



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

**LAND USE HEARING**  
**September 27, 2023**  
**10:00 AM**

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

**HEARING**

**File No.:** ZDO-286: Local Park Master Plan Framework

**Applicants:** Clackamas County

**Proposal:** ZDO-286 is a package of legislative amendments to the Comprehensive Plan and Zoning and Development Ordinance to provide a procedural framework for considering the adoption of local public park master plans in the EFU, TBR and AG/F zoning districts. These amendments ensure consistency with Oregon Administrative Rules for local public parks, and also makes minor housekeeping edits.

**Staff Contact:** Joy Fields, Senior Planner, [JFields@clackamas.us](mailto:JFields@clackamas.us)



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

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**File Number:** ZDO-286, *Local Park Master Plan Adoption Framework - Amendments to the Clackamas County Comprehensive Plan and Zoning and Development Ordinance (ZDO)*

**Staff Contact:** Joy Fields, Senior Planner ([jfields@clackamas.us](mailto:jfields@clackamas.us))

**Board of County Commissioners Hearing Date:** September 27, 2023

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**PROPOSAL:**

Amend the Comprehensive Plan and Zoning and Development Ordinance to be consistent with Oregon Administrative Rules related to public parks and explicitly provide a pathway for considering the adoption of local park master plans. If such a framework is enacted, a public local park provider may file a land use application requesting adoption of a specific master plan by the county.

**Comprehensive Plan Chapter 9**

Amendments to Chapter 9 will explicitly allow the county to consider the adoption of a local park master plan.

Oregon Administrative Rules (OAR) 660-034-0035 and 660-034-0040 are applicable to local parks on agricultural and forest land and provide a pathway, through local adoption of a park master plan, to allow more local park uses than are otherwise permitted. The ZDO currently includes provisions for public parks in the Exclusive Farm Use (EFU), Timber (TBR), and Ag/Forest (AG/F) zoning districts. However, the existing provisions do not clearly address the master plan option that may allow a broader range of park uses.

In addition, minor housekeeping amendments are proposed to Chapter 9 to reformat/reorganize the goals to match the recently amended Chapter 6 and to remove some outdated references.

**Comprehensive Plan Chapter 4**

Amendments to Chapter 4 would recognize a new *Special Use Overlay District* as the zone that implements a local park master plan adopted in the Comprehensive Plan for a local public park in the EFU, TBR or AG/F zoning district.

**Zoning and Development Ordinance**

- Align the ZDO with OAR 660-034-0040 by:

- Adopting a new Section 714, *Special Use Overlay District*, which would apply to public parks in the EFU, TBR and AG/F zoning districts that have an adopted local park master plan; and
- Amending Sections 401, 406, and 407 to specify that the *Special Use Overlay District* standards apply to development of park uses on sites where a local park master plan has been adopted.

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**RELATED PRIOR BCC ACTION:**

In 2021, the Board authorized the 2021-2023 Long-Range Planning Work Program, which includes a project to consider adoption of the City of Lake Oswego's Luscher Farm Park Master Plan. In September 2022, the BCC revised the work program to prioritize the land use planning projects, given reduced staffing in Planning and Zoning. Working with Lake Oswego to identify the changes needed to the Comprehensive Plan and ZDO to support the adoption of the city's Luscher Farm Park Master Plan was selected as a priority project. The current proposal to establish a framework for the adoption of local park master plans was discussed at a Policy Session on June 14, 2023, and the proposed amendments reflect the Board's direction at the Policy Session.

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**PLANNING COMMISSION ACTION:**

The Planning Commission (PC) held a public hearing on the proposed amendments on September 11, 2023, before voting on a recommendation to the Board. Fifteen parties provided oral or written testimony. The testimony included support for the proposed amendments, concern over the additional uses that would be allowed on farmland, and specific concerns about Luscher Farm Park. The PC voted 6-2 to recommend approval of ZDO-286 as recommended by staff and included in the Board hearing packet as Item 6 – Draft Amendments.

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**CPO AND HAMLET RECOMMENDATIONS:**

All the County's CPOs and Hamlets were sent notice of this proposal on August 8, 2023. No CPO or Hamlet has commented. Community members who are leaders in the Stafford Hamlet and CPO provided individual testimony.

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**SIGNIFICANT ISSUES:**

The following four items were the focus of most of the Planning Commission's discussion and public testimony.

**Public Park Uses**

Concerns have been raised about whether all of the uses allowed by state law through a local park master plan are appropriate to be included in the county's framework for master plan approval. With the adoption of a local park master plan, the uses allowed in a local public park on agricultural and forest lands can include the uses allowed in state parks pursuant to OAR 660-034-0035(2)(a) to (g), including:

- a. Campground areas: recreational vehicle sites; tent sites; camper cabins; yurts; teepees; covered wagons; group shelters; campfire program areas; camp stores;
- b. Day use areas: picnic shelters, barbecue areas, swimming areas (not swimming pools), open play fields, play structures;
- c. Recreational trails: walking, hiking, biking, horse, or motorized off-road vehicle trails; trail staging areas;

- d. Boating and fishing facilities: launch ramps and landings, docks, moorage facilities, small boat storage, boating fuel stations, fish cleaning stations, boat sewage pumpout stations;
- e. Amenities related to park use intended only for park visitors and employees: laundry facilities; recreation shops; snack shops not exceeding 1500 square feet of floor area;
- f. Support facilities serving only the park lands wherein the facility is located: water supply facilities, sewage collection and treatment facilities, storm water management facilities, electrical and communication facilities, restrooms and showers, recycling and trash collection facilities, registration buildings, roads and bridges, parking areas and walkways;
- g. Park Maintenance and Management Facilities located within a park: maintenance shops and yards, fuel stations for park vehicles, storage for park equipment and supplies, administrative offices, staff lodging;

Members of the public and the Planning Commission were concerned with the intensity of some of the uses above and discussed that not all of the items in the list are suitable for every potential public park. However, the majority of the Planning Commissioners concluded that each use may be appropriate for one or more potential public parks. Because the appropriateness of the specific proposed uses will be considered for each local park master plan's unique situation prior to the adoption of the plan, the majority of Planning Commissioners felt comfortable in leaving the uses as identified in the OAR and recommended by staff. The required application would be a Comprehensive Plan amendment and zone change (to apply the Special Use Overlay zone) and would include public notice and public hearings before the Planning Commission and Board of County Commissioners.

### **Code Enforcement**

The Planning Commission expressed concern with their perception that there are insufficient resources for code enforcement and frustration that it appears that Luscher Farm Park has been out of compliance with the zoning code for many years. They questioned whether if all of the public park uses identified in the OARs are potentially allowed with the adoption of a local park master plan, what is to keep the public park provider from adding additional uses in the future even if they were not approved with the adoption of the master plan? The Planning Commission considered whether limiting the potential uses identified in OAR 660-034-0035(2)(a) to (g) may be one way to limit the unapproved expansion of uses later on. Ultimately, however, the Commission voted to recommend that all of the uses be available for consideration under the county's regulations.

### **Public Outreach**

The Planning Commission discussed the importance of adequate public outreach and involvement in the park master plan adoption process. Staff noted that state regulations require outreach as part of the park master plan development and that county review of a master plan application will include public notice and a minimum of two public hearings.

### **Luscher Farm Park**

Although the proposal under File ZDO-286 establishes a general procedural framework for local park master plan review and adoption, this project occurs against a backdrop of the City of Lake Oswego's clear intent to pursue approval of a master plan for Luscher Farm Park. Testimony on the Luscher Farm Park master plan was mixed, with some in favor of the park and its role in preserving the agricultural heritage of the area and providing farm-related education and others expressing concern about the impact of uses on the site.

There was significant support from the City of Lake Oswego for the adoption of ZDO-286 and discussion amongst the Planning Commission regarding how if ultimately adopted by the County, the master plan would provide a pathway for the existing park site to come into compliance with land use regulations, addressing a longstanding issue. Discussion included that many of the concerns shared through the public testimony would be considered during the next step of considering the Luscher Farm local park master plan for adoption through a Comprehensive Plan amendment.

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**STAFF RECOMMENDATION:**

Staff recommends adoption of the amendments in *Item 6 – Draft Amendments*.

FILE ZDO-286:  
LOCAL PARK MASTER  
PLAN FRAMEWORK



Board of County Commissioners' Public Hearing  
September 27, 2023

# OVERVIEW

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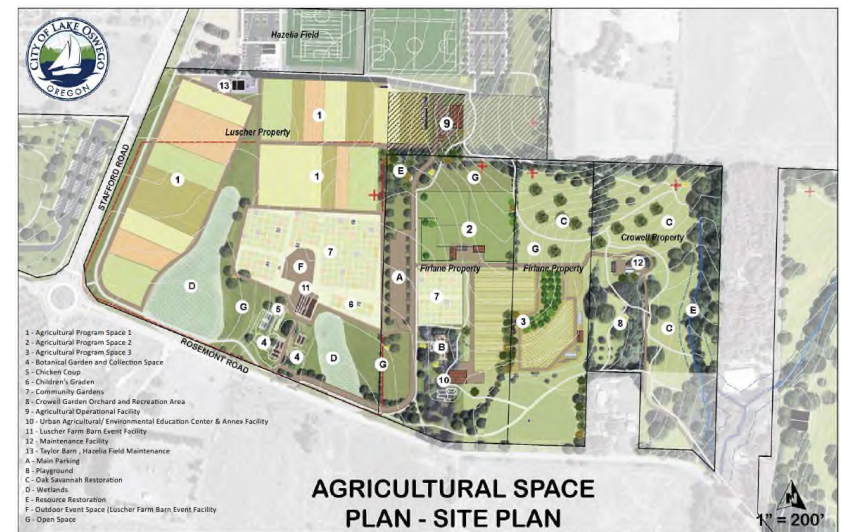
## Legislative amendments to the Comprehensive Plan and Zoning and Development Ordinance

- Provides a procedural framework for considering the adoption of local public park master plans in the EFU, TBR and AG/F zoning districts
- Ensures consistency with Oregon Administrative Rules for local public parks
- Makes housekeeping edits

# BACKGROUND

## Luscher Farm Park Master Plan

- City Park in EFU Zoning District
- Project in the 2021-2023 Long-Range Planning Work Program
- Met with DLCD & concluded a framework is needed





# PROPOSED PLAN AMENDMENTS

## Chapter 4, Land Use

- Recognizes Special Use Overlay zone to implement approved local park master plans in EFU, TBR & AG/F zones

## Chapter 9, Open Space, Parks and Historic Sites

- Enables local park providers to apply for master plan approval and corresponding application of the Special Use Overlay zone
- Housekeeping edits for updating and clarity



# PROPOSED ZDO AMENDMENTS

Aligns the Zoning and Development Ordinance with OAR 660-034-0040 by:

- ❑ Creating a new Section 714, Special Use Overlay District
- ❑ Amending Sections 401, 406 and 407 to specify that the Special Use Overlay District standards apply to development of park uses on sites where a local park master plan has been adopted



# PURPOSE

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- ❑ State law allows additional uses in local public parks in EFU, TBR and AG/F zones if a master plan is submitted, found compliant with state-mandated criteria, and adopted as part of the Comprehensive Plan
- ❑ The County's Comprehensive Plan and ZDO do not currently provide a clear pathway for master plan adoption

# ADDITIONAL USES

With the adoption of a local park master plan, a public park potentially could include:

- ▣ Campground areas
- ▣ Day use areas
- ▣ Recreational trails
- ▣ Boating and fishing facilities
- ▣ Amenities related to park use intended only for park visitors and employees
- ▣ Support facilities serving only the park lands wherein the facility is located
- ▣ Park Maintenance and Management Facilities located within a park

# PLANNING COMMISSION HEARING



## Significant Issues

- Ensure ample opportunity for public participation in the master plan adoption process
- Existing code enforcement processes may not be sufficiently robust to ensure compliance with an adopted local park master plan
- Each property is unique and not all potential uses are suitable for all park sites

# PLANNING COMMISSION RECOMMENDATION

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Approval of ZDO-286 as recommended by staff

- Vote of 6 ayes, 2 nays

# QUESTIONS?





## **STAFF REPORT TO THE PLANNING COMMISSION**

TO: Clackamas County Planning Commission

FROM: Joy Fields, Senior Planner ([jfields@clackamas.us](mailto:jfields@clackamas.us))  
Jennifer Hughes, Planning Director ([jenniferh@clackamas.us](mailto:jenniferh@clackamas.us))

DATE: August 31, 2023

RE: Planning File ZDO-286, *Local Park Master Plan Adoption Framework - Amendments to the Clackamas County Comprehensive Plan and Zoning and Development Ordinance (ZDO)*

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### **BACKGROUND**

At the request of the City of Lake Oswego, ZDO-286 was selected as a project for inclusion in the Long-Range Planning Work Program for 2021-2023 with the intent of considering adoption of the city's Luscher Farm Park Master Plan. However, in the course of staff's research, it became clear that the first step should be Comprehensive Plan and ZDO amendments necessary to provide a procedural framework for the county to consider the adoption of local park master plans. If such a framework is enacted, a public local park provider (including, but not limited to, the City of Lake Oswego) may in the future file a land use application requesting adoption by the county of a specific master plan.

Local park master plans are an option available under the Oregon Administrative Rules. In the Exclusive Farm Use, Timber and Ag/Forest zoning districts, adoption of a master plan provides a pathway to allow additional local park uses beyond those otherwise allowed. As a mechanism for implementing an approved master plan, ZDO-286 proposes to establish an overlay zone, the *Special Use Overlay District (SUOD)*, which would be applied at the time of approval of a local park master plan and signify that the property may qualify to be developed with park uses not otherwise permitted in the base zoning district.

The amendments proposed in ZDO-286 were discussed and refined during a study session with the Planning Commission on June 12, 2023, and in a policy session with the Board of County Commissioners (BCC) on June 14, 2023.

There will be at least two public hearings on this proposal: one before the Planning Commission (PC) on Monday, September 11, 2023, and another before the BCC on Wednesday, September 27, 2023. The PC provides a recommendation to the BCC, who would ultimately decide whether the proposal is adopted.



## **PROPOSAL**

**Ordinance ZDO-286** proposes the following.

### **1. Amend Comprehensive Plan Chapter 9 to create a framework for local park master plan adoption:**

Amendments to Chapter 9 will explicitly allow the county to consider the adoption of a local park master plan.

Oregon Administrative Rules (OAR) 660-034-0035 and 660-034-0040 are applicable to local parks on agricultural and forest land and provide a pathway, through local adoption of a park master plan, to allow more local park uses than are otherwise permitted. The ZDO currently includes provisions for public parks in the Exclusive Farm Use (EFU), Timber (TBR), and Ag/Forest (AG/F) zoning districts. However, the existing provisions do not clearly address the master plan option that may allow a broader range of park uses.

With the adoption of a local park master plan, the uses allowed in a local public park on agricultural and forest lands can include the uses allowed in state parks pursuant to OAR 660-034-0035(2)(a) to (g), including:

- a. Campground areas: recreational vehicle sites; tent sites; camper cabins; yurts; teepees; covered wagons; group shelters; campfire program areas; camp stores;
- b. Day use areas: picnic shelters, barbecue areas, swimming areas (not swimming pools), open play fields, play structures;
- c. Recreational trails: walking, hiking, biking, horse, or motorized off-road vehicle trails; trail staging areas;
- d. Boating and fishing facilities: launch ramps and landings, docks, moorage facilities, small boat storage, boating fuel stations, fish cleaning stations, boat sewage pumpout stations;
- e. Amenities related to park use intended only for park visitors and employees: laundry facilities; recreation shops; snack shops not exceeding 1500 square feet of floor area;
- f. Support facilities serving only the park lands wherein the facility is located: water supply facilities, sewage collection and treatment facilities, storm water management facilities, electrical and communication facilities, restrooms and showers, recycling and trash collection facilities, registration buildings, roads and bridges, parking areas and walkways;
- g. Park Maintenance and Management Facilities located within a park: maintenance shops and yards, fuel stations for park vehicles, storage for park equipment and supplies, administrative offices, staff lodging;

It's important to note that approval of a local park master plan is not guaranteed. It is dependent on compliance with applicable approval criteria, and may not necessarily include all of the above uses.

In addition, minor housekeeping amendments are proposed to Chapter 9 to reformat/reorganize the goals to match the recently amended Chapter 6 and to remove some outdated references.

## 2. Amend Chapter 4 of the Comprehensive Plan to recognize the Special Use Overlay District:

Amendments to Chapter 4 would recognize the new *Special Use Overlay District* as the zone that implements a local park master plan adopted in the Comprehensive Plan for a local public park in the EFU, TBR or AG/F zoning district.

## 3. Amend the ZDO to align with OAR 660-034-0040 by:

- Adopting a new Section 714, *Special Use Overlay District*, which would apply to public parks in the EFU, TBR and AG/F zoning districts that have an adopted local park master plan.
- Amending Sections 401, 406, and 407 to specify that the *Special Use Overlay District* standards apply to development of park uses on sites where a local parks master plan has been adopted.

## **PUBLIC NOTICE & COMMENTS**

Notice of the proposed amendments in ZDO-286 was sent to:

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

Notice was also published in the newspaper and online. To date, Planning and Zoning has received ten (10) written comments (see **Attachment B**, Exhibits 1 through 10).

## **ANALYSIS & FINDINGS**

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

### 1. Statewide Planning Goals:

This section of the report includes findings on ZDO-286's consistency with Statewide Planning Goals.

#### **Goal 1 – Citizen Involvement:**

Goal 1 calls for “the opportunity for citizens to be involved in all phases of the planning process” and requires the County to have a citizen involvement program with certain features.

ZDO-286 does not propose any change to the *Citizen Involvement* chapter (Chapter 2) of the County's Comprehensive Plan.

ZDO Section 1307 implements policies of Comprehensive Plan Chapter 2, and contains adopted and acknowledged procedures for citizen involvement and public notification of land use applications. Notice of ZDO-286 has been provided consistent with the requirements of Section 1307, including to DLCD, all cities in the County, and all active and recognized CPOs and Hamlets 35 days before the first public hearing. Notice of the proposal and its scheduled hearings was published in *The Oregonian* more than 10 days in advance and has also been posted on the County website. Before a final decision on ZDO-286 can be made, there will have been at least two public hearings: one before the Planning Commission and another before the BCC.

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

**Goal 2 – Land Use Planning:**

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

ZDO-286 does not require an exception to any Statewide Planning Goal. The only Comprehensive Plan amendments that would be made by ZDO-286 would be to amend Chapter 4, *Land Use*, and Chapter 9, *Open Space, Parks and Historic Sites*. The Chapter 4 amendments are proposed in order to recognize the new *Special Use Overlay District* as the zone that implements a local park master plan adopted in the Comprehensive Plan for a local public park in the EFU, TBR or AG/F zoning district. The Chapter 9 amendments are proposed to explicitly allow the county to consider the adoption of a local park master plan and includes minor housekeeping amendments to reformat/reorganize the goals to match the recently amended Chapter 6 and to remove some outdated references. State law provides for local park master plans in farm and forest zones as proposed by these amendments.

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

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

**Goal 3 – Agricultural Lands:**

ZDO-286 would amend Comprehensive Plan policies related to agricultural lands by adding a policy that would explicitly allow the county to consider the adoption of local park master plans for public parks pursuant to OAR 660-034-0040. Additionally, the policies would recognize approval of a local park master plan by adopting the plan by reference in Appendix A of the Comprehensive Plan and applying the *Special Use Overlay District* to land for which a local park master plan is adopted.

These proposed amendments would not change any property's land use plan designation or expand any UGB into agricultural lands (i.e., those zoned EFU). Rather, the ordinance would amend the ZDO to ensure consistency with existing state allowances for the adoption of local park master plans on land zoned agricultural; and make other non-substantive changes, including removing references to outdated population estimates.

Although the amendments do add provisions for allowing the consideration of local park master plan adoption, the county is allowed to do this under ORS 195.120 and OAR 660-034-0000. These amendments will align the Comprehensive Plan with state law.

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

**Goal 4 – Forest Lands:**

ZDO-286 would amend Comprehensive Plan policies related to forest lands by adding a policy that would explicitly allow the county to consider the adoption of local park master plans for public parks pursuant to OAR 660-034-0040. Additionally, the policies would recognize approval of a local park master plan by adopting the plan by reference in Appendix A of the Comprehensive Plan and applying the *Special Use Overlay District* to land for which a local park master plan is adopted.

These proposed amendments would not change any property's land use plan designation or expand any UGB into forest lands (i.e., those zoned Timber or Ag/Forest). Rather, the ordinance would amend the ZDO to ensure consistency with existing state allowances for the adoption of local park master plans on land zoned forest; and make other non-substantive changes, including removing references to outdated population estimates.

Although the amendments do add provisions for allowing the consideration of local park master plan for adoption, the county is allowed to do this under ORS 195.120 and OAR 660-034-0000. These amendments will align the Comprehensive Plan 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.

ZDO-286 would not make any change to the County's Comprehensive Plan goals, policies, or inventories, or to ZDO provisions, related to the protection of scenic, historic, or open space resources. Development pursuant to a local park master plan would remain subject to the County's existing Goal 5 standards and review processes.

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

**Goal 6 – Air, Water and Land Resources Quality:**

Goal 6 instructs the County to consider the protection of air, water, and land resources from pollution and pollutants when developing its Comprehensive Plan. ZDO-286 would not change any Comprehensive Plan goal or policy, or implementing regulation, affecting a Goal 6 resource, nor would it modify the mapping of any protected resource.

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

**Goal 7 – Areas Subject to Natural Hazards:**

Goal 7 requires the County's Comprehensive Plan to address Oregon's natural hazards. ZDO-286 would not change the County's acknowledged Comprehensive Plan policies regarding natural disasters and hazards, nor would it modify the mapping of any hazard.

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

**Goal 8 – Recreational Needs:**

Goal 8 requires relevant jurisdictions to plan for the recreational needs of their residents and visitors. ZDO-286 would not change any existing, state-acknowledged County Comprehensive Plan policy or implementing regulation regarding recreational needs, nor would it reduce or otherwise modify a mapped recreational resource. However, ZDO-286 would amend Comprehensive Plan policies related to agricultural and forest lands by adding a policy that would explicitly allow the county to consider the adoption of local park master plans for public parks pursuant to OAR 660-034-0040. Additionally, the policies would recognize approval of a local park master plan by adopting the plan by reference in Appendix A of the Comprehensive Plan and apply the *Special Use Overlay District* to land for which a local park master plan is adopted. This amendment does not result in a new use being allowed, or removed, rather it creates a pathway for public parks to utilize existing provisions in OAR 660-034-0040 for planning local parks, thereby providing an additional pathway for the County's recreational needs to be addressed.

**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. ZDO-286 would not change the Comprehensive Plan or zoning designation of any property. It also would not add any new restriction to land uses in areas of the County reserved for commercial and industrial development or provide for new uses in commercial and industrial areas.

ZDO-286 would not change the County's acknowledged Comprehensive Plan policies regarding economic development.

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

**Goal 10 – Housing:**

The purpose of Goal 10 is to meet housing needs. ZDO-286 would neither reduce nor significantly expand the County's housing land supply, nor would it add new restrictions to housing development.

**This proposal is consistent with Goal 10.**

**Goal 11 – Public Facilities and Services:**

The purpose of Goal 11 is to ensure that local governments plan and develop a timely, orderly, and efficient arrangement of public facilities and services to act as a framework for urban and rural development. ZDO-286 does not propose any change in adopted plans for the provision of water, sewer, or other public services.

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

**Goal 12 – Transportation:**

The purpose of Goal 12 is to ensure that the County's transportation system is adequate to serve land uses. ZDO-286 would not amend the County's Transportation System Plan, nor would it change the land use plan designation or zoning of any property.

The only new uses that would potentially be allowed under ZDO-286 are the uses allowed in state parks pursuant to OAR 660-034-0035(2)(a) to (g) when a local park master plan is adopted. The adoption of a local park master plan would require a Comprehensive Plan amendment, which requires project-specific compliance with Goal

12. ZDO-286 would not allow any new land use “outright” (i.e., without review of transportation system impacts).

Therefore, Staff finds that these changes would have no significant impact on the analysis of the transportation system.

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

**Goal 13 – Energy Conservation:**

Goal 13 encourages land use plans to consider lot size, building height, density, and other measures in order to help conserve energy. ZDO-286 does not propose any change in adopted plans for the provision of energy conservation.

**This proposal is consistent with Goal 13.**

**Goal 14 – Urbanization:**

The purpose of Goal 14 is to provide for an orderly and efficient transition from rural to urban land use, to accommodate urban population and urban employment inside urban growth boundaries, to ensure efficient use of land, and to provide for livable communities. The Goal primarily concerns the location of UGBs, the establishment of “urbanizable areas” and unincorporated communities, exception lands, and rural industrial uses.

ZDO-286 would not modify any UGB or the status or boundaries of any unincorporated community. The ordinance would not modify any urban or rural reserve boundary, allow any new land use in such reserve areas in a manner inconsistent with state law, change the land use plan designation or underlying zoning of any property, or allow any new uses in exception lands in a manner inconsistent with state law.

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

**Goal 15 – Willamette River Greenway:**

ZDO-286 would not change any existing requirement related to development in the Willamette River Greenway.

**This proposal is consistent with Goal 15.**

**Goals 16-19:**

These four Statewide Planning Goals address estuarine resources, coastal shorelands, beaches and dunes, and ocean resources, respectively, and are **not applicable to Clackamas County**.

**2. Oregon Revised Statutes**

The Oregon Revised Statutes (ORSs) contain the following direction for planning local parks.

