



AGENDA

Thursday, June 7, 2012 - 10:00 AM

Board of County Commissioners Business Meeting

Beginning Board Order No. 2012-42

I. CALL TO ORDER

- Roll Call
- Pledge of Allegiance
- Approval of Order of Agenda

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

1. Proclaiming June 2012 as Royal Rosarians Month in Clackamas County (Rob Hungerford, Water Environment Services)

III. CITIZEN COMMUNICATION *(The Chair of the Board will call for statements from citizens regarding issues relating to County government. It is the intention that this portion of the agenda shall be limited to items of County business which are properly the object of Board consideration and may not be of a personal nature. Persons wishing to speak shall be allowed to do so after registering on the blue card provided on the table outside of the hearing room prior to the beginning of the hearing. Testimony is limited to three (3) minutes. Comments shall be respectful and courteous to all.)*

IV. READING AND ADOPTION OF PREVIOUSLY HEARD ZDO ORDINANCE *(No public testimony on this item)*

2. ZDO-234 - An Ordinance Amending Sections 202, 401, 406, 407, 834, 902 and 1204, of the Clackamas County Zoning and Development Ordinance, Previously Approve at the May 16, 2012 Public Hearing (Rhett Tatum, County Counsel)

V. PUBLIC HEARINGS *(The following items will be individually presented by County staff or other appropriate individuals. Persons appearing shall clearly identify themselves and the organization they represent. In addition, a synopsis of each item, together with a brief statement of the action being requested shall be made by those appearing on behalf of an agenda item.)*

3. Board Order No. _____ Amending the Clackamas County Local Contract Review Board Rules (David Anderson, County Counsel)
4. First Reading of Ordinance No. _____ Amending Certain Sections of the Ordinance of the Tri-City Service District Relating to Industrial Pretreatment (Chris Storey, County Counsel)

VI. DISCUSSION ITEMS *(The following items will be individually presented by County staff or other appropriate individuals. Citizens who want to comment on a discussion item may do so when called on by the Chair.)*

~NO DISCUSSION ITEMS SCHEDULED

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

A. Health, Housing & Human Services

- 5
1. Approval of an Agency Service Contract with Family Stepping Stones for Therapeutic Early Childhood and Development Program Services - CFY
 - 6 2. Board Order No. _____ Approving the Mental Health Director's Designees to Authorize a Custody Hold Under ORS 426.233 - BH

B. Department of Transportation & Development

- 7
1. Approval of an Amendment to the Intergovernmental Agreement with Metro to Provide Funds for Staff Time to Plan and Implement Organics Collection
 - 8 2. Approval of a Contract with K&E Excavating, Inc. for the Bear Creek, Barnards Road, Culvert Replacement Project - Fin

C. Elected Officials

- 9
1. Approval of Previous Business Meeting Minutes – BCC
 - 10 2. Approval to Apply for the 2012-2014 Victims of Crime Act, Competitive Project Grant for the Clackamas County District Attorney's Office

VIII. COUNTY ADMINISTRATOR UPDATE

IX. COMMISSIONERS COMMUNICATION

NOTE: Regularly scheduled Business Meetings are televised and broadcast on the Clackamas County Government Channel. These programs are also accessible through the County's Internet site. DVD copies of regularly scheduled BCC Thursday Business Meetings are available for checkout at the Clackamas County Library in Oak Grove by the following Saturday. You may also order copies from any library in Clackamas County or the Clackamas County Government Channel.

<http://www.clackamas.us/bcc/business/>

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**Proclaiming June 2012 as
Royal Rosarian Month in Clackamas County**

Whereas, the Royal Rosarians were founded 100 years ago on June 17, 1912, by local business leaders with the purpose of supporting and promoting the Rose Festival, encouraging the cultivation of roses, and hosting out-of-town visitors to the greater Portland-metropolitan community; and

Whereas, the Royal Rosarians are the Official Greeters and Ambassadors of Goodwill for the Rose Festival, proclaiming the Rose to be the Queen of Flowers; and

Whereas, the Royal Rosarians are readily recognized in their distinctive white double-breasted suits and straw hats, a hallmark of pageantry throughout Oregon and the Rose Festival; and

Whereas, the Royal Rosarians serve as the Royal Guard for the mythical Realm of Rosaria, that place in everyone's heart that awakens as the storm clouds of winter yield to the golden rays of Spring when the lovely rosebud begins to blossom into its magnificent glory; and

Whereas, the Royal Rosarians are a completely voluntary organization composed of tireless men and women dedicated to extolling the beauty of the rose and performing over 22,000 hours of community service every year; and

Whereas, the Royal Rosarian Foundation supports programs that assist children-at-risk, provides music scholarships, and honors citizen heroes and heroines at the annual Newsmakers Banquet; and

Whereas, Clackamas County boast its own Royal Rosarian, County Employee Rob Hungerford who is the Prime Minister for the 2012 Rose Festival.

Now, therefore, the Clackamas County Board of Commissioners do hereby proclaimed June 2012 as Royal Rosarian Month in Clackamas County and encourage the citizens of Clackamas County to enjoy the many events the Rose Festival has to offer.

Dated this 7th day of June, 2012.

CLACKAMAS COUNTY BOARD OF COMMISSIONERS

Chair

ORDINANCE NO. ZDO-234

**An Ordinance amending Sections 202, 401, 406, 407, 834, 902 and 1204,
of the Clackamas County Zoning and Development Ordinance**

WHEREAS, on December 6, 2011, the Board of County Commissioners directed the Planning and Zoning Division staff to prepare draft language for consideration of amendments to the Zoning and Development Ordinance to include administrative provisions related to the three natural resource zoning districts: Exclusive Farm Use, Timber and Ag/Forest; and

WHEREAS, the Planning Director initiated an amendment to the natural resource zoning district provisions of the Zoning and Development Ordinance, in response to inconsistencies between those provisions and current state law; and

WHEREAS, an on-going process of amendments to the Zoning and Development Ordinance is necessary to clarify provisions and maintain consistency throughout the Ordinance and respond to changes in statutes and public input; and

WHEREAS, it is a policy of the Board of County Commissioners to provide excellent public service to citizens and the development community, streamline permitting processes, encourage sound land use and development and improve the Zoning and Development Ordinance as necessary; and

WHEREAS, the proposed amendments are consistent with the Clackamas County Comprehensive Plan, and state and federal law; and

WHEREAS, after a duly-noticed public hearing, the Clackamas County Planning Commission recommended approval of ZDO-234 on April 9, 2012; and

WHEREAS, the Board of County Commissioners held a public hearing on May 16, 2012, and directed staff make revisions to the proposed draft, which staff has done;

WHEREAS, the Board of County Commissioners believes immediate adoption of the proposed amendments is warranted; now therefore;

The Board of Commissioners of Clackamas County ordains as follows:

Section 1: Sections 202, 401, 406, 407, 834, 902 and 1204 of the Clackamas County Zoning and Development Ordinance are hereby amended as shown in Exhibit A hereto.

Section 2: This ordinance shall be effective immediately.

ADOPTED this 7th day of June, 2012

BOARD OF COUNTY COMMISSIONERS

Chair

Recording Secretary

Ordinance ZDO-234

Zoning and Development Ordinance Amendments

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

202 DEFINITIONS

ACCESSORY BUILDING OR USE: A subordinate building or use, the use of which is clearly incidental to that of the main building or use on the same lot.

ACCESSWAY: A public right-of-way, a portion of which is hard surfaced, for use by pedestrians and bicyclists providing a direct route where public roads require significant out of direction travel.

ACCESS DRIVE: A private way, with a travel surface generally no more than ~~twelve (12) feet~~ in width, created by deed or easement to provide vehicular ingress to, or egress from not more than two ~~(2)~~ lots or parcels.

ACTIVE RECREATIONAL AREA: An area such as a park, sports field, or golf course, where turf provides a playing surface that is dedicated to active play.

ADJOINING: Contiguous or abutting exclusive of street width. It shall include the terms adjacent, abutting or contiguous.

ADULT BUSINESS: A range of commercial activities characterized by live, closed circuit, or reproduced material which has an emphasis on nudity and/or specified sexual activity. Such businesses generally limit their patrons to persons at least 18 years of age. Adult businesses include the following types of establishments: adult bookstores, adult theaters, adult arcades, adult cabarets, and adult paraphernalia shops, as defined below, and other establishments which feature any combination of activity or merchandise described below which collectively account for ~~twenty-five (25)~~ percent, or more, of the establishment's activity or merchandise. These definitions shall not be construed to allow uses or activities which are unlawful under State criminal laws.

"Adult bookstore" is an establishment having as ~~twenty-five (25)~~ percent or more of its merchandise for sale, rent, or viewing on the premises, such items as books, magazines, other publications, films, video tapes or video discs which are distinguished by their emphasis on specified sexual activities, as defined in this ordinance.

"Adult theater" is an establishment used for more than ~~twenty-five (25)~~ percent of showtime for presenting material (either live, closed circuit, or prerecorded) for

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observation by patrons therein which has as a dominant theme an emphasis on nudity and/or specified sexual activities, as defined in this ordinance.

"Adult arcade" is an establishment offering viewing booths or rooms for one or more persons in which ~~twenty-five (25)~~ percent, or more, of the material presented (either live, closed circuit, or reproduced) is characterized by an emphasis on nudity and/or specified sexual activities, as defined in this ordinance.

"Adult cabaret" is an establishment having as its primary attraction live exhibitions (either for direct viewing, closed circuit viewing, or viewing through a transparent partition) for patrons, either individually, or in groups, where the exhibition material presented is characterized by an emphasis on nudity and/or specified sexual activities, as defined in this ordinance.

"Adult paraphernalia shop" is an establishment having as ~~twenty-five (25)~~ percent or more of its merchandise objects which stimulate human genitalia and/or objects designed to be used to substitute for or be used with human genitalia while engaged in specified sexual activities, as defined in this ordinance.

AGRICULTURAL AIRSTRIP: An area designated by the user solely for the purpose of providing for temporary or occasional landings and takeoffs by aircraft engaged in aerial application of chemicals, fertilizers, or other substances to agricultural or forest lands.

AIRPORT, PERSONAL-USE: An airstrip restricted, except for aircraft emergencies, to use by the owner and, on an infrequent and occasional basis, by his invited guests, and to commercial activities in connection with agricultural operations only.

AIRPORT, PRIVATE USE: An airport restricted, except for aircraft emergencies, to use by the owner and his invited guests. The determination as to whether an airport is private or public-use is made by the Oregon Department of Aviation.

AIRPORT, PUBLIC-USE: An airport that is open to use by the flying public, with or without a request to use the airport.

ALLEY: Any public space or thoroughfare less than 16 feet but not less than 10 feet in width which has been dedicated or deeded to the public primarily for vehicular service access to the back or side of properties otherwise abutting on a street.

ALTERATION, CULTURAL RESOURCE: Any exterior change or modification, through public or private action, of any cultural resource or of any property located within an historic district including, but not limited to, exterior changes to or modification of structure, architectural details or visual characteristics such as paint color and surface texture, grading, surface paving, new structures, cutting or removal of trees and other natural features, disturbance of archaeological sites or areas, and the placement or removal of any exterior objects such as signs, plaques, light fixtures, street furniture, walls, fences, steps, plantings and landscape accessories affecting the exterior visual qualities of the property.

ANTIQUES: Goods that, by virtue of their age or unusual quality, are generally considered to be of historical and/or artistic interest, ordinarily such items are in good state of preservation or are restorable to their original conditions.

ARCHITECTURAL FEATURES: Features include, but are not limited to cornices, canopies, sunshades, gutters, chimneys, fireplaces, flues and eaves. Architectural features shall not include any portion of a structure built for the support, occupancy, shelter or enclosure of persons or property of any kind.

ARCHITECTURAL FEATURES, CULTURAL RESOURCE: The architectural elements embodying style, design, general arrangement and components of all of the outer surfaces of an improvement, including, but not limited to, the kind, color, texture of the building materials and type and style of all windows, doors, lights, signs and other fixtures appurtenant to such improvements.

AUTOMATIC IRRIGATION CONTROLLER: An automatic timing device used to remotely control valves that operate an irrigation system. Automatic irrigation controllers schedule irrigation events using either evapotranspiration (weather-based) or soil moisture data.

BABYSITTER: Any person who goes into the home of a child to give care during the temporary absence of the parent or legal guardian or custodian.

BASEMENT: A portion of a building which has less than one-half ($1/2$) of its height measured from finished floor to finished ceiling above the average elevation of the adjoining ground, but not an "underground structure" as defined in this ordinance.

BEACON: Any light with one or more beams directed into the atmosphere or directed at one or more points not on the same site as the light source; also, any light with one or more beams that rotate or move.

BED AND BREAKFAST ESTABLISHMENT: A use carried on in a structure designed for a single-family dwelling, except as provided under Section 832, which provides rooms for rent on a daily basis to the public and which includes a breakfast meal as part of the cost of the room. Bed and breakfast establishments do not include other similar uses, such as motels, health or limited care facilities, boarding houses, group quarters, hostels, or rescue missions. All bed and breakfast establishments require tourist facility licensing by the appropriate agency. Bed and breakfast residences and inns, as defined below, must also satisfy the State Health Division requirements. Three levels of bed and breakfast establishments are as follows:

"Bed and Breakfast Homestay" provides overnight accommodations plus breakfast in an owner-occupied dwelling that provides one or two¹⁻² guest rooms for occasional bed and breakfast guests, not exceeding five⁵ guests at one time. Primary use of the dwelling remains as a dwelling, not as a lodging establishment. All reservations are made in advance. Income derived from bed and breakfast activity does not generally represent a primary source of income. Bed and breakfast homestays are major home occupations, subject to Section 822.

"Bed and Breakfast Residence" provides overnight accommodations plus breakfast and occasional family-style meals for guests, in an operator- or owner-occupied dwelling that provides up to ~~five~~ rooms on an occasional or regular basis. Income derived from the bed and breakfast activity may represent a primary source of income. Bed and breakfast residences are subject to Section 832, and all requirements of the underlying district.

"Bed and Breakfast Inn" provides accommodations plus breakfast on a daily or weekly basis in an operator- or owner-occupied dwelling that is primarily used for this purpose. This use is operated as a commercial enterprise, encourages direct bookings from the public, and is intended to provide a major source of income to the proprietors. This level includes inns that operate restaurants offering meals to the general public as well as to overnight guests. Bed and breakfast inns are subject to Section 832 and all requirements of the underlying district.

BICYCLE RACK: An apparatus designed to support the central frame of a bicycle and allow locking of both wheels, without the removal of wheels.

BIKEWAY: A paved facility provided for use by cyclists. There are five types of bikeways.

Shared Roadway: A type of bikeway where motorists and cyclists occupy the same roadway area. Shared roadways are allowed on neighborhood streets and on rural roads and highways.

Shoulder Bikeway: A bikeway which accommodates cyclists on paved roadway shoulder.

Bike Lane: A section of roadway designated for exclusive bicycle use, at the same grade as the adjacent roadway.

Bike Path: A bike lane constructed entirely separate from the roadway.

Cycle Track: An exclusive "grade-separated" bike facility elevated above the street level using a low-profile curb and a distinctive pavement material.

BLANKETING: The visual blocking of one sign by another as seen by a motorist traveling a street or highway.

BLOCK: A parcel of land bounded by streets, railroad rights-of-way, waterways, parks, unsubdivided acreage, or a combination thereof.

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

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

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

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

BULK PLANT: Hazardous substances at the bulk plant level are manufactured, collected, repackaged, stored, or distributed, but are generally not used on the site. *The primary emphasis of uses at the bulk plant level is on hazardous substances.* Materials are stored in large permanent tanks. Bulk plant quantities are larger than amounts transported in or out in any single shipment. Processors of hazardous substances will generally be at this level. Uses which produce hazardous substances as a by-product or accessory to another product are not in this category.

CARE: The provision of room and board and other services as needed to assist in activities of daily living, such as assistance with bathing, grooming, eating, medication management, money management or recreation.

COGENERATION FACILITY: A facility that produces energy as a by-product of its normal industrial process and the energy produced can be used for industrial, commercial, heating or cooling purposes; and such facility is more than 50 percent owned by a person who is not a public utility, an electric utility holding company or an affiliated interest. *When this definition differs from that in ORS 758.500, the definition in ORS 758.500 shall prevail.*

COMMERCIAL USE: The use of land and/or structures for the conduct of retail, service, office, artisan, restaurant, lodging, daycare, entertainment, private recreational, professional, and similar uses.

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

COMPOSTING: The managed process of controlled biological decomposition of green feedstocks. *It does not include composting for the purposes of soil remediation.*

COMPOSTING FACILITY: A site or facility, excluding home composting areas as described in Section 202 and agricultural composting conducted as a farm use, which utilizes green feedstocks to produce a useful product through a managed process of controlled biological decomposition. Composting may include amendments *beneficial to the composting process.* Vermiculture and vermicomposting are considered composting facilities. Composting facilities or sites may include sales of the finished product, as well as accessory products limited to topsoil, barkdust and aggregate commonly used in landscaping to wholesale and retail customers. The area utilized for the sale of said accessory products shall not exceed 10% of the area used

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for composting, or two (2) acres, whichever is less subject to the provisions of Subsection 834.03 and 834.04.

CONDITIONAL USE: A use addressing a limited or specific need but generally secondary to a primary use and, due to a potential adverse effect upon primary uses or public services and facilities, is only allowed subject to review and the use standards of the district and Section 800 and the criteria of Section 1203.

CONGREGATE HOUSING FACILITY: A building that contains more than one dwelling unit and provides common facilities and services for residents who require or desire a more supportive living environment than typically afforded to residents in multifamily, three-family, two-family, or single-family dwellings. Regular on-premise supervision by a registered physician, registered nurse, or other health care provider may be included.

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

CULTURAL RESOURCE INVENTORY: The official list of designated cultural features, sites, districts subject to the provisions of Section 707, Cultural Resources.

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

DAYCARE FACILITY: A facility that provides regular daycare services to children under 13 years of age, including a day nursery, nursery school group, or similar unit operating under any name. A daycare facility shall not include services provided by a physician or nurse, or facilities operated primarily for education or supervised training or instruction, or daycare provided by a "babysitter" or "family daycare provider" as defined in this Section. A daycare facility caring for seven or more children shall satisfy the certification requirements of the Children's Services Division.

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

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

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

DIRECT ROUTE: The shortest reasonable route between two points. A route is considered direct if it does not involve significant out of direction travel that could be

avoided. Out of direction travel is significant if it is more than 50 percent% longer than the straight line between two points.

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

DRIP IRRIGATION: Any non-spray low volume irrigation system utilizing emission devices with a flow rate measured in gallons per hour.

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

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

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

DWELLING, ATTACHED SINGLE-FAMILY: A building, or portion thereof, that contains only one dwelling unit; shares at least one wall, or portion thereof, with another attached single-family dwelling; and is located on a separate lot of record from any other dwelling, except where otherwise permitted for an accessory dwelling unit. A manufactured dwelling or residential trailer is not an attached single-family dwelling.

