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STAFF REPORT

TO: Planning Commission

FROM: Glen Hamburg, Senior Planner

DATE: June 15, 2020

RE: File ZDO-276, *Minor and Time Sensitive Comprehensive Plan and Zoning and Development Ordinance Amendments (FY 2020)*

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BACKGROUND

The adopted Long-Range Planning Work Program for 2019-2021 (Attachment B) includes a project titled "Minor and Time-Sensitive ZDO Amendments", an effort intended to make relatively minor changes to the County land use regulations that are necessary to comply with new and pending state and federal mandates, clarify existing language, correct errors, and adopt optional provisions that require only minimal analysis. The Work Program also expressly includes consideration of the following:

- Increasing the distance for property owner notice of land use applications in rural areas;
- Existing land use regulations on dog daycare/boarding businesses (i.e., kennels) in rural residential areas; and
- Opportunities for small-scale manufacturing in community commercial areas.

ZDO-276 is a proposed ordinance that, if adopted by the Board of County Commissioners (BCC), would make legislative text amendments to the County's Zoning and Development Ordinance (ZDO), as well as to the County's Comprehensive Plan, in response to these various adopted Work Program directives. It also proposes repealing the County's limitations on marijuana retailing operating hours, as further directed by the BCC.

The Planning Commission held study sessions on December 9, 2019, and January 13, 2020, and the BCC held a policy session on February 25, 2020, to discuss the issues now addressed by the proposed amendments and to provide direction to Staff on the amendments' scope. There will be at least two public hearings on this proposal: one before the Planning Commission on Monday, June 22, and another before the BCC currently scheduled for Wednesday, August 5. The Planning Commission provides a recommendation to the BCC, who would ultimately decide whether the ordinance is adopted.

PROPOSAL

ZDO-276 proposes amendments to Comprehensive Plan Chapter 4, *Land Use*, Comprehensive Plan Table 4-1, *Land Use Designations and Implementing Zoning Districts*, and to 18 separate sections of the ZDO[1]. The text amendments are included with summary outlines in Attachment A.

The proposed amendments would accomplish **24 actions**. Following is a list of those 24 actions, as well as brief explanations of the context behind each action and how the actions would be accomplished with the proposed text amendments.

1. **Increase the noticing distance for certain land use actions in 11 rural and natural resource zoning districts to ½ mile:**

   Notice of, and Planning Director decisions on, all "Type II" land use applications[2], as well as notice of public hearings on appeals and Type III land use applications[3], are mailed to the owners of property within a prescribed distance of the subject property and all contiguous properties under the same ownership.

   The prescribed distance is currently 500 feet if the subject property is in the one of the following zoning districts: Farm Forest 10-Acre (FF-10), Future Urban 10-Acre (FU-10), Recreational Residential (RR), Rural Area 1-Acre (RA-1), Rural Area 2-Acre (RA-2), Rural Commercial (RC), Rural Residential Farm Forest 5-Acre (RRFF-5), or Rural Industrial (RI) Districts. The prescribed distance is currently 750 feet if the subject property is in the AG/Forest (AG/F), Exclusive Farm Use (EFU), or Timber (TBR) Districts.

   Consideration of increasing the noticing distances of land use actions in rural areas is included in the adopted Work Program. At its January 2020 study session, the Planning Commission considered the financial costs for increasing the notice distance to certain distances, and expressed support for proposing to increase the notice of land use application hearings to ¼ mile (1,320 feet) for properties with a current notice distance of 500 feet and to ½ mile (2,640 feet) for properties with a current notice distance of 750 feet.

   The BCC expressed support for even greater increases in noticing distances at their February 2020 policy session. As suggested by the BCC, ZDO-276 would amend ZDO Section 1307 to increase the noticing distance to ½ mile for all of the following when the subject property is in the AG/F, EFU, FF-10, FU-10, RA-1, RA-2, RC, RI, RR, RRFF-5, or TBR Districts:

   - All Type III land use permit applications and their public hearings;

[1] The ZDO sections proposed to be amended are Sections: 316, *Rural Area Residential 1-Acre (RA-1), Rural Area Residential 2-Acre (RA-2), Recreational Residential (RR), Rural Residential Farm Forest 5-Acre (RRFF-5), Farm Forest 10-Acre (FF-10), and Future Urban 10-Acre (FU-10) Districts*; 401, *Exclusive Farm Use District (EFU)*; 406, *Timber District (TBR)*; 407, *Ag/Forest District (AG/F)*; 510, *Neighborhood Commercial (NC), Community Commercial (C-2), Regional Center Commercial (RCC), Retail Commercial (RTL), Corridor Commercial (CC), General Commercial (c-3), Planned Mixed Use (PMU), Station Community Mixed Use (SCMU), Office Apartment (OA), Office Commercial (OC), and Regional Center Office (RCO) Districts*; 513, *Rural Tourist Commercial (RTC) and Rural Commercial (RC) Districts*; 601, *Campus Industrial District (CI)*; 822, *Home Occupations*; 835, *Wireless Telecommunications Facilities*; 839, *Accessory Dwelling Units*; 841, *Marijuana Production, Processing, and Retailing*; 843, *Accessory Historic Dwellings*, 1007, *Roads and Connectivity*; 1009, *Landscaping*; 1015, *Parking and Loading*; 1206, *Nonconforming Uses and Vested Rights*; 1307, *Procedures*; and 1310, *Time Extension*.

[2] Land use applications processed according to "Type II" procedures include those for: farm crop (e.g., hemp, marijuana) processing; variances; partitions; nonconforming use verifications or alterations; vested right determinations; temporary dwellings for care; home occupations; certain new dwellings in agriculture or forest zoning districts; and other uses, as listed in ZDO Table 1307-1: *Land Use Permits by Procedure Type*.

[3] Land use applications processed according to "Type III" procedures include those for: conditional uses; major subdivisions; home occupation exceptions; certain zone changes; and other uses, as listed in ZDO Table 1307-1.

- All hearings for appeals of Type II applications; and
- All Type II applications for, and Planning Director decisions on, nonconforming use verification, nonconforming use alteration, or vested right determination.

2. Reduce minimum setbacks for a kennel in the FF-10, RA-1, RA-2, or RRFF-5 Districts from 200 to 100 feet:

A conditional use permit is already required for a commercial dog kennel in the FF-10, RA-1, RA-2, or RRFF-5 Districts. In addition to the existing general approval criteria for *all* conditional use permits applicable in *all* zoning districts[4], which consider the characteristics of the subject property as well as the use's potential impacts to the surrounding area, conditional use permits for commercial kennels in these four particular rural residential zoning districts also require that all portions of the kennel operation be set back at least 200 feet from property lines, regardless of the particular characteristics of the subject property or potential impacts of the kennel on the surrounding area.

As noted previously, consideration of the barriers to establishing kennels in rural residential zoning districts by existing dimensional standards is included in the Work Program. Between its December 2019 and January 2020 study sessions, the Planning Commission considered the impacts of kennel operations, their similarity to other uses allowed in rural areas, and the practical limitations the current setback requirement has on properties that are five acres or less. The Planning Commission also explored the need for kennel services in the County, dimensional standards for similar uses in nearby jurisdictions, the history of the County's current 200-foot setback requirement, and the criteria for all conditional uses. The Planning Commission ultimately expressed support for proposing a reduction in the setback to 100 feet, which was echoed by the BCC at their February 25 policy session.

ZDO-276 would reduce the minimum setback for a commercial kennel in the FF-10, RA-1, RA-2, or RRFF-5 Districts to 100 feet from property lines, while continuing to require the kennel meet the generally applicable conditional use permit criteria and a public hearing prior to approval.

3. Allow manufacturing of edible or drinkable products retailed on-site, and related wholesale distribution, in Community Commercial (C-2), Corridor Commercial (CC), General Commercial (C-3), Office Commercial (OC), Rural Tourist Commercial (RTC), and Station Community Mixed Use (SCMU) Districts:

The ZDO currently does not provide a pathway to establish most manufacturing uses in the C-2 or RTC Districts. Moreover, while manufacturing is already permitted in the C-3, CC, OC, and SCMU Districts, the primary processing of raw materials is prohibited. These restrictions can preclude breweries, cideries, cheese-makers, and the manufacturing of other edible or drinkable products, even when the resulting products are retailed on-site (e.g., at a brewpub where beer is both brewed and retailed at the same location).

Consideration of limited changes to the ZDO to allow this kind of "small-scale" manufacturing in community commercial zoning districts (i.e., C-2 and RTC Districts) is included in the Work Program. The Planning Commission supported proposing amendments to allow the use in conjunction with on-site retail in the C-2 and RTC Districts, as well as the C-3 District, at its January 2020 study session, and the BCC concurred at its February 2020 policy session. Staff is recommending allowing the use in the CC, OC, and SCMU Districts for consistency between commercial zoning districts and because doing so would be consistent with applicable Comprehensive Plan policies for those zoning districts' land use plan designations, as outlined later in this report.

[4] The generally-applicable conditional use criteria are in ZDO Section 1203, *Conditional Uses*.

ZDO-276 would amend ZDO Sections 510 and 513 to allow the manufacturing of edible or drinkable products retailed on the same site in the C-2, C-3, CC, OC, RTC, or SCMU Districts, including the primary processing of raw materials (e.g., malt, milk, spices) that are ingredients in edible or drinkable products retailed on the same site. The amendments would also allow the wholesale distribution of edible or drinkable products that are manufactured and retailed on the same site.

All new development in the six zoning districts would continue to require design review approval[5] in order to evaluate compliance with existing standards for elements such as parking, landscaping, utility services, and building design. In the OC and SCMU Districts, the proposed new manufacturing use would also be subject to the same specific square-footage and other limitations that currently apply to the other manufacturing uses already allowed in those zoning districts.

4. Allow land divisions in the EFU District resulting in parcels smaller than 80 acres for siting approved utilities:

Oregon Senate Bill 408 (2019) newly authorizes, but does not require, the County to approve land divisions in the EFU District for utility facilities that are necessary for public service, even if the divisions result in parcels smaller than 80 acres.

The County already allows EFU land divisions resulting in parcels smaller than 80 acres when for other "nonfarm" uses that are not dwellings (e.g., a fire service facility), and the County has historically adopted provisions to allow the natural resource land uses authorized by the state.

ZDO-276 would amend ZDO Section 401 to allow for land divisions in the EFU District when for the siting of an approved utility facility, consistent with SB 408. The amendments would not change the existing requirement that utility facilities themselves be approved with a land use permit.

5. Allow equine and equine-affiliated therapeutic and counseling services in AG/F and EFU Districts, subject to standards:

Oregon Senate Bill 1533 (2018) authorizes, but does not require, the County to permit equine and equine-affiliated therapeutic and counseling services on property zoned AG/F or EFU, provided 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 subject tract. Additionally, all individuals conducting therapeutic or counseling activities must operate within the proper scope of any licenses required by the state.

ZDO-276 would amend ZDO Sections 401 and 407 to allow for equine and equine-affiliated therapeutic and counseling services in the AG/F and EFU Districts, consistent with SB 1533. As noted previously, the County has historically adopted provisions to allow the natural resource land uses authorized by the state, and the Planning Commission supported proposing this new land use allowance in AG/F and EFU Districts at its January 13, 2020, study session.

Consistent with state law[6], the new use would not be permitted in a Portland Metropolitan Area rural reserve.

[5] Generally-applicable design review criteria are provided in ZDO Section 1102, *Design Review*.
[6] Oregon Administrative Rules (OAR) 660-027-0070(3).

6. **Allow accessory dwellings supporting family forestry in AG/F and TBR Districts, subject to standards:**

   Oregon House Bill 2469 (2019) authorizes the County to permit a second dwelling on property zoned AG/F or TBR and near to an existing dwelling on the same lot/parcel so that a relative can live on the property and assist in the harvesting, processing, or replanting of forest products or in the management, operation, planning, acquisition, or supervision of forest lots/parcels of the owner. These accessory dwellings supporting family forestry would have to be:

   - On a lot of record that is at least 80 acres;
   - Accessory to an existing, lawfully established primary dwelling on the same lot/parcel;
   - Within 200 feet of the primary dwelling; and
   - In compliance with the Oregon residential specialty code relating to wildfire hazard mitigation.

   ZDO-276 would amend ZDO Sections 406 and 407 to allow accessory dwellings supporting family forestry, consistent with HB 2469. As suggested by the Planning Commission at its January 13 study session, the amendments would also require that the accessory dwelling be a manufactured home that uses the same driveway entrance as the existing single-family dwelling on the same lot of record.

   As again prohibited by state law, the new use would not be permitted in a Portland Metropolitan Area rural reserve.

7. **Provide for renewable energy facilities as a conditional use in the EFU District, consistent with Oregon House Bill 2329 (2019):**

   HB 2329 raises the threshold under which certain renewable energy projects are subject to state jurisdiction, effective January 1, 2020. The state's Energy Facility Siting Council (EFSC) provides state oversight of larger renewable energy projects; smaller projects, however, are overseen by the county where the proposed project would be located. Under the new law, photovoltaic solar power generation facilities on high value farmland that are less than or equal to 160 acres will now be subject to County jurisdiction. The same is true for photovoltaic solar power generation facilities on cultivated land or land with specific soil classifications that are less than or equal to 1,280 acres (two square miles) and for photovoltaic solar power generation facilities on other land that are less than or equal to three square miles (1,920 acres).

   The threshold for wind facilities to be reviewed at the state level was also changed to 150 MW peak capacity, up from 105 MW peak capacity. For geothermal facilities, it was changed to 55 MW peak capacity, up from 38.5 MW peak capacity. HB 2329 also establishes criteria for siting certain renewable energy facilities outside the EFSC process, including habitat mitigation conditions and notification requirements.

   ZDO-276 would amend ZDO Section 401 to provide for renewable energy facilities as a conditional use consistent with HB 2329.

8. **Modify road frontage improvement "Fee in Lieu of" (FILO) requirements to expand fee payment opportunities and standardize qualification requirements:**

   Under certain circumstances, the County allows a developer to choose to pay a fee instead of constructing sidewalks and other frontage improvements that are required concurrent with some types of new development in the Portland Metropolitan Urban Growth Boundary (Metro UGB). This fee payment option is called "FILO", and the revenues collected are spent on pedestrian improvements within the Metro UGB.

ZDO-276 would amend ZDO Section 1007 to increase the qualifying opportunities for which FILO can be paid, as recommended by representatives of the County's Development Review Team and the Transportation Engineering Division. Specifically, the amendments would allow FILO to be paid when the required improvements in the Metro UGB would be located:

- On a road where there are public storm drainage constraints; or
- On public street frontage that is 200 feet or less and there is no existing sidewalk or pathway that the new improvements would connect to.

The proposed amendments would also allow FILO to be paid for required frontage improvements to *all* road classifications within the Metro UGB, not just improvements to local, connector, and collector roads. The fee could be paid regardless of whether the improvements are to roads on the "Essential Pedestrian Network", with all cases evaluated according to the same established criteria.

9. Modify ex parte contact definitions, consistent with existing state law:

ZDO-276 would amend ZDO Section 1307 to ensure that what is considered "ex parte contact" under the ZDO is consistent with existing state law[7]. The amendment would clarify that, unlike with certain communications with the County's Hearings Officer, a communication between County staff and the Historic Review Board, Design Review Committee, Planning Commission, or Board of County Commissioners shall not be considered an ex parte contact for the purposes of ZDO Subsection 1307.12(D)(1).

10. Adopt standards for small wireless facilities, consistent with existing FCC requirements:

"Small wireless facilities" (also known as "small cell wireless facilities" and "small cells") are devices that wirelessly transmit signals over relatively short distances and meet applicable definitions in 47 CFR 1.6002(l)(1). The Federal Communications Commission (FCC) now requires[8] the County to allow small wireless facilities in public rights-of-way and on private property, subject only to certain prescribed limitations that would not unduly hinder small wireless facility deployment.

According to the FCC mandates, the County must respond within 60 days to a permit application proposing collocation of a small wireless facility and within 90 days for review of a new structure for a small wireless facility. The County also cannot consider the perceived health effects of small wireless facilities in its own land use regulations of the devices.

ZDO-276 would amend ZDO Section 835 to:

- Provide small wireless facility review procedures that meet the FCC-prescribed timelines;
- Require that small wireless facilities attached to or mounted on a building have the same color or colors as the portions of the building they are attached to or mounted on, as suggested by the Planning Commission at its January 13 study session; and
- Prohibit small wireless facilities from being affixed to trees, shrubs, or other vegetation, as also suggested at the January 13 study session.

The ordinance would also amend Section 835 to enable small wireless facilities in County rights-of-way to be regulated by the Clackamas County Roadway Standards (Attachment D), rather than by the ZDO.

[7] Oregon Revised Statutes (ORS) 215.422(B).
[8] The FCC mandate is in its 2018 *Declaratory Ruling and Third Report and Order, included as Attachment C.*

11. Clarify existing requirements related to nonconforming licensed marijuana production premises:

Oregon Senate Bill 365 (2019) requires the County to allow licensed marijuana production premises, and licensed future owners of such premises, to continue to operate under the County land use rules that had applied to the premises for which the production license was first issued, regardless of any new restrictions the County may have adopted since the premises was lawfully established.

This mandate is consistent with the County's current application of nonconforming use requirements. ZDO-276 would effectively codify current procedures and adopt clarifying language in ZDO Section 1206 that mirrors the text of the respective state law.

As expressly allowed under SB 365, other proposed amendments to Section 1206 would require an evaluation of additional adverse impacts to the surrounding area when considering applications to optionally *alter* (e.g., expand) a nonconforming marijuana production premises.

12. Clarify existing Forest Template Dwelling requirements:

Oregon House Bill 2225 (2019) provides statewide standardization of certain definitions and rules for approval of "template dwellings" on forest land (land zoned AG/F or TBR). The County's ZDO and policies are already functionally consistent with these definitions and rules, but clarifying amendments to ZDO Section 406 are being proposed so that the language of the ZDO is more consistent with new state law.

HB 2225 also establishes new restrictions on qualifying a neighboring parcel under the same ownership for another template dwelling. Those restrictions are *not* proposed to be repeated in the ZDO; instead, state statute would continue to be applied directly.

13. Codify existing requirements for replacement dwellings in the EFU District:

Oregon House Bill 3024 (2019) effectively requires approval of a Type II land use permit application for the replacement of certain lawfully-established non-temporary dwellings in the EFU District that were previously removed, destroyed, demolished, or converted to nonresidential uses. The legislation also prohibits the County from considering the property tax classification of the former dwelling when reviewing the application for its replacement. ZDO-276 would amend ZDO Section 401 so that the listed requirements for such replacement dwellings are consistent with HB 3024.

14. Codify existing state allowances for nonconforming secondary school expansions in the EFU District:

Oregon House Bill 3384 (2019) increases the potential cases in which the County is required to permit certain nonconforming secondary schools in the EFU District expanding on to additional EFU-zoned property. ZDO-276 would amend ZDO Section 401 to be consistent with HB 3384.

15. Codify an existing exemption from siting standards for small-scale farm processing in AG/F and EFU Districts:

Oregon House Bill 2844 (2019) requires the County allow facilities for processing farm products that are under 2,500 square feet on lands zoned AG/F or EFU without regard to "siting standards", provided the small-scale processing meets other applicable requirements.

ZDO-276 would amend ZDO Sections 401 and 407 accordingly. In this context, small-scale farm processing *does not* include marijuana processing.

16. Codify existing state allowances for farm breweries in AG/F and EFU Districts:

Under Oregon Senate Bill 287 (2019), a "farm brewery" is a facility, located on or contiguous to the hop farm, used primarily for the commercial production, shipping and distribution, wholesale or retail sales, or tasting of malt beverages made with ingredients grown on the hop farm.

SB 287 requires the County to allow the establishment of a farm brewery on land zoned AG/F or EFU, if the farm brewery:

- Produces less than 150,000 barrels of malt beverages annually;
- Produces less than 15,000 barrels on the farm brewery site; and
- Either owns an on-site hop farm of 15 acres or obtains hops from contiguous properties.

Unless the County approves a variance, the farm brewery and all associated public gathering places must, according to SB 287, be setback at least 100 feet from all property lines. The farm brewery must also have direct road access and internal circulation.

ZDO-276 would amend ZDO Sections 401 and 407 to identify farm breweries as an allowed use in the AG/F and EFU Districts, consistent with SB 287.

17. Codify existing state allowances for cideries in AG/F and EFU Districts:

With amendments to ZDO Sections 401 and 407, ZDO-276 would clarify that cideries are already an allowed use under state law in the AG/F and EFU zoning districts, subject to certain standards and approval procedures.

18. Codify existing prohibitions on accessory dwelling unit (ADU) off-street parking and "owner occupancy requirements"[9] in urban/urbanizable areas:

Since January 1, 2020, Oregon House Bill 2001 (2019) has prohibited the County from requiring one additional off-street parking space, and from applying an "owner occupancy requirement", for an ADU that is both within an urban growth boundary *and* in a zone where a detached single-family dwelling is a primary use (e.g., urban low density residential zoning districts, rural residential zoning districts). ZDO-276 would amend ZDO Section 839 to no longer list an owner occupancy requirement and Section 1015 to no longer require the additional off-street vehicle parking space.

19. Repeal the owner occupancy requirement for ADUs in the Mountain Recreational Resort (MRR) District:

The County already chooses, without being mandated by the state, to allow ADUs in the MRR District in the Mt. Hood Corridor outside of UGBs. The MRR District currently has an ADU owner occupancy requirement, as well as a requirement for one additional off-street parking space for an ADU; the County is not required by HB 2001 to change either of these provisions.

However, at its December 9 study session, the Planning Commission expressed support for pursuing the repeal of the MRR District's ADU owner occupancy requirement in order to be consistent with the requirements for ADUs in UGBs. The Planning Commission suggested keeping the additional off-street parking space requirement for ADUs in the MRR District, as well as in the Hoodland Residential (HR) District in the Mt. Hood Corridor, because the local roads in that part of the County are sometimes narrower and more likely to be obstructed with snow, thereby reducing opportunities for on-street parking.

[9] An "owner occupancy requirement" is a requirement that either the primary or accessory dwelling be occupied by the owner of the subject property. The relevant ZDO owner occupancy requirements have mandated that deed restrictions be recorded prior to issuance of a building permit for the accessory dwelling.

ZDO-276 would repeal the owner occupancy requirement for an ADU in the MRR District, but continue to require the additional off-street vehicle parking space.

20. Repeal the owner occupancy requirement for accessory historic dwellings:

Since 2018, the County has opted to allow "accessory historic dwellings" (i.e., dwellings built between 1850 and 1945 that become accessory to new primary dwellings on the same property) in rural residential zoning districts *outside* of UGBs and urban reserves, subject to standards in ZDO Section 843. Subsection 843.05 has an owner occupancy requirement mirroring that for ADUs.

Considering that accessory historic dwellings are functionally similar to ADUs, and that Oregon House Bill 2001 already prohibits owner occupancy requirements for ADUs within UGBs, the Planning Commission expressed support at its December 9 study session for repealing the accessory historic dwelling owner occupancy requirement as well. ZDO-276 would amend ZDO Section 843 to repeal the owner occupancy requirement for accessory historic dwellings.

21. Repeal the County's restrictions on operating hours for marijuana retailing, leaving their operating hours to be set only by the state:

ZDO Section 841 currently limits a marijuana retailer's operating hours (i.e., the hours they sell to consumers or have consumers present in their building) to between 10:00 a.m. and 9 p.m. This County restriction is four hours less per day than what the Oregon Liquor Control Commission (OLCC) would otherwise allow under their current rules.

Following its February 25 policy session, the BCC voted to support proposing in ZDO-276 the repeal of the County's more restrictive marijuana retailing operating hours. If the proposed amendment, specifically to ZDO Section 841, were to be adopted, the operating hours for marijuana retailers would then only be regulated by the OLCC, which currently restricts operating hours to between 7:00 a.m. and 10:00 p.m.

22. Repeal inapplicable Campus Industrial (CI) District provisions:

With the recent annexation of a property by the City of Lake Oswego, the County no longer has any land within its jurisdiction that is designated in the Comprehensive Plan Map as Campus Industrial (CI) or that is in the implementing CI zoning district. The Comprehensive Plan also does not allow the CI zoning district to be applied to additional properties in the future. Accordingly, ZDO-276 would repeal provisions in the Comprehensive Plan and ZDO related to the CI District.

23. Adopt "housekeeping" amendments related to AG/F, EFU, and TBR Districts:

ZDO-276 would make certain "housekeeping" amendments to sections of the ZDO governing the AG/F, EFU, and TBR zoning districts that are necessary to conform to existing state laws, clarify terms, correct typos, and update and standardize citations, without substantive changes to existing applicable rules in the ZDO.

24. Adopt "housekeeping" amendments to other generally applicable ZDO Sections:

ZDO-276 would also make non-substantive "housekeeping" amendments to ZDO Section 822 to correct typos, and to Section 1307 and 1310 to clarify rules for time extensions and standardize citations.

SIGNIFICANT ISSUES

Of the 24 actions that are proposed in ZDO-276, four were the focus of most discussion at the Planning Commission's study sessions last December and January, and at the BCC's policy session in February. They include those related to noticing distance increases (Action 1, Page 2); setbacks for kennels in rural residential areas (Action 2, Page 3); manufacturing and related wholesaling of consumable goods retailed on-site (Action 3, Page 3); and marijuana retailing operating hours (Action 21, Page 9).

1. ***Should the noticing distance for certain land use actions in rural areas be increased to ½ mile, as proposed in ZDO-276?***

   The proposal would increase the noticing distance to ½ mile for the following, if the subject property is in the AG/F, EFU, FF-10, FU-10, RA-1, RA-2, RC, RI, RR, RRFF-5, or TBR Districts:

   a. All Type III land use permit applications and their public hearings;
   b. All hearings for appeals of Type II applications; and
   c. All Type II applications for, and Planning Director decisions on, nonconforming use verification, nonconforming use alteration, or vested right determination

   On the one hand:

   - Increased mailings of land use notices could increase public awareness of, and involvement in, land use decision-making;
   - The land use applications that would be provided greater notice include those that typically have the most public interest or where public comments can have a more determinative impact on the decision, given their approval criteria; and
   - Increasing the noticing distance of only some land use actions in rural areas, as proposed in ZDO-276, is more cost and labor efficient than increasing the noticing of all land use actions[10].

   On the other hand:

   - Staff has estimated that ZDO-276's proposed notice increase could cost more than $4,000 in additional expenses per year in supplies and postage, while additional mailings would also require additional labor;
   - Because the proposal would not increase the noticing distance of all Type II applications, but would increase the noticing distance of *public hearings for appeals* of decisions on all Type II applications, there will be cases where property owners receive notice of an appeal hearing despite never having received notice of the original application or the Planning Director's decision to begin with, which may lead to confusion; and
   - The County provides other ways for the public to learn of land use actions, including from local Community Planning Organizations (CPOs) and various existing online resources.

2. ***Should the setbacks for kennels approved as a conditional use in the FF-10, RA-1, RA-2, or RRFF-5 Districts be reduced from 200 to 100 feet from property lines?***

   On the one hand:

   - Reducing the setback requirement could allow more properties to qualify for having a commercial kennel operation, thereby increasing business opportunities in the County and the availability of their services;
   - The generally-applicable conditional use permit criteria will still require an evaluation of every proposed kennel's specific operations, the unique characteristics of the subject

[10] Staff estimates that increasing the notice radius of all land use application types in rural areas, including all "Type II" applications, could cost more than $87,000 per year.

property, and potential impacts on the particular surrounding neighborhood, all regardless of the setback requirement. A public hearing would also still be required before the kennel could be approved;

- Even with a setback reduction to 100 feet in the ZDO, the County's Hearings Officer could still require a kennel to be setback any distance greater than 100 feet as necessary to satisfy conditional use permit approval criteria (i.e., not unduly impact the surrounding neighborhood); and
- Multnomah and Washington Counties have 100-foot setback requirements for similar uses in similar zones.

On the other hand:

- Given the number of variables that determine whether a kennel could be located on any particular property[11], the number of properties that would newly qualify for a kennel because of the setback reduction in ZDO-276 could not be computed; and
- If the conditional use criteria always require a review of the specific characteristics of proposed kennel, the subject property, and the surrounding area, a 100-foot setback may not be any more necessary than a 200-foot setback.

3. *Should manufacturing of edible or drinkable products retailed on site, and related wholesale distribution, be permitted in C-2, C-3, CC, OC, RTC, and SCMU Districts?*

On the one hand:

- Expanding allowed commercial uses in the County provides increased business and employment opportunities;
- All new development in any of these zoning districts would continue to require design review to evaluate elements such as parking, circulation, landscaping, building design, and utility service capacity;
- The use in the OC and SCMU zoning districts would be restricted to the same physical, operational, and square-footage restrictions applied to other types of manufacturing already permitted in these zoning districts;
- Allowing a site to have interdependent but operationally separate uses, with the manufacturing of goods potentially occurring at earlier hours of the day and their retailing occurring in later hours of the day, would increase the property's utility without necessarily leading to overlapping demands on services such as parking;
- Historic Downtown Oak Grove has supported allowing these land uses in the C-2 and C-3 Districts; and
- These uses are similar to those allowed in comparable zones of other nearby jurisdictions, including the City of Estacada, the City of Oregon City, the City of Sandy, and Washington County.

On the other hand:

- These uses may produce new smells, noise, and truck traffic; and
- Even if the use were permitted in these zoning districts, there may still be other barriers to the use being established (e.g., property characteristics and availability; utility service capacity; existing building capacity).

[11] There are many factors other than setbacks that determine whether a particular kennel could be located on a given property (e.g., the size of the kennel's facilities; the location of existing buildings; physical features of the property; availability of services; neighborhood characteristics). Moreover, the *number* and *shape* of a particular property's lot lines can be as determinative in whether a use meets a setback requirement as the *depth* of the setback.

4. ***Should the County repeal its own restrictions on marijuana retailing operating hours and allow such hours to only be regulated by the state?***

With the OLCC currently allowing marijuana retailers to operate between 7:00 a.m. and 10:00 p.m., repealing the County's more restrictive hours (10:00 a.m. to 9:00 p.m.) would give marijuana retailers four more hours per day to sell to their customers and to have customers on-site.

On the one hand:

- Additional operating hours would increase County business opportunities and may be more convenient to customers, including medical marijuana patients;
- Nearby jurisdictions, including Milwaukie, Oregon City, and Portland, allow marijuana retailing for more hours per day; therefore, repealing the County's more restrictive hours would remove a "competitive disadvantage" that County retailers have compared to retailers in these other jurisdictions;
- The County's land use laws do not regulate the operating hours of any other business type in a commercial zoning district – not even those of liquor stores, pharmacies, or retailers of tobacco products or CBD products derived from hemp;
- No longer having different operating hour restrictions between the County and the state would provide some regulatory clarity to retailers;
- Having customers, and therefore employees, on-site for more hours of the day may help to reduce overnight security concerns; and
- Extended operating hours may help to support social distancing if the same number of customers visit a retailer over a wider time period and the occupancy of the retailer's building at any one time is reduced.

On the other hand:

- There have been concerns that increased operating hours may lead to increased consumption of marijuana products and that increased consumption could then lead to negative health impacts;
- Relying only on the state to regulate the operating hours of marijuana retailers means that the allowed hours could be *any* that the state allows in the future – not necessarily the current (7:00 a.m. to 10:00 p.m.) OLCC limitation; and
- If increased operating hours of any business leads to increased on-site customer visits, the increased operating hours may undermine social distancing.

PUBLIC NOTICE & COMMENTS

Notice of the proposed amendments in ZDO-276 was sent to:

- All cities within the County
- All County Community Planning Organizations (CPOs) and Hamlets
- DLCD, ODOT, Oak Lodge Sanitary District and other interested agencies

Notice was also published in the newspaper and online. To date, Planning and Zoning has received six (6) written comments from members of the public, including comments from Historic Downtown Oak Grove.

ANALYSIS & FINDINGS

1. Statewide Planning Goals:

This section of the report includes findings on ZDO-276's consistency with Statewide Planning Goals. However, proposed Actions 7, 9, 10-18, and 23-24 (listed on Pages 5-9 of this report) are necessary to conform to state or federal mandates or otherwise do not warrant findings for consistency with Statewide Planning Goals.

Goal 1 – *Citizen Involvement*:
Goal 1 calls for "the opportunity for citizens to be involved in all phases of the planning process" and requires the County to have a citizen involvement program with certain features.

ZDO-276 does not propose any change to the *Citizen Involvement* chapter (Chapter 2) of the County's Comprehensive Plan. The only Comprehensive Plan amendments that would be made by ZDO-276 would be to Chapter 4, *Land Use*, and Table 4-1, *Land Use Plan Designations and Implementing Zoning Districts*, in order to remove references to a land use plan designation and zoning district that do not currently apply to any property in the County and could not be applied to other properties in the future.

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-276 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 ordinance and its scheduled hearings was published in *The Oregonian* more than 10 days in advance and has also been posted on County websites. Before a final decision on ZDO-276 can be made, there will have been at least two public hearings: one before the Planning Commission and another before the BCC.

ZDO-276 would amend Section 1307 to increase the noticing distance of certain land use actions that typically generate more public interest and for which the input of neighbors can be particularly helpful in the evaluation of approval criteria. This will increase the number of property owners who are mailed notice of land use applications, public hearings, and decisions, thereby further promoting the opportunity for members of the public to participate in the County's land use planning.

These amendments to Section 1307, and others proposed in ZDO-276, themselves respond to requests for consideration made by members of the public through development and adoption of the Work Program.

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-276 does not require an exception to any Statewide Planning Goal. With the ordinance's proposed amendments, the County's adopted and acknowledged Comprehensive Plan will continue to be consistent with Statewide Planning Goals, and the implementing regulations in the ZDO will continue to be consistent with those Goals and with the Comprehensive Plan.

This proposal is consistent with Goal 2.

Goal 3 – *Agricultural Lands*:
ZDO-276 would not amend Comprehensive Plan policies related to agricultural lands, nor would it change any property's land use plan designation or expand any UGB in to agricultural lands (i.e., those zoned EFU).

The only substantive amendments included with ZDO-276 that would impact agricultural lands are to codify in the ZDO existing state allowances/mandates and to authorize land uses as provided under state law. ZDO-276 would not permit new land uses in rural reserves.

This proposal is consistent with Goal 3.

Goal 4 – *Forest Lands*:
ZDO-276 would not amend Comprehensive Plan policies related to forest lands (i.e., those zoned AG/F or TBR), nor would it change any property's land use plan designation or expand any UGB in to forest lands.

The only substantive amendments that would impact forest lands are those necessary to codify existing state allowances/mandates and to authorize land uses as provided under state law. ZDO-276 would not permit new land uses in rural reserves.

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-276 would not make any change to the County's Comprehensive Plan goals, policies, or inventories, or to ZDO provisions, related to the protection of natural resources, or scenic, historic, or open space resources.

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. The amendments proposed in ZDO-276 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-276 would not change the County's acknowledged Comprehensive Plan policies or implementing regulations 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. The proposal would not change any existing, state-acknowledged County

Comprehensive Plan policy or implementing regulation regarding recreational needs, nor would it reduce or otherwise modify a mapped recreational resource.

This proposal is consistent with Goal 8.

Goal 9 – *Economic Development*:
Goal 9 requires the County to provide an adequate supply of land for commercial and industrial development. As noted earlier, ZDO-276 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. Rather, the ordinance includes ZDO amendments that would expand certain opportunities for commercial land uses in existing commercial zoning districts.

This proposal is consistent with Goal 9.

Goal 10 – *Housing*:
The purpose of Goal 10 is to meet housing needs. ZDO-276 would neither reduce nor expand the County's housing land supply, nor would it add new restrictions to housing development. ZDO-276 would lessen the restrictions to establishing ADUs and accessory historic dwellings, and would provide greater flexibility to developers of housing in the Metro UGB in how they may contribute to street frontage improvements.

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-276 does not propose any change in plans for the provision of water, sewer, or other public services. The new development in commercial zoning districts that would be authorized by the proposed amendments would still be required to obtain design review, which includes consideration of utility service capacity.

Goal 12 – *Transportation*:
The purpose of Goal 12 is to ensure that the County's transportation system is adequate to serve land uses. ZDO-276 would not amend the County's Transportation System Plan, nor would it change the land use plan designation or zoning of any property.

ZDO-276 would recognize that certain land uses in natural resource zoning districts are already allowed by the state, regardless of the County's transportation system, and would incorporate an existing, state-mandated prohibition on requiring one additional off-street vehicle parking space for ADUs in UGBs.

ZDO-276 would continue to require one additional off-street vehicle parking space for ADUs in the MRR District in the Mt. Hood Corridor, as the roads in that area of the County are often narrower and can be obstructed with snow, thereby limiting opportunities for on-street parking.

The new uses that the ordinance *optionally* proposes to allow in natural resource zoning districts, such as equine-affiliated therapeutic and counseling services and accessory dwellings for forest labor help, are expected to have negligible additional impacts on the County's transportation system. Indeed, it is estimated that no more than 60 properties across the County would even qualify for the accessory forest labor dwellings, and the proposed regulations would require that the accessory dwelling use the same driveway as the existing primary dwelling.

Staff also does not expect for the proposed repeal of the County's own operating hour restrictions for marijuana retailers to overwhelm the capacity of its existing or planned transportation network. Staff has seen no evidence that increasing their hours of operation would lead to additional vehicle or pedestrian traffic at any one time; in fact, increased operating hours could allow retailers to serve the same number of customers over a wider period of time, thereby *reducing* any traffic congestion.

ZDO-276 would also newly allow the manufacturing and related wholesale distribution of edible or drinkable products that are also retailed on the same site in certain urban commercial zoning districts. The retailing of these products is already permitted in these areas. Staff finds that allowing associated manufacturing would not have a significant negative impact on the County's transportation system, in part because, as suggested by community representatives who have advocated for allowing them, it is expected that manufacturing and wholesaling could occur at different hours than retailing. Moreover, all new development would continue to require design review, which includes consideration of parking, circulation, and frontage improvements.

Even with the proposed minimum setback reduction for commercial kennels in rural residential zoning districts, the use would still require approval of a conditional use permit. Similarly, while ZDO-276 would provide a pathway for approval of EFU land divisions resulting in parcels less than 80 acres when necessary for siting certain utilities, the utilities themselves would still have to be approved with a land use permit, which for most utilities would be a conditional use permit. The conditional use approval process will continue to require a review of the particular proposed kennel operation's potential traffic impacts.

The proposed amendments to the County's "FILO" program, which were recommended by representatives of the County's Development Review Team and the Transportation Engineering Division, would allow developers to pay a fee in lieu of constructing certain road frontage improvements that would not serve a meaningful purpose, and the revenues collected would go to fund pedestrian improvements elsewhere where they are needed, thereby improving the Metro UGB's pedestrian network.

Notice of ZDO-276 was provided to ODOT, who has not provided comments.

This proposal is consistent with Goal 12.

Goal 13 – *Energy Conservation*:
Goal 13 encourages land use plans to consider lot size, building height, density, and other measures in order to help conserve energy. The proposed amendments would not change any policy or implementing regulation regarding energy conservation.

This proposal is consistent with Goal 13.

Goal 14 – *Urbanization*:
The purpose of Goal 14 is to provide for an orderly and efficient transition from rural to urban land use, to accommodate urban population and urban employment inside urban growth boundaries, to ensure efficient use of land, and to provide for livable communities. The Goal primarily concerns the location of UGBs, the establishment of "urbanizeable areas" and unincorporated communities, exception lands, and rural industrial uses. ZDO-276 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, change the land use plan designation or zoning of any property, or allow any new uses in exception lands or industrial zoning districts.

This proposal is consistent with Goal 14.

Goal 15 – *Willamette River Greenway*:
ZDO-276 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, and are **not applicable to Clackamas County**.

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

ZDO-276 does not propose to change the County's residential, commercial, or industrial land supply or to modify any UGB. The ordinance would not change the housing density standards in any part of the County or allow any new retail use in any zoning district. The ordinance would also not change the boundaries of an urban or rural reserve, the dimensional standards of any use in an urban area, or any provision governing water resources, flood management areas, or open spaces.

For these reasons, the proposal is consistent with the Functional Plan.

3. Clackamas County's Comprehensive Plan
Staff finds that the following four chapters of the County's Comprehensive Plan 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.11 – Promote informed public participation in decisions through sponsoring or conducting education programs and providing publications and printed materials.*
>
> *2.A.13 – Insure that the County responds to citizen recommendations through appropriate mechanisms and procedures.*

As noted previously in this report, ZDO-276 would amend ZDO Section 1307, which implements the policies of Chapter 2, to increase the noticing distance of certain land use actions in rural areas that typically generate more public interest and for which the input of neighbors can be particularly helpful in the evaluation of approval criteria. This will increase the number of property owners who are mailed a printed notice of land use applications, public hearings, and

decisions, thereby further promoting the opportunity for members of the public to participate in the County's land use planning and inform land use applications.

ZDO-276 proposes this noticing distance amendment, as well as the amendments related to kennel setbacks and manufacturing in conjunction with on-site retail (Actions 2 and 3 on Page 3), to address three priority issues specifically identified in the 2019-2021 Long-Range Planning Work Program. The Work Program itself was adopted after a broad public input process and upon recommendations of the public.

Consideration of ZDO-276 has proceeded according to the noticing and public hearing requirements of ZDO Section 1307.

This proposal is consistent with Chapter 2.

Chapter 4 – *Land Use*:

ZDO-276 proposes text amendments that would expand permitted land uses, and make modifications to standards for land uses, in various zoning districts. Some of those proposed amendments are necessary to align the ZDO with existing state laws that would apply regardless of policies in Chapter 4 of the Comprehensive Plan.

Other proposed newly permitted uses, and modifications to use standards and criteria, are optional and warrant written findings that they are consistent with Chapter 4's goals and policies for the relevant land use plan designations.

Action 3 (Page 3) relates to manufacturing in conjunction with on-site retail in specific commercial zoning districts. As described elsewhere in this report, the action would allow a second, supporting use on a property where retailing is already permitted and would promote the local manufacture of retailed goods. Staff finds that this proposal would be consistent with the applicable Chapter 4 provisions for those zoning districts, including those for:

- General Commercial areas that are intended for a wide range of goods and services, including certain types of manufacturing;
- Community Commercial areas designated for local shopping and services, including larger-footprint establishments and other frequently patronized community services; and
- Corridor Commercial areas also intended for a mix of uses, including clean and light manufacturing.

In agricultural lands, Policy 4.OO.2 of Chapter 4 requires that agriculturally related industries be encouraged in agricultural areas. Staff finds that ZDO-276's proposal to allow equine-affiliated therapeutic and counseling services (Action 5, Page 4) would provide the opportunity for a new agricultural use or business.

In forest lands, Policies 4.PP.2, 4.PP.3, and 4.PP.4 respectively encourage forest-related industries, prohibit land uses that conflict with forest uses, and encourage the limitation of housing due to fire concerns. Staff finds that proposed Action 6 (Page 5) to allow an accessory dwelling for housing of a family member assisting in forestry practices is consistent with these policies. The accessory dwellings would serve as housing to workers engaged in forestry, and can only be located on parcels at least 80 acres in area and according to certain siting standards. Action 6's related ZDO amendments also include specific fire-protection measures required by state law.

Proposed Action 21 (Page 9) repealing the County's marijuana retailing operating hour limitations would not conflict with any policy for commercial land use designations in Chapter 4.

Proposed Action 2 would reduce the minimum setbacks for a commercial kennel in certain rural residential zones. However, the conditional use requirements for kennels would still require separate findings that any particular kennel is consistent with applicable Chapter 4 policies for land uses in those areas.

This proposal is consistent with Chapter 4.

Chapter 10 – *Community Plans and Design Plans*:
Two of ZDO-276's 24 proposed actions warrant review for consistency with Chapter 10 of the County's Comprehensive Plan, which includes policies related to the RTC and MRR Districts in the Mt. Hood area.

Proposed Action 3 (Page 3) allowing the manufacture of certain consumable goods retailed on-site in the RTC District would be consistent with the proposal to allow the same use in the C-2 District, which is the other of the two zoning districts implementing the Community Commercial land use plan designation. Allowing for additional uses of properties would help to promote the more urban environment Chapter 10 plans for. All new development in the RTC District would continue to have to meet specific design standards consistent with the design plans referenced by Chapter 10.

Proposed Action 19 (Page 8) would repeal the owner occupancy requirement for ADUs in the MRR District, which includes areas that are outside of UGBs but that have urban services, consistent with how ADUs are regulated in UGBs. By reducing a barrier to ADU development, the amendment could help to promote the kinds of urban housing densities that many of Chapter 10's *Mount Hood Community Plan* policies aim for.

This proposal is consistent with Chapter 10.

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

Chapter 11 of the Comprehensive Plan also contains the specific requirement that the Comprehensive Plan and ZDO be consistent with Statewide Planning Goals and with Metro's Urban Growth Management Functional Plan; Chapter 11 is what requires the ZDO itself to be consistent with the Comprehensive Plan. This report's *Analysis & Findings* beginning on Page 13 outlined how ZDO-276 is consistent with all of these requirements.

This proposal is consistent with Chapter 11.

4. 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-276. 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, Hamlets, and Villages, 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 finds that the proposed text amendments in Attachment A would best address the priorities identified in the adopted 2019-2021 Long-Range Planning Work Program, while meeting all applicable land use policies. Therefore, Staff recommends the Planning Commission recommend their approval by the Board of County Commissioners as drafted.

LIST OF ATTACHMENTS

A. Proposed text amendments, with summary outlines
B. 2019-2021 Long-Range Planning Work Program
C. Federal Communications Commission 2018 *Declaratory Ruling and Third Report and Order*
D. Clackamas County Roadway Standards for Small Wireless Facilities (Updated 2020)

Summary of Proposed Amendments to Comprehensive Plan Chapter 4, *Land Use*

1. Repeal provisions related only to the Campus Industrial (CI) Comprehensive Plan land use designation.

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:

1. Supply and location of land for urban uses
2. Density of residential uses
3. Intensity of commercial and industrial uses

4. Proximity of mutually supporting land uses
5. The cost impacts of various land uses
6. Compatibility or conflict between land uses
7. Competing demands for land having certain characteristics
8. Compatibility of city and County plans
9. Supply and location of land for rural uses
10. Preservation of land for agricultural and forestry uses
11. The character and appearance of neighborhoods
12. Compatibility of land use with supportive systems such as transportation and sewerage
13. Protection of natural features and waterways from the impact of development
14. 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:

1. Served by public facilities, including sanitary sewage treatment, water, storm drainage, and transportation facilities;
2. Included within boundaries of cities or within special districts capable of providing public facilities and planned to be served in the near future; or
3. 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 Subsection 7.1.b.

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:

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.
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.
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. 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.
5. A request shall be made to revise state and regional transportation plans to reflect the Concept Plan.
6. Public facilities plans shall be developed or revised to accommodate the Concept Plan.
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:

a. 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.

b. 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

The following policies apply to population planning and coordination.

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

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

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

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

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

URBAN GROWTH CONCEPT

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

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

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

DEFINITIONS

Growth Concept Design Types

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

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

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

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

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

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

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

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

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

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

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

GOALS

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

- Maintain the rural character of the landscape between the Urban Growth Boundary and neighboring cities.

4.H. Regional Center Policies

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

4.I. Corridor Policies

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

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

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

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

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

4.I.1.4 Provide for vehicular traffic and auto-oriented uses, while expanding the share

of trips via transit and other modes.

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

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

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

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

4.J. Station Community Policies

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

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

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

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

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

4.K. Employment Area Policies

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

4.K.1. Employment design type areas shall be developed to provide for a mix of employment and residential uses, including:

4.K.1.1 Industry, office and service uses,

4.K.1.2 Residential development,

4.K.1.3 Low traffic generating, land consumptive commercial uses with low parking demand which have community or region-wide market,

4.K.1.4 Limited retail uses appropriate in type and size to serve the needs of businesses, employees, and residents of the immediate Employment design

type area.

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

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

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

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

4.L. Industrial Area Policies

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

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

4.M. Regionally Significant Industrial Area Policies

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

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

4.M.2. Prohibit the siting of schools, places of assembly larger than 20,000 square feet, or

parks intended to serve people other than those working or residing in the Regionally Significant Industrial Area.

4.N. Neighborhood Policies

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

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

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

4.O. Future Urban Study Area Policies

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

4.P. Green Corridor Policies

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

RESIDENTIAL

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

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

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

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

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

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

GOALS

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

4.Q. General Residential Policies

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

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

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

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

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

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

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

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

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

4.R. Low Density Residential Policies

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

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

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

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

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

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.

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

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

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

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

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

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

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

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

4.R.4. Establish special development criteria and density standards in the following areas (see Policy 6.0 in the Natural Hazards section of Chapter 3, *Natural Resources and Energy*):

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

a. Avoid major hazard areas

b. Maintain the stability of the slope
c. Grade without large or successive pads or terraces and without creating road grades in excess of County standards
d. Maintain vegetation and natural terrain features to sustain slope stability
e. Ensure that existing natural rates of run-off and erosion are not exceeded
f. Protect visually significant slopes, ravines, ridgelines, or rock outcroppings in their natural state

4.R.4.2 In flood hazard areas or wetlands, the following development criteria, as well as the specifications in Chapter 3, shall be met:
a. Avoid major flood hazard areas
b. Maintain water quality and the natural function of the area to reduce or absorb flood runoff and to stabilize water flow
c. Protect wildlife habitats, significant vegetation, and trees
d. Protect any associated recreational values

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

4.S. Medium Density Residential Policies

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

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

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

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

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

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

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

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

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

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

4.T. Medium High Density Residential Policies

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

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

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

4.T.1.3. Areas adjacent to or within walking distance of a significant educational, cultural, recreational, or open space facility or area.

4.T.1.4. Areas located adjacent or in proximity to a designated commercial or industrial area on the Comprehensive Map.

4.T.1.5. Areas within 800 feet of a transit line or transit station or within one-quarter mile of such transit facility if easily accessible due to pedestrian amenities such as sidewalks, pedestrian ways, and streetlights.

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

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

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

4.U. High Density Residential Policies

4.U.1. 37.0 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), 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.

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:

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

a. Access to the site will meet transportation safety standards and not cause an unacceptable level of service on the Corridor street; and
b. The site can be developed consistent with access management plans that have been prepared for the Corridor street, e.g., Map X-SC-5, and consistent with access management requirements implemented by the Zoning and Development Ordinance and the County Roadway Standards.

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

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

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

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

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

4.AA.6.1. Developments shall be designed at a pedestrian scale, with pedestrian amenities provided and pedestrian-oriented design used to support non-auto trips to the facility.

4.AA.6.2. Developments shall be designed in a series of low-rise buildings.

4.AA.6.3. Buildings shall be oriented towards streets.

4.AA.6.4. Development shall be integrated with the neighborhood using secondary accesses or, at minimum, pedestrian-only access to adjacent residential areas.

4.AA.6.5. Strict development standards shall be applied to provide for high-quality building and site design.

4.AA.6.6. Sidewalks, drainage controls, underground utilities, and street lighting shall be required.

4.AA.6.7. Improvements to streets and/or pedestrian and transit access shall be required when necessary, prior to, or concurrent with development.

4.AA.6.8. Access shall be limited and defined to facilitate efficient and safe traffic movements. Joint access provisions for vehicular and pedestrian movement between developments shall be required when uses are complementary or compatible.

4.BB. General Commercial Policies

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

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

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

4.BB.3. Require sidewalks and bicycle facilities.

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

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

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

4.CC. Retail Commercial Policies

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

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

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

- 4.CC.3.1. Areas having an historical commitment to commercial uses.
- 4.CC.3.2. Areas necessary to serve the shopping needs of County residents.
- 4.CC.3.3. Areas having access to a street of at least a major arterial classification or to a high capacity transit corridor. Siting should not result in significant

traffic increase on local streets serving residential areas.

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

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

4.CC.3.6. Areas near employment centers.

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

4.CC.5. Require sidewalks and bicycle facilities.

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

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

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

INDUSTRIAL

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

~~The Campus Industrial designation shall be limited to areas currently designated as Campus Industrial.~~

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.

GOALS

- ~~Provide, via existing Campus Industrial land, attractive areas for mixed uses including clean, employment-intensive industrial and office uses integrated with housing.~~
- 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. Campus Industrial Policies**~~

~~4.DD.1. The Campus Industrial designation, and corresponding Campus Industrial zoning district, shall be limited to areas currently designated Campus Industrial.~~

~~4.DD.2. Determine permitted uses by zoning. Zoning of Campus Industrial areas shall be consistent with this Plan and the stated purpose of compatible zoning districts. The zone should allow light industrial uses which do not produce substantial noise, smoke, dust, noxious odors or truck traffic. Offices, high density residential uses, and commercial retail and service uses for employees and residents shall be allowed.~~

~~4.DD.3. Require a unified site design for all properties within the Campus Industrial district. Clearly identify entrances and exits within the area and integrate internal circulation~~

~~within the area.~~

~~4.DD.4. Require in all Campus Industrial development a minimum of 25 percent of the total developed area to be landscaped and integrated with the open space system. Landscaping may be shared between developments within the Campus Industrial district.~~

~~4.DD.5. Provide for pedestrian/bicycle circulation within the Campus Industrial area as well as access to transit corridors and, where applicable, to nearby medium or high density residential areas.~~

~~4.DD.6. Require curbs, drainage controls, underground utilities and street lighting.~~

~~4.DD.7. Require all Campus Industrial developments to be subject to the design review process.~~

4.EE. Business Park Policies

4.EE.1. Areas may be designated Business Park when all of the following criteria are met:
- 4.EE.1.1. Areas with good access to an existing or planned four-lane major arterial, expressway, or better road.
- 4.EE.1.2. Areas adjacent to a street of at least a collector status.
- 4.EE.1.3. Areas with significant natural or man-made amenities, as long as other criteria apply.

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

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

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

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

4.FF. Light Industrial Policies

4.FF.1. The following areas may be designated Light Industrial when either the first or all of the other criteria are met:
- 4.FF.1.1. Areas having an historical commitment to industrial uses.
- 4.FF.1.2. Areas with excellent access to the regional transportation network.
- 4.FF.1.3. Areas with access to a street of at least a minor arterial classification.
- 4.FF.1.4. Areas with sites large enough for several industries to cooperatively design an

industrial park.

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

4.FF.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.FF.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.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 and limit outdoor processing, outdoor storage and outdoor display 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. Require sidewalks when appropriate.

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

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

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

4.GG. General Industrial Policies

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

- 4.GG.1.1. Areas having an historical commitment to industrial uses.
- 4.GG.1.2. Areas with availability of rail service, access to navigable water, known mineral deposits or freeway access.
- 4.GG.1.3. Areas where buffering land uses or physical features provide protection for lower intensity land uses, particularly Low Density Residential areas.
- 4.GG.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.GG.1.5. Areas with sites large enough to accommodate expansion of individual establishments or serve several establishments within one district.

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

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

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

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

4.GG.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.GG.9. Require sidewalks, when appropriate.

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

4.GG.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.

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.HH. Open Space Policies

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

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

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

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

4.HH.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:

a. The flood fringe of 100-year floodplains

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

4.HH.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:
a. The floodway of 100-year floodplains
b. Areas of known landslide hazard
c. Areas of severe erosion, unstable soil, or earth movement

4.HH.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:
a. Parks and other recreation facilities
b. Cemeteries
c. Other publicly or commonly owned lands which function as open space

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

a. An evaluation of the proposed development's impact on the relevant natural systems or features of the open space network.
b. Identification of applicable provisions or criteria of this Plan.
c. Alternatives to the proposal which might better achieve the optimum siting or design layout and protect the site's open space values.
d. An evaluation of the potential for public acquisition or dedication as part of the urban park or trail system.

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

4.HH.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.HH.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.HH.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.HH.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.II. Floodplain Policies

4.II.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.II.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.II.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.II.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.II.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.II.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.II.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.II.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.

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.JJ. General Unincorporated Community Policies

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

4.JJ.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:
- a. commercial, industrial, or public uses; and/or
- b. dwelling units and associated residential lots at a greater density than exception lands outside Unincorporated Communities;

4.JJ.1.2. Lands planned and zoned for farm or forest use provided such land:
- a. is contiguous to Statewide Planning Goal 3 or 4 exception lands included in the community boundary;
- 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;
- c. includes only that portion of the lot or parcel that is occupied by the use(s) above; and
- d. remains planned and zoned for farm or forest use.

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

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

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

4.JJ.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.JJ.7. Limit industrial uses to:

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

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

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

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

4.JJ.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.JJ.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:

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;
b. That such uses would not rely upon a work force employed by uses within urban growth boundaries; and
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.JJ.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.JJ.8. Limit commercial uses to:

4.JJ.8.1. Uses authorized under Statewide Planning Goals 3 and 4;
4.JJ.8.2. Small-scale, low-impact uses as defined in OAR 660-022-0030(10); and
4.JJ.8.3. Uses intended to serve the community and surrounding rural area or the travel needs of people passing through the area.

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

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

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

4.JJ.13. Sewerage systems shall be contained within urban growth boundaries or Unincorporated Community boundaries, and shall not be allowed to expand to land outside of such boundaries, except as provided by the Oregon Revised Statutes for abandoned or diminished mill sites.

4.KK. Unincorporated Community Residential Policies

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

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

4.KK.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.

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.LL. Rural Commercial Policies

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

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

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

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

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.MM. Rural Industrial Policies

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

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

4.MM.3.1. Areas shall have an historical commitment to industrial uses; or (

4.MM.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.MM.3.3. Areas shall be located within an Unincorporated Community; and

4.MM.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.

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.NN. Rural Policies

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

4.NN.2.1. Reasons why additional Rural land is needed or should be provided;

4.NN.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.NN.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.NN.2.4. Reasons why designating the area Rural will be compatible with other adjacent uses;

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

4.NN.4.1. Parcelization;

4.NN.4.2. Level of existing development;

4.NN.4.3. Topography;

4.NN.4.4. Soil conditions;

4.NN.4.5. Compatibility with the types and levels of available public facilities;

4.NN.4.6. Proximity to Unincorporated Communities or an incorporated city; and
4.NN.4.7. Capacity and level of service of the road network

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

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

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

4.NN.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.NN.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.NN.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.NN.11.1. The RA-2 zoning district shall be applied when all the following criteria are met:

a. Parcels are generally two acres or smaller.
b. The area is significantly affected by development.
c. There are no natural hazards, and the topography and soil conditions are well suited for the location of homes.
d. A public or private community water system is available.
e. Areas are in proximity or adjacent to an Unincorporated Community or incorporated city.
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.NN.11.2. The RRFF-5 zoning district shall be applied when all the following criteria are met:

a. Parcels are generally five acres.
b. The area is affected by development.

c. There are no serious natural hazards, and the topography and soils are suitable for development.
d. Areas are easily accessible to an Unincorporated Community or incorporated city.

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

a. Parcels are generally ten acres.
b. The area is developed with a mixture of uses not consistent with extensive commercial agriculture or forestry uses.
c. Access to an Unincorporated Community or an incorporated city is generally poor.

4.NN.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.

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.OO. Agriculture Policies

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

4.OO.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.OO.1.2. Areas generally in parcels of 20 acres or larger;

4.OO.1.3. Areas primarily in agricultural use;

4.OO.1.4. Areas necessary to permit farming practices on adjacent lands or necessary to prevent conflicts with the continuation of agricultural uses;

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

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

4.OO.4. New sewer facilities shall not be allowed in Agricultural areas.