***ORS 195.120 Rules and planning goal amendments for parks required; allowable uses; application of certain land use laws.:***

*(1) The Legislative Assembly finds that Oregon’s parks are special places and the protection of parks for the use and enjoyment of present and future generations is a matter of statewide concern.*

*(2) The Land Conservation and Development Commission, in cooperation with the State Parks and Recreation Commission and representatives of local government, shall adopt*

*rules and land use planning goal amendments as necessary to provide for:*

- (a) Allowable uses in state and local parks that have adopted master plans;*
- (b) Local government planning necessary to implement state park master plans; and*
- (c) Coordination and dispute resolution among state and local agencies regarding planning and activities in state parks.*

*(3) Rules and goal amendments adopted under subsection (2) of this section shall provide for the following uses in state parks:*

- (a) Campgrounds, day use areas and supporting infrastructure, amenities and accessory visitor service facilities designed to meet the needs of park visitors;*
- (b) Recreational trails and boating facilities;*
- (c) Facilities supporting resource-interpretive and educational activities for park visitors;*
- (d) Park maintenance workshops, staff support facilities and administrative offices;*
- (e) Uses that directly support resource-based outdoor recreation; and*
- (f) Other park uses adopted by the Land Conservation and Development Commission.*

*(4) A local government shall not be required to adopt an exception under ORS 197.732 from a land use planning goal protecting agriculture or forestry resources to authorize a use identified by rule of the Land Conservation and Development Commission under this section in a state or local park.*

*(5) A local government shall comply with the provisions of ORS 215.296 for all uses and activities proposed in or adjacent to an exclusive farm use zone described in the state or local master plan as adopted by the local government and made a part of its comprehensive plan and land use regulation. [1997 c.604 §3]*

The Land Conservation and Development Commission provided the guidance required above through OAR 660-034. The amendments proposed through ZDO-286 are intended to provide the framework to adopt local park master plans pursuant to OAR 660-034-0040 and to amend the ZDO to include a *Special Use Overlay District* for properties with an adopted local park master plan as recommended in OAR 660-034 -0040(b).

**This proposal is consistent with the relevant ORSs.**

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

The purpose of the UGMFP is to implement certain regional goals and objectives adopted by the Metro Council as the Regional Urban Growth Goals and Objectives (RUGGO), including the Metro 2040 Growth Concept and the Regional Framework Plan.

ZDO-286 does not propose to change the boundaries of the UGB or of an urban or rural reserve. The proposal would also not change the housing density standards in any part of the County, allow any new retail use in any zoning district, change the dimensional standards of any use in an urban area, or change any provision governing open spaces inside the UGB. ZDO-286 also does not propose a change to the County's residential, commercial, or industrial land supply.

- **Title 1** of the UGMFP is intended to promote efficient land use within the Metro UGB by increasing the capacity to accommodate housing. ZDO-286 does not propose to change any policies related to housing.
- **Title 3** of the UGMFP is intended to protect the resources within the Water Quality and Flood Management Areas by limiting or mitigating impacts on these areas from development activities. **Title 13** of the UGMFP is intended to conserve, protect, and

prevent water pollution in ecologically viable streamside corridor systems. Titles 3 and 13 contains direction for cities and counties to comply with certain standards to accomplish this goal. Clackamas County has adopted standards in its ZDO that have been determined to be in compliance with the UGMFP. The proposal in ZDO-286 would not change those adopted standards.

- **Title 8** establishes a process for ensuring compliance with requirements of the UGMFP. An amendment to the county's comprehensive plan or land use regulations is deemed to comply with the UGMFP only if the county provided notice to Metro as required by section 3.07.820(a). Notice of this proposal was provided to Metro on August 7, 2023 - 35 days prior to the first evidentiary hearing. No comments from Metro have been received.

**Title 11** guides long-range planning for urban reserves and areas added to the UGB. Amending the zoning code to allow new uses in urban reserves is restricted by state law; however, local park master plans under OAR 660-034-0040 are an exception to this restriction.

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

#### **4. Clackamas County's Comprehensive Plan (Plan)**

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

**Chapter 2 – Citizen Involvement:** Chapter 2 aims to promote public participation in the County's land use planning. Its policies largely focus on the County's Community Planning Organization (CPO) program and methods for informing and involving the public. Chapter 2 includes these specific policies:

*2.A.1 – Require provisions for opportunities for citizen participation in preparing and revising local land use plans and ordinances. Insure opportunities for broad representations, not only of property owners and Countywide special interests, but also of those persons within the neighborhood or areas in question.*

*2.A.6 – Seek citizens' input not only through recognized community organizations, but also through service organizations, interest groups, granges, and other ways.*

*2.A.13 – Insure that the County responds to citizen recommendations through appropriate mechanisms and procedures.*

By providing a framework for approval of local park master plan applications, ZDO-286 furthers a commitment in the 2021-2023 Long-Range Planning Work Program to consider the adoption of the City of Lake Oswego's Luscher Farm Master Plan. The amendments in ZDO-286 were identified by staff as the first step necessary for the future consideration of the Luscher Farm Master Plan for adoption into the Comprehensive Plan.

Further, the consideration of a land use application for the adoption of a local park master plan will require public notice to property owners and other interested parties, and at least two public hearings where any party can provide input, before receiving approval.



Consideration of ZDO-286 has proceeded according to the noticing and public hearing requirements of ZDO Section 1307.

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

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

Chapter 3 includes these specific policies related to farm and forest areas:

*3.H.1 Recognize agricultural areas through appropriate zoning. All agricultural areas shall continue unencumbered by activities/land uses unrelated to agriculture in order to insure productive farm land. Specific policies relating to land use in agricultural areas are found in the Land Use Chapter of this Plan.*

*3.I.5 Cooperate and coordinate with appropriate state and federal agencies to ensure forest management practices that recognize the multiple resource values of forest lands. Impacts on environmentally sensitive areas such as slide and erosion hazard areas, sensitive fish and wildlife habitat, scenic corridors, unique natural and/or cultural features, etc, shall be minimized.*

Clackamas County’s current ZDO regulations related to the agricultural and forest districts have been acknowledged to comply with the Statewide Planning Goals. The proposal in ZDO-286 would not change those adopted standards, rather it would change the processes by which the county reviews certain developments against those standards. ZDO-286 would provide a procedural framework for the county to consider the adoption of local park master plans and would apply a *Special Use Overlay District* for lands covered by the local park master plan. If such a framework is enacted, a public local park provider may in the future file a land use application requesting adoption by the county of a specific master plan. Adoption of a park master plan requires a demonstration that it will not force a significant change in accepted farm or forest practices and will not significantly increase the cost of accepted farm or forest practices on surrounding lands devoted to farm or forest use. These amendments maintain appropriate protections, while creating a more transparent and efficient process for public park providers and ensuring that all uses proposed in these agricultural and forest areas comply with state requirements.

ZDO-286 would not change any goals or policies related to: Mineral and Aggregate Resources; Wildlife Habitats and Distinctive Resource Areas; Natural Hazards; Energy Sources and Conservation or; Noise and Air Quality.

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

**Chapter 4 – Land Use:** Chapter 4 generally includes goals and policies for how land in Clackamas County should be designated and zoned, and goals and policies for what land uses should be allowed in those designations and their implementing zoning districts. ZDO-286 does not propose to change the Comprehensive Plan land use designation or zoning district of any property. ZDO-286 proposes a new overlay zoning district – *Special Use Overlay District*. Chapter 4 is proposed for amendment

to explicitly provide for this overlay in the Exclusive Farm Use, Timber and Ag/Forest Zones where a local park master plan has been adopted by the County.

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

**Chapter 11 – The Planning Process:**

Chapter 11 of the Comprehensive Plan includes policies requiring inter-governmental and inter-agency coordination, public involvement, and noticing. As explained previously in this report, all required entities have been notified in accordance with law and have been invited to participate in duly-advertised public hearings.

Chapter 11 of the Comprehensive Plan also contains the specific requirement that the Comprehensive Plan and ZDO be consistent with Statewide Planning Goals and with Metro’s Urban Growth Management Functional Plan; Chapter 11 is what requires the ZDO itself to be consistent with the Comprehensive Plan. This report’s *Analysis & Findings* outline how ZDO-286 is consistent with all of these requirements.

Additionally, the amendments proposed in ZDO 286 are a direct result of staff’s coordination with the City of Lake Oswego and DLCD, during which it became clear that the first step to adopting a local park master plan should be Comprehensive Plan and ZDO amendments necessary to provide a procedural framework for future consideration of adoption by the county.

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

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

The proposed text amendments are legislative. Section 1307 of the ZDO establishes procedural requirements for legislative amendments, which have been or are being followed in the proposal and review of ZDO-286. Notice of this proposal was provided at least 35 days before the first scheduled public hearing to DLCD, all cities in the County, and active CPOs and Hamlets, as well as other interested agencies, to allow them an opportunity to review and comment on the proposed amendments. Advertised public hearings are being held before the Planning Commission and the BCC to consider the proposed amendments. The ZDO contains no further specific review criteria that must be applied when considering an amendment to the text of the Comprehensive Plan or ZDO.

**RECOMMENDATION**

**Staff recommends approval of ZDO-286, as proposed in Attachment A.** Staff finds these amendments would best address the priorities identified in the adopted 2021-2023 Long-Range Planning Work Program, by the Planning Commission in its June 2023 study session, and by the BCC in its June 2023 policy session, while meeting all applicable land use rules and policies.

**LIST OF ATTACHMENTS**

- A. Proposed Comprehensive Plan and ZDO amendments
  - 1. **ZDO Section 401**, *Exclusive Farm Use District (EFU)*
  - 2. **ZDO Section 406**, *Timber District (TBR)*
  - 3. **ZDO Section 407**, *Ag/Forest District (AG/F)*
  - 4. **ZDO Section 714**, *Special Use Overlay District (SUOD)*
  - 5. **Comprehensive Plan Chapter 4**, *Land Use*
  - 6. **Comprehensive Plan Chapter 9**, *Open Space, Parks and Historic Sites*
- B. Exhibit list and Exhibits

**PLANNING COMMISSION  
DRAFT MINUTES**

September 11, 2023

Meeting held online via Zoom

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

Commissioners absent: None

Staff present: Joy Fields, Karen Buehrig, Jennifer Hughes, Darcy Renhard, Ellen Rogalin

Commission Chair Murphy opened the meeting at 6:31 pm.

Chair Murphy asked if there was anyone in the audience who wished to provide public comment on items other than what is on the agenda. There were none.

Chair Murphy opened the public hearing for file number ZDO-286, which is a proposed legislative amendment to set a framework for local jurisdictions to establish park master plans.

Joy Fields presented the staff report. Ms. Fields explained that this amendment is an amendment to the Clackamas County Comprehensive Plan intended to create a procedural framework for the county to consider the adoption of local park master plans on agricultural and forest lands in accordance with the Oregon Administrative Rules. Originally this project was part of the long range planning work program for 2021-2023 as a way of looking at the Luscher Farm park master plan. Luscher Farm is a city park that is partially within the City of Lake Oswego and partially in an exclusive farm use zone in the unincorporated area of Clackamas County. When Lake Oswego staff and County staff met with DLCD, they found that our Comprehensive Plan did not provide a clear pathway that would enable the County to consider a local park master plan.

Planning staff conducted work sessions with the Planning Commission and the Board of County Commissioners in June to provide updates on what staff found while conducting research. Staff also shared potential amendments and the possible directions that the amendments could go. After receiving input from the Planning Commission and Board of County Commissioners, staff drafted the proposed amendments that are before the Planning Commission tonight. Notice of the proposed amendments was also provided to interested parties, CPOs, DLCD, and published in *The Oregonian*.

We received written testimony prior to the meeting tonight. Additional testimony that was received since the Planning Commission packets were mailed was sent to the Planning Commission via email earlier today.

Oregon Administrative Rules allow local governments to adopt local park master plans into their comprehensive plans without taking an exception to Statewide Planning Goal 3 or 4. The reason for this provision is that the findings that are made associated with a local park master plan must be consistent with all of the Statewide Planning Goals. It also has to be prepared in a way that provides an opportunity for public comment and engagement. Additionally, County staff will have to find that the local park master plan will not cause a significant impact to farm and forest practices in the area surrounding the proposed location of the local park.

In order for the county to explicitly allow a local park master plan to be considered for adoption, we must first create a framework in our Comprehensive Plan (Comp Plan) and Zoning and Development Ordinance

(ZDO). If a local park master plan is adopted into the Comp Plan, it opens up a list of uses that could potentially be considered within the park. It does not mean that all uses would be allowed, simply that they could be considered. Each master plan and possible uses would be reviewed and considered on an individual basis.

As staff reviewed Chapter 9 of the Comp Plan, we found a few minor housekeeping amendments were needed as well as some outdated references. We also reformatted Chapter 9 to be consistent with the updated formatting in the rest of the Comp Plan. The new policy that provides the local park master plan framework is policy 9.B.11. If a local park master plan was adopted, it would apply a special use overlay district to that land for which the master plan is adopted. It would not change the underlying zoning district. In order to have a special use overlay district, it must be recognized in the Land Use chapter of the Comp Plan (Chapter 4).

Staff is proposing to add an entirely new section to the ZDO, Section 714-Special Use Overlay District. While the Oregon Administrative Rules explicitly say that this is not required, it is still recommended. What is presented as the last page of Appendix A in the Planning Commission packet is the proposed new language. ZDO Sections 401, 406, and 407 also have new language to specify that the Special Use Overlay District standards apply to development of park uses on sites where a local parks master plan has been adopted.

Staff is recommending that the Planning Commission recommend that the Board of County Commissioners approve the proposed amendments as presented.

Commissioner Stevens finds it curious that even though Metro did not want to allow Lake Oswego to annex this property into the city, they have not provided testimony in opposition to the proposed amendments. Ms. Fields explained that even though the proposed framework would provide a pathway for Lake Oswego to develop a parks master plan, and potentially bring Luscher Farm into compliance with the County Ordinance, the framework could be used by other local jurisdictions as well. It would not be only for Lake Oswego; it would apply to the entire unincorporated area of Clackamas County. Jennifer Hughes said that even though Metro staff recommended denying Lake Oswego's proposal to add this area to the UGB, nothing that we are considering tonight involves Metro's rules because what we are talking about doing is in a rural zone. So Metro really doesn't have a role in commenting on this. Commissioner Stevens said that one of the concerns that she has heard about consistently with Luscher Farm is that they have been operating as a land use violation for years. A lot of the buildings that are being used now and are being proposed for use in the future are not properly permitted. She has not done the research to find out how much of this is true, but it is something that she has heard about numerous times over the years. Ms. Fields answered that the building permits would be covered later when they actually get to the point of submitting a proposal for a parks master plan. Right now we are simply looking at whether or not to put the framework in place for a process to be able to consider parks master plans.

Commissioner Wilson asked what the process was in developing the special use overlay zone. Ms. Fields replied that it has not been developed yet, that is what we are here to decide. Any time there are proposed changes to our Comp Plan or ZDO we have to allow opportunity for public input. Commissioner Peterson explained that the overlay district is a mechanism for identifying where a parks master plan has been adopted into the Comp Plan.

Commissioner Murphy asked if there were other jurisdictions who have shown interest in implementing parks master plans, or is this all being done just for Lake Oswego? Ms. Fields said that there are other

jurisdictions who have expressed an interest if there is a framework in place. Or they may just get a conditional use for a trail; it depends on which direction they want to pursue.

When a local park master plan is submitted for consideration, we can look at the uses independently to see if the uses are appropriate for the area. Not every park will have every use that is on the list in OAR 660-034-0035(2)(a) to (g). Camping facilities may not be appropriate as an allowed use on some properties, just like boating and fishing facilities may not be appropriate on some properties. Private parks are more restrictive than public parks, but even if someone is applying for a public park master plan, they may not get all of the uses listed. Every proposal would be reviewed and considered on its own and would have two separate hearings for public input. If a park master plan is adopted, it would not automatically get every use. Each master plan would go through the review process and there would be a determination as to whether or not each potential use was appropriate. Tonight we are not considering a specific master plan; we are only considering whether or not to add the pathway to implement a master plan should a local jurisdiction wish to do so. Ms. Hughes explained that the Planning Commission could recommend a reduced list of potentially allowed uses as part of the adoption of ZDO-286.

Commissioner Lopes raised a concern about what happens if a jurisdiction starts to push the boundaries of what they are approved for in their master plan. What would be the mechanism to enforce and bring them back to what they are permitted to do? How do we protect the surrounding property owners when a master plan is not being followed? Ms. Fields said that Code Enforcement works with landowners to come into compliance with any land use application that is approved. If they are not complying with their master plan, then Code Enforcement would work with Planning to find a way of bringing them into compliance, and if there is no way to do that, they would have to cease and desist.

Commissioner Murphy is really concerned about the loss of farmland and forests. We really need to take a close look at what we are going to allow with these special overlays.

Commissioner Middaugh asked what the result would be if there is a master plan that crosses jurisdictions and one jurisdiction approved certain uses but the other jurisdiction did not. What would be the outcome? Ms. Fields said that Luscher Farm is an example of this very situation. Part of the farm is within the jurisdiction of Lake Oswego, and part of it is within Clackamas County jurisdiction. Whatever uses were approved by Clackamas County would be allowed within the County's jurisdiction. If there were uses that were approved by Lake Oswego but not Clackamas County, those uses would have to take place within the jurisdiction of Lake Oswego and would not be allowed on the property within Clackamas County. The jurisdictional boundary is the city limits. If we were to review these case by case, we would have the ability to individually review each of the potential impacts to the surrounding farm and forest practices. The burden is on the applicant to provide evidence that the use is not going to cause significant impacts to farm and forest operations.

Commissioner Pak asked which other jurisdictions are considering asking for a park master plan. Ms. Fields replied that there are no definition proposals at this time, just conversations that have occurred. Commissioner Pak said that even though we are not looking at Luscher Farm in particular, she can't help but think about the fact that the farm has been operating for quite a while in violation of current rules and regulations. If they have been operating in this mode for so many years without any kind of consideration, what is to change with having a master plan? It feels like if anything, it is going to get worse because now they can do even more things. The City of Lake Oswego advertises on their website that they offer things like movies in the park. She can understand the concerns of the neighbors. Based on past practices and the history of Luscher Farm they have valid concerns.

Commissioner Peterson agrees with all of the concerns that have been raised, but if we do not adopt these provisions, then we do not have a mechanism to address them. If we have a mechanism in place, then there is a way for the County to have more input and include public participation. There are legitimate issues and there have been violations, but the issue at hand is whether or not we want to adopt a mechanism to address these concerns or leave it as it is.

Chair Murphy opened the public testimony portion of the hearing.

**Randall Yamada, Stafford/Tualatin Valley CPO** – Mr. Yamada described his community as a rural area about the same geographic size of the City of Lake Oswego with about 3,000 residents. The Stafford area is now designated as an urban reserve which restricts changes to zoning ordinances and zones. In the presentation there was no addressing the actual restrictions that are required on EFU land for parks and park activities and events in order to maintain compatibility with other adjacent EFU lands in rural areas. A city park master plan could assume inclusion of urban activities far beyond the EFU limitations resulting in problems with traffic congestion and agricultural building limitations, building occupancy limitations and other things such as fire and life safety, water supply, and emergency access. The county could approve an application like we have seen on Borland Road for a huge athletic complex. Under this proposed ordinance there could be code violations that would require enforcement, but since Code Enforcement remains understaffed the violations could go on indefinitely as they have for the last 2 decades at Luscher Farm. We need an EFU park ordinance that will clearly define the terms, uses, allowances, and restrictions on parks and events in the EFU zone. This is why they cannot support this EFU zone change, along with the lack of Code Enforcement capability to enforce the ordinance.

**Gale Wallmark** – Ms. Wallmark is a resident of Lake Oswego and a director of Friends of Luscher Farm. They are in support of ZDO-286. She expressed her gratitude for the joint efforts between Clackamas County planning staff and Lake Oswego Parks & Recreation. If ZDO-286 is approved it would allow them to receive approval for their 2013 master plan. The Luscher area considered in the 2013 document comprises 8 properties that were acquired between 1991 and 2005 through parks bonds. Four of the properties are not relevant to these proceedings. The four relevant properties comprise just over 100 acres in unincorporated Clackamas County, stretching east along Rosemont Road from the Stafford/Rosemont roundabout. All of these properties are zoned EFU. The Luscher area is home to a 12 acre community supported agriculture program, some 160 community gardens, 35 adopt-a-plot gardens, a pollinator garden, a children's teaching area garden, and the renowned Rogerson Clematis Garden. All of these gardens are 100% organic. The three remaining properties present beautiful rolling agricultural landscape, open space, tree groves, streams, and wetlands. This is a treasured space for the local residents and they take the stewardship very seriously.

**Rick Cook** – Mr. Cook thanked staff for all of the work they put into this project. His family has a long history in Clackamas County. His property is on the National Register of Historic Places. There is a huge lack of a master plan for transportation out in the Stafford area. There are 21 venues, counting Lake Oswego School District, within a quarter of a mile of Luscher Farm. This includes Luscher Farm. With what Lake Oswego Parks and Recreation is just finishing off between the golf course, the recreational center, the aquatic center, the driving range, and the Rassekh Park right across from Luscher Farm, and Luscher Farm itself, there will be 500,000 new daily trips per year in this area. This is a huge concern for the residents. Traffic issues would be a consideration in the master plan, but it is really a huge issue for those who live in the area. During COVID it was nice to know that there was a secure food source in the region, that being Fiala Farm. He is very concerned that in the future, if Lake Oswego decides that they want to implement a use that is not approved in their master plan they will just do it anyway. He would like to see the list of uses shortened. There is also

the issue that the State Court of Appeals has remanded back the 5-party and 3-party IGAs. One thing that is concerning is that Luscher Farm is going to end up being a special district, but the 5-party IGA says that Clackamas County is not going to allow any more special districts. He loves what Luscher Farm is doing, he just wishes that they would do it legally. They are currently doing 58 different programs, events, or classes as their winter program. He suggests that the County tell them to stop until we have this thing solved. The fact that there is no code enforcement is another piece of the problem.

Commissioner Peterson asked Mr. Cook if the master plan would be a good mechanism to address his concerns. Right now there is no mechanism other than Code Enforcement, which is not working. Mr. Cook answered that he does love what the farm is doing, he would just like them to do it legally. He is concerned about the wide range of uses listed (A through G) and that it might open a big window that we aren't able to rein back in later. Commissioner Wilson asked if Mr. Cook was against the present proposal. Mr. Cook answered that he is against the A through G uses and the piece with the 5-party and 3-party IGAs. As long as there is some criteria that we can enforce he would feel better about it. After 25 years of looking the other way, there has never been an infraction that Lake Oswego has had to answer to.

**Kyra Haggart, Lake Oswego Parks & Recreation** – This proposal is not just for Lake Oswego, but they did request this and their staff are really appreciative to County staff for putting in all of this work. Approval of this proposal will enable them to implement a really longstanding vision for the public use of Luscher Farm. They do a lot at the farm to help reduce food insecurity for residents. Luscher is not a place that is just for city residents, but also county residents. Everyone can come and enjoy the natural beauty of the Stafford Basin. She hopes that the Planning Commission will consider approving this, whether it is a modified version that takes suggestions from community members and commissioners or if it is what staff has proposed. They want to legitimize what is happening at Luscher because they recognize the benefit to the community. It is a very important place to the community and they would hate to lose it.

Commissioner Peterson appreciates all of the good things the city is doing with Luscher and how it is being used. On the other hand, it is somewhat disturbing that they have continued to do this for all these years despite knowing it is not a permitted use. If the County does not approve this proposal and recommends that the County enforce the codes, what would that mean to Luscher Farm? Ms. Haggart said that it would depend on what the enforcement looked like, but she thinks it would be really damaging to the community members who are currently using the programs and community gardens as well as the walking trails and other spaces out there. They are hoping to legitimize all of these uses through this process. They have previously received direction from former Planning Directors that these things need approval. She is not able to make a determination on what the full impact would be, but it would be a very sad day for Luscher Farm. Commissioner Wilson asked who is responsible for the code enforcement in each jurisdiction. Ms. Hughes explained that each jurisdiction is responsible for enforcement within their respective areas. The City of Lake Oswego owns the land, so they would have an obligation to comply with our zoning code on the property within our jurisdiction. So it would be both jurisdictions who share the responsibility for compliance on the properties within unincorporated Clackamas County. Step one is to try and find a pathway where we can say that they are able to submit a master plan, the Planning Commission can hear it, the Board can hear it, the public can hear it, and a decision will be made. Then that is what should be enforced by both parties, the city and the county.

Ms. Hughes provided clarification that the 5-party IGA and the 3-party IGA stipulated that the County wouldn't support the formation of, or approve of, new special districts within the Stafford area. What that means is special districts that are providing public services for tax dollars. Something like a sewer district or public water district—a public entity. What we are talking about doing here is an overlay zone. Yes, we are

calling it the special use overlay zone, but it is not a special district as contemplated by those intergovernmental agreements (IGAs). There are limitations on doing zone changes and new uses in urban reserves, and Stafford is an urban reserve where Luscher Farm is located. There are other reserves around the county that have the same restrictions, but the ability to do these parks master plans is an exception to those restrictions that is specifically called out in state law.

Commissioner Middaugh asked that the Planning Commission include a strong missive to the Board about code enforcement. Many of the issues that we have heard tonight come down to fear of what might happen. It seems like these fears would be more properly dealt with by code enforcement rather than trying to thread the needle with specific language. Commissioner Stevens agreed and said that it is always an issue at any CPO summit or leaders meeting in Clackamas County. It is always the number one issue, but the problem is a staffing shortage. Every staff member has 100 or more cases on their desk, but this message should be clear because it is a huge area of concern. It won't be the first time the BCC has heard this. Commissioner Middaugh said that rules don't mean much if we don't enforce them. Change might not make it better, but nothing is going to get better if it doesn't change. Commissioner Peterson said that we have seen these quite often during his 11-year tenure on the Planning Commission. Someone has been operating something on their property that is a code violation, but there is never any enforcement. He agrees that we should include this in our recommendation and pass it on to the BCC. It would be negligent if we did not.

Commissioner Pak asked if we are required to recommend all of the uses listed in the proposal. Commissioner Stevens referred to Exhibit 9 submitted by Richard Fiala. Mr. Fiala provided a proposal to narrow the list of potential uses. Commissioner Stevens feels that he did an excellent job with his recommendation and that she would have supported implementing his list in the proposed amendments. But there is the fact that not every park is going to be identical. One park may be on a lake or river, in which case paddle boarding or boat ramps may be appropriate. Another park may have 5 miles that are appropriate for horse trails. Commissioner Middaugh agrees. Camping would be a nightmare on Luscher Farm but may be a perfect use at another location.