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

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

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

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

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

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

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

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

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

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

FAMILY DAYCARE PROVIDER: A daycare provider who regularly provides daycare to ~~16 or fewer than 13 children, or as amended by ORS 657A.440, including the children of the provider, regardless of full-time or part-time status, in the provider's home in the family living quarters. Provision of daycare to 13 or more than 16 children, including the children of the provider, regardless of full-time or part-time status, in the provider's home in the family living quarters~~ of the provider shall constitute the operation of a "daycare facility," ~~as defined in this section, and shall be subject to the requirements of this Ordinance for daycare facilities. A family daycare provider to seven or more children shall satisfy the certification requirements of the Children's Services Division.~~

FARM, COMMERCIAL: ~~A farm unit with all of the following characteristics:~~

- ~~A. The land is used for the primary purpose of obtaining a profit in money from activities described in Sections 401.04(A);~~
- ~~B. The net income derived from farm products is significant; and~~
- ~~C. Products from the farm unit contribute substantially to the agricultural economy, to agricultural processors and to farm markets.~~

FARM, NONCOMMERCIAL: ~~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.~~

FARM OPERATOR: ~~A person who resides on and actively manages a "farm unit".~~

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 as defined in 401.03(B).~~

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

~~**FARMWORKER:** Any person who, for an agreed remuneration or rate of pay, performs temporary or permanent labor for another in production of farm products or in the planting, cultivating or harvesting of seasonal agricultural crops or in reforestation of lands, including but not limited to, the planting, transplanting, tubing, pre-commercial thinning, and thinning of trees and seedlings, the clearing, piling and disposal of brush and slash and other related activities.~~

~~**FARMWORKER HOUSING:** 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.~~

FEE-IN-LIEU OF LAND: Payment made instead of a land donation to satisfy a particular development requirement, such as park lands or school sites.

FINAL SUBDIVISION (plat): The Plat of a plan, subdivision, dedication or any portions thereof, approved and prepared for filing for record with the County Clerk and containing those elements and requirements as set forth in this Ordinance and as required by State statute.

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

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

FLEX SPACE: A building constructed to accommodate a variety of commercial, office and/or light industrial uses, including: administration, direct and telephone sales, back-office operations, product assembly, component and inventory warehousing, shipping and related or similar activities.

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

FLOOR AREA RATIO (FAR): A measurement of density expressed as the ratio of square footage of building floor area to the square footage of the net site area. The greater the ratio, the greater the density. For example, a building occupying one-fourth of the net site area has a FAR of .25: 1, or .25; adding a second floor to the same building increases the FAR to .50:1, or .5.

FRATERNITY OR SORORITY HOUSE: A building occupied by and maintained exclusively for students affiliated with a school or college.

GRADE: The line of the street or ground surface deviation from the horizontal.

GREEN FEEDSTOCKS: Are defined as including yard debris, non-treated wood waste, vegetative food waste, produce waste, vegetative restaurant waste, vegetative food processor by-products, crop waste and livestock manure. For the purpose of these provisions, "non-treated wood waste" excludes wood waste treated with paint, varnish or other chemicals or preservatives.

GREEN ROOF: A vegetated roof designed to treat storm runoff.

GUEST HOUSE/STUDIO: A guest house or studio is a separate accessory structure, or portion thereof, which is built to residential (R-3 occupancy) building code requirements and which is used by members of the family residing in the primary dwelling or their nonpaying guests or employees on the premises. A "guest house" or "studio" shall be a temporary living area, and shall not be used for boarders or lodgers.

HARDSCAPES: In the practice of landscaping, refers to the inanimate, manmade, non-planted, outdoor areas where the soil is no longer exposed and that are surfaced with pervious or non-pervious durable materials such as masonry, wood, stone, paving, tile, or similar material to create patios, walkways, water fountains, benches, gazebos, etc.

HAZARDOUS SUBSTANCE, MATERIAL OR WASTE: Any hazardous substance, material or waste listed in the following federal regulations:

- A. Superfund Amendments and Reauthorization Act (SARA) of 1986, Section 302 Extremely Hazardous Substances List (40 C.F.R 355, App. A and B);
- B. Comprehensive Environmental Response Compensation & Liability Act Superfund (CERCLA) of 1980, Hazardous Substances List (40 C.F.R 302, Table 302.4);
- C. SARA of 1986, Section 313, Toxic Chemicals List (40 C.F.R Section 372.65);
- D. Resource Conservation and Recovery Act (RCRA) of 1976 and 1984 Amendments, Hazardous Wastes List (P & U Categories) (40 C.F.R Section 261.33(e) and (f)); and
- E. DOT Hazardous Materials Table (49 C.F.R Part 172.101).

HISTORIC AREA: Any area containing improvements which have a special character, historical interest or aesthetic value or which represent one or more architectural periods or styles typical of the history of the County and which improvements constitute a distinct section of the County that has been designated a

cultural resource district pursuant to this ordinance.

HOME COMPOSTING: A composting area operated and controlled by the owner or person in control of a single family dwelling unit and used to dispose of vegetative waste, garden wastes, weeds, lawn cuttings, leaves and prunings generated from that property.

HOME OCCUPATION: An occupation or business activity which results in a product or service; is conducted, in whole or in part, in a dwelling and/or an accessory building normally associated with primary uses allowed in the underlying zoning district; is conducted by at least one family member occupying the dwelling; and is clearly subordinate to the residential use of the subject property. Home occupations do not include garage sales, yard sales, holiday bazaars, or home parties which are held for the purpose of the sale or distribution of goods or services unless such sales and/or parties are held more than six times in a calendar year or operate in excess of 24 total days in a calendar year.

HOMEOWNERS ASSOCIATION: The grouping or uniting of persons residing within a defined area, such as a subdivision, into an incorporated entity for the prosecution of a common enterprise.

HOSPITAL, ANIMAL: A building or premises for the medical or surgical treatment of domestic animals or pets, including dog, cat, and veterinary hospitals.

HOTEL: A building which is designed or used to offer short-term lodging for compensation, with or without meals, for six (6) or more people. A facility that is operated for the purpose of providing care beyond that of room and board is not a "hotel".

HOUSEKEEPING UNIT: A living arrangement within a dwelling unit in which a common kitchen facility, laundry facility, living and dining rooms, and other general living areas of the dwelling unit, and the duties, rights, and obligations associated with the performance of domestic tasks and management of household affairs, are shared by the residents by virtue of legal relationship or mutual agreement.

HYDROELECTRIC FACILITY: Any facility relating to the production of electricity by waterpower, including, but not limited to the power generating plant, associated dams, diversions, penstocks, navigation locks, fish ladders, fish screens, reservoirs and detention areas, recreation facilities, interconnecting transmission lines, substations, access roads, offices or commercial and industrial structures proposed to be built in connection with the energy facility; and activities involved in their construction and operation.

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

INDIRECT ILLUMINATION: A nonelectric sign illuminated by an indirect or

separate light source.

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

INSTITUTIONAL USE: The use of land and/or structures for activities such as daycare and pre-school facilities, public and private schools, colleges, universities, art, music, trade and other educational and training facilities, convalescent care facilities, nursing homes, hospitals, places of worship, fraternal lodges, municipal and civic buildings, transit centers and park-and-ride facilities, parks, swimming pools and other recreational facilities open to the public or a membership group, senior and community centers, libraries, museums, cemeteries and mausoleums, utility facilities, and similar public and private uses.

INVASIVE NON-NATIVE OR NOXIOUS VEGETATION: Plant species that are listed in the Oregon Department of Agriculture's Noxious Weed Policy and Classification System.

KENNEL: Any lot or premises on which four or more dogs, more than six months of age or with permanent canine teeth, are kept for purposes other than a veterinary clinic.

KIOSK: A small structure used as a newsstand, information booth, refreshment stand, bandstand, or display of goods, etc.

LANDSCAPING: Areas of land planted with groundcover, grasses, shrubs, annuals, perennials, or trees.

LIMITED USE: A use allowed in a district on a limited basis and subject to conditions specified therein which are generally more restrictive than the conditions placed on primary or accessory uses within the same district.

LIVESTOCK: One or more domesticated animals raised in an agricultural setting to produce commodities such as food, fiber, and labor. The term "livestock" includes miniature livestock, poultry, and farmed fish.

LOT: A unit of land created by a subdivision of land. For the purposes of this Ordinance, lot includes parcel and lot of record unless otherwise specified in the context of the specific provisions.

LOT AREA: The total horizontal area within the lot lines of a lot.

LOT, CORNER: A lot with street frontage on two streets intersecting at a corner of the lot. A lot within the radius curve of a single street is not a corner lot. A lot with access limited to, and frontage on, a state, County, public or private road and also with frontage on an intersecting private road or access drive is not a corner lot for the purpose of determining setbacks provided that the lot does not take access onto the

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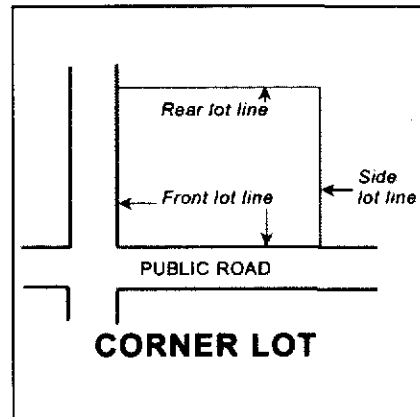
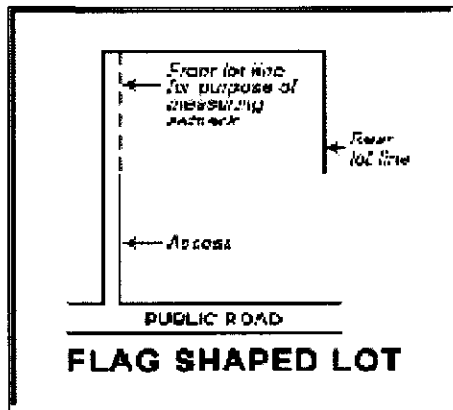
latter abutting private road or access drive. In such a case, the frontage on the latter private road or access drive shall be treated as a side lot line.

LOT COVERAGE: The area of a lot covered by a building or buildings expressed as a percentage of the total lot area.

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

LOT, DOUBLE FRONTAGE: A lot with street frontage along two opposite boundaries. See also "LOT, REVERSE FRONTAGE" AND "LOT, THROUGH".

LOT LINE, FRONT: Any boundary line separating the lot from a County, public, state or private road, or access drive. Except as otherwise provided in Subsection 903.07 of this Ordinance, the front lot line of a flag lot, for the purpose of determining setbacks, shall be within the boundaries of the lot by a distance equal to the width of the narrow strip or easement providing access to the lot. The front lot line shall be parallel to the lot line extending from the road to the lot line opposite and most distant from the road. (See following illustration for flag shaped lot).



LOT LINE, REAR: Any boundary line opposite and most distant from the front lot line, and not intersecting a front lot line. In the case of a corner lot, the rear lot line shall be any one of the boundary lines opposite the front lot lines. Any other opposite boundary line shall be a side lot line (see illustration above for corner lot). In the case of a triangular-shaped lot, there shall be no rear lot line for setback purposes.

LOT LINE, SIDE: Any boundary line not a front or rear lot line.

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

- A. Contiguous lots under the same ownership when initially zoned shall be combined when any of these lots, parcels or units of land did not satisfy the lot size requirements of the initial zoning district, excluding lots in a recorded plat.
- B. A unit of land created solely to establish a separate tax account, or for mortgage purposes, that does not conform to all zoning and Subdivision Ordinance requirements and applicable Comprehensive Plan provisions, in effect on the date when a recorded separate deed, tax account or contract creating it was signed by the parties to the deed or contract, unless it is sold under the foreclosure provisions of Chapter 88 of the Oregon Revised Statutes.

LOT, REVERSE FRONTAGE: A double-frontage lot for which the boundary along one of the streets is established as the rear lot line. The rear lot line of the lot shall be that boundary abutting a primary arterial, railroad right-of-way or other feature which shall preclude access. See also "LOT, DOUBLE FRONTAGE" AND "LOT, REVERSE FRONTAGE".

LOT, THROUGH: Lots, other than corner lots, that abut on two or more streets. See also "LOT, DOUBLE FRONTAGE" AND "LOT, REVERSE FRONTAGE".

LOT WIDTH: The "lot width" is the mean horizontal distance between the side lot lines of a lot measured within the lot boundaries.

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

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

MAJOR TRANSIT STREET: Major transit streets, for the purpose of setting standards for orientation of development to transit, shall be those streets planned for High Capacity Transit and Primary Bus as shown on Comprehensive Plan Map V-6, and any other street that receives 20 minute or better service at the PM Peak traffic peak.

MAP: A final diagram, drawing or other writing concerning a major or minor partition.

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

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

MANUFACTURED HOME PARK: Any place where four or more manufactured homes are located within 500 feet of one another on a lot, tract or parcel of land under the same ownership, the primary purpose of which is to rent, lease or barter the use of such facilities. A manufactured home park does not include a lot or lots located within a subdivision.

MASTER PLAN: A sketch or other presentation showing the ultimate development layout of a parcel of property that is to be developed in successive stages or subdivisions. The plan need not be completely engineered but shall be of sufficient detail to illustrate the property's inherent features and probable development pattern.

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

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

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

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

MOTEL: A building or series of buildings in which lodging only is offered for compensation and which may have more than five (5) sleeping rooms or units for this purpose and which is distinguished from a hotel primarily by reason of providing direct independent access to and adjoining parking for each rental unit designed primarily for automobile tourists and transient persons. The term includes auto courts, tourist courts, tourist homes, and motor lodges.

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MULTI-USE DEVELOPMENT: A Multi-Use Development is a development which includes a number of distinct categories of uses, one or more of which is not allowed as a primary or accessory use in the underlying zoning district. Multi-Use Developments are allowed as conditional uses subject to the procedures and standards set forth in Section 1016 of this Ordinance.

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

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

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

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

NONFARM USE: ~~A dwelling, or the creation of a lot for a dwelling, not provided in conjunction with a farm use in an agricultural district.~~

NUDITY OR NUDE: Being devoid of a covering for the male or female genitalia consisting of an opaque material which does not simulate the organ covered and, in the case of a female, exposing to view one or both breasts without a covering over the nipple that is at least three (3) inches in diameter and does not simulate the organ covered.

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

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

measures.

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

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

OVERHEAD SPRINKLER IRRIGATION SYSTEMS: Systems that deliver water for irrigation from spray heads, rotors or other above-ground emitters that send water through the air.

OWNER: Person or persons holding fee title to a parcel, lot or tract of land, except in those instances when the land is being sold on contract, the contract purchaser shall be deemed the owner.

PARCEL: A unit of land created by a partition of land. For the purposes of this Ordinance, parcel includes lot and lot of record unless otherwise specified in the context of the specific provisions.

PARKING STRUCTURE: A structure having at least two levels which is designed and used for parking vehicles, or a structure having one level of covered parking area under an open space or recreational use. A one level surface parking area, garage or carport shall not be considered a "parking structure" for purposes of this Ordinance.

PARTITION: To divide an area or tract of land into two or three parcels within a calendar year when such area or tract of land exists as a unit or contiguous units of land under single ownership at the beginning of such year. "Partition" does not include divisions of land resulting from lien foreclosures, divisions of land resulting from foreclosure of recorded contracts for the sale of real property and divisions of land resulting from the creation of cemetery lots; and "partition" does not include any adjustment of a lot line by the relocation of a common boundary where an additional parcel is not created and where the existing parcel reduced in size by the adjustment is not reduced below the minimum lot size established by an applicable zoning ordinance. "Partition" does not include the sale of a lot in a recorded subdivision, even though the lot may have been acquired prior to the sale with other contiguous lots or property by a single owner.

PEDESTRIAN AMENITIES: Outdoor improvements directly visible and accessible to pedestrians that promote and facilitate pedestrian use, including plazas, pocket parks, courtyards, awnings or other weather protection, kiosks or gazebos, water features, drinking fountains, sculpture, outside seating areas, landscape planters, trellises, and street furniture.

PEDESTRIAN PATHWAY: A hard-surfaced or permeable hard-surfaced pedestrian facility adjacent to a public roadway where there is no curb, but is protected from vehicular traffic or set back behind a planting strip.

PEDESTRIAN-SCALE LIGHTING: Street lights designed to illuminate sidewalks to provide security for nighttime use by pedestrians. Pedestrian scale lighting includes ornamental lighting with a 14- to 25-foot mounting height and which meets the Illumination Society guidelines for Commercial Collector roadways.

PENNANT: Any lightweight plastic, fabric, or other material, whether or not containing a message of any kind, suspended, usually in series, from a rope, wire, or string, and designed to move in the wind.

PERVIOUS: Any surface or material that allows the passage of water through the material and into the underlying soil.

PLANNING DIRECTOR: The administrative official of Clackamas County, or authorized staff member, designated to administer the responsibilities of the Planning Division.

PLAT: The final map which is a diagram, drawing, replat or other writing containing all the descriptions, locations, specifications, dedications, provisions, and information concerning a partition or subdivision.

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

PRELIMINARY PLAN: A clearly legible and approximate drawing of the proposed layout of streets, blocks, lots and other elements of a subdivision or partition which shall help furnish a basis for the approval or disapproval of the general layout of the major partition, short subdivision, subdivision or other development. For the purposes of this Ordinance, the terms "preliminary" and "tentative" as used in Chapter 92, Oregon Revised Statutes, shall be synonymous.

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

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

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

PRINCIPAL DWELLING, NATURAL RESOURCE: ~~A dwelling provided in conjunction with a farm or forest use in an agricultural or forest district which is occupied by the owner or primary operator of the farm or forest use on the property.~~

PRODUCE STAND: A table, bench (or similar), cart, or structure, any of which may be covered, that is located or erected for the purpose of direct sales by growers of agricultural goods, including vegetables, fruits, flowers, bulbs, herbs, plants, honey, and similar products as determined by the Planning Director, but not including

processed foods such as jams or jellies, that are produced on the same site at which the produce stand is located.

PROFESSIONAL-TYPE SERVICES: A professional-type service shall include activities such as those offered by a physician, surgeon, dentist, lawyer, architect, engineer, accountant, artist, teacher, real estate and insurance sales.

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

PUBLIC UTILITY: A utility regulated by the Public Utility Commission under ORS 757 or any other utility that provides electrical energy directly to consumers within the State of Oregon, including, but not limited to, municipalities, cooperatives and people's utility districts. When this definition differs from that in ORS 758.500, the definition in ORS 758.500 shall prevail.

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

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

RECORDER'S PLAT SHEET: A standard "recorder's plat sheet" shall be a good quality, white, cold-pressed, double-mounted drawing paper ~~eighteen (18)~~ inches by ~~twenty-four (24)~~ inches in size with the muslin extending three ~~(3)~~ inches at one end for binding purposes. No portion of the map or drafting shall be closer than one ~~(1)~~ inch of the edge of the board.

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

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

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

commerce for collection, disposal, recycling, reuse, resource recovery, or utilization.

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

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

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

RESIDENTIAL HOME: A dwelling operated as a single housekeeping unit for the purpose of providing food, shelter, personal services, care, and when appropriate, a planned treatment or training program of counseling, therapy, or other rehabilitative social service, for persons of similar or compatible conditions or circumstances.

RESIDENTIAL TRAILER: A structure constructed prior to January 1, 1962, for movement on the public highways that has sleeping, cooking and plumbing facilities, that is designed, intended to be and/or being used for human occupancy by a family for residential purposes and that was constructed in accordance with Federal Manufactured housing construction and safety standards and regulations in effect at the time of construction and is greater than 400 square feet and less than 700 square feet.

