



Jane E. Vetto  
County Counsel

August 1, 2024

BCC Agenda Date/Item: \_\_\_\_\_

Board of County Commissioners  
Clackamas County

Scott C. Ciecko  
Amanda Keller  
Shawn Lillegren  
Jeffrey D. Munns  
Andrew R. Naylor  
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Caleb Huegel  
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Assistants

**Adoption of Previously Approved Comprehensive Plan and  
Zoning and Development Ordinance Amendments  
ZDO-285 – Minor and Time-Sensitive Comprehensive Plan and  
Zoning and Development Ordinance Amendments and  
New Housing Options**

<b>Previous Board Action/Review</b>	Policy Session – October 11, 2023 Public Hearing – May 8, 2024 Business Meeting – June 6, 2024		
<b>Performance Clackamas</b>	1. Build public trust through good government		
<b>Counsel Review</b>	Yes	<b>Procurement Review</b>	No
<b>Contact Person</b>	Caleb Huegel	<b>Contact Phone</b>	503-655-8364

**EXECUTIVE SUMMARY:** ZDO-285 is a package of legislative amendments to the Comprehensive Plan and Zoning and Development Ordinance (ZDO) which makes relatively minor changes that are necessary to comply with state laws, clarify existing language, correct errors, and adopt optional provisions that require only minimal analysis. More specifically, the amendments:

1. Allow accessory dwelling units (ADUs) in certain rural residential zones;
2. Allow recreational vehicles (RVs) to be used as second dwellings in certain urban and rural residential areas;
3. Amend the standards for altering, restoring, and replacing dwellings in Agriculture and Forest zones;
4. Include additional allowances for affordable housing, prefabricated structures, and single-room occupancies; and
5. Make certain other clarifications and corrections.

To achieve all this, ZDO-285 amends Chapter 4 of the Comprehensive Plan; amends Sections 202, 315, 316, 317, 401, 406, 510, 511, 512, 602, 833, 839, 845, 1001, 1006, 1012, 1013, 1102, and 1307 of the ZDO; and adds new Sections 846 and 847 to the ZDO.

The Planning Commission held a public hearing on the

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amendments on April 22, 2024. The Planning Commission voted to recommend approval of all items in ZDO-285 *except* the allowance for RVs as second dwellings.

Although the Planning Commission did not recommend approval of the allowance for RVs as second dwellings, staff recommended approval of all items in ZDO-285, including the allowance for RVs as second dwellings, so that the Board would have an opportunity to hear testimony about and weigh in on that item.

The Board held a public hearing on the amendments on May 8, 2024. The Board voted 3-2 to approve ZDO-285, as recommended by staff, which included the allowance for RVs as second dwellings.

The Board discussed adoption of the ordinance for ZDO-285 at a Business Meeting on June 6, 2024, but because not all commissioners could be present at that time, the attending commissioners voted to delay the adoption vote until all commissioners could be present.

The attached ordinance, and the exhibits thereto, reflect the amendments, as approved by the Board at the May 8, 2024 public hearing.

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

Respectfully submitted,



Jeffrey D. Munns  
Assistant County Counsel

Attachments:

Ordinance ZDO-285 with Exhibits A, B and C

Ordinance ZDO-285

**An Ordinance Amending Chapter 4 of the Clackamas County Comprehensive Plan; Amending Sections 202, 315, 316, 317, 401, 406, 510, 511, 512, 602, 833, 839, 845, 1001, 1006, 1012, 1013, 1102, and 1307 of the Clackamas County Zoning and Development Ordinance; and Adding New Sections 846 and 847 to the Clackamas County Zoning and Development Ordinance**

**WHEREAS**, the adopted Long-Range Planning Work Program for 2023-2025 includes a project intended to make relatively minor changes to the Comprehensive Plan and Zoning and Development Ordinance (ZDO) that are necessary to comply with state laws, clarify existing language, correct errors, and adopt optional provisions that require only minimal analysis; and

**WHEREAS**, legislation adopted in the 2021, 2022, and 2023 Oregon legislative sessions and recent state rulemaking allow counties to provide for additional housing types including accessory dwelling units (ADUs) in rural residential areas and recreational vehicles (RVs) as second dwellings in certain residential areas; and

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

**WHEREAS**, it is consistent with that policy and the Work Program to: allow ADUs in certain rural residential zones; allow RVs to be used as second dwellings in certain urban and rural residential areas; amend the standards for altering, restoring, and replacing dwellings in Agriculture and Forest zones; include additional allowances for affordable housing, prefabricated structures, and single-room occupancies; and make certain other clarifications and corrections; and

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

**WHEREAS**, after a duly noticed public hearing on May 8, 2024, and after considering a recommendation by the Planning Commission following its own public hearing on April 22, 2024, the Board of County Commissioners orally approved the amendments;

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

- Section 1:** The Board adopts, as its findings and conclusions supporting the action described herein, the following document, attached hereto as Exhibit C: "Findings of Consistency with Statewide Planning Goals; Oregon Revised Statutes; Oregon Administrative Rules; Metro Urban Growth Management Functional Plan; Clackamas County Comprehensive Plan; and Clackamas County Zoning and Development Ordinance."
- Section 2:** Chapter 4 of the Comprehensive Plan is amended as shown in Exhibit A, attached hereto.
- Section 3:** Sections 202, 315, 316, 317, 401, 406, 510, 511, 512, 602, 833, 839, 845, 1001, 1006, 1012, 1013, 1102, and 1307 of the ZDO are amended as shown in Exhibit B, attached hereto.

**Section 4:** Sections 846 and 847 are added to the ZDO as shown in Exhibit B, attached hereto.

**Section 5:** This ordinance shall be effective on September 3, 2024.

**Section 6:** If any provision of the Comprehensive Plan or ZDO that is amended or adopted by this ordinance is adjudged or declared to be unconstitutional or otherwise held to be invalid by a tribunal of competent jurisdiction, the remaining provisions that are amended or adopted by this ordinance shall remain in full force and effect.

ADOPTED this 1st day of August 2024

BOARD OF COUNTY COMMISSIONERS

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Chair

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Recording Secretary

**Exhibit A**  
**Ordinance ZDO-285**  
**Comprehensive Plan Amendments**

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

**Chapter 4: LAND USE**

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

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

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

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

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

## **ISSUES**

The major issues affecting future development in the County are:

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

## **LAND USE DEFINITIONS**

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

### **Urban**

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

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

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

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

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

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

### **Urban Reserve**

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

### **Rural Reserve**

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

### **Unincorporated Communities**

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

**Rural**

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

**Agriculture**

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

**Forest**

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

**Land Use Maps Section**

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



## **URBANIZATION**

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

### **URBANIZATION GOALS**

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

#### **4.A General Urbanization Policies**

- 4.A.1 Coordinate with Metro in designating urban areas within Metro's jurisdiction. Recognize the statutory role of Metro in maintenance of and amendments to the Portland Metropolitan Urban Growth Boundary.
- 4.A.2 Coordinate with affected cities in designating urban areas outside of Metro. Land designated as a Rural Reserve, as shown on Map 4-9, shall not be designated as an Urban Reserve or added to an urban growth boundary. The following areas may be designated as Urban:
- 4.A.2.1 Land needed to accommodate 20 years of future urban population growth.
  - 4.A.2.2 Land needed for increased housing, employment opportunities and livability from both a regional and subregional view.
  - 4.A.2.3 Land to which public facilities and services can be provided in an orderly and economic way.
  - 4.A.2.4 Land which insures efficient utilization of land within existing urban areas.
  - 4.A.2.5 Land which is best suited for urban uses based on consideration of the environmental, energy, economic and social consequences.
  - 4.A.2.6 Agricultural land only after considering retention of agricultural land as defined, with Class I having the highest priority for retention and Class VI the lowest priority.
  - 4.A.2.7 Land needed after considering compatibility of proposed urban uses with nearby agriculture activities.
  - 4.A.2.8 Land where the strategic location of employment and living opportunities can minimize commuting distance, traffic congestion, pollution and energy needs.
- 4.A.3 Land use planning for urban areas shall integrate all applicable policies found throughout the Plan including the following:

- 4.A.3.1 Locate land uses of higher density or intensity to increase the effectiveness of transportation and other public facility investments.
- 4.A.3.2 Encourage infilling of Immediate Urban Areas with a minimum of disruption of existing neighborhoods (see infill policies in the Housing Chapter).
- 4.A.3.3 Enhance energy conservation and transportation system efficiency by locating opportunities for housing near work and shopping areas.
- 4.A.3.4 Integrate developments combining retailing, office, and medium and high density housing at places with frequent transit service and pedestrian facilities.
  
- 4.A.4 Establish Urban Growth Management Areas and Urban Growth Management Agreements to clarify planning responsibilities between the County and cities for areas of mutual interest.
  
- 4.A.5 Establish agreements with cities and service districts to clarify service and infrastructure responsibilities for areas of mutual interest.

**4.B Immediate Urban Policies**

The following policies apply to Immediate Urban areas:

- 4.B.1 An area may be designated Immediate Urban consistent with the definition.
  
- 4.B.2 Use the following guidelines when evaluating proposed changes in zoning designations that convert an area from Future Urban to Immediate Urban status:
  - 4.B.2.1 Capital improvement programs, sewer and water master plans, and regional public facility plans shall be reviewed to ensure that orderly, economic provision of public facilities and services can be provided.
  - 4.B.2.2 Sufficient vacant Immediate Urban land should be permitted to ensure choices in the market place.
  
- 4.B.3 Apply urban zoning districts that implement the Plan through a legislative or quasi-judicial zone change process consistent with applicable state, Metro and local requirements.
  
- 4.B.4 Control land uses in Immediate Urban areas through the Zoning and Development Ordinance.
  
- 4.B.5 Place conditions on development to ensure adequate services and facilities prior to or concurrent with development.

**4.C Future Urban Policies**

The following policies apply to Future Urban lands:

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

- 4.C.1.1 Applying a future urban zone with a 10-acre minimum lot size within the Portland Metropolitan UGB except those lands identified in Policy 4.C.1.2.
- 4.C.1.2 Applying a future urban zone with a 20-acre minimum lot size or greater for areas planned for employment, industrial and commercial uses within the Portland Metropolitan UGB.
- 4.C.1.3 Applying within the urban growth boundaries of Canby, Estacada, Sandy, and Molalla, a five-acre minimum lot size or larger in rural, agricultural, and forest zones.
  
- 4.C.2 Review subdivision and partition applications to ensure that the location of proposed easements and road dedications, structures, wells, and on-site wastewater treatment systems are consistent with the orderly future development of the property at urban densities.
  
- 4.C.3 For land within the urban growth boundaries of Canby, Estacada, Sandy, and Molalla, require annexation to a city as a requirement for conversion to Immediate Urban unless otherwise agreed to by the City and County.
  
- 4.C.4 Implement dimensional and development standards to address compatibility, function, and aesthetics.

**4.D Future Urban Study Area Policies**

The following policies apply to Future Urban Study Areas:

- 4.D.1 Conduct a planning process consistent with the policies of Chapter 11 of this Plan, that coordinates with affected service providers, agencies, and jurisdictions, and meets pertinent state, regional and local requirements.
  
- 4.D.2 In the Portland Metropolitan Urban Area, develop Comprehensive Plan designations that are consistent with Regional Urban Growth Goals and Objectives and the Regional Urban Growth Management Functional Plan, including Title 11, and the following.

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

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

- 4.D.2.2 The County shall enter into discussion with nearby cities, agencies that provide public facilities and services, and area citizens, to determine how services and governance will be provided for the area.
  - 4.D.2.3 Agreements shall be developed with affected cities and service providers to cooperate in development of a Concept Plan for the area, and to consider the Concept Plan in development of future Plans.
  - 4.D.2.4 A Concept Plan shall be developed meeting state and regional requirements. Opportunity shall be provided to citizens and affected public agencies to participate in the development of the Concept Plan. In the Damascus area, the Damascus Concept Planning Study Report shall be used to provide background information and guidance for the Concept Planning process.
  - 4.D.2.5 A request shall be made to revise state and regional transportation plans to reflect the Concept Plan.
  - 4.D.2.6 Public facilities plans shall be developed or revised to accommodate the Concept Plan.
  - 4.D.2.7 The Comprehensive Plan, Comprehensive Plan Maps, Zoning and Development Ordinance and zoning maps shall be revised according to the Concept Plan.
- 4.D.3 Develop and adopt urban comprehensive plan designations that meet applicable state planning requirements and balance County planning goals adopted in the Comprehensive Plan. This will convert Future Urban Study Areas to Future Urban or Immediate Urban areas.
- 4.D.4 During development of Comprehensive Plan provisions pursuant to Title 11 of the Urban Growth Management Functional Plan, consider the feasibility of providing and funding adequate infrastructure.

**4.E Urban Reserve Area Policies**

- 4.E.1 The following policies apply to Urban Reserve areas established pursuant to OAR 660, Division 21:
  - 4.E.1.1 Clackamas County shall recommend to Metro land in Clackamas County which should be designated Urban Reserve, when Urban Reserve amendments to the Region 2040 Urban Growth Management Functional Plan are considered by Metro. The cities of Sandy, Molalla, Estacada and Canby, in coordination with Clackamas County, may designate and adopt other urban reserve areas in a manner consistent with OAR 660-021-0000.
  - 4.E.1.2 Clackamas County will consider the following characteristics of each area when recommending Urban Reserve areas to Metro: potential for providing jobs within near proximity to housing; the feasibility and cost effectiveness of extending urban infrastructure; the suitability of an area to accommodate urban level densities; and, the relationship and implications to existing areas designated urban.

- 4.E.1.3 When considering the designation of Urban Reserve areas near Sandy, Molalla, Estacada and Canby, the County, in cooperation with the City, shall make findings and conclusions based on the requirements of OAR 660-021-0030.
  - 4.E.1.4 Urban Reserve areas designated by Metro will be depicted on Metro's Region 2040 Growth Concept map. Designated Urban Reserve areas near Sandy, Molalla, Estacada and Canby shall be defined within the Urban Growth Management agreements with each city.
  - 4.E.1.5 Lands within a designated Urban Reserve area shall continue to be planned and zoned for rural uses in a manner that ensures a range of opportunities for the orderly, economic and efficient provision of urban services when these lands are included in the Urban Growth Boundary. Planning and zoning shall be done in a manner consistent with OAR 660-021-0000 and the Metro Code, in areas where Metro has jurisdiction.
- 4.E.2 The following policies apply to Urban Reserve areas established pursuant to OAR 660, Division 27, as shown on Map 4-9:
- 4.E.2.1 The County will review the designation of Urban Reserve areas, in coordination with Metro, Multnomah and Washington Counties, within 20 years after the initial designation of these Urban Reserve Areas.
  - 4.E.2.2 The County will participate in the development of concept plans for areas within Urban Reserve areas that are being considered for addition to the Portland Metropolitan Urban Growth Boundary.
  - 4.E.2.3 The County shall not amend the Comprehensive Plan or Zoning and Development Ordinance or the Comprehensive Plan Map or zoning designations:
    - 4.E.2.3.1 To allow within Urban Reserve areas, new uses that were not allowed on the date the Urban Reserve areas were designated, except those uses authorized by amendments to the Oregon Revised Statutes or Oregon Administrative Rules enacted after designation of Urban Reserve areas.
    - 4.E.2.3.2 To allow within Urban Reserve areas, the creation of new lots or parcels smaller than allowed on the date Urban Reserve areas were designated, except as authorized by amendments to the Oregon Revised Statutes or Oregon Administrative Rules enacted after designation of Urban Reserve areas.

#### **4.F Rural Reserve Area Policies**

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

- 4.F.1 Land established as a Rural Reserve area shall not be included in an urban growth boundary.
- 4.F.2 Land established as a Rural Reserve area shall not be included in an Urban Reserve

area established pursuant to either OAR 660, Division 21, or OAR 660, Division 27.

- 4.F.3 The County shall not amend the Comprehensive Plan or Zoning and Development Ordinance, or the Comprehensive Plan Map or zoning designations:
  - 4.F.3.1 To allow within the Rural Reserve areas, new uses that were not allowed on the date Rural Reserve areas were designated, except as authorized by amendments to the Oregon Revised Statutes or Oregon Administrative Rules enacted after the designation of Rural Reserve areas.
  - 4.F.3.2 To allow within Rural Reserve areas, the creation of new lots or parcels smaller than allowed on the date Rural Reserve areas were designated, except as authorized by amendments to the Oregon Revised Statutes or Oregon Administrative Rules enacted after designation of Rural Reserve areas.

**4.G Population Coordination Policies**

The following policies apply to population planning and coordination.

- 4.G.1 The County and its cities located inside the Metro boundary shall coordinate with Metro in establishing 20-year population projections in order to evaluate and provide sufficient lands necessary for housing and employment needs within each jurisdiction's planning boundary.
- 4.G.2 Pursuant to ORS 195.033, the County and its cities located outside the Metro boundary shall coordinate with the Portland State University Population Research Center in establishing 20-year population projections in order to evaluate and provide sufficient lands necessary for housing and employment needs within each city's urban growth boundary.

## **URBAN GROWTH CONCEPT**

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

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

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

### **DEFINITIONS**

#### **Growth Concept Design Types**

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

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

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

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

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

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

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

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

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

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

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



## **URBAN GROWTH CONCEPT GOALS**

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

### **4.H Regional Center Policies**

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

### **4.I Corridor Policies**

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

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

- 4.I.1.1 Provide for both employment and housing, including mixed use.
- 4.I.1.2 Provide for a high level of bus usage, with land uses and transportation facilities to support bus use.
- 4.I.1.3 Encourage and support pedestrian travel with supportive land uses, frequent street connections, and sidewalks and pedestrian-ways.
- 4.I.1.4 Provide for vehicular traffic and auto-oriented uses, while expanding the share of trips via transit and other modes.
- 4.I.1.5 Enhance connectivity between neighborhoods adjacent to the Corridor Design Type Area and the Corridor Street.

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

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

**4.J Station Community Policies**

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

- 4.J.1. Provide for transit oriented development with land uses that support a high level of transit usage, such as a mix of high density employment and housing uses.
- 4.J.2. Provide a high quality pedestrian and bicycle environment with frequent street connections, walkways and bikeways.
- 4.J.3. Enhance connectivity between neighborhoods adjacent to the Station Community.

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

**4.K Employment Area Policies**

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

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

- 4.K.2 The following are prohibited in an Employment design type area: a retail use with more than 60,000 square feet of gross leasable area in a single building; and retail uses with a total of more than 60,000 square feet of retail sales area on a single lot or parcel, or on contiguous lots or parcels, including those separated only by transportation right-of-way. These prohibitions do not apply:
- 4.K.2.1 To sites designated General Commercial on or before January 1, 2003; or
  - 4.K.2.2 When allowed by zoning if: the Zoning and Development Ordinance authorized those uses on January 1, 2003; transportation facilities adequate to serve the retail uses will be in place at the time the uses begin operation; and the Comprehensive Plan provides for transportation facilities adequate to serve other uses planned for the immediate Employment design type area over the planning period.
  - 4.K.2.3 When allowed by zoning if the uses: generate no more than a 25-percent increase in site-generated vehicle trips above permitted non-industrial uses; and meet the Maximum Permitted Parking—Zone A requirements set forth in Table 3.08-3 of Title 4 of the Regional Transportation Functional Plan.

#### **4.L Industrial Area Policies**

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

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

#### **4.M Regionally Significant Industrial Area Policies**

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

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

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

**4.N Neighborhood Policies**

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

- 4.N.1 Development of areas planned for residential, commercial and industrial uses within Neighborhood design type areas shall be guided by the urban land use policies of Chapter 4.
- 4.N.2 Areas designated as Low Density Residential shall achieve the densities outlined in the Low Density Residential policies of Chapter 4.

**4.O Future Urban Study Area Policies**

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

**4.P Green Corridor Policies**

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

## **RESIDENTIAL**

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

Low Density Residential areas are those planned primarily for single-family residential and middle housing development, with a range of lot sizes from 2,500 square feet to 30,000 square feet, depending on location, environmental constraints, and other site characteristics.

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

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

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

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

### **RESIDENTIAL GOALS**

- Provide opportunities to enhance neighborhoods with more diverse and affordable housing types and neighborhood-scale commercial uses.
- Provide for a variety of living environments.
- Provide for development within the carrying capacity of hillsides and environmentally sensitive areas.
- Provide opportunities for those who want alternatives to the single-family house and yard.
- Provide for lower-cost, energy-efficient housing.
- Provide for efficient use of land and public facilities, including greater use of public transit.

#### **4.Q General Residential Policies**

- 4.Q.1 Determine permitted uses and the density of development through zoning. Zoning of Residential areas shall be consistent with this Plan. Timing of zoning district application shall be in accord with the orderly development of the County.
- 4.Q.2 Implement dimensional and development standards to address compatibility, function, and aesthetics.

- 4.Q.3 Require dedication of designated Open Space areas where appropriate for purposes of developing the urban park or trails program.
- 4.Q.4 Establish minimum densities to help meet regional and local housing needs.
- 4.Q.5 Allow the Neighborhood Commercial zoning district to implement the Low Density Residential, Medium Density Residential, Medium High Density Residential, and High Density Residential land use plan designations according to the criteria in the Commercial Section of this Chapter.
- 4.Q.6 Require all Medium, Medium High, High, and Special High Density Residential developments to be subject to a design review process.
- 4.Q.7 When necessary, require improvements to existing streets and/or development of new streets to County standards prior to or concurrent with Medium, Medium High, High, and Special High Density Residential development.
- 4.Q.8 In Medium, Medium High, High, and Special High Density Residential areas, require pedestrian access to nearby schools, transit stations, commercial areas, recreational areas, and employment areas to be convenient and improved to standards determined through a design review process.
- 4.Q.9 Develop all Medium, Medium High, High, and Special High Density Residential areas with public sewer, public water, curbs, drainage controls, pedestrian/bikeway facilities, underground utilities, and street lighting.

**4.R Low Density Residential Policies**

4.R.1 Allow the following housing types:

- 4.R.1.1 Accessory dwelling units
- ~~4.R.1.14~~ 4.R.1.2 Detached single-family dwellings
- ~~4.R.1.24~~ 4.R.1.3 Manufactured homes
- ~~4.R.1.34~~ 4.R.1.4 Middle housing
- ~~4.R.1.4~~ 4.R.1.5 Accessory dwelling units
- 4.R.1.5 Prefabricated structures
- 4.R.1.6 Recreational vehicles
- 4.R.1.7 Single room occupancies

4.R.2 The following areas may be designated Low Density Residential if any of the following criteria are met:

- 4.R.2.1 Areas where a need for this type of housing exists.
- 4.R.2.2 Areas which are currently developed at low density and where little need exists for redevelopment.
- 4.R.2.3 Areas where transportation is limited to collectors and local streets.

- 4.R.2.4 Areas where sensitivity to the natural environment or natural hazards indicates a reduced density.

- 4.R.3 Zoning of Immediate Urban Low Density Residential areas and conversion of Future Urban areas to Immediate Urban Low Density Residential shall include zones of 2,500; 5,000; 7,000; 8,500; 10,000; 15,000; 20,000, and 30,000 square feet (R-2.5 through R-30). The following factors guide the determination of the most appropriate zone:
- 4.R.3.1 Physical site conditions such as soils, slope, and drainage:
- 4.R.3.1.a Land with soils subject to slippage, compaction or high shrink-swell characteristics shall be zoned for larger lots.
- 4.R.3.1.b Land with slopes of:
- Less than 20 percent shall be considered for the R-2.5 through R-8.5 zoning districts.
  - 20 percent and over shall be considered for the R-10 through R-30 zoning districts.
- 4.R.3.1.c Land with hydrological conditions such as flooding, high water table or poor drainage shall be zoned for larger lots.
- 4.R.3.2 Capacity of facilities such as streets, sewers, water, and storm drainage systems.
- 4.R.3.3 Availability of transit: Land within walking distance (approximately one-quarter mile) of a transit stop should be zoned for smaller lots implemented by the R-2.5, R-5, R-7, and R-8.5 zoning districts.
- 4.R.3.4 Proximity to jobs, shopping, and cultural activities: Areas in proximity to trip generators shall be considered for smaller lots implemented by the R-2.5, R-5, R-7, and R-8.5 zoning districts.
- 4.R.3.5 Location of 2,500- and 5,000-square-foot lots: Location of 2,500 and 5,000 square foot lots, implemented by the R-2.5 and R-5 zoning districts, may be allowed in Corridor design type areas and where permitted by Community and Design Plans located in Chapter 10.
- 4.R.3.6 Need for neighborhood livability and variety: Areas that have historically developed on large lots where little vacant land exists should remain zoned consistent with the existing development pattern. Otherwise, unless physical or service problems indicate to the contrary, areas of vacant land shall be zoned for lots of 8,500 square feet or smaller.
- 4.R.3.7 Density average: To achieve an average of 7,500 square feet or less per lot in low density Future Urban areas when conversion to Immediate Urban low density residential occurs, the R-10 zone shall be limited to areas with 20 percent slope and greater. Flexible-lot-size land divisions and other buffering techniques shall be encouraged in those areas immediately adjacent to developed subdivisions with lots of 20,000 square feet or more to protect neighborhood character, while taking full advantage of allowed densities.



- 4.R.4 Permit transfer of density within a development even if different zoning districts or land use plan designations are involved. Encourage the transfer of dwelling units from hazardous or environmentally sensitive areas to areas which are less hazardous or less expensive to develop.
- 4.R.5 Establish special development criteria and density standards in the following areas (see Policy 3.L.6 in the Natural Hazards section of Chapter 3, *Natural Resources and Energy*):
  - 4.R.5.1 On slopes over 20 percent, the following development criteria shall be met:
    - 4.R.5.1.a Avoid major hazard areas
    - 4.R.5.1.b Maintain the stability of the slope
    - 4.R.5.1.c Grade without large or successive pads or terraces and without creating road grades in excess of County standards
    - 4.R.5.1.d Maintain vegetation and natural terrain features to sustain slope stability
    - 4.R.5.1.e Ensure that existing natural rates of run-off and erosion are not exceeded
    - 4.R.5.1.f Protect visually significant slopes, ravines, ridgelines, or rock outcroppings in their natural state
  - 4.R.5.2 In flood hazard areas or wetlands, the following development criteria, as well as the specifications in Chapter 3, shall be met:
    - 4.R.5.2.a Avoid major flood hazard areas
    - 4.R.5.2.b Maintain water quality and the natural function of the area to reduce or absorb flood runoff and to stabilize water flow
    - 4.R.5.2.c Protect wildlife habitats, significant vegetation, and trees
    - 4.R.5.2.d Protect any associated recreational values
  - 4.R.5.3 Density standards in these areas shall be as follows:
    - 4.R.5.3.a Land in the flood fringe and land with slopes over 20 percent shall be allowed to develop at no more than 50 percent of the density of the zone. If these lands are not developed, then up to 100 percent of the density may be transferred to more suitable land within the site, depending upon its characteristics. Density should be reduced as slope increases above 20 percent, with development discouraged on slopes over 35 percent.
    - 4.R.5.3.b Land in the floodway and land on landslides shall not be allowed to develop, except on a lot of record and only after having met the provisions stated in Policies 4.R.4.1 and 4.R.4.2, and other relevant Plan requirements. However, 100 percent of the density allowed in the zoning district may be transferred to more suitable land within the site.
- 4.R.6 Ensure adequate provisions for schools, churches, and recreational facilities which are integral parts of all residential neighborhoods. The siting of these facilities shall be subject to conditions ensuring adequate design and safety, particularly with regard to vehicular and pedestrian access.

- 4.R.7 Encourage retention of natural landscape features such as topographic variations, trees, and water areas, and allow variation in housing type and design.
- 4.R.8 Require a site analysis for each development in areas designated as Open Space or where the County has identified the potential for significant impacts. This requirement may be waived in the event all development is transferred to more suitable land outside of areas designated as Open Space.
- 4.R.9 Require roads in land divisions to be County roads and connected directly with an improved County road, state road, or city street. Half streets and private roads may be allowed where appropriate.
- 4.R.10 Develop all land divisions in urban areas with public sewer, public water, drainage controls, pedestrian/bikeway facilities, and underground utilities. Street lighting and street trees may be required. Implementing ordinances shall set standards in which street lighting and street trees will be encouraged or required.
- 4.R.11 Determine the net density in planned unit developments recognizing that up to 15 percent of the gross area is for roadways.
- 4.R.12 Encourage subdivision design to eliminate direct vehicular access from individual lots onto major or minor arterials. Frontage roads should be used wherever possible.
- 4.R.13 Require stub streets in land divisions where necessary to provide access to adjacent property.
- 4.R.14 Develop residential land divisions as planned unit developments whenever one or more of the following criteria apply:
  - 4.R.14.1 Any part of the site is designated Open Space on Map 4-6, *North Urban Area Land Use Plan Map*
  - 4.R.14.2 More than 20 percent of the dwelling units are to be condominiums
  - 4.R.14.3 Sites are large enough to warrant on-site provision of substantial open and/or recreation space
  - 4.R.14.4 A large area is specifically identified by the County as needing greater design flexibility, increased open space, or a wider variety of housing types
- 4.R.15 Require a minimum of 20 percent of the total land area in all planned unit developments to be devoted to open space or outdoor recreational areas. Development for any other uses shall not be allowed. Parkland dedications may be part of the 20-percent open space requirement.
- 4.R.16 Require provisions for adequate maintenance prior to final plat approval to ensure the designated park area will be a community asset.

- 4.R.17 Allow flexible-lot-size land divisions provided that the average lot size is consistent with the base zone, as adjusted by density bonuses ~~(see the Density Bonus section of Chapter 6, Housing)~~.
- 4.R.17.1 ~~For detached single family dwellings,~~ the smallest lot size allowable shall be 80 percent of the minimum average lot size allowed by the base density.
- 4.R.17.2 In planned unit development land divisions, the individual lot size is unrestricted.
- 4.R.17.3 For a middle housing land division, the individual lots size is unrestricted and average lot size does not need to be consistent with the base zone.

#### **4.S Medium Density Residential Policies**

- 4.S.1 The following areas may be designated Medium Density Residential when at least the first two criteria are met:
  - 4.S.1.1 Areas where a need for this type of housing exists.
  - 4.S.1.2 Areas with access to a major or minor arterial or collector. Siting should not result in significant traffic increase on local streets serving low density residential areas.
  - 4.S.1.3 Areas located near or adjacent to commercial areas, employment concentrations, or transit stops.
  - 4.S.1.4 Areas of deteriorating dwellings or structures in neighborhoods to stimulate private investment, infilling, and redevelopment, as long as one or more of the preceding criteria apply.
- 4.S.2 Limit the Planned Medium Density (PMD) zoning district to areas currently zoned PMD.
- 4.S.3 In Medium Density Residential zoning districts, provide for reduced density on hazardous land or steep slopes as stipulated in Policy 4.R.4.3.
- 4.S.4 Encourage variations in density on different parts of a large site and promote a variety in housing type, ownership, and design.
- 4.S.5 Require in all Medium Density Residential developments a minimum of 25 percent of the total gross areas to be landscaped, natural, and/or recreational areas. This landscaping requirement may be reduced during the design review process when pedestrian amenities or amenities that provide opportunities for passive or active recreation within the development are substituted for gross land area.
- 4.S.6 Existing mobile home parks which are designated Medium Density Residential shall not have the designation changed unless a plan for relocation of the existing tenants is submitted and approved. This plan shall demonstrate that existing tenants will be relocated prior to redevelopment of the property.

**4.T Medium High Density Residential Policies**

- 4.T.1 The following areas may be designated Medium High Density Residential when the first two and at least one of the remaining criteria are met:
  - 4.T.1.1 Areas where a need for this type of housing exists.
  - 4.T.1.2 Areas with access to a street designated as a major or minor arterial or collector. Siting should not result in significant traffic increase on local streets serving low density residential areas.
  - 4.T.1.3 Areas adjacent to or within walking distance of a significant educational, cultural, recreational, or open space facility or area.
  - 4.T.1.4 Areas located adjacent or in proximity to a designated commercial or industrial area on the Comprehensive Map.
  - 4.T.1.5 Areas within 800 feet of a transit line or transit station or within one-quarter mile of such transit facility if easily accessible due to pedestrian amenities such as sidewalks, pedestrian ways, and streetlights.
- 4.T.2 In Medium High Density Residential zoning districts, provide for reduced density on hazardous land or steep slopes as stipulated in Policy 4.R.4.3.
- 4.T.3 Encourage variations in density on different parts of a large site and promote a variety in housing type, ownership, and design.
- 4.T.4 Require in all Medium High Density Residential developments a minimum of 25 percent of the total gross area to be landscaped, natural, and/or recreational areas.

**4.U High Density Residential Policies**

- 4.U.1 The following areas may be designated High Density Residential when at least the first three criteria are met:
  - 4.U.1.1 Areas located either adjacent to or within proximity to major shopping centers, employment concentrations, and/or major transit centers.
  - 4.U.1.2 Areas with access to a street designated as a major or minor arterial or collector. Siting should not result in significant traffic increase on local streets serving low density residential areas.
  - 4.U.1.3 Areas free from known geologic hazards, flooding, or soils subject to slippage.
  - 4.U.1.4 Areas adjacent to permanently protected open space or bodies of water as long as the above criteria apply.
- 4.U.2 In High Density Residential zoning districts, provide for reduced density on hazardous land or steep slopes as stipulated in Policy 4.R.4.3.
- 4.U.3 Encourage variations in density on different parts of a site and promote a variety of housing type, ownership, and design.

- 4.U.4 If the minimum residential density standard is achieved, allow office, retail, and commercial service uses with limits on floor area and standards to ensure compatibility with residential uses permitted in High Density Residential areas.
- 4.U.5 Allow existing commercial uses to remain or improve in High Density Residential areas as long as such uses are integrated with surrounding development.
- 4.U.6 Require all High Density Residential developments to provide a minimum of 25 percent of the total gross area to be landscaped, natural, and/or recreational areas. This landscaping requirement may be reduced during the design review process when pedestrian amenities or amenities that provide opportunities for passive or active recreation within the development are substituted for gross land area.
- 4.U.7 Encourage understructure parking.