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

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

FOREST

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

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.PP. Forest Policies

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

4.PP.1.1. Lands suitable for forest use;

4.PP.1.2. Lands predominantly capable of generating at least 85 cubic feet of timber per acre per year;

4.PP.1.3. Areas generally in forest uses;

4.PP.1.4. Areas which are environmentally sensitive or otherwise require protection (watersheds, areas subject to erosion, landslides, etc.) should be designated Forest;

4.PP.1.5. Forested areas which buffer more intense land uses from areas of less intense use may be designated Forest.

4.PP.2. Encourage forest-related industries.

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

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

4.PP.6. Prohibit new sewer facilities in Forest areas.

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

4.PP.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.PP.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.

Summary of Proposed Amendments to Comprehensive Plan Chapter 4 Table 4-1: *Land Use Plan Designations and Implementing Zoning Districts*

1. Repeal provisions related only to the Campus Industrial (CI) Comprehensive Plan land use designation and implementing CI zoning district.

Table 4-1: Land Use Plan Designations and Implementing Zoning Districts

Land Use Plan Designation	Land Use Plan Designation Abbreviation	Implementing Zoning District	Implementing Zoning District Abbreviation
Agriculture	AG	Exclusive Farm Use	EFU
Buffer Open Space	BUF	Government Camp Open Space Management	GCOSM
Business Park	BP	Business Park	BP
~~Campus Industrial~~	~~CI~~	~~Campus Industrial~~	~~CI~~
Community Commercial	CC	Community Commercial Rural Tourist Commercial	C-2 RTC
Corridor Commercial	COR	Corridor Commercial	CC
Forest	F	Timber Ag/Forest	TBR AG/F
General Commercial	GC	General Commercial	C-3
General Industrial	GI	General Industrial	GI
High Density Residential	HDR	High Density Residential Neighborhood Commercial	HDR NC
Light Industrial	LI	Light Industrial	LI
Low Density Residential	LDR	Hoodland Residential Neighborhood Commercial Urban Low Density Residential R-2.5 Urban Low Density Residential R-5 Urban Low Density Residential R-7 Urban Low Density Residential R-8.5 Urban Low Density Residential R-10 Urban Low Density Residential R-15 Urban Low Density Residential R-20 Urban Low Density Residential R-30	HR NC R-2.5 R-5 R-7 R-8.5 R-10 R-15 R-20 R-30
Major Hazards Open Space[1]	MHOS	Various Urban Zoning Districts and Future Urban 10-Acre	Various
Medium Density Residential	MDR	Medium Density Residential Neighborhood Commercial Planned Medium Density	MR-1 NC PMD
Medium High Density Residential	MHDR	Medium High Density Residential Neighborhood Commercial	MR-2 NC
Mountain Recreation	MR	Mountain Recreational Resort	MRR
Office Apartment	OA	Office Apartment	OA
Office Commercial	OC	Office Commercial	OC
Planned Mixed Use	PMU[2]	Planned Mixed Use	PMU[2]
Public and Community Use Open Space	PCU	Open Space Management Government Camp Open Space Management	OSM GCOSM
Regional Center Commercial	RCC	Regional Center Commercial	RCC
Regional Center High Density Residential	RCHDR	Regional Center High Density Residential	RCHDR

Table 4-1: Land Use Plan Designations and Implementing Zoning Districts

Land Use Plan Designation	Land Use Plan Designation Abbreviation	Implementing Zoning District	Implementing Zoning District Abbreviation
Regional Center Office	RCO	Regional Center Office	RCO
Resource Protection Open Space[1]	RPOS	Various Urban Zoning Districts and Future Urban 10-Acre	Various
Retail Commercial	RTL	Retail Commercial	RTL
Rural	R	Farm Forest 10-Acre Recreational Residential Rural Area Residential 2-Acre Rural Residential Farm Forest 5-Acre	FF-10 RR RA-2 RRFF-5
Rural Commercial	RC	Rural Commercial	RC
Rural Industrial	RI	Rural Industrial	RI
Small Lot Single Family	SMLSF	Village Small Lot Residential	VR-4/5
Special High Density Residential	SHD	Special High Density Residential	SHD
Standard Lot Single Family	STLSF	Village Standard Lot Residential	VR-5/7
Station Community Mixed Use	SCMU	Station Community Mixed Use	SCMU
Unincorporated Community Residential	UCR	Rural Area Residential 1-Acre	RA-1
Village Apartment	VA	Village Apartment	VA
Village Community Service	VCS	Village Community Service	VCS
Village Office	VO	Village Office	VO
Village Townhouse	VTH	Village Townhouse	VTH
Various[3]	Various[3]	Future Urban 10-Acre	FU-10

Notes to Table 4-1:

[1] The Major Hazards Open Space and Resource Protection Open Space designations are overlay designations, applying in addition to one of the base urban designations.

[2] Planned Mixed Use sites are further designated by, and zoned with, a number, e.g., PMU-1.

[3] The FU-10 zoning district may be applied to future urban land, as provided for in the Urbanization section of this Chapter.

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

1. Reduce the minimum setback for a commercial dog kennel in the Farm Forest 10-Acre (FF-10), Rural Area 1-Acre (RA-1), Rural Area 2-Acre (RA-2), or Rural Residential Farm Forest 5-Acre (RRFF-5) Districts from 200 feet to 100 feet.

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

316.01 PURPOSE

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

316.02 APPLICABILITY

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

316.03 USES PERMITTED

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

B. As used in Table 316-1:

1. "P" means the use is a primary use.
2. "A" means the use is an accessory use.
3. "C" means the use is a conditional use, approval of which is subject to Section 1203, *Conditional Uses*.
4. "CPUD" means the use is allowed as a conditional use in a planned unit development.
5. "X" means the use is prohibited.
6. Numbers in superscript correspond to the notes that follow Table 316-1.

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

316.04 DIMENSIONAL STANDARDS

A. General: Dimensional standards applicable in the rural and future urban residential zoning districts are listed in Table 316-2, *Dimensional Standards in the Rural Residential and Future Urban Residential Zoning Districts*. As used in Table 316-2, numbers in superscript correspond to the notes that follow the table.

B. Modifications: Modifications to the standards in Table 316-2 are established by Sections 800, *Special Use Requirements*; 903, *Setback Exceptions*; 1012, *Lot Size and Density*; 1107, *Property Line Adjustments*; and 1205, *Variances*.

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

Use	RA-1	RA-2	RR	RRFF-5	FF-10	FU-10
Accessory Buildings and Uses, Customarily Permitted, such as amateur (Ham) radio antennas and towers, arbors, bicycle racks, carports, citizen band transmitters and antennas, cogeneration facilities, courtyards, decks, decorative ponds, driveways, electric vehicle charging stations, family child care homes, fountains, garages, garden sheds, gazebos, greenhouses, HVAC units, meeting facilities, outdoor kitchens, parking areas, patios, pergolas, pet enclosures, plazas, property management and maintenance offices, recreational facilities (such as bicycle trails, children's play structures, dance studios, exercise studios, playgrounds, putting greens, recreation and activity rooms, saunas, spas, sport courts, swimming pools, and walking trails), rainwater collection systems, satellite dishes, self-service laundry facilities, shops, solar energy systems, storage buildings/rooms, television antennas and receivers, transit amenities, trellises, and utility service equipment	A	A	A	A	A	A
Accessory Dwelling Units, subject to Section 839	A[1]	A[1]	X	A[1]	A[1]	A[1]
Accessory Historic Dwellings, subject to Section 843	A[2]	A[2]	A[2]	A[2]	A[2]	X
Accessory Kitchens	A[3]	A[3]	A[3]	A[3]	A[3]	A[3]
Aircraft Land Uses	X	X	X	C	C	C

Use	RA-1	RA-2	RR	RRFF-5	FF-10	FU-10
Aircraft Landing Areas	X	C	C[4]	X	X	X
Bed and Breakfast Inns, subject to Section 832	C	C	C	C	C	X
Bed and Breakfast Residences, subject to Section 832	C	C	C	C	C	C
Bus Shelters	P	P	P	P	P	P
Campgrounds	C	C	C	C	C	C
Cemeteries, subject to Section 808	C	C	X	C	C	C
Child Care Facilities	C	C	C	C	C	C[5]
Commercial or Processing Activities that are in Conjunction with Farm or Forest Uses[6]	X	X	X	C	C	X
Community Halls	CPUD	CPUD	CPUD	CPUD	CPUD	X[7]
Composting Facilities, subject to Section 834	X	X	X	C	C	X
Conservation Areas or Structures for the Conservation of Water, Soil, Forest, or Wildlife Habitat Resources	P	P	P	P	P	P
Crematories, subject to Section 808	C	C	X	X	X	X
Daycare Services, Adult	C	C	C	C	C	C[8]
Dwellings, Detached Single-Family	P[9]	P[9]	P[9]	P[9]	P[9]	P[9]
Dwellings, Two-Family	C[9]	X	X	X	X	X
Energy Source Development	X	X	C	X	X	X
Farmers' Markets, subject to Section 840	A	A	A	A	A	A
Farm Uses, including[6]**:**						
Raising, harvesting, and selling crops	P	P	P[10]	P	P	P
Feeding, breeding, management and sale of, or the produce of, livestock, poultry, fur-bearing animals, or honeybees	X[11]	P	X[11]	P	P	P
Dairying and the sale of dairy products	X[11]	P	X[11]	P	P	P
Any other agricultural or horticultural use or animal husbandry or any combination thereof	X[11]	P	X[11]	P	P	P

Use	RA-1	RA-2	RR	RRFF-5	FF-10	FU-10
Preparation, storage, and disposal by marketing or otherwise of the products or by-products raised on such land for human or animal use	P	P	P[10]	P	P	P
Propagation, cultivation, maintenance, and harvesting of aquatic, bird, and animal species that are under the jurisdiction of the Oregon Fish and Wildlife Commission, to the extent allowed by the rules adopted by the commission	X[11]	P	X[11]	P	P	P
Growing cultured Christmas trees	P	P	P[10]	P	P	P
Fish or Wildlife Management Programs	X	X	X	P	P	P
Forest Practices, including the following operations conducted on or pertaining to forestland: reforestation of forestland, road construction and maintenance, harvesting of forest tree species, application of chemicals, disposal of slash, and removal of woody biomass	P[12]	P[12]	P	P[12]	P[12]	P[12]
Fraternal Organization Lodges	C[13]	C[13]	C[13]	C[13]	C[13]	C[13]
Government Uses, unless such a use is specifically listed as a primary, accessory, conditional, or prohibited use in the applicable zoning district	C[13]	C[13]	C[13]	C[13]	C[13]	C[13]
Guest Houses, subject to Section 833	A	A	A	A	A	A
Guest Ranches and Lodges	X	X	C	X	X	X
Home Occupations, including bed and breakfast homestays, subject to Section 822[14]	A	A	A	A	A	A
Home Occupations to Host Events, subject to Section 806	C	C	C	C	C	C
Hydroelectric Facilities	C	C	C	C	C	C
Kennels	C[15]	C[15]	X	C[15]	C[15]	X
Libraries	CPUD	CPUD	CPUD	CPUD	CPUD	X[7]
Livestock, subject to Section 821	P	X[11]	A	X[11]	X[11]	X[11]

Use	RA-1	RA-2	RR	RRFF-5	FF-10	FU-10
Manufactured Dwellings, subject to Section 824	P[9]	P[9]	P[9]	P[9]	P[9]	P[9]
Marijuana Processing	X	X	X	X	X	X
Marijuana Production, subject to Section 841	X	X	X	A	A	X
Marijuana Retailing	X	X	X	X	X	X
Marijuana Wholesaling	X	X	X	X	X	X
Operations Conducted for the Exploration, Mining, or Processing of Geothermal Resources or Other Subsurface Resources	X	X	X	C	C	X
Places of Worship, subject to Section 804	C	C	C	C	C	C[16]
Produce Stands	A[17]	A[17]	A[17]	A[17]	A[17]	A[17,18]
Public Utility Facilities	C[13,19]	C[13,19]	C[13,19]	C[13,19]	C[13,19]	C[13,19]
Radio and Television Transmission and Receiving Towers and Earth Stations	C[13,20]	C[13,20]	C[13,20]	C[13,20]	C[13,20]	C[13,20]
Recreational Uses, including boat moorages, community gardens, country clubs, equine facilities, gymnastics facilities, golf courses, horse trails, pack stations, parks, playgrounds, sports courts, swimming pools, ski areas, and walking trails[21]	C[13]	C[13,22]	C[13]	C[13,22]	C[13,22]	C[13,22]

Use	RA-1	RA-2	RR	RRFF-5	FF-10	FU-10
Recreational Uses, Government-Owned, including amphitheaters; arboreta; arbors, decorative ponds, fountains, gazebos, pergolas, and trellises; ball fields; bicycle and walking trails; bicycle parks and skate parks; equine facilities; boat moorages and ramps; community buildings and grounds; community and ornamental gardens; courtyards and plazas; fitness and recreational facilities, such as exercise equipment, gymnasiums, and swimming pools; horse trails; miniature golf, putting greens, and sports courts; pack stations; parks; picnic areas and structures; play equipment and playgrounds; nature preserves and wildlife sanctuaries; ski areas; tables and seating; and similar recreational uses[21]	P[23]	P[23]	P[23]	P	P	P
Recreational Uses, Government-Owned Golf Courses[21]	P[23]	P[23]	P[23]	P	P	P
Recreational Vehicle Camping Facilities, subject to Section 813	C[13]	C[13]	C	C[13]	C[13]	X
Recyclable Drop-Off Sites, subject to Section 819	A[24]	A[24]	A[24]	A[24]	A[24]	A[24]

Use	RA-1	RA-2	RR	RRFF-5	FF-10	FU-10
Retailing—whether by sale, lease, or rent—of any of the following new or used products: apparel, appliances, art, art supplies, beverages, bicycle supplies, bicycles, books, cameras, computers, computer supplies, cookware, cosmetics, dry goods, electrical supplies, electronic equipment, flowers, food, furniture, garden supplies, hardware, interior decorating materials, jewelry, linens, medications, music (whether recorded or printed), musical instruments, nutritional supplements, office supplies, optical goods, paper goods, periodicals, pet supplies, pets, plumbing supplies, photographic supplies, signs, small power equipment, sporting goods, stationery, tableware, tobacco, toiletries, tools, toys, vehicle supplies, and videos.	CPUD[25]	X	X	X	X	X
Sanitary Landfills and Debris Fills	X	X	X	C	C	X
Schools, subject to Section 805	C[26]	C[26]	C	C[26]	C[26]	C[27]
Services, Commercial—Food and Beverage, including catering and eating and drinking establishments	CPUD[25]	X	X	X	X	X
Services, Commercial—Personal and Convenience, including barbershops, beauty salons, dry cleaners, laundries, photo processing, seamstresses, shoe repair, tailors, and tanning salons. Also permitted are incidental retail sales of products related to the service provided.	CPUD[25]	X	X	X	X	X
Services, Commercial—Studios of the following types: art, craft, dance, music, and photography	CPUD[25]	X	X	X	X	X
Signs, subject to Section 1010	A[28]	A[28]	A[28]	A[28]	A[28]	A[28]

Use	RA-1	RA-2	RR	RRFF-5	FF-10	FU-10
Surface Mining, subject to Section 818	X	X	X	C	C	X
Telephone Exchanges	C[13]	C[13]	C[13]	C[13]	C[13]	C[13]
Temporary Buildings for Uses Incidental to Construction Work. Such buildings shall be removed upon completion or abandonment of the construction work.	A	A	A	A	A	A
Temporary Storage within an Enclosed Structure of Source-Separated Recyclable/Reusable Materials Generated and/or Used On-site Prior to On-site Reuse or Removal by the Generator or Licensed or Franchised Collector to a User or Broker	A	A	A	A	A	A
Transfer Stations, subject to Section 819	X	X	C	X	X	C
Utility Carrier Cabinets, subject to Section 830	P,C[29]	P,C[29]	P,C[29]	P,C[29]	P,C[29]	P,C[29]
Wireless Telecommunication Facilities, subject to Section 835	See Table 835-1	See Table 835-1	See Table 835-1	See Table 835-1	See Table 835-1	See Table 835-1

[1] This use is permitted only inside of an urban growth boundary.

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

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

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

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

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

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

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

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

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

[11] In the RA-2, RRFF-5, FF-10, and FU-10 Districts, livestock is permitted as described under the use category of farm uses. In the RA-1 and RR Districts, livestock is permitted as described under the use category of livestock.

[12] For land inside the Portland Metropolitan Urban Growth Boundary, refer to Subsection 1002.02 regarding a development restriction that may apply if excessive tree removal occurs.

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

[14] A use may be permitted as a home occupation, subject to Section 822, even if such use is also identified in another use listing in Table 316-1.

[15] The portion of the premises used shall be located a minimum of ~~200~~ 100 feet from all property lines.

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

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

[18] In addition to selling produce grown on-site, a produce stand may sell agricultural products that are produced in the surrounding community in which the stand is located.

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

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

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

[22] Equine facilities are a primary use, subject to the following standards and criteria:

a. The number of horses shall be limited to no more than one horse per acre or five horses in total, whichever is less. Horses owned by the operator of the equine facility, or owned by a 501(c)(3) organization and being temporarily fostered by the operator of the equine facility, do not count toward the maximum number of horses. The one-horse-per-acre standard shall be calculated based on the area of the lot of record or tract on which the equine facility is located.

b. Services offered at the equine facility, such as riding lessons, training clinics, and schooling shows, shall be provided only to the family members and nonpaying guests of the operator of the equine facility, the owners of boarded horses, or the family members and nonpaying guests of the owners of boarded horses.

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

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

[25] The use is subject to the following standards and criteria:

a. The use shall be located in a planned unit development (PUD) with a minimum of 100 dwelling units. No building permit for the use shall be issued until a minimum of 100 dwelling units are constructed within the PUD.

b. The area occupied by all uses subject to Note 23 and located in a single PUD, including their parking, loading, and maneuvering areas, shall not exceed a ratio of one-half acre per 100 dwelling units in the PUD.

c. The use shall be an integral part of the general plan of development for the PUD and provide facilities related to the needs of residents of the PUD.

d. The use shall be located, designed, and operated to efficiently serve frequent trade and service needs of residents of the PUD and not persons residing elsewhere.

e. The use shall not, by reason of its location, construction, manner or hours of operation, signs, lighting, parking arrangements, or other characteristics, have adverse effects on residential uses within or adjoining the PUD.

f. The maximum building floor space per commercial use is 4,000 square feet except that no maximum applies to uses authorized under Oregon Statewide Planning Goals 3 and 4 and uses intended to serve the community and surrounding rural area or the travel needs of people passing through the area.

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

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

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

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

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

Standard	RA-1	RA-2	RR	RRFF-5	FF-10	FU-10
Minimum Lot Size[1]	1 acre[2,3]	2 acres[3]	2 acres	2 acres, provided that the minimum average lot size of all lots or parcels in a subdivision, partition, or replat is 5 acres[3,4,5,6]	10 acres[3,4,7]	10 acres[4]
Minimum Front Setback	30 feet[8]	30 feet[8]	15 feet, except 20 feet to garage and carport motor vehicle entries[9]	30 feet[8]	30 feet[8]	30 feet
Minimum Rear Setback	30 feet[10,11]	30 feet[10,12]	15 feet[10]	30 feet[10,12]	30 feet[10,12]	30 feet[12]
Minimum Side Setback	10 feet[10,13]	10 feet[10]	5 feet[10]	10 feet[10]	10 feet[10]	10 feet
Maximum Lot Coverage	None	None	40 percent	None	None	None

Standard	RA-1	RA-2	RR	RRFF-5	FF-10	FU-10
Minimum Building Separation above 3,500 Feet in Elevation	None	None	20 feet between buildings with contiguous snow slide areas	None	None	None

[1] The minimum lot size standards apply as established by Sections 1012 and 1107. Notwithstanding the minimum lot size standard, a lot of record may be developed subject to other applicable standards of this Ordinance, except:

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

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

[2] In a planned unit development, there is no minimum individual lot size. However, the minimum average lot size is one acre except for lots to be developed with a two-family dwelling, in which case the minimum average lot size is two acres. The average lot size is calculated by determining the lot area of the land proposed for subdivision, partition, or replat and dividing by the number of lots or parcels in the proposed planned unit development.

[3] The minimum lot size inside the Portland Metropolitan Urban Growth Boundary is 20 acres. The 20-acre minimum lot size is applicable to subdivisions, partitions, and Type II replats, but not to Type I replats or property line adjustments. Where this standard applies, it supersedes any other minimum lot size standard in Table 316-2.

[4] For the purpose of complying with the minimum lot size standard, lots with street frontage on County or public road rights-of-way may include the land area between the front lot line and the centerline of the County or public road right-of-way.

[5] The minimum lot size inside the urban growth boundaries of the cities of Canby, Estacada, Molalla, and Sandy is five acres.

[6] The average lot size is calculated by determining the lot area of the land proposed for subdivision, partition, or replat and dividing by the number of lots or parcels in the proposed partition, subdivision, or replat.

[7] In a planned unit development, the minimum individual lot size is two acres, except inside the urban growth boundaries of the cities of Canby, Estacada, Molalla, and Sandy, where the minimum individual lot size is five acres. In all cases, the minimum average lot size is 10 acres. The average lot size is calculated by determining the lot area of the land proposed for subdivision, partition, or replat and dividing by the number of lots or parcels in the proposed planned unit development.

[8] In a planned unit development, the minimum front setback is 20 feet.

[9] For a corner lot located above 3,500 feet in elevation, one of the minimum front setbacks is 10 feet, except 20 feet to garage and carport motor vehicle entries.

[10] In a planned unit development, there are no minimum rear and side setbacks except from rear and side lot lines on the perimeter of the final plat. Where this standard applies, it supersedes any other rear or side setback standard in Table 316-2.

[11] The minimum rear setback for an accessory building shall be five feet except as established by Note 10.

[12] The minimum rear setback for an accessory building shall be 10 feet except as established by Note 10.

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

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

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

1. Relocate, without substantively changing, the definition of "biofuel" to be consistent with Section 2 of Oregon House Bill 2844 (2019).

2. Relocate, without substantively changing, the definition of "facility for the processing of farm products", consistent with Section 2 of HB 2844.

3. Relocate a definition of "farm stand", amend the definition's phrasing, and codify the criteria for a farm stand to be consistent with Oregon Revised Statutes (ORS) 215.283(1)(o).

4. Make conforming amendments to citations and subsection designations.

5. Repeal the County's definition of "fee-based activity to promote the sale of farm crops or livestock", as used in criteria for a farm stand, and rely on the wording in Oregon Administrative Rules (OAR) 660-033-0130(23) for approval criteria.

6. Provide definitions for "farm crops of livestock" and "local agricultural area", as used in criteria for a farm stand, consistent with OAR 660-033-0130(23).

7. Update the definition of "owner", as used in the criteria for a Lot of Record Dwelling, to be consistent with ORS 215.705(6).

8. Provide a definition of "processing area", as used in the criteria for farm crop processing, consistent with Section 2 of HB 2844.

9. Make conforming amendments to the term for "facility for processing of farm products".

10. Modify criteria for the replacement dwellings in the EFU District, consistent with Oregon House Bill 3024 (2019).

11. Modify the terms for "relative farm help dwelling" and "accessory dwelling in conjunction with farm use" to be consistent with OAR 660-033-0130(9) and 660-033-0130(24), respectively.

12. Modify a reference to "residential home" as an allowed use in the EFU District to be consistent with ORS 197.660, without changing approval criteria.

13. Codify existing state allowances for cideries and farm breweries, and for agri-tourism and other commercial events on approved cideries and farm breweries, subject to applicable criteria in ORS 215.451 and 215.449.

14. Codify existing state allowances for a bed and breakfast facility as a home occupation in association with an approved cider business, farm brewery, or winery, subject to applicable criteria in ORS 215.448, 215.449, and 215.451-215.453.

15. Allow for equine and equine-affiliated therapeutic and counseling services, with approval criteria consistent with Oregon Senate Bill 1533 (2018).

16. Clarify, without substantively changing, a reference to the processing of farm crops in to biofuel as a potential type of commercial activity in conjunction with a farm use.

17. Modify terms for "farm practices" used in relation to composting operations and facilities, consistent with amendments made by Section 3 of HB 2844.

18. Provide for renewable energy facilities as a conditional use, consistent with Oregon House Bill 2329 (2019).

19. Clarify that certain new uses are not permissible in a Portland Metropolitan Area rural reserve.

20. Codify a provision in HB 2844 that exempts a facility for the processing of farm products that is less than 2,500 square feet from siting standards.

21. Codify the current requirements in OAR 660-033-0135(3), including the $40,000 income requirement, for a dwelling in conjunction with a farm use on Low Value Farmland.

22. Modify, without substantively changing, the wording of criteria for a dwelling not in conjunction with a farm use to be consistent with OAR 660-003-0130(4).

23. Repeal a criterion related to removal, demolition, and conversion of an accessory farm help dwelling that is not provided for in state law.

24. Codify the current requirements in OAR 660-033-0130(24) for an accessory dwelling in conjunction with a farm use and repeal criteria that are not provided for in state law.

25. Codify state allowances provided by Oregon House Bill 3384 (2019) for the expansion of nonconforming secondary schools.

26. Repeal a redundant provision related to redevelopment of a manufactured dwelling park.

27. Allow land divisions resulting in parcels smaller than 80 acres when for siting approved utilities, subject to standards required by Oregon Senate Bill 408 (2019).

28. Clarify, without substantively changing, the requirements for historic property land divisions and clarify that approved applications for Type II replacement dwellings are not afforded the same four-year approval period as certain other land use decisions.

29. Standardize spacing, capitalizations, and the formatting of references to state statutes and regulations and Zoning and Development Ordinance (ZDO) sections and subsections.

401 EXCLUSIVE FARM USE DISTRICT (EFU)

401.01 PURPOSE

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

401.02 APPLICABILITY

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

401.03 DEFINITIONS

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

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

B. Agricultural Land: As defined in Oregon Administrative Rules (OAR) 660-33-0020.

C. Biofuel: As defined in Oregon Revised Statutes (ORS) 315.141.

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

1. The land is used for the primary purpose of obtaining a profit in money from farm use;

2. The net income derived from farm products is significant; and

3. Products from the farm unit contribute substantially to the agricultural economy, to agricultural processors, and to farm markets.

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

~~E~~F. Dwelling: Unless otherwise provided in Section 401, a dwelling is a detached single-family dwelling or a manufactured dwelling.

G. Facility for the Processing of Farm Products: A facility or establishment for:

1. Processing farm crops, including the production of biofuel, if at least one-quarter of the farm crops come from the farm operation containing the facility; or

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

~~F~~H. Farm Operator: A person who resides on and actively manages a "farm unit".

~~G. Farm Stand: A structure located on a part of the farm operation owned by the farm operator that is designed and used for the sale of farm crops and livestock grown on the farm operation, or grown on the farm operation and other farm operations in the local agricultural area, 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 sale of the incidental items and fees from promotional activity do not make up more than 25 percent of the total sales of the farm stand; and 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.~~

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

~~I~~J. Farm Use: As defined in ~~Oregon Revised Statutes (~~ORS~~)~~ 215.203.

~~J. Fee-based Activity to Promote the Sale of Farm Crops or Livestock: A common farm-dependent accessory activity directly related to the sale of farm crops or livestock sold at the farm stand, such as, but not limited to, hay rides, corn mazes, and educational how-to-farm workshops, but not including activities with no direct relationship to the farm crops or livestock sold at the farm stand, such as, but not limited to, quilting classes, dance lessons, jewelry making, or crafts that are only intended to bring customers to the farm stand.~~

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

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

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

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

O. Noncommercial Farm: A parcel where all or part of the land is used for production of farm products for use or consumption by the owners or residents of the property, or which provides insignificant income.

P. Owner: For purposes of a l~~L~~ot of r~~R~~ecord d~~D~~welling, owner includes the spouses in a marriage ~~wife, husband~~, son, daughter, ~~mother, father~~parent, brother, brother-in-law, sister, sister-in-law, son-in-law, daughter-in-law, ~~mother~~parent-in-law, ~~father-in-law,~~ aunt, uncle, niece, nephew, ~~niece,~~ stepparent, stepchild, grandparent, or grandchild of the owner, or a business entity owned by any one or a combination of these family members.

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

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

S. Processing Area: The floor area of a building dedicated to farm product processing, not including the floor area designated for preparation, storage, or other farm use.

~~S~~T. Relative: For purposes of a Temporary Dwelling for Care, relative means a child, parent, stepparent, grandchild, grandparent, stepgrandparent, sibling, stepsibling, niece, nephew, or first cousin.

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

401.04 USES PERMITTED

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

A. As used in Table 401-1:

1. "A" means the use is allowed.

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

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

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

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

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

7. "N" means not applicable.

8. "*NA1" means the use is not allowed except as set forth in Subsection 401.05(J)(1).

9. "*NA2" means the use is not allowed except as set forth in Subsection 401.05(J)(1) or 401.05(J)(2) and (3).

10. "HV" means High Value Farmland.

11. "LV" means Low Value Farmland.

12. 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, *Dimensional Standards*; ~~Subsection 401.08, *Development Standards*;~~ Section 1000, *Development Standards*; and Section 1100, *Development Review Process*.

Table 401-1: Permitted Uses in the EFU District

	HV	LV	Use	Subject To
FARM AND FOREST USES	A	A	Propagation or harvesting of a forest product.	
	A	A	Farm use as defined in Oregon Revised Statutes (ORS) 215.203. Marijuana production is subject to Section 841.	
	A	A	Other buildings customarily provided in conjunction with farm use.	
	TYPE II	TYPE II	A facility for the processing of farm ~~crops or the production of biofuel as defined in ORS 315.141~~ products. Marijuana processing is subject to Section 841.[1]	401.05(B)(1) & (2)
	C	C	A facility for the primary processing of forest products.	401.05(B)(~~2~~3)
	HV	**LV**	**Use**	**Subject To**
NATURAL RESOURCE USES	A	A	Creation of, restoration of, or enhancement of wetlands.	
	TYPE II	TYPE II	The propagation, cultivation, maintenance, and harvesting of aquatic species that are not under the jurisdiction of the Oregon Fish and Wildlife Commission.	401.05(A)(1)

	HV	LV	Use	Subject To
RESIDENTIAL USES	A	A	Uses and structures customarily accessory and incidental to a dwelling, only if a lawfully established dwelling exists.	
	~~A~~	~~A~~	~~Alteration, restoration, or replacement of a lawfully established dwelling, subject to OAR 660-033-0130(8) excluding (d).~~	~~401.05(A)(3) & (C)(1)~~
	TYPE II	TYPE II	Alteration, restoration, or replacement of a lawfully established dwelling~~, subject to OAR 660-033-0130(8)(d)~~.	401.05(A)(3) & (C)(~~2~~1)
	TYPE II	TYPE II	Replacement dwelling to be used in conjunction with farm use if the existing dwelling has been listed in a County inventory as historic property and listed on the National Register of Historic Places.[2]	401.05(A)(3)
	N	TYPE II	Lot of r~~R~~ecord d~~D~~welling on Low Value Farmland.	401.05(A)(2), (3), (4) & (C)(~~3~~2)
	TYPE II	N	Lot of r~~R~~ecord d~~D~~welling on Class III or IV High Value Farmland.	401.05(A)(2), (3), (4) & (C)(~~4~~3)
	TYPE III	N	Lot of r~~R~~ecord d~~D~~welling on Class I or II High Value Farmland.	401.05(A)(2), (3), (4) & (C)(~~5~~4)
	TYPE II	N	Dwelling customarily provided in conjunction with a farm use on High Value Farmland.[2]	401.05(A)(3) & (C)(~~6~~5)
	N	TYPE II	Dwelling customarily provided in conjunction with a farm use on Low Value Farmland.[2]	401.05(A)(3) & (C)(~~7~~6)
	TYPE II	TYPE II	Dwelling customarily provided in conjunction with a commercial dairy farm.	401.05(A)(3) & (C)(~~8~~7)
	N	TYPE II	160 acre test for a dwelling.[2]	401.05(A)(3), (4) & (C)(~~9~~8)
	N	TYPE II	Capability test for a dwelling.[2]	401.05(A)(3), (4) & (C)(~~10~~9)
	TYPE II	TYPE II	A single-family dwelling not provided in conjunction with farm use; a nonfarm dwelling.	401.05(A)(3), (4) & (C)(~~11~~10)
	TYPE II	TYPE II	~~Accessory farmworker dwelling for a relative~~Relative Farm Help Dwelling.[2]	401.05(A)(3) & (C)(~~12~~11)
	TYPE II	TYPE II	Accessory ~~farmworker dwelling for year-round and seasonal farm workers~~Dwelling in Conjunction with Farm Use.[2]	401.05(A)(3) & (C)(~~13~~12)
	TYPE II	TYPE II	Dwelling on Low or High Value Farmland to be operated by a different farm operator on at least 80 acres.[2]	401.05(A)(3) & (C)(~~14~~13)
	TYPE II	TYPE II	Temporary dwelling for care, subject to Subsection 1204.04.	401.05(A)(1), (3) & (C)(~~15~~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 ~~or facility~~ as defined in ORS 197.660, in existing dwellings.	401.05(A)(1) & (3)

	HV	LV	Use	Subject To
COMMERCIAL USES	A	A	Family child care home.	
	A	A	Dog training classes.	401.05(D)(8)
	A	A	Dog testing trials.	401.05(D)(9)
	TYPE I	TYPE I	A license for an approved cider business, farm brewery, or winery to carry out the first six of 18-day 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~~, subject to OAR 660-033-0130(23) and ORS 215.283(1)(o).~~[3]	401.05(D)(10)
	TYPE II	TYPE II	Home occupations, subject to Section 822.	401.05(A)(1) & (D)(1)
	TYPE II	TYPE II	A landscape contracting business.	401.05(A)(1) & (D)(2)
	TYPE II	TYPE II	Agri-tourism single event.	401.05(A)(1) & (D)(3)
	TYPE II	TYPE II	Agri-tourism for up to 6 events or activities.	401.05(A)(1) & (D)(4)
	TYPE II	TYPE II	A cider business as described in and subject to ORS 215.451.	
	TYPE II	TYPE II	A farm brewery as described in and subject to ORS 215.449.	
	TYPE II	TYPE II	A winery as described in and subject to ORS 215.452 or 215.453, whichever is applicable, but not a restaurant open more than 25 days per calendar year.	
	~~TYPE II~~	~~TYPE II~~	~~A bed and breakfast facility as a home occupation in association with a winery, subject to ORS 215.448, as provided in ORS 215.452 or 215.453, whichever is applicable.~~	~~401.05(A)(1) & (D)(5)~~
	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)(5)
	TYPE II	TYPE II	Cider business, farm brewery, or ~~Winery~~ winery agri-tourism or other commercial events for days seven through 18 of the 18-day limit, subject to:	

			215.451(6)(c) for a cider business; ORS 215.449(6)(c) for a farm brewery; and ORS 215.237 and 215.452(6)(c) for a winery.	
	TYPE II	TYPE II	Equine and equine-affiliated therapeutic and counseling activities.[3]	401.05(A)(1) & (D)(11)
	C	C	Home occupation to host events, subject to Section 806.	401.05(A)(1) & (D)(1)
	C	C	Commercial activities in conjunction with farm use~~, including the processing of farm crops into biofuel~~ that exceed~~s~~ the standards of ORS 215.203(2)(b)(K) or Subsection 401.05(B)(1), such as the processing of farm crops into biofuel.[4]	401.05(A)(1)
	C	C	Agri-tourism additional events not to exceed 18 events on a minimum of 80 acres.	401.05(A)(1) & (D)(6)
	C	C	An aerial fireworks display business.	401.05(A)(1) & (D)(7)
	C	C	Commercial dog boarding kennels.	401.05(A)(1)
	C	C	Dog training classes or testing trials that cannot be established under Subsection 401.05(D)(8) or (9).	401.05(A)(1)

	HV	LV	Use	Subject To
MINERAL, AGGREGATE, OIL, AND GAS USES	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)
	HV	**LV**	**Use**	**Subject To**
TRANSPORTATION USES	A	A	Climbing and passing lanes within the right of way existing as of July 1, 1987.	
	A	A	Reconstruction or modification of public roads and highways, including the placement of utility facilities overhead and in the subsurface of public roads and highways along the public right-of-way, but not including the addition of travel lanes, where no removal or displacement of buildings would occur, or no new land parcels result.	
	A	A	Temporary public road and highway detours that will be abandoned and restored to original condition or use at such time as no longer needed.	

	HV	LV	Use	Subject To
TRANSPORTATION USES (cont.)	A	A	Minor betterment of existing public road and highway related facilities such as maintenance yards, weigh stations, and rest areas, within right of way existing as of July 1, 1987, and contiguous public-owned property utilized to support the operation and maintenance of public roads and highways.	
	TYPE II	TYPE II	Parking of no more than seven log trucks, subject to ORS 215.311	401.05(A)(1)
	TYPE II	TYPE II	Construction of additional passing and travel lanes requiring the acquisition of right-of-way but not resulting in the creation of new land parcels.	401.05(A)(1)
	TYPE II	TYPE II	Reconstruction or modification of public roads and highways involving the removal or displacement of buildings but not resulting in the creation of new land parcels.	401.05(A)(1)
	TYPE II	TYPE II	Improvement of public road and highway related facilities, such as maintenance yards, weigh stations, and rest areas, where additional property or right-of-way is required but not resulting in the creation of new land parcels.	401.05(A)(1)
	C	C	Roads, highways and other transportation facilities, and improvements not otherwise allowed under Section 401.	401.05(F)(1)
	C	C	Personal-use airports for airplanes and helicopter pads, including associated hangar, maintenance, and service facilities.	401.05(A)(1) &(F)(2)
	C	C	Transportation improvements on rural lands, subject to Oregon Administrative Rules (OAR) 660-012-0065.	
	HV	**LV**	**Use**	**Subject To**
UTILITY AND SOLID WASTE DISPOSAL FACILITY USES	A	A	Irrigation reservoirs, canals, delivery lines, and those structures and accessory operational facilities, not including parks or other recreational structures and facilities, associated with a district as defined in ORS 540.505.	
	A	A	Solar energy system as an accessory use.	
	A	A	Rainwater collection systems as an accessory use.	
	A	A	Electric vehicle charging stations for residents and their non-paying guests.	
	A	A	Meteorological towers.	
	See Table 835-1	See Table 835-1	The following types of wireless telecommunication facilities, subject to Section 835: level one collocations, level one placements on utility poles, and, provided that the wireless telecommunication facility includes a transmission tower over 200 feet in height, level two collocations.	
	A	A	Utility facility service lines. -Utility facility service lines are utility lines and accessory facilities or structures that end at the point where the utility service is received by the customer and are located on one or more of the following: a public right-of-way; land immediately adjacent to a public right-of-way provided the written consent of all adjacent property owners	

			has been obtained; and/or the property to be served by the utility.	
	HV	**LV**	**Use**	**Subject To**
UTILITY AND SOLID WASTE DISPOSAL FACILITY USES (cont.)	TYPE II	TYPE II	Essential public communication services, as defined in Section 835, if they include a new transmission tower over 200 feet in height.	401.05(A)(1)
	TYPE II	TYPE II	Utility facilities necessary for public service, including associated transmission lines as defined in ORS 469.300 and wetland waste treatment systems but not including commercial facilities for the purpose of generating electrical power for public use by sale or transmission towers over 200 feet in height. -This category includes wireless telecommunication facilities not otherwise listed in Table 401-1, *Permitted Uses in the EFU District*.	401.05(G)(2)
	TYPE II	TYPE II	Composting operations and facilities that are accepted farm~~ing~~ practices in conjunction with and auxiliary to farm use on the subject tract.	401.05(G)(3)
	*NA1	C	Composting operations and facilities (other than those that are accepted farm~~ing~~ 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) & (G)(4)
	*NA1	C	A site for the disposal of solid waste approved by the governing body of a city or county or both and for which a permit has been granted under ORS 459.245 by the Department of Environmental Quality together with equipment, facilities, or buildings necessary for its operation.	401.05(A)(1)
	HV	**LV**	**Use**	**Subject To**
PARKS, PUBLIC, AND QUASI-PUBLIC	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 468~~(~~B~~)~~.095.	
	HV	**LV**	**Use**	**Subject To**
PARKS, PUBLIC, AND QUASI-PUBLIC USES (cont.)	A	A	Onsite filming and activities accessory to onsite filming for 45 days or less.	
	TYPE II	TYPE II	A site for the takeoff and landing of model aircraft, including such buildings or facilities as may reasonably be necessary.	401.05(H)(1)
	TYPE II	TYPE II	Public parks and playgrounds.	401.05(A)(1), (5) & (H)(2)
	TYPE II	TYPE II	Fire service facilities providing rural fire protection services.	
	TYPE II	TYPE II	Community centers.	401.05(A)(1), (5) & (H)(3)
	TYPE II	TYPE II	Living history museum.	401.05(A)(1), (5) & (H)(4)
	TYPE II	TYPE II	Firearms training facility as provided in ORS 197.770(2).	401.05(A)(5)
	TYPE II	TYPE II	Expansion of existing county fairgrounds and activities directly relating to county fairgrounds governed by county fair boards established pursuant to ORS 565.210.	401.05(A)(1)
	TYPE II	TYPE II	A county law enforcement facility that lawfully existed on August 20, 2002, and is used to provide rural law enforcement services primarily in rural areas, including parole and post-prison supervision, but not including a correctional facility as defined under ORS 162.135.	401.05(A)(1)
	*NA1	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)
	*NA2	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)
	*NA1	C	Private parks, playgrounds, hunting and fishing preserves, and campgrounds.	401.05(A)(1), (5) & (H)(5)
	*NA1	C	Golf courses.	401.05(A)(1), (5) & (H)(6)
	HV	**LV**	**Use**	**Subject To**
OUTDOOR GATHERINGS	A	A	An outdoor mass gathering or other gathering described in ORS 197.015(10)(d).	401.05(I)(1)
	TYPE III	TYPE III	Any outdoor gathering subject to review of the Planning Commission under ORS 433.763.	401.05(I)(2)

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

[2] Farming of a marijuana crop shall not be used to demonstrate compliance with the approval criteria for a dwelling. (See ORS 475B.~~370~~526.)

~~[3] A farm stand shall not be used for the sale, or to promote the sale, of marijuana items. (See ORS 475B.370.)~~

[3] The use is prohibited in a Portland Metropolitan Area rural reserve.

[4] A commercial activity carried on in conjunction with a marijuana crop is prohibited. (See ORS 475B.~~370~~526.)

401.05 APPROVAL CRITERIA FOR SPECIFIC USES

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

A. General Criteria

1. Uses may be approved only where such uses:

   a. Will not force a significant change in accepted farm or forest practices on surrounding lands devoted to farm or forest use; and

   b. Will not significantly increase the cost of accepted farm or forest practices on surrounding lands devoted to farm or forest use.

2. The Natural Resources Conservation Service (NRCS) Web Soil Survey for Clackamas County shall be used to determine the soil classification and soil rating for a specific lot of record for a dwelling, with the following exception:

   a. For purposes of evaluating a l~~L~~ot of r~~R~~ecord d~~D~~welling application on high value farmland, the applicant may submit a report from a professional soils classifier whose credentials are acceptable to the Oregon Department of Agriculture that the soil class, soil rating or other soil designation should be changed; and submits a statement from the Oregon Department of Agriculture that the Director of Agriculture or the director's designee has reviewed the report and finds the analysis in the report to be soundly and scientifically based.

3. The landowner for the dwelling shall sign and record in the deed records for the County a document binding the landowner, and the landowner's successors in interest, prohibiting them from pursuing a claim for relief or cause of action alleging injury from farming or forest practices for which no action or claim is allowed under Oregon Revised Statutes (ORS) 30.936 or 30.937.

4. An approval to construct a dwelling may be transferred to any other person after the effective date of the land use decision.

5. No enclosed structure with a design capacity greater than 100 people, or group of structures with a total design capacity of greater than 100 people, shall be approved in connection with the use within three miles of an urban growth boundary, unless an exception is approved pursuant to ORS 197.732 and Oregon Administrative Rules (OAR) chapter 660, division 4, or unless the structure is described in a master plan adopted under the provisions of OAR chapter 660, division 34.

   a. Any enclosed structures or group of enclosed structures described in Subsection 401.05(A)(5) within a tract must be separated by at least one-half mile. ~~-~~For purposes of Subsection 401.05(A)(5), "tract" means a tract as defined by Subsection 401.03(T) that was in existence as of June 17, 2010.

   b. Existing facilities wholly within a farm use zone may be maintained, enhanced, or expanded on the same tract, subject to other requirements of law, but enclosed existing structures within a farm use zone within three miles of an urban growth boundary may not be expanded beyond the requirements of Subsection 401.05(A)(5).

B. Farm and Forest Uses

1. A facility for the processing of farm products ~~crops or the production of biofuel as defined in ORS 315.141 or an establishment for the slaughter, processing or selling of poultry or poultry products pursuant to ORS 603.038~~ shall ~~be located on a farm that provides at least one-quarter of the farm crops processed at the facility. If a building is established or used for the processing facility or establishment, the farm operator may not devote more than 10,000 square feet of floor area to the processing facility or establishment, exclusive of the floor area designated for preparation, storage, or other farm use. A processing facility or establishment must comply with all applicable siting standards but the standards may not be applied in a manner that prohibits the siting of the processing facility. Any division of a lot of record that separates a processing facility or establishment from the farm operation on which it is located is prohibited.~~:

a. Use less than 10,000 square feet for its processing area and comply with all applicable siting standards, but the standards may not be applied in a manner that prohibits the siting of the processing facility or establishment; or

b. Notwithstanding any applicable siting standard, use less than 2,500 square feet for its processing area.

2. Any division of a lot of record that separates a facility for the processing of farm products, as defined in 401.03(G), from the farm operation on which is located is prohibited.

~~2~~3. A facility for the primary processing of forest products shall not seriously interfere with accepted farm~~ing~~ 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)(~~2~~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)(~~2~~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 substantial evidence is provided that shows:

a. 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. ~~The dwelling was assessed as a dwelling for at least the previous five property tax years or less~~The dwelling to be altered, restored or replaced:~~; and~~

i. Was removed, destroyed or demolished, and:

A) The dwelling's tax lot does not have a lien for delinquent ad valorem taxes; and

B) Any removal, destruction or demolition occurred on or after January 1, 1973;

ii. 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. Is not described in 401.05(C)(1)(b)(i) or 401.05(C)(1)(b)(ii), and was assessed as a dwelling for purposes of ad valorem taxation:

A) For the previous five property tax years; or

B) 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. Replacement dwellings that currently have the features described in (1)(a) and assessment in (1)(b) above may be sited on any part of the same lot or parcel.~~

~~d~~c. For replacement of a lawfully established dwelling:

i. The dwelling to be replaced must~~, by building permit,~~ be removed, demolished or converted to an allowable nonresidential use:

~~i.~~ A) Within one year ~~from~~ after the date the replacement dwelling is certified for occupancy pursuant to ORS 455.055 ~~of the new dwelling~~; or

~~ii.~~ B) 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~~

~~iii. If a dwelling is removed to another off-site location, the applicant must obtain approval for the new location.~~

~~e~~d. ~~A~~ The replacement dwelling:

i. May be sited on any part of the same lot of record; and

ii. Must comply with applicable siting standards. However, the standards may not be applied in a manner that prohibits the siting of the replacement dwelling.

~~must comply with applicable building, plumbing, sanitation and other requirements relating to health and safety and to setbacks 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 owner of the dwelling to be replaced shall record in the deed records of the parcel that the replaced dwelling has been removed, demolished or converted.~~

~~g~~e. As a condition of approval, ~~If~~ if the dwelling to be replaced is located on a portion of the ~~parcel~~ lot of record that is not zoned EFU, the ~~owner~~ applicant shall execute and cause to be recorded ~~may place the new dwelling on EFU land but must record~~ in the deed records ~~an irrevocable deed statement~~statement deed restriction prohibiting the siting of another dwelling on ~~the non EFU~~that portion of the ~~parcel~~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 to the effect that the provisions of ORS 215.291 and ORS 215.283 regarding replacement dwellings have changed to allow the lawful siting of another dwelling.

f. Notwithstanding Subsection 401.05(C)(1)(d)(i), a replacement dwelling must be sited on the same lot of record:

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:

i. The deferred replacement permit:

A) Does not expire but, notwithstanding 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

B) May not be transferred, by sale or otherwise, except by the applicant to the spouse or a child of the applicant.

ii. The replacement dwelling must comply with applicable building codes, plumbing codes, sanitation codes and other requirements relating to health and safety or to siting at the time of construction. However, the standards may not be applied in a manner that prohibits the siting of the replacement dwelling.

~~2. Separately from Subsection 401.05(C)(1), a lawfully established dwelling may be altered, restored, or replaced if, when a land use application permit is submitted and substantial evidence is provided that shows:~~

~~a. The dwelling to be altered, restored, or replaced 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. Under this subsection a replacement dwelling permit is a land use decision which is not subject to expiration. The replacement dwelling must have been assessed as a dwelling until the value of the dwelling was eliminated and if the value was eliminated it must be as a result of either of the following circumstances:~~

~~i. The destruction (i.e., by fire or natural hazard), or demolition in the case of restoration of the dwelling; or~~

~~ii. The applicant establishes the dwelling was improperly removed from the tax rolls. "Improperly removed" means the dwelling has taxable value in its present state, or had taxable value when the dwelling was first removed from the tax roll or was destroyed by fire or natural hazard and the County stopped assessing the dwelling even though the current or former owner did not request removal of the dwelling from the tax roll.~~

~~c. The following siting standards shall apply when the dwelling qualifies for replacement under this subsection the replacement dwelling must be sited on the same 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 boundary of the parcel; 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.~~

~~d. The dwelling to be replaced is also subject to Subsections 401.05(C)(1)(d) through (g).~~

~~3~~2. Lot of r~~R~~ecord d~~D~~welling when determined to be located on Low Value Farmland, subject to the following criteria:

a. The lot of record on which the dwelling will be sited was lawfully created prior to January 1, 1985.

b. The lot of record has been under the continuous ownership of the present owner who either,

i. Acquired the lot of record prior to January 1, 1985, or

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

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

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

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

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

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

~~4~~3. Lot of r~~R~~ecord d~~D~~welling when determined to be located on High Value Farmland consisting predominantly of Class III and IV Soil, subject to the following criteria:

a. The lot of record on which the dwelling will be sited was lawfully created prior to January 1, 1985.

b. The lot of record has been under the continuous ownership of the present owner who either,

   i. Acquired the lot of record prior to January 1, 1985, or

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

c. The tract on which the dwelling will be sited does not include a dwelling.

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

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

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

g. The tract is no more than 21 acres.

h. The tract is bordered on at least 67 percent of its perimeter by tracts that are smaller than 21 acres, and at least two such tracts had dwellings on January 1, 1993; or, the tract is bordered on at least 25 percent of its perimeter by tracts that are smaller than 21 acres, and at least four dwellings existed on January 1, 1993, within one-quarter mile of the center of the subject tract. Up to two of the four dwellings may lie within an urban growth boundary, but only if the subject tract abuts an urban growth boundary.

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

~~5~~4. Lot of r~~R~~ecord d~~D~~welling when determined to be located on High Value Farmland consisting predominantly of Prime, Unique, Class I or II Soils, subject to the following criteria:

a. The lot of record on which the dwelling will be sited was lawfully created prior to January 1, 1985.

b. The lot of record has been under the continuous ownership of the present owner who either,

i. Acquired the lot of record prior to January 1, 1985, or

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

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

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

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

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

g. The lot of record cannot practicably be managed for farm use, by itself or in conjunction with other land, due to extraordinary circumstances inherent in the land or its physical setting that do not apply generally to other land in the vicinity. -Extraordinary circumstances include very steep slopes, deep ravines, rivers, streams, roads, railroads or utility lines or other similar natural or physical barriers that by themselves or in combination, separate the subject property from adjacent agricultural land and prevent it from being practicably managed for farm use by itself or together with adjacent or nearby farms. -A parcel that has been put to farm use despite the proximity of a natural barrier or since the placement of a physical barrier shall be presumed manageable for farm use.

h. The dwelling will not materially alter the stability of the overall land use pattern in the area.

i. The dwelling either will not seriously interfere with the preservation of big game winter range areas identified on Comprehensive Plan Map III-2,

Scenic and Distinctive Resource Areas, or can be adequately mitigated. (Estimated impacts and appropriate mitigation measures shall be submitted by the applicant and based on the best available data and assessment methods from the appropriate agency. ODFW suggests to the County that in the absence of mitigation measures, winter range is seriously impacted by residential densities which exceed one unit per 80 acres or one unit per 40 acres, if clustered within 200 feet).

~~6~~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.

~~7~~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 $~~32,500~~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~~as permitted in Subsection 401.05(C)(13)~~, 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~~the subject tract~~;

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.

~~8~~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)(~~6~~5)(a) or 401.05(C)(~~7~~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.

~~9~~8. 160 a~~A~~cre t~~T~~est, subject to the following criteria:

a. The parcel on which the dwelling will be located is at least 160 acres.

b. The subject tract is currently employed in a farm use.

c. The dwelling will be occupied by a person or persons who will be principally engaged in the farm use of the land, such as planting, harvesting, marketing or caring for livestock at a commercial scale.

d. Except as permitted in Subsection 401.05(C)(~~13~~12), there is no other dwelling on the subject tract; or

~~10~~9. Capability t~~T~~est, 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)(~~10~~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)(~~10~~9)(a).

e. The subject lot of record on which the dwelling is proposed is not less than 10 acres.

f. Except as permitted in Subsection 401.05(C)(~~13~~12), 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)(~~10~~9)(d).

~~11~~10. Dwelling not in c~~C~~onjunction 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~~ing~~ 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, t~~T~~he 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, ~~subject to~~ 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~~; and to the extent OAR 660-033-0130(4)(a)(D)(ii) is applicable~~;~~.~~

   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~~s~~, 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)(~~3~~2) through (~~5~~4) and (~~11~~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)(~~11~~10)(f) shall not requalify for special assessment unless, when combined with another contiguous lot of record, it constitutes a qualifying parcel.

~~12~~11. ~~Accessory Farm Dwelling – Relative~~Relative farm help dwelling: A relative farm help dwelling for a relative of the farm operator may be allowed subject to the following criteria:

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

b. The accessory farm dwelling shall be located on a lawfully created lot of record;

c. The accessory farm dwelling shall be occupied by child, parent, stepparent, grandchild, grandparent, stepgrandparent, sibling, stepsibling, niece, nephew or first cousin, of the farm operator or the farm operator's spouse, whose assistance in the management and farm use of the existing commercial farming operation, such as planting, harvesting, marketing or caring for livestock, is required by the farm operator.

d. The farm operator shall continue to play the predominant role in the management and farm use of the farm. -A farm operator is a person who operates a farm, doing the work and making the day-to-day decision about such things as planting, harvesting, feeding and marketing.

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

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

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

~~h. At any time the accessory farm dwelling is not used for farm help or the farm management plan is not implemented and maintained as approved in the land use application, the dwelling shall be removed, demolished or if not a manufactured dwelling, converted to a nonresidential accessory structure (change of occupancy permit) within 90 days.~~

h~~i~~. Any lot of record land division or property line adjustment which results in the location of any accessory farm dwelling on a lot of record separate from the farm use property for which it has been established is prohibited.

~~13~~12. Accessory ~~Farmworker Dwellings – Year-round and Seasonal Farm Workers~~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 on other commercial farms in the area,~~ and whose seasonal or year-round assistance in the management of the farm use, such as planting, harvesting, marketing or caring for livestock, is or will be required by the farm operator on the farm unit.

b. The accessory farm dwelling shall be located on a lawfully created lot of record;

c. The accessory farm dwelling shall be located:

i. On the same lot of record as the primary farm dwelling; or

ii. On the same tract as the primary farm dwelling when the lot of record on which the accessory farm dwelling will be sited is consolidated into a single parcel with all other contiguous lots of record in the tract; or

iii. On a lot of record on which the primary farm dwelling is not located, when the accessory farm dwelling is a manufactured dwelling and a deed restriction is filed with the County Clerk. The deed restriction shall require the manufactured dwelling to be removed when the lot of record is conveyed to another party. The manufactured dwelling may remain if it is re-approved pursuant to Section 401; or

iv. On any lot of record, when the accessory farm dwelling is limited to only attached multi-unit residential structures allowed by the

applicable state building code or similar types of farmworker housing as that existing on ~~the~~ 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)(~~13~~12)(c)(iv) shall be removed, demolished, or converted to a nonresidential use when farm worker housing is no longer required.

v. On a lot of record on which the primary farm dwelling is not located, when the accessory farm dwelling is located on a lot of record at least the size of the applicable minimum lot size and the lot of record complies with the gross farm income requirements of Subsection 401.05(C)(~~13~~12)(f)(i) or 401.05(C)(~~13~~12)(f)(ii), whichever is applicable.

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

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

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

i. On Low Value Farmland, the primary farm dwelling is located on a farm operation that is currently employed for farm use, as defined in ORS 215.203, on which the farm operator earned the lower of at least $~~32,500~~40,000 in gross annual income from the sale of farm products or gross annual income of at least the midpoint of the median income range of gross annual sales for farms in the County with the gross annual sales of $10,000 or more according to the 1992 Census of Agriculture, Oregon, in each of the last two years or three of the last five years or in an average of three of the last five years, or

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

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

~~h. Only gross annual income from land owned, not leased or rented, shall be counted.~~

h~~i~~. Any proposed land division or property line adjustment of a lot of record for an accessory farm dwelling approved pursuant to Subsection 401.05(C)(~~13~~12) shall not be approved. If it is determined that an accessory farm dwelling satisfies the requirements for a dwelling in conjunction with a farm use under Subsection 401.05(C)(~~6~~5) or (~~7~~6), a parcel may be created consistent with the minimum parcel size requirements in Subsection 401.07(A).

i~~j~~. An accessory farm dwelling approved pursuant to Subsection 401.05(C)(~~13~~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)(~~11~~10).

~~k. At any time the dwelling is not used for farm help or the farm management plan is not implemented and maintained as approved in the land use application, the dwelling shall be removed, demolished or if not a manufactured dwelling, converted to a nonresidential accessory structure (change of occupancy permit) within 90 days.~~

j~~l~~. "Farmworker", means an individual who, for an agreed remuneration or rate of pay, performs labor, temporarily or on a continuing basis, for a person in the production of farm products, planting, cultivating or harvesting of seasonal agricultural crops; or forestation or reforestation of land, including but not limited to planting, transplanting, tubing, precommercial thinning and thinning of trees or seedlings, the clearing, piling and disposal of brush and slash and other related activities.

k~~m~~. "Farmworker Housing", means housing limited to occupancy by farmworkers and their immediate families, and no dwelling unit of which is occupied by a relative of the owner or operator of the farmworker housing.

l~~n~~. "Relative", for the purposes of Subsection 401.05(C)(~~13~~12), means an ancestor, lineal descendant, or whole or half sibling of the owner or operator or the spouse of the owner or operator.

m~~o~~. "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.

~~14~~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)(~~6~~5)(a) or 401.05(C)(~~7~~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)(~~6~~5)(a) or 401.05(C)(~~7~~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)(~~14~~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.

~~15~~14. One manufactured dwelling, residential trailer, or recreational vehicle, in conjunction with an existing dwelling as a temporary use for the term of a hardship suffered by the existing resident or a relative of the resident. Within three months of the end of the hardship, the manufactured dwelling, residential trailer, or recreational vehicle shall be removed or demolished. A temporary residence approved under Subsection 401.05(C)(~~15~~14) is not eligible for replacement under Subsection 401.05(C)(1) ~~and (2)~~ as a permanent dwelling. On-site sewage disposal system review and removal requirements through the Septic and Onsite Wastewater Program also apply.