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

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

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

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

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

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

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

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

SALVAGE, JUNK YARD: A location on which solid wastes are separated, collected, and/or stored pending resale.

SCHOOL, COMMERCIAL: A building where instruction is given to pupils in arts, crafts, or trades, and operated as a commercial enterprise as distinguished from schools endowed and/or supported by taxation.

SCHOOL, PRIVATE: Includes private kindergartens, nurseries, play schools, and church-related schools.

SCREENING: Sight-obscuring fence, or sight-obscuring planting.

SERVICE STATION: A commercial establishment with sales and services limited to the sale of motor fuels and supplying goods and service generally required in the operation and maintenance of automotive vehicles and fulfilling a motorist's needs. These may include sale of petroleum products; sale and servicing of tires, batteries, automotive accessories and replacement items; washing and lubricating services; the performance of minor automotive maintenance and repair, and the supplying of other incidental customer services and products. Major automotive repairs, painting and fender work are excluded. An electric vehicle charging station is not a service station.

SHARED PARKING: Parking spaces used jointly by two or more uses within the same development, or separate adjacent developments, which either have peak hours of operation that do not overlap, or typically provide services to many of the same patrons (i.e. restaurant in an office complex or hotel providing lodging for convention participants within the same development), provided satisfactory legal evidence is presented in the form of deeds, leases, or contracts securing full access to such parking spaces for all parties jointly using them.

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

SIGHT-OBSCURING FENCE: Any fence or wall which conceals or makes indistinct any object viewed through such fence or wall.

SIGHT-OBSCURING PLANTING: A dense perennial evergreen planting with sufficient foliage to obscure vision and which will reach a height of at least six (6) feet within ~~thirty~~(30) months after planting.

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

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

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

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

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

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

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

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

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

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

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

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

SIGN, MONUMENT: A sign which extends from the ground or which has a support which places the bottom thereof less than two (2) feet from the ground.

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

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

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

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

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

SIGN, RESIDENTIAL: Any sign associated with a dwelling.

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

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

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

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

SIGN, WALL: Any sign parallel to, and attached within six inches of a wall, painted

on the wall surface, or erected and confined within the limits of an outside wall of any building or structure, which is supported by such wall or building, and which displays only one sign surface.

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

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

SMALL POWER PRODUCTION FACILITY: A facility that produces energy primarily by use of biomass, waste, solar energy, wind power, water power, geothermal energy or any combination thereof, having a power production capacity that, together with any other facilities located at the same site, is not greater than 80 megawatts; and such facility is more than 50 percent owned by a person who is not a public utility, an electric utility holding company or an affiliated interest. When this definition differs from that in ORS 758.500, the definition in ORS 758.500 shall prevail.

SOIL MOISTURE SENSING DEVICE OR SOIL MOISTURE SENSOR: A device that measures the amount of water in the soil. The device may also suspend or initiate an irrigation event.

SOLAR ENERGY SYSTEM: Any solar collector, or other solar energy device, the primary purpose of which is to provide for the collection, storage, and distribution of solar energy for space heating or cooling, water heating, or electricity. The power generating capacity of a "solar energy system" is limited to power consumed by the development to which the system is accessory, or—if the system feeds power into the grid of a public utility company—to an amount equivalent to no more than the annual usage of the development to which the system is accessory.

SOLID WASTE: Solid waste shall include all putrescible and non-putrescible waste, including, but not limited to: garbage; compost; organic waste; yard debris; brush and branches; land clearing debris; sewer sludge; residential, commercial and industrial building demolition or construction waste; discarded residential, commercial and industrial appliances, equipment and furniture; discarded, inoperable or abandoned vehicles or vehicle parts and vehicle tires; special vehicles and equipment that are immobile and/or inoperable; manufactured dwellings or residential trailers which are dilapidated, partially dismantled or fire damaged; manure; feces; vegetable or animal solid and semi-solid waste and dead animals; and infectious waste. Waste shall mean useless, unwanted or discarded materials. The fact that materials which would otherwise come within the definition of Solid Waste may, from time to time, have value and thus be utilized shall not remove them from the definition. The terms "solid waste" or "waste" do not include:

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- A. Environmentally hazardous wastes as defined in ORS 466.055;
- B. Materials used for fertilizer or for other productive purposes on land in agricultural operations in the growing and harvesting of crops or the raising of fowl or animals. This exception does not apply to the keeping of animals on land which has been zoned for residential non-agricultural purposes;
- C. Septic tank and cesspool pumping or chemical toilet waste;
- D. For purposes of Article V of this Ordinance, reusable beverage containers as defined in ORS 459A;
- E. Source separated, principal recyclable materials as defined in ORS 459A and the Rules promulgated thereunder and under this Ordinance, which have been purchased or exchanged for fair market value, unless said principal recyclable materials create a public nuisance pursuant to Article II of this Ordinance;
- F. Applications of industrial sludges or industrial waste by-products authorized through a Land Use Compatibility Statement of Management Plan approval and that have been applied to agricultural lands according to accepted agronomic practices or accepted method approved by the Land Use Compatibility Statement or Management Plan, but not to exceed 100 dry tons per acre annually;
- G. Stabilized municipal sewage sludge applied for accepted beneficial uses on land in agricultural, non-agricultural, or silvicultural operations;
- H. Sludge derived products applied for beneficial uses on land in landscaping projects.

SPECIFIED SEXUAL ACTIVITIES: Real or simulated acts of human sexual intercourse, human/animal sexual intercourse, masturbation, sadomasochism abuse (as defined on ORS 167.060), sodomy, or the exhibition of human sexual organs in a stimulated state, or the characterization thereof in printed form. This definition shall not be construed to allow uses or activities which are unlawful under State criminal laws.

STABLE, BOARDING OR RIDING: Premises that are used by the public for the training, riding, boarding, public exhibition or display of livestock for commercial or noncommercial purposes. An agricultural building, as defined in Chapter 4 of the Uniform Building Code, or premises used for the boarding, training or riding of three (3) or less livestock other than those of the operator of the premises shall not be a "stable" for the purposes of this Ordinance.

STATIONARY WINDOWS: A window that cannot be opened and is used for light only.

STORY: A portion of a building included between a floor and the ceiling next above

it, exclusive of a basement.

STREAM: A body of perennial running water, together with the channel occupied by such running water.

STREAM CORRIDOR AREA: An area including the streambed and a required strip or buffer of land on each side of the streambed necessary to maintain streamside amenities and existing water quality. The width of the stream corridor area varies with the site conditions and shall be determined by on-the-ground investigation, as provided under Subsection 1002.05B. The intent of the stream corridor area shall be to preserve natural environmental qualities and the function of land to purify water before it reaches the stream but not to prohibit timber management activities pursuant to the State Forest Practices Act.

STREET FRONTAGE: The entire linear distance of a lot abutting a street. Toe strips or flair strips shall not be used to satisfy the minimum street frontage requirements of the Ordinance.

STREET: See "ROAD".

STREET FURNITURE: Any structural element other than residential, industrial or commercial buildings, streets, sidewalks and curbs shall be considered street furniture including, but not limited to, benches, bus shelters, newsstands, bulletin boards, kiosks, drinking fountains, bicycle stalls, etc.

STRUCTURE: Anything constructed or erected, which requires location on the ground or attached to something having a location on the ground.

SUBDIVIDE: To divide an area or tract of land into four (4) or more lots within a calendar year when such area or tract exists as a unit or contiguous units, under a single ownership at the beginning of such year, whether or not that area or tract of land is divided by a water course or a road right-of-way.

SUBDIVISION: A division of property creating four or more lots in the same calendar year.

SURFACE MINING: Includes the mining of minerals by removing overburden and extracting a natural mineral deposit thereby exposed, or simply such extraction. Surface mining includes open-pit mining, auger mining, production of surface mining waste, prospecting and exploring that extracts minerals or affects land, processing to include rock crushing and batch plant operations, and excavation of adjacent offsite borrow pits other than those excavated for building access roads.

SURFACE MINING, MINERALS: Includes soil, clay, stone, sand, gravel, and any other inorganic solid excavated from a natural deposit in the earth for commercial, industrial, or construction use.

SURFACE MINING, NONAGGREGATE MINERALS: Coal and metal-bearing ores, including but not limited to ores that contain nickel, cobalt, lead, zinc, gold, molybdenum, uranium, silver, aluminum, chrome, copper or mercury.

SURFACE MINING, OPERATOR: A legal entity engaged in surface mining or in an activity at a surface mining site preliminary to surface mining.

SURFACE MINING, RECLAMATION: Procedures designed to minimize the disturbance from surface mining and to provide for the rehabilitation of surface resources through the use of plant cover, soil stabilization, and other procedures to protect the surface and subsurface water resources, and other measures appropriate to the subsequent beneficial use of mined lands.

SUSTAINABILITY: Using, developing, and protecting resources in a manner that enables people to meet their current needs and also provides that future generations can meet their own needs. Sustainability requires simultaneously meeting environmental, economic, and community needs.

TRACT: One or more contiguous lots or parcels under the same ownership.

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

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

TRANSIT STOP: Any posted bus or light rail stop.

TRANSITIONAL AREA: The lot or lots within any residential district, having a lot line abutting and impacted by a boundary of a commercial or industrial district and extending into the residential district where such use will not adversely impact existing residential uses.

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

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

feet of elevation) equal to at least 20 percent of the square footage of the enclosed, covered area of the structure.

Underground structures must meet all appropriate Uniform Building Code regulations and the requirements of the subject zoning district, except as provided in Section 904 of this Ordinance.

UNINCORPORATED COMMUNITY: A settlement that conforms to the definition set forth in Chapter 660, Division 22 of the Oregon Administrative Rules. The County's unincorporated communities are identified in Chapter 4 of the Comprehensive Plan and shown on Map IV-7 of the Comprehensive Plan.

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

UTILITY CARRIER CABINETS: A small enclosure used to house utility equipment intended for offsite service, such as electrical transformer boxes, telephone cable boxes, cable TV boxes, fire alarm boxes, police call boxes, traffic signal control boxes, and other similar apparatus.

VEHICLE, COMMERCIAL: A commercially licensed and operated vehicle exceeding the capacity of one ton.

VISUALLY SENSITIVE AREAS: Prominent natural landscape features such as hillsides, forests, and waterways; historic district; visual corridors along major highways and rivers. Natural landscapes that occur within the urban area and along traffic corridors are of higher visual significance.

WALKWAY: A hard-surfaced facility for pedestrians, within a development or between developments, distinct from surfaces used by motor vehicles. A walkway is distinguished from a sidewalk by its location on private property.

WASTE-RELATED USES: Waste-related uses are characterized by uses that receive solid or liquid wastes from others for disposal on the site for transfer to another location, uses which collect sanitary wastes, or uses that manufacture or produce goods or energy from the composting of organic material. Waste-related uses also includes uses which receive hazardous wastes from others and which are subject to the regulations of OAR 340.100-110, Hazardous Waste Management.

WETLANDS: Areas that are inundated or saturated by surface or ground water at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions.

YARD: The open space, on a lot, between a structure or structures and any lot line. The minimum horizontal distance between any point on a lot line and the nearest part of any structure or building is the yard depth.

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YARD, FRONT: Any yard abutting a state highway, County road, public road, private road, or access drive, except as modified by Subsections 903.01 and 903.07 or this Ordinance.

YARD, REAR: Any yard abutting a rear lot line.

YARD, SIDE: Any yard abutting a side lot line.

[Amended by Ord. ZDO-224, 5/31/11; Amended by Ord. ZDO-231, 1/31/12; Amended by Ord. ZDO-232, 3/12/12]

SECTION 400

NATURAL RESOURCE DISTRICTS

401 EXCLUSIVE FARM USE DISTRICT (EFU)

401.01 PURPOSE

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

- A. ~~Preserve agricultural use of agricultural land;~~
- B. ~~Protect agricultural lands from conflicting uses, high taxation, and the cost of public facilities unnecessary for agriculture;~~
- C. ~~Maintain and increase the agricultural economic base of the County;~~
- D. ~~Increase agricultural income and employment by creating conditions which further the growth and expansion of agriculture and which attract related industries;~~
- E. ~~Maintain and improve the quality of air, water, and land resources;~~
- F. ~~Conserve scenic and open space; and~~
- G. ~~Protect wildlife habitats.~~

[Amended by Ord. ZDO-230, 9/26/11]

401.02 AREA OF APPLICATION

Property may be zoned Exclusive Farm Use District when the site has a Comprehensive Plan designation of Agriculture and the criteria in Section 1202 are satisfied.

- A. ~~The Exclusive Farm Use District shall be applied to those areas which are generally suitable for small and large scale agricultural uses. Criteria to be considered are:~~
 - 1. ~~Lands suitable for or characterized by small or large scale agricultural uses, such as the raising of poultry, fur bearing animals, and livestock and the growing of berries, nursery stock, vegetables, grains and field crops.~~
 - 2. ~~Lands classified by the U.S. Natural Resources Conservation Service as predominantly Class I-IV soils or identified as agricultural soil by more detailed data.~~

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- ~~3. Land in other soil classes that 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 farming practices.~~
- ~~4. Land that is necessary to permit farm practices to be undertaken on adjacent or nearby agricultural lands.~~
- ~~5. Lands designated and acknowledged as Agriculture on Comprehensive Plan Map IV-7, Non-Urban Area Land Use Plan, and Mt. Hood Corridor Land Use Plan.~~

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

401.03 DEFINITIONS

Unless specifically defined in Subsection 401.03 below or in Section 202, words or phrases used in this Section 401 shall be interpreted to give them the same meaning as they have in common usage and to give this 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.
- AB. Agricultural Land: As defined in Oregon Administrative Rules (OAR) 660-33-0020.
- C. Commercial Farm: A farm unit with all of the following characteristics:
 1. The land is used for the primary purpose of obtaining a profit in money from farm use;
 2. The net income derived from farm products is significant; and
 3. Products from the farm unit contribute substantially to the agricultural economy, to agricultural processors, and to farm markets.
- D. Date of Creation and Existence: When a lot of record or tract is reconfigured pursuant to applicable law after November 4, 1993, the effect of which is to qualify a lot of record or tract for the siting of a dwelling, the date of the reconfiguration is the date of creation or existence. Reconfigured means any change in the boundary of the lot of record or tract.
- E. Farm Operator: A person who resides on and actively manages a "farm unit".

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- F. 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.
- G. 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.
- HB. Farm Use: As defined in Oregon Revised Statutes (ORS) 215.203.
- I. 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.
- J. Golf Course: As defined in OAR 660-033-0130(20).
- KE. High Value Farmland: As defined in ORS 215.710 and OAR 660-033-0020(8).
- L. Immediate Family: A spouse, children, adopted children, stepchildren, to include the long term care of grandchildren and step-grandchildren, but not to include other extended family members.
- 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.
- ND. Low Value Farmland: All land not defined as High Value Farmland in ORS 215.710 and OAR 660-033-0020(8).
- E. ~~Date of Creation and Existence: When a lot, parcel, or tract is reconfigured pursuant to applicable law after November 4, 1993, the effect of which is to~~

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~~qualify a lot, parcel 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, parcel or tract.~~

- ~~F. Tract: One or more contiguous lots or parcels under the same ownership, including lots or parcels divided by a county or public road, or contiguous at a common point. Lots or parcels divided by a State Highway are not considered contiguous.~~
- ~~G. Golf Course: As defined in Subsection 407.06(B)(31).~~
- ~~H. 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. For the purposes of this section, 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.~~
- ~~I. Farm Stand: A structure 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.~~
- ~~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.~~
- ~~PJ. Owner: For purposes of a Lot of Record Dwelling, "owner" includes the wife, husband, son, daughter, mother, father, brother, brother-in-law, sister, sister-in-law, son-in-law, daughter-in-law, mother-in-law, father-in-law, aunt, uncle, 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.~~
- ~~K. Historic Property: As defined in ORS 358.480.~~
- ~~L. Accessory Farm Dwelling: Includes all types of residential structures allowed by the applicable state building code.~~
- ~~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. 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. 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.

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

401.04 USES AUTHORIZED

Table 401-1 identifies the uses authorized in the Exclusive Farm Use District. As used in Table 401-1:

- A. "A" means the use is allowed.
- B. "PDR" means the use is subject to Planning Director Review pursuant to Subsection 1305.02.
- C. "C" means the use is a Conditional Use, subject to Sections 1203 and 1300.
- D. The "Subject To" column identifies any specific provisions of Subsection 401.05 to which the use is subject.
- E. "N" means not applicable.
- F. "*NA1" means the use is not allowed except as set forth in Subsection 401.05(K)(1).
- G. "*NA2" means the use is not allowed except as set forth in Subsection 401.05(K)(1) or 401.05(K)(2) and (3).
- H. "HO" means the use must be reviewed by the Hearings Officer pursuant to Section 1300 for compliance with standards as outlined within this Ordinance or by state law.

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I. “HV” is referencing High Value Farmland as provided for in ORS 215.710 and OAR 660-033-0020(8).