**4.V Special High Density Residential Policies**

- 4.V.1 The following areas may be designated Special High Density Residential when all of the criteria are met:
  - 4.V.1.1 Areas located either adjacent or close to employment concentrations in excess of 2,000 employees.
  - 4.V.1.2 Areas within walking distance (approximately one-quarter mile) of a major transit station, and with good access to a major or minor arterial.
  - 4.V.1.3 Areas where impact on adjacent neighborhoods will be minimal.
  - 4.V.1.4 Areas free from known geologic hazards, flooding, or soils subject to slippage.
- 4.V.2 Encourage variations of density on different parts of a site through high-rise construction.
- 4.V.3 If the minimum residential density standard is achieved, allow office, retail, and commercial service uses with limits on floor area and standards to ensure compatibility with residential uses permitted in Special High Density Residential areas.
- 4.V.4 Allow existing commercial uses to remain or improve in Special High Density Residential areas as long as such uses are integrated with surrounding development.
- 4.V.5 Require all Special High Density Residential developments to provide a minimum of 40 percent of the total gross area to be landscaped, natural, and/or recreation areas. This landscaping requirement may be reduced during the design review process when pedestrian amenities or amenities that provide opportunities for active or passive recreation are substituted for gross land area.
- 4.V.6 Understructure or underground parking may be required.

## COMMERCIAL

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

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

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

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

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

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

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

**COMMERCIAL GOALS**

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

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

- 4.W.1 Determine permitted uses through zoning. Zoning of Commercial areas shall be consistent with this Plan. Timing of zoning district application shall be in accord with the orderly development of the County.
- 4.W.2 Require all developments to be subject to a design review process.
- 4.W.3 Implement dimensional and development standards to address compatibility, function, and aesthetics.

[4.W.4 Allow the development of affordable housing pursuant to ORS 197A.445.](#)

**4.X Neighborhood Commercial Policies**

- 4.X.1 Implement a Neighborhood Commercial zoning district, which may be applied to sites with a land use plan designation of Low Density Residential, Medium Density Residential, Medium High Density Residential, or High Density Residential. The Neighborhood Commercial zoning district may be applied to sites within residential areas which either have an historical commitment to neighborhood commercial uses, or satisfy all the following criteria:
- 4.X.1.1 The conditional use criteria of the Zoning and Development Ordinance.
- 4.X.1.2 The new site, or expanded site, is necessary to provide convenience commercial uses which are not currently available within the service area. "Service area", for purposes of this policy, shall be either:
- 4.X.1.2.a The readily accessible area within 2,000 feet of the proposed site; or





- 4.X.1.2.b A defined area with a minimum of 500 existing or potential dwelling units which are closer to the proposed site, and have as good or better access to the proposed site, than to existing commercial sites considering distance and topographical barriers. Potential dwelling units shall be determined on the basis of existing zoning.
- 4.X.1.3 Each Neighborhood Commercial site should be a maximum of one acre in size. To allow clustering of convenience uses, additional area may be added up to a maximum total area of two acres.
- 4.X.1.4 Sites shall have direct access to a street of at least a collector classification and preferably an arterial.
- 4.X.1.5 Sites should not include more than one quadrant of an intersection. If more than one quadrant is approved, it shall be shown that undue traffic congestion will not result.
- 4.X.2 Cluster buildings in Neighborhood Commercial areas to prevent strip development and require buildings to be compatible in design and scale with the surrounding neighborhood.
- 4.X.3 Require that improvements to streets be made when necessary prior to or concurrent with development. Bicycle/pedestrian facilities shall be provided.

#### **4.Y Community Commercial Policies**

- 4.Y.1 The following areas may be designated Community Commercial when the first criterion is met or all of the other criteria are met:
  - 4.Y.1.1 Areas having an historical commitment to commercial uses.
  - 4.Y.1.2 Areas which are separated from similar commercial uses by a least one-half mile. Each Community Commercial area should not exceed 10 acres.
  - 4.Y.1.3 Areas having direct access to a street of at least a minor arterial classification. Siting should not result in significant traffic increase on local streets serving residential areas.
  - 4.Y.1.4 Areas which do not increase an existing commercial strip.
- 4.Y.2 Require improvements to streets and/or transit access when necessary prior to or concurrent with development.
- 4.Y.3 Require sidewalks and bicycle facilities.
- 4.Y.4 Limit and define access to facilitate efficient and safe traffic movements. Joint access and provisions for vehicular and pedestrian movement between developments shall be required when necessary.
- 4.Y.5 Require curbs, drainage controls, underground utilities, and street lighting.

**4.Z Office Commercial Policies**

- 4.Z.1 The following areas may be designated Office Commercial:
  - 4.Z.1.1 Properties or areas currently developed with office commercial uses or committed to such uses, or which are adjacent to properties developed or committed to such uses, and are required in order to protect such uses from incompatible development.
  - 4.Z.1.2 Properties offering high visibility from a major highway or arterial which will not draw traffic through single-family neighborhoods.
  - 4.Z.1.3 Properties or areas which provide a buffer between residential and commercial or industrial properties.
- 4.Z.2 Allow, as primary uses, institutional and cultural facilities, high-density housing, and bed and breakfast establishments.
- 4.Z.3 Allow service commercial uses with limits on the percent of floor area to be occupied.
- 4.Z.4 Require improvements to streets and/or pedestrian and transit access when necessary prior to or concurrent with development.
- 4.Z.5 Limit and define access to facilitate efficient and safe traffic movements. Joint access provisions for vehicular and pedestrian movement between developments shall be required when uses are complementary or compatible.
- 4.Z.6 Provide for high-quality building and site design through the application of strict development standards.
- 4.Z.7 Protect and promote Office Commercial areas for developments which project a positive image.
- 4.Z.8 Require sidewalks, drainage controls, underground utilities, and street lighting.

**4.AA Office Apartment Policies**

- 4.AA.1 Areas may be designated Office Apartment when they meet Policy 4.AA.1.1 or 4.AA.1.2:
  - 4.AA.1.1 The area to be considered by the land use application is located in a Corridor design type area as defined in the Urban Growth Concept section of this Chapter.
  - 4.AA.1.2 The area to be considered by the land use application is located on a Corridor street and the majority of the area is within 150 feet of the Corridor street right-of-way, and meets the following criteria:
    - 4.AA.1.2.a Access to the site will meet transportation safety standards and not cause an unacceptable level of service on the Corridor street; and

- 4.AA.1.2.b The site can be developed consistent with access management plans that have been prepared for the Corridor street, e.g., Map 10-SC-5, and consistent with access management requirements implemented by the Zoning and Development Ordinance and the County Roadway Standards.
- 4.AA.2 Allow multifamily, quadplex, triplex, duplex, or townhouse uses in mixed-use buildings as part of developments that include office uses. Allow stand-alone housing only if developed as affordable housing pursuant to ORS 197A.445.
- 4.AA.3 Allow congregate housing facilities and nursing homes as limited uses.
- 4.AA.4 Allow compatible land uses as limited uses with limits on the amount of floor space used by the limited use.
- 4.AA.5 For each Office Apartment site area, a master plan for the entire contiguous site area designated Office Apartment shall be submitted for approval with any land use application. The master plan shall include a plan for consolidation of vehicular accesses for the entire site area. Master plan approval for Office Apartment site areas shall be required prior to allowing development or land divisions.
- 4.AA.6 Development shall comply with the following design requirements:
  - 4.AA.6.1 Developments shall be designed at a pedestrian scale, with pedestrian amenities provided and pedestrian-oriented design used to support non-auto trips to the facility.
  - 4.AA.6.2 Developments shall be designed in a series of low-rise buildings.
  - 4.AA.6.3 Buildings shall be oriented towards streets.
  - 4.AA.6.4 Development shall be integrated with the neighborhood using secondary accesses or, at minimum, pedestrian-only access to adjacent residential areas.
  - 4.AA.6.5 Strict development standards shall be applied to provide for high-quality building and site design.
  - 4.AA.6.6 Sidewalks, drainage controls, underground utilities, and street lighting shall be required.
  - 4.AA.6.7 Improvements to streets and/or pedestrian and transit access shall be required when necessary, prior to, or concurrent with development.
  - 4.AA.6.8 Access shall be limited and defined to facilitate efficient and safe traffic movements. Joint access provisions for vehicular and pedestrian movement between developments shall be required when uses are complementary or compatible.

**4.BB General Commercial Policies**

- 4.BB.1 The following areas may be designated General Commercial when either the first criterion is met or all of the other criteria are met:
  - 4.BB.1.1 Areas having an historical commitment to commercial uses.
  - 4.BB.1.2 Areas necessary to serve the shopping needs of County residents.
  - 4.BB.1.3 Areas having access to a street of at least a major arterial classification or to a high capacity transit corridor. Siting should not result in significant traffic increase on local streets serving residential areas.
  - 4.BB.1.4 Areas which do not increase an existing commercial strip or create new strips.
  - 4.BB.1.5 Areas where adverse effects, such as traffic and noise, will have a minimal effect on adjacent neighborhoods or can be minimized through on-site improvements.
  - 4.BB.1.6 Areas near employment centers.
- 4.BB.2 Require improvements to streets and/or transit access when necessary prior to or concurrent with development.
- 4.BB.3 Require sidewalks and bicycle facilities.
- 4.BB.4 Limit and define access to facilitate efficient and safe traffic movements. Joint access and provisions for vehicular and pedestrian movement between developments shall be required when necessary.
- 4.BB.5 Require curbs, drainage controls, underground utilities, and street lighting.
- 4.BB.6 Allow manufacturing (excluding primary processing of raw materials) and high-density housing within General Commercial areas.

**4.CC Retail Commercial Policies**

- 4.CC.1 Provide for retail commercial areas incorporating high standards and an attractive image, to meet regional shopping needs for a wide range of goods and services accessible by transit and automobile in areas such as the Clackamas Town Center.
- 4.CC.2 Provide for development oriented toward mass transit and pedestrian amenities.
- 4.CC.3 The following areas may be designated Retail Commercial when either the first criterion is met or all of the other criteria are met:
  - 4.CC.3.1 Areas having an historical commitment to commercial uses.
  - 4.CC.3.2 Areas necessary to serve the shopping needs of County residents.

- 4.CC.3.3 Areas having access to a street of at least a major arterial classification or to a high capacity transit corridor. Siting should not result in significant traffic increase on local streets serving residential areas.
- 4.CC.3.4 Areas which do not increase an existing commercial strip or create new strips.
- 4.CC.3.5 Areas where adverse effects, such as traffic and noise, will have a minimal effect on adjacent neighborhoods or can be minimized through on-site improvements.
- 4.CC.3.6 Areas near employment centers.
  
- 4.CC.4 Require improvements to streets and/or transit access when necessary prior to or concurrent with development.
  
- 4.CC.5 Require sidewalks and bicycle facilities.
  
- 4.CC.6 Limit and define access to facilitate efficient and safe traffic movements. Joint access and provisions for vehicular and pedestrian movement between developments shall be required when necessary.
  
- 4.CC.7 Require curbs, drainage controls, underground utilities, and street lighting.
  
- 4.CC.8 Allow high-density housing within Retail Commercial areas.

## **INDUSTRIAL**

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

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

### **INDUSTRIAL GOALS**

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

### **4.DD Business Park Policies**

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

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

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

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

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

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

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

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

**4.EE Light Industrial Policies**

- 4.EE.1 The following areas may be designated Light Industrial when either the first or all of the other criteria are met:
  - 4.EE.1.1 Areas having an historical commitment to industrial uses.
  - 4.EE.1.2 Areas with excellent access to the regional transportation network.
  - 4.EE.1.3 Areas with access to a street of at least a minor arterial classification.
  - 4.EE.1.4 Areas with sites large enough for several industries to cooperatively design an industrial park.
- 4.EE.2 The Light Industrial zoning district implements this designation.
- 4.EE.3 Determine permitted uses through zoning. Zoning of Light Industrial areas shall be consistent with this Plan and the stated purpose of compatible zoning districts. Timing of zoning district application shall be in accord with the orderly development of the County.
- 4.EE.4 Limit land uses other than industrial or industrially related uses but balance these limits with the need to provide locations for certain governmental, recreational or social service uses that may prove challenging to locate elsewhere.
- 4.EE.5 Clearly identify entrances and exits to facilitate efficient traffic movement. The internal circulation system should have broad lanes and turnarounds large enough to accommodate truck traffic. Access streets should include curbs and gutters.
- 4.EE.6 Require landscaping and limit outdoor processing, outdoor storage and outdoor display to enhance the appearance on site and from off site.
- 4.EE.7 Provide for pedestrian and bicycle access to adjacent transit corridors and, where applicable, to nearby residential areas. Require sidewalks when appropriate.
- 4.EE.8 Require storm drainage control measures as an integral part of all industrial area development to compensate for large roofs and paved parking areas within industrial areas.
- 4.EE.9 Require underground utilities and street lighting.
- 4.EE.10 Require all Light Industrial developments to be subject to the design review process.
- 4.EE.11 Encourage coordinated utility and traffic improvements in industrial land divisions.

**4.FF General Industrial Policies**

- 4.FF.1 The following areas may be designated General Industrial when either the first or all of the following criteria are met:
  - 4.FF.1.1 Areas having an historical commitment to industrial uses.
  - 4.FF.1.2 Areas with availability of rail service, access to navigable water, known mineral deposits or freeway access.
  - 4.FF.1.3 Areas where buffering land uses or physical features provide protection for lower intensity land uses, particularly Low Density Residential areas.
  - 4.FF.1.4 Areas having access to a street of at least a major arterial classification. Sites within the broader district may be accessed by roads of a lower classification. Designation shall not result in significant traffic increase on streets of less than a collector status serving residential areas.
  - 4.FF.1.5 Areas with sites large enough to accommodate expansion of individual establishments or serve several establishments within one district.
- 4.FF.2 The General Industrial zoning district implements this designation.
- 4.FF.3 Determine permitted uses through zoning. Zoning of General Industrial areas shall be consistent with this Plan and the stated purpose of compatible zoning districts. Timing of zoning district application shall be in accord with the orderly development of the County.
- 4.FF.4 Limit land uses other than industrial or industrially related uses.
- 4.FF.5 Clearly identify entrances and exits to facilitate efficient traffic movement. The internal circulation system should have broad lanes and turnarounds large enough to accommodate truck traffic. Access streets should include curbs and gutters.
- 4.FF.6 Require landscaping to enhance the appearance on site and from off site.
- 4.FF.7 Provide for pedestrian and bicycle access to adjacent transit corridors and, where applicable, to nearby residential areas.
- 4.FF.8 Require storm drainage control measures to be an integral part of the site design and improvements if site development includes large roof and paved parking areas.
- 4.FF.9 Require sidewalks, when appropriate.
- 4.FF.10 Require curbs, underground utilities and street lighting.
- 4.FF.11 Require all General Industrial developments to be subject to the design review process.



## **OPEN SPACE AND FLOODPLAINS**

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

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

### **OPEN SPACE AND FLOODPLAINS GOALS**

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

### **4.GG Open Space Policies**

- 4.GG.1 Designate as Open Space areas of land or water substantially free of buildings or other significant structures which also are one of the following:
- 4.GG.1.1 Natural resource areas with recognized unique or significant value, primarily those associated with stream/river corridors and hillsides.
  - 4.GG.1.2 Areas with some constraint or degree of hazard for development, such as landslides, steep slope, or flooding.
  - 4.GG.1.3 Existing parks and other committed open areas, such as golf courses, playgrounds, and cemeteries.
- 4.GG.2 Establish three categories of Open Space within the northwest urban area: Resource Protection, Major Hazards, and Public and Community Use.
- 4.GG.2.1 The purpose of Resource Protection Open Space is to protect natural resources and the open character of designated areas while allowing development according to the Plan. Resource Protection Open Space is land in one the following categories:
    - 4.GG.2.1.a The flood fringe of 100-year floodplains

- 4.GG.2.1.b Areas within 100 feet of mean low water on all major rivers and 50 feet of any other permanent stream
- 4.GG.2.1.c Land within the Willamette River Greenway
- 4.GG.2.1.d Wetland areas
- 4.GG.2.1.e Distinctive urban forests
- 4.GG.2.1.f Hillsides of more than 20 percent slope
- 4.GG.2.1.g Areas of high visual sensitivity
- 4.GG.2.1.h Other distinctive or unique natural areas (see Natural Resources Chapter)
- 4.GG.2.1.i Undeveloped public land with potential for recreation.
- 4.GG.2.2 The purpose of Major Hazards Open Space is to protect the public from natural hazards. Major Hazards Open Space is land in any of the following categories:
  - 4.GG.2.2.a The floodway of 100-year floodplains
  - 4.GG.2.2.b Areas of known landslide hazard
  - 4.GG.2.2.c Areas of severe erosion, unstable soil, or earth movement
- 4.GG.2.3 The purpose of Public and Community Use Open Space is to preserve community open space and its associated benefits, such as recreation. Public and Community Use Open Space is land in any of the following categories:
  - 4.GG.2.3.a Parks and other recreation facilities
  - 4.GG.2.3.b Cemeteries
  - 4.GG.2.3.c Other publicly or commonly owned lands which function as open space
- 4.GG.3 Require that all residential developments over one acre in size and having 10 percent or more of designated Open Space, be Planned Unit Developments or flexible lot land divisions.
  - 4.GG.3.1. Protect open space features by clustering development away from the more sensitive areas within a site, assembling adjacent parcels into a larger development, transferring density within the development, and reviewing design, landscaping, color and materials for compatibility with the site and natural features.
  - 4.GG.3.2. Development on land which includes wetlands shall be designed to (1) maintain water quality and the natural function of wetlands, (2) reduce and absorb flood runoff and stabilize water flow, and (2) protect wildlife habitats.
  - 4.GG.3.3. Apply to Major Hazard Open Space areas a Low Density Residential zone consistent with the area for the purpose of computing density transfer.
- 4.GG.4 Require that industrial and commercial development not disturb land designated as Open Space, unless unavoidable for the reasonable development of the site. Develop criteria for land coverage and development intensity to guide site planning and reduce impacts on open space features. Dedication of land for purposes of developing the urban parks and trail program shall be required as appropriate.

- 4.GG.5 Prepare, in a timely manner, a site analysis for any development in the northwest urban area affecting land designated as Open Space. In addition, the County may prepare an analysis for development in an area of high visual sensitivity for any development having significant impact upon the County.
  - 4.GG.5.1 The County's analysis will supplement the applicant's environmental assessment and include the following:
    - 4.GG.5.1.a An evaluation of the proposed development's impact on the relevant natural systems or features of the open space network.
    - 4.GG.5.1.b Identification of applicable provisions or criteria of this Plan.
    - 4.GG.5.1.c Alternatives to the proposal which might better achieve the optimum siting or design layout and protect the site's open space values.
    - 4.GG.5.1.d An evaluation of the potential for public acquisition or dedication as part of the urban park or trail system.
- 4.GG.6 Prohibit development of areas designated Major Hazard Open Space except as provided in Policy 3.L.2.1 of the Natural Resources and Energy chapter, Natural Hazards Section, and Policy 4.R.4.3.b.
- 4.GG.7 Implement Public and Community Use Open Space through an Open Space zone. Public recreation or other compatible private or public uses and structures should be allowed, including golf pro shops, school play equipment, or park restrooms.
- 4.GG.8 Permit public acquisition of land intended for Public and Community Use Open Space purposes in all land use categories and amend the Land Use Plan Map accordingly.
- 4.GG.9 Use the best available data to make decisions on the extent to which a site may be developed in areas designated Open Space.
- 4.GG.10 Conversion of land designated Public and Community Use open space may occur when an alternate use proposal is accompanied by suitable retention or replacement of open space, developed recreation or other suitable compensating actions.

**4.HH Floodplains Policies**

- 4.HH.1. Designate as Floodplains the areas within 100-year floodplains. Refine Floodplain designations upon completion of detailed floodplain information including floodway and flood fringe.
- 4.HH.2. Encourage floodplains to be retained as open space in order to protect their ability to convey and store water. The use of Floodplains shall conform to the requirements of the Floodplain Management Zoning District.

- 4.HH.2.1. Restrict development and/or fill in the flood fringe to insure that danger to life and property will not result. The natural flow of water shall not be restricted, nor shall development which would significantly increase flood elevations be permitted.
- 4.HH.2.2. Prohibit development and/or fill in the floodway due to risk to life and property, flow diversion and increased flood elevations. Possible exceptions to this policy are commercial or industrial activities of a water-dependent nature approved by the U.S. Army Corps of Engineers and/or Division of State Lands.
- 4.HH.2.3. Allow riprap or other streambank protection measures only when they comply with river management policies in the Natural Resources and Energy chapter.
- 4.HH.2.4. Prohibit storage of toxic or hazardous materials in the floodplain. Materials used for construction which may be inundated shall be of such strength and quality that they will not deteriorate, and shall be able to withstand water pressure or the high velocity of flowing water.
- 4.HH.2.5. Require structures in the floodplain to be secured to prevent flotation. Septic tank lids shall be sealed to prevent loss of contents during flooding.
- 4.HH.2.6. Require the lowest floor of buildings designed for human occupancy to be at least one foot above the 100-year flood elevation.

## **UNINCORPORATED COMMUNITIES**

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

There are four types of Unincorporated Communities:

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

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

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

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

## **UNINCORPORATED COMMUNITY GOALS**

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

### **4.II General Unincorporated Community Policies**

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

- 4.II.1.1 Land which has been acknowledged as a Statewide Planning Goal 3 or 4 exception area and historically considered to be part of the community provided the land only includes existing, contiguous concentrations of:
  - 4.II.1.1.a commercial, industrial, or public uses; and/or
  - 4.II.1.1.b dwelling units and associated residential lots at a greater density than exception lands outside Unincorporated Communities;
- 4.II.1.2 Lands planned and zoned for farm or forest use provided such land:
  - 4.II.1.2.a is contiguous to Statewide Planning Goal 3 or 4 exception lands included in the community boundary;
  - 4.II.1.2.b was occupied as of October 28, 1994 by one or more of the following uses: church, cemetery, school, park, playground, community center, fire station, museum, golf course, or utility facility;
  - 4.II.1.2.c includes only that portion of the lot or parcel that is occupied by the use(s) above; and
  - 4.II.1.2.d remains planned and zoned for farm or forest use.
- 4.II.2 Prohibit the expansion of Unincorporated Communities into areas of natural hazards.
- 4.II.3 Guide management of land use patterns in Unincorporated Communities by policies in this Plan and by those in community plans which are prepared as part of the County's continuing planning program as described in Chapter 11, *The Planning Process*.
- 4.II.4 Require development to be contingent upon the ability to provide public services (e.g., school, water, fire, telephone).
- 4.II.5 Develop roads in a manner and to a level compatible with Unincorporated Communities.
- 4.II.6 Residential uses should be allocated in a manner and to a level that supports the commercial and industrial uses and provides housing opportunities to meet needs while maintaining compatibility with adjacent land use designations.
- 4.II.7 Limit industrial uses to:
  - 4.II.7.1. Uses authorized under Statewide Planning Goals 3 and 4;
  - 4.II.7.2. Expansion of a use existing on December 5, 1994;
  - 4.II.7.3. Small-scale, low- impact industrial uses, as defined in Oregon Administrative Rules (OAR) 660-022-0030(11);
  - 4.II.7.4. Uses that require proximity to a rural resource, as defined in OAR 660-004-0022(3)(a);

- 4.II.7.5. New uses that will not exceed the capacity of water and sewer service available to the site on December 5, 1994, or, if such services are not available to the site, the capacity of the site itself to provide water and absorb sewage;
- 4.II.7.6. New uses more intensive than those allowed under Policies 4.JJ.7.1 through 7.JJ.7.5, provided an analysis set forth in this Plan demonstrates, and land use regulations ensure:
  - 4.II.7.6.a That such uses are necessary to provide employment that does not exceed the total projected work force within the community and the surrounding rural area;
  - 4.II.7.6.b That such uses would not rely upon a work force employed by uses within urban growth boundaries; and
  - 4.II.7.6.c That the determination of the work force of the community and surrounding rural area considers the total industrial and commercial employment in the community and is coordinated with employment projections for nearby urban growth boundaries; and
- 4.II.7.7. Industrial uses, including accessory uses subordinate to industrial development, sited on an abandoned or diminished industrial mill site, as defined in the Clackamas County Zoning and Development Ordinance, provided the uses will be located only on the portion of the mill site that is zoned for industrial uses.
- 4.II.8 Limit commercial uses to:
  - 4.II.8.1. Uses authorized under Statewide Planning Goals 3 and 4;
  - 4.II.8.2. Small-scale, low-impact uses as defined in OAR 660-022-0030(10); and
  - 4.II.8.3. Uses intended to serve the community and surrounding rural area or the travel needs of people passing through the area.
- 4.II.9 Encourage commercial and industrial uses to locate in Unincorporated Communities to provide employment opportunities to residents of the communities and the surrounding non-urban area.
- 4.II.10 Require design review for commercial and industrial development.
- 4.II.11 Public facilities in Unincorporated Communities should be expanded or developed only when consistent with maintaining the rural character of the community.
- 4.II.12 Increased water service to an area shall not be used in and of itself to justify reduced lot sizes.
- 4.II.13 Sewage systems shall be contained within Unincorporated Community boundaries, and shall not be allowed to expand to land outside of such boundaries, except as provided by the Oregon Revised Statutes for abandoned or diminished mill sites or otherwise consistent with Policy 7.A.9.

**4.JJ Unincorporated Community Residential Policies**

- 4.JJ.1 Apply a plan designation of Unincorporated Community Residential to residential areas in Unincorporated Communities, except as modified by Chapter 10.
- 4.JJ.2 Implement the Unincorporated Community Residential plan designation through application of the Rural Area Residential 1-Acre (RA-1) zoning district.
- 4.JJ.3 Implement dimensional and development standards to address compatibility, function, and aesthetics.

4.JJ.4 Allow the following housing types:

- 4.JJ.4.1. Accessory dwelling units
- 4.JJ.4.2. Detached single-family dwellings
- 4.JJ.4.3. Duplexes
- 4.JJ.4.4. Manufactured dwellings
- 4.JJ.4.5. Prefabricated structures
- 4.JJ.4.6. Recreational vehicles



## **RURAL COMMERCIAL**

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

### **RURAL COMMERCIAL GOALS**

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

### **4.KK Rural Commercial Policies**

- 4.KK.1 The Rural Commercial plan designation may be applied in non-urban areas to provide for commercial uses that are necessary for, and on a scale commensurate with, rural development.
- 4.KK.2 The Rural Commercial (RC) zoning district implements the Rural Commercial plan designation.
- 4.KK.3 Areas may be designated Rural Commercial when either the first or both of the other criteria are met:
- 4.KK.3.1 Areas shall have an historical commitment to commercial uses; or
  - 4.KK.3.2 Areas shall be located within an Unincorporated Community; and
  - 4.KK.3.3 The site shall have direct access to a road of at least a collector classification.
- 4.KK.4 Implement dimensional and development standards to address compatibility, function, and aesthetics.

## **RURAL INDUSTRIAL**

### **RURAL INDUSTRIAL GOALS**

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

### **4.LL Rural Industrial Policies**

- 4.LL.1 The Rural Industrial plan designation may be applied in non-urban areas to provide for industrial uses that are not labor-intensive and are consistent with rural character, rural development, and rural facilities and services.
- 4.LL.2 The Rural Industrial (RI) zoning district implements the Rural Industrial plan designation.
- 4.LL.3 Areas may be designated Rural Industrial when the first, the second, or both of the other criteria are met:
- 4.LL.3.1 Areas shall have an historical commitment to industrial uses; or
  - 4.LL.3.2 The site shall be an abandoned or diminished mill site, as defined in the Zoning and Development Ordinance, provided that only the portion of the site that was improved for the processing or manufacturing of wood products may be designated Rural Industrial; or
  - 4.LL.3.3 Areas shall be located within an Unincorporated Community; and
  - 4.LL.3.4 The site shall have direct access to a road of at least an arterial classification.

## **RURAL**

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

### **RURAL GOALS**

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

### **4.MM Rural Policies**

- 4.MM.1 Areas may be designated Rural if they are presently developed, built upon, or otherwise committed to sparse settlement or small farms with limited, if any, public services available.
- 4.MM.2 Designation of additional Rural lands shall be based on findings that shall include, but not be limited to:
- 4.MM.2.1 Reasons why additional Rural land is needed or should be provided;
  - 4.MM.2.2 An evaluation of alternative areas in the County that should be designated Rural and a statement of why the chosen alternative is more suitable;
  - 4.MM.2.3 An evaluation of the long-term environmental, economic, social, and energy consequences to the locality, region, or state of designating the area Rural; and
  - 4.MM.2.4 Reasons why designating the area Rural will be compatible with other adjacent uses;
- 4.MM.3 Areas impacted by major transportation corridors, adjacent to urban growth boundaries or areas designated Rural, and for which public services are committed or planned shall be given priority in designating additional Rural areas.
- 4.MM.4 Residential lot sizes shall be based upon:
- 4.MM.4.1 Parcelization;
  - 4.MM.4.2 Level of existing development;
  - 4.MM.4.3 Topography;
  - 4.MM.4.4 Soil conditions;
  - 4.MM.4.5 Compatibility with the types and levels of available public facilities;
  - 4.MM.4.6 Proximity to Unincorporated Communities or an incorporated city; and
  - 4.MM.4.7 Capacity and level of service of the road network

- 4.MM.5 Existing large lots should be reduced to meet future rural housing needs prior to expanding the areas designated as Rural.
- 4.MM.6 Areas with marginal or unsuitable soils for agricultural or forest use shall be given a higher priority for conversion to rural development than areas with more suitable soils.
- 4.MM.7 Public facilities should be expanded or developed only when consistent with maintaining the rural character of the area.
- 4.MM.8 Increased water service to an area shall not be used in and of itself to justify reduced lot sizes.
- 4.MM.9 The County shall encourage grouping of dwelling units with lot sizes less than the minimum allowed by the zoning district when such development is compatible with the policies in this Plan and the overall density of the zoning district.
- 4.MM.10 Lawfully established nonconforming structures and uses that are destroyed by fire, other casualty, or natural disaster shall be allowed to reconstruct, as provided by the Zoning and Development Ordinance.
- 4.MM.11 The Rural Area Residential 2-Acre (RA-2), Rural Residential Farm/Forest 5-Acre (RRFF-5), and Farm/Forest 10-Acre (FF-10) zoning districts implement the goals and policies of the Rural plan designation. These zoning districts shall be applied in Rural areas as follows:
  - 4.MM.11.1 The RA-2 zoning district shall be applied when all the following criteria are met:
    - 4.MM.11.1.a Parcels are generally two acres or smaller.
    - 4.MM.11.1.b The area is significantly affected by development.
    - 4.MM.11.1.c There are no natural hazards, and the topography and soil conditions are well suited for the location of homes.
    - 4.MM.11.1.d A public or private community water system is available.
    - 4.MM.11.1.e Areas are in proximity or adjacent to an Unincorporated Community or incorporated city.
    - 4.MM.11.1.f In areas adjacent to urban growth boundaries, RA-2 zoning shall be limited to those areas in which virtually all existing lots are two acres or less.
  - 4.MM.11.2 The RRFF-5 zoning district shall be applied when all the following criteria are met:
    - 4.MM.11.2.a Parcels are generally five acres.
    - 4.MM.11.2.b The area is affected by development.
    - 4.MM.11.2.c There are no serious natural hazards, and the topography and soils are suitable for development.

- 4.MM.11.2.d Areas are easily accessible to an Unincorporated Community or incorporated city.
- 4.MM.11.3 The FF-10 zoning district shall be applied when one or more of the following criteria are met:
  - 4.MM.11.3.a Parcels are generally ten acres.
  - 4.MM.11.3.b The area is developed with a mixture of uses not consistent with extensive commercial agriculture or forestry uses.
  - 4.MM.11.3.c Access to an Unincorporated Community or an incorporated city is generally poor.
- 4.MM.12 Implement dimensional and development standards to address compatibility, function, and aesthetics.

4.MM.13 Allow the following housing types:

- 4.MM.13.1 Accessory dwelling units
- 4.MM.13.2 Detached single-family dwellings
- 4.MM.13.3 Manufactured dwellings
- 4.MM.13.4 Prefabricated structures
- 4.MM.13.5 Recreational vehicles
- 4.MM.13.6 Single room occupancies

## **AGRICULTURE**

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

### **AGRICULTURE GOALS**

- Preserve agricultural use of agricultural land.
- Protect agricultural land from conflicting uses, high taxation and the cost of public facilities unnecessary for agriculture.
- Maintain the agricultural economic base of the County and increase the County's share of the agricultural market.
- Increase agricultural income and employment by creating conditions that further the growth and expansion of agriculture and attract agriculturally related industries.
- Maintain and improve the quality of air, water, and land resources.
- Conserve scenic and open space.
- Protect wildlife habitats.

### **4.NN Agriculture Policies**

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

- 4.NN.1.1 Areas with predominantly Class I through IV agricultural soil as defined by the United States Natural Resources Conservation Service or identified as agricultural soil by more detailed data;
- 4.NN.1.2 Areas generally in parcels of 20 acres or larger;
- 4.NN.1.3 Areas primarily in agricultural use;
- 4.NN.1.4 Areas necessary to permit farming practices on adjacent lands or necessary to prevent conflicts with the continuation of agricultural uses;
- 4.NN.1.5 Other areas in soil classes different from NRCS I through IV when the land is suitable for farm use as defined in Oregon Revised Statutes 215.203(2)(a), taking into consideration soil fertility; suitability for grazing; climatic conditions; existing and future availability of water for farm irrigation purposes; existing land use patterns; technological and energy inputs required; and accepted farm practices.

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

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

- 4.NN.4 New sewer facilities shall not be allowed in Agricultural areas, except when consistent with Policy 7.A.11 of Chapter 7, *Public Facilities and Services*.
- 4.NN.5 Roads shall be developed in a manner and to a level compatible with maintaining Agricultural areas.
- 4.NN.6 Education and dissemination of information on agricultural crops, methods, and technology; special tax assessment programs; and new land-use techniques should be encouraged.
- 4.NN.7 Lawfully established nonconforming structures and uses that are destroyed by fire, other casualty, or natural disaster shall be allowed to reconstruct, as provided by the Zoning and Development Ordinance.
- 4.NN.8 The Exclusive Farm Use (EFU) zoning district implements the goals and policies of the Agriculture plan designation and should be applied in Agriculture areas.
- 4.NN.9 Forest zoning districts which require a minimum lot size of 80 acres or larger may be applied in Agriculture areas provided the primary uses are forest and forest-related and that permitted uses will not conflict with agricultural uses.
- 4.NN.10 Except on lands within urban growth boundaries or as provided by the Oregon Revised Statutes for abandoned or diminished mill sites, exceptions to Statewide Planning Goals 3 and 4 shall be required for a plan amendment from the Agriculture designation to any designation other than Forest.
- 4.NN.11 The Special Use Overlay District implements Policy 9.B.11, applying to land designated Agriculture for which a local park master plan is adopted.

