. Source of domestic water and location of any existing and proposed wells;
  - 2. Method of wastewater disposal and location of any existing and proposed on-site wastewater treatment systems;
  - 3. Existing and proposed utility lines and facilities;
  - 4. Locations, dimensions, and area of each lot, parcel, and tract;
  - 5. Date the preliminary plat was prepared;
  - 6. North arrow;
  - 7. Identification of each lot or parcel by number;



8. Locations and widths of all roads abutting the subject property, including road names, direction of drainage, approximate grades, and whether public or private;
  9. Locations and widths of all proposed roads, including proposed names, approximate grades, radii of curves, and whether public or private;
  10. Location and width of legal access to the subdivision or partition, other than public or County roads, if applicable;
  11. Contour lines at two-foot intervals if 10 percent slope or less or five-foot intervals if exceeding 10 percent slope within an urban growth boundary; contour lines at 10-foot intervals outside an urban growth boundary; source of contour information;
  12. Locations of all seasonal and perennial drainage channels, including their names, if known, and direction of flow;
  13. Locations and widths of all existing and proposed easements, to whom they are conveyed and for what purpose;
  14. Locations and dimensions of all existing and proposed driveways and walkways;
  15. Locations and dimensions of existing structures and their setbacks from existing and proposed lot lines;
  16. Locations and dimensions of all areas to be offered for public dedication and the intended use of such areas;
  17. Boundaries and type of restricted areas identified in Subsection 1012.05, as applicable;
  18. Locations of all significant vegetative areas, including, but not limited to, major wooded areas, specimen trees, and bearing trees; and
  19. For a proposed subdivision, a plat name approved by the County Surveyor pursuant to Oregon Revised Statutes 92.090;
- B. Preliminary statements of feasibility required pursuant to Section 1006, *Utilities, Street Lights, Water Supply, Sewage Disposal, Surface Water Management, and Erosion Control*;
- C. If the subject property includes land designated Open Space by the Comprehensive Plan, a vicinity map showing the location of the subject property in relation to adjacent properties, roads, bikeways, pedestrian access, utility access, and manmade or natural site features that cross the boundaries of the subject property;

- D. If the subject property includes land designated Open Space by the Comprehensive Plan, an existing conditions map of the subject property showing:
1. Contour lines at two-foot intervals for slopes of 20 percent or less within an urban growth boundary; contour lines at five-foot intervals for slopes exceeding 20 percent within an urban growth boundary; contour lines at 10-foot intervals outside an urban growth boundary; source of contour information.
  2. Slope analysis designating portions of the site according to the following slope ranges and identifying the total land area in each category: zero to 20 percent, greater than 20 percent to 35 percent, greater than 35 percent to 50 percent, and greater than 50 percent;
  3. Drainage;
  4. Potential hazards to safety, including areas identified as mass movement, flood, soil, or fire hazards pursuant to Section 1003, *Hazards to Safety*;
  5. Marsh or wetland areas, underground springs, wildlife habitat areas, and surface features such as earth mounds and large rock outcroppings;
  6. Location of wooded areas, significant clumps or groves of trees, and specimen conifers, oaks, and other large deciduous trees. Where the subject property is heavily wooded, an aerial photograph, at a scale of not more than one inch equals 400 feet, may be submitted and only those trees that will be affected by the proposed development need be sited accurately;
  7. Location of any overlay zoning districts regulated by Section 700, *Special Districts*;
  8. Noise sources;
  9. Sun and wind exposure;
  10. Significant views; and
  11. Existing structures, impervious surfaces, utilities, landscaping, and easements; and

1105.03 ADDITIONAL SUBMITTAL REQUIREMENTS FOR SUBDIVISIONS, PARTITIONS, AND REPLATS

An application for a subdivision, partition, or replat shall include the following additional information:

- A. Calculations demonstrating that the proposed density complies with the minimum and maximum density standards of Section 1012, *Lot Size and Density*, or for zoning districts not subject to Section 1012, demonstrating compliance with the minimum lot size in the applicable zoning district;
- B. The north-south dimension and front-lot-line orientation of each proposed lot or parcel, except for lots or parcels for which an exception from the solar design standard of Subsection 1017.03 is requested pursuant to Subsection 1017.04. For the purpose of this submittal requirement, north-south dimension and front lot line are defined in Subsection 1017.02;
- C. For a proposed subdivision, a phasing plan and schedule, if the applicant proposes to have final plat review, pursuant to Subsection 1105.11, occur in two or more phases pursuant to Subsection 1105.05(C); and
- D. A master plan if required pursuant to Section 1012.

1105.04 ADDITIONAL SUBMITTAL REQUIREMENTS FOR MIDDLE HOUSING LAND DIVISIONS

An application for a middle housing land division shall include the following additional information:

- A. Demonstration that the property to be divided is developed or proposed to be developed with middle housing that complies with the standards applicable to middle housing on or after July 1, 2022. If middle housing development is proposed, a copy of building permit applications and construction plans that have been submitted to or approved by the Building Codes Division shall be included in the application;
- B. Locations of the easements necessary for:
  - 1. Locating, accessing, replacing, and servicing all dwelling units;
  - 2. Pedestrian access from each dwelling unit to a private or public road;
  - 3. Any common areas or shared building elements; and
  - 4. Any shared driveways or parking; and
- C. Location of each middle housing dwelling unit, any other development on the lot or parcel, and location of all areas to be retained under common ownership.

## 1105.05 APPROVAL CRITERIA FOR SUBDIVISIONS, PARTITIONS, AND REPLATS

A major subdivision requires review as a Type III application pursuant to Section 1307, *Procedures*. A minor subdivision or a partition requires review as a Type II application pursuant to Section 1307. A replat of property partially or wholly in the AG/F, EFU, or TBR District, or that proposes to increase the number of lots or parcels in the recorded subdivision or partition plat, requires review as a Type II application pursuant to Section 1307. Otherwise, a replat requires review as a Type I application pursuant to Section 1307. A subdivision, partition, or replat shall be subject to the following standards and criteria:

- A. The proposed subdivision, partition, or replat shall comply with the applicable provisions of the section of this Ordinance that regulates the subject zoning district and Section 1000, *Development Standards*.
- B. In an Urban Low Density Residential District, the applicant may designate the proposed subdivision, partition, or replat as a zero-lot-line development. In a zero-lot-line development, there are no minimum rear and side setbacks for single-family dwellings, manufactured homes, and structures accessory to single-family dwellings and manufactured homes, except from rear and side lot lines on the perimeter of the final plat.
- C. As part of preliminary plat approval for a subdivision, approval of a phasing plan and schedule to allow final plat review to occur in two or more phases, each of which includes a portion of the subject property, may be granted in consideration of such factors as the size of the proposed subdivision, complexity of development issues, required improvements, and other factors deemed relevant. If a phasing plan and schedule is approved, such approval shall be subject to the following:
  1. The total number of lots in all recorded phases of the subdivision shall not exceed the maximum density allowed pursuant to Section 1012, *Lot Size and Density*, for the gross site area included in all such phases.
  2. If one or more open space tracts are required as a condition of subdivision approval, the first phase shall include all required open space tracts for the entire subdivision.
  3. Future phases shall be shown upon the initial and subsequent final plats as a "Tract Reserved for Future Development."
  4. As deemed necessary by the County or special districts, dedication of rights-of-way or easements into or through future phases may be required with the initial or subsequent phases, prior to platting of the final phase.

- D. A nonprofit, incorporated homeowners association, or an acceptable alternative, shall be required for ownership of, improving, operating, and maintaining common areas and facilities, including, but not limited to, open space, private roads, access drives, parking areas, and recreational uses, and for snow removal and storage in Government Camp.
  - 1. The homeowners association shall continue in perpetuity unless the requirement is modified pursuant to either Section 1309, *Modification*, or the approval of a new land use permit application provided for by this Ordinance.
  - 2. Membership in the homeowners association shall be mandatory for each lot or parcel owner.
  - 3. The homeowners association shall be incorporated prior to recording of the final plat.
  - 4. Acceptable alternatives to a homeowners association may include, but are not limited to, ownership of common areas or facilities by the government or a nonprofit conservation organization.
- E. If the subject property is in a future urban area, as defined by Chapter 4 of the Comprehensive Plan, the location of proposed easements, road dedications, structures, wells, and on-site wastewater treatment systems shall be consistent with the orderly future development of the subject property at urban densities.

1105.06 ADDITIONAL APPROVAL CRITERIA FOR REPLATS

A replat shall be subject to the following additional standards and criteria:

- A. A replat is subject to the minimum and maximum lot size standards of the applicable zoning district, except as follows:
  - 1. If a lot of record is smaller than the minimum lot size standard, its size may be reduced, provided that it is not in an AG/F, EFU, or TBR District.  
~~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 1105.06(A)(3), “ground water restricted area”, “high-value farmland”, “high-value forestland”, and “waiver” have the meanings given those terms in ORS 195.300.
- b. A replat for a lot of record ~~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~~lot of record for a dwelling;
  - ii. Decrease the size of a lot of record that contains an existing dwelling or is approved for construction of a dwelling to a size smaller than 80 acres, if another lot of record affected by the replat would be increased to a size as large as or larger than the minimum lot or parcel size required to qualify the other lot of record for a dwelling;
  - iv. Allow an area of land used to qualify a lot of record for a dwelling based on an acreage standard to be used to qualify another lot of record for a dwelling if the land use approval would be based on an acreage standard;
  - v. Replat a property line that resulted from a subdivision or partition authorized by a waiver so that any lot of record affected by the property line adjustment is larger than: two acres if the lot of record is, before the adjustment, two acres in size or smaller and is high-value farmland, high-value forestland, or within a ground water restricted area; or five acres if the lot of record is, before the adjustment, five acres in size or smaller and is not high-value farmland, high-value forestland, or within a ground water restricted area;
  - vi. Separate a temporary dwelling for care, home occupation, relative farm help dwelling, or processing facility from the lot of record on which the primary residential use or other primary use exists; or
  - vii. Separate an accessory dwelling in conjunction with farm use approved pursuant to Subsection 401.05(C)(12), except as provided in OAR 660-033-0010(24)(B).

- B. Replats that propose to increase the number of lots or parcels reviewed as a Type II application pursuant to Section 1307, *Procedures*, shall not be approved, unless:
1. The gross site area of the affected plat is increased, or is of sufficient size to allow additional lots or parcels, or the zoning on the subject property has been changed since the existing plat was approved, permitting a greater density on all, or part, of the original platted area;
  2. The allowed density is recalculated pursuant to Section 1012, *Lot Size and Density*, on the basis of the gross site area of the original platted area and any additions to the gross site area, and, if applicable, on the basis of the new zoning;
  3. All existing lots or parcels within the plat that are not affected by the replat, including additional lots or parcels that may be created by subdivision or partition under existing zoning, are subtracted from the maximum density of the original plat area in determining allowed density for the replatted portion; and
  4. All open space requirements of the original plat, if applicable, are satisfied by the replatted subdivision or partition, or portion thereof.

1105.07 APPROVAL CRITERIA FOR MIDDLE HOUSING LAND DIVISIONS

A middle housing land division requires review as a Type II-E application pursuant to Section 1307, *Procedures*. A middle housing land division shall be subject to the following standards and criteria:

- A. The property to be divided shall be within the R-5, R-7, R-8.5, R-10, R-15, R-20, R-30, VR-4/5, or VR-5/7 District and developed or proposed to be developed with middle housing that complies with the standards applicable to middle housing on or after July 1, 2022. Proposed to be developed means that building permits have been submitted for the middle housing dwelling units.
- B. Each middle housing lot shall contain exactly one dwelling unit, except that a tract used as a common area may not contain a dwelling unit.
- C. Buildings or structures on a resulting lot or parcel shall comply with applicable provisions in the Oregon Residential Specialty Code with respect to newly created lot lines.
- D. Each middle housing dwelling unit shall have separate utilities.
- E. Easements shall be provided, as necessary, for each dwelling unit for:
  1. Locating, accessing, replacing, and servicing all utilities;

2. Pedestrian access from each dwelling unit to a private or public road;
  3. Any common areas or shared building elements;
  4. Any shared driveways or parking; and
- F. A homeowners association, or an acceptable alternative, shall be required pursuant to Subsection 1105.05(D).
- G. Each middle housing lot shall be prohibited from further division and shall be prohibited from development with additional dwelling units, including accessory dwelling units.
- H. The type of middle housing developed on the original lot of record is not altered by a middle housing land division (e.g., a duplex remains a duplex even if it is divided along the common wall).

1105.08 CONDOMINIUM PLATS

If detached single-family dwellings are proposed to be developed as condominiums on the same lot of record rather than as part of a subdivision or partition where each detached single-family dwelling is on its own lot or parcel, the development shall be subject to the same standards, criteria, review procedures, and application fee as would apply to a land division of the same property and resulting in the same number of potential detached single-family dwellings. This allowance for condominiums in lieu of the same development on separate lots of record supersedes provisions of this Ordinance that otherwise require each detached single-family dwelling to be on its own lot of record.

1105.09 APPROVAL PERIOD AND TIME EXTENSION

Except for a middle housing land division:

- 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 1105.09(A), a two-year time extension may be approved pursuant to Section 1310, *Time Extension*, except for a replat reviewed as a Type I application pursuant to Section 1307, which may not be approved for a time extension.
- C. If a phasing plan and schedule are approved pursuant to Subsection 1105.05(C), the following shall apply in lieu of Subsections 1105.09(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.

1105.10 APPROVAL PERIOD FOR MIDDLE HOUSING LAND DIVISIONS

Approval of a preliminary plat is valid for three years from the date of the final decision. If the County's final decision is appealed, the approval period shall commence on the date of the final appellate decision. During this three-year period, the final plat shall be recorded with the County Clerk, or the approval will become void.

1105.11 FINAL PLAT REVIEW

If a preliminary plat is approved, finalizing the approval requires the completion of a final plat, except that a final plat is not required for a partition or partition replat in which all parcels are larger than 80 acres. The applicant shall comply with the following:

- A. The form and content of the final plat shall comply with the County's final decision approving the preliminary plat and applicable provisions of Chapters 11.01 and 11.02 of the Clackamas County Code and Oregon Revised Statutes Chapters 92, 94, 100, and 209.
- B. The final plat shall be submitted to the County for review. If a homeowners association is required, the declaration for a planned community, articles of incorporation, and bylaws shall be submitted to the County with the final plat. If the final plat and, if a homeowners association is required, the declaration for a planned community, articles of incorporation, and bylaws are consistent with the approved preliminary plat and the conditions of approval included in the County's final decision on the application have either been satisfied or guaranteed pursuant

to Section 1311, *Completion of Improvements, Sureties, and Maintenance*, the Planning Director shall sign the plat.

- C. If a middle housing land division is approved for the lots or parcels included in an approved, unexpired preliminary plat for a subdivision, partition, or replat, then the final plat for the subdivision, partition, or replat and the final plat for the middle housing land division may be combined as a single final plat.
- D. If the final plat is for a middle housing land division, it shall contain a notation that the lots shown on the plat were created pursuant to a middle housing land division and may not be further divided.

1105.12 VACATIONS OF RECORDED PLATS

A recorded plat, or portion thereof, may be vacated pursuant to Oregon Revised Statutes (ORS) 92.205 through 92.245, ORS 368.326 through 368.366, or other applicable statutes.

1105.13 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; Amended by Ord. ZDO-280, 10/23/21; Amended by Ord. ZDO-282, 7/1/22]

**Summary of Proposed Amendments to Section 1107, *Property Line Adjustments***

1. Conforming amendment, needed as a result of the prior adoption of Ordinance ZDO-282, to reflect the repeal of a 3,000-square-foot minimum lot size that previously applied in some cases.
2. Update Subsections 1107.03(C) and 1107.05 to include property line adjustments that need a partition plat pursuant to Subsection 1107.07.
3. Update a citation in Subsection 1107.04(C)(6) to correctly reference Oregon Administrative Rules (OAR) 660-033-0130(24)(B) and not OAR 660-033-0010(24)(B).
4. Minor edits for clarity and consistency.