I. “LV” is referencing Low Value Farmland, lands not described in ORS 215.710 and OAR 660-033-0020(8).

Table 401-I: Uses Authorized in the Exclusive Farm Use District

	HV	LV	Use	Subject To
FARM AND FOREST USES	<u>A</u>	<u>A</u>	<u>Propagation or harvesting of a forest product.</u>	
	<u>A</u>	<u>A</u>	<u>Farm use as defined in ORS 215.203</u>	
	<u>A</u>	<u>A</u>	<u>Other buildings customarily provided in conjunction with farm use.</u>	
	<u>PDR</u>	<u>PDR</u>	<u>A facility for the processing of farm crops or the production of biofuel as defined in ORS 315.141.</u>	<u>401.05(A)(1) & (B)(1)</u>
	<u>CU</u>	<u>CU</u>	<u>A facility for the primary processing of forest products.</u>	<u>401.05(A)(1) & (B)(2)</u>
NATURAL RESOURCE USES	HV	LV	Use	Subject To
	<u>A</u>	<u>A</u>	<u>Creation of, restoration of, or enhancement of wetlands.</u>	
	<u>PDR</u>	<u>PDR</u>	<u>The propagation, cultivation, maintenance, and harvesting of aquatic species that are not under the jurisdiction of the Oregon Fish and Wildlife Commission.</u>	<u>401.05(A)(1) & (C)(1)</u>
RESIDENTIAL USES	HV	LV	Use	Subject To
	<u>A</u>	<u>A</u>	<u>Uses and structures customarily accessory and incidental to a dwelling, only if a lawfully established dwelling exists.</u>	
	<u>A</u>	<u>A</u>	<u>Alteration, restoration, or replacement of a lawfully established dwelling.</u>	<u>401.05(A)(3) & (D)(1)</u>
	<u>PDR</u>	<u>PDR</u>	<u>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.</u>	<u>401.05(A)(3)</u>
	<u>N</u>	<u>PDR</u>	<u>Lot of Record Dwelling on Low Value Farmland.</u>	<u>401.05(A)(2), (3), (4) & (D)(2)</u>
	<u>PDR</u>	<u>N</u>	<u>Lot of Record Dwelling on Class III or IV High Value Farmland.</u>	<u>401.05(A)(2), (3), (4) & (D)(3)</u>
	<u>HO</u>	<u>N</u>	<u>Lot of Record Dwelling on Class I or II High Value Farmland.</u>	<u>401.05(A)(1), (2), (3), (4) & (D)(4)</u>
	<u>PDR</u>	<u>N</u>	<u>Dwelling customarily provided in conjunction with a farm use on High Value Farmland.</u>	<u>401.05(A)(3) & (D)(5)</u>
	<u>N</u>	<u>PDR</u>	<u>Dwelling customarily provided in conjunction with a farm use on Low Value Farmland.</u>	<u>401.05(A)(3) & (D)(6)</u>
	<u>PDR</u>	<u>PDR</u>	<u>Dwelling customarily provided in conjunction with a commercial dairy farm.</u>	<u>401.05(A)(3) & (D)(7)</u>
	<u>PDR</u>	<u>PDR</u>	<u>160 acre test for a dwelling.</u>	<u>401.05(A)(3), (4) & (D)(8)</u>
<u>PDR</u>	<u>PDR</u>	<u>Capability test for a dwelling.</u>	<u>401.05(A)(3), (4) & (D)(9)</u>	
<u>PDR</u>	<u>PDR</u>	<u>A single-family dwelling not provided in conjunction with farm use; a nonfarm dwelling.</u>	<u>401.05(A)(3), (4) & (D)(10)</u>	

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	PDR	PDR	Accessory farm dwelling for a relative.	401.05(A)(3) & (D)(11)
	PDR	PDR	Accessory farm dwelling for year-round and seasonal farm workers.	401.05(A)(3) & (D)(12)
	PDR	PDR	Temporary dwelling for care, subject to Subsection 1204.03.	401.05(A)(1), (3) & (D)(13)
	PDR	PDR	Room and board arrangements for a maximum of five unrelated persons in existing dwellings.	401.05(A)(1) & (3)
	PDR	PDR	Residential home or facility as defined in ORS 197.660, in existing dwellings.	401.05(A)(1) & (3)
COMMERCIAL USES	HV	LV	Use	Subject To
	A	A	Family daycare provider.	
	PDR	PDR	Farm stands, subject to OAR 660-033-0130(23) and ORS 215.283(1)(o).	
	PDR	PDR	Home occupations, subject to Section 822.	401.05(A)(1) & (E)(1)
	PDR	PDR	A landscape contracting business.	401.05(A)(1) & (E)(2)
	PDR	PDR	Agri-tourism single event.	401.05(A)(1) & (E)(3)
	PDR	PDR	Agri-tourism for up to 6 events or activities.	401.05(A)(1) & (E)(4)
	PDR	PDR	A winery as described in ORS 215.452 or 215.453 but not a restaurant open more than 25 days per calendar year, subject to ORS 215.452 or 215.453, whichever is applicable.	
	CU	CU	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 the provision of private 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), (E)(5) & (6)
	CU	CU	Home occupation to host events, subject to Section 806.	401.05(A)(1) & (E)(1)
	CU	CU	Home occupation for canine skills training, subject to Section 836.	401.05(A)(1) & (E)(1)
	CU	CU	Commercial activities in conjunction with farm use, including the processing of farm crops into biofuel that exceeds the standards of ORS 215.203(2)(b)(L) or Subsection 401.05(B)(1).	401.05(A)(1) & (E)(6)
	CU	CU	Agri-tourism additional events not to exceed 18 events on a minimum of 80 acres.	401.05(A)(1) & (E)(7)
	CU	CU	An aerial fireworks display business.	401.05(A)(1) & (E)(8)
*NA1	CU	Dog kennels.	401.05(A)(1)	
MINERAL, AGGREGATE, OIL AND GAS USES	HV	LV	Use	Subject To
	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	

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			be a basis for an exception under ORS 197.732(1)(a) or (b).	
	CU	CU	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), (F)(1) & (F)(1)(a)
	CU	CU	Processing as defined by ORS 517.750 of aggregate into asphalt or Portland cement.	401.05(A)(1), (F)(1) & (F)(1)(b)
	CU	CU	Processing of other mineral resources and other subsurface resources.	401.05(A)(1), (F)(1) & (F)(1)(c)
	CU	CU	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), (F)(1) & (F)(1)(d)
TRANSPORTATION USES	HV	LV	Use	Subject To
	A	A	Climbing and passing lanes within the right of way existing as of July 1, 1987.	
	A	A	Reconstruction or modification of public roads and highways, including the placement of utility facilities overhead and in the subsurface of public roads and highways along the public right-of-way, but not including the addition of travel lanes, where no removal or displacement of buildings would occur, or no new land parcels result.	
	A	A	Temporary public road and highway detours that will be abandoned and restored to original condition or use at such time as no longer needed.	
	A	A	Minor betterment of existing public road and highway related facilities such as maintenance yards, weigh stations, and rest areas, within right of way existing as of July 1, 1987, and contiguous public-owned property utilized to support the operation and maintenance of public roads and highways.	
	PDR	PDR	Parking of no more than seven log trucks, subject to ORS 215.311	401.05(A)(1)
	PDR	PDR	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)
	PDR	PDR	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)
	PDR	PDR	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)
	CU	CU	Roads, highways and other transportation facilities, and improvements not otherwise allowed under Section 401.	401.05(G)(1)

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	CU	CU	Personal-use airports for airplanes and helicopter pads, including associated hangar, maintenance, and service facilities.	401.05(A)(1) & (G)(2)
	CU	CU	Transportation improvements on rural lands, subject to OAR 660-012-0065.	401.05(A)(1)
UTILITY AND SOLID WASTE DISPOSAL FACILITY USES	HV	LV	Use	Subject To
	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.	
	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.	
	A	A	Wind energy power production systems as an accessory use.	401.05(H)(1)
	A	A	Collocation of antennas on a previously approved wireless telecommunication facility, subject to Subsection 835.04(A).	
	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.	
	PDR	PDR	Essential public communication services, as defined in Subsection 835.03(D). The use is subject to ORS 215.275, if it includes a transmission tower less than or equal to 200 feet in height.	401.05(A)(1)
	PDR	PDR	Collocation of wireless telecommunication facilities as identified in Subsection 835.05(A)(2), subject to Section 835, provided such facilities include a transmission tower that is over 200 feet in height.	401.05(A)(1)
	PDR	PDR	Utility facilities necessary for public service, including wireless telecommunication facilities not otherwise provided for in Section 401 and wetland waste water 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.	401.05(A)(1) & (H)(2)
	PDR	N	Composting operations and facilities on high value farmland.	401.05(A)(1) & (H)(3)
N	PDR	Composting operations and facilities on low value farmland.	401.05(A)(1) & (H)(4)	
*NA1	CU	Composting operations and facilities, subject to	401.05(A)(1) & (H)(5)	

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			Section 834.	
	CU	CU	Transmission towers over 200 feet in height, except as otherwise provided in Section 401 for essential public communication services. Towers supporting wireless telecommunication facilities are subject to Section 835.	401.05(A)(1)
	CU	CU	Commercial utility facilities for the purpose of generating power for public use by sale, not including wind or photovoltaic solar power generation facilities.	401.05(A)(1) & (H)(6)
	CU	CU	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)
	CU	CU	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)
	*NA1	CU	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)
PARKS, PUBLIC, AND QUASI-PUBLIC USES	HV	LV	Use	Subject To
	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.	
	A	A	Onsite filming and activities accessory to onsite filming for 45 days or less.	
	PDR	PDR	A site for the takeoff and landing of model aircraft, including such buildings or facilities as may reasonably be necessary.	401.05(A)(1) & (I)(1)
	PDR	PDR	Public parks and playgrounds.	401.05(A)(1), (5) & (I)(2)
	PDR	PDR	Fire service facilities providing rural fire protection services.	401.05(A)(1)
	PDR	PDR	Community centers.	401.05(A)(1), (5) & (I)(3)
	PDR	PDR	Living history museum.	401.05(A)(1), (5) & (I)(4)
	PDR	PDR	Firearms training facility as provided in ORS 197.770.	401.05(A)(5) & (I)(5)
	PDR	PDR	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)
PDR	PDR	A county law enforcement facility that lawfully existed on August 20, 2002, and is used to	401.05(A)(1)	

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			<u>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.</u>	
	<u>*NA1</u>	<u>PDR</u>	<u>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.</u>	<u>401.05(A)(5)</u>
	<u>CU</u>	<u>CU</u>	<u>Operations for the extraction and bottling of water.</u>	<u>401.05(A)(1)</u>
	<u>CU</u>	<u>CU</u>	<u>Onsite filming and activities accessory to onsite filming for more than 45 days as provided for in ORS 215.306.</u>	<u>401.05(A)(1)</u>
	<u>*NA2</u>	<u>CU</u>	<u>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.</u>	<u>401.05(A)(1) & (5)</u>
	<u>*NA1</u>	<u>CU</u>	<u>Private parks, playgrounds, hunting and fishing preserves, and campgrounds.</u>	<u>401.05(A)(1), (5) & (1)(6)</u>
	<u>*NA1</u>	<u>CU</u>	<u>Golf courses.</u>	<u>401.05(A)(1), (5) & (1)(7)</u>
<u>OUTDOOR GATHERINGS</u>	<u>HV</u>	<u>LV</u>	<u>Use</u>	<u>Subject To</u>
	<u>A</u>	<u>A</u>	<u>An outdoor mass gathering or other gathering described in ORS 197.015(10)(d).</u>	<u>401.05(J)(1)</u>
	<u>CU</u>	<u>CU</u>	<u>Any outdoor gathering subject to review of the Planning Commission under ORS 433.763.</u>	<u>401.05(A)(1) & (J)(2)</u>

~~401.04 — PRIMARY USES ALLOWED ON LOW AND HIGH VALUE FARMLAND~~

- ~~A. — Farm uses as defined in Oregon Revised Statutes (ORS) 215.203.~~
- ~~B. — Nonresidential buildings customarily provided in conjunction with farm uses.~~
- ~~C. — Accessory buildings customarily incidental to an existing dwelling.~~
- ~~D. — Propagation and harvesting of a forest product. Inside the Portland Metropolitan Urban Growth Boundary, refer to Subsection 1002.04 regarding a development restriction that may apply if excessive tree removal occurs.~~
- ~~E. — Creation, restoration, or enhancement of wetlands.~~
- ~~F. — Alteration, restoration, or replacement of a lawfully established dwelling.~~
 - ~~1. — A lawfully established dwelling is a single family dwelling which has:

 - ~~a. — Intact exterior walls and roof structure;~~~~

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~~b. Indoor plumbing consisting of a kitchen sink, toilet and bathing facilities connected to a sanitary waste disposal system;~~

~~c. Interior wiring for interior lights; and~~

~~d. A heating system.~~

~~2. The dwelling to be replaced shall be removed, demolished, or if not a manufactured dwelling, converted to an allowable use within 90 days of the occupancy of the new dwelling. Manufactured dwellings and residential trailers to be replaced must be removed from the property within 30 days of the occupancy of the new dwelling.~~

~~3. If the dwelling to be replaced is located on a portion of the lot not zoned for exclusive farm use, the applicant, as a condition of approval, shall execute and record in the deed records to the County Clerk an irrevocable deed restriction prohibiting the siting of a dwelling on that portion of the lot or parcel. Any release shall be signed by the County and state that the provisions of this section regarding replacement dwellings have changed to allow the siting of another dwelling.~~

~~G. A winery as described in ORS 215.452.~~

~~H. Farm stands.~~

~~I. Operations for the exploration for, and production of, geothermal resources as defined by ORS 522.05 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).~~

~~J. 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).~~

~~K. Climbing and passing lanes within a public right of way existing as of July 1, 1987.~~

~~L. 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.~~

~~M. Temporary public road and highway detours that will be abandoned and restored to original condition or use at such time as no longer needed.~~

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- ~~N. Minor betterment of existing public road and highway related facilities such as maintenance yards, weigh stations and rest areas, within right of ways existing as of July 1, 1987, and contiguous public owned property utilized to support the operation and maintenance of public roads and highways.~~
- ~~O. Reclaimed water, agricultural or industrial process water or biosolids for agricultural, horticultural or silvicultural production, or for irrigation in connection with a use allowed in an exclusive farm use zone under ORS Chapter 215.~~
- ~~P. Collocation of wireless telecommunication facilities listed in Subsection 835.04(A), subject to Section 835, provided such facilities include an existing tower that is over 200 feet in height.~~
- ~~Q. A site for the takeoff and landing of model aircraft, including such buildings or facilities as may reasonably be necessary. Buildings or facilities 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 this section. The site shall not include an aggregate surface or hard surface area unless the surface preexisted the use approved under this section. An owner of property used for the purpose authorized in this section 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 the section, "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.~~

[Amended by Ord. ZDO-224, 5/31/11; Amended by Ord. ZDO-230, 9/26/11]

401.05 APPROVAL CRITERIA FOR SPECIFIC USES

The following criteria apply to some of the uses listed in Table 401-1. 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) Internet Soils Survey for Clackamas County shall be used to determine the soil

classification and soil rating for a specific lot of record, except for purposes of approving a Lot of Record Dwelling application, 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 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 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 crops or the production of biofuel as defined in ORS 315.141 shall be located on a farm that provides at least one-quarter of the farm crops processed at the facility. The building established for the processing facility shall not exceed 10,000 square feet of floor area exclusive of the floor area designated for preparation, storage, or other farm use or devote more than 10,000 square feet to the

processing activities within another building supporting farm use. A processing facility shall comply with all applicable siting standards but the standards shall 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 from the farm operation on which it is located is prohibited.

2. A facility for the primary processing of forest products shall not seriously interfere with accepted farming 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), 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) means timber grown upon a tract where the primary processing facility is located.

C. Natural Resource Uses

1. The County shall provide notice of all applications for the propagation, cultivation, maintenance, and harvesting of aquatic species that are not under the jurisdiction of the Oregon Fish and Wildlife Commission to the Oregon Department of Agriculture. Notice shall be provided in accordance with Section 1302 but shall be mailed at least 20 calendar days prior to the issuance of the Planning Director's decision.

D. Residential Uses

1. Alteration, restoration, or replacement of a lawfully established dwelling.
 - a. A lawfully established dwelling is a single-family dwelling which has:
 - 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.
 - b. In the case of replacement, the dwelling to be replaced shall be:
 - i. Removed, demolished, or converted to an allowable nonresidential use within three months of the completion of the replacement dwelling. A replacement dwelling may be sited on any part of the

same lot of record. A dwelling established under Subsection 401.05(D)(1) shall comply with all applicable siting standards. However, the standards shall not be applied in a manner that prohibits the siting of the dwelling. If the dwelling to be replaced is located on a portion of the lot of record not zoned for exclusive farm use, the applicant, as a condition of approval, shall execute and record in the deed records for the County a deed restriction prohibiting the siting of a dwelling on that portion of the lot of record. The restriction imposed shall be irrevocable unless a statement of release is placed in the deed records for the County. The release shall be signed by the County or its designee and state that the provisions of Subsection 401.05(D)(1)(b) regarding replacement dwellings have changed to allow the siting of another dwelling. The Planning Director shall maintain a record of the lots of record that do not qualify for the siting of a new dwelling under the provisions of Subsection 401.05(D)(1)(b), including a copy of the deed restrictions and release statements filed under Subsection 401.05(D)(1)(b); and

ii. For which the applicant has requested a deferred replacement permit, is removed or demolished within three months after the deferred replacement permit is issued. A deferred replacement permit allows construction of the replacement dwelling at any time. If, however, the established dwelling is not removed or demolished within three months after the deferred replacement permit is issued, the permit becomes void. 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. A deferred replacement permit may not be transferred, by sale or otherwise, except by the applicant to the spouse or a child of the applicant.

2. Lot of Record Dwelling when determined to be located on Low Value Farmland, subject to the following criteria:

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

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

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

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

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

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- e. The proposed dwelling is not prohibited by, and will comply with, the requirements of the acknowledged Comprehensive Plan, this Ordinance and other provisions of law.
 - f. When the lot of record on which the dwelling will be sited is part of a tract, all remaining portions of the common ownership land shall remain in common ownership as long as the dwelling remains as approved.
 - g. The tract is no more than 21 acres.
 - h. The tract is bordered on at least 67 percent of its perimeter by tracts that are smaller than 21 acres, and at least two such tracts had dwellings on January 1, 1993; or, the tract is bordered on at least 25 percent of its perimeter by tracts that are smaller than 21 acres, and at least four dwellings existed on January 1, 1993, within one-quarter mile of the center of the subject tract. Up to two of the four dwellings may lie within an urban growth boundary, but only if the subject tract abuts an urban growth boundary.
 - i. The dwelling either will not seriously interfere with the preservation of big game winter range areas identified on Comprehensive Plan Map III-2, *Scenic and Distinctive Resource Areas*, or the impacts can be adequately mitigated so as not to interfere. Estimated impacts and appropriate mitigation measures shall be submitted by the applicant and based on the best available data and assessment methods from the appropriate agency. ODFW suggests to the County that in the absence of impact mitigation measures, winter range is seriously considered impacted by residential densities which exceed one unit per 80 acres or one unit per 40 acres, if clustered within 200 feet.
4. Lot of Record Dwelling when determined to be located on High Value Farmland consisting predominantly of Prime, Unique, Class I or II Soils if a Hearings Officer review pursuant to Subsection 1300 finds the following:
- 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

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- 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).

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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. The lot of record on which the dwelling will be sited was lawfully created;
 - d. Except as permitted in Subsection 401.05(D)(12), there is no other dwelling on the subject tract;
 - 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. 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.
 - 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.
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:

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- a. The subject tract is currently employed in farm use on which the farm operator earned at least \$32,500 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 or record in Eastern Oregon shall not be used to qualify a dwelling under this criterion.
 - c. Except as permitted in Subsection 401.05(D)(12), there is no other dwelling on 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.
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 required by OAR 660-033-0135(3)(a) or (4)(a), whichever is applicable, from the sale of fluid milk, if:

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- a. The subject tract will be employed as a commercial dairy; and
 - b. The dwelling is sited on the same lot of record as the buildings required by the commercial dairy; and
 - c. Except for a replacement of a lawfully established dwelling, there is no other dwelling on the subject tract; and
 - d. The dwelling will be occupied by a person or persons who will be principally engaged in the operation of the commercial dairy farm, such as the feeding, milking or pasturing of the dairy animals or other farm use activities necessary to the operation of the commercial dairy farm; and
 - e. The building permits, if required, have been issued for and construction has begun for the buildings and animal waste facilities required for a commercial dairy farm; and
 - f. The Oregon Department of Agriculture has approved the following:
 - i. A permit for a "confined animal feeding operation" under ORS 468B.050 and 468B.200 to 468B.230; and
 - ii. A Producer License for the sale of dairy products under ORS 621.072.
8. 160 Acre Test, subject to the following criteria:
- a. The parcel on which the dwelling will be located is at least 160 acres.
 - b. The subject tract is currently employed in a farm use.
 - c. The dwelling will be occupied by a person or persons who will be principally engaged in the farm use of the land, such as planting, harvesting, marketing or caring for livestock at a commercial scale.
 - d. Except as permitted in Subsection 401.05(D)(12), there is no other dwelling on the subject tract; or
9. Capability Test, subject to the following criteria:
- a. The subject tract is at least as large as the median size of those commercial farm or ranch tracts capable of generating at least \$10,000 in annual gross sales that are located within a study area which includes all tracts wholly or partially within one mile from the perimeter of the subject tract.