Chair Murphy moved the hearing to deliberations.

Commissioner Peterson – This is not perfect, which is often the case, because there is never anything we can do that will anticipate all of the special issues and needs that are specific to any one land use issue. Even though he agrees that a lot of these uses could be concerning in some locations they shouldn't be edited out for all cases. It is better to be deliberate on a case by case basis in his opinion. This is a much better framework than what there was to work with in the past and allows an opportunity for all the people who have concerns to voice those concerns. He is in support of the proposal as recommended by staff.

Commissioner Stevens- She is excited to see a possible solution for a problem that has been around for decades. She agrees with Commissioner Peterson. Although she likes the idea of cutting back the list of uses, every circumstance is going to be different. Her hope is that as we review master plans in the future that a great amount of thought and consideration is taken into community input. She also agrees with Commissioner Middaugh that so much of this has been caused by lack of enforcement. It is a real problem. Planning staff has come to an amazing possibility of a solution and she will be supporting this as well.

Commissioner Lopes – Agrees with what Commissioners Middaugh, Peterson, and Stevens have said. Although this is not a perfect solution, we need to go ahead with this as the staff recommends. Then we really need to scrutinize each master plan as it comes before us because that list of uses is going to be



specific to each application. The community members need to be allowed to give testimony on each master plan as they come up.

Commissioner Wilson – Would have liked to have seen the special use overlay district included with this proposal. Because it is not in there he is recommending that we not approve this.

Commissioner Pak – Does not like the idea of establishing campgrounds or park uses on EFU land, but also understands that we will be looking at these plans on an individual basis in the future. The public outreach for the master plans is a big deal. Master plans can take a long time—possibly up to a year or even more—because of all the public outreach and all of the steps that you have to go through to do a master plan. They get vetted pretty thoroughly before they ever come to the Planning Commission. She is happy to support what has been provided.

Commissioner Middaugh – this seems to be a tailor made solution for the Luscher Farms ongoing issue, and he certainly recognizes it as such. For that reason it is difficult to say no to this, although in the future we need to be prepared for some real hard “nos” with some of these potential uses. There may be times when we say yes, but we have to be prepared for the times when we have to say no. It will be difficult, but we do need to be prepared for it. He is also concerned about what the perception might be if we recommend approval of this. To be clear, we are not recommending that camping be allowed on Luscher Farm, or any such thing. We all know that is not the case, a master plan needs to be submitted and approved, but he wonders how we reassure those who have legitimate fears over code enforcement. Maybe we are just skirting around the larger issues of code enforcement.

Commissioner Moss – It is unlikely that someone is going to submit a proposal to bulldoze the farmland and put campsites in. They are going to want to put uses where they are most appropriate. We need to take these on a case by case basis and evaluate each one on its own.

Commissioner Murphy – He would like to take out D, E, and G. There is very little Sheriff coverage up where he is, so if you have a problem it is a real problem. We aren't going to be capitalizing on this in any way to fund law enforcement, and that is what he is looking at. So he proposes making an edit and removing uses D, E, and G.

Commissioner Moss moved to recommend approval of ZDO-286 as recommended by staff. Commissioner Peterson seconded. *Ayes=6 (Peterson, Stevens, Moss, Middaugh, Pak, Lopes); Nays=2 (Wilson, Murphy). Motion passes.*

The Planning Commission wishes unanimously to reiterate their concerns with the lack of code enforcement to the Board of County Commissioners.

*“The Planning Commission remains concerned about the level of code enforcement in the county, and encourages the Board of Commissioners to seek all available options to support code enforcement so we continue to have a great county for all of our residents.” Ayes=8; Nays=0.*

Commissioner Stevens said that this has been a very difficult proposal. If this had been any of us individual tax paying citizens, we would not have been granted hundreds and hundreds of hours and thousands of dollars of county support to help find the solution. Instead, we would have received letters and been fined and had a lien on our property. This has been a struggle because 2 decades of lack of compliance was rewarded with finding a way out. She does not appreciate municipalities who spend tax money and the

residents who pay tax money being treated so differently. To say that code enforcement needs to focus its resources is not the only issue. It is more than that. The right thing to do is to treat people the same whether it is an individual or a municipality. There was none of that here. Commissioner Middaugh added that nobody could be treated the same if there is not enough staff to do the work. Code enforcement is a long process in each case, but it seems like we are setting it up for failure. If you have a nonconforming neighbor and have no solution offered to you by the entity that is designed to provide that solution, that is going to be a problem.

In response to comments during the hearing, Ms. Hughes said that she is not aware of the status of the buildings at Luscher Farm or if they are permitted for public access. There was some permitting done, but to what extent she is not sure. She isn't sure if there is a violation related to building codes there. It is the uses that are in violation of our zoning code on the county side of the line.

Commissioner Murphy asked for any corrections to the Planning Commission minutes for ZDO-287. There were none. The minutes were approved by show of hands. *Ayes=7, Nays=0, Abstain=1 (Middaugh).*

Commissioner Murphy asked for any corrections to the Planning Commission minutes for ZDO-283. There were none. The minutes were approved by show of hands. *Ayes=7, Nays=0, Abstain=1 (Middaugh).*

Ms. Hughes provided a schedule update and announced that Commissioner Schroedl has submitted his resignation.

There being no further business, the meeting was adjourned at 9:21 pm.

**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.
- 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(I)(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**

<b>HV</b>	<b>LV</b>	<b>Farm and Forest Uses</b>	<b>Subject To</b>
A	A	Propagation or harvesting of a forest product.	
A	A	Farm use as defined in Oregon Revised Statutes (ORS) 215.203. Marijuana production is subject to Section 841.	
A	A	Other buildings customarily provided in conjunction with farm use.	
TYPE II	TYPE II	A facility for the processing of farm products. Marijuana processing is subject to Section 841. <sup>1</sup>	401.05(B)(1) & (2)
C	C	A facility for the primary processing of forest products.	401.05(B)(3)
<b>HV</b>	<b>LV</b>	<b>Natural Resource Uses</b>	<b>Subject To</b>
A	A	Creation of, restoration of, or enhancement of wetlands.	
TYPE II	TYPE II	The propagation, cultivation, maintenance, and harvesting of aquatic species that are not under the jurisdiction of the Oregon Fish and Wildlife Commission.	401.05(A)(1)
<b>HV</b>	<b>LV</b>	<b>Residential Uses</b>	<b>Subject To</b>
A	A	Uses and structures customarily accessory and incidental to a dwelling, only if a lawfully established dwelling exists.	
A	A	Alteration or restoration of a lawfully established dwelling.	401.05(C)(1)
TYPE II	TYPE II	Replacement of a lawfully established dwelling.	401.05(A)(3) & (C)(1)
TYPE II	TYPE II	Replacement dwelling to be used in conjunction with farm use if the existing dwelling has been listed in a County inventory as historic property and listed on the National Register of Historic Places. <sup>2</sup>	401.05(A)(3)
N	TYPE II	Lot of record dwelling on Low Value Farmland.	401.05(A)(2), (3), (4) & (C)(2)
TYPE II	N	Lot of record dwelling on Class III or IV High Value Farmland.	401.05(A)(2), (3), (4) & (C)(3)
TYPE III	N	Lot of record dwelling on Class I or II High Value Farmland.	401.05(A)(2), (3), (4) & (C)(4)
TYPE II	N	Dwelling customarily provided in conjunction with a farm use on High Value Farmland. <sup>2</sup>	401.05(A)(3) & (C)(5)
N	TYPE II	Dwelling customarily provided in conjunction with a farm use on Low Value Farmland. <sup>2</sup>	401.05(A)(3) & (C)(6)
TYPE II	TYPE II	Dwelling customarily provided in conjunction with a commercial dairy farm.	401.05(A)(3) & (C)(7)
N	TYPE II	160 acre test for a dwelling. <sup>2</sup>	401.05(A)(3), (4) & (C)(8)
N	TYPE II	Capability test for a dwelling. <sup>2</sup>	401.05(A)(3), (4) & (C)(9)

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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>2</sup>	401.05(A)(3) & (C)(11)
TYPE II	TYPE II	Accessory dwelling in conjunction with farm use. <sup>2</sup>	401.05(A)(3) & (C)(12)
TYPE II	TYPE II	Dwelling on Low or High Value Farmland to be operated by a different farm operator on at least 80 acres. <sup>2</sup>	401.05(A)(3) & (C)(13)
TYPE II	TYPE II	Temporary dwelling for care, subject to Subsection 1204.04.	401.05(A)(1), (3) & (C)(14)
TYPE II	TYPE II	Room and board arrangements for a maximum of five unrelated persons in existing dwellings.	401.05(A)(1) & (3)
TYPE II	TYPE II	Residential home as defined in ORS 197.660, in existing dwellings.	401.05(A)(1) & (3)
<b>HV</b>	<b>LV</b>	<b>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>3</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>4</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)

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<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)

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*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> Farming of a marijuana crop shall not be used to demonstrate compliance with the approval criteria for a dwelling. (See ORS 475B.526.)
- <sup>3</sup> The use is prohibited in an urban or rural reserve established pursuant to OAR chapter 660, division 27.
- <sup>4</sup> A commercial activity carried on in conjunction with a marijuana crop is prohibited. (See ORS 475B.526.)

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:

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- 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 the dwelling to be altered, restored or replaced has, or formerly had:
    - i. Intact exterior walls and roof structure;
    - ii. Indoor plumbing consisting of a kitchen sink, toilet and bathing facilities connected to a sanitary waste disposal system;
    - iii. Interior wiring for interior lights; and
    - iv. A heating system; and
  - b. A dwelling to be replaced meets one of the following conditions:
    - i. If the dwelling was removed, destroyed or demolished, the dwelling's tax lot does not have a lien for delinquent ad valorem taxes and any removal, destruction or demolition occurred on or after January 1, 1973;
    - ii. If the dwelling is currently in such a state of disrepair that the dwelling is unsafe for occupancy or constitutes an attractive nuisance, the dwelling's tax lot does not have a lien for delinquent ad valorem taxes; or
    - iii. A dwelling not described in Subsection 401.05(C)(1)(b)(i) or 401.05(C)(1)(b)(ii) was assessed as a dwelling for purposes of ad valorem taxation for the previous five property tax years; or from the time when the dwelling was erected upon or affixed to the land and became subject to assessment as described in ORS 307.010.
  - c. For replacement of a lawfully established dwelling:
    - i. The dwelling to be replaced must be removed, demolished or converted to an allowable nonresidential use: within one year from the date the replacement dwelling is certified for occupancy pursuant to ORS 455.055; or, if the dwelling to be replaced is in such a state of disrepair that the structure is unsafe for occupancy or constitutes an attractive nuisance, the dwelling to be replaced must be removed within 90 days from the date a replacement permit is issued; and



- ii. The applicant must cause to be recorded in the deed records of the County a statement that the dwelling to be replaced has been removed, demolished or converted.
  - d. As a condition of approval, if the dwelling to be replaced is located on a portion of the lot of record that is not zoned EFU, the applicant shall execute and cause to be recorded in the deed records a deed restriction prohibiting the siting of another dwelling on that portion of the lot of record. The restriction imposed is irrevocable unless the planning director, or the director's designee, places a statement of release in the deed records of the County to the effect that the provisions of 2019 Oregon Laws, chapter 440, section 1 and ORS 215.283 regarding replacement dwellings have changed to allow the lawful siting of another dwelling.
  - e. A replacement dwelling under Subsection 401.05(C) must comply with applicable building codes, plumbing codes, sanitation codes and other requirements relating to health and safety or to siting at the time of construction. However, the standards may not be applied in a manner that prohibits the siting of the replacement dwelling.
  - f. The replacement dwelling must be sited on the same lot or parcel:
    - i. Using all or part of the footprint of the replaced dwelling or near a road, ditch, river, property line, forest boundary or another natural boundary of the lot of record; and
    - ii. If possible, for the purpose of minimizing the adverse impacts on resource use of land in the area, within a concentration or cluster of structures or within 500 yards of another structure.
  - g. If an applicant is granted a deferred replacement permit, the deferred replacement permit does not expire but, notwithstanding Subsection 401.05(C)(1)(c)(i), the permit becomes void unless the dwelling to be replaced is removed or demolished within three months after the deferred replacement permit is issued; and the deferred replacement permit may not be transferred, by sale or otherwise, except by the applicant to the spouse or a child of the applicant.
2. Lot of record dwelling when determined to be located on Low Value Farmland, subject to the following criteria:
- a. The lot of record on which the dwelling will be sited was lawfully created prior to January 1, 1985.
  - b. The lot of record has been under the continuous ownership of the present owner who either:

- i. Acquired the lot of record prior to January 1, 1985, or
  - ii. Acquired the lot of record by devise or intestate succession from a person or persons who had continuously owned the property since January 1, 1985.
  - iii. As used in Subsection 401.05(C)(2)(b), “owner” includes the wife, husband, son, daughter, mother, father, brother, brother-in-law, sister, sister-in-law, son-in-law, daughter-in-law, mother-in-law, father-in-law, aunt, uncle, niece, nephew, stepparent, stepchild, grandparent, or grandchild of the owner, or a business entity owned by any one or a combination of these family members.
- c. The tract on which the dwelling will be sited does not include a dwelling;
  - d. The lot of record on which the dwelling will be sited was not part of a tract that contained a dwelling on November 4, 1993.
  - e. The proposed dwelling is not prohibited by, and will comply with, the requirements of the acknowledged Comprehensive Plan, this Ordinance and other provisions of law.
  - f. When the lot of record on which the dwelling will be sited is part of a tract, all remaining portions of the common ownership shall remain in common ownership as long as the dwelling remains as approved.
  - g. The dwelling either will not seriously interfere with the preservation of big game winter range areas identified on Comprehensive Plan Map III-2, *Scenic and Distinctive Resource Areas*, or can be adequately mitigated. Estimated impacts and appropriate mitigation measures shall be submitted by the applicant and based on the best available data and assessment methods from the appropriate agency. The Oregon Department of Fish and Wildlife (ODFW) suggests to the County that in the absence of mitigation measures, winter range is seriously impacted by residential densities which exceed one unit per 80 acres or one unit per 40 acres, if clustered within 200 feet.
3. Lot of record dwelling when determined to be located on High Value Farmland consisting predominantly of Class III and IV Soil, subject to the following criteria:
    - a. The lot of record on which the dwelling will be sited was lawfully created prior to January 1, 1985.
    - b. The lot of record has been under the continuous ownership of the present owner who either:

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- 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.

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- 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

- h. Roof mounted system towers shall extend no more than an additional five feet above the highest ridge of a building’s roof or 15 feet above the highest eave, whichever is higher, but shall not exceed 150 feet in height from finished grade.
- 2. A utility facility necessary for public service may be established as provided in OAR 660-033-0130(16)(a) and ORS 215.275 and 215.276, or, if the utility facility is an associated transmission line, as provided in OAR 660-033-0130(16)(b) and ORS 215.274 and 215.276.
- 3. Composting operations and facilities
    - a. Must:
      - i. Compost only on-farm produced compostable materials; or
      - ii. Compost only off-site materials and use all on-site generated compost for on-farm production in conjunction with, and auxiliary to, the farm use on the subject tract; or
      - iii. Compost any off-site materials with on-farm produced compostables and use all on-site generated compost for on-farm production in conjunction with, and auxiliary to, the farm use on the subject tract;
    - b. Must be an accepted farm practice in conjunction with and auxiliary to farm use on the subject tract, meaning that if off-site materials are added to on-farm produced compostables, the total amount of compost generated by the operation or facility does not exceed the amount of compost reasonably anticipated to be used on the subject tract;
    - c. Must limit buildings and facilities used in conjunction with the composting operation to those required for the operation of the subject facility;
    - d. Must meet the performance and permitting requirements of the Department of Environmental Quality under OAR 340-093-0050 and 340-096-0060; and
    - e. May sell or transport excess compost only if:
      - i. The operation or facility does not use off-site materials;
      - ii. It is sold or transported to neighboring farm operations within two and one-half miles of the subject tract; and

- iii. It is sold or transported in bulk loads of not less than one unit (7.5 cubic yards) in size that are transported in one vehicle.
4. Commercial utility facilities for the purpose of generating power for public use by sale, but not including wind power or photovoltaic solar power generation. A power generation facility shall not use, occupy, or cover more than 12 acres on High Value Farmland, or more than 20 acres on Low Value Farmland, from use as a commercial agricultural enterprise unless an exception is taken pursuant to OAR chapter 660, division 4; and
  - a. Permanent features of a power generation facility shall not use, occupy, or cover more than 12 acres from use as a commercial agricultural enterprise unless an exception is taken pursuant to ORS 197.732 and OAR chapter 660, division 4. A power generation facility may include on-site and off-site facilities for temporary workforce housing for workers constructing a power generation facility. Such facilities must be removed or converted to an allowed use under OAR 660-033-0130(19) (a private campground) or other statute or rule when the project construction is complete. Temporary workforce housing facilities not included in the initial approval may be considered through a minor amendment request. A minor amendment request shall be subject to 401.05(A)(1) and shall have no effect on the original approval.

#### H. Parks, Public, and Quasi-public Uses

1. Buildings and facilities associated with a site for the takeoff and landing of model aircraft shall not be more than 500 square feet in floor area or placed on a permanent foundation unless the building or facility preexisted the use approved under Subsection 401.05(H)(1). The site shall not include an aggregate surface or hard surface area unless the surface preexisted the use approved under Subsection 401.05(H)(1). An owner of property used for the purpose authorized in Subsection 401.05(H)(1) may charge a person operating the use on the property rent for the property. An operator may charge users of the property a fee that does not exceed the operator's cost to maintain the property, buildings and facilities. As used in Subsection 401.05(H)(1), "model aircraft" means a small-scale version of an airplane, glider, helicopter, dirigible or balloon that is used or intended to be used for flight and is controlled by radio, lines, or design by a person on the ground.
2. Public parks including only the uses specified under OAR 660-034-0035 or 660-034-0040, whichever is applicable. A public park may be established consistent with the provisions of ORS 195.120. 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; or
  2. For all other applications, a building or manufactured dwelling placement permit for a new primary structure that was the subject of the application shall be obtained and maintained. If no building or manufactured dwelling placement permit is required, all other necessary County development permits shall be obtained and maintained.
- B. Time Extension: If the approval of a Type I, II, or III application is not implemented within the initial approval period established by Subsection 401.10(A), a two-year time extension may be approved pursuant to Section 1310.
- C. Exceptions: Subsections 401.10(A) and (B) do not apply to home occupations, 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.

[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]

**406 TIMBER DISTRICT (TBR)**

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406.01 PURPOSE

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

406.02 APPLICABILITY

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

406.03 DEFINITIONS

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

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

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

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

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

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	Type	Use	Subject To
<b>NATURAL RESOURCE USES</b>	A	Uninhabitable structures accessory to fish and wildlife enhancement.	
	C	Forest management research and experimentation facilities.	406.05(A)(1) & (C)(1)
	Type	Use	Subject To
<b>RESIDENTIAL USES</b>	A	Uses and structures customarily accessory and incidental to a dwelling, only if a lawfully established dwelling exists.	
	A	Alteration, restoration, or replacement of a lawfully established dwelling.	406.05(D)(1)
	TYPE II	Forest lot of record dwelling.	406.05(A)(3), (4), (5) & (D)(2)
	TYPE II	Forest template test dwelling.	406.05(A)(3), (4), (5) & (D)(3)
	TYPE II	160 acre forest dwelling.	406.05(A)(3), (4), (5) & (D)(4)
	TYPE II	200 acre noncontiguous tract forest dwelling	406.05(A)(3), (4), (5) & (D)(5)
	TYPE II	Caretaker residences for public parks and public fish hatcheries.	406.05(A)(2) & (5)
	TYPE II	Temporary forest labor camp for a period not to exceed one year.	
	TYPE II	Temporary dwelling for care, subject to Subsection 1204.04.	406.05(A)(1), (2) & (D)(6)
	TYPE II	Accessory dwelling supporting family forestry.	406.05(D)(7)
	Type	Use	Subject To
<b>COMMERCIAL USES</b>	A	Family child care home.	
	TYPE II	Home occupation, subject to Section 822, <i>Home Occupations</i> .	406.05(A)(1), (2), (5) & (E)(1)
	C	Home occupation to host events, subject to Section 806, <i>Home Occupations to Host Events</i> .	406.05(A)(1), (2), (5) & (E)(1)
	C	Home occupation for canine skills training, subject to Section 836, <i>Home Occupations for Canine Skills Training</i> .	406.05(A)(1), (2) (5) & (E)(1)
	C	Private accommodations for fishing on a temporary basis.	406.05(A)(1), (2), (5) & (E)(2)
	C	Private seasonal accommodations for fee based hunting.	406.05(A)(1), (5) & (E)(3)
	Type	Use	Subject To
<b>MINERAL, AGGREGATE, OIL, AND GAS USES</b>	A	Exploration for mineral and aggregate resources as defined in ORS chapter 517 and subject to the requirements of the Department of Geology and Mineral Industries.	
	C	Mining and processing of oil, gas, or other subsurface resources.	406.05(A)(1), (6) & (F)(1)
	C	Exploration for and production of geothermal, gas, and oil.	406.05(A)(1), (6) & (F)(2)



	Type	Use	Subject To
<b><u>TRANSPORTATION USES</u></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 <del>including only those uses specified under OAR 660-034-0035 or 660-034-0040, whichever is applicable.</del>	406.05(A)(1), <del>&amp; (6) &amp; (I)(2)</del>

CLACKAMAS COUNTY ZONING AND DEVELOPMENT ORDINANCE

	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)

## 406.05 APPROVAL CRITERIA FOR SPECIFIC USES

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

A. General Criteria

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

B. Farm and Forest Uses

1. Temporary portable facility for the primary processing of forest products grown on-site for a period not to exceed one year.
2. Permanent facility for the primary processing of forest products that is:

- a. Located in a building or buildings that do not exceed 10,000 square feet in total floor area, or an outdoor area that does not exceed one acre excluding laydown and storage yards, or a proportionate combination of indoor and outdoor areas; and
- b. Adequately separated from surrounding properties to reasonably mitigate noise, odor and other impacts generated by the facility that adversely affect forest management and other existing uses.

C. Natural Resource Uses

1. Forest management research and experimentation facilities as described by ORS 526.215 or where accessory to forest operations.

D. Residential Uses

1. Alteration, restoration, or replacement of a lawfully established dwelling that:
  - a. Has intact exterior walls and roof structure;
  - b. Has indoor plumbing consisting of a kitchen sink, toilet, and bathing facilities connected to a sanitary waste disposal system;
  - c. Has interior wiring for interior lights;
  - d. Has a heating system; and
  - e. In the case of replacement, is removed, demolished, or—if not a manufactured dwelling or residential trailer—converted to an allowable use within 90 days from the occupancy of the new dwelling. Manufactured dwellings and residential trailers to be replaced shall be removed from the property within 30 days from the occupancy of the new dwelling.
2. Lot of record dwelling, subject to the following criteria:
  - a. The lot of record on which the dwelling will be sited was lawfully created prior to January 1, 1985.
  - b. The lot of record on which the dwelling will be sited was acquired by the present owner:
    - i. Prior to January 1, 1985; or
    - ii. By devise or intestate succession from a person who acquired the lot or parcel prior to January 1, 1985.

- iii. As used in Subsection 406.05(D)(2)(b), “owner” includes the wife, husband, son, daughter, mother, father, brother, brother-in-law, sister, sister-in-law, son-in-law, daughter-in-law, mother-in-law, father-in-law, aunt, uncle, niece, nephew, stepparent, stepchild, grandparent, or grandchild of the owner, or a business entity owned by any one or a combination of these family members.
  - c. The tract on which the dwelling will be sited does not include a dwelling.
  - d. The lot of record on which the dwelling will be sited was not part of a tract that contained a dwelling on November 4, 1993.
  - e. The property is not capable of producing 5,000 cubic feet per year of commercial tree species.
  - f. The property is located within 1,500 feet of a public road, as defined under ORS 368.001 that provides or will provide access to the subject tract. The road shall be maintained and either paved or surfaced with rock and shall not be a BLM road, or a USFS road unless the road is paved to a minimum width of 18 feet, there is at least one defined lane in each direction, and a maintenance agreement exists between the USFS and the landowners adjacent to the road, a local government, or a state agency.
  - g. The proposed dwelling is not prohibited by this Ordinance or the Comprehensive Plan, or any other provisions of law.
  - h. When the lot or parcel on which the dwelling will be sited is part of a tract, the remaining portions of adjacent common ownership land shall remain in common ownership as long as the dwelling remains as approved.
  - i. The County Assessor's Office shall be notified of all approvals granted under Subsection 406.05(D)(2).
3. Forest template dwelling, subject to the following criteria:
- a. No dwellings are allowed on other lots of record that make up the tract;
  - b. A deed restriction shall be recorded with the County Clerk stating no other lots of record that make up the tract may have a dwelling;
  - c. The tract on which the dwelling will be sited does not include a dwelling;
  - d. The lot of record upon which the dwelling is to be located was lawfully established.

- e. Any property line adjustment to the lot of record complied with the applicable property line adjustment provisions in Section 1107, *Property Line Adjustments*;
- f. Any property line adjustment to the lot of record after January 1, 2019, did not have the effect of qualifying the lot of record for a dwelling under Subsection 406.05(D)(3).
- g. The County Assessor's Office shall be notified of all approvals granted under Subsection 406.05(D)(3).
- h. The lot of record upon which the dwelling will be sited shall pass a template test, conducted as follows:
  - i. A 160 acre square template shall be centered upon the mathematical centroid of the subject tract. The template may be rotated around the centroid to the most advantageous position. After a position has been selected, the template shall remain fixed while lots of record and dwellings are counted. If the subject tract is larger than 60 acres and abuts a road or perennial stream, the 160 acre template shall be one-quarter mile wide by one mile long, be centered upon the mathematical centroid of the subject tract, and, to the maximum extent possible, have its length aligned with the road or perennial stream.
  - ii. If the predominant soil type on the subject tract has a forest production capability rating, as determined by the Natural Resources Conservation Service (NRCS) Internet Soils Survey of:
    - A) Less than 50 cubic feet per acre per year of wood fiber production, all or part of at least three other lots of record that existed on January 1, 1993, shall be within the template, and at least three lawfully established dwellings shall have existed on January 1, 1993, and continue to exist on the other lots of record within the template area; 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.