**1107 PROPERTY LINE ADJUSTMENTS**

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1107.01 PURPOSE AND APPLICABILITY

Section 1107 is adopted to provide standards, criteria, and procedures under which a property line adjustment may be approved.

1107.02 SUBMITTAL REQUIREMENTS

In addition to the submittal requirements identified in Subsection 1307.07(C), an application for a property line adjustment shall include a tentative plan for the proposed property line adjustment. The plan shall be drawn to a scale of not less than one inch equals 20 feet and not more than one inch equals 200 feet and shall include the following information:

- A. Lot line dimensions and size in square feet or acres of the two lots of record that are the subject of the application;
- B. Identification of the area(s) proposed to be adjusted from one lot of record to the other;
- C. North arrow;
- D. Adjacent roads (noting whether public or private), including road names and road rights-of-way or easement widths;
- E. Locations and dimensions of existing and proposed driveways;
- F. Location of wells or name of water district;
- G. Location of on-site wastewater treatment systems or name of sanitary sewer district;
- H. Easements, including widths and types, labeled as existing or proposed, specifically noting whom they serve; and
- I. Existing structures and the distance from each structure to existing and proposed lot lines.

1107.03 GENERAL APPROVAL CRITERIA

A property line adjustment requires review as a Type I application pursuant to Section 1307, *Procedures*, except that an application filed pursuant to Subsection 1107.04 requires review as a Type II application pursuant to Section 1307. A property line adjustment shall be subject to the following standards and criteria:

- A. A property line adjustment is subject to the minimum and maximum lot size standards of the applicable zoning district, except as follows:
  - 1. If a lot of record is smaller than the minimum lot size standard, its size may be reduced, provided that it is not in an AG/F, EFU, or TBR District.  
~~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 to Subsection 1107.04.
  
- B. Subsequent subdivision or partition (or development of dwelling units subject to Section 1012, *Lot Size and Density*) of a lot of record that was the subject of a property line adjustment shall be limited as follows:
  - 1. A property line adjustment shall not be used to later permit development that exceeds the maximum density established by Section 1012. In calculating density, all lots or parcels (or dwelling units subject to Section 1012) within both lots of record that were the subject of the property line adjustment shall be included.
  - 2. In the RA-1, RRFF-5 and FF-10 Districts, where averaging of lot sizes may be permitted pursuant to Table 316-2, *Dimensional Standards in the Rural Residential and Future Urban Residential Zoning Districts*, a property line adjustment shall not be used to later permit a subdivision or partition that reduces the minimum average lot size below the minimum average lot size standard. In calculating the minimum average lot size, all lots or parcels within both lots of record that were the subject of the property line adjustment shall be included.
  
- C. A property line adjustment is subject to the minimum setback standards of the applicable zoning district, except that if a lawfully established nonconforming setback exists, the property line adjustment may be approved if it does not reduce that depth. Prior to Planning Director approval of the final property line adjustment record of survey map or final plat required pursuant to Subsection 1107.06 or 1107.07, respectively, setbacks from the proposed relocated property line for all existing structures on the subject property shall be verified by a site plan prepared and stamped by an Oregon registered professional land surveyor. If no structures exist, the surveyor may submit a stamped letter so stating.

- D. A property line adjustment is prohibited between lots of record separated by a Comprehensive Plan land use plan designation boundary, as identified on Comprehensive Plan Map IV-3, *Lake Oswego Land Use Plan Map*, IV-4, *West Linn Land Use Plan Map*, IV-5, *Oregon City Land Use Plan Map*, IV-6, *North Urban Area Land Use Plan Map*, or IV-7, *Non-Urban Area Land Use Plan*, and *Mt. Hood Corridor Land Use Plan*, if the boundary separates an Urban, Unincorporated Community, or Rural Plan designation from an Agriculture or Forest Plan designation, except an adjustment may be granted when it results in an increase in the size of the lot of record with the Agriculture or Forest Plan designation. However, such an adjustment shall not be used to reconfigure a lot of record, the effect of which is to qualify the lot of record for a land division pursuant to Subsection 1012.02(D).
- E. A property line adjustment is prohibited between lots of record separated by the Portland Metropolitan Urban Growth Boundary or the unincorporated community boundary of Government Camp, Rhododendron, Wemme/Welches, Wildwood/Timberline, or Zigzag Village.
- F. A property line adjustment shall not result in the adjustment of a dwelling from one lot of record to the other unless the lot of record receiving the dwelling otherwise complies with all applicable standards of this Ordinance for the siting of a dwelling.

1107.04 AG/F, EFU, AND TBR DISTRICT APPROVAL CRITERIA

In addition to the standards and criteria in Subsection 1107.03, a property line adjustment in the AG/F, EFU, or TBR District shall be subject to the following standards and criteria:

- A. As used in Subsection 1107.04, “ground water restricted area”, “high-value farmland”, “high-value forestland”, and “waiver” have the meanings given those terms in Oregon Revised Statutes (ORS) 195.300.
- B. A property line adjustment for a lot of record in the AG/F, EFU, or TBR District that is larger than 80 acres may be approved if the adjustment does not reduce the lot of record to less than 80 acres.
- C. A property line adjustment may not be used to:
  - 1. Decrease the size of a lot of record that, before the relocation or elimination of the common property line, is smaller than 80 acres and contains an existing dwelling or is approved for the construction of a dwelling, if another lot of record affected by the property line adjustment would be increased to a size as large as or larger than the minimum lot or parcel size required to qualify the other affected ~~lawfully established unit of land~~lot of record for a dwelling;

2. Decrease the size of a lot of record that contains an existing dwelling or is approved for construction of a dwelling to a size smaller than 80 acres, if another lot of record affected by the property line adjustment would be increased to a size as large as or larger than the minimum lot or parcel size required to qualify the other lot of record for a dwelling;
3. Allow an area of land used to qualify a lot of record for a dwelling based on an acreage standard to be used to qualify another lot of record for a dwelling if the land use approval would be based on an acreage standard;
4. Adjust a property line that resulted from a subdivision or partition authorized by a waiver so that any lot of record affected by the property line adjustment is larger than:
  - a. Two acres if the lot of record is, before the adjustment, two acres in size or smaller and is high-value farmland, high-value forestland, or within a ground water restricted area; or
  - b. Five acres if the lot of record is, before the adjustment, five acres in size or smaller and is not high-value farmland, high-value forestland, or within a ground water restricted area;
5. Separate a temporary dwelling for care, home occupation, relative farm help dwelling, or processing facility from the lot of record on which the primary residential use or other primary use exists; or
6. Separate an accessory dwelling in conjunction with farm use approved pursuant to Subsection 401.05(C)(12), except as provided in OAR 660-033-~~00100130~~0130(24)(B).

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 ~~and Subsection 1107.06 or 1107.07~~ shall be satisfied, or the approval will become void.

1107.06 RECORD OF SURVEY MAP REVIEW

If a property line adjustment application is approved, finalizing the adjustment requires the filing of a record of survey map, unless the County Surveyor waives this requirement or unless the adjustment constitutes a replat under ORS chapter 92. The applicant shall comply with the following:

- A. The form and content of the record of survey map shall comply with the County’s final decision approving the tentative plan and applicable provisions of Chapter

11.01 of the Clackamas County Code and ORS chapters 92 and 209.

- B. Final Planning Director Approval of the Record of Survey Map: The final record of survey map shall be submitted to the County for review. If it is consistent with the approved tentative plan and the conditions of approval included in the County's final decision on the application have been satisfied, the Planning Director shall sign the record of survey map.

1107.07 FINAL PLAT REVIEW FOR REPLATS

If an application is approved for a property line adjustment that constitutes a replat under ORS chapter 92, finalizing the adjustment requires the filing of a final plat, except that a final plat is not required for a replat in which all parcels are larger than 80 acres. The applicant shall comply with the following:

- A. The form and content of the final plat shall comply with the County's final decision approving the adjustment and applicable provisions of Chapters 11.01 and 11.02 of the Clackamas County Code and ORS chapters 92, 94, 100, and 209.
- B. The final plat shall be submitted to the County for review. If a homeowners association is required, the declaration for a planned community, articles of incorporation, and bylaws shall be submitted to the County with the final plat. If the final plat and, if a homeowners association is required, the declaration for a planned community, articles of incorporation, and bylaws are consistent with the approved adjustment and the conditions of approval included in the County's final decision on the application have either been satisfied or guaranteed pursuant to Section 1311, *Completion of Improvements, Sureties, and Maintenance*, the Planning Director shall sign the plat.

[Amended by Ord. ZDO-230, 9/26/11; Amended by Ord. ZDO-248, 10/13/14; Amended by Ord. ZDO-253, 6/1/15; Amended by Ord. ZDO-262, 5/23/17; Amended by Ord. ZDO-266, 5/23/18; Amended by Ord. ZDO-280, 10/23/21]



**Summary of Proposed Amendments to Section 1203, *Conditional Uses***

1. Make two conforming amendments following previous adoption of Ordinance ZDO-280 by changing a plural reference to a singular and repealing Subsection 1203.05(C) related to time extensions for certain conditional uses that were formerly given 10-year implementation periods but are now given four-year implementation periods.

**1203      CONDITIONAL USES**

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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<sup>1</sup>

- A. ~~Except as set forth in Subsections 1203.05(B),~~ 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. 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*.

~~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; Amended by Ord. ZDO-280, 10/23/21]

**Summary of Proposed Amendments to Section 1206, *Nonconforming Uses and Vested Rights***

1. Extend the discontinuance period for nonconforming uses from 12 consecutive months to 24 consecutive months, and reduce the implementation period for approved nonconforming use alterations from four years to two years. This will ensure consistency in the application process for verifications and alterations of nonconforming uses.
2. Allow an extension of the 24-month discontinuance period to a maximum of 48 months if an alteration application is filed. This extended period is inclusive of the application review period, the time allowed to obtain necessary construction permits, and time spent in the construction process.
3. Reorganize, without substantively changing, existing subsections.
4. Make subsection titles clearer and more consistent.
5. Minor edits for clarity and consistency with Oregon Revised Statutes (ORS) 215.130.

**1206 NONCONFORMING USES AND VESTED RIGHTS**

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1206.01 PURPOSE AND APPLICABILITY

Section 1206 is adopted to provide standards, criteria, and procedures under which a nonconforming use may be continued, maintained, verified, restored, replaced, ~~maintained, and~~ altered, ~~changed, and verified~~ and under which a vested right may be determined.

1206.02 STATUS

A nonconforming use may be continued although not in conformity with the regulations for the zoning district in which the use is located. Nonconforming use status applies to the lot(s) of record on which the nonconforming use is located and may not be expanded onto another lot of record, except as provided under Subsection 1206.076(B)(3)(a) and (b) or, in the case of nonconforming premises for marijuana production, with an alteration approved pursuant to Subsection 1206.076(C). A change in ownership or operator of a nonconforming use is permitted.

1206.03 MAINTENANCE

Normal maintenance of a nonconforming use necessary to maintain a nonconforming use in good repair is permitted provided there are not significant use or structural alterations. Normal maintenance may include painting; roofing; siding; interior remodeling; re-paving of access roads, parking areas, or loading areas; replacement of landscaping elements; and similar actions.

1206.043 ~~DISCONTINUATION OF USE~~

- A. If a nonconforming use is discontinued for a period of more than ~~24~~2 consecutive months, the use shall not be resumed unless the resumed use conforms to the requirements of this Ordinance and other regulations applicable at the time of the proposed resumption.
- B. Notwithstanding Subsection 1206.043(A) and pursuant to Oregon Revised Statutes (ORS) 215.130(7)(b), a nonconforming surface mining use shall not be deemed to be discontinued for any period after July 1, 1972, provided:
  - 1. The owner or operator was issued and continuously renewed a state or local surface mining operating permit, or received and maintained a state or local exemption from surface mining regulation; and
  - 2. The surface mining use was not inactive for a period of 12 consecutive years or more. Inactive means no aggregate materials were excavated, crushed, removed, stockpiled, or sold by the owner or operator of the surface mine.
- C. Notwithstanding Subsection 1206.043(A), marijuana production may not be resumed on a premises for which a marijuana producer holds a production license

issued under ORS 475B.070 and which is nonconforming to the regulations for the zoning district in which the production is located if the premises is not used for marijuana production for a period of at least 12 calendar months, unless the marijuana production conforms to any zoning requirements or regulations applicable at the time of the proposed resumption.

1206.05 VERIFICATION

Verification of nonconforming use status requires review as a Type II application pursuant to Section 1307, Procedures, and shall be subject to the following standards and criteria:

- A. The nonconforming use lawfully existed at the time of the adoption of zoning regulations, or a change in zoning regulations, which prohibited or restricted the use, and the nonconforming use has not been subsequently abandoned or discontinued. Once an applicant has verified that a nonconforming use was lawfully established, an applicant need not prove the existence, continuity, nature, and extent of the nonconforming use for a period exceeding 20 years immediately preceding the date of application for verification; or
- B. The existence, continuity, nature, and extent of the nonconforming use for the 10-year period immediately preceding the date of the application is proven. Such evidence shall create a rebuttable presumption that the nonconforming use, as proven, lawfully existed at the time of, and has continued uninterrupted since, the adoption of restrictive zoning regulations, or a change in the zoning or zoning regulations, that have the effect of prohibiting the nonconforming use under the current provisions of this Ordinance.

1206.064 RESTORATION OR REPLACEMENT FOLLOWING DAMAGE OR DESTRUCTION

If a nonconforming use is damaged or destroyed by fire, other casualty, or natural disaster, such use may be restored, ~~or replaced, or re-established~~ consistent with the nature and extent of the use or structure lawfully established at the time of loss, subject to the following conditions:

- A. Alterations or changes to the nature and extent of the nonconforming use as lawfully established prior to the fire, other casualty, or natural disaster shall not be permitted under Subsection 1206.064, but may be permitted pursuant to Subsection 1206.076.
- B. Physical restoration, ~~or replacement, or re-establishment~~ of the nonconforming use shall be lawfully commenced within one year of the occurrence of the damage or destruction. Lawfully commenced means the lawful resumption of the nonconforming use or the issuance of a land use, building, on-site wastewater treatment system, grading, manufactured dwelling placement, residential trailer placement, plumbing, electrical, or other development permit required by the County or other appropriate permitting agency that is necessary to begin

restoration or replacement of the nonconforming use or structures and resumption of the nonconforming use.

- C. The nonconforming use status of the use to be restored, ~~or~~ replaced, ~~or re-established~~, and the nature and extent of the nonconforming use, shall be verified pursuant to Subsection 1206.057.

~~1206.05 — MAINTENANCE~~

~~Normal maintenance of a nonconforming use necessary to maintain a nonconforming use in good repair is permitted provided there are not significant use or structural alterations. Normal maintenance may include painting; roofing; siding; interior remodeling; re-paving of access roads, parking areas, or loading areas; replacement of landscaping elements; and similar actions.~~

1206.076 ALTERATIONS ~~AND CHANGES~~

A. Alterations Required by Law:

- 1. The alteration of any nonconforming use shall be permitted when necessary to comply with any lawful requirement for alteration of the use or structure, subject to building, plumbing, sanitation, and other specialty code permit requirements in effect at the time the alteration is commenced. Additional conditions shall not be imposed upon the continuation of a nonconforming use when an alteration is required to comply with local or state health or safety requirements, except as provided in Oregon Revised Statutes (ORS) 215.215 pertaining to the re-establishment of nonfarm uses in the EFU District.
- 2. Alterations to a premises for which a marijuana producer holds a production license issued under ORS 475B.070 shall be permitted when necessary to comply with a lawful requirement for alteration in production.