D. Commercial Uses

1. The home occupation shall not unreasonably interfere with other uses permitted in the EFU zoning district and shall not be used as justification for a zone change.

2. A landscape contracting business, as defined in ORS 671.520, or a business providing landscape architecture services, as described in ORS 671.318, if the

business is pursued in conjunction with the growing and marketing of nursery stock on the land that constitutes farm use.

3. A single agri-tourism or other commercial event or activity in a calendar year that is personal to the applicant and is not transferrable by sale of the tract, subject to ORS 215.239, 215.283(4)(a), and (6) and the following:

   a. Agri-tourism events shall not include any mass gatherings or other outdoor gatherings; and

   b. Agri-tourism events shall be "incidental and subordinate" to existing farm use on the tract. Incidental and subordinate means that the event or activity is strictly secondary and ancillary to on-site commercial farm uses or the commercial agricultural enterprises in the area in terms of income generated, area occupied, and off-site impacts; and

   c. "Agri-tourism", means a commercial event or activity that is logically, physically, and/or economically connected to and supports an existing on-site farm operation and promotes the practice of agriculture.

4. Agri-tourism for up to six events or other commercial events or activities in a calendar year that is personal to the applicant and is not transferrable by sale of the tract, subject to ORS 215.239, 215.283(4)(c), and (6) and the following:

   a. Agri-tourism events shall not include any mass gatherings or other outdoor gatherings; and

   b. Agri-tourism events shall be "incidental and subordinate" to existing farm use on the tract. Incidental and subordinate means that the event or activity is strictly secondary and ancillary to on-site commercial farm uses or the commercial agricultural enterprises in the area in terms of income generated, area occupied, and off-site impacts; and

   c. "Agri-tourism", means a commercial event or activity that is logically, physically, and/or economically connected to and supports an existing on-site farm operation and promotes the practice of agriculture.

5. A cider business, farm brewery, or winery bed and breakfast facility ~~as provided for in ORS 215.452 and 215.453~~ as a home occupation subject to ORS 215.448, on the same tract as ~~a~~ the approved cider business, farm brewery, or winery and in association with that~~e~~ cider business, farm brewery, or winery, and the following:

   a. May prepare and serve two meals per day to registered guests of the bed and breakfast facility; and

b. Meals may be served at the bed and breakfast facility or at the cider business, farm brewery, or winery.

6. Up to 18 agri-tourism or other commercial events or activities in a calendar year, on a minimum 80 acre lot of record, subject to ORS 215.239, 215.283(4)(d), (5), and (6) and the following:

   a. Agri-tourism events shall not include any mass gatherings or other outdoor gatherings, and

   b. Agri-tourism events shall be "incidental and subordinate" to existing farm use on the tract. Incidental and subordinate means that the event or activity is strictly secondary and ancillary to on-site commercial farm uses or the commercial agricultural enterprises in the area in terms of income generated, area occupied, and off-site impacts; and

   c. "Agri-tourism", means a commercial event or activity that is logically, physically and/or economically connected to and supports an existing on-site farm operation and promotes the practice of agriculture.

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

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

8. Dog training classes, which may be conducted outdoors or in preexisting farm buildings that existed on January 1, 2013, when:

   a. The number of dogs participating in training does not exceed 10 dogs per training class; and

   b. The number of training classes to be held on-site does not exceed six per day.

9. Dog testing trials, which may be conducted outdoors or in preexisting farm buildings that existed on January 1, 2013, when:

   a. The number of dogs participating in a testing trial does not exceed 60; and

b. The number of testing trials to be conducted on-site is limited to four or fewer trials per calendar year.

10. Farm stands if:

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

b. The farm stands do not include structures designed for occupancy as a residence or for activities other than the sale of farm crops and livestock and does not include structures for banquets, public gatherings or public entertainment.

c. As used in Subsection 401.05(D)(10), "farm crops or livestock" includes both fresh and processed farm crops and livestock grown on the farm operation, or grown on the farm operation and other farm operations in Oregon. As used in 401.05(D)(10)(c), "processed crops and livestock includes jams, syrups, apple cider, animal products and other similar farm crops and livestock that have been processed and converted into another product but not prepared food items.

d. Farm stands may not be used for the sale, or to promote the sale, of marijuana items.

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

a. The activities are conducted in existing buildings that were lawfully constructed on the property before January 1, 2019, or in new buildings that are accessory, incidental and subordinate to the farm use on the tract; and

b. All individuals conducting therapeutic or counseling activities are acting within the proper scope of any licenses required by the state.

E. Mineral, Aggregate, Oil, and Gas Uses

1. Mineral, Aggregate, Oil and Gas Uses: Pursuant to ORS 215.298 a land use permit is required for mining more than 1000 cubic yards of material or excavation preparatory to mining of a surface area of more than one acre. -A permit for mining of aggregate shall be issued only for a site included on an inventory acknowledged in the Comprehensive Plan for the following:

a. Operations conducted for mining, crushing, or stockpiling of aggregate and other mineral and other subsurface resources, subject to ORS 215.298.

b. Processing as defined by ORS 517.750 of aggregate into asphalt or Portland cement; and

i. New uses that batch and blend mineral and aggregate into asphalt cement may not be authorized within two miles of a planted vineyard. Planted vineyard means one or more vineyards totaling 40 acres or more that are planted as of the date the application for batching and blending is filed.

c. Processing of other mineral resources and other subsurface resources.

d. Operations conducted for mining and processing of geothermal resources as defined by ORS 522.005 and oil and gas as defined by ORS 520.005 not otherwise permitted under Section 401.

F. Transportation Uses

1. Roads, highways and other transportation facilities, and improvements not otherwise allowed under Section 401 may be established, subject to the adoption of an exception to Goal 3~~,~~ (*Agricultural Lands*), and to any other applicable goal with which the facility or improvement does not comply. In addition, transportation uses and improvements may be authorized under conditions and standards as set forth in OAR 660-012-0035 and 660-012-0065.

2. A personal-use airport means an airstrip restricted, except for aircraft emergencies, to use by the owner, and, on an infrequent and occasional basis, by invited guests, and by commercial aviation activities in connection with agricultural operations. No aircraft may be based on a personal-use airport other than those owned or controlled by the owner of the airstrip. Exceptions to the activities allowed under this definition may be granted through waiver action by the Oregon Department of Aviation in specific instances. A personal-use airport lawfully existing as of September 13, 1975, shall continue to be allowed subject to any applicable rules of the Oregon Department of Aviation.

G. Utility and Solid Waste Disposal Facility Uses

1. Wind energy power production systems as an accessory use, provided:

a. The system is not a commercial power generating facility;

b. No turbine has an individual rated capacity of more than 100kW, nor does the cumulative total rated capacity of the turbines comprising the installation exceed 100 kW;

c. The system complies with the Oregon Department of Environmental Quality noise standards otherwise applicable to commercial and industrial uses for quiet areas, measured at the nearest property line of the noise-sensitive use. -This may be demonstrated through information provided by the manufacturer;

d. The system is prohibited if tower lighting for aviation safety is required;

e. The system will be located outside an urban growth boundary on a minimum of one acre;

f. The system does not exceed 150 feet in height from base to the height of the tower plus one blade;

g. The system is set back a distance not less than the tower height plus one blade from all property lines; and

h. Roof mounted system towers shall extend no more than an additional five feet above the highest ridge of a building's roof or 15 feet above the highest eave, whichever is higher, but shall not exceed 150 feet in height from finished grade.

2. A utility facility necessary for public service may be established as provided in OAR 660-033-0130(16)(a) and ORS 215.275 and 215.276, or, if the utility facility is an associated transmission line, as provided in OAR 660-033-0130(16)(b) and ORS 215.274 and 215.276.

3. Composting operations and facilities

a. Must:

i. Compost only on-farm produced compostable materials; or

ii. Compost only off-site materials and use all on-site generated compost for on-farm production in conjunction with, and auxiliary to, the farm use on the subject tract; or

iii. Compost any off-site materials with on-farm produced compostables and use all on-site generated compost for on-farm production in conjunction with, and auxiliary to, the farm use on the subject tract;

b. Must be an accepted farm~~ing~~ 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 ~~preclude~~ 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 ~~Oregon Administrative Rule~~OAR chapter 660, ~~D~~division 4; and

a. Permanent features of a power generation facility shall not use, occupy, or cover ~~preclude~~ more than 12 acres from use as a commercial agricultural enterprise unless an exception is taken pursuant to ORS 197.732 and OAR chapter 660, division 4. -A power generation facility may include on-site and off-site facilities for temporary workforce housing for workers constructing a power generation facility. Such facilities must be removed or converted to an allowed use under OAR 660-033-0130(19) (a private campground) or other statute or rule when the project construction is complete. Temporary workforce housing facilities not included in the initial approval may be considered through a minor amendment request. A minor amendment request shall be subject to 401.05(A)(1) and shall have no effect on the original approval.

H. Parks, Public, and Quasi-public Uses

1. Buildings and facilities associated with a site for the takeoff and landing of model aircraft shall not be more than 500 square feet in floor area or placed on a permanent foundation unless the building or facility preexisted the use approved under Subsection 401.05(H)(1). The site shall not include an aggregate surface or hard surface area unless the surface preexisted the use approved under Subsection 401.05(H)(1). An owner of property used for the purpose authorized in Subsection 401.05(H)(1) may charge a person operating the use on the property rent for the property. An operator may charge users of the property a fee that does not exceed the operator's cost to maintain the property, buildings and facilities. As used in Subsection 401.05(H)(1), "model aircraft" means a small-scale version of an airplane, glider, helicopter, dirigible or balloon that is used or intended to be used for flight and is controlled by radio, lines, or design by a person on the ground.

2. Public parks including only the uses specified under OAR 660-034-0035 or 660-034-0040, whichever is applicable. A public park may be established consistent with the provisions of ORS 195.120.

3. Community centers owned by a governmental agency or a nonprofit community organization and operated primarily by and for residents of the local rural community. -A community center authorized under Subsection 401.05(H)(3) may provide services to veterans, including but not limited to emergency and transitional shelter, preparation and service of meals, vocational and educational counseling and referral to local, state or federal agencies providing medical, mental health, disability income replacement and substance abuse services, only in a facility that is in existence on January 1, 2006. The services may not include direct delivery of medical, mental health, disability income replacement or substance abuse services.

4. "Living History Museum" means a facility designed to depict and interpret everyday life and culture of some specific historic period using authentic buildings, tools, equipment and people to simulate past activities and events. As used in Subsection 401.05(H)(4), a living history museum shall be related to resource based activities and shall be owned and operated by a governmental agency or a local historical society. A living history museum may include limited commercial activities and facilities that are directly related to the use and enjoyment of the museum and located within authentic buildings of the depicted historic period or the museum administration building, if areas other than an exclusive farm use zone cannot accommodate the museum and related activities or if the museum administration buildings and parking lot are located within one quarter mile of an urban growth boundary. "Local historical society" means the local historical society, recognized as such by the county governing body and organized under ORS chapter 65.

5. Private parks, playgrounds, hunting and fishing preserves, and campgrounds. A campground is an area devoted to overnight temporary use for vacation, recreational, or emergency purposes, but not for residential purposes and is established on a site or is contiguous to lands with a park or other outdoor natural amenity that is accessible for recreational use by the occupants of the campground.

   a. Except on a lot of record contiguous to a lake or reservoir, private campgrounds shall not be allowed within three miles of an urban growth boundary unless an exception is approved pursuant to ORS 197.732 and OAR c~~C~~hapter 660, d~~D~~ivision 4.

   b. A campground shall be designed and integrated into the rural agricultural and forest environment in a manner that protects the natural amenities of the site and provides buffers of existing native trees and vegetation or other natural features between campsites.

   c. Campsites may be occupied by a tent, travel trailer, yurt, or recreational vehicle.

   d. Separate sewer, water, or electric service hook-ups shall not be provided to individual campsites except that electrical service may be provided to yurts allowed for by Subsection 401.05(H)(6)(g).

   e. Campgrounds authorized by Subsection 401.05(H)(6) shall not include intensively developed recreational uses such as swimming pools, tennis courts, retail stores, or gas stations.

   f. Overnight temporary use in the same campground by a camper or camper's vehicle shall not exceed a total of 30 days during any consecutive six-month period.

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

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

I. Outdoor Gatherings

1. An outdoor mass gathering as defined in ORS 433.735 or other gathering of 3,000 or fewer persons that is not anticipated to continue for more than 120 hours in any three-month period. -Agri-tourism and other commercial events or activities may not be permitted as mass gatherings under ORS 215.283(4).

2. Any outdoor gathering of more than 3,000 persons that is anticipated to continue for more than 120 hours in any three-month planning period is subject to review by the Planning Commission under the provisions of ORS 433.763. -Outdoor gatherings may not include agri-tourism events or activities.

J. Nonconforming Uses

1. Existing facilities wholly within a farm use zone may be maintained, enhanced, or expanded on the same tract, subject to other requirements of law. An existing golf course may be expanded consistent with the requirements of Subsection 401.05(A)(1) and OAR 660-033-0130(20), but shall not be expanded to contain more than 36 total holes.

2. ~~In addition to and not in lieu of the authority in~~Notwithstanding ORS 215.283, Section 1206, or any other provision of this Ordinance, ~~to continue, alter, restore, or replace a nonconforming use~~, a public or private school~~s~~, ~~as~~ 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, ~~subject to~~provided:

   a. ~~The requirements of Subsection 401.05(J)(3)~~The expansion complies with 401.05(A)(1); ~~and~~

   b. ~~Conditional approval as provided in Subsection 401.05(A)(1)~~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 ~~use~~ public or private school described in Subsection 401.05(J)(2) may be expanded ~~if~~without regard to:

   a. ~~The use was established on or before January 1, 2009~~Capacity of people in the structure or group of structures; ~~and~~

b. ~~The expansion occurs on~~Distance between structures;~~:~~ or

~~i. The lot of record on which the use was established on or before January 1, 2009; or~~

~~ii. A lot of record that is contiguous to the lot of record described in Subsection 401.05(J)(3)(b)(i) and that was owned by the applicant on January 1, 2009.~~

c. 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.~~09~~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 DEVELOPMENT STANDARDS~~

~~A. Manufactured Dwelling Parks: Redevelopment of a manufactured dwelling park with a different use shall require compliance with Subsection 825.03.~~

401.~~09~~08 LAND DIVISIONS

A. Land divisions that are prohibited under Oregon Administrative Rules (OAR) 660-033-0100(8) and (9):

1. A land division that separates a temporary dwelling for care, relative farm help dwelling, home occupation or processing facility from a parcel on which the primary residential or other primary use exists is prohibited.

2. A land division of a parcel created before January 1, 1993, on which a nonfarm dwelling was approved is prohibited.

B. Land divisions are permitted, if consistent with one of the following options and Subsections 1105.01(A) and 1105.07. -A land division pursuant to Subsection 401.~~09~~08(C) shall require review of a Type I application pursuant to Section 1307, *Procedures*. -A land division pursuant to Subsection 401.~~09~~08(D), (E), (F), (G), or (H) shall require review of a Type II application pursuant to Section 1307.

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

D. 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~~A fire service facility~~ and for nonfarm uses, except dwellings, set out in ORS 215.283(2), if the parcel for the fire service facility or nonfarm use is not larger than the minimum size necessary for the use;~~.

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

c. If the parcel to be divided is outside of a Portland Metropolitan Area rural reserve, 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 401.08(D)(1)(c) may not later be rezoned for retail, commercial, industrial, or other nonresource use, except as provided under the statewide planning goals or under ORS 197.732.

E. 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)(~~11~~10)(a), (b), (d), (e), and (f) for a dwelling are satisfied.

F. Parks/Open Space/Land Conservation Land Divisions: A land division for a provider of public parks or open space, or a not-for-profit land conservation organization, may be approved subject to ORS 215.263(10) and Subsection 401.05(A)(1). In addition, the owner of any parcel not containing a dwelling shall sign and record in the County deed records an irrevocable deed restriction prohibiting the owner and the owner's successors in interest from pursuing a cause of action or claim of relief alleging an injury from farming or forest practices for which no claim or action is allowed under ORS 30.936 or 30.937.

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

H. 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.~~10~~09 SUBMITTAL REQUIREMENTS

In addition to the submittal requirements identified in Subsection 1307.07(C), *Application Submittal and Completeness Review*, 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.~~11~~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~~ORS ~~C~~chapter 92, deeds with the legal descriptions of the new parcels shall be recorded with the County Clerk; or

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

B. Time Extension: If the approval of a Type I, II, or III application is not implemented within the initial approval period established by Subsection 401.11(A), a two-year time extension may be approved pursuant to Section 1310.

C. Subsections 401.~~11~~10(A) and (B) do not apply to home occupations or conditional uses, which shall be subject to any applicable approval period and time extension provisions of Sections 822 or 1203, respectively.

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

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

1. Update the definition of "owner", as used in the criteria for a Lot of Record Dwelling, to be consistent with ORS 215.705(6).

2. Repeal an outdated reference to certain non-existent approval criteria for a temporary forest labor camp.

3. Allow for forest relative dwellings, subject to standards consistent with Oregon House Bill 2469 (2019), and only if the accessory dwelling is a manufactured home that uses the same driveway entrance as the existing single-family dwelling on the same lot of record.

4. Codify the requirements of Oregon House Bill 2225 (2019) for determining the center of the subject tract in consideration of a forest template dwelling.

5. Repeal a redundant provision related to redevelopment of a manufactured dwelling park.

6. Standardize spacing, capitalizations, and the formatting of references to state statutes and regulations and Zoning and Development Ordinance (ZDO) sections and subsections.

406 TIMBER DISTRICT (TBR)

406.01 PURPOSE

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

406.02 APPLICABILITY

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

406.03 DEFINITIONS

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

A. Auxiliary: A use or alteration of a structure or land which provides help or is directly associated with the conduct of a particular forest practice. An auxiliary structure is located on site, temporary in nature, and not designed to remain for the forest's entire growth cycle from planting to harvesting. An auxiliary use is removed when a particular forest practice has concluded.

B. Cubic Foot Per Acre: As defined in Oregon Administrative Rules (OAR) 660-006-0005(3).

C. Cubic Foot Per Tract Per Year: As defined in OAR 660-006-0005(4).

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

E. Dwelling: Unless otherwise provided in Section 406, a dwelling is a detached single-family dwelling or a manufactured dwelling.

F. Firearms Training Facility: An indoor facility only, that provides training courses and issues certifications required for law enforcement personnel, by the Oregon Department of Fish and Wildlife, or by nationally recognized programs that promote shooting matches, target shooting, and safety.

G. Forest Operation: Any commercial activity relating to the growing or harvesting of any forest tree species as defined in Oregon Revised Statutes ~~(ORS)~~ 527.620(6).

H. Navigation: References an instrument within a waterway or flightway that assists in traveling to a destination for water vessels and aircraft.

I. Owner: For purposes of a l~~L~~ot of ~~Record~~ record ~~Dwelling~~dwelling, "owner" includes the spouses in a marriage~~ wife, husband~~, son, daughter, parent~~mother, father~~, brother, brother-in-law, sister, sister-in-law, son-in-law, daughter-in-law, ~~mother~~parent-in-law, ~~father-in-law,~~ aunt, uncle, niece, nephew, ~~niece,~~ stepparent, stepchild, grandparent, or grandchild of the owner, or a business entity owned by any one or a combination of these family members.

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

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

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

M. Relative: For purposes of a Temporary Dwelling for Care, "relative" means a child, parent, stepparent, grandchild, grandparent, stepgrandparent, sibling, stepsibling, niece, nephew, or first cousin of the owner.

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

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

406.04 USES PERMITTED

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

A. As used in Table 406-1:

1. "A" means the use is allowed.

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

3. "Type III" means the use requires review of a Type III application, pursuant to Section 1307.~~, *Procedures*~~

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

5. The "Subject To" column identifies any specific provisions of Subsection 406.05 to which the use is subject.

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*.

Table 406-1: Permitted Uses in the TBR District

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

	Type	Use	Subject To
NATURAL RESOURCE USES	A	Uninhabitable structures accessory to fish and wildlife enhancement.	
	C	Forest management research and experimentation facilities.	406.05(A)(1) & (C)(1)
	Type	**Use**	**Subject To**
RESIDENTIAL USES	A	Uses and structures customarily accessory and incidental to a dwelling, only if a lawfully established dwelling exists.	
	A	Alteration, restoration, or replacement of a lawfully established dwelling.	406.05(D)(1)
	TYPE II	Forest l~~L~~ot of r~~R~~ecord d~~D~~welling.	406.05(A)(3), (4), (5) & (D)(2)
	TYPE II	Forest t~~T~~emplate t~~T~~est d~~D~~welling.	406.05(A)(3), (4), (5) & (D)(3)
	TYPE II	160 a~~A~~cre ~~Forest~~ forest ~~Dwelling~~dwelling.	406.05(A)(3), (4), (5) & (D)(4)
	TYPE II	200 ~~Acre~~ acre ~~Noncontiguous~~ noncontiguous ~~Tract~~ tract ~~Forest~~ forest ~~Dwelling~~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~~, subject to Subsection 1204.01,~~ for a period not to exceed one year.	
	TYPE II	Temporary dwelling for care, subject to Subsection 1204.04, *Temporary Dwelling for Care*.	406.05(A)(1), (2) & (D)(6)
	TYPE II	Accessory dwelling supporting family forestry.	406.05(D)(7)
	Type	**Use**	**Subject To**
COMMERCIAL USES	A	Family child care home.	
	TYPE II	Home occupation, subject to Section 822, *Home Occupations*.	406.05(A)(1), (2), (5) & (E)(1)
	C	Home occupation to host events, subject to Section 806, *Home Occupation to Host Events*.	406.05(A)(1), (2), (5) & (E)(1)
	C	Home occupation for canine skills training, subject to Section 836, *Home Occupations for Canine Skills Training*.	406.05(A)(1), (2) (5) & (E)(1)
	C	Private accommodations for fishing on a temporary basis.	406.05(A)(1), (2), (5) & (E)(2)
	C	Private seasonal accommodations for fee based hunting.	406.05(A)(1), (5) & (E)(3)
	Type	**Use**	**Subject To**
MINERAL, AGGREGATE, OIL, AND GAS USES	A	Exploration for mineral and aggregate resources as defined in ORS c~~C~~hapter 517 and subject to the requirements of the Department of Geology and Mineral Industries.	
	C	Mining and processing of oil, gas, or other subsurface resources.	406.05(A)(1), (6) & (F)(1)
	C	Exploration for and production of geothermal, gas, and oil.	406.05(A)(1), (6) & (F)(2)

	Type	Use	Subject To
TRANSPORTATION USES	A	Widening of roads within existing rights-of-way in conformance with Chapter 5, *Transportation System Plan* of the Comprehensive Plan.	
	A	Climbing and passing lanes within the right of way existing as of July 1, 1987.	
	A	Reconstruction or modification of public roads and highways, including the placement of utility facilities overhead and in the subsurface of public roads and highways along the public right of way, but not including the addition of travel lanes, where no removal or displacement of buildings would occur, or no new land parcels result.	
	A	Temporary public road and highway detours that will be abandoned and restored to original condition or use at such time as no longer needed.	
	A	Minor betterment of existing public road and highway related facilities such as maintenance yards, weigh stations, and rest areas, within right of way existing as of July 1, 1987, and contiguous public-owned property utilized to support the operation and maintenance of public roads and highways.	
	TYPE II	Construction of additional passing and travel lanes requiring the acquisition of right-of-way but not resulting in the creation of new land parcels.	406.05(A)(1)
	TYPE II	Reconstruction or modification of public roads and highways involving the removal or displacement of buildings but not resulting in the creation of new land parcels.	406.05(A)(1)
	TYPE II	Improvement of public roads and highway-related facilities, such as maintenance yards, weigh stations, and rest areas, where additional property or right-of-way is required but not resulting in the creation of new land parcels.	406.05(A)(1)
	TYPE II	Parking of up to seven dump trucks and seven trailers, subject to ORS 215.311.	406.05(A)(1)
	C	Aids to navigation and aviation.	406.05(A)(1) & (6)
	C	Expansion of existing airports.	406.05(A)(1)
	C	Temporary asphalt and concrete batch plants as accessory uses to specific highway projects.	406.05(A)(1)
	C	Roads, highways, and other transportation facilities and improvements not otherwise allowed under this Ordinance.	406.05(A)(1) & (G)(1)

	Type	Use	Subject To
UTILITY AND SOLID WASTE DISPOSAL FACILITY USES	See Table 835-1	Wireless telecommunication facilities, subject to Section 835, *Wireless Telecommunication Facilities*.	
	A	Local distribution lines (i.e., electric, telephone, natural gas) and accessory equipment (i.e., electric distribution transformers, poles, meter cabinets, terminal boxes, pedestals), or equipment which provides service hookups, including water service hookups.	
	A	Water intake facilities, canals and distribution lines for farm irrigation and ponds.	
	A	Solar energy systems as an accessory use.	
	A	Rainwater collection systems as an accessory use.	
	A	Electric vehicle charging stations for residents and their nonpaying guests.	
	A	Meteorological towers.	
	TYPE II	Wind energy power production systems as an accessory use.	406.05(H)(1)
	C	Water intake facilities, related treatment facilities, pumping stations, and distribution lines.	406.05(A)(1) & (6)
	C	Reservoirs and water impoundments.	406.05(A)(1), (2) & (5)
	C	A disposal site for solid waste for which the Oregon Department of Environmental Quality has granted a permit under ORS 459.245, together with equipment, facilities, or buildings necessary for its operation. -A composting facility is subject to Section 834, *Composting Facilities*.	406.05(A)(1) & (6)
	C	Commercial utility facilities for the purpose of generating power.	406.05(A)(1), (6) & (H)(2)
	C	New electric transmission lines.	406.05(A)(1) & (H)(3)
	C	Television, microwave, and radio communication facilities.	406.05(A)(1), (6) & (H)(4)
	Type	**Use**	**Subject To**
PARKS AND PUBLIC/QUASI-PUBLIC USES	A	Private hunting and fishing operations without any lodging accommodations.	
	A	Towers and fire stations for forest fire protection.	
	C	Fire stations for rural fire protection.	406.05(A)(1) & (6)
	C	Youth camps on 40 acres or more, subject to OAR 660-006-0031.	406.05(A)(1) & (3)
	C	Cemeteries.	406.05(A)(1) & (6)
	C	Firearms training facility as provided in ORS 197.770(2).	406.05(A)(1) & (6)
	C	Private parks and campgrounds.	406.05(A)(1), (2), (6) & (I)(1)
	C	Public parks including only those uses specified under OAR 660-034-0035 or 660-034-0040, whichever is applicable.	406.05(A)(1) & (6)

	Type	Use	Subject To
OUTDOOR GATHERINGS	A	An outdoor mass gathering as defined in ORS 433.735 or other gathering of fewer than 3,000 persons that is not anticipated to continue for more than 120 hours in any three-month period.	406.05(J)(1)
	TYPE III	An outdoor mass gathering of more than 3,000 persons that continues or can reasonably be expected to continue for more than 120 hours within any three-month period and any part of which is held in open spaces.	406.05(A)(1) & (J)(2)

406.05 APPROVAL CRITERIA FOR SPECIFIC USES

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

A. General Criteria

1. The use may be allowed provided that:

   a. The proposed use will not force a significant change in, or significantly increase the cost of, accepted farming or forest practices on agriculture or forest lands; and

   b. The proposed use will not significantly increase fire hazard or significantly increase fire suppression costs or significantly increase risks to fire suppression personnel.

2. A written statement recorded with the deed or written contract with the County or its equivalent is obtained from the land owner that recognizes the rights of the adjacent and nearby land owners to conduct forest operations consistent with the Oregon Forest Practices Act and Rules.

3. The landowner for the dwelling shall sign and record in the deed records for the County a document binding the landowner, and the landowner's successors in interest, prohibiting them from pursuing a claim for relief or cause of action alleging injury from farming or forest practices for which no action or claim is allowed under Oregon Revised Statutes (ORS) 30.936 or 30.937.

4. An approval to construct a dwelling may be transferred to any other person after the effective date of the land use decision.

5. If road access to the use is by a road owned and maintained by a private party or by the Oregon Department of Forestry, the United States Bureau of Land Management (BLM), or the United States Forest Service (USFS), then the applicant shall provide proof of a long-term road access use permit or

agreement. -The road use permit may require the applicant to agree to accept responsibility for road maintenance.

6. A land division for the use may be approved pursuant to Subsection 406.09(D).

B. Farm and Forest Uses

1. Temporary portable facility for the primary processing of forest products grown on-site~~, subject to Subsection 1204.01,~~ 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 r~~R~~ecord d~~D~~welling, subject to the following criteria:

a. The lot of record on which the dwelling will be sited was lawfully created prior to January 1, 1985.

b. The lot of record on which the dwelling will be sited was acquired by the present owner:

   i. Prior to January 1, 1985; or

   ii. By devise or intestate succession from a person who acquired the lot or parcel prior to January 1, 1985.

c. The tract on which the dwelling will be sited does not include a dwelling.

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

e. The property is not capable of producing 5,000 cubic feet per year of commercial tree species.

f. The property is located within 1,500 feet of a public road, as defined under ORS 368.001 that provides or will provide access to the subject tract. -The road shall be maintained and either paved or surfaced with rock and shall not be a BLM road, or a USFS road unless the road is paved to a minimum width of 18 feet, there is at least one defined lane in each direction, and a maintenance agreement exists between the USFS and the landowners adjacent to the road, a local government, or a state agency.

g. The proposed dwelling is not prohibited by this Ordinance or the Comprehensive Plan, or any other provisions of law.

h. When the lot or parcel on which the dwelling will be sited is part of a tract, the remaining portions of adjacent common ownership land shall remain in common ownership as long as the dwelling remains as approved.

i. The County Assessor's Office shall be notified of all approvals granted under Subsection 406.05(D)(2).

3. Forest t~~T~~emplate d~~D~~welling, subject to the following criteria:

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

   b. No dwellings are allowed on other lots of record that make up the tract.

   c. A deed restriction shall be recorded with the County Clerk stating no other lots of record that make up the tract may have a dwelling.

d. The lot of record upon which the dwelling is to be located was lawfully created.

e. The County Assessor's Office shall be notified of all approvals granted under Subsection 406.05(D)(3).

f. 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 ~~center point~~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 subject tract, and, to the maximum extent possible, have its length aligned with the road or perennial stream.

ii. If the predominant soil type on the subject tract has a forest production capability rating, as determined by the Natural Resources Conservation Service (NRCS) Internet Soils Survey of:

A) Less than 50 cubic feet per acre per year of wood fiber production, at least part of a minimum of three lots of record shall fall within the template, and a minimum of three lawfully established dwellings shall exist on the lots within the template area; or

B) 50 – 85 cubic feet per acre per year of wood fiber production, at least part of a minimum of seven lots of record shall fall within the template, and a minimum of four lawfully established dwellings shall exist on the lots within the template area; or

C) Greater than 85 cubic feet per acre per year of wood fiber production, at least part of a minimum of 11 lots of record shall fall within the template, and a minimum of five lawfully established dwellings shall exist on the lots 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)(f)(ii) to pass a template test:

A) Lots of record larger than 80 acres;

B) Lots of record created on or after January 1, 1993;

C) Dwellings on lots of record larger than 80 acres;

D) Dwellings constructed on or after January 1, 1993;

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

F) Temporary dwellings; and

G) The subject property.

iv. If the subject tract is larger than 60 acres and abutting a road or perennial stream, a minimum of one of the dwellings required by Subsection 406.05(D)(3)(f)(ii) shall be located on the same side of the road or stream as the subject tract and shall either be located within the template or within one-quarter mile of the edge of the subject tract and not outside the length of the template. ~~-~~If a road crosses the tract on which the dwelling will be sited, a minimum of one of the dwellings required by Subsection 406.05(D)(3)(f)(ii) shall be located on the same side of the road as the proposed dwelling.

4. 160 ~~Acre~~ acre ~~Minimum~~ minimum ~~Forest~~ forest ~~Dwelling~~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~~ acre ~~Noncontiguous~~ noncontiguous ~~Dwelling~~dwelling, subject to the following criteria:

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

b. An owner of tracts that are not contiguous but are in Clackamas County adds together the acreage of two or more tracts that total 200 acres or more;

c. The owner submits proof of an irrevocable deed restriction, recorded in the deed records of the county, for the tracts in the 200 acres. ~~-~~The deed restriction shall preclude all future rights to construct a dwelling on the tracts not supporting the proposed dwelling, or to use the tracts to total acreage for future siting of dwellings for present and any future owners unless the tract is no longer subject to protection under goals for agricultural and forest lands;

d. None of the lots of record or tracts used to total 200 acres may already contain a dwelling.

e. All lots of record or tracts used to total a minimum of 200 acres must have a Comprehensive Plan designation of Forest;

f. The lot of record upon which the dwelling is to be located was lawfully created;

g. The County Assessor's Office shall be notified of all approvals granted under Subsection 406.05(D)(5).

6. One manufactured dwelling, residential trailer, or recreational vehicle may be used for care in conjunction with an existing dwelling for the term of a health hardship suffered by the existing resident or a relative of the resident. Within three months of the end of the hardship, the manufactured dwelling, residential trailer, or recreational vehicle shall be removed or demolished. A temporary residence approved under Subsection 406.05(D)(6) is not eligible for replacement under Subsection 406.05(D)(1) as a permanent dwelling. On-site sewage disposal system review and removal requirements through the Septic and Onsite Wastewater Program also apply.

7. Accessory dwelling supporting family forestry, subject to the following criteria:

   a. The new single-family dwelling unit will not be located in a Portland Metropolitan Area rural reserve;

   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 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 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 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 c~~C~~hapter 520 and mining and processing of aggregate and mineral resources as defined in ORS c~~C~~hapter 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~~ section 3~~, Chapter 529, Oregon Laws 1993~~.

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~~ division 4. ~~Hydroelectric facilities shall also be subject to Section 829.~~

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 c~~C~~hapter 660, d~~D~~ivision 4.

   b. A campground shall be designed and integrated into the rural agricultural and forest environment in a manner that protects the natural amenities of the site and provides buffers of existing native trees and vegetation or other natural features between campsites.

   c. Campsites may be occupied by a tent, travel trailer, yurt, or recreational vehicle.

   d. Separate sewer, water, or electric service hook-ups shall not be provided to individual campsites except that electrical service may be provided to yurts allowed for by Subsection 406.05(I)(1)(g).

   e. Campgrounds authorized by Subsection 406.05(I)(1) shall not include intensively developed recreational uses such as swimming pools, tennis courts, retail stores, or gas stations.

   f. Overnight temporary use in the same campground by a camper or camper's vehicle shall not exceed a total of 30 days during any consecutive six-month period.

   g. A private campground may provide yurts for overnight camping. No more than one-third or a maximum of 10 campsites, whichever is smaller, may include a yurt. The yurt shall be located on the ground or on a wood floor with no permanent foundation. As used in Subsection 406.05(I)(1), "yurt" means a round, domed shelter of cloth or canvas on a collapsible frame with no plumbing, sewage disposal hook-up, or internal cooking appliance.

J. Outdoor Gatherings

1. An outdoor mass gathering as defined in ORS 433.735 or other gathering of fewer than 3,000 persons that is not anticipated to continue for more than 120 hours in any three-month period, subject to ORS 433.735 through 433.760.

2. An outdoor mass gathering of more than 3,000 persons that continues or can reasonably be expected to continue for more than 120 hours within any three-

month period and any part of which is held in open spaces, shall be subject to review by the Planning Commission under the provisions of ORS 433.763.

406.06 PROHIBITED USES

A. Uses of structures and land not specifically permitted are prohibited.

B. An agricultural building, as defined in Oregon Revised Statutes (ORS) 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.

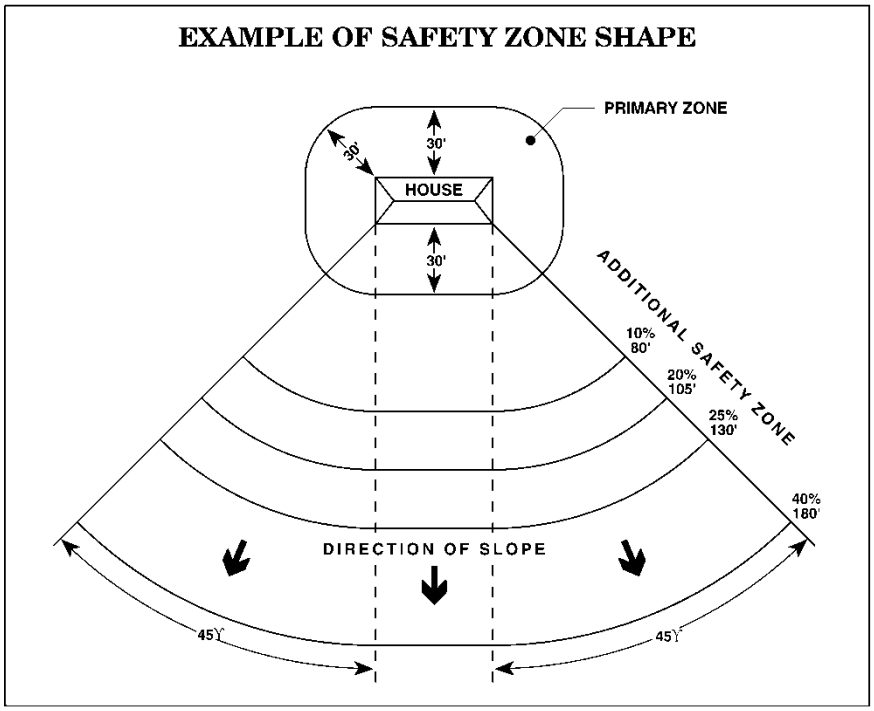
a. The primary safety zone is a fire fuel break extending a minimum distance around structures. The minimum distance is established by Table 406-2, *Minimum Primary Safety Zone* and Figure 406-1, *Example of Primary Safety Zone*. The goal within the primary safety zone is to remove fuels that will produce 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 cChapter 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 (ORS) 537.545, the applicant shall submit the well constructor's report to the County upon completion of the well.

~~E. Manufactured Dwelling Parks: Redevelopment of a manufactured dwelling park with a different use shall require compliance with Subsection 825.03.~~

406.09 LAND DIVISIONS

Land divisions are permitted, if consistent with one of the following options and Subsections 1105.01(A) and 1105.07. A land division pursuant to Subsection 406.09(A) shall require review of a Type I application pursuant to Section 1307, *Procedures*. A land division pursuant to Subsection 406.09(B), (C), (D), (E), (F) or (G) shall require review of a Type II application pursuant to Section 1307.

A. 80-Acre Minimum Lot Size Land Divisions: A land division may be approved if each new lot of record is a minimum of 80 acres in size, as established by Subsection 406.07(A).

B. Multiple Dwelling Land Divisions: A lot of record may be divided subject to Subsection 406.05(A)(2) and the following provisions:

1. At least two lawfully established dwellings existed on the lot of record prior to November 4, 1993;

2. Each dwelling complies with the criteria for a replacement dwelling under Subsection 406.05(D)(1);

3. Except for one lot or parcel, each lot or parcel created under this provision is not less than two nor greater than five acres in size;

4. At least one of the existing dwellings is located on each lot or parcel created under this provision;

5. The landowner of a lot or parcel created under this provision provides evidence that a restriction has been recorded in the Deed Records for Clackamas County that states the landowner and the landowner's successors in interest are prohibited from further dividing the lot or parcel. This restriction shall be irrevocable unless released by the Planning Director indicating the land is no longer subject to the statewide planning goals for lands zoned for Forest use;

6. A lot of record may not be divided under this provision if an existing dwelling on the lot of record was approved through:

   a. A statute, an administrative rule, or a land use regulation that prohibited or required removal of the dwelling or prohibited a subsequent land division of the lot of record; or

   b. A farm use zone provision that allowed both farm and forest uses in a mixed farm and forest use zone under Goal 4 (*Forest Lands*);

7. Existing structures shall comply with the minimum setback standards of Subsections 406.07(B) through (D) from new property lines; and

8. The landowner shall sign a statement that shall be recorded with the County Clerk, declaring that the landowner and the landowner's successors in interest will not in the future complain about accepted farming or forest practices on nearby lands devoted to farm or forest use.

C. Homestead Dwelling Land Division: A land division may be approved for the establishment of a parcel for an existing dwelling, subject to the following criteria:

1. The parcel established for the existing dwelling shall not be larger than five acres, except as necessary to recognize physical factors such as roads or streams, in which case the parcel shall be no larger than 10 acres;

2. The dwelling existed prior to June 1, 1995;

3. The remaining parcel, not containing the existing dwelling, is:

   a. At least 80 acres; or

   b. The remaining parcel, not containing the existing dwelling, is consolidated with another parcel, and together the parcels total at least 80 acres;

4. The remaining parcel, not containing the existing dwelling, is not entitled to a dwelling unless subsequently authorized by law or goal;

5. The landowner shall provide evidence that an irrevocable deed restriction on the remaining parcel, not containing the existing dwelling, has been recorded with the County Clerk. The restriction shall state that the parcel is not entitled to a dwelling unless subsequently authorized by law or goal and shall be irrevocable unless a statement of release is signed by the Planning Director that the law or goal has changed in such a manner that the parcel is no longer subject to statewide planning goals pertaining to agricultural or forest land; and

6. The landowner shall sign a statement that shall be recorded with the County Clerk, declaring that the landowner and the landowner's successors in interest

will not in the future complain about accepted farming or forest practices on nearby lands devoted to farm or forest use.

D. Conditional Use Divisions: A land division creating parcels less than 80 acres in size may be approved for a conditional use to which Subsection 406.05(A)(6) is applicable, subject to the following criteria:

1. The parcel created for the conditional use shall be the minimum size necessary for the use;

2. Either the conditional use was approved pursuant to Subsections 406.05(A)(1) and (2), or—for those uses not subject to Subsections 406.05(A)(1) and (2)—compliance with Subsections 406.05(A)(1) and (2) shall be demonstrated; and

3. The landowner shall sign a statement that shall be recorded with the County Clerk, declaring that the landowner will not in the future complain about accepted farming or forest practices on nearby lands devoted to farm or forest use.

E. Parks/Open Space/Land Conservation Divisions: A land division for a provider of public parks or open space, or a not-for-profit land conservation organization, may be approved subject to Oregon Revised Statutes (ORS) 215.783. -In addition, the landowner shall sign a statement that shall be recorded with the County Clerk, declaring that the landowner will not in the future complain about accepted farming or forest practices on nearby lands devoted to farm or forest use.

F. Forest Practice Divisions: A land division creating parcels less than 80 acres in size may be approved, subject to the following criteria:

1. The division will facilitate a forest practice as defined in ORS 527.620;

2. There are unique property specific characteristics present in the proposed parcel that require an amount of land smaller than 80 acres in order to conduct the forest practice;

3. Parcels created pursuant to Subsection 406.09(F):

a. Are not eligible for siting of a new dwelling;

b. May not serve as the justification for the siting of a future dwelling on other lots of record;

c. May not, as a result of the land division, be used to justify redesignation or rezoning of resource lands; and

d. May not result in a parcel of less than 35 acres, unless the purpose of the land division is to:

i. Facilitate an exchange of lands involving a governmental agency; or

ii. Allow transactions in which at least one participant is a person with a cumulative ownership of at least 2,000 acres of forest land; and

e. The landowner shall sign a statement that shall be recorded with the County Clerk, declaring that the landowner and the landowner's successors in interest will not in the future complain about accepted farming or forest practices on nearby lands devoted to farm or forest use.

G. Land Divisions Along an Urban Growth Boundary: A division of a lot of record may occur along an urban growth boundary where the parcel remaining outside the urban growth boundary is zoned AG/F or TBR ~~or AG/F~~ 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), *Application Submittal and Completeness Review*, 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 (ORS) c~~C~~hapter 92, deeds with the legal descriptions of the new parcels shall be recorded with the County Clerk; or

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

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

C. Subsections 406.11(A) and (B) do not apply to home occupations or conditional uses, which shall be subject to any applicable approval period and time extension provisions of Sections 822, *Home Occupations* or 1203, *Conditional Uses*, respectively.

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

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

1. Adopt conforming amendments incorporating the proposed changes to Sections 401 and 406, which regulate the Exclusive Farm Use (EFU) and Timber (TBR) Districts, that are also applicable in the AG/F District.

2. Standardize spacing, capitalizations, and the formatting of references to state statutes and regulations and Zoning and Development Ordinance (ZDO) sections and subsections.

407 AG/FOREST DISTRICT (AG/F)

407.01 PURPOSE

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

407.02 APPLICABILITY

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

407.03 DEFINITIONS

The definitions set forth in Subsections 401.03, *Definitions* and 406.03, *Definitions* 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~~, *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, *Approval Criteria for Specific Uses* or 406.05, *Approval Criteria for Specific Uses* 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*.

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

	Type	Use	Subject To
FARM AND FOREST USES	A	Forest operations or forest practices including, but not limited to, reforestation of forest land, road construction and maintenance, harvesting of a forest tree species, application of chemicals and disposal of slash where such uses pertain to forest uses and operations. Inside the Portland Metropolitan Urban Growth Boundary, refer to Subsection 1002.02, *Development Restriction Following Excessive Tree Removal* regarding a development restriction that may apply if excessive tree removal occurs.	
	A	Temporary on-site structures which are auxiliary to and used during the term of a particular forest operation.	
	A	Physical alterations to the land auxiliary to forest practices including, but not limited to, those made for the purposes of exploration, mining, commercial gravel extraction and processing, landfills, dams, reservoirs, road construction, or recreational facilities.	
	A	Farm use as defined in Oregon Revised Statutes (ORS) 215.203. Marijuana production is subject to Section 841, *Marijuana Production, Processing, and Retailing*.	
	A	Uses and structures customarily accessory and incidental to a farm or forest use, only if the primary farm or forest use exists.	
	TYPE II	Temporary portable facility for the primary processing of forest products.	406.05(B)(1)
	TYPE II	A facility for the processing of farm ~~crops or the production of biofuel as defined in ORS 315~~products.141. Marijuana processing is subject to Section 841.[1]	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)
	Type	**Use**	**Subject To**
NATURAL RESOURCE USES	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)
	Type	**Use**	**Subject To**

	Type	Use	Subject To
RESIDENTIAL USES	A	Uses and structures customarily accessory and incidental to a dwelling, only if a lawfully established dwelling exists.	
	A	Alteration, restoration, or replacement of a lawfully established dwelling.	406.05(D)(1)

	Type	Use	Subject To
RESIDENTIAL USES (cont.)	TYPE II	Replacement dwelling to be used in conjunction with farm use if the existing dwelling has been listed in a County inventory as historic property and listed on the National Register of Historic Places.[2]	401.05(A)(3)
	TYPE II	Forest l~~L~~ot of r~~R~~ecord d~~D~~welling on land that was predominantly forest on January 1, 1993.	406.05(A)(3), (4), (5) & (D)(2)
	TYPE II	Agricultural l~~L~~ot of r~~R~~ecord d~~D~~welling on Low Value Farmland that was predominantly agriculture on January 1, 1993.	401.05(A)(2), (3), (4) & (C)(~~3~~2)
	TYPE II	Agricultural l~~L~~ot of r~~R~~ecord ~~Dwelling~~ dwelling on Class III or IV High Value Farmland that was predominantly agriculture on January 1, 1993.	401.05(A)(2), (3), (4) & (C)(~~4~~3)
	TYPE III	Agricultural l~~L~~ot of ~~Record~~ record ~~Dwelling~~ dwelling on Class I or II High Value Farmland that was predominantly agriculture on January 1, 1993.	401.05(A)(2), (3), (4) & (C)(~~5~~4)
	TYPE II	Agricultural ~~Dwelling~~ dwelling in conjunction with a farm use on High Value Farmland that was predominantly agriculture on January 1, 1993.[2]	401.05(A)(3) & (C)(~~6~~5)
	TYPE II	Agricultural d~~D~~welling in conjunction with a farm use on Low Value Farmland on land that was predominantly agriculture on January 1, 1993.[2]	401.05(A)(3) & (C)(~~7~~6)
	TYPE II	Agricultural d~~D~~welling customarily provided in conjunction with a commercial dairy farm on land that was predominantly agriculture on January 1, 1993.	401.05(A)(3) & (C)(~~8~~7)
	TYPE II	Agricultural 160 acre test on low value farmland for a dwelling on land that was predominantly agriculture on January 1, 1993.[2]	401.05(A)(3), (4) & (C)(~~9~~8)
	TYPE II	Agricultural c~~C~~apability test on low value farmland for a dwelling on land that was predominantly agriculture on January 1, 1993.[2]	401.05(A)(3), (4) & (C)(~~10~~9)
	TYPE II	Agricultural n~~N~~onfarm dwelling on land that was predominantly agriculture on January 1, 1993.	401.05(A)(3), (4) & (C)(~~11~~10)
	TYPE II	Agricultural ~~Accessory farmworker dwelling for a relative~~relative farm help dwelling on land that was predominantly agriculture on January 1, 1993.[2]	401.05(A)(3) & (C)(~~12~~11)
	TYPE II	Agricultural a~~A~~ccessory ~~farmworker dwelling for year-round and seasonal farm workers~~dwelling in conjunction with farm use on land that was predominantly agriculture on January 1, 1993.[2]	401.05(A)(3) & (C)(~~13~~12)
	TYPE II	Agricultural d~~D~~welling on Low or High Value Farmland to be owned and operated by a different farm operator on at least 80 acres.	401.05(A)(3) & (C)(~~14~~13)

	TYPE II	Forest t~~T~~emplate t~~T~~est d~~D~~welling on land that was predominantly forest on January 1, 1993.	406.05(A)(3), (4), (5) & (D)(3)
	TYPE II	160 a~~A~~cre f~~F~~orest d~~D~~welling on land that was predominantly forest on January 1, 1993.	406.05(A)(3), (4), (5) & (D)(4)
	TYPE II	200 a~~A~~cre n~~N~~oncontiguous t~~T~~ract f~~F~~orest d~~D~~welling on land that was predominantly forest on January 1, 1993.	406.05(A)(3), (4), (5) & (D)(5)
	TYPE II	Caretaker residences for public parks and public fish hatcheries.	406.05(A)(2) & (5)

RESIDENTIAL USES (cont.)	TYPE II	Temporary forest labor camp~~, subject to Subsection 1204.01,~~ for a period not to exceed one year.	
	TYPE II	Temporary dwelling for care, subject to Subsection 1204.04, *Temporary Dwelling for Care*.	406.05(A)(1), (2) & (D)(6)
	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 ~~or facility~~ as defined in ORS 197.660, in existing dwellings.	401.05(A)(1) & (3)
	TYPE II	Accessory dwelling supporting family forestry on land that was predominantly forest on January 1, 1993.	406.05(D)(7)
	Type	**Use**	**Subject To**
COMMERCIAL USES	A	Family child care home.	
	A	Dog training classes.	401.05(D)(8)
	A	Dog testing trials.	401.05(D)(9)
	TYPE I	A license for an approved cider business, farm brewery, or winery to carry out the first six of 18-day agri-tourism and other commercial events, subject to: 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~~, subject to OAR 660-033-0130(23) and ORS 215.283(1)(o).~~[3]	401.05(D)(10)
	TYPE II	Home occupation, subject to Section 822, *Home Occupations*.	406.05(A)(1), (2), (5) & (E)(1)
	TYPE II	A landscape contracting business.	401.05(A)(1) & (D)(2)
	TYPE II	Agri-tourism single event.	401.05(A)(1) & (D)(3)
	TYPE II	Agri-tourism for up to 6 events or activities.	401.05(A)(1) & (D)(4)
	TYPE II	A cider business as described in and subject to ORS 215.451.	
	TYPE II	A farm brewery as described in and subject to ORS 215.449.	
	TYPE II	A winery as described in and subject to ORS 215.452 or 215.453, whichever is applicable, but not a restaurant open more than 25 days per calendar year.	
	~~TYPE II~~	~~A bed and breakfast facility as a home occupation in association with a winery, subject to ORS 215.448, as provided in ORS 215.452 or 215.453, whichever is applicable.~~	~~401.05(A)(1) & (D)(5)~~
	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	401.05(A)(1)

		215.453 that occur on more than 25 days in a calendar year.	
	TYPE II	A bed and breakfast facility as a home occupation in association with a cider business, farm brewery, or winery, subject to: ORS 215.448 and ORS 215.451(10) for a cider business; ORS 215.448 and ORS 215.449(10) for a farm brewery; and ORS 215.448 and either ORS 215.452 or 215.453, whichever is applicable, for a winery.	401.05(A)(1) & (D)(5)
	TYPE II	Cider business, farm brewery, or ~~Winery~~ 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	Equine and equine-affiliated therapeutic and counseling activities[3]	401.05(A)(1) & (D)(11)
	C	Home occupation to host events, subject to Section 806, *Home Occupation to Host Events*.	406.05(A)(1), (2), (5) & (E)(1)
	C	Commercial activities in conjunction with farm use~~, including the processing of farm crops into biofuel~~ that exceed~~s~~ the standards of ORS 215.203(2)(b)(K) or Subsection 401.05(B)(1), such as the processing of farm crops into biofuel.[4]	401.05(A)(1)
	C	Agri-tourism additional events not to exceed 18 events on a minimum of 80 acres.	401.05(A)(1) & (D)(6)
	C	Private accommodations for fishing on a temporary basis.	406.05(A)(1), (2), (5) & (E)(2)

COMMERCIAL USES (cont.)	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)(7)
	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)(8) or (9).	401.05(A)(1)
	Type	**Use**	**Subject To**
MINERAL, AGGREGATE, OIL, AND GAS USES	A	Exploration for mineral and aggregate resources as defined in ORS c~~C~~hapter 517 and subject to the requirements of the Department of Geology and Mineral Industries.	
	A	Operations for the exploration for, and production of, geothermal resources as defined by ORS 522.005 and oil and gas as defined by ORS 520.005, including the placement and operation of compressors, separators and other customary production equipment for an individual well adjacent to a wellhead. ~~-~~Any activities or construction relating to such operations shall not be a basis for an exception under ORS 197.732(1)(a) or (b).	
	A	Operations for the exploration for minerals as defined by ORS 517.750. ~~-~~Any activities or construction relating to such operations shall not be a basis for an exception under ORS 197.732(1)(a) or (b).	
	C	Operations conducted for mining, crushing, or stockpiling of aggregate and other mineral and other subsurface resources subject to ORS 215.298.	401.05(A)(1), (E)(1) & (E)(1)(a)
	C	Processing as defined by ORS 517.750 of aggregate into asphalt or Portland cement.	401.05(A)(1), (E)(1) & (E)(1)(b)
	C	Processing of other mineral resources and other subsurface resources.	401.05(A)(1), (E)(1) & (E)(1)(c)
	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)

	Type	Use	Subject To
TRANSPORTATION USES	A	Widening of roads within existing rights-of-way in conformance with Chapter 5, *Transportation System Plan* of the Comprehensive Plan.	
	A	Climbing and passing lanes within the right of way existing as of July 1, 1987.	
	A	Reconstruction or modification of public roads and highways, including the placement of utility facilities overhead and in the subsurface of public roads and highways along the public right-of-way, but not including the addition of travel lanes, where no removal or displacement of buildings would occur, or no new land parcels result.	
	A	Temporary public road and highway detours that will be abandoned and restored to original condition or use at such time as no longer needed.	
	A	Minor betterment of existing public road and highway related facilities such as maintenance yards, weigh stations, and rest areas, within right of way existing as of July 1, 1987, and contiguous public-owned property utilized to support the operation and maintenance of public roads and highways.	
	TYPE II	Parking of up to seven dump trucks and seven trailers, subject to ORS 215.311.	406.05(A)(1)
	TYPE II	Parking of no more than seven log trucks, subject to ORS 215.311.	401.05(A)(1)
	TYPE II	Construction of additional passing and travel lanes requiring the acquisition of right-of-way but not resulting in the creation of new land parcels.	406.05(A)(1)
	TYPE II	Reconstruction or modification of public roads and highways involving the removal or displacement of buildings but not resulting in the creation of new land parcels.	406.05(A)(1)
	TYPE II	Improvement of public roads and highway-related facilities, such as maintenance yards, weigh stations, and rest areas, where additional property or right-of-way is required but not resulting in the creation of new land parcels.	406.05(A)(1)
	C	Aids to navigation and aviation.	406.05(A)(1) & (6)
	C	Personal-use airports for airplanes and helicopter pads, including associated hangar, maintenance, and service facilities.	401.05(A)(1) & (F)(2)
	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, *Wireless Telecommunication Facilities*), 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, *Composting Facilities*.	406.05(A)(1) & (6)
	C	Commercial utility facilities for the purpose of generating power.	406.05(A)(1), (6) & (H)(2)
	C	New electric transmission lines.	406.05(A)(1) & (H)(3)
	C	Television, microwave, and radio communication facilities.	406.05(A)(1), (6) & (H)(4)
	Type	**Use**	**Subject To**
PARKS, PUBLIC, AND QUASI-PUBLIC USES	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 468~~(~~B~~)~~.095.	

	A	Onsite filming and activities accessory to onsite filming for 45 days or less.	

	Type	Use	Subject To
PARKS, PUBLIC, AND QUASI-PUBLIC USES (cont.)	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)
	C	Private parks and campgrounds.	406.05(A)(1),(2),(6) & (I)(1)
	C	Public parks including only those uses specified under OAR 660-034-0035 or 660-034-0040, whichever is applicable.	406.05(A)(1) & (6)
	Type	**Use**	**Subject To**
OUTDOOR GATHERINGS	A	An outdoor mass gathering as defined in ORS 433.735 or other gathering of fewer than 3,000 persons that is not anticipated to continue for more than 120 hours in any three-month period.	406.05(J)(1)
	TYPE III	An outdoor mass gathering of more than 3,000 persons that continues or can reasonably be expected to continue for more than 120 hours within	406.05(A)(1) & (J)(2)

		any three-month period and any part of which is held in open spaces.	

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

[2] Farming of a marijuana crop shall not be used to demonstrate compliance with the approval criteria for a dwelling. (See ORS 475B.370.)

~~[3] A farm stand shall not be used for the sale, or to promote the sale, of marijuana items. (See ORS 475B.370.)~~

[3] The use is prohibited in a Portland Metropolitan Area rural reserve.

[4] A commercial activity carried on in conjunction with a marijuana crop is prohibited. (See ORS 475B.370.)

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 (ORS) 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, *Dimensional Standards*, which establishes dimensional standards in the TBR District, shall apply in the AG/F District.

407.07 DEVELOPMENT STANDARDS

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

407.08 LAND DIVISIONS

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

407.09 SUBMITTAL REQUIREMENTS

Subsection 406.10, *Submittal Requirements*, 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, *Approval Period and Time Extensions*, 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]

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

1. Clarify that child care facilities, and not necessarily other types of "daycare" facilities, are what are allowed as employee amenities accessory to a primary use.

2. In the C-2, C-3, CC, OC, and SCMU Districts, allow the manufacturing of edible or drinkable products retailed on the same site, including the primary processing of raw materials (e.g., malt, milk, spices) that are ingredients in edible or drinkable products retailed on the same site, and also including the wholesale distribution of edible or drinkable products that are manufactured and retailed on the same site, but excluding the processing, production, and wholesaling of marijuana products. Restrict this type of manufacturing to the same specific square-footage and other limitations as the manufacturing uses already allowed in the OC and SCMU Districts.