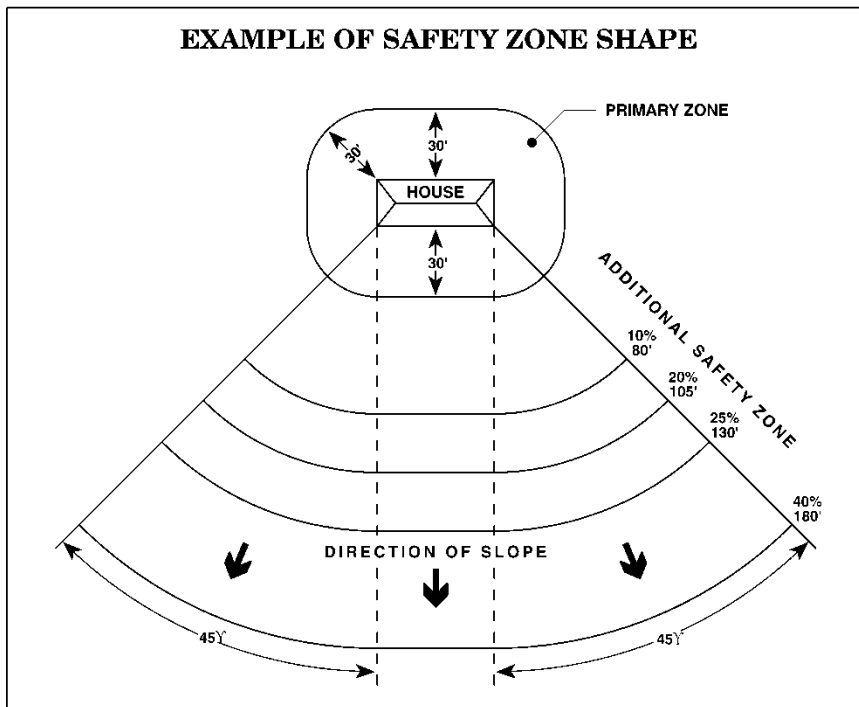
- a. The primary safety zone is a fire fuel break extending a minimum distance around structures. The minimum distance is established by Table 406-2, *Minimum Primary Safety Zone* and Figure 406-1, *Example of Primary Safety Zone*. The goal within the primary safety zone is to remove fuels that will 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; or
2. For all other applications, a building or manufactured dwelling placement permit for a new primary structure that was the subject of the application shall be obtained and maintained. If no building or manufactured dwelling placement permit is required, all other necessary County development permits shall be obtained and maintained.

B. Time Extension: If the approval of a Type I or II application is not implemented within the initial approval period established by Subsection 406.11(A), a two-year time extension may be approved pursuant to Section 1310, *Time Extension*.

C. Exceptions: Subsections 406.11(A) and (B) do not apply to home occupations or temporary dwellings for care, 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]



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

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407.01 PURPOSE

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

407.02 APPLICABILITY

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

407.03 DEFINITIONS

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

407.04 USES PERMITTED

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

A. As used in Table 407-1:

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

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

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

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

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

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<b>RESIDENTIAL USES</b>	A	Uses and structures customarily accessory and incidental to a dwelling, only if a lawfully established dwelling exists.	
	Varies	Dwellings	407.04(C)
	TYPE II	Temporary forest labor camp for a period not to exceed one year.	
	TYPE II	Room and board arrangements for a maximum of five unrelated persons in existing dwellings.	401.05(A)(1) & (3)
	TYPE II	Residential home as defined in ORS 197.660, in existing dwellings.	401.05(A)(1) & (3)
<b>Type Use Subject To</b>			
<b>COMMERCIAL USES</b>	A	Family child care home.	
	A	Dog training classes.	401.05(D)(6)
	A	Dog testing trials.	401.05(D)(7)
	TYPE I	A license for an approved cider business, farm brewery, or winery to carry out the first six days of the 18-day limit for agri-tourism and other commercial events, subject to: ORS 215.451(6)(a) for a cider business; ORS 215.449(6)(a) for a farm brewery; and ORS 215.237 and 215.452(6)(a) for a winery.	
	TYPE II	Farm stands	401.05(D)(8)
	TYPE II	Home occupation, subject to Section 822, <i>Home Occupations</i> .	406.05(A)(1), (2), (5) & (E)(1)
	TYPE II	A landscape contracting business.	401.05(A)(1) & (D)(2)
	TYPE I	Expedited license for a single agri-tourism or other commercial event or activity on a tract in a calendar year, subject to ORS 215.237 and 215.283(4)(b), (6)(a), and (6)(c)	
	TYPE II	Single agri-tourism or other commercial event or activity on a tract in a calendar year, subject to ORS 215.237 and 215.283(4)(a), (6)(a), and (6)(c)	401.05(A)(1) & (D)(3)
	TYPE II	Up to six agri-tourism or other commercial events or activities on a tract in a calendar year, subject to ORS 215.237 and 215.283(4)(c) and (6)	401.05(A)(1) & (D)(3)
	C	Up to 18 agri-tourism or other commercial events or activities on a lot of record that is a minimum of 80 acres, subject to ORS 215.237 and 215.283(4)(d), (5), (6)(a), and (6)(c)	401.05(A)(1) & (D)(3)
	TYPE II	A cider business as described in and subject to ORS 215.451.	
	TYPE II	A farm brewery as described in and subject to ORS 215.449.	
	TYPE II	A winery as described in and subject to ORS 215.452 or 215.453, whichever is applicable, but not a restaurant open more than 25 days per calendar year.	

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<b>COMMERCIAL USES (cont.)</b>	TYPE II	A large winery with a restaurant in conjunction with a winery as described in ORS 215.453 that is open to the public for more than 25 days in a calendar year or; agri-tourism or other commercial events in conjunction with a winery as described in ORS 215.453 that occur on more than 25 days in a calendar year.	401.05(A)(1)
	TYPE II	A bed and breakfast facility as a home occupation in association with a cider business, farm brewery, or winery, subject to: ORS 215.448 and ORS 215.451(10) for a cider business; ORS 215.448 and ORS 215.449(10) for a farm brewery; and ORS 215.448 and either ORS 215.452 or 215.453, whichever is applicable, for a winery.	401.05(A)(1) & (D)(4)
	TYPE II	Cider business, farm brewery, or winery agri-tourism or other commercial events for days seven through 18 of the 18-day limit, subject to: ORS 215.451(6)(c) for a cider business; ORS 215.449(6)(c) for a farm brewery; and ORS 215.237 and 215.452(6)(c) for a winery.	
	TYPE II	Equine and equine-affiliated therapeutic and counseling activities. <sup>3</sup>	401.05(A)(1) & (D)(9)
	C	Home occupation to host events, subject to Section 806, <i>Home Occupation to Host Events</i> .	406.05(A)(1), (2), (5) & (E)(1)
	C	Commercial activities in conjunction with farm use that exceed the standards of ORS 215.203(2)(b)(K) or Subsection 401.05(B)(1), such as the processing of farm crops into biofuel. <sup>4</sup>	401.05(A)(1)
	C	Private accommodations for fishing on a temporary basis.	406.05(A)(1), (2), (5) & (E)(2)
	C	Private seasonal accommodations for fee based hunting.	406.05(A)(1), (5) & (E)(3)
	C	An aerial fireworks display business.	401.05(A)(1) & (D)(5)
	C	Commercial dog boarding kennels.	401.05(A)(1)
	C	Dog training classes or testing trials that cannot be established under Subsection 401.05(D)(6) or (7).	401.05(A)(1)
<b>Type Use Subject To</b>			
<b>MINERAL, AGGREGATE, OIL, AND GAS USES</b>	A	Exploration for mineral and aggregate resources as defined in ORS chapter 517 and subject to the requirements of the Department of Geology and Mineral Industries.	
	A	Operations for the exploration for, and production of, geothermal resources as defined by ORS 522.005 and oil and gas as defined by ORS 520.005, including the placement and operation of compressors, separators and other customary production equipment for an individual well adjacent to a wellhead. Any activities or construction relating to such operations shall not be a basis for an exception under ORS 197.732(1)(a) or (b).	
	A	Operations for the exploration for minerals as defined by ORS 517.750. Any activities or construction relating to such operations shall not be a basis for an exception under ORS 197.732(1)(a) or (b).	

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<b>MINERAL, AGGREGATE, OIL, AND GAS USES (cont.)</b>	C	Operations conducted for mining, crushing, or stockpiling of aggregate and other mineral and other subsurface resources subject to ORS 215.298.	401.05(A)(1), (E)(1) & (E)(1)(a)
	C	Processing as defined by ORS 517.750 of aggregate into asphalt or Portland cement.	401.05(A)(1), (E)(1) & (E)(1)(b)
	C	Processing of other mineral resources and other subsurface resources.	401.05(A)(1), (E)(1) & (E)(1)(c)
	C	Operations conducted for mining and processing of geothermal resources as defined by ORS 522.005 and oil and gas as defined by ORS 520.005 not otherwise permitted under Section 407.	401.05(A)(1), (E)(1) & (E)(1)(d)
	C	Mining and processing of oil, gas, or other subsurface resources.	406.05(A)(1), (6) & (F)(1)
	C	Exploration for and production of geothermal, gas, and oil.	406.05(A)(1), (6) & (F)(2)
<b>TRANSPORTATION USES</b>			
	<b>Type</b>	<b>Use</b>	<b>Subject To</b>
	A	Widening of roads within existing rights-of-way in conformance with Chapter 5, <i>Transportation System Plan</i> , of the Comprehensive Plan.	
	A	Climbing and passing lanes within the right of way existing as of July 1, 1987.	
	A	Reconstruction or modification of public roads and highways, including the placement of utility facilities overhead and in the subsurface of public roads and highways along the public right-of-way, but not including the addition of travel lanes, where no removal or displacement of buildings would occur, or no new land parcels result.	
	A	Temporary public road and highway detours that will be abandoned and restored to original condition or use at such time as no longer needed.	
	A	Minor betterment of existing public road and highway related facilities such as maintenance yards, weigh stations, and rest areas, within right of way existing as of July 1, 1987, and contiguous public-owned property utilized to support the operation and maintenance of public roads and highways.	
	TYPE II	Parking of up to seven dump trucks and seven trailers, subject to ORS 215.311.	406.05(A)(1)
	TYPE II	Parking of no more than seven log trucks, subject to ORS 215.311.	401.05(A)(1)
	TYPE II	Construction of additional passing and travel lanes requiring the acquisition of right-of-way but not resulting in the creation of new land parcels.	406.05(A)(1)
	TYPE II	Reconstruction or modification of public roads and highways involving the removal or displacement of buildings but not resulting in the creation of new land parcels.	406.05(A)(1)
	TYPE II	Improvement of public roads and highway-related facilities, such as maintenance yards, weigh stations, and rest areas, where additional property or right-of-way is required but not resulting in the creation of new land parcels.	406.05(A)(1)
	C	Aids to navigation and aviation.	406.05(A)(1) & (6)

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TRANSPORTATION USES (cont.)	C	Personal-use airports for airplanes and helicopter pads, including associated hangar, maintenance, and service facilities.	401.05(A)(1) & (F)(2)
	C	Expansion of existing airports.	406.05(A)(1)
	C	Temporary asphalt and concrete batch plants as accessory uses to specific highway projects.	406.05(A)(1)
	C	Roads, highways, and other transportation facilities and improvements not otherwise allowed under this Ordinance.	401.05(F)(1)
Type	Use		Subject To
UTILITY AND SOLID WASTE DISPOSAL FACILITY USES	See Table 835-1	Wireless telecommunication facilities (other than essential public communication services, as defined in Section 835, <i>Wireless Telecommunication Facilities</i> ), subject to Section 835.	
	TYPE II	Essential public communication services, as defined in Section 835.	406.05(A)(1)
	A	Local distribution lines (i.e., electric, telephone, natural gas) and accessory equipment (i.e., electric distribution transformers, poles, meter cabinets, terminal boxes, pedestals), or equipment which provides service hookups, including water service hookups.	
	A	Irrigation reservoirs, canals, delivery lines and those structures and accessory operational facilities, not including parks or other recreational structures and facilities, associated with a district as defined in ORS 540.505.	
	A	Water intake facilities, canals and distribution lines for farm irrigation and ponds.	
	A	Solar energy systems as an accessory use.	
	A	Rainwater collection systems as an accessory use.	
	A	Electric vehicle charging stations for residents and their non-paying guests.	
	A	Meteorological towers.	
	TYPE II	Wind energy power production systems as an accessory use.	406.05(H)(1)
	TYPE II	Composting operations and facilities that are accepted farming practices in conjunction with and auxiliary to farm use on the subject tract.	401.05(G)(3)
	C	Water intake facilities, related treatment facilities, pumping stations, and distribution lines.	406.05(A)(1) & (6)
	C	Reservoirs and water impoundments.	406.05(A)(1),(2) & (6)
	C	A disposal site for solid waste for which the Oregon Department of Environmental Quality has granted a permit under ORS 459.245, together with equipment, facilities, or buildings necessary for its operation. A composting facility is subject to Section 834, <i>Composting Facilities</i> .	406.05(A)(1) & (6)
	C	Commercial utility facilities for the purpose of generating power.	406.05(A)(1), (6) & (H)(2)
	C	New electric transmission lines.	406.05(A)(1) & (H)(3)
	C	Television, microwave, and radio communication facilities.	406.05(A)(1), (6) & (H)(4)

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	Type	Use	Subject To
<b>PARKS, PUBLIC, AND QUASI-PUBLIC USES</b>	A	Private hunting and fishing operations without any lodging accommodations.	
	A	Towers and fire stations for forest fire protection.	
	A	Land application of reclaimed water, agricultural process or industrial process water, or biosolids for agricultural, horticultural, or forest production, or for irrigation in connection with a use allowed in the EFU zoning district, subject to the issuance of a license, permit, or other approval by the Department of Environmental Quality under ORS 454.695, 459.205, 468B.050, 468B.053, or 468B.055, or in compliance with rules adopted under ORS 468B.095.	
	A	Onsite filming and activities accessory to onsite filming for 45 days or less.	
	TYPE II	A site for the takeoff and landing of model aircraft, including such buildings or facilities as may reasonably be necessary.	401.05(H)(1)
	TYPE II	Community centers.	401.05(A)(1), (5) & (H)(3)
	TYPE II	Living history museum.	401.05(A)(1), (5) & (H)(4)
	TYPE II	Expansion of existing county fairgrounds and activities directly relating to county fairgrounds governed by county fair boards established pursuant to ORS 565.210.	401.05(A)(1)
	TYPE II	A county law enforcement facility that lawfully existed on August 20, 2002, and is used to provide rural law enforcement services primarily in rural areas, including parole and post-prison supervision, but not including a correctional facility as defined under ORS 162.135.	401.05(A)(1)
	TYPE II	Churches and cemeteries in conjunction with churches, consistent with ORS 215.441, which does not include private or parochial school education for prekindergarten through grade 12 or higher education.	401.05(A)(5)
	TYPE II	Fire service facilities providing rural fire protection services.	
	C	Operations for extraction and bottling of water.	401.05(A)(1)
	C	Onsite filming and activities accessory to onsite filming for more than 45 days as provided for in ORS 215.306.	401.05(A)(1)
	C	Public or private schools for kindergarten through grade 12, including all buildings essential to the operation of a school, primarily for residents of the rural area in which the school is located.	401.05(A)(1) & (5)
	C	Golf courses.	401.05(A)(1), (5) & (H)(6)
	C	Youth camps on 40 acres or more, subject to Oregon Administrative Rules (OAR) 660-006-0031.	406.05(A)(1) & (3)
	C	Cemeteries	406.05(A)(1) & (6)
	C	Firearms training facility as provided in ORS 197.770(2).	406.05(A)(1) & (6)

CLACKAMAS COUNTY ZONING AND DEVELOPMENT ORDINANCE

<b>PARKS, PUBLIC, AND QUASI-PUBLIC USES (cont.)</b>	C	Private parks and campgrounds.	406.05(A)(1),(2),(6) & (I)(1)
	C	Public parks <del>including only those uses specified under OAR 660-034-0035 or 660-034-0040, whichever is applicable.</del>	406.05(A)(1) & (6) & (I)(2)
<b>Type Use Subject To</b>			
<b>OUTDOOR GATHERINGS</b>	A	An outdoor mass gathering as defined in ORS 433.735, subject to ORS 433.735 to 433.770. However, an outdoor mass gathering permit under ORS 433.750 is not required for agri-tourism and other commercial events or activities permitted under ORS 215.283(4), 215.449, 215.451, and 215.452.	
	TYPE III	An outdoor mass gathering of more than 3,000 persons any part of which is held outdoors and which continues or can reasonably be expected to continue for a period exceeding that allowable for an outdoor mass gathering as defined in ORS 433.735, subject to ORS 433.763.	

- <sup>1</sup> The processing, compounding, or conversion of marijuana into cannabinoid extracts is prohibited.
- <sup>2</sup> Farming of a marijuana crop shall not be used to demonstrate compliance with the approval criteria for a dwelling. (See ORS 475B.526.)
- <sup>3</sup> The use is prohibited in an urban or rural reserve established pursuant to OAR chapter 660, division 27.
- <sup>4</sup> A commercial activity carried on in conjunction with a marijuana crop is prohibited. (See ORS 475B.526.)

407.05 PROHIBITED USES

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

407.06 DIMENSIONAL STANDARDS

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



407.07 DEVELOPMENT STANDARDS

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

407.08 LAND DIVISIONS

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

407.09 SUBMITTAL REQUIREMENTS

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

407.10 APPROVAL PERIOD AND TIME EXTENSION

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

[Amended by Ord. ZDO-224, 5/31/11; Amended by Ord. ZDO-230, 9/26/11; Amended by Ord. ZDO-234, 6/7/12; Amended by Ord. ZDO-241, 1/1/13; Amended by Ord. ZDO-245, 7/1/13; Amended by Ord. ZDO-247, 3/1/14; Amended by Ord. ZDO-248, 10/13/14; Amended by Ord. ZDO-254, 1/4/16; Amended by Ord. ZDO-262, 5/23/17; Amended by Ord. ZDO-263, 5/23/17; Amended by Ord. ZDO-264, 8/22/17; Amended by Ord. ZDO-266, 5/23/18; Amended by Ord. ZDO-268, 10/2/18; Amended by Ord. ZDO-276, 10/1/20; Amended by Ord. ZDO-283, 9/5/23]

**714 SPECIAL USE OVERLAY DISTRICT (SUO)**

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**714.01 PURPOSE**

Section 714 is adopted to implement the policies of the Comprehensive Plan for adopted local parks master plans in the AG/F, EFU and TBR Districts.

**714.02 APPLICABILITY**

Section 714 applies to land in the SUO District.

**714.03 DEFINITIONS**

The definitions in Oregon Administrative Rules 660-034-0010 apply to development of a local park in the SUO District.

**714.04 USES PERMITTED**

Permitted uses in the SUO District are those permitted in the applicable underlying zoning district and those identified in the applicable adopted local park master plan.

**714.05 DEVELOPMENT STANDARDS**

Development of a local park must be consistent with the applicable adopted local park master plan and is subject to the applicable provisions of Section 1000, *Development Standards*.

## **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 Detached single-family dwellings
  - 4.R.1.2 Manufactured homes
  - 4.R.1.3 Middle housing
  - 4.R.1.4 Accessory dwelling units
- 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.S Medium Density Residential Policies**

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



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

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

**4.U High Density Residential Policies**

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

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

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

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

## COMMERCIAL

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

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

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

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

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

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

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

**COMMERCIAL GOALS**

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

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

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

**4.X Neighborhood Commercial Policies**

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

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

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

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

**4.Z Office Commercial Policies**

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

**4.AA Office Apartment Policies**

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

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

**4.BB General Commercial Policies**

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

**4.CC Retail Commercial Policies**

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



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

## **INDUSTRIAL**

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

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

### **INDUSTRIAL GOALS**

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

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

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

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

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

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

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

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

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

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

**4.EE Light Industrial Policies**

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

**4.FF General Industrial Policies**

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

## **OPEN SPACE AND FLOODPLAINS**

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

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

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

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

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

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

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

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

#### **4.HH Floodplains Policies**

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

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



## **UNINCORPORATED COMMUNITIES**

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

There are four types of Unincorporated Communities:

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

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

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

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

## **UNINCORPORATED COMMUNITY GOALS**

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

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

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

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

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

## **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.



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

## **AGRICULTURE**

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

### **AGRICULTURE GOALS**

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

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

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

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

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

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

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

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.

## **Chapter 9: OPEN SPACE, PARKS, AND HISTORIC SITES**

The conservation of land, water, and historic resources, and the related provision of recreation opportunities, is one of the most important factors in maintaining the quality of life which has made Clackamas County an attractive place to live. Recently, however, the urban area in particular has experienced a sharp jump in population, with substantial changes in the physical environment. Population growth is inevitable, at least for the foreseeable future, but the degradation of our communities is not.

Numerous natural, historic and recreation resources will continue to be available for everyone's enjoyment if the commitment is made to preserve them. The streams and river corridors, the steep wooded hillsides, marshes and wetlands, the rich farmlands, and the vast, magnificent mountains form a natural network of significant benefit. A distinctive building or section of the Barlow Trail provide us with an historical context which can be an important part of our identity. They give us a feeling of continuity, a connection with the past and with the future. Recreation resources are also important but, unlike the others, these need to be built up, changed, and improved as the demands of the people who use them change. This must be done within the limits of the natural resource systems. For instance, the natural characteristics of a stream must not be sacrificed to satisfy the demands of the people who use it for recreation. Rather, more recreation opportunities must be developed elsewhere to satisfy the demand.

This example illustrates the need for a resource conservation and recreation development strategy for Clackamas County. In the past there was ample open space and a wide selection of recreation activities available to virtually everyone. With little urban development pressure, there was little need to preserve either natural or man-made resources. Now the pressures on these resources are increasing, and will continue to mount in the future. Population density and recreation needs are rising, once cherished local open spaces are disappearing, and more people are demanding more places for a variety of recreation activities. It is increasingly clear that our options and opportunities, especially within the urban area, are becoming fewer every day. The County must take the lead to preserve the resources and develop facilities which will assure that a high quality of life is available to all County residents.

### **OPEN SPACE, PARKS, AND HISTORIC SITES GOALS**

- Goal 1: Protect the open space resources of Clackamas County.
- Goal 2: Improve the environmental quality of the northwest urban area.
- Goal 3: Provide land, facilities, and programs which meet the recreation needs of County residents and visitors.
- Goal 4: Establish an equitable means of financing parks and recreation facilities and programs.
- Goal 5: Preserve the historical, archaeological, and cultural resources of the County.

**Commented [HJ1]:** These are existing goals but have been moved from elsewhere in this chapter.

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**ISSUES**

- The effective protection of an adequate amount of open space, especially within the urban area
- The provision of adequate local recreation land, facilities and programs to meet the needs of residents and visitors
- The type of financial strategy needed to acquire, develop, and maintain recreation facilities
- The preservation of historically or culturally significant sites and structures

**SUMMARY OF FINDINGS AND CONCLUSIONS**

- Although approximately one-third of the urban area is open land at the present time, only about 5 percent is effectively preserved, and most of the balance could disappear over the next 20 years.
- Many of the areas which are a natural part of the open space network also are areas subject to natural hazards (over 11 percent of the land in the urban area), are valuable as natural resource areas, and provide natural buffers between urban communities. The two primary components of the network are stream and river corridors and forested hillsides.
- An effective land use regulation process will have to be established over the area designated as open space. Without this process, no effective preservation is possible in areas which are not acquired.
- The north urban area of the County (Census Tracts 208 through 226) is significantly deficient in public park land--approximately 2.8 acres per 1,000 population as compared to the standard of 10 acres per 1,000 population. Well over half of the total park acreage is undeveloped.
- The most deficient categories are neighborhood and community parks, particularly east of the Willamette River where there are fewer than two park acres per 1,000 population. The unincorporated part of this area is especially deficient. The north urban area also has less than average play field acreage at some schools. Serious deficiencies exist in other recreation facilities as well, especially public swimming pools and beaches, tennis and multipurpose courts, ball fields, and various types of trail systems.
- As the urbanizing area is filled in, the need for parks and other recreation facilities will intensify since the informal play areas and open spaces will no longer be there. There is a need to develop local facilities and site them for access by foot and transit. However the amount of vacant land suitable for park development in the east urban area is very limited. It is imperative that suitable acreage be acquired quickly in this area before it has been irreversibly committed to development.
- In order to meet minimum standards for the expected north urban area

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population ~~in the year 2010~~, the amount of park acreage will have to be increased ~~by almost 1,200 acres in the next 20 years~~. Local governments are responsible for the provision of most urban area recreation facilities and cannot necessarily expect assistance from the state or federal governments in meeting urban area park needs.

- Consideration must be given to various methods of financing the provision of adequate park and recreation facilities and programs in the urban area. A park and recreation district would probably be the best solution. It could either cover the entire urban area, or just the unincorporated area and any interested cities. Local improvement districts (LIDs) are another method. A system development charge or real estate transfer tax also should be considered to provide new facilities for the developing areas. A capital improvements program (CIP) should be instituted to make better use of all available funds.
- Many historic sites and structures in Clackamas County are in disrepair and may be expensive to restore and maintain. While many can be adapted to contemporary use, care must be taken not to harm the features which made the structure or site significant.
- Many historical features in the County are located in areas where land is quite valuable and subject to redevelopment pressure. They are often overwhelmed by surrounding developments or destroyed because their value is not recognized.
- Archaeological sites are often difficult to locate due to the lack of a written historical record. This frequently means that they have been unknowingly destroyed. These sites, even when known, cannot be specifically identified in the inventory because of their sensitivity to exploration.



## OPEN SPACE

The preservation of open space is a necessity if the quality of life, particularly in the northwest urban area, is to be maintained and enhanced. The following goals and policies supplement those found in the Land Use Chapter.