B. Alterations Not Required by Law: Except as provided in Subsection 1206.076(C), an alteration of a nonconforming structure or other physical improvements, or a change in the use, requires review as a Type II application pursuant to Section 1307, *Procedures*, and shall be subject to the following standards and criteria:

- 1. The alteration or change will, after the imposition of conditions pursuant to Subsection 1206.076(B)(4), have no greater adverse impact ~~to on~~ the neighborhood than the existing structure, other physical improvements, or use; ~~and~~
- 2. The nonconforming use status of the existing use, structure(s), and/or physical improvements is verified pursuant to Subsection 1206.057.
- 3. The alteration or change will not expand the nonconforming use from one lot of record to another unless:



- a. The lot of record on which expansion is proposed and the lot of record on which the nonconforming use currently is established have been part of the same tract continuously since the date the nonconforming use became nonconforming; or
  - b. The expansion would allow only for facilities necessary to support the nonconforming use, such as driveways, storm water management facilities, and on-site wastewater treatment systems.
4. Conditions of approval may be imposed on any alteration of a nonconforming structure or other physical improvements, or a change in the use, permitted under Subsection 1206.076(B), when deemed necessary to ensure the mitigation of any adverse impacts.

C. Alterations to Nonconforming Marijuana Production Premises Not Required by Law: Alterations in production or in a building, structure, or physical improvement associated with a nonconforming premises for which a marijuana producer holds a production license issued under ORS 475B.070 requires review as a Type II application pursuant to Section 1307 and shall be subject to the following standards and criteria:

- 1. The alterations will have no greater adverse impact to the surrounding area than the premises' existing production or its existing associated buildings, structures, and physical improvements; and
- 2. The number of calendar months in which the premises have not been used for marijuana production since the premises became nonconforming does not exceed 12.

~~1206.07 VERIFICATION OF A NONCONFORMING USE~~

~~Verification of nonconforming use status requires review as a Type II application pursuant to Section 1307, Procedures, and shall be subject to the following standards and criteria:~~

- ~~A. The nonconforming use lawfully existed at the time of the adoption of zoning regulations, or a change in zoning regulations, which prohibited or restricted the use, and the nonconforming use has not been subsequently abandoned or discontinued. Once an applicant has verified that a nonconforming use was lawfully established, an applicant need not prove the existence, continuity, nature, and extent of the nonconforming use for a period exceeding 20 years immediately preceding the date of application for verification; or~~
- ~~B. The existence, continuity, nature, and extent of the nonconforming use for the 10-year period immediately preceding the date of the application is proven. Such evidence shall create a rebuttable presumption that the nonconforming use, as proven, lawfully existed at the time of, and has continued uninterrupted since, the adoption of restrictive zoning regulations, or a change in the zoning or zoning~~

~~regulations, that have the effect of prohibiting the nonconforming use under the current provisions of this Ordinance.~~

1206.08 ALTERATION APPROVAL PERIOD AND TIME EXTENSION

A. Approval Period: Approval of an alteration of a nonconforming use, pursuant to Subsection 1206.07~~6~~(B) or (C), is valid for a period of ~~two~~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 ~~two~~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 alteration of a nonconforming use, or if no major development permits are required to complete the development contemplated by the approved alteration of a nonconforming use, implemented means all other necessary County development permits (e.g., grading permit, building permit for an accessory structure) shall be obtained and maintained.

a. A major development permit is:

- i. A building or manufactured dwelling placement permit for a new primary structure that was part of the alteration of a nonconforming use approval; or
- ii. A permit issued by the County for parking lot or road improvements required by the alteration of a nonconforming use approval.

2. Notwithstanding Subsection 1206.04(A), the allowed discontinuance period for a nonconforming use approved for an alteration pursuant to Subsection 1206.07(B) is extended to 24 consecutive months from the date of implementation of the alteration pursuant to Subsection 1206.08(A)(1). In no event shall the total period of discontinuance exceed 48 consecutive months (i.e., any discontinuance period preceding the filing of an application for an alteration, plus the period during which the alteration application is under review, plus the approval period allowed by Subsection 1206.08(A), plus the 24 consecutive months from the date of implementation).

B. Time Extension: If the approval of an alteration of a nonconforming use is not implemented within the initial approval period established by Subsection 1206.08(A), a two-year time extension may be approved pursuant to Section 1310, *Time Extension*. However, in no event may the total period of discontinuance exceed 48 months, inclusive of those discontinuance periods identified in Subsection 1206.08(A)(2).

1206.09 VESTED RIGHT DETERMINATION

A vested right determination shall require review as a Type II application pursuant to Section 1307, *Procedures*, and shall be approved if the requested use was vested under common law.

[Amended by Ord. ZDO-230, 9/26/11; Amended by Ord. ZDO-243, 9/9/13; Amended by Ord. ZDO-249, 10/13/14; Amended by Ord. ZDO-250, 10/13/14; Amended by Ord. ZDO-248, 10/13/14; Amended by Ord. ZDO-253, 6/1/15; Amended by Ord. ZDO-276, 10/1/20]

**Summary of Proposed Amendments to Section 1307, Procedures**

1. Modify procedures related to mailing of decisions on applications, such that a notice of decision is mailed to certain parties rather than a full copy of the decision.
2. Add additional notification requirements for renewable energy facilities, as required by Oregon Revised Statutes (ORS) 215.446.
3. Identify in Table 1307-1, *Land Use Permits by Procedure Type*, review procedures for Type I applications in the AG/F and EFU Districts.
4. Make a conforming amendment following the previous adoption of Ordinance ZDO-282 by removing a reference to condominium plats in Table 1307-1 and the corresponding footnote.
5. Clarify in Table 1307-1 which replats are reviewed according to Type I procedures and which are reviewed according to Type II procedures.
6. As allowed by a change to state law, designate the Hearings Officer, rather than the Planning Commission, to hear applications for gatherings regulated by ORS 433.763.
7. Correct citations.
8. Make pronouns gender-neutral, consistent with other provisions of the County Code.
9. Repeal unneeded notice requirements related to replats.
10. Correct the notice of decision requirements for expedited and middle housing land divisions.
11. Recognize that the word “signature” includes a signature affixed by electronic means (i.e., an electronic signature).

**1307 PROCEDURES**

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1307.01 PURPOSE

Section 1307 is adopted to:

- A. Implement the goals and policies of the Comprehensive Plan for community involvement and the planning process;
- B. Establish uniform procedures for the review of land use applications and legislative land use proposals;
- C. Facilitate timely review of land use applications by the County;
- D. Clarify the land use application review process for applicants; and
- E. Enable the public to effectively participate in the County’s land use permit decision-making process.

1307.02 APPLICABILITY

Section 1307 applies to all land use permit applications and all legislative land use proposals under this Ordinance.

- A. No person shall engage in or cause development to occur without first obtaining the necessary land use permit approvals required by, and according to the procedures in, Section 1307.
- B. Where the provisions of Section 1307 conflict with other provisions of this Ordinance, the more specific provisions shall control.

1307.03 REVIEW AUTHORITIES

- A. Review Authorities, Generally: Review authorities are those who are designated to make recommendations or decisions regarding land use permit applications and legislative land use proposals. Table 1307-1, *Land Use Permits by Procedure Type*, lists the land use permits and legislative land use proposals that are provided for by this Ordinance and establishes:
  - 1. The review authority charged with making the initial decision;
  - 2. The review authority charged with making the decision on the initial County-level appeal, if any;
  - 3. The review authority charged with making the decision on the second County-level appeal, if any; and

4. Those circumstances where an additional review authority is charged with making a recommendation on the application or proposal to the decision-maker.

B. Planning Director: Pursuant to Oregon Revised Statutes (ORS) 215.042, the Planning Director is the County official designated to administer land use planning in the County. In this role, the Planning Director administers the Comprehensive Plan and this Ordinance, issues decisions on certain land use permit applications, and provides administrative support to other review authorities. As used in this Ordinance, the term Planning Director includes any County staff member authorized by the Planning Director to fulfill the responsibilities assigned to the Planning Director by this Ordinance.

C. Hearings Officer: Pursuant to ORS 215.406, the Hearings Officer is appointed by the Board of County Commissioners to conduct public hearings and issue decisions on certain land use permit applications.

D. Historic Review Board: The Historic Review Board is designated as an advisory body on matters pertaining to the Historic Landmark, Historic District, and Historic Corridor overlay zoning district and has the powers and duties described in Sections 707 and 1307.

1. The Historic Review Board shall be composed of seven members, appointed by and serving at the pleasure of the Board of County Commissioners.
2. Historic Review Board members shall have demonstrated an interest in historic preservation and have experience or special expertise or knowledge in the field of historic preservation. Three positions on the Historic Review Board shall be filled as follows:
  - a. One architect, with knowledge in historic restoration;
  - b. One contractor, with expertise in construction techniques applied to historic structures; and
  - c. One representative from a historic group in the County.
3. Unless otherwise provided for, members of the Historic Review Board shall serve four-year terms, beginning on May 1st of the year in which they are appointed. Terms may be renewed by the Board of County Commissioners.
4. If a member of the Historic Review Board does not complete his or her term, the Board of County Commissioners shall appoint a replacement to serve the remainder of that term.

5. A member whose term has ended may continue to serve on the Historic Review Board until the Board of County Commissioners renews that term or appoints a new member. The new term shall be considered to have begun on the date it would have under Subsection 1307.03(D)(3).
  6. The Historic Review Board shall adopt bylaws governing its proceedings and appoint a chair and vice chair to manage those proceedings according to those bylaws, and County, state, and federal law.
  7. In the event of a conflict between the bylaws and any provision of this Ordinance, this Ordinance shall govern. In the event of a conflict between the bylaws and a non-mandatory provision of state law, the bylaws shall govern.
- E. Design Review Committee: The Design Review Committee is designated as an advisory body on matters pertaining to the design review process and has the powers and duties described in Sections 1102 and 1307.
1. The Design Review Committee shall be composed of seven members, appointed by and serving at the pleasure of the Board of County Commissioners.
  2. Five positions on the Design Review Committee shall be filled as follows:
    - a. One landscape architect;
    - b. One architect;
    - c. One registered engineer;
    - d. One graphic design representative; and
    - e. One representative from the field of finance or the construction and development industry.
  3. Unless otherwise provided for, members of the Design Review Committee shall serve four-year terms, beginning on May 1st of the year in which they are appointed. Terms may be renewed by the Board of County Commissioners.
  4. If a member of the Design Review Committee does not complete his or her term, the Board of County Commissioners shall appoint a replacement to serve the remainder of that term.
  5. A member whose term has ended may continue to serve on the Design Review Committee until the Board of County Commissioners renews that term or appoints a new member. The new term shall be considered to have begun on the date it would have under Subsection 1307.03(E)(3).

6. The Design Review Committee shall adopt bylaws governing its proceedings and appoint a chair and vice chair to manage those proceedings according to those bylaws, and County, state, and federal law.
  7. In the event of a conflict between the bylaws and any provision of this Ordinance, this Ordinance shall govern. In the event of a conflict between the bylaws and a non-mandatory provision of state law, the bylaws shall govern.
- F. Planning Commission: The Planning Commission is designated as the land use planning advisory body to the Board of County Commissioners and acts as the decision-maker on an initial appeal of the Planning Director's interpretation of the Comprehensive Plan. The Planning Commission shall have the powers and duties described in Section 1307 and such other powers and duties as may be imposed on it by County, state, or federal law.
1. The Planning Commission shall be composed of nine members, designated in positions labeled 1 through 9, appointed by and serving at the pleasure of the Board of County Commissioners.
  2. Members of the Planning Commission shall be residents of the various geographic areas of the County. No more than two voting members shall be engaged principally in the buying, selling, or developing of real estate for profit, as individuals, or be members of any partnership or officers or employees of any corporation that is engaged principally in the buying, selling, or developing of real estate for profit. No more than two voting members shall be engaged in the same kind of occupation, business, trade, or profession.
  3. Unless otherwise provided for, members of the Planning Commission shall serve four-year terms, beginning on May 1st of the year in which they are appointed. Terms may be renewed by the Board of County Commissioners.
  4. If a member of the Planning Commission does not complete his or her term, the Board of County Commissioners shall appoint a replacement to serve the remainder of that term.
  5. A member whose term has ended may continue to serve on the Planning Commission until the Board of County Commissioners renews that term or appoints a new member. The new term shall be considered to have begun on the date it would have under Subsection 1307.03(F)(3).
  6. The Planning Commission shall adopt bylaws governing its proceedings and appoint a chair and vice chair to manage those proceedings according to those bylaws, and County, state, and federal law.



7. In the event of a conflict between the bylaws and any provision of this Ordinance, this Ordinance shall govern. In the event of a conflict between the bylaws and a non-mandatory provision of state law, the bylaws shall govern.

G. Board of County Commissioners: The Board of County Commissioners is the governing body of the County and is the final County decision-maker on legislative land use proposals and certain land use permit applications.

#### 1307.04 REVIEW PROCEDURE TYPES

- A. Land use permits and legislative land use proposals provided for under this Ordinance are classified as one of four types, each of which is subject to a corresponding review procedure. The four types are described as follows:
  1. Type I 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 and Type II-E permits are administrative in nature and involve land use actions governed by standards and approval criteria that generally require the exercise of limited discretion. Impacts associated with the land use action may require imposition of conditions of approval to minimize those impacts and to ensure compliance with this Ordinance. The Type II and Type II-E 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
<u>AG/F District, Permits not Otherwise Listed in Table 1307-1 but Identified as Type I in Table 407-1, Permitted Uses in the AG/F District</u>	<u>I</u>	<u>No</u>	<u>PD</u>	<u>No County-Level Appeal</u>
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 <sup>1</sup>	III or IV	Type III Only	BCC	No County-Level Appeal
Comprehensive Plan Text Amendment	IV	No	BCC	No County-Level Appeal

Land Use Permit	Procedure Type	Pre-Application Conference Required	Initial Decision Review Authority	Appeal Review Authority
Conditional Use	III	Yes	HO	No County-Level Appeal
<del>Condominium Plat<sup>2</sup></del>	<del>I</del>	<del>No</del>	<del>PD</del>	<del>No County-Level Appeal</del>
Conversion of a Manufactured Dwelling Park or a Mobile Home Park to a Subdivision	I	No	PD	No County-Level Appeal
Design Review <sup>32</sup>	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
<u>EFU District, Permits not Otherwise Listed in Table 1307-1 but Identified as Type I in Table 401-1, Permitted Uses in the EFU District</u>	<u>I</u>	<u>No</u>	<u>PD</u>	<u>No County-Level Appeal</u>
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

Land Use Permit	Procedure Type	Pre-Application Conference Required	Initial Decision Review Authority	Appeal Review Authority
Floodplain Development	II	No	PD	HO
Gathering subject to review under Oregon Revised Statutes 433.763	III	Yes	HOPC	BCC
Habitat Conservation Area District	See Subsection 706.06	No	See Subsection 706.06	See Subsection 706.06
Historic Landmark, Historic District, and Historic Corridor, Maintenance	I	No	PD	No County-Level Appeal
Historic Landmark, Historic District, and Historic Corridor, Major Alteration <sup>43</sup>	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 <sup>43</sup>	II	Yes	PD	HO
Historic Landmark, Historic District, and Historic Corridor, New Construction <sup>43</sup>	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

Land Use Permit	Procedure Type	Pre-Application Conference Required	Initial Decision Review Authority	Appeal Review Authority
Home Occupation, Major, Renewal, without a New Exception	II	No	PD	HO
Interpretation, Comprehensive Plan <sup>54</sup>	II	No	PD	PC
Interpretation, Zoning and Development Ordinance <sup>65</sup>	II	No	PD	HO
Marijuana Processing in the AG/F and EFU Districts	II	No	PD	HO
Marijuana Production, if regulated by Section 841, <i>Marijuana Production, Processing, and Retailing</i>	I	No	PD	No County-Level Appeal
Marijuana Retailing	I	No	PD	No County-Level Appeal
Mass Movement Hazard Area Development, Not Reviewed in Another Type II Application [pursuant to Subsection 1003.02]	II	No	PD	HO
Middle Housing Land Division	II-E	Yes	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