## **FOREST**

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

### **FOREST GOALS**

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

### **4.00 Forest Policies**

- 4.00.1 The following areas shall be designated Forest:
- 4.00.1.1 Lands suitable for forest use;
  - 4.00.1.2 Lands predominantly capable of generating at least 85 cubic feet of timber per acre per year;
  - 4.00.1.3 Areas generally in forest uses;
  - 4.00.1.4 Areas which are environmentally sensitive or otherwise require protection (watersheds, areas subject to erosion, landslides, etc.) should be designated Forest;
  - 4.00.1.5 Forested areas which buffer more intense land uses from areas of less intense use may be designated Forest.
- 4.00.2 Encourage forest-related industries.
- 4.00.3 Prohibit land uses that conflict with forest uses.
- 4.00.4 Housing should be limited in Forest areas because it is generally incompatible with forest uses due to fire danger and accepted forest practices such as herbicide spraying and slash burning.
- 4.00.5 Prohibit commercial and industrial development in Forest areas.



- 4.OO.6 Prohibit new sewer facilities in Forest areas, except when consistent with Policy 7.A.11 of Chapter 7, *Public Facilities and Services*.
- 4.OO.7 Encourage use of a Homestead provision that allows retention of a homesite with an existing dwelling and transfer of the remaining property as long as the transfer is compatible with Forest policies.
- 4.OO.8 Lawfully established nonconforming structures and uses that are destroyed by fire, other casualty, or natural disaster shall be allowed to reconstruct, as provided by the Zoning and Development Ordinance.
- 4.OO.9 Apply zoning districts consistent with state, regional, and County goals and United States Forest Service land allocation and management plans to the Mt. Hood and Willamette National Forests.
- 4.OO.10 This Plan and implementing ordinance provisions shall not conflict with the Oregon Forest Practices Act.
- 4.OO.11 The Timber (TBR) and Ag/Forest (AG/F) zoning districts implement the goals and policies of the Forest plan designation. The TBR zoning district shall be applied to areas predominantly in forest use. The AG/F zoning district shall be applied to areas having such a mixture of agricultural and forest uses that neither Statewide Planning Goal 3 nor Goal 4 applies alone.
- 4.OO.12 Except on lands within urban growth boundaries or as provided by the Oregon Revised Statutes for abandoned or diminished mill sites, exceptions to Statewide Planning Goals 3 and 4 shall be required for a plan amendment from the Forest designation to any designation other than Agriculture.
- 4.OO.13 The Special Use Overlay District implements Policy 9.B.11, applying to land designated Forest for which a local park master plan is adopted.

**Exhibit B**  
**Ordinance ZDO-285**  
**Zoning and Development Ordinance Amendments**

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

**202**      **DEFINITIONS**

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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 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*, or as a second dwelling pursuant to Section 847, *Recreational Vehicles as Second Dwellings*.

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

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

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

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

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

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

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

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

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

FAMILY CHILD CARE HOME: A child care provider who 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.

CLACKAMAS COUNTY ZONING AND DEVELOPMENT ORDINANCE

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

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

FLOOR AREA: The area ~~inside included within~~ the ~~perimetersurrounding 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~~ For a building, or portion thereof, not provided with ~~surrounding exterior perimeter~~ walls, the floor area shall be the ~~usable~~ area under the horizontal projection of the roof or floor above. Floor area shall not include ~~exterior stairs, exterior covered entries, or~~ portions of buildings used for parking of vehicles, ~~except the square footage of commercial uses in parking structures can be counted as part of the total floor area.~~ In a multi-story building, floor area is the sum of the floor area of each floor. For the purposes of calculating floor area, mezzanines and lofts are considered to be floors within perimeter walls.

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

GOVERNMENT CAMP: The unincorporated community of Government Camp, as identified on Comprehensive Plan Map 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.

CLACKAMAS COUNTY ZONING AND DEVELOPMENT ORDINANCE

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.

CLACKAMAS COUNTY ZONING AND DEVELOPMENT ORDINANCE



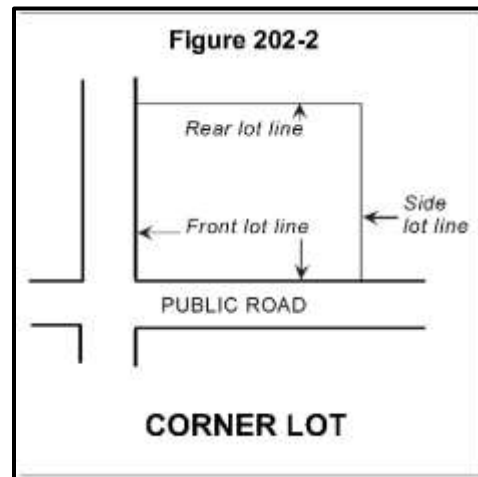
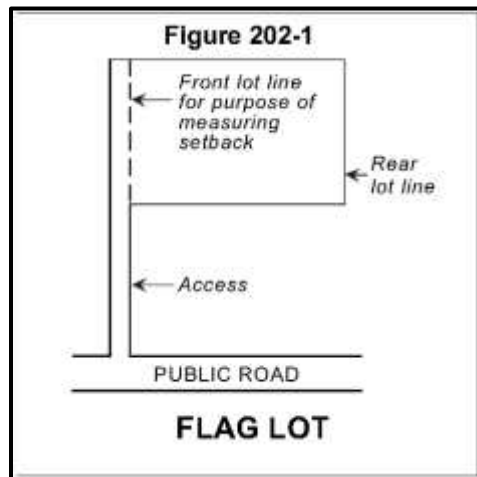
**LOT COVERAGE:** The area of a lot covered by a building or buildings, exclusive of architectural features and swimming pools, expressed as a percentage of the total lot area.

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

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

**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 September 5, 2023, under the foreclosure provisions of ORS chapter 88.

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

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

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

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

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

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

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

MANUFACTURED DWELLING PARK: Any place where four or more manufactured dwellings or prefabricated structures, ~~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.

PREFABRICATED STRUCTURE: A building or subassembly that has been in whole or substantial part manufactured or assembled using closed construction at an off-site location to be wholly or partially assembled on-site; is relocatable; is more than eight and one-half feet wide; and is designed for use as a single-family dwelling.

A prefabricated structure is not a manufactured dwelling or “small home”, as defined in ORS Chapter 455.

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

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

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

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

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

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

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.

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

SIDEWALK: A concrete pedestrian facility adjacent to a curb along a road or set back from the curb behind a planting strip.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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



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

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

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

SIGN, RESIDENTIAL: Any sign associated with a dwelling.

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

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

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

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

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

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

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

SINGLE ROOM OCCUPANCY: A residential development with no fewer than four

attached units that are independently rented and lockable and provide living and sleeping space for the exclusive use of an occupant, but require that the occupant share sanitary or food preparation facilities with other units in the occupancy.

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; Amended by Ord. ZDO-273, on remand, 5/30/23; Amended by Ord. ZDO-283, 9/5/23]

**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
<del><b>Accessory Kitchens</b></del>	<del>A<sup>+</sup></del>	<del>A<sup>+</sup></del>	<del>A<sup>+</sup></del>	<del>A<sup>+</sup></del>	<del>X</del>	<del>A<sup>+</sup></del>	<del>A<sup>+</sup></del>	<del>X</del>	<del>X</del>	<del>X</del>	<del>X</del>

CLACKAMAS COUNTY ZONING AND DEVELOPMENT ORDINANCE

Use	R-5 – R-30	VR-4/5 & VR-5/7	R-2.5	VTH	PMD	MR-1	MR-2	HDR	VA	SHD	RCHDR
<b>Bed and Breakfast Inns</b> , subject to Section 832	C	X	C	X	X	P	P	P	X	L <sup>12</sup> ,C <sup>23</sup>	L <sup>34</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>45</sup> ,C	C	L <sup>12</sup> ,C <sup>23</sup>	L <sup>34</sup>
<b>Civic and Cultural Facilities</b> , including art galleries, museums, and visitor centers	X	X	X	X	X	X	X	L <sup>45</sup> ,C <sup>56</sup>	X	L <sup>12</sup> ,C <sup>23</sup>	L <sup>34</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>45</sup> ,C	C	L <sup>12</sup> ,C <sup>23</sup>	L <sup>34</sup>
<b>Dwellings<sup>6</sup>, 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



CLACKAMAS COUNTY ZONING AND DEVELOPMENT ORDINANCE

Use	R-5 – R-30	VR-4/5 & VR-5/7	R-2.5	VTH	PMD	MR-1	MR-2	HDR	VA	SHD	RCHDR
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
<u>Prefabricated Structures</u>	<u>P<sup>7</sup></u>	<u>P<sup>7</sup></u>	<u>X</u>	<u>X</u>	<u>X</u>	<u>X</u>	<u>X</u>	<u>X</u>	<u>X</u>	<u>X</u>	<u>X</u>
Quadplexes	P <sup>7,8</sup>	P <sup>7,8</sup>	X	P	P	P	P	P	P	P	P
<u>Recreational Vehicles as Second Dwellings, subject to Section 847</u>	<u>P</u>	<u>P</u>	<u>X</u>	<u>X</u>	<u>X</u>	<u>X</u>	<u>X</u>	<u>X</u>	<u>X</u>	<u>X</u>	<u>X</u>
<u>Single Room Occupancies</u>	<u>P<sup>7, 11</sup></u>	<u>P<sup>7, 11</sup></u>	<u>X</u>	<u>X</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>
Townhouses	P <sup>7,8</sup>	P <sup>7,8</sup>	P	P	X	P <sup>12+</sup>	P <sup>12+</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>23</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>45</sup> ,C <sup>56</sup>	X	L <sup>12</sup> ,C <sup>23</sup>	L <sup>34</sup>
<b>Fitness Facilities</b> , including athletic clubs, exercise studios, gymnasiums, and health clubs	X	X	X	X	X	X	X	L <sup>45</sup> ,C	X	L <sup>12,132</sup> ,C	L <sup>34</sup> ,C
<b>Fraternal Organization Lodges</b>	C <sup>143</sup>	X	C <sup>143</sup>	X	C <sup>143</sup>	C <sup>143</sup>	C <sup>143</sup>	C <sup>143</sup>	X	C <sup>143</sup>	C <sup>143</sup>

CLACKAMAS COUNTY ZONING AND DEVELOPMENT ORDINANCE

Use	R-5 – R-30	VR-4/5 & VR-5/7	R-2.5	VTH	PMD	MR-1	MR-2	HDR	VA	SHD	RCHDR
<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>143</sup>	X	C <sup>143</sup>	X	C <sup>143</sup>	C <sup>143</sup>	C <sup>143</sup>	C <sup>143</sup>	X	C <sup>143</sup>	C <sup>143</sup>
<b>Guest Houses</b> , subject to Section 833	A	X	A	X	X	X	X	X	X	X	X
<b>Home Occupations</b> , including bed and breakfast homestays, subject to Section 822 <sup>154</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>165</sup>	L <sup>34</sup> ,C
<b>Hydroelectric Facilities</b>	C	X	C	X	X	C	C	C	X	C	X
<b><u>Kitchens, Accessory</u></b>	<u>A<sup>17</sup></u>	<u>A<sup>17</sup></u>	<u>A<sup>17</sup></u>	<u>A<sup>17</sup></u>	<u>X</u>	<u>A<sup>17</sup></u>	<u>A<sup>17</sup></u>	<u>X</u>	<u>X</u>	<u>X</u>	<u>X</u>
<b>Libraries</b>	CPUD	CPUD	CPUD	CPUD	CPUD	CPUD	CPUD	L <sup>45</sup> ,C <sup>56</sup> , CPUD	CPUD	L <sup>12</sup> ,C <sup>23</sup> , CPUD	L <sup>34</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

CLACKAMAS COUNTY ZONING AND DEVELOPMENT ORDINANCE

Use	R-5 – R-30	VR-4/5 & VR-5/7	R-2.5	VTH	PMD	MR-1	MR-2	HDR	VA	SHD	RCHDR
<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
<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>45</sup> ,C <sup>56</sup>	X	L <sup>12</sup> ,C <sup>23</sup>	L <sup>34</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>45</sup> ,C <sup>56</sup>	X	L <sup>12</sup> ,C <sup>23</sup>	L <sup>34</sup>
<b>Parking Structures</b>	X	X	X	X	X	A	A	A	X	A	A

CLACKAMAS COUNTY ZONING AND DEVELOPMENT ORDINANCE

Use	R-5 – R-30	VR-4/5 & VR-5/7	R-2.5	VTH	PMD	MR-1	MR-2	HDR	VA	SHD	RCHDR
<b>Pedestrian Amenities</b>	P	P	P	P	P	P	P	P	P	P	P
<b>Places of Worship</b> , subject to Section 804	P	P	P	P	P	P	P	P	P	P	P
<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>186</sup>	C <sup>143</sup>	X	C <sup>143</sup>	X	C <sup>143</sup>	C <sup>143</sup>	C <sup>143</sup>	C <sup>143</sup>	X	C <sup>143</sup>	C <sup>143</sup>
<b>Radio and Television Studios</b> , excluding transmission towers	X	X	X	X	X	X	X	X	X	L <sup>12</sup> , C <sup>23</sup>	X
<b>Radio and Television Transmission and Receiving Towers and Earth Stations</b> <sup>198</sup>	C <sup>143</sup>	X	C <sup>143</sup>	X	X	C <sup>143</sup>	C <sup>143</sup>	C <sup>143</sup>	X	C <sup>143</sup>	C <sup>143</sup>
<b>Recreational Vehicle Camping Facilities</b> , subject to Section 813	X	X	X	X	X	C <sup>143</sup>	C <sup>143</sup>	C <sup>143</sup>	X	X	X

CLACKAMAS COUNTY ZONING AND DEVELOPMENT ORDINANCE

Use	R-5 – R-30	VR-4/5 & VR-5/7	R-2.5	VTH	PMD	MR-1	MR-2	HDR	VA	SHD	RCHDR
<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>20+8</sup>	P <sup>21+9</sup>	P <sup>21+9</sup>	P <sup>21+9</sup>	P <sup>220</sup>	P <sup>220</sup>	P <sup>220</sup>	P <sup>220</sup>	P <sup>220</sup>	P <sup>220</sup>	P <sup>220</sup>	P <sup>220</sup>
<b>Recreational Uses, Government-Owned Golf Courses</b> <sup>20+8</sup>	P <sup>21+9</sup>	X	P <sup>21+9</sup>	X	C <sup>143</sup>	P <sup>220</sup>	P <sup>220</sup>	C <sup>143</sup>	X	C <sup>143</sup>	C <sup>143</sup>
<b>Recreational Uses</b> , including boat moorages, country clubs, equine facilities, gymnastics facilities, golf courses, parks, and swimming pools <sup>20+8</sup>	C <sup>143</sup>	X	C <sup>143</sup>	X	C <sup>143</sup>	C <sup>143</sup>	C <sup>143</sup>	C <sup>143</sup>	X	C <sup>143</sup>	C <sup>143</sup>
<b>Recyclable Drop-Off Sites</b> , subject to Section 819	A <sup>23+</sup>	A <sup>23+</sup>	A <sup>2+3</sup>	A <sup>23+</sup>	A <sup>23+</sup>	A <sup>23+</sup>	A <sup>23+</sup>	A <sup>23+</sup>	A <sup>23+</sup>	A <sup>23+</sup>	A <sup>23+</sup>

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Use	R-5 – R-30	VR-4/5 & VR-5/7	R-2.5	VTH	PMD	MR-1	MR-2	HDR	VA	SHD	RCHDR
<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>24</sup> <sub>2</sub>	CPUD <sup>24</sup> <sub>2</sub>	CPUD <sup>24</sup> <sub>2</sub>	CPUD <sup>24</sup> <sub>2</sub>	CPUD <sup>24</sup> <sub>2</sub>	CPUD <sup>24</sup> <sub>2</sub>	CPUD <sup>24</sup> <sub>2</sub>	L <sup>45</sup> ,C <sup>56</sup> , CPUD <sup>242</sup>	CPUD <sup>24</sup> <sub>2</sub>	L <sup>12</sup> ,C <sup>23</sup> , CPUD <sup>242</sup>	L <sup>34</sup> , CPUD <sup>24</sup> <sub>2</sub>
<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>45,253</sup> ,C <sup>56</sup> <sub>253</sub> ,CPUD	CPUD	L <sup>12,253</sup> ,C <sup>23</sup> <sub>253</sub> , CPUD	L <sup>34,253</sup> , CPUD

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Use	R-5 – R-30	VR-4/5 & VR-5/7	R-2.5	VTH	PMD	MR-1	MR-2	HDR	VA	SHD	RCHDR
<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>45</sup> ,C <sup>56</sup>	X	L <sup>23</sup> ,C <sup>34</sup>	L <sup>12</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>23</sup>	X
<b>Services, Commercial—Food and Beverage</b> , including catering and eating and drinking establishments	CPUD <sup>24</sup> <sub>2</sub>	CPUD <sup>24</sup> <sub>2</sub>	CPUD <sup>24</sup> <sub>2</sub>	CPUD <sup>24</sup> <sub>2</sub>	CPUD <sup>24</sup> <sub>2</sub>	CPUD <sup>24</sup> <sub>2</sub>	CPUD <sup>24</sup> <sub>2</sub>	L <sup>45</sup> ,C <sup>56</sup> , CPUD <sup>242</sup>	CPUD <sup>24</sup> <sub>2</sub>	L <sup>12</sup> ,C <sup>23</sup> , CPUD <sup>242</sup>	L <sup>34</sup> , CPUD <sup>24</sup> <sub>2</sub>
<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>45</sup> ,C <sup>56</sup>	X	L <sup>12</sup> ,C <sup>23</sup>	L <sup>34</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>23</sup>	X

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Use	R-5 – R-30	VR-4/5 & VR-5/7	R-2.5	VTH	PMD	MR-1	MR-2	HDR	VA	SHD	RCHDR
<b>Services, Commercial—Miscellaneous</b> , including food lockers, interior decorating, locksmith, upholstering, and veterinary	X	X	X	X	X	X	X	L <sup>45</sup> ,C <sup>56</sup>	X	L <sup>12</sup> ,C <sup>23</sup>	L <sup>34</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>24</sup> <sub>2</sub>	CPUD <sup>24</sup> <sub>2</sub>	CPUD <sup>24</sup> <sub>2</sub>	CPUD <sup>24</sup> <sub>2</sub>	CPUD <sup>24</sup> <sub>2</sub>	CPUD <sup>24</sup> <sub>2</sub>	CPUD <sup>24</sup> <sub>2</sub>	L <sup>45</sup> ,C <sup>56</sup> , CPUD <sup>242</sup>	CPUD <sup>24</sup> <sub>2</sub>	L <sup>12</sup> ,C <sup>23</sup> , CPUD <sup>242</sup>	L <sup>34</sup> , CPUD <sup>24</sup> <sub>2</sub>
<b>Services, Commercial—Studios</b> of the following types: art, craft, dance, music, and photography	CPUD <sup>24</sup> <sub>2</sub>	CPUD <sup>24</sup> <sub>2</sub>	CPUD <sup>24</sup> <sub>2</sub>	CPUD <sup>24</sup> <sub>2</sub>	CPUD <sup>24</sup> <sub>2</sub>	CPUD <sup>24</sup> <sub>2</sub>	CPUD <sup>24</sup> <sub>2</sub>	L <sup>45</sup> ,C <sup>56</sup> , CPUD <sup>242</sup>	CPUD <sup>24</sup> <sub>2</sub>	L <sup>12</sup> ,C <sup>23</sup> , CPUD <sup>242</sup>	L <sup>34</sup> , CPUD <sup>24</sup> <sub>2</sub>
<b>Short-Term Rental</b> in a dwelling unit or guest house permitted by this table	P <sup>26</sup>	P <sup>26</sup>	P	P	P	P	P	P	P	P	P
<b>Signs</b> , subject to Section 1010	A <sup>274</sup>	A <sup>274</sup>	A <sup>274</sup>	A <sup>274</sup>	A <sup>274</sup>	A <sup>274</sup>	A <sup>274</sup>	A <sup>274</sup>	A <sup>274</sup>	A <sup>274</sup>	A <sup>274</sup>
<b>Telephone Exchanges</b>	C <sup>143</sup>	X	C <sup>143</sup>	X	C <sup>143</sup>	C <sup>143</sup>	C <sup>143</sup>	C <sup>143</sup>	X	C <sup>143</sup>	C <sup>143</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



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Use	R-5 – R-30	VR-4/5 & VR-5/7	R-2.5	VTH	PMD	MR-1	MR-2	HDR	VA	SHD	RCHDR
Temporary Storage within an Enclosed Structure of Source-Separated Recyclable/Reusable Materials Generated and/or Used On-site Prior to On-site Reuse or Removal by the Generator or Licensed or Franchised Collector to a User or Broker	A	A	A	A	A	A	A	A	A	A	A
Transit Park-and-Rides	X	X	X	X	X	X	X	X	X	X	A
Utility Carrier Cabinets, subject to Section 830	P,C <sup>285</sup>	P,C <sup>285</sup>	P,C <sup>285</sup>	P,C <sup>285</sup>	P,C <sup>285</sup>	P,C <sup>285</sup>	P,C <sup>285</sup>	P,C <sup>285</sup>	P,C <sup>285</sup>	P,C <sup>285</sup>	P,C <sup>285</sup>
Wireless Telecommunication Facilities, subject to Section 835	See Table 835-1	See Table 835-1	See Table 835-1	See Table 835-1	See Table 835-1	See Table 835-1	See Table 835-1	See Table 835-1	See Table 835-1	See Table 835-1	See Table 835-1

~~<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>12</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.

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<sup>23</sup> 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.

<sup>34</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. No outdoor storage of materials or display of merchandise associated with the use shall be allowed.

<sup>45</sup> 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.

<sup>56</sup> 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.

<sup>6</sup> Dwellings not otherwise permitted in the applicable zoning district may nonetheless be permitted if they are developed as affordable housing, as defined in ORS 197A.445(1), and subject to Section 846, *Affordable Housing*.

<sup>7</sup> Except as allowed by Section 839, *Accessory Dwelling Units*, or Section 1204, *Temporary Permits*, each lot of record may be developed with only one of the following: cottage cluster development, detached single-family dwelling, duplex, manufactured home, prefabricated structure, ~~duplex, triplex~~, quadplex, single room occupancy, townhouse, or ~~triplex cottage cluster development~~.

- <sup>8</sup> The development of a triplex, quadplex, townhouse, or cottage cluster is subject to Section 845, *Triplexes, Quadplexes, Townhouses, and Cottage Clusters*.
- <sup>9</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 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> A single room occupancy shall contain a maximum of six units.
- <sup>12<sup>4</sup></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>13<sup>2</sup></sup> Only indoor facilities are permitted.
- <sup>14<sup>3</sup></sup> Uses similar to this use may be authorized pursuant to Section 106, *Authorizations of Similar Uses*.
- <sup>15<sup>4</sup></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>16<sup>5</sup></sup> Hotels in the SHD District are limited to a maximum of 80 units per gross acre.
- <sup>17</sup> An accessory kitchen is permitted only in a townhouse, a detached single-family dwelling, a manufactured home, or a prefabricated structure, to the extent that these dwelling types are permitted in the applicable zoning district. Only one accessory kitchen is permitted in each townhouse, detached single-family dwelling, manufactured home, or prefabricated structure.
- <sup>18<sup>6</sup></sup> Public utility facilities shall not include shops, garages, or general administrative offices.
- <sup>19<sup>7</sup></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>20<sup>18</sup></sup> This use may include concessions, restrooms, maintenance facilities, and similar support uses.

- <sup>21+9</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>220</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>23+</sup> Recyclable drop-off sites are permitted only if accessory to an institutional use.
- <sup>242</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.
  - b. The area occupied by all uses subject to Note 22 and located in a single PUD, including their parking, loading, and maneuvering areas, shall not exceed a ratio of one-half acre per 100 dwelling units in the PUD.
  - c. The use shall be an integral part of the general plan of development for the PUD and provide facilities related to the needs of residents of the PUD.
  - d. The use shall be located, designed, and operated to efficiently serve frequent trade and service needs of residents of the PUD and not persons residing elsewhere.
  - e. The use shall not, by reason of its location, construction, manner or hours of operation, signs, lighting, parking arrangements, or other characteristics, have adverse effects on residential uses within or adjoining the PUD.
- <sup>253</sup> Only commercial schools are permitted, and such schools are not subject to Section 805, *Schools*.
- <sup>26</sup> This use is prohibited in a recreational vehicle established pursuant to Section 847, *Recreational Vehicles as Second Dwellings*, and in the primary dwelling on the same lot of record as the recreational vehicle.
- <sup>274</sup> Temporary signs regulated under Subsection 1010.13(A) are a primary use.
- <sup>285</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 buildings larger than 500 square feet and accessory to a primary dwelling, <u>except accessory dwelling units</u> : 20 feet or the height of the primary dwelling, whichever is greater All other buildings, <u>including accessory dwelling units</u> : 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). <u>This provision does not apply to accessory dwelling units.</u>							

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Standard	R-2.5	R-5	R-7	R-8.5	R-10	R-15	R-20	R-30
Building Design Standards for Detached Single-Family Dwellings, Duplexes, <del>and</del> Manufactured Homes, <u>Prefabricated Structures, and Single Room Occupancies</u> <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	Freight shipping containers shall be located behind the building line of the dwelling, and the exterior shall be painted similar in color to that of the dwelling.  Metal buildings greater than 500 square feet in area shall include roof overhangs, gutters, and downspouts, and the exterior shall be painted similar in color to that of the dwelling.							

- <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.

- 6 For development on a middle housing lot, the lot coverage is calculated on the entire parent lot that was divided through a middle housing land division.
- 7 For a swimming pool that is accessory to a dwelling, the minimum front setback is 10 feet, and the minimum side and rear setbacks are three feet.
- 8 In a planned unit development, there are no minimum rear and side setbacks except from rear and side lot lines on the perimeter of the final plat. In a zero-lot-line development, approved pursuant to Subsection 1105.03(B), there are no minimum rear and side setbacks for detached single-family dwellings, manufactured homes, prefabricated structures, single room occupancies, and structures accessory to such dwellings, except from rear and side lot lines on the perimeter of the final plat. Where either of these standards applies, it supersedes any other rear or side setback standard in Table 315-2.
- 9 Except for townhouses, setbacks for structures on a middle housing lot shall continue to be measured from the lot lines of the parent lot that was divided through the middle housing land division. 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, duplex,~~a~~ manufactured home, prefabricated structure, or single room occupancy~~or a duplex~~ is 10 feet.
  - b. The minimum side setback for a detached single-family dwelling, duplex,~~a~~ manufactured home, prefabricated structure, or single room occupancy~~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.

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<sup>11</sup> 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 ≤ to 500 square feet	5 feet side and rear	5 feet side and rear	5 feet side and rear	5 feet side, 10 feet rear
> 500 square feet	5 feet side; 10 feet rear	5 feet side; 10 feet rear	5 feet side, 10 feet rear	5 feet side, 10 feet rear

<sup>12</sup> These building design standards do not apply to temporary dwellings approved pursuant to Section 1204, *Temporary Permits*, or to manufactured homes or prefabricated structures in manufactured dwelling parks.



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

<b>General Standards</b>			
<b>Standard</b>	<b>VR-5/7</b>	<b>VR-4/5</b>	<b>VTH</b>
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>3</sup>
Maximum Lot Size <sup>1</sup>	7,000 square feet <sup>4,5</sup>	5,000 square feet <sup>4,6</sup>	3,000 square feet <sup>3,7</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>9</sup>		See Subsection 1005.11(B)(4).
Minimum Percentage of Lots in a Subdivision that Shall have Alley Motor Vehicle Access Only	50 percent of lots with frontage on an alley		Not Applicable
Garage/Carport Design for Primary Dwellings	A minimum of 50 percent of the primary dwellings in a development shall have a recessed garage/carport or no garage/carport. The remaining 50 percent may have a non-recessed garage/carport. <sup>9,10,11</sup>	All garages and carports shall be recessed. <sup>10</sup>	See Subsection 1005.11(B).

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Standards for Primary Dwellings			
Standard	VR-5/7	VR-4/5	VTH
Maximum Building Height	35 feet <sup>9</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>9,10,11,12,13,14</sup>	10 feet <sup>12,13,14</sup>	10 feet <sup>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>9,10,11,12,13,18,19,20</sup>	18 feet <sup>12,13,18,19,20</sup>	18 feet <sup>15</sup>
Minimum Rear Setback	15 feet <sup>9,12,13,21</sup>		15 feet <sup>21</sup>
Minimum Side Setback	0 on one side; 5 feet on all other sides <sup>9,12,21</sup>		5 feet <sup>21,22</sup>

<p>Building Design Standards<sup>9,23</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 1005.03(F) and 1005.11(A).</p>
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**Standards for Buildings Accessory to a Dwelling**

<b>Standard</b>	<b>VR-5/7</b>	<b>VR-4/5</b>	<b>VTH</b>
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>24</sup>		

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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>9,25</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>9</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>10,20</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>26</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>26</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>26</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>26,27</sup>

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

- 16 On a corner lot, the minimum setback from one front lot line is eight feet, provided that the lot line abuts a road with a functional classification of local or connector.
- 17 Awnings, porches, bays, and overhangs may extend a maximum of four feet into the minimum front setback.
- 18 If a public utility easement precludes compliance with the maximum front setback standard, the maximum shall be as close to the front lot line as possible.
- 19 Dwellings located on lots with less than 35 feet of street frontage shall be exempt from the maximum front setback standard.
- 20 If a lot has more than one front lot line, compliance with the maximum front setback standard is required from only two intersecting front lot lines.
- 21 In a planned unit development, there are no minimum rear and side setbacks except from rear and side lot lines on the perimeter of the final plat. Where this standard applies, it supersedes any other rear or side setback standard in Table 315-3.
- 22 Frontage on a pedestrian connection shall be considered a side lot line.
- 23 For triplexes, quadplexes, and townhouses developed pursuant to Section 845, *Triplexes, Quadplexes, Townhouses, and Cottage Clusters*, design standards in Section 845 shall apply in addition to standards in Table 315-3.
- 24 The maximum building height standard applies only to accessory buildings larger than 100 square feet.
- 25 A garage may be required to be recessed, as defined by Note 11, in order to comply with the standard for garage/carport design for primary dwellings.
- 26 Frontage on a pedestrian connection shall be considered a side lot line, and the minimum setback is five feet.
- 27 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.

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

<b>Standard</b>	<b>PMD</b>	<b>MR-1</b>	<b>MR-2</b>	<b>HDR</b>	<b>VA</b>	<b>SHD</b>	<b>RCHDR</b>
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 1005.02(E) and (H).	See Subsections 1005.02(E) and (H).	See Subsections 1005.02(E) and (H).	See Subsections 1005.02(E) and (H).	18 feet <sup>6</sup>	See Subsections 1005.02(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 1005.02(L) <sup>5</sup>	None <sup>6,7</sup>	See Subsection 1005.02(L)	See Subsection 1005.02(L) <sup>13</sup>

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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 1005.02(L) <sup>5</sup>	None	See Subsection 1005.02(L)	See Subsection 1005.02(L) <sup>16</sup>
Maximum Building Height	None	None	None	None	45 feet	None	None
Minimum Building Separation	10 feet	None	None	See Subsection 1005.02(L)	20 feet between multifamily dwellings	See Subsection 1005.02(L)	See Subsection 1005.02(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.



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- <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.