**Open Space Goal 1: Protect the open space resources of Clackamas County.**  
**Open Space Goal 2: Improve the environmental quality of the northwest urban area.**

### **OPEN SPACE GOALS**

- ~~Protect the open space resources of Clackamas County.~~
- ~~Improve the environmental quality of the northwest urban area.~~

### **9.A Open Space Policies**

- 9.A.1 Initiate an environmental management program to ensure the retention and enhancement of environmental quality and open space values, particularly in the urban area.
- 9.A.1.1 The program will resolve conflicts between a proposed land use activity (e.g., housing, timber harvesting) and the open space, scenic, historic, and natural resources of the County. The social, economic, environmental, and energy consequences of the proposed action will be identified. Changes may then be required in the proposal in order to minimize any adverse impact upon these resources. Policies from other sections of this chapter may be relevant.
- 9.A.1.2 Detail the nature and character of visually sensitive areas (see Natural Resources and Energy Chapter). This information will be used in the site analysis outlined in Policy 4.GG.5 of the Open Space section of the Land Use Chapter.
- 9.A.1.3 Provide site management assistance for lands which are maintained as open space, including utilization of the County's professional expertise to advise property owners on methods of land management.
- 9.A.1.4 Initiate an urban tree conservation and planting program in cooperation with business and community groups. This program should include street tree plantings, with an emphasis on major arterials, and regulation of the removal of trees and other significant vegetation which may have value as a feature of the urban area open space (see Forestry section of Natural Resources and Energy Chapter).
- 9.A.2 Use the Open Space Network Map, which has identified desirable open space

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within the urban area, natural areas identified through the Metropolitan Greenspaces Master Plan and natural areas within Metro's Urban Reserve Area, as the guide for public acquisition of open space (willing seller, willing buyer basis only) and open space dedication during the development process (see map 9-1).

- 9.A.2.1 Refine the open space network to more specifically focus on local neighborhood and community needs. This refinement should consider the relationship between lot and ownership patterns and the natural systems and features of the open space network. The map should also indicate suitable areas for clustering development, and appropriate combinations of adjoining properties which would achieve the best balance of urban development and open space within each community.
  - 9.A.2.2 Major adjustments to this map shall be incorporated onto the Land Use Map as they occur, in accordance with the amendment process outlined in the Planning Process Chapter. Minor adjustments will be considered compatible with the existing map.
  - 9.A.2.3 Open Space Management zoning may be applied to natural areas identified through the Metropolitan Greenspaces Master Plan and natural areas within Metro's Urban Reserve Area, when under public or common ownership.
- 9.A.3 Protect open space resources outside the urban area through the policies of the Land Use and the Natural Resources and Energy chapters of the Plan, specifically the policies for agriculture, forestry, water resources, wildlife habitats, and distinctive resource areas.
- 9.A.4 Use all available methods of acquiring or protecting open space for the enjoyment of all County residents including the following.
- 9.A.4.1 Finance the purchase of open space land either in combination with an urban area parks and recreation district acquisition program (see Parks and Recreation Policy 9.B.7) or through a special funding measure based on all taxable property in the urban area. Full-fee acquisitions, development-rights purchase and scenic easements, among other methods, may be used to implement this program. The County will maximize the use of local money through the aggressive pursuit of federal and state funds.
  - 9.A.4.2 Set standards for accepting land dedications as part of subdivision or PUD approval. If the site contains land designated as Open Space, that land should have the highest priority for open space dedication.
  - 9.A.4.3 Publish and distribute information indicating desirable areas for land donations, what procedure to follow, and how the donor will benefit.
  - 9.A.4.4 Support the state's existing property tax reduction program for all property in designated Open Space areas as long as they are maintained as open space.

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- 9.A.5 Establish responsibility through an existing or new commission to advise the County on the preservation of open space, natural, scenic, historic and cultural resources, and the provision of adequate recreation sites. The existing Parks Advisory Board could be expanded to assume this role; however, given the extent of responsibility, formation of a new commission may be necessary.
- 9.A.6 Cooperate with ODOT in addressing specific location and completion of the Goal 5 process for the Sandy River and Indian Ridge trails after general trail alignment is determined by ODOT.

## PARKS AND RECREATION

Clackamas County, like all rapidly urbanizing areas, needs to set aside land and develop facilities for the recreation and enjoyment of its residents and visitors. Various types of parks, urban recreation trails, and a number of outdoor and indoor recreational facilities will be needed over the next 20 years. Recognizing the limitations of existing facilities, priorities and standards have been set for the acquisition and development of land for recreation purposes, with a strong emphasis on the urban area.

The initial step is a commitment to provide an adequate park and recreation system to meet the needs of the people. This commitment must be met, however, within an overall strategy that considers the other legitimate needs of County residents. Different types of budgetary and funding mechanisms will need to be used and many segments of the community involved, including all governmental jurisdictions and the private sector.

**Parks and Recreation Goal 3: Provide land, facilities, and programs which meet the recreation needs of County residents and visitors.**

**Parks and Recreation Goal 4: Establish an equitable means of financing parks and recreation facilities and programs.**

### **PARKS AND RECREATION GOALS**

- ~~Provide land, facilities and programs which meet the recreation needs of County residents and visitors.~~
- ~~Establish an equitable means of financing parks and recreation facilities and programs.~~

### **9.B Parks and Recreation Policies**

9.B.1 ~~Establish~~Utilize the ~~following~~ park classifications and standards identified in Table 9-1 to guide the provision of parks and other recreation facilities throughout the County.

~~Policies 9.B.1.1 through 9.B.1.3 are detailed in Table 9-1.~~

9.B.1.14 The County will seek to establish a park and recreation system which maximizes access for walkers, hikers, bicyclists and transit riders.

9.B.1.25 The County will seek to provide improved access and conveniences for disabled people in its park and recreation facilities.

9.B.2 Acquire and develop park sites in the urban area in order to bring that part of the County up to adopted standards. Due to the significant lack of parks and open space, the north urban area should be given special emphasis,

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particularly the Oak Lodge and Overland/Kendall neighborhoods.

9.B.2.1 The following park land will be acquired by the County or other appropriate agency as soon as possible (see map 9-2 for subarea boundaries):

- Subarea A not in County parks planning area
- Subarea B neighborhood parks: 150 acres  
community parks: 150 acres  
metropolitan parks: 250 acres
- Subarea C neighborhood parks: 40 acres  
community parks: 20 acres  
metropolitan parks: 80 acres
- Subarea D not in County parks planning area

Following is the projected total parks acreage needed over the next 20 years:

- Subarea A not in County parks planning area
- Subarea B neighborhood parks: 225 acres  
community parks: 225 acres  
metropolitan parks: 450 acres
- Subarea C neighborhood parks: 75 acres  
community parks: 75 acres  
metropolitan parks: 150 acres
- Subarea D not in County parks planning area

(The above acreage requirements are based on the standards outlined in ~~Policies 9.B.1.1–9.B.1.3~~ [Table 9-1](#), Metro 1987 population figures, and 2010 population forecasts.)

9.B.2.2 Parks and other recreation sites will be developed with facilities to meet the short-term recreation needs of residents (see the Parks, Open Space, Historic Sites Background Report for information on determining recreation needs). The following is a partial list of desirable facilities for Subareas B and C:

- 5-6 swimming pools
- 3,000 feet of swimming beach
- 300-400 miles of pedestrian ways (including sidewalks)
- 100-150 miles of bike trails
- 30 ball fields
- 35 tennis courts
- 2 community centers

Many other facilities will also be needed to meet the expected demand over the next 20 years.

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- 9.B.3 ~~Provision of recreation in rural areas must be closely coordinated with other local, state and federal agencies (e.g., school districts, Willamette Greenway Program).~~ Coordinate the provision of recreational opportunities in rural areas with other local, regional, state, and federal agencies (e.g., school districts, Willamette Greenway Program).
- 9.B.4 Consider the need to protect environmentally sensitive areas from overuse as well as satisfy the needs of County residents and visitors in developing area park and recreation facilities.
- 9.B.5 Pursue the following priorities for recreation land acquisition and development, subject to review and update at regular intervals. As a general strategy, acquisition will have priority over development, due to the rate of urban development on good park sites.
- 9.B.5.1 Acquisition Priorities
- Priority 1: Land suitable for neighborhood or community park development in subarea B, recognizing the significant lack of both existing park facilities and available land. Action should be taken immediately to acquire as many suitable parcels as possible in the unincorporated urban area to assure an adequate amount of park land for the future.
  - Priority 2: Neighborhood and community parks in subarea C. Parks should be acquired prior to or as residential areas are developed. Action should be taken immediately due to the rapid pace of development currently taking place in this area. Acquire community park sites within the open space network.
  - Priority 3: A metropolitan park site for the eastern part of the urban area. This site should be centrally located and easily accessible to both Subareas B and C. Because of the requirements for this type of park, Mt. Talbert should be considered as a potential site.
- 9.B.5.2 Development Needs
- An urban trail system for both walking and bicycling, especially in conjunction with the development of neighborhood and community parks. Use should be made of open space linkages along creek and river banks, ridgelines, and existing rights-of-way. Open space dedication at the time of development will be used as a means of completing this trail system (see map 9-1).
  - Swimming pools in community and metropolitan parks. A diversity of pool types is preferred, ranging from small, outdoor pools to a large, indoor, Olympic-sized pool.
  - Neighborhood parks, which would include children's play

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equipment, picnic facilities, and informal open space. These parks should be strategically located so that no resident would travel more than one mile to reach the facilities.

- Ball fields as part of neighborhood and community parks, with sufficient area for several different simultaneous activities.
- Multipurpose courts in neighborhood and community parks.
- Natural areas as part of all three major urban area park types.

9.B.5.3 Use the preceding list of needs as a general guide for acquiring and developing recreation areas in the County. The list should be updated at least once every two years. Any funds available for general park and recreation development should be used in these priority areas.

Donations of land outside the urban area should be accepted by the County. Purchase of additional land in the rural portions of the County may be considered if the land is a significant natural area that is being seriously threatened.

9.B.5.4 Establish a park and recreation site selection process, with location as the primary determining factor. All future acquisition and development programs should also take into account: (a) areas of substantial need; (b) how well a site meets the relative recreation needs of the service area; (c) the suitability of environmental conditions; (d) fiscal feasibility; (e) threat of loss of valuable resource; and (f) opportunity for cooperative projects.

9.B.5.5 Use the following criteria when considering the timing of site acquisition: (a) unusually favorable acquisition opportunities; (b) the likelihood that the site will be lost to development; (c) the appreciation rate of property in the area; and (d) the existence of advantageous opportunities to cooperate with other public agencies or private organizations.

9.B.6 Require all new urban residential developments to contribute to the provision of park facilities in their communities proportionate to the need generated by the development and based on the park standards established in Policy 9.B.1.

9.B.6.1 Develop specifications for park and open space dedications and fees in coordination with urban area and/or local park acquisition programs. Options for the developer may be:

- Dedicate land for a new park on site which meets established standards and is approved by the County;
- Provide fees-in-lieu of park land or contribute to a systems development fund or other appropriate fund (see Process Chapter, Policy 11.B.10) in proportion to the standard; or
- Some combination of the above.

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- 9.B.6.2 Provide for a density bonus to be available for land developed with recreation facilities dedicated to public use. The bonus will be used to encourage the provision of public recreation facilities in conjunction with large development projects (see Density Bonus Section of the Housing Chapter).
- 9.B.7 ~~Establish an urban area service district, or initiate the formation of a parks and recreation district~~Recognize the North Clackamas Parks and Recreation District as a provider of ~~to provide~~ a full range of recreation facilities and programs to urban residents within the District boundaries.
- 9.B.7.1 Provide for the district to assume ownership, planning, administration, acquisition, development and maintenance of all parks in the urban part of the County.
- 9.B.7.2 Provide for the district to initiate a recreation program, coordinate the use of publicly operated recreation facilities, and provide access to recreation services for all County residents, focusing on the special needs of urban area residents. The recreation program will attempt to meet the recreation needs of all age groups and serve as many different interest groups as possible. Potential programs include: soccer, softball, baseball, and basketball leagues; gymnastics, martial arts, volleyball, and exercise classes; arts and crafts classes; swimming lessons; free play time in a gymnasium for children and adults; and other activities. User or participant fees will be kept as low as possible, while an attempt will be made to recoup many of the costs involved in each program.
- 9.B.7.3 Allow the district to take over ownership and maintenance of all dedicated open space upon approval of the organization (e.g., homeowners association) or agency which holds the title.
- 9.B.8 Use all available and responsible means to reduce the cost of acquisition, development, operation and maintenance of parks and recreation facilities, while working toward the provision of facilities and programs specified in Policies 9.B.1 and 9.B.6.
- 9.B.8.1 Develop a capital improvements program for parks and recreation facilities to make efficient use of all funding sources and to plan for needed facilities and their maintenance.
- 9.B.8.2 Seek to place idle park or open space lands into revenue producing interim uses compatible with their ultimate use and with environmentally sound land management practices (e.g., agriculture, selective timber harvest, community gardens).
- 9.B.8.3 Prepare park development plans which easily adapt to changing conditions and the changing needs of County residents. Plans will



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phase development, where appropriate, in order to assess whether full development is warranted. Consideration will be given to materials and technologies that reduce development and long-term maintenance costs while maintaining environmental compatibility.

- 9.B.8.4 Encourage the private sector to help meet the recreation needs of County residents and visitors. The recreation program should use private facilities on a program-by-program basis when public facilities are not available. Where appropriate, nonprofit organizations will be encouraged to operate special purpose parks and facilities (e.g., nature exhibits, historic sites).
- 9.B.8.5 Support legislation to enable local governments to use up to 25 percent of their federal park and recreation grants for normal park operation and maintenance, rather than just for acquisition and development.
  
- 9.B.9 Coordinate County activities with other agencies and organizations to provide park and recreation facilities.
  - 9.B.9.1 Coordinate the development of facilities and programs with the cities and school districts when mutual concerns exist.
  - 9.B.9.2 Explore joint development projects in order to provide facilities needed by residents of both incorporated and unincorporated areas.
  - 9.B.9.3 Avoid duplication of facilities through coordination with state and federal agencies and the private sector.
  
- 9.B.10 Ensure opportunities for citizen participation in park and recreation decisions as provided in the Citizen Involvement Chapter and Policy 9.A.5 of the Open Space Section of this chapter.
  
- 9.B.11 Upon application by local park providers and pursuant to OAR 660-034-0040, consider amendments to the Comprehensive Plan to adopt local park master plans for public parks proposed on lands designated Agriculture or Forest.
  - 9.B.11.1 Recognize approval of a local park master plan by adopting the plan by reference in Appendix A.
  - 9.B.11.2 Apply the Special Use Overlay District to land for which a local park master plan is adopted.

## **HISTORIC LANDMARKS, DISTRICTS, AND TRANSPORTATION CORRIDORS**

Clackamas County has a rich and unique heritage from its founding through its development over time. Historic sites, objects, structures, and transportation corridors still remain which represent prehistory, the era of the Territorial Government, western migration along the Oregon Trail, the existence of the first and longest running electric street car line in the nation, the influence of the railroad on development and our heritage as an agricultural and lumber based economy. We are the stewards of these historic resources and charged through state law to protect and preserve them.

Cultural, economic, and social benefits can come from preservation of the County's historic resources. There is cultural value in establishing firm, visible links with the past. Economic benefits include enhanced property values, savings in structure replacement costs, tourism, and, in commercial areas, strengthened retail sales. Social and community benefits appear in the renewal of older neighborhoods and the increased pride fostered in the residents.

To effectively preserve historical resources, an evaluation must determine which structures and sites are worthy of preservation. A method of regulating the use or demolition of historic resources would then be necessary to protect them. It is essential that the County make a firm commitment to protect its historic resources.

Individual descriptions and maps of Clackamas County Historic Landmarks which are located within the urban area of the County can be found in the Clackamas County Historic Landmarks book, adopted by Clackamas County.

A detailed mapping project of the Barlow Road, the westernmost segment of the Oregon Trail, was undertaken in 1988. This document, entitled Maps of the Barlow Road, Mt. Hood to Oregon City, Clackamas County, prepared by the Planning and Economic Development Division, exhibits maps of the historic road corridor as well as associated historic sites. It also includes recommendations for a more detailed survey to assist in the preservation and management of this historic resource.

### **HISTORIC LANDMARKS, DISTRICTS, AND TRANSPORTATION CORRIDORS GOAL**

- ~~• Preserve the historical, archaeological, and cultural resources of the County.~~
- **Historic Landmarks, Districts, and Transportation Corridors Goal 5: Preserve the historical, archaeological, and cultural resources of the County.**

### **9.C Historic Landmarks, Districts, and Transportation Corridors Policies**

[9-13]

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- 9.C.1 Conduct a comprehensive inventory in the County of historic areas, sites, structures, and objects. Inventory the location, quantity and quality of these resources using state and federal criteria.
- 9.C.2 The County adopts the Barlow Road Historic Corridor as defined by the Barlow Road Survey Project and the Barlow Road Background Report and Management Plan as a Clackamas County Historic Corridor. All provisions of the Historic Landmarks, Historic Districts and Historic Corridors Ordinance shall apply to the designated sites and historic corridor of the Barlow Road.
- 9.C.3 Develop criteria to further evaluate the significance of these historic resources using state and federal criteria as models.
- 9.C.4 Zone properties Historic Landmark (HL), Historic Districts (HD), or Historic Corridor (HC) which are determined significant by the evaluation criteria.
- 9.C.5 Identify conflicts by analyzing the economic, social, environmental, and energy consequences of land use actions with regard to significant historic resources.
- 9.C.6 Develop policies and programs to protect historic resources and minimize the conflicts.
- 9.C.7 Pursue private and public sources of funding for use by property owners in the renovation and maintenance of historic properties.
- 9.C.8 Pursue options and incentives to allow productive, reasonable use, and adaptive reuse of historic properties.
- 9.C.9 Appoint an Historic Review Board whose role is to protect and preserve Historic Landmarks, Districts, and Corridors and who individually have demonstrated interest and expertise in the field of Historic Preservation. This Board shall be empowered to:
  - 9.C.9.1 Recommend zoning of Historic Landmarks, Historic Districts, and Historic Corridors.
  - 9.C.9.2 Review alterations, new construction land divisions, and proposed demolition on all Landmark, District, and Corridor properties.
  - 9.C.9.3 Provide technical assistance and conduct workshops to provide an educational forum for historic preservation to broaden community awareness and public participation.
  - 9.C.9.4 Coordinate local preservation programs, including signing, plaques or other monumentation, driving and walking tour brochures, and other informational pieces.

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- 9.C.9.5 Make recommendations for designation of sites on the National Register of Historic Places.

**Exhibit List  
In The Matter Of ZDO-286**

<i>Ex. No.</i>	<i>Date Received</i>	<i>Author or source</i>	<i>Subject &amp; Date of document</i>
1	8/07/23	The Planner of Record, Joy Fields	Notice to CPOs and Hamlets   08_07_2023
2	8/11/23	Richard Stevens	Testimony   08_11_2023
3	8/24/23	Nancy Gronowski	Testimony   08_24_2023
4	8/25/23	Friends of the Rogerson Clematis Collection, Amy Chase Herman	Testimony   08_25_2023
5	8/26/23	Dawn Kolb	Testimony   08_26_2023
6	8/26/23	Friends of Luscher Farms, Stephanie Hallock	Testimony   08_26_2023
7	8/28/23	Stephanie Hallock	Testimony   08_28_2023
8	8/30/23	Friends of Luscher Farms, Gale Wallmark	Testimony   08_31_2023
9	8/30/23	Richard Fiala	Testimony   08_30_2023
10	8/30/23	Rick Cook	Testimony   08_30_2023
11	9/05/23	Randall Yamada	Testimony   09_11_2023
12	9/06/23	Karalevicius family	Testimony   09_06_2023
13	9/07/23	City of Lake Oswego	Testimony   09_07_2023
14	9/11/23	Stephanie Powell	Testimony   09_11_2023
15	9/11/23	Carl Selin	Testimony   09_11_2023
16**	9/12/23	Luann Rukke	Testimony   09_12_2023
17**	9/13/23	Richard Stevens	Testimony   09_13_2023
18**	9/14/23	Megan Briggs	Testimony   09_18_2023
19**	9/14/23	Elizabeth Anderson	Testimony   09_18_2023
20**	9/14/23	Natasha Hancock	Testimony   09_18_2023
21**	9/14/23	Kristen Marick	Testimony   09_18_2023
22**	9/14/23	Paloma Steele	Testimony   09_18_2023
23**	9/14/23	Ann Messick	Testimony   09_18_2023
24**	9/15/23	Kim Vermillion	Testimony   09_18_2023
25**	9/15/23	Lori Osterberg	Testimony   09_18_2023
26**	9/15/23	Julie Mercer	Testimony   09_18_2023
27**	9/15/23	Stephanie Lulay	Testimony   09_18_2023
28**	9/15/23	Neil/Alice Crumbleholme	Testimony   09_18_2023
29**	9/16/23	Gail Darby	Testimony   09_18_2023
30**	9/16/23	Max Erdenberger	Testimony   09_18_2023
31**	9/17/23	Daniel and Esther Flynn	Testimony   09_18_2023
32**	9/17/23	Lavery	Testimony   09_18_2023
33**	9/18/23	Phyllis McCanna	Testimony   09_18_2023
34**	9/18/23	Janie Hansen	Testimony   09_18_2023
35**	9/18/23	Friends of Luscher Farms, Gale Wallmark	Testimony   09_18_2023
36**	9/18/23	Molly Rodrigano	Testimony   09_18_2023
37**	9/18/23	Robert von Borstel and Karen Inaba	Testimony   09_18_2023
38**	9/18/23	Richard Stevens	Testimony   09_18_2023

\*\* Exhibits received after Planning Commission hearing  
 \*\*\* Oversize exhibits



## Notice of Land Use Public Hearings

for Community Planning Organizations, Hamlets, and Other Interested Parties

**Subject:** Ordinance ZDO-286, Local Park Master Plan Adoption Framework - Amendments to the Clackamas County Comprehensive Plan and Zoning and Development Ordinance (ZDO)

**Notice Date:** August 7, 2023

**Contact:** Joy Fields, Sr. Planner  
150 Beaver Creek Road, Oregon City, OR 97045  
Phone: 503-742-4510  
Email: [jfields@clackamas.us](mailto:jfields@clackamas.us)

At the request of the City of Lake Oswego, ZDO-286 was selected as a project for inclusion in the Long-Range Planning Work Program for 2021-2023 with the intent of considering adoption of the city's Luscher Farm Park Master Plan. However, in the course of staff's research, it became clear that the first step should be Comprehensive Plan and ZDO amendments necessary to provide a procedural framework for the county to consider the adoption of local park master plans. If such a framework is enacted, a public local park provider (including, but not limited to, the City of Lake Oswego) may in the future file a land use application requesting adoption by the county of a specific master plan. The required application would be a Comprehensive Plan amendment and zone change and would include public notice and public hearings before the Planning Commission and Board of County Commissioners.

Local park master plans are an option available under the Oregon Administrative Rules. In the Exclusive Farm Use, Timber and Ag/Forest zoning districts, adoption of a master plan provides a pathway to allow additional park uses beyond those otherwise allowed. As a mechanism for implementing an approved master plan, ZDO-286 proposes to establish an overlay zone, the Special Use Overlay District (SUOD), which would be applied at the time of approval of a local park master plan and signify that the property may qualify to be developed with park uses not otherwise permitted in the base zoning district.

The Planning Commission and Board of County Commissioners have scheduled hearings to receive testimony from the public and other interested parties on the proposed amendments. Because the amendments may affect your community or area of interest, we are giving you and your organization advance notice of the opportunity to review and comment on them before or at the public hearings.

Additional background information and the full text of the proposed amendments is available online at [www.clackamas.us/planning/zdo286](http://www.clackamas.us/planning/zdo286) by contacting Joy Fields directly at the number or email listed above, or by contacting Planning & Zoning at 503-742-4500 or [zoninginfo@clackamas.us](mailto:zoninginfo@clackamas.us).

## Public Hearings and Testimony

Interested parties are welcome to provide testimony in advance of or at the hearings listed below. Planning Commission public hearings are held virtually using the Zoom platform. Board of County Commissioners public hearings are held both virtually using the Zoom platform and in person. One week before the hearing dates, a Zoom link to the public hearing and details on how to observe and testify will be posted at the hearing web address.

### *Public Hearing Dates and Times:*

Planning Commission: 6:30 p.m., Monday, September 11, 2023

[www.clackamas.us/planning/planning-commission](http://www.clackamas.us/planning/planning-commission)

Board of County Commissioners: 10:00 a.m., Wednesday, September 27, 2023  
Public Services Building, 4<sup>th</sup> Floor Board Hearing Room, 2051 Kaen Rd, Oregon City, OR 97045

[www.clackamas.us/meetings/bcc/landuse](http://www.clackamas.us/meetings/bcc/landuse)

**Written testimony** may be submitted before the hearings to Joy Fields at [jfields@clackamas.us](mailto:jfields@clackamas.us) or 150 Beaver Creek Road, Oregon City, OR 97045.

- Written testimony received by 4 p.m., Wednesday, August 30, 2023, will be included in the information packet provided to the Planning Commission one week before its scheduled hearing; written testimony received after that time and before 8 a.m., Monday, September 11, 2023, will be emailed to the Planning Commission before the hearing.
- Written testimony received by 4 p.m., Monday, September 18, 2023, will be included in the information packet provided to the Board of County Commissioners one week before its scheduled hearing; written testimony received after that time and before 4 p.m., Tuesday, September 26, 2023, will be emailed to the BCC before the hearing.

Interested parties who want to present **verbal testimony** at either hearing will be asked to sign up and/or indicate their interest in testifying at the beginning of the hearing.

## Proposed Amendments

**Ordinance ZDO-286** proposes the following.

### **1. Amend Comprehensive Plan Chapter 9 to create a framework for local park master plan adoption:**

Amendments to Chapter 9 will explicitly allow the county to consider the adoption of a local park master plan.