Land Use Permit	Procedure Type	Pre-Application Conference Required	Initial Decision Review Authority	Appeal Review Authority
Mobile Vending Unit, Level Three	II	Yes	PD	HO
Modification	II	No	PD	HO
Nonconforming Use Alteration, not Required by Law	II	No	PD	HO
Nonconforming Use Verification	II	No	PD	HO
Open Space, Conflict Resolution for Wetlands and Significant Natural Areas	II	No	PD	HO
Open Space Review	II	No	PD	HO
Partition	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

Land Use Permit	Procedure Type	Pre-Application Conference Required	Initial Decision Review Authority	Appeal Review Authority
Property Line Adjustment [except pursuant to Subsection 1107.04]	I	No	PD	No County-Level Appeal
Property Line Adjustment [pursuant to Subsection 1107.04]	II	No	PD	HO
Replat <del>(</del> [number of lots or parcels proposed to increase <u>or the subject property is partially or wholly in the AG/F, EFU, or TBR District</u> ])	II	Yes	PD	HO
Replat <del>(</del> [number of lots or parcels proposed to decrease or remain the same <u>and the subject property is not partially or wholly in the AG/F, EFU, or TBR District</u> ])	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



Land Use Permit	Procedure Type	Pre-Application Conference Required	Initial Decision Review Authority	Appeal Review Authority
Slopes, Development [pursuant to Subsection 1002.01(B)]	II	No	PD	HO
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, <i>Permitted Uses in the TBR District</i>	II	No	PD	HO
Temporary Dwelling for Care	II	No	PD	HO
Temporary Dwelling while Building	I	No	PD	No County-Level Appeal
Temporary Structure for Emergency Shelter	I	No	PD	No County-Level Appeal
Temporary Use Otherwise Prohibited	II	No	PD	HO
Time Extension approved pursuant to Subsection 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, <i>Permitted Wireless Telecommunication Facilities</i> , without an Adjustment	I	No	PD	No County-Level Appeal
Wireless Telecommunication Facility, Identified as Type II in Table 835-1, without an Adjustment	II	No	PD	HO
Wireless Telecommunication Facility, Identified as Type II in Table 835-1, but with an Adjustment	III	No	HO	No County-Level Appeal
Zone Change <sup>76</sup>	III or IV	Type III Only	HO, Type III BCC, Type IV	No County-Level Appeal
Zoning and Development Ordinance Text Amendment	IV	No	BCC	No County-Level Appeal

Notes to Table 1307-1:

- <sup>1</sup> 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.
- <sup>2</sup> ~~If condominium platting is proposed as part of a design review application, a separate condominium plat application is not required.~~
- <sup>32</sup> 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.
- <sup>43</sup> 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.
- <sup>54</sup> 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 1307.14(E)(1).
- <sup>65</sup> 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 1307.14(E)(2).
- <sup>76</sup> 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 1307.14(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



- 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, II-E, 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 1307.12, or prevent the County from discontinuing the processing of the proposal at any point prior to decision.

- C. Application Submittal: Type I, II, II-E, 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 1307.16.
- 2. The Planning Director, at ~~his or her~~their sole discretion, may waive a submittal requirement of Subsection 1307.07(C)(1)(b) or (c), if the Planning Director determines that the requirement is not material to the review of the application.
  - 3. Each application, when received by the Planning Director, shall be date-stamped with the date the application was received.
- D. Completeness of a Type I 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, II-E, and III Applications: After it is submitted, a Type II, II-E, or III land use permit application shall be reviewed for completeness, as follows:
- 1. Except as otherwise provided under Oregon Revised Statutes 215.427, the Planning Director shall review a Type II or Type III application for completeness within 30 days of its receipt.
  - 2. The Planning Director shall review a Type II-E application for completeness within 21 days of its receipt.
  - 3. 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.
  - 4. If an application is determined to be complete, review of the application shall

commence.

5. If an application is determined to be incomplete, written notice shall be provided to the applicant identifying the specific information that is missing and allowing the applicant the opportunity to submit the missing information. This written notice shall be provided within 30 days of receipt of a Type II or Type III application and within 21 days of receipt of a Type II-E application. The application shall be deemed complete upon receipt by the Planning Director of:
  - a. All of the missing information;
  - b. Some of the missing information and written notice from the applicant that no other information will be provided; or
  - c. Written notice from the applicant that none of the missing information will be provided.
6. If the application was complete when first submitted, or the applicant submits additional information, as described in Subsection 1307.07(E)(5), within 180 days of the date the application was first submitted, approval or denial of the application shall be based upon the standards and criteria that were applicable at the time the application was first submitted.
7. On the 181st day after first being submitted, a Type II or III application is void, if the applicant has been notified of the missing information as required under Subsection 1307.07(E)(5) and has not submitted the missing information or otherwise responded, as provided in Subsection 1307.07(E)(5).

#### 1307.08 TYPE I MINISTERIAL PROCEDURES

Type I land use permit applications are subject to the following procedures:

- 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 1307.17(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 <sup>1</sup>
AG/F, EFU, or TBR	750 feet <sup>1</sup>

Note to Table 1307-2:

<sup>1</sup> 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).

~~e. If the application is for a replat of a recorded plat, all owners of lots or parcels in the original plat.~~

~~c~~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;

~~d~~e. Cities, as prescribed in applicable urban growth management agreements;

- ef. Those special districts and government agencies deemed by the Planning Director to have an interest in the application;
  - fg. 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;
  - gh. 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
  - hi. 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 notice of 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)(~~cd~~) through (hi).
- 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; and lists the conditions of approval, if any. The decision also shall include:

1. A description of the nature of the decision and a 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;~~
23. The street address or other easily understood geographical reference to the subject property;
34. The name and telephone number of the County staff member to contact where additional information may be obtained;
45. A statement that a copy of the ~~complete~~ application, file 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;
56. The date the review authority's decision becomes effective, unless appealed;
67. A statement that the decision will not become final until the period for filing an appeal with the County has expired without the filing of an appeal;
78. 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
89. A statement that a person who is mailed written notice of the decision cannot appeal the decision directly to the Land Use Board of Appeals under ORS 197.830.

C. Notice of Decision:

1. A copy of the decision shall be mailed to those identified in Subsections 1307.09(A)(1)(a) and (c) through (h).
2. A notice of decision shall be mailed to those identified in Subsections 1307.09(A)(1)(b). The notice shall include the information in Subsections 1307.09(B)(1) through (8) and directions on how to obtain a copy of the decision.

D. Appeal: The review authority’s decision is the final decision of the County, unless an appeal is filed pursuant to Subsection 1307.~~13~~14.

1307.10 TYPE II-E ADMINISTRATIVE PROCEDURES

Type II-E land use permit applications are subject to the following procedures:

A. Notice of Application: Notice of application shall be provided as follows:

1. A minimum of 14 days prior to the issuance of a decision, written notice of application shall be mailed to:
  - a. The applicant(s), the owner(s) of the subject property, and any authorized representative(s) thereof;
  - b. All property owners of record, pursuant to Subsection 1307.17(C), within 100 feet, as measured from the subject property and contiguous properties under the same ownership;
  - ~~c. If the application is for a middle housing land division involving a recorded plat, all owners of lots or parcels in the original plat;~~
  - cd. Any active community planning organization that is recognized by the County, if the subject property lies wholly or partially inside the boundaries of such organization;
  - de. Cities, as prescribed in applicable urban growth management agreements;
  - ef. Those special districts and government agencies deemed by the Planning Director to have an interest in the application;
  - fg. The airport owner and the Oregon Department of Aviation, if required by Oregon Revised Statutes (ORS) 197.183, 215.223, or 215.416.
2. At a minimum, notice of application shall include:
  - a. An explanation of the nature of the application and the proposed use or uses that could be authorized;
  - b. A list of the applicable criteria from this Ordinance and the Comprehensive Plan that apply to the application;
  - c. The street address or other easily understood geographical reference to the subject property;
  - d. The name and telephone number of the County staff member to contact where additional information may be obtained;
  - e. A statement that a copy of the application, all documents and evidence

submitted by or on behalf of the applicant and applicable criteria are available for inspection at no cost and will be provided at a cost established by the Board of County Commissioners;

- f. A general explanation of when, where, how, and to whom written comments on the application may be submitted;
  - g. A statement that issues that may provide the basis for an appeal must be raised in writing prior to the expiration of the comment period and that issues must be raised with sufficient specificity to enable the local government to respond to the issue; and
  - h. A statement that subsequent to the closing of the public comment period, a decision will be issued and mailed to everyone entitled to the initial notice of the application.
3. A minimum of 14 days prior to the issuance of a decision, a copy of the submitted application shall be mailed to those identified in Subsections 1307.10(A)(1)(~~cd~~) through (~~fi~~).
- B. Decision: Within 63 days of receiving a completed application, the review authority shall consider the record of the application and approve, approve with conditions, or deny the application based on the applicable standards and criteria. The review authority shall issue a written decision that explains the standards and criteria considered relevant to the decision, states the facts relied upon in rendering the decision, and explains the justification for the decision based on the standards, criteria, and facts set forth. The decision also shall include:
- 1. An explanation of the nature of the application and the use or uses that were proposed and, if applicable, are authorized by the decision;
  - 2. The conditions of approval, if any;
  - 3. The street address or other easily understood geographical reference to the subject property;
  - 4. The name and telephone number of the County staff member to contact where additional information may be obtained;
  - 5. A statement that a copy of the ~~complete~~ application, ~~file all documents and evidence submitted by or on behalf of the applicant, and applicable criteria are~~ ~~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. An explanation of appeal rights under ORS 197.375A statement that any person who is adversely affected or aggrieved or who is entitled to written notice under Subsection 1307.10(D) 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. After seven days' notice to the applicant, the Board of County Commissioners, at a regularly scheduled public meeting, may take action to extend the 63-day time period identified in Subsection 1307.10(B) to a date certain for one or more applications for an expedited land division or a middle housing land division prior to the expiration of the 63-day period, based on a determination that an unexpected or extraordinary increase in applications makes action within 63 days impracticable. In no case shall an extension be to a date more than 120 days after the application was deemed complete.
- D. Notice of Decision: A copy of the decision shall be mailed to those identified in Subsection 1307.10(A)(1).
- E. Appeal: The review authority's decision is the final decision of the County, unless an appeal is filed pursuant to Subsection 1307.14.

1307.11 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; ~~and-~~
  - g. The State Department of Fish and Wildlife, the State Department of Energy, the State Historic Preservation Officer, the Oregon Department of Aviation, the United States Department of Defense, and federally recognized Indian tribes that may be affected by the application, if the application is for a renewable energy facility pursuant to ORS 215.446.
3. A minimum of 20 days prior to the first evidentiary hearing of each review authority on the application, written notice of the application and hearing shall be mailed to:
- a. The applicant(s), the owner(s) of the subject property, and any authorized representative(s) thereof;
  - b. All property owners of record, pursuant to Subsection 1307.17(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 1307.17(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;~~
- ~~de.~~ 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;
- ~~ef.~~ Cities, as prescribed in applicable urban growth management agreements;
- ~~fg.~~ Those special districts and government agencies deemed by the Planning Director to have an interest in the application;
- ~~gh.~~ 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;
- ~~hi.~~ 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;
- ~~ij.~~ The airport owner and the Oregon Department of Aviation, if required by ORS 197.183, 215.223, or 215.416; ~~and~~
- ~~j. The State Department of Fish and Wildlife, the State Department of Energy, the State Historic Preservation Officer, the Oregon Department of Aviation, the United States Department of Defense, and federally recognized Indian tribes that may be affected by the application, if the application is for a renewable energy facility pursuant to ORS 215.446; and~~
- k. Tenants of a mobile home or manufactured dwelling park, as defined in ORS 446.003, when property that includes all or part of such mobile home or manufactured dwelling park is the subject of an application for a Comprehensive Plan map amendment, zone change, or both. Notice to such tenants shall be mailed no more than 40 days before the first evidentiary hearing.



4. At a minimum, notice of application and hearing shall include:
  - a. An explanation of the nature of the application and the proposed use or uses that could be authorized;
  - b. A list of the applicable criteria from this Ordinance and the Comprehensive Plan that apply to the application;
  - c. The street address or other easily understood geographical reference to the subject property;
  - d. Date, time, and location of the hearing;
  - e. A statement that failure of an issue to be raised in a hearing, in person or by letter, or failure to provide statements or evidence sufficient to afford the review authority an opportunity to respond to the issue precludes appeal to the Oregon Land Use Board of Appeals on that issue;
  - f. The name and telephone number of the County staff member to contact where additional information may be obtained;
  - g. A statement that a copy of the application, all documents and evidence submitted by or on behalf of the applicant and applicable criteria are available for inspection at no cost and will be provided at a cost established by the Board of County Commissioners;
  - h. A statement that a copy of the staff report will be available for inspection at no cost at least seven days prior to the hearing and will be provided at a cost established by the Board of County Commissioners;
  - i. A general explanation of the requirements for submission of testimony and the procedure for conduct of hearings; ~~and~~
  - j. A statement that subsequent to the close of the public hearing, a decision will be issued and mailed as required by Subsection 1307.11(E); ~~and~~
  - k. If the application is for a renewable energy facility pursuant to ORS 215.446, a description of the proposed renewable energy facility and the contact information for the Board of County Commissioners and the applicant.
5. If the application is for a Comprehensive Plan amendment, notice of the date, time, location, and purpose of the Planning Commission's hearing and the Board of County Commissioner's hearing shall be given a minimum of 10 days prior to the date of each review authority's first evidentiary hearing, by publication in a newspaper of general circulation in the County. However, if the application applies to only a part of the County, the notice may instead be published in a newspaper of general circulation in that part of the County.

B. Application Review and Staff Report: The Planning Director shall review the application, written comments, and evidence submitted prior to the public hearing; prepare a staff report summarizing the application, comments received to-date, and relevant issues associated with the application; and make a recommendation to the review authority. The staff report shall be made available to the public for review a minimum of seven days prior to the first evidentiary hearing.

C. Public Hearing: A public hearing shall be held before the review authority, for the purpose of receiving testimony regarding the application.

D. Decision: The review authority shall consider the record and approve, approve with conditions, or deny the application based on the applicable standards and criteria. The review authority shall issue a written decision that explains the standards and criteria considered relevant to the decision, states the facts relied upon in rendering the decision, ~~and~~ explains the justification for the decision based on the standards, criteria, and facts set forth, and lists the conditions of approval, if any. The decision also shall include:

1. An explanation of the nature of the application and the use or uses that were proposed and, if applicable, are authorized by the decision;

~~2. The 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:

1. A copy of the decision shall be mailed to:

~~1. Those identified in Subsections 1307.11(A)(3)(a) and (de) through (j).;~~

2. A notice of decision, which shall include the information in Subsections 1307.11(D)(1) through (4) and directions on how to obtain a copy of the decision, shall be mailed to:

~~a.~~ Anyone who provided evidence, argument, or testimony as part of the record; and

~~b3.~~ Anyone who made a written request for notice of decision. ~~;~~ ~~and~~

34. A copy of the decision shall be submitted to DLCD, ~~if as~~ required pursuant to ~~by~~ ORS 197.615. Procedures for ~~the giving of the required notice to submitting~~ the decision to DLCD shall be those established by ORS 197.615 and Oregon Administrative Rules chapter 660, division 18.

F. Appeal: The review authority’s decision is the final decision of the County, except as may be provided for interpretation applications pursuant to Subsection 1307.14(E). Appeal of the County’s final decision is to the Oregon Land Use Board of Appeals.