510 NEIGHBORHOOD COMMERCIAL (NC), COMMUNITY COMMERCIAL (C-2), REGIONAL CENTER COMMERCIAL (RCC), RETAIL COMMERCIAL (RTL), CORRIDOR COMMERCIAL (CC), GENERAL COMMERCIAL (C-3), PLANNED MIXED USE (PMU), STATION COMMUNITY MIXED USE (SCMU), OFFICE APARTMENT (OA), OFFICE COMMERCIAL (OC), AND REGIONAL CENTER OFFICE (RCO) DISTRICTS

510.01 PURPOSE

Section 510 is adopted to implement the policies of the Comprehensive Plan for the Neighborhood Commercial zoning district and Community Commercial, Regional Center Commercial, Retail Commercial, Corridor Commercial, General Commercial, Planned Mixed Use, Station Community Mixed Use, Office Apartment, Office Commercial, and Regional Center Office areas.

510.02 APPLICABILITY

Section 510 applies to land in the Neighborhood Commercial (NC) Community Commercial (C-2), Regional Center Commercial (RCC), Retail Commercial (RTL), Corridor Commercial (CC), General Commercial (C-3), Planned Mixed Use (PMU), Station Community Mixed Use (SCMU), Office Apartment (OA), Office Commercial (OA), and Regional Center Office (RCO) Districts, hereinafter collectively referred to as the urban commercial and mixed-use zoning districts.

510.03 USES PERMITTED

Uses permitted in each zoning district are listed in Table 510-1, *Permitted Uses in the Urban Commercial and Mixed-Use Zoning Districts*. In addition, uses similar to one or more of the listed uses for the applicable zoning district may be authorized pursuant to Section 106, *Authorizations of Similar Uses*.

A. As used in Table 510-1:

1. “P” means the use is a primary use.

2. “A” means the use is an accessory use.

3. “L” means the use is a limited use and shall be developed concurrently with, or after, a primary use.

4. “C” means the use is a conditional use, approval of which is subject to Section 1203, *Conditional Uses*.

5. “S” means the use may be authorized only pursuant to Section 106; however, identifying a use as “S” does not indicate that any determination has been made regarding whether the use will be authorized pursuant to Section 106.

6. "X" means the use is prohibited.

7. Numbers in superscript correspond to the notes that follow Table 510-1.

B. If a use is identified in Table 510-1 as prohibited, it is prohibited even if it also falls within a broader use description that is permitted in the applicable zoning district. For example, a car wash may be prohibited even if commercial services in general are permitted.

C. If a use is included in more than one use description in Table 510-1, the more specific listing applies. For example, if a car wash is a conditional use, but commercial services in general are a primary use, the car wash shall be reviewed as a conditional use. Notwithstanding this provision, a use may be included in two of the following categories because it is allowed with fewer restrictions in one category than another: primary, accessory, limited, and conditional. In that case, the use may be approved in either category, to the extent that it complies with the respective approval criteria. For example, ~~daycare~~ child care facilities may be permitted as a limited use with a maximum building floor area and as a conditional use without a maximum building floor area.

D. Permitted uses are subject to the applicable provisions of Subsection 510.04, *Dimensional Standards*, Subsection 510.05, *Development Standards*, Section 1000, *Development Standards*, and Section 1100, *Development Review Process*.

510.04 DIMENSIONAL STANDARDS

Dimensional standards applicable in the urban commercial and mixed-use zoning districts are listed in Table 510-2, *Dimensional Standards in the Urban Commercial and Mixed-Use Zoning Districts*. Modifications to the standards of Table 510-2 are established by Sections 800, *Special Use Requirements*; 903, *Setback Exceptions*; 904, *Height Exceptions*; 1012, *Lot Size and Density*; 1107, *Property Line Adjustments*; and 1205, *Variances*. As used in Table 510-2, numbers in superscript correspond to the notes that follow Table 510-2.

510.05 DEVELOPMENT STANDARDS

The following development standards apply:

A. Outdoor Operations in the NC District: In the NC District, primary and accessory uses, including storage of materials, products, or waste, shall be wholly contained within an approved structure.

B. Operational Impacts in the C-2 and C-3 Districts: In the C-2 and C-3 Districts, processes and equipment employed and goods processed or sold shall be limited to those that are not objectionable by reason of odor, dust, smoke, cinders, gas, fumes, noise, vibration, refuse matter, or water-carried wastes.

C. Storage in the C-2 District: In the C-2 District, storage of materials and merchandise shall be confined and contained within completely enclosed buildings.

D. Outdoor Operations in the RCC District: In the RCC District:

1. Primary commercial uses are permitted provided that outdoor display and storage shall be limited to no more than five percent of the building coverage.

2. Outdoor sales and services are prohibited.

E. Outdoor Operations in the RTL District: In the RTL District, primary commercial uses and conditional uses are permitted provided that:

1. Outdoor display and storage shall be limited to no more than five percent of the building coverage.

2. Notwithstanding Subsection 510.05(E)(1), auto body, recreational vehicle, and boat repair businesses shall store within a completely enclosed structure those vehicles and equipment that are damaged or being repaired.

3. Primary commercial uses shall conduct most activities within a completely enclosed structure.

F. Outdoor Sales and Storage in the PMU District: In the PMU District, outdoor sales, except temporary sidewalk sales and sidewalk cafes and food vendors, are prohibited. Also prohibited is permanent outdoor storage of materials or products.

G. Site-Specific Standards in the PMU District: Six sites have a Comprehensive Plan designation of PMU. These sites are designated PMU1 through PMU6 and are identified on Comprehensive Plan Map IV-6, *North Urban Area Land Use Plan Map*. When one of these sites is zoned Planned Mixed Use District, a site number corresponding to the number designated by the Comprehensive Plan is assigned. A PMU site shall comply with the specific standards for that site identified in Table 510-3, *Site-Specific Requirements for the PMU District*, except that there are no site-specific standards for PMU6. As used in Table 510-3, numbers in superscript correspond to the notes that follow Table 510-3.

H. Outdoor Operations in the SCMU District: In the SCMU District, outdoor displays, processes, or storage, except for the storage of solid waste and recyclables either as required by Section 1021, *Solid Waste and Recyclable Material Collection*, or as an accessory use to an attached single-family dwelling, are prohibited.

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

J. Outdoor Storage and Display in the OC District: In the OC District, outdoor storage or display of materials or products is prohibited.

K. Outdoor Sales, Storage, and Display in the RCO District: In the RCO District, outdoor sales, storage, or display of materials or products is prohibited.

L. Condominiums: Any of the following types of dwellings, if permitted in the subject zoning district, may be platted as condominiums: detached single-family dwellings, attached single-family dwellings, two-family dwellings, three-family dwellings, and multifamily dwellings. In the case of attached single-family dwellings, condominium platting supersedes the requirement that each dwelling unit be on a separate lot of record.

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

Use	NC	C-2	RCC	RTL	CC	C-3	PMU[1]	SCMU	OA[2,3]	OC	RCO
Accessory Uses, Customarily Permitted, such as amateur (Ham) radio antennas and towers, arbors, bicycle racks, carports, citizen band transmitters and antennas, cogeneration facilities, courtyards, decks, decorative ponds, driveways, electric vehicle charging stations, family child care home, fountains, garages, garden sheds, gazebos, greenhouses, HVAC units, meeting facilities, outdoor kitchens, parking areas, patios, pergolas, pet enclosures, plazas, property maintenance and property management offices, recreational facilities (such as bicycle trails, children's play structures, dance studios, exercise studios, playgrounds, putting greens, recreation and activity rooms, saunas, spas, sport courts, swimming pools, and walking trails), rainwater collection systems, satellite dishes, self-service laundry facilities, shops, solar energy systems, storage buildings/rooms , television antennas and receivers, transit amenities, trellises, and utility service equipment	A	A	A	A	A	A	A	A	A	A	A
Assembly Facilities, including auditoriums, community centers, convention facilities, exhibition halls, fraternal organization lodges, places of worship, senior centers, and theaters for the performing arts	C	P	P,C[4]	P	P	P	P	P	S	P,C[4]	P,C[4]
Bed and Breakfast Residences and Inns, subject to Section 832	P	P	X	P	P	P	X	X	X	P	X
Bus Shelters	A	A	P	P	P	P	P	P	A	P	P
Child Care Facilities	P	P	P	P	P	P	P	P	P	L[5],C	L[6],C

Use	NC	C-2	RCC	RTL	CC	C-3	PMU[1]	SCMU	OA[2,3]	OC	RCO
Civic and Cultural Facilities, including art galleries, museums, and visitor centers	P	P	P	P	P	P	P	P	P	P	P
Composting Facilities	X	X	X	X	X	X	X	X	X	X	X
Congregate Housing Facilities	X	X	P[7,8]	P[9]	P[9]	P[9]	P	P	L	P[9]	P[7,8]
Daycare Services, Adult	P	P	P	P	P	P	P	P	P	L[5],C	L[6],C
Drive-Thru Window Services, subject to Section 827	C	A	A[10]	A	A	A	A[11]	X	X	A[11]	A[11]
Dwellings, Attached Single-Family	X	A	X	A	X	A	P	P	L[12]	X	X
Dwellings, Detached Single-Family	A	A	X	A	X	A	X	X	X	X	X
Dwellings, Multifamily	X	X	P[7]	P[9]	P[9]	P[9]	P	P	L[13]	P[9]	P[7]
Dwellings, Three-Family	X	X	X	P	P	P	P	P	L[13]	P	X
Dwellings, Two-Family	X	A	X	P	P	P	P	P	L[13]	P	X
Electric Vehicle Charging Stations	A,C	P	A	A,C	P	P	A	A	A	A	A
Employee Amenities, such as cafeterias, clinics, child care~~daycare~~ facilities, fitness facilities, lounges, and recreational facilities	A	A	A	A	A	A	A	A	A[14]	A[14]	A[14]
Entertainment Facilities, including arcades, billiard halls, bowling alleys, miniature golf courses, and movie theaters	C[15]	P[15]	P[15]	P	P	P	P[15]	P[15,16]	S	C[15,17]	L[6,15]
Farmers' Markets, subject to Section 840	P	P	P	P	P	P	P	P	P	P	P
Financial Institutions, including banks, brokerages, credit unions, loan companies, and savings and loan associations	P	P	P	P	P	P	P	P	P	P	P
Fitness Facilities, including athletic clubs, exercise studios, gymnasiums, and health clubs	P[15]	P[15]	P[15]	P	P	P	P[15]	P[15,16]	L[15,18]	C[15]	L[15,19]

Use	NC	C-2	RCC	RTL	CC	C-3	PMU[1]	SCMU	OA[2,3]	OC	RCO
Government Uses, including fire stations, police stations, and post offices	C	P	P	P	P	P	P	P	P	P	P
Heliports	X	X	C[20]	C	C	C	X	X	X	C[20]	C[20]
Helistops	X	X	C[20]	C	C	C	C	C	X	C[20]	C[20]
Home Occupations, including bed and breakfast homestays, subject to Section 822	A	A	A	A	A	A	A	A	A	A	A
Hospitals	X	X	X	X	X	X	X	X	X	C	C
Hotels	P	P	P	P	P	P	P	P[16]	S	L[5,21],C[21]	P[21]
Hydroelectric Facilities	X	C	X	C	X	C	X	X	X	X	X
Libraries	P	P	P	P	P	P	P	P	P	P	P
Manufacturing, including the mechanical, physical, or chemical transformation of materials, substances, or components into new products~~;~~ and the assembly of component parts~~.~~ , but excluding the ~~Primary~~ primary processing of raw materials ~~is prohibited.~~	S[22]	S[23]	S	S	P	P	S	P[24,25]	S	P[26]	S
Manufacturing of Edible or Drinkable Products Retailed on the Same Site, including the primary processing of raw materials (e.g., malt, milk, spices) that are ingredients in edible or drinkable products retailed on the same site, and also including the wholesale distribution of edible or drinkable products that are manufactured and retailed on the same site.	S	P	S	S	P	P	S	P[24,25]	S	P[26]	S
Marijuana Processing	X	X	X	X	P[27]	P[27]	X	P[24,27]	X	P[26,27]	X
Marijuana Production	X	X	X	X	X	X	X	X	X	X	X

Use	NC	C-2	RCC	RTL	CC	C-3	PMU[1]	SCMU	OA[2,3]	OC	RCO
Marijuana Retailing, subject to Section 841	P	P	P	P	P	P	P	P[16]	X	P[17]	L[6]
Marijuana Wholesaling	X	X	X	X	X	X	X	X	X	X	X
Mobile Vending Units, subject to Section 837	P	P	P	P	P	P	P	P	A[28]	A[28]	A[28]
Motels	P	P	P	P	P	P	P	P[16]	S	L[5,29],C[29]	L[6]
Multi-Use Developments, subject to Section 844	X	X	X	X	X	C	X	X	X	C	X
Nursing Homes	X	X	X	X	X	X	P	P	L	X	X
Offices, including administrative, business, corporate, governmental, and professional offices. Examples include offices for the following: accounting services, architectural services, business management services, call centers, employment agencies, engineering services, governmental services, income tax services, insurance services, legal services, manufacturer's representatives, office management services, property management services, real estate agencies, and travel agencies.	P	P	P	P	P	P	P	P	P	P	P
Offices and Outpatient Clinics—both of which may include associated pharmacies and laboratories—for healthcare services, such as acupuncture, chiropractic, counseling, dental, massage therapy, medical, naturopathic, optometric, physical therapy, psychiatric, occupational therapy, and speech therapy.	P	P	P	P	P	P	P	P	P	P	P
Parking Lots	A	A	A	A	P	P	A	A	A	P[30]	A
Parking Structures	X	A[31]	P[30]	P[30]	P	P	A	A	A[31]	P[30]	P[30]

Use	NC	C-2	RCC	RTL	CC	C-3	PMU[1]	SCMU	OA[2,3]	OC	RCO
Parks, Government-Owned, including amphitheaters; arboreta; arbors, decorative ponds, fountains, gazebos, pergolas, and trellises; ball fields; bicycle and walking trails; bicycle parks and skate parks; boat moorages and ramps; community buildings and grounds; community and ornamental gardens; courtyards and plazas; equine facilities; fitness and recreational facilities, such as exercise equipment, gymnasiums, and swimming pools; miniature golf, putting greens, and sports courts; nature preserves and wildlife sanctuaries; picnic areas and structures; play equipment and playgrounds; tables and seating; and similar recreational uses. Accessory uses to a park may include concessions, maintenance facilities, restrooms, and similar support uses.	P	P	P	P	P	P	P	P	P	P	P
Pedestrian Amenities	P	P	P	P	P	P	P	P	P	P	P
Public Utility Facilities	S	C	C[32]	C[32]	C	C	S	S	S	S	S
Race Tracks, Outdoor	X	X	X	X	X	C	X	X	X	X	X
Radio and Television Studios, excluding transmission towers	C	P	P	P	P	P	P	P	S	P	P
Radio and Television Transmission and Receiving Towers and Earth Stations[33]	S	C	S	S	C	C	S	S	S	S	S
Radio and Television Transmission and Receiving Earth Stations	S	C	C	C	C	C	A	S	S	S	S

Use	NC	C-2	RCC	RTL	CC	C-3	PMU[1]	SCMU	OA[2,3]	OC	RCO
Recreational Sports Facilities for such sports as basketball, dance, gymnastics, martial arts, racquetball, skating, soccer, swimming, and tennis. These facilities may be used for any of the following: general recreation, instruction, practice, and competitions.	P[15]	P[15]	P[15]	P	P	P	P[15]	P[15,16]	S	C[15]	L[15,19]
Recyclable Drop-Off Sites, subject to Section 819	A	A	A[34]	A[34]	A	A	A[34]	A[34]	A[34]	A[34]	A[34]
Research Facilities and Laboratories, including medical laboratories, medical research, product design and testing, and product research and development	S	S	S	S	P	P	P[26]	P	P[35]	P[35]	P[26]
Retailing—whether by sale, lease, or rent—of new or used products	S	S	P	P	P	P	P	P[16]	S	C[17]	L[6]
Retailing—whether by sale, lease, or rent—of any of the following new or used products: apparel, appliances, art, art supplies, beverages, bicycle supplies, bicycles, books, cameras, computers, computer supplies, cookware, cosmetics, dry goods, electrical supplies, electronic equipment, firewood, flowers, food, furniture, garden supplies, gun supplies, guns, hardware, hides, interior decorating materials, jewelry, leather, linens, medications, music (whether recorded or printed), musical instruments, nutritional supplements, office supplies, optical goods, paper goods, periodicals, pet supplies, pets, plumbing supplies, photographic supplies, signs, small power equipment, sporting goods, stationery, tableware, tobacco, toiletries, tools, toys, vehicle supplies, and videos	P	P	P	P	P	P	P	P[16]	L[18,36],S	L[5,36],C[17]	L[6]

Use	NC	C-2	RCC	RTL	CC	C-3	PMU[1]	SCMU	OA[2,3]	OC	RCO
Retailing—whether by sale, lease, or rent—of any of the following new or used products: all-terrain vehicles, automobiles, light trucks, motorcycles, and snowmobiles	S	S	P	P	P	P	X	X	X	C[17]	L[6]
Retailing—whether by sale, lease, or rent—of any of the following new or used products: boats; heavy trucks such as dump trucks, moving trucks, and truck tractors; large cargo trailers such as semitrailers; large construction equipment such as backhoes and bulldozers; large farm equipment such as tractors and combines; large forestry equipment; large mineral extraction equipment; manufactured dwellings; recreational vehicles; and residential trailers	X	X	X	P	P	P	X	X	X	X	X
Schools	P[37]	P[37]	P	P	P	P	P	P	L[38]	P	P
Service Stations	C	P	X	C	P	P	X	X	X	X	X
Services, Business, including computer rental workstations; leasing, maintenance, repair, and sale of communications and office equipment; mailing; notary public; photocopying; and printing	P	P	P	P	P	P	P	P	P	P	P
Services, Commercial	S	S	P	P	P	P	P	P[16]	S	C[17]	L[6]
Services, Commercial—Car Washes	S	S	X	C	P	P	P	X	X	X	X
Services, Commercial—Construction and Maintenance, including contractors engaged in construction and maintenance of electrical and plumbing systems	C	P	P	P	P	P	P	S	S	C[17]	L[6]

Use	NC	C-2	RCC	RTL	CC	C-3	PMU[1]	SCMU	OA[2,3]	OC	RCO
Services, Commercial—Food and Beverage, including catering and eating and drinking establishments	P	P	P	P	P	P	P	P[16]	L[18]	L[5],C[39]	L[6,40]
Services, Commercial—Maintenance and Repair of any of the following: appliances, bicycles, electronic equipment, guns, housewares, musical instruments, optical goods, signs, small power equipment, sporting goods, and tools	P	P	P	P	P	P	P	P[16]	S	C[17]	L[6]
Services, Commercial—Maintenance and Repair of any of the following: all-terrain vehicles, automobiles, light trucks, motorcycles, and snowmobiles	C	P	P	P	P	P	X	X	X	C[17]	L[6]
Services, Commercial—Maintenance and Repair of any of the following: boats; heavy trucks such as dump trucks, moving trucks, and truck tractors; large cargo trailers such as semitrailers; large construction equipment such as backhoes and bulldozers; large farm equipment such as tractors and combines; large forestry equipment; large mineral extraction equipment; manufactured dwellings; recreational vehicles; and residential trailers	X	X	X	P	P	P	X	X	X	X	X
Services, Commercial—Miscellaneous, including food lockers, interior decorating, locksmith, upholstering, and veterinary	P	P	P	P	P	P	P	P[16]	S	C[17]	L[6]

Use	NC	C-2	RCC	RTL	CC	C-3	PMU[1]	SCMU	OA[2,3]	OC	RCO
Services, Commercial—Personal and Convenience, including barbershops, beauty salons, dry cleaners, laundries, photo processing, seamstresses, shoe repair, tailors, and tanning salons. Also permitted are incidental retail sales of products related to the service provided.	P	P	P	P	P	P	P	P[16]	L[18]	L[5]	L[6]
Services, Commercial—Mini-Storage/Self-Storage Facilities	S	S	X	C	P	P	X	X	S	X	X
Services, Commercial—Storage of any of the following: all-terrain vehicles, automobiles, light trucks, motorcycles, and snowmobiles	S	S	X	C	P	P	X	X	X	X	X
Services, Commercial—Storage of any of the following: boats; heavy trucks such as dump trucks, moving trucks, and truck tractors; large cargo trailers such as semitrailers; large construction equipment such as backhoes and bulldozers; large farm equipment such as tractors and combines; large forestry equipment; large mineral extraction equipment; manufactured dwellings; recreational vehicles; and residential trailers	X	X	X	C	P	P	X	X	X	X	X
Services, Commercial—Studios of the following types: art, craft, dance, music, and photography	P	P	P	P	P	P	P	P[16]	S	P	P
Services, Commercial—Truck Stops	X	X	X	X	P	P	X	X	X	X	X
Services, Information, including blueprinting, bookbinding, photo processing, photo reproduction, printing, and publishing	S	S	S	S	P	P	P	P[24]	P	P	P
Signs, subject to Section 1010	A[41]	A[41]	A[41]	A[41]	A[41]	A[41]	A[41]	A[41]	A[41]	A[41]	A[41]
Stadiums, Outdoor	X	X	X	X	X	C	X	X	X	X	X

Use	NC	C-2	RCC	RTL	CC	C-3	PMU[1]	SCMU	OA[2,3]	OC	RCO
Telephone Exchanges	S	C	C	C	C	C	S	S	S	S	S
Temporary Buildings for Uses Incidental to Construction Work, provided that such buildings shall be removed upon completion or abandonment of the construction work	A	A	A	A	A	A	A	A	A	A	A
Temporary Storage within an Enclosed Structure of Source-Separated Recyclable/Reusable Materials Generated and/or Used On-site Prior to On-site Reuse or Removal by the Generator or Licensed or Franchised Collector to a User or Broker	A	A	A	A	A	A	A	A	A	A	A
Transit Facilities, including transit centers, transit park-and-rides, transit stations, and transit stops	S	S	P	P	P	P	P	P	S	P	P
Utility Carrier Cabinets, subject to Section 830	P,C[42]	P,C[42]	P,C[42]	P,C[42]	P,C[42]	P,C[42]	P,C[42]	P,C[42]	P,C[42]	P,C[42]	P,C[42]
Wireless Telecommunication Facilities, subject to Section 835	See Table 835-1	P	P	P	P	P	P	See Table 835-1	P	P	P

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

[2] A minimum of 60 percent of the total building floor area on a site shall be primary use(s).

[3] A maximum of 40 percent of the total building floor area on a site may be limited use(s).

[4] An assembly facility with a maximum capacity of more than 500 people is a conditional use.

[5] The maximum combined building floor area of the use, and any other limited uses, shall be 20 percent of the building floor area of primary uses in the same development.

[6] The use is permitted only:

a. In a multistory building with a primary use, up to a maximum building floor area equal to the building floor area of the first floor; or

b. On the ground-level floor of a freestanding parking structure.

[7] Freestanding congregate housing facilities and freestanding multifamily dwellings are subject to the development and dimensional standards applicable to congregate housing facilities and multifamily dwellings in the RCHDR District. This requirement does not apply to congregate housing facilities or multifamily dwellings in a mixed-use building.

[8] A congregate housing facility shall have a minimum of four dwelling units.

[9] Freestanding congregate housing facilities and freestanding multifamily dwellings are subject to the development and dimensional standards applicable to congregate housing facilities and multifamily dwellings in the HDR District. With the exception of compliance with the maximum density standard, this requirement does not apply to congregate housing facilities or multifamily dwellings in a mixed-use building.

[10] Drive-thru window service is prohibited on streets designated as Main Streets on Comprehensive Plan Map X-CRC-3, *Clackamas Regional Center Area Design Plan, Urban Design Elements*.

[11] Drive-thru window service is permitted only if it is accessory to a financial institution and only if the financial institution is not on a street designated as a Main Street on Comprehensive Plan Map X-CRC-3.

[12] Attached single-family dwellings, subject to the density standards of the VTH District, may be developed in the same building as a primary use.

[13] Two-family, three-family and multifamily dwellings, subject to the density standards of the MR-2 District, may be developed in the same building as a primary use.

[14] Employee amenities shall be located in the same structure as the use to which they are accessory.

[15] Only indoor facilities are permitted.

[16] A maximum of 40,000 square feet of ground-floor building floor area may be occupied by any one business, regardless of the number of buildings occupied by that business. In addition, the total ground-floor building floor area occupied by any combination of uses subject to Note 18 shall not exceed 40,000 square feet in a single building.

[17] The maximum combined building floor area of the use, any limited uses, and any other uses subject to Note 19, shall be 20 percent of the building floor area of primary uses in the same development.

[18] An individual use shall not exceed 2,500 square feet of building floor area. In addition, the maximum combined building floor area of an individual use, and any other uses subject to Note 20, shall be 10 percent of the total building floor area in the same development.

[19] The use may be allowed in conjunction with a primary use on the site, subject to the following criteria:

a. If the primary use on the site is an office use, the minimum floor area ratio (FAR) standard of Table 510-2 may be modified as follows for a lot of greater than two and one-half acres in size:

i. The minimum FAR for the office use shall be 0.75; and

ii. The minimum FAR for the fitness facility or recreational sports facility and the office use combined shall be 1.0.

b. If the primary use on the site is a multifamily dwelling, the site area developed with the fitness facility or recreational sports facility and any parking or accessory structures used exclusively for the fitness facility or recreational sports facility shall be included in the net acreage when calculating minimum density pursuant to Table 510-2.

c. The fitness facility or recreational sports facility shall be developed concurrently with, or after, a primary use.

[20] This use is permitted only in conjunction with a primary or another conditional use.

[21] Also permitted are associated gift shops, newsstands, and eating and drinking establishments, all of which shall be located in the same building as the hotel.

[22] In the NC District, sign production is a conditional use.

[23] In the C-2 District, sign production is a permitted use.

[24] These uses are permitted with a maximum of 10,000 square feet of building floor area per building, if part of a mixed-use development and if the combined building floor area of the use, and any other uses subject to Note 26, does not exceed 25 percent of the building floor area of the mixed-use development.

[25] Manufacturing of the following is prohibited: explosive devices; incendiary devices; and renewable fuel resources, such as alcohol, biomass, and methanol.

[26] This use is permitted only if it has physical and operational requirements that are similar to those of other primary uses allowed in the same zoning district.

[27] Marijuana processing shall be located entirely within one or more completely enclosed buildings. The processing, compounding, or conversion of marijuana into cannabinoid concentrates or cannabinoid extracts is prohibited.

[28] Only level one mobile vending units are permitted.

[29] Also permitted are associated gift shops, newsstands, and eating and drinking establishments, all of which shall be located in the same building as the motel.

[30] The parking is permitted to serve only developments located in the same zoning district as the subject property.

[31] This use is limited to understructure parking.

[32] Only substations are permitted.

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

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

[35] No operation shall be conducted or equipment used which would create hazards and/or noxious or offensive conditions.

[36] Only retailing of videos is permitted as a limited use. All other retailing in this use category requires review pursuant to Section 106 in the OA District and is a conditional use, subject to Note 19, in the OC District.

[37] Only commercial schools are permitted.

[38] Schools shall be limited to no more than 30 percent of the total building floor area on a site.

[39] An eating and drinking establishment may be permitted as a conditional use, provided that it complies with a minimum of five of the following criteria:

a. Has a minimum seating capacity of 75;

b. Specializes in gourmet, ethnic, or specialty cuisine;

c. Includes banquet facilities and services;

d. Provides live entertainment at least two nights a week;

e. Utilizes custom architectural design and/or collections of artistic, cultural, or historic items to produce a distinctive thematic decor or atmosphere;

f. Has an Oregon Liquor Control Commission license to serve beer and wine; or

g. Employs only chefs who have graduated from a recognized culinary institute, or who have outstanding qualifications or reputations for their culinary skills.

[40] Notwithstanding Note 10, a freestanding eating and drinking establishment shall be allowed in conjunction with a primary use in the same development, subject to the following criteria:

a. The building floor area of the freestanding eating and drinking establishment shall not exceed 5,000 square feet.

b. If the primary use in the same development is an office use, as defined in Note 26 to Table 510-2, *Dimensional Standards in the Urban Commercial and Mixed-Use Zoning Districts*, the floor area ratio of the development, including the eating and drinking establishment, shall comply with the minimum floor area ratio standard for primary office uses in Table 510-2.

c. If the primary use in the same development is a multifamily dwelling or a congregate housing facility, the acreage developed with the eating and drinking establishment, and any parking or accessory structures that are used exclusively for the eating and drinking establishment, may be subtracted from the total acreage when calculating minimum density pursuant to Table 510-2.

d. The eating and drinking establishment shall be developed concurrently with, or after, a primary use.

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

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

Table 510-2: Dimensional Standards in the Urban Commercial and Mixed-Use Zoning Districts

Standard	NC	C-2	RCC	RTL	CC	C-3	PMU	SCMU	OA	OC	RCO
Minimum Lot Size	7,260 square feet[1,2]	None	1 acre[2,3]	½ acre[2,3]	None	None	PMU1: None PMU2: 2 acres PMU3: 3 acres PMU4: ½ acre PMU5: 10 acres PMU6: 5 acres	½ acre[2,4]	None	1 acre[2,3]	2½ acres[2,3]
Minimum Street Frontage	None	None	None	None	None	None	None	100 feet[5]	None	None	None
Maximum Front Setback	20 feet[6]	20 feet[6]	20 feet[7]	20 feet[6]	20 feet[6]	20 feet[6]	20 feet[7,8]	See Subsection 1005.10	20 feet[6]	20 feet[6]	20 feet[7]
Minimum Front Setback	0	15 feet	5 feet[9]	15 feet	15 feet	15 feet	0	See Subsection 1005.10	10 feet	15 feet	5 feet[9]

Standard	NC	C-2	RCC	RTL	CC	C-3	PMU	SCMU	OA	OC	RCO
Minimum Rear Setback	0	0[10]	0[11]	0[12]	0[12]	0[12]	0[8,10]	See Subsection 1005.10	10 feet[13]	10 feet[11]	0[14]
Minimum Side Setback	0	0[15]	0[15]	0[16]	0[16]	0[16]	0[8,15]	See Subsection 1005.10	6 feet[17]	10 feet[18]	0[15]
Maximum Building Height	35 feet	None[19]	None	None	None	None	None	None	45 feet	None[20]	None
Minimum Floor Area Ratio	None	None	0.3 for a retail development; 0.5 for an office development[21]	None	None	None	See Table 510-3.	None	None	None	0.5 for primary office uses on lots of 2½ acres or less; 1.0 for primary office uses on lots greater than 2½ acres[21, 22, 23]
Maximum Building Floor Area per Use	5,000 square feet	None	None	None	None	None	None	None	None	None	None

Standard	NC	C-2	RCC	RTL	CC	C-3	PMU	SCMU	OA	OC	RCO
Minimum Density	None	None	30 dwelling units per net acre for freestanding multifamily dwellings and freestanding congregate housing facilities; none if these uses are in a building with another primary use[24]	None	None	None	See Table 510-3	20 dwelling units per net acre for residential development; none for mixed-use development[24]	None	None	30 dwelling units per net acre for freestanding multifamily dwellings and freestanding congregate housing facilities; none if these uses are in a building with another primary use or with a limited use other than a fitness facility or a freestanding restaurant[24]

Notes to Table 510-2:

[1] The minimum lot size for land with a Comprehensive Plan land use plan designation of Low Density Residential shall be the same as that allowed by the zoning district that applied to the subject property immediately prior to the application of the NC zoning district.

[2] The minimum lot size standard applies only to subdivisions, partitions, and property line adjustments. Notwithstanding the minimum lot size standard, an undersized lot of record may be developed, subject to other applicable standards of this Ordinance.

[3] No minimum lot size standard applies to a lot created by partition or subdivision or adjusted through a property line adjustment, provided that the newly created or adjusted lot is developed only with a dwelling classified as a nonconforming use and uses accessory to that dwelling.

[4] The minimum is 2,000 square feet for a lot developed only with an attached single-family dwelling and uses accessory to that dwelling.

[5] The minimum street frontage standard applies only to subdivisions, partitions, and property line adjustments. The minimum for a lot of record on the outer radius of a curved street or the circular end of a cul-de-sac is 35 feet measured on the arc. The minimum for a lot of record developed only with an attached single-family dwelling, and uses accessory to that dwelling, shall be 20 feet. A lot of record with frontage on more than one street shall meet the minimum on each street.

[6] The maximum front setback standard applies only if required by Subsection 1005.03(H). However, see Subsection 1005.03(E) for a related standard.

[7] The maximum front setback standard shall be met for all buildings except freestanding parking structures. However, the maximum front setback may be exceeded to the minimum extent necessary to accommodate pedestrian amenities. If a lot has more than one front lot line, the standard must be met for only one. A private road used to satisfy the maximum front setback standard must comply with Subsection 1005.08(G). The maximum front setback from Main Streets identified on Comprehensive Plan Map X-CRC-3 is 10 feet.

[8] In lieu of complying with the standard, an applicant for design review on a site of 25 acres or larger may propose alternate setback standards. The alternate standards, or any part thereof, shall be approved if they are found to be equally effective as the regular standards in establishing a visual image, sense of place, and quality pedestrian environment for the area.

[9] There is no minimum setback from a front lot line that abuts a Main Street identified on Comprehensive Plan Map X-CRC-3.

[10] If the rear lot line abuts a residential zoning district, the minimum shall be 15 feet.

[11] If the rear lot line abuts a residential zoning district, the minimum shall be 35 feet.

[12] If the rear lot line abuts a residential zoning district, the minimum shall be 15 feet plus one foot for each one-foot increase in building height over 35 feet. Height increments of less than one foot shall be rounded up to the nearest foot. For example, if the building height is 38.8 feet, the minimum setback shall be 19 feet.

[13] If the rear lot line abuts an Urban Low Density Residential, VR-4/5, or VR-5/7 zoning district, the minimum shall be: 10 feet for the portion of a building that is 25 feet or less in height; 20 feet for the portion of a building that is greater than 25 feet and less than or equal to 35 feet in height; and 40 feet for the portion of a building that is greater than 35 feet and less than or equal to 45 feet in height.

[14] If the rear lot line abuts a residential zoning district, the minimum shall be 35 feet plus one foot for each one-foot increase in building height over 35 feet. Height increments of less than one foot shall be rounded up to the nearest foot. For example, if the building height is 38.8 feet, the minimum setback shall be 39 feet.

[15] If the side lot line abuts a residential zoning district, the minimum shall be 15 feet.

[16] If the side lot line abuts a residential zoning district, the minimum side yard setback shall be 15 feet plus one foot for each one-foot increase in building height over 35 feet. Height increments of less than one foot shall be rounded up to the nearest foot. For example, if the building height is 38.8 feet, the minimum setback shall be 19 feet.

[17] If the side lot line abuts an Urban Low Density Residential, VR-4/5, or VR-5/7 zoning district, the minimum shall be: six feet for the portion of a building that is 25 feet or less in height; 16 feet for the portion of a building that is greater than 25 feet and less than or equal to 35 feet in height; and 40 feet for the portion of a building that is greater than 35 feet and less than or equal to 45 feet in height.

[18] If the side lot line abuts a residential zoning district, the minimum shall be 35 feet.

[19] If the subject property abuts a residential zoning district, the maximum building height shall be 35 feet.

[20] If the building is located less than 100 feet from an Urban Low Density Residential, VR-4/5, or VR-5/7 District, the maximum building height shall be equal to the building's distance from the Urban Low Density Residential, VR-4/5, or VR-5/7 District.

[21] Floor area ratio shall be calculated pursuant to Subsection 1005.03(K).

[22] With a master plan approved pursuant to Subsection 1102.03(B), a lot greater than two and one-half acres may be developed in phases provided that the minimum floor area ratio of each phase prior to the final phase is 0.5 and that the minimum floor area ratio of 1.0 is achieved for the entire lot with development of the final phase.

[23] For the purposes of this provision, "office uses" include the following uses from Table 510-1, *Permitted Uses in the Urban Commercial and Mixed-Use Zoning Districts*: Business Services, Financial Institutions, Information Services, Offices, Offices and Outpatient Clinics, and Research Facilities and Laboratories.

[24] Net acreage shall be calculated pursuant to Subsections 1012.08(A) and (B).

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

Land Uses & Areas Required	PMU1
Office uses[1], minimum square feet	525,000 square feet
Retail, entertainment, hotel, service commercial, theater, or equivalent, minimum square feet	500,000 square feet
Dwelling units, minimum number	200 dwelling units; demonstrate ability to accommodate 600 dwelling units
Public plaza	one-half- to one-acre plaza
Entertainment/recreational facility	
Transit facilities	
Preserve Phillips Creek and enhance Phillips Creek Greenway	
Land Uses & Areas Required	**PMU 2, 3, 4, and 5**
Office uses[1] or residential uses[2], minimum site area	50 percent
Office uses[1], minimum floor area ratio (FAR)	0.5 for office uses on lots of two and one-half acres or less; 1.0 for office uses on lots greater than two and one-half acres, calculated pursuant to Subsection 1005.03(K). With a master plan approved pursuant to Subsection 1102.03(B), a lot greater than two and one-half acres may be developed in phases, provided that the minimum floor area ratio of each phase prior to the final phase is 0.5 and that the minimum floor area ratio of 1.0 is achieved for the entire lot with development of the final phase.
Retail uses and service commercial uses, minimum FAR	0.3, calculated pursuant to Subsection 1005.03(K)
Residential density[2]	The minimum density for residential development shall be 30 dwelling units per net acre. Net acreage shall be calculated pursuant to Subsections 1012.08(A) and (B).

Notes to Table 510-3:

[1] For the purposes of this provision, "office uses" include the following uses from Table 510-1, *Permitted Uses in the Urban Commercial and Mixed-Use Zoning Districts*: Assembly Facilities, Business Services, Civic and Cultural Facilities, Financial Institutions, Information Services, Libraries, Offices, Offices and Outpatient Clinics, Radio and Television Studios, Research Facilities and Laboratories, and Schools.

[2] For the purposes of this provision, "residential uses" include the following uses from Table 510-1: Congregate Housing Facilities, Multifamily Dwellings, and Nursing Homes. However, nursing homes are excluded from the minimum residential density standard.

[Added by Ord. ZDO-250, 10/13/14; Amended by Ord. ZDO-252, 6/1/15; Amended by Ord. ZDO-253, 6/1/15; Amended by Ord. ZDO-254, 1/4/16; Amended by Ord. ZDO-266, 5/23/18; Amended by Ord. ZDO-268, 10/2/18]

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

1. Clarify that child care facilities, and not necessarily other types of "daycare" facilities, are what are allowed as employee amenities accessory to a primary use.

2. In the RTC District, allow the manufacturing of edible or drinkable products retailed on the same site, including the primary processing of raw materials (e.g., malt, milk, spices) that are ingredients in edible or drinkable products retailed on the same site, and also including the wholesale distribution of edible or drinkable products that are manufactured and retailed on the same site, but excluding the processing, production, and wholesaling of marijuana products.

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

513.01 PURPOSE

Section 513 is adopted to implement the policies of the Comprehensive Plan for Community Commercial areas regulated by the Mount Hood Community Plan and for Rural Commercial areas.

513.02 APPLICABILITY

Section 513 applies to land in the Rural Tourist Commercial (RTC) and Rural Commercial (RC) Districts.

513.03 USES PERMITTED

A. Uses permitted in the RTC and RC Districts are listed in Table 513-1, *Permitted Uses in the RTC and RC Districts*. In addition, uses similar to one or more of the listed uses for the applicable zoning district may be authorized pursuant to Section 106, *Authorizations of Similar Uses*.

B. As used in Table 513-1:

1. "P" means the use is a primary use.
2. "A" means the use is an accessory use.
3. "C" means the use is a conditional use, approval of which is subject to Section 1203, *Conditional Uses*.
4. "S" means the use may be authorized only pursuant to Section 106; however, identifying a use as "S" does not indicate that any determination has been made regarding whether the use will be authorized pursuant to Section 106.
5. "X" means the use is prohibited.
6. Numbers in superscript correspond to the notes that follow Table 513-1.

C. Permitted uses are subject to the applicable provisions of Subsection 513.04, *Dimensional Standards*; Section 1000, *Development Standards*; and Section 1100, *Development Review Process.*

513.04 DIMENSIONAL STANDARDS

A. General: Dimensional standards applicable in the RTC and RC Districts are listed in Tables 513-2, *Dimensional Standards in the RTC and RC Districts, Except in Government Camp*, and 513-3, *Dimensional Standards in Government Camp*. As used in Tables 513-2 and 513-3, numbers in superscript correspond to the notes that follow the tables.

B. Modifications: Modifications to the standards in Tables 513-2 and 513-3 are established by Sections 800, *Special Use Requirements*; 903, *Setback Exceptions*; 904, *Height Exceptions;* 1107, *Property Line Adjustments*; and 1205, *Variances*.

Table 513-1: Permitted Uses in the RTC and RC Districts

Use	RTC	RC
Accessory Uses, Customarily Permitted, such as amateur (Ham) radio antennas and towers, arbors, bicycle racks, carports, citizen band transmitters and antennas, cogeneration facilities, courtyards, decks, decorative ponds, driveways, electric vehicle charging stations, family child care homes, fountains, garages, garden sheds, gazebos, greenhouses, HVAC units, meeting facilities, outdoor kitchens, parking areas, patios, pergolas, pet enclosures, plazas, property maintenance and property management offices, recreational facilities (such as bicycle trails, children's play structures, dance studios, exercise studios, playgrounds, putting greens, recreation and activity rooms, saunas, spas, sport courts, swimming pools, and walking trails), rainwater collection systems, satellite dishes, self-service laundry facilities, shops, solar energy systems, storage buildings/rooms, television antennas and receivers, transit amenities, trellises, and utility service equipment	A	A
Assembly Facilities, including auditoriums, community centers, convention facilities, exhibition halls, fraternal organization lodges, places of worship, senior centers, and theaters for the performing arts	P	P,C[1]
Bed and Breakfast Inns, subject to Section 832	P	P
Bed and Breakfast Residences, subject to Section 832	P	P
Bus Shelters	P	P
Child Care Facilities	P	P
Civic and Cultural Facilities, including art galleries, libraries, museums, and visitor centers	P	P
Composting Facilities	X	X
Contractors, Logging	P	P
Daycare Services, Adult	P	P
Drive-Thru Window Services, subject to Section 827	X	A
Dwellings, Detached Single-Family	P[2],A	A
Electric Vehicle Charging Stations	P	P
Employee Amenities, including cafeterias, clinics, ~~daycare~~ child care facilities, fitness facilities, lounges, and recreational facilities	A	A
Entertainment Facilities, including arcades, billiard halls, and movie theaters	P	P
Farmers' Markets, subject to Section 840	P	P
Financial Institutions, including banks, brokerages, credit unions, loan companies, and savings and loan associations	P	P
Fitness Facilities, including athletic clubs, exercise studios, gymnasiums, and health clubs	P	P

Use	RTC	RC
Government Uses, including fire stations, police stations, and post offices	P	P
Government Uses, unless such a use is listed elsewhere in this table as a primary, accessory, conditional, or prohibited use in the applicable zoning district	S	C
Home Occupations, including bed and breakfast homestays, subject to Section 822	A	A
Hosting of Weddings, Family Reunions, Class Reunions, Company Picnics, and Similar Events	C	C
Hotels	P[3]	S[4]
Hydroelectric Facilities	C	C
Manufacturing of Edible or Drinkable Products Retailed on the Same Site, including the primary processing of raw materials (e.g., malt, milk, spices) that are ingredients in edible or drinkable products retailed on the same site, and also including the wholesale distribution of edible or drinkable products that are manufactured and retailed on the same site, but excluding the processing, production, and wholesaling of marijuana products.	P	S
Marijuana Processing	X	X
Marijuana Production	X	X
Marijuana Retailing, subject to Section 841	P[5]	P[5]
Marijuana Wholesaling	P[6]	P[6]
Mobile Vending Units, subject to Section 837	P	P
Motels	P[3]	S[4]
Offices, including administrative, business, corporate, governmental, and professional offices. Examples include offices for the following: accounting services, architectural services, business management services, call centers, employment agencies, engineering services, governmental services, income tax services, insurance services, legal services, manufacturer's representatives, office management services, property management services, real estate agencies, and travel agencies.	P	P
Offices and Outpatient Clinics—both of which may include associated pharmacies and laboratories—for healthcare services, such as acupuncture, chiropractic, counseling, dental, massage therapy, medical, naturopathic, optometric, physical therapy, psychiatric, occupational therapy, and speech therapy.	P	P
Parking Lots	A	A
Parking Structures, Community	P[7]	X
Pedestrian Amenities	P	P
Public Utility Facilities	S	C
Radio and Television Transmission and Receiving Towers and Earth Stations	S[8]	C[8]

Use	RTC	RC
Recreational Uses, including boat moorages, community gardens, country clubs, equine facilities, gymnastics facilities, golf courses, horse trails, pack stations, parks, playgrounds, sports courts, swimming pools, ski areas, and walking trails[9]	C	C
Recreational Uses, Government-Owned, including amphitheaters; arboreta; arbors, decorative ponds, fountains, gazebos, pergolas, and trellises; ball fields; bicycle and walking trails; bicycle parks and skate parks; equine facilities; boat moorages and ramps; community buildings and grounds; community and ornamental gardens; courtyards and plazas; fitness and recreational facilities, such as exercise equipment, gymnasiums, and swimming pools; horse trails; miniature golf, putting greens, and sports courts; pack stations; parks; picnic areas and structures; play equipment and playgrounds; nature preserves and wildlife sanctuaries; ski areas; tables and seating; and similar recreational uses[9]	P	P
Recreational Uses, Government-Owned Golf Courses[9]	P	P
Recreational Vehicle Camping Facilities, subject to Section 813	P	X
Recycling Centers, subject to Section 819	C	C
Recyclable Drop-Off Sites, subject to Section 819	A	A
Resort Accommodations	P[10]	S
Retailing—whether by sale, lease, or rent—of any of the following new or used products: Class I, III, and IV all-terrain vehicles, as defined by Oregon Revised Statutes Chapter 801; motorcycles; and snowmobiles	S	P
Retailing—whether by sale, lease, or rent—of any of the following new or used products: apparel, appliances, art, art supplies, beverages, bicycle supplies, bicycles, books, cameras, computers, computer supplies, cookware, cosmetics, dry goods, electrical supplies, electronic equipment, firewood, flowers, food, furniture, garden supplies, gun supplies, guns, hardware, hides, interior decorating materials, jewelry, leather, linens, medications, music (whether recorded or printed), musical instruments, nutritional supplements, office supplies, optical goods, paper goods, periodicals, pet supplies, pets, plumbing supplies, photographic supplies, signs, small power equipment, sporting goods, stationery, tableware, tobacco, toiletries, tools, toys, vehicle supplies, and videos	P	P
Retailing—whether by sale, lease, or rent—of any of the following new or used products: animal feed, building materials, farm equipment, forestry equipment, and livestock supplies	P	P
Schools	P	P,C[2,11]
Service Stations	P	P
Services, Commercial—Construction and Maintenance, including contractors engaged in construction and maintenance of buildings, electrical systems, and plumbing systems	P	P
Services, Commercial—Food and Beverage, including catering and eating and drinking establishments	P[12]	P[12]

Use	RTC	RC
Services, Commercial—Maintenance and Repair of any of the following: appliances, bicycles, electronic equipment, guns, housewares, musical instruments, optical goods, signs, small power equipment, sporting goods, and tools	P	P
Services, Commercial—Maintenance and Repair of any of the following: all-terrain vehicles, automobiles, light trucks, motorcycles, and snowmobiles	P	P
Services, Commercial— Maintenance and Repair of any of the following: boats; heavy trucks such as dump trucks, moving trucks, and truck tractors; large cargo trailers such as semitrailers; large construction equipment such as backhoes and bulldozers; large farm equipment such as tractors and combines; large forestry equipment; large mineral extraction equipment; and recreational vehicles	S	P
Services, Commercial—Miscellaneous, including food lockers, interior decorating, locksmith, upholstering, and veterinary	P	P
Services, Commercial—Mini-Storage/Self-Storage Facilities	C[13]	C
Services, Commercial—Personal and Convenience, including barbershops, beauty salons, dry cleaners, laundries, photo processing, seamstresses, shoe repair, tailors, and tanning salons. Also permitted are incidental retail sales of products related to the service provided.	P	P
Services, Commercial—Storage of any of the following: all-terrain vehicles, automobiles, light trucks, motorcycles, and snowmobiles	S	C
Services, Commercial—Storage of any of the following: boats; heavy trucks such as dump trucks, moving trucks, and truck tractors; large cargo trailers such as semitrailers; large construction equipment such as backhoes and bulldozers; large farm equipment such as tractors and combines; large forestry equipment; large mineral extraction equipment; and recreational vehicles	S	C
Services, Commercial—Studios of the following types: art, craft, dance, music, and photography	P	P
Signs, subject to Section 1010	A[14]	A[14]
Telephone Exchanges	S	C
Temporary Storage within an Enclosed Structure of Source-Separated Recyclable/Reusable Materials Generated and/or Used On-site Prior to On-site Reuse or Removal by the Generator or Licensed or Franchised Collector to a User or Broker	A	A
Temporary Buildings for Uses Incidental to Construction Work. Such buildings shall be removed upon completion or abandonment of the construction work.	A	A
Theme Parks and Amusement Parks	C	S
Transfer Stations, subject to Section 819	C	C
Transit Park-and-Rides	P	P
Utility Carrier Cabinets, subject to Section 830	P,C[15]	P,C[15]

Use	RTC	RC
Wholesaling—whether by sale, lease, or rent—of any of the following new or used products: animal feed, farm equipment, farm materials, farm products, fertilizer, forestry equipment, forestry materials, forestry products, mulch, nursery stock, seeds, and seedlings	P	P
Wireless Telecommunication Facilities, subject to Section 835	See Table 835-1	See Table 835-1

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

[2] On a lot of record created on or before December 7, 1983, one detached single-family dwelling is a primary use. Otherwise, detached-single family dwellings are permitted only as an accessory use.

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

[4] If a hotel or motel is authorized as a similar use inside an unincorporated community, it shall be subject to Oregon Administrative Rules 660-022-0030(5).

[5] Marijuana retailing is permitted only inside an unincorporated community.

[6] Marijuana wholesaling shall be located entirely within one or more completely enclosed buildings. A maximum of 4,000 square feet of building floor space may be used for all activities associated with marijuana wholesaling on a lot of record.

[7] Parking structures are permitted only in Government Camp and only if they are consistent with a community parking plan adopted by the Board of County Commissioners.

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

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

[10] A resort accommodations development in Government Camp shall be limited to a maximum of 50 units per acre. A resort accommodations development in Rhododendron or Wemme/Welches shall be limited to a maximum number of units per acre calculated pursuant to Table 317-3, *District Land Area Standards in the MRR District*, but is not subject to Section 1012, *Lot Size and Density*.

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

[12] Drive-in eating and drinking establishments are prohibited.

[13] No outside storage shall be permitted.

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

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

Table 513-2: Dimensional Standards in the RTC and RC Districts, Except in Government Camp

Standard	RTC	RC
Minimum Lot Size	None	None[1]
Minimum Front Setback	25 feet[2]	30 feet[2]
Minimum Rear Setback	10 feet[3,4,5]	10 feet[4,6]
Minimum Side Setback	10 feet[3,4,5]	10 feet[4,6]
Maximum Building Floor Space per Commercial Use in an Unincorporated Community	4,000 square feet[7]	
Maximum Building Floor Space per Commercial Use outside an Unincorporated Community	Not Applicable	3,000 square feet[8]
Maximum Building Floor Space per Industrial Use in an Unincorporated Community	40,000 square feet[9]	

[1] The minimum lot size inside the Portland Metropolitan Urban Growth Boundary shall be 20 acres. The 20-acre minimum lot size is applicable to a subdivision or partition, but not to a property line adjustment.

[2] In a planned unit development, the minimum front setback is 20 feet.

[3] If the lot line abuts a national forest, there is no minimum setback. If Note 3 and Note 4 conflict, Note 3 prevails.

[4] In a planned unit development, there are no minimum rear and side setbacks except from rear and side lot lines on the perimeter of the final plat.

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

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

[7] No maximum applies to hotels and motels; uses authorized under Oregon Statewide Planning Goals 3 and 4; and uses intended to serve the community and surrounding rural area or the travel needs of people passing through the area.

[8] A lawfully established commercial use that existed on December 20, 2001, may expand to occupy a maximum of 3,000 square feet of building floor space or 25 percent more building floor space than was occupied by the use on December 20, 2001, whichever is greater.

[9] No maximum applies to uses authorized under Statewide Planning Goals 3 and 4; expansion of a use that existed on December 5, 1994; uses that require proximity to a rural resource, as defined in Oregon Administrative Rules 660-004-0022(3)(a); new uses that will not exceed the capacity of water and sewer service available to the site on December 5, 1994, or, if such services are not available to the site, the capacity of the site itself to provide water and absorb sewage; and uses sited on abandoned or diminished mill sites.

Table 513-3: Dimensional Standards in Government Camp

Standard	RTC
Minimum Front Setback unless the Front Lot Line abuts Government Camp Loop	10 feet, except 20 feet to garage and carport motor vehicle entries
Minimum Front Setback if the Front Lot Line abuts Government Camp Loop	4 feet[1]
Maximum Front Setback if the Front Lot Line abuts Government Camp Loop	10 feet[2]
Minimum Rear Setback	10 feet[3,4,5]
Minimum Side Setback	None
Maximum Building Height	70 feet[6]
Minimum Building Separation above 3,500 Feet in Elevation	20 feet between buildings with contiguous snow slide areas
Maximum Building Floor Space per Commercial Use	8,000 square feet[7]
Maximum Building Floor Space per Industrial Use	60,000 square feet[8]

[1] There is no minimum front setback for building cantilevers with a minimum vertical clearance of eight feet above any pedestrian pathway, sidewalk, or walkway. Structures less than 10 feet from the front lot line shall be designed to include measures to protect the public and vehicles from snow slide incidents.

[2] The maximum front setback may be exceeded to the minimum extent necessary to accommodate public plaza space. Detached single-family dwellings are exempt from complying with the maximum front setback.

[3] If the rear lot line abuts a national forest, there is no minimum rear setback. If Note 3 and Note 4 conflict, Note 3 prevails.

[4] In a planned unit development, there is no minimum rear setback except from rear lot lines on the perimeter of the final plat.

[5] If the rear lot line abuts an HR District, the minimum rear setback is 20 feet except as established by Note 3 or 4.

[6] The maximum building height may be increased to 87.5 feet to accommodate understructure parking or to preserve natural features or views.

[7] No maximum applies to hotels and motels; uses authorized under Oregon Statewide Planning Goals 3 and 4; and uses intended to serve the community and surrounding rural area or the travel needs of people passing through the area.

[8] No maximum applies to uses authorized under Statewide Planning Goals 3 and 4; expansion of a use that existed on December 5, 1994; uses that require proximity to a rural resource, as defined in Oregon Administrative Rules 660-004-0022(3)(a); new uses that will not exceed the capacity of water and sewer service available to the site on December 5, 1994, or, if such services are not available to the site, the capacity of the site itself to provide water and absorb sewage; and uses sited on abandoned or diminished mill sites.