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

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

<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; Amended by Ord. ZDO-287, 8/3/23; Amended by Ord. ZDO-283, 9/5/23]

**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
<del><b>Accessory Historic Dwellings</b>, subject to Section 843</del>	<del>A<sup>2</sup></del>	<del>A<sup>2</sup></del>	<del>A<sup>2</sup></del>	<del>A<sup>2</sup></del>	<del>A<sup>2</sup></del>	<del>X</del>
<del><b>Accessory Kitchens</b></del>	<del>A<sup>3</sup></del>	<del>A<sup>3</sup></del>	<del>A<sup>3</sup></del>	<del>A<sup>3</sup></del>	<del>A<sup>3</sup></del>	<del>A<sup>3</sup></del>
<b>Aircraft Land Uses</b>	X	X	X	C	C	C
<b>Aircraft Landing Areas</b>	X	C	C <sup>41</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

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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>52</sup>
<b>Commercial or Processing Activities that are in Conjunction with Farm or Forest Uses</b> <sup>63</sup>	X	X	X	C	C	X
<b>Community Halls</b>	CPUD	CPUD	CPUD	CPUD	CPUD	X <sup>74</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>85</sup>
<b>Dwellings, including:</b>						
Accessory Dwelling Units, subject to Section 839	A <sup>46</sup>	A <sup>46</sup>	<del>X</del> A <sup>6</sup>	A <sup>46</sup>	A <sup>46</sup>	A <sup>46</sup>
<u>Accessory Historic Dwellings</u> , subject to Section 843	A <sup>7</sup>	A <sup>7</sup>	A <sup>7</sup>	A <sup>7</sup>	A <sup>7</sup>	X
Detached Single-Family Dwellings	P <sup>98</sup>	P <sup>98</sup>	P <sup>98</sup>	P <sup>98</sup>	P <sup>98</sup>	P <sup>98</sup>
Duplexes	C <sup>98</sup>	X	X	X	X	X
Manufactured Dwellings	P <sup>98</sup>	P <sup>98</sup>	P <sup>98</sup>	P <sup>98</sup>	P <sup>98</sup>	P <sup>98</sup>
<u>Prefabricated Structures</u>	P <sup>8</sup>	P <sup>8</sup>	P <sup>8</sup>	P <sup>8</sup>	P <sup>8</sup>	P <sup>8</sup>
<u>Recreational Vehicles as Second Dwellings</u> , subject to Section 847	A <sup>6</sup>	A <sup>6</sup>	A <sup>6</sup>	A <sup>6</sup>	A <sup>6</sup>	A <sup>6</sup>
<u>Single Room Occupancies</u>	P <sup>8,9</sup>	P <sup>8,9</sup>	P <sup>8,9</sup>	P <sup>8,9</sup>	P <sup>8,9</sup>	P <sup>8,9</sup>
<b>Energy Source Development</b>	X	X	C	X	X	X
<b>Farm Uses, including</b> <sup>63</sup> :						
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

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Use	RA-1	RA-2	RR	RRFF-5	FF-10	FU-10
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
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

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Use	RA-1	RA-2	RR	RRFF-5	FF-10	FU-10
<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>Kitchens, Accessory</b>	<u>A<sup>16</sup></u>	<u>A<sup>16</sup></u>	<u>A<sup>16</sup></u>	<u>A<sup>16</sup></u>	<u>A<sup>16</sup></u>	<u>A<sup>16</sup></u>
<b>Libraries</b>	CPUD	CPUD	CPUD	CPUD	CPUD	X <sup>74</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
<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	P	P	P	P	P	P
<b>Produce Stands</b>	<u>A<sup>+617</sup></u>	<u>A<sup>+617</sup></u>	<u>A<sup>+617</sup></u>	<u>A<sup>+617</sup></u>	<u>A<sup>+617</sup></u>	<u>A<sup>+6,17,18</sup></u>
<b>Public Utility Facilities</b>	<u>C<sup>13,1819</sup></u>	<u>C<sup>13,198</sup></u>	<u>C<sup>13,198</sup></u>	<u>C<sup>13,198</sup></u>	<u>C<sup>13,198</sup></u>	<u>C<sup>13,198</sup></u>
<b>Radio and Television Transmission and Receiving Towers and Earth Stations</b>	<u>C<sup>13,1920</sup></u>	<u>C<sup>13,1920</sup></u>	<u>C<sup>13,1920</sup></u>	<u>C<sup>13,1920</sup></u>	<u>C<sup>13,1920</sup></u>	<u>C<sup>13,1920</sup></u>
<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>2021</sup>	C <sup>13</sup>	<u>C<sup>13,221</sup></u>	C <sup>13</sup>	<u>C<sup>13,221</sup></u>	<u>C<sup>13,221</sup></u>	<u>C<sup>13,221</sup></u>



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Use	RA-1	RA-2	RR	RRFF-5	FF-10	FU-10
<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>2021</sup>	P <sup>232</sup>	P <sup>232</sup>	P <sup>232</sup>	P	P	P
<b>Recreational Uses, Government-Owned Golf Courses</b> <sup>2021</sup>	P <sup>223</sup>	P <sup>223</sup>	P <sup>223</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>2324</sup>	A <sup>2324</sup>	A <sup>2324</sup>	A <sup>2324</sup>	A <sup>2324</sup>	A <sup>2324</sup>

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Use	RA-1	RA-2	RR	RRFF-5	FF-10	FU-10
<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>24</sup> <sub>25</sub>	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>2526</sup>	C <sup>2526</sup>	C	C <sup>2526</sup>	C <sup>2526</sup>	C <sup>2627</sup>
<b>Services, Commercial—Food and Beverage</b> , including catering and eating and drinking establishments	CPUD <sup>24</sup> <sub>25</sub>	X	X	X	X	X
<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>24</sup> <sub>25</sub>	X	X	X	X	X
<b>Services, Commercial—Studios</b> of the following types: art, craft, dance, music, and photography	CPUD <sup>24</sup> <sub>25</sub>	X	X	X	X	X

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Use	RA-1	RA-2	RR	RRFF-5	FF-10	FU-10
<b>Sewer System Components that Serve Lands Inside an Urban Growth Boundary</b> , subject to OAR 660-011-0060(3)	Type II <sup>2728</sup>	Type II <sup>2728</sup>	Type II <sup>2728</sup>	Type II <sup>2728</sup>	Type II <sup>2728</sup>	Type II <sup>2728</sup>
<b>Sewer Systems and Extensions of Sewer Systems to Serve Land Outside an Urban Growth Boundary and Unincorporated Community</b> , subject to OAR 660-011-0060(4)	Type II <sup>2829</sup>	Type II <sup>2829</sup>	Type II <sup>2829</sup>	Type II <sup>2829</sup>	Type II <sup>2829</sup>	Type II <sup>2829</sup>
<b>Short-Term Rental</b> in a dwelling unit or guest house permitted by this table <sup>30</sup>	P	P <sup>2931</sup>	P	P <sup>2931</sup>	P <sup>2931</sup>	P <sup>2931</sup>
<b>Signs</b> , subject to Section 1010	A <sup>3032</sup>	A <sup>3032</sup>	A <sup>3032</sup>	A <sup>3032</sup>	A <sup>3032</sup>	A <sup>3032</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
<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>3433</sup>	P,C <sup>3433</sup>	P,C <sup>3433</sup>	P,C <sup>3433</sup>	P,C <sup>3433</sup>	P,C <sup>3433</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

- ~~<sup>1</sup> This use is permitted only inside of an urban growth boundary.~~
- ~~<sup>2</sup> This use is permitted only outside of both an urban growth boundary and an urban reserve.~~
- ~~<sup>3</sup> 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.~~
- <sup>14</sup> Aircraft landing areas are permitted for use by emergency aircraft (e.g., fire, rescue) only.
- <sup>25</sup> This use is limited to alteration or expansion of a lawfully established child care facility.
- <sup>36</sup> 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.
- <sup>47</sup> Even though it is prohibited in this category, this use is included in the “government use” category.
- <sup>58</sup> This use is limited to alteration or expansion of a lawfully established adult daycare service.
- ~~<sup>6</sup> This use is not permitted in an urban reserve established pursuant to OAR 660, Division 21 or OAR 660, Division 27. Recreational Vehicles as Second Dwellings are also not permitted within the urban growth boundaries of Barlow, Canby, Estacada, Molalla, and Sandy.~~
- ~~<sup>7</sup> This use is permitted only outside of both an urban growth boundary and an urban reserve established pursuant to OAR 660, Division 21 or OAR 660, Division 27.~~
- <sup>89</sup> 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, prefabricated structure, or single room occupancy.
- ~~<sup>9</sup> This use is permitted only inside an urban growth boundary and shall contain a maximum of six units.~~
- <sup>10</sup> This use is permitted only on lots larger than five acres.
- <sup>11</sup> 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.
- <sup>12</sup> 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 An accessory kitchen is permitted only in a detached single-family dwelling, ~~or a manufactured dwelling, or a prefabricated structure. Only one accessory kitchen is permitted in each single-family dwelling, ~~or manufactured dwelling, or prefabricated structure.~~~~

17<sup>16</sup> A produce stand shall be subject to the parking requirements of Section 1015, *Parking and Loading*.

18<sup>17</sup> 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<sup>18</sup> Public utility facilities shall not include shops, garages, or general administrative offices.

20<sup>19</sup> The base of such towers shall not be closer to the property line than a distance equal to the height of the tower.

21<sup>20</sup> This use may include concessions, restrooms, maintenance facilities, and similar support uses.

22<sup>21</sup> 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<sup>22</sup> Any principal building or swimming pool shall be located a minimum of 45 feet from any other lot in a residential zoning district.

24<sup>23</sup> Recyclable drop-off sites are permitted only if accessory to an institutional use.

25<sup>24</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.
- 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>2625</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>2726</sup> This use is limited to alteration or expansion of a lawfully established school.

<sup>2827</sup> Components of a sewer system that serve land outside urban growth boundaries or unincorporated community boundaries are prohibited.

<sup>2928</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 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 prohibited in an accessory dwelling unit established pursuant to Subsection 839.04. This use is prohibited in a recreational vehicle established pursuant to Section 847, Recreational Vehicles as Second Dwellings, and in the primary dwelling on the same lot of record as the recreational vehicle.

<sup>3129</sup> This use is not permitted in an urban or rural reserve established pursuant to OAR 660, Division 27.

<sup>3230</sup> Temporary signs regulated under Subsection 1010.13(A) are a primary use.

| ~~333~~ 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**

<b>Standard</b>	<b>RA-1</b>	<b>RA-2</b>	<b>RR</b>	<b>RRFF-5</b>	<b>FF-10</b>	<b>FU-10</b>
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.

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

[Added by Ord. ZDO-252, 6/1/15; Amended by Ord. ZDO-253, 6/1/15; Amended by Ord. ZDO-254, 1/4/16; Amended by Ord. ZDO-263, 5/23/17; Amended by Ord. ZDO-266, 5/23/18; Amended by Ord. ZDO-269, 9/6/18; Amended by Ord. ZDO-268, 10/2/18; 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; Amended by Ord. ZDO-287, 8/3/23; Amended by Ord. ZDO-283, 9/5/23]

**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>1,2</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>2,3</sup>	P <sup>2,3</sup>
Duplexes	P	X
Manufactured Dwelling Parks, subject to Section 825	C	X
Manufactured Homes	P <sup>2,3</sup>	P <sup>2,3</sup>
Multifamily Dwellings	P	X
Quadplexes	P	X
<b>Prefabricated Structures</b>	P <sup>2</sup>	P <sup>2</sup>
<b>Recreational Vehicles as Second Dwellings, subject to Section 847</b>	A	A
Townhouses	P <sup>2,3</sup>	P <sup>2,3,4</sup>
Triplexes	P	X
<b>Energy Source Development</b>	C	C
<b>Farmers’ Markets</b> , subject to Section 840	A	A

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Use	MRR	HR
<b>Fraternal Organization Lodges</b>	C <sup>45</sup>	C <sup>45</sup>
<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>45</sup>	C <sup>45</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>56</sup>	A	A
<b>Hosting of Weddings, Family Reunions, Class Reunions, Company Picnics, and Similar Events</b>	C	C
<b>Hotels</b> <sup>67</sup>	P <sup>78</sup>	X
<b>Hydroelectric Facilities</b>	C	C
<b><u>Kitchens, Accessory</u></b>	<u>A</u> <sup>8</sup>	<u>A</u> <sup>8</sup>
<b>Libraries</b>	L <sup>12</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>12,9</sup>	X
<b>Motels</b> <sup>67</sup>	P <sup>78</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	P	P
<b>Produce Stands</b> , subject to Section 815	A	A
<b>Public Utility Facilities</b>	C <sup>45</sup>	C <sup>45,10</sup>
<b>Radio and Television Transmission and Receiving Towers and Earth Stations</b>	C <sup>45,11</sup>	C <sup>45,11</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>45</sup>	C <sup>45</sup>

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Use	MRR	HR
<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>
<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>45</sup>	C <sup>45</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>12</sup> , CPUD <sup>16</sup>	CPUD <sup>16</sup>
<b>Roads</b>	P	P
<b>Schools</b> , subject to Section 805	C	C
<b>Services, Commercial—Food and Beverage</b> , including catering and eating and drinking establishments	L <sup>12</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>12</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>12</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>12</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 OAR 660-011-0060(4)	Type II <sup>17</sup>	Type II <sup>17</sup>
<b>Short-Term Rental</b> in a dwelling unit or guest house permitted by this table	P <sup>18</sup>	P <sup>18</sup>
<b>Signs</b> , subject to Section 1010	A <sup>198</sup>	A <sup>198</sup>
<b>Surface Mining</b> , subject to Section 818	X	X

Use	MRR	HR
<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>20+9</sup>	P,C <sup>20+9</sup>
<b>Wireless Telecommunication Facilities</b> , subject to Section 835	See Table 835-1	See Table 835-1

~~<sup>1</sup> An accessory kitchen is permitted only in a detached single family dwelling, or a manufactured dwelling, or prefabricated structure. Only one accessory kitchen is permitted in each single family dwelling or manufactured dwelling.~~

<sup>12</sup> 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.

~~<sup>23</sup> 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, prefabricated structure, or townhouse.~~

~~<sup>34</sup> 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.~~

~~<sup>45</sup> Uses similar to this may be authorized pursuant to Section 106.~~

~~<sup>56</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 317-1.~~

~~<sup>67</sup> Also permitted are associated convention facilities.~~



<sup>7</sup>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.

<sup>8</sup> An accessory kitchen is permitted only in a detached single-family dwelling, manufactured dwelling, or prefabricated structure. Only one accessory kitchen is permitted in each single-family dwelling, manufactured dwelling, or prefabricated structure.

<sup>9</sup> Only level three and four mobile vending units are permitted.

<sup>10</sup> Public utility facilities shall not include shops, garages, or general administrative offices.

<sup>11</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>12</sup> This use may include concessions, restrooms, maintenance facilities, and similar support uses.

<sup>13</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>14</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>15</sup> Recyclable drop-off sites are permitted only if accessory to an institutional use.

<sup>16</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.
- 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.

<sup>17</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 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>18</sup> This use is prohibited in a recreational vehicle established pursuant to Section 847, *Recreational Vehicles as Second Dwellings*, and in the primary dwelling on the same lot of record as the recreational vehicle.

<sup>198</sup> Temporary signs regulated under Subsection 1010.13(A) are a primary use.

<sup>2049</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 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>
<p>Building Design Standards for Single-Family Dwellings, <u>and</u> Manufactured Homes, <u>and</u> <u>Prefabricated Structures</u><sup>11</sup></p>	<p>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).</p>	

- <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, or prefabricated structure, the applicable minimum setback standard for a building is based on the height of that building, as follows:

Building Height	Minimum Setback
≤ 20 feet	10 feet
> 20 feet and ≤ 30 feet	15 feet
> 30 feet and ≤ 40 feet	20 feet
> 40 feet and ≤ 50 feet	25 feet
> 50 feet	30 feet

- <sup>6</sup> The minimum rear and side setback standards applicable in the HR District apply to detached single-family dwellings, and manufactured homes, and prefabricated structures, as well as to structures that are accessory to such detached single-family dwellings, ~~and~~ manufactured homes, and prefabricated structures. 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.

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- 9 For a hotel in Government Camp, the maximum building height shall be 70 feet and may be increased to 87.5 feet to accommodate understructure parking or to preserve natural features or views.
- 10 No maximum applies to hotels and motels; uses authorized under Oregon Statewide Planning Goals 3 and 4; and uses intended to serve the community and surrounding rural area or the travel needs of people passing through the area.
- 11 These building design standards do not apply to temporary dwellings approved pursuant to Section 1204, *Temporary Permits*.

**Table 317-3: District Land Area Standards in the MRR District**

<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; Amended by Ord. ZDO-287, 8/3/23; Amended by Ord. ZDO-283, 9/5/23]

**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. Commercial Farm: A farm unit with all of the following characteristics:
  - 1. The land is used for the primary purpose of obtaining a profit in money from farm use;
  - 2. The net income derived from farm products is significant; and
  - 3. Products from the farm unit contribute substantially to the agricultural economy, to agricultural processors, and to farm markets.
- D. 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 401, a dwelling is a detached single-family dwelling, ~~or~~ a manufactured dwelling, or a prefabricated structure.
- F. Farm or Ranch Operator: A person who operates a farm or ranch, doing the work, and making the day-to-day decisions about such things as planting, harvesting, feeding, and marketing.

- 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.
- H. Farm Unit: The contiguous and noncontiguous tracts within the County or a contiguous county held in common ownership and used by the farm operator for farm use.
- I. Farm Use: As defined in ORS 215.203.
- J. High Value Farmland: As defined in ORS 215.710 and OAR 660-033-0020(8).
- K. Irrigated: Agricultural land watered by an artificial or controlled means, such as sprinklers, furrows, ditches, or spreader dikes. An area or tract is “irrigated” if it is currently watered, or has established rights to use water for irrigation, including such tracts that receive water for irrigation from a water or irrigation district or other provider. An area or tract within a water or irrigation district that was once irrigated shall continue to be considered "irrigated" even if the irrigation water was removed or transferred to another tract.
- L. Low Value Farmland: All land not defined as High Value Farmland in ORS 215.710 and OAR 660-033-0020(8).
- M. Ownership: Holding fee title to a lot of record, except in those instances when the land is being sold on contract, the contract purchaser shall be deemed to have ownership. Ownership shall include all contiguous lots of record meeting this definition.
- N. Private Park: Land that is used for low impact casual recreational uses such as picnicking, boating, fishing, swimming, camping, and hiking or nature oriented recreational uses such as viewing and studying nature and wildlife habitat and may include play areas and accessory facilities that support the activities listed above but does not include tracks for motorized vehicles or areas for target practice or the discharge of firearms.
- O. Tract: One or more contiguous lots of record under the same ownership, including lots of record divided by a county or public road, or 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.



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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(D)(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	Farm and Forest Uses	Subject To
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	Natural Resource Uses	Subject To
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	Residential Uses	Subject To
A	A	Uses and structures customarily accessory and incidental to a dwelling, only if a lawfully established dwelling exists.	
<del>A</del>	<del>A</del>	<del>Alteration or restoration of a lawfully established dwelling.</del>	<del>401.05(C)(1)</del>
<u>A</u> , TYPE II <sup>2</sup>	<u>A</u> , TYPE II <sup>2</sup>	<u>Alteration, restoration, or r</u> 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>23</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>23</sup>	401.05(A)(3) & (C)(5)
N	TYPE II	Dwelling customarily provided in conjunction with a farm use on Low Value Farmland. <sup>23</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>23</sup>	401.05(A)(3), (4) & (C)(8)
N	TYPE II	Capability test for a dwelling. <sup>23</sup>	401.05(A)(3), (4) & (C)(9)

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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>23</sup>	401.05(A)(3) & (C)(11)
TYPE II	TYPE II	Accessory dwelling in conjunction with farm use. <sup>23</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>23</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>Commercial Uses</b>	<b>Subject To</b>
A	A	Family child care home.	
A	A	Dog training classes.	401.05(D)(6)
A	A	Dog testing trials.	401.05(D)(7)
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)(8)
TYPE II	TYPE II	Home occupations, subject to Section 822.	401.05(A)(1) & (D)(1)
TYPE II	TYPE II	A landscape contracting business.	401.05(A)(1) & (D)(2)
TYPE I	TYPE I	Expedited license for a single agri-tourism or other commercial event or activity on a tract in a calendar year, subject to ORS 215.237 and 215.283(4)(b), (6)(a), and (6)(c)	
TYPE II	TYPE II	Single agri-tourism or other commercial event or activity on a tract in a calendar year, subject to ORS 215.237 and 215.283(4)(a), (6)(a), and (6)(c)	401.05(A)(1) & (D)(3)
TYPE II	TYPE II	Up to six agri-tourism or other commercial events or activities on a tract in a calendar year, subject to ORS 215.237 and 215.283(4)(c) and (6)	401.05(A)(1) & (D)(3)
C	C	Up to 18 agri-tourism or other commercial events or activities on a lot of record that is a minimum of 80 acres, subject to ORS 215.237 and 215.283(4)(d), (5), (6)(a), and (6)(c)	401.05(A)(1) & (D)(3)
TYPE II	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.	

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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)
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)(4)
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>34</sup>	401.05(A)(1) & (D)(9)
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>45</sup>	401.05(A)(1)
C	C	An aerial fireworks display business.	401.05(A)(1) & (D)(5)
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)(6) or (7).	401.05(A)(1)

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<b>HV</b>	<b>LV</b>	<b>Mineral, Aggregate, Oil, and Gas Uses</b>	<b>Subject To</b>
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)
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>Transportation Uses</b>	<b>Subject To</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.	

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TYPE II	TYPE II	Parking of no more than seven log trucks, subject to ORS 215.311	401.05(A)(1)
TYPE II	TYPE II	Construction of additional passing and travel lanes requiring the acquisition of right-of-way but not resulting in the creation of new land parcels.	401.05(A)(1)
TYPE II	TYPE II	Reconstruction or modification of public roads and highways involving the removal or displacement of buildings but not resulting in the creation of new land parcels.	401.05(A)(1)
TYPE II	TYPE II	Improvement of public road and highway related facilities, such as maintenance yards, weigh stations, and rest areas, where additional property or right-of-way is required but not resulting in the creation of new land parcels	401.05(A)(1)
C	C	Roads, highways and other transportation facilities, and improvements not otherwise allowed under Section 401.	401.05(F)(1)
C	C	Personal-use airports for airplanes and helicopter pads, including associated hangar, maintenance, and service facilities.	401.05(A)(1) &(F)(2)
C	C	Transportation improvements on rural lands, subject to Oregon Administrative Rules (OAR) 660-012-0065.	
<b>HV</b>	<b>LV</b>	<b>Utility and Solid Waste Disposal Facility Uses</b>	<b>Subject To</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.	

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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)

**CLACKAMAS COUNTY ZONING AND DEVELOPMENT ORDINANCE**

<b>HV</b>	<b>LV</b>	<b>Parks, Public, and Quasi-Public Uses</b>	<b>Subject To</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.	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)



CLACKAMAS COUNTY ZONING AND DEVELOPMENT ORDINANCE

*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)
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(I)(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)
A	A	An outdoor mass gathering as defined in ORS 433.735, subject to ORS 433.735 to 433.770. However, an outdoor mass gathering permit under ORS 433.750 is not required for agri-tourism and other commercial events or activities permitted under ORS 215.283(4), 215.449, 215.451, and 215.452.	
TYPE III	TYPE III	An outdoor mass gathering of more than 3,000 persons any part of which is held outdoors and which continues or can reasonably be expected to continue for a period exceeding that allowable for an outdoor mass gathering as defined in ORS 433.735, subject to ORS 433.763	

- <sup>1</sup> The processing, compounding, or conversion of marijuana into cannabinoid extracts is prohibited.
- <sup>2</sup> Type II review is required except as established by Subsection 401.05(C)(1)(h).
- <sup>23</sup> Farming of a marijuana crop shall not be used to demonstrate compliance with the approval criteria for a dwelling. (See ORS 475CB.489526.)
- <sup>34</sup> The use is prohibited in an urban or rural reserve established pursuant to OAR chapter 660, division 27.
- <sup>45</sup> A commercial activity carried on in conjunction with a marijuana crop is prohibited. (See ORS 475CB.489526.)

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

- i. Intact exterior walls and roof structure;
- ii. Indoor plumbing consisting of a kitchen sink, toilet, and bathing facilities connected to a sanitary waste disposal system;
- iii. Interior wiring for interior lights; and
- iv. A heating system; and

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

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

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

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

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

A) Five years before the date of the destruction or demolition; or

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

~~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~~three months~~ from the date the replacement dwelling is certified for occupancy pursuant to ORS 455.055 or, in the case of a manufactured dwelling, within three months after the date of final inspection by County Building Codes; ~~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,~~ Planning Director 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 and 215.291 regarding replacement dwellings have changed to allow the lawful siting of another dwelling.

e. A replacement dwelling ~~under Subsection 401.05(C)~~ must:

i. Be sited on the same lot of record as the dwelling it is replacing;

ii. Comply with all applicable siting standards; however, the standards may not be applied in a manner that prohibits the siting of the replacement dwelling;

iii. Comply with applicable building codes, plumbing codes, sanitation codes, and other requirements relating to health and safety or to siting at the time of construction; ~~and However, the standards may not be~~

~~applied in a manner that prohibits the siting of the replacement dwelling.~~

iv. Comply with the construction provisions of Section R327 of the Oregon Residential Specialty Code, if:

A) The dwelling is in an area identified as extreme or high wildfire risk on the statewide map of wildfire risk described in ORS 477.490; or

B) No statewide map of wildfire risk has been adopted.

f. Construction of the replacement dwelling must commence no later than four years after the approval of the replacement dwelling application becomes final.

~~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)(~~h~~), the permit becomes void unless the dwelling to be replaced is removed or demolished within three months after the deferred replacement permit is issued; and the deferred replacement permit may not be transferred, by sale or otherwise, except by the applicant to the spouse or a child of the applicant.

h. The alteration, restoration, or replacement of a lawfully established dwelling requires review as a Type II application pursuant to Section 1307, Procedures, unless the dwelling to be altered, restored, or replaced:

i. Is the only dwelling on the lot of record other than a temporary dwelling approved pursuant to Section 1204, Temporary Permits, or a relative farm help or accessory farmworker dwelling approved pursuant to Subsection 401.05(C)(11) or (12), respectively;

ii. Currently has the features listed in Subsection 401.05(C)(1)(a); and

iii. Was lawfully established as demonstrated by:

A) An issued County building or manufactured dwelling placement permit approved by the Planning Director; or

B) Assessment records of the County Department of Assessment and Taxation that demonstrate that the dwelling was constructed before the application to the subject property of the first farm, forest, or mixed farm and forest zoning district that restricted the development of dwellings.

2. Lot of record dwelling when determined to be located on Low Value Farmland, 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 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).

- c. A relative farm help dwelling shall be occupied by relatives whose assistance in the management and farm use of the existing commercial farming operation, such as planting, harvesting, marketing, or caring for livestock, is required by the farm operator. The farm operator shall continue to play the predominant role in the management and farm use of the farm. "Relative" means a child, parent, stepparent, grandchild, grandparent, stepgrandparent, sibling, stepsibling, niece, nephew or first cousin, of the farm operator or the farm operator's spouse.
  - d. The size, type, and intensity of the farm operation shall be used to evaluate the need for the dwelling.
  - e. The net income derived from the farm products shall be significant and products from the farm unit shall contribute substantially to the agricultural economy, agricultural processors, and farm markets.
  - f. There are no other dwellings on the lot of record that are vacant or currently occupied by persons not working on the subject farm unit that could reasonably be used as a relative farm help dwelling.
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:
    - 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)(b)(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)(e)(i) or 401.05(C)(12)(e)(ii), whichever is applicable.
- c. 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.
- d. All multi-unit accessory dwellings shall be consistent with the intent of the Legislative Assembly as provided in ORS 215.243.
- e. 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.

- f. In determining the gross annual income, the cost of purchased livestock shall be deducted from the total gross income attributed to the tract.
- g. 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).
- h. “Farmworker”, means an individual who, for an agreed remuneration or rate of pay, performs labor, temporarily or on a continuing basis, for a person in the production of farm products, planting, cultivating or harvesting of seasonal agricultural crops; or forestation or reforestation of land, including but not limited to planting, transplanting, tubing, precommercial thinning and thinning of trees or seedlings, the clearing, piling and disposal of brush and slash and other related activities.

- i. “Farmworker Housing”, means housing limited to occupancy by farmworkers and their immediate families, and no dwelling unit of which is occupied by a relative of the owner or operator of the farmworker housing.
  - j. “Relative”, for the purposes of Subsection 401.05(C)(12), means an ancestor, lineal descendant, or whole or half sibling of the owner or operator or the spouse of the owner or operator.
  - k. “Farmworker Housing Owner”, means a person that owns farmworker housing. It does not mean a person whose interest in the farmworker housing is that of a holder of a security interest in the housing.
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).

D. Commercial Uses

1. The home occupation shall not unreasonably interfere with other uses permitted in the EFU District and shall not be used as justification for a zone change.
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. Agri-tourism or other commercial events or activities shall be incidental and subordinate to existing farm use on the tract. “Incidental and subordinate” means that the event or activity is strictly secondary and ancillary to on-site commercial farm uses or the commercial agricultural enterprises in the area in terms of income generated, area occupied, and off-site impacts. “Agri-tourism” means a commercial event or activity that is logically, physically, or economically connected to and supports an existing on-site farm operation and promotes the practice of agriculture.
4. 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.
5. 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.

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- 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.
6. 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.
  7. 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.
  8. 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)(8), “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)(8)(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.

9. 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



- 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. If the subject property has a local park master plan adopted as part of the Comprehensive Plan, the park is also subject to Section 714, *Special Use Overlay District*.

3. Community centers owned by a governmental agency or a nonprofit community organization and operated primarily by and for residents of the local rural community. A community center authorized under Subsection 401.05(H)(3) may provide services to veterans, including but not limited to emergency and transitional shelter, preparation and service of meals, vocational and educational counseling and referral to local, state or federal agencies providing medical, mental health, disability income replacement and substance abuse services, only in a facility that is in existence on January 1, 2006. The services may not include direct delivery of medical, mental health, disability income replacement or substance abuse services.
4. "Living History Museum" means a facility designed to depict and interpret everyday life and culture of some specific historic period using authentic buildings, tools, equipment and people to simulate past activities and events. As used in Subsection 401.05(H)(4), a living history museum shall be related to resource based activities and shall be owned and operated by a governmental agency or a local historical society. A living history museum may include limited commercial activities and facilities that are directly related to the use and enjoyment of the museum and located within authentic buildings of the depicted historic period or the museum administration building, if areas other than an exclusive farm use zone cannot accommodate the museum and related activities or if the museum administration buildings and parking lot are located within one quarter mile of an urban growth boundary. "Local historical society" means the local historical society, recognized as such by the county governing body and organized under ORS chapter 65.
5. 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. Nonconforming Uses

- 1. Existing facilities wholly within a farm use zone may be maintained, enhanced, or expanded on the same tract, subject to other requirements of law. An existing golf course may be expanded consistent with the requirements of Subsection 401.05(A)(1) and OAR 660-033-0130(20), but shall not be expanded to contain more than 36 total holes.
- 2. Notwithstanding ORS 215.283, Section 1206, or any other provision of this Ordinance, a public or private school, including all building essential to the operation of the school, formerly allowed pursuant to ORS 215.283(1)(a), as in effect before January 1, 2010, the effective date of 2009 Oregon Laws, chapter 850, section 14, may be expanded, provided:
  - a. The expansion complies with Subsection 401.05(A)(1);
  - b. The school was established on or before January 1, 2009;
  - c. The expansion occurs on a tax lot:
    - i. On which the school was established; or

- ii. Contiguous to and, on January 1, 2015, under the same ownership as the tax lot on which the school was established; and
  - d. The school is a public or private school for kindergarten through grade 12.
3. A nonconforming public or private school described in Subsection 401.05(I)(2) may be expanded without regard to:
- a. A maximum capacity of people in the structure or group of structures;
  - b. A maximum distance between structures; or
  - c. A maximum density of structures per acre.

401.06 PROHIBITED USES

Uses of structures and land not specifically permitted are prohibited.

401.07 DIMENSIONAL STANDARDS

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

401.08 LAND DIVISIONS

- A. A land division shall not separate a temporary dwelling for care, 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 1105.11. 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;
2. For a replacement dwelling approved pursuant to Subsection 401.05(C)(1), a building or manufactured dwelling placement permit for the replacement dwelling shall be obtained and maintained and construction of the replacement dwelling shall have commenced; or
3. For all other applications, a building or manufactured dwelling placement permit for a new primary structure that was the subject of the application shall be obtained and maintained. If no building or manufactured dwelling placement permit is required, all other necessary County development permits shall be obtained and maintained.

B. Time Extension: Except for approval of a Type II application for a replacement dwelling pursuant to Subsection 401.05(C)(1), if the approval of a Type I, II, or III application is not implemented within the initial approval period established by Subsection 401.10(A), a two-year time extension may be approved pursuant to Section 1310.

C. Exceptions: Subsections 401.10(A) and (B) do not apply to home occupations, 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*, 1203, *Conditional Uses*, or 1204, *Temporary Permits*, respectively.

CLACKAMAS COUNTY ZONING AND DEVELOPMENT ORDINANCE

[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; Amended by Ord. ZDO-283, 9/5/23; Amended by Ord. ZDO-286, 11/20/23]

**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, or a prefabricated structure.
- F. Firearms Training Facility: An indoor facility only, that provides training courses and issues certifications required for law enforcement personnel, by the Oregon Department of Fish and Wildlife, or by nationally recognized programs that promote shooting matches, target shooting, and safety.
- G. Forest Operation: Any commercial activity relating to the growing or harvesting of any forest tree species as defined in Oregon Revised Statutes 527.620(6).
- H. Navigation: References an instrument within a waterway or flightway that assists in traveling to a destination for water vessels and aircraft.

- I. Ownership: Holding fee title to a lot of record, except in those instances when the land is being sold on contract, the contract purchaser shall be deemed to have ownership. Ownership shall include all contiguous lots of record meeting this definition.
- J. 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.
- K. 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.
- L. Temporary Structures: Onsite structures which are auxiliary to and used during the term of a particular forest operation and used in the preliminary processing of a particular forest operation such as: pole and piling preparation, small portable sawmill, small pole building, etc. Temporary structures are allowed for a period not to exceed one year.
- M. Tract: One or more contiguous lots of record under the same ownership, including lots of record divided by a County or public road, or land contiguous at a common point. Lots of record divided by a state highway are not considered contiguous.

406.04 USES PERMITTED

Uses permitted in the TBR District are listed in Table 406-1, *Permitted Uses in the TBR District*.

A. As used in Table 406-1:

- 1. “A” means the use is 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.

6. Numbers in superscript correspond to the notes that follow Table 406-1.

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

**Table 406-1: Permitted Uses in the TBR District**

	Type	Use	Subject To
<b><u>FARM AND FOREST USES</u></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 <sub>1</sub> <u>TYPE II</u> <sup>1</sup>	Alteration, restoration, or replacement of a lawfully established dwelling.	406.05(A)(3) & (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
<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.	406.05(A)(1), (6) & (I)(2)

	Type	Use	Subject To
<b>OUTDOOR GATHERINGS</b>	A	An outdoor mass gathering as defined in ORS 433.735, subject to ORS 433.735 to 433.770	
	TYPE III	An outdoor mass gathering of more than 3,000 persons, any part of which is held outdoors and which continues or can reasonably be expected to continue for a period exceeding that allowable for an outdoor mass gathering as defined in ORS 433.735, subject to ORS 433.763	406.05(A)(1)

<sup>1</sup> Type II review is required except as established by Subsections 406.05(D)(1)(h) or (i).

## 406.05 APPROVAL CRITERIA FOR SPECIFIC USES

The following criteria apply to some of the uses listed in Table 406-1, *Permitted Uses in the TBR District*. The applicability of a specific criterion to a listed use is established by Table 406-1.

A. General Criteria

1. The use may be allowed provided that:
  - a. The proposed use will not force a significant change in, or significantly increase the cost of, accepted farming or forest practices on agriculture or forest lands; and
  - b. The proposed use will not significantly increase fire hazard or significantly increase fire suppression costs or significantly increase risks to fire suppression personnel.
2. A written statement recorded with the deed or written contract with the County or its equivalent is obtained from the land owner that recognizes the rights of the adjacent and nearby land owners to conduct forest operations consistent with the Oregon Forest Practices Act and Rules.
3. The landowner for the dwelling shall sign and record in the deed records for the County a document binding the landowner, and the landowner's successors in interest, prohibiting them from pursuing a claim for relief or cause of action alleging injury from farming or forest practices for which no action or claim is allowed under Oregon Revised Statutes (ORS) 30.936 or 30.937.
4. An approval to construct a dwelling may be transferred to any other person after the effective date of the land use decision.
5. If road access to the use is by a road owned and maintained by a private party or by the Oregon Department of Forestry, the United States Bureau of Land Management (BLM), or the United States Forest Service (USFS), then the applicant shall provide proof of a long-term road access use permit or agreement. The road use permit may require the applicant to agree to accept responsibility for road maintenance.
6. A land division for the use may be approved pursuant to Subsection 406.09(D).