1307.12 TYPE IV LEGISLATIVE PROCEDURES

Type IV legislative land use proposals are subject to the following procedures:

A. Notice of Proposal and Public Hearing: Notice of proposal and hearing shall be provided as follows:

1. Notice shall be provided to the Oregon Department of Land Conservation and Development, if required pursuant to Oregon Revised Statutes (ORS) 197.610. Procedures for the giving of the required notice shall be those established by ORS 197.610 and Oregon Administrative Rules chapter 660, division 18.
2. Notice shall be provided to the Metropolitan Service District, if required pursuant to Section 3.07.820 of the Code of the Metropolitan Service District. Procedures for the giving of the required notice shall be those established by Section 3.07.820 of the Code of the Metropolitan Service District.
3. For proposed amendments to the text of the Comprehensive Plan or this Ordinance, a minimum of 35 days prior to the first public hearing, a copy of the text, showing proposed additions and deletions, shall be made available to the public for review. All active community planning organizations, hamlets, and villages that are recognized by the County shall be notified when it becomes available.
4. A minimum of 20 days prior to the first public hearing of each review authority on the proposal, written notice of the proposal and hearing shall be mailed to:
  - a. For proposed amendments to the text of the Comprehensive Plan or this Ordinance, all active community planning organizations, hamlets, and villages that are recognized by the County;
  - b. For proposed Comprehensive Plan Land Use Plan map amendments and zone changes, any active community planning organization, hamlet, or village that is recognized by the County, if the subject property lies wholly

- or partially inside the boundaries of such organization, hamlet, or village;
  - c. Cities, as prescribed in applicable urban growth management agreements; and
  - d. Those special districts and government agencies deemed by the Planning Director to have an interest in the proposal.
5. At a minimum, notice of proposal and hearing shall include:
- a. An explanation of the nature of the proposal;
  - b. Date, time, and location of the hearing;
  - c. The name and telephone number of the County staff member to contact where additional information may be obtained; and
  - d. For Comprehensive Plan Land Use Plan map amendments and zone changes, a copy of the proposed map change(s).
6. Notice of the date, time, location, and purpose of the Planning Commission's hearing and the Board of County Commissioner's hearing shall be given a minimum of 10 days prior to the date of each review authority's first public hearing, by publication in a newspaper of general circulation in the County. However, if the legislative land use proposal applies to only a part of the County, the notice may instead be published in a newspaper of general circulation in that part of the County.
- B. Proposal Review and Staff Report: The Planning Director shall consider the proposal, written comments, and evidence submitted prior to each public hearing and prepare staff reports summarizing the proposal, comments received to-date, and the relevant issues associated with the proposal. Each staff report shall make a recommendation to the review authority.
- C. Planning Commission Public Hearing: A public hearing shall be held before the Planning Commission, for the purpose of receiving testimony regarding the proposal.
- D. Planning Commission Recommendation: The Planning Commission shall consider the record and may make a recommendation to the Board of County Commissioners to adopt, adopt with modifications, or decline to adopt the proposal. If no recommendation is made by the Planning Commission and no extension is granted by the Board of County Commissioners, the Board of County Commissioners may act upon the proposal notwithstanding the lack of a recommendation.
- E. Board of County Commissioners Public Hearing: A public hearing shall be held before the Board of County Commissioners, for the purpose of receiving

testimony regarding the proposal.

F. Decision: The Board of County Commissioners shall consider the record and may adopt, adopt with modifications, or decline to adopt the proposal; remand the matter back to the Planning Commission for further consideration; or table the matter. The decision of the Board of County Commissioners to adopt or adopt with modifications shall be by ordinance.

G. Notice of Decision: Notice of decision shall be provided as follows:

1. A maximum of 20 days after the decision is made it shall be submitted to the Oregon Department of Land Conservation and Development (DLCD). Procedures for the giving of the required notice shall be those established by ORS 197.615 and Oregon Administrative Rules Chapter 660, Division 18.
2. On the same day the decision is submitted to DLCD, the County shall mail, or otherwise deliver, notice to persons who both participated in the County proceedings that led to the decision to adopt the change to the Comprehensive Plan or this Ordinance and requested in writing that the County give notice of the change. The notice shall:
  - a. State how and where the materials described in ORS 197.615(2) may be obtained;
  - b. Include a statement by the individual delivering the notice that identifies the date on which the notice was delivered and the individual delivering the notice;
  - c. List the locations and times at which the public may review the decision and findings; and
  - d. Explain the requirements for appealing the land use decision under ORS 197.830 to 197.845.

H. Appeal: The Board of County Commissioners' decision is the final decision of the County. Appeal of the County's final decision is to the Oregon Land Use Board of Appeals or the Oregon Land Conservation and Development Commission, as determined by state law.

1307.13 PUBLIC HEARINGS

Subsection 1307.13 applies to public hearings held pursuant to Section 1307, except that only Subsections 1307.13(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~~797, Subsection 1307.12, and any bylaws or rules of procedure adopted by the review authority. Subsection 1307.13

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 1307.13(C)(2)(a) or other criteria in the Comprehensive Plan or land use regulation which the person believes to apply to the decision;
    - c. A statement that failure to raise an issue accompanied by statements or evidence sufficient to afford the decision-maker and the parties an opportunity to respond to the issue precludes appeal to the Oregon Land Use Board of Appeals (LUBA) based on that issue; and
    - d. If applicable, a statement that a failure to raise constitutional issues relating to proposed conditions of approval precludes an action for damages in circuit court.
  - 3. Call for Ex Parte Contacts: If the review authority is the Planning Commission or the Board of County Commissioners, the presiding officer, or designee, shall inquire whether any member has had ex parte contacts. Any member announcing an ex parte contact shall state for the record the nature and content of the contact. If the review authority is the Hearings Officer, they shall declare any ex parte contacts and state for the record the nature and content of the contact.
  - 4. Call for Abstentions: If the review authority is the Planning Commission or the Board of County Commissioners, the presiding officer, or designee, shall inquire whether any member must abstain from participation in the hearing due to conflicts of interest. Any member announcing a conflict of interest shall state the nature of the conflict, and shall not participate in the proceeding, unless the vote is necessary to meet a requirement of a minimum

number of votes necessary to take official action; provided, however, that the member shall not participate in any discussion or debate on the issue out of which the conflict arises. If the review authority is the Hearings Officer, they shall declare any potential conflicts of interest. The Hearings Officer shall state the nature of the conflict, and if the nature of the conflict is such that the Hearings Officer cannot fulfill his or her duty to be a fair and impartial decision-maker, the Hearings Officer shall recuse himself or herself from hearing the matter.

5. Staff Report: The Planning Director shall present a report and recommendation concerning the proposal.
6. Presentation of the Application:
  - a. Applicant's case;
  - b. Community planning organizations, hamlets, and villages. Appearance by a representative from any active community planning organization, hamlet, or village that is recognized by the County, if the subject property lies wholly or partially inside the boundaries of such organization, hamlet, or village, to present the organization's position on the proposal;
  - c. Public testimony; and
  - d. Rebuttal. Rebuttal may be presented by the applicant. The scope of rebuttal is limited to matters that were introduced during the hearing.
7. Close of Hearing: No additional testimony, evidence, or argument shall be accepted after the close of the hearing unless the record is held open by the review authority.
8. Reopened Hearing: The hearing may be reopened by the review authority, prior to decision, to receive additional testimony, evidence, or argument. Notice shall be provided to the same persons who received notice of the original hearing and to anyone who provided evidence, argument, or testimony as part of the record.
9. Deliberations: If the review authority is the Planning Commission or Board of County Commissioners, deliberations shall immediately follow the hearing, except that deliberations may be delayed to a subsequent date and time certain. If the review authority is the Hearings Officer, deliberations will not occur, and the Hearings Officer will instead take the matter under advisement.
10. Remand: The Board of County Commissioners may remand any matter previously considered by the Planning Commission back to the Planning Commission for further review.
11. Recommendation or Decision: When the review authority is the Planning

Commission or Board of County Commissioners, the recommendation or decision, as applicable, will be voted on and announced during a public meeting.

D. Ex Parte Contact:

1. The review authority shall not do any of the following:
  - a. Communicate, directly or indirectly, with any party or their representatives in connection with any issue involved, except upon notice and opportunity for all parties to participate;
  - b. Take notice of any communications, reports, staff memoranda, or other materials prepared in connection with a particular application, unless the parties are afforded an opportunity to contest the material so noted; or
  - c. Inspect the site with any party or his representatives unless all parties are given an opportunity to be present. Individuals representing the review authority may inspect the site alone but must put the circumstances of the inspection on record.
2. A party may challenge the review authority, or individual member thereof, on the grounds of Subsection 1307.13(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 1307.13(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 1307.13(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 1307.13(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 1307.13(I)(2)(a), or leave the record open for additional written evidence, argument, or testimony, pursuant to Subsection 1307.13(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 1307.13(I)(2)(a); provided, however, nothing in Subsection 1307.13(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 1307.13(I)(4).

- c. A continuance or extension granted pursuant to Subsection 1307.13(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 1307.13(J)(1);

- g. Minutes, if any, of the hearing;
- h. A verbatim record, as provided in Subsection 1307.13(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.

1307.14 APPEALS

Subsection 1307.14 applies to all appeals processed by the County of decisions issued under Section 1307, except for appeals of Type II-E decisions, which shall be processed pursuant to ORS 197.375. Table 1307-1, *Land Use Permits by Procedure Type*, identifies those land use permit decisions that may be appealed at the County level and the applicable review authority for those appeals.

- A. Filing an Appeal: An appeal shall be in writing and must be received by the Planning Director within 12 days of the date of mailing of the notice of decision, or if the 12<sup>th</sup> 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 1307.14(A) and (B). The Planning Director's determination that an appellant has failed to comply with Subsections 1307.14(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 1307.14(D)(1), the record of the initial proceeding consists of

- a. Those items listed in Subsections 1307.13(J)(2)(a) through (d) and (j); and
  - b. Those items listed in Subsections 1307.13(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 1307.17(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 1307.11(A)(4), except that 1307.11(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 1307.11(D)(1) through (5).

5. Notice of Decision: A copy of the written order shall be mailed to:
    - a. Those identified in Subsection 1307.11(E); and
    - b. The appellant.
  6. Appeal: Except where an additional County-level appeal is provided pursuant to Subsection 1307.14(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 1307.14(A) through (D), except that notice of the public hearing shall be given to:
    - a. Those identified in Subsections 1307.09(A)(1)(a), (~~cd~~) through (~~ef~~), and (~~hi~~);
    - 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 1307.14(A) through (D), except that notice of the public hearing shall be given pursuant to Subsection 1307.14(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 1307.14(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).

#### 1307.15 CONDITIONS OF APPROVAL

Approval of a Type I, II, II-E, or III land use permit may be granted subject to conditions. The following limitations shall be applicable to conditional approvals:

- A. Conditions shall be fulfilled within the time limitations set forth in the approval thereof, or, if no time is set forth, within a reasonable time. Failure to fulfill any conditions within the time limitations provided shall be grounds for the Planning Director to initiate revocation of the approved land use permit pursuant to Subsection 1307.17(L).
- B. Conditions shall be imposed to ensure compliance with the standards and approval criteria applicable to the land use permit, or shall be reasonably calculated to fulfill public needs emanating from the proposed land uses as set forth in the application, in the following respects:
1. Protection of the public from the potentially deleterious effects of the proposed use; or
  2. Fulfillment of the need for public services created by the proposed use.
- C. The review authority may find compliance with an applicable approval criterion by imposing conditions necessary to ensure compliance and finding that it is feasible for the conditions to be satisfied. Notwithstanding this provision, where conditions require state agency permits to be obtained, the review authority need only find substantial evidence to demonstrate that the applicant is not precluded from obtaining such state agency permits as a matter of law.
- D. A surety may be required from the applicant, in an amount sufficient to ensure compliance with one or more conditions of approval, subject to Section 1311, *Completion of Improvements, Sureties, and Maintenance*.

1307.16 FEES

Fees are for the purposes of defraying administrative costs and are subject to the following:

- A. Fees payable at the time of application or appeal are established by separate order of the Board of County Commissioners.
- B. The failure to submit the required fee with an application or appeal, including return of checks unpaid or other failure of consideration, shall be a jurisdictional defect.
- C. An active community planning organization that is recognized by the County may file appeals without fee, provided the decision to file an appeal is made at a public meeting held in compliance with Oregon Revised Statutes 192.610 to 192.690.
- D. Appeal fees shall be refunded if the appellant prevails. Any other fee refund policy shall be established by separate order of the Board of County Commissioners.
- E. The County Administrator or designee may reduce or waive fees upon showing of just cause to do so.

1307.17 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 Signatures:

- 1. 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 they are buying the property under contract, the Planning Director and the review authority, if other than the Planning Director, may accept these statements to be true, unless the contrary be proved, and except where otherwise in this Ordinance more definite and complete proof is required. Nothing herein shall prevent the Planning Director or the review authority, if other than the Planning Director, from demanding proof that the signer is the owner, officer, attorney in fact, or agent.

2. As used in Section 1307, the word "signature" includes a signature affixed by electronic means.

C. Property Owner Notice: Where notice to property owners of record is required by



Section 1307, the records of the County Assessor shall be used to identify the owners and their mailing addresses. Persons whose names and addresses are not on file at the time of the filing of the applicable land use permit application or appeal need not be notified of the application, decision, or hearing. If a property within the notification area is located outside the County, the records of the applicable County Assessor shall be used. The failure of a property owner to receive notice as provided in Section 1307 shall not invalidate the proceedings, if the County can demonstrate by affidavit that such notice was given.

- D. Method of Mailing: When mailing is required by Section 1307, first-class mail shall be used, except that for mailing to any of the following, either first-class mail or electronic mail may be used: community planning organizations, hamlets, villages, cities, special districts, and government agencies.
- E. Burden of Proof: Except in a Type IV proceeding, the proponent has the burden of proof on all elements of the proposal. The proposal must be supported by a preponderance of evidence that it conforms to all applicable standards and criteria. The preponderance of evidence standard is often described as enough evidence to make the proponent's point more likely than not.
- F. Argument and Evidence: For the purposes of Section 1307:
  - 1. Argument means assertions and analysis regarding the satisfaction or violation of legal standards or policy believed relevant by any party. Argument does not include facts.
  - 2. Evidence means facts, documents, data, or other information offered to demonstrate compliance or noncompliance with the standards and criteria believed by any party to be relevant to the proposal.
- G. Withdrawal: Prior to the issuance of the written decision, the applicant may submit a written notice of withdrawal of the application. Upon receipt of a written notice of withdrawal, the application shall be deemed dismissed without further action by the review authority. A withdrawal shall not bar filing a new application; withdrawal shall not be deemed a final decision for any purpose. A withdrawal cannot be appealed. If an application is withdrawn after the mailing of notice of application or public hearing, the Planning Director shall mail written notice stating the application has been withdrawn to all persons who were provided mailed notice of the application or public hearing.
- H. Final Action Deadline: Except as modified by Oregon Revised Statutes (ORS) 197.365 through 197.380 or by ORS 197.~~763~~797, the County shall take final action on a land use permit application that is subject to ORS 215.427, including resolution of all County appeals, within the time period specified by ORS 215.427, unless the applicant provides written request for an extension of such period pursuant to ORS 215.427(5).
- I. Effective Date of Decision: The County's final decision on a Type I, II, II-E, or

III land use permit application becomes effective on:

1. The day the final decision is issued, if no appeal at the County level is allowed;
2. The day after the appeal period expires, if an appeal at the County level is allowed, but no notice of appeal is timely filed;
3. The day the decision is issued by the final County appeal body, if an appeal is allowed and notice of appeal is timely filed. However, if the appeal is withdrawn prior to decision, the effective date of the County's final decision shall revert to the day after the appeal period would have expired had an appeal not been timely filed; or
4. The date of mailing of the Board of County Commissioners' denial of review, pursuant to Subsection 1307.14(E)(2)(b).

J. Reissuing a Decision: The review authority may reissue a Type I, II, II-E, or III decision as a result of a clerical error, a misstatement of facts, or the erroneous imposition or omission of conditions of approval. A decision may not be reissued after the expiration of the appeal period, if any, or after the filing of an appeal. Notice of the reissued decision shall be given in the same manner as notice of the original decision. A new appeal period equal to that of the original decision shall be provided from the date of mailing of the amended decision.