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- 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(D)(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(D)(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(D)(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(D)(9)(a).
10. Dwelling not in Conjunction with a Farm Use: A dwelling for a nonfarm use may be allowed subject to the following criteria:
- a. The dwelling or activities associated with the dwelling will not force a significant change in or significantly increase the cost of accepted farming 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 is situated upon a parcel, or a portion of a parcel, that is generally unsuitable land for the production of farm crops and livestock or merchantable trees, considering the terrain, adverse soil or land conditions, drainage and flooding, vegetation, location and size of

the tract. A parcel shall not be considered unsuitable solely because of size or location if it can reasonably be put to farm or forest use in conjunction with other land. A parcel is not generally unsuitable because it is too small to be farmed profitably by itself. If the parcel can be sold, leased, rented or otherwise managed as a part of a commercial farm it is considered suitable.

- e. If the parcel is under forest deferral, the dwelling shall be situated upon generally unsuitable land for the production of merchantable tree species considering the terrain, adverse soil or land conditions, drainage and flooding, vegetation, location and size of the parcel. If a lot of record is under forest deferral, the area is not generally unsuitable simply because it is too small to be managed for forest production profitably by itself. If a parcel can be sold, leased, rented or otherwise managed as a part of a forestry operation, it is not generally unsuitable.
- f. The dwelling shall not materially alter the stability of the overall land use pattern of the area. The County shall consider the cumulative impact of possible new nonfarm dwellings and on other lots of record in the area similarly situated, subject to Oregon Administrative Rules (OAR) 660-033-0130(4)(a)(D)(i) through (iii).
- g. 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 with 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.
- h. 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.

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- i. The dwelling shall comply with such other conditions as the County considers necessary.
- j. 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(D)(10)(j) shall not requalify for special assessment unless, when combined with another contiguous lot of record, it constitutes a qualifying parcel.

11. Accessory Farm Dwelling – Relative: An accessory farm dwelling for a relative, 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 located on the same lot of record as the primary farm dwelling of the farm operator;
- 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, such as planting, harvesting, marketing or caring for livestock, is or will be required by the farm operator.
- d. The size, type, and intensity of the farm operation shall be used to evaluate the need for the dwelling.
- e. The net income derived from the farm products shall be significant and products from the farm unit shall contribute substantially to the agricultural economy, to agricultural processors and farm markets.
- f. The accessory farm dwelling shall be occupied by a person or persons whose assistance in the management and farm use of the existing commercial farming operation is required by the farm operator. The farm operator shall continue to play the predominant role in the management of the farm use of the farm unit. A farm operator is a person who operates a farm, doing the work and making the day-to-day decisions about such things as planting, harvesting, feeding and marketing;

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- 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.
- 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.

12. Accessory Farm Dwellings – Year-round and Seasonal Farm Workers:

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, 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 operation 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(D)(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(D)(12)(g) or 401.05(D)(12)(h), whichever is applicable.
- d. There is 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:
- g. 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 in gross annual income from the sale of farm products or at least the midpoint of the median income range of 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
- h. 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

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of the last two years or three of the last five years or in an average of three of the last five years.

- i. In determining the gross annual income, the cost of purchased livestock shall be deducted from the total gross income attributed to the tract.
- j. Only gross annual income from land owned, not leased or rented, shall be counted.
- k. Any proposed land division or property line adjustment of a lot of record for an accessory farm dwelling approved pursuant to Subsection 401.05(D)(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(D)(5) or (6), a parcel may be created consistent with the minimum parcel size requirements in Subsection 401.07(A).
- l. An accessory farm dwelling approved pursuant to Subsection 401.05(D)(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(D)(10).
- m. 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.
- n. 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.
- o. "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.
- p. "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.

q. “Relative”, for the purposes of Subsection 401.05(D)(12), means an ancestor, lineal descendant, or whole or half sibling of the owner or operator or the spouse of the owner or operator.

r. “Farmworker Housing Owner”, means a person that owns farmworker housing. It does not mean a person whose interest in the farmworker housing is that of a holder of a security interest in the housing.

13. 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(D)(13) is not eligible for replacement under Subsection 401.05(D)(1). County Department of Water Environment Services on-site sewage disposal system review and removal requirements also apply.

E. 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. “Incidental and subordinate”, as related to agri-tourism, means that the event or activity is strictly secondary and ancillary to on-site farming 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.

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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. “Incidental and subordinate”, as related to agri-tourism, means that the event or activity is strictly secondary and ancillary to on-site farming 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 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 the provision of private events in conjunction with a winery as described in ORS 215.453 that occur on more than 25 days in a calendar year, subject to the following:
 - a. Other events and activities not included in a large winery by statute shall only include commercial activities that are in conjunction with farm use;
 - b. The commercial activities shall be essential to the practice of agriculture;
 - c. “Incidental”, as related to a winery, means that all goods and services shall be included in the 25% incidental gross sales income limit, whether provided directly by the winery or indirectly by a third party, such as but not limited to a caterer; and
 - d. Goods and services provided by a restaurant on a large winery open more than 25 days per calendar year are not included in the meaning of incidental.
6. Commercial activities in conjunction with farm use, including the processing of farm crops into biofuel that exceeds the standards of ORS 215.203(2)(b)(L) or Subsection 401.05(B)(1). The commercial activity shall be essential to the practice of agriculture.
7. Agri-tourism for up to 18 additional events or other commercial events or activities in a calendar year that occurs more frequently or for a longer

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period of time, on a minimum 80 acre tract, 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. “Incidental and subordinate”, as related to agri-tourism, means that the event or activity is strictly secondary and ancillary to on-site farming 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.
8. 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.

F. 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.

G. 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 permitted 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 permitted subject to any applicable rules of the Oregon Department of Aviation.

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;

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- 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 ORS 215.275. A facility is necessary if it must be situated in an agricultural zone in order for the service to be provided.
3. Composting operations and facilities allowed on high-value farmland.
- a. Composting operations and facilities on high value farmland 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; and
 - iv. Be an accepted farming 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; and
 - v. Limit buildings and facilities used in conjunction with the composting operation to those required for the operation of the subject facility; and

I. Parks, Public, and Quasi-public Uses

1. A site for the takeoff and landing of model aircraft, including such buildings or facilities as may reasonably be necessary. Buildings and facilities 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(I)(1). The site shall not include an aggregate surface or hard surface area unless the surface preexisted the use approved under Subsection 401.05(I)(1). An owner of property used for the purpose authorized in Subsection 401.05(I)(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(I)(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(I)(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(I)(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.

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recognized as such by the county governing body and organized under ORS chapter 65.

5. Firearms training facility that predated September 10, 1995 as provided in ORS 197.770. Firearms training facilities shall not be sited within three miles of an Urban Growth Boundary.
6. Private parks, playgrounds, hunting and fishing preserves, and campgrounds. Except on a lot of record contiguous to a lake or reservoir, private campgrounds shall not be allowed within three miles of an urban growth boundary unless an exception is approved pursuant to ORS 197.732 and OAR chapter 660, division 4. 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 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. Campgrounds authorized by Subsection 401.05(1)(6) shall not include intensively developed recreational uses such as swimming pools, tennis courts, retail stores or gas stations. 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.
 - a. Campsites may be occupied by a tent, travel trailer, yurt or recreational vehicle. Separate sewer, water or electric service hook-ups shall not be provided to individual camp sites except that electrical service may be provided to yurts allowed for by Subsection 401.05(1)(6)(b).
 - b. Subject to the approval of the county governing body or its designee, 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. Upon request of a county governing body, the commission may provide by rule for an increase in the number of yurts allowed on all or a portion of the campgrounds in a county if it is determined that the increase will comply with the standards described in Subsection 401.05(A)(1). As used in Subsection 401.05(1)(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.
7. Golf courses, on land determined not to be high value farmland, as defined in ORS 195.300, subject to OAR 660-033-0130(20).

J. Outdoor Gatherings

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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.

K. 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 Section 1206 to continue, alter, restore, or replace a nonconforming use, a use 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:
 - a. The requirements of Subsection 401.05(K)(3); and
 - b. Conditional approval as provided in Subsection 401.05(A)(1).
3. A nonconforming use described in Subsection 401.05(K)(2) may be expanded if:
 - a. The use was established on or before January 1, 2009; and
 - b. The expansion occurs on:
 - 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(K)(3)(b)(i) and that was owned by the applicant on January 1, 2009.

~~401.05 PRIMARY USES ALLOWED ON LOW VALUE FARMLAND~~

- ~~A. Churches and cemeteries in conjunction with churches. Churches shall not be sited within three miles of an Urban Growth Boundary.~~

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

~~401.06 — USES SUBJECT TO REVIEW BY THE PLANNING DIRECTOR~~

~~A. — The following uses may only be approved where it:~~

- ~~1. — Will not force a significant change in accepted farm or forest practices on surrounding lands devoted to farm or forest use; and~~
- ~~2. — Will not significantly increase the cost of accepted farm or forest practices on land devoted to farm or forest use.~~

~~B. — Unless specified otherwise, the following uses may be allowed on Low and High Value Farmland subject to Subsection 1305.02.~~

- ~~1. — A facility for the processing of farm crops located on a farm operation that provides at least one quarter of the farm crops processed at the facility. The building established for the processing facility shall not exceed 10,000 square feet of floor area, exclusive of the floor area designated for preparation, storage or other farm use or devote more than 10,000 square feet of floor area to the processing activities within another building supporting farm uses. A processing facility shall comply with Subsection 401.10(G) and other applicable siting standards, but the standards shall not be applied in a manner that prohibits the siting of the processing facility.~~
- ~~2. — A facility for the primary processing of forest products, provided that such facility is found to not seriously interfere with accepted farming practices and is compatible with farm uses described in Oregon Revised Statutes (ORS) 215.203(2). Such a facility may be approved for a one-year period which is renewable. These facilities are intended to be only portable or temporary in nature. The primary processing of a forest product, as used in this section, 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 this section, means timber grown upon a parcel of land or contiguous land where the primary processing facility is located.~~
- ~~3. — Parking of seven or fewer log trucks. The term "parking" does not include a maintenance/repair facility. The parking/storage of other forestry equipment is not permitted.~~
- ~~4. — The propagation, cultivation, maintenance and harvesting of aquatic species.~~
- ~~5. — Dwellings and other building customarily provided in conjunction with farm uses subject to Subsection 401.09(E) or (F) and Oregon Administrative Rules 660-033-0135.~~

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- ~~6. A dwelling on real property used for farm use if the dwelling is located on the same lot or parcel as the dwelling of the farm operator and occupied by a relative, which means grandparent, grandchild, parent, child, brother or sister of the farm operator or the farm operator's spouse, whose assistance in the management of the farm use is or will be required by the farm operator subject to Subsection 401.09(H).~~
- ~~7. Accessory farm dwellings customarily provided in conjunction with farm use subject to Subsection 401.09(I).~~
- ~~8. One single family Lot of Record dwelling on a lawfully created lot or parcel subject to Subsection 401.09(B), (C) or (D). Lot of Record dwellings proposed on High Value Farmland composed of Class 1 or 2, or prime or unique Soils, shall be reviewed by the Hearings Officer subject to Section 1300.~~
- ~~9. 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, as defined in Subsection 401.03(J), of the resident, subject to Subsection 1204.03.~~
- ~~10. Replacement dwelling to be used in conjunction with farm use if the existing dwelling is listed on the National Register of Historic Places (as required under ORS 358.480). The use or operation of a historic property for other than uses provided under ORS 358.480(2), including use as a separate residence or creation of a separate parcel, shall be subject to all other applicable provisions of this Section.~~
- ~~11. Residential home or facility as defined in ORS 197.660, in existing dwellings.~~
- ~~12. Farmworker housing as defined in Subsection 202, subject to Subsection 401.09(I).~~
- ~~13. Home occupations as provided in ORS 215.448 and Section 822.~~
- ~~14. Construction of additional passing and travel lanes requiring the acquisition of right of way but not resulting in the creation of new land parcels.~~
- ~~15. 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.~~
- ~~16. 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.~~

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- ~~17. Utility facilities necessary for public service, including wetland waste water 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. A utility facility necessary for public service may be established as provided in ORS 215.275. A facility is necessary if it must be situated in an agricultural zone in order for the service to be provided.~~
- ~~18. Collocation of wireless telecommunication facilities listed in Subsection 835.05(A)(2), subject to Section 835, provided such facilities include an existing tower that is over 200 feet in height.~~
- ~~19. Parks and playgrounds. A public park may be established consistent with the provisions of ORS 195.120.~~
- ~~20. Community centers owned by a governmental agency or a nonprofit community organization and operated primarily by and for residents of the local rural community.~~
- ~~21. Single family dwelling, not provided in conjunction with farm use subject to Subsection 401.09(G).~~
- ~~22. Fire service facilities providing rural fire protection services.~~

~~C. The following uses may be allowed on Low Value Farmland subject to Subsection 1305.02:~~

- ~~1. Private parks, playgrounds, hunting and fishing preserves and campgrounds except as provided for in Subsection 401.08(F).
 - ~~a. A campground is an area devoted to overnight temporary use for vacation, recreational or emergency purposes, but not for residential purposes. A camping site may be occupied by a tent, travel trailer or recreational vehicle. Campgrounds shall not include intensively developed recreational areas such as swimming pools, tennis courts, retail stores or gas stations.~~
 - ~~b. 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. A "yurt" means a round, domed shelter of cloth or canvas on a collapsible frame with no plumbing, sewage disposal hookup or internal cooking appliance.~~~~

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

~~401.07 — CONDITIONAL USES~~

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~~Conditional uses may be allowed subject to review by the Hearings Officer pursuant to Section 1300. Approval shall not be granted unless the proposal complies with Section 1203 and any applicable provisions of Section 800.~~

~~A. Except for uses listed under Subsections 401.07(B)(4) and (C)(2), the use may only be approved where it:~~

- ~~1. Will not force a significant change in accepted farm or forest practices on surrounding lands devoted to farm or forest use; and~~
- ~~2. Will not significantly increase the cost of accepted farm or forest practices on land devoted to farm or forest use.~~

~~B. The following uses may be allowed on Low and High Value Farmland, subject to Subsection 401.07:~~

- ~~1. Commercial activities that are in conjunction with farm use but not including the processing of farm crops as provided for in Subsection 401.06(B)(1).~~
- ~~2. Mineral, aggregate, oil, and gas uses. Pursuant to Oregon Revised Statutes (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.~~
 - ~~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. 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 Subsection 401.04(l).~~
- ~~3. Personal use airports for airplanes and helicopter pads, including associated hangar, maintenance, and service. A personal use airport as used in this subsection means an airstrip restricted, except for aircraft emergencies, to use by the owner, and on an infrequent and occasional~~

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~~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 permitted 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 permitted subject to any applicable rules of the Oregon Department of Aviation.~~

~~4. Roads, highways and other transportation facilities, and improvements not allowed under Subsections 401.04 through 401.06. Such uses may be established, subject to the adoption of an Exception to Statewide Planning Goal 3, Agricultural Lands, and to any other applicable Statewide Planning 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 Oregon Administrative Rules (OAR) 660-012-0035 and 660-012-0065.~~

~~5. Transmission towers over 200 feet in height. Towers supporting wireless telecommunication facilities are subject to Section 835.~~

~~6. Commercial utility facilities for the purpose of generating power for public use by sale. A power generation facility shall not 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 OAR 660, Division 4.~~

~~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, and is subject to ORS 215.297.~~

~~8. A home occupation to host events, subject to Section 806.~~

~~9. A home occupation for canine skills training, subject to Section 836.~~

~~C. The following uses may be allowed on Low Value Farmland subject to Subsection 401.07:~~

~~1. Dog kennels.~~

~~2. 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.~~

~~3. Composting facilities, subject to Section 834.~~

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- ~~4. Golf courses, on land determined not to be high value farmland, as defined in ORS 195.300.~~
- ~~5. 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.~~

[Amended by Ord. ZDO-224, 5/31/11; Amended by Ord. ZDO-230, 9/26/11]

~~401.068 PROHIBITED AND PREEXISTING USES~~

Uses of structures and land not specifically permitted are prohibited.

- ~~A. Structures and uses of land not specifically mentioned in this Section.~~
- ~~B. Bed and Breakfast Residences and Inns.~~
- ~~C. Outdoor advertising displays, advertising signs or advertising structures, except as provided in Section 1010.~~
- ~~D. Any lot division, or property line adjustment, except those approved pursuant to Subsection 401.10 and Section 1107.~~
- ~~E. Subdivisions, except as provided for in Subsection 401.10(A).~~
- ~~F. All other legally established preexisting uses and structures not specifically permitted in Section 401 shall be nonconforming uses subject to Section 1206.~~
- ~~G. Preexisting uses on High Value Farmland which are located wholly within this zone may be maintained, enhanced or expanded on the same tract subject to Section 1206, except golf courses may be expanded to no more than 18 holes.~~
- ~~H. A nonconforming school use may be expanded subject to:
 - ~~1. Section 1206; and~~
 - ~~2. The use was established on or before January 1, 2009; and~~
 - ~~3. The expansion occurs on:
 - ~~a. The tax lot on which the school was established on or before January 1, 2009; or~~
 - ~~b. A tax lot that is contiguous to the tax lot described in 'a' above; and that was owned by the applicant on January 1, 2009; and~~~~
 - ~~4. Meets the standards as provided in Subsection 401.06(A)(1) and (2).
 - ~~1. Manufactured Dwelling Parks: Redevelopment of a manufactured dwelling park with a different use shall require compliance with Subsection 825.03.~~~~~~

401.09 — ~~CRITERIA FOR DWELLINGS~~

~~A permanent dwelling may be established under the following applicable provisions, when the applicant provides a complete application as required in Section 401.11 and subject to Subsections 1001.01 and 1305.02. The landowner for any dwelling approved under this Section 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.~~

~~A. — The SCS Soils Atlas for Clackamas County shall be used to determine the soil classification and soil rating for a specific lot or parcel, except:~~

~~1. — For purposes of approving a Lot of Record Dwelling application, the applicant may submit a report from a soils scientist whose credentials are acceptable to the State Department of Agriculture that the soil class, soil rating or other soil designation should be changed; and submits a statement from the State 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.~~

~~2. — For Nonfarm Dwelling applications, the applicant may submit a more detailed site specific soils report from a soils scientist who is certified as a soils classifier by the ARCPACS (A Federation of Certifying Boards in Agronomy, Biology, Earth and Environmental Sciences) and submit a statement from the county Soils Section of the Water and Environment Services that finds the analysis in the report to be soundly and scientifically based.~~

~~B. — Lot of Record Dwelling when determined to be located on Low Value Farmland, subject to the following criteria:~~

~~1. — The lot or parcel on which the dwelling will be sited was lawfully created prior to January 1, 1985;~~

~~2. — The lot or parcel has been under the continuous ownership of the present owner who either;~~

~~a. — Acquired the lot or parcel prior to January 1, 1985; or~~

~~b. — Acquired the lot or parcel by devise or intestate succession from a person or persons who had continuously owned the property since January 1, 1985;~~

~~3. — The tract on which the dwelling will be sited does not include a dwelling;~~