B. Farm and Forest Uses

1. Temporary portable facility for the primary processing of forest products grown on-site for a period not to exceed one year.
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 ~~Aa~~ a lawfully established dwelling may be altered, restored, or replaced if that:
  - a. The dwelling to be altered, restored, or replaced has, or formerly had, the following features. "Formerly had" means that the dwelling possessed all the listed features within three years prior to the date an application is submitted for a replacement dwelling.
    - ia. ~~Has-I~~intact exterior walls and roof structure;
    - iib. ~~Has-I~~indoor plumbing consisting of a kitchen sink, toilet, and bathing facilities connected to a sanitary waste disposal system;
    - iiie. ~~Has-I~~interior wiring for interior lights; and
    - ivd. ~~Has-Aa~~ heating system; and
  - b. The dwelling to be altered, restored, or replaced meets one of the following conditions:
    - i. Unless the value of the dwelling was eliminated as a result of destruction or demolition, was assessed as a dwelling for purposes of ad valorem taxation since the later of:
      - A) Five years before the date of the application; or
      - B) The date that the dwelling was erected upon or fixed to the land and became subject to property tax assessment.
    - ii. If the value of the dwelling was eliminated as a result of destruction or demolition, was assessed as a dwelling for purposes of ad valorem taxation prior to the destruction or demolition and since the later of:

- A) Five years before the date of the destruction or demolition; or
  - B) The date that the dwelling was erected upon or fixed to the land and became subject to property tax assessment
- c. For replacement of a lawfully established dwelling, the dwelling to be replaced must be removed, demolished, or converted to an allowable nonresidential use within three months from the date the replacement dwelling is certified for occupancy pursuant to ORS 455.055 or, in the case of a manufactured dwelling, within three months after the date of final inspection by County Building Codes.
- ~~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.~~
- d. As a condition of approval, the applicant shall execute and cause to be recorded in the deed records a deed restriction prohibiting the siting of another dwelling on the lot of record. The restriction imposed is irrevocable unless the Planning Director places a statement of release in the deed records of the County to the effect that the provisions of ORS 215.283 and 215.291 regarding replacement dwellings have changed to allow the lawful siting of another dwelling.
- e. A replacement dwelling must:
  - i. Be sited on the same lot of record as the dwelling it is replacing;
  - ii. Comply with all applicable siting standards except as established by Subsection 406.05(D)(1)(h)(iv); however, the standards may not be applied in a manner that prohibits the siting of the replacement dwelling;
  - iii. Comply with applicable building codes, plumbing codes, sanitation codes, and other requirements relating to health and safety or to siting at the time of construction; and
  - iv. Comply with the construction provisions of Section R327 of the Oregon Residential Specialty Code, if:
    - A) The dwelling is in an area identified as extreme or high wildfire risk on the statewide map of wildfire risk described in ORS 477.490; or
    - B) No statewide map of wildfire risk has been adopted.

- f. Construction of the replacement dwelling must commence no later than four years after the approval of the replacement dwelling application becomes final.
- g. If an applicant is granted a deferred replacement permit, the deferred replacement permit does not expire but, notwithstanding Subsection 406.05(D)(1)(c), the permit becomes void unless the dwelling to be replaced is removed or demolished within three months after the deferred replacement permit is issued; and the deferred replacement permit may not be transferred, by sale or otherwise, except by the applicant to the spouse or a child of the applicant.
- h. The alteration, restoration, or replacement of a lawfully established dwelling pursuant to Subsections 406.05(D)(1)(a) through (g) requires review as a Type II application pursuant to Section 1307, *Procedures*, unless the dwelling to be altered, restored, or replaced:

  - i. Is the only dwelling on the lot of record other than a temporary dwelling approved pursuant to Section 1204, *Temporary Permits*, or an accessory dwelling supporting family forestry approved pursuant to Subsection 406.05(D)(7);
  - ii. Currently has the features listed in Subsection 406.05(D)(1)(a);
  - iii. Was lawfully established as demonstrated by:

    - A) An issued County building or manufactured dwelling placement permit approved by the Planning Director; or
    - B) Assessment records of the County Department of Assessment and Taxation that demonstrate that the dwelling was constructed before the application to the subject property of the first farm, forest, or mixed farm and forest zoning district that restricted the development of dwellings; and
  - iv. Will be sited no more than 100 feet from the dwelling to be replaced and is, therefore, exempt from Subsection 406.08(C). This distance shall be measured from the closest portion of each structure.
- i. Notwithstanding Subsections 406.05(D)(1)(a) through (h), a lawfully established dwelling that is destroyed by wildfire may be replaced within 60 months when substantial evidence demonstrates that the dwelling to be replaced contained the features listed in Subsection 406.05(D)(1)(a). Substantial evidence includes, but is not limited to, County Department of Assessment and Taxation data.
- i. The replacement dwelling must be certified for occupancy pursuant to ORS 455.055 or, in the case of a manufactured dwelling, have final

inspection completed by County Building Codes, within 60 months of the date of destruction of the dwelling to be replaced.

- ii. The dwelling to be replaced must be removed, demolished, or converted to an allowable nonresidential use within three months from the date the replacement dwelling is certified for occupancy pursuant to ORS 455.055 or, in the case of a manufactured dwelling, within three months after the date of final inspection by County Building Codes.
- iii. The property owner of record at the time of the wildfire may reside on the subject property in an existing building, tent, travel trailer, yurt, recreational vehicle, or similar accommodation until replacement has been completed or the time for replacement has expired.

2. Lot of record dwelling, subject to the following criteria:

- a. The lot of record on which the dwelling will be sited was lawfully created prior to January 1, 1985.
- b. The lot of record on which the dwelling will be sited was acquired by the present owner:
  - i. Prior to January 1, 1985; or
  - ii. By devise or intestate succession from a person who acquired the lot or parcel prior to January 1, 1985.
  - iii. As used in Subsection 406.05(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. If the lot of record on which the dwelling will be sited was part of a tract on January 1, 2019, no dwelling existed on the tract on that date, and no dwelling exists or has been approved on another lot of record that was part of the tract.
  - ~~g~~.h. The County Assessor's Office shall be notified of all approvals granted under Subsection 406.05(D)(3).
  - ~~h~~.i. The lot of record upon which the dwelling will be sited shall pass a template test, conducted as follows:
    - i. A 160 acre square template shall be centered upon the mathematical centroid of the subject tract. The template may be rotated around the centroid to the most advantageous position. After a position has been



selected, the template shall remain fixed while lots of record and dwellings are counted. If the subject tract is larger than 60 acres and abuts a road or perennial stream, the 160 acre template shall be one-quarter mile wide by one mile long, be centered upon the mathematical centroid of the subject tract, and, to the maximum extent possible, have its length aligned with the road or perennial stream.

- ii. If the predominant soil type on the subject tract has a forest production capability rating, as determined by the Natural Resources Conservation Service (NRCS) Internet Soils Survey of:
  - A) Less than 50 cubic feet per acre per year of wood fiber production, all or part of at least three other lots of record that existed on January 1, 1993, shall be within the template, and at least three lawfully established dwellings shall have existed on January 1, 1993, and continue to exist on the other lots of record within the template area; or
  - B) 50 to 85 cubic feet per acre per year of wood fiber production, all or part of at least seven other lots of record that existed on January 1, 1993, shall be within the template, and at least three lawfully established dwellings shall have existed on January 1, 1993, and continue to exist on the other lots of record within the template area; or
  - C) More than 85 cubic feet per acre per year of wood fiber production, all or part of at least 11 lots of record that existed on January 1, 1993, shall be within the template, and at least three lawfully established dwellings shall have existed on January 1, 1993, and continue to exist on the other lots of record within the template area.
- iii. The following types of lots of record and dwellings shall not be counted toward satisfying the minimum number of lots of record or dwellings required pursuant to Subsection 406.05(D)(3)(h)(ii) to pass a template test:
  - A) Lots of record or dwellings located within an urban growth boundary;
  - B) Temporary dwellings; and
  - C) The subject lot of record.
- iv. If the subject tract is larger than 60 acres and abutting a road or perennial stream, a minimum of one of the dwellings required by Subsection 406.05(D)(3)(h)(ii) shall be located on the same side of the road or stream as the subject tract and shall either be located within the

template or within one-quarter mile of the edge of the subject tract and not outside the length of the template. If a road crosses the tract on which the dwelling will be sited, a minimum of one of the dwellings required by Subsection 406.05(D)(3)(h)(ii) shall be located on the same side of the road as the proposed dwelling.

4. 160 acre minimum forest dwelling, subject to the following criteria:
  - a. The tract on which the dwelling is to be sited is at least 160 acres.
  - b. The tract on which the dwelling will be sited does not include a dwelling.
  - c. The lot of record upon which the dwelling is to be located was lawfully created.
  - d. The County Assessor's Office shall be notified of all approvals granted under Subsection 406.05(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 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).

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.
2. Public parks including only the uses specified under OAR 660-034-0035 or 660-034-0040, whichever is applicable. A public park may be established consistent with the provisions of ORS 195.120. If the subject property has a local park master plan adopted as part of the Comprehensive Plan, the park is also subject to Section 714, *Special Use Overlay District*.

406.06 PROHIBITED USES

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

406.07 DIMENSIONAL STANDARDS

- A. Minimum Lot Size: New lots of record shall be a minimum of 80 acres in size, except as provided in Subsection 406.09. For the purpose of complying with the minimum lot size standard, lots of record with street frontage on County or public

road rights-of-way may include the land area between the front lot line and the centerline of the County or public road right-of-way.

- B. Minimum Front Setback: 30 feet.
- C. Minimum Side Setback: 10 feet.
- D. Minimum Rear Setback: 30 feet; however, accessory buildings shall have a minimum rear yard setback of 10 feet.
- E. Modifications: Modifications to dimensional standards are established by Sections 800, *Special Uses*; 903, *Setback Exceptions*; 1107, *Property Line Adjustments*; and 1205, *Variances*.

406.08 DEVELOPMENT STANDARDS

- A. Fire-Siting Standards for New Structures: Fuel-free break standards shall be provided surrounding any new structure approved after April 28, 1992, pursuant to a land use application, as follows:
  - 1. A primary fuel-free break area shall be maintained surrounding any new structure, including any new dwelling.
    - a. The primary safety zone is a fire fuel break extending a minimum distance around structures. The minimum distance is established by Table 406-2, *Minimum Primary Safety Zone* and Figure 406-1, *Example of Primary Safety Zone*. The goal within the primary safety zone is to remove fuels that will produce flame lengths in excess of one foot. Vegetation within the primary safety zone may include green lawns and shrubs less than 24 inches in height. Trees shall be spaced with greater than 15 feet between the crowns and pruned to remove dead and low (less than eight feet) branches. Accumulated leaves, needles, limbs and other dead vegetation shall be removed from beneath trees. Nonflammable materials (i.e., rock) instead of flammable materials (i.e., bark mulch) shall be placed next to the structure. As slope increases, the primary safety zone shall increase away from the structure and down the slope at a 45-degree angle from the structure, in accordance with Table 406-2 and Figure 406-1:

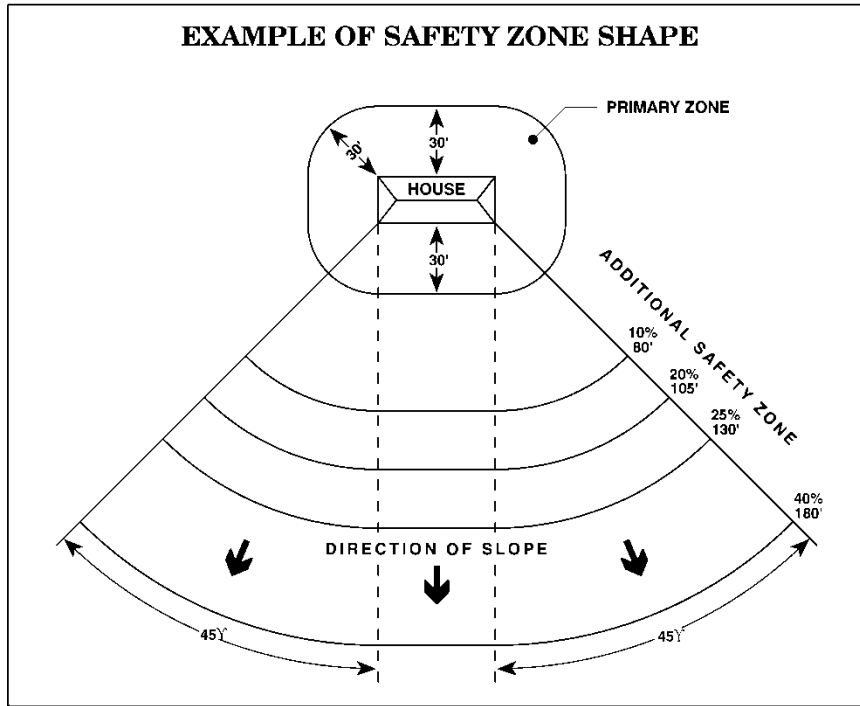
**Table 406-2: Minimum Primary Safety Zone**

Slope	Feet of Primary Safety Zone	Feet of Additional Primary Safety Zone Down Slope
0%	30	0
10%	30	50



20%	30	75
25%	30	100
40%	30	150

**Figure 406-1: Example of Primary Safety Zone**



2. For any new dwelling, a secondary fuel-free break area shall be cleared and maintained on land surrounding the dwelling that is owned or controlled by the owner.
  - a. The secondary fuel-free break extends around the primary safety zone required pursuant to Subsection 406.08(A)(1). The goal of the secondary fuel-free break shall be to reduce fuels so that the overall intensity of any wildfire would be lessened and the likelihood of crown fires and crowning is reduced. Vegetation within the secondary fuel-free break shall be pruned and spaced so that fire will not spread between crowns of trees. Small trees and brush growing underneath larger trees shall be removed to prevent spread of fire up into the crowns of the larger trees. Dead fuels shall be removed. The minimum width of the secondary fuel-free break shall be the lesser of:
    - i. 100 feet; or

- ii. The distance from the dwelling to the edge of land surrounding the dwelling that is owned or controlled by the owner.

3. Structures within a River and Stream Conservation Area or the Willamette River Greenway shall be sited consistent with the requirements of Sections 704, *River and Stream Conservation Area (RSCA)* and 705, *Willamette River Greenway (WRG)*, respectively. Structures shall be sited so that a primary safety zone can be completed around the structure outside of the river or stream corridor setback/buffer area. The area within the river or stream setback/buffer area shall be exempt from the secondary fuel-free break area requirements.
  4. The fuel-free break standards shall be completed and approved prior to issuance of any septic, building, or manufactured dwelling permits. Maintenance of the fuel-free breaks shall be the continuing responsibility of the property owner.
- B. Additional Fire-Siting Standards for New Dwellings: The following fire-siting standards shall apply to any new dwelling approved pursuant to a land use application based on standards in effect on or after February 5, 1990:
1. The dwelling shall be located upon a parcel within a fire protection district or shall be provided with residential fire protection by contract. If the dwelling is not within a fire protection district, the applicant shall provide evidence that the applicant has asked to be included within the nearest such district. If inclusion within a fire protection district or contracting for residential fire protection is impracticable, an alternative means for protecting the dwelling from fire hazards shall be provided. The means selected may include a fire sprinkling system, onsite equipment and water storage, or other methods that are reasonable, given the site conditions. If a water supply is required for fire protection, it shall be a swimming pool, pond, lake, or similar body of water that at all times contains at least 4,000 gallons or a stream that has a continuous year round flow of at least one cubic foot per second. The applicant shall provide verification from the Oregon Water Resources Department that any permits or registrations required for water diversion or storage have been obtained or that permits or registrations are not required for the use. Road access shall be provided to within 15 feet of the water's edge for firefighting pumping units. The road access shall accommodate the turnaround of firefighting equipment during the fires season. Permanent signs shall be posted along the access route to indicate the location of the emergency water source.
  2. The dwelling shall have a fire retardant roof.
  3. The dwelling shall not be sited on a slope of greater than 40 percent.
  4. If the dwelling has a chimney or chimneys, each chimney shall have a spark arrester.

C. Compatibility Siting Standards: The following compatibility siting standards shall apply to any new structure, including any new dwelling, approved pursuant to a land use application based on standards in effect on or after April 28, 1994:

1. Structures shall be sited on the subject property so that:
  - a. They have the least impact on nearby or adjoining forest or agricultural lands;
  - b. The siting ensures that adverse impacts on forest operations and accepted farming practices on the tract will be minimized;
  - c. The amount of forest lands used to site access roads, service corridors, and structures is minimized; and
  - d. The risks associated with wildfire are minimized.
2. Siting criteria satisfying Subsection 406.08(C)(1) may include setbacks from adjoining properties, clustering near or among existing structures, siting close to existing roads, and siting on that portion of the subject property least suited for growing trees.

D. The applicant shall provide evidence that the domestic water supply is from a source authorized in accordance with the Oregon Water Resources Department's (OWRD) administrative rules for the appropriation of ground water or surface water and not from a Class II stream as defined in the Oregon Forest Practices Rules (OAR chapter 629). Evidence of a domestic water supply means:

- a. Verification from a water purveyor that the use described in the application will be served by the purveyor under the purveyor's rights to appropriate water;
- b. A water use permit issued by the OWRD for the use described in the application; or
- c. Verification from the OWRD that a water use permit is not required for the use described in the application. If the proposed water supply is from a well and is exempt from permitting requirements under Oregon Revised Statutes 537.545, the applicant shall submit the well constructor's report to the County upon completion of the well.

#### 406.09 LAND DIVISIONS

Land divisions are permitted, if consistent with one of the following options and Subsections 1105.01(A) and 1105.11. 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;
2. For a replacement dwelling approved pursuant to Subsection 406.01(D)(1), a building or manufactured dwelling placement permit for the replacement dwelling shall be obtained and maintained and construction of the replacement dwelling shall have commenced; or
3. For all other applications, a building or manufactured dwelling placement permit for a new primary structure that was the subject of the application shall be obtained and maintained. If no building or manufactured dwelling placement permit is required, all other necessary County development permits shall be obtained and maintained.



- B. Time Extension: Except for approval of a Type II application for a replacement dwelling pursuant to Subsection 406.05(D)(1), if ~~H~~ 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, which shall be subject to any applicable approval period and time extension provisions of Sections 822, *Home Occupations*, 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-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; Amended by Ord. ZDO-283, 9/5/23; Amended by Ord. ZDO-286, 11/20/23]

**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, 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

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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	P	P	P	P	P	P <sup>7</sup>	S	C <sup>8</sup>	L <sup>6</sup>
<b>Drive-Thru Window Services</b> , subject to Section 827	C	A	A <sup>9</sup>	A	A	A	A <sup>10</sup>	X	X	A <sup>10</sup>	A <sup>10</sup>
<b>Dwellings<sup>11</sup>, including:</b>											
Congregate Housing Facilities	X	X	P <sup>12+,1 23</sup>	P <sup>143</sup>	P <sup>143</sup>	P <sup>143</sup>	P	P	L	P <sup>143</sup>	P <sup>12+,1 32</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>154</sup>	P	X
Multifamily Dwellings	X	X	P <sup>12+</sup>	P <sup>143</sup>	P <sup>143</sup>	P <sup>143</sup>	P	P	L <sup>154</sup>	P <sup>143</sup>	P <sup>12+</sup>
Quadplexes	X	X	P <sup>12+</sup>	P <sup>143</sup>	P <sup>143</sup>	P <sup>4+3</sup>	P	P	L <sup>154</sup>	P <sup>143</sup>	P <sup>12+</sup>
Townhouses	X	A	X	A	X	A	P	P	L <sup>165</sup>	X	X
Triplexes	X	X	X	P	P	P	P	P	L <sup>154</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>176</sup>	A <sup>176</sup>	A <sup>176</sup>
<b>Entertainment Facilities</b> , including arcades, billiard halls, bowling alleys, miniature golf courses, and movie theaters	C <sup>187</sup>	P <sup>187</sup>	P <sup>187</sup>	P	P	P	P <sup>187</sup>	P <sup>7,187</sup>	S	C <sup>8,187</sup>	L <sup>6,187</sup>
<b>Farmers' Markets</b> , subject to Section 840	P	P	P	P	P	P	P	P	P	P	P

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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>187</sup>	P <sup>187</sup>	P <sup>187</sup>	P	P	P	P <sup>187</sup>	P <sup>7,187</sup>	L <sup>187,198</sup>	C <sup>187</sup>	L <sup>187,204,9</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>210</sup>	C	C	C	X	X	X	C <sup>210</sup>	C <sup>210</sup>
<b>Helistops</b>	X	X	C <sup>210</sup>	C	C	C	C	C	X	C <sup>210</sup>	C <sup>210</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>7</sup>	S	L <sup>5,22+,C22+</sup>	P <sup>22+</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>232</sup>	S <sup>243</sup>	S	S	P	P	S	P <sup>254,265</sup>	S	P <sup>276</sup>	S



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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 retailled on the same site, and also including the wholesale distribution of edible or drinkable products that are manufactured and retailled on the same site.	S	P	S	S	P	P	S	P <sup>254,265</sup>	S	P <sup>276</sup>	S
<b>Marijuana Processing</b>	X	X	X	X	P <sup>287</sup>	P <sup>287</sup>	X	P <sup>254,287</sup>	X	P <sup>276,287</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>7</sup>	X	P <sup>8</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>298</sup>	A <sup>298</sup>	A <sup>298</sup>
<b>Motels</b>	P	P	P	P	P	P	P	P <sup>7</sup>	S	L <sup>5,3029,029</sup> , C <sup>3</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

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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>310</sup>	A
<b>Parking Structures</b>	X	A <sup>32+</sup>	P <sup>310</sup>	P <sup>310</sup>	P	P	A	A	A <sup>32+</sup>	P <sup>310</sup>	P <sup>310</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>Places of Worship</b> , subject to Section 804	P	P	P	P	P	P	P	P	P	P	P
<b>Public Utility Facilities</b>	S	C	C <sup>332</sup>	C <sup>332</sup>	C	C	S	S	S	S	S
<b>Race Tracks, Outdoor</b>	X	X	X	X	X	C	X	X	X	X	X

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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 Studios</b> , excluding transmission towers	C	P	P	P	P	P	P	P	S	P	P
<b>Radio and Television Transmission and Receiving Towers and Earth Stations</b> <sup>343</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>187</sup>	P <sup>187</sup>	P <sup>187</sup>	P	P	P	P <sup>187</sup>	P <sup>7,187</sup>	S	C <sup>187</sup>	L <sup>187,209</sup>
<b>Recyclable Drop-Off Sites</b> , subject to Section 819	A	A	A <sup>354</sup>	A <sup>354</sup>	A	A	A <sup>354</sup>	A <sup>354</sup>	A <sup>354</sup>	A <sup>354</sup>	A <sup>354</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>276</sup>	P	P <sup>365</sup>	P <sup>365</sup>	P <sup>276</sup>
<b>Retailing</b> —whether by sale, lease, or rent—of new or used products	S	S	P	P	P	P	P	P <sup>7</sup>	S	C <sup>8</sup>	L <sup>6</sup>

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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>7</sup>	L <sup>198,376</sup> , S	L <sup>5,376</sup> ,C <sup>8</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>8</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

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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>387</sup>	P <sup>387</sup>	P	P	P	P	P	P	L <sup>398</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>7</sup>	S	C <sup>8</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>8</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>7</sup>	L <sup>18</sup>	L <sup>5</sup> ,C <sup>4039</sup>	L <sup>6,410</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>7</sup>	S	C <sup>8</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>8</sup>	L <sup>6</sup>

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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>7</sup>	S	C <sup>8</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>7</sup>	L <sup>198</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

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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>7</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>2,5,4</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>42+</sup>	A <sup>42+</sup>	A <sup>42+</sup>	A <sup>42+</sup>	A <sup>42+</sup>	A <sup>42+</sup>	A <sup>42+</sup>	A <sup>42+</sup>	A <sup>42+</sup>	A <sup>42+</sup>	A <sup>42+</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

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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>43</sup> <sub>2</sub>	P,C <sup>43</sup> <sub>2</sub>	P,C <sup>43</sup> <sub>2</sub>	P,C <sup>43</sup> <sub>2</sub>	P,C <sup>43</sup> <sub>2</sub>	P,C <sup>43</sup> <sub>2</sub>	P,C <sup>432</sup>	P,C <sup>432</sup>	P,C <sup>432</sup>	P,C <sup>432</sup>	P,C <sup>43</sup> <sub>2</sub>
<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>9</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>10</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>11</sup> Dwellings not otherwise permitted in the applicable zoning district may nonetheless be permitted if they are developed as affordable housing, as defined in ORS 197A.445(1), and subject to Section 846, *Affordable Housing*.
- <sup>12+</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>132</sup> A congregate housing facility shall have a minimum of four dwelling units.
- <sup>143</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>154</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>165</sup> Townhouses, subject to the density standards of the VTH District, may be developed in the same building as a primary use.
- <sup>176</sup> Employee amenities shall be located in the same structure as the use to which they are accessory.
- <sup>8+7</sup> Only indoor facilities are permitted.
- <sup>198</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>1920</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.

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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.

<sup>210</sup> This use is permitted only in conjunction with a primary or another conditional use.

<sup>221</sup> 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.

<sup>232</sup> In the NC District, sign production is a conditional use.

<sup>243</sup> In the C-2 District, sign production is a permitted use.

<sup>254</sup> 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.

<sup>265</sup> Manufacturing of the following is prohibited: explosive devices; incendiary devices; and renewable fuel resources, such as alcohol, biomass, and methanol.

<sup>276</sup> 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.

<sup>287</sup> 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.

<sup>298</sup> Only level one mobile vending units are permitted.

<sup>3029</sup> 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.

<sup>310</sup> The parking is permitted to serve only developments located in the same zoning district as the subject property.

<sup>321</sup> This use is limited to understructure parking.

<sup>332</sup> Only substations are permitted.

<sup>343</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>354</sup> Recyclable drop-off sites are permitted only if accessory to an institutional use.

<sup>365</sup> No operation shall be conducted or equipment used which would create hazards and/or noxious or offensive conditions.

- <sup>376</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>387</sup> Only commercial schools are permitted.
- <sup>398</sup> Schools shall be limited to no more than 30 percent of the total building floor area on a site.
- <sup>4039</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>410</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>421</sup> Temporary signs regulated under Subsection 1010.13(A) are a primary use.
- <sup>432</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 1005.09	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 1005.09	10 feet	15 feet	5 feet <sup>9</sup>

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<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 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 1005.09	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 1005.09	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

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Standard	NC	C-2	RCC	RTL	CC	C-3	PMU	SCMU	OA	OC	RCO
Minimum Residential Density	None	None	30 dwelling units per net acre for freestanding multifamily dwellings and freestanding congregate housing facilities; none if these uses are in a building with another primary use <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 1005.02(H). However, see Subsection 1005.02(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 1005.07(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.

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- 10 If the rear lot line abuts a residential zoning district, the minimum shall be 15 feet.
- 11 If the rear lot line abuts a residential zoning district, the minimum shall be 35 feet.
- 12 If the rear lot line abuts a residential zoning district, the minimum shall be 15 feet plus one foot for each one-foot increase in building height over 35 feet. Height increments of less than one foot shall be rounded up to the nearest foot. For example, if the building height is 38.8 feet, the minimum setback shall be 19 feet.
- 13 If the rear lot line abuts an Urban Low Density Residential, VR-4/5, or VR-5/7 zoning district, the minimum shall be: 10 feet for the portion of a building that is 25 feet or less in height; 20 feet for the portion of a building that is greater than 25 feet and less than or equal to 35 feet in height; and 40 feet for the portion of a building that is greater than 35 feet and less than or equal to 45 feet in height.
- 14 If the rear lot line abuts a residential zoning district, the minimum shall be 35 feet plus one foot for each one-foot increase in building height over 35 feet. Height increments of less than one foot shall be rounded up to the nearest foot. For example, if the building height is 38.8 feet, the minimum setback shall be 39 feet.
- 15 If the side lot line abuts a residential zoning district, the minimum shall be 15 feet.
- 16 If the side lot line abuts a residential zoning district, the minimum side yard setback shall be 15 feet plus one foot for each one-foot increase in building height over 35 feet. Height increments of less than one foot shall be rounded up to the nearest foot. For example, if the building height is 38.8 feet, the minimum setback shall be 19 feet.
- 17 If the side lot line abuts an Urban Low Density Residential, VR-4/5, or VR-5/7 zoning district, the minimum shall be: six feet for the portion of a building that is 25 feet or less in height; 16 feet for the portion of a building that is greater than 25 feet and less than or equal to 35 feet in height; and 40 feet for the portion of a building that is greater than 35 feet and less than or equal to 45 feet in height.
- 18 If the side lot line abuts a residential zoning district, the minimum shall be 35 feet.
- 19 If the subject property abuts a residential zoning district, the maximum building height shall be 35 feet.
- 20 If the building is located less than 100 feet from an Urban Low Density Residential, VR-4/5, or VR-5/7 District, the maximum building height shall be equal to the building's distance from the Urban Low Density Residential, VR-4/5, or VR-5/7 District.



- <sup>21</sup> Floor area ratio shall be calculated pursuant to Subsection 1005.02(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 1005.02(K). With a master plan approved pursuant to Subsection 1102.03(B), a lot greater than two and one-half acres may be developed in phases, provided that the minimum floor area ratio of each phase prior to the final phase is 0.5 and that the minimum floor area ratio of 1.0 is achieved for the entire lot with development of the final phase.
Retail uses and service commercial uses, minimum FAR	0.3, calculated pursuant to Subsection 1005.02(K)
Residential density <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 Ord. ZDO-273, on remand, 5/30/23; Amended by Ord. ZDO-287, 8/3/23; Amended by Ord. ZDO-283, 9/5/23]

**511 VILLAGE COMMUNITY SERVICE DISTRICT (VCS)**

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511.01 PURPOSE

Section 511 is adopted to implement the policies of the Comprehensive Plan for Village Community Service areas.

511.02 APPLICABILITY

Section 511 applies to land in the Village Community Service (VCS) District.

511.03 USES PERMITTED

Uses permitted in the VCS District are listed in Table 511-1, *Permitted Uses in the VCS District*. In addition, uses similar to one or more of the listed uses may be authorized pursuant to Section 106, *Authorizations of Similar Uses*.

A. As used in Table 511-1:

1. “P” means the use is a primary use.
2. “A” means the use is an accessory use.
3. “C” means the use is a conditional use, approval of which is subject to Section 1203, *Conditional Uses*.
4. “X” means the use is prohibited.
5. Numbers in superscript correspond to the notes that follow Table 511-1.

B. Permitted uses are subject to the applicable provisions of Subsection 511.04, *Dimensional Standards*, Subsection 511.05, *Development Standard*, Section 1000, *Development Standards*, and Section 1100, *Development Review Process*.

511.04 DIMENSIONAL STANDARDS

The following dimensional standards apply in the VCS District. Modifications to the dimensional standards are established by Sections 800, *Special Use Requirements*; 903, *Setback Exceptions*; 904, *Height Exceptions*; 1107, *Property Line Adjustments*; and 1205, *Variances*.

- A. Setback: The setback from lot lines abutting Oregon Trail Drive and Hines Drive shall be zero. The minimum setback from all other lot lines shall be five feet.
- B. Maximum Building Height: Maximum building height shall be 35 feet.

511.05 DEVELOPMENT STANDARD

All primary and accessory uses, including storage of materials, products, or waste, shall be wholly contained within an approved structure.

**Table 511-1: Permitted Uses in the VCS District**

Use	VCS
<b>Accessory Uses, Customarily Permitted</b> , such as bicycle racks, cogeneration facilities, meeting facilities, property maintenance and property management offices, rainwater collection systems, satellite dishes, solar energy systems, storage of building maintenance and landscape maintenance equipment, and transit amenities	A
<b>Assembly Facilities</b> , including auditoriums, community centers, and senior centers	P
<b>Athletic Clubs</b>	C
<b>Bus Shelters</b>	A
<b>Child Care Facilities</b>	P
<b>Civic and Cultural Facilities</b> , including art galleries and museums	P <sup>1</sup> ,C <sup>2</sup>
<b>Community Gardens</b>	P
<b>Composting Facilities</b>	X
<b>Daycare Services, Adult</b>	P
<u><b>Dwellings</b>, if developed as affordable housing, as defined in ORS 197A.445(1), subject to Section 846, Affordable Housing</u>	<u>P</u>
<b>Electric Vehicle Charging Stations</b>	A
<b>Employee Amenities</b> , including cafeterias, clinics, daycare facilities, fitness facilities, lounges, and recreational facilities	A <sup>3</sup>
<b>Farmers' Markets</b> , subject to Section 840	P
<b>Government Uses</b> , including fire stations, police stations, and post offices	P
<b>Libraries</b>	P
<b>Marijuana Processing</b>	X
<b>Marijuana Production</b>	X
<b>Marijuana Retailing</b>	X
<b>Marijuana Wholesaling</b>	X
<b>Offices</b> , including developer sales offices and professional offices	C
<b>Offices</b> , including government offices and utility offices	P
<b>Pedestrian Amenities</b>	P
<b>Places of Worship</b> , subject to Section 804	P
<b>Public Recreation Facilities</b>	P

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Use	VCS
<b>Recyclable Drop-off Sites</b> , subject to Section 819	A
<b>Roads</b>	P
<b>Schools</b>	P
<b>Signs</b> , subject to Section 1010	A <sup>4</sup>
<b>Telecommuting Support Services</b> , including photocopying centers with fax and computer facilities	P
<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
<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
<b>Utility Carrier Cabinets</b> , subject to Section 830	P,C <sup>5</sup>
<b>Wireless Telecommunication Facilities</b> , subject to Section 835	See Table 835-1

Notes to Table 511-1:

- <sup>1</sup> Museums are a primary use.
- <sup>2</sup> Art galleries are a conditional use.
- <sup>3</sup> Employee amenities shall be located in the same structure as the use to which they are accessory.
- <sup>4</sup> Temporary signs regulated under Subsection 1010.13(A) are a primary use.
- <sup>5</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).

[Added by Ord. ZDO-250, 10/13/14; Amended by Ord. ZDO-253, 6/1/15; Amended by Ord. ZDO-254, 1/4/16; Amended by Ord. ZDO-266, 5/23/18; Amended by Ord. ZDO-268, 10/2/18; Amended by Ord. ZDO-280, 10/23/21; Amended by Ord. ZDO-287, 8/3/23]

**512 VILLAGE OFFICE DISTRICT (VO)**

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512.01 PURPOSE

Section 512 is adopted to implement the policies of the Comprehensive Plan for Village Office areas.

512.02 APPLICABILITY

Section 512 applies to land in the Village Office (VO) District.