K. Re-filing an Application: If a Type II, II-E, or III land use permit application is denied, or a Type II, II-E, or III land use permit is revoked pursuant to Subsection 1307.17(L), an applicant may re-file for consideration of the same or substantially similar application only if:

1. At least two years have passed after either final denial of an application by the County or revocation of a permit; or
2. The review authority finds that one or more of the following circumstances render inapplicable all of the specific reasons for the denial:
  - a. A change, which is material to the application, has occurred in this Ordinance, the Comprehensive Plan, or other applicable law; for the purposes of this provision, "change" includes amendment to the applicable provisions or a modification in accepted meaning or application caused by an interpretation filed pursuant to Section 1308;
  - b. A mistake in facts, which was material to the application, was considered by the review authority;
  - c. There have been changes in circumstances resulting in new facts material to the application;

- d. A change has occurred in the zoning of the subject property, or adjacent property, that substantially affects the merits of the application; or
  - e. There have been substantial changes in the surrounding area, or on the subject property, such as availability of services or improvements to public facilities, that affect the merits of the application.
- L. Revocation of Approval: An approval of a Type II, II-E, or III land use permit may be revoked, as follows:
- 1. The Planning Director may initiate a public hearing for revocation of a prior approval of a land use permit when there is a violation of conditions attached to the previous approval sufficient to merit such revocation.
  - 2. Revocation of approval shall be reviewed using the Type III procedure. The Hearings Officer shall be the review authority, and the decision of the Hearings Officer shall be the final decision of the County.
  - 3. Revocation is in addition to, and not in lieu of, any other remedy provided by law or equity, and is not a condition precedent to any such remedy.
- M. Modifications: Except as permitted pursuant to Section 1309:
- 1. A modification to an approved Type I, II, II-E, or III land use permit, or conditions thereto, shall be processed as a new application; and
  - 2. A modification to conditions of approval for a Type II, II-E, or III land use permit shall be considered only if one or more of the circumstances identified in Subsection 1307.17(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; Amended by Ord. ZDO-280, 10/23/21; Amended by Ord. ZDO-282, 7/1/22]

**Summary of Proposed Amendments to Section 1310, *Time Extension***

1. Update a citation in Subsection 1310.01(A)(2) to correctly reference Subsection 1307.07(E)(5).

**1310 TIME EXTENSION**

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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, shall be consistent with the relevant provisions of this Ordinance in effect on the date the application for a time extension is submitted, provided that the application is complete when submitted or is made complete pursuant to Subsection 1307.07(E)(45); and
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 401.10(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; Amended by Ord. ZDO-280, 10/23/21]

**Summary of Proposed Amendments to Comprehensive Plan Chapter 6, *Housing***

1. Repeal Policies 6.B.10 and 6.B.11 related to manufactured and mobile homes, which are redundant with Policy 6.B.1. This will also correct an error in 6.B.11 from prior Comprehensive Plan amendments that inadvertently removed an allowance for mobile homes in rural zones inside urban growth boundaries.
2. Repeal Table 6-1, *Density Bonus Chart*, which is no longer consistent with the ZDO and was intended for repeal as part of ZDO-282, a previously adopted package of amendments related to housing.

## **Chapter 6: HOUSING**

Housing stock within Clackamas County serves local communities and also ties into the regional supply. As such, many of the housing challenges currently facing the county are not unique to the local area and solutions must be considered within the context of regional and statewide trends, as well as county-wide needs. To move forward, we must also look back and acknowledge actions in the past that have harmed and excluded members of our community. Residential zoning has a complex history that resulted in exclusion of low-income, black, indigenous, and people of color from certain neighborhoods. In Oregon, this history was especially harmful with direct exclusion of non-white people from the state until 1926. Although those exclusions are illegal today, their negative impacts are still affecting our community through the legacy of exclusionary zoning. Housing policy and code changes are an opportunity to help mitigate effects of these past practices; housing policies moving forward must be more focused on equity, diversity, and inclusion.

Meeting the future housing needs and desires of residents will require the County to allow for new housing types and densities. A wider range of housing prices can be encouraged by providing a greater variety of lot sizes and more opportunities for the development of a range of housing sizes and types. Providing more opportunities for the development of multifamily dwellings and other alternative housing forms are needed to house the young, the elderly, and lower-income households who may prefer, or only be able to afford, housing types other than detached single-family homes. And as the current housing stock ages and redevelopment takes place, regulations pertaining to density, design and accessibility will shape neighborhoods and the county.

### **HOUSING GOALS**

- **Goal 1:** Meet the needs of the County houseless population through a variety of short- and long-term options.
- **Goal 2:** Encourage development that will provide a range of choices in housing type, density, and price throughout the County.
- **Goal 3:** Provide housing opportunities that meet the economic, social, and cultural needs of community members while using energy, land, and public facilities as efficiently as possible.

### **BACKGROUND AND ISSUES**

In response to growing concerns about increasing housing costs, increasing homelessness, and an historic lack of equity in housing policies, both the Oregon State Legislature and the Clackamas County Board of Commissioners (BCC) recently took action to address housing issues.



The Oregon State legislature took action to affect housing development in larger jurisdictions in the state. The two most notable bills affecting how the County regulates housing include:

- Senate Bill 1051(2017), which requires jurisdictions to provide clear and objective standards for housing development, and to allow accessory dwelling units (ADUs) in areas zoned for detached housing inside urban growth boundaries; and
- House Bill 2001(2019), which requires larger jurisdictions, including the County, to allow duplexes, triplexes, quadplexes, cottage clusters and townhouses (“middle housing”) on urban lots zoned for a single-family home.

In 2018, the BCC appointed the Affordable Housing and Homelessness Task Force (Task Force) to research, recommend, and support, new policies and strategies to address housing affordability and homelessness in the County. The BCC also initiated the production of a countywide Housing Needs Analysis, which was completed in 2019 and compared expected housing demand with available land supply over 20 years.

The Task Force and the Housing Needs Analysis identified following as the top issues facing the county with respect to housing:

- In the County, population growth is fueling strong demand for new housing units. Future housing needs will need to be accommodated in an urban area with a rapidly dwindling supply of residentially-zoned land.
- Housing built in the County continues to be predominantly detached, single-family dwellings while the need for smaller units and multi-family units is increasing due to changing demographics in the county.
- Housing is becoming increasingly less affordable.
- The number of people experiencing houselessness is increasing.
- Manufactured home parks continue to provide a valuable source of affordable housing, but face redevelopment pressures as land values and housing prices continue to increase.
- It is essential to consider equity within housing policies. It has be demonstrated that housing cost burdens fall disproportionately on people of color and rates of homeownership are significantly lower for Hispanic and non-white households than for white households.

Creating housing opportunities that are safe, affordable, available, and accessible for all residents must be done within the context of federal, state, and regional regulations. The Comprehensive Plan and Zoning & Development Ordinance need to be responsive to new initiatives adopted by these regulatory agencies to ensure the development of sufficient and sustainable housing opportunities. The county's goals and policies to address housing have been created within this context and are intended to guide development of more equitable and diverse housing and neighborhoods in the county.

***Housing Goal 1: Meet the needs of the County houseless population through a variety of short and long-term options.***

Over the last several years, the cost of living has outpaced wage growth across the nation and in the County. As rent and homeownership become less affordable, the risk of becoming houseless increases. Meeting the needs of the county's houseless population will require coordination between several county departments to ensure that safe, affordable shelter place, as well as the services necessary to help the houseless transition to more permanent housing can be provided.

**6.A Houselessness Policies**

- 6.A.1 Support regional programs and the County's Public Housing Program as a means to provide more low- and moderate-income housing.
- 6.A.2 Give priority for relocation into public housing to low-income residents displaced by development.
- 6.A.3 Develop and support a full spectrum of shelter and housing options (e.g., emergency shelters, transitional shelters, and public housing) that assist individuals in moving from houselessness to stable, long-term housing solutions.
- 6.A.4 Collaborate with community partners to provide a continuum of supportive services and programs that address the needs of unhoused persons and families to assist in their transition to more permanent housing solutions.
- 6.A.5 Ensure the Zoning and Development Ordinance allows for places to develop temporary shelters, alternative shelter models, and other transitional housing types.

***Housing Goal 2: Encourage development that will provide a range of choices in housing type, density, and price throughout the County.***

Throughout the County, there is a need to have housing available where people live and work. Having a range of housing types and prices will help to alleviate the deficit of land that exists to accommodate the needed future housing supply.

**6.B Housing Type Policies**

- 6.B.1 Enable a range of housing types throughout the county in a range of zoning districts.
- 6.B.2 Allow for accessibility and universal design standards.
- 6.B.3 Allow middle housing in urban, low density residential areas.
- 6.B.4 Provide for higher-density, single-family development by planning for developments in smaller-lot zoning districts.
- 6.B.5. Encourage smaller lots by allowing for planned unit developments and middle housing developments.
- 6.B.6 Provide for increased capacity for multifamily development in the urban area.
- 6.B.7 Allow for the development of housing on existing legal lots that do not meet the current minimum lot size in a zoning district.
- 6.B.8 Support the continued existence of manufactured dwelling parks and require that parks shall not be redeveloped unless a plan for relocation of the existing tenants is submitted and approved prior to redevelopment.
- 6.B.9 Allow new manufactured home parks as a primary use in Medium Density Residential zoning districts, but not in designated commercial, industrial, or higher-density multifamily areas.

~~6.B.10 Allow a manufactured home in lieu of a single family dwelling, subject to the applicable design standards.~~

~~6.B.11 Allow a mobile home in lieu of a single family dwelling outside of the Urban Growth Boundary.~~

**6.C Housing Affordability Policies**

- 6.C.1 Encourage more affordable housing by allowing for a variety of housing densities and price ranges throughout the county.

- 6.C.2 Allow for rental units with a variety of size, location, and accessibility.
- 6.C.3 Enable more affordable pathways to home ownership.
- 6.C.4 Pursue subsidies to provide affordable housing for low- and moderate-income households.
- 6.C.5 Provide expedient, efficient design review, building permit, zoning, and subdivision processes.
- 6.C.6 Allow alternative road and improvement standards where appropriate (see the policies in the Roadways section of Chapter 5, *Transportation System Plan*).
- 6.C.7 Allow reduced utility and roadway costs through flexible lotting patterns in subdivisions and planned unit developments.
- 6.C.8 Allow density transfers to encourage the creation of less expensive lots (see the policies in Chapter 4, *Land Use*).
- 6.C.9 Allow, where appropriate, residential density bonuses for:
  - Affordable housing units, developed either through a government-subsidized program or by the private sector
  - Housing included as part of a mixed-use development
  - Parks dedication
  - Where special performance criteria have been met.

***Housing Goal 3: Provide housing opportunities that meet the economic, social, and cultural needs of community members while using energy, land, and public facilities as efficiently as possible.***

Economic, social, and cultural perspectives influence the aspects of the built environment that create welcoming and livable communities. The following policies are designed to address the livability of the County.

**6.D Livability Policies**

- 6.D.1 Encourage growth in areas where public services can be economically provided.
- 6.D.2 Support programs that help homeowners and renters to remain in their homes if redevelopment puts upward pressure on home costs and rents.

- 6.D.3 Consider housing choice, livability, and displacement when developing community plans.
- 6.D.4 Make use of existing urban service by allowing for infill development and providing for middle housing types when the existing home is retained.
- 6.D.5 Provide for a variety of middle housing opportunities that meet the design standards that apply in existing, urban residential neighborhoods.
- 6.D.6 Allow greater flexibility for duplexes, triplexes, and quadplexes in the urban area.
- 6.D.7 Invest in active transportation systems to support livable neighborhoods (see the policies in the Roadways section of Chapter 5).
- 6.D.8 Encourage shared access to limit impervious surface and to promote efficient use of existing infrastructure and pedestrian safety.
- 6.D.9 Provide for buffers between residential areas and neighboring nonresidential land use.
- 6.D.10 Allow flexibility in residential setback requirements pursuant to adopted criteria to support a more uniform street frontage and the development of existing lots with unique circumstances.
- 6.D.11 Require design review approval for all multiple-family development, where appropriate.
- 6.D.12 Ensure design review considers the continued livability of existing neighborhoods by requiring design review address at least the following:
  - Energy efficiency and conservation
  - Access to transit
  - Crime prevention including natural surveillance of public areas by residents
  - Open space, including recreation areas and children's play areas
  - Privacy considerations, including private entries, patios, and fencing
  - Noise abatement
  - Shared parking to reduce paved areas
  - Accessibility of parking to units
  - Pedestrian/bicycle facilities on and off site
  - Minimization of impervious ground cover
  - Retention of natural areas and features such as major trees
  - Landscaping
  - Screened parking areas.

**Table 6-1**  
**Density Bonus Chart**

	<b>Low-Density</b>	<b>Medium &amp; Medium-High Density</b>	<b>High-Density</b>
<b>Bonus Category</b>	<b>% increase</b>	<b>% increase</b>	<b>% increase</b>
<b><u>Low-Cost Housing:</u></b> Living 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.	Up to 5% (1 unit per assisted housing unit)	Up to 8% (1 unit per assisted housing unit)	Up to 8% (1 unit per assisted housing unit)
<b><u>Park Dedication:</u></b> Improved site area is dedicated and accepted by the County or other public agency.	10%	10%	10%
<b>MAXIMUM TOTAL % BONUS INCREASE</b>	15%	18%	18%





June 8, 2023

Martha Fritzie, Principal Planner  
Clackamas County Planning & Zoning  
150 Beaver Creek Rd  
Oregon City, OR 97045

Dear Martha:

Thank you for the notice of proposed Clackamas County Ordinance ZDO-283. Metro staff have reviewed the May 22, 2023, draft amendments and find that they are consistent with relevant requirements of Metro's Urban Growth Management Functional Plan (UGMFP), in part for the following reasons.

1. The proposed corrections to Comprehensive Plan Chapter 6, *Housing*, will clarify that mobile homes remain an allowed use in certain residential zoning districts of the County inside the Metro Urban Growth Boundary (UGB);
2. The proposed amendments to ZDO Section 510 will clarify that dog services remain an allowed use in certain commercial zoning districts of the County in the Metro UGB; and
3. The proposed amendments to ZDO Sections 706 and 709 will: streamline construction management plan reviews, without changing approval criteria; simplify Habitat Conservation Area (HCA) map verification procedures; ensure an optional approval pathway with clear and objective standards for development in HCAs or Water Quality Resource Areas (WQRAs); and allow HCAs and WQRAs to be protected in restricted development areas, rather than in separate tracts (i.e., separate lots of record), thereby avoiding potentially unrelated minimum lot size and density concerns, all with the County remaining in substantial compliance with UGMFP Titles 3 and 13.

Sincerely,

A handwritten signature in blue ink that reads "Glen Hamburg".

Glen Hamburg  
Associate Regional Planner  
Planning, Development & Research



**Fritzie, Martha**

**From:** Glen Hamburg <Glen.Hamburg@oregonmetro.gov>  
**Sent:** Thursday, June 8, 2023 11:35 AM  
**To:** Fritzie, Martha  
**Subject:** RE: DRAFT ZDO-283 CPO Interested Parties Notice  
**Attachments:** 06.08.2023 Metro Comments on Clackamas County ZDO-283.pdf

**Warning: External email. Be cautious opening attachments and links.**

Good morning Martha,

Please find attached comments from Metro on the May 22, 2023, draft amendments proposed in File No. ZDO-283.