Oregon Administrative Rules (OAR) 660-034-0035 and 660-034-0040 are applicable to local parks on agricultural and forest land and provide a pathway, through local adoption of a park master plan, to allow more park uses than are otherwise permitted outside of a state park. The ZDO currently includes provisions for public parks in the Exclusive Farm Use (EFU), Timber (TBR), and Ag/Forest (AG/F) zoning districts. However, the existing provisions do not clearly address the master plan option that may allow a broader range of park uses.

With the adoption of a local park master plan, the uses allowed in a local public park on agricultural and forest lands can include the uses allowed in state parks pursuant to OAR 660-034-0035(2)(a) to (g), including:

- a. Campground areas: recreational vehicle sites; tent sites; camper cabins; yurts; teepees; covered wagons; group shelters; campfire program areas; camp stores;
- b. Day use areas: picnic shelters, barbecue areas, swimming areas (not swimming pools), open play fields, play structures;
- c. Recreational trails: walking, hiking, biking, horse, or motorized off-road vehicle trails; trail staging areas;
- d. Boating and fishing facilities: launch ramps and landings, docks, moorage facilities, small boat storage, boating fuel stations, fish cleaning stations, boat sewage pumpout stations;
- e. Amenities related to park use intended only for park visitors and employees: laundry facilities; recreation shops; snack shops not exceeding 1500 square feet of floor area;
- f. Support facilities serving only the park lands wherein the facility is located: water supply facilities, sewage collection and treatment facilities, storm water management facilities, electrical and communication facilities, restrooms and showers, recycling and trash collection facilities, registration buildings, roads and bridges, parking areas and walkways;
- g. Park Maintenance and Management Facilities located within a park: maintenance shops and yards, fuel stations for park vehicles, storage for park equipment and supplies, administrative offices, staff lodging;

It's important to note that approval of a local park master plan is not guaranteed, is dependent on compliance with applicable approval criteria, and may not necessarily include all of the above uses.

In addition, minor housekeeping amendments are proposed to Chapter 9 to reformat/reorganize the goals to match the recently amended Chapter 6 and to remove some outdated references.

**2. Amend Chapter 4 of the Comprehensive Plan to recognize the Special Use Overlay District:**

Amendments to Chapter 4 would recognize the new Special Use Overlay District as the zone that implements a local park master plan adopted in the Comprehensive Plan for a local public park in the EFU, TBR or AG/F zoning district.

**3. Amend the ZDO to align with OAR 660-034-0040 by:**

- Adopting a new Section 714, *Special Use Overlay District*, which would apply to public parks in the EFU, TBR and AG/F zoning districts that have an adopted local park master plan
- Amending Sections 401, 406, and 407 to specify that the Special Use Overlay District standards apply to development of park uses on sites where a local parks master plan has been adopted



## Additional Information and Staff Report

For general Planning & Zoning information:

[www.clackamas.us/planning](http://www.clackamas.us/planning)

For additional information about ZDO-286 and its public hearings (and for a copy of the staff report available August 31, 2023):

[www.clackamas.us/planning/zdo286](http://www.clackamas.us/planning/zdo286)

or

Joy Fields, 503-742-4510, [jfields@clackamas.us](mailto:jfields@clackamas.us)

or

Planning & Zoning Customer Service, 503-742-4500, [zoninginfo@clackamas.us](mailto:zoninginfo@clackamas.us)

*Clackamas County is committed to providing meaningful access and will make reasonable accommodations, modifications, or provide translation, interpretation or other services upon request. Please contact us at 503-742-4545 or email [DRenhard@clackamas.us](mailto:DRenhard@clackamas.us).*

503-742-4545: ¿Traducción e interpretación? | Требуется ли вам устный или письменный перевод? | 翻译或口译? | Cần Biên dịch hoặc Phiên dịch? | 번역 또는 통역?

Joy Fields, Sr. Planner  
Clackamas County Planning and Zoning  
150 Beaver Creek Road, Oregon City, OR 97045

August 11, 2023

Ordinance ZDO-286  
Comments in Opposition

I oppose adoption of ZDO-286. Oswego's latest gambit represents the fifth iteration since 1997 seeking to overcome zoning limitations that inconvenience their development of the Luscher Complex (prior failed efforts in 1998, 2001, 2011, and 2019 with the County, and 2020 with METRO). They are tenacious!

**Why I oppose:**

1. **Enforcement.** Clackamas County cannot or will not enforce existing EFU limitations. Establishment of any SUOD would eventually come with limitations, but 'complaint-driven enforcement' is no match for Oswego's habitual overreach. Oswego is not seeking the specific latitude found in OAR 660-034-0035(2)(a) to (g), but rather a full suite of Parks and Rec programming as illustrated in their current catalogue. Oswego will chafe at any limitations, SUOD or not. Give them a day use area, they will operate a pop-up drive-in movie. See: <https://www.ci.oswego.or.us/parksrec/2021-flicks-farm-raya-and-last-dragon>
2. **Water.** Oswego sought and acquired two water rights in 2002 explicitly based on a 'land use compatibility statement' issued by Clackamas County. At the time of issuance the Luscher house was a dwelling and the OWRD permit issued accordingly. Who knew it would soon be repurposed as an office for Oswego Parks and Rec? Or find it could be used as a commercial kitchen offering cooking lessons to children? Luscher depends on well water, as do neighbors. Urban level Parks offerings are incompatible with limited water supplies. A SUOD will not change this. OWRD relies on County zoning enforcement, sadly.

**Oswego has an alternative.** They applied to METRO for an expedited 83 acre UGB expansion taking in much of Luscher. In its September 11, 2020 denial, METRO explained on page 7 that buildable land inventories are updated at six year intervals, due next in December 2024. Only 15 months away, a UGB expansion might be a superior method of overcoming EFU zoning. They could extend ample existing municipal water supplies and recede from County attention. Is Oswego pursuing this option? Why not?

I live and work near Oswego, and focus here on purely parochial concerns. I respect that Clackamas County is large and diverse, and Oswego's dissatisfaction with the status quo may exist elsewhere. If other cities, hamlets, communities share Oswego's needs then perhaps careful ZDO modifications are warranted. Otherwise, what makes Oswego's extraterritorial needs so unique?

**Reject ZDO-286**

Respectfully  
Richard A Stevens  
Rosemont Farms LLC

August 24, 2023

Joy Fields, Senior Planner  
Clackamas County Transportation & Development  
Planning and Zoning Division  
150 Beaver Creek Road  
Oregon City, Oregon 97045

Dear Clackamas County Planning Commissioners:

I am writing in support of Clackamas County's Ordinance ZDO-286 which will allow the City of Lake Oswego to apply to the County for development of the uses that are described in the Luscher Area Master Plan. This, in turn, will allow the City to implement the community's long-standing vision for public use of the Luscher area, while preserving the historic core and expanding agricultural uses.

As a member of the advisory committee for Luscher Area Master Plan and for the Task Force that refined it, I strongly support the county's approach to allowing appropriate uses in the Luscher Area. Over a decade has passed since the Plan's adoption in 2013, and there continues to be a high level of community support for the Plan's overall vision.

Adoption of ZDO-286 will benefit residents of Lake Oswego, Clackamas County, and surrounding cities. This includes participants in the Community Supported Agriculture program, visitors to the Rogerson Clematis Garden, users of the community garden and Adopt-a-Plot programs, youth and adults who attend Luscher's agricultural and environmental education-themed camps and classes and community members who visit to enjoy the natural beauty of the Luscher area.

In summary, please vote to adopt Ordinance ZDO-286.

Thank you,



Nancy Gronowski



Friends of the  
**ROGERSON  
CLEMATIS  
COLLECTION**

Brewster Rogerson, Founder

Linda Beutler, Curator

PO Box 734  
Lake Oswego, OR 97034  
(971) 777-4394

Website:  
www.  
rogersonclematiscollection.org

August 24, 2023

Joy Fields, Senior Planner  
Clackamas County Planning and Zoning  
150 Beaver Creek Road  
Oregon City, OR 97045

Letter in Support of Ordinance ZDO-286

The Friends of the Rogerson Clematis Collection (FRCC) is a 501c3 nonprofit that maintains a botanic garden featuring clematis at the historic Luscher Farm, one of several properties owned by the City of Lake Oswego that is zoned Exclusive Farm Use and is not within the Urban Growth Boundary. The one-acre garden is located in the historic core of the farm and is included in the Luscher Area Master Plan (LAMP) adopted by the city of Lake Oswego in 2013.

FRCC supports Ordinance ZDO-286 which provides a procedural framework for Clackamas County to consider adoption of local park master plans. If the County establishes the framework, the City of Lake Oswego intends to file a land use application requesting approval of the Lusher Area Master Plan by the County. If approved, some park uses not allowed under current EFU zoning would then be allowed at Luscher, fulfilling the community vision for the Luscher Area.

If approved, the Friends of the Rogerson Clematis Collection will work with the Lake Oswego Parks and Recreation Department to ensure that activities and development of the garden are consistent with the vision of the Luscher Area Master Plan as adopted by Clackamas County.

Thank you for considering our request to proceed with the procedural framework and eventual approval of the Luscher Area Master Plan.

Sincerely,

Amy Chase Herman, President  
Friends of the Rogerson Clematis Collection

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Located at Luscher Farm, Rosemont and Stafford Roads in West Linn/Lake Oswego OR

**Archived:** Monday, August 28, 2023 7:33:29 AM

**From:** Dawn Kolb

**Sent:** Saturday, August 26, 2023 8:35:13 AM

**To:** Fields, Joy

**Subject:** Support Luscher Farm, Lake Oswego

**Sensitivity:** Normal

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**Warning: External email. Be cautious opening attachments and links.**

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August 28, 2023

Joy Fields, Senior Planner  
Clackamas County Transportation & Development  
Planning and Zoning Division  
150 Beaver Creek Road  
Oregon City, Oregon 97045

Dear Clackamas County Planning Commissioners:

I am writing in support of Clackamas County's Ordinance ZDO-286. The proposed amendments will allow the City of Lake Oswego to apply to the County for development of the uses that are described in the Luscher Area Master Plan. This, in turn, will allow the City to implement the community's long-standing vision for public use of the Luscher area, while preserving the historic core and expanding agricultural uses.

Many City and County residents provided input into the development of the Luscher Area Master and its vision for public use of the Luscher area. Over a decade after the Plan's adoption in 2013, there continues to be a high level of community support for the Plan's overall vision. Adoption of ZDO-286 will benefit residents of Lake Oswego, Clackamas County, and surrounding cities.

My family has loved Luscher Farm for many years! We have participated in many summer camps, special events, classes, and enjoyed our walks through the community gardens and learned valuable information concerning growing local produce and vegetation. I have fond memories of my little girl running through the trails at the Farm and pointing to all the flowers, vegetables, and animals. Today, whenever we drive by the Farm, she still talks about how she has great memories about the "MAGICAL FARM". Also, I recall when the current parking lot was just a dirt road, and the property was inaccessible to special needs individuals or disabilities. Additional improvements could be expanded so more citizens can experience the charm of Luscher Farm and make MAGICAL MEMORIES. Please preserve the natural beauty of the Luscher Farm and provide support to expand the area with many needed improvements.

In summary, please vote to adopt Ordinance ZDO-286.

Thank you,  
*Dawn Kolb*  
Lake Oswego



P.O. Box 123  
Lake Oswego, OR 97034  
www.LuscherFriends.org  
501c3 Non-Profit  
ID# 20-4934848

August 25, 2023

**Board of Directors**

Lory Johansson, President  
Frank McMurray, Treasurer  
Kerri Cox, Secretary  
Stephanie Hallock  
Robert Hansen  
Gale Wallmark

**Advisory Board**

Nancy Gronowski  
Ron Gronowski  
Kasey Holwerda  
Laura Masterson  
Frances Peterson  
Kathleen Wiens

TO: Clackamas County Planning Commission  
FROM: Friends of Luscher Farm  
RE: County Ordinance ZDO-286

Friends of Luscher Farm (FOLF), is an independent 501(c)(3) nonprofit corporation, officially recognized by the City of Lake Oswego on January 21, 2014. FOLF works with the Lake Oswego Parks and Recreation Department (LOPR) to enhance and protect the natural, historic, agricultural and recreational activities at Luscher Farm Park.

The historic farm is one of several properties owned by the City of Lake Oswego that are zoned Exclusive Farm Use and are not within the Urban Growth Boundary. The vision for these properties is articulated in the 2013 Luscher Area Master Plan, or LAMP, and expanded upon in a 2015 Agricultural Recommendations Study, a 2017 Agricultural Plan, and a Task Force Report in 2021.

FOLF supports Ordinance ZDO-286 which provides a procedural framework for the County to consider adoption of local park master plans. If the County establishes the framework, the City of Lake Oswego intends to file a land use application requesting approval of the Lusher Area Master Plan by the County. If approved, some park uses not allowed under current EFU zoning would be allowed on Luscher properties. Some of those activities are already occurring.

If additional park uses are allowed, FOLF expects preservation of the historical and agricultural programs and open space on Luscher properties to be the highest priority and will work with the City and LOPR to ensure that will be the case.

Thank you,  
Stephanie Hallock

August 28, 2023

Clackamas County Planning Commission  
C/O Joy Fields

RE: ZDO 286

Commissioners:

I am a native Oregonian and ten year resident of Lake Oswego. I support ordinance ZDO-286 with mixed feelings.

My late father, State Senator Ted Hallock, was one of the drafters of Senate Bill 100, the foundation of Oregon's unique land use system that has protected our state's natural beauty, agricultural heritage, and open space from the sprawl of urban development since 1973.

The older I get, the more I realize how few people living in Oregon today understand the significance of the protections offered by our land use laws and what will happen if we lose them. Housing tracts and strip malls from Portland to Eugene and beyond could become a reality.

At the heart of Senate Bill 100 is protection of land zoned exclusively for farm use, land that adoption of Ordinance ZDO-286 can open up to recreational activities like playgrounds, hiking trails, picnic areas and boat docks. There is nothing at all wrong with these activities; the question is whether they belong on land zoned exclusively for farm use as envisioned by Senate Bill 100. Some may argue that ZDO-286 is the beginning of the end of land use protections for agriculture.

I am supporting ordinance ZDO-286 because I believe allowing limited recreational activities on land zoned exclusively for agriculture will offer long-term protection from urban development on Luscher properties owned by the City of Lake Oswego, including the historic Luscher Farm.

**If** the County adopts the ordinance and **if** the City of Lake Oswego uses the 2013 Luscher Area Master Plan responsibly for classes, events, and activities in support of agriculture and open space, I think that would make my father proud.

Stephanie Hallock  
1425 Greentree Circle  
Lake Oswego, OR 97034



P.O. Box 123  
Lake Oswego, OR 97034  
www.LuscherFriends.org  
501c3 Non-Profit  
ID# 20-4934848

August 28, 2023

**Board of Directors**

Lory Johansson, President  
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Kerri Cox, Secretary  
Stephanie Hallock  
Robert Hansen  
Gale Wallmark

**Advisory Board**

Nancy Gronowski  
Ron Gronowski  
Kasey Holwerda  
Laura Masterson  
Frances Peterson  
Kathleen Wiens

**TO:** Clackamas County Planning Commission  
**FROM:** Friends of Luscher Farm  
**RE:** County Ordinance ZDO-286

I'm a resident of Lake Oswego and a Director of **Friends of Luscher Farm (FOLF)**, a 501-c-3 non-profit and recognized City of Lake Oswego friends group. Our mission is informed by the **Luscher Area Master Plan (LAMP)** that was adopted by Lake Oswego in 2013.

Together with other FOLF colleagues, I'm testifying in support of ZDO-286, which proposes a path by which the County could consider adoption of local park master plans.

We are grateful for the joint efforts between Clackamas County Planning staff and Lake Oswego Parks & Recreation (LOPR) that brought your consideration to this point. And we are hopeful that should ZDO-286 be approved, Lake Oswego's subsequent application requesting approval of its 2013 Luscher Area Master Plan may finally allow some of LAMP's key recommendations to be implemented.

The Luscher Area considered in the 2013 LAMP comprises eight properties, acquired separately by Lake Oswego between 1991 and 2005 with Parks bond funds. Four of them are not relevant to these proceedings: three are within City limits, zoned PNA; a fourth is outside City limits, but zoned RRFFS.

The remaining properties—**the namesake Luscher property, along with the Lang/Firlane, Crowell and Brock properties and half the Farr property**—comprise just over 100 acres in unincorporated Clackamas County, stretching east along Rosemont Rd from the Stafford/Rosemont roundabout. Importantly, all are zoned EFU.

The first of these to be acquired was the 40-acre Luscher Farm—a pioneering dairy operation from 1944-1969 and, since 1995, a designated Clackamas County Historic Landmark. In the years since, 'the Farm' has become the quietly beating heart of the Luscher Area—home to a 12-acre Community Supported Agriculture (CSA) program, some 160 Community Gardens, 35 'Adopt-A-Plots,' a Pollinator Garden, a Children's 'teaching' Garden area, and the renowned Rogerson Clematis Collection—all of them 100 percent organic.

The remaining three properties present beautiful, rolling agricultural landscapes, precious open space, tree groves, streams, and wetlands.

As FOLF members—and like many Lake Oswegans—we treasure this magical place and take our stewardship of it very seriously. We believe there's room for thoughtful, selective expansion of similar agricultural uses while also maintaining the Area's rural character, protecting its open space, and preserving its historical significance.

Gale Wallmark, Director  
Friends of Luscher Farm



Archived: Wednesday, August 30, 2023 4:59:25 PM

From: Richard Fiala

Sent: Wednesday, August 30, 2023 2:39:17 PM

To: Fields, Joy

Subject: ZDO 286 Planning Commission testimony

Sensitivity: Normal

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**Warning: External email. Be cautious opening attachments and links.**

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Richard Fiala

21229 SW Johnson Road  
West Linn, Oregon 97068

Dear Planning Commission Members,

You have before you a request by the County Staff to amend our Comprehensive Plan Chapter 9 to create a framework for a local park master plan adoption: Amendments to Chapter 9 will explicitly allow the county to consider the adoption of a local park master plan from The City of Lake Oswego at a later date pending your approval and the County Commissioners vote to approve as well.

(OAR) 660-034-0035 and 660-034-0040 can provide the framework to solve Lake Oswego's dilemma of out of compliance uses currently and historically at "Lusher Farm". By approaching a solution with this methodology and these or a limited subset of these Administrative Rules as a tool that will allow the County to bring this EFU property into compliance.

While the Staff is recommending 660-034-0035(2) (a) to (g), I believe that the Planning Commission should edit or not include the individual paragraphs which are a direct copy of the OAR's from the State of Oregon. The adoption of paragraphs A-G are not required to be used in tandem and can be used separately and even individually.

Since the addition of any of this Language into the Comprehensive Plan Chapter 9 would be sufficient to provide direct recourse for the City of Lake Oswego to present a Master Plan I suggest the Planning Commission look at the how the whole of the County could and/or will be affected by the inclusion of all the paragraphs A-G

First, we need to understand who might be submitting a master plan to Clackamas County for a park on EFU zoned tracts. It is my understanding that only municipalities (i.e. Cities will be eligible to ask just like Lake Oswego is asking to provide an agricultural and open spaces experience for their community. All of you know our County well and can list most of our Cities by memory. Ask yourselves if all the Staff proposed paragraphs are truly relevant for these governments to use.

Second, as an active farmer in Clackamas County and an opponent of most UGB expansions (up, not out) I believe that the preservation of farmland is not an option but a necessity. While the City of Lake Oswego has over the decades grown Luscher Farm's net acres, all the connected properties are zoned EFU and reside inside the Stafford Hamlet. I only support their master plan on the premise that Lake Oswego will continue to have active agriculture and agricultural based programs only within the pathways allowed if the Planning Commission and County Commissioners adopt 660-034-0035(2). The challenge is what the other Cities might want or ask for.

I ask that the Planning Commission review each of the paragraphs A-G and decide what Clackamas County should deem reasonable and necessary when destroying EFU land. As some of the proposed language would allow.

Please when you consider these defined uses, that your recommendations will directly affect farming practices and neighbors alike in an Exclusive Farm Use environment. These uses in general should not be considered for inclusion to chapter 9 of the Comprehensive plan. In my opinion paragraphs:

- a) Should be excluded.
- b) Should only use the term "open play fields" with a well defined and narrow definition.
- c) Only: Recreational trails: walking, hiking, biking, ebikes of a certain definition and trail staging areas: only as necessary.
- d) Should be excluded.
- e) Should be excluded.
- f) Edited to: Support facilities serving only the park lands wherein the facility is located: water supply facilities, recycling and trash collection facilities, registration buildings, roads and bridges, parking areas and walkways;
- g) Should be excluded. All cities have these existing facilities for their current City Parks and should not be allowed to use open space and agricultural lands

(EFU) for the paragraph g definitions.

So in conclusion I support the addition of a narrowed framework and language for Chapter 9 of the Comprehensive Plan. I also ask you to focus on your decision with consideration regarding the least amount of acceptable language to preserve Farmland and limit the normal park facilities which are not required.

Please consider that the process for land use complaints and compliance is close to if not broken. Ask yourselves how enforcement can be assured to the public and neighbors of this "park".

Thank you,  
Richard Fiala  
21229 SW Johnson Road  
West Linn, Oregon 97068

TO: Clackamas County Planning Commission  
FROM: Rick Cook Neighboring Property Owner to Luscher Farm  
RE: County Ordinance ZDO-286

For the last 30 years I have been the “overseer” of the 123-year old JP and Susie Cook Farm, a property on the National Register of Historic Places, barn and house built in 1860 and 1862. Designated State of Oregon and Clackamas County Heritage Tree Grove, State of Oregon Century Farm property, is a designated site on the Hazelia Agri-Cultural Heritage Trail, one of the oldest pioneer era farm sites remaining in the area. Original 130 acres encompassing Cook’s Butte including Atherton Heights, Stevens Meadows and what is now called Rassekh park next to our remaining 6-acre farm. I have a fairly good background and understanding of the local history of the area.

“The purpose of this project is to clarify allowable uses for the Luscher area properties zoned Exclusive Farm Use (EFU), and to bring current activities and uses into compliance with County planning regulations and State administrative rules.”

Bullet points with condensed concerns: all explained further below if you need clarification and data, or information to help understanding. FYI- Luscher Farm is located in the Stafford-Tualatin Valley CPO and Stafford Hamlet.

1. Make Luscher area master plan legal-(admitted non-compliance data below)
  - \* Going on 25 years of non-compliance- County code enforcement needs to work.
  - \* STOP adding to the non-permitted activities and programs UNTIL approved in new Clackamas Parks Ordinances. Could be years away-! 58 questionable items currently in Fall Parks and Rec. guide.
  - \* Buildings used for activities are currently properly permitted for LAMP uses. Safety and health requirements need to be compliant to County and State regulations.
2. How do “we” enforce compliance?
  - \*With staffing and funding issues at the county level and less than stellar enforcement of county code over the last 25 years. How and Who will enforce / interpret County Ordinance 286 ZDO-?
  - \*What assurances are there that this will solve LAMP issues.
  - \* Do not rush approval until all issues have been properly vetted with enforcement criteria established and agreed upon. Uncertain huge impacts for future.
3. How do we meet Transportation Development requirements of LAMP / County
  - Long-Range Planning program: “To provide land use and transportation plan development,
  - \* Lake Oswego’s Proportional contribution to transportation plan caused by on-going and future Luscher Area Recreational Developments. Needs to be studied and solved.
  - \* Estimated additional annual trips:  $52 \times (9,854) = 512,408$  additional daily trips per year.  
See below for data

Appreciate efforts to correct the 25-year challenge of Luscher Area Master Plan. That being stated, Hold Lake Oswego accountable and prove that they can be compliant until new rules/regulations are approved. I often wonder, What would Rudy Luscher think about LAMP?

Sincerely,  
Rick Cook for JP and Susie Cook Family Farm  
Stafford Rd

For clarification if needed.

3 Points of concern:

**1.** How do “we” make Luscher Area Master Plan “Legal” bring current activities and uses into compliance with County planning regulations and State administrative rules. (Programs, Events, Buildings) **2.** How do “we” enforce compliance **3.** How do “we” meet Transportation Development requirements of LAMP ?

1. Non-Compliance- Going on 25 years.

“many exchanges with Clackamas County regarding the allowed uses and have had some of the current and previous uses identified as non-compliant with uses of EFU land.”

I. Vanderholm LO Parks and Rec. Director

“As concluded by the County, certain longstanding Luscher Farm park and open space uses (trails, educational programming, Children’s day camps, similar activities) are not permitted under County Code. ) M. Bennett, Lake Oswego City Manager

Letter from Mike McCallister- Former DTD CC director- 25 YEARS AGO.

In 1998 the City submitted an application to establish a City-owned park on the property (File No. Z0999-98-I). The proposed uses in that application included community gardens, composting site, demonstration gardens, a farm museum, summer camps, community workshops and tours, historical and cultural activities, environmental education and stewardship programs, walking and picnicking activities. That application was denied by the County Land Use Hearings Officer on March 31, 1999. The City requested a Rehearing of the application. The Hearings Officer denied the request for a rehearing. A copy of the Hearings Officer Final Order for the application and Rehearing Request is enclosed.

**Has the City of Lake Oswego ever been cited for any code violations at Luscher Farm?** I went through all of the files I have access to, including our archives, and I was not able to find any incidents where the City was cited for a code violation. That being said we have had many exchanges with Clackamas County regarding the allowed uses and have had some of the current and previous uses identified as non-compliant with uses of EFU land.

**Do the current “activities” at Luscher have active applications for approval with the county?** No, the current process sets the stage for such an application by creating a procedural framework for the County to review and potentially approve the City’s application for such activities. If the County’s amendments are approved, the City will apply for approval.

Data of Current overreach at Luscher Farm of some of non-compliance infractions.

## Luscher Farm

- ▶ Thirty-five adopt-a-plotters donated over 800 pounds of food to Hunger Fighters Oregon.
- ▶ In-person camps and classes returned with record-breaking attendance.
- ▶ 13 tours of the farm hosted over 600 children.
- ▶ New programs continue to be developed for all ages to learn about organic agriculture on a real working farm, including the Children's Garden, where new raised beds were installed for kids to plant, water, and harvest.
- ▶ Luscher was host to 1900 people and 146 activities.
- ▶ Community garden members completed over 800 volunteer service hours and 15 volunteer work parties, which took place rain or shine!