512.03 USES PERMITTED

Uses permitted in the VO District are listed in Table 512-1, *Permitted Uses in the VO District*. In addition, uses similar to one or more of the listed uses may be authorized pursuant to Section 106, *Authorizations of Similar Uses*.

A. As used in Table 512-1:

1. “P” means the use is a primary use.
2. “A” means the use is an accessory use.
3. “L” means the use is a limited use.
4. “C” means the use is a conditional use, approval of which is subject to Section 1203, *Conditional Uses*.
5. “X” means the use is prohibited.
6. Numbers in superscript correspond to the notes that follow Table 512-1.

B. Permitted uses are subject to the applicable provisions of Subsection 512.04, *Dimensional Standards*, Subsection 512.05, *Development Standard*, Section 1000, *Development Standards*, and Section 1100, *Development Review Process*.

512.04 DIMENSIONAL STANDARDS

The following dimensional standards apply in the VO District. Modifications to the dimensional standards are established by Sections 800, *Special Use Requirements*; 903, *Setback Exceptions*; 904, *Height Exceptions*; 1107, *Property Line Adjustments*; and 1205, *Variances*.

A. Maximum Front Setback: The maximum front setback shall be 50 feet from the centerline of 142<sup>nd</sup> Avenue, 75 feet from the centerline of Sunnyside Road, and 10 feet from lot lines abutting any other road. The maximum front setback may be exceeded to the minimum extent necessary to accommodate proposed pedestrian amenities.



- B. Minimum Front Setback: The minimum front setback shall be 40 feet from the centerline of 142<sup>nd</sup> Avenue, 65 feet from the centerline of Sunnyside Road, and five feet from lot lines abutting any other road. Awnings or other overhangs may extend a maximum of four feet into the minimum front yard depth.
- C. Rear Setback: The maximum and minimum front setback standards for lot lines abutting 142<sup>nd</sup> Avenue and Sunnyside Road shall apply even if a lot line abutting 142<sup>nd</sup> Avenue or Sunnyside Road is designated as a rear lot line pursuant to the definition of rear lot line in Section 202, *Definitions*.
- D. Maximum Building Height: Maximum building height shall be 45 feet.

512.05 DEVELOPMENT STANDARD

Primary and accessory uses, including storage of materials, products, or waste, shall be wholly contained within an approved structure.

**Table 512-1: Permitted Uses in the VO District**

Use	VO
<b>Accessory Uses, Customarily Permitted</b> , such as bicycle racks, cogeneration facilities, meeting facilities, property maintenance and property management offices, rainwater collection systems, satellite dishes, solar energy systems, storage of building maintenance and landscape maintenance equipment, and transit amenities	A
<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 <sup>1,2</sup>
<b>Bus Shelters</b>	A
<b>Child Care Facilities</b>	L <sup>3,4</sup> ,C <sup>5</sup>
<b>Civic and Cultural Facilities</b> , including art galleries and museums	C <sup>1</sup>
<b>Composting Facilities</b>	X
<b>Daycare Services, Adult</b>	L <sup>3,6</sup> ,C <sup>5</sup>
<b>Dwellings</b> , if developed as affordable housing, as defined in ORS 197A.445(1), subject to Section 846, <i>Affordable Housing</i>	<u>P</u>
<b>Educational Institutes</b>	C <sup>7</sup>
<b>Electric Vehicle Charging Stations</b>	A
<b>Employee Amenities</b> , including cafeterias, clinics, daycare facilities, fitness facilities, lounges, and recreational facilities	A <sup>8</sup>
<b>Farmers' Markets</b> , subject to Section 840	P

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Use	VO
<b>Financial Institutions</b> , including banks, brokerages, credit unions, loan companies, and savings and loan associations	P
<b>Fitness Facilities</b> , including athletic clubs, exercise studios, gymnasiums, and health clubs	C
<b>Libraries</b>	C <sup>1</sup>
<b>Manufacturing</b> , including the mechanical, physical, or chemical transformation of materials, substances, or components into new products; and the assembly of component parts. Primary processing of raw materials is prohibited.	P <sup>9</sup>
<b>Marijuana Processing</b>	P <sup>9,10</sup>
<b>Marijuana Production</b>	X
<b>Marijuana Retailing</b>	X
<b>Marijuana Wholesaling</b>	X
<b>Mobile Vending Units, Level One</b> , subject to Section 837	A
<b>Offices</b> , including administrative, business, corporate, governmental, and professional offices. Examples include offices for the following: architectural services, business management services, call centers, employment agencies, engineering services, governmental services, insurance services, legal services, manufacturer’s representatives, office management services, property management services, real estate agencies, and travel agencies.	P
<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
<b>Pedestrian Amenities</b>	P
<b>Radio and Television Studios</b> , excluding transmission towers	C <sup>7</sup>
<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.	C
<b>Recyclable Drop-off Sites</b> , subject to Section 819	A
<b>Research Facilities and Laboratories</b> , including medical laboratories, medical research, product design and testing, and product research and development	P <sup>11</sup>
<b>Roads</b>	P

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Use	VO
<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
<b>Services, Commercial—Food and Beverage</b> , including catering and eating and drinking establishments	L <sup>3</sup>
<b>Services, Information</b> , including blueprinting, bookbinding, photo processing, photo reproduction, printing, and publishing	P
<b>Signs</b> , subject to Section 1010	A <sup>12</sup>
<b>Studios</b> of the following types: art, dance, and music	C <sup>7</sup>
<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
<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
<b>Trade Schools.</b> Trade schools provide training in occupational skills. These facilities also may be referred to as technical schools, vocational schools, and career schools.	C <sup>7</sup>
<b>Utility Carrier Cabinets</b> , subject to Section 830	P,C <sup>13</sup>
<b>Wireless Telecommunication Facilities</b> , subject to Section 835	See Table 835-1

Notes to Table 512-1:

- <sup>1</sup> This use is permitted only if there is no opportunity to locate it either in the VCS District or on land zoned VCS prior to annexation to the City of Happy Valley.
- <sup>2</sup> An assembly facility shall have a maximum capacity of 500 people.
- <sup>3</sup> The maximum building floor area of the use, and any other limited uses, shall be 20 percent of the building floor area of primary uses in the same development.
- <sup>4</sup> The use shall be integrated within office buildings and shall neither exceed 1,500 square feet nor serve more than 13 children.
- <sup>5</sup> The use shall be located in the southern half of the VO District and shall be oriented toward the adjacent residential neighborhood.

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- 6 The use shall be integrated within office buildings and shall neither exceed 1,500 square feet nor serve more than 13 adults.
- 7 This use is permitted only if there is no opportunity to locate it on land zoned Village Commercial District prior to annexation to the City of Happy Valley.
- 8 Employee amenities shall be located in the same structure as the use to which they are accessory.
- 9 This use is allowed only if it has physical and operational requirements that are similar to those of other primary uses allowed in the VO District.
- 10 The processing, compounding, or conversion of marijuana into cannabinoid concentrates or cannabinoid extracts is prohibited.
- 11 No operation shall be conducted, or equipment used, that would create any of the following: hazards, noxious conditions, or offensive conditions.
- 12 Temporary signs regulated under Subsection 1010.13(A) are a primary use.
- 13 Utility carrier cabinets are a conditional use if the combined volume of all cabinets located on a single lot exceeds the applicable maximum established pursuant to Subsection 830.01(A).

[Added by Ord. ZDO-250, 10/13/14; Amended by Ord. ZDO-253, 6/1/15; Amended by Ord. ZDO-254, 1/4/16; Amended by Ord. ZDO-266, 5/23/18; Amended by Ord. ZDO-268, 10/2/18; Amended by Ord. ZDO-280, 10/23/21]

**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).

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- 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>Dwellings</b> , if developed as affordable housing, as defined in ORS 197A.445(1), and subject to Section 846, <i>Affordable Housing</i>	<u>P</u>	<u>P</u>	<u>X</u>
<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>

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Use	BP	LI	GI
<p><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.</p>	X	P	P
<p><b>Heliports</b></p>	C	C	C
<p><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	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	P
<p><b>Large-Scale Laundry, Dry-Cleaning, and Carpet-Cleaning Plants</b></p> <p>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	P
<p><b>Level One Mobile Vending Units</b>, subject to Section 837</p>	A	A	A

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Use	BP	LI	GI
<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
<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

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Use	BP	LI	GI
<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>
<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>

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Use	BP	LI	GI
<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
<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

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Use	BP	LI	GI
<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**

<b>Standard</b>	<b>BP</b>	<b>LI</b>	<b>GI</b>
Minimum Lot Size <sup>1</sup>	3 acres	1 acre <sup>2</sup>	1 acre <sup>2</sup>
Maximum Front Setback	See Subsections 1005.02(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 Setback	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 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; Amended by Ord. ZDO-283, 9/5/23]

**833 GUEST HOUSES**

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833.01 STANDARDS

Guest houses shall comply with the following standards:

- A. Use: A guest house shall not be a source of rental income, except that a guest house may be used as a short-term rental. If not used as a short-term rental, a guest house shall be used only by members of the family residing in the primary dwelling, their nonpaying guests, or their nonpaying employees who work on the premises.
- B. Number: Only one guest house shall be allowed per lot of record.
- C. Maximum Floor Area: The maximum floor area shall be 600 square feet. When calculating floor area, all contiguous space in a building shall be included except:
  - 1. Space that is separated from the guest house with a wall that does not contain a door; and
  - 2. Space that is separated from the guest house with a wall that contains a door, if the door provides access only to unconditioned space (i.e., with no heating or cooling) that is provided with no plumbing.
- D. Maximum Separation Distance: The guest house shall be located within 100 feet of the primary dwelling to which it is accessory. This distance shall be measured from the closest portion of each structure.
- E. Facilities: The guest house may contain one bathroom plus one additional sink but shall not include laundry facilities, a stove, oven, or other cooking appliances.
- F. Utilities: All public water, electric, natural gas, and sanitary sewer service for the guest house shall be extended from the primary dwelling services. No separate meters for the guest house shall be allowed.
- G. On-Site Wastewater Treatment Systems: A guest house shall use the same on-site wastewater treatment system as the primary dwelling except when a separate system is required by the County due to site constraints, failure of the existing system, or where the size or condition of the existing system precludes its use.

[Amended by Ord. ZDO-268, 10/2/18; Amended by Ord. ZDO-273, 1/17/21; Amended by Land Use Board of Appeals Remand of Ord. ZDO-273, 1/24/22; Amended by Ord. ZDO-273, on remand, 5/30/23]

839 ACCESSORY DWELLING UNITS

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839.01 STANDARDS INSIDE AN URBAN GROWTH BOUNDARY OR UNINCORPORATED COMMUNITY NUMBER ALLOWED

Accessory dwelling units inside an urban growth boundary or unincorporated community shall comply with the following standards:

- A. Only one accessory dwelling unit shall be allowed per detached single-family dwelling or manufactured dwelling.
- B. No accessory dwelling unit shall be allowed in a cottage cluster development, or in a manufactured dwelling park, or accessory to a temporary dwelling approved pursuant to Section 1204, *Temporary Permits*.
- C. In the R-2.5 and VTH Districts, only one accessory dwelling unit shall be allowed per townhouse.

D. The maximum floor area of an accessory dwelling unit shall be:

- 1. 500 square feet in the R-2.5 District; and
- 2. 900 square feet in all other zoning districts except the VR-4/5, VR-5/7, and VTH Districts.

E. When calculating floor area, all contiguous space in a building shall be included except:

- 1. A primary dwelling unit;
- 2. Space that is separated from the accessory dwelling unit with a wall that does not contain a door; and
- 3. Space that is separated from the accessory dwelling unit with a wall that contains a door, if the door provides access only to unconditioned space (i.e., with no heating or cooling) that is provided with no plumbing.

~~839.02 — 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.~~

839.023 STANDARDS IN THE VR-4/5 AND VR-5/7 DISTRICTS

In the VR-4/5 and VR-5/7 Districts, accessory dwelling units shall comply with the following standards:

- A. An accessory dwelling unit either may be located above a detached garage, or it may be integral to a primary dwelling.
- B. If the accessory dwelling unit is located above a detached garage:
  - 1. The maximum floor area of the accessory dwelling unit shall be 900 square feet. When calculating floor area, all contiguous space in a building shall be included except:
    - a. A primary dwelling unit;
    - b. Space that is separated from the accessory dwelling unit with a wall that does not contain a door; and
    - c. Space that is separated from the accessory dwelling unit with a wall that contains a door, if the door provides access only to unconditioned space (i.e., with no heating or cooling) that is provided with no plumbing.
  - 2. The accessory dwelling unit shall be subject to the standards in Table 315-3, *Dimensional and Building Design Standards in the VR-5/7, VR-4/5, and VTH Districts*, that apply to accessory structures in the VR-4/5 and VR-5/7 Districts.
- C. If the accessory dwelling unit is integral to a primary dwelling, it shall be subject to the standards in Table 315-3 that apply to primary dwellings in the VR-4/5 and VR-5/7 Districts.

#### 839.034 STANDARDS IN THE VTH DISTRICT

In the VTH District, accessory dwelling units shall comply with the following standards:

- A. An accessory dwelling unit either may be located above a detached garage, or it may be integral to a primary dwelling.
- B. If the accessory dwelling unit is located above a detached garage:
  - 1. The maximum floor area of the accessory dwelling unit shall be 500 square feet. When calculating floor area, all contiguous space in a building shall be included except:
    - a. A primary dwelling unit;
    - b. Space that is separated from the accessory dwelling unit with a wall that does not contain a door; and
    - c. Space that is separated from the accessory dwelling unit with a wall that contains a door, if the door provides access only to unconditioned space (i.e., with no heating or cooling) that is provided with no plumbing.

2. The accessory dwelling unit shall be subject to the dimensional standards in Table 315-3, *Dimensional and Building Design Standards in the VR-5/7, VR-4/5, and VTH Districts*, that apply to accessory structures in the VTH District.
- C. If the accessory dwelling unit is integral to a primary dwelling, it shall be subject to the standards in Table 315-3 that apply to primary dwellings in the VTH District and to Subsection 1005.11(A).

839.04 STANDARDS OUTSIDE AN URBAN GROWTH BOUNDARY AND UNINCORPORATED COMMUNITY

Accessory dwelling units outside both an urban growth boundary and an unincorporated community shall comply with the following standards:

- A. Only one accessory dwelling unit shall be allowed per lot of record.
- B. The lot of record on which the accessory dwelling unit will be sited shall:
  1. Be a minimum of two acres;
  2. Contain one, and only one, detached single-family dwelling, prefabricated structure, or manufactured dwelling;
  3. Not contain any other dwelling, including, but not limited to, dwellings approved pursuant to Section 846, *Recreational Vehicles as Second Dwellings*, or Section 1204, *Temporary Permits*;
  4. Not contain a guest house;
  5. Be served by a fire protection service provider with professionals who have received training or certification described in Oregon Revised Statutes (ORS) 181A.410.
- C. The primary dwelling on the lot of record shall not be subject to an order declaring it a nuisance or subject to any pending action under ORS 105.550 to 105.600.
- D. The accessory dwelling unit shall comply with the following standards:
  1. Maximum Floor Area: The floor area of the accessory dwelling unit shall not exceed 900 square feet. When calculating floor area, all contiguous space in a building shall be included except:
    - a. A primary dwelling unit;
    - b. Space that is separated from the accessory dwelling unit with a wall that does not contain a door; and

- c. Space that is separated from the accessory dwelling unit with a wall that contains a door, if the door provides access only to unconditioned space (i.e., with no heating or cooling) that is provided with no plumbing.
- 2. Maximum Separation Distance: The accessory dwelling unit shall be located within 100 feet of the primary dwelling. This distance shall be measured from the closest portion of each structure.
- 3. Minimum Setbacks: The accessory dwelling unit shall comply with the minimum setback standards for primary dwellings in the applicable zoning district.
- 4. Access: Adequate access shall be provided for firefighting equipment, safe evacuation, and staged evacuation areas. Access shall be considered “adequate” if, prior to approval of an onsite wastewater treatment, building, or manufactured dwelling placement permit for the accessory dwelling unit, documentation is submitted from the fire protection service provider acknowledging compliance with the provider’s access standards.
- 5. Wildfire Hazard Mitigation:
  - a. The construction provisions of Section R327 of the Oregon Residential Specialty Code shall apply to:
    - i. All accessory dwelling units, if the Statewide Wildfire Hazard Map described in ORS 477.490 has not been approved.
    - ii. Accessory dwelling units only in areas designated as high wildfire hazard, identified pursuant to ORS 477.490, if the Statewide Wildfire Hazard Map described in ORS 477.490 has been approved.
  - b. Minimum defensible space rules established by the State Fire Marshal, as described in ORS 476.392, shall apply to accessory dwelling units located in areas designated as wildland-urban interface, identified pursuant to ORS 477.490, if the Statewide Wildfire Hazard Map described in ORS 477.490 has been approved.
- E. Use of the accessory dwelling unit as a short-term rental is prohibited.
- F. The placement or construction of any additional dwellings, or of a guest house, is prohibited on any lot of record developed with an accessory dwelling unit approved pursuant to Subsection 839.04.

[Added by Ord. ZDO-249, 10/13/14; 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; Amended by Ord. ZDO-283, 9/5/23]

## 846 AFFORDABLE HOUSING

### 846.01 DEFINITIONS

A. As used in Section 846, affordable housing means a development in which:

1. Each dwelling unit on the property is made available to own or rent to families with incomes of 80 percent or less of the area median income (AMI) as defined by the U.S. Department of Housing and Urban Development; or
2. The average of all dwelling units on the property is made available to families with incomes of 60 percent or less of AMI; or
3. A manufactured dwelling park is operated that serves only households with incomes of 120 percent or less of AMI; and
4. Whose affordability, including affordability under a covenant as described in Oregon Revised Statutes (ORS) 456.270 to 456.295, is enforceable for a duration of no less than 30 years.

B. In a Commercial District, affordable housing also means a development with mixed use structures with ground floor commercial units and residential units subject to an affordable housing covenant as provided in ORS 456.270 to 456.295 making the properties affordable to households with incomes between 80 and 120 percent of AMI.

### 846.02 STANDARDS

Affordable housing shall comply with the following standards:

A. Ownership: Except for affordable housing defined under Subsection 846.01(B), the affordable housing shall be located on a lot that is owned by:

1. A public body, as defined in ORS 174.109;
2. A nonprofit corporation that is organized as a religious corporation;
3. A nonprofit corporation that is organized as a public benefit corporation whose primary purpose is the development of affordable housing;
4. A housing authority, as defined in ORS 456.005; or
5. A manufactured dwelling park nonprofit cooperative, as defined in ORS 62.803.

B. Development in Industrial Districts: In the BP and LI Districts, development of affordable housing is permitted only if:

1. The lot is publicly owned;
  2. The lot abuts a residential or commercial zoning district; and
  3. The development does not include the conversion of a building from a commercial use to a residential use.
- C. Density Standards: If there are no density standards for housing in the applicable zoning district, or for development of affordable housing defined under Subsection 846.01(B), the housing shall be subject to the density standards in the abutting residential or commercial district with the highest maximum density allowance.
- D. Dwelling -Type: The dwellings developed shall be of a type allowed under this Ordinance.
- E. Prohibitions: Development of affordable housing is prohibited:
1. On slopes greater than or equal to 25 percent;
  2. In a mass movement hazard area regulated by Subsection 1003.02; and
  3. In the Floodplain Management District regulated by Section 703, *Floodplain Management District*.
  4. In the Habitat Conservation Area District regulated by Section 706, *Habitat Conservation Area District*.
  3. In the Water Quality Resource Area District regulated by Section 709, *Water Quality Resource Area District*.



**847 RECREATIONAL VEHICLES AS SECOND DWELLINGS**

**847.01 STANDARDS**

A recreational vehicle as a second dwelling requires review as a Type I application pursuant to Section 1307, *Procedures*, and shall comply with the following standards:

- A. Only one recreational vehicle per lot of record shall be allowed for use as a second dwelling.
- B. The lot of record on which the recreational vehicle will be sited shall:
  - 1. Contain one, and only one, detached single-family dwelling, manufactured dwelling, or prefabricated structure;
  - 2. Not contain any other dwelling, including, but not limited to, dwellings approved pursuant to Section 839, *Accessory Dwelling Units*, or Section 1204, *Temporary Permits*; and
  - 3. Not contain a guest house.
- C. The existing primary dwelling on the lot of record shall:
  - 1. Be the primary residence of at least one of the property owners. For purposes of this provision, primary residence means a dwelling in which an owner resides for at least six months in each calendar year; and
  - 2. Contain no portion that is rented as a residential tenancy.
- D. Recreational vehicles to be occupied as second dwellings shall comply with the following standards:
  - 1. Notwithstanding the definition of recreational vehicle in Section 202, *Definitions*, the recreational vehicle does not need to be licensed. The recreational vehicle shall be titled with the Department of Transportation and shall not have been rendered structurally immobile.
  - 2. The recreational vehicle shall comply with the minimum setback standards for primary dwellings in the applicable zoning district.
  - 3. For purposes of compliance with the standards of any applicable overlay zoning district(s) regulated by Section 700, *Special Districts*, the recreational vehicle shall be considered a structure. However, the siting of a recreational vehicle as a second dwelling is prohibited in the Floodplain Management District regulated by Section 703, *Floodplain Management District*.
  - 4. The recreational vehicle shall be located a minimum of 10 feet and a maximum of 100 feet from the primary dwelling. This distance shall be measured from the closest portion of each.

5. The recreational vehicle shall be subject to a written residential rental agreement.
6. The recreational vehicle shall be owned by either the tenant or the property owner.
7. The property owner shall provide essential services to the recreational vehicle space, as described in Oregon Revised Statutes (ORS) 90.100 (15)(b), including:
  - a. Sewage disposal, water supply, electrical supply and, if required by applicable law, any drainage system; and
  - b. Any other service or habitability obligation imposed by the rental agreement or ORS 90.730, the lack or violation of which creates a serious threat to the tenant's health, safety, or property or makes the rented space unfit for occupancy.
8. The recreational vehicle shall:
  - a. Be connected to a sanitary sewer system or to an onsite wastewater treatment system approved by the County. The sewage system shall be installed and connected according to the Oregon Plumbing Specialty Code and Oregon Administrative Rules chapter 340, division 71;
  - b. Be provided with a supply of potable water with at least 20 psi (138 kPa) at the supply connection. All plumbing installations in connection with the recreational vehicle shall be made according to the Oregon Plumbing Specialty Code; and
  - c. Be provided with electric power, the amount of which shall be equivalent to the amperage required for the recreational vehicle. All electrical installations in connection with the recreational vehicle shall be made according to the Oregon Electrical Specialty Code.
9. The recreational vehicle shall contain a working sink and toilet connected to the sewage system approved pursuant to Subsection 847.01(D)(8)(a).
- E. Neither the recreational vehicle nor the primary dwelling shall be used as a short-term rental.
- F. Approval of a recreational vehicle as a second dwelling 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. "Implemented" means all necessary County development

permits shall be obtained and maintained for the siting of the recreational vehicle on the property.

**903 SETBACK EXCEPTIONS**

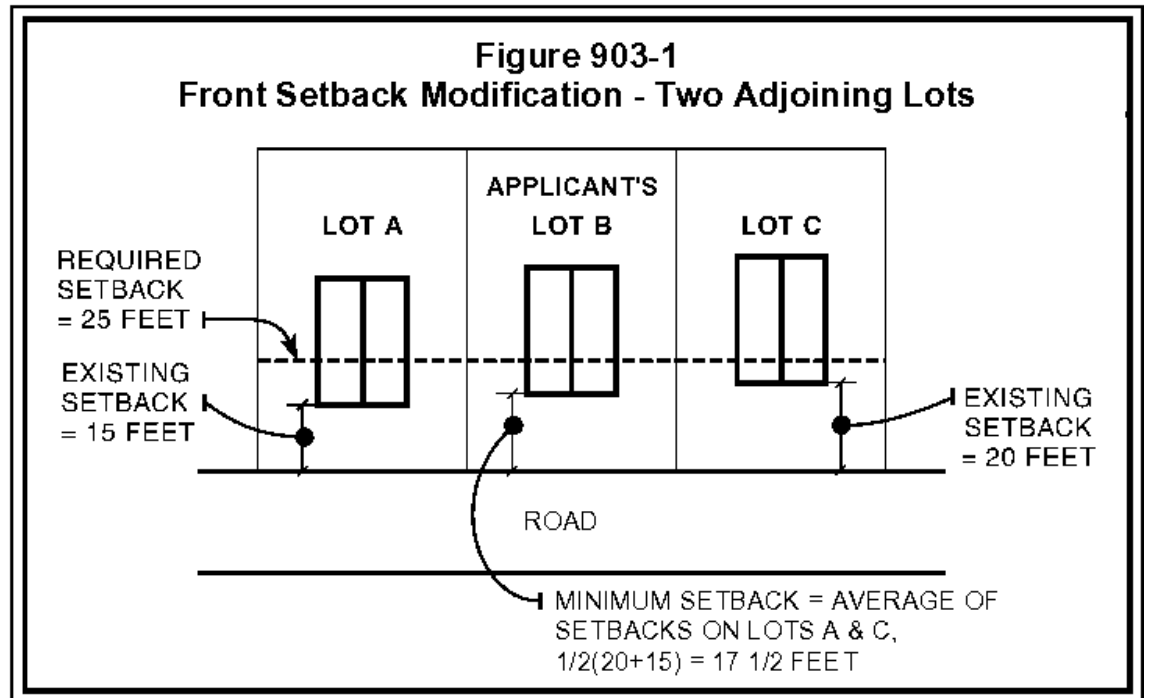
**903.01 APPLICABILITY**

Section 903 applies in all zoning districts except that only the minimum setback exemptions for bus shelters apply in the BP, ~~CI~~-GI, HDR, LI, RCHDR, and SHD Districts.

**903.02 MINIMUM FRONT SETBACK MODIFICATIONS**

A. The minimum front setback standard is reduced if one or both lots adjoining the subject lot, and with frontage on the same road as the subject lot, are developed with structures, other than accessory structures, whose front setback from that fronting road is lawfully nonconforming.

1. For the purpose of Subsection 903.02(A):
  - a. Lawfully nonconforming does not include a structure whose front setback was reduced through approval of a front setback variance.
  - b. If the adjoining lot is a flag lot, that lot is excluded, and the next lot is included.
2. If both adjoining lots qualify under Subsection 903.02(A), then the minimum front setback for the subject lot is the average of the setbacks on the two adjoining lots. (See Figure 903-1.)



3. If only one adjoining lot qualifies under Subsection 903.02(A), then the minimum front setback for the subject lot is the average of the setback that would be required without an exception and the setback on the adjoining lot with the nonconforming setback.
- B. The minimum front setback standard is reduced for additions to an existing structure if the existing structure has a lawfully nonconforming front setback, subject to the following criteria. For the purpose of Subsection 903.02(B), lawfully nonconforming does not include a structure whose front setback was reduced through approval of a front setback variance.
1. The minimum front setback for the addition is equal to the front setback of the existing structure; and
  2. The total floor area of all additions made pursuant to this provision shall not exceed 40 percent of the ground floor area of the original ~~lawfully~~legally nonconforming structure. Only the floor area of the portion of the addition that is located closer to the front lot line than the current minimum setback standard counts toward the 40-percent maximum.
- C. Bus shelters are exempt from minimum front setback standards.

903.03 PUBLIC DEDICATIONS

Minimum setback standards do not apply to existing structures whose setback is reduced by a public dedication. Additions to such structures that do not comply with the minimum front setback shall be allowed pursuant to Subsection 903.02(B).

903.04 REAR AND SIDE SETBACK EXEMPTIONS

The following structures are exempt from minimum rear and side setback standards:

- A. Underground structures, except there is no exemption where the perimeter wall of the structure is above finished grade or for openings into the structure, including doors, windows, skylights, plumbing, intake vents, and exhaust vents;
- B. Ground-mounted solar energy systems extending less than six feet above finished grade;
- C. Rainwater collection facilities extending less than six feet above finished grade; and
- D. Bus shelters.

903.05 PROJECTIONS INTO REQUIRED SETBACKS

Architectural features and certain structures may project into minimum setbacks, as follows:

- A. Architectural features may project a maximum of one-third the distance of the minimum setback, and a maximum of 40 inches into a minimum front setback.
- B. Open, unenclosed fire escapes may project a maximum of four feet.

903.06 DECKS AND SIMILAR STRUCTURES

Unless the subject zoning district provides for a lesser setback, the minimum setbacks for a deck, patio, porch, terrace, or underground structure are 10 feet from front and rear lot lines and three feet from side lot lines, provided:

- A. The structure shall not be covered; and
- B. The structure shall not extend more than 30 inches above finished grade.

903.07 FENCES AND WALLS

Minimum setback standards do not apply to fences or walls unless the standard explicitly refers to fences or walls.

903.08 FLAG LOTS

On flag lots, the location of side, rear, and front lot lines may be modified, for the purpose of determining the minimum setbacks, if:

- A. It is not possible to extend a motor vehicle access easement to serve additional properties due to physical conditions such as topographic barriers or existing structures; or
- B. It is not necessary to extend a motor vehicle access easement to serve additional properties because such properties are already fully developed or have access from other existing roads or easements.

[Amended by Ord. ZDO-224, 5/31/11; Amended by Ord. ZDO-249, 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]

**1001 GENERAL PROVISIONS**

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1001.01 PURPOSE

Section 1000, *Development Standards*, is adopted to implement policies in the Comprehensive Plan that are applicable to new development and thereby ensure that land is:

- A. Used efficiently to support broad-based economic development and the adequacy of housing and public services;
- B. Developed in an environmentally sustainable and aesthetically appealing manner;
- C. Supplied with public facilities sufficient to meet demand; and
- D. Served by a safe, convenient, multimodal, and interconnected transportation system.

1001.02 GENERAL STANDARDS

- A. Redevelopment of a manufactured dwelling park with a different use is subject to Subsection 825.02.
- B. A building consisting of only a basement shall not be used as a dwelling.
- C. A manufactured dwelling shall not be attached to another dwelling.
- D. A manufactured dwelling shall not be allowed as an accessory structure, except where such accessory structure is a dwelling unit permitted by this Ordinance.

1001.03 APPLICABILITY

Section 1000 applies to all development, as identified in Table 1001-1, *Applicability of Section 1000*. If a section is identified as applicable with a “✓” in Table 1001-1, it does not necessarily mean that every subsection within that section will apply; rather, each applicable section must be reviewed to determine which, if any, provisions in that section are applicable to the proposed development.

[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-250, 10/13/14; Amended by Ord. ZDO-266, 5/23/18; Amended by Ord. ZDO-268, 10/2/18]; Amended by Ord. ZDO-282, 7/1/22

**Table 1001-1: Applicability of Section 1000<sup>1</sup>**

<b>Type of Development</b>	<b>1002</b> <i>Protection of Natural Features</i>	<b>1003</b> <i>Hazards to Safety</i>	<b>1004</b> <i>Historic Protection</i>	<b>1005</b> <i>Site and Building Design</i>	<b>1006</b> <i>Utilities, etc</i>	<b>1007</b> <i>Roads &amp; Connectivity</i>	<b>1009</b> <i>Land-scaping</i>	<b>1010</b> <i>Signs</i>	<b>1011</b> <i>Open Space and Parks</i>	<b>1012</b> <i>Lot Size and Density</i>	<b>1013</b> <i>Planned Unit Developments</i>	<b>1015</b> <i>Parking and Loading</i>	<b>1017</b> <i>Solar Access</i>	<b>1021</b> <i>Solid Waste &amp; Recyclable Material Collection</i>
Partitions														
Subdivisions	✓	✓	✓		✓	✓		✓	✓	✓	✓	✓	✓	
Replats														
Institutional														
Commercial <sup>2</sup>	✓	✓	✓	✓	✓	✓	✓	✓	✓			✓		✓
Industrial														
Manufactured dwelling parks	✓	✓	✓		✓	✓	✓	✓	✓	✓		✓		
Multifamily dwellings	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓		✓		✓
<u>Single room occupancies in the PMD, MR-1, MR-2, HDR, VA, SHD, RCHDR Districts</u>	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓		✓		✓
Detached single-family dwellings, <del>M</del> anufactured dwellings, <del>and</del> prefabricated structures	1002.01 1002.04 1002.05 1002.06 1002.07 1002.09 <sup>3</sup>	✓	✓		✓	1007.04 1007.08		✓				1015.01(A) 1015.02(A)(2) & (4) 1015.02(B-D) Table 1015-2		



CLACKAMAS COUNTY ZONING AND DEVELOPMENT ORDINANCE

<u>Type of Development</u>	<u>1002 Protection of Natural Features</u>	<u>1003 Hazards to Safety</u>	<u>1004 Historic Protection</u>	<u>1005 Site and Building Design</u>	<u>1006 Utilities, etc</u>	<u>1007 Roads &amp; Connectivity</u>	<u>1009 Land-scaping</u>	<u>1010 Signs</u>	<u>1011 Open Space and Parks</u>	<u>1012 Lot Size and Density</u>	<u>1013 Planned Unit Developments</u>	<u>1015 Parking and Loading</u>	<u>1017 Solar Access</u>	<u>1021 Solid Waste &amp; Recyclable Material Collection</u>
<u>Single room occupancies in all other Districts</u>	<u>1002.01</u> <u>1002.04</u> <u>1002.05</u> <u>1002.06</u> <u>1002.07</u> <u>1002.09<sup>3</sup></u>	✓	✓		✓	<u>1007.04</u> <u>1007.08</u>		✓				<u>1015.01(A)</u> <u>1015.02(A)(2)</u> & (4) <u>1015.02(B-D)</u> <u>Table 1015-2</u>		
<b>Middle housing in the R-5, R-7, R-8.5, R-10, R-15, R-20, R-30, VR-4/5, and VR-5/7 Districts</b>														
Duplexes, Triplexes, and Townhouses	1002.01 1002.09 <sup>3</sup>	✓	✓		✓	1007.04 1007.08		✓				1015.01(A) 1015.02(A)(2) & (4) 1015.02(B-D) Table 1015-2		
Quadplexes and Cottage Clusters	1002.01 1002.09 <sup>3</sup>	✓	✓		✓	1007.04		✓						
Middle housing land divisions	✓	✓	✓		✓	✓		✓		✓				
<b>Middle housing in all other zoning districts</b>														
Townhouses with two dwelling units	1002.01 1002.04 1002.05 1002.06 1002.07 1002.09 <sup>3</sup>	✓	✓		✓	1007.04 1007.08		✓		✓		✓		✓
Duplexes, Triplexes, Quadplexes, and Townhouses with three or more dwelling units	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓		✓		✓

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- <sup>1</sup> Where specific subsections are not identified in this table, an applicable section must be reviewed to determine which provisions in that section apply to the proposed development.
- <sup>2</sup> Level one through three mobile vending units are not subject to Section 1000, except as set forth in Section 837, *Mobile Vending Units*.
- <sup>3</sup> Subsection 1002.09 also applies to accessory structures.