Kind regards,

**Glen Hamburg** | Metro | Associate Regional Planner

Cell: 971.666.1048

My gender pronouns: he/him/his



**From:** Land Use Notifications <[landusenotifications@oregonmetro.gov](mailto:landusenotifications@oregonmetro.gov)>

**Sent:** Wednesday, May 24, 2023 2:15 PM

**To:** Daniel Kaempff <[Daniel.Kaempff@oregonmetro.gov](mailto:Daniel.Kaempff@oregonmetro.gov)>

**Cc:** Glen Hamburg <[Glen.Hamburg@oregonmetro.gov](mailto:Glen.Hamburg@oregonmetro.gov)>

**Subject:** FW: DRAFT ZDO-283 CPO Interested Parties Notice

Laura Dawson Bodner

Program Assistant

Land Use, TOD, 2040 Grants

Metro

Monday – Thursday 7:30 a.m. – 4:00 p.m.

**From:** Renhard, Darcy <[DRenhard@clackamas.us](mailto:DRenhard@clackamas.us)>

**Sent:** Monday, May 22, 2023 1:00 PM

**To:** Carrie Pak <[carrie.pakpadgett@gmail.com](mailto:carrie.pakpadgett@gmail.com)>; Gerald Murphy <[earlyriser43us@yahoo.com](mailto:earlyriser43us@yahoo.com)>; Hughes, Jennifer <[jenniferh@clackamas.us](mailto:jenniferh@clackamas.us)>; Kevin Moss <[kevinmoss325@gmail.com](mailto:kevinmoss325@gmail.com)>; BCS - molallalouie <[molallalouie@gmail.com](mailto:molallalouie@gmail.com)>; Michael Wilson <[wilsonmick@aol.com](mailto:wilsonmick@aol.com)>; Rogalin, Ellen <[EllenRog@clackamas.us](mailto:EllenRog@clackamas.us)>; Steven Schroedl <[sschroedl@gmail.com](mailto:sschroedl@gmail.com)>; Tammy Stevens <[tsr@bctonline.com](mailto:tsr@bctonline.com)>; Thomas Peterson <[tompetererson824@gmail.com](mailto:tompetererson824@gmail.com)>;

Re: File Number: Z0322-21-FTT  
20988 S Olson Rd  
Beavercreek, OR 97004

My husband and I fell in love and bought the property of 20 acres at 20988 S Olson Rd approximately 6 yrs ago. We wanted to set a small manufactured home on the site where the previous owner had intended to build. The property had been approved for a dwelling in 2001, and the previous owner had electricity brought in to power the well that was drilled and built a well house to store the tank, They also had a pole barn built.

In 2016, it was sold to us as buildable and was confirmed prior to sale by Clackamas County, using the method for the dwelling test which entailed using a piece of plexiglass representing 160 acres over a plat map of the area. We didn't renew the application right away as we still had two children in school and wanted them to graduate in the school district we presently live in.

In July 2020, we applied for a Forest Template Test Dwelling and met all requirements except being 40 feet shy of the 11th property needed for the set criteria, so our application was denied. At this time the planning department was using GIS to determine property lines and we were told it is more accurate than the old method. After we appealed the decision and again were denied, Melissa Lord ( planner assigned to our dwelling application) informed me that a change in language was in the works to align ZDO ordinances in Clackamas County with State ordinances. The one in particular included that tax lots of record over 80 acres could not be included for the 11 tax lots required to qualify for the forest template dwelling approval. There are 2 such tax lots within the 160 acre template test area. The draft for ZDO-283 allows acreage over 80 to be included for the criteria to qualify for a dwelling, which will help us with the approval we need.

It is our hope this Proposed amendment Draft is approved, so we may be able to finally live on our dream property.

Regards,  
Ann & Jason Delfel  
6025 SE 124th Ave  
Portland, OR 97236

Fritzie, Martha

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**From:** Ann Delfel <anndelfel@gmail.com>  
**Sent:** Wednesday, June 14, 2023 8:03 PM  
**To:** Fritzie, Martha  
**Subject:** Testimony for hearing ZDO-283 Proposed amendments to the Clackamas County ZDO and Comprehensive Plan  
**Attachments:** Testimony for hearing ZDO-283 Proposed amendments to the Clackamas County ZDO and Comprehensive Plan.pdf

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**Warning: External email. Be cautious opening attachments and links.**

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Hello,  
I am submitting my testimony for the hearing on June 26th. If you have any questions regarding this testimony please let me know.  
Thank you ,  
Ann Delfel

Fritzie, Martha

**From:** Sarah Mitchell <sm@klgpc.com>  
**Sent:** Monday, June 26, 2023 8:29 PM  
**To:** Fritzie, Martha; Hughes, Jennifer  
**Subject:** RE: Ordinance ZDO-283 Proposed Amendments

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I also support getting the extra 2 years once an alteration is approved that you just described. Thank you!



**Sarah C. Mitchell** | Associate Attorney

P.O. Box 2209  
Lake Oswego, OR 97035  
(503) 636-0069 office  
(971) 314-7011 direct  
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**From:** Sarah Mitchell  
**Sent:** Monday, June 26, 2023 8:27 PM  
**To:** mfritzie@clackamas.us; jenniferh@clackamas.us  
**Subject:** Ordinance ZDO-283 Proposed Amendments

Hi Martha and Jennifer,

Thank you for your willingness to consider my suggestions to the proposed amendments to the county's nonconforming use provisions in ZDO 1206. Please see my attached suggestions (in blue and underlined). I think they capture your concerns about leaving the tolling period open-ended.

Best,  
Sarah



Sarah C. Mitchell | Associate Attorney  
P.O. Box 159  
Lake Oswego, OR 97034  
(503) 636-0069 office  
(971) 314-7011 direct  
(503) 636-0102 fax  
[sm@klgpc.com](mailto:sm@klgpc.com)  
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**1206 NONCONFORMING USES AND VESTED RIGHTS**

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**1206.01 PURPOSE AND APPLICABILITY**

Section 1206 is adopted to provide standards, criteria, and procedures under which a nonconforming use may be continued, maintained, verified, restored, replaced, ~~maintained, and~~ altered, ~~changed, and verified~~ and under which a vested right may be determined.

**1206.02 STATUS**

A nonconforming use may be continued although not in conformity with the regulations for the zoning district in which the use is located. Nonconforming use status applies to the lot(s) of record on which the nonconforming use is located and may not be expanded onto another lot of record, except as provided under Subsection 1206.076(B)(3)(a) and (b) or, in the case of nonconforming premises for marijuana production, with an alteration approved pursuant to Subsection 1206.076(C). A change in ownership or operator of a nonconforming use is permitted.

**1206.03 MAINTENANCE**

Normal maintenance of a nonconforming use necessary to maintain a nonconforming use in good repair is permitted provided there are not significant use or structural alterations. Normal maintenance may include painting; roofing; siding; interior remodeling; re-paving of access roads, parking areas, or loading areas; replacement of landscaping elements; and similar actions.

**1206.043 DISCONTINUATION ~~OF USE~~**

- A. If a nonconforming use is discontinued for a period of more than ~~242~~ consecutive ~~years~~~~months~~, the use shall not be resumed unless the resumed use conforms to the requirements of this Ordinance and other regulations applicable at the time of the proposed resumption. However, if an alteration of a nonconforming use under Subsections 1206.07(A) or (B) is approved, the discontinuance period shall be tolled during the approval period of the alteration (see Subsection 1206.08(A)).
- B. Notwithstanding Subsection 1206.043(A) and pursuant to Oregon Revised Statutes (ORS) 215.130(7)(b), a nonconforming surface mining use shall not be deemed to be discontinued for any period after July 1, 1972, provided:
1. The owner or operator was issued and continuously renewed a state or local surface mining operating permit, or received and maintained a state or local exemption from surface mining regulation; and
  2. The surface mining use was not inactive for a period of 12 consecutive years or more. Inactive means no aggregate materials were excavated, crushed, removed, stockpiled, or sold by the owner or operator of the surface mine.

- C. Notwithstanding Subsection 1206.0~~43~~(A), marijuana production may not be resumed on a premises for which a marijuana producer holds a production license issued under ORS 475B.070 and which is nonconforming to the regulations for the zoning district in which the production is located if the premises is not used for marijuana production for a period of at least 12 calendar months, unless the marijuana production conforms to any zoning requirements or regulations applicable at the time of the proposed resumption.

#### 1206.05 VERIFICATION

Verification of nonconforming use status requires review as a Type II application pursuant to Section 1307, *Procedures*, and shall be subject to the following standards and criteria:

- A. The nonconforming use lawfully existed at the time of the adoption of zoning regulations, or a change in zoning regulations, which prohibited or restricted the use, and the nonconforming use has not been subsequently abandoned or discontinued. Once an applicant has verified that a nonconforming use was lawfully established, an applicant need not prove the existence, continuity, nature, and extent of the nonconforming use for a period exceeding 20 years immediately preceding the date of application for verification; or
- B. The existence, continuity, nature, and extent of the nonconforming use for the 10-year period immediately preceding the date of the application is proven. Such evidence shall create a rebuttable presumption that the nonconforming use, as proven, lawfully existed at the time of, and has continued uninterrupted since, the adoption of restrictive zoning regulations, or a change in the zoning or zoning regulations, that have the effect of prohibiting the nonconforming use under the current provisions of this Ordinance.

#### 1206.0~~64~~ RESTORATION OR REPLACEMENT FOLLOWING DAMAGE OR DESTRUCTION

If a nonconforming use is damaged or destroyed by fire, other casualty, or natural disaster, such use may be restored, ~~or replaced, or re-established~~ consistent with the nature and extent of the use or structure lawfully established at the time of loss, subject to the following conditions:

- A. Alterations or changes to the nature and extent of the nonconforming use as lawfully established prior to the fire, other casualty, or natural disaster shall not be permitted under Subsection 1206.0~~64~~, but may be permitted pursuant to Subsection 1206.0~~76~~.
- B. Physical restoration, ~~or replacement, or re-establishment~~ of the nonconforming use shall be lawfully commenced within one year of the occurrence of the damage or destruction. Lawfully commenced means the lawful resumption of the nonconforming use or the issuance of a land use, building, on-site wastewater treatment system, grading, manufactured dwelling placement, residential trailer

placement, plumbing, electrical, or other development permit required by the County or other appropriate permitting agency that is necessary to begin restoration or replacement of the nonconforming use or structures and resumption of the nonconforming use.

- C. The nonconforming use status of the use to be restored, or replaced, ~~or re-established~~, and the nature and extent of the nonconforming use, shall be verified pursuant to Subsection 1206.057.

#### ~~1206.05 — MAINTENANCE~~

~~Normal maintenance of a nonconforming use necessary to maintain a nonconforming use in good repair is permitted provided there are not significant use or structural alterations. Normal maintenance may include painting; roofing; siding; interior remodeling; re-paving of access roads, parking areas, or loading areas; replacement of landscaping elements; and similar actions.~~

#### 1206.076 ALTERATIONS ~~AND CHANGES~~

##### A. Alterations Required by Law:

1. The alteration of any nonconforming use shall be permitted when necessary to comply with any lawful requirement for alteration of the use or structure, subject to building, plumbing, sanitation, and other specialty code permit requirements in effect at the time the alteration is commenced. Additional conditions shall not be imposed upon the continuation of a nonconforming use when an alteration is required to comply with local or state health or safety requirements, except as provided in Oregon Revised Statutes (ORS) 215.215 pertaining to the re-establishment of nonfarm uses in the EFU District.
2. Alterations to a premises for which a marijuana producer holds a production license issued under ORS 475B.070 shall be permitted when necessary to comply with a lawful requirement for alteration in production.

##### B. Alterations Not Required by Law: Except as provided in Subsection 1206.076(C), an alteration of a nonconforming structure or other physical improvements, or a change in the use, requires review as a Type II application pursuant to Section 1307, *Procedures*, and shall be subject to the following standards and criteria:

1. The alteration or change will, after the imposition of conditions pursuant to Subsection 1206.076(B)(4), have no greater adverse impact ~~to~~ the neighborhood than the existing structure, other physical improvements, or use; ~~and~~
2. The nonconforming use status of the existing use, structure(s), and/or physical improvements is verified pursuant to Subsection 1206.057.



3. The alteration or change will not expand the nonconforming use from one lot of record to another unless:
    - a. The lot of record on which expansion is proposed and the lot of record on which the nonconforming use currently is established have been part of the same tract continuously since the date the nonconforming use became nonconforming; or
    - b. The expansion would allow only for facilities necessary to support the nonconforming use, such as driveways, storm water management facilities, and on-site wastewater treatment systems.
  4. Conditions of approval may be imposed on any alteration of a nonconforming structure or other physical improvements, or a change in the use, permitted under Subsection 1206.076(B), when deemed necessary to ensure the mitigation of any adverse impacts.
- C. Alterations to Nonconforming Marijuana Production Premises Not Required by Law: Alterations in production or in a building, structure, or physical improvement associated with a nonconforming premises for which a marijuana producer holds a production license issued under ORS 475B.070 requires review as a Type II application pursuant to Section 1307 and shall be subject to the following standards and criteria:
1. The alterations will have no greater adverse impact to the surrounding area than the premises' existing production or its existing associated buildings, structures, and physical improvements; and
  2. The number of calendar months in which the premises have not been used for marijuana production since the premises became nonconforming does not exceed 12.

#### ~~1206.07 — VERIFICATION OF A NONCONFORMING USE~~

~~Verification of nonconforming use status requires review as a Type II application pursuant to Section 1307, *Procedures*, and shall be subject to the following standards and criteria:~~

- ~~A. The nonconforming use lawfully existed at the time of the adoption of zoning regulations, or a change in zoning regulations, which prohibited or restricted the use, and the nonconforming use has not been subsequently abandoned or discontinued. Once an applicant has verified that a nonconforming use was lawfully established, an applicant need not prove the existence, continuity, nature, and extent of the nonconforming use for a period exceeding 20 years immediately preceding the date of application for verification; or~~
- ~~B. The existence, continuity, nature, and extent of the nonconforming use for the 10-year period immediately preceding the date of the application is proven. Such evidence shall create a rebuttable presumption that the nonconforming use, as~~

~~proven, lawfully existed at the time of, and has continued uninterrupted since, the adoption of restrictive zoning regulations, or a change in the zoning or zoning regulations, that have the effect of prohibiting the nonconforming use under the current provisions of this Ordinance.~~

#### 1206.08 ALTERATION APPROVAL PERIOD AND TIME EXTENSION

- A. Approval Period: Approval of an alteration of a nonconforming use, pursuant to Subsection 1206.07~~6~~(B) or (C), is valid for a period of ~~two~~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 ~~two~~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 alteration of a nonconforming use, or if no major development permits are required to complete the development contemplated by the approved alteration of a nonconforming use, implemented means all other necessary County development permits (e.g., grading permit, building permit for an accessory structure) shall be obtained and maintained.
    - a. A major development permit is:
      - i. A building or manufactured dwelling placement permit for a new primary structure that was part of the alteration of a nonconforming use approval; or
      - ii. A permit issued by the County for parking lot or road improvements required by the alteration of a nonconforming use approval.
- B. Time Extension: If the approval of an alteration of a nonconforming use is not implemented within the initial approval period established by Subsection 1206.08(A), a two-year time extension may be approved pursuant to Section 1310, *Time Extension*. However, in no event may the period for discontinuance also be extended after the initial approval period tolling the discontinuance period expires.

#### 1206.09 VESTED RIGHT DETERMINATION

A vested right determination shall require review as a Type II application pursuant to Section 1307, *Procedures*, and shall be approved if the requested use was vested under common law.

[Amended by Ord. ZDO-230, 9/26/11; Amended by Ord. ZDO-243, 9/9/13; Amended by Ord. ZDO-249,

10/13/14; Amended by Ord. ZDO-250, 10/13/14; Amended by Ord. ZDO-248, 10/13/14; Amended by Ord. ZDO-253, 6/1/15; Amended by Ord. ZDO-276, 10/1/20]

Fritzie, Martha

**From:** dhunnicut@oregonpropertyowners.org  
**Sent:** Monday, July 3, 2023 3:15 PM  
**To:** Fritzie, Martha  
**Subject:** ZDO-283 Comments  
**Attachments:** ZDO 283 Letter (003).pdf

**Warning: External email. Be cautious opening attachments and links.**

Hi Martha:

Attached are our comments for ZDO-283. Please include them in the packet to the Board. Thanks.