[Added by Ord. ZDO-252, 6/1/15; Amended by Ord. ZDO-253, 6/1/15; Amended by Ord. ZDO-254, 1/4/16; Amended by Ord. ZDO-266, 5/23/18; Amended by Ord. ZDO-268, 10/2/18]

Summary of Proposed Amendments to Section 601, *Campus Industrial (CI) District*

1. Repeal the entirety of this section that relates only to the Campus Industrial (CI) District.

~~601 CAMPUS INDUSTRIAL DISTRICT (CI)~~

~~601.01 PURPOSE~~

~~Section 601 is adopted to implement the policies of the Comprehensive Plan for Campus Industrial areas.~~

~~601.02 APPLICABILITY~~

~~Section 601 applies to land in the Campus Industrial (CI) District.~~

~~601.03 USES PERMITTED~~

~~Uses permitted in the CI district are listed in Table 601-1, *Permitted Uses in the CI District*. In addition, uses similar to one or more of the listed uses may be authorized pursuant to Section 106, *Authorizations of Similar Uses*.~~

~~A. As used in Table 601-1:~~

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

~~2. "A" means the use is an accessory use.~~

~~3. "L" means the use is a limited use and shall be developed concurrently with or after a primary use is developed on the same site.~~

~~3. "C" means the use is a conditional use, approval of which is subject to Section 1203, *Conditional Uses*.~~

~~4. "X" means the use is prohibited.~~

~~5. Numbers in superscript correspond to the notes that follow Table 601-1.~~

~~B. Permitted uses are subject to the applicable provisions of Subsection 601.04, *Dimensional Standards*, Subsection 601.05, *Development Standards*, Section 1000, *Development Standards*, and Section 1100, *Development Review Process*.~~

~~601.04 DIMENSIONAL STANDARDS~~

~~A. General: Dimensional standards applicable in the CI District are listed in Table 601-2, *Dimensional Standards in the CI District*. As used in Table 601-2, numbers in superscript correspond to the notes that follow Table 601-2.~~

~~B. Modifications: Modifications to the standards of Table 601-2 are established by Sections 800, *Special Use Requirements*; 1107, *Property Line Adjustments*; and 1205, *Variances*.~~

~~601.05 DEVELOPMENT STANDARDS~~

~~The following development standards apply:~~

~~A. Condominiums: Dwellings permitted in the CI District may be platted as condominiums.~~

~~B. Outdoor Storage: No outdoor storage of materials shall be allowed.~~

~~Table 601-1: Permitted Uses in the CI District~~

~~Use~~	~~CI~~
~~**Accessory Uses, Customarily Permitted**, such as amateur (Ham) radio antennas and towers, arbors, bicycle racks, carports, citizen band transmitters and antennas, cogeneration facilities, courtyards, decks, decorative ponds, driveways, electric vehicle charging stations, family child care homes, fountains, garages, garden sheds, gazebos, greenhouses, HVAC units, meeting facilities, outdoor kitchens, parking areas, patios, pergolas, pet enclosures, plazas, property maintenance and property management offices, recreational facilities (such as bicycle trails, children's play structures, dance studios, exercise studios, playgrounds, putting greens, recreation and activity rooms, saunas, spas, sport courts, swimming pools, and walking trails), rainwater collection systems, satellite dishes, self-service laundry facilities, shops, solar energy systems, storage buildings/rooms , television antennas and receivers, transit amenities, trellises, and utility service equipment~~	~~A~~
~~**Bed and Breakfast Inns**, subject to Section 832~~	~~L[1], C~~
~~**Bed and Breakfast Residences**, subject to Section 832~~	~~L[1], C~~
~~**Blueprinting, Bookbinding, Graphic and Photographic Reproduction, Photo Processing, Printing, and Publishing**~~	~~P~~
~~**Bus Shelters**~~	~~A~~
~~**Central Mail Room and Self-Service Postal and Banking Facilities, Newsstands, and Products Information and Display Areas**~~	~~A[2]~~
~~**Child Care Facilities**~~	~~A, L[1], C~~
~~**Composting Facilities**~~	~~X~~
~~**Congregate Housing Facilities**~~	~~P[3]~~
~~**Daycare Services, Adult**~~	~~A, L[1], C~~
~~**Dwellings, Multifamily**~~	~~P[3]~~
~~**Dwellings, Three-Family**~~	~~P[3]~~
~~**Dwellings, Two-Family**~~	~~P[3]~~

~~Use~~	~~CI~~
~~**Employee Amenities**, including cafeterias, clinics, daycare facilities, fitness facilities, lounges, and recreational facilities~~	~~A[2]~~
~~**Experimental, Film, or Testing Laboratories**~~	~~P[4]~~
~~**Farmers' Markets**, subject to Section 840~~	~~P~~
~~**Financial Institutions**, including banks, brokerages, credit unions, loan companies, and savings and loan associations~~	~~L[1], C~~
~~**Fitness Facilities**, including athletic clubs, exercise studios, gymnasiums, and health clubs~~	~~L[1],P[5], C~~
~~**Fraternal Organization Lodges**~~	~~C~~
~~**Government Uses** that exceed a primary or accessory use~~	~~C~~
~~**Heliports**~~	~~C~~
~~**Hydroelectric Facilities**~~	~~C~~
~~**Libraries**~~	~~C~~
~~**Manufacturing Products from, or Otherwise Processing, Previously Prepared Materials**[6]~~	~~P~~
~~**Marijuana Processing**~~	~~X~~
~~**Marijuana Production**~~	~~X~~
~~**Marijuana Retailing**~~	~~X~~
~~**Marijuana Wholesaling**~~	~~X~~
~~**Mobile Vending Units**, subject to Section 837~~	~~A[7],L[1],C~~
~~**Multi-Use Developments**, subject to Section 844~~	~~C~~
~~**Offices**, including administrative, business, corporate, governmental, and professional offices. Examples include offices for the following: accounting services, architectural services, business management services, call centers, employment agencies, engineering services, governmental services, income tax services, insurance services, legal services, manufacturer's representatives, office management services, property management services, real estate agencies, and travel agencies~~	~~P[8]~~
~~**Offices and Outpatient Clinics** – both of which may include associated pharmacies and laboratories – for healthcare services, such as acupuncture, chiropractic, counseling, dental, massage therapy, medical, naturopathic, optometric, physical therapy, psychiatric, occupational therapy, and speech therapy~~	~~L[1], C~~
~~**Parking Structures**~~	~~A~~
~~**Pedestrian Amenities**~~	~~P~~

~~Use~~	~~CI~~
~~**Public Utility Facilities**~~	~~C[9]~~
~~**Radio and Television Transmission and Receiving Towers and Earth Stations**~~	~~C[10]~~
~~**Recreational Uses**, including playgrounds, sports courts, and swimming pools~~	~~P[5]~~
~~**Recreational Uses**, including boat moorages, country clubs, equine facilities, golf courses, gymnastics facilities, lodges, parks, and swimming pools[11]~~	~~C~~
~~**Recreational Vehicle Camping Facilities**, subject to Section 813~~	~~C~~
~~**Recyclable Drop-Off Sites**, subject to Section 819~~	~~A[12]~~
~~**Retailing**—whether by sale, lease, or rent—of any of the following new or used products: apparel, appliances, art, art supplies, beverages, bicycle supplies, bicycles, books, cameras, computers, computer supplies, cookware, cosmetics, dry goods, electrical supplies, electronic equipment, firewood, flowers, food, furniture, garden supplies, gun supplies, guns, hardware, hides, interior decorating materials, jewelry, leather, linens, medications, music (whether recorded or printed), musical instruments, nutritional supplements, office supplies, optical goods, paper goods, periodicals, pet supplies, pets, plumbing supplies, photographic supplies, signs, small power equipment, sporting goods, stationery, tableware, tobacco, toiletries, tools, toys, vehicle supplies, and videos~~	~~L[1], C~~
~~**Retailing**—whether by sale, lease, or rent—of any new or used product not specifically listed elsewhere in this table~~	~~C[1]~~
~~**Schools**[13]~~	~~P~~
~~**Services, Commercial**—any service not specifically listed elsewhere in this table~~	~~C[1]~~
~~**Services, Commercial—Food and Beverage**, including catering and eating and drinking establishments~~	~~L[1,14], C[14]~~
~~**Services, Commercial—Personal and Convenience**, including barbershops, beauty salons, dry cleaners, laundries, photo processing, seamstresses, shoe repair, tailors, and tanning salons. Also permitted are incidental retail sales of products related to the service provided.~~	~~L[1], C~~
~~**Services, Commercial—Veterinary**~~	~~L[1], C~~
~~**Signs**, subject to Section 1010~~	~~A[15]~~
~~**Telephone Exchanges**~~	~~C~~
~~**Temporary Buildings for Uses Incidental to Construction Work**, provided that such buildings shall be removed upon completion or abandonment of the construction work~~	~~A~~

~~Use~~	~~CI~~
~~**Temporary Storage within an Enclosed Structure of Source-Separated Recyclable/Reusable Materials Generated and/or Used On-Site Prior to On-Site Reuse or Removal by the Generator or Licensed or Franchised Collector to a User or Broker**~~	~~A~~
~~**Utility Carrier Cabinets**, subject to Section 830~~	~~P,C[16]~~
~~**Warehouse and Storage Structures** provided in conjunction with a primary use~~	~~A~~
~~**Wireless Telecommunication Facilities**, subject to Section 835~~	~~P~~

~~[1] The use is permitted subject to the following criteria:~~

~~a. The building floor area occupied by all uses subject to Note 1 shall not exceed 10 percent of the building floor area occupied by primary uses.~~

~~b. The use shall be located, arranged, and integrated within the development to serve primarily the shopping and service needs of residents and employees of the CI District.~~

~~c. The use shall not be of a type or intensity that produces odor, smoke, fumes, noise, glare, heat, or vibration that are incompatible with associated primary uses in the area.~~

~~[2] These uses shall be located in the same structure as the use to which they are accessory.~~

~~[3] Congregate housing facilities, multifamily dwellings, three-family dwellings, and two-family dwellings may occupy no more than 75 percent of the building floor area of a development. Accessory uses are not counted toward the 75-percent maximum. In addition, no more than 25 percent of the gross site area may be developed with exclusively residential uses and associated accessory and limited uses. This 25-percent limit does not apply to mixed-use buildings that combine residential uses and other primary uses. The entire gross site area is used to calculate maximum density permitted pursuant to Section 1012, *Lot Size and Density*. The 75-percent maximum building floor area standard may be waived if a substantial mix of primary uses has been established within the CI District to the extent that the following primary-use categories are represented: business/industrial (blueprinting, bookbinding, graphic and photographic reproduction, photo processing, printing, publishing, laboratories, manufacturing, offices, or schools); residential (congregate housing facilities, multifamily dwellings, three-family dwellings, or two-family dwellings); and recreational (fitness facilities or recreational uses). Alternatively, the standard may be modified or waived if:~~

~~a. The need for the use for which additional floor area is requested is at least as great as the need for other compatible primary uses allowed in the CI District; and~~

~~b. The proposed use and location of the use are compatible with, and complementary to, existing or proposed developments in the CI District.~~

~~[4] No operation shall be conducted or equipment used that would create hazards or noxious or offensive conditions.~~

~~[5] The use shall be developed to serve primarily the recreational needs of residents and employees of the CI District.~~

[6] ~~The use is permitted subject to the following criteria:~~

~~a. The use shall be employee-intensive, providing approximately 15 or more jobs for every developed acre of land.~~

~~b. The use shall not be of a type or intensity that produces odor, smoke, fumes, noise, glare, heat, or vibration that are incompatible with other primary uses allowed in the CI District.~~

~~c. The physical and operational requirements of the use, including type of structure used and volume of heavy truck traffic generated, shall be similar to other industrial and office uses allowed in the CI District.~~

[7] ~~Level one mobile vending units are accessory uses. All other mobile vending units are limited or conditional uses.~~

[8] ~~Offices with 50 or more employees may occupy up to 100 percent of the building floor area of the development. Offices with fewer employees may occupy no more than 70 percent of the building floor area of the development. Accessory uses are not counted toward the 70-percent maximum. The 70-percent maximum building floor area standard may be waived if a substantial mix of primary uses has been established within the CI District to the extent that the following primary-use categories are represented: business/industrial (blueprinting, bookbinding, graphic and photographic reproduction, photo processing, printing, publishing, laboratories, manufacturing, offices, or schools); residential (congregate housing facilities, multifamily dwellings, three-family dwellings, or two-family dwellings); and recreational (fitness facilities or recreational uses). Alternatively, the standard may be modified or waived if:~~

~~a. The need for the use for which additional floor area is requested is at least as great as the need for other compatible primary uses allowed in the CI District; and~~

~~b. The proposed use and location of the use are compatible with, and complementary to, existing or proposed developments in the CI District.~~

[9] ~~Public utility facilities shall not include shops or garages.~~

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

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

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

[13] ~~Only trade or community schools primarily serving the business community within the area are permitted.~~

[14] ~~Drive-in eating and drinking establishments and drive-thru window services are prohibited.~~

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

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

~~Table 601-2: Dimensional Standards in the CI District~~

~~Standard~~	~~CI~~
~~District Land Area for Calculating Density Pursuant to Section 1012~~	~~1,742 square feet~~
~~Minimum Street Frontage~~	~~50 feet~~
~~Maximum Front Setback~~	~~See Subsections 1005.03(E) and (H).~~
~~Minimum Front Setback~~	~~15 feet~~
~~Minimum Rear Setback~~	~~15 feet~~
~~Minimum Side Setback~~	~~15 feet~~
~~Maximum Lot Coverage~~	~~55 percent~~

~~[Amended by Ord. ZDO-224, 5/31/11; Amended by Ord. ZDO-231, 1/31/12; Amended by Ord. ZDO-235, 5/14/12; Amended by Ord. ZDO-243, 9/9/13; Amended by Ord. ZDO-249, 10/13/14; Amended by Ord. ZDO-250, 10/13/14; Amended by Ord. ZDO-248, 10/13/14; Amended by Ord. ZDO-252, 6/1/15; Amended by Ord. ZDO-253, 6/1/15; Amended by Ord. ZDO-254, 1/4/16; Amended by Ord. ZDO-266, 5/23/18; Amended by Ord. ZDO-268, 10/2/18]~~

Summary of Proposed Amendments to Section 822, *Home Occupations*

1. Correct citations related to home occupation noise standards, without substantive changes to those standards.

822 HOME OCCUPATIONS

822.01 EXEMPTION

Except as set forth in Section 822, home occupations are exempt from Sections 1000, *Development Standards*, and 1102, *Design Review*.

822.02 DEFINITIONS

The following definitions apply to Section 822:

A. Accessory Building Floor Space: Any building floor space, other than a dwelling unit, that is used for the home occupation, including, but not limited to, an attached garage, detached garage, or pole building.

B. Employee: Any on-site person, whether they work full-time or part-time in the home occupation, including, but not limited to, the operator, partners, assistants, and any other persons participating in the operation of the home occupation.

C. Gross Vehicle Weight Rating: As defined in Oregon Revised Statutes 801.298.

D. Incidental Use: The use of no more than 25 percent of the floor area of a building or 500 square feet, whichever is less.

E. Operator: The person who conducts the home occupation, has majority ownership interest in the home occupation, and is responsible for strategic decisions and day-to-day operations of the home occupation.

F. Vehicle: Any motorized or non-motorized transportation equipment intended for use on public roads and associated with the home occupation, including, but not limited to, a car, van, pickup, motorcycle, truck, bus, recreational vehicle, detached trailer, or a truck tractor with no more than one trailer. Any attached trailer beyond one is a separate vehicle. A detached trailer is categorized as equipment, rather than a vehicle, if it is stored in enclosed accessory building floor space

G. Vehicle Trip: A vehicular movement either to or from the subject property by any vehicle used in the home occupation, any delivery vehicle associated with the home occupation, or any customer vehicle.

822.03 LEVEL ONE MINOR HOME OCCUPATIONS

A level 1 minor home occupation does not require a land use permit and shall be subject to the following standards and criteria:

A. Employees: No persons other than residents of the dwelling unit in which the home occupation is located shall be employees of the home occupation.

B. Building Floor Space: The home occupation shall be conducted in a dwelling unit and shall be limited to incidental use thereof. In addition, incidental use of accessory building floor space shall be allowed for storage purposes only.

C. Noise, Vibration, Glare, Fumes, and Odors: The home occupation shall not create noise, vibration, glare, fumes, or odors detectable to normal sensory perception off the subject property. Vehicles entering or exiting the subject property shall be exempt from this standard, but idling vehicles shall not.

D. Electrical Interference: The home occupation shall not create visual or audible electrical interference in any radio, television, or other electronic device off the subject property, or cause fluctuations in line voltage off the subject property.

E. Storage and Display: No outside storage, display of goods or merchandise visible from outside the enclosed building in which such goods or merchandise are stored, or other external evidence of the home occupation shall occur, except as specifically allowed by Subsection 822.03. Notwithstanding this provision, business logos flush-mounted on vehicles used in the daily operations of the home occupation are allowed.

F. Signs: Signs shall be permitted pursuant to Section 1010, *Signs*.

G. Traffic: The home occupation shall not generate more than 10 vehicle trips per day.

H. Parking: Parking associated with the home occupation shall be regulated as follows:

1. Vehicles associated with the home occupation shall not be stored, parked, or repaired on public rights-of-way.

2. The maximum number of customer vehicles that are associated with the home occupation and located on the subject property shall not exceed two at any time.

3. The home occupation shall not involve the use, parking, storage, or repair of any vehicle exceeding a gross vehicle weight rating of 11,000 pounds, except deliveries by parcel post, United Parcel Service, or similar in-town delivery service trucks. Such deliveries shall be limited to no more than one per day.

4. If customers of the home occupation come to the subject property, two parking spaces shall be provided for them in defined areas of the subject property. Such areas shall be accessible, usable, designed, and surfaced for parking. The minimum parking space requirement for the home occupation shall be in addition to the parking spaces required for other permitted uses on the subject property.

I. Prohibited Uses: The following uses shall be prohibited as a minor home occupation:

1. Bed and breakfast homestays;

2. Marijuana production;

3. Marijuana processing;

4. Marijuana wholesaling; and

5. Marijuana retailing.

822.04 LEVEL TWO AND THREE MAJOR HOME OCCUPATIONS

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

A. Operator: The operator shall reside full-time in a lawfully established dwelling unit on the tract on which the home occupation is located.

B. Employees: The home occupation shall have no more than five employees.

C. Noise: Noise shall be regulated as follows:

1. From 8:00 a.m. until 6:00 p.m., the average peak sound pressure level, when measured off the subject property, of noise created by the home occupation shall not exceed the greater of 60 dB(A) or the ambient noise level. During all other hours, the home occupation shall not create noise detectable to normal sensory perception off the subject property.

   a. Noise generated by vehicles entering or exiting the subject property, but not by idling vehicles, shall be exempt from Subsection 822.04(~~E~~C)(1).

   b. Subsection 822.04(~~E~~C)(1) shall not apply to noise detectable on public rights-of-way and railroad rights-of-way.

2. A noise study may be required to demonstrate compliance with Subsection 822.04(E)(1). If a noise study is required, measurements shall be made with a sound level meter. The sound level meter shall be an instrument in good operating condition, meeting the requirements of a Type I or Type II meter, as specified in ANSI Standard 1.4-1971. The sound level meter shall contain at least an A-weighted scale, and both fast and slow meter response capability. Personnel making measurements shall have completed training in the use of the sound level meter, and measurement procedures consistent with that training shall be followed.

D. Vibration, Glare, Fumes, and Odors: The home occupation shall not create vibration, glare, fumes, or odors detectable to normal sensory perception off the subject property. Vehicles entering or exiting the subject property shall be exempt from this standard, but idling vehicles shall not.

E. Electrical Interference: The home occupation shall not create visual or audible electrical interference in any radio, television, or other electronic device off the subject property, or cause fluctuations in line voltage off the subject property.

F. Storage and Display: No outside storage, display of goods or merchandise visible from outside the enclosed building space in which such goods or merchandise are stored, or external evidence of the home occupation shall occur, except as specifically allowed by Subsection 822.04. Notwithstanding this provision, business logos flush-mounted on vehicles used in the daily operations of the home occupation are allowed.

G. Signs: Signs shall be permitted pursuant to Section 1010, *Signs*.

H. Parking: Vehicles associated with the home occupation shall not be stored, parked, or repaired on public rights-of-way. Parking spaces needed for employees or customers of the home occupation shall be provided in defined areas of the subject property. Such areas shall be accessible, usable, designed, and surfaced for parking.

I. Access: If the subject property takes access via a private road or access drive that also serves other properties, evidence shall be provided, in the form of a petition, that all other property owners who have access rights to the private road or access drive agree to allow the specific home occupation described in the application. Such evidence shall include any conditions stipulated in the agreement. A new petition shall not be required for a renewal application.

J. Type of Buildings: Notwithstanding the definition of home occupation in Section 202, *Definitions*, in the AG/F, EFU, and TBR Districts, the home occupation shall be operated substantially in the operator's dwelling or other buildings normally associated with uses permitted in the applicable zoning district.

K. Hazardous Materials: Hazardous materials shall not be present on the subject property in quantities greater than those normally associated with the primary uses allowed in the applicable zoning district, or in quantities greater than those exempt amounts allowed by the current edition of the Oregon Structural Specialty Code, whichever is less.

L. Level Two and Three Major Home Occupations: Major home occupations are classified as level two or three. A level three major home occupation may be established only if at least 50 percent of the lots of record abutting the subject property are larger than two acres; however, a renewal application shall be evaluated on the basis of the lot size analysis first applied to the home occupation. A lot of record is considered to be abutting if it is contiguous to the tract on which the home occupation is proposed, or if it is directly across an access drive, private road, or public or county road with a functional classification below that of a collector. The following standards differ depending on whether the proposed home occupation is a level two or three:

1. Building Floor Space: The home occupation may be conducted in a dwelling unit, but—except in the case of a bed and breakfast homestay—is limited to incidental use thereof. For a level two major home occupation, a maximum of 500 square feet of accessory building floor space may be used for the home occupation, and for a level three major home occupation, a maximum of 1,500 square feet of accessory building floor space may be used for the home occupation. If only a portion of an accessory building is authorized for use in the home occupation, a partition wall at least seven feet in height, or a height as required by the County Building Codes Division, whichever is greater, shall separate the home occupation space from the remainder of the building. A partition wall may include a door, capable of being closed, for ingress and egress between the home occupation space and the remainder of the building.

2. Traffic: A level two major home occupation shall not generate more than 20 vehicle trips per day, and a level three major home occupation shall not generate more than 30 vehicle trips per day.

3. Vehicles: Vehicles shall be regulated as follows:

   a. Level Two: The maximum number of vehicles that are associated with a level two major home occupation and located on the subject property shall not exceed four at any time, including, but not limited to, employee and customer vehicles. A level two major home occupation shall not involve the use, parking, storage, or repair of any vehicle exceeding a gross vehicle weight rating of 11,000 pounds, except deliveries by parcel post, United Parcel Service, or similar in-town delivery service trucks, and such deliveries shall be limited to no more than one per day.

   b. Level Three: The maximum number of vehicles that are associated with a level three major home occupation and located on the subject property shall not exceed five at any time, including, but not limited to, employee vehicles, customer vehicles, and vehicles to be repaired. Vehicles to be repaired shall be located within an enclosed building or in an area not visible from off the subject property. No more than one of the five vehicles permitted to be located on the subject property at one time shall exceed a gross vehicle weight rating of 11,000 pounds.

4. Prohibited Uses: The following uses shall be prohibited as a major home occupation:

   a. Marijuana production;

   b. Marijuana processing;

   c. Marijuana wholesaling;

   d. Marijuana retailing;

   e. As a level two major home occupation:

      i. Repair of motorized vehicles and equipment, including the painting or repair of automobiles, trucks, trailers, or boats;

      ii. Towing and vehicle storage business; and

      iii. Any use that requires a structure to be upgraded to a more restrictive use, under the current edition of the Oregon Structural Specialty Code, than an automobile repair shop with open flame; and

   f. As a level three major home occupation, any use that requires a structure to be upgraded to a more restrictive use, under the current edition of the Oregon Structural Specialty Code, than aircraft engine repair.

822.05 EXCEPTIONS

An exception to any of the standards identified in Subsection 822.04 requires review as a Type III application pursuant to Section 1307, *Procedures*, and shall be subject to the following standards and criteria:

A. The use shall remain compatible with the area. The following factors shall be considered when determining if a use is compatible with the area:

   a. The number of standards identified in Subsection 822.04 that will be exceeded; it is presumed that the more standards exceeded, the more difficult it will be to demonstrate compatibility;

   b. The character of the neighborhood, including such factors as the presence of off-site similar and outside storage uses, proximity of off-site dwellings, level of surrounding traffic, size of off-site accessory buildings, and background noise levels;

   c. The ability to mitigate impacts by driveway and road improvements, screening, landscaping, building location, building design, and other improvements;

   d. Potential environmental impacts, including effects on air and water quality; and

e. Provision of adequate and safe access to public, County, or state roads.

B. Services adequate to serve the proposed use shall be available, including transportation, public facilities, and other services existing or planned for the area affected by the use. At a minimum, compliance with Subsections 1006.03(B), 1006.04(B), and 1006.06(C) (except as set forth in Subsection 1006.07), and 1007.07 is required.

C. Notwithstanding the remainder of Subsection 822.05:

1. An exception shall not be granted to Subsection 822.04(A), (I), (J), or (L)(4)(a) through (d).

2. Accessory building floor space for the home occupation shall not exceed 3,000 square feet.

3. If the subject property is in an EFU, TBR, or AG/F zoning district, the number of employees shall not exceed five.

822.06 PREEXISTING HOME OCCUPATIONS

Home occupations legally established prior to April 22, 2010, which complied with all provisions of this Ordinance then in effect, including appropriate permits if required, are exempt from the requirements of Section 822. Those preexisting home occupations that were subject to annual permit review shall be reviewed for compliance with the standards in effect at the time of their establishment, on the same schedule as home occupations established under the current provisions of Section 822. Home occupations established prior to the requirement for permit application and review are not subject to automatic review, but must continue to comply with the standards in effect at the time of their establishment. Preexisting home occupations may not be transferred to another operator or be enlarged without satisfying all the requirements of Section 822.

822.07 APPROVAL PERIOD AND RENEWALS

A. A major home occupation permit is valid for three 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.

B. A major home occupation permit may be renewed an unlimited number of times. Renewals also shall be valid for three 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.

C. A renewal of a major home occupation permit, including one for a home occupation with one or more previously approved exceptions under Subsection 822.05, requires review as a Type II application pursuant to Section 1307, *Procedures*. However, if the renewal application includes a request for an exception not approved under the prior home occupation permit, the renewal requires review as a Type III application pursuant to Section 1307.

[Amended by Ord. ZDO-224, 5/31/11; Amended by Ord. ZDO-230, 9/26/11; Amended by Ord. ZDO-246, 3/1/14; Amended by Ord. ZDO-248, 10/13/14; Amended by Ord. ZDO-254, 1/4/16; Amended by Ord. ZDO-266, 5/23/18; Amended by Ord. ZDO-268, 10/2/18]

Summary of Proposed Amendments to Section 835, *Wireless Telecommunication Facilities*

1. Define "small wireless facility" and establish review procedures for such facilities consistent with Federal Communications Commission (FCC) 18-133 *Declaratory Ruling and Third Report and Order* and 47 CFR 1.6002(l)(1).

2. Except small wireless facilities in public rights-of-way or in easements under Clackamas County jurisdiction from the standards and land use review requirements of other wireless telecommunication facilities in Section 835, and provide for their regulation under the County's Roadway Standards.

3. Require that small wireless facilities outside of public rights-of-way and easements under Clackamas County jurisdiction to have the same color or colors as the portions of any building they are attached to or mounted on, and prohibit them from being affixed to trees, shrubs, or other vegetation.

4. Make conforming amendments to citations and subsection designations.

835 WIRELESS TELECOMMUNICATION FACILITIES

835.01 DEFINITIONS

The following definitions apply to Section 835:

A. Antenna: A transmitting or receiving device used in telecommunications that radiates or captures electromagnetic waves, including, but not limited to, directional antennas, such as panel and microwave dish antennas, and omni-directional antennas, such as whip antennas.

B. Collocation: The use of a single support structure by more than one wireless telecommunications provider.

C. Essential Public Communication Services: Police, fire, and other emergency communications networks.

D. Equipment Shelter: A structure that houses power lines, cable, connectors, and other equipment ancillary to the transmission and reception of telecommunications.

E. Existing Wireless Telecommunication Facility: A wireless telecommunication facility that received land use approval prior to March 14, 2002.

F. Small Wireless Facility: A wireless telecommunication facility that enables provision of wireless services and meets the conditions in Subsections 835.02(A)(1) through (4).

~~F~~G. Support Structure: A wireless telecommunication tower, building, or other structure that supports an antenna used for wireless telecommunications.

~~G~~H. Wireless Telecommunication Facility: An unmanned facility for the transmission of radio frequency (RF) signals, consisting of an equipment shelter, cabinet, or other enclosed structure containing electronic equipment, a support structure, antennas or other transmission and reception devices. Freestanding point-to-point microwave dishes, high-power television and FM transmission facilities, AM facilities, amateur (Ham) radio antennas and towers, and citizen band transmitters and antennas are not wireless telecommunication facilities.

~~H~~I. Wireless Telecommunication Tower: A freestanding support structure, including monopole and lattice tower, designed and constructed primarily to support antennas and transmitting and receiving equipment. Wireless telecommunication towers include:

1. Lattice tower: A tower characterized by an open framework of lateral cross members that stabilize the tower; and

2. Monopole: A single upright pole, engineered to be self-supporting, that does not require guy wires or lateral cross supports.

~~I~~J. Wireless Telecommunication Tower Height: The distance from the finished grade at the antenna tower base to the highest point of the tower, including the base pad, mounting structures, and panel antennas, but not including lightning rods and whip antennas.

835.02 SMALL WIRELESS FACILITIES

A. Small wireless facilities, consistent with 47 CFR 1.6002(l)(1), are facilities that meet each of the following conditions:

1. The facilities:

a. Are mounted on structures 50 feet or less in height including their antennas as defined in 47 CFR 1.1320(d); or

b. Are mounted on a structure no more than 10 percent taller than other adjacent structures; or

c. Do not extend existing structures on which they are located to a height of more than 50 feet or by more than 10 percent, whichever is greater;

2. Each antenna associated with the deployment, excluding associated antenna equipment, is no more than three cubic feet in volume;

3. All other wireless equipment associated with the structure, including the wireless equipment associated with the antenna and any pre-existing associated equipment on the structure, is no more than 28 cubic feet in volume; and

4. The facilities comply with Federal Communications Commission (FCC) requirements for registration, as well as FCC radio frequency emissions standards specified in 47 CFR 1.1307(b) and other applicable standards in 36 CFR 800.16(x) related to location on Tribal Lands.

B. Notwithstanding any otherwise applicable definition in Section 202 or Subsection 835.01, terms used in Subsection 835.02 have the meanings provided in 47 CFR 1.6002, which includes the following definitions:

1. Antenna: Consistent with 47 CFR 1.1320(d), an apparatus designed for the purpose of emitting radiofrequency (RF) radiation, to be operated or operating from a fixed location pursuant to FCC authorization, for the provision of personal wireless service and any commingled information services. For purposes of this definition, the term antenna does not include an unintentional

radiator, mobile station, or device authorized under Part 15, *Radio Frequency Devices* of CFR Title 47, *Telecommunication*.

2. Antenna equipment: Consistent with 47 CFR 1.1320(d), equipment, switches, wiring, cabling, power sources, shelters, or cabinets associated with an antenna, located at the same fixed location as the antenna, and, when collocated on a structure, is mounted or installed at the same time as such antenna.

2. Deployment: Placement, construction, or modification of a personal wireless service facility.

3. Structure: A pole, tower, base station, or other building, whether or not it has an existing antenna facility, that is used or to be used for the provision of personal wireless service (whether on its own or comingled with other types of services).

835.~~02~~03 EXEMPTIONS

A. Except for essential public communication services not provided by small wireless facilities in zoning districts listed in Subsections 1102.01(A) through (C), small wireless facilities and other wireless telecommunication facilities are exempt from Section 1102, *Design Review*.

B. Small wireless facilities in public rights-of-way or in easements under Clackamas County jurisdiction are regulated by the Clackamas County Roadway Standards and are not subject to Subsection 835.04, Subsections 835.06 through 835.08, or Table 835-02.

835.~~03~~04 SUBMITTAL REQUIREMENTS

An application for a Type I permit for a wireless telecommunication facility shall include the submittal requirements identified in Subsection 1307.07(C). In addition to the submittal requirements identified in Subsections 1203.02 (for conditional uses only) and 1307.07(C), an application for a Type II or conditional use permit for a wireless telecommunication facility, or for an adjustment pursuant to Subsection 835.~~06~~07, shall include:

A. A site plan, drawn to scale, that includes:

1. Existing and proposed improvements;

2. Adjacent roads;

3. Parking, circulation, and access;

4. Areas of vegetation to be added, retained, replaced, or removed;

5. Setbacks of all existing and proposed structures; and

6. If an adjustment is proposed pursuant to Subsection 835.06, the distance from the proposed location of the wireless telecommunication tower to off-site structures that are closer to the proposed location than a distance equal to the height of the proposed tower.

B. A vicinity map showing lots, land uses, zoning, and roadways within 500 feet of the proposed antenna site;

C. Elevations showing antennas, wireless telecommunication towers, equipment shelters, area enclosure, and other improvements related to the proposed facility;

D. For all new antennas, color simulations of the site after construction;

E. A map of existing wireless telecommunication facilities within one mile of the subject property; and

F. An alternatives analysis demonstrating compliance with Subsection 835.~~05~~06(D)(1)(a).

835.~~04~~05 USES PERMITTED

A. The types of wireless telecommunication facilities permitted in each zoning district are listed in Table 835-1, *Permitted Wireless Telecommunication Facilities*. Except for essential public communication services and small wireless facilities, wireless telecommunication facilities are classified as level one or two.

B. As used in Table 835-1:

1. "P" means the classification of wireless telecommunication facility is a primary use.

2. "C" means the classification of wireless telecommunication facility is a conditional use, approval of which is subject to Section 1203, *Conditional Uses*.

3. "X" means the classification of wireless telecommunication facility is prohibited.

4. Numbers in superscript correspond to the note that follows Table 835-1.

C. Wireless telecommunication facilities that are not small wireless facilities are subject to the applicable provisions of Subsections 835.~~05~~ 06(A-D) and 835.~~07~~08, and an adjustment may be approved pursuant to Subsection 835.~~06~~07. Small wireless facilities are not subject to Subsections 835.06(A-D) or 835.08, but are subject to the provisions of Subsection 835.06(E); small wireless facilities are not eligible for an adjustment pursuant to Subsection 835.07.

Table 835-1: Permitted Wireless Telecommunication Facilities

Use	FU-10, HR, MRR, and Zoning Districts Regulated by Section 315	AG/F, EFU, FF-10, NC, RA-1, RA-2, RR, RRFF-5, TBR, and VCS	Commercial and Industrial Zoning Districts except NC, VCS, and SCMU	SCMU	Review Process pursuant to Section 1307
Essential Public Communication Services	P	P[1]	P	P	Type I[2]
Level One Collocation	X	P	P	P	Type I[3]
Level One Placement on a Utility Pole	P	P	P	P	Type I[3]
Level Two Collocation	P	P	P	X	Type II[3]
Level Two Placement on a Utility Pole	P	P	P	X	Type II[3]
Level Two Wireless Telecommunication Facilities not included in any other category	C	C[1]	P	X	Type II if use is P[3], Type III if use is C
Small Wireless Facilities	P	P	P	P	Type I[4]

[1] In the AG/F and TBR Districts, the use is subject to Subsection 406.05(A)(1).

[2] In the AG/F, EFU, and TBR Districts, essential public communication services require review as a Type II application pursuant to Section 1307.

[3] If an adjustment is proposed pursuant to Subsection 835.~~06~~07, the wireless telecommunication facility requires review as a Type III application pursuant to Section 1307, *Procedures*.

[4] Small wireless facilities in public rights-of-way or in easements under Clackamas County jurisdiction do not require review through a Type I process.

835.~~05~~06 STANDARDS

A. Level One Collocation: A level one collocation of antennas on a previously approved wireless telecommunication facility shall be subject to the following standards:

1. Collocation proposals involving an existing wireless telecommunication facility must have an approved and implemented landscaping plan that complies with Subsection 835.~~05~~06(D)(5).

2. There shall be no increase in the height of the existing wireless telecommunication support structure.

3. The proposed collocated antennas shall be no more than 20 feet higher than the existing support structure.

4. All collocation improvements shall be located within a previously approved fenced lease area.

5. The collocation shall not involve the removal of any previously approved landscaping or buffering.

B. Level One Placement on a Utility Pole: Level one placements of wireless telecommunication facilities on utility poles (electric, cable, telephone, etc.) shall be subject to the following standards:

1. The wireless telecommunication facility shall be placed on an existing utility pole or, if it is necessary to replace the existing pole with a pole that is suitable for wireless telecommunication, the new pole shall be no taller than the pole that is being replaced.

2. The existing utility pole shall be within a public right-of-way, and, if the pole is to be replaced pursuant to Subsection 835.~~05~~06(B)(1), the replacement pole shall remain within the public-right-of-way.

3. Any equipment shelters for the wireless telecommunication facility shall be located on the utility pole and within the public right-of-way.

C. Level Two Placement on a Utility Pole: Level two placements of wireless telecommunication facilities on replacement utility poles (electric, cable, telephone, etc.) shall be subject to the following standards:

1. The height of the replacement utility pole shall not exceed the height of the pole being replaced by more than 20 feet.

2. The existing utility pole shall be within a public right-of-way, and the replacement pole shall remain within the public-right-of-way.

D. Level Two Wireless Telecommunication Facilities: A level two wireless telecommunication facility (including a level two collocation or placement on a utility pole) shall be subject to the following standards:

1. New Towers: If a new wireless telecommunication tower is proposed:

a. No new tower will be permitted unless no existing support structure can accommodate the proposed antenna. All proposals for new wireless telecommunication facilities must be accompanied by a statement from a qualified person that the necessary telecommunication service cannot be provided by collocation for one or more of the following reasons:

i. No existing support structures, or approved but not yet constructed support structures, are located within the geographic area required to meet the applicant's engineering requirements;

ii. Existing support structures are not of sufficient height to meet the applicant's engineering requirements;

iii. Existing support structures do not have sufficient structural strength to support the applicant's proposed antenna and related equipment;

iv. The applicant's proposed antenna would cause electromagnetic interference with the antenna on the existing support structure, or the existing antenna would cause interference with the applicant's proposed antenna; or

v. The applicant demonstrates that there are other limiting factors that render existing support structures unsuitable.

b. If the tower is inside the Portland Metropolitan Urban Growth Boundary, it shall be a monopole.

c. The tower shall be designed and built to accommodate collocation or additional loading. This means that the tower shall be designed specifically to accommodate no less than the following equipment, in addition to the applicant's proposed equipment:

i. Twelve antennas with a float plate wind-loading of not less than four square feet per antenna;

ii. A standard mounting structure, standoff arms, platform, or other similar structure designed to hold the antennas;

iii. Cable ports at the base and antenna levels of the tower; and

iv. Sufficient room within or on the tower for 12 runs of 7/8-inch coaxial cable from the base of the tower to the antennas.

d. The tower shall be painted or coated in a manner that blends with the surrounding area. The finished coloring shall result in a non-reflective surface that makes the tower as visually unobtrusive as possible unless state or federal regulations require different colors.

e. If the proposed wireless telecommunication facility requires approval of a conditional use permit, placement of the tower in an alternate location on the tract may be required, if the alternate location would result in greater compliance with the criteria in Section 1203, *Conditional Uses*, than the proposed location. In order to avoid relocating the proposed tower, the applicant shall demonstrate that the necessary wireless telecommunication service cannot reasonably be provided from the alternate location.

2. Equipment shelters shall be entirely enclosed. They may be painted or coated with a finish that best suits the operational needs of the facility, including the ability to reflect heat and to resist accumulations of dirt. If there is a conflict between acceptable colors and the operational needs of the facility, the use of architectural screen panels may be required.

3. No lighting shall be permitted on a wireless telecommunication tower, except as required by state or federal regulations. If lighting is required, the light shall be shielded or deflected from the ground, public rights-of-way, and other lots, to the extent practicable.

4. Unless the wireless telecommunication facility is located entirely on a utility pole, it shall be located within an area that is enclosed on all sides. The enclosure shall be a minimum of six feet tall and sight-obscuring.

5. Landscaping shall be placed outside of the enclosed area required pursuant to Subsection 835.~~05~~06(D)(4) and shall include ground cover, shrubs, and trees that are reflective of the natural surrounding vegetation in the area. However, if a portion of the wireless telecommunication facility is screened from points off-site by a building with a height of at least eight feet, landscaping is not required for the screened area. In addition, Subsection 1009.10 applies.

6. Noise generated by the wireless telecommunication facility shall not exceed the maximum levels established by the Oregon Department of Environmental Quality (DEQ). If lots adjacent to the subject property have a lower DEQ noise standard than the subject property, the lower standard shall be applicable.

7. Dimensional Standards: Dimensional standards applicable to wireless telecommunication towers that are not solely for small wireless facilities are listed in Table 835-2, *Dimensional Standards for Wireless Telecommunication Towers Not Solely for Small Wireless Facilities*.

E. Small Wireless Facilities: Small wireless facilities, including all related equipment and appurtenances, shall:

1. If attached to or mounted on a building, have the same color or colors as the portions of the building they are attached to or mounted on; and

2. Not be affixed to trees, shrubs, or other vegetation.

Table 835-2: Dimensional Standards for Wireless Telecommunication Towers Not Solely for Small Wireless Facilities

Zoning District	Maximum Height	Minimum Tower Separation	Minimum Front, Side, and Rear Setbacks
All zoning districts inside the Portland Metropolitan Urban Growth Boundary (UGB), HR, MRR, RR, and RTC	100 feet	1000 feet	The minimum setbacks generally applicable in the subject zoning district, or a distance equal to the height of the tower, whichever is greater
FF-10, RA-1, RA-2, RC, RI, and RRFF-5, provided that the tower is outside the UGB	150 feet	2000 feet	
AG/F, EFU, and TBR, provided that the tower is outside the UGB	250 feet	2,640 feet	

835.~~06~~07 ADJUSTMENTS

Adjustments to the standards of Section 835 for wireless telecommunication facilities that are not small wireless facilities may be granted under either of the following circumstances:

A. A gap in the applicant's service exists and that gap can only be alleviated through the adjustment of one or more of the standards of this section. If an adjustment is to be approved, the applicant must demonstrate the following:

1. A gap in coverage or capacity exists in the wireless telecommunication provider's service network that results in network users being regularly unable to connect, or maintain connection, with the provider's network;

2. The proposed wireless telecommunication facility will fill the existing service gap. Filled means the proposed facility would substantially reduce the frequency with which users of the network are unable to connect, or maintain connection, with the provider's network; and

3. The gap cannot be filled through collocation on existing facilities, or establishment of facilities that are consistent with the standards of this section

on properties other than the proposed site or on the proposed site in a manner which does not require an adjustment.

B. The proposed adjustment would utilize existing site characteristics to minimize demonstrated or potential impacts on the use of surrounding lots. Site characteristics include, but need not be limited to, those identified in Subsection 1203.03(B). The adjustment must result in a lower level of impact on surrounding lots than would result if the standard were not adjusted. In considering the requested adjustment, the following may be considered:

1. Visual impacts;

2. Impacts on view;

3. Impacts on property values; and

4. Other impacts that can be mitigated by an adjustment so that greater compliance with Subsection 1203.03(D) occurs.

835.~~07~~08 ABANDONMENT

A. Wireless telecommunication facilities that are not small wireless facilities will be considered abandoned when there has not been a provider licensed or recognized by the ~~Federal Communications Commission~~FCC operating on the facility for a period of 365 consecutive days. Determination of abandonment will be made by the Planning Director, who shall have the right to demand documentation from the facility owner regarding the tower or antenna use.

B. Upon determination of abandonment, the facility owner shall have 60 calendar days to reuse the facility or transfer the facility to another owner who will reuse it within 60 calendar days of the determination of abandonment.

C. If the facility is not reused within 60 calendar days of the determination of abandonment, county authorization for the use shall expire. Once authorization for the use has expired, the facility operator shall remove the facility from the property within 90 calendar days. If the facility operator does not remove the facility within 90 calendar days, the county may remove the facility at the expense of the facility operator, or, in the alternative, at the property owner's expense.

[Amended by Ord. ZDO-224, 5/31/11; Amended by Ord. ZDO-248, 10/13/14; Amended by Ord. ZDO-268, 10/2/18]

Summary of Proposed Amendments to Section 839, *Accessory Dwelling Units*

1. Repeal the "owner occupancy requirement" for accessory dwelling units (ADUs).

839 ACCESSORY DWELLING UNITS

839.01 NUMBER ALLOWED

Only one accessory dwelling unit shall be allowed per primary attached or detached single-family dwelling, and per primary manufactured dwelling, on the same lot of record.

839.02 GENERAL STANDARDS

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

A. Maximum Area: The maximum floor area of an accessory dwelling unit shall be 900 square feet, except in the R-2.5 District, where the maximum shall be 500 square feet. In no case shall the floor area of an accessory dwelling unit be larger than that of the primary dwelling.

B. Entrances: If an accessory dwelling unit is attached to a primary dwelling, the accessory dwelling entrance(s) shall be on the side or rear of the building. An exception to this requirement may be granted if there is no ground-level access to the accessory dwelling unit, or if the primary dwelling has additional front entrances prior to the development of an accessory dwelling unit and the total number of entrances is not increased.

~~C. Owner Occupancy: Except in the HR District, owner occupancy of either the accessory dwelling unit or the primary dwelling shall be required. A deed restriction requiring owner-occupancy of one of the dwelling units shall be recorded prior to issuance of a building permit for the accessory dwelling unit.~~

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

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

A. An accessory dwelling unit either may be located above a detached garage, or it may be integral to a primary dwelling.

B. If the accessory dwelling unit is located above a detached garage:

1. The maximum floor area of the accessory dwelling unit shall be 900 square feet.

2. The accessory dwelling unit shall be subject to the standards in Table 315-3, *Dimensional and Building Design Standards in the VR-5/7, VR-4/5, and VTH Districts,* that apply to accessory structures in the VR-4/5 and VR-5/7 Districts.

C. If the accessory dwelling unit is integral to a primary dwelling, it shall be subject to the standards in Table 315-3 that apply to primary dwellings in the VR-4/5 and VR-5/7 Districts.

839.04 STANDARDS IN THE VTH DISTRICT

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

A. An accessory dwelling unit either may be located above a detached garage, or it may be integral to a primary dwelling.

B. If the accessory dwelling unit is located above a detached garage:

1. The maximum floor area of the accessory dwelling unit shall be 500 square feet.

2. The accessory dwelling unit shall be subject to the dimensional standards in Table 315-3, *Dimensional and Building Design Standards in the VR-5/7, VR-4/5, and VTH Districts*, that apply to accessory structures in the VTH District.

C. If the accessory dwelling unit is integral to a primary dwelling, it shall be subject to the standards in Table 315-3 that apply to primary dwellings in the VTH District and to Subsection 1005.12(A).

839.05 MANUFACTURED DWELLINGS

A manufactured dwelling may not be used as an accessory dwelling unit in any zoning district except the FF-10, RA-1, RA-2, and RRFF-5 Districts. A manufactured dwelling used as an accessory dwelling unit is not subject to Section 824, *Manufactured Dwellings*.

[Added by Ord. ZDO-249, 10/13/14; Amended by Ord. ZDO-250, 10/13/14; Amended by Ord. ZDO-269, 9/6/18]

Summary of Proposed Amendments to Section 841, *Marijuana Production, Processing, and Retailing*

1. Repeal the County's restrictions on operating hours for marijuana retailing.

841 MARIJUANA PRODUCTION, PROCESSING, AND RETAILING

841.01 PROCEDURE

Marijuana production and marijuana retailing require review as Type I applications pursuant to Section 1307, *Procedures*. Marijuana processing requires review as a Type II application pursuant to Section 1307.

841.02 MARIJUANA PRODUCTION

Marijuana production shall be subject to the following standards and criteria:

A. Maximum Number of Licensed Premises/Registered Sites: In the AG/F, EFU, and TBR Districts, only one premises licensed for marijuana production by the Oregon Liquor Control Commission[1] or one medical marijuana grow site registered by the Oregon Health Authority[2] may be located on a tract.

B. Outdoor Production:

1. Outdoor production means producing marijuana:

   a. In an expanse of open or cleared ground; or

   b. In a greenhouse, hoop house, or similar non-rigid structure that does not utilize any artificial lighting on mature marijuana plants, including but not limited to electrical lighting sources. A mature marijuana plant is a marijuana plant that is flowering.

2. Outdoor production is prohibited in the FF-10 and RRFF-5 Districts but is permitted in the AG/F, EFU, and TBR Districts. Where permitted, outdoor production is subject to the same standards and criteria as indoor production, except where specifically noted.

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1 The Oregon Liquor Control Commission is referred to herein as "OLCC." References to OLCC shall include any successor entity that may be created by the State of Oregon to assume the responsibility of administering the state's recreational marijuana program.

2 The Oregon Health Authority is referred to herein as "OHA." References to OHA shall include any successor entity that may be created by the State of Oregon to assume the responsibility of administering the state's medical marijuana program.

C. Minimum Tract Size: A minimum tract size standard shall apply as follows:

1. In the FF-10 and RRFF-5 Districts, the subject tract shall be a minimum of five acres, except that if the majority of abutting lots of record are equal to or greater than two acres, the subject tract shall be a minimum of two acres. Abutting lots of record include lots of record that are contiguous to the subject tract, as well as lots of record directly across any access drive, or private, public, or county road, provided the functional classification of the road is below that of a collector.

2. In the AG/F, EFU, and TBR Districts, the subject tract shall be a minimum of two acres, except that if outdoor production is proposed, the subject tract shall be a minimum of five acres.

D. Minimum Setback/Distance from Lot Lines: The following standards shall apply:

1. In the FF-10 and RRFF-5 Districts, the minimum front, rear, and side setbacks for any structure used for marijuana production shall be 50 feet.

   a. Pursuant to Oregon Revised Statutes (ORS) 475B.340(2)(b), these setback standards do not apply to an agricultural building used to produce marijuana located on a premises for which a license has been issued under ORS 475B.070 if the agricultural building:

      i. Was constructed on or before July 1, 2015, in compliance with all applicable land use and building code requirements at the time of construction;

      ii. Is located at an address where a marijuana grow site first registered with the OHA under ORS 475B.420 on or before January 1, 2015;

      iii. Was used to produce marijuana pursuant to the provisions of ORS 475B.400 to 475B.525 on or before January 1, 2015; and

      iv. Has four opaque walls and a roof.

2. In the AG/F, EFU, and TBR Districts:

   a. Outdoor production shall be a minimum of 100 feet from all lot lines.

   b. Structures used for indoor production shall comply with the setback standards of the subject zoning district.

3. If the subject property is a tract that includes more than one lot of record, Subsections 841.02(D)(1) and (2)(a) do not apply to the lot line(s) that only separate these lots of record from one another. However, the setback standards of the subject zoning district still apply.

E. Enclosed Buildings: In the FF-10 and RRFF-5 Districts, marijuana production shall be located entirely within one or more completely enclosed buildings.

F. Maximum Building Floor Space: The following standards apply in the FF-10 and RRFF-5 Districts:

1. A maximum of 5,000 square feet of building floor space may be used for marijuana production and all activities associated with marijuana production (hereinafter referred to as marijuana production space) on the subject tract.

2. If only a portion of a building is authorized as marijuana production space, a partition wall at least seven feet in height, or a height as required by the County Building Codes Division, whichever is greater, shall separate the marijuana production space from the remainder of the building. A partition wall may include a door, capable of being closed, for ingress and egress between the marijuana production space and the remainder of the building.

G. Access: If the subject tract takes access via a private road or access drive that also serves other properties, evidence shall be provided, in the form of a petition, that all other property owners who have access rights to the private road or access drive agree to allow the specific marijuana production described in the application. Such evidence shall include any conditions stipulated in the agreement.

H. Lighting: Lighting shall be regulated as follows:

1. Light cast by light fixtures inside any building used for marijuana production shall not be visible outside the building from 7:00 p.m. to 7:00 a.m. the following day.

2. Marijuana grow lights located outside a building shall not be illuminated from 7:00 p.m. to 7:00 a.m. the following day.

3. Light cast by exterior light fixtures other than marijuana grow lights (e.g., security lights, driveway lights) shall not be directed skyward and shall be directed within the boundaries of the subject tract.

I. Odor: As used in Subsection 841.02(I), building means the building, or portion thereof, used for marijuana production. However, Subsection 841.02(I) does not apply to a building approved as part of outdoor production pursuant to Subsection 841.02(B)(1)(b).

1. The building shall be equipped with an activated carbon filtration system for odor control to ensure that air leaving the building through an exhaust vent first passes through an activated carbon filter.

2. The filtration system shall consist of one or more fans and activated carbon filters. At a minimum, the fan(s) shall be sized for cubic feet per minute (CFM) equivalent to the volume of the building (length multiplied by width multiplied by height) divided by three. The filter(s) shall be rated for the applicable CFM.

3. The filtration system shall be maintained in working order and shall be in use. The filters shall be changed a minimum of once every 365 days.

4. Negative air pressure shall be maintained inside the building.

5. Doors and windows shall remain closed, except for the minimum length of time needed to allow people to ingress or egress the building.

6. The filtration system shall be designed by an engineer licensed in the State of Oregon. The engineer shall stamp the design and certify that it complies with Subsection 841.02(I).

7. An alternative odor control system is permitted if the applicant submits a report by an engineer licensed in the State of Oregon demonstrating that the alternative system will control odor as well or better than the activated carbon filtration system otherwise required.

J. Noise: The applicant shall submit a noise study by an engineer licensed in the State of Oregon. The study shall demonstrate that generators used in association with marijuana production, as well as mechanical equipment used for heating, ventilating, air conditioning, or odor control in association with marijuana production, will not cumulatively produce sound that, when measured at any lot line of the subject tract, exceeds 50 dB(A). Only generators used in association with marijuana production and mechanical equipment used in association with marijuana production are subject to this standard.

K. Security Cameras: If used, security cameras shall be directed to record only the subject tract and may be directed to public rights-of-way as applicable, except as required to comply with licensing requirements of the OLCC or registration requirements of the OHA.

L. Water: The applicant shall submit proof of a legal source of water as evidenced by:

1. A copy of a water right permit, certificate, or other water use authorization from the Oregon Water Resources Department (OWRD);

2. A statement from a public or private water provider that water is supplied by that water provider. The statement shall include the name and contact information of the water provider; or

3. Proof from the OWRD that the water to be used for marijuana production is from a source that does not require a water right.

M. Waste Management: Marijuana waste shall be stored in a secured waste receptacle in the possession of and under the control of the OLCC licensee or OHA registrant.

N. Residency: In the FF-10 and RRFF-5 Districts, a minimum of one of the following shall reside in a dwelling unit on the subject tract:

1. An owner of the subject tract;

2. A holder of an OLCC license for marijuana production, provided that the license applies to the subject tract; or

3. A person registered with the OHA as a person designated to produce marijuana by a registry identification cardholder, provided that the registration applies to the subject tract.

O. Fencing: The maximum height of any fencing on the subject tract shall be 10 feet. Fences, walls, or other barriers shall not be electrified, or use barbed wire, razor wire, concertina coils, anti-climb spikes or any other similar security feature designed to discourage ingress through the potential of causing bodily harm.

P. Exceptions: Marijuana production, provided such production is done pursuant to registration with the OHA, is not required to comply with Subsections 841.02(H)(3) and (I) through (O), provided that the minimum front, rear, and side setbacks for any structure used for marijuana production shall be 100 feet.

841.03 MARIJUANA PROCESSING

Marijuana processing shall be subject to the following standards and criteria:

A. Maximum Number of Licensed Premises/Registered Sites: Only one premises licensed for marijuana processing by the OLCC or one medical marijuana processing site registered by the OHA may be located on the subject lot of record.

B. Minimum Lot of Record Size: The subject lot of record shall be a minimum of 10 acres.

C. Minimum Setbacks: The minimum front, rear, and side setbacks for any structure used for marijuana processing shall be 100 feet.

D. Enclosed Buildings: Marijuana processing shall be located entirely within one or more completely enclosed buildings.

E. Access: If the subject lot of record takes access via a private road or access drive that also serves other properties, evidence shall be provided, in the form of a petition, that all other property owners who have access rights to the private road or access drive agree to allow the specific marijuana processing described in the application. Such evidence shall include any conditions stipulated in the agreement.

F. Lighting: Lighting shall be regulated as follows:

1. Light cast by light fixtures inside any building used for marijuana processing shall not be visible outside the building from 7:00 p.m. to 7:00 a.m. the following day.

2. Light cast by exterior light fixtures (e.g., security lights, driveway lights) shall not be directed skyward and shall be directed within the boundaries of the subject lot of record.

G. Odor: As used in Subsection 841.03(G), building means the building, or portion thereof, used for marijuana processing.

1. The building shall be equipped with an activated carbon filtration system for odor control to ensure that air leaving the building through an exhaust vent first passes through an activated carbon filter.

2. The filtration system shall consist of one or more fans and activated carbon filters. At a minimum, the fan(s) shall be sized for cubic feet per minute (CFM) equivalent to the volume of the building (length multiplied by width multiplied by height) divided by three. The filter(s) shall be rated for the applicable CFM.

3. The filtration system shall be maintained in working order and shall be in use. The filters shall be changed a minimum of once every 365 days.

4. Negative air pressure shall be maintained inside the building.

5. Doors and windows shall remain closed, except for the minimum length of time needed to allow people to ingress or egress the building.

6. The filtration system shall be designed by an engineer licensed in the State of Oregon. The engineer shall stamp the design and certify that it complies with Subsection 841.03(G).

7. An alternative odor control system is permitted if the applicant submits a report by an engineer licensed in the State of Oregon demonstrating that the alternative system will control odor as well or better than the activated carbon filtration system otherwise required.

H. Noise: The applicant shall submit a noise study by an engineer licensed in the State of Oregon. The study shall demonstrate that generators used in association with marijuana production or processing, as well as mechanical equipment used for heating, ventilating, air conditioning, or odor control in association with marijuana production or processing, will not cumulatively produce sound that, when measured at any lot line of the subject lot of record, exceeds 50 dB(A). Only generators used in association with marijuana production or processing and mechanical equipment used in association with marijuana production or processing are subject to this standard.

I. Security Cameras: If used, security cameras shall be directed to record only the subject lot of record and may be directed to public rights-of-way as applicable, except as required to comply with licensing requirements of the OLCC or registration requirements of the OHA.

J. Water: The applicant shall submit proof of a legal source of water as evidenced by:

1. A copy of a water right permit, certificate, or other water use authorization from the Oregon Water Resources Department (OWRD);

2. A statement from a public or private water provider that water is supplied by that water provider. The statement shall include the name and contact information of the water provider; or

3. Proof from the OWRD that the water to be used for marijuana processing is from a source that does not require a water right.

K. Waste Management: Marijuana waste shall be stored in a secured waste receptacle in the possession of and under the control of the OLCC licensee or OHA registrant.

L. Fencing: The maximum height of any fencing on the subject lot of record shall be 10 feet. Fences, walls, or other barriers shall not be electrified, or use barbed wire, razor wire, concertina coils, anti-climb spikes or any other similar security feature designed to discourage ingress through the potential of causing bodily harm.

N. Exceptions: Marijuana processing, provided such processing is done pursuant to registration with the OHA, is not required to comply with Subsections 841.03(F)(2) and (G) through (L).

841.04 MARIJUANA RETAILING

Marijuana retailing shall be subject to the following standards and criteria:

~~A. Hours: A marijuana retailer may only sell to consumers between the hours of 10:00 a.m. and 9 p.m. and may only permit consumers to be present in the building space occupied by the marijuana retailer between the hours of 10:00 a.m. and 9 p.m.~~

~~B~~A. Odor: As used in Subsection 841.04(~~B~~A), building means the building, or portion thereof, used for marijuana retailing.

1. The building shall be equipped with an activated carbon filtration system for odor control to ensure that air leaving the building through an exhaust vent first passes through an activated carbon filter.

2. The filtration system shall consist of one or more fans and activated carbon filters. At a minimum, the fan(s) shall be sized for cubic feet per minute (CFM) equivalent to the volume of the building (length multiplied by width multiplied by height) divided by three. The filter(s) shall be rated for the applicable CFM.

3. The filtration system shall be maintained in working order and shall be in use. The filters shall be changed a minimum of once every 365 days.

4. Negative air pressure shall be maintained inside the building.

5. Doors and windows shall remain closed, except for the minimum length of time needed to allow people to ingress or egress the building.

6. The filtration system shall be designed by an engineer licensed in the State of Oregon. The engineer shall stamp the design and certify that it complies with Subsection 841.04(~~B~~A).

7. An alternative odor control system is permitted if the applicant submits a report by an engineer licensed in the State of Oregon demonstrating that the alternative system will control odor as well or better than the activated carbon filtration system otherwise required.

~~C~~B. Window Service: The use shall not have a walk-up window or drive-thru window service.

~~D~~C. Waste Management: Marijuana waste shall be stored in a secured waste receptacle in the possession of and under the control of the OLCC licensee or OHA registrant.

~~E~~D. Minors: No one under the age of 21 shall be permitted to be present in the building space occupied by the marijuana retailer, except as allowed by state law.

~~F~~E. Co-Location of Related Activities and Uses: Marijuana and tobacco products shall not be smoked, ingested, or otherwise consumed in the building space occupied by the marijuana retailer. In addition, marijuana retailing shall not be co-located on the same lot of record or within the same building with any marijuana social club or marijuana smoking club.

~~G~~F. Minimum Separation Distances: Minimum separation distances shall apply as follows:

1. The use shall be located a minimum of:

   a. 2000 feet from a public elementary or secondary school for which attendance is compulsory under Oregon Revised Statutes (ORS) 339.020, including any parking lot appurtenant thereto and any property used by the school; or a private or parochial elementary or secondary school, teaching children as described in ORS 339.030(1)(a), including any parking lot appurtenant thereto and any property used by the school;

   b. 1500 feet from a public park, public playground, government-owned recreational use, public library, substance use disorder service provider licensed by the OHA under Oregon Administrative Rules Chapter 415, Division 12, light rail transit station, or a multifamily dwelling owned by a public housing authority.

   c. 500 feet from a licensed daycare facility or licensed preschool, including any parking lot appurtenant thereto and any property used by the daycare facility or preschool;

   d. 100 feet from a zoning district listed in Section 300, *Urban and Rural Residential Districts*; however, this provision shall not apply if the subject property has street frontage on a principal interstate, principal expressway, principal arterial, or major arterial, as identified on Comprehensive Plan Map 5-4a, *Road Functional Classification Urban*, or 5-4b, *Road Functional Classification Rural*.

2. If the use is licensed by the OLCC pursuant to ORS 475B.110, it shall be located a minimum of 1,000 feet from any other marijuana retailer so licensed by the OLCC.

3. If the use is registered with the OHA pursuant to ORS 475B.450, it shall be located a minimum of 1,000 feet from any other marijuana retailer so registered with the OHA.

4. For purposes of Subsection 841.04(~~G~~F)(1), distance shall be measured from the lot line of the affected property (e.g., a school) to the closest point of the building space occupied by the marijuana retailer. For purposes of Subsections 841.04(~~G~~F)(2) and (3), distance shall be measured from the closest point of the building space occupied by one marijuana retailer to the closest point of the building space occupied by the other marijuana retailer.