**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. 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.

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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 a 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. Development 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. If use of an exempt-use well is proposed, subdivisions—as well as the following types of development in a sensitive groundwater area: partitions, Type II replats, and industrial, commercial, or institutional development—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. 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 onsite wastewater treatment shall receive approval for the system from the County prior to submittal of a land use application for development. Onsite wastewater treatment systems shall be installed pursuant to: Oregon Revised Statutes 454.605 through 454.745; Oregon Administrative Rules chapter 340, divisions 71 and 73; and the policies of the County.
- 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 that requires onsite wastewater treatment shall be prohibited except for:
1. A lot of record that is outside of a sewage service district and was created:
    - a. Prior to January 31, 1980; or
    - b. On or after January 31, 1980, and prior to inclusion in the UGB;
  2. Lots of 10 acres or larger in the FU-10 District;
  3. 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 lots that have unique topographic or other natural features that 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 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 and development of affordable housing subject to



Section 846, Affordable Housing, 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

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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

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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; Amended by Ord. ZDO-283, 9/5/23]

**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 RRF-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 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).
- F. Except in Urban Low Density Residential, VR-4/5, and VR-5/7 Districts, each unit in a single room occupancy is considered a dwelling unit for the purposes of calculating minimum and maximum density.

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, *District Land Area Standards in the MRR District*. 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. Unless using the affordable housing bonus under option 1 in Table 1012-1, Bonus Density, The proposed development shall include a minimum of four dwelling units, excluding accessory dwelling units and temporary dwellings approved pursuant to Section 1204, *Temporary Permits*.
  2. The bonus density categories and corresponding maximum increases to BD, as well as the zoning districts to which the bonus density categories are applicable, are identified in Table 1012-1, *Bonus Density*.

3. In the MRR District, dwelling units allowed through the bonus density provisions shall be developed with the same unit size mixture as provided in the BD. For example, if a development is proposed with a BD of 50 units of 700 square feet and 50 units of 500 square feet, and a bonus density of 10 units is allowed, the 10 bonus units shall include 5 units of 700 square feet and 5 units of 500 square feet.

**Table 1012-1: Bonus Density**

Bonus Category	Maximum Increase in the HR and Urban Low Density Residential Districts	Maximum Increase in All Other Zoning Districts
<b>Affordable Housing:</b> <u>One of the following two options:</u>		
<p><u>(1) For a development inside the Portland Metropolitan Urban Growth Boundary, in which:</u></p> <p><u>(a) Each unit on the property is made available to own or rent to families with incomes of 80 percent or less of the area median income (AMI) as defined by the U.S. Department of Housing and Urban Development;</u></p> <p><u>(b) The average of all units on the property is made available to families with incomes of 60 percent or less of AMI; or</u></p> <p><u>(c) A manufactured dwelling park is operated that serves only households with incomes of 120 percent or less of AMI; and</u></p> <p><u>(d) Whose affordability, including affordability under a covenant as described in ORS 456.270 to 456.295, is enforceable for a duration of no less than 30 years.</u></p>	<p><u>(A) For property with existing maximum density of 16 or fewer units per acre, up to 100 percent of base density and 12 additional feet in maximum height;</u></p> <p><u>(B) For property with existing maximum density of 17 or more units per acre and 45 or fewer units per acre, up to 50 percent of base density and 24 additional feet in maximum height; or</u></p> <p><u>(C) For property with existing maximum density of 46 or more units per acre, up to 25 percent of base density and 36 additional feet in maximum height.</u></p>	
<p><u>(2): In any development, for <del>D</del>dwelling units affordable to households <u>with incomes of earning equal to or less than</u> 80 percent <u>or less</u> of the area median income (AMI) as defined by the U.S. Department of Housing and Urban Development, adjusted for household size, and <u>whose</u></u></p>	<p>One dwelling unit per affordable dwelling unit up to 5 percent of the base density</p>	<p>One dwelling unit per affordable dwelling unit up to 50 percent of the base density<sup>1</sup></p>

<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>
<del>affordability, including affordability under a covenant as described in ORS 456.270 to 456.295, is enforceable for a duration of no less than 30 years. guaranteed affordable for a minimum term of 30 years through restrictive covenant or other similar guarantee.</del>		
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<sup>5</sup></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

<sup>5</sup> For affordable housing developed using the bonus in option 1, the maximum is that allowed under option 1; it may not be combined with a mixed-use development, park dedication, or Habitat Conservation Area bonus.

- 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.

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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; Amended by Ord. ZDO-283, 9/5/23]



**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.

A. Design review is required for:

1A. Development, redevelopment, expansions, and improvements in:

a. ~~Ceommercial and industrial~~ zoning districts, ~~except for:~~

b. Industrial zoning districts;

~~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;~~

~~cB. Development, redevelopment, expansions, and improvements in the following residential zoning districts: HDR, MR-1, MR-2, MRR, PMD, RCHDR, SHD, VA, and VTH Districts;~~

~~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;~~

2D. Institutional uses in ~~the~~ Urban Low Density Residential, VR-4/5, and VR-5/7 Districts;

3E. Townhouses and institutional uses in the HR District; and

4F. Other uses as required by the Planning Director, the Hearings Officer, or the Board of County Commissioners.

B. Notwithstanding Subsection 1102.01(A)(1), design review is not required for detached single-family dwellings, manufactured dwellings, prefabricated structures, and uses accessory to detached single-family dwellings, manufactured dwellings, and prefabricated structures.

1102.02 SUBMITTAL REQUIREMENTS

In addition to the submittal requirements identified in Subsection 1307.07(C), an application for design review shall include:

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- 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.

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- L. A transportation improvement plan that includes proposed cross-sections for roads to be constructed or improved, including widths of travel lanes, bikeways, sidewalks, curbs, pedestrian pathways, and landscape strips. Identify proposed landscape plan for landscape strips, including street tree type, size and location. Identify proposed dedication of right-of-way.

1102.03 APPROVAL CRITERIA

Design review requires review as a Type II application pursuant to Section 1307, *Procedures*, and shall be subject to the following standards and criteria:

- A. The proposed development shall be subject to Section 1000, *Development Standards*, and the standards of the applicable zoning district.
- B. As part of design review in the PMU and RCO Districts, a master plan shall be required if the proposed development does not meet the minimum floor area ratio for the entire site (where phased compliance is permitted by Table 510-2, *Dimensional Standards in the Urban Commercial and Mixed-Use Zoning Districts*) or if compliance with Table 510-3: *Site-Specific Requirements for the PMU District*, is not being achieved for the entire PMU site. The master plan shall demonstrate that it is feasible to achieve full compliance with a future phase of development that is not reliant upon adding additional stories to existing or proposed structures or demolishing structures built after the PMU or RCO District was applied to the subject property.
- C. As part of design review of development of any portion of the OA District, a master plan shall be required for the subject property and all contiguous lots with a Comprehensive Plan land use designation of Office Apartment. The master plan shall include a plan for consolidation of motor vehicle accesses for the entire Office Apartment site that complies with the access targets of Comprehensive Plan Map X-SC-5, *Sunnyside Corridor Community Plan Sunnyside Road Access Management Targets*.

1102.04 DESIGN REVIEW COMMITTEE

A Design Review Committee shall be established pursuant to Subsection 1307.03 and shall have the responsibilities assigned to it by Subsection 1102.04.

- A. The Planning Director may review and render a decision on a Type II application for design review or forward the application to the Design Review Committee for review and recommendation prior to rendering a decision. In deciding whether to forward an application to the Design Review Committee, the Planning Director shall consider:
  - 1. The size of the project, including mass of buildings, site area, landscaping, and parking requirements;
  - 2. The presence of natural features, such as wetlands, steep slopes, treed area, and riparian corridors;
  - 3. Visual significance; and

4. Impact on neighboring properties, particularly where a project is adjacent to a residential area.
- B. An application shall be forwarded to the Design Review Committee for review and recommendation if requested by the applicant or required by the Hearings Officer or the Board of County Commissioners.
- C. The Planning Director may consult with individual members of the Design Review Committee at any point during the evaluation of a design review application or in determining compliance with conditions of design review approval.

1102.05 APPROVAL PERIOD AND TIME EXTENSION

- A. Approval of design review is valid for 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; Amended by Ord. ZDO-283, 9/5/23]

**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;



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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.
  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:

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- a. As used in Subsection 1105.06(A)(3), “ground water restricted area”, “high-value farmland”, “high-value forestland”, and “waiver” have the meanings given those terms in ORS 195.300.
  - b. A replat for a lot of record that is larger than 80 acres may be approved if the adjustment does not reduce the lot of record to less than 80 acres.
  - c. A replat may not be used to:
    - i. Decrease the size of a lot of record that, before the relocation or elimination of a common property line, is smaller than 80 acres and contains an existing dwelling or is approved for the construction of a dwelling, if another lot of record affected by the property line adjustment would be increased to a size as large as or larger than the minimum lot or parcel size required to qualify the other affected lot of record for a dwelling;
    - ii. Decrease the size of a lot of record that contains an existing dwelling or is approved for construction of a dwelling to a size smaller than 80 acres, if another lot of record affected by the replat would be increased to a size as large as or larger than the minimum lot or parcel size required to qualify the other lot of record for a dwelling;
    - iv. Allow an area of land used to qualify a lot of record for a dwelling based on an acreage standard to be used to qualify another lot of record for a dwelling if the land use approval would be based on an acreage standard;
    - v. Replat a property line that resulted from a subdivision or partition authorized by a waiver so that any lot of record affected by the property line adjustment is larger than: two acres if the lot of record is, before the adjustment, two acres in size or smaller and is high-value farmland, high-value forestland, or within a ground water restricted area; or five acres if the lot of record is, before the adjustment, five acres in size or smaller and is not high-value farmland, high-value forestland, or within a ground water restricted area;
    - vi. Separate a temporary dwelling for care, home occupation, relative farm help dwelling, or processing facility from the lot of record on which the primary residential use or other primary use exists; or
    - vii. Separate an accessory dwelling in conjunction with farm use approved pursuant to Subsection 401.05(C)(12), except as provided in OAR 660-033-0010(24)(B).
- B. Replats that propose to increase the number of lots or parcels shall not be approved, unless:

1. The gross site area of the affected plat is increased, or is of sufficient size to allow additional lots or parcels, or the zoning on the subject property has been changed since the existing plat was approved, permitting a greater density on all, or part, of the original platted area;
2. The allowed density is recalculated pursuant to Section 1012, *Lot Size and Density*, on the basis of the gross site area of the original platted area and any additions to the gross site area, and, if applicable, on the basis of the new zoning;
3. All existing lots or parcels within the plat that are not affected by the replat, including additional lots or parcels that may be created by subdivision or partition under existing zoning, are subtracted from the maximum density of the original plat area in determining allowed density for the replatted portion; and
4. All open space requirements of the original plat, if applicable, are satisfied by the replatted subdivision or partition, or portion thereof.

1105.07 APPROVAL CRITERIA FOR MIDDLE HOUSING LAND DIVISIONS

A middle housing land division requires review as a Type II-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.C. If the final plat is for a middle housing land division, it shall contain a notation that the lots shown on the plat were created pursuant to a middle housing land division and may not be further divided.

#### 1105.12 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; Amended by Ord. ZDO-283, 9/5/23]

**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**

<b>Land Use Permit</b>	<b>Procedure Type</b>	<b>Pre-Application Conference Required</b>	<b>Initial Decision Review Authority</b>	<b>Appeal Review Authority</b>
Accessory Historic Dwelling	I	No	PD	No County-Level Appeal
AG/F District, Land Division, 80-acre Minimum Lot Size [pursuant to Subsection 406.09(A)]	I	No	PD	No County-Level Appeal
AG/F District, Land Division [pursuant to Subsections 406.09(B) through (G)]	II	No	PD	HO
AG/F District, Lot of Record Dwelling on High Value Farmland [pursuant to Subsection 401.05(C)(3)]	III	No	HO	No County-Level Appeal
AG/F District, Permits not Otherwise Listed in Table 1307-1 but Identified as Type I in Table 407-1, <i>Permitted Uses in the AG/F District</i>	I	No	PD	No County-Level Appeal
AG/F District, Permits not Otherwise Listed in Table 1307-1 but Identified as Type II in Table 407-1, <i>Permitted Uses in the AG/F District</i>	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

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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
Conversion of a Manufactured Dwelling Park or a Mobile Home Park to a Subdivision	I	No	PD	No County-Level Appeal
Design Review <sup>2</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
EFU District, Permits not Otherwise Listed in Table 1307-1 but Identified as Type I in Table 401-1, <i>Permitted Uses in the EFU District</i>	I	No	PD	No County-Level Appeal
EFU District, Permits not Otherwise Listed in Table 1307-1 but Identified as Type II in Table 401-1, <i>Permitted Uses in the EFU District</i>	II	No	PD	HO
Farmers' Market	II	No	PD	HO
Floodplain Development	II	No	PD	HO
Gathering subject to review under Oregon Revised Statutes 433.763	III	Yes	HO	BCC

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<b>Land Use Permit</b>	<b>Procedure Type</b>	<b>Pre-Application Conference Required</b>	<b>Initial Decision Review Authority</b>	<b>Appeal Review Authority</b>
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>3</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>3</sup>	II	Yes	PD	HO
Historic Landmark, Historic District, and Historic Corridor, New Construction <sup>3</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
Home Occupation, Major, Renewal, without a New Exception	II	No	PD	HO

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Land Use Permit	Procedure Type	Pre-Application Conference Required	Initial Decision Review Authority	Appeal Review Authority
Interpretation, Comprehensive Plan <sup>4</sup>	II	No	PD	PC
Interpretation, Zoning and Development Ordinance <sup>5</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
Mobile Vending Unit, Level Three	II	Yes	PD	HO

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<b>Land Use Permit</b>	<b>Procedure Type</b>	<b>Pre-Application Conference Required</b>	<b>Initial Decision Review Authority</b>	<b>Appeal Review Authority</b>
Modification	II	No	PD	HO
Nonconforming Use Alteration, not Required by Law	II	No	PD	HO
Nonconforming Use Verification	II	No	PD	HO
Open Space, Conflict Resolution for Wetlands and Significant Natural Areas	II	No	PD	HO
Open Space Review	II	No	PD	HO
Partition	II	Yes	PD	HO
Pre-FIRM Structure Reconstruction, Repair, Rehabilitation, Addition, or Other Improvement [pursuant to Subsection 703.06(A)]	I	No	PD	No County-Level Appeal
Principal River Conservation Area	II	No	PD	HO
Private Use Airport and Safety Overlay Zone, Expansion of Existing Use [pursuant to Subsection 712.05(B)]	II	No	PD	HO
Private Use Airport and Safety Overlay Zone, New Use [pursuant to Subsection 712.06]	III	No	HO	No County-Level Appeal
Public Use Airport and Safety Overlay Zones, Use Permitted Subject to Review [pursuant to Subsection 713.05]	III	No	HO	No County-Level Appeal
Property Line Adjustment [except pursuant to Subsection 1107.04]	I	No	PD	No County-Level Appeal

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Land Use Permit	Procedure Type	Pre-Application Conference Required	Initial Decision Review Authority	Appeal Review Authority
Property Line Adjustment [pursuant to Subsection 1107.04]	II	No	PD	HO
<u>Recreational Vehicles as Second Dwellings</u>	<u>I</u>	<u>No</u>	<u>PD</u>	<u>No County-Level Appeal</u>
Replat [number of lots or parcels proposed to increase or the subject property is partially or wholly in the AG/F, EFU, or TBR District]	II	Yes	PD	HO
Replat [number of lots or parcels proposed to decrease or remain the same and the subject property is not partially or wholly in the AG/F, EFU, or TBR District]	I	No	PD	No County-Level Appeal
Sensitive Bird Habitat District, Alteration or Development	II	No	PD	HO
Sewer System Components that Serve Lands Inside an Urban Growth Boundary [pursuant to Tables 316-1, 317-1, 513-1, or 604-1]	II	No	PD	HO
Sewer Systems and Extensions of Sewer Systems to Serve Land Outside an Urban Growth Boundary and Unincorporated Community [pursuant to Tables 316-1, 317-1, 513-1, or 604-1]	II	No	PD	HO
Sign Permit	I	No	PD	No County-Level Appeal
Slopes, Development [pursuant to Subsection 1002.01(A)]	I	No	PD	No County-Level Appeal

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<b>Land Use Permit</b>	<b>Procedure Type</b>	<b>Pre-Application Conference Required</b>	<b>Initial Decision Review Authority</b>	<b>Appeal Review Authority</b>
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

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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>6</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> 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>3</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>4</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>5</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>6</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 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**

<b>Zoning District of Subject Property</b>	<b>Noticing Distance</b>
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).

- c. Any active community planning organization, hamlet, or village that is recognized by the County, if the subject property lies wholly or partially inside the boundaries of such organization, hamlet, or village;
- d. Cities, as prescribed in applicable urban growth management agreements;
- e. Those special districts and government agencies deemed by the Planning Director to have an interest in the application;

- f. The Oregon Department of Agriculture, if the subject property is in the EFU or AG/F District and the application is for the propagation, cultivation, maintenance, and harvesting of aquatic species that are not under the jurisdiction of the Oregon Fish and Wildlife Commission;
  - g. Metro and any watershed council recognized by the Oregon Watershed Enhancement Board and whose boundaries include the subject property, if the application is for Habitat Conservation Area map verification; and
  - h. The airport owner and the Oregon Department of Aviation, if required by Oregon Revised Statutes (ORS) 197.183, 215.223, or 215.416.
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)(c) through (h).



B. Decision: The review authority shall consider the record of the application and approve, approve with conditions, or deny the application based on the applicable standards and criteria. The review authority shall issue a written decision that explains the standards and criteria considered relevant to the decision; states the facts relied upon in rendering the decision; explains the justification for the decision based on the standards, criteria, and facts set forth; and lists the conditions of approval, if any. The decision also shall include:

1. A description of the nature of the decision and an explanation of the nature of the application and the use or uses that were proposed and, if applicable, are authorized by the decision;
2. The street address or other easily understood geographical reference to the subject property;
3. The name and telephone number of the County staff member to contact where additional information may be obtained;
4. A statement that a copy of the application, all documents and evidence submitted by or on behalf of the applicant, and applicable criteria are available for inspection at no cost and will be provided at a cost established by the Board of County Commissioners;
5. The date the review authority's decision becomes effective, unless appealed;
6. A statement that the decision will not become final until the period for filing an appeal with the County has expired without the filing of an appeal;
7. A statement that any person who is adversely affected or aggrieved or who is entitled to written notice under Subsection 1307.09(C) may appeal the decision by filing a written appeal, and including the date and time by which an appeal must be filed, the location for filing, a brief statement explaining how to file an appeal, the appeal fee, and where further information may be obtained concerning the appeal process; and
8. A statement that a person who is mailed written notice of the decision cannot appeal the decision directly to the Land Use Board of Appeals under ORS 197.830.

C. Notice of Decision:

1. A copy of the decision shall be mailed to those identified in Subsections 1307.09(A)(1)(a) and (c) through (h).
2. A notice of decision shall be mailed to those identified in Subsections 1307.09(A)(1)(b). The notice shall include the information in Subsections 1307.09(B)(1) through (8) and directions on how to obtain a copy of the decision.

D. Appeal: The review authority's decision is the final decision of the County, unless an appeal is filed pursuant to Subsection 1307.14.

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. Any active community planning organization that is recognized by the County, if the subject property lies wholly or partially inside the boundaries of such organization;
  - d. Cities, as prescribed in applicable urban growth management agreements;
  - e. Those special districts and government agencies deemed by the Planning Director to have an interest in the application;
  - f. The airport owner and the Oregon Department of Aviation, if required by Oregon Revised Statutes (ORS) 197.183, 215.223, or 215.416.
2. At a minimum, notice of application shall include:
  - a. An explanation of the nature of the application and the proposed use or uses that could be authorized;
  - b. A list of the applicable criteria from this Ordinance and the Comprehensive Plan that apply to the application;
  - c. The street address or other easily understood geographical reference to the subject property;
  - d. The name and telephone number of the County staff member to contact where additional information may be obtained;

- e. A statement that a copy of the application, all documents and evidence submitted by or on behalf of the applicant and applicable criteria are available for inspection at no cost and will be provided at a cost established by the Board of County Commissioners;
  - f. A general explanation of when, where, how, and to whom written comments on the application may be submitted;
  - g. A statement that issues that may provide the basis for an appeal must be raised in writing prior to the expiration of the comment period and that issues must be raised with sufficient specificity to enable the local government to respond to the issue; and
  - h. A statement that subsequent to the closing of the public comment period, a decision will be issued and mailed to everyone entitled to the initial notice of the application.
3. A minimum of 14 days prior to the issuance of a decision, a copy of the submitted application shall be mailed to those identified in Subsections 1307.10(A)(1)(c) through (f).
- B. Decision: Within 63 days of receiving a completed application, the review authority shall consider the record of the application and approve, approve with conditions, or deny the application based on the applicable standards and criteria. The review authority shall issue a written decision that explains the standards and criteria considered relevant to the decision, states the facts relied upon in rendering the decision, and explains the justification for the decision based on the standards, criteria, and facts set forth. The decision also shall include:
1. An explanation of the nature of the application and the use or uses that were proposed and, if applicable, are authorized by the decision;
  2. The conditions of approval, if any;
  3. The street address or other easily understood geographical reference to the subject property;
  4. The name and telephone number of the County staff member to contact where additional information may be obtained;
  5. A statement that a copy of the application, all documents and evidence submitted by or on behalf of the applicant, and applicable criteria are available for inspection at no cost and will be provided at a cost established by the Board of County Commissioners;
  6. The date the review authority's decision becomes effective, unless appealed;

7. A statement that the decision will not become final until the period for filing an appeal with the County has expired without the filing of an appeal;
  8. An explanation of appeal rights under ORS 197.375.
- 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;
  - 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. Any active community planning organization, hamlet, or village that is recognized by the County, if the subject property lies wholly or partially inside the boundaries of such organization, hamlet, or village;
- e. Cities, as prescribed in applicable urban growth management agreements;
- f. Those special districts and government agencies deemed by the Planning Director to have an interest in the application;
- g. The Oregon Department of Agriculture, if the subject property is in the AG/F or EFU District and the application is for the propagation, cultivation, maintenance, and harvesting of aquatic species that are not under the jurisdiction of the Oregon Fish and Wildlife Commission;
- h. Metro and any watershed council recognized by the Oregon Watershed Enhancement Board and whose boundaries include the subject property, if the application is for Habitat Conservation Area map verification;
- i. The airport owner and the Oregon Department of Aviation, if required by ORS 197.183, 215.223, or 215.416;

- j. The State Department of Fish and Wildlife, the State Department of Energy, the State Historic Preservation Officer, the Oregon Department of Aviation, the United States Department of Defense, and federally recognized Indian tribes that may be affected by the application, if the application is for a renewable energy facility pursuant to ORS 215.446; and
  - k. Tenants of a mobile home or manufactured dwelling park, as defined in ORS 446.003, when property that includes all or part of such mobile home or manufactured dwelling park is the subject of an application for a Comprehensive Plan map amendment, zone change, or both. Notice to such tenants shall be mailed no more than 40 days before the first evidentiary hearing.
4. At a minimum, notice of application and hearing shall include:
- a. An explanation of the nature of the application and the proposed use or uses that could be authorized;
  - b. A list of the applicable criteria from this Ordinance and the Comprehensive Plan that apply to the application;
  - c. The street address or other easily understood geographical reference to the subject property;
  - d. Date, time, and location of the hearing;
  - e. A statement that failure of an issue to be raised in a hearing, in person or by letter, or failure to provide statements or evidence sufficient to afford the review authority an opportunity to respond to the issue precludes appeal to the Oregon Land Use Board of Appeals on that issue;
  - f. The name and telephone number of the County staff member to contact where additional information may be obtained;
  - g. A statement that a copy of the application, all documents and evidence submitted by or on behalf of the applicant and applicable criteria are available for inspection at no cost and will be provided at a cost established by the Board of County Commissioners;
  - h. A statement that a copy of the staff report will be available for inspection at no cost at least seven days prior to the hearing and will be provided at a cost established by the Board of County Commissioners;
  - i. A general explanation of the requirements for submission of testimony and the procedure for conduct of hearings;

- j. A statement that subsequent to the close of the public hearing, a decision will be issued and mailed as required by Subsection 1307.11(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, explains the justification for the decision based on the standards, criteria, and facts set forth, and lists the conditions of approval, if any. The decision also shall include:
- 1. An explanation of the nature of the application and the use or uses that were proposed and, if applicable, are authorized by the decision;
  - 2. The street address or other easily understood geographical reference to the subject property;
  - 3. The date the review authority's decision becomes effective, unless appealed; and



4. A statement that any person who presented evidence, argument, or testimony as part of the record may appeal the decision by filing a written appeal; the date by which an appeal must be filed, the location for filing, a brief statement explaining how to file an appeal, and where further information may be obtained concerning the appeal process.

E. Notice of Decision:

1. A copy of the decision shall be mailed to those identified in Subsections 1307.11(A)(3)(a) and (d) 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
  - b. Anyone who made a written request for notice of decision.
3. A copy of the decision shall be submitted to DLCD, as required by ORS 197.615. Procedures for submitting the decision to DLCD shall be those established by ORS 197.615 and Oregon Administrative Rules chapter 660, division 18.

- F. Appeal: The review authority's decision is the final decision of the County, except as may be provided for interpretation applications pursuant to Subsection 1307.14(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) 197.797, 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), (c) through (e), and (h);
  - b. The appellant;
  - c. Anyone who provided evidence, argument, or testimony as part of the record; and
  - d. Anyone who made a written request for notice of decision.
2. A second County-level appeal is provided for applications for an interpretation of this Ordinance, where the Board of County Commissioners may choose to review the decision of the Hearings Officer on appeal but is not required to do so.
  - a. If the Board of County Commissioners accepts the appeal, processing of the appeal shall comply with Subsections 1307.14(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. Signatures:
  - 1. When any person signs as the owner of property, as an officer of a public or private corporation owning the property, or as an attorney in fact or agent of any owner, or when any person states that they are buying the property under contract, the Planning Director and the review authority, if other than the Planning Director, may accept these statements to be true, unless the contrary be proved, and except where otherwise in this Ordinance more definite and complete proof is required. Nothing herein shall prevent the Planning Director or the review authority, if other than the Planning Director, from demanding proof that the signer is the owner, officer, attorney in fact, or agent.
  - 2. As used in Section 1307, the word “signature” includes a signature affixed by electronic means.
- C. Property Owner Notice: Where notice to property owners of record is required by Section 1307, the records of the County Assessor shall be used to identify the owners and their mailing addresses. Persons whose names and addresses are not on file at the time of the filing of the applicable land use permit application or appeal need not be notified of the application, decision, or hearing. If a property within the notification area is located outside the County, the records of the applicable County Assessor shall be used. The failure of a property owner to receive notice as provided in Section 1307 shall not invalidate the proceedings, if the County can demonstrate by affidavit that such notice was given.

- D. Method of Mailing: When mailing is required by Section 1307, first-class mail shall be used, except that for mailing to any of the following, either first-class mail or electronic mail may be used: community planning organizations, hamlets, villages, cities, special districts, and government agencies.
- E. Burden of Proof: Except in a Type IV proceeding, the proponent has the burden of proof on all elements of the proposal. The proposal must be supported by a preponderance of evidence that it conforms to all applicable standards and criteria. The preponderance of evidence standard is often described as enough evidence to make the proponent's point more likely than not.
- F. Argument and Evidence: For the purposes of Section 1307:
1. Argument means assertions and analysis regarding the satisfaction or violation of legal standards or policy believed relevant by any party. Argument does not include facts.
  2. Evidence means facts, documents, data, or other information offered to demonstrate compliance or noncompliance with the standards and criteria believed by any party to be relevant to the proposal.
- G. Withdrawal: Prior to the issuance of the written decision, the applicant may submit a written notice of withdrawal of the application. Upon receipt of a written notice of withdrawal, the application shall be deemed dismissed without further action by the review authority. A withdrawal shall not bar filing a new application; withdrawal shall not be deemed a final decision for any purpose. A withdrawal cannot be appealed. If an application is withdrawn after the mailing of notice of application or public hearing, the Planning Director shall mail written notice stating the application has been withdrawn to all persons who were provided mailed notice of the application or public hearing.
- H. Final Action Deadline: Except as modified by Oregon Revised Statutes (ORS) 197.365 through 197.380, ~~or by ORS 197.797, or 197A.470~~, the County shall take final action on a land use permit application that is subject to ORS 215.427, including resolution of all County appeals, within the time period specified by ORS 215.427, unless the applicant provides written request for an extension of such period pursuant to ORS 215.427(5).
- I. Effective Date of Decision: The County's final decision on a Type I, II, II-E, or III land use permit application becomes effective on:
1. The day the final decision is issued, if no appeal at the County level is allowed;
  2. The day after the appeal period expires, if an appeal at the County level is allowed, but no notice of appeal is timely filed;



3. The day the decision is issued by the final County appeal body, if an appeal is allowed and notice of appeal is timely filed. However, if the appeal is withdrawn prior to decision, the effective date of the County's final decision shall revert to the day after the appeal period would have expired had an appeal not been timely filed; or
  4. The date of mailing of the Board of County Commissioners' denial of review, pursuant to Subsection 1307.14(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; Amended by Ord. ZDO-283, 9/5/23]

## **Exhibit C Ordinance ZDO-285**

Findings of Consistency with Statewide Planning Goals; Oregon Revised Statutes; Oregon Administrative Rules; Metro Urban Growth Management Functional Plan; Clackamas County Comprehensive Plan; and Clackamas County Zoning and Development Ordinance

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### **BACKGROUND**

*Minor and Time-Sensitive Comprehensive Plan and Zoning and Development Ordinance Amendments* is a Planning project that is intended to be completed annually and that focuses on changes, some of which are relatively minor, to the Comprehensive Plan and Zoning and Development Ordinance (ZDO) to comply with any new state and federal mandates, clarify existing language, correct errors, or adopt optional provisions that require only minimal analysis. This year, however, the amendment package is also being used as a vehicle for the implementation of new land use allowances in state law, particularly those related to new housing options.

**Ordinance ZDO-285**, the 2023-2024 *Minor and Time-Sensitive Comprehensive Plan and Zoning and Development Ordinance Amendments and New Housing Options* package, is a narrowly focused package of amendments that primarily responds to legislation adopted in the 2021, 2022, and 2023 Oregon legislative sessions and recent state rulemaking.

The amendments in Ordinance ZDO-285 are grouped into the following five categories:

1. Accessory dwelling units (ADUs) in rural residential zones (optional);
2. Recreational vehicles (RVs) for residential use as second dwellings (optional);
3. Changes to standards for replacement dwellings in Agriculture and Forest zones (mandatory);
4. Housing-related amendments, including additional allowances for affordable housing, prefabricated structures, and single-room occupancies (mandatory); and
5. Minor, non-substantive changes to the Comprehensive Plan and ZDO for clarity and to correct errors.

The five items are discussed in more detail in the “Proposal” section below. The optional items—rural ADUs and RVs as second dwellings—were the subject of a policy session with the Board of County Commissioners (Board) on October 11, 2023, at which time the Board directed staff to development amendments to implement those items and bring them forward for public input and consideration at hearings. On February 26, 2024, staff held a work session with the Planning Commission to discuss rural ADUs and RVs as second dwellings in anticipation of the forthcoming public hearings.

There were two public hearings on this ordinance: one before the Planning Commission on Monday, April 22, 2024, and another before the Board on Wednesday, May 8, 2024. The Planning Commission provided a recommendation to the Board, which ultimately voted 3-2 to adopt the amendments in Ordinance ZDO-285 Exhibits A and B.

### **PROPOSAL**

Ordinance ZDO-285 includes text amendments to Comprehensive Plan Chapter 4, *Land Use*, and to 19 separate sections of the ZDO, and it adds two new sections to the ZDO<sup>1</sup>. The amendments are included in Ordinance ZDO-285 Exhibits A and B.

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<sup>1</sup> The ZDO sections amended and added by Ordinance ZDO-285 are listed on the last page of this document.

These amendments generally accomplish five actions. Below is a list of these actions, as well as brief explanations of the context behind each action and how the action is accomplished with the amendments in Ordinance ZDO-285.

### **1. Allow ADUs in certain rural residential areas.**

In Clackamas County, prior to the amendments in Ordinance ZDO-285, ADUs were only allowed on properties located *inside* of an urban growth boundary (UGB) or *inside* certain unincorporated communities. This is because, until recent legislation, state law did not allow the County to permit ADUs outside of a UGB or unincorporated community.

In 2021, Senate Bill (SB) 391 included language that enabled counties to allow ADUs on rural residential lands outside a UGB, but only after the completion of the state's wildfire hazard map, which, to date, has not been adopted. SB 644 (2023) amended the earlier legislation so that counties can proceed with allowing ADUs in rural residential areas prior to the wildfire map adoption.

Per this legislation, counties may allow one ADU in "areas zoned for rural residential use," provided the site is *outside* of a UGB and *outside* of an urban reserve.

This legislation is not a mandate; however, if a county opts to allow ADUs in rural residential areas, it must, at a minimum, comply with certain standards identified in state law, including:

- The lot must be two (2) acres or greater;
- There must be one single-family dwelling (includes manufactured dwellings) sited on the lot;
- The lot must not be subject to an order declaring it a nuisance property or a pending action to declare it a nuisance property;
- The lot or parcel must be served by a fire protection service provider;
- The ADU must comply with all applicable state laws relating to water supply, sanitation, and wastewater disposal;
- The living area of the ADU is limited to 900 square feet;
- The ADU must be located within 100 feet of the single-family dwelling;
- The ADU cannot be used as a short-term rental;
- The lot cannot be subdivided to separate the primary dwelling and ADU; and
- The ADU is subject to certain wildfire siting and construction standards, including defensible space and fire-related construction provisions in the state building code.

Ordinance ZDO-285 includes amendments to allow for this use, and it includes the following standards in addition to the minimum standards required under state law.

- The ADU is subject to the same setbacks from property lines that apply to the primary dwelling; and
- There cannot also be a guest house, as defined and permitted by the ZDO, located on the site.