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- ~~4. The lot or parcel on which the dwelling will be sited was not part of a tract that contained a dwelling on November 4, 1993;~~
- ~~5. 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;~~
- ~~6. When the lot or parcel on which the dwelling will be sited is part of a tract, all remaining portions of the tract are consolidated into a single lot or parcel when the dwelling is allowed;~~
- ~~7. 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.~~
- ~~8. An approval to construct a dwelling granted under this Subsection may be transferred to any other person after the effective date of the land use decision.~~

~~C. Lot of Record Dwelling when determined to be located on High Value Farmland consisting predominantly of Class III and IV Soil, subject to the following criteria:~~

- ~~1. The lot or parcel on which the dwelling will be sited was lawfully created prior to January 1, 1985;~~
- ~~2. The lot or parcel has been under the continuous ownership of the present owner who either;
 - ~~a. Acquired the lot or parcel prior to January 1, 1985; or~~
 - ~~b. Acquired the lot or parcel by devise or intestate succession from a person or persons who had continuously owned the property since January 1, 1985;~~~~
- ~~3. The tract on which the dwelling will be sited does not include a dwelling;~~
- ~~4. The lot or parcel on which the dwelling will be sited was not part of a tract that contained a dwelling on November 4, 1993;~~

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- ~~5. 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;~~
 - ~~6. When the lot or parcel on which the dwelling will be sited is part of a tract, all remaining portions of the tract are consolidated into a single lot or parcel when the dwelling is allowed;~~
 - ~~7. The tract is no more than 21 acres;~~
 - ~~8. 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;~~
 - ~~9. 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.~~
 - ~~10. An approval to construct a dwelling granted under this Subsection may be transferred to any other person after the land use decision becomes final.~~
- ~~D. Lot of Record Dwelling when determined to be located on High Value Farmland consisting predominantly of Prime, Unique, Class I or II Soils if a Hearings Officer review pursuant to Subsection 1300 finds the following:~~
- ~~1. The lot or parcel on which the dwelling will be sited was lawfully created prior to January 1, 1985;~~
 - ~~2. The lot or parcel has been under the continuous ownership of the present owner who either:
 - ~~a. Acquired the lot or parcel prior to January 1, 1985; or~~
 - ~~b. Acquired the lot or parcel by devise or intestate succession from a person or persons who had continuously owned the property since January 1, 1985;~~~~

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- ~~3. The tract on which the dwelling will be sited does not include a dwelling;~~
- ~~4. The lot or parcel on which the dwelling will be sited was not part of a tract that contained a dwelling on November 4, 1993;~~
- ~~5. 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;~~
- ~~6. When the lot or parcel on which the dwelling will be sited is part of a tract, all remaining portions of the tract are required to be consolidated into a single lot or parcel;~~
- ~~7. The lot or parcel 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;~~
- ~~8. The dwelling will comply with the provisions of 401.07(A)(1) and (2);~~
- ~~9. The dwelling will not materially alter the stability of the overall land use pattern in the area;~~
- ~~10. 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).~~
- ~~11. An approval to construct a dwelling granted under this Section may be transferred to any other person after the effective date of the land use decision.~~

~~E. Dwelling in Conjunction with a Farm Use on High Value Farmland: A primary farm dwelling for the farm operator may be allowed subject to the following criteria:~~

- ~~1. The subject tract is currently employed in farm use that produced at least \$80,000 in gross annual income from the sale of farm products in the last two years or three of the last five years;~~
- ~~2. The lot or parcel on which the dwelling will be sited was lawfully created;~~

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- ~~3. Except as permitted in Subsection 401.09(I), there is no other dwelling on the subject tract;~~
- ~~4. The dwelling will be occupied by a person or persons who produced the commodities which generated the income;~~
- ~~5. In determining the gross income requirement, the cost of purchased livestock shall be deducted from the total gross annual income attributed to the tract. Only gross annual income from land owned, not leased or rented, shall be counted.~~
- ~~6. 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. Only a lot or parcel zoned for farm use in Clackamas County or a contiguous county may be used to meet the gross income requirements.~~

~~F. 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:~~

~~1. Income Test, Criteria:~~

- ~~a. The subject tract is currently employed for the farm use that produced at least \$32,500 in gross annual income from the sale of farm products in the last two or three of the last five years;~~
- ~~b. Except as permitted in Subsection 401.09(I), there is no other dwelling on the subject tract;~~
- ~~c. The lot or parcel on which the dwelling will be sited was lawfully created;~~
- ~~d. The dwelling will be occupied by a person or persons who produced the commodities which generated the income;~~
- ~~e. In determining the gross income, the cost of purchased livestock shall be deducted from the total gross income attributed to the tract. Only gross income from land owned, not leased or rented, shall be counted; or~~

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- ~~f. Gross farm income earned from a lot or parcel which has been used previously to qualify another lot or parcel for the construction or siting of a primary farm dwelling may not be used.~~
- ~~g. Only a lot or parcel zoned for farm use in Clackamas County or a contiguous county may be used to meet the gross income requirements.~~
- ~~h. 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.~~

~~2. 160 Acre Test; 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;~~
- ~~e. 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 401.09(I), there is no other dwelling on the subject tract; or~~

~~3. Capability Test; 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. 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 401.09(F)(3)(a);~~
- ~~c. The subject tract is currently employed in farm use at a level capable of producing the annual gross sales required in Subsection 401.09(F)(3)(b);~~

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- ~~d. The subject lot or parcel on which the dwelling is proposed is not less than 10 acres;~~
- ~~e. Except as permitted in Subsection 401.09(I), there is no other dwelling on the subject tract;~~
- ~~f. 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 401.09(F)(3)(c).~~

~~G. Dwelling not in Conjunction with a Farm Use: A dwelling for a nonfarm use may be allowed subject to the following criteria:~~

- ~~1. The dwelling or activities associated with the dwelling will not force a significant change in or significantly increase the cost of accepted farming or forest practices on nearby lands devoted to farm or forest use;~~
- ~~2. The dwelling will be sited on a lot or parcel 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;~~
- ~~3. The dwelling will be sited on a lot or parcel lawfully created before January 1, 1993;~~
- ~~4. The dwelling shall not materially alter the stability of the overall land use pattern of the area. The County shall consider the cumulative impact of possible new nonfarm dwellings and parcels on other lots in the area similarly situated, subject to Oregon Administrative Rules (OAR) 660-033-0130(4)(a)(D)(i) through (iii).
 - ~~a. 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 with 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.~~
 - ~~b. 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~~~~

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~~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.~~

- ~~5. The dwelling shall comply with such other conditions as the County considers necessary.~~
- ~~6. Prior to Planning approval for issuance of a building or manufactured dwelling permit, the applicant shall notify the County Assessor that the lot or parcel is no longer being used for farmland and; request the County Assessor to disqualify the lot or parcel 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 or parcel that has been disqualified pursuant to this Section shall not requalify for special assessment unless, when combined with another contiguous lot or parcel, it constitutes a qualifying parcel.~~

~~H. Accessory Farm Dwelling - Relative: An accessory farm dwelling for a relative of the farm operator may be allowed subject to the following criteria:~~

- ~~1. The accessory farm dwelling shall be located on the same lot or parcel as the primary farm dwelling of the farm operator;~~
- ~~2. The accessory farm dwelling shall be located on a lawfully created lot or parcel;~~
- ~~3. The accessory farm dwelling shall be occupied by a child, parent, stepparent, grandchild, grandparent, stepgrandparent, sibling, stepsibling, niece, nephew or first cousin, of the farm operator or the farm operator's spouse, whose assistance in the management and farm use, such as planting, harvesting, marketing or caring for livestock, is or will be required by the farm operator. The size, type, and intensity of the farm operation shall be used to evaluate the need for the dwelling;~~
- ~~4. The accessory farm dwelling shall be occupied by a person whose assistance in the management and farm use of the existing commercial farming operation is required by the farm operator. The farm operator shall continue to play the predominant role in the management of the farm use of the farm. A farm operator is a person who operates a farm, doing the work and making the day to day decisions about such things as planting, harvesting, feeding and marketing;~~
- ~~5. There are no other dwellings on the lot or parcel that are vacant or currently occupied by persons not working on the subject farm and that could reasonably be used as an accessory farm dwelling.~~

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~~6. 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.~~

~~1. Accessory Farm Dwelling - Non-Relative: An accessory farm dwelling for a nonrelative of the farm operator may be allowed subject to the following criteria:~~

~~1. The accessory farm dwelling shall be occupied by a person or persons who will be principally engaged in the farm use of the land and whose seasonal or year-round assistance in the management of the farm use, such as planting, harvesting, marketing or caring for livestock, is or will be required by the farm operator;~~

~~2. The accessory farm dwelling shall be located on a lawfully created lot or parcel;~~

~~3. The accessory farm dwelling shall be located:~~

~~a. On the same lot or parcel as the primary farm dwelling; or~~

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

~~c. On a lot or parcel 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 or parcel is conveyed to another party. The manufactured dwelling may remain if it is re-approved pursuant to Section 401; or~~

~~d. On a lot or parcel on which the primary farm dwelling is not located, 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 farm labor housing as existing farm labor housing on the farm operation registered with the Department of Consumer and Business Services, Oregon Occupational Safety and Health Division under ORS 658.750. The county shall require all accessory farm dwellings approved in this subsection to be removed, demolished or converted to a nonresidential use when farm worker housing is no longer required; or~~

~~e. On a parcel on which the primary farm dwelling is not located, when the accessory farm dwelling is located on a lot or parcel at least the size of the applicable minimum lot size and the lot or parcel complies~~

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~~with the gross farm income requirements of Subsection 401.09(E)(1) or 401.09(F)(1) whichever is applicable.~~

- ~~4. There is no other dwelling 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;~~
- ~~5. The primary farm dwelling to which the proposed dwelling would be accessory, shall meet one of the following:
 - ~~a. On Low Value Farmland, the primary farm dwelling is located on a farm or ranch operation that is currently employed in farm use, as defined in ORS 215.203, and produced at least \$32,500 in gross annual income from the sale of farm products within the last two years or three of the last five years; or~~
 - ~~b. On land identified as High Value Farmland, the primary farm dwelling is located on a farm or ranch operation that is currently employed in farm use, as defined in ORS 215.203, and produced at least \$80,000 in gross annual income from the sale of farm products in the last two years or three of the last five years;~~~~
- ~~6. In determining the gross annual income, the cost of purchased livestock shall be deducted from the total gross income attributed to the tract. Only gross annual income from land owned, not leased or rented, shall be counted.~~
- ~~7. Any proposed land division or property line adjustment of a lot or parcel for an accessory farm dwelling approved pursuant to this Subsection 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 401.09(E or F), a parcel may be created consistent with the minimum parcel size requirements in Subsection 401.10(A);~~
- ~~8. An accessory farm dwelling approved pursuant to this Subsection shall not later be used to satisfy the requirements for a dwelling not provided in conjunction with farm use pursuant to Subsection 401.06(B)(21).~~
- ~~9. 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.~~

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

401.07 DIMENSIONAL STANDARDS

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- A. Minimum Lot Size: New lots of record shall be a minimum of 80 acres in size, except as provided in Subsection 401.09 or as modified by Section 902. For the purpose of complying with the minimum lot size standard, lots of record that front on existing county or public roads may include the land area between the front property line and the middle of the road right-of-way.
- B. Minimum Front Yard Setback: 30 feet.
- C. Minimum Side Yard Setback: 10 feet.
- D. Minimum Rear Yard Setback: 30 feet; however, accessory structures shall have a minimum rear yard setback of 10 feet.
- E. Exceptions: Dimensional standards are subject to modification pursuant to Section 900.
- F. Variances: The requirements of Subsections 401.07(B) through (D) may be modified pursuant to Section 1205.

401.08 DEVELOPMENT STANDARDS

- A. Property Line Adjustments: Property line adjustments shall be subject to Section 1107.
- B. Manufactured Dwelling Parks: Redevelopment of a manufactured dwelling park with a different use shall require compliance with Subsection 825.03.

401.409 LAND DIVISIONS, DIMENSIONS AND ADJUSTMENTS

Land divisions are permitted, if consistent with one of the following options and proposed for primary uses may be permitted by the Planning Director, subject to Subsection 1305.02. All land divisions under this subsection shall be subject to Oregon Revised Statutes (ORS) Chapter 92. Lot divisions shall be processed and reviewed consistent with the following criteria: Except in the case of a conditional use division under Subsection 401.09(B), a land division is subject to Planning Director review pursuant to Subsection 1305.02.

- A. 80-Acre Minimum Lot Size Land Divisions: A land division may be approved, if each new lot of record is a minimum of ~~All new parcels shall be at least 80 acres in size, as established by Subsection 401.07(A).~~ Land divisions for primary uses may be permitted by the Planning Director pursuant to Subsection 1305.02.
- B. Nonfarm Use Land Divisions: A land division creating parcels less than 80 acres in size may be approved for 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. Conditional Use Divisions: The Hearings Officer may approve a division of land for nonfarm uses, except dwellings, set out in ORS 215.283(2) if the Hearings Officer finds that the parcel for the nonfarm use is not larger than the minimum size necessary for the use. Such land divisions shall be received pursuant to Section 1300.~~

C. Nonfarm Dwelling Use Land Divisions: Lots of record less than 80 acres in size may be approved, by the Planning Director pursuant to Subsection 1305.02 and subject to the following criteria:

1. The originating lot of record parcel 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 lot or parcel for a dwelling will not be smaller than 20 acres; and
4. ~~The~~No new lot of record may be created until the criteria in Subsection 401.05(D)(10)(a), (b), (f), (i), and (j) for a dwelling ~~Section 401.09(G)(1,2,4,5 and 6) are satisfied.~~

~~D. 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).~~

~~D. Historic property land divisions subject to Section 707.~~

E. 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 ORS 215.283(1)(L).

~~E. Property line adjustments shall be subject to Section 1107.~~

~~F. Right of Way Inclusion: For purposes of satisfying the lot size requirements of this district, lots which front on existing county or public roads may include the land area between the front property line and the middle of the road right of way. Lots which front on state and federal highways may not include the land area between the front property line and the middle of the road right of way.~~

~~G. Structure Setbacks:~~

- ~~1. Minimum front yard setback: 30 feet.~~
- ~~2. Minimum rear yard setback: 30 feet~~

- ~~3. Minimum side yard setback: 10 feet~~
- ~~4. Minimum setbacks for accessory structures: Accessory structures shall maintain a minimum front yard setback of 30 feet and minimum rear and side yard setbacks of 10 feet.~~
- ~~5. Corner Vision: No sight-obscuring structures or plantings exceeding 30 inches in height shall be located within a 20 foot radius of the lot corner nearest the intersection of two public, county or state road, or from the intersection of a private driveway or easement and a public, county or state road. Trees located within a 20 foot radius of any such intersection shall be maintained to allow eight feet of visual clearance below the lowest hanging branches.~~

[Amended by Ord. ZDO-224, 5/31/11; Amended by Ord. ZDO-230, 9/26/11]

401.10~~+~~ SUBMITTAL REQUIREMENTS

~~A. Planning Director Review:~~ An application for any use requiring review by the Planning Director pursuant to Subsection 1305.02 shall include the following:

- ~~A1. A complete Land Use Application fForm;~~
- ~~B2. An aAccurate sSite pPlan drawn to scale on 8.5"x 11" or 8.5"x 14" paper, showing the property and proposal;~~
- ~~C3. An aApplication fee;~~
- ~~D4. A Supplemental Application fForm addressing each of the applicable approval criteria for the proposed use; and~~
- ~~E5. 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.~~

[Amended by Ord. ZDO-230, 9/26/11]

401.11~~2~~ APPROVAL PERIOD AND TIME EXTENSION

- A. Approval Period: Approval of an administrative action under Section 401 is valid for four years from the date of the final written decision. If the County's final written decision is appealed, the approval period shall commence on the date of the final appellate decision. During this four-year period, the approval shall be implemented. "Implemented" means:
 1. For a land division, the final plat shall be recorded with the County Clerk. If a final plat is not required under Oregon Revised Statutes Chapter 92,

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deeds with the legal descriptions of the new parcels shall be recorded with the County Clerk; or

2. For all other administrative actions, a building or manufactured dwelling placement permit for a new primary structure that was the subject of the administrative action 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 an administrative action is not implemented within the initial approval period established by Subsection 401.112(A), a two-year time extension may be approved by the Planning Director pursuant to Subsection 1305.02, and subject to Subsection 1305.05.
- C. Subsections 401.112(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.

[Amended by Ord. ZDO-224, 5/31/11; Amended by Ord. ZDO-230, 9/26/11]

406 TIMBER DISTRICT (TBR)

406.01 PURPOSE

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

- ~~A. — Conserve forest lands;~~
- ~~B. — 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 forest land;~~
- ~~C. — Conserve, protect, and enhance watersheds, wildlife and fisheries resources, agriculture, and recreational opportunities that are compatible with the primary intent of the zone; and~~
- ~~D. — Minimize wildfire hazards and risks.~~

[Amended by Ord. ZDO-230, 9/26/11]

406.02 AREA OF APPLICATION

Property may be zoned Timber District when the site has a Comprehensive Plan designation of Forest, consistency with Policy 11.0 of the Forest section of Chapter 4 of the Comprehensive Plan is demonstrated, and the criteria in Section 1202 are satisfied.

- ~~A. — Lands suitable for forest use; or~~
- ~~A. — Lands predominantly capable of generating at least 85 cubic feet of timber per acre per year; or~~
- ~~C. — Areas containing lots or parcels generally 80 acres or larger.~~

406.03 DEFINITIONS

Unless specifically defined in Subsection 406.03 or in Section 202, 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"; means~~ Aa 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 is 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. 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.
- F. 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).
- G. Navigation: References an instrument within a waterway or flightway that assists in traveling to a destination for water vessels and aircraft.
- H. Owner: For purposes of a Lot of Record Dwelling, "owner" includes the wife, husband, son, daughter, mother, father, brother, brother-in-law, sister, sister-in-law, son-in-law, daughter-in-law, mother-in-law, father-in-law, aunt, uncle, 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.
- I. Ownership: Holding fee title to a lot of record, except in those instances when the land is being sold on contract, the contract purchaser shall be deemed to have ownership. Ownership shall include all contiguous lots of record meeting this definition.
- J. 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.
- K. 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.
- LB. "Temporary Structures: " include 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.