***Dave Hunnicutt***

*President*

*PO Box 230637*

*Tigard, OR 97281*

*Office: 503-620-0258*

[Oregonpropertyowners.org](http://Oregonpropertyowners.org)

June 29, 2023

Clackamas County Board of Commissioners  
2051 Kaen Rd.  
Oregon City, OR 97045

Re: Ordinance ZDO-283

Commissioners:

I write in support of Ordinance ZDO-283, which makes a series of technical and needed changes to the County's zoning and development ordinance. We fully support the ordinance and suggest one technical change to clarify the language. Thank you for bringing the ordinance forward.

More specifically, we appreciate the following two changes that align the County's zoning laws more closely with neighboring counties and with state land use law:

1. Revising Template Dwelling Standards: ZDO-283 proposes to amend the County's "template dwelling" standards in ZDO 406.05(D)(3). A "template dwelling" is a type of dwelling allowed in a county's forest zone in areas where there is a presence of smaller parcels with homes. The standards for a template dwelling are set forth in both the ORS and in LCDC's administrative rules. They are difficult to meet, but are clear and objective, which is helpful.

As staff notes, the template dwelling standards in the ORS and LCDC rule are minimum requirements, leaving counties with flexibility to add more requirements, but not less. However, in the three decades since the template dwelling provisions were first added to Oregon law, very few counties have chosen to go beyond the required statutory/LCDC requirements for property owners to qualify for a template dwelling.

Clackamas County is one of the very few counties to make it more difficult than LCDC for property owners to qualify for a template dwelling. The County requires property owners to 1) show that there is a greater amount of existing parcels and houses in the vicinity of the proposed dwelling site, and 2) prohibits the property owner from counting larger parcels (80 acres or larger) as part of the number of parcels needed to meet the quota to qualify for a template dwelling.

Looking specifically at surrounding counties, there is no one following Clackamas County's lead in making it more difficult for a property owner to meet the template dwelling test. Washington County (CDC §430-27(2)(G)), Marion County (MCC §17.138.030(B)), and Yamhill County (YCZO §401.03(C)) have all adopted the minimum statutory/rule standards set forth in the ORS and LCDC rule. Even Multnomah County, which is well known for stringent restrictions on rural development, has chosen to adopt the minimum template dwelling standards in state law (MCZO §39.4090). In

fact, other than Clackamas County, no county has ever prohibited a property owner from counting parcels larger than 80 acres when using the template test.

Simply put, Clackamas County made the choice years ago to make it more difficult for property owners to qualify for a template dwelling, even though neither the legislature nor LCDC required the County to do so. To date, no other county is following Clackamas County's lead. ZDO-283 aligns the County's template dwelling requirements with the ORS, LCDC rule, and counties across the state, including the neighboring counties listed above. This is a common sense and long overdue change.

2. Redefining "Lot of Record": ZDO-283 proposes to change the definition of "lot of record" in ZDO 202 to remove the language that aggregated (for development purposes) lots smaller than the minimum parcel size for each zone at the time the zoning was first established. Like the template dwelling requirements, this language is unique to Clackamas County, and has not been used in any other county. The current language is confusing, hard to administer, and creates conflicts with the specific uses the County wishes to see in each zone.

When determining whether a lot or parcel is a legal lot or parcel for land use purposes, counties look to determine whether the parcel was lawfully created. If the lot or parcel was lawfully created, it should be considered a "lot of record" regardless of whether it met the county's minimum parcel size at the time zoning was first applied to the parcel.

There are certainly situations where a legal lot or parcel may not qualify for development, and the ZDO retains those limitations, depending upon the specific use and zoning. Unfortunately, the County's current definition of "lot of record" is much too overbroad and applies in situations where applying the definition actually creates a direct conflict with the primary purposes of the ZDO. For example, in the various rural residential zones in the County (RA-1, RA-2, RR, RRFF-5, FF-10, FU-10), a single-family detached dwelling is listed as the primary use in the zone. These zones were created for rural-residential development.

The current "lot of record" definition directly conflicts with the purpose of the County's various rural residential zones, based on historical parcel sizes that have nothing to do with development of a dwelling. If a property owner owns two separate parcels in the RR zone, for example, and one parcel was created before zoning (say 1950) and is 1.99 acres, that parcel cannot qualify for a dwelling, even though a dwelling is the primary use in the zone and the parcel can accommodate a dwelling with no issues.

In that instance, denial of the dwelling has nothing to do with planning and is only the result of the fact that the parcel was smaller than 2-acres at the time the County first created the 2-acre minimum parcel size. This historical fact should not be used to make planning decisions, particularly when the decision is contrary to the planning determinations made in the ZDO and acknowledged by LCDC. Fixing the definition of "lot of record" as proposed by ZDO-283 solves this problem.

We have one suggested change to the proposed definition of "lot of record" in ZDO-283. One of the proposed definitions for "lot of record" in ZDO-283 is the following:

*"4. A unit of land or a combination of units of land that, on October 25, 1974, was all of the land described on a separate deed or contract recorded with the County;"*

This language is vague. Our concern is with the meaning of “combination of units of land” in the proposed definition. In many circumstances prior to 1974, a property owner wishing to sell more than one lot or parcel (or more likely the lawyer, surveyor, or title company preparing the deed for the property owner) would describe multiple property on a single deed, with reference to each parcel as “parcel 1”, “parcel 2” etc. This was typically done so that only one deed needed to be recorded, meaning only one recording fee was paid.

Exhibit 4

ZDO-283, Minor & Time Sensitive Amendments

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For example, assume that Jones acquired three parcels separately from three different owners over a course of years, as each parcel came up for sale. Each of Jones’ three parcels would have its own deed. Some years later and prior to 1974, Jones decided to sell all his properties to Smith. Rather than describing each parcel on its own deed and pay three separate filing fees, Jones’ lawyer created a single deed which separately described each of Jones’ three parcels as “parcel 1” “parcel 2” and “parcel 3”. This was common practice, and there was never any intent by either Jones or Smith to aggregate each of Jones’ three parcels into one large parcel. Jones wanted to sell three parcels and Smith wanted to purchase three parcels.

The current definition of “lot of record” set forth above is unclear whether a parcel owned by Smith would be considered a “lot of record”. That’s because it isn’t clear whether the phrase “combination of units of land” is intended to address the specific (and common) situation described above. There is no reason why a series of parcels separately described on a single deed should not each be considered “lots of record” when they certainly would be if each was conveyed on its own deed.

To the extent that the use of the phrase “combination of units of land” is intended to describe the hypothetical listed above, then we are satisfied with the proposed language. If not, then please add language to the definition of “lot of record” to make clear that parcels that were created legally and have never been aggregated by the owner are considered “lots of record” regardless of whether they were described on their own deed or set forth as “parcel 1” “parcel 2” etc.

Thanks again for the opportunity to comment and for your work on this ordinance.

Very Truly Yours,



David J Hunnicutt  
President

**P.O. Box 230637 Tigard, OR 97281**  
**Phone: 503-620-0258**

Fritzie, Martha

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**From:** Ann Delfel <anndelfel@gmail.com>  
**Sent:** Monday, July 3, 2023 3:50 PM  
**To:** Fritzie, Martha  
**Subject:** Testimony in support for ZDO-283  
**Attachments:** Testimony for ZDO-283 Amendments Proposal for Clackamas County and Comprehensive Plan.pdf

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**Warning: External email. Be cautious opening attachments and links.**

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Please see attached testimony,  
Thank you  
Ann Delfel



Hello,

My name is Ann Delfel. My husband and I are writing in support of the ZDO-283 amendments for Clackamas County and the Comprehensive Plan. I took a job 3 years ago as an Instructional Assistant at Mulino Elementary in the Molalla River School District in anticipation of moving into this community.

My husband and I fell in love and bought the property at 20988 S Olsen Rd 6 1/2yrs ago. It was an idyllic setting of 20 acres with many trees, two ponds that are fed by a spring that empties into a creek on the east part of our property. We have always been conservation minded, and wished to clear out the invasive blackberries, scotch broom and ragwort to replant with plants native to the area. We also want to protect the riparian areas for the wildlife on the property. Another bonus was that it was right next to my husband's twin sister and her husband's property. We wanted to set a small manufactured home on the site where the previous owner had cleared and intended to build.

The property had been approved for a dwelling in 2001 and the previous owner had power brought in, a well drilled with a wellhouse and a pole barn built. The property was marketed as buildable with the price to match. We invested our life savings into this property with the intent to be good stewards of this precious piece of habitat.. My brother-in-law, Marvin, who's name is also on the deed to the property, went down to the county planning and zoning department for due diligence and was told that nothing had changed since the last approval of the Forest Template Dwelling test which gave them the ability to build. The method the planner used to check was a piece of plexiglass representing 160 acres over a plat map of the area. We didn't renew the application right away as we still had two children in school and wanted them to graduate in the school district we presently live in.

In 2020 the Unger/Colton Complex wildfires raged through our property. The pole barn, well house and approximately 10 acres of trees were lost. Losing all this was very hard because not only did we lose the pole barn, but all the contents that were stored within, which included a tractor and building supplies. We have restored the power and the well, as on site water is a priority. We are in the process of cleaning up the aftermath of the fire and also the ice storm damage. I'm planning to replant the trees we lost with a variety of native trees to rebuild the forest on the property. We understand the value of healthy riparian areas for water quality, wildlife habitat and climate resiliency.

In July 2020 after our youngest child graduated from high school, we applied for a Forest Template Dwelling test. We met all requirements except being 40 feet shy of the 11th tax lot needed for the set criteria, so our application was denied. At this time the planning department was using GIS to determine property lines and we were told it is more accurate than the old method. After we appealed the decision and again were denied, we thought this was the end of

our dream, and we were still recovering monetarily from the Pandemic. We could not afford to buy another piece of property and build on it, with the sale of this one zoned as it is.

Melissa Lord ( planner assigned to our dwelling application) informed me that a change in language was in the works to align ZDO in Clackamas County with the State's. The one in particular included that tax lots of record over 80 acres could not be included for the 11 tax lots required to qualify for the forest template dwelling approval. There are 2 such tax lots within the 160 acre template test area. The amendment item 2 in ZDO-283 which allows acreage over 80 to be included for the criteria to qualify for a dwelling, will help us with the approval we need and to fulfill our dream.

Thank you for your time and consideration  
Ann & Jason Delfel  
6025 SE 124th Ave  
Portland, OR 97236

Fritzie, Martha

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**From:** marvinclarkjohnson@gmail.com  
**Sent:** Wednesday, July 5, 2023 7:26 AM  
**To:** Fritzie, Martha  
**Subject:** Fwd: Letter to Clackamas County Commissioners regarding ZDO-283 amendments proposal for Clackamas County and comprehensive plan.  
**Attachments:** Letter to Clackamas County Commissioners regarding ZDO-283 amendments proposal for Clackamas County and comprehensive plan..docx

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Warning: External email. Be cautious opening attachments and links.

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Sent from my iPhone

Begin forwarded message:

**From:** Marvin Johnson <marvinclarkjohnson@gmail.com>  
**Date:** July 3, 2023 at 3:36:05 PM PDT  
**To:** mfritze@clackamas.us  
**Subject: Letter to Clackamas County Commissioners regarding ZDO-283 amendments proposal for Clackamas County and comprehensive plan.**

Please include the attached letter to the Clackamas County Commissioners regarding ZDO-283 amendments proposal for Clackamas County and comprehensive plan.

Thank you,  
Marvin Johnson  
21000 S Olsen Rd  
Beavercreek OR 97004

Hi, this is Marvin and Tracy Johnson and we have lived at 21000 S Olsen Rd Beaver Creek for the last 9 years. Prior to that we lived in SE Portland, but had always talked about protecting an old growth forest somewhere. We found this property which had previously been logged. Fortunately they did not log any of the old growth cedar trees as well as several hundred old growth Douglas fir and hemlocks. The 40 acre forest was habitat to much wildlife, and we have seen deer, beaver, pileated woodpeckers, bobcats, spotted owls and much more. We also built a 2 mile foot trail with bridges over the creek and waterfalls. Photos are all from our property.

Our un-named creek also ran through the 20 acre property to the north of ours. The owners had not visited their property for at least ten years, and we heard they were interested in selling. They told us about potential buyer that had plans to log the property to make money to build a house and area for horses. I checked with Clackamas County to see if our creek's riparian area was protected as part of the Molalla River watershed. They said it was not and logging could happen up to and in the creek.

We wanted to protect this property as well, but we were not in the position to afford it. We looked into it anyway. The property with two creeks and two ponds went up for sale as buildable. The owners had received a permit to build a house in 2001 and started by bringing in power, digging a well with well house, creating a driveway, clearing the area for a house and installing a pole barn. They did not finish however because they decided to build near Silverton instead. I made an appointment with Clackamas County to verify that the land was still buildable. The clerk pulled up all of the records, and also used a plastic template on the map. Although she said the only positive way to verify the property's buildability was to file a permit, she was able to say that no changes had been made that would alter the prior decision.

Our brother and sister-in-law (Jason and Ann Delfel) have similar interests as us in preserving forests. They have a house in SE Portland, and they were interested in selling their house as soon as their youngest child graduated high school and moving to the forest. It was October 2016 and they decided to buy. We took out enough monies from our retirement to loan them 50% of the cost of the property. The total purchase price was 340k, much higher than non-buildable property would be. We are listed along with Ann and Jason Delfel as owners.

In July 2020 as planned with the graduation of their youngest child, Ann applied for forest template. She was denied. In contrary to what Clackamas County had told us, there was actually something that had changed which could affect this property's buildability. A forest template in this area requires 11 properties (of which 5 had to already have a house) to touch a 160 acre rotatable square centered on the object property. 13 properties were within the template including 11 with houses. Two of these properties were not countable because they were over 80 acres. One was 82 acres and one was 120 acres. Instead of using a plastic template to figure out the center of the property, the county decided to use GIS. Suddenly the center of the property shifted, and one of the 11 properties was now short of fitting into the template by less than 40'.

Ann appealed the decision. She gave very emotional and detailed testimony, and had recommendation letters from many neighbors including one from the local CPO. The arbitrator upheld the county decision to deny, even though he had the power to make an exception for this quite unusual situation.

Hope arrived with the announcement of the ZDO meeting 6/26. The timber template was on the schedule for possible changes that would align Clackamas County with the rest of Oregon. This would allow properties over 80 acres to be counted within the 160 acre template. The meeting seemed to be going fine with Ann giving a detailed report of their plans and dreams. Unfortunately the County Planning Commissioners voted to not recommend aligning Clackamas with the rest of Oregon. One of the commissioners asked for the reason why Clackamas County chose to not align with the rest of counties in Oregon regarding the properties over 80 acres, and was told that the Clackamas County staff had not been able to find out that answer.

According to several editorials when the rules were being adopted, NIMBY's (Not In My BackYard) who already had built their dream houses, and did not want others to build in their area, lobbied for ways to limit new houses, and managed to make rules that did not align with the rest of Oregon. The 80 acre rule results in a situation that creates barriers for those of diverse socioeconomic backgrounds and favors existing legacy property owners. Housing availability and affordability are top of mind for local communities. In this case, there are no winners. There are losers including a family that have invested their entire life savings in a property that was buildable upon purchase, but also the loss 20 acres of native trees and a riparian habitat which will certainly be logged.

There are a couple ways to fix this. We urge you to change the Clackamas County forest template to align with the rest of counties in Oregon, or to make an exception in this very rare situation that Ann and Jason Delfel are in. Ann works at the Mulino Elementary School as an instructional assistant and Jason works as a member of the local Carpenters Union for tradeshow companies. If the property remains not buildable, then this is an extreme and unfair financial hardship for them.