5. A change in use (including a zone change) to another property to a use identified in Subsection 841.04(~~G~~F) after a complete Type I application for marijuana retailing has been filed shall not result in the marijuana retailer being in violation of Subsection 841.04(~~G~~F).

6. Subsection 841.04(~~G~~F) does not apply to any marijuana retailer that obtained full, unconditional approval of a registration from the OHA on or before March 31, 2015, that is operating in a building space where marijuana retailing activities approved by the OHA have been continuously occurring in that building space since May 31, 2014, except during the effective dates of the Medical Marijuana Facility Moratorium adopted pursuant to Clackamas County Ordinance 01-2014.

7. In case of a conflict under Subsection 841.04(~~G~~F)(2) or (3), any person who has received approval of a Type I land use permit for marijuana retailing, shall be deemed to have established marijuana retailing at the approved location, so long as the marijuana retailer begins operation within one year of the date of the County's final decision on the Type I land use permit application. If more than one Type I application is in process with the County at one time, the County shall issue decisions in the order in which complete applications were filed.

841.05 APPROVAL PERIOD

A. Approval of a permit under Subsection 841.02 or 841.03 is valid for four years from the date of the final decision. If the County's final decision is appealed, the approval period shall commence on the date of the final appellate decision. During this four-year period, the approval shall be implemented, or the approval will become void.

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

a. A building permit for a new primary structure that was part of the approved development; or

b. A permit issued by the County for parking lot or road improvements required by the approved development.

B. Approval of a permit under Subsection 841.04 is valid for one year from the date of the County's final decision. During this one-year period, the approval shall be implemented, or the approval will become void. Implemented means that the marijuana retailer has begun operation. Notwithstanding this one-year implementation period, a complete application for a marijuana retailing license shall be filed with the OLCC, or a complete application for a medical marijuana dispensary registration shall be filed with the OHA, within three months of the date of the County's final decision, or the approval will become void.

[Added by Ord. ZDO-254, 1/4/16; Amended by Ord. ZDO-254, 3/1/16; Amended by Ord. ZDO-263, 5/23/17; Amended by Ord. ZDO-264, 8/22/17; Amended by Ord. ZDO-271, 3/1/19]

Summary of Proposed Amendments to Section 843, *Accessory Historic Dwellings*

1. Repeal the "owner occupancy requirement" for accessory historic dwellings.

843 ACCESSORY HISTORIC DWELLINGS

843.01 PROCEDURE

An accessory historic dwelling requires review as a Type I application pursuant to Section 1307, *Procedures*.

843.02 MINIMUM LOT SIZE

An accessory historic dwelling may only be permitted on a lot of record at least two acres in size.

843.03 CONVERSION IN CONJUNCTION WITH NEW DWELLING

A. A detached single-family dwelling legally built between 1850 and 1945 may be converted from a primary dwelling to an accessory dwelling upon completion of a new detached single-family dwelling, or the placement of a manufactured dwelling, on the same lot of record.

B. As used in Subsections 843.03(A) and 843.04(A):

1. "New" means that the single-family dwelling being constructed did not previously exist in residential or nonresidential form; "new" does not include the acquisition, alteration, renovation, or remodeling of an existing structure;

2. "Placement of a manufactured dwelling" means the placement of a manufactured dwelling that did not previously exist on the subject lot of record; it may include the placement of a manufactured dwelling that was previously used as a dwelling on another lot and moved to the subject lot of record.

843.04 ALTERATION AND REPLACEMENT

A. An accessory historic dwelling may not be altered, renovated, or remodeled so that its square footage is more than 120 percent of its square footage at the time construction of the new detached single-family dwelling, or placement of a manufactured dwelling, commenced.

B. An accessory historic dwelling may not be replaced if it is lost to fire, destroyed, or removed for any reason.

~~843.05 OWNER OCCUPANCY~~

~~Owner occupancy of either the accessory historic dwelling or the primary dwelling shall be required. A deed restriction requiring owner-occupancy of one of the dwelling units shall be recorded prior to issuance of a building or placement permit for the new primary dwelling.~~

[Added by Ord. ZDO-269, 9/6/18]

Summary of Proposed Amendments to Section 1007, *Roads and Connectivity*

1. Expand an existing waiver of sidewalk construction requirements to also expressly waive the requirement for the construction of sidewalks as a condition for the approval of any alteration, restoration, or replacement of a lawfully established dwelling.

2. Repeal a provision that relates only to the Campus Industrial (CI) District.

3. Allow a fee to be paid in lieu of construction of required improvements on all roads in the Portland Metropolitan Urban Growth Boundary (UGB), including arterials.

4. Clarify that the fee that can be paid in lieu of construction of required frontage improvements ("FILO") for a new manufactured dwelling concerns manufactured dwellings outside of a manufactured dwelling park.

5. Expand an existing list of qualifying reasons for which "FILO" can be paid to specifically include instances when: there are public storm drainage constraints; the improvements are located on a road where a sidewalk or pathway does not exist within 200 feet of the required improvements; the improvements are located on public street frontage that is 100 feet or less and there is no existing sidewalk or pathway that the new improvements would connect to; and there are other unusual circumstances that preclude construction of the required improvements.

6. Require that "FILO" for improvements that are not on Comprehensive Plan Map 5-3, *Essential Public Network* be for one of the same qualifying reasons required for improvements that are on Map 5-3.

1007 ROADS AND CONNECTIVITY

1007.01 GENERAL PROVISIONS

A. The location, alignment, design, grade, width, and capacity of all roads shall be planned, coordinated, and controlled by the Department of Transportation and Development and shall conform to Section 1007, Chapters 5 and 10 of the Comprehensive Plan, and the Clackamas County Roadway Standards. Where conflicts occur between Section 1007, the Comprehensive Plan, and the Clackamas County Roadway Standards, the Comprehensive Plan shall control.

B. Right-of-way dedications and improvements shall be required of all new developments, including partitions, subdivisions, multifamily dwellings, two- and three-family dwellings, condominiums, single-family dwellings, and commercial, industrial, and institutional uses, as deemed necessary by the Department of Transportation and Development and consistent with Section 1007, Chapters 5 and 10 of the Comprehensive Plan, and the Clackamas County Roadway Standards.

C. New developments shall have access points connecting with existing private, public, county, or state roads.

1. Intersection spacing and access control shall be based on Subsection 3.08.110(E) of the Metro Code (*Regional Transportation Functional Plan*); Chapters 5 and 10 of the Comprehensive Plan; and the Clackamas County Roadway Standards.

2. For development on any portion of a contiguous site identified on Comprehensive Plan Map 5-6, *Potentially Buildable Residential Sites > 5 Acres in UGB*, the applicant shall provide a conceptual map of new streets for the entire site. The map shall identify street connections to adjacent areas to promote a logical, direct, and connected system of streets; demonstrate opportunities to extend and connect new streets to existing streets, and provide direct public right-of-way routes. Closed-end street designs shall be limited to circumstances in which barriers prevent full street extensions. Closed-end streets shall not exceed 200 feet in length and shall serve no more than 25 dwelling units. Subsequent development on the site shall conform to the conceptual street map, unless a new map is approved pursuant to Subsection 1007.01(C)(2).

3. Access control shall be implemented pursuant to Chapter 5 of the Comprehensive Plan and the Clackamas County Roadway Standards considering best spacing for pedestrian access, traffic safety, and similar factors as deemed appropriate by the Department of Transportation and Development.

4. Approaches to public and county roads shall be designed to accommodate safe and efficient flow of traffic and turn control where necessary to minimize hazards for other vehicles, pedestrians, and bicyclists.

5. Joint access and circulation drives utilizing reciprocal easements shall be utilized as deemed necessary by the Department of Transportation and Development. In the NC District, joint street access for adjacent commercial developments shall be required.

6. In the SCMU District, driveways shall be spaced no closer to one another than 35 feet, measured from the outer edge of the curb cut, unless compliance with this standard would preclude adequate access to the subject property as a result of existing off-site development or compliance with the Clackamas County Roadway Standards.

7. In the VA District, no direct motor vehicle access is permitted on Sunnyside Road.

8. In the VCS District, the area adjacent to the village green shall be permitted one curb cut on Oregon Trail Drive and one on Hines Drive. Curb cuts shall not exceed a width of 20 feet at the road right-of-way.

9. In the VO District, the maximum width for a single-use driveway shall be 12 feet, and the maximum width for a shared driveway shall be 20 feet.

10. Inside the Portland Metropolitan Urban Growth Boundary:

    a. The development shall have no more than the minimum number of driveways required by the Department of Transportation and Development on all arterial and collector streets.

    b. For properties having more than one street frontage, driveways shall be located on the street with the lowest functional classification, if feasible.

    c. Driveways shall be no wider than the minimum width allowed by the Clackamas County Roadway Standards.

    d. Driveways shall be located so as to maximize the number of allowed on-street parking spaces, the number of street trees, and optimum street tree spacing.

D. Street alignments, intersections, and centerline deflection angles shall be designed according to the standards set forth in Chapters 5 and 10 of the Comprehensive Plan and the Clackamas County Roadway Standards.

E. All roads shall be designed and constructed to adequately and safely accommodate vehicles, pedestrians, and bicycles according to Chapters 5 and 10 of the Comprehensive Plan and the Clackamas County Roadway Standards. Development-related roadway adequacy and safety impacts to roadways shall be evaluated pursuant to the Clackamas County Roadway Standards and also to Oregon Department of Transportation standards for state highways.

F. Roadways shall be designed to accommodate transit services where transit service is existing or planned and to provide for the separation of motor vehicles, bicycle, and pedestrian traffic, and other modes as appropriate.

G. The needs of all modes of transportation shall be balanced to provide for safe and efficient flow of traffic. Where practical, pedestrian crossing lengths shall be minimized and the road system shall be designed to provide frequent pedestrian connections.

1007.02 PUBLIC AND PRIVATE ROADWAYS

A. All roadways shall be developed according to the classifications, guidelines, tables, figures, and maps in Chapters 5 and 10 of the Comprehensive Plan and the provisions of the Clackamas County Roadway Standards.

1. Development along streets with specific design standards specified in Chapter 10 of the Comprehensive Plan shall improve those streets as shown in Chapter 10.

2. Development along streets identified as Regional or Community Boulevards on Comprehensive Plan Map 5-5, *Metro Regional Street Design Classifications*, shall provide pedestrian, bicycle, transit, and visual amenities in the public right-of-way. Such amenities may include, but are not limited to, the following: street trees, landscaping, kiosks, outdoor lighting, outdoor seating, bike racks, bus shelters, other transit amenities, pedestrian spaces and access to the boulevard, landscaped medians, noise and pollution control measures, other environmentally sensitive uses, aesthetically designed lights, bridges, signs, and turn bays as appropriate rather than continuous turn lanes.

3. Development adjacent to scenic roads identified on Comprehensive Plan Map 5-1, *Scenic Roads*, shall conform to the following design standards, as deemed appropriate by the Department of Transportation and Development:

a. Road shoulders shall be improved to accommodate pedestrian and bicycle traffic; and

b. Turnouts shall be provided at viewpoints or for recreational needs.

4. In centers, corridors, and station communities, as identified on Comprehensive Plan Map IV-8, *Urban Growth Concept*, roads shall be designed to minimize the length of street crossings and to maximize connectivity for pedestrians as deemed appropriate by the Department of Transportation and Development. Other streetscape design elements in these areas include:

    a. On-street parking;

    b. Street trees;

    c. Street lighting;

    d. Pedestrian amenities; and

    e. Truck routes shall be specified for deliveries to local businesses.

5. In centers, corridors, and station communities, as identified on Comprehensive Plan Map IV-8, on local streets within the Portland Metropolitan Urban Growth Boundary (UGB), and in unincorporated communities, when conflicts exist between the dimensional requirements for vehicles and those for pedestrians, pedestrians shall be afforded additional consideration in order to increase safety and walkability. In industrial areas, the needs of vehicles shall take precedence.

6. In the NC, OA, VCS, and VO Districts, landscaping, crosswalks, additional lighting, signalization, or similar improvements may be required to create safe and inviting places for pedestrians to cross streets.

B. The layout of new public and county roads shall provide for the continuation of roads within and between the development and adjoining developments when deemed necessary and feasible by the Department of Transportation and Development.

    1. When public access to adjoining property is required, this access shall be improved and dedicated to the County.

    2. Street stubs shall be provided to allow for future access to adjacent undeveloped property as deemed necessary by the Department of Transportation and Development.

    3. These standards may be deviated from when the County finds that safe and efficient alternate designs would better accommodate:

        a. Sustainable development features such as "Green Streets" as described in Metro's *Green Streets: Innovative Solutions for Stormwater and Street Crossings (2002)*, which shall be allowed within the UGB and in unincorporated communities;

b. Sustainable surface water management solutions such as low infiltration planters and basins, swales, ponds, rain gardens, trees, porous pavement, and minimal disruption to natural drainage systems;

c. Preservation of existing significant trees and native vegetation;

d. Preservation of natural terrain and other natural landscape features;

e. Achievement of maximum solar benefit for new development through orientation and block sizing;

f. Existing forest or agricultural uses;

g. Existing development;

h. Scenic qualities;

i. Planned unit developments;

j. Local access streets less than 200 feet in length which are not extendible; and

k. Interior vehicular circulation for multifamily, commercial, institutional, and industrial developments.

C. New county and public roads terminating in cul-de-sacs or other dead-end turnarounds are prohibited except where natural features (such as topography, streams, or wetlands), parks, dedicated open space, or existing development preclude road connections to adjacent properties, existing street stubs, or existing roads.

D. Developments shall comply with the intersection sight distance and roadside clear zone standards of the Clackamas County Roadway Standards. In addition:

1. No planting, signing, or fencing shall be permitted which restricts motorists' vision; and

2. Curbside parking may be restricted along streets with visibility problems for motorists, pedestrians, and/or bicyclists as deemed appropriate by the Department of Transportation and Development.

E. New developments, subdivisions, and partitions may be required to dedicate land for right-of-way purposes and/or make road frontage improvements to existing rights-of-way as deemed necessary by the Department of Transportation and Development and consistent with Section 1007, Chapters 5 and 10 of the Comprehensive Plan, and the Clackamas County Roadway Standards.

F. Road frontage improvements within the UGB and in Mt. Hood urban villages shall include:

1. Surfacing, curbing, or concrete gutters as specified in Section 1007, Chapters 5 and 10 of the Comprehensive Plan, and the Clackamas County Roadway Standards;

2. Pedestrian, bikeway, accessway, and trail facilities as specified in Subsection 1007.04;

3. Transit amenties as specified in Subsection 1007.05; and

4. Street trees as specified in Subsection 1007.06.

1007.03 PRIVATE ROADS AND ACCESS DRIVES

A. Private roads and access drives shall be developed according to classifications and guidelines listed in Section 1007, Comprehensive Plan Figures 5-1 through 5-3, *Typical Roadway Cross Sections*, Chapters 5 and 10 of the Comprehensive Plan, and the Clackamas County Roadway Standards, except:

1. When easements or "flag-pole" strips are used to provide vehicular access to lots or parcels, the minimum width shall be 20 feet, unless a narrower width is approved by the Department of Transportation and Development and the applicable fire district's Fire Marshal;

2. Where the number of lots served exceeds three, a wider width may be required as deemed appropriate or necessary by the Department of Transportation and Development consistent with other provisions of Section 1007, the Comprehensive Plan, and the Clackamas County Roadway Standards;

3. Access easements or "flag-pole" strips may be used for utility purposes in addition to vehicular access;

4. The standards listed above may be deviated from when deemed appropriate by the Department of Transportation and Development to accommodate one-half streets or private common access drives and roads within developed urban areas providing access to not more than seven lots; and

5. The intersection of private roads or access drives with a public or county road and intersections of two private roads or access drives shall comply with the sight distance and clear zone standards pursuant to Subsection 1007.02(D).

1007.04 PEDESTRIAN AND BICYCLE FACILITIES

A. General Standards: Pedestrian and bicycle facilities shall be developed according to the classifications and guidelines listed in Section 1007, Comprehensive Plan Figures 5-1 through 5-3, *Typical Roadway Cross Sections*, Chapters 5 and 10 of the Comprehensive Plan, and the Clackamas County Roadway Standards.

B. Pedestrian and Bicycle Facility Design: Pedestrian and bicycle facilities shall be designed to:

1. Minimize conflicts among automobiles, trucks, pedestrians, and bicyclists;

2. Provide safe, convenient, and an appropriate level of access to various parts of the development and to locations such as schools, employment centers, shopping areas, adjacent developments, recreation areas and open space, and transit corridors;

3. Allow for unobstructed movements and access for transportation of disadvantaged persons; and

4. Be consistent with Chapters 5 and 10 of the Comprehensive Plan; Comprehensive Plan Maps 5-2a, *Planned Bikeway Network, Urban*, 5-2b, *Planned Bikeway Network, Rural*, and 5-3, *Essential Pedestrian Network*; North Clackamas Parks and Recreation District's (NCPRD) Park and Recreation Master Plan; and Metro's Regional Trails and Greenways Map.

C. Requirements for Pedestrian and Bicycle Facility Construction: Within the Portland Metropolitan Urban Growth Boundary (UGB), sidewalks, pedestrian pathways, and accessways shall be constructed as required in Subsection 1007.04 for subdivisions, partitions, multifamily dwellings, three-family dwellings, attached single-family dwellings where three or more dwelling units are attached to one another, and commercial, industrial, or institutional developments, except that for structural additions to existing commercial, industrial, or institutional buildings, development of such facilities shall be required only if the addition exceeds 10 percent of the assessed value of the existing structure, or 999 square feet.

D. Requirement for Sidewalk Construction: Within the UGB, sidewalks shall be constructed, as required in Subsection 1007.04(F), for two-family dwellings, detached single-family dwellings, attached single-family dwellings where two dwelling units are attached to one another, and manufactured dwellings outside a manufactured dwelling park.

E. Sidewalks or Pedestrian Pathways in Unincorporated Communities: In an unincorporated community, either a sidewalk or a pedestrian pathway shall be constructed on arterial or collector street frontage(s) of a lot upon which a subdivision, partition, multifamily dwelling, three-family dwelling, attached single-family dwelling where three or more dwelling units are attached to one another, or a commercial, industrial, or institutional development is proposed.

F. Sidewalk Location: Sidewalks required by Subsection 1007.04(C) or (D) shall be constructed on:

1. Both sides of a new or reconstructed road, except that sidewalks may be constructed on only one side of the road if:

   a. The road is not a through road;

   b. The road is 350 feet or less in length and cannot be extended; or

   c. In consideration of the factors listed in Subsection 1007.02(B)(3);~~.~~

2. The street frontage(s) of a lot upon which a subdivision, partition, multifamily dwelling, three-family dwelling, attached single-family dwelling where three or more dwelling units are attached to one another, or a commercial, industrial, or institutional development is proposed; and

3. ~~Local or collector road s~~Street frontage(s) of a lot upon which a two-family dwelling, a detached single-family dwelling, an attached single-family dwelling where two dwelling units are attached to one another, or a manufactured dwelling is proposed. This requirement shall be imposed as a condition on the issuance of a conditional use permit, building permit, or manufactured dwelling placement permit, but:

   a. The requirement shall be waived for the alteration, restoration, or replacement of a lawfully established dwelling ~~if the dwelling is a replacement for one destroyed by an unplanned fire or natural disaster~~; and

   b. The sidewalk requirement shall apply to no more than two street frontages for a single lot.

G. Pedestrian Pathways: Within the UGB, a pedestrian pathway may be constructed as an alternative to a sidewalk on a local or collector road when it is recommended by the Department of Transportation and Development; the surface water management regulatory authority approves the design; and at least one of the following criteria is met:

1. The site has topographic or natural feature constraints that make standard sidewalk construction unusually problematic;

2. No sidewalk exists adjacent to the site;

3. Redevelopment potential along the road is limited; or

4. The road is identified for a pedestrian pathway by the River Forest Neighborhood Plan adopted by the City of Lake Oswego.

H. Sidewalk and Pedestrian Pathway Width: Sidewalks and pedestrian pathways shall be constructed to the minimum widths shown in Table 1007-1, *Minimum Sidewalk and Pedestrian Pathway Width*, and be consistent with applicable requirements of Chapters 5 and 10 of the Comprehensive Plan.

Table 1007-1: Minimum Sidewalk and Pedestrian Pathway Width

Street Type	Residential Sidewalk	Commercial or Institutional Sidewalk	Industrial Sidewalk
Local	5 feet	7 feet	5 feet
Connector	5 feet	7 feet	5 feet
Collector	5 feet	8 feet	5 feet
Arterial	6 feet	8 feet	6 feet

1. The entire required width of sidewalks and pedestrian pathways shall be unobstructed.

2. Sidewalks and pedestrian pathways at transit stops shall be a minimum of eight feet wide for a distance of 20 feet centered on the transit shelter or transit stop sign.

3. A sidewalk set back from the curb by at least five feet may be one foot narrower (but not less than five feet) than the standard listed above. This five-foot separation strip shall be landscaped and shall be maintained by the adjacent property owner. The landscape strip may contain fixed objects provided that sight distance and roadside clear zone standards are satisfied pursuant to the Clackamas County Roadway Standards.

4. Uses located in the ~~Campus Industrial,~~ Light Industrial, General Industrial, or Business Park District and containing over 5,000 square feet of office space shall comply with the requirements for Commercial and Institutional uses.

5. In Sunnyside Village, notwithstanding Table 1007-1 and Comprehensive Plan Figures X-SV-1, *Sunnyside Village Plan Connector Street with Planting Strips and Bike Lanes* and X-SV-2, *Sunnyside Village Plan Connector Street with Planting Strips* , a connector street requires nine-foot-wide sidewalks if commercial/retail is adjacent to the site.

I. Accessways: Accessways shall comply with the following standards:

1. Accessways shall be required where necessary to provide direct routes to destinations not otherwise provided by the road system and where topography permits. Developments shall not be required to provide right-of-way for accessways off-site to meet this requirement. If right-of-way is available off-site, the developer may be required to improve an accessway off-site up to 150 feet in length.

2. Accessways shall provide safe, convenient access to facilities generating substantial pedestrian or bicycle trips, such as an existing or planned transit stop, school, park, place of worship, daycare center, library, commercial area, or community center. Facilities such as these shall be accessible from dead-end streets, loops, or mid-block locations. Where required, accessways shall be constructed at intervals of no more than 330 feet, unless they are prevented by barriers such as topography, railroads, freeways, pre-existing development, or environmental constraints such as streams and wetlands.

3. An accessway shall include at least a 15-foot-wide right-of-way and an eight-foot-wide hard surface. For safety, accessways should be as straight as practicable and visible from an adjacent use if practicable. Removable bollards or other large objects may be used to bar motor vehicular access.

4. So that they may be safely used at night, accessways shall be illuminated by street lights or luminaires on shorter poles. Separate lighting shall not be required if existing lighting adequately illuminates the accessway.

5. Fences are not required, but the height of a fence along an accessway shall not exceed six feet.

6. Ownership and maintenance responsibility for accessways shall be resolved during the development review and approval process.

J. Accessways in Sunnyside Village: The following standards apply in Sunnyside Village. Where these standards conflict with Subsection 1007.04(I), Subsection 1007.04(J) shall take precedence.

1. A system of interconnecting accessways shall be provided from subdivisions and multifamily developments to commercial facilities and public amenities such as existing or planned transit stop or facility, school, park, place of worship, daycare facility, children's play area, outdoor activity areas, plazas, library, or similar facility and to a dead-end street, loop, or mid-block where the block is longer than 600 feet.

    a. An accessway shall include at least 15 feet of right-of-way and a 10-foot-wide paved surface.

    b. Accessways shall be illuminated so that they may be safely used at night.

    c. The maximum height of a fence along an accessway shall not exceed four feet.

    d. Bollards or other similar types of treatment may be required in order to prevent cars from entering the accessway.

    e. The designated east-west pedestrian accessway shall include a minimum 10-foot-wide concrete surface within a 10-foot-wide right-of-way, easement, or other legal form satisfactory to the County. Planting areas adjacent to the easement with street trees should be provided along at least one side of this accessway. However, alternatives to this standard may be considered through design review pursuant to Section 1102. If the accessway is within a parking area, it shall be lined by parking lot trees planted at a maximum of 30 feet on center along both sides.

K. Bikeways: Bikeways shall be required as follows:

1. Shoulder bikeways, bike lanes, bike paths, or cycle tracks shall be included in the reconstruction or new construction of any street if a bikeway is indicated in Chapters 5 and 10 of the Comprehensive Plan and on Comprehensive Plan Map 5-2a or 5-2b; NCPRD's Park and Recreation Master Plan; or Metro's Regional Trails and Greenways Map.

2. Shoulder bikeways, bike lanes, bike paths, or cycle tracks shall be considered in the reconstruction or new construction of any other arterial or collector.

3. Within urban growth boundaries, shoulder bikeways, bike lanes, bike paths, or cycle tracks shall be constructed from new public or private elementary, middle school, and high school facilities to off-site bikeways to provide continuous bicycle route connections within and between surrounding developments, unless precluded by existing development.

L. Trails: Trail dedications or easements shall be provided and developed as shown on Comprehensive Plan Map IX-1, *Open Space Network & Recreation Needs*; the Facilities Plan (Figure 4.3) in NCPRD's Park and Recreation Master Plan; and Metro's Regional Trails and Greenways Map.

M. Trails and Pedestrian Connections in Sunnyside Village: The following standards apply in Sunnyside Village. Where these standards conflict with other provisions in Section 1007, Subsection 1007.04(M) shall take precedence.

1. An interconnecting system of trails and accessways throughout Sunnyside Village shall be provided. The general trail locations are shown on Comprehensive Plan Map X-SV-1. The location of the trails shall be set at the time a land use application is approved. The locations of the trails are based on achieving connections to streets and/or pedestrian ways and protection of the significant features of the resource protection areas.

2. The trail system will generally occur along the creeks and resource protection areas. The accessways and/or trail system will provide connections to parks, the elementary school, and to adjacent commercial and residential developments.

3. There also shall be an east-west accessway between 142nd Avenue and 152nd Drive, south of Sunnyside Road and north of Oregon Trail Drive.

4. The trail system shall be designed to provide multiple access points for the public. The trails shall be constructed by the developer.

5. All trails and accessways within the resource protection areas shall either be dedicated or an easement granted to NCPRD in conjunction with development. These connections shall be maintained by and constructed to the standards established by NCPRD.

6. The maintenance of all pedestrian connections and trails located outside the resource protection areas as identified on Comprehensive Plan Map X-SV-1 shall be the responsibility of the property owner.

N. Pedestrian and Bicycle Circulation: The pedestrian and bicycle circulation connections shown on Comprehensive Plan Maps X-CRC-3, *Clackamas Regional Center Area Design Plan Urban Design Elements*, X-CRC-7, *Clackamas Regional Center Area Design Plan Pedestrian and Bicycle Circulation Network*, and X-CRC-7a, *Clackamas Regional Center Area Design Plan Walkway Network*, shall be provided.

1007.05 TRANSIT AMENITIES

All residential, commercial, institutional, and industrial developments on existing and planned transit routes shall be reviewed by Tri-Met or other appropriate transit provider to ensure appropriate design and integration of transit amenities into the development. The design shall not be limited to streets, but shall ensure that pedestrian/bikeway facilities and other transit-supportive features such as shelters, bus pull-outs, park-and-ride spaces, and signing will be provided. The designs shall comply with Tri-Met standards and specifications.

1007.06 STREET TREES

A. Within the Portland Metropolitan Urban Growth Boundary, street trees are required on all road frontage—except frontage on private roads or access drives--for subdivisions, partitions, multifamily dwellings, three-family dwellings, attached single-family dwellings where three or more dwelling units are attached to one another, and commercial, industrial, or institutional developments, except that for structural additions to existing commercial, industrial, or institutional buildings, street trees are required only if the addition exceeds 10 percent of the assessed value of the existing structure, or 999 square feet. Street trees shall comply with the following standards:

1. Partial or complete exemptions from the requirement to plant street trees may be granted on a case-by-case basis. Exemptions may be granted, for example, if the exemption is necessary to save existing significant trees which can be used as a substitute for street trees.

2. Street trees to be planted shall be chosen from a County-approved list of street trees (if adopted), unless approval for planting of another species is given by the Department of Transportation and Development.

3. Location and planting of street trees may be influenced by such conditions as topography, steep terrain, soil conditions, existing trees and vegetation, preservation of desirable views, and solar access.

4. Planting of street trees shall be coordinated with other uses which may occur within the street right-of-way, such as bikeways, pedestrian paths, storm drains, utilities, street lights, shelters, and bus stops.

5. Street trees at maturity shall be of appropriate size and scale to complement the width of the street or median area.

B. Street trees required for developments in the Clackamas Regional Center Area shall comply with the following standards:

1. Street trees are required along all streets, except for drive aisles in parking lots.

2. When determining the location of street trees, consideration should be given to accommodating normal retail practices in front of buildings such as signage, outdoor display, loading areas, and pullout lanes.

3. Street trees are required along private access streets under the following conditions:

   a. On both sides when the access point is a signalized intersection;

   b. On both sides when the street section has four or more lanes at the access point;

   c. On both sides when the private street is developed to comply with building orientation standards;

   d. On a minimum of one side when the street section has one or two lanes, and the street is not at a signalized intersection or is not used to meet the structure orientation standards of Subsections 1005.08(C) and 1005.09(B); and

   e. On a minimum of one side of the street when access is shared with adjacent property. Adjoining property shall be required to install trees on its side of the access street when the property is developed.

4. In the Fuller Road Station Community, as identified on Comprehensive Plan Map X-CRC-1, street trees are required along both sides of all street types, and as shown in Comprehensive Plan Figure X-CRC-11, *Clackamas Regional Center Area Design Plan Fuller Road Station Community, Type "E" Pedestrian/Bicycle Connection*, for Type E pedestrian/bicycle connections. Street trees shall be spaced from 25 to 40 feet on center, based on the selected tree species and any site constraints. Street trees shall otherwise comply with the other provisions of Subsections 1007.06(A) and (B).

C. In the Business Park District, street trees are required at 30- to 40-foot intervals along periphery and internal circulation roads, except where significant trees already exist.

D. Street trees are required for developments in Sunnyside Village along both sides of all connector and local streets, and as set forth in Subsection 1007.09. In addition:

1. One to two street trees are required per interior lot, and two to four for corner lots depending on the canopy of the tree species proposed. If a small canopy (less than or equal to 25 feet in diameter at maturity) is proposed, then two per interior lot and four per corner lot are required. If a larger canopy (greater than 25 feet in diameter at maturity) is proposed, then one per interior lot and two per corner lot are required.

2. As each portion of a project is developed, a specific species of street tree will be chosen for each street. The developer may choose the species of street tree to be planted so long as the species is not known to cause sidewalks to buckle, does not have messy fruits or pods, is not prone to insects or having weak wood, and is not on the list of prohibited trees. The County will have final approval regarding the type of street tree to be planted.

3. Along connector streets or streets with a higher classification, metal grating, non-mortared brick, grasscrete, or similar material shall be installed at grade over the planting area around street trees, or raised planters shall be constructed to prevent soil compaction and damage to the trunk. Landscape strips or tree wells are required along streets with a classification below connector status.

1007.07 TRANSPORTATION FACILITIES CONCURRENCY

A. Subsection 1007.07 shall apply to the following development applications: design review, subdivisions, partitions, and conditional uses.

B. Approval of a development shall be granted only if the capacity of transportation facilities is adequate or will be made adequate in a timely manner. The following shall be exempt from this requirement:

1. Development that is located:

   a. In the Light Industrial, General Industrial, or Business Park District; and

   b. North of the Clackamas River; and

   c. West of Highway 224 (south of Highway 212) or 152nd Drive (north of Highway 212); and

   d. South of Sunnyside Road (east of 82nd Avenue) or Harmony Road (west of 82nd Avenue) or Railroad Avenue (west of Harmony Road); and

   e. East of Interstate 205 (south of Milwaukie Expressway) or the city limits of Milwaukie (north of the Milwaukie Expressway).

2. Modification or replacement of an existing development (or a development that has a current land use approval even if such development has not yet been constructed) on the same property, provided that an increase in motor vehicle traffic does not result;

3. Unmanned utility facilities, such as wireless telecommunication facilities, where no employees are present except to perform periodic servicing and maintenance;

4. Mass transit facilities, such as light rail transit stations and park-and-ride lots;

5. Home occupations to host events, which are approved pursuant to Section 806; and

6. Development in Government Camp that is otherwise consistent with the Comprehensive Plan land use plan designations and zoning for Government Camp.

C. As used in Subsection 1007.07(B), adequate means a maximum volume-to-capacity ratio (v/c), or a minimum level of service (LOS), as established by Comprehensive Plan Tables 5-2a, *Motor Vehicle Capacity Evaluation Standards for the Urban Area*, and 5-2b, *Motor Vehicle Capacity Evaluation Standards for the Rural Area*.

D. For the purpose of calculating capacity as required by Subsections 1007.07(B) and (C), the following standards shall apply:

1. The methods of calculating v/c and LOS are established by the Clackamas County Roadway Standards.

2. The adequacy standards shall apply to all roadways and intersections within the impact area of the proposed development. The impact area shall be identified pursuant to the Clackamas County Roadway Standards.

E. As used in Subsection 1007.07(B), timely means:

1. For facilities under the jurisdiction of the County, necessary improvements are included in the Five-Year Capital Improvement Program, fully funded, and scheduled to be under construction within three years of the date land use approval is issued;

2. For facilities under the jurisdiction of the State of Oregon, necessary improvements are included in the Statewide Transportation Improvement Program (STIP) and scheduled to be under construction within four years of the date land use approval is issued;

3. For facilities under the jurisdiction of a city or another county, necessary improvements are included in that jurisdiction's capital improvement plan, fully funded, and scheduled to be under construction within three years of the date land use approval is issued.

4. Alternatively, timely means that necessary improvements will be constructed by the applicant or through another mechanism, such as a local improvement district. Under this alternative:

a. Prior to issuance of a certificate of occupancy for a conditional use or a development subject to design review and prior to recording of the final plat for a subdivision or partition, the applicant shall do one of the following:

i. Complete the necessary improvements; or

ii. For transportation facilities under the jurisdiction of the County, the applicant shall provide the county with a deposit, letter of credit, performance bond, or other surety satisfactory to county staff pursuant to Section 1311, *Completion of Improvements, Sureties, and Maintenance*. For transportation facilities under the jurisdiction of the state, a city, or another county, the applicant shall comply with the respective jurisdiction's requirements for guaranteeing completion of necessary improvements. This option is only available if the jurisdiction has a mechanism in place for providing such a guarantee.

5. For a phased development, the first phase shall satisfy Subsections 1007.07(E)(1) through (4) at the time of land use approval. Subsequent phases shall be subject to the following:

a. At the time of land use approval, necessary improvements shall be identified and the phase for which they are necessary shall be specified.

b. Necessary improvements for a particular phase shall either:

i. Comply with Subsections 1007.07(E)(1) through (3) at the time of building permit approval, except that the improvements shall be scheduled to be under construction within three years of building permit approval rather than within three years of land use approval; or

ii. Comply with Subsection 1007.07(E)(4), in which case the improvements shall be completed or guaranteed prior to issuance of a certificate of occupancy or recording of the final plat for the applicable phase.

F. As used in Subsection 1007.07(E), necessary improvements are:

1. Improvements identified in a transportation impact study as being required in order to comply with the adequacy standard identified in Subsection 1007.07(C).

a. A determination regarding whether submittal of a transportation impact study is required shall be made based on the Clackamas County Roadway Standards, which also establish the minimum standards to which a transportation impact study shall adhere.

b. If a transportation impact study is not required, County traffic engineering or transportation planning staff shall identify necessary improvements or the applicant may opt to provide a transportation impact study.

G. Notwithstanding Subsections 1007.07(D) and (F)(1)(a), motor vehicle capacity calculation methodology, impact area identification, and transportation impact study requirements are established by the ODOT Transportation Analysis Procedures Manual for roadways and intersections under the jurisidiction of the State of Oregon.

H. As an alternative to compliance with Subsection 1007.07(B), the applicant may make a voluntary substantial contribution to the transportation system.

1. As used in this subsection, "substantial contribution" means construction of a roadway or intersection improvement that is all of the following:

a. A complete project or a segment of a roadway identified in Comprehensive Plan Table 5-3a, *20-Year Capital Projects*, 5-3b, *Preferred Capital Projects*, or 5-3c, *Long-Term Capital Projects*; the STIP; or the capital improvement plan (CIP) of a city or another county.

i. For a segment of a roadway to qualify as a substantial contribution, the roadway shall be on or abutting the subject property; no less than the entire segment that is on or abutting the subject property shall be completed; and there shall be a reasonable expectation that the entire project—as identified in Comprehensive Plan Table 5-3a, 5-3b, or 5-3c; the STIP; or the CIP of a city or another county—will be completed within five years;

b. Located within the impact area of the proposed development. The impact area shall be established by the Clackamas County Roadway Standards;

c. Estimated to have a minimum construction cost of $527,000 in year 2004 dollars. The minimum construction cost shall on January 1st of each year following 2004 be adjusted to account for changes in the costs of acquiring and constructing transportation facilities. The adjustment factor shall be based on the change in average market value of undeveloped land, except resource properties, in the County according to the records of the County Tax Assessor, and the change in construction costs according to the Engineering News Record (ENR) Northwest (Seattle, Washington) Construction Cost Index; and shall be determined as follows:

i. Change in Average Market Value X 0.50 + Change in Construction Cost Index X 0.50 = Minimum Construction Cost Adjustment Factor

ii. After the adjustment factor is applied to the previous year's minimum construction cost, the result shall be rounded to the nearest thousand.

2. Prior to issuance of a certificate of occupancy for a conditional use or a development subject to design review and prior to recording of the final plat for a subdivision or partition, the applicant shall do one of the following:

   a. Complete the substantial contribution; or

   b. For transportation facilities under the jurisdiction of the County, the applicant shall provide the county with a deposit, letter of credit, performance bond, or other surety satisfactory to county staff pursuant to Section 1311. For transportation facilities under the jurisdiction of the state, a city, or another county, the applicant shall comply with the respective jurisdiction's requirements for guaranteeing completion of necessary improvements. This option is only available if the jurisdiction has a mechanism in place for providing such a guarantee.

1007.08 FEE IN LIEU OF CONSTRUCTION

A. For all or part of the road frontage improvements required by Section 1007, the developer may elect to pay a fee in lieu of construction if:

   1. The improvements are~~;~~ located within the Portland Metropolitan Urban Growth Boundary (UGB);

   2. The improvements ~~and~~ are required for a partition, a two- or three-family dwelling (where no more than one such dwelling is proposed), an attached or detached single-family dwelling, or a manufactured dwelling outside of a manufactured dwelling park; and~~the developer may elect to pay a fee in lieu of construction as follows.~~

   3. Payment of the fee is deemed by the Department of Transportation and Development to be an acceptable alternative to construction of the requirements for at least one of the following reasons:

~~A. The fee in lieu of construction may be paid if the road frontage improvements are located on a local, connector, or collector road that is not identified on Comprehensive Plan Map 5-3, *Essential Pedestrian Network*, and payment of the fee is deemed by the Department of Transportation and Development to be an acceptable alternative to construction of the required improvements; or~~

~~B. The fee in lieu of construction may be paid if the road frontage improvements are located on a road that is identified on Comprehensive Plan Map 5-3; payment of the fee is deemed by the Department of Transportation and Development to be an acceptable alternative to construction of the required improvements; and at least one of the following criteria is met:~~

   a. The improvements are included in the Five-Year Capital Improvement Program;

b. The improvements are located on a road where significant topographical or natural feature constraints exist; ~~or~~

c. The improvements are located on a ~~local, connector, or collector~~ road where there are public storm drainage constraints, including limited downstream conveyance; ~~a sidewalk or pathway does not exist within 200 feet of the required improvements.~~

d. The improvements are located on a road where a sidewalk or pathway does not exist within 200 feet of the required improvements; or

e. The improvements are located on public street frontage that is 100 feet or less and there is no existing sidewalk or pathway that the new improvements would connect to.

~~C~~B. The amount of the fee in lieu of construction is established by separate order of the Board of County Commissioners.

~~D~~C. All fees in lieu of improvements collected, and interest thereon, shall be placed in a "Sidewalk Improvement Fund." Fees shall be spent on sidewalk or pedestrian pathway construction on ~~local, connector, or collector~~ roads within the UGB.

1007.09 STREETS AND SIDEWALKS IN SUNNYSIDE VILLAGE

The following standards apply in Sunnyside Village. Where these standards conflict with other provisions in Section 1007, Subsection 1007.09 shall take precedence.

A. Cul-de-sacs are permitted only when topographic conditions or existing street patterns preclude extension of streets. The maximum radius shall be 40 feet.

B. All streets adjacent to resource protection areas shall have at least one five-foot-wide sidewalk along one side of the street. If there are no significant trees (at least eight inches in diameter) along the resource protection area adjacent to the street, then a minimum four-foot-wide planting strip is required along both sides of the street. If it is determined that a unique view is to be preserved, then the Planning Director will determine if street trees are required.

C. New street connections along arterial streets are shown on Comprehensive Plan Map X-SV-3, *Sunnyside Village Plan Street Classifications*. New street connections to collector roadways shall be a minimum of 150 feet apart, measured road centerline to centerline.

New individual driveway connections shall not be permitted along arterial and collector roadways.

At existing or future major street intersections (existing or proposed traffic signals), no new driveways or street connections shall be allowed within the influence area of the intersection. The influence area is defined as the distance that vehicles will queue from the signalized intersection. The influence area shall be based upon traffic volumes summarized in the Sunnyside Area Master Plan (November 1994) or based upon information acceptable to the County Engineering Division. This influence area shall include an additional 100 feet beyond the queue length for back-to-back left turns.

The preferred minimum intersection spacing on minor arterials is 500 feet, measured road centerline to centerline. Major arterial intersection spacing is preferred to be between 600 feet and 1,000 feet, measured road centerline to centerline.

D. The interior angles at intersection roadways shall be as near to 90 degrees as possible, and in no case shall it be less than 80 degrees or greater than 100 degrees. Minimum centerline radius for local roadways shall be 100 feet unless the alternative horizontal curve illustrated on Comprehensive Plan Figure X-SV-9, *Sunnyside Village Plan Alternative Horizontal Curve for Local Streets*, is used.

E. Alleys shall be private streets with rights-of-way of 16 feet. (See Comprehensive Plan Figure X-SV-6, *Sunnyside Village Plan Alleys*.)

F A traffic circle will mark the heart of Sunnyside Village and will provide suitable geometrics for the five radial streets that converge at this point. Travel on the circle shall occur in one direction. This shall be facilitated by traffic diverters that guide vehicles but still allow comfortable pedestrian movement. The raised diverters should consist of low raised curbs and/or special paving. The travel lane within the circle should allow for easy merging.

Special paving shall demark crosswalks. Bike lanes shall be clearly marked and shall occur at the edge of the travel lane and define the inner boundary of the crosswalks and bus loading areas. The bus loading areas shall be located adjacent to the Village Commercial area. On the other side of the circle, this added dimension shall be used for planting strips with street trees, adjacent to nine-foot-wide sidewalks.

The center island shall have a radius of at least 30 feet and shall be landscaped. A vertical feature or monument identifying the entrance to Sunnyside Village should mark the center of the circle and shall be framed by blossoming trees.

G. Intersection dimensions should be minimized to reduce pedestrian crossing-distances and slow vehicles. Curb radiuses should not exceed 25 feet at corners.

1007.10 VACATIONS

A. Road and Access Easement Vacations: In the RTL and CC Districts, road vacations shall be prohibited in developments unless replaced with a new road or walkway that serves the same function. The replacement does not have to be in the same alignment as long as it provides access to the same areas the vacated road would have if constructed.

B. Internal Streets: In the Clackamas Regional Center Area, to provide connectivity, existing platted roads within proposed developments shall not be vacated unless similar access is provided on the site.

[Amended by Ord. ZDO-224, 5/31/11; Amended by Ord. ZDO-230, 9/26/11; Amended by Ord. ZDO-232, 3/12/12; Amended by Ord. ZDO-246, 3/1/14; Amended by Ord. ZDO-250, 10/13/14; Amended by Ord. ZDO-253, 6/1/15; Amended by Ord. ZDO-258, 1/18/17; Amended by Ord. ZDO-266, 5/23/18; Amended by Ord. ZDO-268, 10/2/18]

Summary of Proposed Amendments to Section 1009, *Landscaping*

1. Repeal a provision that relates only to the Campus Industrial (CI) District.

1009 LANDSCAPING

1009.01 GENERAL PROVISIONS

A. Landscaping materials shall be selected and sited to produce a hardy and low-maintenance landscaped area with an emphasis on fast-growing plants. Selection shall include consideration of soil type and depth, spacing, exposure to sun and wind, slope and contours of the subject property, building walls and overhangs, and compatibility with existing vegetation to be preserved. Notwithstanding the requirement for hardiness, annuals are permitted as provided in Subsection 1009.01(B).

B. A variety of plants, intermixed throughout landscaped areas, shall be provided, as follows:

1. Evergreen and deciduous;

2. Trees, shrubs, and groundcover;

3. Plants of varying textures;

4. Plants of varying widths and heights at maturity; and

5. Plants with seasonal color interest (e.g., foliage, flowering perennials, annuals).

C. The planting of invasive non-native or noxious vegetation shall be prohibited, and existing invasive non-native or noxious vegetation shall be removed.

D. Landscaped areas shall not be used for other purposes, such as storage or display of automobiles, equipment, merchandise, or materials.

E. Landscaping of the unimproved area between a lot line and the improved portion of an adjacent road right-of-way shall be required when there are no immediate plans to develop or otherwise disturb the unimproved area, and one or more of the following apply:

1. The subject property is located inside the Portland Metropolitan Urban Growth Boundary;

2. Landscaping is necessary to present an appearance consistent with the proposed development as viewed from the road;

3. Landscaping is necessary to reduce dust, noise, erosion, or fire hazard; or

4. The road is designated as a scenic road on Comprehensive Plan Map 5-1, *Scenic Roads*.

F. Landscaping shall be used to highlight public entrances to buildings. If—due to the depth of a front setback, a required walkway, or both—there is insufficient area to permit a typical, in-ground landscaping bed between a public entrance and a front lot line, this requirement may be met with trellises, hanging baskets, or planters, any of which shall include plants.

G. Where feasible, landscaping shall be required adjacent to walkways and other areas intended for pedestrian use.

H. Existing significant plants, terrain, and other natural features shall be incorporated into the landscaping design and development if such features are required to be retained by other provisions of this Ordinance or if otherwise feasible.

1009.02 MINIMUM AREA STANDARDS

A. Table 1009-1, *Minimum Landscaped Area*, establishes the minimum percentage of the area of the subject property that shall be landscaped.

1. The minimum landscaped area shall be calculated after subtracting any public dedications from the area of the subject property.

2. Landscaping in adjacent rights-of-way shall not count toward compliance with the minimum landscaped area.

3. Requirements for surface parking and loading area landscaping, screening and buffering, scenic roads landscaping, landscaping strips, and recreational areas and facilities set forth in Section 1009 apply regardless of whether compliance with those requirements results in landscaping a greater percentage of the subject property than is required by Table 1009-1.

Table 1009-1: Minimum Landscaped Area

Zoning District	Minimum Landscaped Area
CC, PMU, RCC, RCO, RTL	10 percent
RTC	• 15 percent outside Government Camp • 10 percent in Government Camp
SCMU	• 15 percent for developments of three-family or multifamily dwellings, including mixed-use developments that include these uses • 10 percent for all other developments
BP, C-2, C-3, GI, LI, NC, RC, RI, VCS, VO	15 percent
OA, OC, RCHDR	20 percent
~~CI,~~ HDR, MR-1, MR-2, MRR, PMD, VA, VTH	25 percent except 20 percent for attached single-family dwellings in the MR-1 and MR-2 Districts
HR	• 25 percent for conditional uses • 20 percent for attached single-family dwellings if three or more dwelling units are attached in succession
FF-10, FU-10, R-2.5 through R-30, RA-1, RA-2, RR, RRFF-5, VR-4/5, and VR-5/7	25 percent for conditional uses and for primary-use attached single-family dwellings in the VR-4/5 District if three or more dwelling units are attached in succession
SHD	40 percent

4. A minimum of 75 percent of the minimum landscaped area required by Table 1009-1—excluding any area occupied by pedestrian amenities, active recreational areas, or edible gardens—shall be landscaped with native or drought-tolerant plants.

5. Outdoor recreational areas required by Subsection 1009.08(A), as well as outdoor recreational areas in the MRR District, shall count toward the minimum landscaped area required by Table 1009-1, except that impervious surface area exceeding 25 percent of the outdoor recreational area shall be excluded.

6. Edible gardens may comprise a maximum of 10 percent of the minimum landscaped area required by Table 1009-1.

7. Green roofs may comprise a maximum of 25 percent of the minimum landscaped area required by Table 1009-1.

8. Turf lawn may comprise a maximum of 10 percent of the minimum landscaped area required by Table 1009-1. However, this limitation shall not apply to active recreational areas, provided that no other areas of the subject property are planted in turf lawn, and it shall not apply to cemeteries.

9. Pedestrian amenities may comprise a maximum of one-third of the minimum landscaped area required by Table 1009-1. However, no more than 15 percent of the minimum landscaped area required by Table 1009-1 and developed with pedestrian amenities shall have an impervious surface.

10. Area occupied by walls, fences, or trellises constructed to comply with Subsections 1009.03 and 1009.04 shall count toward the minimum landscaped area required by Table 1009-1.

11. In the PMD, MR-1, MR-2, and HDR Districts, the following may comprise a maximum of 20 percent of the minimum landscaped area required by Table 1009-1: interior courtyards, atriums, solar greenhouses, solariums, roof gardens, indoor recreational areas, and other comparable amenities.

12. In the RCHDR and SHD Districts, the minimum landscaped area required by Table 1009-1 shall be met with shared outdoor surface areas, including the following: landscaping, courtyards, pedestrian plazas, areas dedicated for parks, onsite walkways and bikeways, recreational areas and facilities, yards, decks, terraces, patios, and roof gardens. In addition, indoor recreational facilities identified in Subsection 1009.08(B), and over and above the minimum standard set forth in Subsection 1009.08(B), may be counted toward the minimum landscaped area required by Table 1009-1.Also, private outdoor areas may be counted toward meeting the minimum landscaped area required by Table 1009-1, as follows:

    a. A maximum of 25 percent of the minimum landscaped area required by Table 1009-1 may be comprised of usable private outdoor space, except that the 25-percent cap does not apply to usable private open space facing streets and accessory to residential development.

b. When living areas face the street, usable balcony space may be applied toward achieving the minimum landscaped area required by Table 1009-1 on a 1:2 ratio (one square foot of credit for every two square feet of balcony space facing the street). The balconies must have non-opaque sides and be designed to incorporate landscaping or other decorative features.

B. Exceptions: Notwithstanding Table 1009-1:

1. If a commercial, industrial, or institutional development is lawfully nonconforming with regard to compliance with the minimum landscaped area standard, less than 5,000 square feet of building floor space may be added without bringing the subject property into full compliance with the standard, as follows:

   a. Additions of less than 1,000 square feet of building floor space do not require increased compliance with the minimum landscaped area standard.

   b. Additions of 1,000 to 1,999 square feet of building floor space require either an additional five percent of the subject property to be landscaped or compliance with Table 1009-1, whichever is less.

   c. Additions of 2,000 to 4,999 square feet of building floor space require either an additional 10 percent of the subject property to be landscaped or compliance with Table 1009-1, whichever is less.

   d. If a series of additions occur, the landscaped area shall increase until compliance with Table 1009-1 is reached.

2. In the RTC District in Government Camp, the minimum landscaped area standard will be waived for lots or tracts with street frontage on Government Camp Loop from Wy'East Trail to Olive Street and on Little Trail from Olive Street to Church Street, if plaza space that complies with the following standards is provided:

   a. Plaza space shall be permanent space open to the public.

   b. Plaza space shall be integrated into the development and be both accessible and visible from Government Camp Loop or Little Trail.

   c. A minimum of 100 square feet of plaza space shall be provided for developments of up to 1,999 square feet of building floor space, and a minimum of 150 square feet of plaza space shall be provided for developments of 2,000 square feet of building floor space or more. This shall be developed as one contiguous space, except that developments of 5,000 square feet of building floor space or more may develop two separate plazas.

d. Plaza space surface materials shall consist of textured concrete, concrete mixed with aggregate, rock, rock veneer, pavers, bricks, or wood. Asphalt is prohibited.

e. A minimum of ten percent of the plaza space area shall be landscaped with planters or hardy native vegetation.

f. A minimum of three permanent seating spaces shall be provided in the plaza space for developments of up to 1,999 square feet of floor space. One additional permanent seating space shall be provided for each additional 1,000 square feet of floor space. Seating spaces shall be constructed of textured concrete, rock, rock veneer, wood, or wrought iron.

g. A minimum of one garbage receptacle shall be provided in each plaza, and all plaza space receptacles shall be clad in wood or stone.

1009.03 SURFACE PARKING AND LOADING AREA LANDSCAPING

Surface parking and loading areas shall be landscaped as follows:

A. Surface parking areas that include more than 15 parking spaces shall comply with the following landscaping requirements:

1. Twenty-five square feet of landscaping per parking space, excluding perimeter parking spaces, shall be provided, except that the standard shall be reduced to 20 square feet for each parking space developed entirely with porous pavement.

2. One landscape swale located between two rows of parking spaces, as shown in Figure 1009-1, is required for every six rows of parking spaces, unless all parking spaces are developed entirely with porous pavement. Additional swales beyond the minimum requirement are allowed.

a. For the purpose of Subsection 1009.03(A)(2), a “row” of parking spaces is one space deep, meaning that where two spaces abut at their ends, it is considered two “rows”.

b. Parking spaces separated by pedestrian or vehicle crossings perpendicular to the row of parking spaces are considered to be part of a single row.

c. The first required swale shall be developed for the entire length of the longest row of parking spaces.

d. Gaps in a required swale are permitted only to provide for pedestrian and vehicle crossings.

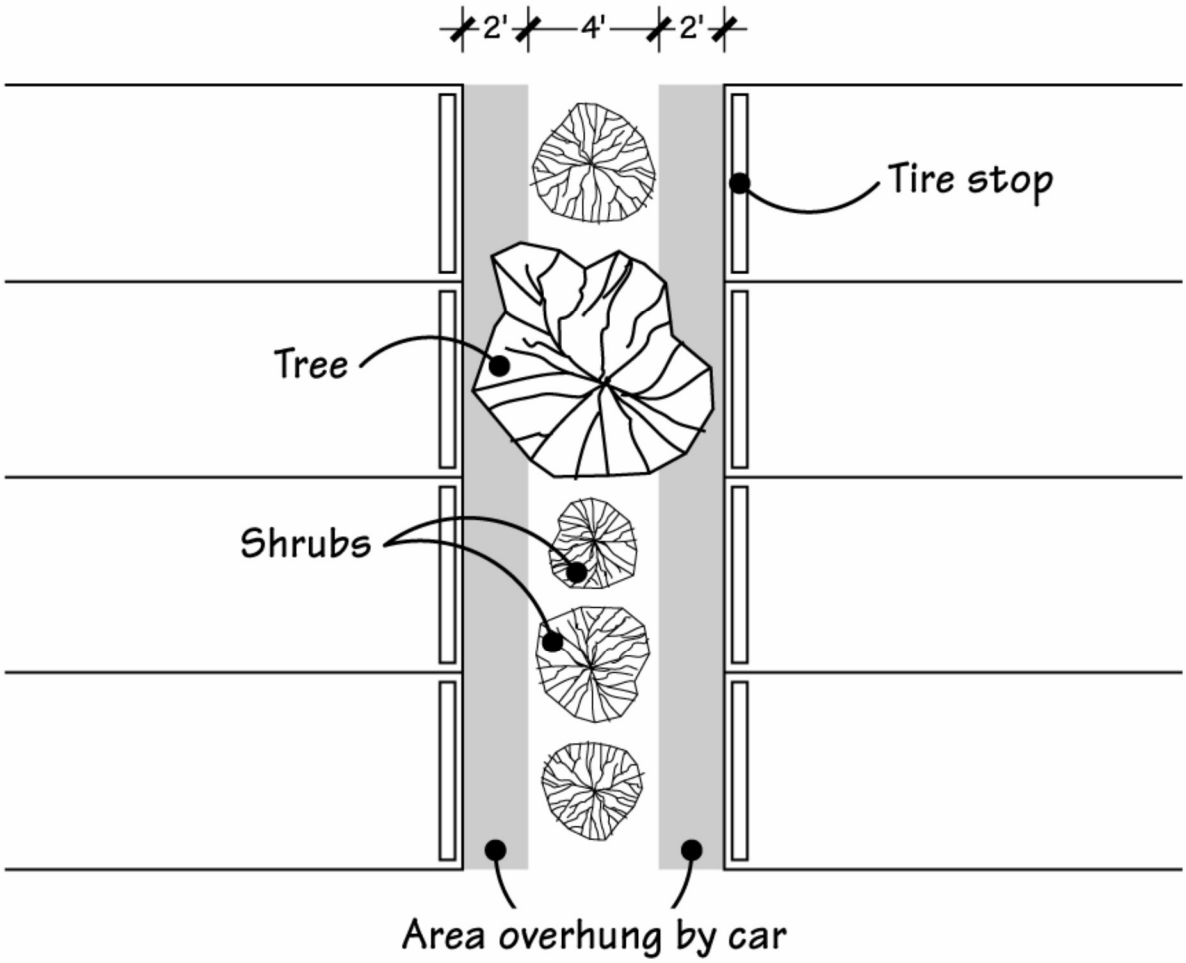
e. The parking lot shall be graded to allow surface water to flow into a swale. Curbs shall not separate parking spaces from the swale, and gaps between parking space tire stops are required to allow surface water to flow into a swale.

f. Swales shall be a minimum of four feet wide.

g. If the front portions of parking spaces are landscaped as allowed by Subsection 1015.02(A)(10), the landscaped portion of the parking space shall be adjacent and in addition to the swale, as shown in Figure 1009-1.

h. Turf lawn is prohibited in swales.