~~C. "Owner" means the wife, husband, son, daughter, mother, father, brother, brother-in-law, sister, sister-in-law, son-in-law, daughter-in-law, mother-in-law, father-in-law, aunt, uncle, niece, nephew, stepparent, stepchild, grandparent, or grandchild, of the owner or a business entity owned by any one or combination of these family members.~~

~~D. "Ownership" means holding fee title to a parcel, lot or tract of land, except in those instances when the land is being sold on contract, the contract purchaser shall be deemed to have ownership. For purposes of section 406, ownership shall include all contiguous parcels, lots or tracts meeting this definition.~~

~~ME. "Tract: " means One or more contiguous lots of recorder parcels 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.~~

~~F. "Forest operation" means any commercial activity relating to the growing or harvesting of any forest tree species as defined in Oregon Revised Statutes (ORS) 527.620(6).~~

~~G. "Cubic foot per acre per year", as defined in Oregon Administrative Rules (OAR) 660-06-005(2).~~

~~H. "Cubic foot per tract per year", as defined in OAR 660-06-005(3).~~

~~I. "Date of creation and existence". When a lot, parcel or tract is reconfigured pursuant to applicable law after November 4, 1993, the effect of which is to qualify a lot, parcel 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, parcel, or tract.~~

~~J. "Historic Property", as defined in ORS 358.480.~~

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

406.04 USES AUTHORIZED

Table 406-1 identifies the uses authorized in the Timber District. As used in Table 406-1:

A. "A" means the use is allowed.

B. "PDR" means the use is subject to Planning Director Review pursuant to Subsection 1305.02.

C. "C" means the use is a Conditional Use, subject to Sections 1203 and 1300.

D. The "Subject To" column identifies any specific provisions of Subsection 406.05 to which the use is subject.

Table 406-1: Uses Authorized in the Timber 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 1002.04 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 ORS 215.203.	
	A	Uses and structures customarily accessory and incidental to a farm or forest use, only if the primary farm or forest use exists.	
	PDR	Temporary portable facility for the primary processing of forest products.	406.05(B)(1)
	CU	Permanent facility for the primary processing of forest products.	406.05(A)(1) & (5)
	CU	Permanent facilities for logging equipment repair and storage.	406.05(A)(1) & (5)
	CU	Log scaling and weigh stations.	406.05(A)(1) & (5)
	Type	Use	Subject To
NATURAL RESOURCE USES	A	Uninhabitable structures accessory to fish and wildlife enhancement.	
	CU	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)
	PDR	Forest Lot of Record Dwelling.	406.05(A)(2), (3), (4) & (D)(2)
	PDR	Forest Template Test Dwelling.	406.05(A)(2), (3), (4) & (D)(3)
	PDR	160 Acre Forest Dwelling.	406.05(A)(2), (3), (4)

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			& (D)(4)
	<u>PDR</u>	<u>200 Acre Noncontiguous Tract Forest Dwelling</u>	<u>406.05(A)(2), (3), (4) & (D)(5)</u>
	<u>PDR</u>	<u>Caretaker residences for public parks and public fish hatcheries.</u>	<u>406.05(A)(2) & (4)</u>
	<u>PDR</u>	<u>Temporary forest labor camp, subject to Subsection 1204.01, for a period not to exceed one year.</u>	
	<u>PDR</u>	<u>Temporary dwelling for care, subject to Subsection 1204.03.</u>	<u>406.05(A)(1), (2) & (D)(6)</u>
	Type	Use	Subject To
	<u>A</u>	<u>Family daycare provider.</u>	
COMMERCIAL USES	<u>PDR</u>	<u>Home occupation, subject to Section 822.</u>	<u>406.05(A)(1), (2), (4) & (E)(1)</u>
	<u>CU</u>	<u>Home occupation to host events, subject to Section 806.</u>	<u>406.05(A)(1), (2), (4) & (E)(1)</u>
	<u>CU</u>	<u>Home occupation for canine skills training, subject to Section 836.</u>	<u>406.05(A)(1), (2) (4) & (E)(1)</u>
	<u>CU</u>	<u>Private accommodations for fishing on a temporary basis.</u>	<u>406.05(A)(1), (2), (4) & (E)(2)</u>
	<u>CU</u>	<u>Private seasonal accommodations for fee based hunting.</u>	<u>406.05(A)(1), (4) & (E)(3)</u>
	Type	Use	Subject To
MINERAL, AGGREGATE, OIL, AND GAS USES	<u>A</u>	<u>Exploration for mineral and aggregate resources as defined in ORS Chapter 517 and subject to the requirements of the Department of Geology and Mineral Industries.</u>	
	<u>CU</u>	<u>Mining and processing of oil, gas, or other subsurface resources.</u>	<u>406.05(A)(1), (5) & (F)(1)</u>
	<u>CU</u>	<u>Exploration for and production of geothermal, gas, and oil.</u>	<u>406.05(A)(1), (5) & (F)(2)</u>
	Type	Use	Subject To
TRANSPORTATION USES	<u>A</u>	<u>Widening of roads within existing rights-of-way in conformance with Chapter 5 of the Comprehensive Plan.</u>	
	<u>A</u>	<u>Climbing and passing lanes within the right of way existing as of July 1, 1987.</u>	
	<u>A</u>	<u>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.</u>	
	<u>A</u>	<u>Temporary public road and highway detours that will be abandoned and restored to original condition or use at such time as no longer needed.</u>	
	<u>A</u>	<u>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.</u>	
	<u>PDR</u>	<u>Construction of additional passing and travel lanes requiring the acquisition of right-of-way but not</u>	<u>406.05(A)(1)</u>

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		resulting in the creation of new land parcels.	
	PDR	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)
	PDR	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)
	CU	Parking of up to seven dump trucks and seven trailers, subject to ORS 215.311.	406.05(A)(1)
	CU	Aids to navigation and aviation.	406.05(A)(1) & (5)
	CU	Expansion of existing airports.	406.05(A)(1)
	CU	Temporary asphalt and concrete batch plants as accessory uses to specific highway projects.	406.05(A)(1)
	CU	Roads, highways, and other transportation facilities and improvements not otherwise allowed under this Ordinance.	406.05(A)(1) & (G)(1)
	Type	Use	Subject To
	A	Collocation of antennas on a previously approved wireless telecommunication facility, subject to Subsection 835.04(A).	
UTILITY AND SOLID WASTE DISPOSAL FACILITY USES	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.	
	A	Rainwater collection systems as an accessory use.	
	A	Electric vehicle charging stations for residents and their nonpaying guests.	
	A	Meteorological towers.	
	PDR	Wind energy power production systems as an accessory use.	406.05(H)(1)
	PDR	Wireless telecommunication facilities listed in Subsections 835.04(B) and (C) and 835.05(A)(2) and (3), subject to Section 835.	406.05(A)(1)
	CU	Wireless telecommunication facilities listed in Subsection 835.06(A), subject to Section 835.	406.05(A)(1)
	CU	Water intake facilities, related treatment facilities, pumping stations, and distribution lines.	406.05(A)(1) & (5)
	CU	Reservoirs and water impoundments.	406.05(A)(1), (2) & (5)
	CU	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.	406.05(A)(1) & (5)
	CU	A disposal site for solid waste that has been ordered established by the Oregon Environmental Quality	406.05(A)(1) & (5)

		<u>Commission under ORS 459.049, together with the equipment, facilities, or buildings necessary for its operation.</u>	
	<u>CU</u>	<u>Commercial utility facilities for the purpose of generating power.</u>	<u>406.05(A)(1), (5) & (H)(2)</u>
	<u>CU</u>	<u>New electric transmission lines.</u>	<u>406.05(A)(1) & (H)(3)</u>
	<u>CU</u>	<u>Television, microwave, and radio communication facilities.</u>	<u>406.05(A)(1), (5) & (H)(4)</u>
	Type	Use	Subject To
PARKS AND PUBLIC/QUASI-PUBLIC USES	<u>A</u>	<u>Private hunting and fishing operations without any lodging accommodations.</u>	
	<u>A</u>	<u>Towers and fire stations for forest fire protection.</u>	
	<u>CU</u>	<u>Fire stations for rural fire protection.</u>	<u>406.05(A)(1) & (5)</u>
	<u>CU</u>	<u>Youth camps on 40 acres or more, subject to OAR 660-006-0031.</u>	<u>406.05(A)(1) & (2)</u>
	<u>CU</u>	<u>Cemeteries.</u>	<u>406.05(A)(1) & (5)</u>
	<u>CU</u>	<u>Firearms training facility.</u>	<u>406.05(A)(1) & (5)</u>
	<u>CU</u>	<u>Private parks and campgrounds.</u>	<u>406.05(A)(1), (2), (5) & (I)(1)</u>
	<u>CU</u>	<u>Public parks including only those uses specified under OAR 660-034-0035 or 660-034-0040, whichever is applicable.</u>	<u>406.05(A)(1) & (5)</u>
	Type	Use	Subject To
	<u>A</u>	<u>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.</u>	<u>406.05(J)(1)</u>
	<u>CU</u>	<u>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.</u>	<u>406.05(A)(1) & (J)(2)</u>

406.05 APPROVAL CRITERIA FOR SPECIFIC USES

The following criteria apply to some of the uses listed in Table 406-1. 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. An approval to construct a dwelling may be transferred to any other person after the effective date of the land use decision.
4. 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.
5. 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.

C. Natural Resource Uses

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

D. Residential Uses

1. Alteration, restoration, or replacement of a lawfully established dwelling that:
 - a. Has intact exterior walls and roof structure;
 - b. Has indoor plumbing consisting of a kitchen sink, toilet, and bathing facilities connected to a sanitary waste disposal system;
 - c. Has interior wiring for interior lights;
 - d. Has a heating system; and
 - e. In the case of replacement, is removed, demolished, or—if not a manufactured dwelling or residential trailer—converted to an allowable use within 90 days from the occupancy of the new dwelling. Manufactured dwellings and residential trailers to be replaced shall be removed from the property within 30 days from the occupancy of the new dwelling.

2. Lot of Record Dwelling, subject to the following criteria:

- a. The lot of record on which the dwelling will be sited was lawfully created prior to January 1, 1985.
- b. The lot of record on which the dwelling will be sited was acquired by the present owner:
 - i. Prior to January 1, 1985; or
 - ii. By devise or intestate succession from a person who acquired the lot or parcel prior to January 1, 1985.
- c. The tract on which the dwelling will be sited does not include a dwelling.
- d. The lot of record on which the dwelling will be sited was not part of a tract that contained a dwelling on November 4, 1993.
- e. The property is not capable of producing 5,000 cubic feet per year of commercial tree species.
- f. The property is located within 1,500 feet of a public road, as defined under ORS 368.001 that provides or will provide access to the subject tract. The road shall be maintained and either paved or surfaced with rock and shall not be a BLM road, or a USFS road unless the road is paved to a minimum width of 18 feet, there is at least one defined lane in each direction, and a maintenance agreement exists between the USFS and the landowners adjacent to the road, a local government, or a state agency.
- g. The proposed dwelling is not prohibited by this Ordinance or the Comprehensive Plan, or any other provisions of law.
- h. When the lot or parcel on which the dwelling will be sited is part of a tract, the remaining portions of adjacent common ownership land shall remain in common ownership as long as the dwelling remains as approved.
- i. The County Assessor's Office shall be notified of all approvals granted under Subsection 406.05(D)(2).

3. Forest Template Dwelling, subject to the following criteria:

- a. The lot of record on which the dwelling will be sited does not include a dwelling.

- b. The lot of record upon which the dwelling is to be located was lawfully created.
- c. The County Assessor's Office shall be notified of all approvals granted under Subsection 406.05(D)(3).
- d. 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 subject tract. The template may be rotated around the center point 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)(d)(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)(d)(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)(d)(ii) shall be located on the same side of the road as the proposed dwelling.

4. 160 Acre Minimum Forest Dwelling, subject to the following criteria:

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

5. 200 Acre Noncontiguous Dwelling, subject to the following criteria:

- a. The tract on which the dwelling will be sited does not include a dwelling;
- b. An owner of tracts that are not contiguous but are in Clackamas County adds together the acreage of two or more tracts that total 200 acres or more;

- c. The owner submits proof of an irrevocable deed restriction, recorded in the deed records of the county, for the tracts in the 200 acres. The deed restriction shall preclude all future rights to construct a dwelling on the tracts not supporting the proposed dwelling, or to use the tracts to total acreage for future siting of dwellings for present and any future owners unless the tract is no longer subject to protection under goals for agricultural and forest lands;
 - d. None of the lots of record or tracts used to total 200 acres may already contain a dwelling.
 - e. All lots of record or tracts used to total a minimum of 200 acres must have a Comprehensive Plan designation of Forest;
 - f. The lot of record upon which the dwelling is to be located was lawfully created;
 - g. The County Assessor's Office shall be notified of all approvals granted under Subsection 406.05(D)(5).
6. A 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.

E. Commercial Uses

- 1. The home occupation shall not unreasonably interfere with other uses permitted in the zoning district in which the subject property is located and shall not be used as justification for a zone change.
- 2. Private accommodations for fishing occupied on a temporary basis may be allowed subject to the following:
 - a. Accommodations limited to no more than 15 guest rooms as that term is defined in the Oregon Structural Specialty Code; and
 - b. Only minor incidental and accessory retail sales are permitted; and
 - c. Accommodations occupied temporarily for the purpose of fishing during fishing seasons authorized by the Oregon Fish and Wildlife Commission; and
 - d. Accommodations must be located within one-quarter mile of fish bearing Class I waters.
- 3. Private seasonal accommodations for fee hunting operations may be allowed subject to the following:

- a. Accommodations are limited to no more than 15 guest rooms as that term is defined in the Oregon Structural Specialty Code; and
- b. Only minor incidental and accessory retail sales are permitted; and
- c. Accommodations are occupied temporarily for the purpose of hunting during game bird and big game hunting seasons authorized by the Oregon Fish and Wildlife Commission.

F. Mineral, Aggregate, Oil, and Gas Uses

1. Mining and processing of oil, gas, or other subsurface resources, as defined in ORS Chapter 520 and mining and processing of aggregate and mineral resources as defined in ORS Chapter 517;
2. Exploration for and production of geothermal, gas, oil, and other associated hydrocarbons, including the placement and operation of compressors, separators, and other customary production equipment for an individual well adjacent to a well head;

G. Transportation Uses

1. Roads, highways, and other transportation facilities and improvements not otherwise allowed under this Ordinance, with:
 - a. The adoption of an exception to the goal related to forest lands and to any other applicable goal with which the facility or improvement does not comply; or
 - b. Compliance with ORS 215.296 for those uses identified by rule of the Oregon Land Conservation and Development Commission as provided in 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 660, 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 or recreational or emergency purposes, subject to the following:
 - a. These areas may be occupied by a tent, travel trailer or recreational vehicle;
 - b. These uses shall not include intensively developed recreational uses such as swimming pools, tennis courts, retail stores or gas stations.
 - c. The overnight temporary use in the same campground shall not exceed a total of 30 days during any consecutive six month period.

d. Except on a lot or parcel contiguous to a lake or reservoir, campgrounds shall not be allowed within three miles of an urban growth boundary, unless an exception is approved pursuant to ORS 197.732 and OAR Chapter 660, Division 4.

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.

~~406.04 PRIMARY 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 1002.04 regarding a development restriction that may apply if excessive tree removal occurs.~~
- ~~B. Uses to conserve soil, air and water quality and to provide for wildlife and fisheries resources.~~
- ~~C. 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;~~
- ~~D. Alteration, restoration or replacement of a lawfully established dwelling:
 - ~~1. The dwelling to be altered, restored, or replaced must have:
 - ~~a. Intact exterior walls and roof structures;~~
 - ~~b. Indoor plumbing consisting of a kitchen sink, toilet and bathing facilities connected to a sanitary waste disposal system;~~
 - ~~c. Interior wiring for interior lights; and~~
 - ~~d. A heating system.~~~~~~

~~2. The dwelling to be replaced shall be 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.~~

~~E. Widening of roads within existing rights of way in conformance with the transportation element of the Comprehensive Plan including public road and highway projects as described below:~~

- ~~1. Climbing and passing lanes within the right of way existing as of July 1, 1987;~~
- ~~2. Reconstruction or modification of public roads and highways, not including the addition of travel lanes, where no removal or displacement of buildings would occur, or no new land parcels result;~~
- ~~3. Temporary public road and highway detours that will be abandoned and restored to original condition or use at such time as no longer needed;~~
- ~~4. Minor betterment of existing public roads 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.~~

~~F. Farm uses as defined in ORS 215.203.~~

~~G. 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;~~

~~H. Private hunting and fishing operations without any lodging accommodations;~~

~~I. Towers and fire stations for forest fire protection;~~

~~J. Water intake facilities, canals and distribution lines for farm irrigation and ponds;~~

~~K. Exploration for mineral and aggregate resources as defined in ORS Chapter 517 and subject to the requirements of the Department of Geology and Mineral Industries;~~

~~L. Accessory buildings and uses customarily incidental to and in conjunction with any of the uses listed as a primary use in Subsection 406.04, may be established only if a primary use exists;~~

- ~~M. Temporary on-site structures which are auxiliary to and used during the term of a particular forest operation.~~
- ~~N. Wireless telecommunication facilities listed in Subsection 835.04, subject to Section 835.~~
- ~~O. Uninhabitable structures accessory to fish and wildlife enhancement.~~

[Amended by Ord. ZDO-224, 5/31/11; Amended by Ord. ZDO-230, 9/26/11]

~~406.05 USES SUBJECT TO REVIEW BY THE PLANNING DIRECTOR~~

~~The following uses may be allowed subject to Subsection 1305.02. In addition, dwellings shall be subject to Subsection 1001.01.~~

- ~~A. Home Occupations, as defined in Oregon Revised Statutes (ORS) 215.448, subject to Section 822 and the following criteria:
 - ~~1. The parcel upon which the home occupation is to be located is within a rural fire protection district or the applicant provides proof of a contract for residential fire protection;~~
 - ~~2. The home occupation will not force a significant change in, significantly increase the costs of, or impede accepted farming or forest practices on agriculture or forest lands;~~
 - ~~3. The home occupation meets the siting standards of Subsection 406.09;~~
 - ~~4. If road access to the home occupation is by a road owned and maintained by a private party or by the Oregon Department of Forestry (ODF), 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;~~
 - ~~5. A written irrevocable statement shall be recorded in the deed records of the county binding upon 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 ORS 30.936 or 30.937.~~~~
- ~~B. Lot of Record Dwelling, subject to the following criteria:
 - ~~1. The lot or parcel on which the dwelling will be sited was lawfully created prior to January 1, 1985;~~~~

- ~~2. The lot or parcel on which the dwelling will be sited was acquired by the present owner:
 - ~~a. Prior to January 1, 1985; or~~
 - ~~b. By devise or intestate succession from a person who acquired the lot or parcel prior to January 1, 1985; _____~~~~
- ~~3. The tract on which the dwelling will be sited does not include a dwelling;~~
- ~~4. The lot or parcel on which the dwelling will be sited was not part of a tract that contained a dwelling on November 4, 1993;~~
- ~~5. The siting requirements described in Subsection 406.09 shall be met;~~
- ~~6. The property is not capable of producing 5,000 cubic feet per year of commercial tree species;~~
- ~~7. 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 Bureau of Land Management or Forest Service roads;~~
- ~~8. The proposed dwelling is not prohibited by this ordinance or the Comprehensive Plan, or any other provisions of law;~~
- ~~9. When the lot or parcel on which the dwelling will be sited is part of a tract, the remaining portions of the tract are consolidated into a single lot or parcel when the dwelling is approved.~~
- ~~10. The County Assessor's Office shall be notified of all approvals granted under this subsection.~~
- ~~11. An approval to construct a dwelling granted under this Subsection may be transferred to any other person after the land use decision becomes final.~~

~~C. Forest Template Dwelling, subject to the following criteria;~~

- ~~1. The parcel upon which the dwelling is to be located is within a rural fire protection district or the applicant provides proof of a contract for residential fire protection;~~
- ~~2. The tract on which the dwelling will be sited does not include a dwelling;~~
- ~~3. The siting standards described in Subsection 406.09 shall be met;~~
- ~~4. The parcel upon which the dwelling is to be located was lawfully created;~~