## Current Facilities and Uses

- **Community Supported Agriculture (CSA)**, 12 acres
- **Community Gardens**, 230 plots
- **FRCC Clematis Collection**
- **Children's Garden**, 15 plots, LOSD High School
- **White Barn**, CSA, farm, events
- **Farm House**, offices, programs
- **Bunkhouse**, partner offices, classrooms
- **Firlane House**, partner offices, storage

### 11. FARM AND PROGRAM STAFF OFFICE SPACE

The Luscher Area Master Plan discussed the possible future use of the historic Luscher Farm house as either a living history museum displaying artifacts from life as an early 19<sup>th</sup> century dairy farmer, or as administrative office and meeting space. However, after engaging with Luscher family descendants, Parks & Recreation staff have made the determination that the farm house will no be longer proposed to be opened up to the public as a museum. Rather, it is proposed for use as office and meeting room space for a small group of Parks & Recreation staff who manage operations and programming at the farm, as well as farmer's market and event planning staff. This proposed use of the building as designated office space would require upgrades to the historic structure to meet the current fire code protection system, provide ADA access to the building's first floor, and make minor accessibility improvements to the restrooms.

Have "upgrades" to meet current fire code protection systems, ADA access to 1st floor, minor accessibility improvements to restrooms?

### 13. HISTORIC STRUCTURE REHABILITATION

The Luscher Area Master Plan is intentional about protecting the historic core of the Luscher property, including the historic buildings on the site. Historic buildings include the farm house, barn, bunk house, pump house, tool shed, and chicken coop. The Luscher Barn is proposed for rehabilitation in accordance with the National Historic Trust guidelines. Rehabilitation of the barn would preserve the historic character while improving the interior of the space to increase accessibility and function as a flexible space to accommodate more programs and events associated with its use as a primarily agricultural facility, such as historic interpretation, agriculture and gardening classes and programs, and a gathering space for community events or fundraisers. Rehabilitation of the Luscher Farm House, as discussion above, would also be considered a historic structure rehabilitation.

And from Fall Lake Oswego Parks and Rec. opportunities at Luscher:  
**City of Lake Oswego PARKS AND REC. FALL 2023 Activities guide.**

**Which activities listed in Fall guide are legal and permit approved by Clackamas county?**

**Will LOPR STOP adding to the non-permitted activities and programs UNTIL approved in NEW Clackamas Parks Ordinances?**

[https://www.ci.oswego.or.us/sites/default/files/fileattachments/Fall2023\\_FINALprint.pdf](https://www.ci.oswego.or.us/sites/default/files/fileattachments/Fall2023_FINALprint.pdf)

Luscher Program / Event (58)	Venue	Permitted on EFU	CU permit
Barnyard Tales. (5 sessions)	Bunkhouse Classroom		
Blooming Artist	Milking Parlor - South		
Confidence in the Kitchen (5 sessions)	Farmhouse Kitchen		
Dynamic Duos (5 sessions)	Farmhouse Kitchen		
Floral Wreath Workshop (2 sessions)	Bunkhouse Classroom		
Exploring Plant Dyes	Milking Parlor South		
Fairies, Gnomes & Magical Gardens (2)	Bunkhouse Classroom		
Food Around the World-(2)	Bunkhouse Classroom		
Gingerbread House Workshop (4)	Bunkhouse Classroom		
In My Backyard Camp (2)	Bunkhouse Classroom		
Indigo Pattering	Bunkhouse Classroom		
Little Homesteaders Camp (2)	Bunkhouse Classroom	** Host Farmers Mrkt	
Mason Bee Fall Cleanip	Milking Parlor South		
Natural Dyes of Autumn	Bunkhouse Classroom		
Natural Dyes of Summer	Bunkhouse Classroom		
Natural Tie-Dye Workshop	Bunkhouse Classroom		
No School Garden Day	Bunkhouse Classroom		
Seed Saving Workshop	Bunkhouse Classroom		
Summer Bounty Prsrv. Wrkshop (2)	Farmhouse Kitchen		
World Kitchen (8)	Farmhouse Kitchen		
Zombie Garden Day	Bunkhouse Classroom		
Youth Mountain Biking Series (2)	Luscher Trails		
Rogers Clematis activities (7)	Luscher		

What Buildings use for activities are currently properly permitted for LAMP uses?  
 Safety and health requirements need to be compliant to County and State regulations

2. How do “we” enforce non-compliance? 25 years is a long time to let non-compliance to County and State regulations continue... How and Who will enforce / interpret County Ordinance 286 ZDO-? County has had a “Hands off” policy for over 25 years. With staffing and funding issues at the county level, what endurances that this will solve LAMP issues. Do not rush approval until all issues have been properly vetted with enforcement criteria established and agreed upon.

**Has the City of Lake Oswego ever been cited for any code violations at Luscher Farm? I went through all of the files I have access to, including our archives, and I was not able to find any incidents where the City was cited for a code violation.** That being said we have had many exchanges with Clackamas County regarding the allowed uses and have had some of the current and previous uses identified as non-compliant with uses of EFU land.

**Do the current “activities” at Luscher have active applications for approval with the county?** No, the current process sets the stage for such an application by creating a procedural framework for the County to review and potentially approve the City’s application for such activities. If the County’s amendments are approved, the City will apply for approval. (I. Anderholm) Aug. 2023

3. How do “we” meet Transportation Development requirements of LAMP?

“Local Work Plan Consideration; We believe the request to adopt a Local Parks Master Plan for Luscher Farm is consistent with the purpose of the County’s Long-Range Planning program: “To provide land use and transportation plan development, analysis, coordination and public engagement services to residents...” M. Bennett Lake Oswego City Manager

**Luscher Area Master Plan: Additional Daily Trips, Carbon emission impacts.**

\*\*When currently planned/designed parks and rec. venues that will impact Luscher farm Area Habitats are up and running: (see below)

1. 500,000 additional yearly daily traffic trips in area.  
From numbers you and I chatted about, would these numbers be correct?

- 1600 daily trips (M-F) X 5 = 8000 weekday additions
- 1200 weekend trips (Sat. Sun.) X 2 = 2400.
- 10,400 additional weekly trips to new developed Rec. sites when finished.

X 4 weeks 41,600 new monthly trips-

X 12 months= **499,200 trips a year on Stafford Rd.**

(So, are we talking 1/2 million new trips for the year if we take traffic counts for Luscher Farm Programs added in?).

**Farley, Will** [wfarley@ci.oswego.or.us](mailto:wfarley@ci.oswego.or.us) From Will Farley-Lake Oswego Traffic engineer

**To:** Rick Cook Wed, Sep 21, 2022

“These are close to your estimate”:

Estimated average weekly trips:  $5 \times (1,612) + 798 + 996 = 9,854$  weekly trips

Estimated annual trips:  $52 \times (9,854) = 512,408$  **daily trips per year.**

\*\* Venues in Luscher Area Master Plan vicinity/-(All within ¼ of a mile –

New Driving Range, re-configured Golf Course, Small Events Center, Recreation Center, Rec. Offices, Aquatic Center, (all across the street from Luscher Farm,) Hazelia Field multi-sport field, Active and passive dog parks,- Currently under constructions at Rassekh property Just across Stafford Rd from Luscher,

Re: Ordinance ZDO-286 – Local Park Master Plan Adoption.

9.5.2023

To: Joy Fields, Sr. Planner. Clackamas County Department of Transportation and Development and the Clackamas County Planning Commission

Firstly, this proposal only lists the proposed expansion of uses for Local Parks Master Plan designation under adoption of OAR 660-34-0035.

I am more concerned about what is allowed under this statute than what the Lake Oswego Parks and Recreation Department says they will do. Our communities need information about activities that are appropriate for their specific locations and types EFU, Forest, Historic, or other Resource Lands that are being considered for Parks before this ordinance is incorporated into the Zoning and Comprehensive Plan Ordinances.

My concern is how Clackamas County and the Parks and Recreation departments will interpret the definitions of events, camps and the limitations on the size, number, and frequency of events as in the OAR 660-34-0035 directed reference document ORS 215.283.

If this document along with definitions and connections to frequency limitations are not joined in their interpretation, there may not be a limit to the event type activities or intensity of events creating an urban use area in the middle of EFU Zones.

Another key issue is planning and zoning ordinance enforcement. For decades Lake Oswego Parks and Recreation has held multiple park event activities at Luscher without applying for event permits as directed in the current Zoning and Development Ordinance. Others have submitted records of these events. In the Stafford Area many complaints have been filed for Zoning and Development Violations. Due to County Policies for providing deferral for violations while planning applications are in process, those violations go on unabated. Another problem with county code enforcement now and into the future is lack of funding to hire personnel to staff the department and physically do the work of code enforcement.

Without clear directives on the definition and the frequency of events and camps allowed per year I cannot support this zoning ordinance change. The code enforcement department must be supported by county policies and funding to function at levels sufficient to control major violations in a timely manner before these changes are made to the zoning ordinance.



Remember that agricultural, storage, and residential structures need to be authorized through planning and modified through the current fire and life safety code before use and occupancy by the public for other uses.

The Planning department needs to take more time and care to define and clarify the communities understand this new zoning ordinance change before its enactment. So far, the county has only addressed a narrow scope of existing compared to new general uses in their explanation of the proposal for adoption of OAR 660-34-0035. In this respect the current EFU Section of the Zoning and Development Ordinance is a more complete document covering broader activities on EFU lands than the new proposal for Parks and Recreation on EFU lands.

Substantial public activity and events on the Luscher Complex with 100 acres of EFU lands and hundreds of acres of adjacent EFU and rural lands will present a challenge adjacent to the city for suppression of wildfires to the lack of roadway within the agricultural area for fire trucks and a fire suppression water supply.

Traffic congestion on and around the Stafford Road and Rosemont area is already a serious problem soon to be complicated with additional urban development underway, and diversion traffic from tolling.

Tell us, what is going to be possible for activities on EFU lands before this ordinance is approved?

Please make this letter a part of the Final Application Record.

Sincerely,

Randy

Stafford-Tualatin Valley CPO Chairperson  
Randall Yamada  
3291 SW Childs Rd.  
Lake Oswego, Oregon 97034  
Cell: (503) 799-4990  
yamada2@mindspring.com

**Archived:** Wednesday, September 6, 2023 4:25:23 PM

**From:** Karolis Karalevicius

**Sent:** Wednesday, September 6, 2023 1:25:36 PM

**To:** Fields, Joy; Laura Žmonele ♥

**Subject:** Luscher - supporting ZDO-286

**Sensitivity:** Normal

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**Warning: External email. Be cautious opening attachments and links.**

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Hello Joy,

I'd like to express my excitement and support of the project to expand community gardens, add more parking, trailhead facilities, and picnic shelters at Luscher farm.

I learned about it here <https://www.ci.oswego.or.us/parksrec/luscher-area-master-plan-implementation>

We live in Palisades and there's a limited number of parks available for walking and enjoyment in the immediate area. We love Luscher farm for the exposure it gives our children to see farming personally and enjoy events in the natural beauty of the farm. We wholeheartedly support adding more facilities there as it would improve access and the experience of families living in Palisades and around the Lake Oswego area.

Please help support this plan in the upcoming planning meetings.

Kindly,  
Karalevicius family

--

[Karolis Karalevicius](#) | [karolis.karalevicius@gmail.com](mailto:karolis.karalevicius@gmail.com) | [LinkedIn](#) | (415) 506-7662



September 6, 2023

Clackamas County Planning Commission  
150 Beaver Creek Road  
Oregon City, Oregon 97045

Dear Members of the Clackamas County Planning Commission,

I am writing on behalf of the City of Lake Oswego City Council to express our strong support for Clackamas County Ordinance ZDO-286. This ordinance proposes the creation of a framework for the development of Local Park Master Plans on Exclusive Farm Use (EFU) zoned properties and the establishment of a Special Use Overlay District (SUOD) consistent with OAR 660-034-0035 and 660-034-0040.

The City of Lake Oswego recognizes the importance of preserving our agricultural lands and open spaces while also addressing the needs of our growing community. The proposed ordinance strikes a balance between these two vital aspects of our county's development. It offers a thoughtful approach to ensuring the availability of recreational and open spaces for our residents while respecting the agricultural heritage that is deeply rooted in our region.

We commend Clackamas County for proactively working to address the needs of our residents and visitors for accessible recreational opportunities, especially in EFU zones, without compromising the integrity of our agricultural lands. The creation of Local Park Master Plans for EFU zoned properties and the establishment of the Special Use Overlay District align with the values and goals of our community, which prioritize both sustainability and quality of life.

By supporting Ordinance ZDO-286, the City of Lake Oswego City Council believes that we are contributing to the betterment of our county as a whole. This ordinance demonstrates a commitment to responsible land use planning that balances the various interests within our county.

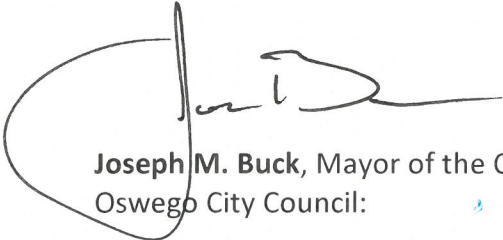
We would like to extend our gratitude to Clackamas County for engaging in this important initiative and for considering the diverse needs of our communities. We look forward to the positive impacts that Ordinance ZDO-286 will bring to our county, including enhanced recreational opportunities, the preservation of our agricultural heritage, and the overall improvement of our quality of life.

---

Respect. Excellence. Trust. Service.

If you have any questions or need further information, please do not hesitate to contact our office. We stand ready to assist and support the successful implementation of this ordinance.

Sincerely,



**Joseph M. Buck**, Mayor of the City of Lake Oswego on behalf of the members of the Lake Oswego City Council:

- Rachel Verdick, Council President**
- Aaron Rapf, Councilor**
- Ali Afghan, Councilor**
- Trudy Corrigan, Councilor**
- John Wendland, Councilor**
- Massene Mboup, Councilor**

Respect. Excellence. Trust. Service.

August 29, 2023

Joy Fields, Senior Planner

Clackamas County Transportation & Development

Planning and Zoning Division

150 Beaver Creek Road

Oregon City, Oregon 97045

RECEIVED  
SEP 11 2023  
Clackamas County  
Planning & Zoning Division

Dear Clackamas County Planning Commissioners:

I am writing in support of Clackamas County's Ordinance ZDO-286. The proposed amendments will allow the City of Lake Oswego to apply to the County for development of the uses that are described in the Luscher Area Master Plan. This, in turn, will allow the city to implement the community's long-standing vision for public use of the Luscher area, while preserving the historic core and expanding agricultural uses.

Many City and County residents provided input into the development of the Luscher Area Master and its vision for public use of the Luscher area. Over a decade after the Plan's adoption in 2013, there continues to be a high level of community support for the Plan's overall vision. Adoption of ZDO-286 will benefit residents of Lake Oswego, Clackamas County, and surrounding cities. This encompasses participants in the Community Supported Agriculture program, visitors to the Rogerson Clematis Garden, users of the community garden and Adopt-a-Plot programs, youth and adults who attend Luscher's agricultural and environmental education themed camps and classes and community members who visit to enjoy the natural beauty of the Luscher area.

In summary, please vote to adopt Ordinance ZDO-286.

Thank you.

Stephanie Powell

Volunteer presenting story hours at Luscher Farm

September 6, 2023

Joy Fields, Senior Planner  
Clackamas County Transportation & Development  
Planning and Zoning Division  
150 Beaver Creek Road  
Oregon City, Oregon 97045

RECEIVED  
SEP 11 2023  
Clackamas County  
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In summary, please vote to adopt Ordinance ZDO-286.

Thank you,



Plot 107

Luscher Community Garden

RECEIVED

8/28/23

SEP 12 2023

Joy Fields, Senior Planner  
Clackamas County Transportation & Development  
Planning and Zoning Division  
150 Beaver Creek Road  
Oregon City, Oregon 97045

Clackamas County  
Planning & Zoning Division

Dear Clackamas County Planning Commissioners:

I am writing in support of Clackamas County's Ordinance ZDO-286. The proposed amendments will allow the City of Lake Oswego to apply to the County for development of the uses that are described in the Luscher Area Master Plan. This, in turn, will allow the City to implement the community's long-standing vision for public use of the Luscher area, while preserving the historic core and expanding agricultural uses.

I grew up on five acres in Lake Oswego on Peters Road across from Westlake Park. Now it is 30 townhouses. I certainly value my exposure to orchards, gardens and nature in my childhood. When I found Luscher Farms ten years ago, I felt as if I was coming home. It was my privilege to teach art and yoga at their summer camps for six years. I have also participated in many field trips teaching children about all that Luscher Farm does for the community. I still spend many hours at the farm in my garden plot growing vegetables, flowers and contributing to the bee population. It is like no other place and it is treasured by all of us.

Many City and County residents provided input into the development of the Luscher Area Master and its vision for public use of the Luscher area. Over a decade after the Plan's adoption in 2013, there continues to be a high level of community support for the Plan's overall vision. Adoption of ZDO-286 will benefit residents of Lake Oswego, Clackamas County, and surrounding cities. This encompasses participants in the Community Supported Agriculture program, visitors to the Rogerson Clematis Garden, users of the community garden and Adopt-a-Plot programs, youth and adults who attend Luscher's agricultural and environmental education themed camps and classes and community members who visit to enjoy the natural beauty of the Luscher area.

In summary, please vote to adopt Ordinance ZDO-286.

Thank you,

LuAnn Rukke

Board of County Commissioners  
Clackamas County  
c/o Joy Fields, Sr. Planner  
2051 Kaen Road, Oregon City, OR 97045

September 13, 2023

Ordinance ZDO-286  
Comments in Opposition

I oppose adoption of ZDO-286. Oswego's latest gambit represents the fifth iteration since 1997 seeking to overcome zoning limitations that inconvenience their development of the Luscher Complex (prior failed efforts in 1998, 2001, 2011, and 2019 with the County, and 2020 with METRO). They are tenacious!

### **A Tale of Two Cities**

**Oswego One: Zoning Zealot** Oswego takes code enforcement seriously, offering a menu of 21 complaint categories to promote investigation and compliance

<https://www.ci.oswego.or.us/planning/code-enforcement> The city explains to its residents "To promote the success of special events, ensure the safety of event participants and spectators, and minimize public inconvenience caused by the event, a Special Event Permit should be obtained."

**Oswego Two: Municipal Miscreant** Oswego openly flouts County zoning, even publishing attractive catalogues of future violations. Few serial violators can employ their own code enforcement department or receive concierge treatment from the County (as did Oswego in the August 17 2011 meeting between County Planning Director and City Attorney detailing ongoing unpermitted uses). Oswego has not sought or been granted a permit for any of the hundreds of events held during their ownership.

### **Why I oppose:**

1. **Enforcement.** Clackamas County cannot or will not enforce existing EFU limitations. Establishment of any SUOD would eventually come with limitations, but 'complaint-driven enforcement' is no match for Oswego's habitual overreach. Oswego is not seeking the specific latitude found in OAR 660-034-0035(2)(a) to (g), but rather a full suite of Parks and Rec programming as illustrated in their current catalogue. Oswego will chafe at any limitations, SUOD or not.
2. **Water.** Oswego sought and acquired two water rights in 2002 explicitly based on a 'land use compatibility statement' issued by Clackamas County. At the time of issuance the Luscher house was a dwelling and the OWRD permit issued accordingly. Soon the dwelling was re-purposed as an office for Oswego Parks and Rec (violation). Later the dwelling use expanded as a commercial kitchen offering cooking lessons to children (violation). Luscher depends on well water, as do neighbors. Urban level Parks offerings are incompatible with limited water supplies. A SUOD will not change this. OWRD relies on County zoning enforcement, sadly.
3. **Foreseeable Parks 'mission creep'.** Oswego Parks already host a car and art show, live music and outdoor movies (music and movies already offered at Luscher; violation). Expect a shell game in which pickleball gets a new site at Luscher (on the Taylor parcel, where Oswego can put it unilaterally) pushing the dog park elsewhere within Luscher. Luscher might serve as a wedding venue, graduation party venue, etc under the catchall 'community event' heading.



4. **Governance.** The County describes Luscher (outside the UGB) as a City Park. Joint governance, in which Oswego promulgates and enforces on its side of the UGB, while the County promulgates and does not enforce on its side seems messy and unworkable. What emergency services, and specifically law enforcement, has jurisdiction in the County portion of Luscher? If a homeless camp appears, who is primarily responsible for oversight? When an injury occurs through negligence, which sovereign is liable?

**Oswego has an alternative.** They applied to METRO for an expedited 83 acre UGB expansion taking in much of Luscher. In its September 11, 2020 staff report recommending denial, METRO explained on page 7 that buildable land inventories are updated at six year intervals, due next in December 2024. Only 15 months away, a UGB expansion might be a superior method of eliminating EFU zoning (as well as being more intellectually honest). They could extend ample existing municipal water supplies and recede from County attention. Is Oswego pursuing this option? Why not?

ZDO-286 is designed to be a framework to finally legitimize Luscher's chronic nonconforming uses. If adopted, it may turbocharge a range of new problems. Keep it simple.

### **Reject ZDO-286**

Respectfully  
Richard A Stevens  
Rosemont Farms LLC  
400 Marylhurst Drive, West Linn OR

**Archived:** Monday, September 18, 2023 9:27:28 AM

**From:** [Megan Briggs](#)

**Sent:** Thursday, September 14, 2023 4:37:45 PM

**To:** Fields, Joy

**Subject:** Future of Luscher Farm

**Sensitivity:** Normal

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**Warning: External email. Be cautious opening attachments and links.**

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9/14/2023

Joy Fields, Senior Planner  
Clackamas County Transportation & Development  
Planning and Zoning Division  
150 Beaver Creek Road  
Oregon City, Oregon 97045

Dear Board of County Commissioners:

I am writing in support of Clackamas County's Ordinance ZDO-286. The proposed amendments will allow the City of Lake Oswego to apply to the County for development of the uses that are described in the Luscher Area Master Plan. This, in turn, will allow the City to implement the community's long-standing vision for public use of the Luscher area, while preserving the historic core and expanding agricultural uses.

Many City and County residents provided input into the development of the Luscher Area Master and its vision for public use of the Luscher area. Over a decade after the Plan's adoption in 2013, there continues to be a high level of community support for the Plan's overall vision. Adoption of ZDO-286 will benefit residents of Lake Oswego, Clackamas County, and surrounding cities. This encompasses participants in the Community Supported Agriculture program, visitors to the Rogerson Clematis Garden, users of the community garden and Adopt-a-Plot programs, youth and adults who attend Luscher's agricultural and environmental education themed camps and classes and community members who visit to enjoy the natural beauty of the Luscher area.

In summary, please vote to adopt Ordinance ZDO-286.

Thank you,  
[Megan Briggs](#)

**Archived:** Monday, September 18, 2023 9:28:00 AM

**From:** [Elizabeth Anderson](#)

**Sent:** Thursday, September 14, 2023 5:44:23 PM

**To:** Fields, Joy

**Subject:** No on ZDO-286 Keep zoning laws in place

**Sensitivity:** Normal

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**Warning: External email. Be cautious opening attachments and links.**

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I am writing to express a concern to amend the zoning laws to allow for more development by the city at Luscher farm in Lake Oswego.

As a long time resident and user of our public spaces and farm I think developing the area is a bad idea.

My main concern is increased traffic on stafford road and in front of luscher farm. It's already becoming heavily developed in the area by the city of Lake Oswego with no clear plan on how to address the heavy and backed up traffic in the area.

Developing Luscher will just increase this problem.

There is also beauty in the open space which I believe was the vision of the family who donated the farm many years ago.

Please do not pass ZDO-286.

Sincerely,  
[Elizabeth Anderson](#)  
503-314-1226

Sent from my iPhone

**Archived:** Monday, September 18, 2023 9:30:23 AM

**From:** [Natasha Hancock](#)

**Sent:** Thursday, September 14, 2023 7:00:39 PM

**To:** Fields, Joy

**Subject:** Ordinance ZDO-286

**Sensitivity:** Normal

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**Warning: External email. Be cautious opening attachments and links.**

---

September 14, 2023

Joy Fields, Senior Planner  
Clackamas County Transportation & Development  
Planning and Zoning Division  
150 Beaver Creek Road  
Oregon City, Oregon 97045

Dear Board of County Commissioners:

I am writing in support of Clackamas County's Ordinance ZDO-286.

I have two young children and Luscher Area is a place we frequent. My children refer to it as "sunflower park" because of the many sunflowers that are in the community garden. They run around naming the plants they recognize, and we often have snack under the fig tree. My children love to meet others in the community that are tending to their gardens. They love to bike on the path and run through the hills. Sitting at the top of the hill, above the sports fields and community garden, on a sunny morning day is truly a space of peace. I would think that many others in the community have their favorite spots at Luscher.

The proposed amendments will allow the City of Lake Oswego to apply to the County for development of the uses that are described in the Luscher Area Master Plan. This, in turn, will allow the City to implement the community's long-standing vision for public use of the Luscher area, while preserving the historic core and expanding agricultural uses.

Many City and County residents provided input into the development of the Luscher Area Master and its vision for public use of the Luscher area. Over a decade after the Plan's adoption in 2013, there continues to be a high level of community support for the Plan's overall vision. Adoption of ZDO-286 will benefit residents of Lake Oswego, Clackamas County, and surrounding cities. This encompasses participants in the Community Supported Agriculture program, visitors to the Rogerson Clematis Garden, users of the community garden and Adopt-a-Plot programs, youth and adults who attend Luscher's agricultural and environmental education themed camps and classes and community members who visit to enjoy the natural beauty of the Luscher area.

In summary, please vote to adopt Ordinance ZDO-286.