Figure 1009-1: Parking Lot Swale



3. Interior landscaping not developed as swales pursuant to Subsection 1009.03(A)(2) shall comply with the following standards:

   a. It shall be arranged in areas at the ends of rows of parking or between parking spaces within rows of parking. See Figure 1009-2.

   b. It may join perimeter landscaping as long as the interior landscape area extends at least four feet into the parking area from the perimeter landscape line. See Figure 1009-2.

   c. Landscaping that abuts, but does not extend into, the parking area may be included as interior landscaping if all of the following are met:

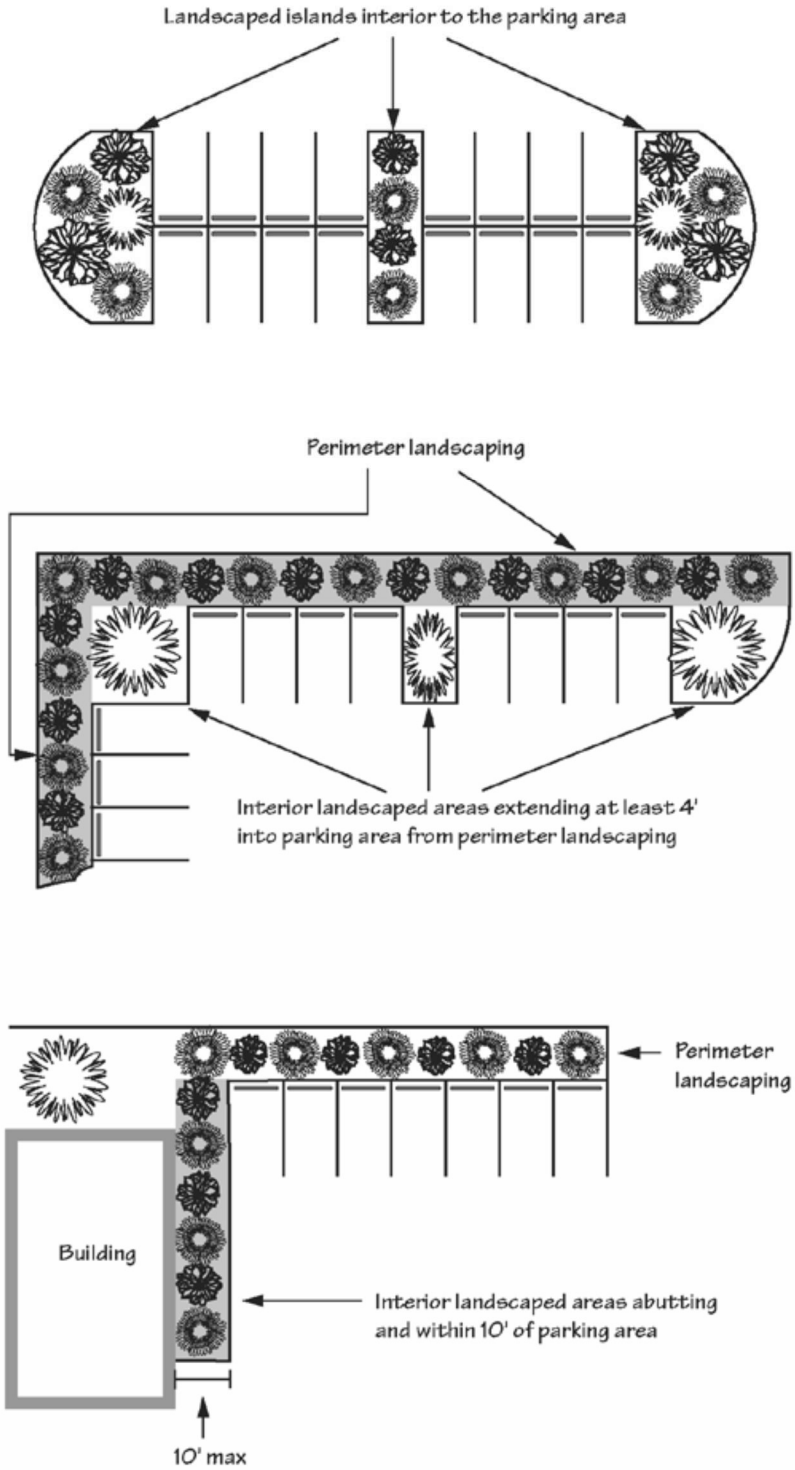
      i. The abutting landscaped area must be in addition to required perimeter landscaping;

      ii. Only the first 10 feet of the abutting landscaped area, measured from the edge of the parking area, may be included as interior landscaping; and

      iii. The landscaped area is not abutting and parallel to required perimeter landscaping. See Figure 1009-2.

   d. The interior length and width of landscaped areas shall be a minimum of four feet.

Figure 1009-2: Interior Landscaping



4. Interior landscaped areas, including swales, shall include a minimum of one tree located every eight interior parking spaces, or fraction thereof, except in the OA, VA, VCS, and VO Districts, where a minimum of one tree shall be located every six interior parking spaces.

    a. Where necessary to accommodate other design considerations, variable spacing of the trees required by Subsection 1009.03(A)(4) is allowed, but in no case shall there be less than one tree planted in every 12 parking spaces.

    b. The species of trees required shall be determined on the basis of the growth habit and the need to provide maximum shading of surface parking areas.

B. Perimeter landscaping requirements for surface parking and loading areas adjacent to abutting lots or rights-of-way are as follows:

1. A landscaping strip with a minimum width of five feet shall be provided adjacent to the perimeter of the surface parking or loading area, except:

    a. In the OA, VA, VCS, and VO Districts, the minimum width shall be 10 feet;

    b. In the BP and LI Districts, the minimum width shall be 15 feet abutting a front lot line; and

    c. In the GI District, the minimum width shall be 10 feet abutting a front lot line.

2. The required landscaping strips shall comply with the following standards:

    a. Sufficient low shrubs shall be planted to form a continuous screen three feet high and 95 percent opaque, year-round; or a three-foot-high masonry wall or berm may be substituted for the shrubs. When applied along front lot lines, the screen or wall is to be placed along the interior side of the landscaping strip and shall be 30 inches high instead of three feet high.

    b. In addition, one tree is required for every 30 linear feet of landscaping strip, or as otherwise required to provide a tree canopy over the landscaping strip.

    c. Ground cover plants must fully cover the remainder of the landscaped area.

3. A perimeter landscape strip is not required for a surface parking or loading area adjacent to an abutting lot if one or more interior driveways connect the two lots and if the abutting lot also is developed with a surface parking or loading area adjacent to the shared lot line.

4. Required walkways may cross perimeter landscaping strips.

1009.04 SCREENING AND BUFFERING

A. Screening shall be used to eliminate or reduce the visual impacts of the following:

1. Service areas and facilities, such as loading areas and receptacles for solid waste or recyclable materials;

2. Storage areas;

3. Ground-mounted rainwater collection facilities with a storage capacity of more than 100 gallons;

4. Parking lots within or adjacent to an Urban Low Density Residential, VR-5/7, VR-4/5, RA-1, RA-2, RR, RRFF-5, FF-10, FU-10, or HR District; and

5. Any other area or use, as required by this Ordinance.

B. Screening shall be accomplished by the use of sight-obscuring evergreen plantings, vegetated earth berms, masonry walls, sight-obscuring fences, proper siting of disruptive elements, building placement, or other design techniques.

C. Screening shall be required to substantially block any view of material or equipment from any point located on a street or accessway adjacent to the subject property. Screening from walkways is required only for receptacles for solid waste or recyclable materials. A sight-obscuring fence at least six feet in height and up to a maximum of 10 feet in height shall be required around the material or equipment.

D. Buffering shall be used to mitigate adverse visual impacts, dust, noise, or pollution, and to provide for compatibility between dissimilar adjoining uses. Special consideration shall be given to buffering between residential uses and commercial or industrial uses, and in visually sensitive areas.

E. Buffering shall be accomplished by one of the following:

1. A landscaping strip with a minimum width of 15 feet and planted with:

a. A minimum of one row of deciduous and evergreen trees staggered and spaced a maximum of 30 feet apart;

b. A perennial, evergreen planting with sufficient foliage to obscure vision and which will grow to form a continuous hedge a minimum of six feet in height within two years of planting; and

c. Low-growing evergreen shrubs and evergreen ground cover covering the balance of the area;

2. A berm with a minimum width of ten feet, a maximum slope of 40 percent on the side away from the area screened from view, and planted with:

   a. A perennial, evergreen planting with sufficient foliage to obscure vision and which will grow to form a continuous hedge within two years of planting. The minimum combined height of the berm and planting shall be six feet; and

   b. Low-growing evergreen shrubs and evergreen ground cover covering the balance of the area;

3. A landscaping strip with a minimum width of five feet and including:

   a. A masonry wall or sight-obscuring fence a minimum of six feet in height. The wall or fence is to be placed along the interior side of the landscaping strip;

   b. Evergreen vines, evergreen trees, or evergreen shrubs, any of which shall be spaced not more than five feet apart; and

   c. Low-growing evergreen shrubs and evergreen ground cover covering the balance of the area; or

4. Another method that provides an adequate buffer considering the nature of the impacts to be mitigated.

F. Required walkways shall be accommodated, even if such accommodation necessitates a gap in required screening or buffering.

1009.05 SCENIC ROADS

In the RA-1, RA-2, RRFF-5, FF-10, FU-10, MRR, and HR Districts, buildings in developments adjacent to roads designated as scenic roads on Comprehensive Plan Map 5-1, *Scenic Roads*, shall be set back a sufficient distance from the right-of-way to permit a landscaped or natural buffer zone.

1009.06 LANDSCAPING STRIPS

A. In the BP and LI Districts, a landscaping strip a minimum of 15 feet wide shall be provided abutting front lot lines.

B. In the GI District, a landscaping strip a minimum of 10 feet wide shall be provided abutting front lot lines.

C. In all other zoning districts, except SCMU, a landscaping strip a minimum of five feet wide shall be provided abutting front lot lines. (See Subsection 1005.10(L) for additional SCMU landscaping requirements.)

1. This requirement will be waived or reduced in the NC, PMU, and VCS Districts, which are districts that have no minimum front setback standard, to the extent necessary to accommodate a building with a front setback of less than five feet.

2. If—due to the depth of a front setback and the need to accommodate a required walkway, required pedestrian amenities, or both—there is insufficient area to permit a five-foot-wide landscaping strip, the landscaping strip may be reduced in width or the landscaping requirement may be met with a linear arrangement of trellises, hanging baskets, or planters, any of which shall include plants.

1009.07 FENCES AND WALLS

A. Fences and walls shall be of a material, color, and design complementary to the development.

~~B. In the CI District, fences and walls are prohibited except as follows. Decorative fences or walls may be used to screen service and loading areas, private patios or courts. Fences or walls may be used to enclose playgrounds, tennis courts, or to secure sensitive areas or uses, such as vehicle storage areas or drainage detention facilities. Fences or walls shall not be located where they impede pedestrian or bicycle circulation through or between developments.~~

~~C~~B. In the BP and LI Districts, the minimum front setback for fences and walls is 15 feet.

~~D~~C. In the GI District, the minimum front setback for fences and walls is 10 feet.

1009.08 RECREATIONAL AREAS AND FACILITIES

A. An outdoor recreational area shall be provided in developments of two-family, three-family, or multifamily dwellings in the MR-1, MR-2, and HDR Districts, and in developments of three-family or multifamily dwellings, including mixed-use developments that include these uses, in the SCMU District, as follows:

1. A minimum of 200 square feet of usable outdoor recreational space per dwelling unit shall be provided for studio, one- bedroom, and two-bedroom units. The minimum shall be increased to 300 square feet per dwelling unit for units with three or more bedrooms. However, in the SCMU District:

a. The requirement shall apply only to the first 20 dwelling units per acre, or prorated equivalent thereof; and

b. The amount of required outdoor recreational area may be reduced, to the minimum extent necessary, if—when combined with the minimum landscaping requirements of Subsections 1005.10(L), 1009.03, and 1009.04—full compliance would result in landscaping more than 15 percent of the lot.

2. Outdoor recreational areas may be designed for passive or active recreation, including edible gardening.

3. Outdoor recreational areas shall be designed for adequate surveillance opportunities.

4. Outdoor recreational areas shall be conveniently located and accessible to all dwelling units.

B. In the SHD and RCHDR Districts, a residential development shall provide at least one of the following recreational facilities for the first 60 dwelling units, or portion thereof, and at least one additional facility for every additional 120 dwelling units, or portion thereof.

1. An 800-square-foot or larger heated swimming pool;

2. A minimum 1,000-square-foot exercise room with exercise equipment and mats;

3. Two handball/racquetball courts;

4. Whirlpool and sauna or steam bath rooms;

5. Minimum 1,200-square-foot game room with pool and ping pong tables, folding tables and chairs, and kitchenette;

6. An 800-square-foot shop equipped with hand tools, work benches, storage shelves, lockers, and ventilation;

7. A 400-square-foot greenhouse with all-season solar exposure, equipped with benches, water, ventilation, summer shading materials, and storage areas for pots, tools, potting soil, fertilizers, etc;

8. 3,000 square feet of hard-surface play area, such as a tennis court, basketball court, or roller-skating area;

9. 4,200 square feet of soft surface play area with equipment provided for lawn games such as volleyball, badminton, croquet, and horseshoes; and

10. Any other similar facility.

1009.09 EROSION CONTROL

A. Graded areas shall be re-vegetated with suitable plants to ensure erosion control.

B. Netting shall be provided, where necessary, on sloped areas while ground cover is being established.

1009.10 PLANTING AND MAINTENANCE

A. Impervious weed barriers (e.g, plastic sheeting) are prohibited.

B. Plants shall not cause a hazard. Plants over walkways, sidewalks, pedestrian pathways, and seating areas shall be pruned to maintain a minimum of eight feet below the lowest hanging branches. Plants over streets, bikeways, accessways, and other vehicular use areas shall be pruned to maintain a minimum of 15 feet below the lowest hanging branches.

C. Plants shall be of a type that, at maturity, typically does not interfere with above- or below-ground utilities or paved surfaces.

D. Plants shall be installed to current nursery industry standards.

E. Plants shall be properly guyed and staked to current nursery industry standards as necessary. Stakes and guys shall not interfere with vehicular or pedestrian traffic, shall be loosened as needed to prevent girdling of trunks, and shall be removed as soon as sufficient trunk strength develops, typically one year after planting.

F. Landscaping materials shall be guaranteed for a period of one year from the date of installation. The developer shall either submit a signed maintenance contract for the one-year period or provide a performance surety pursuant to Section 1311, *Completion of Improvements, Sureties, and Maintenance*, covering the landscape maintenance costs for the one-year period.

G. Plants shall be suited to the conditions under which they will be growing. As an example, plants to be grown in exposed, windy areas that will not be irrigated shall be sufficiently hardy to thrive under these conditions. Plants shall have vigorous root systems, and be sound, healthy, and free from defects and diseases.

H. When planted, deciduous trees shall be fully branched, have a minimum caliper of two inches, and have a minimum height of eight feet.

I. When planted, evergreen trees shall be fully branched, have a minimum height of eight feet, and have only one leader.

J. Shrubs shall be supplied in minimum one-gallon containers or eight-inch burlap balls with a minimum spread of 12 inches.

K. Ground cover shall be planted a maximum of 30 inches on center with a maximum of 30 inches between rows. Rows of plants shall be staggered. Ground cover shall be supplied in minimum four-inch containers, except that the minimum shall be reduced to two and one-quarter inches or equivalent if the ground cover is planted a minimum of 18 inches on center.

L. Plants shall be spaced so that ground coverage three years after planting is expected to be 90 percent, except where pedestrian amenities, rainwater collection systems, or outdoor recreational areas count as landscaping pursuant to Subsection 1009.02. Areas under tree drip lines count as ground coverage.

M. Irrigation of plants shall be required, except in wooded areas, wetlands, and in river and stream buffers. The irrigation system shall be automatic, except that hose bibs and manually operated methods of irrigation may be permitted in small landscaped areas close to buildings. Automatic irrigation systems are subject to the following standards:

1. An automatic irrigation controller shall be required for irrigation scheduling.

2. The system shall be designed to prevent runoff, low head drainage, overspray, or other similar conditions where irrigation water flows onto non-targeted areas, such as adjacent property, non-irrigated areas, hardscapes, roadways, or structures.

3. In mulched planting areas, the use of low volume irrigation is required to maximize water infiltration into the root zone.

4. Narrow or irregularly shaped areas, including turf lawn, less than eight feet in width in any direction shall be irrigated with subsurface or low volume irrigation.

5. Overhead sprinkler irrigation is prohibited within two feet of any impervious surface unless:

   a. The landscaped area is adjacent to permeable surfacing and no runoff occurs; or

   b. The adjacent impervious surfaces are designed and constructed to drain entirely to landscaping; or

   c. The irrigation designer specifies an alternative design or technology that complies with Subsection 1009.10(M)(2).

N. Appropriate methods of plant care and landscaping maintenance shall be provided by the property owner. Pruning shall be done to current nursery industry standards.

O. Plants shall be protected from damage due to heavy foot traffic or vehicular traffic by protective tree grates, pavers, or other suitable methods.

[Amended by Ord. ZDO-224, 5/31/11; Amended by Ord. ZDO-243, 9/9/13; Amended by Ord. ZDO-246, 3/1/14; Amended by Ord. ZDO-249, 10/13/14; Amended by Ord. ZDO-250, 10/13/14; Amended by Ord. ZDO-252, 6/1/15; Amended by Ord. ZDO-253, 6/1/15; Amended by Ord. ZDO-266, 5/23/18]

Summary of Proposed Amendments to Section 1015, *Parking and Loading*

1. Repeal the requirement for one additional off-street parking space for an accessory dwelling unit (ADU) in the RA-1, RA-2, Urban Low Density Residential, VR-4/5, or VR-5/7 Districts, consistent with the requirements of Oregon House Bill 2001 (2019).

1015 PARKING AND LOADING

1015.01 GENERAL STANDARDS

A. Inside the Portland Metropolitan Urban Growth Boundary (UGB), parking, loading, and maneuvering areas shall be hard-surfaced, unless a permeable surface is required for surface water management pursuant to the regulations of the surface water management authority or in order to comply with Subsection 1006.06.

B. Outside the UGB, areas used for parking, loading, and maneuvering of vehicles shall be surfaced with screened gravel or better, and shall provide for suitable drainage.

C. Parking and loading requirements for uses and structures not specifically listed in Tables 1015-1, *Automobile Parking Space Requirements*; 1015-2, *Minimum Required Bicycle Parking Spaces*; and 1015-3, *Minimum Required Off-Street Loading Berths* shall be subject to the requirements for the most similar use.

D. Motor vehicle parking, bicycle parking, and loading areas shall be separated from one another.

E. Required parking spaces and loading berths shall not be:

a. Rented, leased, or assigned to any other person or organization, except as provided for under Subsection 1015.02(D)(2)(a) for shared parking or Subsection 1015.04(C) for shared loading berths.

b. Used for storing or accumulating goods or storing a commercial or recreational vehicle, camper, or boat, rendering the space(s) useless for parking or loading operations.

c. Occupied by the conducting of any business activity, except for permitted temporary uses (e.g., farmers' markets).

1015.02 MOTOR VEHICLE PARKING AREA STANDARDS

A. Off-street parking areas shall be designed to meet the following requirements:

1. Off-street motor vehicle parking areas shall be provided in defined areas of the subject property. No area shall be considered a parking space unless it can be shown that the area is accessible and usable for that purpose and has required maneuvering area for vehicles. Required backing and maneuvering areas shall be located entirely onsite.

2. Automobile parking spaces shall be a minimum of 8.5 feet wide and 16 feet long, except that parallel spaces shall be a minimum of 8.5 feet wide and 22 feet long.

3. A minimum of 25 percent of required parking spaces shall be no larger than 8.5 feet wide and 16 feet long.

4. Parking areas shall comply with minimum dimensions for curb length, stall depth, and aisle width established by the Clackamas County Roadway Standards; these dimensions are based on the orientation (e.g., 45-degree, 90-degree), length, and width of the spaces.

5. Double-loaded, ninety-degree angle parking bays shall be utilized where possible.

6. A minimum of one parking space or five percent of the required spaces, whichever is greater, shall be marked and signed for use as carpool/vanpool spaces. These spaces shall be the closest employee automobile parking spaces to the building entrances normally used by employees, but shall not take priority over any spaces required for individuals with disabilities.

7. In parking lots greater than one acre, major onsite circulation drive aisles and lanes crossing to adjacent developments shall not have parking spaces accessing directly onto them.

8. Where feasible, shared driveway entrances, shared parking and maneuvering areas, and interior driveways between adjacent parking lots shall be required.

9. Except for parallel spaces, parking spaces heading into landscaped areas or along the perimeter of a parking lot shall be provided with a sturdy tire stop at least four inches high and located two feet within the space to prevent any portion of a car within the lot from extending over the property line.

10. For parking spaces heading into a landscaped area, the area in front of the tire stop that is included in the parking space dimension may be landscaped instead of paved or graveled according to the following standards:

    a. Landscaping shall be ground cover plants only;

    b. The area in front of the tire stop that is included in the parking space dimension shall be in addition to the required minimum dimension for a landscape planter; and

    c. The landscaped area in front of the tire stop may count toward overall site landscaping requirements established in Table 1009-1, *Minimum Landscaped Area*. However, it may not count toward perimeter landscaping requirements established in Section 1009.03(B)(1).

B. Parking Minimums: The minimum number of parking spaces listed in Table 1015-1, *Automobile Parking Space Requirements*, applies unless modified in Subsection 1015.02(D).

1. In case of expansion of a building or use that, prior to the expansion, does not meet the minimum parking space requirements in Table 1015-1, the following provisions shall apply:

   a. The minimum number of additional parking spaces required shall be based only on the floor area or capacity added and not the area or capacity existing prior to the expansion.

   b. If the enlargement covers any of the pre-expansion parking spaces, lost parking spaces shall be replaced, in addition to any required additional spaces.

2. In the event more than one use occupies a single structure or parcel, the total minimum requirement for parking shall be the sum of the minimum requirements of the several uses computed separately.

C. Parking Maximums:

1. Within the UGB, the parking maximums listed in Table 1015-1, Urban Zone A, apply when an area has 20-minute peak hour transit service within one-quarter mile walking distance for bus transit or one-half mile walking distance for light rail transit.

2. Within the UGB, areas not meeting the requirements of Subsection 1015.02(C)(1), are subject to the parking maximums listed in Table 1015-1, Urban Zone B.

3. In case of expansion of a building or use with more parking spaces than the maximum allowed by Table 1015-1:

   a. Existing parking spaces may be retained, replaced, or eliminated, provided that after the expansion, the total number of remaining spaces complies with the minimum parking space requirement of Table 1015-1 for the entire development; and

   b. Additional parking spaces are allowed only if required to comply with the minimum parking space requirement of Table 1015-1 for the entire development after the expansion.

Table 1015-1: Automobile Parking Space Requirements[1]

Land Use Category	Minimum Parking Spaces	Maximum Parking Spaces (Urban Zone A)	Maximum Parking Spaces (Urban Zone B)
Amusement Parks, Riding Academies, and Camps (per 1000 square feet of serving area)	0.8	None	None
Bank with Drive-in	4.3	5.4	6.5
Bed and Breakfast Residences and Inns	1 for each guest room and 1 for the operator	None	None
Bowling Alleys (per alley)	3	None	None
Child Care Facilities	0.5 In addition, a passenger-loading area shall be provided on the site.	None	None
Dwellings, including:			
~~Accessory Dwelling Unit,~~ Manufactured Dwelling~~,~~ or Single-Family Dwelling in RA-1, RA-2, Urban Low Density Residential, VR-4/5, or VR-5/7 District (per dwelling unit)	1, located behind the front setback line	None	None
HR District (per primary dwelling unit 800 square feet or less or per unit for accessory dwelling units)[2]	1	None	None
HR District (per primary dwelling unit greater than 800 square feet)[2]	2	None	None

Land Use Category	Minimum Parking Spaces	Maximum Parking Spaces (Urban Zone A)	Maximum Parking Spaces (Urban Zone B)
MRR District, except congregate housing facilities (per 600 square feet of residential building area for primary dwellings or per unit for accessory dwelling units)	1	None	None
Attached Single-Family Dwelling in MR-1 or MR-2 District (per dwelling unit)	2	None	None
Attached Single-Family Dwelling in SCMU District (per dwelling unit)	1 onsite	2 onsite	NA
Attached Single-Family Dwelling in VTH District (per dwelling unit)	1, located in a garage	None	None
Two- and Three-Family Dwellings (per dwelling unit)	1.5	None	None
Manufactured Dwelling Park (per dwelling unit)	2	None	None
Multifamily Dwelling (per one-bedroom dwelling unit)	1.25	None	None
Multifamily Dwelling (per two-bedroom dwelling unit)	1.5	None	None
Multifamily Dwelling (per three-bedroom dwelling unit)	1.75	None	None
Congregate Housing Facilities (per resident)	0.25	None	None

Land Use Category	Minimum Parking Spaces	Maximum Parking Spaces (Urban Zone A)	Maximum Parking Spaces (Urban Zone B)
Home Occupations for Canine Skills Training	1 per canine handler, based on the maximum number of handlers permitted for any single training session. An additional space shall be provided for each employee.	None	None
Home Occupations to Host Events	1 space per 3 guests based on the maximum number of guests permitted for any single event. An additional space shall be provided for each employee.	None	None
Hospitals	0.5	None	None
Hotels and Motels (per unit)	1	None	None
Industrial, Manufacturing, and Processing Facilities			
Zero to 24,999 square feet	1.5	None	None
25,000 to 49,999 square feet	1.42	None	None
50,000 to 79,999 square feet	1.25	None	None
80,000 square feet and greater	1	None	None
Medical and Dental Clinics	3.5	4.9	5.9

Land Use Category	Minimum Parking Spaces	Maximum Parking Spaces (Urban Zone A)	Maximum Parking Spaces (Urban Zone B)
Movie Theaters (per seat)	0.3	0.4	0.5
Nursing Homes, Welfare or Correctional Institutions, and Institutions for Children (per bed)	0.2	None	None
Office Uses (includes Office Park, "Flex-Space", Government Office and Miscellaneous Services)	2.7	3.4	4.1
Places of Worship (per seat located in main assembly room), unless a school, daycare, or similar facility is proposed in conjunction with primary use, in which case it shall have separate parking requirement	0.5, or 1 per 5.3 feet of bench length in main assembly room	0.6	0.8
Produce Stands (per stand)	4	None	None
Recreational Vehicle Camping Facilities	1 per campsite (in addition to the space required for parking the recreational vehicle) and 1 per employee at peak employment period	None	None
Restaurants: Fast Food with drive-thru window service	9.0	12.4	14.9
Restaurants: With no drive-thru window service, Taverns	15.0	19.1	23
Retail/Commercial, including shopping centers	4.1, except in the Clackamas Regional Center Area, 3.0	5.1	6.2

Land Use Category	Minimum Parking Spaces	Maximum Parking Spaces (Urban Zone A)	Maximum Parking Spaces (Urban Zone B)
Retail stores with bulky merchandise, such as furniture, appliances, automobiles, service/repair shops	2	5.1	6.2
Schools: Colleges, Universities, and High Schools (per student or staff member)	0.2	0.3	0.3
Schools: Elementary and Junior High Schools (per school)	15, or 2 per classroom, whichever is less	None	None
Service Stations (per employee at peak employment period)	1	None	None
Sports Clubs/Recreation Facilities	4.3	5.4	6.5
Surface Mining	On-site vehicular parking for employees, customers and visitors, determined through Conditional Use process.	None	None
Tennis and Racquetball Courts	1	1.3	1.5
Theaters, Dance Halls, Community Clubs, Skating Rinks, Public Meeting Places (per seat, or 1 per 100 sq. ft. exclusive of stage)	0.25	None	None
Warehouse and Storage Distribution, and Terminals (air, rail, truck, water, etc.) **Maximum parking requirements apply only to warehouses 150,000 gross square feet or greater.			
Zero to 49,999 square feet	0.3	None	None
50,000 square feet and over	0.2	0.4**	0.5**

[1] Parking ratios are based on spaces per 1,000 square feet of gross leasable area, unless otherwise stated.

[2] On land above 3,500 feet in elevation, covered parking shall be provided for structures containing three or more dwelling units.

D. Exceptions to Parking Requirements:

1. Parking maximums in Table 1015-1 may be increased for the following:

   a. Parking spaces in parking structures;

   b. Fleet parking spaces;

   c. Designated employee carpool spaces;

   d. User-paid spaces; and

   e. Parking spaces for vehicles for sale, lease, or rent.

2. Parking minimums in Table 1015-1 may be reduced for the following:

   a. The total minimum requirement for parking spaces may be reduced up to 20 percent per use when shared parking is utilized.

   b. In commercial and industrial zoning districts, available permitted on-street parking spaces on a development's street frontage may be counted toward required parking. To count as an on-street parking space, the space must comply with the minimum dimensions for a parking space established by Subsections 1015.02(A)(2) and (4).

   c. Motorcycle parking may substitute for required automobile parking spaces as follows:

      i. Up to five spaces or five percent of required automobile parking, whichever is less, may be utilized.

      ii. For every four motorcycle parking spaces provided, the automobile parking requirement is reduced by one space.

      iii. Each motorcycle space must be at least four feet wide and eight feet deep.

   d. Electric vehicle charging stations may be installed according to the following standards:

i. Two spaces or five percent of the minimum required parking spaces, whichever is greater, may be utilized for electric vehicle charging stations and identified exclusively for such use.

ii. Additional parking spaces of the minimum required parking may be utilized for electric vehicle charging stations, provided they are not identified exclusively for such use.

iii. Any portion of parking spaces provided that are beyond the required minimum number of parking spaces may be utilized for electric vehicle charging stations, regardless of whether they are identified exclusively for such use.

3. A parking cap applies in the SCMU District. The total number of parking spaces provided for nonresidential development (either onsite or offsite) shall not exceed the parking cap, regardless of the number of pre-existing parking spaces. Parking maximums and minimums established by Table 1015-1 shall be adjusted to the extent necessary to comply with the parking cap. The parking cap shall be calculated by the following formula:

Parking Cap = Gross Acres of the Development Site x 67 Parking Spaces

1015.03 BICYCLE PARKING STANDARDS

A. Bicycle parking areas shall meet the following on-site locational requirements:

1. Bicycle parking racks shall be located in proximity to an entrance but shall not conflict with pedestrian needs.

2. At least 75 percent of the bicycle parking spaces shall be located within 50 feet of a public entrance to the building.

3. Bicycle parking may be provided within a building, if the location is easily accessible for bicycles.

4. Bicycle parking for multiple uses, or a facility with multiple structures, may be clustered in one or several locations within 50 feet of each building's entrance.

5. If the bicycle parking is not easily visible from the street or main building entrance, then a sign must be posted near the building entrance indicating the location of the parking facilities.

B. Bicycle parking shall be designed to meet the following requirements:

1. When more than seven bicycle parking spaces are required, a minimum of 50 percent of the spaces shall be covered. All of the required bicycle spaces for schools, park-and-ride lots, congregate housing facilities, and

multifamily dwellings shall be covered.

2. Cover for bicycle parking may be provided by building or roof overhangs, awnings, bicycle lockers, bicycle storage within buildings, or freestanding shelters.

3. When more than 15 covered bicycle parking spaces are required, 50 percent of the required covered spaces shall be enclosed and offer a high level of security, e.g., bicycle lockers or a locked cage or room with locking facilities inside, to provide safe long-term parking.

4. Required bicycle parking spaces shall be illuminated.

5. Required bicycle parking areas shall be clearly marked and reserved for bicycle parking only.

6. Bicycle parking space dimensions and standards:

   a. Bicycle parking spaces must be at least six feet long and two feet wide, and in covered situations the overhead clearance must be at least seven feet.

   b. An aisle a minimum of five feet wide must be provided for bicycle maneuvering.

   c. Bicycle racks must hold bicycles securely by the frame and be securely anchored.

   d. Hanging bicycle racks and/or enclosed, stackable bike lockers may be substituted for surface racks if comparable dimensions, maneuvering, and clearance are provided to the user.

   e. Bicycle racks must accommodate both:

      i. Locking the frame and one wheel to the rack with a high-security U-shaped shackle lock; and

      ii. Locking the frame and both wheels without removal of wheels to the rack with a chain or cable not longer than six feet.

7. The minimum number of bicycle parking spaces listed in Table 1015-2, *Minimum Required Bicycle Parking Spaces*, are required. If a listed use is located with the Portland Metropolitan Urban Growth Boundary (UGB), it shall have a minimum of two bicycle parking spaces or the number required by Table 1015-2, whichever is greater.

8. New multifamily residential, commercial, and institutional developments within the UGB shall designate short-term bicycle parking (less than four

hours) and long-term bicycle parking (four or more hours) spaces as needed for the development.

Table 1015-2: Minimum Required Bicycle Parking Spaces

Land Use Category	Minimum Bicycle Parking Spaces[1]
Elementary Schools, Junior High Schools, Middle Schools, Senior High Schools, and Colleges (per classroom)	2 (maximum required spaces – 100)
Multifamily Dwellings (per dwelling unit)	0.5
Park-and-Ride Lots, Transit Centers, and Community Parks (per acre)	5
Preschools	4
Residential Care Facilities, Nursing Homes, and Hospitals (per 8 beds)	1
Retail and Commercial including offices and clinics	
Per 2,500 square feet, up to 50,000 square feet	1
Per each additional 5,000 square feet	1
Theaters, Places of Worship, Auditoriums, Dance Halls and other Public Assembly Places (per 40 seats or per 40 persons of design capacity, whichever is greater)	1
Warehouses and industrial buildings without attached offices, automotive service uses such as service stations and tire stores, and businesses selling large items such as major appliances, furniture, cars, or boats (per 10,000 square feet of building area)	1

[1] Minimums outside the UGB are 20 percent of the requirement listed in Table 1015-2.

1015.04 OFF-STREET LOADING STANDARDS

A. No area shall be considered a loading berth unless it can be shown that the area is accessible and usable for that purpose, and has maneuvering area for vehicles.

B. In cases of expansion of a building or use, that prior to the expansion, does not meet the minimum loading berth requirements in Table 1015-3, *Minimum Required Off-Street Loading Berths*, the following provisions shall apply:

1. The minimum number of additional loading berths required shall be based only on the floor area or capacity added and not on the area or capacity existing prior to the expansion.

2. If the expansion covers any pre-expansion loading berths, lost loading berths shall be replaced, in addition to any required additional berths.

C. In the event several uses occupy a single structure or parcel of land and share the same loading berths, the total requirement for off-street loading shall be reduced by up to 25 percent of the sum of the requirements of the several uses computed separately.

D. The minimum off-street loading berths listed in Table 1015-3 are required.

Table 1015-3: Minimum Required Off-Street Loading Berths

Land Use Category	Unit of Measurement	Number of Loading Berths	Minimum Required Dimension
Multifamily Dwellings	Number of Dwelling Units		25 feet x 12 feet x 14 feet high
	Below 50	None	
	50 to 100	1	
	101 to 200	2	
	201 or more	3	
Hotels and Motels	Square feet of floor area		35 feet x 12 feet x 14 feet high
	Under 5,000	None	
	5,000 to 50,000	1	
	50,001 to 150,000	2	
	150,001 to 300,000	3	
	300,001 to 500,000	4	
	For each additional 200,000	1 additional berth	

Land Use Category	Unit of Measurement	Number of Loading Berths	Minimum Required Dimension
Institutional Uses			
Nursing Homes, Welfare or Correctional Institutions, and Institutions for Children	Number of beds		35 feet x 12 feet x 14 feet high
	Less than 25	0	
	More than 25	1	
Assisted Living Facilities	Square feet of floor area		
	Below 10,000	None	
	10,000 to 60,000	1	
	60,001 to 160,000	2	
	160,001 to 264,000	3	
	388,001 to 520,000	5	
	520,001 to 652,000	6	
	652,001 to 784,000	7	
	784,001 to 920,000	8	
	For each additional 140,000	1 additional berth	
Schools	Per each school bus	0.5	

Land Use Category	Unit of Measurement	Number of Loading Berths	Minimum Required Dimension
Hospitals	Square feet of floor area		35 feet x 12 feet x 14 feet high
	Under 5,000	None	
	5,000 to 16,000	1	
	16,001 to 40,000	2	
	40,001 to 64,000	3	
	64,001 to 96,000	4	
	96,001 to 128,000	5	
	128,001 to 160,000	6	
	160,001 to 196,000	7	
	For each additional 36,000	1 additional berth	
Commercial Uses	Square feet of floor area		35 feet x 12 feet x 14 feet high
	Under 5,000	None	
	5,000 to 24,999	1	
	25,000 to 49,999	2	
	50,000 to 100,000	3	
	Each additional 50,000	1	

Land Use Category	Unit of Measurement	Number of Loading Berths	Minimum Required Dimension
Industrial, Manufacturing, Warehousing, Storage, Processing, and Terminals	Square feet of floor area		60 feet x 12 feet x 14 feet high
	Under 5,000	None	
	5,000 to 16,000	1	
	16,001 to 40,000	2	
	40,001 to 64,000	3	
	64,001 to 96,000	4	
	96,001 to 128,000	5	
	128,001 to 160,000	6	
	160,001 to 196,000	7	
	For each additional 36,000	1 additional berth	

[Added by Ord. ZDO-224, 5/31/11; Amended by Ord. ZDO-231, 1/31/12; Amended by Ord. ZDO-243, 9/9/13; Amended by Ord. ZDO-246, 3/1/14; Amended by Ord. ZDO-250, 10/13/14; Amended by Ord. ZDO-252, 6/1/15; Amended by Ord. ZDO-266, 5/23/18; Amended by Ord. ZDO-269, 9/6/18; Amended by Ord. ZDO-268, 10/2/18]

Summary of Proposed Amendments to Section 1206, *Nonconforming Uses and Vested Rights*

1. Repeal a subsection defining Section 1206's purpose and applicability to further standardize ZDO sections.

2. Codify specific protections for certain nonconforming marijuana production premises enacted by Oregon Senate Bill 365 (2019), and provide requirements for their alteration.

1206 NONCONFORMING USES AND VESTED RIGHTS

~~1206.01 PURPOSE AND APPLICABILITY~~

~~Section 1206 is adopted to provide standards, criteria, and procedures under which a nonconforming use may be continued, restored, replaced, maintained, altered, changed, and verified and under which a vested right may be determined.~~

1206.~~02~~01 STATUS

A nonconforming use may be continued although not in conformity with the regulations for the zoning district in which the use is located. Nonconforming use status applies to the lot(s) of record on which the nonconforming use is located and may not be expanded onto another lot of record, except as provided under Subsection 1206.~~06~~05 or, in the case of nonconforming premises for marijuana production, with an alteration approved pursuant to Subsection 1206.05(C). A change in ownership or operator of a nonconforming use is permitted.

1206.~~03~~02 DISCONTINUATION OF USE

A. If a nonconforming use is discontinued for a period of more than 12 consecutive months, the use shall not be resumed unless the resumed use conforms to the requirements of this Ordinance and other regulations applicable at the time of the proposed resumption.

B. Notwithstanding Subsection 1206.~~03~~02(A) and pursuant to Oregon Revised Statutes (ORS) 215.130(7)(b), a nonconforming surface mining use shall not be deemed to be discontinued for any period after July 1, 1972, provided:

   1. The owner or operator was issued and continuously renewed a state or local surface mining operating permit, or received and maintained a state or local exemption from surface mining regulation; and

   2. The surface mining use was not inactive for a period of 12 consecutive years or more. Inactive means no aggregate materials were excavated, crushed, removed, stockpiled, or sold by the owner or operator of the surface mine.

C. Notwithstanding Subsection 1206.02(A), marijuana production may not be resumed on a premises for which a marijuana producer holds a production license issued under ORS 475B.070 and which is nonconforming to the regulations for the zoning district in which the production is located if the premises is not used for marijuana production for a period of at least 12 calendar months, unless the marijuana production conforms to any zoning requirements or regulations applicable at the time of the proposed resumption.

1206.~~04~~03 RESTORATION OR REPLACEMENT

If a nonconforming use is damaged or destroyed by fire, other casualty, or natural disaster, such use may be restored, replaced, or re-established consistent with the nature and extent of the use or structure lawfully established at the time of loss, subject to the following conditions:

A. Alterations or changes to the nature and extent of the nonconforming use as lawfully established prior to the fire, other casualty, or natural disaster shall not be permitted under Subsection 1206.~~04~~03, but may be permitted pursuant to Subsection 1206.~~06~~05.

B. Physical restoration, replacement, or re-establishment of the nonconforming use shall be lawfully commenced within one year of the occurrence of the damage or destruction.~~-~~ Lawfully commenced means the lawful resumption of the nonconforming use or the issuance of a land use, building, on-site wastewater treatment system, grading, manufactured dwelling placement, residential trailer placement, plumbing, electrical, or other development permit required by the County or other appropriate permitting agency that is necessary to begin restoration or replacement of the nonconforming use or structures and resumption of the nonconforming use.

C. The nonconforming use status of the use to be restored, replaced, or re-established, and the nature and extent of the nonconforming use, shall be verified pursuant to Subsection 1206.~~07~~06.

1206.~~05~~04 MAINTENANCE

Normal maintenance of a nonconforming use necessary to maintain a nonconforming use in good repair is permitted provided there are not significant use or structural alterations.~~-~~ Normal maintenance may include painting; roofing; siding; interior remodeling; re-paving of access roads, parking areas, or loading areas; replacement of landscaping elements; and similar actions.

1206.~~06~~05 ALTERATIONS AND CHANGES

A. Alterations Required by Law:

1. The alteration of any nonconforming use shall be permitted when necessary to comply with any lawful requirement for alteration of the use or structure, subject to building, plumbing, sanitation, and other specialty code permit requirements in effect at the time the alteration is commenced.~~-~~ Additional conditions shall not be imposed upon the continuation of a nonconforming use when an alteration is required to comply with local or state health or safety requirements, except as provided in Oregon Revised Statutes (ORS) 215.215 pertaining to the re-establishment of nonfarm uses in the EFU District.

2. Alterations to a premises for which a marijuana producer holds a production license issued under ORS 475B.070 shall be permitted when necessary to comply with a lawful requirement for alteration in production.

B. Alterations Not Required by Law: Except as provided in Subsection 1206.05(C), ~~An~~ an alteration of a nonconforming structure or other physical improvements, or a change in the use, requires review as a Type II application pursuant to Section 1307, *Procedures*, and shall be subject to the following standards and criteria:

1. The alteration or change will, after the imposition of conditions pursuant to Subsection 1206.~~06~~05(B)(4), have no greater adverse impact on the neighborhood than the existing structure,~~-~~ other physical improvements, or use; and

2. The nonconforming use status of the existing use, structure(s), and/or physical improvements is verified pursuant to Subsection 1206.~~07~~06.

3. The alteration or change will not expand the nonconforming use from one lot of record to another unless:

   a. The lot of record on which expansion is proposed and the lot of record on which the nonconforming use currently is established have been part of the same tract continuously since the date the nonconforming use became nonconforming; or

   b. The expansion would allow only for facilities necessary to support the nonconforming use, such as driveways, storm water management facilities, and on-site wastewater treatment systems.

4. Conditions of approval may be imposed on any alteration of a nonconforming structure or other physical improvements, or a change in the use, permitted under Subsection 1206.~~06~~05(B), when deemed necessary to ensure the mitigation of any adverse impacts.

C. Alterations to Nonconforming Marijuana Production Premises Not Required by Law: Alterations in production or in a building, structure, or physical improvement associated with a nonconforming premises for which a marijuana producer holds a production license issued under ORS 475B.070 requires review as a Type II application pursuant to Section 1307, *Procedures*, and shall be subject to the following standards and criteria:

1. The alterations will have no greater adverse impact to the surrounding area than the premise's existing production or its existing associated buildings, structures, and physical improvements; and

2. The number of calendar months in which the premises has not been used for marijuana production since the premises became nonconforming does not exceed 12.

1206.~~07~~06 VERIFICATION OF A NONCONFORMING USE

Verification of nonconforming use status requires review as a Type II application pursuant to Section 1307, *Procedures*, and shall be subject to the following standards and criteria:

A. The nonconforming use lawfully existed at the time of the adoption of zoning regulations, or a change in zoning regulations, which prohibited or restricted the use, and the nonconforming use has not been subsequently abandoned or discontinued.~~-~~ Once an applicant has verified that a nonconforming use was lawfully established, an applicant need not prove the existence, continuity, nature, and extent of the nonconforming use for a period exceeding 20 years immediately preceding the date of application for verification; or

B. The existence, continuity, nature, and extent of the nonconforming use for the 10-year period immediately preceding the date of the application is proven. Such evidence shall create a rebuttable presumption that the nonconforming use, as proven, lawfully existed at the time of, and has continued uninterrupted since, the adoption of restrictive zoning regulations, or a change in the zoning or zoning regulations, that have the effect of prohibiting the nonconforming use under the current provisions of this Ordinance.

1206.~~08~~07 APPROVAL PERIOD AND TIME EXTENSION

A. Approval Period: Approval of an alteration of a nonconforming use, pursuant to Subsections 1206.~~06~~05(B) or (C), is valid for a period of four years from the date of the final decision.~~-~~ If the County's final decision is appealed, the approval period shall commence on the date of the final appellate decision.~~-~~ During this four-year period, the approval shall be implemented, or the approval will become void.

1. Implemented means all major development permits shall be obtained and maintained for the approved alteration of a nonconforming use, or if no major development permits are required to complete the development contemplated by the approved alteration of a nonconforming use, implemented means all other necessary County development permits (e.g., grading permit, building permit for an accessory structure) shall be obtained and maintained.

a. A major development permit is:

i. A building or manufactured dwelling placement permit for a new primary structure that was part of the alteration of a nonconforming use approval; or

ii. A permit issued by the County for parking lot or road improvements required by the alteration of a nonconforming use approval.

B. Time Extension: If the approval of an alteration of a nonconforming use is not implemented within the initial approval period established by Subsection 1206.08(A), a two-year time extension may be approved pursuant to Section 1310, *Time Extension*.

1206.~~09~~08 VESTED RIGHT DETERMINATION

A vested right determination shall require review as a Type II application pursuant to Section 1307, *Procedures*, and shall be approved if the requested use was vested under common law.

[Amended by Ord. ZDO-230, 9/26/11; Amended by Ord. ZDO-243, 9/9/13; Amended by Ord. ZDO-249, 10/13/14; Amended by Ord. ZDO-250, 10/13/14; Amended by Ord. ZDO-248, 10/13/14; Amended by Ord. ZDO-253, 6/1/15]

Summary of Proposed Amendments to Section 1307, *Procedures*

1. Differentiate the application type and review procedures for time extensions on approvals of certain dwellings in the Ag/Forest (AG/F), Exclusive Farm Use (EFU), or Timber (TBR) Districts from those for time extensions on other approvals, consistent with state law.

2. Increase the noticing distance to 2,640 feet (1/2 mile) for the following, if the subject property is in the Farm Forest 10-Acre (FF-10), Future Urban 10-Acre (FU-10), Recreational Residential (RR), Rural Area 1-Acre (RA-1), Rural Area 2-Acre (RA-2), Rural Commercial (RC), Rural Residential Farm Forest 5-Acre (RRFF-5), or Rural Industrial (RI) Districts: all Type III land use permit applications and their public hearings; all appeal hearings, including those for Type II applications; and all Type II applications for, and Planning Director decisions on, Nonconforming Use Verification, Nonconforming Use Alteration, or Vested Right Determination.

3. Clarify that, unlike with certain communications with the County's Hearings Officer, a communication between County staff and the Historic Review Board, Design Review Committee, Planning Commission, or Board of County Commissioners shall not be considered an ex parte contact for the purposes of ZDO Subsection 1307.12(D)(1), consistent with Oregon revised Statutes (ORS) 215.422(B).

4. Standardize spacing and references to state statutes.

1307 PROCEDURES

1307.01 PURPOSE

Section 1307 is adopted to:

A. Implement the goals and policies of the Comprehensive Plan for citizen involvement and the planning process;

B. Establish uniform procedures for the review of land use applications and legislative land use proposals;

C. Facilitate timely review of land use applications by the County;

D. Clarify the land use application review process for applicants; and

E. Enable the public to effectively participate in the County's land use permit decision-making process.

1307.02 APPLICABILITY

Section 1307 applies to all land use permit applications and all legislative land use proposals under this Ordinance.

A. No person shall engage in or cause development to occur without first obtaining the necessary land use permit approvals required by, and according to the procedures in, Section 1307.

B. Where the provisions of Section 1307 conflict with other provisions of this Ordinance, the more specific provisions shall control.

1307.03 REVIEW AUTHORITIES

A. Review Authorities, Generally: Review authorities are those who are designated to make recommendations or decisions regarding land use permit applications and legislative land use proposals. Table 1307-1, *Land Use Permits by Procedure Type*, lists the land use permits and legislative land use proposals that are provided for by this Ordinance and establishes:

1. The review authority charged with making the initial decision;

2. The review authority charged with making the decision on the initial County-level appeal, if any;

3. The review authority charged with making the decision on the second County-level appeal, if any; and

4. Those circumstances where an additional review authority is charged with making a recommendation on the application or proposal to the decision maker.

B. Planning Director: Pursuant to Oregon Revised Statutes 215.042, the Planning Director is the County official designated to administer land use planning in the County. In this role, the Planning Director administers the Comprehensive Plan and this Ordinance, issues decisions on certain land use permit applications, and provides administrative support to other review authorities. As used in this Ordinance, the term Planning Director includes any County staff member authorized by the Planning Director to fulfill the responsibilities assigned to the Planning Director by this Ordinance.

C. Hearings Officer: Pursuant to ORS 215.406, the Hearings Officer is appointed by the Board of County Commissioners to conduct public hearings and issue decisions on certain land use permit applications.

D. Historic Review Board: The Historic Review Board is designated as an advisory body on matters pertaining to the Historic Landmark, Historic District, and Historic Corridor overlay zoning district and has the powers and duties described in Sections 707 and 1307.

1. The Historic Review Board shall be composed of seven members, appointed by and serving at the pleasure of the Board of County Commissioners.

2. Historic Review Board members shall have demonstrated an interest in historic preservation and have experience or special expertise or knowledge in the field of historic preservation. Three positions on the Historic Review Board shall be filled as follows:

   a. One architect, with knowledge in historic restoration;

   b. One contractor, with expertise in construction techniques applied to historic structures; and

   c. One representative from a historic group in the County.

3. Unless otherwise provided for, members of the Historic Review Board shall serve four-year terms, beginning on May 1st of the year in which they are appointed. Terms may be renewed by the Board of County Commissioners.

4. If a member of the Historic Review Board does not complete his or her term, the Board of County Commissioners shall appoint a replacement to serve the remainder of that term.

5. A member whose term has ended may continue to serve on the Historic Review Board until the Board of County Commissioners renews that term or appoints a new member. The new term shall be considered to have begun on the date it would have under Subsection 1307.03(D)(3).

6. The Historic Review Board shall adopt bylaws governing its proceedings and appoint a chair and vice chair to manage those proceedings according to those bylaws, and County, state, and federal law.

7. In the event of a conflict between the bylaws and any provision of this Ordinance, this Ordinance shall govern. -In the event of a conflict between the bylaws and a non-mandatory provision of state law, the bylaws shall govern.

E. Design Review Committee: The Design Review Committee is designated as an advisory body on matters pertaining to the design review process and has the powers and duties described in Sections 1102 and 1307.

1. The Design Review Committee shall be composed of seven members, appointed by and serving at the pleasure of the Board of County Commissioners.

2. Five positions on the Design Review Committee shall be filled as follows:

   a. One landscape architect;

   b. One architect;

   c. One registered engineer;

   d. One graphic design representative; and

   e. One representative from the field of finance or the construction and development industry.

3. Unless otherwise provided for, members of the Design Review Committee shall serve four-year terms, beginning on May 1st of the year in which they are appointed. Terms may be renewed by the Board of County Commissioners.

4. If a member of the Design Review Committee does not complete his or her term, the Board of County Commissioners shall appoint a replacement to serve the remainder of that term.

5. A member whose term has ended may continue to serve on the Design Review Committee until the Board of County Commissioners renews that term or appoints a new member. The new term shall be considered to have begun on the date it would have under Subsection 1307.03(E)(3).

6. The Design Review Committee shall adopt bylaws governing its proceedings and appoint a chair and vice chair to manage those proceedings according to those bylaws, and County, state, and federal law.

7. In the event of a conflict between the bylaws and any provision of this Ordinance, this Ordinance shall govern. In the event of a conflict between the bylaws and a non-mandatory provision of state law, the bylaws shall govern.

F. Planning Commission: The Planning Commission is designated as the land use planning advisory body to the Board of County Commissioners and acts as the decision maker on an initial appeal of the Planning Director's interpretation of the Comprehensive Plan. The Planning Commission shall have the powers and duties described in Section 1307 and such other powers and duties as may be imposed on it by County, state, or federal law.

1. The Planning Commission shall be composed of nine members, designated in positions labeled 1 through 9, appointed by and serving at the pleasure of the Board of County Commissioners.

2. Members of the Planning Commission shall be residents of the various geographic areas of the County. No more than two voting members shall be engaged principally in the buying, selling, or developing of real estate for profit, as individuals, or be members of any partnership or officers or employees of any corporation that is engaged principally in the buying, selling, or developing of real estate for profit. No more than two voting members shall be engaged in the same kind of occupation, business, trade, or profession.

3. Unless otherwise provided for, members of the Planning Commission shall serve four-year terms, beginning on May 1st of the year in which they are appointed. Terms may be renewed by the Board of County Commissioners.

4. If a member of the Planning Commission does not complete his or her term, the Board of County Commissioners shall appoint a replacement to serve the remainder of that term.

5. A member whose term has ended may continue to serve on the Planning Commission until the Board of County Commissioners renews that term or appoints a new member. The new term shall be considered to have begun on the date it would have under Subsection 1307.03(F)(3).

6. The Planning Commission shall adopt bylaws governing its proceedings and appoint a chair and vice chair to manage those proceedings according to those bylaws, and County, state, and federal law.

7. In the event of a conflict between the bylaws and any provision of this Ordinance, this Ordinance shall govern. -In the event of a conflict between the bylaws and a non-mandatory provision of state law, the bylaws shall govern.

G. Board of County Commissioners: The Board of County Commissioners is the governing body of the County and is the final County decision maker on legislative land use proposals and certain land use permit applications.

1307.04 REVIEW PROCEDURE TYPES

A. Land use permits and legislative land use proposals provided for under this Ordinance are classified as one of four types, each of which is subject to a corresponding review procedure. The four types are described as follows:

1. Type I permits are ministerial in nature and involve land use actions governed by non-discretionary standards and clear and objective approval criteria. Approval of a Type I permit may require imposition of conditions of approval to ensure compliance with this Ordinance. -The Type I procedure is an administrative review process, where the review authority reviews the application for conformance with the applicable standards and approval criteria and issues a decision.

2. Type II permits are administrative in nature and involve land use actions governed by standards and approval criteria that generally require the exercise of limited discretion. Impacts associated with the land use action may require imposition of conditions of approval to minimize those impacts and to ensure compliance with this Ordinance. The Type II procedure is an administrative review process, where the review authority reviews the application for conformance with the applicable standards and approval criteria and issues a decision.

3. Type III permits are quasi-judicial in nature, and involve land use actions governed by standards and approval criteria that require the use of discretion and judgment. The issues associated with the land use action may be complex and the impacts significant, and conditions of approval may be imposed to mitigate the impacts and ensure compliance with this Ordinance and the Comprehensive Plan. The Type III procedure is a quasi-judicial review process where the review authority receives testimony, reviews the application for conformance with the applicable standards and approval criteria, and issues a decision.

4. Type IV proposals are legislative in nature, and involve the creation, broad-scale implementation, or revision of public policy. -These include amendments to the text of the Comprehensive Plan or this Ordinance. Large-scale changes in the Comprehensive Plan Land Use Plan maps and zoning maps also may be characterized as legislative where a larger number of property owners are directly affected.

B. Table 1307-1, *Land Use Permits by Procedure Type*, lists the land use permits and legislative land use proposals that are provided for by this Ordinance and assigns a procedure type to each. In the event that the procedure type for a land use permit application is not identified in Table 1307-1, specified elsewhere in this Ordinance, or otherwise required by law, the Planning Director shall determine the applicable procedure based on the guidelines in Subsection 1307.04(A). Questions as to the appropriate procedure shall be resolved in favor of the procedure type providing the greatest notice and opportunity to participate by the public.

1. As used in Table 1307-1:

   a. "PD" means Planning Director.

   b. "HO" means Hearings Officer.

   c. "PC" means Planning Commission.

   d. "BCC" means Board of County Commissioners.

   e. Numbers in superscript correspond to the notes that follow Table 1307-1.