5. ~~If road access to the dwelling is by a road owned and maintained by a private party or by the ODF, the BLM or the 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 written irrevocable statement shall be recorded in the deed records of the county binding upon 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 ORS 30.936 or 30.937;~~
7. ~~If the subject parcel is larger than 10 acres, the applicant shall submit a stocking survey report to the County Assessor and the Assessor must verify that the minimum stocking requirements adopted under ORS 527.610 to 527.770 have been met.~~
8. ~~The tract upon which the dwelling will be sited shall pass a template test, conducted as follows:~~
 - a. ~~A 160-acre square template shall be centered upon the subject tract. The template may be rotated around the center point 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.~~
 - b. ~~If the predominant soil type on the subject tract has a forest production capability rating, as determined by the SCS Soils Atlas, of:~~
 - i. ~~0-49 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~~
 - ii. ~~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~~
 - iii. ~~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.~~

~~e. The following types of lots of record and dwellings shall not be counted toward satisfying Subsection 406.05(C)(8)(b):~~

~~i. Lots of record larger than 80 acres;~~

~~ii. Lots of record created on or after January 1, 1993;~~

~~iii. Dwellings on lots of record larger than 80 acres;~~

~~iv. Dwellings constructed on or after January 1, 1993;~~

~~v. Lots of record or dwellings located within an urban growth boundary; and~~

~~vi. Temporary dwellings.~~

~~vii. The subject property.~~

~~9. 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(C)(8)(b) 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(C)(8)(b) shall be located on the same side of the road as the proposed dwelling.~~

~~D. Forest Dwelling, 160 Acre Minimum, subject to the following criteria:~~

~~1. The parcel upon which the dwelling is to be located is within a rural fire protection district or the applicant provides proof of a contract for residential fire protection;~~

~~2. The tract on which the dwelling is to be sited is at least 160 acres;~~

~~3. The tract on which the dwelling will be sited does not include a dwelling;~~

~~4. The siting standards described in Subsection 406.09 shall be met;~~

~~5. The parcel upon which the dwelling is to be located was lawfully created;~~

~~6. If road access to the dwelling is by a road owned and maintained by a private party or by the ODF, the BLM, or the 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;~~

- ~~7. A written irrevocable statement shall be recorded in the deed records of the county binding upon 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 ORS 30.936 or 30.937;~~
- ~~8. If the subject parcel is larger than 10 acres, the applicant shall submit a stocking survey report to the County Assessor and the Assessor must verify that the minimum stocking requirements adopted under ORS 527.610 to 527.770 have been met.~~

~~E. 200 Acre Noncontiguous Dwelling, subject to the following criteria:~~

- ~~1. The parcel upon which the dwelling is to be located is within a rural fire protection district or the applicant provides proof of a contract for residential fire protection;~~
- ~~2. The tract on which the dwelling will be sited does not include a dwelling;~~
- ~~3. 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;~~
- ~~4. 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;~~
- ~~5. None of the parcels or tracts used to total 200 acres may already contain a dwelling.~~
- ~~6. All parcels or tracts used to total a minimum of 200 acres must have a Comprehensive Plan designation of Forest;~~
- ~~7. The siting standards described in Subsection 406.09 shall be met;~~
- ~~8. The parcel upon which the dwelling is to be located was lawfully created;~~
- ~~9. If road access to the dwelling is by a road owned and maintained by a private party or by the ODF, the BLM, or the 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;~~

~~10. A written irrevocable statement shall be recorded in the deed records of the county binding upon 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 ORS 30.936 or 30.937;~~

~~11. If the subject parcel is larger than 10 acres, the applicant shall submit a stocking survey report to the County Assessor and the Assessor must verify that the minimum stocking requirements adopted under ORS 527.610 to 527.770 have been met.~~

~~F. Replacement Dwellings for Historic Houses: A replacement dwelling to be used in conjunction with a farm use may be approved if the existing dwelling is listed on the National Register of Historic Places (as required under ORS 358.480). The use or operation of a historic property for other than uses provided under ORS 358.480(2), including use as a separate residence or creation of a separate parcel, shall be subject to all other applicable provisions of this section.~~

~~G. Wireless telecommunication facilities listed in Subsections 835.05(A)(2) and (3) subject to Section 835.~~

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

406.06 — CONDITIONAL USES

~~A. Conditional uses may be allowed subject to review by the Hearings Officer pursuant to Section 1300. Approval shall not be granted unless the proposal complies with Section 1203, any applicable provisions of Section 800, and the following criteria:~~

~~1. The proposed use shall not force a significant change in, or significantly increase the cost of, accepted farming or forest practices on agriculture or forest lands.~~

~~2. The proposed use shall not significantly increase fire hazard, fire suppression costs, or risks to fire suppression personnel.~~

~~3. A written irrevocable statement shall be recorded in the deed records of the County binding upon 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. 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 Bureau of Land Management, or the United States Forest Service, 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.~~

~~B. Conditional Uses:~~

- ~~1. Permanent facility for the primary processing of forest products;~~
- ~~2. Permanent facilities for logging equipment repair and storage;~~
- ~~3. Log scaling and weigh stations;~~
- ~~4. Private parks and campgrounds. Campgrounds in private parks shall only be those allowed by this subsection. A campground is an area devoted to overnight temporary use for vacation or recreational or emergency purposes, subject to the following:
 - ~~a. These areas may be occupied by a tent, travel trailer or recreational vehicle;~~
 - ~~a. These uses shall not include intensively developed recreational uses such as swimming pools, tennis courts, retail stores or gas stations.~~
 - ~~b. The overnight temporary use in the same campground shall not exceed a total of 30 days during any consecutive six month period;~~
 - ~~e. Except on a lot or parcel 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 Oregon Administrative Rules (OAR) 660 Division 4.~~~~
- ~~5. Public parks including only those uses specified under OAR 660 034-0035 subject to the state park master plan and including caretaker residences, subject to the applicable provisions of Subsections 406.05(C)(1) through (7);~~
- ~~6. Mining and processing of oil, gas, or other subsurface resources, as defined in ORS Chapter 520 and mining and processing of aggregate and mineral resources as defined in ORS Chapter 517;~~
- ~~7. 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;~~
- ~~8. 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;~~

- ~~9. A disposal site for solid waste that has been ordered established by the Oregon Environmental Quality Commission under ORS 459.049, together with the equipment, facilities, or buildings necessary for its operation;~~
- ~~10. Fire stations for rural fire protection;~~
- ~~11. 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 660, Division 4. Hydroelectric facilities shall also be subject to Section 829.~~
- ~~12. Water intake facilities, related treatment facilities, pumping stations, and distribution lines;~~
- ~~13. Reservoirs and water impoundments;~~
- ~~14. Cemeteries;~~
- ~~15. 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) with rights of way 50 feet or less in width;~~
- ~~16. Temporary asphalt and concrete batch plants as accessory uses to specific highway projects;~~
- ~~17. Forest management research and experimentation facilities as defined by ORS 526.215 or where accessory to forest operations;~~
- ~~18. Aids to navigation and aviation;~~
- ~~19. Aircraft land uses, subject to Section 712 or 713;~~
- ~~20. Expansion of existing airports, subject to Section 712 or 713;~~
- ~~21. 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;~~
- ~~22. Public road and highway projects as follows:
 - ~~a. Construction of additional passing and travel lanes requiring the acquisition of right of way but not resulting in the creation of new land parcels; and~~
 - ~~b. 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; and~~~~

~~e. 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;~~

~~23. Composting facilities, subject to Section 834;~~

~~24. Wireless telecommunication facilities listed in Subsection 835.06(A), subject to Section 835;~~

~~25. Youth camps on 40 acres or more, subject to OAR 660-006-0031;~~

~~26. A home occupation to host events, subject to Section 806; and~~

~~27. A home occupation for canine skills training, subject to Section 836.~~

[Amended by Ord. ZDO-224, 5/31/11; Amended by Ord. ZDO-230, 9/26/11]

~~406.07~~ TEMPORARY USES

~~The following temporary uses may be allowed subject to Subsection 1305.02.~~

~~A. 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;~~

~~A. Temporary forest labor camp subject to Subsection 1204.01 for a period not to exceed one year;~~

~~B. A 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 as defined in Subsection 406.03(C) and subject to Subsection 1204.03.~~

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

~~406.068~~ PROHIBITED AND PREEXISTING USES

~~Uses of structures and land not specifically permitted are prohibited.~~

~~A. Structures and uses including temporary uses of land not specifically mentioned in Section 406.~~

~~A. Outdoor advertising displays, advertising signs or advertising structures except as provided in Section 1010.~~

~~B. Any land division, or property line adjustment, except those approved pursuant to Subsection 406.10.~~

~~C. Subdivisions, except as provided in Subsections 406.10(A) and (B).~~

- ~~D. Legally established preexisting uses and structures not specifically permitted in Section 406 shall be nonconforming uses subject to Section 1206.~~
- ~~E. Manufactured Dwelling Parks: Redevelopment of a manufactured dwelling park with a different use shall require compliance with Subsection 825.03.~~

[Amended by Ord. ZDO-230, 9/26/11]

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 or as modified by Section 902. For the purpose of complying with the minimum lot size standard, lots of record that front on existing county or public roads may include the land area between the front property line and the middle of the road right-of-way.
- B. Minimum Front Yard Setback: 30 feet.
- C. Minimum Side Yard Setback: 10 feet.
- D. Minimum Rear Yard Setback: 30 feet; however, accessory structures shall have a minimum rear yard setback of 10 feet.
- E. Exceptions: Dimensional standards are subject to modification pursuant to Section 900.
- F. Variances: The requirements of Subsections 406.07(B) through (D) may be modified pursuant to Section 1205.

406.089 DEVELOPMENT SITING STANDARDS FOR DWELLINGS AND STRUCTURES

- ~~A. Purpose:
 - 1. Ensure compatibility between the new dwelling or structure and the forest and agricultural operations.
 - 2. Minimize wildfire hazards and risks.~~
- ~~B. The following fire siting standards shall apply to all structures greater than 120 square feet in size including, new dwellings, and replacement dwellings not located within 100 feet of the existing dwelling except as provided for in Subsection 406.10(G)
 - 1. The dwelling shall have a fire retardant roof.
 - 2. The dwelling shall not be sited on a slope of greater than 40 percent.~~

- ~~3. If the dwelling has a chimney or chimneys, each chimney shall have a spark arrester.~~
- ~~4. If the rural fire district or the Oregon Department of Forestry determines that an on-site water supply is required, then the following criteria shall be met:
 - ~~a. Access: If a water supply such as a swimming pool, pond, stream, or lake of 4,000 gallons or more exists within 100 feet of the driveway or road and the access has an average grade of 10 percent or less and a maximum grade of 15 percent, an all-weather approach to a point within 15 feet of the water's edge shall be provided. The all-weather approach shall provide a turnaround area with a 50-foot outside radius. If this standard cannot be met, then an all-weather approach and turnaround shall be constructed as per the requirements of the local emergency services provider.~~
 - ~~b. Identification: Emergency water supplies shall be clearly marked along the access route with a permanent county-approved sign.~~~~

~~5. Fuel Break Standards:~~

~~A. Fire-Siting Standards for New Structures: Fuel-free break areas shall be provided surrounding any new structure approved pursuant to a land use application based on standards in effect on or after February 5, 1990, as follows:~~

~~1. A primary fuel-free break area shall be maintained surrounding any new structure, including any new dwelling.~~

~~a. Primary Safety Zone:~~

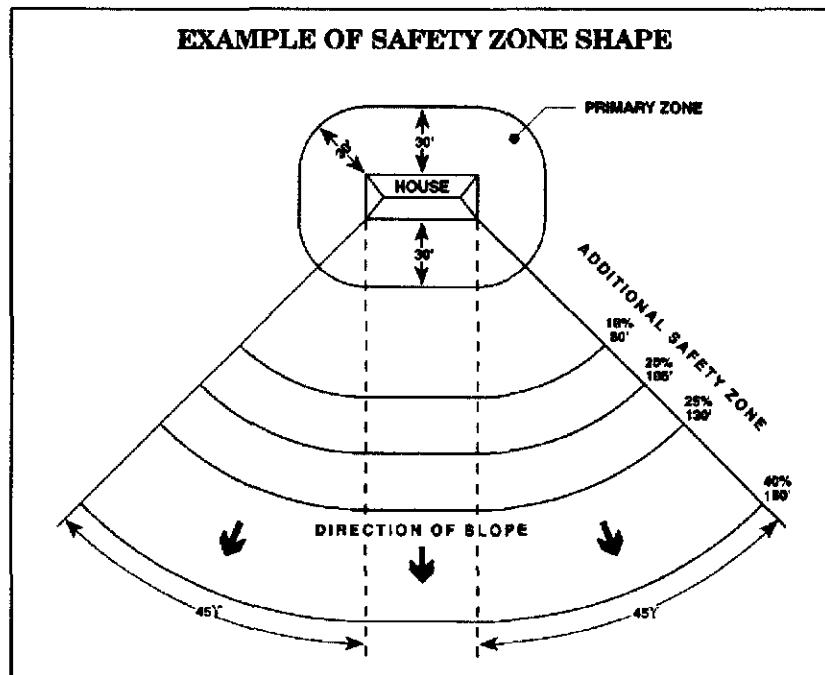
~~a.b. The primary safety zone is a fire fuel break extending a minimum of 30 feet in all directions around structures. The goal within the primary safety zone is to remove fuels that will produce flame lengths in excess of one foot. Vegetation within the primary safety zone may include green lawns and 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 structurehouse. As slope increases, the primary safety zone shall increase away from the structurehouse and down the slope at a 45-degree angle from the structurehouse, in accordance with the following Table 406-2 and Figure 406-1ehart:~~

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

CLACKAMAS COUNTY ZONING AND DEVELOPMENT ORDINANCE

Section 1.04 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



- b. If a structure cannot be sited on the subject property to meet this standard due to the size, shape, topography, or other physical characteristics of the property, the standard may be modified by one or both of the following alternatives:
 - i. Irrevocable easements for a primary safety zone may be obtained from adjacent property owners so that the primary safety zone can

be maintained. The easement(s) shall be recorded with the County Clerk; and

ii. The area of an existing road right-of-way or access easement adjacent to the subject property may be utilized to satisfy the primary safety zone requirement.

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.

~~e. Secondary Fuel Break:~~

ad. The secondary fuel-free break extends~~is a fuel break extending a~~minimum of 100 feet 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.

~~e. If a dwelling or other structure cannot be sited on a parcel to meet these standards due to the size, shape, topography, or other physical characteristics of the property, the standards may be modified subject to the following criteria:~~

~~i. Irrevocable easements for fuel breaks are obtained from adjacent property owners so that the fuel break standards can be completed and maintained. The easement(s) shall be recorded with the County Clerk. The dwelling shall be sited a minimum of 30 feet from the front, side and rear property lines; or~~

~~i. The dwelling shall be sited a minimum of 30 feet from the front, rear and side property lines. Where a primary and secondary fuel break cannot be accomplished around the dwelling due to an inadequate setback distance, a primary fuel break shall be completed from the dwelling to the property line.~~

~~3iii. Dwellings and Structures within a River and Stream Conservation Area or the Willamette River Greenway shall be sited consistent with the requirements of Sections 704 and 705, respectively. StructuresAll dwellings shall be sited so that a primary safety zone fuel break can be completed around the structuredwelling 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.~~

~~f. The area of an existing state, county, public or private road right of way adjacent to the subject property may be utilized to satisfy the fuel break requirements, providing all dwellings and structures are sited a minimum of 30 feet from the front, rear and side property lines.~~

~~g. A variance to the 30 foot front, side or rear setbacks may be allowed subject to Section 1205.~~

~~4h. The fuel-free break standards shall be completed and approved by the Planning DirectorDivision staff 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 February 5, 1990. Siting of development shall comply with the provisions of Sections 1002 and 1003. Conditional use and temporary structures shall be sited to minimize impact on sensitive wildlife areas identified on Table III-1, *Compatibility Criteria for Wildlife Sensitive Areas*, and Map III-2, *Scenic and Distinctive Resource Areas*, of the Comprehensive Plan, as follows:

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.
1. ~~When structures exist on adjacent properties, siting of new structures shall comply with the following prioritized techniques:~~
 - a. ~~Locate new structure(s) adjacent to an existing compatible structure(s) sharing a common road. (A compatible structure, for purposes of this provision, shall be any structure which does not adversely affect the intended use of another structure); or~~
 - b. ~~Where "a" above is not practical, locate adjacent to an existing structure and minimize the length of access from the nearest existing public road; or~~
 - c. ~~Where "a" or "b" above are not practical, site to achieve maximum distance between structures, and minimize the length of access from the nearest existing public road.~~

- ~~2. Where no compatible structures exist on adjacent properties, new structures shall be sited to allow future development to satisfy Subsection 406.09(C)(1)(a).~~

~~D. Public and private access:~~

- ~~1. All public roads, bridges or entrances from public roads shall be subject to the Clackamas County Roadway Standards.~~
- ~~2. All private roads, bridges and driveways shall be subject to the local Fire District Fire Apparatus Access Road standards and County *Excavation and Grading* Ordinance.~~

~~3E. The applicant shall provide evidence to the Planning Division that the domestic water supply is from a source authorized in accordance with the Oregon Water Resources Department's (OWRD) administrative rules for the appropriation of ground water or surface water and not from a Class II stream as defined in the Oregon Forest Practices Rules (OAR Chapter 629).~~

- ~~1. For purposes of this subsection, evidence~~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; or
 - 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.

~~2. If the proposed water supply is from a well and is exempt from permitting requirements under ORS 537.545, the applicant shall submit the well constructor's report to the County upon completion of the well.~~

~~D. Property Line Adjustments: Property line adjustments shall be subject to Section 1107.~~

~~E. Manufactured Dwelling Parks: Redevelopment of a manufactured dwelling park with a different use shall require compliance with Subsection 825.03.~~

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

~~406.109 LAND DIVISIONS, DIMENSIONS AND ADJUSTMENTS~~

~~Lot~~ Land divisions proposed for primary uses may be permitted by the Planning Director, subject to Subsection 1305.02. All land divisions under this subsection shall be subject to ~~are~~ permitted, if consistent with one of the following options and Oregon Revised Statutes Chapter 92. Land divisions shall be processed and reviewed consistent with the following criteria. A land division is subject to Planning Director review pursuant to Subsection 1305.02.:-

- A. 80-Acre Minimum Lot Size Land Divisions: ~~The parcel size shall be no less than 80 acres~~ 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 ~~parcel or lot with at least two legally established dwellings~~ may be divided subject to Subsection 406.05(A)(2) ~~406.05(A)(5)~~ and the following provisions:
1. At least two lawfully established dwellings existed on the lot of record ~~or parcel~~ prior to November 4, 1993;
 2. Each dwelling complies with the criteria for a replacement dwelling under Subsection 406.05(D)(1) ~~406.04(D)~~;
 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 ~~or parcel~~ may not be divided under this provision if an existing dwelling on the lot of record ~~or parcel~~ was approved through a land use regulation that prohibited or required removal of the dwelling or prohibited a subsequent land division of the lot of record ~~or parcel~~.:-
 7. Existing structures shall comply with the minimum setback standards of Subsections 406.07(B) through (D) from new property lines; and ~~Dwelling setbacks shall be 30 feet from front, rear and side property lines and are not required to satisfy Subsection 406.09(B)(5). A pre-existing dwelling setback to the original property line shall not be subject to these setback standards.~~