Thank you,  
[Natasha Hancock](#)

Sent from my iPhone

**Archived:** Monday, September 18, 2023 9:31:39 AM

**From:** [Kristen Romanaggi](#)

**Sent:** Thursday, September 14, 2023 7:35:37 PM

**To:** Fields, Joy

**Subject:** Luscher Farm

**Sensitivity:** Normal

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**Warning: External email. Be cautious opening attachments and links.**

---

September 14, 2023

Joy Fields, Senior Planner  
Clackamas County Transportation & Development  
Planning and Zoning Division  
150 Beavercreek Road  
Oregon City, Oregon 97045

Dear Board of County Commissioners:

I am writing in support of Clackamas County's Ordinance ZDO-286. The proposed amendments will allow the City of Lake Oswego to apply to the County for development of the uses that are described in the Luscher Area Master Plan. This, in turn, will allow the City to implement the community's long-standing vision for public use of the Luscher area, while preserving the historic core and expanding agricultural uses.

Many City and County residents provided input into the development of the Luscher Area Master and its vision for public use of the Luscher area. Over a decade after the Plan's adoption in 2013, there continues to be a high level of community support for the Plan's overall vision. Adoption of ZDO-286 will benefit residents of Lake Oswego, Clackamas County, and surrounding cities. This encompasses participants in the Community Supported Agriculture program, visitors to the Rogerson Clematis Garden, users of the community garden and Adopt-a-Plot programs, youth and adults who attend Luscher's agricultural and environmental education themed camps and classes and community members who visit to enjoy the natural beauty of the Luscher area.

In summary, please vote to adopt Ordinance ZDO-286.

Thank you,

Kristen Marick

September 14, 2023

Joy Fields, Senior Planner  
Clackamas County Transportation & Development  
Planning and Zoning Division  
150 Beaver Creek Road  
Oregon City, Oregon 97045

Dear Board of County Commissioners:

I am writing in support of Clackamas County's Ordinance ZDO-286. The proposed amendments will allow the City of Lake Oswego to apply to the County for development of the uses that are described in the Luscher Area Master Plan. This, in turn, will allow the City to implement the community's long-standing vision for public use of the Luscher area, while preserving the historic core and expanding agricultural uses.

Many City and County residents provided input into the development of the Luscher Area Master and its vision for public use of the Luscher area. Over a decade after the Plan's adoption in 2013, there continues to be a high level of community support for the Plan's overall vision. Adoption of ZDO-286 will benefit residents of Lake Oswego, Clackamas County, and surrounding cities. This encompasses participants in the Community Supported Agriculture program, visitors to the Rogerson Clematis Garden, users of the community garden and Adopt-a-Plot programs, youth and adults who attend Luscher's agricultural and environmental education themed camps and classes and community members who visit to enjoy the natural beauty of the Luscher area.

In summary, please vote to adopt Ordinance ZDO-286.

Thank you,

Paloma Steele

**Archived:** Monday, September 18, 2023 9:34:07 AM

**From:** [Ann Messick](#)

**Sent:** Thursday, September 14, 2023 9:10:47 PM

**To:** Fields, Joy

**Subject:** Save Luscher Farm

**Sensitivity:** Normal

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**Warning: External email. Be cautious opening attachments and links.**

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Hello Julie!

My husband and I have lived in Lake Oswego for 43 years and treasure the many unique opportunities it provides, one of which is the ability to have a garden plot at Luscher Farm. These gardens bring together people who otherwise would not know each other let alone have a space to grow the plants of their choice. Our whole family enjoys walking through the beautiful fields of tall grass and are enjoying watching the young oak trees grow. People from surrounding neighborhoods enjoy walking through the gardens and on the paved paths.

This farm is a unique place that must be protected and preserved as was requested by the Luscher family many years ago. Anything other than the current use of this land would mean breaking a long-held promise.

Please do all you can to support the Luscher Area Master Plan.

Thank you! ~ [Ann Messick](#)

September 14, 2023

Joy Fields, Senior Planner  
Clackamas County Transportation & Development  
Planning and Zoning Division  
150 Beaver Creek Road  
Oregon City, Oregon 97045

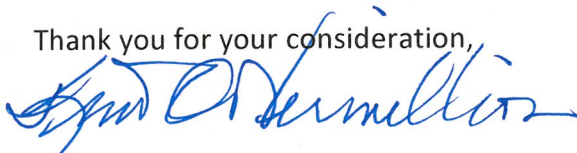
Dear Board of County Commissioners:

I am writing in support of Clackamas County's Ordinance ZDO-286. The proposed amendments will allow the City of Lake Oswego to apply to the County for development of the uses that are described in the Luscher Area Master Plan. This, in turn, will allow the City to implement the community's long-standing vision for public use of the Luscher area, while preserving the historic core and expanding agricultural uses.

Many City and County residents provided input into the development of the Luscher Area Master and its vision for public use of the Luscher area. Over a decade after the Plan's adoption in 2013, there continues to be a high level of community support for the Plan's overall vision. Adoption of ZDO-286 will benefit residents of Lake Oswego, Clackamas County, and surrounding cities. This encompasses participants in the Community Supported Agriculture program, visitors to the Rogerson Clematis Garden, users of the community garden and Adopt-a-Plot programs, youth and adults who attend Luscher's agricultural and environmental education themed camps and classes and community members who visit to enjoy the natural beauty of the Luscher area.

In summary, please vote to adopt Ordinance ZDO-286.

Thank you for your consideration,



Kim Ono Vermillion



September 15, 2023

Joy Fields, Senior Planner  
Clackamas County Transportation & Development  
Planning and Zoning Division  
150 Beaver Creek Road  
Oregon City, Oregon 97045

Dear Board of County Commissioners:

I am writing in support of Clackamas County's Ordinance ZDO-286. The proposed amendments will allow the City of Lake Oswego to apply to the County for development of the uses that are described in the Luscher Area Master Plan. This, in turn, will allow the City to implement the community's long-standing vision for public use of the Luscher area, while preserving the historic core and expanding agricultural uses.

Many City and County residents provided input into the development of the Luscher Area Master and its vision for public use of the Luscher area. Over a decade after the Plan's adoption in 2013, there continues to be a high level of community support for the Plan's overall vision. Adoption of ZDO-286 will benefit residents of Lake Oswego, Clackamas County, and surrounding cities. This encompasses participants in the Community Supported Agriculture program, visitors to the Rogerson Clematis Garden, users of the community garden and Adopt-a-Plot programs, youth and adults who attend Luscher's agricultural and environmental education themed camps and classes and community members who visit to enjoy the natural beauty of the Luscher area.

When we moved here nine years ago, the parks are just one of the many things we fell in love with in this community. It took us a while to get our own plot of land at Luscher Farms, but now we have it, it's a part of our daily lives throughout the spring, summer, and fall. We've taken classes there, walk through the gardens regularly, and enjoy so much about this beautiful area. We're not alone. We've made many friends simply by being a part of this community. It would be a great loss not to keep this area as it is, and continue to move forward with the Master Plan.

Please vote to adopt Ordinance ZDO-286.

Thank you,

Lori Osterberg  
310 Durham St  
Lake Oswego OR

**Archived:** Monday, September 18, 2023 9:45:10 AM

**From:** [Julie Mercer](#)

**Sent:** Friday, September 15, 2023 9:29:42 AM

**To:** Fields, Joy

**Subject:** Ordinance ZDO-28

**Sensitivity:** Normal

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**Warning: External email. Be cautious opening attachments and links.**

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September 15, 2023

To Joy Fields, Senior Planner  
Clackamas County Transportation & Development  
Planning and Zoning Division  
150 Beaver Creek Road  
Oregon City, Oregon 97045

Dear Board of County Commissioners:

I am writing in support of Clackamas County's Ordinance ZDO-286. The proposed amendments will allow the City of Lake Oswego to apply to the County for development of the uses that are described in the Luscher Area Master Plan. This, in turn, will allow the City to implement the community's long-standing vision for public use of the Luscher area, while preserving the historic core and expanding agricultural uses.

Many City and County residents provided input into the development of the Luscher Area Master and its vision for public use of the Luscher area. Over a decade after the Plan's adoption in 2013, there continues to be a high level of community support for the Plan's overall vision. Adoption of ZDO-286 will benefit residents of Lake Oswego, Clackamas County, and surrounding cities. This encompasses participants in the Community Supported Agriculture program, visitors to the Rogerson Clematis Garden, users of the community garden and Adopt-a-Plot programs, youth and adults who attend Luscher's agricultural and environmental education themed camps and classes and community members who visit to enjoy the natural beauty of the Luscher area.

In summary, please vote to adopt Ordinance ZDO-286.

Thank you,

[Julie Mercer](#)

Sent from my iPad

09/15/2023

Joy Fields, Senior Planner  
Clackamas County Transportation & Development  
Planning and Zoning Division  
150 Beaver Creek Road  
Oregon City, Oregon 97045

Dear Board of County Commissioners:

I am writing in support of Clackamas County's Ordinance ZDO-286. The proposed amendments will allow the City of Lake Oswego to apply to the County for development of the uses that are described in the Luscher Area Master Plan. This, in turn, will allow the City to implement the community's long-standing vision for public use of the Luscher area, while preserving the historic core and expanding agricultural uses.

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In summary, please vote to adopt Ordinance ZDO-286.

Thank you,

Stephanie Lulay

**Archived:** Monday, September 18, 2023 10:17:14 AM

**From:** Yan Tubelake

**Sent:** Friday, September 15, 2023 4:09:57 PM

**To:** Fields, Joy

**Subject:** Luscher Farm

**Sensitivity:** Normal

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**Warning: External email. Be cautious opening attachments and links.**

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9/15/2023

Joy Fields, Senior Planner

Clackamas County Transportation & Development

Planning and Zoning Division

150 Beaver Creek Road

Oregon City, Oregon 97045

Dear Board of County Commissioners:

I am writing in support of Clackamas County's Ordinance ZDO-286. The proposed amendments will allow the City of Lake Oswego to apply to the County for development of the uses that are described in the Luscher Area Master Plan. This, in turn, will allow the City to implement the community's long-standing vision for public use of the Luscher area, while preserving the historic core and expanding agricultural uses.

Many City and County residents provided input into the development of the Luscher Area Master and its vision for public use of the Luscher area. Over a decade after the Plan's adoption in 2013, there continues to be a high level of community support for the Plan's overall vision. Adoption of ZDO-286 will benefit residents of Lake Oswego, Clackamas County, and surrounding cities. This encompasses participants in the Community Supported Agriculture program, visitors to the Rogerson Clematis Garden, users of the community garden and Adopt-a-Plot programs, youth and adults who attend Luscher's agricultural and environmental education themed camps and classes and community members who visit to enjoy the natural beauty of the Luscher area.

In summary, please vote to adopt Ordinance ZDO-286.

Thank you,

Neil/Alice Crumbleholme

Residents of Lake Oswego

September 15, 2023

Joy Fields, Senior Planner  
Clackamas County Transportation & Development  
Planning and Zoning Division  
150 Beaver Creek Road  
Oregon City, Oregon 97045

Dear Board of County Commissioners:

I am writing in support of Clackamas County's Ordinance ZDO-286. The proposed amendments will allow the City of Lake Oswego to apply to the County for development of the uses that are described in the Luscher Area Master Plan. This, in turn, will allow the City to implement the community's long-standing vision for public use of the Luscher area, while preserving the historic core and expanding agricultural uses.

Many City and County residents provided input into the development of the Luscher Area Master and its vision for public use of the Luscher area. Over a decade after the Plan's adoption in 2013, there continues to be a high level of community support for the Plan's overall vision. Adoption of ZDO-286 will benefit residents of Lake Oswego, Clackamas County, and surrounding cities. This encompasses participants in the Community Supported Agriculture program, visitors to the Rogerson Clematis Garden, users of the community garden and Adopt-a-Plot programs, youth and adults who attend Luscher's agricultural and environmental education themed camps and classes and community members who visit to enjoy the natural beauty of the Luscher area.

In summary, please vote to adopt Ordinance ZDO-286.

*Joy P. Fields*

**Archived:** Monday, September 18, 2023 10:22:10 AM

**From:** [Max Erdenberger](#)

**Sent:** Saturday, September 16, 2023 4:12:21 PM

**To:** Fields, Joy; Megan McGinley

**Subject:** support of Clackamas County's Ordinance ZDO-286

**Sensitivity:** Normal

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**Warning: External email. Be cautious opening attachments and links.**

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Joy Fields, Senior Planner  
Clackamas County Transportation & Development  
Planning and Zoning Division  
150 Beavercreek Road  
Oregon City, Oregon 97045

Dear Board of County Commissioners:

I am writing to express my strong support for Clackamas County's Ordinance ZDO-286. The forthcoming amendments pave the way for the City of Lake Oswego to seek the County's approval for developments in line with the Luscher Area Master Plan's provisions. Consequently, this enables the City to bring to fruition the long-envisioned public utility of the Luscher area, ensuring the preservation of its historic essence while fostering agricultural initiatives.

The formulation of the Luscher Area Master Plan was an inclusive process, with numerous City and County residents actively participating. More than ten years since its inception in 2013, the Plan still resonates deeply within our community, reflecting its sustained support and relevance. Implementing ZDO-286 enriches not just Lake Oswego's inhabitants, but also the wider community of Clackamas County and neighboring urban areas. This includes the patrons of the Community Supported Agriculture initiative, visitors to the Rogerson Clematis Garden, enthusiasts of the community garden and Adopt-a-Plot schemes, and individuals across age groups benefiting from Luscher's thematic agricultural and ecological educational offerings. Moreover, it caters to all those who frequent the Luscher region to bask in its pristine natural splendor.

To conclude, I urge you to cast your vote in favor of adopting Ordinance ZDO-286.

Warm regards, [Max Erdenberger](#)

Max Erdenberger  
PARTNER

Central Office™  
Design & Art Direction —

17610 Westview Dr  
Lake Oswego, OR 97034

[centraloffice.work](http://centraloffice.work)

**Archived:** Monday, September 18, 2023 10:26:41 AM  
**From:** Esther Flynn  
**Sent:** Sunday, September 17, 2023 9:44:12 AM  
**To:** Fields, Joy  
**Subject:** Adoption of ZDO-286  
**Sensitivity:** Normal

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Warning: External email. Be cautious opening attachments and links.

Dear Joy and Board of County Commissioners:

We are writing in support of Clackamas County's Ordinance ZDO-286. As new residents of Lake Oswego we have found Luscher Farms as a one of a kind resource to be used by all residents of Clackamas County and surrounding areas.

It would be hard to imagine not being able to use the facility to the maximum potential. Adoption of ZDO-286 will benefit residents of Lake Oswego, Clackamas County, and surrounding areas. This encompasses participants in the community supported agriculture and environmental programs, the continued education for youth and adults, users of the community gardens and Adopt-a-plot programs, the Roberson Clematis Garden, and for all visitors to be able to enjoy the magnificent beauty and natural areas that Luscher Farms has to offer.

So we ask that you VOTE to adopt Ordinance ZDO-286.

Sincerely,  
Daniel and Esther Flynn  
2050 Southshore Blvd  
Lake Oswego, OR 97034

**Archived:** Monday, September 18, 2023 10:35:44 AM


**From:** Lauren Lavery

**Sent:** Sunday, September 17, 2023 2:50:41 PM

**To:** Fields, Joy

**Subject:** Letter of support for Ordinance ZDO-286

**Sensitivity:** Normal

**Attachments:** Clackamas County ZDO-286 Letter of Support Template\_BCC.docx ;

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Warning: External email. Be cautious opening attachments and links.

Dear Ms. Fields.

Attached you will find a letter in support of Ordinance ZDO-286. My husband and I spend a lot of time cultivating our garden plot at Luscher Farms. My elderly parents, who also live in Lake Oswego, have a garden plot as well and this has kept them physically active and eating a healthy organic diet. Luscher Farms and other open agricultural spaces within our city are vital in keeping our town beautiful and our community members healthy in mind and body and connected to one another. Thank you for your consideration.

Sincerely,  
Lauren Lavery



September 18, 2023

Joy Fields, Senior Planner  
Clackamas County Transportation & Development  
Planning and Zoning Division  
150 Beaver Creek Road  
Oregon City, Oregon 97045

Dear Board of County Commissioners:

I am writing in support of Clackamas County's Ordinance ZDO-286. The proposed amendments will allow the City of Lake Oswego to apply to the County for development of the uses that are described in the Luscher Area Master Plan. This, in turn, will allow the City to implement the community's long-standing vision for public use of the Luscher area, while preserving the historic core and expanding agricultural uses.

I am involved with the nonprofit volunteer groups that have planted and maintain the Rogerson Clematis Garden and the Pollinator Garden at Luscher Farm. Both of the areas are maintained and protected by highly devoted volunteer groups who devote over 5000 hours each year to maintain and continue the rural and agricultural environment at the Farm. Our groups teach young and old how to care for the land and the animal kingdom not only on the Farm property but their own home environments. Adoption of ZDO-286 will benefit residents of Lake Oswego, Clackamas County, and surrounding cities as we continue to care for the land and teach others how to as well.

In summary, please vote to adopt Ordinance ZDO-286.

Thank you,

Phyllis McCanna

September 18, 2023

Joy Fields, Senior Planner  
Clackamas County Transportation & Development  
Planning and Zoning Division  
150 Beaver Creek Road  
Oregon City, Oregon 97045

Dear Board of County Commissioners:

As a resident of Lake Oswego I am writing in support of Clackamas County's Ordinance ZDO-286. The proposed amendments will allow the City of Lake Oswego to apply to the County for development of the uses that are described in the Luscher Area Master Plan. This, in turn, will allow the Lake Oswego to implement the community's long-standing vision for public use of the Luscher area, while preserving the historic core and expanding agricultural uses.

Many City and County residents provided input into the development of the Luscher Area Master and its vision for public use of the Luscher area. Over a decade after the Plan's adoption in 2013, there continues to be a high level of community support for the Plan's overall vision. Adoption of ZDO-286 will benefit residents of Lake Oswego, Clackamas County, and surrounding cities. This encompasses participants in the Community Supported Agriculture program, visitors to the Rogerson Clematis Garden, users of the community garden and Adopt-a-Plot programs, youth and adults who attend Luscher's agricultural and environmental education themed camps and classes and community members who visit to enjoy the natural beauty of the Luscher area.

In summary, please vote to adopt Ordinance ZDO-286.

Thank you,

Janie Hansen



P.O. Box 123  
Lake Oswego, OR 97034  
www.LuscherFriends.org  
501c3 Non-Profit  
ID# 20-4934848

September 18, 2023

**Board of Directors**

Lory Johansson, President  
Frank McMurray, Treasurer  
Kerri Cox, Secretary  
Stephanie Hallock  
Robert Hansen  
Gale Wallmark

**Advisory Board**

Nancy Gronowski  
Ron Gronowski  
Kasey Holwerda  
Laura Masterson  
Martin Moll  
Frances Peterson  
Kathleen Wiens

**TO:** Clackamas County Board of Commissioners  
**FROM:** Friends of Luscher Farm, 501-c-3 non-profit  
**RE:** County Ordinance ZDO-286

With appreciation for the County Planning staff and Planning Commission recommendations to approve ZDO-286, Friends of Luscher Farm (FOLF) is testifying in favor of its passage. In doing so, you will create a long awaited path by which the County could consider adoption of local park master plans.

While your consideration/approval of ZDO-286 should not be influenced by the prospect of any single future application, Lake Oswego's collaboration with your Planning Staff in the development of ZDO-286 and the City's intention to submit its Luscher Area Master Plan (LAMP) is clearly on the horizon.

The LAMP was adopted in 2013, after years of studies and planning by City staff, subject matter experts and residents. Public outreach, at every step, was massive with more 3,400 comments gathered. The Plan respects the Luscher's historic legacy and proposes a vibrant future envisioned and desired by the community. It's a plan imaginable only because the Luscher Area is such a distinctive, one-of-kind place.

The Luscher Area considered in the 2013 LAMP comprises eight properties, acquired separately by Lake Oswego between 1991 and 2005 with Parks bond funds. Four of the properties—owing to allowable zoning—are now (or soon to be) home to sports fields, dog and skate parks, a playground and a natural area and are not relevant to these proceedings. The remaining properties—the namesake Luscher property, along with the Firlane, Crowell and Brock properties and half the Farr property—comprise just over 100 acres in unincorporated Clackamas County, all zoned EFU.

In the years since acquiring the properties, the City initiated uses such as a 12-acre Community Supported Agriculture (CSA) program, community and demonstration gardens and the renowned Rogerson Clematis Garden—all of them on the 42-acre Luscher Farm and today beloved by Lake Oswegans and others from the surrounding area.

Over those years, Lake Oswego has made many efforts to legitimize its uses at Luscher, all without success. Should ZDO-286 be approved, FOLF is hopeful the City's subsequent application requesting approval of its LAMP may finally bring those uses into compliance and, importantly, allow some LAMP's other key recommendations to be implemented.

As Planning Commissioner Tom Peterson noted during the Sep 11 hearing, ZDO-286 offers a much-needed mechanism to address current concerns about uses and enforcement.

Like many Lake Oswegans, we treasure this magical place and take our stewardship of it very seriously. We believe there's room for thoughtful, selective expansion of agricultural and passive recreational uses while also maintaining the Luscher Area's rural character, protecting its open space, and preserving its historical significance.

Thank you,  
Gale Wallmark  
Friends of Luscher Farm, Board of Directors  
Lake Oswego resident

September 18, 2023

Joy Fields, Senior Planner  
Clackamas County Transportation & Development, Planning and Zoning Division  
150 Beaver Creek Road  
Oregon City, Oregon 97045

Dear Board of County Commissioners:

I am writing in support of Clackamas County's Ordinance ZDO-286. The proposed amendments will allow the City of Lake Oswego to apply to the County for development of the uses that are described in the Luscher Area Master Plan. This, in turn, will allow the City to implement the community's long-standing vision for public use of the Luscher area, while preserving the historic core and expanding agricultural uses.

Luscher Farms has been a dedicated and generous partner to Hunger Fighters food pantry in Lake Oswego for the past two years. The number of households we support at Hunger Fighters has increased by 33% year-to-year, and most of that increase has developed since March of 2023. This is significant and daunting for a tiny pantry like ours.

Our summer and fall partnership with Luscher Farms, which includes two deliveries per week of just-harvested fruits and vegetables, has been critical to our ability to offer all of our guests fresh locally grown produce at no cost to our organization.

Moreover, all available research shows that the number one most requested and needed item for guests of food pantries is fresh produce (fruits & vegetables). At Hunger Fighters, our goal is to continue increasing our perishables inventory so that healthy, fresh foods make up a bigger and bigger share of the items we can offer to our guests.

Luscher Farms - in particular their vision of expanded community gardening - will be invaluable to our efforts to increase healthy fresh foods in an enduring and financially sustainable way.

Hunger Fighters will also benefit from Luscher's plans to develop space and programming to educate the public on environmental and agricultural issues. There are strong links between food insecurity, climate change and food production/waste; Luscher Farms is an indispensable resource in this community for building awareness of and inspiring action on these issues.

Adoption of ZDO-286 will benefit residents of Lake Oswego, Clackamas County, and surrounding cities. This encompasses participants in the Community Supported Agriculture program, visitors to the Rogerson Clematis Garden, users of the community garden and Adopt-a-Plot programs, youth and adults who attend Luscher's agricultural and environmental education themed camps and classes and community members who visit to enjoy the natural beauty of the Luscher area.

In summary, please vote to adopt Ordinance ZDO-286.

Thank you,

Molly Rodrigano  
Executive Director, Hunger Fighters Oregon  
mrodrigano@hungerfightersoregon.org

**Archived:** Monday, September 18, 2023 3:54:47 PM  
**From:** Robert Carsten. II, MD Von Borstel  
**Sent:** Monday, September 18, 2023 2:57:42 PM  
**To:** Fields, Joy  
**Subject:** Support for Luscher Area Plan Proposed Amendment  
**Sensitivity:** Normal

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Warning: External email. Be cautious opening attachments and links.

Dear Joyce,

We are Lake Oswego residents living in Forest Highlands neighborhood where we do not have good enough sunlight to grow a vegetable garden.

We have participated in the Community Gardens Program for more than 10 years. Farming our garden plot #52 has been one of our most precious retirement activities. We enjoy the experience of producing our own fresh vegetables, which we eat and share with other family members. We enjoy the camaraderie with fellow gardeners.

In addition, we walk our dog on the trails which have been mown into the fields north and east outside of the Luscher Farm gardening area. Our dog gets a good, vigorous walk (on his leash) beyond the limited frolicking in the dog park.

We fully support the continuation and expansion of the Luscher Farm Area Master Plan. We hope to be able to continue in these activities for the rest of our lives.

Sincerely, Robert von Borstel and Karen Inaba

Sent from my iPhone

Board of County Commissioners  
Clackamas County  
c/o Joy Fields, Sr. Planner  
2051 Kaen Road, Oregon City, OR 97045

September 18, 2023

Ordinance ZDO-286  
Comments in Opposition

I oppose ZDO-286 because Lake Oswego has demonstrated a pattern and practice of abuses that may worsen if rewarded with a more tolerant ZDO. You may receive testimony that suggest Luscher is compliant-free. This is untrue; see below.

Luscher Farm  
Land Use Complaint History

I attempted to motivate zoning review and possibly compliance as follows:

<b>Date</b>	<b>Recipient</b>	<b>Method</b>	<b>Respondent</b>	<b>Alleged Violation</b>
7/29/2015	City	Citizen Info Office	Anderholm, Lazenby	Blue Moon Run
7/21/2016	County	email kimpri@clack..	None	Howl at the Moon
10/5/2016	County	enforcement website	Diane Bautista	Crosstoberfest
10/5/2016	County	email	Gary Hewitt	Crosstoberfest
8/29/2019	County	enforcement website	automated	Twilight on the Farm
10/3/2020	County	enforcement website	Jennifer Kauppi	Flicks on the Farm
5/24/2022	County	enforcement website	Jennifer Kauppi	Summer Camps (all)
2/9/2023	State OWRD	email	Jake Constans	water volume violation

If nothing else, this summary illustrates tenacity and (somewhat) touching naivety in a belief in the Equal Protection Clause.

Reject ZDO 286 and enforce ZDO 401 without favor.

Respectfully

Richard A Stevens  
Rosemont Farms LLC  
400 Marylhurst Drive West Linn OR