Table 1307-1: Land Use Permits by Procedure Type

Land Use Permit	Procedure Type	Pre-Application Conference Required	Initial Decision Review Authority	Appeal Review Authority
Accessory Historic Dwelling	I	No	PD	No County-Level Appeal
AG/F District, Land Division, 80-acre Minimum Lot Size [pursuant to Subsection 406.09(A)]	I	No	PD	No County-Level Appeal

Land Use Permit	Procedure Type	Pre-Application Conference Required	Initial Decision Review Authority	Appeal Review Authority
AG/F District, Land Division [pursuant to Subsections 406.09(B) through (G)]	II	No	PD	HO
AG/F District, Lot of Record Dwelling on High Value Farmland [pursuant to Subsection 401.05(C)(~~5~~3)]	III	No	HO	No County-Level Appeal
AG/F District, Permits not Otherwise Listed in Table 1307-1 but Identified as Type II in Table 407-1, *Permitted Uses in the AG/F District*	II	No	PD	HO
Comprehensive Plan Map Amendment[1]	III or IV	Type III Only	BCC	No County-Level Appeal
Comprehensive Plan Text Amendment	IV	No	BCC	No County-Level Appeal
Conditional Use	III	Yes	HO	No County-Level Appeal
Condominium Plat[2]	I	No	PD	No County-Level Appeal

Land Use Permit	Procedure Type	Pre-Application Conference Required	Initial Decision Review Authority	Appeal Review Authority
Conversion of a Manufactured Dwelling Park or a Mobile Home Park to a Subdivision	I	No	PD	No County-Level Appeal
Design Review[3]	II	Yes	PD	HO
EFU District, Land Division, 80-acre Minimum Lot Size [pursuant to Subsection 401.~~09~~08(C)]	I	No	PD	No County-Level Appeal
EFU District, Land Division [pursuant to Subsections 401.~~09~~08(D) through (H)]	II	No	PD	HO
EFU District, Lot of Record Dwelling on High Value Farmland [pursuant to Subsection 401.05(C)(~~5~~4)]	III	No	HO	No County-Level Appeal
EFU District, Permits not Otherwise Listed in Table 1307-1 but Identified as Type II in Table 401-1, *Permitted Uses in the EFU District*	II	No	PD	HO
Farmers' Market	II	No	PD	HO
Floodplain Development	II	No	PD	HO
Floodway, Fish Enhancement Project [pursuant to Subsection 703.07(F)]	I	No	PD	No County-Level Appeal
Gathering subject to review under Oregon Revised Statutes 433.763	III	Yes	PC	BCC
Habitat Conservation Area District	See Subsection 706.06	No	See Subsection 706.06	See Subsection 706.06

Land Use Permit	Procedure Type	Pre-Application Conference Required	Initial Decision Review Authority	Appeal Review Authority
Historic Landmark, Historic District, and Historic Corridor, Maintenance	I	No	PD	No County-Level Appeal
Historic Landmark, Historic District, and Historic Corridor, Major Alteration[4]	II	Yes	PD	HO
Historic Landmark, Historic District, and Historic Corridor, Minor Alteration	II	Yes	PD	HO
Historic Landmark, Historic District, and Historic Corridor, Moving or Demolition[4]	II	Yes	PD	HO
Historic Landmark, Historic District, and Historic Corridor, New Construction[4]	II	Yes	PD	HO
Home Occupation, Major, New, with an Exception	III	Yes	HO	No County-Level Appeal
Home Occupation, Major, New, without an Exception	II	No	PD	HO
Home Occupation, Major, Renewal, with a New Exception	III	Yes	HO	No County-Level Appeal
Home Occupation, Major, Renewal, without a New Exception	II	No	PD	HO
Interpretation, Comprehensive Plan[5]	II	No	PD	PC

Land Use Permit	Procedure Type	Pre-Application Conference Required	Initial Decision Review Authority	Appeal Review Authority
Interpretation, Zoning and Development Ordinance[6]	II	No	PD	HO
Marijuana Processing in the AG/F and EFU Districts	II	No	PD	HO
Marijuana Production, if regulated by Section 841, *Marijuana Production, Processing, and Retailing*	I	No	PD	No County-Level Appeal
Marijuana Retailing	I	No	PD	No County-Level Appeal
Mineral and Aggregate Overlay District, Extraction Area Permit	I	No	PD	No County-Level Appeal
Mineral and Aggregate Overlay District, Impact Area Permit	I	No	PD	No County-Level Appeal
Mobile Vending Unit, Level Two	I	No	PD	No County-Level Appeal
Mobile Vending Unit, Level Three	II	Yes	PD	HO
Modification	II	No	PD	HO
Nonconforming Use~~,~~ Alteration, not Required by Law	II	No	PD	HO
Nonconforming Use~~,~~ Verification	II	No	PD	HO

Land Use Permit	Procedure Type	Pre-Application Conference Required	Initial Decision Review Authority	Appeal Review Authority
Open Space, Conflict Resolution for Wetlands and Significant Natural Areas	II	No	PD	HO
Open Space Review	II	No	PD	HO
Partition	II	Yes	PD	HO
Principal River Conservation Area	II	No	PD	HO
Private Use Airport and Safety Overlay Zone, Expansion of Existing Use [pursuant to Subsection 712.05(B)]	II	No	PD	HO
Private Use Airport and Safety Overlay Zone, New Use [pursuant to Subsection 712.06]	III	No	HO	No County-Level Appeal
Public Use Airport and Safety Overlay Zones, Use Permitted Subject to Review [pursuant to Subsection 713.05]	III	No	HO	No County-Level Appeal
Property Line Adjustment [except pursuant to Subsection 1107.04(C)(2)(b), 1107.04(C)(2)(c), or 1107.04(D)(3)]	I	No	PD	No County-Level Appeal
Property Line Adjustment [pursuant to Subsection 1107.04(C)(2)(b), 1107.04(C)(2)(c), or 1107.04(D)(3)	II	No	PD	HO
Replat (number of lots or parcels proposed to increase)	II	Yes	PD	HO
Replat (number of lots or parcels proposed to decrease or remain the same)	I	No	PD	No County-Level Appeal

Land Use Permit	Procedure Type	Pre-Application Conference Required	Initial Decision Review Authority	Appeal Review Authority
Sensitive Bird Habitat District, Alteration or Development	II	No	PD	HO
Sign Permit	I	No	PD	No County-Level Appeal
Slopes, Development [pursuant to Subsection 1002.01(A)]	I	No	PD	No County-Level Appeal
Slopes, Development [pursuant to Subsection 1002.01(B)]	II	No	PD	HO
Stream Conservation Area	II	No	PD	HO
Subdivision, Major	III	Yes	HO	No County-Level Appeal
Subdivision, Minor	II	Yes	PD	HO
TBR District, Land Division, 80-acre Minimum Lot Size [pursuant to Subsection 406.09(A)]	I	No	PD	No County-Level Appeal
TBR District, Land Division [pursuant to Subsections 406.09(B) through (G)]	II	No	PD	HO
TBR District, Permits not Otherwise Listed in Table 1307-1 but Identified as Type II in Table 406-1, *Permitted Uses in the TBR District*	II	No	PD	HO
Temporary Dwelling for Care	II	No	PD	HO

Land Use Permit	Procedure Type	Pre-Application Conference Required	Initial Decision Review Authority	Appeal Review Authority
Temporary Dwelling while Building	I	No	PD	No County-Level Appeal
Temporary Structure for Emergency Shelter	I	No	PD	No County-Level Appeal
Temporary Use Otherwise Prohibited	II	No	PD	HO
Time Extension approved pursuant to Subsection 1310.01(A)	II	No	PD	HO
Time Extension approved pursuant to Subsection 1310.01(B)	I	No	PD	No County-Level Appeal
Variance	II	No	PD	HO
Vested Right Determination	II	No	PD	HO
Water Quality Resource Area District	See Subsection 709.06	No	See Subsection 709.06	See Subsection 709.06
Willamette River Greenway	II	No	PD	HO
Willamette River Greenway, Timber Harvest [pursuant to Subsection 705.03(I)]	II	No	PD	HO
Wireless Telecommunication Facility, Identified as Type I in Table 835-1, *Permitted Wireless Telecommunication Facilities*, without an Adjustment	I	No	PD	No County-Level Appeal

Land Use Permit	Procedure Type	Pre-Application Conference Required	Initial Decision Review Authority	Appeal Review Authority
Wireless Telecommunication Facility, Identified as Type II in Table 835-1, without an Adjustment	II	No	PD	HO
Wireless Telecommunication Facility, Identified as a Primary Use in Table 835-1, with an Adjustment	III	No	HO	No County-Level Appeal
Zone Change[7]	III or IV	Type III Only	HO, Type III BCC, Type IV	No County-Level Appeal
Zoning and Development Ordinance Text Amendment	IV	No	BCC	No County-Level Appeal

Notes to Table 1307-1:

[1] The Type III procedure shall be modified to include Planning Commission public hearing and recommendation to the Board of County Commissioners prior to the initial Board of County Commissioners public hearing. In the case of a Comprehensive Plan amendment related to the designation of a Historic Landmark, Historic District, or Historic Corridor, both the Type III and Type IV procedures shall be modified to replace the Planning Commission public hearing and recommendation to the Board of County Commissioners with Historic Review Board review and recommendation to the Board of County Commissioners.

[2] If condominium platting is proposed as part of a design review application, a separate condominium plat application is not required.

[3] The Type II procedure may be modified, pursuant to Subsection 1102.04(A) or (B), to include Design Review Committee review and recommendation to the Planning Director prior to issuance of the Planning Director's decision.

[4] The Type II procedure shall be modified to include Historic Review Board review and recommendation to the Planning Director prior to issuance of the Planning Director's decision.

[5] The Type II procedure shall be modified to allow the Planning Commission's decision on initial appeal to be further appealed to the Board of County Commissioners, pursuant to Subsection 1307.13(E)(1).

[6] The Type II procedure shall be modified to allow the Hearings Officer's decision on initial appeal to be further appealed to the Board of County Commissioners, pursuant to Subsection 1307.13(E)(2).

[7] In the case of a zone change related to the Historic Landmark, Historic District, and Historic Corridor overlay zoning district, the Type III procedure shall be modified to designate the Board of County Commissioners as the initial decision review authority and to include Historic Review Board review and recommendation to the Board of County Commissioners prior to the initial Board of County Commissioners public hearing, and the Type IV procedure shall be modified to replace the Planning Commission public hearing and recommendation to the Board of County Commissioners with Historic Review Board review and recommendation to the Board of County Commissioners.

C. Notwithstanding any other provision in Section 1307, except for an application for an interpretation of the Comprehensive Plan, an applicant may choose to process a Type II land use permit application using the Type III procedure, and the Hearings Officer shall be the review authority for the initial decision. -The decision of the Hearings Officer shall be the final decision of the County, except for an application for an interpretation of this Ordinance, in which case appeal to the Board of County Commissioners is allowed pursuant to Subsection 1307.13(E)(2).

1307.05 PRE-APPLICATION CONFERENCE

A. Purpose: Pre-application conferences are intended to familiarize applicants with the requirements of this Ordinance; to provide applicants with an opportunity to meet with County staff to discuss proposed projects in detail; and to identify standards, approval criteria, and procedures prior to filing a land use permit application. The pre-application conference is intended to be a tool to orient applicants and assist them in navigating the land use review process, but is not intended to be an exhaustive review that identifies or resolves all potential issues, and does not bind or preclude the County from enforcing all applicable regulations or from applying regulations in a manner differently than may have been indicated at the time of the pre-application conference.

B. Applicability: Table 1307-1, *Land Use Permits by Procedure Type*, identifies the land use permit applications for which pre-application conferences are mandatory. Pre-application conferences are voluntary for all other land use permit applications.

C. Submittal Requirements: Pre-application conference requests shall include:

1. A completed application form, such form to be prescribed by the Planning Director, and containing, at a minimum, the following information:

   a. The names, mailing addresses, and telephone numbers of the applicant(s);

   b. The address of the subject property, if any, and its assessor's map and tax lot number;

   c. The size of the subject property;

   d. The Comprehensive Plan designation and zoning district of the subject property;

   e. The type of application for which the pre-application conference is requested;

   f. A brief description of the proposal for which the pre-application

conference is requested; and

g. Signature(s) of the applicant(s), authorizing the filing of the pre-application request.

2. Additional information necessary to demonstrate the nature and scope of the proposal in sufficient detail to allow County staff to review and comment; and

3. Payment of the applicable fee, pursuant to Subsection 1307.15.

D. Scheduling: Upon receipt of a complete application, the Planning Director will schedule the pre-application conference. The Planning Director will coordinate the involvement of other County departments, as appropriate, in the pre-application conference. Pre-application conferences are not open to the general public.

E. Summary: Subsequent to the pre-application conference, the Planning Director will provide the applicant with a written summary of the conference. The purpose of the written summary is to provide a preliminary assessment of the proposal, but shall not be deemed to be a recommendation by the County or any other outside agency or service provider on the merits of the proposal.

F. Validity Period for Mandatory Pre-Application Conferences; Follow-Up Conferences: A follow-up pre-application conference is required for those mandatory pre-application conferences that have already been held when:

1. A complete application relating to the proposed development has not been submitted within one year of the pre-application conference; or

2. The proposed use, layout, or design of the proposed development has changed significantly.

1307.06 REVIEW OF MULTIPLE APPLICATIONS

When multiple land use permits for the same property are required or proposed by an applicant, all of the applications may be filed concurrently. Each application shall be processed separately using the procedure identified in Table 1307-1, *Land Use Permits by Procedure Type*, for that application, except that applications filed concurrently shall be processed through a consolidated procedure if:

A. One of the applications is a Type III application for a Comprehensive Plan map amendment, in which case the Type III Comprehensive Plan map amendment procedure shall be used;

B. Multiple land use permit applications are subject to the same procedure type with the same initial decision and appeal review authorities. Applications for an interpretation of this Ordinance are excluded from this consolidation provision; or

C. The applicant elects to process multiple applications through a consolidated procedure, if such consolidation is consistent with Subsection 1307.04(C).

1307.07 APPLICATION SUBMITTAL AND COMPLETENESS REVIEW

A. Initiation of Applications: Type I, II, and III land use permit applications may be initiated by:

1. The owner of the subject property;

2. The contract purchaser of the subject property, if the application is accompanied by proof of the purchaser's status as such;

3. The agent of the owner or contract purchaser of the subject property, if the application is duly authorized in writing by the owner or the contract purchaser, and accompanied by proof of the agent's authority; or

4. If the application is for Comprehensive Plan designation or zoning of a Historic District or Historic Corridor, the owners or contract purchasers of at least 60 percent of the property within the area to be so designated or zoned.

B. Initiation of Legislative Proposals: Type IV legislative land use proposals may be initiated by the Board of County Commissioners, the Planning Commission, or the Planning Director. However, initiation of a legislative proposal does not obligate the County to further processing of the proposal pursuant to Subsection 1307.11, or prevent the County from discontinuing the processing of the proposal at any point prior to decision.

C. Application Submittal: Type I, II, and III land use permit applications are subject to the following submittal requirements:

1. The following shall be submitted for an application to be complete:

a. A completed application form, such form to be prescribed by the Planning Director, and containing, at a minimum, the following information:

i. The names, mailing addresses, and telephone numbers of the applicant(s), the owner(s) of the subject property, and any authorized representative(s) thereof;

ii. The address of the subject property, if any, and its assessor's map and tax lot number;

iii. The size of the subject property;

iv. The Comprehensive Plan designation and zoning district of the subject property;

v. The type of application being submitted;

vi. A brief description of the proposal; and

vii. Signature(s) of the applicant(s) and all owners or all contract purchasers of the subject property, or the duly authorized representative(s) thereof, authorizing the filing of the application.

b. A completed supplemental application form, such form to be prescribed by the Planning Director, or a written statement addressing each applicable approval criterion and standard and each item on the supplemental application form;

c. Any additional information required under this Ordinance for the specific land use permit sought; and

d. Payment of the applicable fee, pursuant to Subsection 1307.15.

2. The Planning Director, at his or her sole discretion, may waive a submittal requirement of Subsection 1307.07(C)(1)(b) or (c), if the Planning Director determines that the requirement is not material to the review of the application.

3. Each application, when received by the Planning Director, shall be date-stamped with the date the application was received.

D. Completeness of a Type I Application: If a Type I application is not complete when submitted, and the applicant does not make it complete within 60 days of submittal, the application is void.

E. Completeness Review for Type II and III Applications: After it is submitted, a Type II or III land use permit application shall be reviewed for completeness, as follows:

1. Except as otherwise provided under Oregon Revised Statutes 215.427, the Planning Director shall review an application for completeness within 30 days of its receipt.

2. Determination of completeness shall be based upon the submittal requirements of Subsection 1307.07(C)(1) and shall not be based on opinions as to quality or accuracy. A determination that an application is complete indicates only that the application is ready for review on its merits, not that the County will make a favorable decision on the application.

3. If an application is determined to be complete, review of the application shall commence.

4. If an application is determined to be incomplete, written notice shall be provided to the applicant within 30 days of receipt of the application, identifying the specific information that is missing and allowing the applicant the opportunity to submit the missing information. The application shall be deemed complete upon receipt by the Planning Director of:

   a. All of the missing information;

   b. Some of the missing information and written notice from the applicant that no other information will be provided; or

   c. Written notice from the applicant that none of the missing information will be provided.

5. If the application was complete when first submitted, or the applicant submits additional information, as described in Subsection 1307.07(E)(4), within 180 days of the date the application was first submitted, approval or denial of the application shall be based upon the standards and criteria that were applicable at the time the application was first submitted.

6. On the 181st day after first being submitted, the application is void, if the applicant has been notified of the missing information as required under Subsection 1307.07(E)(4) and has not submitted the missing information or otherwise responded, as provided in Subsection 1307.07(E)(4).

1307.08 TYPE I MINISTERIAL PROCEDURES

Type I land use permit applications are subject to the following procedure:

A. Notice of Application: Notice of application is not provided.

B. Decision: The review authority shall approve, approve with conditions, or deny the application based on the applicable standards and criteria. The review authority shall issue a written decision.

C. Notice of Decision: A copy of the decision shall be mailed to the applicant(s), the owner(s) of the subject property, and any authorized representative(s) thereof.

D. Appeal: The review authority's decision is the final decision of the County.

1307.09 TYPE II ADMINISTRATIVE PROCEDURES

Type II land use permit applications are subject to the following procedures:

A. Notice of Application: Notice of application shall be provided as follows:

   1. A minimum of 20 days prior to the issuance of a decision, written notice of application shall be mailed to:

a. The applicant(s), the owner(s) of the subject property, and any authorized representative(s) thereof;

b. All property owners of record, pursuant to Subsection 1307.16(C), within the "~~n~~Noticing d~~D~~istance" listed in Table 1307-2, *Noticing Distances for Type II Land Use Permit Applications*, as measured from the subject property and contiguous properties under the same ownership:

~~i. 300 feet of the subject property, and contiguous properties under the same ownership, if the subject property is located inside an urban growth boundary or in an MRR, HR, or RTC District;~~

~~ii. 500 feet of the subject property, and contiguous properties under the same ownership, if the subject property is located outside an urban growth boundary and outside an MRR, HR, RTC, EFU, TBR, or AG/F zoning district; or~~

~~iii. 750 feet of the subject property, and contiguous properties under the same ownership, if the subject property is located outside an urban growth boundary and in an EFU, TBR, or AG/F zoning district;~~

Table 1307-2: Noticing Distances for Type II Land Use Permit Applications

Zoning District of Subject Property	Noticing Distance
BP, C-2, C-3, CC, GI, HDR, HR, LI, MR-1, MR-2, MRR, NC, OA, OC, OSM, PMD, PMU, RCC, RCHDR, RCO, RTC, RTL, SCMU, SHD, Urban Low Density Residential, VA, VCS, VO, VR-4/5, VR-5/7, or VTH	300 feet
FF-10, FU-10, RA-1, RA-2, RC, RI, RR, or RRFF-5	500 feet[1]
AG/F, EFU, or TBR	750 feet[1]

Note to Table 1307-2:

[1] If the application is for a nonconforming use verification, nonconforming use alteration, or vested right determination, the noticing distance shall be 2,640 feet (½ mile).

c. If the application is for a replat of a recorded plat, all owners of lots or parcels in the original plat.

d. Any active community planning organization, hamlet, or village that is recognized by the County, if the subject property lies wholly or partially inside the boundaries of such organization, hamlet, or village;

e. Cities, as prescribed in applicable urban growth management agreements;

f. Those special districts and government agencies deemed by the Planning Director to have an interest in the application;

g. The Oregon Department of Agriculture, if the subject property is in the EFU or AG/F District and the application is for the propagation, cultivation, maintenance, and harvesting of aquatic species that are not under the jurisdiction of the Oregon Fish and Wildlife Commission;

h. Metro and any watershed council recognized by the Oregon Watershed Enhancement Board and whose boundaries include the subject property, if the application is for Habitat Conservation Area map verification; and

i. The airport owner and the Oregon Department of Aviation, if required by Oregon Revised Statutes (ORS) 197.183, 215.223, or 215.416.

2. At a minimum, notice of application shall include:

a. An explanation of the nature of the application and the proposed use or uses that could be authorized;

b. A list of the applicable criteria from this Ordinance and the Comprehensive Plan that apply to the application;

c. The street address or other easily understood geographical reference to the subject property;

d. The name and telephone number of the County staff member to contact where additional information may be obtained;

e. A statement that a copy of the application, all documents and evidence submitted by or on behalf of the applicant and applicable criteria are available for inspection at no cost and will be provided at a cost established by the Board of County Commissioners;

f. A general explanation of when, where, how, and to whom written comments on the application may be submitted; and

g. A statement that subsequent to the closing of the public comment period, a decision will be issued and mailed to everyone entitled to the initial notice of the application.

3. A minimum of 20 days prior to the issuance of a decision, a copy of the submitted application shall be mailed to those identified in Subsections 1307.09(A)(1)(d) through (i).

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

1. An explanation of the nature of the application and the use or uses that were proposed and, if applicable, are authorized by the decision;

2. The conditions of approval, if any;

3. The street address or other easily understood geographical reference to the subject property;

4. The name and telephone number of the County staff member to contact where additional information may be obtained;

5. A statement that the complete application file is available for inspection at no cost and will be provided at a cost established by the Board of County Commissioners;

6. The date the review authority's decision becomes effective, unless appealed;

7. A statement that the decision will not become final until the period for filing an appeal with the County has expired without the filing of an appeal;

8. A statement that any person who is adversely affected or aggrieved or who is entitled to written notice under Subsection 1307.09(C) may appeal the decision by filing a written appeal, and including the date and time by which an appeal must be filed, the location for filing, a brief statement explaining how to file an appeal, the appeal fee, and where further information may be obtained concerning the appeal process; and

9. A statement that a person who is mailed written notice of the decision cannot appeal the decision directly to the Land Use Board of Appeals under ORS 197.830.

C. Notice of Decision: A copy of the decision shall be mailed to those identified in Subsection 1307.09(A)(1).

D. Appeal: The review authority's decision is the final decision of the County, unless an appeal is filed pursuant to Subsection 1307.13.

1307.10 TYPE III QUASI-JUDICIAL PROCEDURES

Type III land use permit applications are subject to the following procedures:

A. Notice of Application and Public Hearing: Notice of application and public hearing shall be provided as follows:

1. Notice shall be provided to the Oregon Department of Land Conservation and Development (DLCD), if required pursuant to ORS 197.610. Procedures for the giving of the required notice shall be those established by ORS 197.610 and Oregon Administrative Rules Chapter 660, Division 18.

2. A minimum of 35 days prior to the first evidentiary hearing on the application, a copy of the submitted application shall be mailed to:

a. Any active community planning organization, hamlet, or village that is recognized by the County, if the subject property lies wholly or partially inside the boundaries of such organization, hamlet, or village;

b. Cities, as prescribed in applicable urban growth management agreements;

c. Those special districts and government agencies deemed by the Planning Director to have an interest in the application;

d. The Oregon Department of Agriculture, if the subject property is in the EFU or AG/F District and the application is for the propagation, cultivation, maintenance, and harvesting of aquatic species that are not under the jurisdiction of the Oregon Fish and Wildlife Commission;

e. Metro and any watershed council recognized by the Oregon Watershed Enhancement Board and whose boundaries include the subject property, if the application is for Habitat Conservation Area map verification; and

f. The airport owner and the Oregon Department of Aviation, if required by Oregon Revised Statutes (ORS) 197.183, 215.223, or 215.416.

3. A minimum of 20 days prior to the first evidentiary hearing of each review authority on the application, written notice of the application and hearing shall be mailed to:

a. The applicant(s), the owner(s) of the subject property, and any authorized representative(s) thereof;

b. All property owners of record, pursuant to Subsection 1307.16(C), within the "n~~N~~oticing d~~D~~istance" listed in Table 1307-3, *Noticing Distances for Type III Land Use Permit Applications*, as measured from the subject property and contiguous properties under the same ownership:

~~i. 300 feet of the subject property, and contiguous properties under the same ownership, if the subject property is located inside an urban growth boundary or in an MRR, HR, or RTC District;~~

~~ii. 500 feet of the subject property, and contiguous properties under the same ownership, if the subject property is located outside an urban growth boundary and outside an MRR, HR, RTC, EFU, TBR, or AG/F zoning district; or~~

~~iii. 750 feet of the subject property, and contiguous properties under the same ownership, if the subject property is located outside an urban growth boundary and in an EFU, TBR, or AG/F zoning district.~~

~~iv. If the application is for a zone change to apply the MAO District, the distances set forth in Subsections 1307.10(A)(3)(b)(i) through (iii) shall be increased to 1,000 feet from the outer boundary of the proposed impact area under Section 708;~~

Table 1307-3: Noticing Distances for Type III Land Use Permit Applications

Zoning District of Subject Property	Noticing Distance
BP, C-2, C-3, CC, GI, HDR, HR, LI, MR-1, MR-2, MRR, NC, OA, OC, OSM, PMD, PMU, RCC, RCHDR, RCO, RTC, RTL, SCMU, SHD, Urban Low Density Residential, VA, VCS, VO, VR-4/5, VR-5/7, or VTH	300 feet
AG/F, EFU, FF-10, FU-10, RA-1, RA-2, RC, RI, RR, RRFF-5, or TBR	2,640 feet (½ mile)

c. If the application is for a zone change to apply the MAO District, all property owners of record, pursuant to Subsection 1307.16(C), within 1,000 feet from the outer boundary of the proposed impact area under Section 708, *Mineral and Aggregate Overlay District*;

~~c~~d. If the application is for a replat of a recorded plat, all owners of lots or parcels in the original plat~~.~~;

~~d~~e. Any active community planning organization, hamlet, or village that is recognized by the County, if the subject property lies wholly or partially inside the boundaries of such organization, hamlet, or village;

~~e~~f. Cities, as prescribed in applicable urban growth management agreements;

~~f~~g. Those special districts and government agencies deemed by the Planning Director to have an interest in the application;

~~g~~h. The Oregon Department of Agriculture, if the subject property is in the EFU or AG/F District and the application is for the propagation, cultivation, maintenance, and harvesting of aquatic species that are not under the jurisdiction of the Oregon Fish and Wildlife Commission;

~~h~~i. Metro and any watershed council recognized by the Oregon Watershed Enhancement Board and whose boundaries include the subject property, if the application is for Habitat Conservation Area map verification;

~~i~~j. The airport owner and the Oregon Department of Aviation, if required by Oregon Revised Statutes (ORS) 197.183, 215.223, or 215.416; and

~~j~~k. Tenants of a mobile home or manufactured dwelling park, as defined in ORS 446.003, when property that includes all or part of such mobile home or manufactured dwelling park is the subject of an application for a Comprehensive Plan map amendment, zone change, or both. Notice to such tenants shall be mailed no more than 40 days before the first evidentiary hearing.

4. At a minimum, notice of application and hearing shall include:

   a. An explanation of the nature of the application and the proposed use or uses that could be authorized;

   b. A list of the applicable criteria from this Ordinance and the Comprehensive Plan that apply to the application;

   c. The street address or other easily understood geographical reference to the subject property;

   e. Date, time, and location of the hearing;

   f. A statement that failure of an issue to be raised in a hearing, in person or by letter, or failure to provide statements or evidence sufficient to afford the review authority an opportunity to respond to the issue precludes appeal to the Oregon Land Use Board of Appeals on that issue;

g. The name and telephone number of the County staff member to contact where additional information may be obtained;

h. A statement that a copy of the application, all documents and evidence submitted by or on behalf of the applicant and applicable criteria are available for inspection at no cost and will be provided at a cost established by the Board of County Commissioners;

i. A statement that a copy of the staff report will be available for inspection at no cost at least seven days prior to the hearing and will be provided at a cost established by the Board of County Commissioners;

j. A general explanation of the requirements for submission of testimony and the procedure for conduct of hearings; and

k. A statement that subsequent to the close of the public hearing, a decision will be issued and mailed as required by Subsection 1307.10(E).

5. If the application is for a Comprehensive Plan amendment, notice of the date, time, location, and purpose of the Planning Commission's hearing and the Board of County Commissioner's hearing shall be given a minimum of 10 days prior to the date of each review authority's first evidentiary hearing, by publication in a newspaper of general circulation in the County. However, if the application applies to only a part of the County, the notice may instead be published in a newspaper of general circulation in that part of the County.

B. Application Review and Staff Report: The Planning Director shall review the application, written comments, and evidence submitted prior to the public hearing; prepare a staff report summarizing the application, comments received to-date, and relevant issues associated with the application; and make a recommendation to the review authority. The staff report shall be made available to the public for review a minimum of seven days prior to the first evidentiary hearing.

C. Public Hearing: A public hearing shall be held before the review authority, for the purpose of receiving testimony regarding the application.

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

1. An explanation of the nature of the application and the use or uses that were proposed and, if applicable, are authorized by the decision;

2. The conditions of approval, if any;

3. The street address or other easily understood geographical reference to the subject property;

4. The date the review authority's decision becomes effective, unless appealed; and

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

E. Notice of Decision: A copy of the decision shall be mailed to:

1. Those identified in Subsections 1307.10(A)(3)(a) and (~~d~~c) through (~~i~~j);

2. Anyone who provided evidence, argument, or testimony as part of the record;

3. Anyone who made a written request for notice of decision; and

4. DLCD, if required pursuant to ORS 197.615. Procedures for the giving of the required notice to DLCD shall be those established by ORS 197.615 and Oregon Administrative Rules c~~C~~hapter 660, d~~D~~ivision 18.

F. Appeal: The review authority's decision is the final decision of the County, except as may be provided for interpretation applications pursuant to Subsection 1307.13(E). Appeal of the County's final decision is to the Oregon Land Use Board of Appeals.

1307.11 TYPE IV LEGISLATIVE PROCEDURES

Type IV legislative land use proposals are subject to the following procedures:

A. Notice of Proposal and Public Hearing: Notice of proposal and hearing shall be provided as follows:

1. Notice shall be provided to the Oregon Department of Land Conservation and Development, if required pursuant to ORS 197.610. Procedures for the giving of the required notice shall be those established by ORS 197.610 and Oregon Administrative Rules c~~C~~hapter 660, d~~D~~ivision 18.

2. Notice shall be provided to the Metropolitan Service District, if required pursuant to Section 3.07.820 of the Code of the Metropolitan Service District. Procedures for the giving of the required notice shall be those established by Section 3.07.820 of the Code of the Metropolitan Service District.

3. For proposed amendments to the text of the Comprehensive Plan or this Ordinance, a minimum of 35 days prior to the first public hearing, a copy of the text, showing proposed additions and deletions, shall be made available to the public for review. All active community planning organizations, hamlets, and villages that are recognized by the County shall be notified when it becomes available.

4. A minimum of 20 days prior to the first public hearing of each review authority on the proposal, written notice of the proposal and hearing shall be mailed to:

   a. For proposed amendments to the text of the Comprehensive Plan or this Ordinance, all active community planning organizations, hamlets, and villages that are recognized by the County;

   b. For proposed Comprehensive Plan Land Use Plan map amendments and zone changes, any active community planning organization, hamlet, or village that is recognized by the County, if the subject property lies wholly or partially inside the boundaries of such organization, hamlet, or village;

   c. Cities, as prescribed in applicable urban growth management agreements; and

   d. Those special districts and government agencies deemed by the Planning Director to have an interest in the proposal.

5. At a minimum, notice of proposal and hearing shall include:

   a. An explanation of the nature of the proposal;

   b. Date, time, and location of the hearing;

   c. The name and telephone number of the County staff member to contact where additional information may be obtained; and

   d. For Comprehensive Plan Land Use Plan map amendments and zone changes, a copy of the proposed map change(s).

6. Notice of the date, time, location, and purpose of the Planning Commission's hearing and the Board of County Commissioner's hearing shall be given a minimum of 10 days prior to the date of each review authority's first public hearing, by publication in a newspaper of general circulation in the County. However, if the legislative land use proposal applies to only a part of the County, the notice may instead be published in a newspaper of general circulation in that part of the County.

B. Proposal Review and Staff Report: The Planning Director shall consider the proposal, written comments, and evidence submitted prior to each public hearing

and prepare staff reports summarizing the proposal, comments received to-date, and the relevant issues associated with the proposal. Each staff report shall make a recommendation to the review authority.

C. Planning Commission Public Hearing: A public hearing shall be held before the Planning Commission, for the purpose of receiving testimony regarding the proposal.

D. Planning Commission Recommendation: The Planning Commission shall consider the record and may make a recommendation to the Board of County Commissioners to adopt, adopt with modifications, or decline to adopt the proposal. If no recommendation is made by the Planning Commission and no extension is granted by the Board of County Commissioners, the Board of County Commissioners may act upon the proposal notwithstanding the lack of a recommendation.

E. Board of County Commissioners Public Hearing: A public hearing shall be held before the Board of County Commissioners, for the purpose of receiving testimony regarding the proposal.

F. Decision: The Board of County Commissioners shall consider the record and may adopt, adopt with modifications, or decline to adopt the proposal; remand the matter back to the Planning Commission for further consideration; or table the matter. The decision of the Board of County Commissioners to adopt or adopt with modifications shall be by ordinance.

G. Notice of Decision: Notice of decision shall be provided as follows:

1. A maximum of 20 days after the decision is made it shall be submitted to the Oregon Department of Land Conservation and Development (DLCD). Procedures for the giving of the required notice shall be those established by ORS 197.615 and Oregon Administrative Rules Chapter 660, Division 18.

2. On the same day the decision is submitted to DLCD, the County shall mail, or otherwise deliver, notice to persons who both participated in the County proceedings that led to the decision to adopt the change to the Comprehensive Plan or this Ordinance and requested in writing that the County give notice of the change. The notice shall:

   a. State how and where the materials described in ORS 197.615(2) may be obtained;

   b. Include a statement by the individual delivering the notice that identifies the date on which the notice was delivered and the individual delivering the notice;

c. List the locations and times at which the public may review the decision and findings; and

d. Explain the requirements for appealing the land use decision under ORS 197.830 to 197.845.

H. Appeal: The Board of County Commissioners' decision is the final decision of the County. Appeal of the County's final decision is to the Oregon Land Use Board of Appeals or the Oregon Land Conservation and Development Commission, as determined by state law.

1307.12 PUBLIC HEARINGS

Subsection 1307.12 applies to public hearings held pursuant to Section 1307, except that only Subsections 1307.12(A), (B), (E) through (H), and (J) apply to public hearings in a Type IV proceeding.

A. Procedure, Generally: Public hearings shall be conducted in accordance with Oregon Revised Statutes (ORS) 197.763, Subsection 1307.12, and any bylaws or rules of procedure adopted by the review authority. Subsection 1307.12 authorizes the Hearings Officer, Planning Commission, and Board of County Commissioners to adopt rules of procedure for the conduct of hearings.

B. Parties: Any interested party shall be entitled to participate in a public hearing.

C. Order of Proceeding: The order of proceeding for a hearing will depend in part on the nature of the hearing. The following shall be supplemented by the adopted bylaws or rules of procedure of the review authority, as appropriate.

1. Jurisdictional Objections: Before receiving the staff report or testimony on the application, any objections on jurisdictional grounds shall be noted in the record and if there is objection, the review authority has the discretion to proceed or terminate the hearing.

2. Disclosure Statement: The review authority (or individual member thereof), or its designee, shall read the land use disclosure statement, which shall include:

a. A list of the applicable substantive criteria, or a reference to the staff report, where a list of the criteria can be found;

b. A statement that testimony, argument, and evidence must be directed toward the criteria described in Subsection 1307.12(C)(2)(a) or other criteria in the Comprehensive Plan or land use regulation which the person believes to apply to the decision;

c. A statement that failure to raise an issue accompanied by statements or evidence sufficient to afford the decision maker and the parties an

opportunity to respond to the issue precludes appeal to the Oregon Land Use Board of Appeals (LUBA) based on that issue; and

d. If applicable, a statement that a failure to raise constitutional issues relating to proposed conditions of approval precludes an action for damages in circuit court.

3. Call for Ex Parte Contacts: If the review authority is the Planning Commission or the Board of County Commissioners, the presiding officer, or designee, shall inquire whether any member has had ex parte contacts. Any member announcing an ex parte contact shall state for the record the nature and content of the contact. If the review authority is the Hearings Officer, he or she shall declare any ex parte contacts and state for the record the nature and content of the contact.

4. Call for Abstentions: If the review authority is the Planning Commission or the Board of County Commissioners, the presiding officer, or designee, shall inquire whether any member must abstain from participation in the hearing due to conflicts of interest. Any member announcing a conflict of interest shall state the nature of the conflict, and shall not participate in the proceeding, unless the vote is necessary to meet a requirement of a minimum number of votes necessary to take official action; provided, however, that the member shall not participate in any discussion or debate on the issue out of which the conflict arises. If the review authority is the Hearings Officer, he or she shall declare any potential conflicts of interest. The Hearings Officer shall state the nature of the conflict, and if the nature of the conflict is such that the Hearings Officer cannot fulfill his or her duty to be a fair and impartial decision maker, the Hearings Officer shall recuse himself or herself from hearing the matter.

5. Staff Report: The Planning Director shall present a report and recommendation concerning the proposal.

6. Presentation of the Application:

   a. Applicant's case;

   b. Community planning organizations, hamlets, and villages. Appearance by a representative from any active community planning organization, hamlet, or village that is recognized by the County, if the subject property lies wholly or partially inside the boundaries of such organization, hamlet, or village, to present the organization's position on the proposal;

   c. Public testimony; and

   d. Rebuttal. Rebuttal may be presented by the applicant. The scope of rebuttal is limited to matters that were introduced during the hearing.

7. Close of Hearing: No additional testimony, evidence, or argument shall be accepted after the close of the hearing unless the record is held open by the review authority.

8. Reopened Hearing: The hearing may be reopened by the review authority, prior to decision, to receive additional testimony, evidence, or argument. Notice shall be provided to the same persons who received notice of the original hearing and to anyone who provided evidence, argument, or testimony as part of the record.

9. Deliberations: If the review authority is the Planning Commission or Board of County Commissioners, deliberations shall immediately follow the hearing, except that deliberations may be delayed to a subsequent date and time certain. If the review authority is the Hearings Officer, deliberations will not occur, and the Hearings Officer will instead take the matter under advisement.

10. Remand: The Board of County Commissioners may remand any matter previously considered by the Planning Commission back to the Planning Commission for further review.

11. Recommendation or Decision: When the review authority is the Planning Commission or Board of County Commissioners, the recommendation or decision, as applicable, will be voted on and announced during a public meeting.

D. Ex Parte Contact:

1. The review authority shall not do any of the following:

   a. Communicate, directly or indirectly, with any party or their representatives in connection with any issue involved, except upon notice and opportunity for all parties to participate;

   b. Take notice of any communications, reports, staff memoranda, or other materials prepared in connection with a particular application, unless the parties are afforded an opportunity to contest the material so noted; or

   c. Inspect the site with any party or his representatives unless all parties are given an opportunity to be present. Individuals representing the review authority may inspect the site alone but must put the circumstances of the inspection on record.

2. A party may challenge the review authority, or individual member thereof, on the grounds of Subsection 1307.12(D)(1), or that such individual has a legal conflict of interest as defined by ORS 244.020(1) or ORS 244.120. A challenge and the decision thereon by the review authority shall be entered in the record of the application.

3. While every effort must be made to avoid ex parte contact, no decision of the review authority shall be invalid due to ex parte contact or bias resulting from ex parte contact, as described under Subsection 1307.12(D)(1), if the review authority (or individual member thereof) receiving the contact:

   a. Places on the record the substance of any written or oral ex parte communication concerning the decision or action; and

   b. Has a public announcement made of the content of the communication, and of the parties' right to rebut the substance of the communication, at the first hearing following the communication where action will be considered or taken on the subject to which the communication related.

4. A communication between County staff and the ~~review authority (or individual member thereof)~~Historic Review Board, Design Review Committee, Planning Commission, or Board of County Commissioners shall not be considered an ex parte contact for purposes of Subsection 1307.12(D)(1).

E. Evidence and Exhibits:

1. All evidence may be received unless excluded by the review authority on its own motion. Evidence received at any hearing shall be of the quality that reasonable persons rely upon in the conduct of their everyday affairs. Relevant evidence is any evidence having a tendency to make the existence or non-existence of a fact that is of consequence to the approval of the land use permit or legislative land use proposal more or less probable than it would without the evidence. Evidence may be received subject to a later ruling regarding its admissibility.

2. The review authority may exclude cumulative, repetitious, or immaterial evidence, but erroneous admission of evidence by the review authority shall not preclude action by the review authority or cause reversal on appeal unless shown to have substantially prejudiced the rights of a party.

3. All evidence shall be offered and made a part of the record in the application or legislative proceeding; and, except for matters stipulated to and except as provided in Subsection 1307.12(E)(4), no other factual information or evidence shall be considered in the recommendation or decision.

4. The review authority may take notice of judicially cognizable facts, and may take notice of general, technical, or scientific facts within specialized knowledge. Except in a Type IV proceeding, interested parties shall be notified at any time during the proceeding, but in any event prior to the final decision, of the material so noticed, and they shall be afforded an opportunity to contest the facts so noticed. The review authority may utilize experience, technical competence, and specialized knowledge in evaluation of the

evidence presented.

5. All exhibits received shall be marked so as to provide identification upon review. Such exhibits may be returned when the period for review has expired, but shall otherwise be preserved by the Planning Director.

F. Time Limits: The review authority may set consistent, reasonable time limits for oral presentations to the end that parties are encouraged to submit as much evidence as possible in writing prior to the hearing. No person may speak more than once without obtaining permission from the review authority.

G. Questioning: The review authority (or individual member thereof) or County staff may question any person who testifies. -The applicant and other parties to the proceeding shall not have the right to question or cross-examine any person who testifies.

H. Scope of Testimony: Except in a Type IV proceeding, testimony shall be directed towards the applicable standards and criteria that apply to the proposal. The review authority may exclude or limit cumulative, repetitious, or immaterial testimony. To expedite hearings, the review authority may call for those in favor and those in opposition to rise, and the review authority shall note the numbers of such persons for the record.

I. Continuances and Open Record Periods:

1. All documents or evidence relied upon by the applicant shall be submitted to the County and be made available to the public. Any staff report used at the hearing shall be available at least seven days prior to the hearing. If additional documents or evidence are provided by any party, the review authority may allow a continuance or leave the record open to allow the parties a reasonable opportunity to respond. Any continuance or extension of the record requested by the applicant shall result in a corresponding extension of the time limitations of ORS 215.427 and ORS 215.429.

2. Prior to the conclusion of the initial evidentiary hearing, any participant may request an opportunity to present additional evidence, argument, or testimony regarding the application. The review authority shall either continue the public hearing, pursuant to Subsection 1307.12(I)(2)(a), or leave the record open for additional written evidence, argument, or testimony, pursuant to Subsection 1307.12(I)(2)(b).

   a. If the review authority grants a continuance, the hearing shall be continued to a date, time, and place certain at least seven days from the date of the initial evidentiary hearing. An opportunity shall be provided at the continued hearing for persons to present and rebut new evidence, argument, or testimony. If new written evidence is submitted at the continued hearing, any person may request, prior to the conclusion of the

continued hearing, that the record be left open for at least seven days to submit additional written evidence, argument, or testimony for the purpose of responding to the new written evidence. Only one continuance is available of right under Subsection 1307.12(I)(2)(a); provided, however, nothing in Subsection 1307.12(I)(2)(a) shall restrict the review authority, in its discretion, from granting additional continuances.

b. If the review authority leaves the record open for additional written evidence, argument, or testimony, the record shall be left open for at least seven days. The review authority may leave the record open for an additional period of at least seven days for any participant to respond to new evidence submitted during the prior open-record period. However, if the review authority has not provided for this additional open-record period, any participant may file a written request with the Planning Director for an opportunity to respond to new evidence submitted during the period the record was left open. Any such request shall be filed no later than the end of the last business day the record is left open. If such a request is filed, the review authority may reopen the record pursuant to Subsection 1307.12(I)(4).

c. A continuance or extension granted pursuant to Subsection 1307.12(I)(2) shall be subject to the limitations of ORS 215.427 and ORS 215.429, unless the continuance or extension is requested or agreed to by the applicant.

3. Additional notice of a continued hearing is not required, unless the hearing is continued without announcing a date, time, and place certain, in which case notice of the continued hearing shall be given as though it were the initial hearing.

4. If the record is reopened to admit new evidence, argument, or testimony, any person may raise new issues which relate to the new evidence, argument, testimony, or criteria for decision-making which apply to the matter at issue. Notice of the reopened record shall be provided to any person who presented evidence, argument, or testimony as part of the record prior to the date the record was reopened.

5. Unless waived by the applicant, the review authority shall allow the applicant at least seven days after the record is closed to all other parties to submit final written argument in support of the application. The applicant's final submittal shall be considered part of the record, but shall not include any new evidence. This seven-day period shall not be subject to the limitations of ORS 215.427 and ORS 215.429.

J. Record of Hearing:

1. A verbatim record of the proceeding shall be made by written, mechanical, or

electronic means, which record need not be transcribed except upon review on the record.

2. The record of proceedings is comprised of:

   a. The Comprehensive Plan and this Ordinance, all of which shall be automatically incorporated into the record;

   b. The application or legislative proposal that initiated the proceeding;

   c. All testimony, argument, evidence, and exhibits submitted prior to the close of the record of the proceeding;

   d. Any staff reports submitted prior to the close of the record of the proceeding;

   e. Any electronic presentation used by either staff, applicant, or other participant in the proceeding;

   f. The verbatim record, as provided in Subsection 1307.12(J)(1);

   g. Minutes, if any, of the hearing;

   h. A verbatim record, as provided in Subsection 1307.12(J)(1), of any public meeting after the close of the hearing at which the proceeding is discussed by or acted upon by the review authority;

   i. Minutes, if any, of any public meeting after the close of the hearing at which the proceeding is discussed by or acted upon by the review authority; and

   j. The written decision.

1307.13 APPEALS

Subsection 1307.13 applies to all appeals processed by the County of decisions issued under Section 1307. Table 1307-1, *Land Use Permits by Procedure Type*, identifies those land use permit decisions that may be appealed at the County level and the applicable review authority for those appeals.

A. Filing an Appeal: An appeal shall be in writing and must be received by the Planning Director within 12 days of the date of mailing of the notice of decision, or if the 12th day falls on a day on which the County is not open for business, by the next day on which the County is open for business.

B. Notice of Appeal: Notice of appeal shall be made on a form prescribed by the Planning Director and shall be accompanied by the appeal fee. The notice of appeal shall contain:

1. Identification of the decision sought to be appealed, including its assigned file number, the name of the applicant, and the decision date;

2. The name, mailing address, and telephone number of the appellant;

3. The nature of the decision being appealed and the grounds for appeal; and

4. Signature(s) of the appellant(s), or the duly authorized representative(s) thereof, authorizing the filing of the appeal.

C. Proper Filing of Notice of Appeal: The failure to file a timely and complete notice of appeal is a jurisdictional defect, and the Planning Director shall not accept a notice of appeal that does not comply with Subsections 1307.13(A) and (B). The Planning Director's determination that an appellant has failed to comply with Subsections 1307.13(A) and (B) shall be final.

D. Appeal Procedures; Scope: Appeals are subject to the following procedures:

1. De Novo Review: Appeals shall be de novo. In a de novo review, all issues of law and fact are heard anew, and no issue of law or fact decided by the lower-level review authority is binding on the parties in the hearing. New parties may participate, and any party may present new evidence and legal argument by written or oral testimony. The record of the initial proceeding shall be made a part of the record of the appeal. For purposes of Subsection 1307.13(D)(1), the record of the initial proceeding consists of

   a. Those items listed in Subsections 1307.12(J)(2)(a) through (d) and (j); and

   b. Those items listed in Subsections 1307.12(J)(2)(e) through (i), to the extent that any prior hearing(s) or public meeting(s) were conducted in reaching the decision that is being appealed.

2. Notice of Public Hearing: Notice of public hearing shall be provided as follows:

   a. A minimum of 20 days prior to the first evidentiary hearing on the appeal, written notice of the appeal and hearing shall be mailed to:

      i. Those who were entitled to notice pursuant to Subsection 1307.09(A)(1); however, notwithstanding Table 1307-2, *Noticing Distances for Type II Land Use Permit Applications*, if the subject property is in the AG/F, EFU, FF-10, FU-10, RA-1, RA-2, RC, RI, RR, RRFF-5, or TBR Districts, notice of the public hearing shall be provided to all property owners of record, pursuant to Subsection 1307.16(C), within 2,640 feet (½ mile) of the subject property and all contiguous properties under the same ownership, as measured from the subject property and contiguous properties under the same ownership;:

ii. The appellant; and

iii. Anyone who previously provided evidence, argument, or testimony as part of the record.

b. At a minimum, notice of hearing shall include those elements identified in Subsection 1307.10(A)(4), except that 1307.10(A)(4)(i) will reference the appealed decision, rather than the staff report.

3. Public Hearing: A public hearing shall be held before the appeal review authority, for the purpose of receiving testimony regarding the application.

4. Decision: The appeal review authority shall consider the record and affirm the decision, affirm the decision with additional conditions or modifications, or reverse the decision. The appeal review authority shall issue a written decision in the form of an order, which shall be signed and dated, that explains the standards and criteria considered relevant to the decision, states the facts relied upon in rendering the decision, and explains the justification for the decision based on the standards, criteria, and facts set forth. The decision also shall include the elements identified in Subsection 1307.10(D)(1) through (5).

5. Notice of Decision: A copy of the written order shall be mailed to:

a. Those identified in Subsection 1307.10(E); and

b. The appellant.

6. Appeal: Except where an additional County-level appeal is provided pursuant to Subsection 1307.13(E), the appeal review authority's decision is the final decision of the County. Appeal of the County's final decision is to the Oregon Land Use Board of Appeals.

E. Review of an Interpretation by the Board of County Commissioners:

1. A second County-level appeal is provided for applications for an interpretation of the Comprehensive Plan, where the Board of County Commissioners shall review the decision of the Planning Commission on appeal. Processing of the appeal shall comply with Subsections 1307.13(A) through (D), except that notice of the public hearing shall be given to:

a. Those identified in Subsections 1307.09(A)(1)(a), (d) through (f), and (i);

b. The appellant;

c. Anyone who provided evidence, argument, or testimony as part of the record; and

d. Anyone who made a written request for notice of decision.

2. A second County-level appeal is provided for applications for an interpretation of this Ordinance, where the Board of County Commissioners may choose to review the decision of the Hearings Officer on appeal but is not required to do so.

   a. If the Board of County Commissioners accepts the appeal, processing of the appeal shall comply with Subsections 1307.13(A) through (D), except that notice of the public hearing shall be given pursuant to Subsection 1307.13(E)(1).

   b. If the Board of County Commissioners denies a request for review, it shall do so in writing. Notice of the denial shall be given pursuant to Subsection 1307.13(E)(1). If the Board of County Commissioners denies a request for review, the decision of the Hearings Officer stands as the final decision of the County. The period for appeal to the Oregon Land Use Board of Appeals commences on the date of mailing of the Board of County Commissioners' denial of review.

F. Effect of Judicial or Administrative Review: Except as provided by law or order of a court or administrative tribunal having jurisdiction, a decision of the County shall remain valid and effective notwithstanding the initiation of judicial or administrative review of such decision; provided, however, that any development permit dependent upon such decision shall be issued only with the applicant's written acknowledgement in a form approved by County Counsel, that such review has been initiated and may result in the reversal of the decision, in which event the permit shall be revoked, as well as any temporary occupancy permit, and the premises shall thereafter be brought into conformity with the applicable standards and criteria by appropriate means. No permanent occupancy certificate shall be issued by the building official until such review has concluded through the adoption of a decision making such occupancy in all respects lawful.

G. Remand from the Land Use Board of Appeals: Except as set forth in Oregon Revised Statutes (ORS) 215.435(4), the County shall take final action on decisions remanded by the Oregon Land Use Board of Appeals within the time frame established by ORS 215.435(1) and (2).

1307.14 CONDITIONS OF APPROVAL

Approval of a Type I, II, or III land use permit may be granted subject to conditions. The following limitations shall be applicable to conditional approvals:

A. Conditions shall be fulfilled within the time limitations set forth in the approval thereof, or, if no time is set forth, within a reasonable time. Failure to fulfill any conditions within the time limitations provided shall be grounds for the Planning Director to initiate revocation of the approved land use permit pursuant to Subsection 1307.16(L).

B. Conditions shall be imposed to ensure compliance with the standards and approval criteria applicable to the land use permit, or shall be reasonably calculated to fulfill public needs emanating from the proposed land uses as set forth in the application, in the following respects:

1. Protection of the public from the potentially deleterious effects of the proposed use; or

2. Fulfillment of the need for public services created by the proposed use.

C. The review authority may find compliance with an applicable approval criterion by imposing conditions necessary to ensure compliance and finding that it is feasible for the conditions to be satisfied. Notwithstanding this provision, where conditions require state agency permits to be obtained, the review authority need only find substantial evidence to demonstrate that the applicant is not precluded from obtaining such state agency permits as a matter of law.

D. A surety may be required from the applicant, in an amount sufficient to ensure compliance with one or more conditions of approval, subject to Section 1311, *Completion of Improvements, Sureties, and Maintenance*.

1307.15 FEES

Fees are for the purposes of defraying administrative costs and are subject to the following:

A. Fees payable at the time of application or appeal are established by separate order of the Board of County Commissioners.

B. The failure to submit the required fee with an application or appeal, including return of checks unpaid or other failure of consideration, shall be a jurisdictional defect.

C. An active community planning organization that is recognized by the County may file appeals without fee, provided the decision to file an appeal is made at a public meeting held in compliance with Oregon Revised Statutes 192.610 to 192.690.

D. Appeal fees shall be refunded if the appellant prevails. -Any other fee refund policy shall be established by separate order of the Board of County Commissioners.

E. The County Administrator or designee may reduce or waive fees upon showing of just cause to do so.

1307.16 GENERAL PROVISIONS

A. Calculation of Time: For the purposes of this Ordinance, unless otherwise specifically provided, days mean calendar days. In calculating a specific time period, the day on which the period begins to run shall not be included; and the day on which the period ends shall be included. In the event the last day falls on a day on which the County is not open for business, the period of time shall end on the next day on which the County is open for business.

B. Property Owner's Signature: When any person signs as the owner of property or as an officer of a public or private corporation owning the property, or as an attorney in fact or agent of any owner, or when any person states that he or she is buying the property under contract, the Planning Director and the review authority, if other than the Planning Director, may accept these statements to be true, unless the contrary be proved, and except where otherwise in this Ordinance more definite and complete proof is required. Nothing herein shall prevent the Planning Director or the review authority, if other than the Planning Director, from demanding proof that the signer is the owner, officer, attorney in fact, or agent.

C. Property Owner Notice: Where notice to property owners of record is required by Section 1307, the records of the County Assessor shall be used to identify the owners and their mailing addresses. Persons whose names and addresses are not on file at the time of the filing of the applicable land use permit application or appeal need not be notified of the application, decision, or hearing. If a property within the notification area is located outside the County, the records of the applicable County Assessor shall be used. The failure of a property owner to receive notice as provided in Section 1307 shall not invalidate the proceedings, if the County can demonstrate by affidavit that such notice was given.

D. Method of Mailing: When mailing is required by Section 1307, first-class mail shall be used, except that for mailing to any of the following, either first-class mail or electronic mail may be used: community planning organizations, hamlets, villages, cities, special districts, and government agencies.

E. Burden of Proof: Except in a Type IV proceeding, the proponent has the burden of proof on all elements of the proposal. The proposal must be supported by a preponderance of evidence that it conforms to all applicable standards and criteria. The preponderance of evidence standard is often described as enough evidence to make the proponent's point more likely than not.

F. Argument and Evidence: For the purposes of Section 1307:

1. Argument means assertions and analysis regarding the satisfaction or violation of legal standards or policy believed relevant by any party. Argument does not include facts.

2. Evidence means facts, documents, data, or other information offered to demonstrate compliance or noncompliance with the standards and criteria believed by any party to be relevant to the proposal.

G. Withdrawal: Prior to the issuance of the written decision, the applicant may submit a written notice of withdrawal of the application. Upon receipt of a written notice of withdrawal, the application shall be deemed dismissed without further action by the review authority. A withdrawal shall not bar filing a new application; withdrawal shall not be deemed a final decision for any purpose. A withdrawal cannot be appealed. If an application is withdrawn after the mailing of notice of application or public hearing, the Planning Director shall mail written notice stating the application has been withdrawn to all persons who were provided mailed notice of the application or public hearing.

H. Final Action Deadline: Except as modified by ORS 197.763, the County shall take final action on a land use permit application that is subject to Oregon Revised Statutes (ORS) 215.427, including resolution of all County appeals, within the time period specified by ORS 215.427, unless the applicant provides written request for an extension of such period pursuant to ORS 215.427(5).

I. Effective Date of Decision: The County's final decision on a Type I, II, or III land use permit application becomes effective on:

1. The day the final decision is issued, if no appeal at the County level is allowed;

2. The day after the appeal period expires, if an appeal at the County level is allowed, but no notice of appeal is timely filed;

3. The day the decision is issued by the final County appeal body, if an appeal is allowed and notice of appeal is timely filed. However, if the appeal is withdrawn prior to decision, the effective date of the County's final decision shall revert to the day after the appeal period would have expired had an appeal not been timely filed; or

4. The date of mailing of the Board of County Commissioners' denial of review, pursuant to Subsection 1307.13(E)(2)(b).

J. Reissuing a Decision: The review authority may reissue a Type I, II, or III decision as a result of a clerical error, a misstatement of facts, or the erroneous imposition or omission of conditions of approval. A decision may not be reissued after the expiration of the appeal period, if any, or after the filing of an appeal. Notice of the reissued decision shall be given in the same manner as notice of the original decision. A new appeal period equal to that of the original decision shall be provided from the date of mailing of the amended decision.

K. Re-filing an Application: If a Type II or III land use permit application is denied, or a Type II or III land use permit is revoked pursuant to Subsection 1307.16(L), an applicant may re-file for consideration of the same or substantially similar application only if:

1. At least two years have passed after either final denial of an application by the County or revocation of a permit; or

2. The review authority finds that one or more of the following circumstances render inapplicable all of the specific reasons for the denial:

   a. A change, which is material to the application, has occurred in this Ordinance, the Comprehensive Plan, or other applicable law; for the purposes of this provision, "change" includes amendment to the applicable provisions or a modification in accepted meaning or application caused by an interpretation filed pursuant to Section 1308;

   b. A mistake in facts, which was material to the application, was considered by the review authority;

   c. There have been changes in circumstances resulting in new facts material to the application;

   d. A change has occurred in the zoning of the subject property, or adjacent property, that substantially affects the merits of the application; or

   e. There have been substantial changes in the surrounding area, or on the subject property, such as availability of services or improvements to public facilities, that affect the merits of the application.

L. Revocation of Approval: An approval of a Type II or III land use permit may be revoked, as follows:

1. The Planning Director may initiate a public hearing for revocation of a prior approval of a land use permit when there is a violation of conditions attached to the previous approval sufficient to merit such revocation.

2. Revocation of approval shall be reviewed using the Type III procedure. -The Hearings Officer shall be the review authority, and the decision of the Hearings Officer shall be the final decision of the County.

3. Revocation is in addition to, and not in lieu of, any other remedy provided by law or equity, and is not a condition precedent to any such remedy.

M. Modifications: Except as permitted pursuant to Section 1309:

1. A modification to an approved Type I, II, or III land use permit, or conditions thereto, shall be processed as a new application; and

2. A modification to conditions of approval for a Type II or III land use permit shall be considered only if one or more of the circumstances identified in Subsection 1307.16(K)(2) apply.

[Added by Ord. ZDO-248, 10/13/14; Amended by Ord. ZDO-253, 6/1/15; Amended by Ord. ZDO-254, 1/4/16; Amended by Ord. ZDO-262, 5/23/17; Amended by Ord. ZDO-266, 5/23/18; Amended by Ord. ZDO-269, 9/6/18; Amended by Ord. ZDO-268, 10/2/18]

Summary of Proposed Amendments to Section 1310, *Time Extension*

1. Differentiate the application type and review procedures for time extensions on approvals of certain dwellings in the Ag/Forest (AG/F), Exclusive Farm Use (EFU), or Timber (TBR) Districts from those for time extensions on other approvals, consistent with state law.

1310 TIME EXTENSION

1310.01 APPROVAL CRITERIA

A time extension may be permitted only when specified elsewhere in this Ordinance for specific land use permit types.

A. Type II Time Extensions: Except as set forth in Subsection 1310.02, a~~A~~ time extension requires review as a Type II application pursuant to Section 1307, *Procedures*, and shall be subject to the following standards and criteria:

~~A~~1. A time extension application shall be submitted ~~to the Planning Director~~ prior to the expiration of the initial approval period for the land use permit~~.~~;

~~B~~2. The proposed development as originally approved, or as modified pursuant to Section 1309, *Modification*, shall be consistent with the relevant provisions of this Ordinance in effect on the date the application for a time extension is submitted, provided that the application is complete when submitted or is made complete pursuant to Subsection 1307.07(E)(4); and

~~C~~3. There shall have been no changes on the subject property or in the surrounding area that would be cause for reconsideration of the original decision.

B. Type I Time Extensions: Notwithstanding Subsection 1310.01(A), a time extension authorized by Subsections 401.11(B), 406.11(B), or 407.10 for one of the following types of residential development located outside of an urban growth boundary requires review as a Type I application pursuant to Section 1307, and the time extension application shall be submitted to the Planning Director prior to the expiration of the initial approval period for the land use permit:

1. Lot of record dwelling on Low Value Farmland in the AG/F or EFU Districts;

2. Lot of record dwelling on High Value Farmland consisting predominantly of Class III and IV Soil in the AG/F or EFU Districts;

3. Lot of record dwelling on High Value Farmland consisting predominantly of Prime, Unique, Class I or II Soils in the AG/F or EFU Districts;

4. Dwelling not in conjunction with a farm use in AG/F or EFU Districts;

5. Lot of record dwelling in AG/F or TBR Districts;

6. Forest template dwelling in AG/F or TBR Districts;

7. 160 acre minimum forest dwelling in AG/F or TBR Districts;

8. 200 acre noncontiguous dwelling in AG/F or TBR Districts;

9. Caretaker residences for public parks and public fish hatcheries in AG/F or TBR Districts.

1310.02 PROCEDURE

If more than one land use permit (e.g. a partition and a variance) was approved for the same, or substantially similar, proposed development, time extension requests for these land use permits may be consolidated as one application, at the applicant's discretion.

[Added by Ord. ZDO-248, 10/13/14]