### **2. Allow RVs to be used as second dwellings in certain urban and rural residential areas.**

In Clackamas County, prior to the amendments in Ordinance ZDO-285, siting and using an RV as a residence was prohibited except in limited circumstances, such as temporary dwellings for care, while building a permanent dwelling, or within an RV park.

SB 1013 (2023) created the potential to allow certain property owners to place an RV on their property and use it as a second dwelling. This legislation is not a mandate; the bill specifies that a county may allow property owners in a “rural area” to site one RV for residential purposes. In this case, the legislation defines “rural area” to include unincorporated (outside cities) residential lands both outside and inside the Metro UGB. This means that, in unincorporated Clackamas County, this legislation applies to certain urban *and* rural residential zones (*i.e.*, both inside and outside the Metro UGB), but not to properties within the Barlow, Canby, Estacada, Molalla, or Sandy UGBs, or within an urban reserve.

The bill further specified that:

- The allowance is subject to a residential rental agreement;
- The RV is not subject to state building code;
- The single-family dwelling on the property must be occupied as the property owner’s primary residence;
- There cannot be any other dwelling units on the property, and no portion of the single-family dwelling can be rented for residential tenancy;
- The property owner must provide “essential services,” including utility hookups to the RV space; and
- The RV may not be used for vacation occupancy (short-term rental).

Ordinance ZDO-285 includes amendments to allow for this use, and it includes the following standards in addition to the minimum standards required under state law.

- The RV is subject to the same setbacks from property lines that apply to the primary dwelling;
- The RV must be sited at least 10 feet from the primary dwelling, but no farther than 100 feet from that dwelling;
- There cannot also be a guest house, as defined and permitted by the ZDO, located on the site; and
- An RV as a second dwelling is prohibited in regulated flood hazard areas.

### **3. Amend standards for replacement dwellings in Agriculture and Forest zones.**

The alteration, restoration, and replacement of lawfully established dwellings in Agriculture and Forest zones (EFU, AG/F, and TBR) is governed by state statutes and administrative rules. Prior to January 2, 2024, the effective date of HB 2192 (2023), the rules for alteration, restoration, and replacement of dwellings were different in the Agriculture zones than in the Forest zones.

- In Forest zones, statutes allowed for the alteration, restoration, and replacement of a lawfully established dwelling only if that building met specific structural requirements for a habitable dwelling at the time of the proposed replacement.
- In Agriculture zones, temporary provisions were in effect that allowed for the alteration, restoration, and replacement of dwellings that formerly met the habitability requirements as far back as 1973.

HB 2192 (2023) aligned statutory requirements for the alteration, restoration, and replacement of dwellings in Agriculture and Forest zones. The provisions in that bill are already in effect and generally include the following:

- Retains the specific structural requirements for a habitable dwelling (intact exterior walls and roof; indoor plumbing with a sink, toilet, and bathing facilities connected to sanitary waste system; interior wiring for lights; and a heating system);
- Allows for the alteration, restoration, and replacement of lawfully established dwellings that have or “formerly had”—within the previous three years—the above structural requirements, if the dwelling to be replaced was assessed as a dwelling for the purposes of ad valorem taxation:
  - In the five years before permit application if the value of the dwelling has not been eliminated from such taxation because of destruction or demolition;
  - In the five years before the date of the destruction or demolition if the dwelling has been eliminated from such taxation as a result of destruction or demolition; or
  - From the date the dwelling was established and became subject to taxation if the dwelling post-dates the beginning of the applicable five-year period;
- Includes certain siting standards and requires that construction commence no later than four years after approval of the replacement application; and
- Requires that replacement dwellings comply with fire-related construction provisions in the state building code.

Ordinance ZDO-285 incorporates all the required provisions for alteration, restoration, and replacement of lawfully established dwellings in Agriculture and Forest zones into the ZDO, so that the County will no longer be administering these provisions directly from state law.

**4. Make other housing-related amendments, including affordable housing, prefabricated structure, and single-room occupancy allowances.**

The Oregon Legislature passed several bills that require the County to allow certain dwelling types and affordable housing in certain areas. Ordinance ZDO-285 incorporates those mandatory items into the ZDO, including:

- Adding a definition for single-room occupancies and allowing that type of housing in urban residential zones and rural residential zones inside a UGB;
- Adding a definition for prefabricated structures and allowing that type of dwelling consistent with allowances for manufactured dwellings;
- Allowing for the development of affordable housing, as defined in ORS 197A.445(1), on certain urban residential, commercial, and industrial properties, including:
  - Property owned by a public body, a housing authority, or certain types of non-profit organizations; or
  - Property zoned to allow religious assembly or commercial uses; and
- Amending the affordable housing bonus density standards to include an additional option, as outlined in state law.

**5. Make minor/non-substantive changes to the Comprehensive Plan and ZDO that:**

- Remove a reference to a zoning district that has been repealed;
- Clarify setback exemptions for middle housing land divisions;

- Amend the definition of “floor area” for clarity and add language to further clarify how this calculation is made for ADUs and guest houses;
- Remove a combined platting allowance for middle housing land divisions that may not be supported by state law;
- Add references to the new housing types allowed by state law to Chapter 4 of the Comprehensive Plan;
- Revise Comprehensive Plan policies that conflict with new requirements to allow affordable housing in certain areas; and
- Correct citations and typographical errors.

## PUBLIC NOTICE & COMMENTS

Notice of the proposed amendments in Ordinance ZDO-285 was sent to:

- All cities within the county;
- The County’s Community Planning Organizations (CPOs) and Hamlets;
- The Oregon Department of Land Conservation and Development (DLCD), Metro, the Oregon Department of Transportation (ODOT), and other interested agencies; and
- An interested parties list, specific to this planning project.

Notice was also published in the newspaper and online and was the subject of a countywide press release. Seven of the County’s CPOs and Hamlets provided comments. Generally, the CPOs and Hamlet were concerned about and opposed to the RV portions of the proposal. Concerns expressed included potential neighborhood impacts, lack of enforcement of current rules, and the capacity of public facilities and infrastructure, like the transportation system, to support more population growth in the area. Representatives from several of these CPOs/Hamlets also provided oral testimony at one or both public hearings.

Two cities provided comments—Molalla and Wilsonville—both expressing concerns with the RV option and the potential impacts of future urbanization of lands near the cities.

Written and oral testimony was also received from several members of the public. Generally, these commenters expressed support for the ADU portion of the proposal and many for the entire proposal. A few of the commenters noted concerns about the RV portion of the proposal and included suggested changes.

Comments received from all the parties are summarized in three general categories, as follows:

### **1. Code violations and enforcement.**

Code enforcement was one of the most widely shared concerns about the new housing allowances in Ordinance ZDO-285, although the concern was more directed at the RV option than at rural ADUs. Code violations and enforcement concerns touch many of the other concerns that were voiced in opposition. In general, concern was voiced both in the public testimony and by several Planning Commissioners that the amendments in Ordinance ZDO-285 will:

- Create a number of enforcement issues, including septic, trash, noise, and other nuisances; and
- Place an additional strain on the County’s Code Enforcement Division, which already has a backlog of cases and limited resources.

Many commenters also noted that existing illegal RV dwellings are already an enforcement issue, and they therefore expressed doubt that RVs (and to a lesser extent ADUs) permitted under Ordinance ZDO-285 would be enforced adequately or at all.

## 2. Other concerns about allowing RVs as second dwellings.

A number of other concerns about the proposal to allow RVs as second dwellings were expressed in the written and oral testimony. Those issues can be summarized in the following categories:

- Impacts to services. Under current rules, RVs—even if used as a temporary care/hardship dwelling—do not pay system development charges (SDCs) or property taxes. Several Planning Commissioners noted that, because they are not taxed, allowing an RV as a second dwelling is essentially authorizing a dwelling in which residents will be using services—like fire, law enforcement, and schools—with no clear mechanism to pay their own way;
- RVs are not intended to be permanent dwellings. By definition, RVs are vehicles and are not intended for long-term residency. Concerns were voiced related to the long-term habitability of RVs; the safety of RVs, which deteriorate more rapidly than typical dwellings; and how the RVs would be disposed of, particularly the potential impact to the County if they are abandoned in rights-of-way; and
- Habitability factors and safety. A wide range of additional concerns were identified by the public, CPOs, Hamlets, and the Planning Commission regarding the possible impacts of using RVs as second dwellings, including:
  - Concerns about exposure to toxic substances within the unit, since RVs are not built and inspected like other dwellings;
  - Utility connections and how sewage disposal, water service, and electricity would be provided to the RV. Although much concern around this issue was noted, the Board also notes that, as drafted and approved, the amendments to allow for RVs as second dwellings will require that the RV have a permitted connection to: public sewer or an on-site wastewater system, public water or a domestic well, and an electrical source. By requiring a permitted connection, the RV will *not* legally be able to rely on sources such as hoses, extension cords, and generators for the necessary utilities and services;
  - The snow load of an RV and whether it can withstand the amount of snow that falls in mountain communities in the winter. A suggestion to require a cabana—a permitted structure that covers the RV—was put forward by a member of the public and given consideration by the Planning Commission and the Board, but ultimately not included in Ordinance ZDO-285; and
  - Potential negative impacts to rural neighborhoods, including the general safety of neighborhoods as well as noise, trash, and other negative impacts to immediate neighbors. As noted in the hearings, most of the cited negative impacts to the neighborhood would be handled no differently for an RV than for any other type of dwelling in that, if the County became aware of the situation through a complaint, and if there was a violation of solid waste, zoning, or building code standards, then the County would begin code enforcement proceedings.



### 3. General support for rural ADUs.

A majority of the written comments voiced support for this option. It is generally acknowledged by the public, CPOs, Hamlets, and the Planning Commission that this option does not generate the same level of concern as the RV option because:

- An ADU would be a permitted dwelling which would necessarily be connected to the same types of sewage disposal, water supply, and other utility supplies as would the primary dwelling or any other dwelling, and which would require a building or manufactured home placement permit;
- ADUs pay SDCs and are included on property tax rolls; and
- An ADU can provide a convenient and often more affordable option for a family member or friend to live on the same property as the property owner. In addition, or alternatively, it can provide an additional source of income for the property owner, thereby making it possible for the owner to either buy a property that they would not otherwise be able to afford or stay on a property that may have become too expensive to maintain.

#### Additional Public Outreach and Responses

Prior to the two public hearings, the public was given two other opportunities to learn about and respond to the rural ADU and RV options in Ordinance ZDO-285 through:

1. A virtual question & answer (Q&A) “listening session” held by staff on April 2, 2024. The online Q&A session had 20 attendees, many of whom had questions for staff. Attendees who spoke also identified concerns related to enforcement, particularly the observation that there are currently people living illegally in RVs and other unpermitted structures in the rural area, as well as the potential impacts of these uses on rural character, wildfire risks, traffic congestion, and other issues; and
2. An online survey available from March 18 through April 10, 2024. The online survey generated a total of 631 responses. Those responses were generally supportive of rural ADUs but were more mixed about the RV option:
  - Approximately 71% of the respondents supported ADUs in all rural residential areas, while 21% were opposed; and
  - Approximately 41% of the respondents supported RVs as second dwellings in all locations where they can be allowed, while 34% were opposed. An additional 12% supported this use only in the rural area, and 4% supported it only in the urban area.

Survey respondents were able to provide written comments at various points in the survey, and many comments were provided. Those comments include a wide variety of thoughts and concerns about the options:

- Positive comments generally noted that the options could provide an opportunity for a property owner to allow family members or friends in need to live on the same property as them;
- Many respondents thought that ADUs should actually be allowed more broadly in the rural area—on lots smaller than two acres and in agricultural zones (neither of which state law allows at this time); and

- Respondents noted many of the same concerns as attendees of the Q&A session, including enforcement, rural character, the habitability of RVs, and the units becoming short-term rentals.

## ANALYSIS & FINDINGS

The Comprehensive Plan and ZDO text amendments in Ordinance ZDO-285 are legislative in nature and are subject to the relevant Statewide Planning Goals, Oregon Revised Statutes, Oregon Administrative Rules, Metro Urban Growth Management Functional Plan provisions, Comprehensive Plan policies, and procedural standards identified in the ZDO. Compliance with the relevant portions of each is discussed in subsections 1 through 4, below.

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

This section includes findings on Ordinance ZDO-285's consistency with the Statewide Planning Goals. The analysis and findings are focused on the optional changes to implement **Actions 1 and 2**. Amendments made to conform to state laws, or to codify or clarify existing rules or definitions, do not warrant findings for consistency with the 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.

Ordinance ZDO-285 does not change the *Citizen Involvement* chapter (Chapter 2) of the Comprehensive Plan.

ZDO Section 1307 implements policies of Comprehensive Plan Chapter 2 and contains procedures for citizen involvement and public notification of land use applications. Notice of Ordinance ZDO-285 was provided consistent with the requirements of ZDO Section 1307, including to DLCD, all cities within 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 was also posted on County websites. Before a final decision on Ordinance ZDO-285 was made, there were two public hearings: one before the Planning Commission and another before the Board.

#### Public Outreach

In addition to meeting the minimum requirements for compliance with Goal 1, the County engaged in public outreach activities specifically related to the options for rural ADUs and RVs as second dwellings. The additional outreach efforts included:

- An online survey to assess opinions about rural ADUs and RVs as second dwellings. This survey was available from March 18 through April 10, 2024. Notice of the survey was sent directly to people on the project's interested parties lists and was publicized through the news media, on social media, and on the project webpage ([www.clackamas.us/planning/secondary-dwellings](http://www.clackamas.us/planning/secondary-dwellings)). The survey received a total of 631 responses; and
- A virtual Q&A session, in which County staff gave a brief presentation about rural ADUs and RVs as second dwellings and gave the public the opportunity to ask questions about the topic. Notice of this meeting was posted on the project webpage, emailed to interested parties, and publicized through news media and on social media. A total of 20 members of the public attended the online session.

These public outreach efforts ensure that any interested parties had ample opportunity to participate in this planning process.

**This proposal is consistent with Goal 1.**

**Goal 2 – Land Use Planning:** Goal 2 requires the County to have and to follow a comprehensive plan and implementing land use regulations. Comprehensive Plan and ZDO provisions must be consistent with the Statewide Planning Goals, but Goal 2 also provides a process by which exceptions can be made to certain goals.

Ordinance ZDO-285 does not require an exception to any Statewide Planning Goal. The only Comprehensive Plan amendments made by Ordinance ZDO-285 are to Chapter 4, *Land Use*, in order to ensure that that chapter is consistent with recent state law changes for housing requirements in **Action 4** and that it clearly enables the changes under **Actions 1 and 2**.

With the amendments in Ordinance ZDO-285, the Comprehensive Plan will continue to be consistent with the Statewide Planning Goals and the implementing regulations in state law.

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

**Goal 3 – Agricultural Lands:** Ordinance ZDO-285 does not amend Comprehensive Plan policies related to agricultural lands, nor does it change any property's planning or zoning designation or expand any UGB into agricultural lands (*i.e.*, those zoned EFU). Ordinance ZDO-285 does not permit new uses on agricultural lands. Rather, the ordinance amends the ZDO to ensure consistency with existing state allowances for the alteration, restoration, and replacement of lawfully established dwellings and makes other non-substantive changes to ensure consistency with state law.

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

**Goal 4 – Forest Lands:** Ordinance ZDO-285 does not amend Comprehensive Plan policies related to forest lands (*i.e.*, those zoned AG/F or TBR), nor does it change any property's planning or zoning designation or expand any UGB into forest lands. Rather, the ordinance amends the ZDO to ensure consistency with existing state allowances for the alteration, restoration, and replacement of lawfully established dwellings and makes other non-substantive changes to ensure consistency with state law.

**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.

Ordinance ZDO-285 does not make any changes to the Comprehensive Plan goals, policies, or inventories, or the ZDO provisions, related to the protection of scenic, historic, or open space resources. Any new development that might occur as a result of the amendments in Ordinance ZDO-285 will be required to meet the standards and processes that currently exist to ensure that the county's Goal 5 resources are adequately protected. In addition, Ordinance ZDO-285 does not allow any new uses that could conflict with an inventoried Goal 5 resource, since ADUs and RVs as second dwellings are residential uses and since they are being allowed in zones that already allow residential uses.

**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.

Any new development that might occur as a result of the amendments in Ordinance ZDO-285 will be required to meet the standards and processes that currently exist related to Goal 6.

**This proposal is consistent with Goal 6.**

**Goal 7 – Areas Subject to Natural Hazards:** Goal 7 requires the Comprehensive Plan to address Oregon’s natural hazards.

Ordinance ZDO-285 does not change the Comprehensive Plan policies regarding natural disasters and hazards, nor does it modify the mapping of any hazards. Any new development that might occur as a result of the amendments in Ordinance ZDO-285 will be required to meet the standards and processes that currently exist to ensure protection from natural hazards.

**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.

Ordinance ZDO-285 does not change any existing Comprehensive Plan policy or ZDO provision regarding recreational needs, nor does 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. Ordinance ZDO-285 does not change the planning or zoning designation of any property. It also does not add any new restrictions on uses in areas of the county reserved for commercial and industrial development. Ordinance ZDO-285 allows for affordable housing in certain commercial and industrial areas that do not currently allow housing; however, the statute that requires the County to allow this use specifically states that these affordable housing requirements “[d]o not trigger any requirement that a local government consider or update an analysis as required by a statewide planning goal relating to economic development.” ORS 197A.445(4)(b).

While this goal is not directly applicable, the amendments in Ordinance ZDO-285 will support economic development by allowing more affordable types of housing (single-room occupancies, prefabricated structures, and RVs as second dwellings) in the urban area, thereby expanding housing options for the workforce in unincorporated Clackamas County and providing more opportunities for people to live where they work. Improving opportunities for workforce housing is one way in which the County can provide a supportive environment for the development and expansion of desired businesses.

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

**Goal 10 – Housing:** The purpose of Goal 10 is to meet housing needs. Goal 10 requires comprehensive plans to “*encourage the availability of adequate numbers of needed housing units at price ranges and rent levels which are commensurate with the financial capabilities of Oregon households and allow for flexibility of housing location, type and density.*”

Ordinance ZDO-285 will allow development of housing types where they were previously prohibited—and, in some areas, at a higher density than currently permitted—which will increase the capacity of lands to accommodate identified housing needs. The amendments will also provide more housing choices within existing and new neighborhoods. These changes will provide additional opportunities to meet the housing needs of Clackamas County residents.

Specifically, the amendments included in Ordinance ZDO-285 will increase opportunities for housing by:

- Allowing property owners to provide additional housing on their own properties. Allowing ADUs in rural residential areas and RVs to be used as second dwellings in

urban and rural residential areas allows property owners to help family members, friends, or renters needing lower cost housing, as these will be smaller dwelling units than many other housing options;

- Increasing housing variety and affordability by specifically allowing single-room occupancies and prefabricated structures to be used as dwellings within UGBs; and
- Allowing affordable housing that meets certain requirements to be built in nearly every urban zoning district and providing an alternate affordable housing density bonus to the one currently offered by the County.

All 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.

Ordinance ZDO-285 does not propose any change in adopted plans for the provision of water, sewer, or other public services. Any new development that might occur as a result of the amendments in Ordinance ZDO-285 will be required to be developed compliant with public facilities and services requirements applicable at the time of construction or placement of an RV as a second dwelling.

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

**Goal 12 – Transportation:** Goal 12 is implemented by OAR chapter 660, division 12. Local governments are required to adopt a transportation system plan (TSP) and land use regulations to implement the TSP. Ordinance ZDO-285 does not include amendments to the County's TSP or transportation-related land use regulations.

OAR 660-012-0060 also requires that any comprehensive plan or land use regulation amendments be evaluated to determine whether they will have a significant impact on the transportation system.

Ordinance ZDO-285 does not make any change to the county's buildable land supply; however, by allowing for ADUs and RVs as second dwellings, this proposal does have the effect of allowing up to two dwellings on some lots in the rural area that are currently allowed only one dwelling plus a guest house. Nevertheless, the Board does not find that these changes would have any significant impact on the transportation system.

- In urban areas (within UGBs), allowing for an RV to be used as a second dwelling does not increase the allowed housing density. This use will be allowed in the County's urban low-density zones, which already allow for more than one dwelling on a property. Because establishing an RV as a second dwelling will limit the property owner to two dwellings (the primary dwelling and the RV), it is no different, from a density standpoint, than the current allowance for a primary dwelling plus an ADU, or a duplex. It is, in fact, a lower density than could be developed with other types of middle housing. Similarly, in rural residential zones inside a UGB, ADUs are already allowed, so the additional option of an RV instead of an ADU as a second dwelling will not result in any net increase in density.
- In rural residential areas (outside UGBs), allowing for an ADU or an RVs as a second dwelling on a property could potentially increase density. Although these zones arguably already allow for another separate living space through the County's guest house provisions, a guest house is not a complete dwelling and is very limited in size, so the new allowances would likely be able to accommodate a slightly larger household.

- Based on a GIS analysis, approximately 8,300 lots in the rural residential areas are at least two acres in size and could therefore qualify for an ADU under this proposal.
- Based on a GIS analysis, approximately 15,100 lots in the rural residential areas could qualify for an RV as a second dwelling under this proposal (because there is no minimum lot size).
- In both cases, these lots are geographically dispersed throughout the entire rural area of the county. In addition, there will be permitting costs, and it will take time to establish the second dwelling. Therefore, neither option is expected to result in a sudden proliferation of these uses. Rather, a slow process to establish a relatively small number of each use is expected. For context, ADUs have been allowed in the urban area for more than 25 years and, based on a permit search, less than 1% of the eligible lots in the urban area have developed with ADUs in that time.
- The geographic distribution of the lots that qualify for these second dwellings, and the fact the lots are expected to develop over many years, means the road system is expected to be adequate to handle the traffic volumes generated by rural ADUs and RVs as second dwellings.

Notice of Ordinance ZDO-285 was provided to ODOT and to the County's Development Engineering Division, neither of which provided comments. As such, no additional analysis of the transportation system is needed.

**This proposal is consistent with Goal 12.**

**Goal 13 – Energy Conservation:** Goal 13 encourages comprehensive plans to consider lot size, building height, density, and other measures in order to help conserve energy. Ordinance ZDO-285 does not change any Comprehensive Plan policy or ZDO provision 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 UGBs, to ensure efficient use of land, and to provide for livable communities. The goal primarily concerns the location of UGBs, the establishment of “urbanizable areas” and unincorporated communities, exception lands, and rural industrial uses.

Ordinance ZDO-285 does not modify any UGB or the status or boundaries of any unincorporated community. The ordinance does not modify any urban or rural reserve boundary, allow any new uses in such reserves in a manner inconsistent with state law, change the planning or zoning designation 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:** Ordinance ZDO-285 does not change any existing requirements 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. Metro Urban Growth Management Functional Plan

The purpose of the Metro Urban Growth Management Functional Plan (UGMFP) is to implement 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 Metro Regional Framework Plan.

Ordinance ZDO-285 does not change the boundaries of the UGB or of an urban or rural reserve, allow new retail uses in any zoning district, change the dimensional standards of any use in an urban area, or change any provisions governing open spaces. Ordinance ZDO-285 also does not make any change to the county's residential, commercial, or industrial land supply. Therefore, only three of the 14 titles of the UGMFP contain provisions relevant to this ordinance:

- **Title 1** of the UGMFP is intended to promote efficient land use within the Metro UGB by increasing the capacity to accommodate housing. Much of this title is dedicated to the circumstances under which housing density can be reduced, which is not included in Ordinance ZDO-285. Although it is likely to have only a minimal effect on housing density in the urban area, adding allowances for new housing types, including RVs as second dwellings, single-room occupancies, prefabricated structures, and affordable housing in more locations, could marginally increase the housing capacity within the Metro UGB, thereby supporting the goals of this title.
- **Title 7** of the UGMFP is intended to ensure the production of affordable housing within the UGB. Under Title 7, the County is required to ensure that the Comprehensive Plan and ZDO include strategies to: ensure the production of a diverse range of housing types, maintain the existing supply of affordable housing, increase opportunities for new affordable housing dispersed throughout the county, and increase opportunities for households of all income levels to live in affordable housing. Although it is likely to have a negligible effect on housing density in the urban area, adding allowances for new housing types, including RVs as second dwellings, single-room occupancies, prefabricated structures, and affordable housing in more locations, will further the goals of this title by increasing opportunities for housing choice with the Metro UGB.
- **Title 8** establishes a process for ensuring compliance with the requirements of the UGMFP. An amendment to the Comprehensive Plan or ZDO is deemed to comply with the UGMFP only if the County provided notice to Metro as required by Metro Code 3.07.820(a). Notice of this proposal was provided to Metro on March 18, 2024—35 days prior to the first evidentiary hearing. To date, Metro has not submitted any comments related to Ordinance ZDO-285.

**The proposal is consistent with the UGMFP.**

## 3. Comprehensive Plan

The Board finds that the following four chapters of the 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 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.*

The amendments found in Ordinance ZDO-285 were developed with consideration of feedback from a public engagement effort that included:

- An online survey;
- A virtual Q& A session; and
- Numerous press releases, emails, social media posts, and a project webpage.

In addition, consideration of Ordinance ZDO-285 has proceeded according to the notice and public hearing requirements of ZDO Section 1307, which implements Chapter 2 of the Comprehensive Plan.

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

**Chapter 4 – Land Use:** Chapter 4 generally includes goals and policies for how land in Clackamas County should be planned and zoned and for what uses should be allowed in those designations.

Ordinance ZDO-285 does not change the planning or zoning designation of any property. The proposal does, however, change the allowed uses in some zoning districts, which necessitated amendments to Chapter 4.

The amendments to Chapter 4:

- Clarify the types of housing allowed and add single-room occupancies and prefabricated structures to the list of allowed housing types in certain areas; and
- Remove conflicts to ensure that the Comprehensive Plan will enable the housing types that the County is required to allow in urban commercial areas that did not previously allow housing.

Ordinance ZDO-285 does not allow rural ADUs and RVs as second dwellings in areas designated as urban reserves because the enabling statutes specifically prohibit those uses in urban reserves. However, both the statutes and the ordinance allow those uses in rural residential areas, some of which are located within the county's designated rural reserves. Therefore, the following policy applies to this proposal:

*4.F.3 – The County shall not amend the Comprehensive Plan or Zoning and Development Ordinance, or the Comprehensive Plan Map or zoning designations:*

*4.F.3.1 – To allow within the Rural Reserve areas, new uses that were not allowed on the date Rural Reserve areas were designated, except as authorized by amendments to the Oregon Revised Statutes or Oregon Administrative Rules enacted after the designation of Rural Reserve areas.*

For the following reasons, the Board finds that it is possible to allow these new uses in rural reserves because of the exceptions allowed under OAR 660-027-0070, *Planning of Urban and Rural Reserves*.

- Policy 4.F.3 was adopted into the Comprehensive Plan and became effective on August 25, 2010. At that time, OAR 660-027-0070 did not include any exceptions to the prohibition on allowing new uses within reserves.



- However, beginning in October 2010, the Land Conservation and Development Commission (LCDC) adopted several amendments to the rule that included various exceptions to the prohibition. Because these exceptions were adopted after the County's policy was adopted, it is possible to apply them directly from the rule.
- The current language of OAR 660-027-0070(5) is quoted below, with the Board's findings associated with each section:

*(5) Notwithstanding the prohibition in sections (2) through (4) of this rule a county may amend its comprehensive plan or land use regulations as they apply to land in an urban or rural reserve that is subject to an exception to Goals 3 or 4, or both, acknowledged prior to designation of the subject property as urban or rural reserves, in order to authorize an alteration or expansion of uses or lot or parcel sizes allowed on the land under the exception provided:*

Ordinance ZDO-285 allows new uses on lands zoned for rural residential use. Rural residential lands are, by definition, exception lands and are not subject to Goals 3 (Agricultural Lands) or 4 (Forest Lands). OAR 660-027-0070(5) allows the alteration or expansion of uses on exception lands within an urban or rural reserve in certain circumstances. Although the rule does not define "alteration or expansion," based on County Counsel's rulemaking history research, the Board concludes that the rule was intended to allow the alteration or expansion not just of a discrete "use" in an exception area but of "the uses" that are allowed in the exception area, provided the criteria in subsections (a) to (d) are met.

*(a) The alteration or expansion would comply with the requirements described in ORS 215.296, applied whether the land is zoned for farm use, forest use, or mixed farm and forest use;*

Ordinance ZDO-285 allows new uses only in existing exception areas, not land zoned for farm, forest, or mixed farm and forest use. This criterion is not applicable.

*(b) The alteration or expansion conforms to applicable requirements for exceptions and amendments to exceptions under OAR chapter 660, division 4, and all other applicable laws;*

Ordinance ZDO-285 allows an expansion of uses in rural residential exception areas. OAR 660-004-0018(2) specifies that, within exception areas, "all plan and zone designations shall limit uses, density and public facilities and services to those that satisfy (a) or (b) or (c) and, if applicable (d)." In this case, OAR 660-004-0018(2)(b), quoted below, is applicable:

*(b) That meet the following requirements:*

*(A) The rural uses, density, and public facilities and services will maintain the land as "Rural Land" as defined by the goals, and are consistent with all other applicable goal requirements;*

*(B) The rural uses, density, and public facilities and services will not commit adjacent or nearby resource land to uses not allowed by the applicable goal as described in OAR 660-004-0028; and*

*(C) The rural uses, density, and public facilities and services are compatible with adjacent or nearby resource uses[.]*

The Statewide Planning Goals contain the following definition:

*RURAL LAND. Land outside urban growth boundaries that is:*

*(a) Non-urban agricultural, forest or open space, [or]*

*(b) Suitable for sparse settlement, small farms or acreage homesites with no or minimal public services, and not suitable, necessary or intended for urban use[.]*

Allowing ADUs and RVs as second dwellings does not allow smaller lot sizes than are currently allowed in exception areas. Thus, exception areas will remain suitable for “acreage homesites.” In addition, these uses will be established using on-site wastewater systems and either on-site wells or public water providers (if one is available). These uses will be established using only those public services that are available and appropriate for rural lands. Finally, by authorizing counties to allow these uses on rural exception lands, the state has, in effect, established that these uses are appropriate for rural areas and that they will not require any public services that are not suitable for rural lands or commit nearby resource lands to uses not otherwise allowed. If that was not the case, then the state would have required a new exception to Goal 14 (Urbanization) before either of these uses could be allowed.

The Board finds that the new uses allowed under Ordinance ZDO-285 are “rural” and will maintain exception areas as “Rural Land.” This criterion is met.

*(c) The alteration or expansion would not expand the boundaries of the exception area unless such alteration or expansion is necessary in response to a failing on-site wastewater disposal system; and*

Ordinance ZDO-285 does not alter or expand the boundaries of an exception area. This criterion is met.

*(d) An alteration to allow creation of smaller lots or parcels than was allowed on the land under the exception complies with the requirements of OAR chapter 660, division 29.*

Ordinance ZDO-285 does not allow the creation of smaller lots or parcels than are currently allowed; rather, it allows parcels in certain exception areas to add another dwelling to the property. This criterion is met.

Therefore, the new uses included in Ordinance ZDO-285 may be allowed in rural reserves, and the amendments are consistent with Chapter 4.

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

**Chapter 6 – Housing:** Chapter 6 of the Comprehensive Plan generally includes goals and policies related to housing choice, variety, and affordability in Clackamas County.

By increasing the types of housing that can be built or placed on both urban and rural land, Ordinance ZDO-285 directly supports a number of the policies within this chapter, including:

*6.B.1 – Enable a range of housing types throughout the county in a range of zoning districts.*

*6.B.6 – Provide for increased capacity for multifamily development in the urban area.*

*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.*

#### **This proposal is consistent with Chapter 6.**

**Chapter 11 – The Planning Process:** Chapter 11 of the Comprehensive Plan includes policies requiring inter-governmental and inter-agency coordination, public involvement, and notice. As explained previously in this report, all required entities have been notified in accordance with law and have been invited to participate in duly noticed public hearings.

Chapter 11 also contains the specific requirement that the Comprehensive Plan and the ZDO be consistent with the Statewide Planning Goals and the UGMFP, and it requires that the ZDO itself be consistent with the Comprehensive Plan. The “Analysis & Findings” section of this document outlines how Ordinance ZDO-285 meets all these requirements.

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

#### **4. Zoning and Development Ordinance**

The text amendments in Ordinance ZDO-285 are legislative. Section 1307 of the ZDO establishes procedural requirements for legislative amendments, which have been followed in the review and adoption of Ordinance ZDO-285. Notice of this proposal was provided at least 35 days before the first scheduled public hearing to DLCD, cities within the county, active CPOs and Hamlets, and other interested agencies to allow them an opportunity to review and comment on the amendments. Public hearings on the amendments were held before the Planning Commission and the Board. The ZDO contains no further specific review criteria that must be applied when considering an amendment to the text of the Comprehensive Plan or ZDO.

Comprehensive Plan Chapters and ZDO Sections Amended or Added by Ordinance ZDO-285

1. **ZDO Section 202**, *Definitions*
2. **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*
3. **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*
4. **ZDO Section 317**, *Mountain Recreational Resort (MRR) and Hoodland Residential (HR) Districts*
5. **ZDO Section 401**, *Exclusive Farm Use District (EFU)*
6. **ZDO Section 406**, *Timber District (TBR)*
7. **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*
8. **ZDO Section 511**, *Village Community Service (VCS)*
9. **ZDO Section 512**, *Village Office (VO)*
10. **ZDO Section 602**, *Business Park, Light Industrial, and General Industrial Districts (BP, LI, and GI)*
11. **ZDO Section 833**, *Guest Houses*
12. **ZDO Section 839**, *Accessory Dwelling Units*
13. **(New) ZDO Section 846**, *Affordable Housing*
14. **(New) ZDO Section 847**, *Recreational Vehicles as Second Dwellings*
15. **ZDO Section 903**, *Setback Exceptions*
16. **ZDO Section 1001**, *General Provisions*
17. **ZDO Section 1006**, *Utilities, Street Lights, Water Supply, Sewage Disposal, Surface Water Management, and Erosion Control*
18. **ZDO Section 1012**, *Lot Size and Density*
19. **ZDO Section 1102**, *Design Review*
20. **ZDO Section 1105**, *Subdivisions, Partitions, Replats, Middle Housing Land Divisions, Condominium Plats, and Vacations of Recorded Plats*
21. **ZDO Section 1307**, *Procedures*
22. **Comprehensive Plan Chapter 4**, *Land Use*